

RULES OF COURT

TERMS OF COURTS OF THE FIRST JUDICIAL CIRCUIT

WICOMICO COUNTY

Jury—Second Monday in March and September.

Non-jury—First Monday in January and July.

SOMERSET COUNTY

Jury—Second Monday in April and Fourth Monday in September.

Non-jury—Second Monday in January and July.

WORCESTER COUNTY

Jury—Fourth Monday in March and Second Monday in October.

Non-jury—Third Monday in January and July.

DORCHESTER COUNTY

Jury—Fourth Monday in April and October.

Non-jury—Fourth Monday in January and July.

RULE DAYS

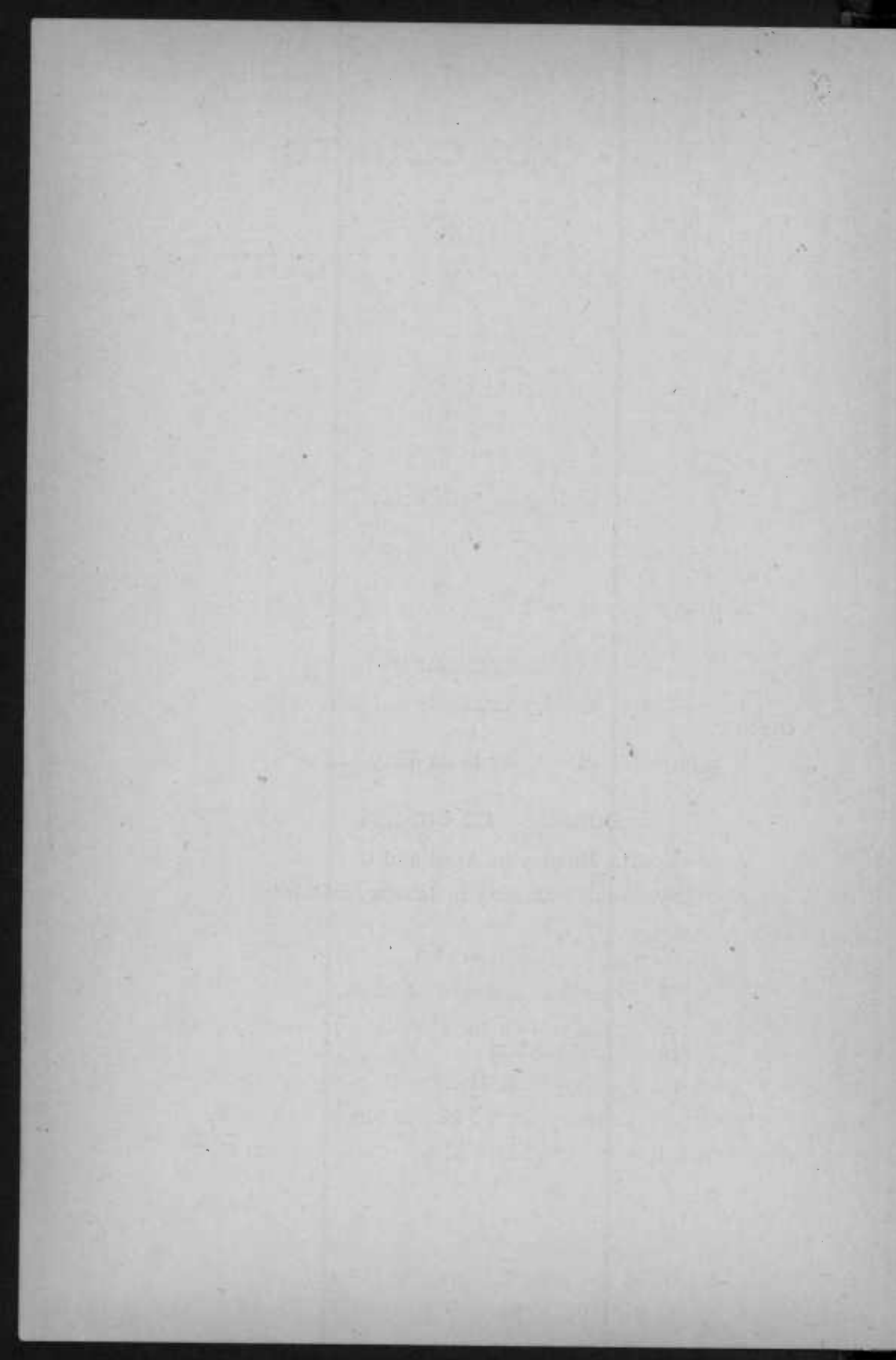
For Declarations and Pleas

Wicomico County—Fourth Monday in every month except March and September.

Somerset County—First Monday in every month.

Worcester County—Second Monday in every month.

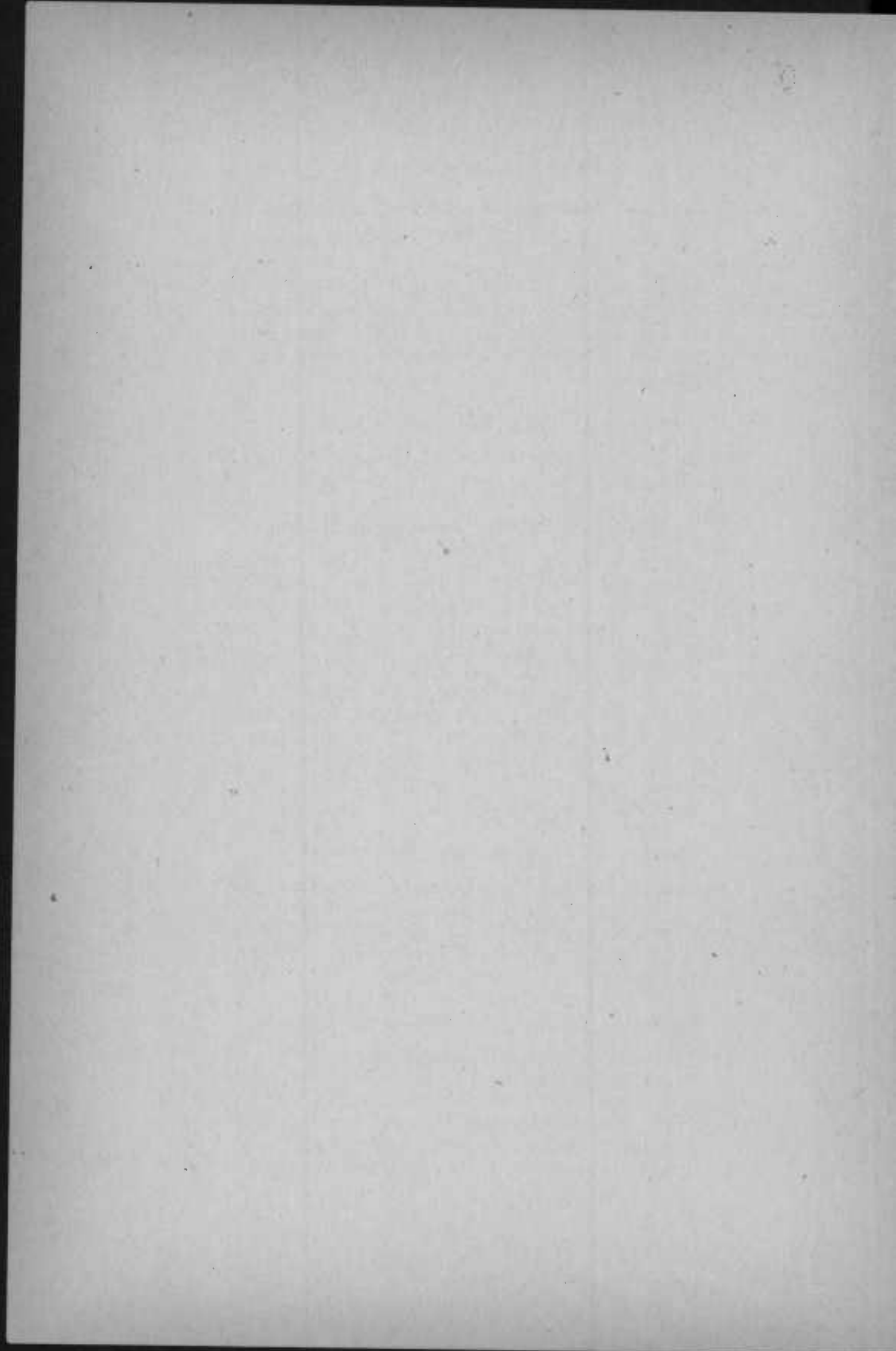
Dorchester County—Third Monday in every month.



RULES
REGULATING THE PRACTICE
IN THE
CIRCUIT COURTS
OF THE
FIRST JUDICIAL CIRCUIT
OF MARYLAND

COMPRISING THE COUNTIES OF SOMERSET,
WICOMICO, DORCHESTER AND WORCESTER

AS COURTS OF LAW



RULE 1.—DOCKETS.

Section 1. Clerk Shall Prepare Dockets and Attend Court.

The Clerk shall prepare a Civil and a Criminal Appearance Docket, a Civil Trial Docket, a Criminal Continuance Docket, a Civil, and a Criminal, Appeal, and a Presentment, Docket, a Judicial Docket, a Recognizance Docket, a Stet Docket, and a Miscellaneous Docket; and he shall attend the court in person, or by sufficient deputy in case he shall be prevented by sickness, or other unavoidable cause.

Section 2. Civil Appearance Docket.

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

Section 3. Criminal Presentment Docket.

The Presentment Docket shall contain cases wherein indictments have been returned by the Grand Jury during the term and filed with the Clerk, who shall at once issue a capias for the party or parties so indicted, and if returned cepi by the Sheriff after the sitting of the Court shall adjourn, the Clerk shall place the case upon the Criminal Continuance Docket—otherwise shall place the same upon the Criminal Appearance Docket. The Clerk shall not allow anyone to have access to the presentments or indictments excepting the judges, the sheriff, the State's Attorney and the deputy clerks, without leave of Court, until the same shall have been filed and entered or docketed.

Section 4. Criminal Appearance Docket.

The Criminal Appearance Docket shall contain all cases in which the party or parties under presentment or indictment have not been apprehended up to the time of making up the docket for the term next succeeding the filing of indictment in the case.

Section 5. Criminal Continuance Docket.

The Criminal Continuance Docket shall contain all cases brought from the preceding Criminal Continuance Docket, and such other cases as shall be brought forward from the preceding Presentment and Appearance Dockets, wherein the party, or parties, indicted have been apprehended and so returned prior to the making up of the docket for the term.

Section 6. Civil Trial Docket.

The Civil Trial Docket shall contain all cases standing for judgment or trial, and all cases in which the defendants were summoned to appear at a previous term, which have not been disposed of, and all controversies arising under Section 9 of this Rule.

Section 7. Civil Appeal Docket.

The Civil Appeal Docket shall contain all civil cases in which an appeal has been taken from the judgment of the Justices of the Peace, and from orders of County Commissioners or any administrative board, commission or official except as otherwise provided by statute or the rules of this Court; and in all such cases it shall be the duty of the Clerk of this Court to docket such appeals on the day the papers are left in his office, and to mark them filed as of that day, and immediately issue a summons for the appellee or appellees, directed to the sheriff, returnable on the first day of the next term of the Court; and where such papers have been filed ten days previous to the commencement of the term exclusive of the day of filing, and the summons so issued shall have been returned "summoned," as to all or any of the appellees, such cases shall stand for trial at the first term after such appeal has been taken and papers filed as aforesaid; and the Court will proceed to hear and determine the same when reached on the call of the docket for trial, in the same manner as if the appellee or appellees, had regularly appeared. And in all cases of such appeals, when the papers have not been filed ten days before the commencement of the next term, exclusive of the day of filing the same, or if such summons shall be returned "non est" or "non sunt" as to all the appellees, and no appearance entered for them, such cases shall stand for trial at the second term, and it shall be the duty of the Clerk to renew such summons, returnable on the first day of the next term, and when such second summons shall be returned "summoned" or "non est," in whole or in part, such cases shall stand for trial at such second term, in the same manner as if the appellee or appellees had regularly appeared.

Section 8. Criminal Appeal Docket.

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

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

Section 9. Judicial Docket.

The Judicial Docket shall contain all executions issued, and returnable to the Term. No case on the Judicial Docket shall be brought forward after the term to which the writ is returnable; and all controversies arising on an execution shall be put on the trial docket and be subject to all the rules controlling that docket.

Section 10. Stet Docket.

The Clerk shall keep a Stet Docket, wherein shall be entered all cases on the Trial and Appeal Dockets not otherwise disposed of at the sittings of the fourth term after they are placed on said Trial or Appeal Dockets, except cases under reference or in which warrants of resurvey are outstanding or which the Court shall direct to be retained on said Trial or Appeal Dockets; and all criminal cases which the Court shall order to be put on the Stet Docket.

Section 11. Miscellaneous Docket.

(a) Habeas Corpus, Registration Cases, Condemnations and Inquisitions.

The Clerk of the Court shall enter on the "Miscellaneous Docket" all cases of Petitions for Habeas Corpus, Petitions of Appeals from officers of Registration, Condemnations of Land (unless said condemnations are specially provided for otherwise in the Act of Assembly authorizing them), all Inquisitions for Lunatic Paupers, and all other matters of a like miscellaneous character, which shall be kept and indexed as the other Law Dockets of the Court.

(b) Copy of Petitions and Notice to be Served on Respondents.

In all cases where petitions shall be filed on the Law or Equity side of the Court in the recess thereof, wherein respondents shall be named who reside in this State, and who are called upon to answer, and no special order shall be en-

dorsed by the Court, the Clerk shall immediately make a copy of such petition, and subjoin a notification to the respondents to appear and answer the same on the first day of the next succeeding term of said Court, which notification shall be tested as all writs issuing from the Courts are tested; which copy of the petition and notification to answer shall, in all cases where the respondent resides within the county, issue to the sheriff of the county; and in all cases where the respondent, or any of them reside out of the county, a notice and copy shall be sent, as other writs, to the sheriff of the county where such non-resident respondent, resides, to be by him returned "served" or "summoned," as other process sent to him from other counties; and if respondents fail to appear on day appointed, the Court will proceed ex parte, and answer afterwards will only be received on oath appended verifying the same.

Section 12. Recognizance Docket.

The Recognizance Docket shall contain all recognizances entered into before Justices of the Peace and returned to this Court, as well as all entered into in this Court.

RULE 2.—CASES IN BANC, CALENDAR, ETC.

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

RULE 3.—SHERIFF, BAILIFFS AND CONSTABLES.

Section 1. Admission Within The Bar.

The Bailiffs, with the aid of the Sheriff, or his deputy, shall keep order in Court, and shall permit no person to come within the Bar, except the members thereof and their students, or officers of the Court, or such persons as shall be called on process, or otherwise, or such other persons as may be invited by the Court.

Section 2. Attendance of Sheriff in Court.

The Sheriff shall attend court in person, unless prevented by sickness, or other unavoidable cause, and in such case by one of his deputies.

Section 3. Returns of Sheriff.

(a) The Sheriff shall return all civil mesne process and all criminal process to him directed, and returnable on the first day of the term, by eleven o'clock on that day by which time the Clerk shall have entered such returns on his docket; provided that this rule shall not excuse the Sheriff from returning any particular process, the return of which may be required at an earlier period of that day.

(b) The Sheriff shall, if practicable, return all executions to him directed and returnable on the first day of the term, by the second day of the term, at or before ten o'clock on that day; by which time the Clerk shall have entered the returns on his judicial docket.

(c) Summonses and other process to compel the attendance of witnesses in all civil cases shall be returnable on the first day of the Term and in all criminal cases on the first Friday of the Term, by nine o'clock, unless otherwise specially ordered, and all summonses and other process directed to the Sheriff during the sitting of the Court must be served without delay; and it will be no excuse that he has no deputies attending. It is the duty of the Sheriff to provide a sufficient number of deputies to execute the orders of the Court.

Section 4. Constables.

Constables to Appear Before Grand Jury on First Day.

Constables must appear before the Clerk on the first day of the Jury Term, be sworn and present themselves before the Grand Jury. Failure to comply with this rule will deprive the party of certificate for attendance, unless excused by the Court for good and sufficient cause.

RULE 4.—APPEARANCES.

Section 1. Voluntary Appearance.

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

Section 2. Appearance in Attachments vs. Absconding Debtor.

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

Section 3. Involuntary Appearance Entered by Clerk.

If a defendant be returned summoned and shall fail to appear, the Clerk of the Court on the final call of the Civil Appearance Docket during the sitting of the Court at the same term to which the writ or process served on him is returnable, shall enter the appearance of any defendant so summoned and failing to appear, and the action shall proceed in the same manner as if the party had appeared in person.

Section 4. In What Cases Involuntary Appearance Not Entered.

The Clerk shall not, under the preceding section, enter the involuntary appearance of any defendant to any action of Ejectment, Replevin or Scire Facias, or that of any garnishee returned to any writ of attachment, but in all such cases the proceedings shall be as heretofore prescribed by Statute or otherwise, except that all such cases shall be placed upon the trial docket of the term next after the return day to which the party may be returned "summoned"

for trial or judgment in regular course of proceeding. And in applications for the writ in the nature of the writ of Habere Facias under Section 99 of Article 75 of Bagby's Code of 1924, no involuntary appearance of any person shall be entered by the Clerk.

RULE 5.—DISMISSAL OF SUIT.

When And How Suits Dismissed.

Whenever in the recess of Court, all the parties to a case pending in said Court, or their Attorneys, when there has been an appearance, shall sign a written agreement to dismiss such suit pending in any Court in the Circuit, or the party plaintiff or his attorney, when there has been no appearance, shall give an order to that effect, on the filing of such agreement or order, the Clerk shall enter such case "dismissed per order filed," and shall not bring such case forward, unless the Docket for the next succeeding term shall have been made up at the time such order be given.

RULE 6.—PLEADINGS, RULE DAYS, ETC.

Section 1. Declarations and Pleas.

(a) Somerset County.

The first Monday in every month shall be rule day for declarations and pleas thereto in the Circuit Court for Somerset County.

(b) Wicomico County.

The fourth Monday in every month, except March and September, shall be rule day for declarations and pleas thereto in the Circuit Court for Wicomico County.

(c) Dorchester County.

The third Monday of every month shall be rule day for declarations and pleas thereto in the Circuit Court for Dorchester County.

(d) Worcester County.

The second Monday of every month shall be rule day for declarations and pleas thereto in the Circuit Court for Worcester County.

(e) Provided, however, that the general issue pleas mentioned in Section 4 of this rule, may be entered as permitted under said Section 4.

Section 2. Replications and Subsequent Pleadings.

Replications and all subsequent pleadings shall be filed within fourteen days after the rule day for filing of the preceding pleadings, and if the last day for filing same as above fixed shall be the first day of any term, then the same shall be filed before the call of the trial docket on that day.

Section 3. Pleas to Jurisdiction, Etc.

Pleas to the jurisdiction, in abatement and of limitations, must be pleaded by the rule day unless further time to plead such plea shall have been previously given by the Court.

Section 4. General Issue Pleas.

The general issue pleas of non assumpsit, nil debit, null tiel record, not guilty, non cepit, plene administravit and general demurrers, when such pleadings are applicable, may be entered short on the docket at any time during the call of the Trial Docket on the first day of the Term. All others must be formally drawn up unless otherwise agreed.

Section 5. Judgment of Non Pros. or by Default on Failure to Plead by Rule Day.

Whenever a rule is laid to declare or plead, or leave granted to amend, unless otherwise specially provided for, such declarations and pleadings (except the pleas mentioned in Section 4 above) shall be filed and amendments made on or before the rule day next thereafter. When a declaration or any other part of the pleadings is filed on or before the rule day in pursuance of a rule previously laid, the adverse party shall be bound to answer the same and to file the pleadings necessarily arising in succession, on or before the rule day next succeeding, that is to say, each successive pleading answering a previous pleading shall be filed on or before the rule day next succeeding the rule day at or by which such previous pleading shall have been filed. And if either party shall neglect to file his pleadings at the time prescribed, judgment of non pros. or by default, as the case may require, shall, on motion, be entered up against him when the case is called upon the first calling over of the trial docket, unless

the Court, for good cause shown, shall enlarge the rule. And this shall apply to bills of particulars to the same extent as to any other part of the pleadings, so that where the same shall be required to be filed under a proper demand, or by an order of the Court, it shall be filed on or before the rule day fixed above for replications and subsequent pleadings, unless otherwise directed by the Court's order, and in the event of failure to file it within such time the party in default, on motion of the opposite party, shall, if plaintiff, suffer a non pros., or if defendant, the plea of set off shall be stricken out and shall not be refiled in the case; provided, however, that a joinder of issue may be pleaded at any time before a judgment of non pros. or by default shall be entered, although it may not have been pleaded on or before the rule day; but this in no case shall be deemed a reason to delay trial.

Section 6. Bill of Particulars—How Obtained.

All motions for Bills of Particulars, made during the sessions of the Court, shall be made in open Court, and disposed of as other motions usually are; and, if made during recess of the Court, shall be by petition or demand in writing. When such motions are made before the rule day to plead, such rule day shall be extended fourteen days after the Bill of Particulars shall have been properly filed. A copy of such Bill of Particulars shall be made and served by the Clerk within five days after it is filed, together with notice of the rule day to plead thereto.

Section 7. Pleadings to be Prepared.

No pleadings are to be drawn or prepared at the bar, in a case, when called for trial, which will produce delay, and when a case is reached and a pleading is to be prepared before the case can proceed to trial, the case shall be put at the end of the docket, at the costs of the delinquent party.

Section 8. Exceptions to Answers of Garnishees.

Whenever any garnishee shall file answers to interrogatories filed by the plaintiff under the provisions of Section 15 of Article 9 of the Code, he shall serve a copy of said answers on the plaintiff within ten days after filing same, and all exceptions to be taken to said answers shall be filed within fifteen days from the time of such service on the Plaintiff, and not afterwards, unless by leave of the Court.

Section 9. Clerk to Enter Rule to Plead.

In every case upon the Appearance Docket, where the defendant has been returned "Summoned," the plaintiff shall be considered as lying under a rule to declare by the rule day next succeeding the return day in the summons; and in every such case the Clerk shall enter, as of course, a rule to declare by the next rule day; but if a declaration be filed on or before the return day in the summons, the defendant shall be considered as lying under a rule to plead by the rule day next succeeding the return day in the summons or notice, and in every case not under special rule the Clerk shall enter, as of course, a rule to plead by the next rule day.

Section 10. Service of Rules to Plead.

Whenever any party to a suit having counsel shall be laid under a rule the Clerk shall forthwith give written notice of such rule to counsel of the party on whom the rule is laid; but it shall be necessary for the Clerk to give only one such notice regardless of the number of counsel appearing for such party.

Section 11. Pleadings to be filed in Duplicate.

All pleadings shall be filed in duplicate and the Clerk shall mail or otherwise deliver a copy of the preceding pleading with all notices of rule days of pleas and all subsequent pleadings.

Section 12. Judgment on Scire Facias.

Whenever a scire facias is returned "Scire Feci," or a second scire facias is returned "nihil," there shall be a judgment, unless the defendant shall appear in person or by counsel during the term.

RULE 7.—TRIAL OF CASES, ETC.

Section 1. Preliminary Call of Civil Dockets.

On Saturday of the second week preceding each Jury Term, at the hour of ten o'clock A.M., the Clerk shall have made up the dockets for the ensuing term in so far as the same is possible from the cases then pending, and at that time there shall be a preliminary call of the Civil Appeal, Miscellaneous and Civil Trial Dockets, by the Clerk, at which time attorneys for litigants will indicate, by proper order,

whether cases will be tried or continued and if to be tried whether a jury will be required. No case not marked for trial at the preliminary call of the dockets will be marked for trial at the call of the dockets on the first day of the ensuing Term, to be known hereafter as the official call of the docket, except that in cases on the Civil Appeal Docket where the appellees shall not have been summoned until after the preliminary call and in cases on the Civil Trial Docket which shall have been removed from another court and the records shall not have been transmitted and received until after the preliminary call, the parties in such cases may at the official call have the same set down for trial, with or without a jury. All cases in which trial is ordered at the preliminary call will be marked for trial at the official call of the dockets unless the same shall have been dismissed, settled or shall be continued by order of the Court. Provided, however, that the Clerk shall give at least five days previous notice of such preliminary call to the respective counsel of record in all such cases.

Section 2. Official Call of Civil Dockets.

(a) Civil Appearance Docket Called.

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

(b) Civil Appeal Docket Called.

The Civil Appeal Docket shall then be called for the purpose of making entries and disposing of such cases thereon as may not be properly in Court, and such as may not be for trial, whether by agreement or otherwise, at which time all appellees summoned since the preliminary call shall indicate if a jury is by them desired, and in all appeal cases the issues shall be made up before the case is called for trial.

(c) Civil Trial Docket Called.

The Civil Trial Docket shall then be called for the purpose of entering judgments, enforcing all rules laid on Plaintiff or Defendant, laying rules and receiving motions and marking cases for trial or continuance as the case may be, subject to the provisions of Section 1 of this rule.

(d) Demand for Jury Trial.

In order that the Court may be informed as to what cases in which juries will be required and that expense to

the County be saved as far as possible, upon the call of the Civil Appeal and Trial Dockets, the attorneys of parties desiring jury trials at that Term shall so state, provided, that no case shall be marked for jury trial unless a jury trial was prayed at the preliminary call, except in cases on the Civil Appeal docket provided for in section 2, paragraph (b) of this rule. Cases standing for trial in which neither party has so notified the Court of such desire, as evidenced by an entry on the docket will be disposed of as non jury civil trials in accordance with the provisions of these rules.

Section 3. Official Call of Criminal Dockets.

The Criminal Appeal, Appearance, Continuance and Presentment Dockets shall be called on the first Friday of each Term at the opening session of Court on that day, at which time the State's Attorney shall indicate the disposition to be made of the cases on said Dockets.

Section 4. Order of Disposition of Cases.

(a) Hearings on demurrers and motions and trials of cases (unless for sufficient cause some special day be fixed) shall be disposed of in the following order, subject to rules of assignment:

- (1) Civil Appeals assigned at Preliminary Call.
- (2) Hearings on Demurrers and Motions.
- (3) Local non-jury civil cases (unless otherwise provided)
 - (a) Civil Appeals
 - (b) Miscellaneous
 - (c) Civil Trials
- (4) Local jury civil cases.
 - (a) Civil Appeals
 - (b) Miscellaneous
 - (c) Civil Trials.
- (5) Removed jury civil cases.
- (6) Removed non-jury civil cases.
- (7) Local non-jury civil cases not previously disposed of.
- (8) All other civil cases or matters.
- (9) Criminal appeals.
- (10) Criminal cases in which traversers are in jail.
- (11) All other criminal cases.

(b) Hearings on demurrers and motions and local non-jury civil cases shall stand for trial on the first and second days of the Term in the order of their assignment after the official call of the dockets and after the trial of cases assigned at the preliminary call. Civil cases, whether local or removed, requiring a jury and not reached for trial on the first day of the Term shall stand for trial in the order of their assignment beginning on Wednesday morning of the first week of the Term. Criminal cases shall stand for trial according to preference given in Section 4 (a) and in the order of their assignment beginning on the second Monday of the Term.

Section 5. Assignment of Cases for Trial.

Following the preliminary call of the docket the Court shall make and file with the Clerk an assignment of cases for trial and of hearings on the first day of the Term, which may include, but in the order named, (1) cases on the Civil Appeal Docket requiring a jury, (2) hearings on motions and demurrers, (3) cases on the Civil Appeal Docket not requiring a jury, and (4) other local non-jury civil cases. Following the official call of the docket on the first day of the Term the Court shall make and file with the Clerk the assignment of hearings and trial of cases for the second day of the Term and the assignment of jury cases for the third day of the Term. At the close of the morning session each day of the Term thereafter the Court shall file with the Clerk the assignment for the following day, the assignment of criminal cases for trial on the second Monday of the Term to be made and filed at the close of the morning session on the first Friday of the Term.

In the event the parties withdraw their demands for a jury trial in any case which has been assigned, said case in the discretion of the Court shall be placed at the foot of the day's assignment or placed to follow other non-jury civil cases not previously disposed of.

Section 6. Removed Cases.

Cases removed from other Courts to this Court shall be placed at the end of the Trial Docket, and shall be tried as hereinbefore provided for, unless sufficient cause be shown for continuance.

Section 7. How Cases on Stet Docket Tried.

Either party by giving notice in writing to the adverse party, or his attorney, fifteen days previous to the term of

the Court commencing next after said notice, may have a case on the Stet Docket set for trial by the Court at said term next ensuing, and it shall then be tried (unless continued for cause shown) at such time as the Court shall fix, without prejudice to other cases. If no such notice is given before the fourth term after entering the stet, said case shall be considered as non prosced, unless enjoined or under rule reference, or awaiting the decision of other cases involving similar questions, provided that this section shall not apply to criminal cases, which may be placed on the Criminal Continuance Docket at any time by order of the Court.

Section 8. Trials of Cases at Subsequent Meeting of Court.

Whenever issue shall be joined in any case on the trial docket subsequent to the regular meeting of the term, such case, with the consent of the parties, may be tried at the next succeeding meeting of the Court.

Section 9. Issues, Continuances, Motions and Etc.

(a) The issues shall be made up before any case on the Trial Docket, or any jury case on the Civil Appeal Docket, is called for trial, and when any of said cases, so marked for trial as aforesaid, shall be reached in the assignment for trial, if the issues are not made up, it shall be deemed ground for continuance, which may be ordered at the cost of the party most in default, but notwithstanding this sub-section the Court will (whenever it shall appear proper and tending to promote speedy trials upon the merits of any case, and to avoid unnecessary delay caused by the interposition of any pleading or motion, regarded as merely dilatory) cause proper pleadings and issues to be prepared or made up and filed forthwith, so that the case can proceed to trial on its merits without further delay, or subject a party, if in default, to a judgment of non pros. or by default, as the case may require, and the Court will not relax this sub-section in any case except upon good cause shown.

(b) Postponement.

The Court will not postpone the trial of any case, even with consent of counsel, unless there is some legal ground shown, or unless the Court is satisfied that justice requires a postponement, particularly if witnesses have been ordered to be summoned; and whenever a case is postponed on account of the non-attendance of witnesses, against whom attachments are ordered and taken out, the parties, or either

of them, shall have a right to have the case placed in the next succeeding assignment of cases. In all cases of postponement, the Court reserves a discretionary power to order the payment of intermediate costs.

(c) Continuances.

No case shall be continued beyond the time limited by law, but upon legal grounds supported by affidavit, or by consent of parties, the ground of which consent, if required, shall be stated to the Court and approved; and if any case be continued after notice of trial, or if any case be continued that could not otherwise be continued upon affidavit, the party applying for the continuance shall pay the cost of the term.

(d) When Demurrers, Motions, Etc. to be Heard.

All special verdicts, points reserved, cases stated, demurrers, petitions, motions and uncontested non-jury civil cases shall be heard and argued as hereinbefore provided for but for special reason the Court may hear cases of this kind at any time which it may deem convenient.

(e) Motions Grounded on Facts.

No motion grounded on facts shall be made or received unless the fact be verified by affidavit, or be apparent from the record or from the papers filed in the case, or be agreed to and stated in writing and signed by the parties or the attorneys; and the same rule will be applied as to all facts relied on in opposing any motion.

(f) Motions for New Trial and In Arrest.

No motion for a new trial shall be received after motion in arrest of judgment, and motion for arrests of judgment, and for a new trial, shall be made, and the reason thereof filed within four days next after that upon which verdict shall be found, if the Court shall continue to sit so long; if not, then during the sitting of the Court.

RULE 8.—WITNESSES.

Section 1. Civil Appeal and Trial Cases.

Summonses for witnesses in the cases on the Civil Appeal and Trial Dockets shall be returnable at 10 o'clock on the first day of the term, unless otherwise ordered by the attorneys. In no Civil Appeal case shall any summonses be

issued for witnesses on the part of the appellee, until an appearance be entered for such party.

Section 2. Criminal Cases.

Summonses for witnesses in cases on the Criminal Appeal, Appearance and Continuance Dockets issued before each jury term shall be made returnable on Friday of the first week of such term at nine o'clock A.M., unless otherwise ordered by the Attorneys but no such witness shall be required to appear in Court before the second Monday of such Term.

Section 3. Clerk to Make List of Witnesses.

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

Section 4. Attachment for Witnesses.

Attachments when asked for will be issued for witnesses in any case, on any one of the Dockets, who shall have been summoned and fail to attend; and no witness who shall be absent when the case in which he is summoned shall be called for trial shall be allowed for any previous attendance in such case during the term, unless he shall have been discharged, or unless the Court shall so direct; and during the call of the several dockets of the Court, the witnesses in the several cases will then be called, upon demand of attorneys, and the Clerk shall note the names of witnesses who answer; and if attachments are not moved for against such as have been summoned and do not answer, their absence at the time of the calling of the respective cases, will be no ground for postponement.

Section 5. State's Witnesses in Criminal Cases.

The Clerk shall not issue for State's witnesses to any term of said Court without a special order from the State's Attorney.

Section 6. Witnesses Before the Grand Jury.

Only such witnesses as the State's Attorney, or the Grand Jury may require shall be issued for, and witnesses summoned to appear before the Grand Jury must apply to the Clerk, be sworn and secure tickets (on which shall be written by the Clerk, "Sworn to the Grand Jury," with date of oath), on the first day they are summoned to appear, the Clerk being governed and by this rule directed, to issue certificates for attendance only for the time noted on said tickets, including the date of issue and the date of discharge endorsed by the Foreman of the Grand Jury; and witnesses summoned by the Grand Jury must attend promptly, be within call of the Grand Jury, or the bailiff thereto, from day to day and remain until discharged by the Foreman in order to be entitled to prove attendance and obtain certificate therefor.

Section 7. Commission to Take Testimony.

If the Plaintiff or Defendant in any case, whether at issue or not, shall be desirous of obtaining a commission to examine any witness or witnesses who reside without the State, he shall first file in the Clerk's office a copy of the interrogatories which are to be proposed to the witness or witnesses, together with the name or names of a commissioner or commissioners, and shall serve the opposite party or his attorney with a copy of the interrogatories, and the name or names of the commissioners, at least ten days before he applied to have it issued. And if the opposite party shall not, within ten days from the time of such service, file cross interrogatories, together with the name or names of a commissioner or commissioners on his part, the commission shall issue ex parte to the commissioner of commissioners named; but if the opposing party shall within said ten days file the name or names of a commissioner or commissioners, then the commission shall be issued by the Clerk to one of the commissioners named on each side, unless the parties shall agree upon another person or persons to act as commissioner or commissioners, in which case the commission shall issue to the person or persons agreed upon. The Court, in its discretion, for cause shown, may shorten

the time limited for issuing a commission. Exceptions to the execution and return of a commission shall be made before the jury is sworn in the case, otherwise they shall be considered as waived. If a commission shall have been issued, returned, and opened, and notice thereof given to the opposing party, fifteen days before the commencement of a Term, exceptions to the execution and return thereof shall be filed on or before the second day of the Term or shall be considered as waived; and exceptions so filed shall be heard as a law question or case in the regular call of the Docket. No commission shall issue in any case after the time limited by law for the continuance of the same, unless by the consent of counsel, or the Court shall be satisfied that the testimony intended to be procured has been discovered since the last continuance.

Section 8. Testimony De Bene Esse.

Either party may take the deposition of any witness (before any of the Examiners appointed by the Court to take testimony in Equity cases) under Article 35, Section 21, of the Code of Public General Laws, upon giving at least three days' notice to the opposite party of the time and place of taking such testimony; the manner of taking such testimony shall be upon written interrogatories, which shall be returned with the evidence.

RULE 9.—PRACTICE AT THE TRIAL.

Section 1. Non-Attendance or Absence of Counsel.

The non-attendance of counsel will not be considered ground for continuance, unless occasioned by sickness or unavoidable accident; nor shall these be a ground for continuance for more than one term. If such sickness or accident continue beyond one term, the party shall be liable to the rule for the employment of new counsel. And in such cases where more than one counsel are engaged on a side asking for continuance for such cause, it shall be in the discretion of the Court whether the same shall be continued under the first clause of this section; and attorneys absenting themselves from the Court House during the actual session of court, unless excused by the court, will not be sent for, but in all instances when cases are called in regular order, and the attorney of either party is absent (unless for sufficient cause) the adverse party shall have the option to proceed in the premises as if the absent attorney had not entered his

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

Section 2. Continuance.

All affidavits to support applications for continuance to enable parties to obtain testimony, shall be prepared and filed before the case in which the testimony is wanted is actually called for trial, otherwise such application will not be entertained, except in the discretion of the Court.

When a new party is made plaintiff in a case then pending this shall not entitle the defendant to a continuance, unless he shall satisfy the Court that he has good ground of defense of which he could not avail himself by reason of there being no Plaintiff in Court.

The same rule to apply vice versa, when a new defendant is made a party.

Section 3. Demurrer After Issue Joined in Fact.

Any issue in fact may be struck out before the jury is sworn, for the purpose of putting in a demurrer.

Section 4. One Counsel on Each Side to Examine Witnesses.

In no trials shall more than one counsel on a side examine or cross-examine a witness except in the discretion of the Court.

Section 5. Opening Statements by Counsel.

In the trials of all civil cases counsel for defendant shall make opening statement to the Court or jury before plaintiff begins to offer evidence, otherwise such opening statement is waived.

Section 6. Time Allowed for Arguments.

In the trial of appeal cases, excluding appeals from the State Industrial Accident Commission, appellants shall have

the right to address the Court or jury fifteen minutes in opening argument, counsel for appellee shall have twenty minutes to reply and appellant's counsel shall have ten minutes to close the argument.

In all other civil cases, including appeals from the State Industrial Accident Commission, counsel for plaintiff shall be allowed forty-five minutes for opening arguments and thirty minutes in which to close, while counsel for defendant shall be allowed one hour.

The time and number of counsel allowed for argument upon motions and points of evidence shall rest in the discretion of the Court, having due regard to the importance of the subject under consideration.

Section 7. How Juror Challenged.

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

Section 8. Objections to Evidence.

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

Section 9. Prayers.

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

site to place the case fully before the Jury.

Section 10. No Prayer or Evidence Received After Jury Instructed.

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

Section 11. 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. When such exception is taken to the granting or refusal of instructions to the Jury, the party so excepting shall state to what prayer or instruction the exception is intended to apply. In no case shall the progress of the trial be stayed or delayed for the formal preparation of bills of exception, unless it be by the permission or direction of the Court, but it shall be sufficient that the party taking the exception note the same at the time of the ruling made, and thereafter within a reasonable time after the trial, reduce the exception to proper form in conformity to the Rules prescribed by the Court of Appeals for the regulation of Appeals, and submit the same to the Judge or Judges for his or their signature; provided, however, unless otherwise expressly allowed by the Court the bill of exceptions shall be prepared and submitted to the Court on or before the first day of the Term next succeeding the Term at which the verdict is rendered.

Section 12. Contents of Bills of Exception.

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

Section 13. Ratification of Return of Commission.

No final ratification of the return to any commission to

value or divide real estate issued out of the Court, shall be made until the said commission and return shall have lain in the Court, subject to objections for one entire term.

Section 14. Allowances in Lieu of Dower and Curtesy.

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

Section 15. Warrants of Re-Survey—How Obtained.

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

Section 16. When to be Returned.

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

Section 17. Notice to be Given.

Ten days' notice of the time of executing any warrant of re-survey shall be given by the surveyor to the parties or their attorneys.

Section 18. Plats Returned.

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

Section 19. Costs to be Endorsed on Plats.

The Surveyor shall file with his return a statement of the particulars and amount of his fees against the respective parties as also the witness fees and fees for workers and helpers otherwise engaged in the survey. If it shall appear in the trial that the locations or any part thereof were made without just or reasonable cause, the costs of such unnecessary locations may, in the discretion of the Court and without regard to the result of the suit, be taxed against the party for whom they were made or by whose misconduct they were necessary.

Section 20. When Clerk Shall Enter Judgment on Verdict.

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

Section 21. Agreement of Counsel.

The Court will not notice any agreement of Counsel unless the same be reduced to writing, signed by them and filed in the case before trial is begun.

Section 22. Notice of Rules and Orders.

Each party and his attorney shall be bound to take notice of any rule or order moved, made and docketed either in term or during vacation, relative to any suit, and every such rule or order shall have full effect without imposing upon any party the duty of having a copy served unless the

Court shall, upon sufficient cause shown, otherwise specially direct.

Section 23. Contempt of Court—Personal Service Rule.

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

Section 24. When Cases in Which Rule to Employ New Counsel to Stand for Trial.

In all cases where a rule is laid to employ new counsel, the party laying the same may serve a copy of such rule, and upon proof of such service the Court will take up the case and order it on for trial or make such order therein as, in its judgment, may be necessary for the trial of the merits of the same; and in all cases when such rule shall be laid and no proof of the service thereof, the Court will continue the case to the succeeding term, when the Court will take up the same, and act upon it in the same manner as if there had been a regular service of the rule; and any expense occasioned by the postponement or continuance of a case in which said rule is laid shall be borne by the party on whom it is laid.

Section 25. Time to Comply with Rule Security.

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

**RULE 10.—SECURITY ON BONDS.
Who May Not Become.**

No attorney, or other officer of the Court, or deputy of such officer, shall be taken as bail in any case before the Court; nor shall any such Attorney, Officer or Deputy be received as security on any appeal bond, bond to prosecute a writ of error, replevin bond, trustees' bond, receivers' bond, or bond of any kind required by law, to be filed in the Court; nor shall any such Attorney, Officer or Deputy become security for costs.

RULE 11.—PAY OF JURORS AND BAILIFFS.

Section 1. Per Diem of Talesmen.

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

Section 2. Night Attendance.

If jurors are in attendance all night, or after twelve o'clock, they are to be allowed for a whole day extra; if they are kept later than seven o'clock they are to be allowed for a half day extra, and if they are not kept later than seven o'clock they are to be allowed nothing extra. In capital cases, where the board of jurors is paid by the county, jurors are to be allowed only half pay extra for nights. This rule applies also to bailiffs.

Jurors from Smith's Island who remain in attendance at Court on the first Tuesday of the Term due to their inability to reach their homes on Monday and to return on Wednesday in time for the opening of Court shall be entitled to receive compensation for that day at the regular per diem rate.

RULE 12.—PAPERS, BOOKS, ETC.

Section 1. Papers, Not to be Taken Out.

The Clerk shall not allow any paper on file in his office in any case or proceeding in the Court to be taken out of said office unless by order or consent of the Court, but shall furnish copies thereof when desired.

Section 2. From Office of Clerk or Register of Wills.

When a paper or book may be required from the office of the Clerk or the Register of Wills, or elsewhere, to be used as evidence in any case, it must be produced before the jury is sworn as the trial will not be delayed for the sending for such paper or book.

Section 3. Office Books, Not to be Taken Out.

No book or books furnished by the State to the Clerk of the Court for the use of his office shall be allowed to be taken from said office or from under his control and care, except to be used in the Court House during trials, by the Court or bar, except so far as the Court may require the

use of them in chambers, or may authorize them to be kept in some other part of the Court House.

Section 4. Court Library.

No book, pamphlet or other property belonging to and forming part of the library of the Court, shall be removed from the library rooms, without special license in writing by the Court, except for use before the Circuit Court or the Orphans' Court, and in such case they shall be returned by the party using them as soon as the Court is through with them.

RULE 13.—COURT STENOGRAPHER.

Section 1. Shall Reside in Circuit.

The stenographer of the First Judicial Circuit shall reside within the limits of the Circuit, and not be absent therefrom except by permission of the Circuit Court for said Circuit, or of a majority of the judges thereof.

Section 2. Shall Attend Each Term.

He shall be in attendance during each term of Court in the Circuit unless excused by the Court.

Section 3. Shall Take Testimony, Etc., In Shorthand.

During the sessions of Court the stenographer shall take in shorthand the testimony and proceedings in cases heard or on trial on the law side of said Court, and when required by the Court or one of the Judges thereof shall take in shorthand the testimony in chancery cases, as provided for in Section 278, Article 16, of Bagby's Code of 1924; also in all other cases where testimony is required or desired to be taken, if directed to do so by the Court or one of the Judges thereof.

Section 4. Not to Extend in Type Unless Ordered.

It shall not be necessary for the stenographer to extend his notes in type without the order of the Court or one of the Judges thereof.

Section 5. In What Cases to Extend and Furnish Copies.

When directed by the Court or a Judge thereof he shall extend in type testimony taken on the law side of the Court without extra charge for the copy made for the use of the Court; attorneys shall be entitled to receive extended copies of the testimony, exhibits, etc., taken in such cases on the

ORDERED, this 30th day of December, 1937, that section 5 of Rule 13, title "Court Stenographer", heretofore adopted for the government of the proceedings, and the officers and suitors, in the Circuit Courts of the First Judicial Circuit of Maryland, on the law side thereof, be, and the same is hereby, amended, effective on and after the first day of January, 1938, so, as amended, to read as follows:

SECTION 5, In What cases to Extend and Furnish copies.

When directed by the Court or a Judge thereof he shall extend in type testimony taken on the law side of the Court without extra charge for the copy made for the use of the Court; attorneys shall be entitled to receive extended copies of the testimony, exhibits, etc., taken in such cases on the law side of the Court by paying the stenographer ten cents per hundred words for each copy when ordered by only one side, and seven cents per hundred words when ordered by both sides, such copy or copies to be paid for by the attorney ordering same and such attorney to be personally liable for the cost to the stenographer. Where the stenographer shall be required to take testimony in chancery under the provisions of section 278 of Article 16 of Bagby's Annotated Code of 1924, as amended by Chapter 197 of the Acts of 1937, he shall receive one dollar and fifty cents per hour, minimum four dollars per day, and his traveling expense at the rate of seven cents per mile for each day he shall be actually engaged in taking such testimony, and for transcribing the same into typewritten form for filing in the case, when ordered so to do, he shall receive ten cents for each one hundred words of such testimony, all to be taxed as a part of the costs as fees of Examiners

law side of the Court by paying the stenographer ten cents per hundred words for each copy when ordered by only one side, and seven cents per hundred words when ordered by both sides, such copy or copies to be paid for by the attorney ordering same and such attorney to be personally liable for the cost to the stenographer. Where the stenographer shall be required to take testimony in chancery under the provisions of section 278 of Article 16 of Bagby's Annotated Code of 1924, he shall receive four dollars per day and his traveling expense at the rate of seven cents per mile for each day he shall be actually engaged in taking such testimony, and for transcribing the same into typewritten form for filing in the case he shall receive ten cents for each one hundred words of such testimony, all to be taxed as a part of the costs as fees of Examiners in Chancery are taxed; provided, however, that he shall not be required to deliver or file the testimony of the respective parties to a cause until each party whose testimony he shall have transcribed or extended shall pay the cost of taking, including travelling expense as aforesaid, and transcribing the same. Solicitors may have copies of the extended testimony and exhibits, etc., in Chancery cases, on demand, by paying the stenographer four cents per hundred words for each copy, and the solicitor ordering such copies shall be personally liable to the stenographer for the cost of such copy or copies.

RULE 14.—INSOLVENCY.

Section 1. Preliminary Trustee.

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

Section 2. Bond of Preliminary Trustee.

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 in-

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

Section 3. Notice to Creditors.

The notice to be given to creditors by the Clerk, as authorized by Sections 4 and 18 of Article 47, of the day fixed for the insolvent to appear and answer interrogatories or allegations, shall be for a period of at least one month prior to the day so fixed; and which notice shall be published weekly for the said period of one month in some newspaper published in the county. And where the Court is applied to and acts under Section 2 of said Article 47, and appoints the preliminary trustee, then the Court will fix the day for the appearance of the insolvent to answer such interrogatories or allegations as his creditors may propose, and in the absence of any special order by the Court as to the notice to be given, it shall be the duty of the permanent trustee, as soon as he is appointed and gives bond, to give notice to the creditors of the day so fixed, by weekly publication of such notice in some newspaper published in the county, for at least one month prior to said day so fixed for the insolvent's appearance to answer.

Section 4. Proof of Notice.

In every case, where under Article 47 any notice is or shall be required to be given by publication in some newspaper, prima facie proof thereof, shall be the printer's certificate thereof.

Section 5. Proceedings at Meeting of Creditors.

At the meeting or meetings held for the election of a permanent trustee, 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.

Section 6. Proof of Claims.

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

All claims, provable against the insolvent estate, shall be vouched and proved in the manner and form, *mutatis mutandis*, as similar claims are required to be vouched and proved against the estate of deceased persons, in order to be passed by the Orphans' Court; and as rules for the proof of claims, and the presentation of formal vouchers thereof, as against the insolvent estate, the provisions contained in Sections 86 to 96 inclusive, of Article 93 of the Code, are hereby adopted *mutatis mutandis*, as fully as if they were here incorporated. And if the claims be secured by mortgage, or any instrument in the nature of a mortgage, the voucher thereof shall be the instrument itself, or a duly certified copy, with an affidavit attached, of the amount actually due thereon, after giving credit for all payments made by the debtor, or others for him.

Section 7. Affidavits—Before Whom Made.

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 95 of Article 93 of the Code.

Section 8. Vouchers to be Filed.

The vouchers of all claims, with the affidavits or depositions attached, as required by the preceding rules, or copies thereof, shall be duly filed with the Clerk, who shall mark thereon the time of filing thereof, and shall also note the filing of such vouchers upon the insolvent docket.

Section 9. Trustee to Report.

Trustees of insolvent debtors shall make a report of the funds and effects belonging to their trust as speedily as

possible, and cause distribution to be made whensoever and as speedily as justice may require.

Section 10. Auditor to State Accounts.

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

Section 11. Notice to be Given.

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

Section 12. Insolvent Cases.

The rule day for filing allegations against insolvent debtors shall be the first day of each term, and, in case the allegations shall not be filed on or before that day, the case, at the election of the petitioner, may be postponed at the cost of the parties exhibiting the allegations, unless sufficient cause to the contrary be made to appear to the Court.

Section 13. Insolvent Debtors.

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

RULE 15.—NATURALIZATION.

All final hearings upon petitions for naturalization shall be heard in open Court, in accordance with the naturalization laws, on the second day of every term, in each year, at noon.

Amended March 12, 1905.

RULE 16.—COURT IN BANC.

Section 1. Proceedings in Reserving Questions, Etc.

In reserving points or questions to be considered by the Court in banc under the 22nd section of the 4th article of the Constitution, the following shall be the mode of proceedings:

ORDERED, THIS 12th day of March, A. D., 1945, by the Judges of the First Judicial Circuit of Maryland, that Rule 15.-- Naturalization, regulating the practice in the Circuit Courts in this Circuit as Courts of Law, be, and the same is hereby amended, effective as of this date, to read as follows:

RULE 15.--NATURALIZATION

All final hearings upon petitions for naturalization shall be heard in open Court, in accordance with the naturalization laws, on the second day of every term, in each year, at noon, unless some other day or hour be fixed by special order of Court.

W. LAIRD HENRY
Chief Judge
EDMOND H. JOHNSON
Associate Judge
LEVIN C. BAILEY
Associate Judge

If the questions are on demurrer, motion in arrest of judgment, or other motions, which bring under consideration the state of the pleadings, or the condition of the record, without reference to extrinsic matter, the entry of the motion to reserve shall be made on the docket immediately after the entry of the judgment on demurrer, or motion, with the date thereof, and at whose instance made; and in contemplation of this rule, all affidavits and other papers properly filed in the case, shall be considered as part of the record. If the point or question intended to be reserved, arise upon, or with reference to matter extrinsic, and not upon the face of the record, then, such point or question shall be presented to the Court in banc, by certificate, in the nature of a bill of exception, wherein shall be stated the facts briefly, and the ruling or decision of the Court intended to be reconsidered; and such certificate shall be signed by the judge or judges making the decision or ruling in question, and filed in the case, whereupon the entry shall be made on the docket of motion to reserve such point in question, with the date of such motion, and at whose instance made.

Section 2. Questions Reserved—How Entertained.

The point or question reserved, under said 22nd section, 4th article of the Constitution, shall in all cases be plainly and distinctly presented, and the Judges, sitting as a Court in banc, will, in no case, consider or decide any point or question that does not plainly appear to have been tried and decided by the Circuit Court in the first instance; nor will said Court entertain any proposition or question that appears to be of a mere abstract nature, or has become so by the progress of the case; nor any question made simply for delay and whereby the rights of parties are not affected; and no questions shall be reserved upon the exercise of mere judicial discretion, not affecting the merits of the controversy, and from which an appeal will not lie to the Court of Appeals, except in a case of a refusal to grant a new trial; nor shall the reservation of any point or question delay the progress of any trial or any other proceedings; but if, for any cause, a new trial shall be directed by the Court in banc, the case shall be placed on the docket of the next ensuing term of the Circuit Court, after such order or decision of the Court in banc made, as if no trial of the case had occurred in the Circuit Court.

Section 3. Statement and Authorities to be Filed.

Preparatory to the argument of the question reserved,

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

ORDER OF COURT.

ORDERED, That the foregoing Rules be, and they are hereby adopted for the government of the proceedings, and the officers and suitors, in the Circuit Courts of the First Judicial Circuit of Maryland, comprising the Circuit Court for the Counties of Somerset, Wicomico, Dorchester and Worcester, respectively, on the Law side thereof, and they shall be of force and effect in said Courts, on and after the 23rd day of February, 1935; and that all existing Rules of said Courts, or parts of Rules, shall be, and are hereby rescinded and repealed, from the said 23rd day of February, 1935, when the foregoing Rules shall go into operation and effect.

And it is further ordered, that two hundred copies of said foregoing Rules shall be printed, and after furnishing each member of the Court and Bar with a copy thereof, the Clerks shall retain and preserve the remainder subject to further order of the Court.

BENJAMIN A. JOHNSON, Chief Judge.

T. SANGSTON INSLEY, Associate Judge.

JAMES M. CROCKETT, Associate Judge.

February 23rd, 1935.

RULES
REGULATING THE PRACTICE
IN THE
CIRCUIT COURTS
OF THE
FIRST JUDICIAL CIRCUIT
OF MARYLAND

**COMPRISING THE COUNTIES OF SOMERSET,
WICOMICO, DORCHESTER AND WORCESTER**

AS COURTS OF EQUITY

ORDERED this 31st day of May, A. D. 1938, by the Judges of the First Circuit of Maryland, that Rule 1 regulating the practice in the Courts of this Circuit as Courts of Equity be, and the same is hereby amended, effective June 15, 1938, and that Rule I-1/2 to follow Rule I aforesaid be added, said sections as so amended and section so added to read as follows:

RULE 1. PAPERS FILED IN PROPER PERSON.

Any bill, or petition, or writing filed and addressed to the Court, certified by a judge, notary public or justice to have been acknowledged before him by the person whose name is subscribed thereto, the judge, notary or justice stating in the certificate that such person is known to him, shall have the same effect as if signed and filed by an attorney of the Court, or as if delivered by the person to be filed; provided, however, that this privilege shall not extend to any person who is defendant in a divorce proceeding, in which cases the answers of such defendants shall be filed, if at all, by counsel of their own selection before any final decree of divorce is passed.

RULE I-1/2. TIME TO ELAPSE BEFORE GRANTING DECREE OF DIVORCE.

On and after June 15, 1938, no decree of divorce, either a mensa or a vinculo, will be granted by the Court, until thirty days have elapsed from the time of the filing of the bill or complaint.

Benj. A. Johnson

T. Sangston Insley

James M. Crockett
Judges.

RULE 1.—PAPERS FILED IN PROPER PERSON.

Any bill, or petition, or writing filed and addressed to the Court, certified by a judge, notary public or justice to have been acknowledged before him by the person whose name is subscribed thereto, the judge, notary or justice stating in the certificate that such person is known to him, shall have the same effect as if signed and filed by an attorney of the Court, or as if delivered by the person to be filed.

RULE 2.—WITHDRAWAL OF EXHIBITS.

A complainant or defendant, or solicitor of either of them, on issuing his receipt to the Clerk for the same, may obtain any exhibits filed and referred to in the bill, petition or answer, if they shall require the same for the purpose of proving them, upon an order from a Judge of the Court.

RULE 3.—RATIFICATION OF AUDITOR'S REPORT.

When any report of the auditor of the Court shall have been filed and docketed, and has lain for 30 days after same has been ratified nisi by the Clerk, the Court will, on application, act on the same; but particular orders will be passed if applied for as to such reports, on such notice or terms as the Court may direct.

Upon the same day on which the Auditor shall file any report and account in any cause referred to him, he shall give notice of such filing and of the time when the same may, if no objection intervene, be finally ratified, by postal card mailed to the solicitor of record of every party to the cause and of every person who has filed any claim; and of the mortgagor in a foreclosure proceeding, at his post-office address, if known to the Auditor, otherwise to such solicitor at the office of the Clerk of the Court in which cause shall be pending, and if such solicitor shall also be trustee in the cause such notice shall likewise be sent to his client or clients, the expense of same to be taxed as part of the costs in the cause, but no proof of the sending of such notice shall be necessary to final ratification, nor shall the failure to send same be ground for re-opening the account.

RULE 4.—DECREE OF PARTITION OR DOWER.

No final decree of partition or dower shall be made on the report of commissioners, unless such report shall have

been filed and shall have lain in the office one entire term; or unless the parties shall have certified in writing their approbation of the report; provided, however, that at any time after the filing of such report any party may obtain an order for ratifying it, unless cause be shown at such time and on such notice as may be directed.

RULE 5.—DECREE ON AWARD.

On motion, or application, a decree will be passed upon any final award rendered by the referees appointed by rule of Court, and with the consent of parties; provided, such award shall have been filed and docketed, and shall have lain in Court the first four days of the term, and that no exception shall have been filed thereto; or provided a copy of the award filed and docketed shall have been served on the opposite party or his solicitor, at least ten days before such motion or application, and that no exception shall have been filed to the award.

RULE 6.—ABSENCE OF SOLICITOR.

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

RULE 7.—SERVICE OF RULES AND ORDERS.

No party, nor his solicitor, shall be bound to take notice of any rule or order made and docketed relative to any suit, unless a copy of such rule or order be served on the said party or his solicitor within ten days after the passing or entering of such rule or order, or as shall be, by the Court specially directed.

RULE 8.—HEARING OF CAUSES, ETC.

Section 1. Whenever a cause is ready for hearing, or there be any question which under the practice of Courts of Equity in this State either party is entitled to have heard, the Court will, on written application fix a time for such hearing.

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

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

RULE 9.—MOTIONS TO DISSOLVE INJUNCTIONS.

On motions to dissolve injunctions, if the complainant shall not argue the same on the day assigned for the hearing, the opposite party may argue it orally or by notes on that day, or submit it to the Court, who shall thereupon proceed to determine the said motion.

RULE 10.—RULE FURTHER PROCEEDINGS ON COMPLAINT.

In all cases not provided for by the general Equity rules, at any state of a cause, when further proceedings are proper to be had on the part of the complainant, the defendant may obtain a rule for such further proceedings to be had within 15 days after such rule shall have been entered, and if the complainant shall not comply with such rule, his bill may, on application be dismissed.

RULE 11.—RATIFICATION ON SALES OF REAL ESTATE.

Section 1. No sale of real property reported to the Court shall be finally ratified until an order nisi shall have been passed by the Court, or the Clerk, fixing a day on or before which objections may be filed and the publication of such an order nisi, at least once a week for three successive weeks before the day fixed for final ratification if no objections appear, or, until the personal service of such order without publication, if the case be one where the Court thinks personal service sufficient; but parties or their solicitors may waive order nisi or service in writing and agree to final ratification by the Court without either.

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

papers as the Court may, by its order, direct.

RULE 12.—TRUSTEE'S COMMISSIONS.

On sales under decrees or orders of this Court, the following allowance shall be made to trustees:

- On the first four hundred dollars, 8 per centum.
- On the second four hundred dollars, 7 per centum.
- On the third four hundred dollars, 6 per centum.
- On the fourth four hundred dollars, 5 per centum.
- On the fifth four hundred dollars, 4 per centum.
- On the next one thousand dollars, $3\frac{1}{2}$ per centum.

And three per cent. on all sums above three thousand dollars, provided, that in no instance shall less than twenty-five dollars be allowed as minimum commissions, besides an allowance for all expenses, except personal; but the above may be lessened, in case of negligence, in the discretion of the Court.

RULE 13.—ALLOWANCE FOR DOWER OR STATUTORY ESTATE.

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

- If she be under 40 years, not more than one-seventh.
- If above 40 and under 45, not more than two-fifteenths.
- If above 45 and under 50, not more than one-eighth.
- If above 50 and under 60, not more than one-ninth.
- If above 60, not more than one-tenth,

and such allowance, unless she be a party to the suit, shall be without abatement for costs of the proceedings.

Section 2. The allowance to a husband in lieu of his statutory estate in the lands of his deceased wife under the provisions of the Code, when lands are sold under a decree, shall be the same as allowed a widow by Section 1 of this Rule.

RULE 14.—ALLOWANCE TO TENANT BY COURTESY.

The allowance to a healthy tenant by the courtesy, or any life tenant, in land sold under decree, shall be as follows:

If he be under 30 years of age, not more than three-eighths.

If above 30 and under 40 years, not more than five-sixteenths.

If above 40 and under 50 years, not more than three-sixteenths.

If above 50 and under 60 years, not more than one-eighth.

If above 60 and under 70 years, not more than one-ninth.

If above 70 not more than one-tenth,

and the same allowances for any other life tenant whose interest shall be sold by order of the Court, or by his consent.

RULE 15.—DEMURRER TO AND AMENDMENT OF BILL.

If the defendant demur to a bill for any defect not embracing the whole bill, the complainant may amend, with the leave of the Court, at any time before or at the argument of the demurrer, upon payment of costs, at the discretion of the Court.

RULE 16.—ANSWER TO CROSS BILL.

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

RULE 17.—PAPERS SWORN TO OUT OF STATE.

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

RULE 18.—PROOF OF NON-RESIDENCE, BEFORE DECREE.

Before any decree against a non-resident, not appearing, will be passed, the non-residence must be shown by affidavit or testimony filed in the cause.

RULE 19.—REPORT OF FIDUCIARIES.

All trustees, guardians, receivers and committees of lunatics or idiots, over whom the Court has jurisdiction, if the clear annual value of the estate committed to their management exceeds the sum of two hundred dollars, shall at least once in every year, and if of less value, at least once in every two years, if the Court shall not otherwise direct, exhibit to the Court, and file with the Clerk, an account of their guardians or other trusts, and of the balance of money that may be in their hands respectively, that this Court may take proper order for the disposition and improvement thereof; the Clerk shall furnish said trustees, receivers and committees, a certified copy of this rule. It shall be the duty of the Clerk to report to the Court all failures of trustees, guardians, receivers and committees aforesaid, to comply with this rule immediately upon the expiration of the period aforesaid, and the court will, by order and attachment, enforce the accounts aforesaid.

RULE 20.—TRUSTEE'S RECEIPTS.

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

RULE 21.—NO OFFICER OF COURT TO BECOME SECURITY.

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

RULE 22.—CHANGE OF NAME.

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

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

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

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

RULE 23.—CHANCERY PAPERS—HOW OBTAINED.

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

RULE 24.—STENOGRAPHER.

So far as may be applicable in equity cases, Rule No. 13 on the Law side, pertaining to the Stenographer, and here

referred to for fuller details, shall prevail to the same extent as if incorporated and set out in full here.

ORDER OF COURT.

ORDERED, That the foregoing Rules be, and they are hereby adopted for the government of the proceedings in the Circuit Courts of the First Judicial Circuit of Maryland, comprising the Circuit Courts for the Counties of Somerset, Wicomico, Dorchester and Worcester, respectively, on the Equity side thereof, in addition to the general equity rules adopted by the Court of Appeals of Maryland and statutes regulating the practice and proceedings in Courts of Equity in this State, and that they shall be of force and effect in said Court, from and after the 23rd day of February, 1935, and that all existing rules of said Court, or parts of rules, shall be, and the same are hereby rescinded and repealed, from the said 23rd day of February, 1935, when the foregoing Rules shall go into operation and effect.

BENJAMIN A. JOHNSON, Chief Judge.

T. SANGSTON INSLEY, Associate Judge.

JAMES M. CROCKETT, Associate Judge.

February 23rd, 1935.

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RULES
REGULATING THE PRACTICE
IN THE
CIRCUIT COURTS
OF THE
FIRST JUDICIAL CIRCUIT
OF MARYLAND

SITTING AS
JUVENILE COURTS

RULE 1.—DOCKET.

The Clerk of the Circuit Court shall keep a docket or dockets upon which shall be entered the names of all persons brought before the Court, sitting as a Juvenile Court, upon any charge whatsoever, and the appropriate docket entries.

RULE 2.—STENOGRAPHER.

The court stenographer shall attend all sessions of the court as may be directed by the Judge thereof, and shall make stenographic notes of the proceedings and the testimony of witnesses in all cases except those cases in which he shall be directed by the Judge not to do so. But the Judge shall not direct that stenographic notes of the proceedings be dispensed with in any case in which the person charged, or in the case of a child his parent or guardians, or his attorney, shall request a stenographic record of the proceedings to be made.

RULE 3.—SECURITY FOR APPEARANCE

The Judge may require security for appearance of any child before the court, or security for the appearance of any adult coming within the court's jurisdiction, in such form and amount as the Judge may from time to time determine to be necessary.

RULE 4.—COMMENCEMENT OF ACTIONS.

Every action shall be commenced by the filing of a petition entitled "In the matter of Ex parte" charging that the respondent is a dependent, neglected, delinquent or feeble-minded child, or in the case of an adult charging a wilful act or omission contributing to, encouraging or tending to cause a condition bringing a child within the jurisdiction of the court, and stating in simple and non-technical language the facts that necessitate the interposition of the court. The facts so stated in regard to any child shall be such as to make out a prima facie case of dependency, delinquency, neglect or feeble mindedness within the meaning of the law, if believed to be true.

RULE 5.—NOTICE TO RESPONDENT

Any person having knowledge of facts may file a petition.

The petition shall be filed with Clerk in triplicate, and a copy thereof, together with a notice to appear, shall be served upon the respondent, or the parent, custodian or guardian of the respondent, by personal service or by mail in each case as the Judge may direct, in order to inform the respondent of the charge against him.

RULE 6.—ADULTS.

Every parent, guardian or other adult brought before the court charged with a wilful act or omission contributing to, encouraging or tending to cause a condition bringing the child within the jurisdiction of the court, shall before trial upon any such charge be informed of his right to demand trial according to the usual criminal procedure. If such demand is made, the Judge shall notify the State's Attorney, and further proceedings shall be had according to such usual criminal procedure. If such right is waived, the waiver shall be recorded upon the docket by the Clerk.

RULE 7.—ELECTION OF JURY TRIALS.

Except in cases tried according to the usual criminal procedure, any adult brought before the court on a charge, and any child charged with the commission of an act or acts which would amount to a misdemeanor or felony if committed by an adult, shall be entitled to elect whether his case shall be tried by jury, or by the court without the aid of a jury. In the case of a child, such election shall be made on his behalf by his parent or guardian. In all such cases, the election shall be in writing filed with the Clerk before the case is called for trial.

RULE 8.—PROBATION.

In every case in which probation is granted, the court shall sign a written order in which the terms and conditions of probation are set forth, a copy of which order shall be filed with the papers in the case by the Clerk.

RULE 9.—DISPOSITION OF CERTAIN PROPERTY

Property brought into court shall be returned to the owner or otherwise disposed of as the Judge may direct.

ORDER OF COURT.

ORDERED, That the foregoing Rules be, and they are hereby adopted for the government of the proceedings in the Circuit Courts of the First Judicial Circuit of Maryland, comprising the Circuit Courts for the Counties of Somerset, Wicomico, Dorchester and Worcester, respectively, sitting as Juvenile Courts, and that they shall be of force and effect in said Courts from and after June 1, 1945.

W. LAIRD HENRY, JR., Chief Judge
EDMOND H. JOHNSON, Associate Judge
LEVIN C. BAILEY, Associate Judge

June 1, 1945.

