

An. Code, 1924, sec. 39. 1912, sec. 35. 1904, sec. 35. 1888, sec. 33. Rule 12.

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

No documentary evidence or exhibits shall be omitted from the transcript and brought to this Court separately, in the originals or copies, for reference in the argument and decision, except with the approval of a member of this Court, or under the authority and direction of statute; but a statement of the contents and effect of such documentary evidence or exhibits may be included in the record by stipulation of the parties. Reproductions of documents by photographic or photostatic process may only be used to exhibit the form or condition of signatures or other matter inscribed or printed on the documents, and only in clear, positive form of black letters or marks upon white ground.<sup>1</sup>

As to the cost of records, see art. 36, sec. 13.

See art. 16, sec. 290, *et seq.*, and notes to secs. 12 and 38 (this article).

An. Code, 1924, sec. 40. 1912, sec. 36. 1904, sec. 36. 1888, sec. 34. 1832, ch. 302, sec. 5. 1861, ch. 33.

**40.** 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 objections is to the remedy, no exceptions need to be filed. *Boteler v. Brookes*, 7 G. & J. 155.

<sup>1</sup> As revised by Court of Appeals, Oct. 5, 1933.