

RULES OF COURT

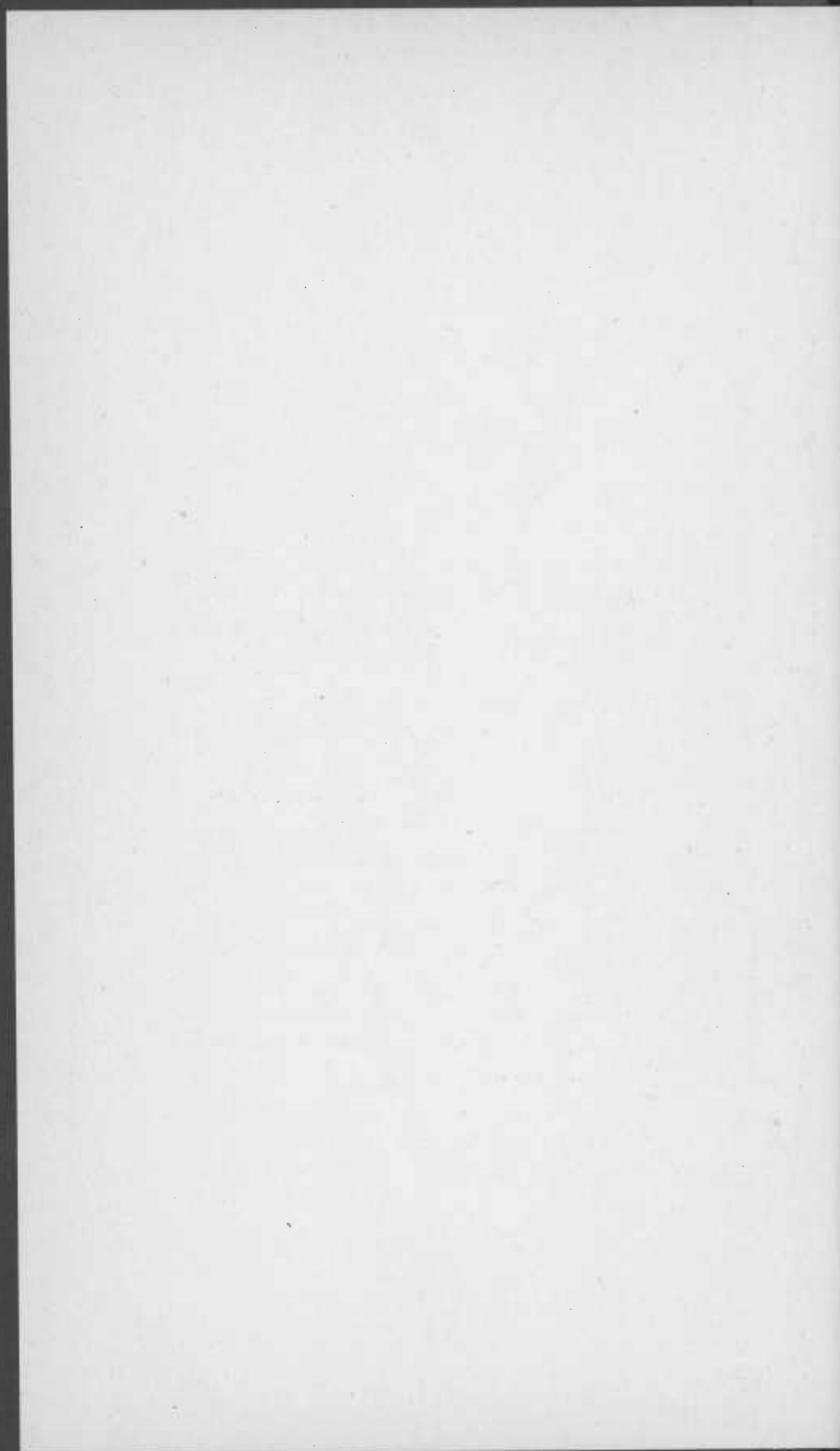
WASHINGTON CO., MD.

RULES
FOR THE
REGULATION OF THE PRACTICE
IN THE
CIRCUIT COURT
FOR
WASHINGTON COUNTY, MARYLAND.

ON THE LAW SIDE.

Revised and adopted by the Court, to take effect from and after
the first Monday of August, 1903.

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DOCKETS.

What Dockets to be Made for Each Term.

1. At each Term of the Court, the Clerk shall prepare a Civil and a Criminal Appearance Docket, a Civil and a Criminal Trial Docket, a Civil and a Criminal Appeal Docket, and a Judicial Docket.

Civil Appearance Docket.

2. The Civil Appearance Docket shall contain the originals and renewals to the Term.

Criminal Appearance Docket.

3. The Criminal Appearance Docket shall contain all cases in which Presentments are returned by the Grand Jury. When a Presentment is so returned, the Clerk shall enter the case on said Docket with the name of the party or parties Presented, the date of Presentment, the date of Indictment, if one be returned, and such other appropriate entries as have heretofore been entered on the Criminal Appearance Docket, and may be proper, before transferring the case to the Criminal Trial Docket. The Clerk shall at once issue a bench Warrant for the party or parties presented, unless otherwise directed by the Court, and when returned Cepi, by the Sheriff, or other officer authorized to serve it, he shall place the case on the Criminal Trial Docket.

The Clerk shall not allow anyone to have access to the Criminal Appearance Docket, excepting the Judges, the Sheriff, the State's Attorney, and the Deputy Clerks, without leave of Court .

The Sheriff or other Officers to whom the Bench Warrant is directed shall, as soon as practicable, after it is served, make his return to the Clerk of the service of said warrant, so the case can be placed on the Criminal Trial Docket.

Civil Trial Docket.

4. The Civil Trial Docket shall contain all causes standing for judgment or trial, and all causes in which an appearance for the defendant, or a proper personal appearance, shall have been entered at or before the next preceding Rule day for the return of civil process.

Criminal Trial Docket.

5. The Criminal Trial Docket shall contain all cases in which indictments have been found and which stand for judgment or trial.

Civil Appeal Docket.

6. The Civil Appeal Docket shall contain all causes in which an appeal has been taken from the judgment of Justices of the Peace, and from orders of County Commissioners, etc., to this Court.

Criminal Appeal Docket.

7. The Criminal Appeals shall be kept separate from the Civil Appeals and docketed as follows:

All cases and proceedings arising under the Act of 1896, Ch. 128, conferring criminal jurisdiction upon Justices of the Peace, and brought into this Court for trial, and all cases of a criminal nature brought into this Court by way of appeal from the judgments of Justices of the Peace, shall be placed upon a docket to be denominated the Criminal Appeal Docket, and shall follow in order the Criminal Trial Docket.

Judicial Docket.

8. The Judicial Docket shall contain all executions issued, and returnable to the Term.

Stet Docket.

9. The Clerk shall keep a stet docket, wherein shall be entered all cases on the Civil Trial Docket not otherwise disposed of at the sittings of the fourth term after they are placed on said Trial Docket, except cases under reference or in which warrants of resurvey are outstanding or which the Court shall direct to be retained on said Trial Docket.

How Cases on Stet Docket Tried.

10. Either party by giving notice in writing to the adverse party, or his attorney, fifteen days previous to the term of Court commencing next after said notice, may have a case on the Stet Docket set for trial by the Court at said term next ensuing, and it shall then be tried (unless continued for cause shown) at such time as the Court shall fix, without prejudice to other cases. If no such notice is given before the fourth term after entering the stet, said cause shall be considered as non prossed, unless enjoined or under rule reference, or awaiting the decision of other cases involving similar questions.

Calendar of Cases in Banc.

11. The Clerk shall make a Calendar, at the end of the Trial Docket of all cases wherein are reserved questions for the Court in banc, in which shall be made the entries of proceedings that take place in said Court; and where a new trial is granted by the Court in banc, the case shall be carried to the Trial Docket of the next succeeding term.

Miscellaneous Docket:

12. The Clerk of this Court shall procure a well-bound book, to be termed "Miscellaneous Docket," in which the clerk shall enter all cases of Constable's Sales, Petitions for Habeas Corpus, Petitions of Appeals from Officers of Registration, Condemnation of Land (unless said condemnations are specially provided for otherwise in the Act of Assembly authorizing them), all Inquisitions for Lun-

atic Paupers, all Sales by Collectors of Taxes, and all other matters of a like miscellaneous character, which shall be kept and indexed as the other Law Dockets of this Court.

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RETURNS.

Returns of Sheriff to November, February and May Terms.

1. The Sheriff shall make a return to the Court on the first day of each November, February and May Term of all persons that have been committed to his custody, charged with a criminal offence since the preceding Term, with the dates and causes of their imprisonment. He shall return all writs, together with the bail bonds executions and other process, on the morning of the day upon which each said Term shall commence and on which the same are returnable, and before the meeting of the Court.

Returns of Sheriff on Other Return Days.

2. On each return day other than the return days to the November, February and May Terms of the Court, the Sheriff shall at 10 o'clock A. M. make return in due form of all process in his hands, returnable on such return days respectively; and it shall be the duty of the Clerk of the Court to be at his office at the hour aforesaid and then and there receive and enter such returns in due form.

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APPEARANCES.

Voluntary Appearance.

1. At any time after the issuing of the writ during the sitting of the Court, or in the recess, an appearance for the defendant in any cause, other than a cause wherein a writ of attachment may have been issued, may be entered on the order of the defendant in proper person or of any attorney of the Court.

Absconding Debtor.

2. Whenever an attachment shall be issued out of this Court against an absconding debtor, whether by a citizen of this State, or by any other person or persons authorized by the laws of this State to issue an attachment, no Attorney of this Court shall enter an appearance for said absconding debtor, nor shall any appearance whatever be entered in said case, unless some Attorney of this Court shall make affidavit, to be filed in said cause, that he is empowered and requested by such absconding debtor to enter such appearance.

Involuntary Appearance Entered by Clerk.

3. If a defendant be returned summoned and shall fail to appear, the Clerk of the Court, on the day following the return day to which the writ or process served on him is returnable, shall enter the appearance of any defendant so summoned and failing to appear, and the action shall proceed in the same manner as if the party had appeared in person.

In What Cases Involuntary Appearance Not Entered.

4. The Clerk shall not, under the preceding section, enter the involuntary appearance of any defendant to any Action of Ejectment, Replevin or *Scire Facias*, or that of any garnishee returned to

any writ of attachment, but in all such cases the proceeding shall be as heretofore prescribed by Statute or otherwise, except that all such cases shall be placed upon the trial docket of the term next after the return day to which the party may be returned "Summoned" for trial or judgment in regular course of proceeding. And in applications for the writ in the nature of the writ of *Habere Facias* under the Act of 1900, Ch. 310, no involuntary appearance of any person shall be entered by the Clerk.

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DISMISSAL OF SUIT.

When and How Suits Dismissed.

1. During the recess of Court the Plaintiff may dismiss any suit instituted by him, by an order in writing to that effect, addressed to the Clerk, and upon paying the costs which have accrued up to the time of such dismissal; and in all cases where suits are dismissed on terms agreed upon between the parties, such terms shall be reduced to writing and signed by the parties or their Attorneys, and filed in the case, and the Clerk shall enter the case dismissed.

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PLEADINGS.

When Clerk Shall Enter Rule for Pleading.

1. Where no declaration has been filed at the time of the institution of the suit, or before the entry of the defendant's appearance upon return of process, the Clerk shall, upon entering the defendant's appearance (whether such appearance be entered by the direction of the defendant himself, or his Attorney, or under Section 3 of Rule 3 of this Court), enter on the docket a rule upon the plaintiff to declare; but if a declaration has been filed, he shall then, in like manner, enter a Rule upon the defendant to plead. And if the declaration be filed after the entry of the appearance of the defendant, the Clerk shall thereupon, at once, enter a Rule upon the defendant to plead, and so, after each pleading filed, there shall be entered a rule to reply.

Rule Days for Pleading

2. If no declaration be filed at the institution of the suit, or before the appearance of the defendant entered, in such case, the Rule day for filing the declaration, shall be the Tenth day after the return day to which the defendant may have been returned Summoned. And in all cases where the declaration is filed at the time of the institution of the Suit, or before appearance of the defendant entered, the Rule day to plead thereto shall be the Twentieth day from the return day to which the defendant was summoned. And in all cases where the declaration is not filed before the defendant's appearance entered, but shall be filed on or before the Rule day herein prescribed for filing declarations, the Rule day for pleading thereto shall be the Thirtieth day from the return day to which the defendant may have been returned Summoned, and for each succes-

ive pleading after the plea, the Rule day for filing the same shall be the Fifth day from the filing of the last preceding pleading in the regular series, unless some other time be fixed by the Court, or unless the party be required by the Court to plead forthwith.

Copy of Nar. Served with the Writ.

3. If a declaration shall be filed at the institution of the suit, a copy thereof shall be made by the Clerk and served on the defendant with the writ, together with a written notice of the rule day to plead thereto.

Notice of Rule to Declare.

4. Where no declaration has been filed at the time of the institution of the suit, the Clerk at the time of entering on the docket a rule upon the plaintiff to declare shall serve upon the plaintiff's attorney, if there is one entered, a written notice of the rule day for filing the declaration in such Suit

Copy of Declaration Served.

5. In all cases in which declarations are not served on the defendant with the writ, but shall be afterwards filed by the regular rule day, it shall be the duty of the Clerk to make out and serve on the defendant's attorney, when an attorney enters an appearance for him, a copy of the declaration that may be filed at least ten days before the rule day to plead thereto; but in case where a proper personal appearance alone is entered upon filing the declaration the Clerk shall make out a copy of such declaration to be delivered when called for.

Pleas of Jurisdiction—in Abatement—Limitations.

6. Pleas to the jurisdiction, in abatement, and of limitations must be pleaded by the regular rule day, unless the time for pleading shall have been previously extended by the Court, or unless the Clerk shall fail to make out and deliver a copy of the declaration according to rule.

Copy of Plea and Other Pleadings Served.

7. It shall be the duty of the Clerk within two days after the rule days for filing pleas and all other subsequent pleadings, to make out a copy of such plea or other pleadings and serve the same on the opposite Attorney, if there is one entered; and where no appearance by Attorney is entered, upon each pleading being filed, the Clerk shall make out a copy for the opposite party, to be delivered as in cases of declaration.

Pleadings Not Filed by Rule Day.

8. Wherever a declaration, plea or other pleading shall be filed after the regular rule day, the Clerk shall immediately, or as soon thereafter as practicable, not exceeding two days, make out a copy thereof, and serve the same on the opposite attorney, if there is one entered; and where no appearance by attorney is entered, upon each such pleading being filed, the Clerk shall make out a copy for the opposite party, to be delivered when called for. In such cases no judgment by default, as provided in Section 12 of this Rule, shall be taken by the party failing to file his pleadings by the regular rule day except by virtue of a special rule sued out of and granted by this Court.

Notice of Rule Day for Pleading.

9. Whenever a declaration, plea or other pleading shall be filed by the regular rule day, the Clerk at the same time that he serves a copy of such declaration, plea, or other pleading on the opposite attorney, shall also serve on such attorney a written notice of such pleading and of the rule day for pleading, replying, rejoining or otherwise responding thereto, as the case may be; and the Clerk shall note on the docket the manner in which service has actually been made

Computation of Time of Service

10. The day on which any rule shall be entered, or order, notice or paper served, shall be excluded from the computation of time for

complying with the exigency of such rule, order, notice or paper; and the day on which a compliance therewith is required shall be included, unless it falls on a Sunday or legal holiday, in which case the party shall have the next day to comply therewith.

How Notice of Rules Served.

11. Every notice shall be in writing, and, together with a copy of the pleading or paper to which it refers, shall be served on the attorney of record of the party to be affected by it, or left at the office of such attorney, if such attorney have an office in Hagerstown; if such attorney do not have an office in Hagerstown, then such notice shall be mailed to his address.

Judgment for Default in Pleading.

12. Where a party shall fail to comply with the rules for filing his pleadings in this Court, judgment, on motion of the adverse party may be entered up against the party so in default. The judgment against the plaintiff in default shall be judgment of *non pros*, and the judgment against the defendant in default shall be judgment of *nil dicit*.

Insolvent Debtors.

13. The Rule Day for filing allegations against Insolvent Debtors shall be the first day of each Term, and in case the allegations shall not be filed on or before that day, the case at the election of the petitioner, may be postponed at the cost of the party or parties exhibiting the allegations, unless sufficient cause to the contrary be shown to the Court.

Pleadings Not to be Drawn at Bar.

14. No pleadings shall be drawn or prepared at the bar in cases when called for trial, which will produce delay; and when a case is reached and a pleading is to be prepared before the case can proceed to trial, such case shall, at the discretion of the Court, be placed at the end of the Docket, at the cost of the delinquent party.

Bills of Particulars.

15. All motions for Bills of Particulars, made during the sessions of the Court, shall be made in open Court, and disposed of as other motions usually are; and, if made during recess of the Court, shall be by petition in writing, which shall be heard at a short day (after such notice to the opposite party, or his attorney, as the Court shall direct on the presentation of such petition) and disposed of by the Court without delay. When such motions are made before the rule day to plead, such rule day shall be extended fifteen days after the Bill of Particulars shall have been filed. A copy of such Bill of Particulars shall be made and served by the clerk in the same manner as is provided by Section 5 of this rule in the case of Declarations, together with notice of the rule day to plead thereto in manner provided by Section 9 of this rule.

Common Counts.

16. Where the pleadings, under which bills of particulars are demanded, consist of a declaration or plea of set-off containing the common counts only, the order therefor shall be passed as a matter of course upon the making of such motion, either in open Court, or in writing as aforesaid, without notice to the opposite party.

When Bill of Particulars Filed. Judgment on Default.

17. Where an order for a bill of particulars is granted by the Court, the bill of particulars shall be filed within fifteen days thereafter. In case of failure to file such bill of particulars the party in default, on motion of the opposite party, shall, if plaintiff, suffer a *non pros*, or, if defendant, his plea of set off shall be stricken out and shall not be refiled in the case.

Exceptions to Garnishee's Answer.

18. Whenever any garnishee shall file answers to interrogatories filed by the plaintiff under the provisions of Section 15 of Article 9 of the Code, he shall serve a copy of said answers on the plaintiff within ten days after filing same, and all exceptions to be

taken to said answers shall be filed within fifteen days from the time of such service on the plaintiff, and not afterward, unless by leave of the Court.

Pleadings in Attachment.

19. In cases of attachments against non-residents or absconding debtors, the plaintiff may annex to the declaration, or short note, filed in the cause, a demand that the defendant in the attachment shall plead to such declaration, or short note, within twenty days after the defendant shall have entered his appearance thereto; and in such case the Clerk shall, at the time of noting the appearance of the defendant on the docket, lay a rule upon said defendant to plead within the time for pleading above specified, and thereafter, for any subsequent pleadings, lay such rules as are provided for similar pleadings in other causes. The Clerk shall also make such copies and give such notices as are required for similar pleadings in other causes.

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TRIAL OF CASES.

Civil Appearance Docket Called.

1. The Civil Appearance Docket shall be called on the first day of each Term for the purpose of entering appearances. Motions, rules and judgments proper to be entered in such cases shall then be made and entered.

Civil Trial Docket Called.

2. The Civil Trial Docket shall then be called, for the purpose of entering judgments, enforcing all rules laid on Plaintiff or Defendant; laying rules and receiving motions and marking cases for trial or continuance as the case may be.

Affidavit of Defence

3. In all cases Ex-contractu, on the Civil Trial Docket, in which the declaration has been filed by the rule day, and served upon the defendant or his attorney, judgments will be entered at the call of the Trial Docket on the first day of the term, unless the defendant or his Attorney shall before the Call of the Case on the first day of the term, file an affidavit that the defendant has a bona fide intention of making defence and contesting the right to judgment and that he does not resist the entry of judgment for the purpose of delay or of giving priority to others.

Civil Appeal Docket Called.

4. The Civil Appeal Docket shall then be called for the purpose of making entries and disposing of such cases thereon as may not be properly in Court, and such as may not be for trial, whether by agreement or otherwise.

Civil Appeal Cases Tried

5. The first ten cases on the Civil Appeal Docket shall stand for trial on the first day of each term after the Call of the Dockets as provided for in these Rules. The cases on the Civil Appeal Docket not disposed of on the first day of the term shall stand for trial on the second day of each term and shall have precedence over all other business during the second and third days of the said term, and any cases not then disposed of shall stand for trial after the cases on the Trial and Criminal Dockets shall have been disposed of.

Costs Below Must be Paid.

6. When a Civil Appeal Case shall be called for trial, unless it

shall satisfactorily appear to the Court that all costs incurred before the Justice of the Peace shall have been paid by the Appellant, before the said case is so called, the same shall stand affirmed on motion of the Appellee.

Civil Trial Cases Tried.

7. The Civil Trial Docket shall be in order to be taken up on the first Wednesday of each term, when, or as soon as practicable, in view of the fifth section of this rule, the Court will proceed to call the same, requiring each case to be tried, or continued for legal cause, whenever it shall be reached. If a cause be passed over by consent, or on sufficient cause shown to the Court, it shall be postponed until the entire docket is gone through; if delayed at the instance of one of the parties, he shall pay the intermediate costs; a case, however, may be taken up, out of its order, by consent of the bar.

Criminal Cases Tried.

8. The Criminal Trial Docket will be called on the third Monday of each November Term, and on the Second Thursday of each February and each May Term, when the same will be taken up and proceeded with, in their order; and the Court will expect all parties concerned to be prepared and ready for trial as the cases may be reached, in the regular call of the Docket; and no case will be postponed or continued, except for sufficient cause shown. After the cases on the Criminal Trial Docket are disposed of, the Criminal Appeal Docket will be immediately called and disposed of in like manner as herein provided for the Criminal Trial Docket. The Criminal business of the Court to have preference over the Civil cases, on and after the days above enumerated for the call of the Criminal Docket.

ORDER FOR THE HEARING OF CASES, MOTIONS, etc.

All cases not requiring the presence of a jury and all motions, demurrers and other contested proceedings requiring a decree, order or ruling of the Court, and being ready for trial or hearing, are hereby set for a hearing on the Monday of each week next after the same shall be noted for a hearing by the Court, in a book or docket to be known as Assignments for hearing.

The Clerk of the Court will note any proceedings for a hearing upon the written request of any Attorney appearing in each proceeding accompanied by his certificate that he has, on or before the next preceding Wednesday, notified the opposing Attorney or Attorneys in writing of his intention to have said proceeding assigned for hearing. If testimony is to be offered at the hearing the notice to opposing Attorneys shall so state.

The Clerk of the Court will also note a proceeding for hearing upon the written request of Attorneys representing all parties in interest. All proceedings will be heard in the order in which they are noted by the Clerk, and hearing will continued from day to day until all matters assigned have been heard.

FRANK G. WAGAMAN

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CONTINUANCES.

Rule Security for Costs.

1. When the plaintiff is laid under a rule security for costs in a suit, and claims a continuance of the cause to enable him to comply with the rule, and such case is continued, the plaintiff shall have until the second day, inclusive, of the succeeding term to comply with said rule, and no longer.

Sickness of Counsel—Court of Appeals.

2. The non-attendance of counsel shall not be considered by the Court as ground for continuance, unless where it is occasioned by sickness or unavoidable accident. When there are two counsel, the sickness of one shall not be a cause of continuance, unless at the discretion of the Court; but his absence on necessary attendance on the Court of Appeals, will, in the discretion of the Court, be cause for postponement. The postponement shall be to a day certain in the Term, and the cause shall stand for trial next after the causes regularly assigned for that day. And if a cause shall have been continued, the continuance, by consent of parties, may be stricken out at any time, provided the parties will proceed immediately in the trial thereof.

Absent Counsel Not Sent For.

3. Attorneys absenting themselves from the Court Hall, during the actual sessions of Court, will not be sent for; but in all instances, where cases are called in regular order, and the Attorney of either party is absent (unless for sufficient cause) the adverse party shall have the option to proceed in the premises as if the absent Attorney had not entered his appearance of record; and if

such adverse party shall decline to exercise such option, the Court will continue the case under this rule and in the event of the Attorneys on both sides being absent when a case is called in regular order, the Court will continue the same generally, unless the parties are in Court and ready to try their cause in proper person.

Affidavit For Continuance.

4. All affidavits to support applications for continuances to enable parties to obtain testimony, shall be prepared and filed before the case in which the testimony is wanted is actually called for trial, otherwise such application will not be entertained, unless it be under special circumstances to be determined in the discretion of the Court.

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WITNESSES.

Civil Appeal Cases.

1. Subpoenas for witnesses in the first ten cases on the Civil Appeal Docket shall be returnable at 10 o'clock on the first day of the term, and those for witnesses in other cases on that Docket shall be returnable on the second day of the term at 9 o'clock a. m. In no Civil Appeal case shall any subpoenas be issued for witnesses on the part of the appellee, until an appearance be entered for such party.

Civil Trial Cases.

2. Subpoenas for witnesses for any of the first one hundred cases on the Civil Trial Docket, issued before the first Wednesday of the Term, shall be made returnable on that day at 9 o'clock A. M.; and in all the next succeeding cases on said docket, subpoenas, if issued before the second Monday of the Term, shall be made returnable on said last mentioned day at 9 o'clock A. M.

Criminal Cases.

3. Subpoenas for witnesses in cases on the Criminal Trial and Appeal Dockets issued before the third Monday of each November Term, and the second Thursday of each February and May Term, shall be made returnable on such respective day at 9 o'clock A. M.

Insolvent Debtors.

4. The subpoenas, and all other process in case of allegations against Insolvent Debtors, shall be made returnable at 9 o'clock on the second Wednesday of each Term, and in case of non-attendance, attachments may issue if prayed for; and said Insolvent cases shall be taken up at the discretion of the Court.

Clerk To Make List of Witnesses.

5. It shall be the duty of the Clerk to have made by the second day of each Term, for the use of the Crier of this Court, a full list of all the witnesses for whom subpoenas may have issued on the several Dockets; such list to be written in a plain hand, with the names of the witnesses arranged under the title of the cases on the Docket in which the subpoenas issued, with designation of the number of the case, for which party they are subpoenaed and whether summoned or not; so that parties may at any time, upon application to the Crier, have their witnesses called to ascertain whether they attend, without interruption or delay of the business of the Court. The names of all witnesses summoned during the Term shall be added to such list from time to time, as the subpoenas may be issued and returned.

Attachment For Witnesses.

6. Attachments will be issued for witnesses in any case, on any one of the Dockets who shall have been summoned and fail to attend; and no witness who shall be absent when the case in which he is summoned shall be called for trial shall be allowed for any previous attendance in such case during the Term, unless he shall have been discharged, or unless the Court shall so direct.

Commission to Take Testimony.

7. If the Plaintiff or Defendant in any cause, whether at issue or not, shall be desirous of obtaining a commission to examine any witness or witnesses who reside without the State, he shall first file in the Clerk's office a copy of the interrogatories which are to be proposed to the witness or witnesses, together with the name or names of a commissioner or commissioners, and shall serve the opposite party or his Attorney with a copy of the interrogatories, and the name or names of the Commissioners, at least ten days before he applies to have it issued. And if the opposite party shall not, within ten days from the time of such service, file cross-interrogatories, together with the name or names of a commissioner or commissioners on his part, the commission shall issue ex parte to the commissioner or commissioners named; but if the opposing party shall within said ten days file the name or names of a commissioner or commissioners, then the commission shall be issued by the Clerk to one of the commissioners named on each side, unless the parties shall agree upon another person or persons to act as commissioner or commissioners, in which case the commission shall issue to the person or persons agreed upon. The Court in its discretion, for cause shown, may shorten the time limited for issuing a commission. Exceptions to the execution and return of a commission shall be made before the Jury is sworn in the case, otherwise they shall be considered as waived. If a commission shall have been issued, returned and opened, and notice thereof given to the opposing party, fifteen days before the commencement of a Term, excep-

tions to the execution and return thereof shall be filed on or before the second day of the Term or shall be considered as waived; and exceptions so filed shall be heard as a law question or case in the regular call of the Law Docket.

Testimony de Bene Esse.

8. Either party may take the deposition of any witness (before any one of the Examiners appointed by this Court to take testimony in Equity cases) under Art. 35, Sec. 19 of the Code of Public General Laws, upon giving at least five days notice to the opposite party of the time and place of taking such testimony; the manner of taking such testimony shall be upon written interrogatories, which shall be returned with the evidence.

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PRACTICE AT TRIALS.

One Counsel to Cross-Examine.

1. In no trial shall more than one Counsel on a side, examine or cross-examine a witness.

Number of Counsel in Appeal Cases.

2. In the trial of Appeal Cases, only one Counsel shall be heard on a side, either before the Court or Jury; and the opening Counsel shall have the right to address the Court or Jury twenty

minutes, in the opening and concluding arguments; and the other Counsel shall have the right to address the Court or Jury thirty minutes and no more.

Number of Counsel in Trial Cases.

3. Only one Counsel on each side will be heard before the Court upon any point of evidence, or on a motion, and in addressing the Court shall not be permitted to occupy more than thirty minutes; and the Counsel in reply and in conclusion before the Court shall not occupy more than fifteen minutes; upon prayers of the law of the case and demurrers, the same rule shall prevail, except that the Counsel on each side may extend their argument to one hour, but the Counsel in reply shall be limited to half an hour; or two Counsel may be heard on each side, each, in such case not to occupy more than half an hour; and no more than two Counsel on a side, in other than Appeal cases, shall be permitted to address the jury, nor to occupy more than one hour each; provided, that by special leave of the Court, in cases of more than ordinary importance and difficulty, the rule, both as to the number of Counsel and the time they will be permitted to occupy before the Court or Jury, may be enlarged according to the discretion of the Court.

Opening and Conclusion.

4. On trials of fact the Plaintiff on the record shall have the opening and conclusion, except in cases of avowries and cognizances; where evidence offered is objected to, the party objecting shall open and conclude on the objection; on the argument of demurrers and motions addressed to the Court, the party demurring or making the motion shall open and reply.

How Juror Challenged.

5. When a Juror is called the accused shall first exercise the right of challenge, or notify his acceptance of the Juror, after which the State may exercise its right to challenge, according to the Act of Assembly in such case provided.

Objections to Evidence.

6. Every objection to the admissibility of evidence shall be made at the time such evidence is offered, or as soon thereafter as the objection to its admissibility shall have become apparent, otherwise the objection shall be treated as waived; and every objection thus made shall be disposed of forthwith, unless the Court shall think fit to suffer the evidence to be offered subject to the objection. The Court, however, reserves the right to exclude illegal or irrelevant testimony even if not objected to.

Writing Down Testimony.

7. In no case, unless by permission of the Court, shall the progress of the trial be delayed or impeded by writing down the testimony of witnesses under examination; and time only will be allowed to counsel to note briefly in the course of examination, the leading facts testified to, as distinguished from the details of the evidence.

Prayers.

8. After all the testimony intended to be offered by Plaintiff and Defendant shall have been introduced, the Court will expect to be furnished with all the prayers which the parties respectively may propose to found thereon. These prayers shall be argued together, unless otherwise directed by the Court; the Plaintiff, if he shall have submitted any material proposition not admitted by the Defendant, being entitled to open and conclude on the whole. And the Court, upon the whole case, will give such instructions as may appear requisite to place the case fully before the Jury.

9. After the Jury shall have been charged or instructed as contemplated by the preceding section, no additional prayers will be received, nor additional evidence be given to the Jury, unless by permission of the Court.

Bills of Exception.

10. Every exception taken to the ruling of the Court in the progress of the trial shall be noted at the time of the ruling made,

and the ground of the exception stated. When such exception is taken to the granting, or refusal of instructions to the jury, the party so excepting shall state to what prayer or instruction the exception is intended to apply. In no case shall the progress of the trial be stayed or delayed for the formal preparation of bills of exception, unless it be by the permission or direction of the Court, but it shall be sufficient that the party taking the exception note the same at the time of the ruling made, and thereafter within a reasonable time after the trial, reduce the exception to proper form in conformity to the Rules prescribed by the Court of Appeals for the regulation of Appeals, and submit the same to the Judge or Judges for his or their signature; provided, however, unless otherwise expressly allowed by the Court, the bill of exceptions shall be prepared and submitted to the Court during ^{within 30 days from} ~~the sittings of the term at~~ ^{the verdict} ~~which such exceptions shall be taken.~~

11. In preparing Bills of Exceptions, there shall be incorporated therein only so much of the testimony and proceedings as may be necessary to present the question raised and decided by the Court, and patents, deeds, wills and other writings shall be stated briefly according to their import and effect, unless the nature of the question or questions raised and decided shall render it necessary to insert them at large.

Inquiry of Damages.

12. In all cases the Plaintiff may have Inquiry of Damages, unless otherwise ordered by the Court. If the default shall be entered on the regular call of the Trial Docket for the trial causes, the Plaintiff may, at his election, proceed to execute inquiry, and like proceedings may be had after judgment on demurrer for Plaintiff for assessing damages and extending the final judgment.

Judgment Under Rule

13. Where there has been no plea, or no sufficient plea filed, as required by Section 65 of Article 22 of the Code of Public Local

Laws, the judgment authorized to be entered, shall be entered as in default of plea, under the Rule, as in other cases; and where the defendant pleads, as required by said Section, and any part of the debt or damages claimed be admitted to be due, so that the Plaintiff be entitled to enter judgment therefor, under said Section, the plaintiff shall file his election in writing to take such judgment in full discharge of the action, before judgment entered, and the judgment shall be entered upon such election filed, and not otherwise.

What Cases Referred to Auditor.

14. All cases for trial against Executors or Administrators, or on testamentary or administration bonds, where under the pleadings the due administration of the estate of the deceased, or the amount of assets in the hands of the Executor or Administrator may appear to be the subject for ascertainment by the Jury, shall be referred to the Auditor of the Court or to an Auditor to be especially appointed for that purpose, who shall state the accounts between the parties in relation to such an estate or assets of the deceased, upon such evidence and vouchers as may be submitted to him by the parties respectively, which accounts or statements of the Auditor shall, unless otherwise assented to by the parties, remain in Court liable to exceptions to be filed by either party for one Term; and all debts and credits not excepted to during the regular session of said Term, shall, in the trial before the Jury, be deemed facts admitted.

When to be Referred.

15. All actions which may be referred to an Auditor or Auditors, shall be referred as soon as the pleadings in the cause shall be filed and issues joined; and cases so referred to him shall be returned, together with his report, and filed in the cause by the return day of the next succeeding Term, unless the time shall be enlarged by the Court, upon previous application, or by the parties themselves by agreement filed.

Costs Incurred.

16. And in all actions coming under the two preceding sections if either party has incurred costs by the summoning and attendance of witnesses before the time limited for the return of said Auditor, such costs shall be borne by the parties respectively incurring the same. In all cases referred to the Auditor he shall give to the parties or their Attorneys at least ten days notice of the time and place at which he shall or may be required to take testimony.

Objections to Commissions to Mark and Bound Lands.

17. In all cases of the return of commissioners under the law for marking and bounding lands, where the recording of the same is objected to, the party objecting, if the return be to a Court in course, shall file his objections in writing by the next succeeding regular return day, and if the return be made during recess, the party objecting shall file his objections in writing by the third day of the next succeeding term.

18. In all cases of return of commissioners under the act entitled "An Act for the ease of the inhabitants in examining evidences relating to bounds of lands, and in the manner of obtaining injunctions," where the recording of the same is objected to, there shall be the same proceedings as provided in the last preceding section respecting proceedings under the Act for marking and bounding lands.

Judgments on Awards.

19. On motion, a judgment may be entered on a final award made by referees under a rule of Court, provided said award shall have remained in Court during four days of the sitting of a Term.

Allowances in Lieu of Dower and Courtesy.

20. In proceedings under the law to direct descents, where an allowance is claimed by a tenant in dower, or by a tenant of the husband's statutory estate in the real property of his wife in lieu of his or her legal estate, this Court will be governed by the rules

which prevail in making like allowances in proceedings depending on the Equity side of the Court.

Warrants of Re-Survey.—How Obtained.

21. The Court will not order a warrant of re-survey to issue either in ejectment or other actions, unless the party applying for such warrant, or his Attorney of record, shall, by affidavit filed in the cause, satisfy the Court that there is a dispute about the location of the land in respect to which the action is brought, or that plats are necessary for illustration. Such affidavit shall show the nature and character of the dispute about the location, and how it arises, or the reasons why plats are necessary for illustration.

When to Be Returned.

22. In all cases in which surveys are made under warrants of re-survey issued from this Court, or in which leave shall be given to the parties to add and amend plats already returned and lodged with the Clerk, the said plats shall be returned at least ten days before the commencement of the term to which such plats are returnable, exclusive of the day of return and the first day of the term; otherwise either party (whose neglect or improper conduct shall not have caused such delay in the return of plats in such cases) shall be entitled to a continuance of the case, without costs.

Notice to be Given.

23. Fifteen days notice of the time of executing any warrant of re-survey shall be given by the sheriff to the parties, or their Attorneys.

Plats Returned.

24. After closing the survey, the surveyor shall prepare and return three plats with certificates and explanations showing the respective claims and pretensions of the parties, and the lands and objects laid down by them for illustration, and the warrant of re-survey and depositions and other evidence taken by them.

Costs to Be Endorsed on Plats.

25. The sheriff and surveyor shall endorse on every plat the particulars and amount of their fees against the respective parties. If it shall appear in the trial that the locations or any part thereof, were made without just or reasonable cause, the costs of such unnecessary locations may, in the discretion of the Court and without regard to the result of the suit, be taxed against the party for whom they were made or by whose misconduct they were necessary.

When Clerk Shall Enter Judgment on Verdict

26. The Clerk of this Court shall enter up judgment on all verdicts after the expiration of two days from date of such verdicts, excluding the day of verdict, unless a motion in arrest of judgment, or for new trial shall have been interposed, or unless sooner ordered by the Court. And in the event that any motion in arrest of judgment, or for new trial shall be made and be refused or overruled by the Court, the Clerk shall enter up judgment at any time after the decision of the Court refusing or overruling such motion shall be filed in Court, or entered on the Docket.

New Trial and Arrest of Judgment.

27. All motions in arrest of judgment and for new trials shall be made during the term when the verdict was given, and within two days after the verdict, excluding the day upon which the verdict shall be found. The party making such motion shall file reasons in writing, at the time of such motion, and if, on hearing such motion, he shall suggest additional reasons, those reasons shall also be filed in writing, and every such motion shall be heard and determined at and during the term at which such motion is made, unless continued by written order of the Court; and the party making such motion, if he desires to file affidavits, shall give notice thereof at the time of making such motion and shall file his affidavits within ten days after any such motion shall be made.

Motions and Rules Heard During Term.

28. All motions made and special rules laid during the term in

cases on any of the Trial Dockets of such Term, excluding motions for new trial or in arrest of judgment, shall be brought on for hearing by the party making the same during the term, on giving at least three days notice of such hearing to the opposite party, or his attorney.

Motions and Rules Grounded in Facts.

29. The Court will not hear any motion or grant any special rule grounded in facts, unless the facts are verified by affidavit, or are apparent from the record, or from the papers on file in the case, or agreed and stated in writing signed by the parties, or their attorneys; and the same rule will be applied as to all facts relied on in opposing any motion or showing cause against any special rule.

Agreement of Counsel.

30. The Court will not notice any agreement of Counsel unless the same be reduced to writing, signed by them and filed in the cause.

Notice of Rules and Orders

31. No party, nor his Attorney, shall be bound to take notice of any rule or order moved, made and docketed either in term or during vacation, relative to any suit, unless a copy of such rule or order be served on said party, or the attorney, as shall be by the Court specially directed. The mode of serving such rule or order shall be as provided in Section 11 of Rule 5 of this Court. The above not to apply to a rule or order moved for in open Court in the presence of the opposing counsel and directed by the Court to be entered on the docket.

Contempt of Court—Personal Service of Rule

32. In any case in which the object is to bring the party into contempt for disobeying any rule or order of Court, the service must be personally made on the party to be charged, unless otherwise ordered by the Court.

10

COURT IN BANC.

How Questions Reserved.

1. In reserving points or questions to be considered by the Court in Banc. under the 22d Section of the 4th Art. of the Constitution, the following shall be the mode of proceeding:

If the question arises on demurrer, motion in arrest of judgment, or other motions, which bring under consideration the state of the pleadings, or the conditions of the record, without reference to extrinsic matter, the entry of the motion to reserve, with the date thereof, and the party making the same, shall be made on the docket, immediately after the entry of the judgment, demurrer, or motion, with date thereof, and at whose instance made; and in contemplation of this rule all affidavits and other papers properly filed in the cause shall be considered as part of the record.

If the point or question, intended to be reserved, arise upon, or with reference to matter extrinsic, and not upon the face of the record, then such point or question shall be presented to the Court in banc. by a certificate in the nature of a bill of Exceptions, wherein shall be stated the facts and the ruling or decision of the Court intended to be reviewed; and such certificate shall be signed by the Judge or Judges making the decision or ruling in question, and filed in the cause; whereupon the entry shall be made on the docket of the motion to reserve such point in question, with the date of such motion, and at whose instance made.

What Matters Court in Banc Will Consider.

2. The points or questions reserved, under said 22nd Section of the 4th Art. of the Constitution, shall, in all cases, be plainly and

distinctly presented, and the Judges sitting as a Court in banc. will in no case, consider or decide any point or question that does not plainly appear to have been tried and decided by the Circuit Court in the first instance; nor will said Court entertain any proposition or question that appears to be of a mere abstract nature, or which has become so by the further progress of the cause, nor any question made simply for delay, and whereby the rights of parties are not affected; and no question shall be reserved upon the exercise of mere judicial discretion. not affecting the merits of the controversy, and from which an appeal will not lie to the Court of Appeals, nor shall the reservation of any point or question delay the progress of the trial, or other proceedings.

Briefs to be Filed.

3. Preparatory to the argument of questions reserved, there shall be made and filed in the cause, on the part of the respective parties, at least three days before the time for argument, a brief statement of the legal questions or propositions relied on, with the authorities sustaining them accurately cited, and distributed under their proper heads; and if either party shall fail to comply with this rule, the party not in default may either proceed to argue the question or questions ex-parte, or have the same dismissed, at his election.

11

INSOLVENCY.

Preliminary Trustee.

1. In no case shall the Clerk appoint any person preliminary trustee, under the authority given by Section 18 of Article 47 of the Code, who shall appear to have received any preference, or any assignment from the applicant, contrary to the provisions of the insolvent law, or who may in any manner claim any interest in the estate of the insolvent adverse to that of the creditors; and the Clerk shall, in making such appointment, be satisfied of the integrity of the person to be appointed, and of his entire freedom from all collusion with the insolvent; and that he will act in the premises for the best interest of the creditors.

Bond of Preliminary Trustee.

2. The bond to be taken from the preliminary trustee so appointed shall be in the penalty of at least double the value of the property, if any, returned in the schedule of the insolvent, and if no property be returned, then, upon inquiry, the penalty of the bond to be fixed at such an amount as will amply secure any property or assets that may reasonably be expected to come into the hands of such trustee; and the bond of such trustee shall be in proper form, and duly executed, with good and sufficient surety or sureties therein, to be approved by the Clerk, and which approval shall be indorsed on the bond.

Notice to Creditors.

3. The notice to be given to creditors by the Clerk, as authorized by Section 18 of Article 47, of the day fixed for the insolvent

to appear and answer interrogatories or allegations, shall be for a period of at least forty days prior to the day so fixed; and which notice shall be published weekly for the said period of forty days, in some newspaper published in the county. And where the Court is applied to and acts under Section 2 of said Article 47, and appoints the preliminary trustee, then the Court will fix the day for the appearance of the insolvent to answer such interrogatories or allegations as his creditors may propose, and in the absence of any special order by the Court as to the notice to be given, it shall be the duty of the permanent trustee, so soon as he is appointed and gives bond, to give notice to the creditors of the day so fixed, by weekly publication of such notice in some newspaper published in the county, for at least one month prior to said day so fixed for the insolvent's appearance to answer.

Proof of Notice.

4. The preliminary trustee shall furnish to the Clerk on or before the day of meeting for the purpose of choosing a permanent trustee, an affidavit, to be filed among the insolvent proceedings, of the time when, to what persons, and to what postoffices, he addressed the notices required to be given by Section 2 of article 47; and he shall also file with the Clerk the printer's certificate of the newspaper publication of notice, in said section required to be given; and which said affidavit and certificate shall be prima facie evidence that notice was given as therein stated.

Proceedings at Meetings of Creditors.

5. At the meeting or meetings held for the election of a permanent trustee, and the examination of the insolvent, as provided in Section 2 of Article 47, it shall be the duty of the Clerk to keep minutes of the proceedings of such meeting or meetings, and to note therein the names of those attending such meeting or meetings, and briefly the transactions thereof; and such minutes of proceedings shall be signed by the Clerk and filed among insolvent proceedings.

Proof of Claims.

6. No person shall be allowed to participate in the election of a permanent trustee, or to interrogate the insolvent, as provided in Section 2 of Article 47, until he or she shall have proved his or her claim against the insolvent, as by this rule provided, or shown himself or herself to be surety or indorser of the insolvent, and the amount of such liability; and the method and forms of proof of claims against the estate of the insolvent shall be as follows:

All claims, provable against the insolvent estate, shall be vouched and proved in the manner and form, *mutatis mutandis*, as similar claims are required to be vouched and proved against the estate of deceased persons, in order to be passed by the Orphans' Court; and as rules for the proof of claims, and the presentation of formal vouchers thereof, as against the insolvent estate, the provisions contained in Sections 84 to 95, inclusive, of Article 93 of the code, are hereby adopted, *mutatis mutandis*, as fully as if they were here incorporated. And if the claims be secured by mortgage, or any instrument in the nature of a mortgage, the voucher thereof shall be the instrument itself, or a duly certified copy, with an affidavit attached, of the amount actually due thereon, after giving credit for all payments made by the debtor, or others for him.

Affidavits—Before Whom Made.

7. All affidavits or depositions in proof of claims may be made or taken before the Clerk, and by him certified, or before any justice of the peace or notary public in the State; and when any claim is proved out of the State, the affidavit or deposition may be taken in the manner and before the officials mentioned and authorized in Section 94 of Article 93 of the code.

Vouchers to be Filed.

8. The vouchers of all claims, with the affidavits or depositions attached, as required by the preceding rules, or copies thereof, shall be duly filed with the Clerk, who shall mark thereon the time

of filing thereof, and shall also note the filing of such vouchers upon the insolvent docket.

Trustees to Report.

9. Trustees of Insolvent debtors shall make a report of the funds and effects belonging to their trust as speedily as possible, and cause distribution to be made whensoever and as speedily as justice may require.

Auditor to State Accounts

10. The auditor of this Court shall audit and state the accounts of such trustees, and upon such audit the Court will act, either ratifying, correcting or rejecting the same, until, under the direction of the Court, a proper audit shall be made.

Notice to be Given.

11. Whenever the auditor shall make such audit, he shall first give three weeks notice of his intention to make the same, by publication in one of the newspapers printed in Hagerstown, and shall thereby notify the creditors to file their claims.

12**OFFICERS AND ATTENDANTS.**

Cannot Unite in Bail or Bond.

1. No Attorney or officer of this Court, or any deputy of an officer, shall be admitted as bail in any action in this Court, nor

shall any such Attorney, officer, or deputy be received as security in any bond given to prosecute a writ of error, or an appeal of any kind, or any replevin, *retorno habendo*, or any other bond, to prosecute an action in this Court, or become security for costs in case of rules for security for costs, or become security in any appeal bond.

Duties of Clerk.

2. It shall be the duty of the Clerk of the Court to give his personal attendance to the Sessions of the Court during the entire time of its session with such other clerical assistance as may be necessary to the orderly and ready dispatch of business, and in case of sickness or other actual disability of said Clerk to attend the Court in person, other sufficient and competent clerical force shall be provided to attend constantly upon the sessions of the Court, to do and transact the business pertaining to the duties and office of said Clerk; without hinderance or delay.

No Papers to Be Taken Out of Office

3. The Clerk shall not permit any papers to be taken out of his office without a written order from one of the Judges of this Court.

Whom Bailiffs May Admit Within the Bar.

4. The Bailiffs shall permit no person to come within the bar except the members thereof and their students or such persons as may be invited by a member of the bar.

Per Diem of Talesmen.

5. All Talesmen, who may be summoned at their homes, or places, more than five miles from the Town of Hagerstown, and only attend the Court in consequence of such summons, shall be allowed the regular per diem of Jurors for the time that such talesmen shall attend,

Jurors, When to Receive Extra Allowance.

6. The Clerk shall allow each Juror that may be summoned from the country and who cannot go home on Saturdays and return on Monday morning in time for the regular session of the Court, his per diem for each Sunday that he may be thus required to remain in Hagerstown.

Pay of Jurors in Lunacy Inquisition.

7. Each Juror empanelled during a recess of Court to inquire whether any person is a lunatic or insane pauper, under the provisions of Article 59, Section 1, etc., of the Code of Public General Laws, as amended by Chapter 603 of the Acts of 1900, shall be allowed the sum of One Dollar and Twenty-five cents in each case and no more, unless there be some special reason for an additional allowance, in which event the Court may allow not exceeding Two Dollars and Fifty Cents for each day such Juror is actually engaged in such service.

Court Library.

8. No book, pamphlet or other property belonging to and forming part of the library of the Court shall be removed from the library rooms without special license in writing by the Court.

Order of Court.

ORDERED, That the foregoing Rules be, and they are hereby adopted for the government of the proceedings, and the officers and suitors, in the Circuit Court for Washington County, on the Law side thereof, and they shall be of force and effect in said Court, on and after the first Monday of August, 1903; and that all existing Rules of said Court, or parts of Rules, shall be, and are hereby rescinded and repealed, from the said first Monday of August, 1903, when the foregoing Rules shall go into operation and effect.

And it is further ordered, that said foregoing Rules shall be printed, and after furnishing each member of the Bar with a copy thereof, the Clerk shall retain and preserve one hundred copies for the future use of the Court.

A. HUNTER BOYD.

FERDINAND WILLIAMS.

WM. J. WITZENBACHER.

August 1, 1903.

RULES

FOR THE

REGULATION OF THE PRACTICE

IN THE

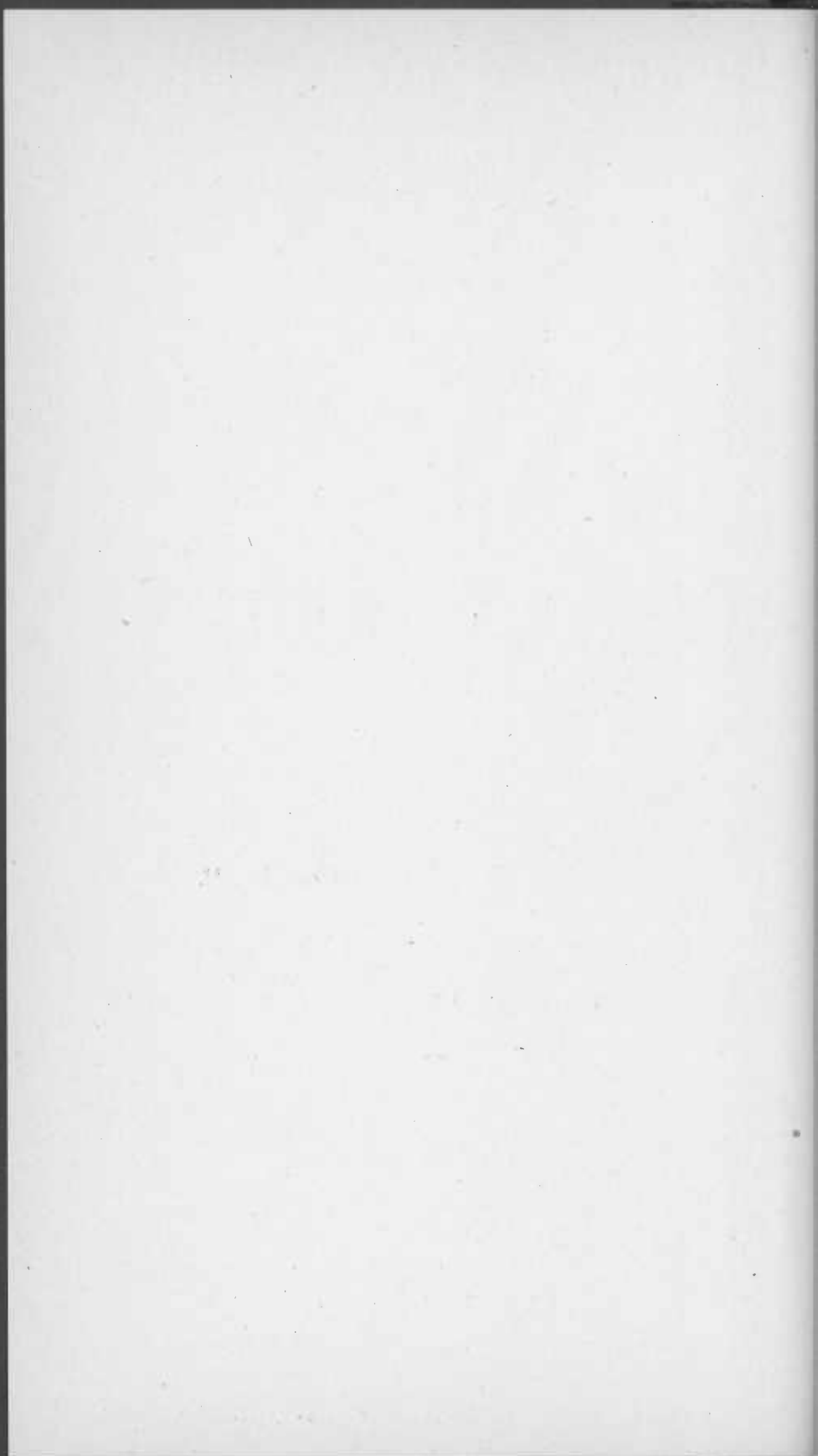
CIRCUIT COURT

FOR

WASHINGTON COUNTY, MARYLAND.

ON THE EQUITY SIDE.

Revised and adopted by the Court, to take effect from and after
the first Monday of August, 1903.



EQUITY RULES
OF THE
CIRCUIT COURT
FOR
WASHINGTON COUNTY.

RULE 1.

Papers Filed in Proper Person.

Any Bill or Petition, answer or writing filed and addressed to the Court, certified by a Judge, Justice of the Peace, or Notary Public, to have been acknowledged before him by the person whose name is subscribed thereto, the Judge, Justice or Notary stating in the certificate that such person is known to him, shall have the same effect as if signed and filed by a solicitor of the Court, or as if delivered by the person to be filed.

RULE 2.

Withdrawal of Exhibits.

A complainant or defendant, on giving his receipt to the Clerk for the same, may obtain any exhibits filed and referred to in the bill, petition or answer, if he shall require the same for the purpose of proving them under a commission issued to take testimony in the cause or in any other mode prescribed in the case, upon an order from the Court or from a Judge.

RULE 3.

Commission to Take Testimony.

Commissions issued for taking testimony within the United

States, shall be returned within four months from the day of their date, and if not so returned, a rule or order may be obtained for the return thereof by such day as shall be limited; or on application, such commission shall be declared void and a new commission issued, or other order, as may appear proper; provided, that when such commission shall not be so returned, it shall, *prima facie*, be considered the fault of the party who had the carriage of the said commission. Where a commission shall not be issued within twenty days from the date of the order or agreement for the same, the party applying for it shall be subject to the rule for further proceedings hereinafter mentioned. Other commissions for taking testimony shall be subject to the special order of the Court in particular cases.

RULE 4.

Decree of Partition and Dower

No final decree of partition or of dower shall be made on the report of commissioners, unless such report shall have been filed and shall have lain in the office for the period of thirty days, unless otherwise provided for by statute, or unless the parties shall have certified in writing their approbation of the report.

RULE 5.

Decree on Award.

On motion or application, a decree will be passed upon any final award rendered by the referees appointed by the rule of Court, and with the consent of the parties, provided such award shall have been filed and docketed and shall have lain in Court for thirty days, and that no exception shall have been made thereto.

RULE 6.

Hearing of Causes &c.

1. Whenever a cause is ready for hearing or there be any

question which under the practice of Courts of Equity in this State either party is entitled to have heard, the Court will, on written application, fix a time for such hearing without regard to the numerical order on the docket.

2. Each side will only be entitled to one hour and a half for the oral argument, unless the time be extended before the argument is commenced.

3. In all cases, unless otherwise ordered by the Court, briefs must be filed at the time of the hearing or within five days thereafter, in which reference shall be made to such portion of the pleadings and evidence as the parties may desire to bring to the special attention of the Court and such authorities shall be cited as may be deemed to be relevant.

RULE 7.

Absence of Solicitor.

The absence of the solicitor, except in cases of sickness or upon professional business, or of a party appearing without counsel, shall not be considered as a ground of continuance or postponement; and when two or more solicitors appear for any party, the attendance of one solicitor or his ability to attend shall be sufficient to prevent a continuance or postponement on account of the absence for any cause whatsoever of the other solicitor.

RULE 8.

Service of Rules and Orders.

No party nor his solicitor shall be bound to take notice of any rule or order made and docketed either in term or during vacation, relative to any suit, unless a copy of such rule or order be served on said party or his solicitor, as shall be by the Court especially directed.

RULE 9.

Ratification of Sales.

1. No sale of real property, either public or private, under a

decree or order of this Court shall be finally ratified and confirmed, until public notice of the report of such sale shall have been inserted in some newspaper published in Hagerstown, or as shall be directed by the Court, unless the parties shall consent in writing to a final ratification without notice.

2. No final ratification of any sale made by a trustee under a decree in equity, of any property in which an infant or infants are in anywise interested, shall be made by consent of parties. The ratification shall take place only upon the usual notice published in one or more newspapers, as the Court may by its order direct.

RULE 10.

Trustees' Commissions.

1. On sales under decrees or orders of this Court, the following allowances shall be made to Trustees:

On the first 300 dollars,	7 8 per centum	\$21.00 24"	\$
" second 300 "	6 7 " "	18.00 21"	39.00 45"
" third 300 "	5 6 " "	15.00 18"	54.00 63"
" fourth 300 "	4 6 " "	12.00 16"	66.00 81"
" fifth 300 "	3 1/2 5 " "	10.50 15"	76.50 96"
" sixth 300 "	3 1/2 5 " "	10.50 15"	87.00 111"
" seventh 300 "	3 4 " "	9.00 12"	96.00 123"
" eighth 300 "	2 4 " "	9.00 12"	105.00 135"
" ninth 300 "	2 1/2 4 " "	7.50 12"	112.50 147"
" tenth 300 "	2 1/2 4 " "	7.50 12"	120.00 159"

and three per cent. on all sums above three thousand dollars, besides an allowance for all expenses except personal.

2. The above may be lessened in case of negligence at the discretion of the Court.

3. Whenever a Trustee or a party authorized under a power in a mortgage shall advertise mortgaged premises under an order or decree of this Court or under said power, and the amount due is paid before sale, the Trustee or such other person shall be allow-

ed half commission on the amount due and the said allowance shall accordingly be paid. Provided that in case of advertisement under a power of sale in a mortgage reasonable notice is given of the intention to sell and no undue advantage has been taken of the owner of the property, and said mortgage provides for the payment of commissions.

RULE 11.

Allowance in Lieu of Dower.

1. The allowance to a widow in lieu of her right of dower in land sold under decrees shall be as follows, having due regards to her health and condition:

If she be under 40 years, not more than	1-7
If above 40 and under 45 " " "	2-15
If above 45 and under 51 " " "	1-8
If above 51 and under 56 " " "	1-9
If above 56 not less than	1-10

2. The allowance to a husband in lieu of his statutory estate in the lands of his wife by virtue of the provisions of section seven of Article Forty-five of the Code, when said lands are sold under a decree, shall be the same as allowed the widow in the foregoing schedule.

RULE 12.

Allowance to Tenant by Curtesy.

The allowance to a healthy tenant by curtesy in land sold under a decree shall be as follows:

If he be under 30 years, not more than	3-8
If above 30 and under 40 not more than	5-16.
If above 40 and under 50 not more than	3-16
If above 50 and under 60 not more than	2-16
If above 60 not more than	1-9.

EQUITY RULES.

RULE 13.

Answer to Cross Bill.

When a cross bill shall be filed, the defendant or defendants to the first bill shall answer thereto, before the defendant or defendants to the cross bill shall be compelled to answer such cross bill.

RULE 14.

Papers Sworn to Out of State.

All bills, answers and other papers required to be sworn to out of the State, will be received if sworn to before a Justice, certified to be so by a Prothonotary or Clerk of a Court under his official seal, or before a Judge of any Court whose official capacity shall be certified by the Clerk of his Court under seal of office, or before a Mayor or Notary Public, or Commissioner of Deeds for the State of Maryland.

RULE 15.

Affidavit of Non-Residence.

An affidavit of the non-residence will be required before any decree against a non-resident not appearing will be passed.

RULE 16.

Auditor's Proceedings.

When a matter shall be referred to the Auditor of the Court to examine and report thereon, he shall assign a day and place therefor, and give reasonable notice to the parties or their solicitors, and if either party shall fail to attend at the time and place, the Auditor may adjourn the examination of the matter to some further day, and must give notice thereof to the parties or their respective solicitors, expressing therein, that in default of appearance of them, or any of them, at the time and place, the Auditor will proceed ex parte, and accordingly upon such default he shall proceed to

examine the matter and report to the Court in order to have such proceedings as the Court shall deem right.

RULE 17.

Exceptions Must be Set For Hearing.

Where any person or party, having filed exceptions to any pleading, report of sale, or Auditor's report or account, does not obtain an order, setting the same down for hearing, within ten days after the filing thereof, such exception shall be considered as abandoned, and the person or party filing the same shall pay to the opposite party, such costs as may have been incurred by such party in respect of such exceptions.

RULE 18.

Deposits of Money Paid Into Court.

All deposits of money and payments into Court shall be made upon the order of the Court, or Judge thereof, in one of the banks in Washington county, and the money shall be deposited in one of the said banks by the Clerk, who shall give his receipt therefor to the party, and the said Clerk shall require an account to be immediately opened at the bank on receiving the deposit with the case in which said money shall be paid or deposited, and the Clerk shall open a like account in a book to be kept by him, in which he shall procure the entries to be made by the bank of the money deposited to the credit of the cause and of said account. No money deposited or paid into Court as aforesaid, shall be paid out except under the order of the Court or of a Judge thereof, which shall authorize the Clerk to draw a check upon the bank, payable to the order of the applicant, and the receipt of the applicant for the said check shall be taken by the Clerk on the account in his book aforesaid, in which account the Clerk shall copy all the orders of the Court or of any Judge as aforesaid, for payments, and the orders and checks aforesaid shall be delivered to the bank as the only vouchers to authorize the bank to make the payments aforesaid.

The Clerk shall keep an alphabetical index to said book. The Clerk shall deliver a copy of this rule to the bank in which the deposits shall be made.

RULE 19

Annual Reports of Fiduciaries.

1. All guardians, receivers, committees of lunatics or idiots, trustees and other fiduciaries appointed by this Court, or under its control and jurisdiction, shall file with the Clerk at least once in every year a report or statement under oath of their guardianship or other trust specifying fully and clearly the kind, character and nature of each investment held and the amount of cash on hand remaining uninvested. At the time of filing the report or statement hereinbefore required, the guardian, receiver, committee, trustee or other person, shall produce before the Clerk (or such other person as the Court may designate, when for special reasons that be deemed proper) the bonds, stocks, securities and other evidences of investment held by him, and a certificate of the same date from the bank or other place of deposit, in which said cash is kept, of the amount of money on deposit to the credit or order of said fiduciary. And the Clerk shall lay the said report or statement before one of the Judges, with a certificate of the several securities produced before him, or the non-production of the same, as the case may be

2. The Clerk shall keep a record of all continuing trusts in this Court in which shall be kept entries of the dates of filing reports, certificates, etc., required by the preceding Section, as well as such other matters as shall be necessary to keep the Court informed about such trusts. He shall furnish each person to whom this rule is applicable a copy of it, and shall report to the Court all refusals or failures of fiduciaries to comply with it.

3. He shall be allowed out of the trust funds reasonable compensation for his services, to be fixed by the Court, unless regulated by statute.

RULE 20.

Trustees' Receipts.

Original receipts and acquittances given to trustees and lodged for record in the Clerk's office, shall be returned to the said trustees after they shall have been recorded.

RULE 21.

Ratification of Auditor's Report.

1. When any report of the Auditor of this Court shall have been filed, and lain in Court fourteen days, the Court will, on application, act on the same.

2. And it shall be the duty of the Clerk as soon as any report of the Auditor shall have been filed, to fix up at some conspicuous place in his office, the titling of the case as it stands upon the Docket of the Court, and number of the case, and the time when such audit will be ready for ratification under this rule.

RULE 22.

No Officer of Court to Become Security.

No officer of this Court, whether Clerk, Solicitor, Auditor, or Sheriff, shall become security upon any trustee's bond, injunction bond, or any other bond, to be filed in this Court.

RULE 23.

Change of Name.

1. Upon petition filed in this Court for the change of name of any person under the provisions of the Code of Public General Laws, the Court will pass an order nisi upon said petition which said order shall declare that the Court will on a certain day to be named in said order nisi, proceed to pass a final order and decree that the name of the petitioner or of the person on whose behalf said petition is filed, as the case may be, shall be changed as prayed in said petition unless cause to the contrary shall be shown on or before said

day named in said order nisi, provided, however, that before it shall proceed to pass such final order and decree on such petition, the Court shall be satisfied that notice of the substance and object of such petition warning all persons to show cause to the contrary, if any they have, why the prayer of said petition should not be granted has been published in some newspaper printed in Washington County once a week for three consecutive weeks before the day mentioned in said order nisi.

2. In cases in which objection shall be made or cause shown by any person or persons against granting the prayer of such petition on or before the day named in said order nisi, the said objections shall be set down for hearing at the earliest practicable day and if upon such hearing the objections be sustained the petition shall be dismissed, but if not, the decree shall be passed as prayed; provided the Court shall be satisfied that the rule of Court has been complied with and that the prayer of the petition should be granted.

3. The Court may make such provisions with reference to costs as it shall deem equitable.

RULE 24.

Chancery Papers—How Obtained.

The Clerk of this Court shall collect from the solicitors of this Court, or from the persons who may have the same in possession, all chancery papers whatever, belonging to the Court; and shall hereafter permit no chancery papers whatever to be taken out of his office without an order of Court or a Judge thereof; but shall permit all solicitors of the Court to examine the same in his office, and shall furnish a copy of any paper or papers that may be required; but the Clerk may deliver chancery papers to the Auditor when he desires to make an audit thereon; or to the standing Examiners, or the Examiner agreed upon to take testimony in the cause; and it shall be the duty of the Auditor and Examiner to return the same to the Clerk as soon as he is done with them.

Order of Court.

ORDERED, that the foregoing rules be, and they are hereby adopted for the government of the proceedings in the Circuit Court for Washington County, in addition to the general equity rules adopted by the Court of Appeals of Maryland and statutes regulating the practice and proceedings in Courts of Equity in this State, and that they shall be of force and effect in said Court, from and after the first Monday of August, A. D., 1903, and that all existing rules of said Court, or parts of rules, in any wise inconsistent with the rules hereby adopted, be, and the same are hereby, rescinded.

A. HUNTER BOYD,
FERDINAND WILLIAMS,
WM. J. WITZENBACHER.

PRACTICE ACT,

P. L. L., ART. 22, SECS. 60-68.

Acts. 1886, Ch. 264.

60. In addition to the first day of each term of the Circuit Court for said county, the first Monday of January, April, July and October, in each year, shall be return days for the return of process in civil cases.

61. All original writs, writs of execution, attachment, replevin, ejectment, *scire facias* and *habere facias*, as well as all other writs and process issued from or returnable to said court in civil cases, shall be made returnable to the first return day, or to the first day of the term, whichever shall first occur after the issue of the same, unless otherwise ordered in writing by the party directing the same, or his attorney; and on the return of an original writ, not executed, the same may be renewed, returnable to the next return day, or to the first day of the succeeding term, whichever shall first occur.

62. If a defendant be returned summoned and shall fail to appear, the clerk of the court, on the day following the return day to which the writ or process served on him is returnable, shall enter the appearance of any defendant so summoned and failing to appear, and the action shall proceed in the same manner as if the party had appeared in person.

63. In all cases when a party is returned summoned to a return day or to a term, the same proceedings shall be had as are now had in said court, subject to such rules as the said court may prescribe as to pleading and practice, and the cases shall be entered in their order on the trial docket for the succeeding term.

64. Every suit in which any defendant shall be returned summoned, except suit on contract, as hereinafter provided, shall stand for trial or judgment at the term next succeeding the rule day or term to which said defendant was returned summoned, subject to such rules as the court may prescribe as aforesaid.

65. In any suit where the cause of action is a contract, whether in writing or not, or whether expressed or implied, the plaintiff, if affidavit or affirmation be made as hereinafter stated, shall be entitled to judgment, to be entered by the court or the clerk thereof, on

the rule day or the first day of the term next succeeding the rule day, or the term to which the defendant shall have been returned summoned, although the defendant may have pleaded, unless such plea contains a good defence, and unless the defendant, or some one in his behalf shall, under oath or affirmation, state that every plea so pleaded by the defendant is true; and shall further state what amount of the plaintiff's demand, if anything, is admitted to be due or owing, and what amount is disputed; and if the copartnership or incorporation of any of the parties to the suit shall be alleged in the declaration, and the affidavit filed therewith and hereinafter provided; or if there shall be filed with the declaration in said cause any paper purporting to be signed by any defendant therein, the fact of such alleged copartnership or incorporation, and the genuineness of such signature, shall be deemed to be admitted for the purpose of said cause, unless the said affidavit shall further state that the affiant knows, or has good reason to believe, such allegation of copartnership or incorporation to be untrue, or that such signature was not written by or by the authority of the person whose signature it purports to be; in case any part of the debt or damages claimed be admitted to be due, the plaintiff shall be entitled to an entry of judgment therefor as aforesaid, with costs, in full discharge to the action; provided, the amount so admitted to be due shall not be below the jurisdiction of the court, or the defendant may pay such admitted part into the court, and thereupon such proceedings shall be had as are provided by law in other cases of payment of money into court; provided, that the court for good cause shown may, by its order in writing, passed at any time before judgment, extend the time for filing such pleas and affidavits, which extension shall suspend, until the expiration thereof, the plaintiff's right to enter judgment under this section; and provided further, that the court may and it shall be its duty to pass such rules as may be necessary to carry out the purpose of this section.

66. The plaintiff shall not be entitled to judgment under the preceding section, unless at the time of bringing his action he shall file with his declaration an affidavit or affirmation—if the affiant is conscientiously scrupulous as to taking an oath—stating the true amount the defendant is indebted to him over and above all discounts, and shall also file the bond, bill of exchange, promissory note or other writing or account by which the defendant is so indebted; or if the action be founded upon a verbal or implied contract, shall file a statement of the particulars of the defendant's indebtedness thereunder; if there are two or more plaintiffs the said affidavit or affirmation may be made by any one of them; or if all the plaintiffs be absent from the State at the time of the bringing of said suit, or if the plaintiff be a corporation, the said affidavit or affirmation may be made by any agent of the plaintiff or plaintiffs, or any of them, who will further make oath or affirmation that he

has personal knowledge of the matters therein stated; and the said affidavit or affirmation may be made before any of the persons who may take an affidavit or affirmation to authorize the issuing of a foreign attachment, and may be certified in the same manner; provided, that when an executor or administrator brings an action he shall be required to prove the death of the party whose representative he claims to be, if proof of such death be demanded in writing within the time required to plead.

67. On all judgments by default that shall be entered under any of the preceding sections, the court may assess the damages on proof thereof, without empaneling a jury to do so.

68. On all judgments entered in said court there shall be a stay of execution until the rule day or the first day of the term, whichever shall first occur, next succeeding the rule day or the term at which said judgment may have been entered, with the right to the defendant to supersede the same for six months from the expiration of said stay as now allowed by law; provided, however, that the court may, on motion in writing by the plaintiff or his attorney, showing sufficient reasons therefor, allow an execution or attachment or other proper writ to be issued at any time after the entry of judgment as aforesaid, and before the expiration of said stay.



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