

to the opposite party, or his counsel, of the time of the return thereof.

Bryson *v.* Petty, 1 Bl. 182. Gibson *v.* Tilton, 1 Bl. 352. Maccubbin *v.* Matthews, 2 Bl. 250. Deale *v.* Estep, 3 Bl. 493. Hall *v.* McPherson, 3 Bl. 529.

1888, art. 16, sec. 233 1860, art 16, sec. 149. 1836, ch. 128, sec. 2.

251. In all cases where any of the defendants have appeared and an order to take testimony before an examiner has issued, and there are other defendants who are in default for not appearing or answering, and against whom an order to take testimony *ex parte* might issue, it shall not be necessary to pass such order, but the plaintiff may take all his testimony before the examiner, and such testimony shall be as available against the defendants who are in default, as if the same was taken under an *ex parte* order.

Smith *v.* Baldwin, 4 H. & J. 331. Stewart *v.* Duvall, 7 G. & J. 180. Somerville *v.* Marbury, 7 G. & J. 275. Clary *v.* Grimes, 12 G. & J. 31. Kipp *v.* Hanna, 2 Bl. 26. Kerr *v.* Martin, 4 Md. Ch. 342. Higgins *v.* Horwitz, 9 Gill, 341.

Ibid. sec. 234. 1888, ch. 486.

252. The incorporation in this article of the rules prescribed by the court of appeals shall not deprive the said court of the power to rescind or modify any of said rules, or to pass additional rules, in their discretion.