

manner, and at such time as the legislature shall hereafter direct, upon consideration of all the circumstances of the State." Thus,

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having not yet empowered your chancellor or chief justice of your said court to answer petitions or make orders touching the proceedings, as is used in England, without a full court of four at the least; your petitioners are therefore necessitated to apply themselves to your lordship and humbly pray, that your lordship would please to order that the defendant may put in his answer by a certain day," &c. Which was accordingly ordered by the lord proprietary himself. (*Chan. Proc. lib. C. D. fol. 306.*) But it appears, that William Holland was by a commission from the lord proprietary, under his great seal at arms, bearing date on the 27th of February 1719, attested by his governor, constituted chancellor of the province, with full power to do, perform, hear and determine all such matters and things as to the office of chancellor of right belonged or appertained. After which the chancellor of Maryland always sat as sole judge, without assistants; and his court was thenceforward in all respects as accessible for all persons as the chancery court of England.—(*Chan. Proc. lib. P. L. fol. 483, 717.*)

During the short time that the government of the province was taken immediately into the hands of the king, it does not appear how the chancellor was appointed. Although it seems to have been most usual to constitute the same person both governor and chancellor, as in the case of John Hart who was governor and chancellor, (*Chan. Proc. lib. P. L. fol. 74, &c.*) yet it was not always done, for it appears, that different persons were sometimes appointed to fill each office, (1697, *ch. 6, s. 6.*) but however that might have been, it is certain, that the two offices were always considered as being entirely separate and distinct in their nature.

It appears, that Robert Eden, the last provincial governor of Maryland, (who was brother-in-law of the then Lord Baltimore, and a lieutenant in the Coldstream regiment of guards,) was commissioned as governor, with the approbation of the king, (as was required by the statute of 7 & 8 *W. 3, c. 22, s. 16.*) by the lord proprietary; which commission he produced to the provincial council who thereupon administered to him the oaths appointed to be taken by the governor. Immediately after which his predecessor, Horatio Sharpe, delivered to him the great seal of the province, whereupon the oath of chancellor was administered to him, Eden, by the members of the council then present; all of which was entered of record in the book of the council proceedings.—(*Coun. Pro. lib. N. folio 32, 45, 47.*)

By the Declaration of Rights it is declared, that the *chancellor* and judges ought to hold *commissions* during good behaviour; and the Constitution also declares, that they shall hold their *commissions* during good behaviour; that the governor for the time being, with the advice and consent of the council, may *appoint* the chancellor and all judges; that the council shall have power to make the great seal of this State, *which shall be kept by the chancellor*, for the time being, and *affixed to all laws, commissions, grants and other public testimonials* as has been *heretofore practised* in this State; that every bill passed by the General Assembly, when engrossed, shall be presented by the speaker of the House of Delegates in the Senate to the governor for the time being, *who shall sign the same and thereto affix the great seal*, in the presence of the members of both houses; and that all *public commissions and grants* run thus: "The State of Maryland," &c. and shall be signed by the governor, and *attested by the chancellor with the seal of the State annexed*, except military and militia commissions, which shall not be attested by the chancellor, or have the seal of the State annexed.

Some of these constitutional provisions are apparently incompatible with each other. It is declared, that the great seal shall be *kept* by the chancellor; and also,