An. Code, sec. 83. 1904, sec. 79. 1888, sec. 68. 1835, ch. 380, sec. 8. 1861, ch. 32. 1872, ch. 157.

86. In all cases pending on motion to grant an injunction, motion to dissolve an injunction, motion to appoint a receiver, or motion to rescind an order appointing a receiver, the court may, at the instance of either party, order testimony to be taken before such person, and upon such notice and in such manner as the court in its discretion may direct, to be used at the hearing of such motion.

A case reversed because, since the adoption of the act of 1835, ch. 380, it has always been held error to proceed to final decree upon a motion to dissolve an injunction; the most that can be asked under such circumstances is a continuance of the injunction until final hearing. Wilmer *v.* Pica, 118 Md. 551.

This section referred to as authorizing a party, who upon his own motion is made a defendant subsequent to the filing of the bill, to apply to the lower court for a rescission of such prior orders as he thinks improper. See notes to art. 5, sec. 40. Carrington *v.* Basshor Co., 121 Md. 76.

The failure of a party to take testimony under this section after securing leave, leads to the inference that the answer cannot be contradicted. Washington University *v.* Green, 1 Md. Ch. 103; Flickinger *v.* Hull, 5 Gill, 78 (dissenting opinion).

Leave to the parties to take depositions before a standing commissioner, or a justice of the peace, after notice, is in conformity with this section. Belt *v.* Blackburn, 28 Md. 243.

If a defendant's answer to a bill for an injunction is insufficient, the defect cannot be supplied by proof taken under the act of 1835, ch. 380. Bouldin *v.* Baltimore, 15 Md. 20; Hamilton *v.* Whitridge, 11 Md. 143.

Cited but not construed in injunction cases. Baltimore *v.* Warren Co., 59 Md. 110; Cumberland Coal, etc., Co. *v.* Sherman, 20 Md. 131; Flickinger *v.* Hull, 5 Gill, 78 (dissenting opinion); Allen *v.* Burke, 2 Md. Ch. 537; Lamborn *v.* Covington Co., 2 Md. Ch. 412.

An. Code, sec. 84. 1904, sec. 80. 1888, sec. 69. 1888, ch. 260.

87. No court shall refuse to issue a mandamus or injunction on the mere ground that the party asking for the same has an adequate remedy in damages, unless the party against whom the same is asked shall show to the court's satisfaction that he has property from which the damages can be made, or shall give a bond in a penalty to be fixed by the court, and with a surety or sureties approved by the court, to answer all damages and costs that he may be adjudged by any court of competent jurisdiction to pay to the party asking such mandamus or injunction by reason of his not doing the act or acts sought to be commanded, or by reason of his doing the act or acts sought to be enjoined, as the case may be.

Even if appellee could have sued appellant at law for fraud, in view of this section the jurisdiction of equity to grant an injunction on account of such fraud was not affected. Michael *v.* Rigler, 142 Md. 133.

Intent of this section. It relates to cases where damages, as contra-distinguished from debt, are involved. Conner *v.* Groh, 90 Md. 684; Frederick Bank *v.* Shafer, 87 Md. 58.

This section held not to justify the continuing of an injunction, since the evidence showed that the defendant had property in this state ample to meet any damages recovered. Bartlett *v.* Moyers, 88 Md. 720.

This section is identical with art. 26, sec. 25—see notes thereto.

See art. 8, sec. 17.

Jurisdiction.

An. Code, sec. 85. 1904, sec. 81. 1888, sec. 70. 1852, ch. 16, sec. 1. 1853, ch. 122, sec. 2.

88. The judges of the several judicial circuits and the judges of the circuit courts of Baltimore city shall each, in his respective circuit, have