

RULES  
OF THE  
CIRCUIT COURT  
FOR HOWARD COUNTY

1936

**RULES**  
**At Law, In Equity and**  
**In Insolvency**  
**OF THE CIRCUIT COURT**  
**FOR**  
**HOWARD COUNTY**

REVISED AND ADOPTED ON  
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**General Equity Rules**

**of the**

**COURT OF APPEALS**

**OF MARYLAND**

**for the**

**REGULATION**

**of the**

**PLEADING AND PRACTICE**

**of the**

**COURTS OF EQUITY**

# GENERAL EQUITY RULES

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## EQUITY COURTS ALWAYS OPEN.

### DUTIES OF THE CLERK.

#### 1.

CODE, ART. 16, SEC. 154.

The Circuit Courts for the several counties of this State, and the Circuit Court of the City of Baltimore, and the Circuit Court Number Two of the City of Baltimore, as courts of equity, shall be deemed and taken to be always open for the transaction of business therein, and the several regular terms of said courts for the return of process and other practical purposes shall be of two months' duration, and shall commence in the counties on the first Monday of January, of March, of May, of July, of September, and of November of each year; and in Baltimore City shall commence on the second Monday of January, of March, of May, of July, of September, and of November of each year.

#### 2.

CODE, ART. 16, SEC. 155.

The several clerks of said Courts shall receive and file all papers pertaining to said Courts, respectively, and shall keep substantial dockets, and make all proper entries therein, of papers filed, and of the proceedings of the said Courts, as they occur; so that the docket entries shall always show, as near as possible, the real condition and progress of the proceedings.

**PROCEEDINGS—HOW COMMENCED.**

## 3.

CODE, ART. 16, SEC. 156.

All original proceedings in said Courts shall be commenced by bill, or by special case stated, as hereinafter provided for; and the term "bill" shall embrace petition or information, where, by statute, or the established practice, petition or information be proper.

## 4.

CODE, ART. 16, SEC. 157.

No order or process shall be made or issued upon any bill, petition, or other paper, until such bill, petition, or other paper, together with all the exhibits referred to as parts thereof, be actually filed with the Clerk of the Court. Nor shall any injunction or restraining order, or order appointing a receiver issue until the originals or duly certified copies of all deeds, or other instruments of record, and verified copies of all documents, papers or writings not of record, necessary to show the character and extent of the complainant's interest in the suit shall have been filed, if said instruments of writing be in possession of the plaintiff or accessible to him; if not, that fact shall be stated in the bill or petition.

**FRAME OF BILLS GENERALLY.**

## 5.

CODE, ART. 16, SEC. 168.

Every bill or petition shall be expressed in terms as brief and concise as it reasonably can be, and shall contain no unnecessary recitals of documents of any kind, in *haec verba*, or any impertinent matter, or matter scandalous and not relevant to the suit; and the same rule shall apply to all answers filed by defendants; and if this rule be violated, the unnecessary or improper matter or averment may, by order of Court, upon motion or upon its own initiative, be stricken out at the cost of the party introducing the same. The signature of a solicitor of record

to any bill or other pleading shall be considered as a certificate of such solicitor that he has read the paper so signed by him, and that upon the information and instructions laid before him regarding the case there is good ground for the same and it is not filed for delay, or other improper purpose.

## 6.

## CODE, ART. 16, SEC. 169.

All bills and petitions in the introductory part thereof shall contain the names of all parties, plaintiffs, and defendants, by and against whom the suit is brought. The form shall be substantially as follows:

In the Circuit Court for \_\_\_\_\_ County  
A. B., Plaintiff  
against  
C. D., Defendant.

To the Honorable, the Judges of said Court:

Your orator, complaining, says:

1. That, &c., making each paragraph contain a succinct but a complete statement of fact.

## 7.

## CODE, ART. 16, SEC. 170.

All bills and petitions shall be divided into paragraphs, as indicated in the preceding rule, and be consecutively numbered, and shall contain simply a statement of the facts upon which the plaintiff asks relief, and, at his option, the facts which are intended to avoid an anticipated defense, and such averments as may be necessary, under the rules of Equity pleading, to entitle the plaintiff to relief, and the prayer for relief shall specify particularly the relief desired, and shall also contain the prayer for general relief. And if an injunction, or other writ, or any special order, be required, pending the suit, it shall be specially prayed for, the several subjects of the prayer being formed into distinct paragraphs, and consecutively numbered. The ordinary or formal combination clause, the allegation of the want of remedy at law, and similar formal averments, shall

be omitted; nor shall it be necessary to pray that the defendants be required to answer unless it be desired that they shall answer under oath, or there be special interrogatories appended to the bill, to be answered by the defendants, or some of them, in which cases there shall be a prayer that the defendant or defendants be required to answer the bill, or the special interrogatories appended thereto under oath.

## 8.

## CODE, ART. 16, SEC. 171.

The prayer for process, or for order of publication, shall contain the names of all the defendants named in the introductory part of the bill or petition, and the place of their residence, as far as known; and if any of said defendants are known to be infants under age, or under any other disability, such facts shall be stated, so that the Court may take order thereon, as justice may require. And if an injunction, or other writ, or any special order be asked in the prayer for relief, that shall be sufficient, without repeating the same in the prayer for process.

## 9.

## CODE, ART. 16, SEC. 162.

All infants and other persons under any disability to sue, may sue by their guardian or committee, if any, or by their *prochein ami*; subject, however, to such orders as the Court or Judge thereof may direct for the protection of infants and other persons; but before the name of any person shall be used in any suit to be instituted as next friend of any infant or other party, or as relator in any information, such person shall sign a written authority to the solicitor for that purpose, and such authority shall be filed with the bill or other proceeding.

## PROCESS—SERVICE AND RETURN.

## 10.

The process and mode of publication for giving notice to appear, and for procuring the appearance of parties, shall be



the same as that now provided by law, except as the same may be changed or modified by these rules, or by statute.

## 11.

## CODE, ART. 16, SEC. 158.

Whenever a bill is filed, wherein an order of publication is not prayed, the Clerk shall issue the process of subpoena thereon as of course, upon the application of the plaintiff, which shall contain the names of the parties, and be made returnable in the several counties on the first Monday of the month ensuing the date of its issue, and in Baltimore City shall be made returnable on the second Monday of the month ensuing the date of its issue, but the plaintiff may, by special direction, require any process to be made returnable at the return day next after the first return day for such process ensuing the issuance of the same. At the bottom of the subpoena shall be placed a memorandum that the defendant is required to file his answer or other defense in the Clerk's office within fifteen days after the return day. The Sheriff or other person whose duty it may be to serve said process shall serve the same promptly. Where there is more than one defendant, the writ of subpoena may, at the election of the plaintiff, be sued out separately for each defendant, or a joint subpoena against all the defendants may be issued.

In default of answer as provided in this rule the bill may be taken *pro confesso*, unless the time for filing the answer be extended as provided in Rule 15.

## 12.

Whenever any subpoena shall be returned not served as to any defendant, the plaintiff shall be entitled to other subpoenas against such defendant.

## 13.

## CODE, ART. 16, SEC. 160.

The service of process to require appearance shall be by reading, and delivering a copy of, the summons or other writ or order to the party to be served therewith; and in case the party be an infant or *non compos mentis*, in addition to the service on

such party, a copy of the process or writ, or order, shall be left with the parent or guardian of the infant, if there be one within the jurisdiction of the Court, and with the committee or other person having the care of the person or estate of the party alleged to be *non compos mentis*; and such service shall be specially certified in the return of the officer making the service.

#### APPOINTMENT OF GUARDIAN OR NEXT FRIEND

##### 14.

CODE, ART. 16, SEC. 161.

Upon return of process as served, or upon proof of due publication of the order of publication as against non-resident defendants, the Court shall, in case of an infant or non-sane defendant, on application of the plaintiff, or any other party concerned, by order either require the legal guardian or committee of the infant, or non-sane defendant (if there be such guardian or committee within the jurisdiction of the Court) to appear, answer and defend for such party, or appoint a guardian *ad litem* to answer and defend the suit for such party. And in appointing guardians *ad litem*, no person shall be appointed who may have any interest whatever involved in the suit adverse to that of the party so under disability. The Court or Judge thereof may, in any case, wherever it may be deemed necessary, appoint a solicitor, to appear and defend for any infant or non-sane defendant. All commissions for taking answers or to plead shall be and they are hereby abolished.

#### DEFENDANT TO ANSWER—DEFAULT—DECREE PRO CONFESSO.

##### 15.

It shall be the duty of the defendant, unless the time be enlarged, by an order of Court upon petition showing good cause therefor, to file his answer or other defense to the bill in the Clerk's office within the time required by Rule 11. In default thereof the plaintiff, may at his election, take an order as of course that the bill be taken *pro confesso*, and thereupon the case shall proceed *ex parte* as against such defendant.

## 16.

When the bill is taken *pro confesso*, a final decree may be entered at any time after the expiration of thirty days from the entry of the order of *pro confesso*, if no answer or other defense be interposed, and the allegations of the bill or petition present a proper case for relief. But the Court or the Judge thereof may, in all such cases, if it be deemed proper, order that the allegations of the bill or petition, or any of them, be supported by affidavit or deposition to be taken as may be directed. And the Court shall have power at any time within thirty days from the date on which the decree *pro confesso* shall have been entered, excluding the day thereof, and before final decree, upon motion or upon its own initiative, to set aside the decree, and permit the filing of an answer or the interposing of other defense. But such motion shall only be granted upon the payment of the costs of the plaintiff up to that time, unless the Court by its order shall relieve the defendant of the payment of such costs, or such part thereof as the Court shall deem reasonable, and upon such terms as the Court shall prescribe for the purpose of speeding the cause. In all cases in which an order of publication shall have been passed and in which the notice by publication therein prescribed shall have been given, it shall be the duty of such defendant to file his answer or other defense within fifteen days after the time limited by such order for his appearance, and in default thereof the bill or petition may be taken *pro confesso*, and the case shall proceed against him as above provided in these rules with respect to other defendants in default.

## AMENDMENTS.

## 17.

## CODE, ART. 16, SEC. 17.

The Court shall at any time before final decree, in furtherance of justice and upon such terms as to payment of costs as may be just, permit any bill, answer, process, proceeding, pleading, or record to be amended, or material supplemental matter to be set forth in an amended or supplemental pleading. The Court

at every stage of the proceeding shall disregard any error or defect in the proceedings or pleadings which does not affect the substantial rights of the parties. A further and better statement of the claim or defense or further and better particulars of any matter stated in any pleading may be permitted upon order of Court.

### DEFENSE—HOW PRESENTED

#### 18.

#### CODE, ART. 16, SEC. 173.

Pleas are hereby abolished. Every defense in point of law arising upon the face of the bill or petition, whether from misjoinder, nonjoinder or insufficiency of fact to constitute a valid cause of action in equity, which might heretofore have been made by demurrer or plea, shall be made by demurrer or by answer; and every point of law, raised by demurrer, may be made to the whole or a material part of the cause or causes of action stated in the bill. No demurrer shall be allowed to be filed to any bill, or part thereof, unless it be supported by affidavit that it is not intended for delay. The form of demurrers shall be substantially as follows: "The defendant demurs to the whole," or "to so much of the bill, or petition, or discovery, or relief," stating the particular part or parts demurred to, and the special grounds of demurrer. Every defense heretofore presentable by plea in bar or abatement shall be made in the answer and may be separately heard and disposed of before the trial of the principal case in the discretion of the Court. If any defendant demur to the bill, or any part thereof, the demurrer may be set down for hearing by either party upon five days' notice, and if overruled the defendant shall answer within five days thereafter, unless a longer time be allowed by the Court. In any case, however, if the Court or Judge hearing the demurrer shall declare in writing on overruling the demurrer that he is satisfied that the same was intended for vexation, or delay, or is frivolous, or unfounded, the bill shall be taken *pro confesso* as against the party filing the demurrer, and the matter thereof proceeded in and decreed accordingly, as provided in these rules with respect to defendants in default.

## 19.

## CODE, ART. 16, SEC. 176.

If upon hearing, any demurrer shall be allowed, the Court may, in its discretion, upon motion of the plaintiff, allow him to amend the bill upon such terms as it shall deem to be reasonable.

## ANSWER.

## 20.

## CODE, ART. 16, SEC. 179.

The defendant in his answer shall in short and simple terms set out his defense to each claim asserted by the bill, omitting any mere statement of evidence, but specifically admitting or denying or explaining the facts upon which the plaintiff relies, unless the defendant is without knowledge, in which case he shall so state, and such statement shall operate as a denial. He shall make answer to all the material allegations. The answer shall be divided into paragraphs, numbered consecutively, each paragraph containing, as near as may be, a separate and distinct averment. The defendants shall be entitled in all cases by answer to insist upon all matters of defense in law or Equity, to the merits of the bill of which he may be entitled to avail himself by demurrer. Averments, other than the value or amount of damage, if not denied, shall be deemed to be confessed, except as against an infant, lunatic, or other person *non compos* and not under guardianship, but the answer may be amended by leave of the Court or the Judge thereof, upon reasonable notice so as to put any averment in issue, when justice requires it. The answer may state as many defenses, in the alternative, regardless of consistency, as the defendant deems essential to his defense.

REPLICATION—WHEN REQUIRED—WHEN  
CAUSE AT ISSUE

## 21.

No replication shall be required without special order of the Court or Judge, but the cause shall be deemed at issue upon the

filing of the answer, and any new or affirmative matter therein shall be deemed to be denied by the plaintiff.

## 22.

In every case where an amendment to the bill shall be made after answer filed, a written notice of such amendment, or a copy thereof, shall be served upon the defendant or his solicitor of record, and the defendant shall, if so ordered by the Court, put in a new or supplemental answer within such time as the Court may allow; and upon a default, the like proceedings may be had as upon an omission to put in an answer.

## 23.

Exceptions for insufficiency of an answer are abolished. All questions heretofore available by exceptions to an answer shall be presented by demurrer to the answer. The demurrer shall be supported by an affidavit that it is not intended for delay. It may be filed to the whole, or to any part of the answer, and be in the form prescribed for demurrer to a bill as provided in Rule 18. Either party may set the demurrer for hearing upon five days' notice. If the answer or any part thereof be found insufficient, but amendable, the Court may allow an amendment upon such terms as it may prescribe.

## 24.

Upon application of either party the Court or Judge may upon reasonable notice and such terms as are just, permit him to file a supplemental pleading, alleging material facts occurring after his former pleading, or of which he was ignorant when it was made, including the judgment or decree of a competent Court rendered after the commencement of a suit determining the matters in controversy or a part thereof.

## SPECIAL INTERROGATORIES

## 25.

CODE, ART. 16, SEC. 180.

Special interrogatories to the defendant shall not be incorporated in the bill or petition, but shall be appended thereto; and

they shall be divided as conveniently as may be, and numbered consecutively. And if there be more than one defendant, and the interrogatories are not intended to be answered by all, it shall be designated which defendant is required to answer the several interrogatories. And in like manner and form, any defendant shall be entitled to file interrogatories to any of the plaintiffs, after he shall have put in his answer to the bill; and such interrogatories, either to plaintiff or defendant, and the answer thereto, shall be deemed part of the pleadings in the cause. Notice by service of copy, or otherwise, shall be given to the party required to answer, who shall answer within *fifteen* days from the time of service, unless the time, for cause shown, be extended by special order; and answers to such interrogatories may be compelled by attachment.

## 26.

## CODE, ART. 16, SEC. 181.

Either plaintiff or defendant shall be at liberty to decline answering an interrogatory, or part of an interrogatory which he shall consider or be advised by counsel relates to matters which are not admissible or proper, or from disclosing which he is protected by law; and he shall be at liberty so to decline notwithstanding he shall answer other interrogatories; and upon such declination, the plaintiff or defendant may, on three days' notice set down the matter for hearing before the Court or Judge thereof. But when interrogatories, or any of them are not fully answered, the objection to the insufficiency of the answer may be set down for hearing before the Court or Judge upon motion to be filed in which the particular objections to the answer shall be pointed out, and the objections shall be heard by the Court at such time and upon such notice as the Court or Judge may deem reasonable. The plaintiff or defendant shall be at liberty, before answers to the interrogatories are filed, to proceed to take testimony, without waiver of his right to such answers, or of his motion respecting the same.

## 27.

When the time prescribed by these rules for doing an act expires on a Sunday, or a legal holiday, such time shall extend

to and include the next succeeding day that is not Sunday or legal holiday.

## PARTIES

### 28.

#### CODE, ART. 16, SEC. 196.

In all cases where the plaintiff may have a joint and several claim or demand against several persons, either as principals or sureties, it shall not be necessary to bring before the Court, as parties to a suit concerning such claim or demand, all the persons liable thereto; but the plaintiff may proceed against one or more of the persons severally liable. But the defendant may at once proceed by petition, in the nature of a cross-bill, against such party as is liable jointly with him, and such party shall be permitted to make himself a party to the original cause, and defend the same, and the proceedings in the original cause shall, after the service of such petition, be conclusive as to such other party, and if he shall appear thereto, the same shall be conducted as if he had been made a party thereto in the first instance.

### 29.

#### CODE, ART. 16, SEC. 197.

In all suits concerning real or personal estate, where the entire estate sought to be affected by the decree or order prayed for, is vested in trustees, under any deed, will, or other instrument, with an immediate and unqualified power of sale, coupled with the right to give receipts, such trustees shall represent the persons beneficially interested under the trust, in the same manner and to the same extent as the executors or administrators in suits concerning personal estate represent the persons beneficially interested in such personal estate; and in such cases it shall not be necessary to make the persons beneficially interested under the trust, parties to the suit. But any party interested may, upon his own application, be allowed to come in and be made a party to such proceeding, and the Court or Judge thereof may, upon consideration of the matter on the hearing, if it



should be deemed proper, order such persons, or any of them, to be made parties.

## 30.

The plaintiff may join in one bill as many causes of action, cognizable in equity, as he may have against the defendant. But when there are more than one plaintiff, the causes of action joined must be joint, and if there be more than one defendant the liability must be one asserted against all of the material defendants, or sufficient grounds must appear for uniting the causes of action in order to promote the convenient administration of justice. If it appear that any such causes of action can not be conveniently disposed of together, the Court may order separate trials.

## 31.

## CODE, ART. 16, SEC. 198.

It shall not be necessary to dismiss the entire bill or petition in any suit, because simply of the misjoinder of parties or the subject-matter of the suit; but the Court may dismiss the bill or petition, as to such of the parties, plaintiff or defendant, as may be improperly joined, and may dismiss the bill or petition, as to such of the subject-matter as may be improperly joined or included therein, so as to relieve the bill or petition of the objection of being multifarious. And the Court may, according to the special circumstances of the case, to meet the requirements of justice, and to prevent a multiplicity of suits, decree as between the plaintiffs, as if they occupied positions of plaintiff and defendant upon the record, and may so decree as between co-defendants to the cause; provided such decrees shall be founded upon the allegations of the pleading between the plaintiffs and defendants, and have immediate connection with the subject-matter of the suit.

## 32.

## CODE, ART. 16, SEC. 199.

If a defendant shall, at the hearing of the cause, object that the suit is defective for want of parties, not having by demur-

rer or answer taken the objection, and therein specified by name or description the parties to whom the objection applies, the Court or Judge thereof, if it be deemed proper, shall be at liberty to make a decree, saving the rights of the absent parties, or may require the plaintiff to bring in such absent party, upon such terms as the Court may prescribe as to cost.

## 33.

CODE, ART. 16, SEC. 200.

Where the defendant shall, by his demurrer or answer, suggest that the bill is defective for want of parties, the plaintiff shall be at liberty within fifteen days after answer filed, to set down the cause for argument upon that objection only; and the clerk, at the instance of the plaintiff, shall make entry thereof in his docket in the following form: "Set down upon the defendant's objection for want of parties." And if the plaintiff shall not set down the cause, but shall proceed therewith to a hearing, notwithstanding the objection for want of parties when taken by the answer, he shall not, at the hearing of the cause, if the defendant's objection for want of parties be then allowed, be entitled as of course, to an order for liberty to amend his bill by adding parties; but the Court or Judge thereof may, if it be thought fit, dismiss the bill. If, however, the cause be set down upon the objection taken, and, upon hearing, the objection be allowed, the plaintiff shall have liberty to amend, upon paying the cost of amendment.

## EVIDENCE—HOW TAKEN.

## 34.

CODE, ART. 16, SEC. 269.

Except where testimony is to be taken beyond the limits of the State, or beyond the limits of the county or city for which the Court exercises jurisdiction, no commissions to take testimony shall issue. The Circuit Court for each of the counties, and the Supreme Bench of Baltimore City shall each appoint two or three experienced and competent examiners, who shall,

upon qualification, be officers of the Court; and for any special reason, a special examiner may be appointed. These examiners shall have authority to issue subpoenas for witnesses, administer oaths, notify parties of the time of their sittings, and to preserve order and decorum during their sessions. Any persons refusing to obey subpoenas issued by such examiners, or who shall be guilty of violating the order and proper decorum of the sessions of said examiners while in the discharge of their duties, shall be reported by the examiners, together with the facts of the case, to the Court; and, upon hearing, the Court, if satisfied of the facts as reported, and that the party was guilty of the matter charged, shall punish the party so offending.

Such examiners shall be entitled to receive four dollars per day, for each and every day actually employed; to be paid by the party at whose instance the service may have been rendered. And it shall be the duty of such examiners, in making their returns to the Court, in each case, to certify the time that they may have been actually employed, and at whose instance, and the amount taxable to each party for services rendered.

## 35.

## CODE, ART. 16, SEC. 270.

Whenever any cause is at issue, involving matter of fact, or whenever any evidence is required to be taken, to be used in any proceeding in equity, it shall be competent to the party desiring to take evidence to notify one of the regular examiners, or any special examiner that may be appointed, of such desire, and to furnish him with the titling of the cause and the names of witnesses to be summoned to testify; and the examiners so applied to shall fix some reasonable day or days for the examination of witnesses, and the taking of evidence, of which he shall give due notice to the parties concerned, or those entitled to receive such notice, as if he were proceeding under a commission to take testimony, under former practice, provided that for the taking of testimony in divorce cases leave shall first be obtained from the Court or a Judge thereof. The examiner shall issue subpoenas for witnesses for either party, except where he is required to proceed *ex parte*; and he shall cause to

come before him all witnesses subpoenaed, at the time appointed, to be examined; and their attendance and duty to testify may be enforced by attachment, to be issued and returned as provided in Section 287 of Article 16 of the Code of Public General Laws.

## 36.

## CODE, ART. 16, SEC. 271.

All examinations of witnesses before the examiners shall be conducted in the presence of the parties, or their solicitors, if they think proper to be present; and the mode of examination shall be either by written interrogatories filed with the examiner, to be by him propounded to the witnesses, and the answers thereto written down by him, as has heretofore been the practice of commissioners in taking testimony; or the witnesses may be examined by the parties, or their solicitors, *viva voce*, and in such case, the answers of the witnesses shall be reduced to writing by the examiner, and the questions also, if necessary to the understanding of the answers of the witness, or if it be required by either party. By agreement of the parties or by order of Court, in its discretion, the testimony may be taken in shorthand and afterward typewritten under the direction of the examiner. The testimony produced by both parties shall be taken before the same examiner, unless, for special reasons, it be otherwise directed by the Court or Judge thereof; and all *viva voce* examinations shall, as near as may be, be conducted in the manner and order of the examination of witnesses in the trials of facts in the Courts of common law. The defendant shall not be compelled to proceed with the taking of his testimony, until the plaintiff has finished, or declared he has none to take; nor shall the plaintiff be compelled to proceed with the rebutting testimony, until the defendant has completed the testimony on his part.

## 37.

## CODE, ART. 16, SEC. 272.

In all examinations, whether conducted by written interrogatories or *viva voce*, at the conclusion of the examination by the

parties, the examiner shall put to the witness an interrogatory in the following form: "Do you know, or can you state, any other matter or thing which may be of benefit or advantage to the parties to this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question between the parties? If yea, state the same fully and at large in your answer," And the examiner shall write down the answer to said interrogatory, as part of the deposition of the witness.

## 38.

## CODE, ART. 16, SEC. 273.

In all cases the testimony shall be written down in the language of, and as delivered by, the witness, and be signed by him in the presence of the parties or their solicitors, or such of them as may attend, unless such signing be waived; but if the witness, for any cause, may not be able to sign the same, or shall for any reason refuse so to do, and the signature is not waived, the examiner shall sign the deposition, stating the reason why the witness has not signed the same; and the examiner may, upon all examinations, state any special matters to the Court that he may deem proper, to enable the Court the better to understand the evidence. Any question or questions that may be objected to by either of the parties shall be noted by the examiner upon the deposition; but he shall not have power to decide on the competency, materiality or relevancy of any question proposed or evidence elicited, nor as to the competency or privilege of any witness offered. All questions of privilege raised, or demurrer interposed, by any witness to questions propounded, shall be at once reported by the examiner to the Court or Judge thereof for decision, and the Court or Judge shall hear and determine the same without delay; and in such cases the Court may award cost as justice may appear to require; and in all cases the Court shall have full power to deal with and to direct the payment of the cost of incompetent, immaterial or irrelevant evidence, or any part thereof, as justice may require, apart from the general cost of the case.

## 39.

## CODE, ART. 16, SEC. 275

So soon as the examination of witnesses before the examiner shall be concluded, the original depositions, with all vouchers, documents, or other papers filed with the examiner as evidence, shall be put together in proper order and form, so as to be convenient for reference and use, and be authenticated by certificate and signature of the examiner, and by him enclosed, with the titling of the cause endorsed thereon, and filed with the Clerk of the Court, without delay; he shall also return properly authenticated all other exhibits filed with him as evidence.

## 40.

## CODE, ART. 16, SEC. 275.

Testimony shall be taken without any unnecessary delay, and it shall be the duty of the examiner to avoid such delay as far as possible. After the lapse of a reasonable time for the taking of testimony, either party may obtain a rule on the adverse party to close the taking of his testimony within such reasonable time after notice of such rule as may be deemed proper; and any testimony taken after the lapse of that time shall not be read in evidence at the hearing of the cause. But it shall be in the discretion of the Court to enlarge the time, on application of the party against whom such rule may have been obtained, upon sufficient cause shown.

## 41.

## CODE, ART. 16, SEC. 276.

Evidence taken and returned shall be opened by the Clerk, and shall remain in Court ten days, subject to exception, before the cause shall be taken up for hearing unless by agreement of the parties, such time be waived, but after the expiration of that time the cause shall stand for hearing, unless some sufficient cause be shown to the contrary. This rule not to apply to interlocutory applications.

42.

CODE, ART. 16, SEC. 281.

Upon any petition, motion, or other interlocutory application, for the hearing and determination of which evidence may be required, the Court or Judge thereof may order testimony to be taken before an examiner, or before a justice of the peace, upon such notice, and in such manner as the Court or Judge may think proper to direct, to be used at the hearing of such matter.

43.

Instead of the mode of taking testimony provided in the preceding rules the witnesses, or any of them, may be examined orally in open Court as provided by Sections 178 and 179 of Article 16 of the Code of Public General Laws.

44.

CODE, ART. 16, SEC. 277.

The examination of witnesses *de bene esse*, or for the perpetuation of their testimony, when by law allowed, may be had before an examiner, in the mode and form as prescribed in Rules 37, 38, 39 and 40, and if no good objection be made to such testimony in twelve months from the time of the return to Court thereof, the Court shall order the same to be recorded in perpetual memory.

#### SPECIAL CASE STATED.

45.

CODE, ART. 16, SEC. 221.

Any person interested, or claiming to be interested, in any question cognizable by a Court of Equity, as to the construction of any statute, deed, or other instrument of writing, or as to any other matter falling within the original jurisdiction of such Court, or made subject to the jurisdiction thereof by statute, may state and raise such question before the Court in the form of a special case stated, instead of formal pleading. Every such special case stated shall be entitled as a cause between some one

or more of the parties interested, or claiming to be interested, as plaintiff or plaintiffs, and the others of them as defendants; and such special case shall be regularly docketed as a cause pending in said Court, and shall be in all respects, and for all purposes, treated and regarded as a pending cause, as if regularly instituted by formal pleading.

## 46.

## CODE, ART. 16, SEC. 222.

Such special case shall concisely state such facts and documents as may be necessary to enable the Court to decide the question intended to be raised, and it shall be divided into paragraphs, consecutively numbered; and upon the hearing of such case, the Court and the parties shall be at liberty to refer to the whole contents of such documents, and the Court shall be at liberty to draw from the facts and documents stated and referred to in such special case, any inference which Court might have drawn therefrom, if such facts and documents were proved under formal pleading. And upon such special case stated, the Court may decree as upon bill and answer, and such decree shall be enforced as other decrees are but such decree shall in no case conclude or affect the rights of any other persons than those who are parties to such special case, and those claiming under or through such parties and the right of appeal shall exist as in cases of decrees upon bill and answer.

## 47.

## CODE, ART. 16, SEC. 223.

Married women may join in any special case stated with their husbands, and infants having guardians, and lunatics having committees, may join in such special case by their guardians or committees, in respect to any interest or right represented by such guardians or committees; and all the parties to such special case shall sign the same in person or by solicitor, and the appearance of the parties shall be entered to said case, as to a cause regularly instituted by formal proceedings; and all the parties to such special case shall be subject to the jurisdiction of the Court in the same manner as if the plaintiff in the special case



had filed a bill against the parties named as defendants thereto, and such defendants had appeared to such bill, and by answer admitted the facts thereof.

### REHEARING.

48.

CODE, ART. 16, SEC. 201.

All final decrees, and orders in the nature of final decrees, shall be considered as enrolled from and after the expiration of thirty days from the date of the same, the day of the date inclusive.

49.

CODE, ART. 16, SEC. 202.

Clerical mistakes in decrees or decretal orders, or errors arising from any accidental slip or omission, may, at any time before the enrollment of such decrees or orders, be corrected by order of the Court or Judge thereof upon petition, without the form or expense of a rehearing.

50.

CODE, ART. 16, SEC. 203.

Every petition for rehearing shall contain the special matter or cause on which such hearing is applied for, and shall be signed by solicitor or the petitioner himself, and the facts therein stated, if not apparent on the record, shall be verified by the oath of the party, or by some other person. No rehearing shall be granted after the enrollment of the decree or decretal order; and if the decree or order has been executed, parties who have acted on the faith of such decree or order shall not be prejudiced by such decree or order being reversed or varied.

### PROCEEDINGS BEFORE THE AUDITOR.

51.

CODE, ART. 16, SEC. 21.

Whenever a reference of any matter is made to the auditor for examination and report thereof, or for the statement of an

account, the party at whose instance the reference is made, shall, within a reasonable time and without any unnecessary delay, cause the matter of reference to be laid before the auditor for his action; and if such party shall omit to do so any other party interested in the subject-matter of the reference shall be at liberty to cause the matter to be laid before the auditor, who shall proceed therein without delay.

## 52.

## CODE, ART. 16, SEC. 22.

Upon every such reference it shall be the duty of the auditor, as soon as he reasonably can, after the matter of the reference is brought before him, if evidence is to be produced, or vouchers filed, to assign a time and place for proceedings in the matter, and to give notice thereof to the parties or their solicitors; and if either party shall fail to attend at the time and place appointed, the auditor shall be at liberty to proceed in the absence of such party, or, in his discretion, to adjourn the examination and proceedings to a future day, giving notice thereof to the parties or their solicitors, but noting all the cost that may attend such adjournment, which shall be subject to the order and direction of the Court. It shall be the duty of the auditor to proceed with all reasonable diligence in every such reference, and with the least practicable delay; and either party shall be at liberty to apply to the Court or a Judge thereof for an order to the auditor to speed the proceedings before him, and to make his report, and to certify to the Court the reasons for any delay that may have occurred.

## 53.

## CODE, ART. 16, SEC. 23.

The auditor shall regulate all the proceedings in every hearing or examination before him; and in addition to his right and power to examine the parties to the cause, and all witnesses produced by them, or which they may cause to be summoned, on oath or affirmation touching the matters of the reference, he shall also have power and authority to require the production 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.

## 54.

## CODE, ART. 16, SEC. 24.

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.

## 55.

The foregoing rules shall be in force from and after the 12th day of January, A. D. 1931, and shall be taken to regulate all cases and procedure to which they are applicable; and all other cases and procedure not therein provided for shall remain to be regulated and governed by the existing statute law of the State, and by the general rules and principles of equity pleading and practice, as hertofore existing, so far as the same may not be changed or modified, by the adoption of the foregoing rules. But nothing in the foregoing rules shall, in any manner, be taken or construed to prevent or restrict the several Circuits Courts, as Courts of Equity, from making and enforcing, from time to time, such general rules and orders as they may deem proper for the good government and regulation of their respective Courts and the proceedings thereof, and the officers and

suitors therein; provided, that such rules and orders be not inconsistent with the foregoing rules, or the statutes of this State.

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ORDERED, this 12 day of January, A. D., 1931, by the Judges of the Court of Appeals, that the foregoing General Equity Rules be and the same are hereby adopted, pursuant to the 18th Section of Article 4 of the Constitution of this State.

CARROLL T. BOND, *Chief Judge.*

JNO. R. PATTISON,

HAMMOND URNER,

WM. H. ADKINS,

T. SCOTT OFFUTT,

W. MITCHELL DIGGES,

F. NEAL PARKE,

D. LINDLEY SLOAN,

*Judges.*

JAMES A. YOUNG,

*Clerk.*

**I N D E X**  
**OF**  
**General Equity Rules**  
**of the**  
**COURT OF APPEALS**  
**OF MARYLAND**

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**Law Terms and  
Return Days**

## LAW TERMS AND RETURN DAYS

Law Terms of the Circuit Courts for the Fifth Judicial Circuit,  
with their Respective Return Days.

### CARROLL COUNTY

Second Monday in February (jury term).  
Second Monday in May (jury term).  
Second Monday in August (non-jury term).  
Second Monday in November (jury term).

#### ADDITIONAL RETURN DAYS

First Monday in January, April, July and October.

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### ANNE ARUNDEL COUNTY

Third Monday in January (non-jury term).  
Third Monday in April (jury term).  
Third Monday in July (non-jury term).  
Third Monday in October (jury term).

#### GENERAL RETURN DAYS

Third Monday in January, March, April, June, July,  
September, October and December.

Return Days under Speedy Judgment Act, third Monday  
each month—see Rule 21, 1935 Ch. 169.

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### HOWARD COUNTY

Third Monday in March (jury term).  
Third Monday in June (non-jury term).  
Third Monday in September (jury term).  
Third Monday in December (non-jury term).

#### ADDITIONAL RETURN DAYS

First Monday in February, the second Monday in April, the  
third Monday in July and the first Monday of November.

**Rules of Practice**

**in the**

**CIRCUIT COURT  
FOR HOWARD COUNTY**

**RULES OF PRACTICE**  
**In The**  
**CIRCUIT COURT FOR HOWARD COUNTY**  
**ON THE LAW SIDE**

**A**

**Rule 1.**

**DUTY OF SHERIFF—**  
**RETURNS.**

The Sheriff shall make return to this Court of all persons, with the dates and causes of their imprisonment, who are committed to his custody and charged with criminal offenses since the preceding terms and sessions of court to which this rule is applicable, at ten o'clock a. m. on the first days of the March and September Terms of said Court, and of any intermediate reconvening of said Court that may be had pursuant to the provisions of the Acts of 1933, ch. 97, of the Special Session of the General Assembly.

**Rule 2.**

That the Sheriff return all criminal writs, together with bail bonds and other process relating to criminal matters, on the morning of the day on which they are returnable, and before the meeting of the Court.

**Rule 3.**

That the Sheriff shall make return of all writs, executions and other process at or before 10 o'clock of the day on which they are returnable.

**B**

**Rule 4.**

**WARRANT OF RESURVEY.**

That on application the Court will grant a warrant of resurvey in ejectment, trespass quare clausum fregit, waste, or in

any case of injury to real property, provided that the Court shall be satisfied that there is a dispute about the location of the land in the cause, or that plats are necessary or required for illustration. The warrant, when ordered, shall be taken out within twenty days after it shall have been ordered. It shall be the duty of the party applying to take out the warrant and deliver it to the Sheriff to be executed.

Rule 5.

Ten days' notice of the time of executing any warrant of re-survey shall be made by the Sheriff to the parties or their respective attorneys. After closing the survey it shall be the duty of the Surveyor and Sheriff, under their hands and seals, to make return of same to the Clerk of the Court at least five days before the commencement of the ensuing term, of all their proceedings thereunder, with a plat and explanations accurately distinguishing the respective claims and the pretensions of the parties, and the land laid down by them or either of them, for illustration, and the warrant of re-survey and depositions and other evidence taken by them.

Rule 6.

The Sheriff and Surveyor shall endorse on the plat returned by them the amount of their fees against the plaintiff and defendant, respectively, in words at length; and also return with the plat an account of the publication fees against plaintiff and defendant, respectively.

Rule 7.

If it shall appear, on the trial, that defence on warrant was taken, or that any of the locations on the plat were made without just and reasonable cause, the party applying for said warrant, or taking such defence, shall pay the costs of the survey, in the discretion of the Court.

Rule 8.

The foregoing rules shall be observed in the execution of a warrant of re-survey renewed and reissued under leave to add and amend, the party asking for said warrant being responsible

for the issuing of said warrant and the delivery thereof, with the plats, certificates and explanations remaining in the Clerk's office to the Sheriff; and every application for leave to amend or to add to must be sustained by reasonable cause shown to the Court.

## C

## Rule 9.

## COMMISSIONS.

## STANDING COMMISSIONER.

The notice required under Article 35, Section 19 of the Code (1924) of Public General Laws of Maryland, providing for the taking of testimony or depositions of witnesses in civil cases before the Standing Commissioners appointed by the Court in virtue of said article, shall in all cases be not less than five clear days. Notice may be given by the Commissioners, where the depositions are taken in a pending suit, to the attorney of the opposite party. The fees to be allowed the said Commissioners shall be the same as now provided for examiners in equity.

## Rule 10.

## FOREIGN COMMISSIONS.

If the plaintiff or defendant in any cause, whether at issue or not, shall be desirous of obtaining a commission to examine any witnesses who reside without the State, he shall first apply to the Court during its sittings or term of Court, or to the Judge thereof in recess, for leave to issue such commission, and leave will be granted, upon the Court or Judge, during said recess, being first satisfied, by affidavit or otherwise, that such testimony is material to the party applying. Upon leave being granted, and within 15 days thereafter, the party so applying shall file in the Clerk's office a copy of the interrogatories which are to be proposed to the witness or witnesses, with the names of the witnesses to be examined, together with the name of the 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 15 days before the

said commission is issued. And if the opposite party shall not, within 15 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 opposite party shall within 15 days file the name 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 other persons or another person to act as such Commissioners or Commissioner, in which case the commission shall issue to the person or persons agreed on. This Court, in its discretion, for cause shown, may shorten or extend the time limited for issuing a commission. Unless leave shall be obtained to issue a commission during the term at which the cause shall have been first entered on the trial docket, it shall be no ground of continuance, unless the Court in its sound discretion shall so order. Exceptions to the execution and return of a commission shall be made before the jury is sworn in the cause, otherwise they will be considered waived. If a commission shall have been returned and opened, and notice thereof given by the clerk to the opposing party 10 days before the commencement of a term, exceptions to the execution and return hereof shall be filed the 3d day of the term, or they shall be considered as waived. Exceptions so filed shall be heard when the case is called for trial, unless the Court shall otherwise direct. Every such commission shall be executed and returned within two months from the issuing thereof, unless further time be allowed by order of the Court or the Judge thereof, and the carriage of the commission shall be entrusted to the party applying for the same, and he shall be responsible for the return thereof.

#### Rule 11.

No commission shall issue in any cause, after the time limited by law for the continuance of such suit, unless the Court shall be fully satisfied by oath or affirmation or otherwise that the witness' testimony alleged to be wanting hath been discovered, or cause for issuing such commission hath arisen since the last continuance.

## D

## Rule 12.

## COURT RECORDS ON LAW SIDE.

The clerk shall be answerable for all records and papers filed in the Court or in his office; and they shall not be delivered or taken out of his custody for any purpose whatever, unless by special order of Court, but the parties may at all times have copies.

## Rule 13.

## COURT DOCKETS.

At each term of the Court the Clerk shall prepare an Appearance or Original Docket, which shall contain the originals and renewals to the term or term day, the writs of scire facias, attachments and judgments by confession.

The Clerk shall likewise prepare at each term a Trial Docket, which shall contain all cases standing for judgment or trial, and all cases in which the defendant has appeared or has been returned summoned at or before the next preceding term or return day. On the Trial Docket shall, also, be placed all cases involving eminent domain, claims of property, road cases, compensation cases, allegations against insolvent debtors, issues from Orphans' Court and court of equity; and causes in which an amercement has been entered against the Sheriff at or before the preceding term.

The Appeal Docket shall contain all civil causes appealed from justices of the peace, or removed by writ of certiorari or otherwise.

All of the foregoing provisions with respect to the Trial Docket are subject to the qualifying effect of the Stet Rule as hereinafter stated.

The Clerk shall keep a Judicial Docket which shall contain all executions issued and returnable to the term or return days.

The Clerk shall keep a Criminal Docket which shall contain (a) all original criminal causes for judgment or trial, and a short record of all presentments and indictments found against parties for criminal offences; and (b) all appeals in criminal



cases from judgments of justices of the peace and police justices and those criminal cases before justices of the peace and police justices in which a jury trial has been prayed.

The Clerk shall keep a Parole Docket which shall show those cases in which the Court has paroled and suspended sentence and the conditions of the parole.

#### Rule 14.

##### STET RULE AND DOCKET.

The Clerk shall, also, prepare and keep a Stet Docket, and shall enter thereon at the end of each term of Court all such causes from the Trial Docket as shall have been undisposed of for four successive terms. After a cause shall have remained on the said Stet Docket for four successive terms, the case shall abate, and no further action shall be had therein, but any case may, before it so abates, be transferred from the Stet Docket to the Trial Docket for the ensuing jury term of said Court, provided notice that application for such transfer will be made at the first day of the ensuing term of Court, be given in writing by the party desiring such transfer or his attorney, to the opposite party, or his attorney, at least one month before the commencement of said ensuing term, and, if such case be transferred, and shall not be tried and disposed of at the ensuing jury term of Court, it shall at the end of said term abate, and no further action or proceeding shall thenceforth be had therein, unless for good cause shown and without any fault on the part of the party applying and to prevent a denial of justice, the Court, in its discretion, may by its order in writing continue said case to the next succeeding jury term when, if such case be not tried and disposed of, it shall at the end of said term abate, and no further action or proceedings shall thenceforth be had therein.

#### Rule 15.

##### CALL OF DOCKET.

On the first day of each term the appearance, trial, appeal and criminal dockets shall be called in the order named, and upon the call of the Trial Docket the Court will expect counsel

to continue all cases which they do not intend to try at said term, and to confess judgment in all cases where the demand is for a sum certain and evidenced by writing under hand or by account verified by affidavit; unless there is a defence to the action upon which the defendant intends to rely. In the event of the parties to one side only of any cause on the Trial or Appeal Docket being present or represented at said call, the side so represented shall have control of the cause so far as to elect whether the same shall be set for trial during the term or continued. At the conclusion of the call of the Criminal Docket, the Clerk will call the peace recognizances and the parole cases.

Rule 16.

CALL OF WITNESSES IN APPEALS.

After the calling of the dockets, as provided in the preceding 15th rule, the Clerk shall next call the witnesses subpoenaed on the Appeal Docket, and shall mark the names of such witnesses who answer, and if attachments are not moved for against such as have been summoned and do not answer; or parties renew subpoenas against such as have not been summoned their absence shall not be cause for postponement or continuance.

E

Rule 17.

TRIALS.

The Appeal docket will be taken up on the first Tuesday of each term, and cases called in the order in which they stand.

Rule 18.

Unless otherwise directed by the Court, the criminal cases shall, on and after the second Monday of each Term, have precedence of all other business until they are disposed of.

Rule 19.

Unless otherwise directed by the Court, the Trial Docket will be taken up on the third Monday of each term, and the causes called for trial in the regular order. The Clerk on the successive

morning openings of Court will daily call the witnesses subpoenaed on the trial docket for that day, and shall mark the names of such witnesses who answer, and if attachments are not moved for against such as have been summoned and do not answer, their absence shall not be cause for postponement or continuance.

The cases on the trial docket will be called for trial in the regular order, but the Court will permit, in its discretion, a cause thereon to be fixed for trial on a named day by consent of counsel of record for the respective parties and such case will not be called before such day, unless the court shall otherwise specifically direct. Nothing, however, in this rule shall prevent the Court, in its discretion, on the first day of the term and subsequently, from assigning, from time to time, for trial in their numerical order, unless otherwise agreed, the cases marked for trial on the appeal and trial dockets, but, exclusive of a pending case, not more than ten of them, if jury trials, shall be assigned on any one day. The Court may for the purpose of such assignment, in its discretion, count a short note case and the garnishment or claim cases connected therewith or a sequence of cases involving the same question, as one or more cases, and cases specially set for a day may be included. This rule is not to be construed to deprive the Court of the power to set cases for a day upon good cause shown. Cases not disposed of on the day of assignment shall become a part of the next day assignment and the Court may make re-assignments, from time to time, in its discretion, in order to keep the Court and jury continuously employed.

#### Rule 20.

#### WITNESSES.

Witnesses required by either party to testify in cases on the trial and appeal dockets shall be summoned to attend within a reasonable time before the case is called, so as to enable the Sheriff to serve and return the summons, and prevent delays when the case is reached for trial on the call of the docket; and the Court will judge the sufficiency of time, and determine in its discretion whether this rule has been complied with, before a delay or postponement of the trial of the case shall be granted.

## F

## Rule 21.

## RETURN DAYS.

The first Monday of February, the second Monday of April, the third Monday of July and the first Monday of November in each year, and the first day of each term of Court, shall be return days for process in civil cases.

## Rule 21A.

## RETURN OF WRITS AND RENEWALS.

All original writs, writs of executions, attachments, 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, which ever 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 which ever shall first occur. Acts of 1927, ch. 216.

On the return of an original writ not executed the same shall be renewed, returnable to the next return day thereafter, and after two returns of any original writ not executed at the two succeeding return days after the writ is first issued, the same shall be permitted to lie dormant, returnable only on the written order of the plaintiff, or his attorney of record, to such future return day as the said plaintiff, or his attorney, may elect; and upon a further return of not executed, said writ shall be again permitted to lie, renewable only as aforesaid, the said plaintiff, or his attorney, having the right to renew said writ to as many subsequent return days, under the same mode of procedure as may be deemed proper, until the same is executed. Acts of 1914, ch. 240, sec. 144A.

While such writs shall so lie dormant the cases shall be transferred by the clerk from the original docket and entered, under the date of such transfer, upon a docket to be kept by the clerk

for that purpose under the title and caption of Dormant Writ Cases and there to be kept or remain as hereinbefore and by statute provided.

#### Rule 22.

If the defendant be returned summoned to any of said rule or return days, and shall fail to appear, the Clerk shall, on the day following the return day to which the writ or process served on him is returnable, enter the appearance of such defendant, and the action shall proceed in the same manner as if the said defendant had appeared in person, except that the Clerk shall not, under Section 37-C of the Act of 1908, Chapter 682, Public Local Laws of Howard County, enter the involuntary appearance of any defendant to any action of ejectment, replevin of scire facias, or that of any garnishee returned to any writ of attachment, but in all such cases the proceedings shall be as heretofore prescribed by statute or otherwise, except that all such cases shall be placed on the Trial Docket of the term next after the return day to which the party may be returned summoned, for trial or judgment in the regular course of proceedings. And on application for the writ in the nature of the writ of habere facias under the Act of 1886, Chapter 504, (Code of Public General Laws (1924) Art. 75, sec. 99) no involuntary appearance of any person shall be entered by the Clerk.

### G

#### Rule 23.

##### TIME FOR PLEADING.

If suit be brought on titling, and the defendant appears without service of summons or is summoned and appears in person or by attorney, or when, upon his failure to appear after summons and return, his personal appearance is entered on the day following the return day to which the writ or process served on him is returnable pursuant to sec. 37-C of the Acts of 1908, ch. 682, a rule shall be laid and the Clerk shall make entry of the rule (rule narr) on the docket, requiring the plaintiff to file the declaration and the plaintiff shall have ten days to file said

declaration after the return day to which the defendant has been summoned, or next succeeding his appearance.

If the suit is brought by filing a declaration at the time of suing out the writ, a copy of the declaration for every defendant shall be filed with the declaration and a copy shall be sent by the Clerk to the Sheriff, who shall leave each of the defendants a copy and make return thereof with the writ; and when the declaration is filed after suit brought, and the entry of the defendant's appearance, the copy thereof shall be served by the plaintiff upon each of the defendants or his attorney of record before the declaration is filed, and in either of these contingencies a rule plea shall be laid and the Clerk shall make entry on the docket at the time of the filing of the declaration of the rule which shall require the defendant to plead to the declaration within twenty days after the return day next succeeding the time at which the declaration was filed as aforesaid, and the defendants summoned either by the original or renewal writ. But when the declaration is filed after suit brought but before the entry of the defendant's appearance, the defendant, upon the entry of his appearance, shall be forthwith laid under rule to plead within twenty days from the day of such appearance. If the defendant fails to plead as required by the rule, the plaintiff, except when the action is brought under affidavit or affirmation as provided in sections 37-F and 37-G of the Acts of 1908, ch. 682, either at the first call of the docket after the expiration of the time within which the defendant was to plead, or by seasonable motion in writing, may obtain a judgment by default against the defendant for failure to plead. And for each succeeding 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 a shorter time is fixed by the Court or unless the party be required by the Court to plead forthwith, but neither the defendant nor the plaintiff shall be entitled to a judgment by default for failure of the adverse party to plead after rule for further pleading is laid unless a copy of the plea or other subsequent pleading in respect to which default has occurred, has been served on the adverse party or his counsel of record, before such pleading is filed.

If a cause be called for trial and further pleading is permitted, the parties shall be required to plead forthwith at bar, so as to bring the cause to issue and let the trial proceed, unless the Court, for good cause shown, shall extend the time for pleading. When pleadings are at bar, copies thereof need not be served. Nothing herein contained shall deprive the Court of the power, upon good cause being shown, to pass in writing, in its discretion, a special order with reference to the pleadings and the time thereof, in order to meet a situation which is not covered by the rules.

Leave to amend the pleadings shall be made only with leave of the Court and on such terms as the Court shall deem reasonable, but the leave to amend, or the amendment when made, shall not entitle either party to a continuance or postponement of the cause, unless the Court shall think such continuance or postponement necessary for the purpose of justice.

#### Rule 23A.

##### WHAT ATTORNEYS MAY PLEAD.

All actions, which are not brought and carried on by the plaintiff *in propria persona*, shall be brought and conducted by an enrolled member of the Bar of the Circuit Court for Howard County, and all defendants, who do not act *in propria persona*, shall plead and be represented by an enrolled member of the Bar of the Circuit Court for Howard County, but this rule shall not preclude an attorney in good standing, of the Court of Appeals of Maryland, or of any other Bar, from becoming and being associated with an attorney of this Bar, in the institution and trial of any action, nor shall this rule prevent the Court from making an exception in its operation whenever the occasion warrants an exception.

The clerk of the court shall observe this rule in the filing of all original proceedings, but subsequent proceedings in any action, although not *in propria persona*, nor pleaded by an attorney of this Bar or by express permission of the Court, shall be filed and have the same effect as if made *in propria persona*, but the attorney's appearance shall not be entered.

## Rule 23B.

## JUDGMENT BY CONFESSION.

No judgment by confession shall be entered in any case in which the defendant shall not have been personally summoned, unless there shall have been filed therein, before the entry of such judgment, the cause of action in such case, verified by the affidavit or affirmation of the plaintiff or some other person on the plaintiff's behalf, duly authorized to make the same; and unless the affidavit or affirmation shall, also, set forth the precise amount claimed to be due from the defendant to the plaintiff, over and above all discounts, and the last known address of the defendant. Upon the entry of a judgment, without summons, pursuant to the warrant, the clerk of the court shall notify by registered mail, the defendant at his address so given, of the entry of the judgment, with the name of the plaintiff and of the defendant, the date of the judgment and its amount and counsel fee, if any.

The warrant authorizing judgments by confession, where the defendant is not summoned, should contain the following, viz:

1. The statement of an absolute and unconditional debt of a named amount.
2. A clear authority to confess, either before or after maturity.
3. A person authorized to confess.
4. Any terms or conditions of the confession.
5. The warrant may contain provision for fees to plaintiff's counsel, except as hereinafter next specified.
6. If the judgment, when extended, is intended as security, either for a subsisting debt or for a future debt, a future advance or for the carrying out of a contract, the warrant should so state and the judgment taken so indicate.
7. If the warrant be executed as a part of, or in connection with an obligation given to a licensee under the Uniform Small Loan Law (Code, Art. 58A (1924) and the acts amendatory thereof and supplementary thereto, no judgment by confession



shall be entered thereon unless the note, promise to pay or security taken therefor, shall state the actual amount of the loan, the time for which it is made and the rate of interest charged, and be without blanks that had been left to be filled after execution, and, further, shall not contain any provision for any other or further charge or amount whatsoever for any examination, service, brokerage, commission, or other thing or otherwise, except for the payment of interest allowed or otherwise, as by the statute permitted.

#### Rule 24.

##### SUIT UNDER ACT OF 1908.

Where the action has been brought under affidavit or affirmation as authorized by the Acts of 1908, ch. 682, and there has been no plea, or no sufficient plea, filed as required by Section 37-F of said Act, within twenty days next succeeding the return day to which the defendant has been returned summoned, the judgment authorized to be entered shall be entered as in default of plea under this rule and as in the statute provided; 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, and the plaintiff shall file his election in writing to take such judgment in full discharge of the action, before judgment entered, the judgment shall be entered upon such election filed, and not otherwise.

The declaration filed for a speedy judgment shall have appended to the declaration a notice to the defendants of the time within which to plead, and this notice must be included by the Clerk in the copy of the declaration to be served.

#### Rule 25.

##### PLEAS OF LIMITATIONS, INFANCY OR SET OFF.

The defendant shall not plead the act of limitations, infancy or set off, after the rule day, unless the declaration be amended.

#### Rule 26.

All pleadings shall be in writing, but in Court the general

issue and general replication may be entered by the Clerk short on the Docket.

Rule 27.

DEMURRERS.

When a demurrer has been filed to the declaration in cases brought under the Acts of 1908, ch. 682, the time for pleading may be extended by the Court only in cases where an affidavit that said demurrer has not been filed for the purpose of delay, is made by the party applying for such extension.

If there be a demurrer in law and issue in fact, the demurrer shall be argued and determined first before the trial of the issue in fact. Any issue of fact may be struck out before the jury is sworn, for the purpose of putting in a general demurrer, and the demurrer shall forthwith be heard and determined so that the trial may proceed.

In order that the cases on the trial docket may be at issue before the first day of the term, the Court shall, on the Monday immediately preceding the first Monday of the ensuing term, and on such other days as may be designated by the Court, hear demurrers and other legal questions on the pleadings in the cases, and determine the same, and bring the cases to an issue of fact.

Rule 28.

MOTIONS IN ARREST AND FOR NEW TRIALS.

That all motions in arrest of judgment or for new trials, except as herein provided, shall be made during the term at which the verdict is rendered, and within three days after the verdict, including the day on which the verdict was rendered; and the party making any such motion shall file his reasons at the time of making such motion, and if on hearing said motion he shall suggest additional reasons, he shall file in writing such additional reasons, and all such motions shall be heard at the term at which such motion is made and if not so heard, it shall be overruled as of course by the expiration of the term, unless, during such term the time for hearing shall be extended by order of the Court.

No motion for a new trial shall be received after motion in arrest of judgment, but a motion in arrest of judgment may be received within one day after the decision of the motion for new trial.

#### Rule 29.

##### EXCEPTIONS AND BILLS OF EXCEPTION.

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; and 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; and as it would greatly and unnecessarily retard the business of the Court were it required that upon any exception taken, the progress of the trial should be stayed until the formal bill of exceptions should be prepared and signed by the Judge or Judges, 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, and in no case shall the progress of the trial be stayed or delayed for the formal preparation of bills of exception or direction of the Court. But in every case, unless otherwise expressly allowed by the Court, the bill of exceptions shall be prepared and submitted to Court during the term at which such exception shall be taken. And in preparing the bills of exception care must be taken to incorporate 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.

Bills of exception shall be so prepared as only to present to the Court of Appeals the rulings of the Court below, upon some matter of law, and shall contain only such statement of facts as

may be necessary to explain the bearing of the rulings upon the issues or questions involved; and if the facts are undisputed, they shall be stated as facts, and the evidence from which they are deduced shall not be set out; and, if disputed, it shall be sufficient to state that evidence was adduced tending to prove them, instead of setting out the evidence in detail; but if a defect of proof be the ground of the ruling or exception, then the particulars in which the proof is supposed to be defective shall be briefly stated, and all the evidence offered in anywise connected with such supposed defect, shall be set out in the bill of exception. And it shall be the duty of the Judges to require exceptions to be prepared in accordance with this rule.

In no bill of exception shall any patent, deed, will, or other documentary evidence be inserted at length, but shall only be stated briefly, according to its import and effect, unless the nature of the question raised and decided render it necessary that it should be inserted *in extenso*; nor shall any document be more than once inserted at large in any transcript to be sent to the Court of Appeals. And it shall be the duty of the Judges to require exceptions to be prepared in accordance with this rule. Either party, however, shall have the right to have any or all of such documentary proof inserted at length, it being stated in the exception at whose instance the same is so inserted, that costs may be awarded as the matter so incorporated may be deemed proper or not, by the Court of Appeals, to have been set out in full.

#### Rule 30.

#### TESTIMONY AND PRAYERS.

The Court will ordinarily require that all evidence intended to be produced by plaintiff and defendant shall be offered before any prayer is made to the Court for its instructions thereon, except that at the close of the plaintiff's case, the defendant may submit a prayer or prayers involving the right of the plaintiff to recover, and if the prayers so offered be overruled, the defendant shall have the right to go on with his case. The Court, in its discretion, may allow a party to offer evidence discovered after closing his case, or which he could not obtain before.

## Rule 31.

## PRAYERS.

After all testimony intended to be produced by plaintiff and defendant shall have been introduced, the parties will promptly furnish the Court with all the prayers they, respectively, propose to submit. The prayers shall be argued in connection with one another, unless otherwise directed by the Court. The plaintiff, if he shall have submitted any material proposition not admitted by the defendant, shall be entitled to open and conclude on the whole. The Court, upon the whole case, will give such instructions as appear requisite to place the case fully before the jury. Copies of such prayers as have been prepared out of court must be furnished each side by the other immediately after the evidence on both sides is in, and counsel will be expected to prepare their prayers out of court whenever it is possible to do so.

When the law in the case shall have been elicited and settled, as contemplated by the above preceding rule, no additional prayer or prayers will be received, nor additional evidence be given to the jury, unless by permission of the Court.

## Rule 32.

## AGREEMENT OF COUNSEL.

That the Court will not notice any agreement of counsel unless the same shall have been reduced to writing and filed in the cause.

## Rule 33.

## ATTORNEYS OR OFFICERS OF COURT CAN NOT BE SURETIES.

That for regulating the practice of taking security, no attorney or officer of this Court, or any deputy, shall be received as security in any bond given to prosecute a writ of error, or on any application of any kind, or any replevin, retorno habendo or any bond to prosecute an action in this Court, or become security for costs in case of rule security for costs, or become security or bail for parties accused of crime or charged with any criminal offence.

## Rule 34.

## SECURITY FOR COSTS.

That when any party plaintiff shall be laid under rule to give security for the costs of a suit, and claim a continuance of the cause to enable him to comply with the rule, and such cause shall be continued, the party so laid under rule shall have until the second day of the next succeeding term to comply with said rule.

## Rule 35.

## RECALLING WITNESSES.

That in the trial of cases in this Court when a witness has been called on the part of the plaintiff or defendant and examined in chief and dismissed from the stand, the party that called said witness shall not be permitted to recall him or her for the purpose of examining him or her further upon the same subject matter, unless the Court in its discretion shall so allow.

## Rule 36.

## RULE TO EMPLOY NEW COUNSEL.

That in all cases where a rule is laid to employ new counsel because of the death of the attorney, his removal from the State, his disqualification, or his retirement from the case, the party laying the same shall be at liberty to serve a copy of such rule, and upon proof of service thereof the Court will immediately take up the case and order it for trial or make such order therein as the Court in its judgment may, under all the circumstances, think proper or necessary for the trial of the merits of the same.

An attorney who delays his request for leave to have his appearance stricken out until the case is about to be tried, will not be permitted to do so, unless such attorney shall file in the cause a written order for his appearance to be stricken out, with an affidavit or affirmation that he no longer represents the party, when he ceased to represent the party, and that his action is not taken for the purpose of delay.

## Rule 37.

OBJECTION TO TESTIMONY AND ITS EXCLUSION  
SUA SPONTE BY COURT.

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 to itself the right of excluding illegal or irrelevant testimony, even if not objected to by counsel.

## Rule 38.

OPENING STATEMENTS, EXAMINATION OF WITNESSES  
ARGUMENT AND TIME OF ARGUMENT.

Opening statements may be made by counsel for the plaintiff and defendant at the beginning of the trial of the case, and if not so made in any civil or criminal case, an opening statement cannot be reserved, to be made at the close of the testimony for the plaintiff in any civil action or for the State in any trial for a criminal offence.

On the trial of facts the plaintiff shall have the opening and conclusion. On the argument on demurrer and motions addressed to the Court, the party demurring or making the motions shall open and reply. When evidence offered is objected to, the party objecting shall open and conclude on the objection. One counsel on each side shall be heard on questions of evidence, and each will be limited to thirty minutes. One counsel on each side shall conduct the examination of a witness, except when otherwise allowed.

Two counsel on each side may address the jury and occupy one hour each, subject to the time being lessened in the judgment of the court, provided that in cases of more than ordinary importance and difficulty, this rule, by special leave of the Court, may, in its discretion, be enlarged, both as to the number

of counsel and the time they will be permitted to occupy before the jury.

Upon prayers presented in the trial of the cause or on demurrer, one hour will be allowed to each side, unless the Court shall deem further time necessary, when, in its discretion, it will be extended.

#### Rule 39.

##### PROCEDURE ON APPEALS.

Before the Court shall proceed to hear or try cases brought by appeal from the judgment in civil cases of justices of the peace or police justices, the Court shall first be satisfied that all costs incurred on the judgments and proceedings before the justice aforesaid have been paid by the appellant, or that the appellant has given bond, conditioned for the payment of the costs, if he does not prosecute his appeal successfully; and the appellant shall either present to the clerk of the court evidence of the payment of such costs or the giving of such bond or be prepared, on the call of the case, to satisfy the Court of the payment of such costs or the giving of such bond.

If the costs have been paid by the appellant or bond given and the appeal stands for trial or hearing, and is not tried or disposed of for two successive jury terms, the appeal will abate and be dismissed and not heard unless for good cause shown the Court shall otherwise direct in writing.

#### Rule 39A.

##### PRACTICE IN CIVIL APPEALS.

On the trial of cases on civil appeals, when objection is made to testimony, the court will expect the party making the objection to state the ground thereof, and the counsel propounding the evidence to explain the object thereof, if necessary, when the admissibility of the evidence will be decided without argument, unless the court shall request it, when ten minutes will be allowed to each side for argument. Propositions of law which counsel may desire to submit to the court shall be embodied in a single instruction, on each side, unless the court, in its discre-



tion, allow further and other instructions to be offered. But one counsel on each side will be heard in argument on instructions submitted, and each will be limited to fifteen minutes. In the argument on the facts before the jury, each side will be allowed thirty minutes unless the court shall, for good cause, extend the time of argument.

Rule 40.

ARGUMENTS IN CRIMINAL CASES.

In the trial of offences against the criminal law and of criminal appeals, the length of the argument, and number of counsel permitted to speak shall be in the discretion of the Court, and vary according to circumstances, having due regard to the dispatch of business.

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Rule 41.

HOW NOTICES SHALL BE SERVED.

Every notice required to be served 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 there is no appearance of an attorney on the record, the notice and copy shall be served personally on the party, or mailed to such party at his usual post office address by registered mail, or left at his usual place of abode.

In any case in which it is intended to proceed against a party for contempt in case of his disobedience of any rule or order of the Court, the service must be made on the party so to be charged personally, unless otherwise ordered by the Court.

Rule 42.

HOW SERVICE SHALL BE PROVED.

The service of notice of any rule or order, except in the cases which are otherwise specially provided for, shall be proved by the written admission under hand of the party on whom service

was made or his attorney, or by the affidavit of the party making such service.

Rule 43.

COMMON RULES—SPECIAL RULES.

Every rule, to which a party would, according to the practice of the court, be entitled of course, without showing special cause, shall be denominated a common rule; and every other rule shall be denominated a special rule. All common rules and all rules by consent of parties shall be entered by the clerk at his office, and may be entered at any time, as well in vacation as during a term; and the day when the rule is entered shall always be noted by the clerk.

Rule 44.

PROCEDURE ON ENTRY OF COMMON RULES.

Every common rule shall be taken at the peril of the party taking the same, and the clerk shall always enter such common rule as the party shall move for; but if the opposite party shall, on special motion for the purpose, show that by reason of any irregularity or insufficiency in the proceedings, or by reason of any other matter, the party taking the rule was not entitled thereto, the court may order the rule and any judgment or execution thereon to be vacated and make such further and other order thereon as right between the parties may require, provided the party moving shall not have acquiesced in such rule or have been guilty of laches.

Rule 45.

MOTIONS—HOW VERIFIED.

The court will not hear any motion grounded on 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.

## Rule 46.

CALL OF CASES FOR TRIAL—CONTINUANCE—  
POSTPONEMENT—NON PROS.

In making up the trial docket for any term the cases on the trial docket of the preceding term which were not disposed of shall take precedence in their numerical order, and all other cases for trial shall follow in their respective order on the docket from which they are transferred.

No continuance shall be granted by the Court except for good cause. The absence of counsel, unless sick or actually engaged in the trial of another case in another Court or in the Court of Appeals, will be no ground for postponement, but if counsel are sick or so engaged, the case may be held in the call, provided written notice of such sickness or engagement shall have been given to the Court before the case is reached for trial. If the counsel on one side be present, he may proceed to dispose of the case *ex parte*, if no good cause be shown for continuance or postponement. If the counsel on both sides be absent, the case may be called at the door and dismissed or otherwise disposed of in the discretion of the Court.

Sickness of counsel shall not be ground for continuance. The Court may, on account of such sickness, allow a postponement for not more than thirty days, unless the time be extended by consent, and if, at least ten days before said time expires, the party whose counsel is ill, received written notice from the other side that his case will be tried, the trial shall proceed irrespective of sickness of counsel.

When there are two or more counsel of record on the same side, the absence of one of them, for any reason, will be no ground for continuance or postponement.

If the plaintiff or his counsel fail to attend when a case is called for trial, it shall not be necessary to empanel a jury before the entry of *non pros* shall be made, but upon call of the plaintiff such judgment shall be entered by the Court.

## Rule 47.

## APPROVAL OF SURETIES.

The surety or sureties in all bonds and recognizances shall be approved either by law or by the Clerk of the court, or, in a case of necessity, by a judge of the court.

## Rule 48.

## DEATH OF PARTIES.

On the death of a party whose heir or other representative is a necessary party to the action, proceedings shall be taken to make the necessary party. (See Code (1924), Art. 75, secs. 29-37).

Upon the voluntary appearance of the proper representative, he shall have fifteen days within which to comply with any rule on his predecessor at the time of his death and to give notice to the adverse party of the fact of his appearance; and on his failure to comply with such rule within said time, he shall be liable to be proceeded against as for a default.

If the adverse party shall be under any rule, or in default, at the time of the death of the original party, he shall have fifteen days' time after notice of appearance of new party for complying with such rule, or purging such default; and if he shall fail to proceed as aforesaid within said time, the new party shall be at liberty to proceed against him as for a default. The adverse party shall not be obliged to wait for a formal notice of the appearance, but may forthwith, on the entry of the appearance of the said new party, comply with any rule or purge any default imposed on him and thereupon proceed in the cause.

The appearance of a new party, voluntarily or otherwise, shall not be a ground for continuance or further postponement, except under special circumstances, to be judged of by the court.

## Rule 49.

## NATURALIZATION.

Proceedings for the naturalization of aliens shall be conducted according to the laws and regulations of the Government of the United States upon that subject.

Applications for naturalization shall be heard during the

regular terms of court, upon the first Monday of every term, being the third Monday of March, June, September and December, except that no session for such purposes shall be held within thirty days next preceding any general or congressional election, and provided that the designation of a regular day for hearing naturalization cases herein shall not prevent the court from postponing such cases from day to day or designating from time to time a special day for hearing any such case or cases.

In every petition for naturalization in which no final order has been made within one year after the date of filing thereof, the clerk of the court shall cause a notice to be on the day of its date, mailed to the last known address of the petitioner, to the effect that unless such petitioner shall appear in court with his witnesses for the final hearing of his petition on one of the regular days set for hearing naturalization matters, within thirty days after the date of said notice, or shall within such time show to the court good reason for his failure so to appear, the said petition shall be dismissed; and that in all cases in which such notices are so sent to petitioners for naturalization and the petitioners neglect or fail to appear or to show the court good reason for such neglect or failure to appear, the petition shall thereupon be dismissed, provided that the thirty days preceding any general election shall not be included in computing the time within which a petitioner shall appear for final hearing.

#### Rule 50.

##### ATTENDANCE OF SHERIFF.

The Sheriff is directed to attend in person, with two deputies or constables, during the whole of any Term or Intermediate Session, unless excused by the court; and said Sheriff or a deputy shall be present at any special sitting of the court in law or in equity, unless excused by the court.

#### Rule 51.

##### DISPOSITION OF MONEY PAID INTO COURT.

In all cases where money may be brought into court, the same shall be paid to the clerk in the first instance, who shall, as

clerk, immediately deposit it in some bank, to be designated by the court, with a memorandum of the suit in which the same is paid; and the plaintiff or defendant, or other party or parties entitled, as the case may be, shall receive an order under the seal of the court, directing the cashier of the bank to pay over the money thus deposited in such manner as the court may adjudge. A copy of this rule shall be furnished by the Clerk, without cost, for delivery to the cashier of such bank.

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Ordered this 31st day of October, in the year nineteen hundred and thirty-five, by the Judges of the Circuit Court for Howard County, that the foregoing rules be adopted on the law side of this Court and be and become effective on the second Monday of January, 1936, and that all other rules heretofore adopted be abrogated and annulled as of that date; and that the foregoing Rules shall be entered among the Rules of this Court and be printed, and copies thereof furnished to the Members of the Bar.

FRANCIS NEAL PARKE,

*Chief Judge.*

WM. HENRY FORSYTHE, Jr.,

LINWOOD L. CLARK,

*Associate Judges.*

**I N D E X**  
**OF**  
**Law Rules**  
**of the**  
**CIRCUIT COURT**  
**FOR HOWARD COUNTY**

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# Equity Rules

for the

CIRCUIT COURT  
FOR HOWARD COUNTY

**EQUITY RULES**  
**for the**  
**CIRCUIT COURT FOR HOWARD COUNTY**

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Rule 1.

PAPERS FILED IN PROPER PERSON.

Any petition, answer or other writing addressed to the court, certified by a justice of the peace or a notary public to have been signed or acknowledged before him by the person whose name is thereto subscribed, and whom the justice or notary public shall state in the certificate is known to him, shall be filed, and shall have the same effect as if signed and filed by a solicitor.

Rule 1A.

WHAT ATTORNEYS MAY PLEAD.

All proceedings, which are not brought and carried on by the plaintiff *in propria persona*, shall be brought and conducted by an enrolled member of the Bar of the Circuit Court for Howard County, and all defendants, who do not act *in propria persona*, shall plead and be represented by an enrolled member of the Bar of the Circuit Court for Howard County, but this rule shall not preclude an attorney in good standing of the Court of Appeals of Maryland or of any other Bar, from becoming and being associated with an attorney of this Bar in the institution and procedure of any proceedings nor shall this rule prevent the Court from making an exception in its operation whenever the occasion warrants an exception.

The clerk of the court shall observe this rule in the filing of all original proceedings, but subsequent proceedings in any suit, although not *in propria persona* nor pleaded by an attorney of this Bar or by express permission of the Court, shall be filed and

have the same effect as if made *in propria persona*, but the attorney's appearance shall not be entered.

#### Rule 2.

##### COMMISSION TO TAKE TESTIMONY.

If either party desires to take testimony beyond the limits of Howard County or of the State of Maryland and the parties cannot agree upon the selection of a commissioner or commissioners, the judge of the court may, by his order, appoint a commissioner or commissioners to take such testimony, and may give due regard to the nomination of the respective parties; but if the parties agree upon one or more commissioners, then the commission shall be issued by the Clerk without an order of court, to the person or persons named by the parties.

#### Rule 3.

##### EXECUTION OF COMMISSIONS.

The following shall be the directions and forms *mutatis mutandis* for the execution of commissions to take testimony:

##### (A) OATH OR AFFIRMATION OF WITNESS.

Oath to witness:—In the presence of Almighty God, you do solemnly promise or declare that you will true answers make to such interrogatories as shall be propounded to you before us, in this case, and that therein you will speak the truth, the whole truth, and nothing but the truth.

The commissioners, upon a witness refusing to take an oath, will carefully examine him whether he has conscientious scruples against taking a judicial oath; and if he answers in the affirmative, they will administer to him the following affirmation:

Affirmation:—You solemnly, sincerely and truly declare and affirm that you will true answers make to such interrogatories as shall be propounded to you before us in this case, and that therein you will speak the whole truth and nothing but the truth.

## (B) FORM OF COMMISSIONERS' RETURN.

A. B.	}	In the Circuit Court for Howard County, sitting as a Court of Equity.
vs.		
C. D.		

At the execution of the annexed commission, issued out of the Circuit Court for Howard County, sitting as a Court of Equity, and to us directed, empowering us to examine witnesses in the above entitled cause, we, L. M. and S. R., the commissioners in the above entitled case and in the said commission named, having first duly taken the oath to the said commission annexed, met on the.....day of.....in the year of our Lord,.....at.....o'clock,.....m., pursuant to notice, and we then and there proceeded, in the presence of the solicitors of the respective parties, to take the following depositions, that is to say:

(Where the commission is executed by one of them only:)

“and directed to L. M. and S. R., they being the commissioners in the said commission named, having first duly taken the oath to the said commission annexed, I, the said L. M., one of the said commissioners, in the absence of the other commissioner, who was unable to attend the execution thereof, attended,” &c.

(Where it is addressed to one commissioner:)

“and to me directed, empowering me to examine witnesses in the above entitled case, I, O. P., the commissioner in the said commission named, having first duly taken the oath to the said commission annexed, attended,” &c.

(The clause, “in the presence of the solicitors of the respective parties,” will be varied or omitted, according to the circumstances.)

Where a commission to take testimony in chancery shall issue to two commissioners, only one shall act on the same day unless both are called upon, under a requisition of the parties; and the commissioner shall also be required to act as clerk, without extra compensation, unless a clerk is asked for by one of the parties contestant.

O. M., a witness of lawful age, produced on behalf of the plaintiff, being by us first sworn (or affirmed, as the case may be) in due form of law, being examined on the following interrogatories to him propounded in that behalf, depose and saith as follows, that is to say:

First Interrogatory: State your residence and occupation.

1. Answer:—"I reside at," &c.

Second Interrogatory: Do you know the parties? &c., &c.

#### Cross-Examined for the Defendant.

First Cross-Interrogatory: (Proceed as before).

(Where a party to the suit is examined.)

1. A. B., of lawful age, the plaintiff in this cause, appearing before us a witness on his own behalf, being by us, &c.

2. A. B., of lawful age, the plaintiff in this cause, being produced as a witness on behalf of the defendant, being, &c.

Where a witness is recalled, or his examination is continued for more than one day, the interrogatories should, notwithstanding, be regularly numbered from first to last, as if the examination had been continuous. His recall may be noted thus:

O. M., a witness heretofore produced, sworn and examined on behalf of the plaintiff, being now again examined on the following interrogatories to him propounded in that behalf, or, "being now cross-examined on the following cross-interrogatories to him propounded on behalf of the defendant," depose and saith as follows, that is to say:

Ninth Interrogatory:

Do you know? &c.

#### ADJOURNMENTS.

The commission was then adjourned to the.....day of....., in the same year at.....o'clock, and the same place; at which last-mentioned time and place the commission met, pursuant to notice, for the examination of witnesses on behalf of the plaintiff, and no witnesses appearing before us, we adjourned the commission to the.....day



of....., in the same year, at.....o'clock, and the same place, at which last-mentioned time and place the commission met, pursuant to notice, and we proceeded, in the presence of the solicitors of the respective parties, to take the following depositions, that is to say:

## CONCLUSION.

No other witnesses being named or produced to us, we then, at the request of the solicitors of the respective parties, closed the said commission, and now return it closed under our hands on this.....day of....., in the year of our Lord, nineteen hundred and....., at the City of....., in the State of.....

L. M.

S. R.

Commissioners.

## (C) EXHIBITS.

A list of exhibits must then be made in the following form:  
There are.....exhibits to this commission, to-wit:  
Plaintiff's Exhibits, Commission Nos. 1 to 12, inclusive.  
Defendant's Exhibits, Commission Nos. 1 to 4, inclusive.  
Defendant's Exhibit A.

L. M.

S. R.

Commissioners.

If any of the exhibits have been previously filed with the bill or answer, state it thus:

Defendant's Exhibit No. 1 has been previously filed with the.....

Every exhibit must be marked by the commissioners for the purpose of identifying it, and also with the date when it was filed, in some such manner as the following:

Plaintiff's Exhibit, Commission No. 1.

Filed with the Commissioners, December 10, 19.....

L. M.

S. R.

Commissioners.

But if the exhibit has been already filed with the bill or answers, the commissioners must retain its old designation, and merely add the date when it was filed with them.

If the exhibit be liable to injury, or be written on a small piece of paper, such as a promissory note, &c., it must then be fastened to a half sheet of paper, so that every part of it may be examined without difficulty; the paper must then be folded and endorsed in some such form as the following: (This in addition to the commissioner's entry on the exhibit itself.)

A. B.

vs.

C. D.

Plaintiff's Exhibits, Commission Nos. 1-12.

Filed with Commissioners, December 10th, 19.....

L. M.

S. R.

Commissioners.

The exhibits will then be placed in an envelope, to be endorsed in some such way as the following:

A. B.

vs.

C. D.

#### EXHIBITS TO COMMISSION.

Plaintiff's Exhibits, Commission Nos. 1 to 12, inclusive.

Defendant's Exhibits, Commission Nos. 1 to 4, inclusive.

Defendant's Exhibit A.

Total 17 Exhibits.

#### (D) RETURN

After signing the certificate of return endorsed on the commission, and endorsing upon it the bill of costs, and attaching the return of the commission, the commissioners will return it with the packet of exhibits, the whole in one envelope, in the usual manner.

## (E) GENERAL DIRECTIONS

1. In the execution of all commissions, the testimony shall be taken by questions and answers, unless the parties shall otherwise agree.

2. Each page of the return must be numbered, and the name of the witness must be placed at the top.

3. Where the testimony is voluminous, and there are many witnesses, an index must be annexed to the return.

4. The testimony should, whenever at all practicable, be type-written.

## Rule 4.

## PRESENCE OF PARTIES—WRITTEN INTERROGATORIES.

The parties have a right to be present at the execution of a commission, and to reasonable notice of the time and place appointed for the execution of all commissions authorized by these rules. But they may agree to dispense with such notice, and then the witnesses may be examined on interrogatories annexed to the commission. In the latter case the party asking for the commission, before taking out the same, shall file his interrogatories, and serve a copy of the same on the adverse party or his solicitor, who shall, within ten days after service of said copy, file his cross-interrogatories to the witness proposed to be examined by the party asking for the commission, and also interrogatories for the witnesses proposed to be examined on his part. Copies of all such interrogatories and cross-interrogatories shall be annexed to the commission and the examination shall be limited to the same, and to the witnesses named therein.

## Rule 5.

## CARRIAGE, EXECUTION AND RETURN OF COMMISSION.

The carriage of a commission to take testimony shall be intrusted to the party applying for the same, and he shall be responsible for the return thereof. Every commission shall be executed and returned within thirty days from the issuing thereof, unless a different time be named in the commission, or further time allowed by the court, on application therefor.

## Rule 6.

## RULE RETURN.

A rule for the return of the commission to take testimony may be entered on the docket by any party, at any time after the expiration of the day on which it is returnable, and a copy of said rule shall be served on the commissioner or on the party charged with the carriage and return of the commission.

## Rule 7.

## COMMISSIONS TO SEVERAL PLACES.

Several commissions may be issued for the examination of witnesses in different places. But after the return of one commission executed, no other commission shall be issued to the same place unless by special order of the court.

## Rule 8.

## WITHDRAWING EXHIBITS.

Any party on giving a receipt for the same which shall, unless otherwise directed by the court, incorporate a certified copy thereof, may take out of the clerk's office any exhibits by him filed, for the purpose of proving the same before an examiner or under a commission to take testimony.

## Rule 9.

## HEARING—ABSENCE OF COUNSEL.

The absence of counsel shall not be considered as a ground for postponement of a hearing unless caused by sickness, unavoidable accident, or unless such counsel be engaged in the trial of a case in some other court or in the court of appeals. And when two or more solicitors appear for a party, the sickness or engagement of one shall not be a ground for postponement.

## Rule 10.

## SUBMISSION WITHOUT ARGUMENT.

In the trial of cases which may be submitted without argument, the court will expect to be furnished with notes or with

a brief abstract of the object of the bill, and of the grounds of the defense, with a statement of the points or propositions relied on, and references to the adjudged cases upon the subject.

Rule 11.

POSTPONEMENT OR CONTINUANCE.

On any application for a postponement or continuance, the party applying shall satisfy the court by affidavit or otherwise, of the reasonableness of his application; and if the object be to procure additional testimony, the purpose of the testimony and the names and residences of the witnesses shall be stated in the application, together with a sufficient explanation of the causes that prevented the testimony from being taken in time, the whole to be verified by the affidavit of the party or his counsel.

Rule 12.

SOLICITORS OR OFFICERS AS SURETIES.

No solicitor or other officer or deputy of any officer of the Circuit Court shall be admitted as security for costs, as surety on an appeal or injunction bond, and no married woman shall be admitted as surety on any bond for her husband, unless the real estate taken as security shall be held as tenants by the entirety.

Rule 13.

RATIFICATION OF SALES OF REAL OR LEASEHOLD ESTATE.

On the report of any sale of real or leasehold estate made under authority or the jurisdiction of the court, an order will be passed for ratifying the said sale, on some certain day named in the order, and not less than one month after the date thereof, and directing a copy of said order to be inserted in some weekly newspaper printed and published in Ellicott City, Howard County, at least once a week in each of three successive weeks (four weekly publications) before the expiration of one month from the date of said order, which shall state the amount of sales reported. If no exception be filed or cause exist for setting aside the sale, the same will, at any time after the day so named,

and on application of any person interested therein be absolutely ratified and confirmed. With the consent of all the parties interested therein a special order may be obtained for ratifying a particular sale.

## Rule 14.

## COMMISSIONS.

On sales under decrees or orders of this Court, the following allowances will be made to trustees and receivers:

On the first \$300, 7 per centum, \$21.00

second	300, 6 per centum,	18.00,	In the whole,	\$39.00
third	300, 5 per centum.	15.00,	" " "	54.00
fourth	300, 4 per centum,	12.00,	" " "	66.00
fifth	300, 3-1/2 %,	10.50,	" " "	76.50
sixth	300, 3-1/2 %,	10.50,	" " "	87.00
seventh	300, 3 per centum,	9.00,	" " "	96.00
eighth	300, 3 per centum,	9.00,	" " "	105.00
ninth	300, 2-1/2 %,	7.50,	" " "	112.50
tenth	300, 2-1/2 %,	7.50,	" " "	120.00

And three per centum on the proceeds of sale above \$3000, and up to \$25,000; two per centum on proceeds of sale over \$25,000, and up to \$50,000, and on all proceeds of sale in excess of \$50,000, the commission shall be in the discretion of the Court.

The above allowances are subject to be increased in cases of postponement at the request of the defendant, or of extraordinary difficulty or trouble from other circumstances, and to be lessened or disallowed in cases of negligence or other default of the trustee or receiver, at the discretion of the Court.

No trustee, receiver or attorney of this court authorized to make sale of property under any order or decree thereof, nor any one making sale under power in a mortgage, shall accept or receive any part or portion of the auctioneer's fee or advertisement fees or other costs in the case, nor receive personally any rebate therefrom; and any violation of this rule shall be deemed a contempt of court and the offender punished accordingly.

## Rule 15.

## AUDITORS' REPORTS AND ACCOUNTS.

The auditor shall promptly perform and discharge the duties committed to him and file in the particular causes, with the clerk of this court, his reports and accounts. On filing a report and account in any cause referred to him, the auditor shall prepare an order nisi on such account giving notice by means of the publication in some newspaper printed and published in Ellicott City, Howard County, once a week in each of two successive weeks (three weekly publications) before a day named in the order nisi, of the fact that the account has been filed, and of the day, when, in the absence of objection, the said account may be ratified.

The auditor's report and account shall stand regularly for confirmation after the expiration of such notice, unless exceptions be filed thereto within that time or some questions be suggested in the report or raised by the court for the court's determination.

In all auditor's accounts, the auditor shall annex thereto, a certificate of the number of days actually occupied by him in making out the account, and for his services he shall be allowed the per diem now fixed by law, on the basis of a five hour day; and in no case shall he be allowed additional fees, except by special order of court for cause shown upon petition.

## Rule 16.

## PARTITION.

In any case for partition wherein other provisions may not be made by Article 46 of the Code of Public General Laws concerning Inheritance, the report of the commissioners appointed to make partition shall not be submitted for final decree, except by consent of parties, until it shall have remained in the office thirty days, provided that this time may be extended by special order.

## Rule 17.

## ALLOWANCE IN LIEU OF DOWER AND LIFE INTEREST.

The allowance to a healthy widow in lieu of her right of dower in lands sold under a decree of this court, shall be as follows: If she be under twenty-five years of age, not more than one-seventh. If twenty-five and under 35, not more than two-fifteenths. If 35 and under 45, not more than one-eighth. If 45 and under 55, not more than  $\frac{2}{17}$ . If 55 and under 65, one-ninth. If 65 and under 75,  $\frac{2}{19}$ , and upwards of 75, one-tenth of the net proceeds of the sale, out of which she may be dowerable. The allowance to a healthy tenant for life shall be three times as much as would be allowed to a widow of the same age.

The allowance to a healthy wife, in lieu of her potential right of dower in the estate of a healthy husband, may be calculated according to the following table:

Wife's Age	Husband's Age				
	40 and under	40-45	45-51	51-56	56
40 and under	.08163	.08572	.08929	.09524	.10000
40-45	.07619	.08000	.08333	.08889	.09333
45-51	.07143	.07500	.07812	.08333	.08750
51-56	.06349	.06667	.06944	.07407	.07778
56-	.05714	.06000	.06250	.06667	.07000

The foregoing provision and table shall be applicable *mutatis mutandis* to the case of the surviving husband in lieu of his statutory right of dower.

Method of using the table: take the wife's age as indicated in the vertical column, and follow the line out to the right. Take the husband's age as indicated at the top, and follow the column down. At the point of intersection in the table will be found the per cent. of the net proceeds of the sale, at which the cash value of the wife's potential right of dower may be calculated. Example: Age of wife, 41; age of husband, 47; net amount of



sales, \$100; per cent., .0833;  $\$100 \times .0833 = \$8.33$ , which is the cash value of the wife's potential dower.

Rule 18.

MONEY BROUGHT INTO COURT

All moneys or securities brought into court under any order thereof shall be deposited in such incorporated bank or trust company in Ellicott City, as may be selected by the agreement of the parties, or as the court may direct, to the credit of the cause wherein such order shall have been passed, and there remain subject to the order of the court. A certified copy of the original order signed by the judge of this court, together with the check of the clerk, in the usual form, shall be the authority to the bank or trust company for the payment of the money or delivery of a security deposited as aforesaid. The clerk shall procure a suitable check or pass-book, in which shall be entered, under the appropriate head, all sums and securities deposited, and all sums and securities checked out. And in said book it shall be his duty to record the order of the court and his own check, by virtue of which any money or security may be withdrawn, and also the receipt for such order and check, which shall be signed by the person to whom the same shall be delivered, and at the time of the delivery thereof. All checks shall be drawn payable to the order of the person or persons to whom such payments or delivery is directed to be made.

Rule 19.

COURT PAPERS.

No equity paper shall be allowed to remain out of the hands of the clerk for a period of more than five days, except such as may be required by the auditors or examiners; and after such period shall have expired, he shall immediately require the same to be returned to him and no papers shall be taken out except by the attorneys of this court resident here; and no attorney shall be allowed to have more than one set of equity papers in his possession, except by the special order of the court. The clerk shall keep a record of the date of the receipt and of the return by solicitors of all papers.

## Rule 20.

## TRUSTEES AND INVESTMENTS.

## ACCOUNTING BY FIDUCIARIES IN CONTINUING TRUSTS.

On or before the first Monday of April, 1936, and within thirty days before the first Monday of April in every year thereafter, it shall be the duty of every trustee, or receiver or committee, (except a guardian, committee or trustee acting pursuant to the provisions of Art. 65, relating to Veterans' Relief Fund), appointed by a decree or order of the court, and of every trustee executing or administering any trust, howsoever created, with the exception aforesaid, under the order and supervision of this court, and all fiduciaries, except as noted, administering any estate in this court, to file with the clerk of this court, a report or account, verified by his corporal oath or affirmation, in which he shall fully and clearly set forth the nature of all assets and property held by him in such fiduciary capacity, where any moneys may be deposited or kept, and under what name and the nature and particulars of all securities, real or personal, whether the same were received by him in the same form as parts of the trust estate, or have been investments made by him.

And so soon as such report or account shall have been filed, it shall be the duty of the clerk to lay the same before a judge of said court, who shall thereupon refer the same to one of the auditors or masters for examination and verification, and thereupon the said auditor or master shall, at some convenient time and place to be fixed by the auditor or master, or by the court, cause said trustee, receiver or other fiduciary, to exhibit to him all the securities so reported by such trustee, receiver, committee or other fiduciary, and ascertain whether the same correspond with such report or account, and shall also examine and ascertain the correctness of the statements of the report or account with respect to all deposits of money stated in said account or report, as existing when the report or account is filed; and the said auditor and master shall immediately report to the court the result of such examination and verification, and for such service the auditor or master shall be allowed from the income of the trust estate, two per centum of the gross income

calculated to the date of the first Monday of April of every year, provided the sum so allowed shall not exceed in any instance the amount of \$4, unless for special cause shown, the same is increased by order of the court.

With respect to all guardians or fiduciaries appointed by this court under the provisions of Art. 65 of the Maryland Code of Public General Laws (1924), and the amendments thereto, relating to the Veterans' Relief Fund, the annual report or other current report of a fiduciary appointed by this court pursuant to the provisions of Art. 65 of the Code as aforesaid, when duly set down for a hearing and ratified by the court, shall be thereupon referred to one of the auditors or masters of this court, who, at some convenient time and place to be fixed by the auditor or master or by the court, shall cause the said guardian, trustee or committee to exhibit to him all the securities so reported by such guardian, trustee or committee, and ascertain whether the same correspond with such report or account, and shall also examine and ascertain the correctness of the statements of the report or account with respect to all deposits of money stated in said account or report so existing when the report or account is filed, and the said auditor and master shall immediately report to the court the result of such examination and verification, and for such service the auditor or master shall be allowed from the income of the trust estate, two per centum of the gross income calculated to the date of the filing of said report, provided the sum so allowed shall not exceed in any instance the amount of \$4, unless for special cause shown, the same is increased by order of the court.

And the clerk of court shall forthwith prepare, and make and keep a docket of all such trusts coming within the scope of this rule, and on the first Monday of April of every year, report to the court the names of all trustees, receivers or other fiduciaries amenable to this rule, designating such as have complied and such as have failed to comply with the same, and any trustee, receiver or other fiduciary who may fail to comply therewith may, at the discretion of the court, be removed and some other person may be appointed to execute the trust.

Reports of trustees shall be in the following form; a copy of which the clerk will furnish the fiduciary:

In the Circuit Court,  
for  
Howard County,  
In Equity.

## REPORT UNDER RULE 20.

To the Honorable, the Judge of said Court:

The report of....., Trustee, respectfully shows:

First. That the Trust Estate now consists of the following property:

## A. REAL ESTATE.

Location	Assessed Value For Taxes

## B. LEASEHOLD.

Location	Assessed Value For Taxes

## C. MORTGAGES.

Location of property	Amount of Mortgage	Mortgagor's Name

## D. BONDS.

Name of obligor	No. of Bond	Amt. of Bond	Maturity of Bond.

E.

## STOCKS.

No. and class of shares	Name of Company	Certificate Nos.	Par Value	Date of Certificates
----------------------------	--------------------	---------------------	--------------	-------------------------

F.

## CHATTELS.

G.

## CASH.

\$.....

No. Book

.....Deposited in .....Bank.

Second. That since the last report was filed, there have been the following changes in the principal of the Trust Estate:

A.

## RECEIPTS—SALES, Etc.

Debits

Date of Order of Court Di- recting Sale	Gross Amount of Sale	Expenses	Net Amount Received
-----------------------------------------------	-------------------------	----------	------------------------

Corpus Cash Balance as per LAST REPORT \$

Total Net Receipts \$

B.

## EXPENDITURES—PURCHASES, Etc.

Credits

Date of Order of Court Authorizing Purchase	Purchase Price	Expenses	Gross Amount Paid
---------------------------------------------------	-------------------	----------	----------------------

Total Gross Expenditures \$

Total Corpus Cash Balance as per THIS REPORT \$

Third: That since the last annual report, the Trustee ha  
received income of said Trust Estate to the amount of \$. . . . .  
and ha paid the same over to part entitled  
thereto, as will appear from the Receipts and Vouchers, which  
will be exhibited to one of the standing auditors of this Court  
when required.

STATE OF MARYLAND, HOWARD COUNTY, To Wit:

I hereby certify, that on this day of , 19 ,  
personally appeared before me  
and made oath in due form of law  
that the matters and facts stated in the foregoing report are  
true as therein set forth.

Rule 20A.

ACCOUNTING OF TRUSTEES, RECEIVERS AND OTHER FIDUCIARIES  
IN TEMPORARY TRUSTS.

All receivers appointed by the equity court shall, except as  
otherwise provided by law, within thirty days, file a report  
showing, so far as the same can be then ascertained, the assets  
and liabilities of the estate.

All receivers, except as otherwise provided by law, shall with-  
in sixty days after their appointment, file an account of all  
their receipts and disbursements, and shall thereafter file addi-  
tional accounts every six months, unless the time shall be  
changed by order of court, of such receipts and disbursements,  
until the estate in their hands shall be fully administered.

Receivers and other fiduciaries administering trusts under  
the order and direction of the equity courts shall not prosecute  
or defend any suits or incur any financial obligations in respect  
to such suits without the previous order of the court.

No such order will be passed except on probable cause shown  
for the institution or defense of such suit.

## Rule 20 B.

## TRUST FUND INVESTMENTS.

Judges should not undertake to pass judgment upon securities for investment of trust funds being administered under the jurisdiction of the equity courts, or maintain a list of securities acceptable for such investment other than of bonds issued, or guaranteed as to principal and interest, by the United States, the State of Maryland or by Howard County, which require only a negligible amount of investigation and judgment; and that to be relieved of responsibility for the choice of investments to be made of funds under the jurisdiction of the equity courts, a trustee must invest in such bonds issued or guaranteed by the United States, the State of Maryland, Howard County stock or bonds or Federal Land Bank bonds or in mortgages on real estate, made or assigned directly to the investing trustee, and ground rents within the following limits, that is to say:

First mortgages on real estate in Maryland, to the extent of 60 per cent. of the value thereof, if dwelling-house, store or office property and productive; 50 per cent. of its actual value if farm property and improved, or 30 per cent. of its actual value if unproductive or manufacturing property.

Ground rents on unincumbered real estate situate in Maryland, where the amount of the rent capitalized at 6 per cent. is not over 50 per cent. of the value of the property from which they issue.

The valuation must be certified (under oath) by at least two persons familiar with the value of said property and the title must either be certified in the manner as the court shall in each instance require or must be guaranteed by a reputable title insurance company;

That investments may be made by trustees under orders of court, in other securities, but only under full personal responsibility of the investing trustees in each instance, in all respects the same as if the trust were being administered independently of the jurisdiction of a court, for care and diligence in the choice and retention of the investments, notwithstanding any order that may be passed by the court in a case under its jurisdiction, for such investments.

And it is further ordered that there shall be no general rule governing the retention or disposition of securities held by trustees from investments made prior to this date, but that in each trust the trustee shall retain or dispose of such securities hereafter as due care of the interests of the trusts shall require.

#### Rule 20C.

Investments of trust funds shall be made only by and under the authority of the Court given at the time when the making of such investment shall be applied for, and any petition or application therefor shall be accompanied by such certificate or affidavits as the Court may require.

Whenever such investment shall be authorized to be made in any stocks or bonds, the certificates or bonds shall be made out or registered, so far at least as the principal is concerned, in the name of the trustee or trustees, as such, subject to the order of the Court, and when made every such investment shall be reported to the Court for its ratification, and the certificate or certificates, bond or bonds, or other evidence of indebtedness shall be exhibited with the report to the clerk of the Court for verification, and on being by the clerk found to be correct and in accordance with the requirements of Rule 20B, the Court may approve the same upon the certificate of the clerk; and every such report of investment shall specifically set forth the date of issue of such stock or registry of such bonds or other evidence of indebtedness and the serial numbers or marks upon the same; or if the investment be in real estate or upon mortgage, it shall set forth the date of the conveyance and the liber and folio of the record thereof.

#### Rule 21.

##### TAKING TESTIMONY IN COURT.

Whenever application shall be made by either party to take testimony, he shall indicate in such application whether he desires that it shall be taken before an examiner, as heretofore practiced, or orally in open court. If in the latter mode, such testimony shall be taken by a stenographer, unless both parties, the court concurring, shall agree to dispense with his services.



The examination of witnesses shall be conducted by one counsel on each side, and no argument will be allowed on questions of evidence, unless the court requests it. Where the party applying to take testimony shall indicate that he desires that it shall be taken before an examiner, as heretofore practiced, it shall be so taken, unless the opposite party upon being notified thereof, within one day after being so notified, shall claim the right to have the testimony taken orally, in which event it shall be so taken, as heretofore provided.

Rule 22.

TIME LIMITED FOR ARGUMENT.

Arguments of solicitors shall be limited to one hour and thirty minutes each, but the time may be shortened or enlarged, in the discretion of the court.

Rule 23.

REISSUE OF PROCESS FOR DEFENDANTS.

Upon the return of any process for the defendant or defendants "non est" or "not found", it shall be the duty of the clerk to re-issue for any defendant so returned, to the next ensuing return day, unless otherwise directed by the plaintiff or his solicitor.

Rule 24.

TESTIMONY OF AGED, INFIRM,  
DEPARTING OR INDISPENSABLE WITNESSES.

Upon any bill and before the defendant has answered, upon oath made that any of the plaintiff's or defendant's witnesses are aged or infirm, or going out of the state, or that any one of them is a single witness to a material fact, the clerk may issue a commission to the examiner appointed by the court, for taking the examination of such witness or witnesses, the party praying such commission giving such notice as the said examiner shall deem reasonable, to the adverse party, of the time and place of taking the depositions.

## Rule 25.

## PETITION FOR RE-HEARING.

Every petition for a re-hearing shall contain the special matter or cause on which such re-hearing is applied for, shall be signed by the counsel, and the facts therein stated, if not apparent on the record, shall be verified by the oath of the party or some other person. No re-hearing shall be granted after the fourth day of the term next after that when the decree shall be signed.

## Rule 26.

## DIVORCE.

No decree in a suit for divorce shall be passed in less than thirty days from the filing of the bill, nor on the cross-bill within thirty days from the filing of a cross-bill.

In all divorce suits which are referred to an examiner to take testimony, the examiner before whom such testimony is taken, shall have the right and it shall be his duty, to examine or cross-examine any or all witnesses produced, notwithstanding such witness or witnesses may have been examined by counsel, whenever in his judgment such examination or cross-examination upon his part is proper or necessary for a true and full presentation of the real facts in the case or cross-bill.

## Rule 27.

## AGREEMENTS TO BE IN WRITING.

No agreement between parties or their counsel, in relation to proceedings in the cause shall be binding, unless reduced to writing, and signed by the party to be charged therewith, or his counsel, or unless the same be made in open court.

## Rule 28.

All bills, answers and other pleadings, reports of examiners, auditors, masters and other officers of the court shall be written, printed or typewritten on tough paper of substantial weight and good quality, and so that when folded a page shall not exceed nine and one-half inches in height, and, except as to

auditor's accounts, to be printed, written or typewritten on one side of the paper only. When more than one sheet is used, the sheets shall be securely fastened together. There shall be no erasures or interlineations in any writings after filing, without the written approval of court permitting the same.

As a general rule, orders confirming auditor's accounts, and ratifying and confirming sales, shall be written on the accounts and reports thereof and all other orders shall likewise be written on the instruments requiring the orders to be passed.

Rule 29.

The court shall not act upon any paper until the same shall have been filed. No decree shall be passed against a non-resident defendant, who has not appeared, unless the non-residence appear from the proof or there be filed in the cause an affidavit of the non-residence of the party.

Rule 30.

Unless made during the hearing of a cause or the taking of testimony in open court, no party or his solicitor shall be bound to take notice of any rule or order made and docketed relative to a suit, unless a copy of such rule or order be served on the said party or his solicitor of record within four days after the passing or entering of such rule or order, except in cases where the court shall specially order otherwise or when the rules of court or of statute otherwise direct or provide, but this rule shall not apply to any save interlocutory orders or rules and not to final decrees nor to action taken on the default of the party.

The service herein mentioned shall be made either by the clerk of court or by the sheriff, and, if the service be unable to be made personally upon the party or his solicitor as aforesaid within the time mentioned, the said service shall be sufficient if made within the next succeeding four days, by leaving a copy at the office of the solicitor of record for the party, or, if there be no such solicitor of record, by sending by registered mail the copy to the party's last known post office address, and the method of service within said second four days certified on a copy of said order and filed in the cause.

## Rule 31.

## PUBLICATION OF NOTICES.

All orders of publication, notices to creditors, orders nisi on reports of sales and audits, and all other notices which may require publication, shall be published in some weekly newspaper printed and published in Ellicott City, unless otherwise expressly ordered by the Court.

## Rule 32.

## TESTIMONY IN CONTESTED CASES.

In all contested cases, every question shall be numbered in the return of the testimony of the witnesses.

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Ordered this 31st day of October, in the year nineteen hundred and thirty-five, by the Judges of the Circuit Court for Howard County, that the foregoing rules be adopted on the equity side of this court and be and become effective on the second Monday of January, 1936, and that all other rules heretofore adopted be abrogated and annulled as of that date; and that the foregoing Rules shall be entered among the Rules of this Court and be printed, and copies thereof furnished to the Members of the Bar.

FRANCIS NEAL PARKE,  
*Chief Judge.*

WM. HENRY FORSYTHE, Jr.,  
LINWOOD L. CLARK,  
*Associate Judges.*

**Rules in Insolvency**

**of the**

**CIRCUIT COURT**

**FOR HOWARD COUNTY**

## RULES IN INSOLVENCY

### Of The

### CIRCUIT COURT FOR HOWARD COUNTY

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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 of Public General Laws of Maryland as codified, if the applicant has pending at the time of his application a petition or petitions filed by his creditors under section 23 of said Article 47, but shall submit every such application, together with all such petitions then pending against such applicant, to one of the judges of the court for this action.

Nor shall the Clerk appoint any person as "Preliminary Trustee" who shall appear to have received any preference or assignment from the applicant contrary to the provisions of the Insolvent Laws, 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.

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 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, which approval shall be endorsed on the bond.

3. The notice to be given to creditors by the Clerk, as authorized by said Section 18, 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 said notice shall be published weekly for five successive weeks during said period in some newspaper printed and published in Ellicott City, Howard County. And where the Court or one of the Judges is applied to and acts under Section 2 of said Article so amended, and appoints the Preliminary Trustee, then the Court or Judge will (under Section 4), 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 or Judge, 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 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.

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 post offices, he addressed the notices required to be given by said Section 2, 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 this affidavit and certificate shall be prima facie evidence that notice was given as therein stated.

5. At the meeting or meetings held for the election of a permanent trustee, and the examination of the insolvent as provided in said Section 2, 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 the Insolvent proceedings.

6. No person shall be allowed to participate in the election of a Permanent Trustee, or to interrogate the insolvent as provided in said Section 2 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 endorser 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 85 to 97 inclusive, of Article 93, of the Code of Public General Laws, are hereby adopted, *mutatis mutandis*, as fully as if they were herein incorporated. And if the claim 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.

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 96 of Article 93 of the Code.

8. The vouchers of all claims, with the affidavits or deposition attached, as required by the preceding rule, 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.



9. The foregoing Rules shall be entered among the Rules of this Court and be printed, and copies thereof furnished to the Members of the Bar, and be effective as of the second Monday of January, 1936.

October 31, 1935.

FRANCIS NEAL PARKE,  
*Chief Judge.*

WM. HENRY FORSYTHE, Jr.,

LINWOOD L. CLARK,  
*Associate Judges.*

**I N D E X**  
**OF**  
**Equity Rules**  
**and**  
**Rules in Insolvency**  
**of the**  
**CIRCUIT COURT**  
**FOR HOWARD COUNTY**

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