

from the time of the return to court thereof, the court shall order the same to be recorded in perpetual memory.

As to testimony *de bene esse* at law, see art. 35, sec. 21, *et seq.*

An. Code, sec. 261. 1904, sec. 243. 1888, sec. 225. 1890, ch. 86. 1896, ch. 35. 1914, ch. 377.

278. The Court shall, on application of a party in interest, or may, of its own motion, order that instead of the mode of taking testimony as provided in the foregoing sections, the testimony shall be taken orally in open Court before the judge or judges thereof in the same manner and under the same rules as testimony is now taken in actions at law, as to all or any of the facts or matters relevant in the cause or proceeding; and the evidence so taken shall be written down as delivered by the witnesses by such person and in such manner as the Court may have by order or general rule directed, and when so written down shall, with such documentary proof as shall have been with it offered and admitted, be filed as part of the proceedings.

If an appeal is proposed to be taken, the proper practice under this section is either to file written exceptions, as is done when testimony is taken before an examiner, or the rulings should be presented by a bill of exceptions or certificate. The mere stenographic record that a question was objected to, ruled inadmissible, and exception noted, is not sufficient. *Lemmert v. Lemmert*, 103 Md. 65.

The court may by special rule or general order direct that when testimony is upon objection ruled inadmissible, it shall only be incorporated in the record upon appeal at the request and expense of the party propounding the questions. Proper and improper practice under this section. Rules governing the production of evidence in equity. *Schnepfe v. Schnepfe*, 108 Md. 146.

Case heard on bill, answers, exhibits and testimony taken in open court under this section. *Wagner v. Ruhl*, 134 Md. 19.

See art 5, secs. 38 and 39.

An. Code, sec. 261A. 1914, ch. 377.

279. Testimony produced under the foregoing section shall be taken in the same manner and under the same rules as testimony is taken in actions at law in Courts of general jurisdiction in this State, and no evidence to which objection has been made and sustained by the Court shall be taken down or inserted in the record, but the party offering such testimony may accompany the offer of the same with a statement of the facts proposed to be shown in connection therewith, and such statement shall be considered by the Court in connection with the question objected to, and the Court of Appeals, upon appeal from any final order in the case, shall consider and determine, upon the record, all objections to testimony taken and reserved during the progress of the cause, and no bills of exception shall be required.

See art. 5, secs. 38 and 39.

An. Code, sec. 261B. 1914, ch. 377.

280. Whenever a case has already been before the Court of Appeals, it shall not be necessary, upon any subsequent appeal, to copy into the transcript of the record any other proceedings than those occurring in the Court below, subsequent to the preceding appeal; but the record of the proceedings in the previous appeal shall be taken and considered as part of the record in the subsequent appeal the same as though actually copied therein.

See art. 5, secs. 38, 39 and 47.