

This section applied where a bill filed to charge the lands of a decedent with the payment of certain money alleged to belong to his children under his will refers to the will, which, however, is not filed. *Henderson v. Harper*, 127 Md. 431.

Since plaintiff's equity does not depend upon writing, but upon oral lease, this section held not to apply. Documents or records in possession of defendant need not be filed with bill. *Hall v. Sharp Street Station*, 155 Md. 658.

Contention that "prospectus" and "album" should have been filed as exhibits with bill charging fraud in sale of stock, overruled. *Sears v. Barker*, 155 Md. 332.

Cited but not construed in *Miller v. Horowitz*, 172 Md. 424.

An. Code, 1924, sec. 158. 1912, sec. 143. 1904, sec. 134. 1888, sec. 121. Rule 11.

165. Whenever a bill is filed, wherein an order of publication is not prayed, the clerk shall issue the process of subpœna thereon, as of course, upon the application of the plaintiff, which shall contain the names of the parties, and be made returnable in the several counties on the first Monday of the month ensuing the date of its issue, and in Baltimore City shall be made returnable on the second Monday of the month ensuing the date of its issue, but the plaintiff may, by special direction, require any process to be made returnable at the return day next after the first return day for such process ensuing the issuance of the same. At the bottom of the subpœna shall be placed a memorandum that the defendant is required to file his answer or other defense in the clerk's office within fifteen days after the return day. The sheriff, or other person whose duty it may be to serve said process, shall serve the same promptly. Where there is more than one defendant, the writ of subpœna may, at the election of the plaintiff, be sued out separately for each defendant, or a joint subpœna against all the defendants may be issued. In default of answer as provided in this rule the bill may be taken *pro confesso*, unless the time for filing the answer be extended as provided in Rule 15.¹

An. Code, 1924, sec. 159. 1912, sec. 144. 1904, sec. 135. 1888, sec. 122.

166. Whenever a bill or petition is filed, the clerk shall issue the process, or order of publication thereon, for the appearance of the defendants, as of course; and whenever there are more than one defendant, summons may, upon the special direction of the plaintiff, be sued out separately for each defendant, except in case of husband and wife, or a joint summons against all the defendants may be issued.

An. Code, 1924, sec. 160. 1912, sec. 145. 1904, sec. 136. 1888, sec. 123. Rule 13.

167. The service of process to require appearance shall be by reading, and delivering a copy of, the summons or other writ or order to the party to be served therewith; and in case the party be an infant or *non compos mentis*, in addition to the service on such party, a copy of the process or writ, or order, shall be left with the parent or guardian of the infant, if there be one within the jurisdiction of the Court, and with the committee or other person having the care of the person or estate of the party alleged to be *non compos mentis*; and such service shall be specially certified in the return of the officer making the service.²

¹ Thus amended by equity rule 11, Feb. 5, 1920, adopted by the court of appeals in accordance with sec. 18, of art. 4 of the Constitution.

Rule 15 has not been codified but reads as follows:

It shall be the duty of the defendant, unless the time be enlarged, by an order of court upon petition showing good cause therefor, to file his answer or other defense to the bill in the Clerk's office within the time required by Rule 11. In default thereof the plaintiff, may at his election, take an order as of course that the bill be taken *pro confesso*, and thereupon the case shall proceed *ex parte* as against such defendant.

² Thus amended by equity rule 13, Nov. 21, 1919, adopted by the court of appeals in accordance with sec. 18 of art. 4 of the Constitution.