

tion of all books, papers, writings, vouchers and other documents applicable thereto, where, by the principles and practice of courts of equity, the production of such writings may be compelled; and if any party so liable to produce such books, papers, writings, vouchers or other documents, shall fail or refuse so to do, when required by the auditor, such party shall, without delay, be reported to the court by the auditor, with the facts of the case, that the proper proceeding may be taken thereon, by way of attachment or otherwise, as justice and the settled practice may require.

As to the production of books and papers, see secs. 27 and 28.
See notes to sec. 20.

An. Code, 1924, sec. 24. 1912, sec. 24. 1904, sec. 23. 1888, sec. 23. Rule 54.

25. All parties accounting before the auditor shall produce their respective accounts in the form of debtor and creditor, and any of the other parties interested, who shall not be satisfied with the account so produced, shall be at liberty to examine the accounting party, *viva voce*, or upon written interrogatories, before the auditor, who shall write down and report the testimony, if required. And in all cases where the auditor may be required to take testimony to be reported to the court, he shall observe and pursue the same mode and form of examination, and writing down the testimony, as that prescribed to be observed by examiners.

As to the ratification *nisi* of auditors' accounts and reports by clerks of the courts having jurisdiction, see art. 17, sec. 42.

See notes to sec. 20.

An. Code, 1924, sec. 25. 1912, sec. 24A. 1918, ch. 380.

26. In all reports and accounts hereafter stated by any Auditor, the annual or other reports and accounts in the same cause or trust estate, theretofore, under rule of Court, rendered by any trustee or other fiduciary to any trust officer of said Court authorized to verify trust reports and accounts, which have been passed upon and accepted by said trust officer, or the said Court, shall be taken as evidence of the receipts, expenditures and statements, therein contained, without further proof, unless by order of Court further proof is required.

Books and Papers, Production of.

An. Code, 1924, sec. 26. 1912, sec. 25. 1904, sec. 24. 1888, sec. 24. 1798, ch. 84.

27. The courts of equity shall have power and authority, on the application of either party on the trial of any actions at law or suits in chancery, either for discovery or relief, to require and decree that the parties shall produce either the original books, writings or papers, or copies certified by a justice of the peace, of all such parts of such books, writings or papers in their possession or power as contain evidence pertinent to the issue, or relative to the matters in dispute between the parties, to be used as evidence at the trial of such cause; but before any such order shall be made, the party making such application shall satisfy the court, on oath or affirmation, that the said books, writings or papers contain material and necessary evidence, and that such party cannot safely proceed to the trial of his case without the benefit of such testimony.

The power given by this and the following section should be exercised with caution, but without hesitation, in a proper case. When a proper case is made out. When an answer is required to a petition for discovery. Amendment of the bill of complaint not necessary. *Eschbach v. Lightner*, 31 Md. 532; *Williams v. Williams*, 1 Md. Ch. 201; *Ringgold v. Jones*, 1 Bl. 91.

The power of the court under this section sustained, but the application held defective. *Williams v. Williams*, 1 Md. Ch. 201; *Duvall v. Farmers' Natl. Bank*, 2 Bl. 686. And see *Williams v. Hall*, 1 Bl. 196; *Williams v. Savage Co.*, 3 Md. Ch. 419.