

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, by the court of appeals, to have been set out in full.

1904, art. 5, sec. 36. 1888, art. 5, sec. 34. 1860, art. 5, sec. 26. 1832, ch. 302. sec. 5. 1861, ch. 33.

36. On an appeal from a court of equity, no objection to the competency of a witness, or the admissibility of evidence, or to the sufficiency of the averments of the bill or petition, or to any account stated and reported in said cause, shall be made in the court of appeals, unless it shall appear by the record that such objection was made by exceptions, filed in the court from which such appeal shall have been taken.

Requisites of exceptions.

All this section requires is that the exceptions be sufficiently definite to show the particular witnesses or evidence designed to be excepted to. *Young v. Mackall*, 4 Md. 370; *Berrett v. Oliver*, 7 G. & J. 202.

The exceptions must be filed in due form plainly indicating the witness and evidence objected to, or the specific objections to an auditor's report; the mere noting of an exception by the examiner is not sufficient. *Gerting v. Wells*, 103 Md. 638; *Young v. Ohmohundro*, 69 Md. 428; *Grand United Order, etc., v. Merklin*, 65 Md. 583. And see *Cross v. Cohen*, 3 Gill, 258.

A memorandum filed in the cause, but not signed, objecting to the competency of testimony, is not a sufficient exception. *Sindall v. Campbell*, 7 Gill, 76. And see *Cross v. Cohen*, 3 Gill, 270.

An exception reading, "Subject to all exception on account of the incompetency of the witness," is sufficient, where the agreement for the taking of the testimony expressly reserves the question of the competency of the witness. *Billingslea v. Ward*, 33 Md. 52.

Though the exceptions must be definite, all the reasons in support thereof need not be stated. *Stokes v. Detrick*, 75 Md. 267.

The exceptions cannot be filed after decree. *Fitzhugh v. McPherson*, 9 G. & J. 70.

Exceptions held sufficient. *Gardiner v. Hardy*, 12 G. & J. 380. *Cf. Calvert v. Carter*, 18 Md. 111.

This section inapplicable.

The matters mentioned in this section alone need be excepted to below in order to be raised in the appellate court. Where the objection is to the remedy, no exceptions need be filed. *Boteler v. Brookes*, 7 G. & J. 155.

The point that the complainants have failed to establish a material allegation of the bill, may be made on appeal without exceptions being filed below. *Dugan v. Gittings*, 3 Gill, 165.

Where an assignee does not assert his claim by petition, but by exceptions to an auditor's account, no exceptions are required to be filed to bring the matter up on appeal. *Brown v. Thomas*, 46 Md. 641.

The objection to a trustee's sale, that the trustee was not present, does not come under this section. *Wicks v. Westcott*, 59 Md. 280.

This section does not apply where the account is stated in accordance with the instructions of the appellee in order to present his views, and not in accordance with the views of the auditor. *Anderson v. Tuck*, 33 Md. 234; *Dennis v. Dennis*, 15 Md. 76.

This section has no application to an objection to a petition on the ground that the matters alleged should have been set up by bill. *Boteler v. Beall*, 7 G. & J. 398.