to such inadmissible evidence should be filed, clearly indicating the testimony excepted to, and the ground on which the exception is based. Gerting *v.* Wells, 103 Md. 638; Freeny *v.* Freeny, 80 Md. 409.

The fact that testimony has not lain in court for ten days, is waived by consenting to a hearing; such objection should be made when the case is taken up. Clark *v.* Callahan, 105 Md. 610.

This section does not apply to interlocutory applications, where no evidence has been taken, and a party is in default. Moody *v.* Moorman, 107 Md. 243.

This section has no application where after a regular hearing, the case is remanded to an examiner solely for the purpose of enabling the plaintiffs to offer additional proof of their claims. Chatterton *v.* Mason, 86 Md. 244.

An. Code, 1924, sec. 277. 1912, sec. 260. 1904, sec. 242. 1888, sec. 224. Rule 44.

289. The examination of witnesses *de bene esse* or for the perpetuation of their testimony, when by law allowed, may be had before an examiner, in the mode and form as prescribed in sections 284, 285, 286 and 287; and if no good objection be made to such testimony in twelve months 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. 26, *et seq.*

An. Code, 1924, sec. 278. 1912, sec. 261. 1904, sec. 243. 1888, sec. 225. 1890, ch. 86. 1896, ch. 35. 1914, ch. 377. 1937, ch. 197.

290. 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 aforegoing 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, provided, however, that where the evidence so taken has been taken in shorthand and no appeal has been noted, the same need not be afterwards written down or typewritten, or filed unless the Court in which such case was tried shall in its discretion by its order so direct.

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.

Petition for adoption should be dismissed on failure to file transcript of testimony as required by statute. Waller *v.* Ellis, 169 Md. 15.

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

Testimony taken as provided in this section. Sterling *v.* Sterling, Daily Record, Dec. 4, 1939.

See art. 5, secs. 38 and 39.

An. Code, 1924, sec. 279. 1912, sec. 261A. 1914, ch. 377.

291. Testimony produced under the aforegoing 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