

No appeal lies from action of court under this section, such action being interlocutory. This section has no application to a case of issues sent from orphans' court to court of law. *Magraw v. Munnikhuysen*, 35 Md. 292.

A motion for a judgment by default because of insufficiency of answer to bill of discovery was properly overruled, bill of discovery not being filed in time, no order ever having been asked for or passed by court, and plaintiff's answer voluntarily filed, being sufficient. *Rich v. Boyce*, 39 Md. 323.

Cited but not construed in *Chappell v. Real Estate Co.*, 91 Md. 757; *Tome v. Parkersburg, etc., Co.*, 39 Md. 89.

As to the production of books and papers in equity, see art. 16, secs. 26 and 27; in prosecutions for "False Pretenses," see art. 27, sec. 147.

See notes to sec. 104.

An. Code, sec. 100. 104, sec. 100. 1888, sec. 95. 1888, ch. 529.

**107.** Whenever at the trial, hearing or any other stage of an action, suit, petition, cause or matter at law or in equity, it shall appear to the court that the attendance or testimony of any person or witness, or the production of any paper, document or thing not produced by any party is necessary to the purposes of justice, the court may require any party to produce such paper, document or thing for inspection by court or jury, or may of its own motion issue process for the production of such person, witness, paper, document or thing, and may adjourn or postpone the trial or hearing, or name a day for the further trial or hearing, if the trial has begun, or if a hearing shall already have been had, in order that such person, witness, paper, document or thing may attend or be produced, upon such conditions in every case as to time, notice, cost and security, as the court may deem proper.

This section referred to in deciding that a witness could not be asked by plaintiff's counsel to refer to defendant's books and state what entries therein had reference to transactions in suit, there being no evidence that books contained any material or relevant proof. *Cooney v. Hax*, 92 Md. 137.

See notes to sec. 104.

An. Code, sec. 101. 1904, sec. 101. 1888, sec. 96. 1825, ch. 208, sec. 2.

**108.** At the trial of any suit instituted upon the bond of any clerk or register for neglect of duty, it shall be the duty of the clerk or register, when required, to exhibit to the court his dockets, records and fee books, and the measure of damages shall be the sum or sums he has charged for services he has not performed, unless special damage has been suffered by some person, and if so, the jury shall, in addition, allow for such special damage.

#### **Removal of Causes.**

An. Code, sec. 102. 1904, sec. 102. 1888, sec. 97. 1805, ch. 65, sec. 49. 1862, ch. 174. 1868, ch. 180. 1874, ch. 364.

**109.** The parties to any cause may submit the same to the court for determination without the aid of the jury; and in all suits or actions at law, issues from the orphans' court, or from any court sitting in equity, and in all cases of presentments of indictments for offenses which are or may be punishable by death, pending in any of the courts of law in this State having jurisdiction thereof, upon suggestion in writing, under oath, of either of the parties to said proceedings, that such party cannot have a