

THE CHANCELLOR :

There can be no doubt of the power of this court in a proper case, to compel either of the parties to a suit, to produce books and papers in the possession of the adverse party, which may relate to matters in issue between them. If the power could have been questioned before, the act of 1798, ch. 84, would dissipate it ; for the legislature by that act, in express terms, conferred upon the Chancery Court power and authority to coerce the production of books, writings or papers, or certified copies of such parts thereof, as contain evidence pertinent to the issue, or relative to the matters in dispute between the parties, either in cases depending in the courts of law, or in this court.

The power, therefore, is free from doubt, but as observed by a former Chancellor, it is a power to be exercised with caution, and the party calling for its exercise should, with a reasonable degree of certainty, designate the books and papers required, and the facts expected to be proved by them. Unless this is done, the party upon whom the authority of the court is brought to bear, may find it impossible to comply with its order, which yet must be enforced by attachment.

The rules which have governed this court, upon the subject of compelling the production of books and papers, are stated with much precision in the cases reported in 1 *Bland*, 90, in notes ; and in *Duvall vs. the Farmers' Bank*, 2 *Bland*, 686.

The petition in this case does not attempt to designate the books and papers called for, nor the facts expected to be proved by them ; and, therefore, is clearly deficient in those qualities which have been deemed essential in applications like the present. The defendant, George H. Williams, could not comply with the order, without producing all the books and papers in his possession, though the production of many of them might be wholly unnecessary—the facts recorded in them being wholly irrelevant to the matters in issue between these parties—and the exhibition of them embarrass and prejudice him in the administration of his trust.

The original order in this case should have been conditional, and with liberty to the defendant to show cause ; and, therefore,