

RULES OF THE
COURT OF APPEALS
OF MARYLAND

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Rules of the Court of
Appeals of Maryland

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RULES
OF THE
COURT OF APPEALS
OF
MARYLAND.

Printed under the direction of C. C. Magruder,
Clerk of the Court of Appeals.

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RULES AND REGULATIONS

Respecting Appeals, made and prescribed

by the

Judges of the Court of Appeals, OF MARYLAND.

(Numbers in brackets refer to Sections of Article 5 of Code of 1904.)

APPEALS FROM COURTS OF LAW.

1. (Section 4.)

Formal Writs of Error shall, in all cases, be dispensed with, and the party applying to have the record removed, as upon Writ of Error, in cases where by law Writs of Error are allowable, shall, by brief petition, addressed to the Court in which the case was tried, plainly designate the points or questions of law by the decision of which he feels aggrieved; which application so to remove the record, shall be allowed as of right; and no point or question not thus plainly designated in such application shall be heard or determined by the Court of Appeals.

2. (Section 6.)

All appeals, or Writs of Error, allowed from any judgment or determination of a Court of Law, to the Court of Appeals of this State, other than from decisions on questions arising under the Insolvent Law,

shall be taken within two months from the date of such judgment or determination, and not afterwards; and the transcript of the record shall be transmitted to the Court of Appeals within three months from the time of the appeal taken, or Writ of Error allowed.

3. (Section 7.)

All appeals allowed from decisions of questions arising under the Insolvent Law shall be taken within thirty days from the time of the decision made, and a transcript of the record shall be transmitted to the Clerk of this Court within sixty days from the date of the decision appealed from; but the execution or effect of any judgment, decree, decision or order so appealed from shall not be suspended or stayed, unless a bond shall be given in such penalty and condition, and with such security as the lower Court may prescribe and approve.

4. (Section 9.)

In no case shall the Court of Appeals decide any point or question which does not plainly appear by the record to have been tried and decided by the Court below; and no instruction actually given, shall be deemed to be defective by reason of any assumption therein of any fact by the said Court, or because of a question of law having been thereby submitted to the jury, unless it appear, from the record, that an objection thereto for such defect was taken at the trial; nor shall any question arise in the Court of Appeals as to the insufficiency of evidence to support any instruction actually granted, unless it appear that such question was distinctly made to and decided by the Court below.

5. (Section 10.)

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 in the Courts below to require exceptions to be prepared in accordance with this rule.

6. (Section 12.)

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 of the Courts below 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 to have been set out in full, by the Appellate Court.

7. (Section 13.)

In making up the transcript of records to be transmitted to the Court of Appeals, the clerks of the Courts below shall omit from such transcripts the formal heading and commencement of the record, stating only the titling of the cause, and the time of the commencement of the suit or proceedings; they shall also omit all writs, or original process for appearance, where the party has appeared; all entries of continuances and imparlances; all entries of motions and rules to declare or plead; all entries of applications for continuances, for commissions, or for warrants of resurvey, and the affidavits in support thereof, together with the rulings of the Court on such applications; all entries of motions or rules of security for costs, together with the proceedings and rulings thereon; all entries of empannelling, swearing, and names of jurors, and all other merely incidental motions and rules made in the progress of the cause; all pleadings withdrawn, waived or superseded by amendment; all commissions to take testimony and the formal returns thereto, and all warrants of resurvey, the clerk stating the time of issue and return of such warrant; all replevin, *retorno habendo*, and appeal bonds, and affidavits filed on taking appeals; all formal entries of motions for new trials, and the rulings thereon, together with the affidavits and other evidence used on such motions, the clerk stating in lieu thereof, the fact of such motion being made, and how disposed of by the Court, unless, where any of the foregoing matters or proceedings may be used as evidence in the cause, or where some question may arise in regard

thereto, reviewable by the Court of Appeals, then, so much only of any such matter or proceedings as may be used in evidence, or as appertain to the decision or determination desired to be reviewed, shall be incorporated in the transcript, and no more; the intent being to avoid incorporating in the transcript any matter or thing not material to the full and fair presentation of the questions to be reviewed by the Appellate Court.

8. (Section 22.)

Sec. 1. In all cases where judgments shall be reversed or affirmed by the Court of Appeals, and it shall appear to the Court that a new trial ought to be had, such new trial shall be awarded, and a certified copy of the opinion and judgment of the Court of Appeals shall be transmitted forthwith to the Court from which the appeal was taken, to the end that said cause may be again tried as if it had never been tried; and no writ of *procedendo*, with transcript of record, shall be transmitted, as heretofore practised.

Sec. 2. When an appeal is dismissed or a judgment or decree is affirmed or reversed without being remanded, the Clerk of this Court shall transmit a copy of the docket entries, under the seal of the Court, to the Court from which the appeal is taken, or writ of error granted, as soon as practicable, not later than thirty days after the case is disposed of by this Court.

APPEALS FROM COURTS OF EQUITY.

9. (Section 32.)

All appeals allowed from decrees or orders of Courts of Equity shall be taken and entered within two months from the date of the decree or order appealed from, and not afterwards; unless it shall be alleged on

oath that such decree or order was obtained by fraud or mistake, in which case the appeal shall be entered within two months from the time of the discovery of the fraud or mistake, and not afterwards.

10. (Section 33.)

All transcripts of records, on appeals from Courts of Equity shall be made and transmitted to the Court of Appeals within three months from the time of the appeal prayed; but on appeals taken as provided by Sec. 31 of Art. 5, of the Code of Public General Laws, the transcript of the record shall be made and transmitted to the Court of Appeals forthwith after the appeal prayed.

11. (Section 34.)

In making up the transcript of the record of Equity proceedings to be transmitted to the Court of Appeals, it shall be the duty of the clerk of the Court from which the appeal may be taken, to omit therefrom the formal heading and commencement of the record, stating only the titling of the cause and the time of the commencement of the proceeding; he shall omit all subpoenas and other process for appearance of parties if parties have appeared; all orders and certificates of publication stating in lieu thereof the date of such order, the period of publication required, how published, and the time fixed for appearance of parties thereunder; all commissions to appoint guardians and others to take testimony, and the formal returns thereto, stating in lieu thereof the fact and time of issuing such commissions, and passing such orders and the time of the return of such testimony; all entries of continuances; all injunction bonds, receivers' bonds, trustees' bonds, appeal bonds, and affidavits filed on appeal; all proceedings in the cause subsequent to the decree or order

appealed from; and all merely collateral proceedings not in anywise involved in the matter of appeal, and which cannot be material to the hearing and decision of the case by the Court of Appeals; any party to the appeal, however, shall have the right to direct any particular part of the proceedings of the cause, that would otherwise be omitted, to be incorporated in the transcript, the clerk stating at whose instance the same is inserted, that costs may be awarded, as the matter so directed to be incorporated may be deemed material or not by the Court of Appeals.

12. (Section 35.)

Whenever deeds, records or other documentary evidence are used in any equity cause, the purport and substance only of such deeds, records or other instruments shall be stated, and they shall not be set out in full in any case, except where some question arises upon the construction or validity thereof, and transcripts of records in equity causes shall be prepared in accordance with this rule. Any party to the appeal, however, shall have the right to direct any or all of such documentary proof to be inserted at length, the clerk stating at whose instance the same is so inserted that costs may be awarded as the matter so incorporated may be deemed proper or not to have been set out in full, by the Appellate Court.

APPEALS FROM THE ORPHANS' COURTS.

13. (Section 62.)

All appeals allowed from orders or decrees of the Orphans' Courts to the Court of Appeals, shall be taken and entered within thirty days after such order or decree appealed from; and the Register of Wills shall make out and transmit to the Court of Appeals,

RULES OF THE

under his hand and the seal of his office, a transcript of the record of proceedings in such case, within thirty days after the appeal prayed; but in such transcript no paper or proceeding, not necessary to the determination of the appeal, shall be incorporated.

**APPEALS FROM THE COMMISSIONER OF THE
LAND OFFICE.**

14. (Section 83.)

All appeals allowed from the judgments or orders of the Commissioner of the Land Office, shall be taken within two months from the date of the judgment or order appealed from, the party appealing filing at the time of such appeal the ground or reasons therefor; and thereupon it shall be the duty of the said Commissioner to make out, under his hand and the seal of his office, and transmit to the Court of Appeals, a transcript of the record of proceedings in such case, within sixty days from the time of the appeal taken, but in such transcript no paper or proceedings, not necessary to the determination of the appeal, shall be incorporated.

RELATING TO APPEALS GENERALLY.

15. (Section 39.)

Upon any appeal being taken in a Court of Law or Equity, or application to take up the record as upon Writ of Error allowed, the clerk of such Court shall make out, and transmit to the Court of Appeals, a transcript of the record of proceedings, under the seal of his office, in accordance with the foregoing rules, and within the time therein prescribed, and upon the receipt of such transcript, the Clerk of the Court of Appeals shall enter the case upon his docket as of the

term next after the receipt of such transcript, unless required to be placed upon the docket of the term during which it is received by the rules of this Court or some statute.

16. (Section 40.)

No appeal shall be dismissed because the transcript shall not have been transmitted within the time prescribed, if it shall appear to the Court of Appeals that such delay was occasioned by the neglect, omission or inability of the clerk or appellee; but such neglect, omission or inability shall not be presumed, but must be shown by the appellant.

17. (Section 42.)

In all cases of cross-appeals, or of more than one appeal being entered in the same case from any judgment, decree or order, there shall be but one transcript of the record transmitted to the Court of Appeals, and that shall be used upon the hearing of all such appeals. In cases arising under this rule, the Appellate Court shall have power to award costs, including the cost of transmitting the record, to either of the parties in its discretion, or the costs may be apportioned as the said Court may deem just.

18. (Section 43.)

Whenever a case has before been in the Court of Appeals, there shall be copied into the transcript, upon any subsequent appeal, only the proceedings occurring in the Court below subsequent to the former appeal.

19. (Section 48.)

In all cases where a writ of diminution shall be issued, the clerk of the inferior Court, to which the writ may be sent, shall, in his return thereto, transmit to the Court of Appeals only so much of the proceed-

ings remaining of record in the inferior Court as may be necessary to correct the alleged errors or defect in the transcript first sent to the Court of Appeals.

20. (Section 68.)

The appeal allowed by Sec. 374 of Article 23 of the Code of Public General Laws, shall be taken within thirty days from the date of the judgment or determination of the Court appealed from; and the transcript of the record shall be transmitted to this Court within thirty days from the day of the appeal entered.

21. (Section 69.)

The appellant or appellants, if the defendant or defendants in the cause, upon praying such appeal, in order to stay the execution or enforcement of the judgment appealed from, shall tender and file in the cause an appeal bond, in such form and with such sureties, as may be approved by the Court, the penalty in such bond not to exceed, in any case, the sum of ten thousand dollars.

22. (Section 49.)

All appeals shall be brought into this Court by transcripts of the records of the Courts below, as contemplated by the Constitution, and shall be made up as directed by the Rules of this Court and by statute. Before the Clerk shall be required to have any transcript in any civil case printed, the appellant or appellants shall, upon being informed of the amount of the cost, pay or secure to be paid to the Clerk the amount of such cost, so that the Clerk shall not be required to pay out money for printing and incur the risk of loss in not being able to collect the cost from the parties from whom it may be due, after the work is done. And if there be cross-appeals, or more than one appeal, embraced in one transcript, the cost shall

be duly apportioned; and no appeal shall be considered as ready for hearing until this rule shall be complied with by the appellant or appellants. But nothing herein contained shall be taken to prevent the appellee from having the appeal dismissed, or the judgment, order or decree affirmed, under rule of Court, for failure on the part of the appellant to have the appeal ready for argument.

APPEALS IN CRIMINAL CASES.

23.

Sec. 1. In criminal cases an appeal or writ of error allowed by law shall be taken within thirty days from the date of judgment or sentence, and a transcript of the record shall be forthwith transmitted to this Court, and the case shall be heard at the earliest convenient day after the record is transmitted to this Court, either during the term at which the transcript is received or at the first term thereafter unless continued for cause.

Sec. 2. Criminal cases may on motion of the Attorney General or counsel for the accused be advanced, so as to be disposed of without any unnecessary delay.

APPEALS FROM PRO FORMA ORDERS.

24.

This Court will not entertain or consider any appeal taken from a pro forma order, decree or judgment, but will treat every such appeal as prematurely taken, and will dismiss the same whenever it appears on the face of the record, or otherwise, that the appeal is from such pro forma order, decree or judgment.

**RULES SPECIALLY APPLICABLE TO PRACTICE IN THE
COURT OF APPEALS OF MARYLAND,
ADOPTED BY SAID COURT.**

DOCKETS.

25.

Sec. 1. In preparing the Court Docket for each term, the Clerk shall place the cases on said Docket in the order in which the transcripts of record are received by him, without regard to the Judicial Circuits from which they are received, unless otherwise ordered by the Court.

Sec. 2. Two weeks before the beginning of each term he shall have printed the Court Docket, consisting of all cases filed by that time which have not been heard, including those continued from the previous term and those ordered to be re-argued, which docket shall be sent to attorneys as the preliminary dockets have heretofore been sent; and all cases afterwards received, before the beginning of the next term, shall be added to said docket in the above order.

Sec. 3. The Clerk shall not place upon the Court docket of either of the terms of this Court any case unless the record therein shall have been actually filed in his office before the first day of such term; and all records filed on or after the first day of the term shall be placed on the docket of the next succeeding term; provided, however, that nothing in this rule contained shall apply to cases or appeals allowed under Sections 31 and 42 of Article 5 of the Code of 1904, or to any other cases or appeals where, by Statute or the Rules of this Court, the appeal may be heard during the same term to which the record shall be transmitted.

26.

Beginning the first Tuesday of each term, cases will be called for argument in their numerical order, as

they appear on the Court Docket. No more than five cases will be called for argument on any one day, nor will any case be taken up out of its course in prejudice to the call of any subsequent case, unless entitled to a preference by law, or for sufficient cause appearing to the Court; and all cases reached in the regular call of the docket must be finally disposed of unless continued or postponed for cause shown, or by consent of the parties.

27.

Cross-appeals, and writs of error by both parties, will be called and heard at the same time, and will be regarded as one case in making assignments under Rule 26.

CONTINUANCE.

28.

No case will be continued for more than two terms without the mutual consent of the parties in open Court, or their written order to that effect, and if any case be so continued, it must be argued or submitted during the third term after the transmission of the record, unless by leave of Court it be continued to a subsequent term. Unless such leave be obtained, the case shall not be placed on subsequent Court dockets without an order of the Court, and upon the expiration of three terms of Court after it is so dropped the appeal shall be dismissed, unless otherwise ordered by the Court, before the expiration of the third term.

COUNSEL, APPEARANCES, ETC.

29.

Sec. 1. Upon the filing of the transcript of a record brought up by writ of error or appeal, the appearance

of the counsel who appeared below shall be entered, excepting of such as have directed their appearance to be stricken out in the Court below, as shown by the record, or have ordered the Clerk of this Court not to enter their appearance, and other appearances may be entered on the written order of counsel filed with the Clerk of this Court.

Sec. 2. Where no counsel appears, and no brief has been filed for the appellant or plaintiff in error, when the case is called for argument the appellee, or defendant in error, may have the appellant, or plaintiff in error, called and the appeal or writ of error dismissed, or may have an affirmance of the judgment, order or decree.

Sec. 3. Where the appellee, or the defendant in error, fails to appear when the case is called for argument, the Court may proceed to hear an argument on the part of the appellant, or the plaintiff in error, and to give judgment according to the right of the case.

30.

When a case shall be called in its regular order and the counsel for the appellant, or plaintiff in error, whose appearance is entered, shall be absent, the opposing counsel, if present and ready to be heard, may argue the case orally, or submit it on brief, or he may have an affirmance of the judgment if no brief has been filed for the appellant, or the plaintiff in error.

If the counsel for the appellee, or defendant in error, whose appearance is entered, be absent, the opposing counsel, if present and ready to be heard, may argue the case orally, or submit it on brief, or he may claim a continuance if no brief has been filed by the appellee, or defendant in error.

31.

Counsel on either side, not otherwise in default, prevented from arguing any case argued or submitted on the other side when called in regular order, may with leave of the Court argue the case on notes to be filed within six days thereafter; and the counsel for the adverse party may then conclude by replying in the same manner within the next six days.

32.

The argument of cases regularly called will not be postponed on account of the absence of counsel on either side, unless such absence be occasioned by sickness or other sufficient cause.

33.

In all cases where judgments are affirmed by reason of default, the judgment so affirmed will not be stricken out unless the Court be satisfied that the absence of counsel and his failure to file a brief as required by the Rules of this Court, were unavoidable by reason of sickness or other sufficient cause.

RECORDS.

34.

Sec. 1. When a transcript of a record is received by the Clerk, he shall as soon as possible notify the attorney for the appellant or the appellant himself, of the amount of the cost of printing the same, and such amount shall be paid, or secured to be paid, to the Clerk within ten days from the receipt of such notice at the office of the attorney to whom it is sent or by the appellant himself if sent to him, unless the time be extended by agreement of counsel or the order of this Court. Upon receipt of such payment the Clerk shall forthwith direct the printer to print thirty

copies of the record and require him to print the same promptly, so that they may be furnished counsel as soon as possible. Upon their receipt a copy shall at once be sent to each attorney whose appearance is entered in the case, and the Clerk shall take note of the manner and time of transmission:

Sec. 2. The Clerk shall require the size and style of type and paper to conform as nearly as possible to the records which have been recently used in this Court, and the type shall always be clear and readable.

35.

No paper shall be read or referred to as a part of the record in the argument of any case without consent of the counsel and leave of the Court, unless such paper be copied into and made part of the transcript filed with the Clerk, or unless for special reasons the Court so authorizes.

BRIEFS AND ARGUMENT.

36.

Sec. 1. In all cases to be argued, the counsel shall furnish the Clerk with printed briefs in time to have them ready for use when the case is reached in its regular order, unless prevented by sickness or other sufficient cause, which briefs shall be printed with clear readable type and on good paper of a size suitable for binding with the records; and if either party shall fail to comply with this requirement, the one not in default may have the judgment affirmed absolutely or the case continued at the cost of the other party, or may argue it as if no counsel appeared of record for the opposite side.

Sec. 2. Counsel shall furnish copies of their briefs to opposing counsel not less than three days before the case is called for argument, unless such time be

waived in writing; and upon failure of either party to comply with this section the one not in default may have the case continued, at the cost of the other party, or may proceed with the oral argument and file within six days thereafter a printed argument in reply to the brief of the other side—the cost of printing the same to be taxed against and recovered from the party in default.

37.

Briefs furnished in conformity with the preceding Rule must contain an abstract of the case and a full and explicit statement of the several points relied on, with the authorities sustaining them, accurately cited and distributed under their proper heads.

38. (Section 51.)

Either party may file written or printed arguments in any cause pending in the Court of Appeals, but the cost of such arguments shall not be taxed as part of the cost of the cause excepting as provided for in Rule 36. A sufficient number of printed copies of the argument shall be furnished for the Court, the counsel concerned, the Reporter and the Clerk. If the party filing the argument think proper, he may have the printing done on the best terms he can make; provided it be in good, clear, readable type; but if the Clerk of the Court of Appeals be required to have the argument printed, he shall be entitled to charge therefor the actual cost of printing the same, and be entitled to demand the amount of said cost before having the same printed. But in no case shall a brief or argument be received, either through the Clerk or otherwise, after the cause has been argued or submitted, unless it be upon special leave granted in open Court, after notice to opposing counsel.

39.

Sec. 1. Not more than two counsel will be permitted to argue any case on the same side, nor will they be allowed more than one hour each, unless for reasons appearing before beginning the argument the Court grants a longer time—provided, however, that when only one counsel appears for the appellee, counsel for the appellant shall be allowed one hour in opening and half an hour in closing, and when one counsel appears for the appellant and two for the appellee the appellant's counsel may have an hour in opening and an hour in closing.

Sec. 2. When no oral argument is made for one side, only one counsel will be heard for the adverse party.

40.

In cases of cross-appeals, or writs of error by both sides, the counsel for the appellant, or plaintiff in error, first in order on the docket will open the argument, and conclude after an opening by the counsel for the appellant, or plaintiff in error, in the second appeal, after which the counsel for the appellant or plaintiff in error in the second appeal will conclude.

REARGUMENT.

41.

Sec. 1. No motion for reargument will be entertained unless a petition, distinctly stating the grounds for the same, be filed within thirty days after the opinion of the Court has been delivered; and no reargument will then be allowed unless a majority of the Judges who concurred in the opinion consent to it. An opportunity will be given the opposite party to file a reply to such motion, if any member of the Court

who concurred in the opinion requests it before the motion is acted on.

Sec. 2. A motion for a reargument shall not prevent the issuance of a *feri facias*, or other writ, or otherwise stay the proceedings, unless so ordered by the Court.

Sec. 3. No writ shall issue, or other proceedings be taken (excepting remanding the cause) within thirty days from the time the opinion is delivered without leave of the Court.

NO ORIGINAL PAPER TO BE DELIVERED BY CLERK.

42.

The opinions of the Court, filed with the Clerk, will be delivered by him to the Reporter when required for printing in the State Reports, and transcripts of records will be delivered by him to the printer for printing the records but they shall be returned as speedily as possible to the Clerk for preservation. The Clerk will deliver no other original paper out of his office without leave of the Court.

DIMINUTION.

43.

No writ of diminution will be hereafter granted, unless a motion therefor shall be made in writing, stating the facts on which the same is founded, and if such facts are not admitted by the counsel for the other party, they shall be verified by the affidavit of the counsel for the party making such application. Said application shall also state that the correction is in the opinion of counsel for the party applying for said writ necessary to the trial of the merits of the case, that it cannot be had without said writ of diminution and that the suggestion is not made for the purpose of delaying the argument of the case.

44.

No case will be postponed or continued on account of any diminution alleged to exist in the transcript of a record, unless the Court be satisfied that there was no unreasonable delay in making application for the writ, and that the additional record cannot be supplied in time for argument, and in such case the Court may, in its discretion, direct the argument to proceed and permit the additional record to be afterwards filed, when it shall have the same effect as if transmitted with the original record, but if the Court determines that the writ was unnecessary, the cost will be imposed on the party at whose instance it was granted.

ADMISSION TO THE BAR.

45.

FIRST.

All applications for admission to the Bar shall be made by petition to the Court of Appeals. The petition shall be under oath, and shall state:

(a) The full name, age, residence, and place of birth of the applicant.

(b) If the petitioner shall apply for admission as a member of the Bar of another State or of the Courts of the United States pursuant to Section 6 of Chapter 139 of the Act of 1898, the petitioner shall state that he is now an actual resident of this State, and shall further name the State in which and the Court by which the petitioner was admitted to the Bar, and shall also state that the petitioner has, for at least five years before filing his said petition, been engaged as a practitioner or teacher of the law or a Judge in such State. The petitioner shall file with his petition a copy of his license to practise, duly certified, or a copy of the record of the Court in which he was so admitted,

certified as required by law for the authentication of the records of Courts of other States when offered as evidence in the Courts of this State.

The petitioner shall also file a certificate of a Judge of the State in which he was so admitted or a certificate from two members of the Bar of this State certifying how long they have known the applicant, and that he is not a person of bad or dissolute habits, but of good moral character, and that he has never, so far as known to the person or persons certifying, been guilty of any criminal or disgraceful conduct, and that he is, at the time of such certificate, a member of the Bar in good standing, and that he has been actively engaged as practitioner or teacher of the law or Judge in such State for at least five years before the filing of his said petition.

(c) If the petitioner shall not apply for admission as a member of the Bar of another State, the petition shall further state:

That the petitioner has studied law in the office of a member of the Bar of this State or in a Law School of the United States for at least two years, and that while so studying the law he diligently pursued the course of study prescribed in Rule 5.

The petitioner shall file with his petition a certificate from the member of the Bar in whose office he studied, or if the petitioner studied in a Law School, a certificate from the President, Dean or any instructor of such school, certifying that the petitioner has pursued under his direction for at least two years the course of study prescribed in Rule 5, and that the petitioner is not a person of bad or dissolute habits but of good moral character, and that he has never, so far as known to the person certifying, been guilty of any criminal or disgraceful conduct.

The certificates hereinbefore provided for shall be *prima facie* evidence of the facts stated in them.

The petition shall be filed at least ten days before the day fixed for an examination by the State Board of Law Examiners.

SECOND.

All applicants for admission to the Bar, including members of the Bar of other States, shall pay a fee of twenty-five dollars, at the time of filing their petition.

No petition will be considered or referred to the State Board of Law Examiners until said fee is paid to the Treasurer of the said Board.

THIRD.

All applications for admission to the Bar, except applications from members of the Bar of other States, shall be referred to the State Board of Law Examiners, who shall examine the applicants as to their qualifications to practice law.

FOURTH.

The Board of Law Examiners shall meet twice annually, once in the month of June, and once in the month of November, at such place in the State of Maryland as said Board may determine, for the purpose of conducting such examination. Thirty days' public notice of the time and place of meeting shall be given.

The said Board shall hold such other meetings for the purpose of conducting examinations at such time and place and on such notice as may be directed by the Court of Appeals from time to time by special orders.

FIFTH.

All examinations shall be in writing. All applicants shall be examined by said Board on each of the following subjects: (1) Elementary Law; (2) Contracts; (3) Torts; (4) Wills and the Administration of Estates; (5) Corporations; (6) Evidence; (7) Equity; (8) Real Property; (9) Personal Property; (10) Criminal Law; (11) Domestic Relations; (12) Pleading and Practice at Law and in Equity (at Common Law and in Maryland); (13) Constitutional Law; (14) International Law; (15) Legal Ethics.

The Board may, at its election, in addition to the written examination, examine orally any or all of the applicants.

The State Board of Law Examiners may prescribe rules for the conduct of examinations, provided that the applicants shall be allowed at least six hours in which to prepare the answers in the written examination.

SIXTH.

The State Board of Law Examiners shall, as soon as practicable after such examination, report to the Court of Appeals all their proceedings in connection with such examination. They shall file with their report a copy of the questions asked and all the replies. The report shall also state the conclusions of said Board as to the qualifications of all applicants and shall recommend, in the case of each person examined, that he be or be not admitted to the Bar.

SEVENTH.

The names and places of residence of all persons recommended by said Board for admission to the Bar shall be published once a week for three successive weeks in two daily newspapers published in the city

of Baltimore before the day fixed for the ratification of the report of the State Board of Law Examiners.

If no exceptions are filed to the report of the Board of Law Examiners within thirty days after their report is filed, the recommendations contained in their report shall be adopted, the action of the Board ratified, and the applicants admitted or rejected as recommended by the Board.

If exceptions to the report of the Board shall be filed such exceptions shall be heard and decided by the Court. In case an exception shall be filed to the recommendation of the Board that any applicant shall be not admitted to the Bar, and the exception relates to the qualification of the applicant to practise law, no new examination will be held, but the exception heard and determined on an examination of the applicant's answers to the questions asked him. If the exception relates to the moral character of the applicant, the exceptant and the applicant shall have the right to produce evidence in support of or against their exception before the Court or before an Examiner appointed for the purpose of taking testimony.

EIGHTH.

When it shall be determined by the Court of Appeals that an applicant is qualified to practise law and is of good moral character, an order will be passed directing that he be admitted to the Bar on taking the oath required of a member of the Bar by the Maryland Code of Public General Laws, Article 10, Section 10.

NINTH.

The members of the Board of Law Examiners shall be entitled to the sum of ten dollars per day for every day actually spent in the discharge of their duties, and all their traveling and other expenses, provided the

fees and expenses of said Board shall not exceed the sum paid by applicants as fees.

TENTH.

In the rating of applicants the Examiners shall take into consideration the excellence or defects of the applicant's preliminary education in marking his examination papers and in making out his ratings and in determining the question whether he should pass the examination; and the applicant's attainments in this respect may be ascertained by the Examiners from the examination papers or in such other method as the Examiners may prescribe.

ELEVENTH.

No person who is not an actual bona fide resident of this State at the time he may apply for admission to the Bar shall be permitted to take the examination prescribed by the foregoing rules; nor shall any person under twenty-one years be allowed to take such examination.

MOTION TO DISMISS APPEAL.

46.

All motions to dismiss appeals shall be filed at least five days before the cases are called for argument, unless the motion be based on some cause arising after that time—provided that this rule shall not be construed to prevent the Court from dismissing an appeal on its own motion when that is deemed proper.

47.

The Clerk of this Court shall procure and keep a separate record to be known as "The Rules of Court" in which the foregoing rules and all amendments, alterations and modification of them, hereafter adopted, shall be recorded.

It is ordered this 11th day of December, 1908, by the Court of Appeals of Maryland, that the foregoing Rules be and they are hereby adopted as the Rules of said Court, in lieu of its Rules now in force entitled "Rules and Regulations Respecting Appeals, made and prescribed by the Judges of the Court of Appeals, under and by authority of the 18th Section of the 4th Article of the Constitution," and those entitled "Rules of the Court of Appeals," and amendments and additions to said Rules.

It is further ordered that said Rules be numbered consecutively from Number one to Number forty-seven, inclusive, and that said Rules take effect on April 5th, 1909, excepting Rule 25, which shall take effect from this date; and that in the meantime the existing Rules shall continue in force.

A. HUNTER BOYD.

JOHN P. BRISCOE.

JAMES A. PEARCE.

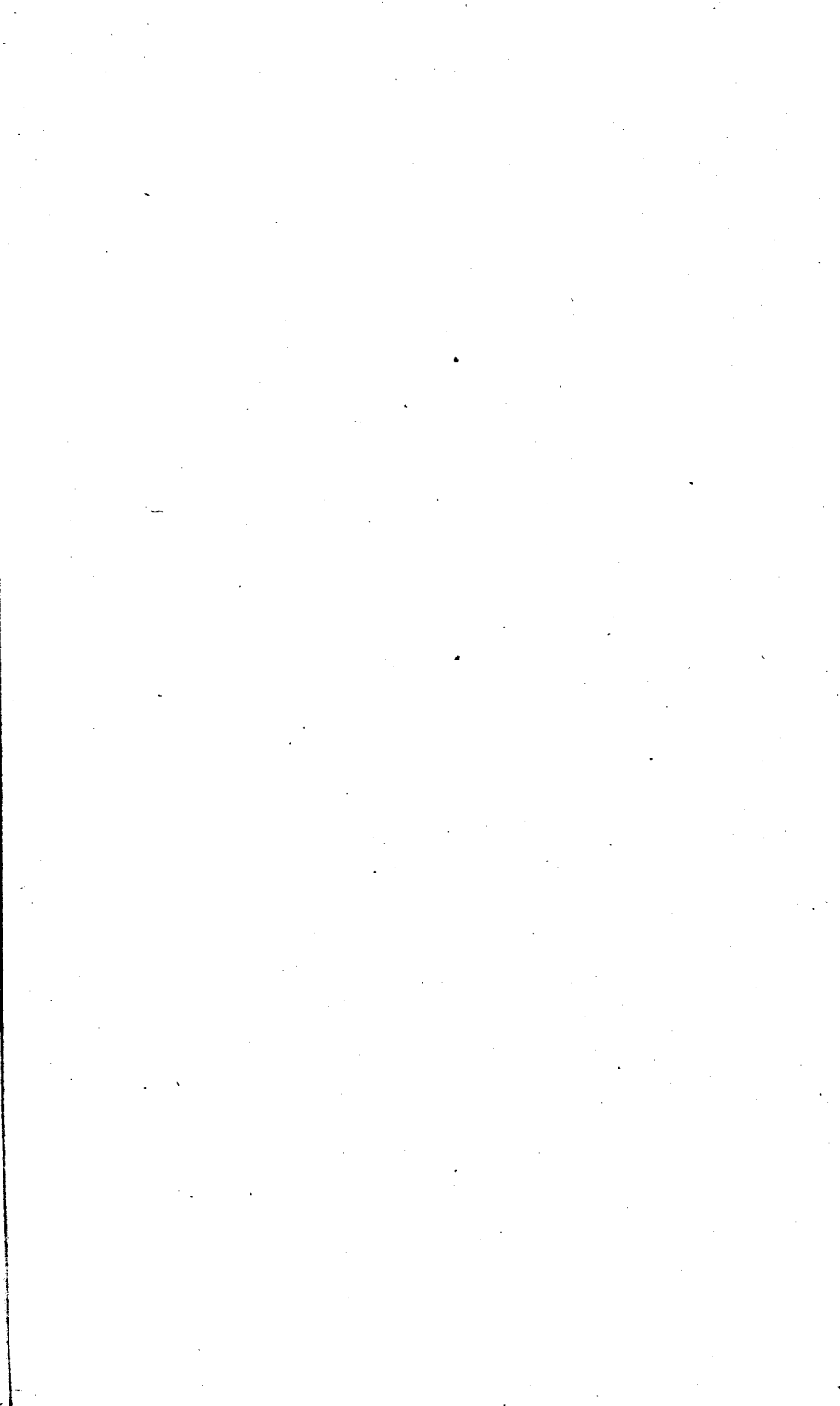
SAMUEL D. SCHMUCKER.

N. CHARLES BURKE.

WM. H. THOMAS.

GLENN H. WORTHINGTON.

W. LAIRD HENRY.



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