

upon which it was made; and by the judgment and order of this Court, approved by the Court of Appeals, the complainant has had permission to surcharge and falsify with respect to certain errors specified in his bill, and with respect to them alone. The complainant, therefore, stands before the Court precisely in the attitude of an ordinary suitor, and upon this application to compel the production of books and papers from the adversary, must show himself entitled upon the general practice and law regulating the subject.

In the case of *Williams and Bradford vs. Williams*, 1 *Md. Ch. Decisions*, 199, it was observed, that the power to compel parties to produce books and papers, though clearly belonging to the Court, was a power to be exercised with caution; and that the party invoking it "should, with a reasonable degree of certainty, designate the books and papers required, and the facts expected to be proved by them." And the cases referred to in the notes to 1 *Bland*, 90, and that of *Duwall vs. The Farmers' Bank*, 2 *Bland*, 686, were referred to, as showing this to be the rule.

Assuming this to be so, it appears to me, that the petition in this case is insufficient as the foundation of the order prayed. It not only does not designate the books called for, nor the facts expected to be proved by them; but the allegation, general as it is, that they contain evidence pertinent to the issue, is stated hypothetically, the allegation being "that if they have been kept with any regard to good faith and accuracy, they must contain evidence pertinent to the issues in the cause." But, as was said by Chancellor Hanson as far back as 1803, "in all cases, where books have been ordered to be produced, the particular books have been specified, and the Court has been first satisfied of the necessity of producing them." 1 *Bland*, 90. It appears to me, therefore, that it would be a most inconvenient and unjustifiable expansion of the rule, to apply it to a case like the present, and merely upon the suggestion, that possibly they may contain evidence material to the issue to order the books of a corporation to be brought into Court.