RULES OF PRACTICE

IN THE

SUPREME

COURT OF APPEALS

OF

WEST VIRGINIA

IN FORCE JANUARY 31, 1920

HON. L. JUDSON WILLIAMS, PRESIDENT.....Lewisburg
HON. GEORGE POFFENBARGER.....Point Pleasant
HON. WM. N. MILLER.....Parkersburg
HON. CHARLES W. LYNCH.....Clarksburg
HON. HAROLD A. RITZ.....Bluefield

WM. B. MATHEWS, *Clerk*, Charleston.

1920

RULES OF PRACTICE

IN THE

SUPREME

COURT OF APPEALS

OF

WEST VIRGINIA

IN FORCE JANUARY 31, 1920

HON. L. JUDSON WILLIAMS, PRESIDENT.....Lewisburg
HON. GEORGE POFFENBARGER.....Point Pleasant
HON. WM. N. MILLER.....Parkersburg
HON. CHARLES W. LYNCH.....Clarksburg
HON. HAROLD A. RITZ.....Bluefield

WM. B. MATHEWS, *Clerk*, Charleston.

1920

TRIBUNE PRINTING CO., CHARLESTON, W. VA.

RULES OF PRACTICE
IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA.

In Effect January 31, 1920.

PRELIMINARY—Bills of Exceptions.

1. *Office and Contents.* It is the office of a bill of exceptions to point out errors committed by the court during the progress of the trial. The bill or bills should contain only a concise statement of the facts necessary to present the points intended to be relied on as grounds of error, or only so much of the evidence as may appear necessary to present fairly the rulings of the court to which exceptions are taken. No bill of exceptions should contain matter irrelevant or unnecessary to the presentation of the question intended to be raised.

2. *Points Must be Clearly Stated.* It is the duty of the exceptor to see that the points and objections on which he relies are correctly and clearly stated, so as to show plainly that no erroneous ruling was made to his prejudice, and he should not leave that fact to appear merely by inference or conjecture.

3. *Rulings on Evidence or Instruction.* An exception to the admission or rejection of evidence or to the granting or refusal of instructions to the jury, should state only so much of the evidence or facts proven as may be necessary to show the relevancy or irrelevancy of such evidence or the pertinency or impertinency of such instruction. The judge of the trial court should require all unnecessary matter to be stricken out before signing a bill of exceptions.

RULE I.—Petitions.

1. *Must Assign Errors—Not Argue the Case.* A petition for an appeal or writ of error may briefly state the case and must assign errors, naming the particular decrees or judgments complained of and the date of their rendition, and in the prayer of the petition it should be stated whether or not a supersedeas is desired; but the case is not to be argued in the petition. A separate note of argument, setting forth the points and authorities relied on, *shall* be submitted with the petition, and will be considered by the court, but such note is not to be considered as a part of the petition or to be printed with it. A note of argument may be filed in opposition to such petition.

2. *Certificate of Counsel.* The petition must be accompanied by the certificate of some attorney duly qualified to practice in this court that in his opinion the decree or judgment complained of ought to be reviewed.

3. *Names of Parties to be Summoned.* It is also recommended to counsel presenting petitions, that they furnish to the clerk a memorandum of the names of parties to be summoned to answer the appeal or writ of error.

4. *Status of Question or Questions Certified.* No question or questions shall be certified under the provisions of section one of chapter one hundred and thirty-five of the Code, as amended by chapter sixty-nine of the Acts of the Legislature of 1915, until after decision thereof by the trial court, and such decision shall be certified with the question or questions.

5. *Form of Certificate for Cases Certified.* The certificate of all questions arising upon the sufficiency of summons, or return of service, or as to the sufficiency of a pleading, certified pursuant to section one of chapter one hundred and thirty-five of the Code, as amended by chapter sixty-nine of the Acts of the Legislature of 1915, shall be in form or effect following:

In the Circuit Court of ———— County: A. B. v. C. D. In Assumpsit, (Debt, etc., or In Equity, as the case may be).
To the Supreme Court of Appeals of West Virginia:

The Circuit Court of said County, of its own motion, (or on the joint application of the parties to said suit, as the fact may be) hereby certifies to the said Supreme Court of Appeals, that on the summons (return thereon, or on the declaration, plea, bill, answer, or other pleading, as the case may be) of the plaintiff ————, (or the defendant ————, as the case may be) the following points of law or fact, have been made: (Here set forth by number the several grounds of any motion to quash, correct, amend, strike out, exclude, or grounds of demurrer, etc., that may have been interposed to such summons, return or pleading.)

A certified copy of said summons, (return, or pleadings, as the case may be, or so much thereof as may be necessary to present the point made against it), and of the affidavits, documents, etc., filed in support thereof, (if any), on which the judgment of your honors is desired, together with a copy of the court's decision upon such question or questions, is (or are) herewith presented.

Given under my hand this ———— day of ———— 19—.

————,
Judge of the Circuit Court.

RULE II.—Docketing and Process.

1. *Notice to Court Below and Summons.* When an appeal or writ of error has been awarded, it shall be the duty of the clerk to notify the clerk of the court below of the fact of such allowance and of the penalty of the bond necessary to give effect to such appeal or writ of error when such bond is required, and the clerk of this court shall thereupon docket the case and issue process in accordance with the order of the court, summoning all parties other than the petitioner or petitioners.

2. *Non-resident Parties.* Whenever it is necessary that a non-resident party should be summoned to answer an appeal or writ of error, or have notice for any other purpose, order of publication may be had in the manner prescribed by law, which order shall be published once a week for four successive weeks in some newspaper published at the seat of government.

RULE III.—Printing the Record.

1. *Dismissal for Failure to Print.* If the appellant or plaintiff in error, except in cases of felony, shall fail to deposit with the clerk of this court within six months after the case has been docketed herein, a sum sufficient to pay for printing the transcript of the record, or shall fail to have the transcript of the record printed and eighteen copies thereof filed in the clerk's office within six months after the case has been docketed in this court, the appeal or writ of error shall be dismissed.

2. *How Procured.* To procure such dismissal, the appellee or defendant in error must serve upon the opposite party, within reasonable time, a written notice that he will, on a day specified, move the court to dismiss the case, and set forth in such notice the grounds of the said motion. The motion may be made on any day when the court is open whether in regular or special term.

3. *Costs.* But if, when the motion is made the record has been already printed or the cost of such printing deposited with the clerk and no actual delay in the hearing of the cause has resulted from the failure to print the record or make such deposit within the six months allowed by law, the dismissal will be without costs, otherwise costs will be awarded against the party in default.

4. *Renewal.* An appeal or writ of error dismissed in accordance with this rule may be renewed upon presenting a new petition reciting the fact of the former

petition and allowance and dismissal and referring to the assignments of error contained in the former petition, if the same be presented within one year from the date of the decree or judgment appealed from, and new process will be ordered and a new bond must be given.

RULE IV.—Argument Docket.

1. *How Arranged.* Sixty days before the first day of each regular term, or of any special term at which an argument docket may be ordered, the clerk shall prepare a list of the cases then ready and matured, and distribute the printed lists to counsel of record in each case.

2. *Docketing of Cases Certified.* At the time of preparing the docket of any regular or of any special term, the clerk shall also make a docket of all cases certified for decision pursuant to section one, of chapter one hundred and thirty-five of the Code, as amended by chapter sixty-nine of the Acts of the Legislature of 1915, which shall be given precedence over all other cases, and next after cases upon original jurisdiction begun in the Supreme Court of Appeals.

3. *Agreement to Docket for Hearing.* By written agreement of counsel and consent of the Court, or, in vacation, of the president thereof, cases may be placed upon the argument docket for any regular or special term after the docket therefor has been prepared and distributed.

4. *Copy of Bond.* No case in which an appeal or supersedeas bond is required shall be placed upon the argument docket until the clerk shall have received a duly attested copy of such bond.

5. *Appellee May Expedite Hearing.* An appellee or defendant in error desiring to expedite the hearing of his case may have the record printed at his own expense and the cost of such printing will, when the case is decided be taxed among the costs incurred by such appellee or defendant in error, providing the appellant or plaintiff in error does not dismiss his appeal before hearing.

6. *Felony Cases.* When a writ of error has been allowed in the case of a party convicted of a felony, the clerk shall cause the record to be printed with all convenient dispatch, and the case will be called for hearing at the next regular term of court, wherever it may be held, without notice or consent being required, provided the record has been printed sixty days before the hearing.

7. *Cases Certified.* The record of cases certified for decision pursuant to section one of chapter one hundred and thirty-five of the Code, need not be printed, unless by order of the court; and without further notice the cases will be called for hearing at the next regular or special term for which they are docketed pursuant to section two hereof.

8. *Postponement of Docket.* The court will postpone, on its own motion, any docket or portion thereof to a day or days later in the term than that or those for which it has been set for hearing, or to a later term, regular or special, whenever, in its opinion, the public interests require such action; and, in such case, the clerk will give notice of the postponement to the attorneys of record of all parties interested.

RULE V.—Briefs.

1. *Time of Filing.* In any case on appeal or writ of error, the counsel for the appellant or plaintiff in error at least thirty days, and counsel for the appellee or defendant in error, at least ten days, before a case is called for hearing shall file with the clerk of this Court not less than fifteen copies of a printed brief, one of which copies shall upon request, be furnished to each of the counsel engaged upon the opposite side. Each brief shall show the name or names of the persons on whose behalf it is filed. All reply and supplemental briefs shall be filed at least five days before a case is called for hearing, and no brief shall be

filed later unless by consent of counsel. It is also desired by the court that counsel upon each side will furnish promptly to counsel on the opposing side their respective briefs as soon as printed, but their doing so will not obviate the requirement of this rule as to filing copies in the office of the clerk, and it is recommended that the printed brief shall correspond in size of page with the printed record, and bear the same docket number.

2. *Form and Contents of Appellant's Brief.* The brief of appellant shall contain a short and clear statement disclosing:

First. The kind of action or suit, and a closely condensed statement, without argument or quotation of evidence, of all facts necessary to determination of the points in controversy.

Second. What the issues were and how raised.

Third. How the issues were decided and what the judgment or decree was.

Fourth. The errors relied upon for reversal.

Fifth. A concise statement of so much of the record as fully presents every error and exception relied on, referring to the pages of the record. If the insufficiency of the evidence to sustain the verdict or finding, in fact or law, is assigned, the statement shall contain a condensed recital of the evidence in narrative form so as to present the substance clearly and concisely. The statement will be taken to be accurate and sufficient for a full understanding of the questions presented for decision, unless the opposite party in his brief shall make the necessary corrections or additions.

Following this statement, the brief shall contain, under a separate heading of each error relied on, separately numbered propositions or points, stated concisely, and without argument or elaboration, together with the authorities relied on in support of them; and in citing cases, the names of the parties must be given, with the book and page where reported. No alleged error or point, not contained in this statement of points, shall be raised afterwards, either by reply brief, or in oral or printed argument, or on petition for rehearing, but the court, at its option, may notice a plain error not assigned or specified.

3. *Form and Contents of Appellee's Brief.* The brief of appellee on the assignment of errors shall point out any omissions or inaccuracies in appellant's statement of the record, and shall contain a short and clear statement of the propositions by which counsel seek to meet the alleged errors and sustain the judgment or decree, or by which such errors are obviated. Following this statement, the brief shall contain the points and authorities relied on in like manner as required in the appellant's brief. The brief of appellee on cross-errors shall be prepared in the manner required in the case of appellant's brief. The brief of appellant, in answer to the cross-assignment of errors, shall be prepared in the manner required of appellees in answer to the assignment of errors. Reply briefs shall be prepared in like manner to answer briefs.

4. *Argument.* The briefs of any party may be followed by an argument in support of such briefs which shall be distinct therefrom, but shall be bound with the same. The argument shall be confined to discussion and elaboration of the points contained in the briefs. The names of counsel shall be affixed to all briefs filed by them.

5. *Non-Compliance—Effect of.* The court on its own motion may refuse to allow submission of any case, until the briefs of the party demanding it, complying with this rule in respect to form and contents, shall have been filed, and may also strike out on submission, briefs not complying therewith.

6. *Control of Case.* Either party whose brief has been filed in compliance with the rule may insist upon a hearing when the case is regularly called although no brief shall have been filed by the opposite party, and when one party has complied with the rule and the other has not, the party complying with the rule may have the case either submitted or continued at his option. If one of the parties omits to file such brief at or before the hearing, he cannot be heard, but the case may be submitted or heard *ex parte* upon the argument of one counsel only for the party by whom the brief has been duly filed.

7. *Continuance for Non-Compliance—No Briefs After Submission.* If no printed brief has been filed by either party within the time prescribed by this rule, the case will be continued when called, unless both parties are present in court, by counsel, with their respective briefs, and consent to submit the case with or without oral argument, or file an agreement in writing to submit, but in no case can briefs be filed after the case is submitted.

8. *Submission in Absence of Counsel.* It is not always necessary for counsel to appear in court in person in order to have a case submitted for judgment by the court; when the party desiring the submission of a case has filed his brief in compliance with the rule, he may by written request addressed to the court or to the clerk have his case submitted when called.

9. *Cases Certified—Motions to Dismiss, etc.—How Submitted.* All cases certified for decision pursuant to the last paragraph of section one of chapter one hundred and thirty-five of the Code, as amended by chapter sixty-nine of the Acts of the Legislature of 1915, shall be submitted on typewritten or printed briefs, or arguments, filed in the clerk's office at least five days before the case is set for hearing, and on oral argument, if desired by counsel or required by the Court. And this rule as to briefs and oral arguments shall apply to all motions to dismiss, affirm, modify or reverse, made pursuant to section twenty-six of said chapter one hundred and thirty-five of the Code, as amended by said chapter sixty-nine of the Acts of the Legislature of 1915.

RULE VI.—Calling the Docket.

1. *When Commenced.* On the second day of each regular term the court will commence to call the cases then ready for hearing in the order in which they stand upon the printed list, and will proceed from day to day in the same order until all of the cases have been called.

2. *How Many Cases to be Called.* Not more than ten cases shall be considered liable to be called on any one day, including the one, if any, that may be under argument. No case shall be taken up out of the order of the docket except when briefs have been filed on both sides and the parties consent to submit the case without oral argument.

3. *Set for Hearing.* No case shall be set for hearing on any other day than those assigned to the circuit from which the case comes unless it be such as from its peculiar character or the mandate of the law may be regarded as a privileged case.

4. *Exceptional Cases.* Cases of general public interest or of peculiar hardship may be heard at a special term according to the provisions of section 13 of chapter 156, Acts of 1882, under such conditions and regulations as may be consented to by the parties or as the court may prescribe.

5. *Agreement of Counsel.* All agreements of counsel in regard to any case or matter pending in court shall be reduced to writing, signed by counsel and delivered to the clerk.

6. *Re-argument.* Whenever the court desires further argument in any case which has been argued and submitted, it will fix a day therefor, and cause notice of the time and place, as well as of the subject or branch of the case, on which argument is desired to be given to counsel.

RULE VII.—Certiorari.

1. *How Obtained.* No *certiorari* for diminution of the record shall be awarded unless a motion therefor shall be made in writing, stating the facts on which the motion is founded, and all motions for such *certiorari* should be made at the earliest period possible after the diminution is discovered, either in regular or special term.

2. *When to be Printed.* If the necessity for such *certiorari* is caused by the

failure of the appellant or plaintiff in error to have enough of the record brought up to present fairly both sides of all errors complained of by him, it shall be his duty to have the additional record printed, or in default thereof, his appeal or writ of error may be dismissed; otherwise such additional record shall be printed at the expense of the party asking for the *certiorari*, but when, in either case, the additional record brought up does not exceed ten pages of manuscript, it need not be printed unless so ordered by the court.

RULE VIII.—Motions and Affidavits.

1. *Must be in Writing.* All motions, except motions of course, made to the court, shall be reduced to writing and shall contain a brief statement of the facts and objects of the motion. A motion to dismiss, affirm, modify or reverse, made pursuant to section 26 of chapter one hundred and thirty-five of the Code, as amended by chapter sixty-nine of the Acts of the Legislature of 1915, shall state the points on which it is based, and notice thereof stating such grounds shall be served on the opposite party or parties and returned to the clerk's office at least thirty days before the day to which the notice is returnable.

2. *Notice to be Given.* No affidavit shall be read in support of or in opposition to any motion hereafter made to the court unless reasonable notice be given to the opposite party or his attorney of the time and place of taking the same, or good cause be shown why such notice has not been given and every motion, which is not a motion of course, shall be supported by affidavit.

RULE IX.—Oral Argument.

1. *How Many May be Heard.* Only two counsel shall be heard on each side in the argument of any case unless by special leave of court, and the counsel for the appellant or the plaintiff in error shall be entitled to open and conclude the argument.

2. *Time Allowed.* Forty-five minutes only shall be allowed to the appellant or plaintiff in error for the opening and conclusion, and thirty minutes to the appellee or defendant in error for his reply, but by special leave of the court granted before the argument begins, a longer time may be allowed to each side. The time allowed may be apportioned between the counsel on the same side at their discretion. But in all cases a fair opening of the case shall be made by the party entitled to the opening and concluding arguments.

3. *Who to be Deemed Counsel.* The attorneys of the respective parties in the court below shall be deemed to be the attorneys of the same parties in this court until others have been retained and have notified the clerk of this court of that fact.

4. *Record.* In no case is it proper or necessary to consume the time allowed for argument by reading the record to the court, but counsel may refer thereto and state what they consider as proven by any exhibit or deposition on which they rely.

5. *Commissioner's Report.* No oral argument will be permitted upon exceptions to a commissioner's report except upon pure questions of law and without reference to details of evidence.

RULE X.—Cross Assignment of Error.

1. *When to be Considered.* In any appeal or writ of error, if error is perceived against the appellee or defendant in error, the court will consider the whole record as being before it, and will reverse the proceedings, either in whole or in part, and in the same manner as it would were the appellee or defendant in error to assign errors and bring the case before the court, unless such error be waived by the party prejudiced thereby, which waiver shall be considered as a release of all error committed against him. It is, however, advisable for the ap-

pellee or defendant in error, if he is of opinion that there is error in the record to his prejudice, to call attention to the same by a formal counter-assignment of error, filed at the hearing of the case, or by pointing out and complaining of the same in his brief.

RULE XI.—Abandoned Cases.

1. *When to be Dismissed.* When a case has been called for argument at four successive regular terms, and upon the call at the fourth term neither party is prepared to argue the same, the case shall be considered as abandoned and shall be dismissed at the costs of the appellant or plaintiff in error unless sufficient cause be shown for further continuance.

2. *Reinstatement.* No appeal or writ of error which shall have been dismissed or abated by the court, shall be reinstated or revived after the close of the next regular term after such dismission or abatement.

RULE XII.—Rehearing.

1. *How Obtained.* All petitions for rehearing must be filed not later than thirty days from the date of the decision complained of therein, and no petition for a rehearing will be entertained by the court in any case unless the reasons therefor are printed and filed with the petition. No oral arguments will be permitted upon any application for a rehearing. When a rehearing is allowed, the court may fix the time for re-argument and re-submission, notice of which shall be given by the clerk to the attorneys of record, but, in case it fails to fix such time the clerk shall enter the case upon the docket as if it had never been heard.

RULE XIII.—Index to Records.

1. *Must be Indexed.* In making transcripts of records for appeal and writs of error, the clerks of any court making such transcript, shall annex thereto, a complete index, giving pages of the record on which its chief component parts are to be found, including the pages where the deposition of each witness appears in such record.

RULE IV.—Officers of Court.

1. *Accounts.* The officers attending this court and receiving an allowance *per diem* therefor, shall, at the end of each term, furnish an account of the number of days so employed, verifying their accounts by affidavit, and orders of allowance will then be made by the court and certified to the Auditor of State, but such accounts will not be considered or allowed before the close of the term.

RULE XV.—Reports.

1. *Arguments to be Omitted.* In publishing the opinions of this court, the reporter shall not publish the arguments of counsel, but he shall report the names of counsel on each side, and when the counsel on the side adverse to the decision of the court shall furnish to him the points and authorities relied on, clearly and briefly stated, he may publish in the report such points and authorities; but in no case shall such points and authorities occupy more than one page of the printed report unless express authority therefor be given by the court.

RULE XVI.—Original Papers.

1. *Not to be Withdrawn.* No transcript of record, petition or other original paper or opinion of the court, shall be withdrawn from the custody of the clerk of this court unless upon motion made in court for this purpose and upon order of court permitting such withdrawal, except as provided in section 19, chapter 157, Acts of 1882.

INDEX

Page

ABANDONED CASES:
- When to be dismissed ... 7
- Costs ... 7
- Re-instatement—When ... 7

ABSENCE OF COUNSEL:
- Case may be submitted in ... 5

ACCOUNTS:
- Of court officers—How paid ... 7

AFFIDAVITS:
- Not read unless notice given ... 6

AGREEMENT OF COUNSEL:
- Shall be in writing ... 5
- To docket for hearing ... 3

APPEAL:
- Allowance—Notice to court below and summons ... 2
- Cross-assignment of error—When to be considered ... 6
- Dismissed for failure to print record ... 2
- Memorandum of parties to be summoned to answer ... 1
- Petition must assign errors—Not argue case ... 1
- Re-instatement of abandoned cases dismissed ... 7
- When renewed and how ... 2

APPEAL OR SUPERSEDEAS BOND:
- Receipt by clerk before docketed for argument ... 3

APPELLANT'S BRIEF:
- Form and contents ... 4

APPELLEE'S BRIEF:
- Form and contents ... 4
- Appellee may expedite hearing ... 3

ARGUMENT:
- Case not to be argued in petition for appeal or writ of error ... 1
- Not to be heard if party fails to file brief in time ... 4
- Re-argument desired by court—Day fixed—Notice—Subject ... 5
- To follow briefs of party—Distinct from but bound with the same ... 4
- What to contain ... 4

ARGUMENT DOCKET:

APPELLEE MAY EXPEDITE HEARING ... 3
- Cases certified ... 3
- Copy of bond ... 3
- Distribution to counsel ... 3
- Felony cases ... 3
- How arranged ... 3
- When notice is necessary ... 3
- When prepared ... 3

ASSIGNMENT OF ERRORS:
- Petition must assign errors—Not argue case ... 1

ATTORNEYS:
- Who shall be deemed ... 6

BILL OF EXCEPTIONS:
- Office and contents ... 1
- Points of error clearly stated ... 1
- Rulings on evidence or instructions ... 1
- Unnecessary matter stricken out ... 1

Page

BOND:
New bond on re-allowance of appeal or writ of error 3
Notice to clerk of trial court of penalty of 2
Receipt by clerk of attested copy of 3
BRIEFS:
Appellant's brief to be filed—When 3
Appellee's brief to be filed—When 3
Cases certified—Submitted on 5
Continuance for failure to file briefs 5
Counsel's names affixed 4
Docket number 4
Effect of non-compliance as to form 4
Failure to comply with rule as to preparation and filing of—Loses control of case 4
Form and contents of appellant's brief 4
Form and contents of appellee's brief 4
Furnished to counsel on opposite side—When 3
Motion to dismiss, affirm, modify or reverse—Submitted on briefs..... 5
Not filed after submission 5
Number of copies 3
Reply and supplemental brief to be filed—When 3
Size of page 3
Time of filing 3
To be followed by argument 4
CALLING OF DOCKET:
Cases set for hearing—On what day 5
Cases taken up out of regular order—When 5
Exceptional cases—When heard 5
How many cases to be called 5
Privileged cases 5
When commenced 5
CASES CERTIFIED:
Called for hearing—When 3
Docket of 3
Form of certificate 1
No oral argument 4
Precedence of 3
Record—When to be printed 2
Status of questions certified 1
Submitted on briefs 5
CASES SET FOR HEARING 5
CERTIFICATE OF ATTORNEY:
To accompany petition for appeal or writ of error 1
CERTIORARI:
Costs of printing additional record 5
How obtained 5
Shall be in writing 5
When to be printed 5
CHAPTER 69, ACTS 1915:
Cases certified—Submitted on briefs—No oral arguments 5
Docket of cases under 3
Form of certificate for cases certified 2
Printing of record 2
Status of questions certified 1
CITATION OF AUTHORITY:
In briefs—Must contain names of parties, with book and page where reported 4

Page

CLERK OF SUPREME COURT:
Docket of cases certified 3
Notice to attorneys of postponement of docket 3
Preparation and distribution of argument docket 3
Printing of record in felony cases 3
To notify clerk of trial court of allowance of appeal or writ of error.... 2
CLERK OF TRIAL COURT:
To be notified of allowance of appeal or writ of error and bond required 2
COMMISSIONER'S REPORT:
No oral argument upon exceptions to, except 6
CONTENTS OF BILL OF EXCEPTIONS..... 1
CONTINUANCE:
Failure to file briefs in time ground for..... 5
CONTROL OF CASE:
Who shall have 4
COPY OF BOND:
Receipt by clerk 3
COSTS:
Awarded against party in default 2
Dismissal without—When 2
When abandoned cases are dismissed 7
Counsel to furnish briefs to opposing counsel—When 3
CROSS-ASSIGNMENT OF ERROR:
Attention of court called to error 6
Waiver of 6
When to be considered 6
COUNSEL TO FURNISH BRIEFS TO OPPOSING COUNSEL—When..... 3
COURT OFFICERS:
Accounts—How paid 7
DECISION OF TRIAL COURT:
Questions certified 1
DEPOSIT FOR PRINTING RECORD:
DIMINUTION OF RECORD:
Certiorari—How obtained 5
Certiorari—When to be printed 5
DISMISSAL:
Costs upon abandonment 7
Costs upon failure to print record 2
For failure to print record 2
How procured..... 2
When to be made—Abandoned cases 7
DOCKET:
Argument docket 2
Calling of—When commenced 5
Cases set for hearing—On what day 5
Cases taken up out of regular order—When 5
Docket of cases certified 3
Exceptional cases—When heard 5
How many cases to be called 5
Privileged cases 5
Postponement of 3
What matured cases 3
DOCKETING OF CASES:
By clerk of supreme court—When 2
EFFECT OF NON-COMPLIANCE WITH RULE as to preparation of briefs..... 4

Page

ERROR:
Attention of court called to 6
Bill of exceptions 1
Cross-assignment of 6
No error or point not contained in statement of points, shall be raised afterwards 4
Petitions—Must assign—Not argue case 1
Points of error clearly stated 1
Rulings on evidence or instructions 1
Waiver of 6
EVIDENCE:
Bill of exceptions—Ruling on 1
EXCEPTIONAL CASES:
When heard 5
FAILURE TO COMPLY WITH RULE as to preparation and filing of briefs loses control of case 4
FAILURE TO FILE BRIEFS WITHIN THE TIME PRESCRIBED—Case continued 4
FELONY CASES:
Called for hearing 3
Printing of record 3
FORM AND CONTENTS OF APPELLANT'S BRIEF 4
FORM AND CONTENTS OF APPELLEE'S BRIEF 4
FORM OF CERTIFICATE FOR CASES CERTIFIED 1
HEARING:
May be expedited—When 3
Notice of party for 3
INDEX TO RECORD:
Must be indexed by Circuit Clerk 7
INSTRUCTIONS:
Bill of exceptions—Ruling on 1
INTERLOCUTORY ORDERS:
Form of certificate for cases certified from 1
MEMORANDUM OF PARTIES TO BE SUMMONED..... 1
MOTIONS:
Contents of motion to dismiss, affirm, modify or reverse 6
Must be in writing 6
Notice to be given 6
Supported by affidavit—When 6
To dismiss, affirm, modify or reverse—Rule as to briefs and oral arguments 6
MOTION TO DISMISS, AFFIRM, MODIFY OR REVERSE:
Must contain 6
Notice to be given 6
MOTION TO DISMISS:
Contents 2
Costs 2
Notice given to opposite party 2
When may be made 2
NON-COMPLIANCE WITH RULE AS TO BRIEFS:
Effect of 4
NON-RESIDENT PARTIES:
Order of publication as to 2
NOTE OF ARGUMENT:
A separate note of argument shall be submitted with petition for appeal or writ of error 1
May be filed in opposition to petition 1
No part of petition 1

Page

NOTICE:
To attorneys of postponement of docket 3
NOTICE TO OPPOSITE PARTY:
Contents—To dismiss for failure to print 2
Of motion to dismiss for failure to print record 2
When may be made 2
NUMBER OF COPIES:
Of Briefs to be Filed 3
NUMBER OF COUNSEL:
Heard on each side in oral argument 6
OFFICERS OF COURT:
Accounts—How paid 7
OPPOSITION BRIEFS:
May be filed to petition for appeal or writ of error 1
ORDER OF PUBLICATION:
As to non-resident parties 2
Length of time 2
ORAL ARGUMENT:
How many may be heard 6
No oral argument upon exceptions to commissioner's report, except 6
In cases certified, wren 5
On motion to dismiss, affirm, modify, or reverse, when 5
Record not to be read 6
Reference to record 6
Right to oral argument lost by failure to file brief 4
Time allowed 6
Who to be deemed counsel 6
ORIGINAL PAPERS:
Not to be withdrawn except by order of court 7
PARTIES:
Memorandum of parties to be summoned 1
Non-resident—Order of publication 2
Who to be summoned 1
PETITION:
For appeal or writ of error must be accompanied by certificate of attorney 1
For re-allowance of appeal or writ of error—Contents 2
Memorandum of parties to be summoned to answer—Appeal or writ of error 1
Must assign errors—Not argue case 1
No oral arguments upon application for rehearing 7
Reasons for petition for rehearing—Must be printed and filed with petition 7
Rehearing—How obtained 7
Time fixed for re-argument and re-submission 7
Time to be presented for re-allowance of appeal or writ of error 2
Petition for rehearing—When to be filed 7
POSTPONEMENT OF DOCKET:
Notice to attorneys 3
When to be made 3
PRINTING OF RECORD:
Dismissal for failure to print 2
PROCESS:
Issuance of 2
New process on re-allowance of appeal or writ of error 2
PUBLICATION—ORDER OF:
Non-resident parties 2
QUESTIONS CERTIFIED 2
RE-ARGUMENT:
Upon order of court 5

Page

RECORD:
Cases certified—When to be printed 3
Dismissal for failure to print 2
May be printed by appellee to expedite hearing 3
Must be filed—When 2
Must be indexed 7
Not to be read on oral argument 6
Number of copies to be filed in clerk's office 2
REHEARING:
How obtained 7
No oral arguments upon application for 7
Reasons for must be printed and filed with petition 7
Time fixed for re-argument and re-submission 7
When to be filed 7
RENEWAL OF APPEAL OR WRIT OF ERROR:
When 2
New process and new bond 3
REPORTS:
Arguments to be omitted 7
Names of counsel to be inserted 7
Points and authorities furnished by counsel inserted—When 7
REVIEW OF DECREE OR JUDGMENT:
Certificate of counsel 1
RULING OF TRIAL COURT:
Bill of exceptions 1
On evidence or instructions 1
STATUS OF QUESTIONS CERTIFIED 1
SUBMISSION:
In absence of counsel—May be by request 5
No briefs after 5
SUBMITTED ON BRIEFS:
Cases certified 5
SUFFICIENCY OF SUMMONS, RETURN OF SERVICE OR OF PLEADING:
Form of certificate for cases certified 2
SUMMONS:
Clerk of Supreme Court to issue process—When 2
Memorandum of parties to be summoned 2
Non-resident parties—Order of publication 2
Who to be summoned 2
SUPERSEDEAS:
Petition to state if desired 1
SUPREME COURT:
May postpone docket—When 3
On its own motion may strike out briefs—When 3
TIME OF FILING BRIEFS 3
TRANSCRIPTS OF RECORDS:
Must be indexed 7
TRIAL COURT:
Form of certificate for cases certified from 2
Notice of allowance of appeal or writ of error 2
WAIVER OF ERROR 6
WEST VIRGINIA REPORTS:
Arguments to be omitted 7
Names of counsel to be inserted 7
Points and authorities furnished by counsel inserted—When 7
WHEN CASES READY FOR HEARING 3
WITHDRAWAL OF ORIGINAL PAPERS—When 7

Page

WRIT OF ERROR:

Allowance—Notice to court below and summons 2
Cross-assignment of error—When to be considered 6
Dismissed for failure to print record 2
Memorandum of parties to be summoned to answer 1
Petition must assign errors—Not argue case 1
Re-instatement of abandoned cases dismissed 7
When renewed and how 2