

short-hand and afterward typewritten under the direction of the examiner. The testimony produced by both parties shall be taken before the same examiner, unless, for special reasons, it be otherwise directed by the court or judge thereof, and all *viva voce* examinations shall, as near as may be, be conducted in the manner and order of the examination of witnesses in the trials of fact in the courts of common law. The defendant shall not be compelled to proceed with the taking of his testimony until the plaintiff has finished or declared he has none to take; nor shall the plaintiff be compelled to proceed with the rebutting testimony, until the defendant has completed the testimony on his part.¹

An. Code, sec. 255. 1904, sec. 237. 1888, sec. 219. Rule 37.

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

An. Code, sec. 256. 1904, sec. 238. 1888, sec. 220. Rule 38.

273. In all cases the testimony shall be written down in the language of, and as delivered by, the witness, and be signed by him in the presence of the parties or their solicitors, or such of them as may attend, unless such signing be waived; but if the witness, for any cause, may not be able to sign the same, or shall for any reason refuse so to do, and the signature is not waived, the examiner shall sign the deposition, stating the reason why the witness has not signed the same; and the examiner may, upon all examinations, state any special matters to the Court that he may deem proper, to enable the Court the better to understand the evidence. Any question or questions that may be objected to by either of the parties shall be noted by the examiner upon the deposition; but he shall not have power to decide on the competency, materiality or relevancy of any question proposed or evidence elicited, nor as to the competency or privilege of any witness offered. All questions of privilege raised, or demurrer interposed, by any witness, to questions propounded, shall be at once reported by the examiner to the Court or Judge thereof for decision, and the Court or Judge shall hear and determine the same without delay; and in such cases the Court may award cost as justice may appear to require; and in all cases the Court shall have full power to deal with and to direct the payment of the cost of incompetent, immaterial or irrelevant evidence, or any part thereof, as justice may require, apart from the general cost of the case.¹

This section has no application to proceedings in the orphans' court. *Gantt v. Trott*, 107 Md. 327.

¹ Thus amended by equity rules 38 and 39, November 21, 1919, adopted by the court of appeals in accordance with sec. 18 of art. 4 of the Constitution.