

**CHAPTER 1500. EQUITABLE RELIEF**

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**Subchapter A. RULES**

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## 231 Rule 1501

GENERAL

- 1535. Objections to Security.
- 1536. [Rescinded].
- 1549. Acts of Assembly Not Suspended.
- 1550. Acts of Assembly Suspended.

### **Rule 1501. [Rescinded].**

**Official Note:** The action in equity has been abolished. Equitable relief may be obtained through a civil action, Rule 1001 et seq. Rules 1506, 1521 and 1531 through 1535 are special rules governing equitable relief sought in a civil action.

#### **Source**

The provisions of this Rule 1501 adopted January 4, 1952, effective July 1, 1952; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (274656).

### **Rule 1502. [Rescinded].**

**Official Note:** The court is “always open for the transaction of judicial business.” See Section 324 of the Judicial Code, 42 Pa.C.S. § 324

#### **Source**

The provisions of this Rule 1502 adopted January 4, 1952, effective July 1, 1952; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (274656).

### **Rule 1503. [Rescinded].**

**Official Note:** See Rule 1006 governing venue in a civil action.

#### **Source**

The provisions of this Rule 1503 adopted January 4, 1952, effective July 1, 1952; amended March 27, 1956, effective July 1, 1956; amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; amended January 19, 2001, effective July 1, 2001, 31 Pa.B. 629; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial pages (274656) to (274657).

### **Rule 1504. [Rescinded].**

**Official Note:** For service of original process, see Rule 400 et seq.

#### **Source**

The provisions of this Rule 1504 rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial pages (87309) to (87310).

### **Rule 1505. [Rescinded].**

#### **Source**

The provisions of this Rule 1505 adopted January 4, 1952, effective July 1, 1952; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (274657).

**Rule 1506. Stockholder's Derivative Action.**

(a) In an action to enforce a secondary right brought by one or more stockholders or members of a corporation or similar entity because the corporation or entity refuses or fails to enforce rights which could be asserted by it, the complaint shall set forth

- (1) that each plaintiff is a stockholder or owner of an interest in the corporation or other entity,
- (2) the efforts made to secure enforcement by the corporation or similar entity or the reason for not making any such efforts, and
- (3) either
  - (i) that each plaintiff was a stockholder or owner of an interest in the corporation or other entity at the time of the transaction of which the plaintiff complains or that the plaintiff's stock or interest devolved upon the plaintiff by operation of law from a person who was a stockholder or owner at that time, or
  - (ii) that there is a strong prima facie case in favor of the claim asserted on behalf of the corporation and that without the action serious injustice will result.

**Official Note:** See Section 1782(c) of the Associations Code, 15 Pa.C.S.A. § 1782, providing for security for costs in stockholder's actions.

(b) A plaintiff who files a complaint containing an allegation pursuant to subdivision (a)(3)(ii) shall forthwith file a motion to maintain the action. If the plaintiff sustains the allegation, the court shall allow the action to continue.

(c) If it appears that the plaintiff does not fairly and adequately represent the interests of the shareholders or members similarly situated in enforcing the right of the corporation or association, an appropriate person shall be substituted as plaintiff or, if an appropriate person is not substituted, the action shall be dismissed as provided by subdivision (d).

(d) The action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to shareholders or members in such manner as the court directs.

(e)(1) Section 1782(a) and (b) of the Associations Code, 15 Pa.C.S.A. § 1782(a) and (b), shall be suspended only insofar as it is inconsistent with the provisions of this rule.

**Official Note:** Section 1782(a) and (b) of the Associations Code relate to the bringing of a shareholder's action.

(2) Section 1782(c) and (d) of the Associations Code, 15 Pa.C.S. § 1782(c) and (d), shall not be deemed suspended or affected by this rule.

**Official Note:** Section 1782(c) and (d) relate to security for costs in such actions and applicability of the statute to foreign corporations.

## 231 Rule 1507

GENERAL

### Source

The provisions of this Rule 1506 amended September 26, 1990, effective January 1, 1991, 20 Pa.B. 5195; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274. Immediately preceding text appears at serial pages (223272) to (223273).

## Rule 1507. [Rescinded].

### Source

The provisions of this Rule 1507 adopted January 4, 1952, effective July 1, 1952; amended November 14, 1978, 8 Pa.B. 3410; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255259).

## Rule 1508. [Rescinded].

**Official Note:** See Rule 1020 governing the pleading of more than one cause of action.

### Source

The provisions of this Rule 1508 adopted January 4, 1952, effective July 1, 1952; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255259).

## Rule 1509. [Rescinded].

**Official Note:** See Rule 1028 governing preliminary objections.

### Source

The provisions of this Rule 1509 adopted January 4, 1952, effective July 1, 1952; amended November 19, 1991, effective January 1, 1992, 21 Pa.B. 5637; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial pages (255259) to (255260).

## Rule 1510. [Rescinded].

**Official Note:** See Rule 1031 governing counter-claim in a civil action.

### Source

The provisions of this Rule 1510 adopted January 4, 1952, effective July 1, 1952; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255260).

## Rule 1511. [Rescinded].

**Official Note:** See Rule 1037 governing judgment upon default or admission.

### Source

The provisions of this Rule 1511 adopted January 4, 1952, effective July 1, 1952; amended March 22, 1962, effective April 2, 1962; amendment effective April 2, 1962 was made applicable to pending actions; amended August 10, 1979, effective August 31, 1979, 9 Pa.B. 2929; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255260).

**Rule 1512. [Rescinded].**

**Official Note:** See Rules 230 and 230.1 governing voluntary nonsuit and nonsuit at trial, respectively.

**Source**

The provisions of this Rule 1512 adopted January 4, 1952, effective July 1, 1952; amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 2279; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255260).

**Rule 1513. [Rescinded].**

**Official Note:** See Rule 1038.3 governing advisory verdict by jury.

**Source**

The provisions of this Rule 1513 adopted January 4, 1952, effective July 1, 1952; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255261).

**Rule 1514. [Rescinded].**

**Source**

The provisions of this Rule 1514 adopted January 4, 1952, effective July 1, 1952; amended March 25, 1953, effective July 1 1953; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255261).

**Rule 1515. [Rescinded].**

**Source**

The provisions of this Rule 1515 adopted January 4, 1952, effective July 1, 1952; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255261).

**Rule 1516. [Rescinded].**

**Official Note:** See Rule 1038 for the conduct of a trial without a jury.

**Source**

The provisions of this Rule 1516 adopted January 4, 1952, effective July 1, 1952; amended June 27, 1969, effective September 1, 1969; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255261).

**Rule 1517. [Rescinded].**

**Official Note:** See Rule 1038 for the decision in a trial without a jury.

**Source**

The provisions of this Rule 1517 adopted January 4, 1952, effective July 1, 1952; amended June 27, 1969, effective September 1, 1969; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial pages (255261) to (255262).

**Rule 1518. [Rescinded].**

**Official Note:** For post-trial relief following an equity trial, see Rule 227.1.

**Source**

The provisions of this Rule 1518 adopted January 4, 1952, effective July 1, 1952; reserved October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629. Immediately preceding text appears at serial page (31817).

**Rule 1519. [Rescinded].**

**Official Note:** For entry of the decree nisi upon praecipe as the final decree, see Rule 227.4.

**Source**

The provisions of this Rule 1519 reserved October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629. Immediately preceding text appears at serial page (83221).

**Rule 1520. [Rescinded].**

**Official Note:** See Rule 1038 for the decision in a trial without a jury.

**Source**

The provisions of this Rule 1520 adopted January 4, 1952, effective July 1, 1952; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255262).

**Rule 1521. [Rescinded].**

**Official Note:** See Rule 3021(a)(2) for the entry in the judgment index of final or interlocutory orders for equitable relief.

See Rules 3022 and 3023 governing liens of judgments and verdicts for the payment of money, including the duration and effect of the liens.

See Rule 3025 et seq. governing revival of judgment liens.

**Source**

The provisions of this Rule 1521 adopted January 4, 1952, effective July 1, 1952; amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9; rescinded October 15, 2004, effective immediately, 34 Pa.B. 5889. Immediately preceding text appears at serial pages (302488) to (302489).

**Rule 1522. [Rescinded].**

**Official Note:** See Rule of Appellate Procedure 1701(b) governing reconsideration of an order.

**Source**

The provisions of this Rule 1522 adopted January 4, 1952, effective July 1, 1952; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255263).

**Rule 1523. [Rescinded].****Source**

The provisions of this Rule 1523 adopted January 4, 1952, effective July 1, 1952; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255263).

**Rule 1524. [Rescinded].****Source**

The provisions of this Rule 1524 adopted January 4, 1952, effective July 1, 1952; amended November 14, 1978, 8 Pa.B. 3410; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255263).

**Rule 1525. [Rescinded].****Source**

The provisions of this Rule 1525 adopted January 4, 1952, effective July 1, 1952; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255263).

**Rule 1526. [Rescinded].****Source**

The provisions of this Rule 1526 adopted January 4, 1952, effective July 1, 1952; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255264).

**Rule 1527. [Rescinded].****Source**

The provisions of this Rule 1527 adopted January 4, 1952, effective July 1, 1952; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255264).

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**Rule 1528. [Rescinded].**

**Official Note:** See Rule 1033 governing amendment of pleadings.

**Source**

The provisions of this 1528 adopted January 4, 1952, effective July 1, 1952; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (244264).

**Rule 1529. [Rescinded].****Source**

The provisions of this Rule 1529 adopted January 4, 1952, effective July 1, 1952; amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255264).

**Rule 1530. [Rescinded].****Source**

The provisions of this Rule 1530 adopted January 4, 1952, effective July 1, 1952; amended November 14, 1978, 8 Pa.B. 3410; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial pages (255264) to (255265).

**Rule 1531. Special Relief. Injunctions.**

(a) A court shall issue a preliminary or special injunction only after written notice and hearing unless it appears to the satisfaction of the court that immediate and irreparable injury will be sustained before notice can be given or a hearing held, in which case the court may issue a preliminary or special injunction without a hearing or without notice. In determining whether a preliminary or special injunction should be granted and whether notice or a hearing should be required, the court may act on the basis of the averments of the pleadings or petition and may consider affidavits of parties or third persons or any other proof which the court may require.

**Official Note:** Section 601(b) of the Clean Streams Law, Act of June 22, 1937, P. L. 1987, 35 P. S. §§ 691.601(b), relieves the Attorney General, the district attorney or the solicitor of a municipality from the requirement of bond in injunction proceedings.

Section 7 of the Act of April 11, 1929, P. L. 488, No. 205, 3 P. S. § 297, relating to certified, inspected or registered seeds, similarly provides that the Attorney General shall not be required to give bond in injunction proceedings.

(b) Except when the plaintiff is the Commonwealth of Pennsylvania, a political subdivision or a department, board, commission, instrumentality or officer of the Commonwealth or of a political subdivision, a preliminary or special injunction shall be granted only if



(1) the plaintiff files a bond in an amount fixed and with security approved by the court, naming the Commonwealth as obligee, conditioned that if the injunction is dissolved because improperly granted or for failure to hold a hearing, the plaintiff shall pay to any person injured all damages sustained by reason of granting the injunction and all legally taxable costs and fees, or

(2) the plaintiff deposits with the prothonotary legal tender of the United States in an amount fixed by the court to be held by the prothonotary upon the same condition as provided for the injunction bond.

**Official Note:** See Rule 1549(4), (11), (13), (17), (20), (21) and Rule 1550(12), (13), (20), (21), (22), (25), (26), (27), (29), (30) and (32) for reference to Acts of Assembly containing provisions relieving the Commonwealth, political subdivisions, and their agencies from the requirement of bond in injunction proceedings.

(c) Any party may move at any time to dissolve an injunction.

(d) An injunction granted without notice to the defendant shall be deemed dissolved unless a hearing on the continuance of the injunction is held within five days after the granting of the injunction or within such other time as the parties may agree or as the court upon cause shown shall direct.

**Official Note:** See subdivision (f) of this rule for special provisions relating to injunction restraining freedom of expression.

If an injunction has been issued without notice, it is optional with the defendant to waive a hearing on continuance of the injunction under this subdivision and proceed directly to a final hearing.

(e) After a preliminary hearing, the court shall make an order dissolving, continuing or modifying the injunction.

(f)(1) When a preliminary or special injunction involving freedom of expression is issued, either without notice or after notice and hearing, the court shall hold a final hearing within three days after demand by the defendant. A final order shall be filed in the office of the prothonotary within twenty-four hours after the close of the hearing. If the final hearing is not held within the three-day period, or if the final order is not filed within twenty-four hours after the close of the hearing, the injunction shall be deemed dissolved.

**Official Note:** The three-day period is the maximum time. In particular cases a shorter period may be required. The court is "always open for the transaction of judicial business." See Section 324 of the Judicial Code, 42 Pa.C.S. § 324.

(2) When the defendant demands such a final hearing, no further pleadings shall be required and Rule 1038(b) and (c) relating to decision in a trial without and Rules 227.1 to 227.3 relating to post-trial relief shall not apply.

(3) The trial judge shall file a written memorandum supporting the final order within five days after it is filed.

**Source**

The provisions of this Rule 1532 adopted January 4, 1952, effective July 1, 1952; amended through October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629; amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial pages (255265) to (255266).

**Rule 1532. Special Relief. Perpetuation of Testimony.**

(a) In an action to perpetuate testimony the complaint shall set forth

(1) the names and addresses of all prospective parties to the contemplated action, but if the identity of the heirs or assigns of a named former owner or party in interest is unknown they may be described generally;

(2) the nature of the contemplated action, the plaintiff's interest therein and the need for perpetuating the testimony of the person to be examined;

(3) the name and address of the person whose testimony is to be perpetuated and the substance of the testimony which plaintiff expects to elicit from each.

(b) In an action to perpetuate testimony, the testimony may be taken before the court or by depositions. The procedure for the taking of the testimony by depositions shall conform as nearly as practicable to the proceedings under the rules on depositions and discovery. The final order shall direct whether or not the testimony or a part thereof shall be perpetuated.

(c) Testimony which has been perpetuated may be used at a trial or hearing in accordance with the provisions applicable to depositions under Rule 4020. The testimony may be used by or against a person succeeding to the interest of the party to the action for the perpetuation of testimony to the same extent as though the successor had been a party and had been present at the taking of the testimony. The testimony, if otherwise admissible, may be used in any other county of the Commonwealth.

**Source**

The provisions of this Rule 1532 adopted January 4, 1952, effective July 1, 1952; amended March 27, 1956, effective July 1, 1956; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255267).

**Rule 1533. Special Relief. Receivers.**

(a) A temporary receiver may be appointed without notice if required by the exigencies of the case. Except as otherwise provided by an Act of Assembly, such appointment may not be made unless

(1) the plaintiff files a bond in an amount fixed and with security approved by the court, naming the Commonwealth as obligee, conditioned that if the appointment is vacated because improperly made the plaintiff shall pay to any person injured all damages sustained by reason of such appointment and all legally taxable costs and fees, or

(2) the plaintiff deposits with the prothonotary legal tender of the United States in an amount fixed by the court to be held by the prothonotary upon the same condition as provided for the bond. A hearing on the continuation or revocation of the appointment shall be held promptly. Notice of the hearing shall be given by the temporary receiver to all persons interested, including creditors and stockholders, if any, whose addresses are known or can be ascertained.

(b) No officer of a corporation or member of a partnership shall be appointed sole temporary receiver of the property of the corporation or partnership but, after hearing, an officer or member may be appointed sole permanent receiver.

(c) The court may refuse to appoint a receiver for property and may permit the person in possession to retain it if the person gives such security as the court shall direct. The court may remove a receiver and restore the property to the person from whom it was taken if the person gives such security as may be required.

(d) Except as otherwise provided by an Act of Assembly, a receiver, whether temporary or permanent, must give such security for the faithful performance of the receiver's duty as the court shall direct. A receiver shall not act until he or she has given the security required.

**Official Note:** See Rule 1549(16) for reference to Act of Assembly relieving the Secretary of Banking as statutory receiver from requirement of bond. The same practice is followed in connection with the appointment of the Insurance Commissioner as receiver.

(e) Except in the case of a public utility, an order authorizing a receiver to operate a business shall be limited to a fixed period, which may be extended from time to time upon cause shown after notice to all parties in interest.

(f) Except as otherwise provided by an Act of Assembly, the court upon appointing a permanent receiver shall also appoint two appraisers who shall promptly inventory and appraise all assets of the defendant. The compensation of the appraisers shall be determined by the court.

**Official Note:** For Acts of Assembly containing provisions as to receivers, appraisers and inventories, see sections 12 and 15 of the Act of June 4, 1901, P. L. 404, No. 231, 39 P. S. §§ 42, 48 (insolvency proceedings), section 501 et seq. of the Act of May 17, 1921, P. L. 789, as amended, 40 P. S. § 221.1 et seq. (insurance department statutory receiverships) and sections 605, 606 and 701 of the Act of May 15, 1933, P. L. 565, 71 P. S. §§ 733-605, 733-606, 733-701 (banking department statutory receiverships).

(g) Every order appointing a permanent receiver shall fix the time within which the receiver shall file a report setting forth the property of the debtor, the interests in and claims against it, its income-producing capacity and recommendations as to the best method of realizing its value for the benefit of those entitled.

(h) These rules shall not be deemed to impose upon the Secretary of Banking, the Insurance Commissioner or other public officer acting as statutory

receiver any duties or restrictions which are in conflict with the Acts of Assembly authorizing their appointment and prescribing their rights and duties.

#### Source

The provisions of the Rule 1533 adopted January 4, 1952, effective July 1, 1952. See Section 501 of the Act of May 17, 1921, P. L. 789, added December 14, 1977, P. L. 280, No. 92, 40 P. S. § 221.1 et seq. and Sections 606 and 701 of the Act of May 15, 1933, P. L. 565, 71 P. S. §§ 733-606, 733-701, relating to appointment of the Insurance Commissioner and the Secretary of Banking as receiver; amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9; amended October 15, 2004, effective immediately, 34 Pa.B. 5889. Immediately preceding text appears at serial pages (302492) to (302494).

#### Rule 1534. Accounting by Fiduciaries.

(a) Except as otherwise provided by an Act of Assembly, a receiver, assignee or other fiduciary filing an account shall give notice of the intention to apply for confirmation thereof on the date fixed by the court by local rule or special order. The notice shall also set forth that the account may be confirmed and distribution ordered unless exceptions are filed with the prothonotary before that date.

(b) Notice shall be given by personal service, or by mail or publication, in such manner as the court by local rule or special order shall direct.

(c) The court at any time may order a partial distribution of money or property in settlement of claims and may require the filing of refunding bonds by the claimants.

**Official Note:** Adopted January 4, 1952, effective July 1, 1952. For special statutory provisions relating to accounting, see the Act of May 15, 1933, P. L. 565, 71 P. S. § 733-1 et seq., (the Department of Banking Code) and the Act of June 4, 1901, P. L. 404, No. 231, 39 P. S. § 1 et seq., (insolvency proceedings).

#### Source

The provisions of this Rule 1534 amended November 14, 1978, effective December 2, 1978, 8 Pa.B. 3410; amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274. Immediately preceding text appears at serial pages (223282) to (223283).

#### Rule 1535. Objections to Security.

The court, upon petition filed by any party, and after notice and hearing, may upon cause shown

- (1) increase or decrease any security which has been required;
- (2) strike off a bond improperly filed; or
- (3) permit the substitution of security and enter an exoneration of security already given.

**Official Note:** Adopted January 4, 1952, effective July 1, 1952.

**Rule 1536. [Rescinded].****Source**

The provisions of this Rule 1536 adopted January 1, 1952, effective July 1, 1952; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255269).

**Rule 1549. Acts of Assembly Not Suspended.**

The rules governing a civil action shall not be deemed to suspend or affect the following Acts of Assembly:

(1) Sections 1 and 2 of the Act approved May 4, 1869, P. L. 1251, 68 P. S. §§ 115, 116.

**Official Note:** These sections make unlawful the cutting, removing or selling of timber by the owner of an undivided interest in land, without the written consent of all interests and authorize proceedings for recovery of timber or damages.

(1.1) Sections 12 and 15 of the Act approved June 4, 1901, P. L. 404, No. 231, 39 P. S. §§ 42, 48.

**Official Note:** These sections regulate receivership proceedings under the Insolvency Act of 1901.

(2) Section 404 of the Act approved May 17, 1921, P. L. 789, No. 285, 40 P. S. § 184.

**Official Note:** This section provides that process shall be served on the State Treasurer who shall appear and answer on behalf of the Commonwealth in actions in equity against the Commonwealth brought by insurance companies, associations or exchanges to enforce, administer or terminate deposit trusts.

(3) Section 501 et seq. of the Act approved May 17, 1921, P. L. 789, added by the Act of December 14, 1977, P. L. 280, No. 92, § 2, 40 P. S. § 221.1 et seq.

**Official Note:** These sections regulate receiverships of insurance companies.

(4) Section 3 of the Act approved June 23, 1931, P. L. 1178, No. 319, 68 P. S. § 469.

**Official Note:** This section relates to actions in equity brought in the name of the Commonwealth to enjoin the use of buildings for immoral purposes.

(5) Sections 502 and 503 of the Act approved May 15, 1933, P. L. 565, No. 111, as amended, 71 P. S. §§ 733-502, 733-503.

**Official Note:** These sections provide for the enforcement by a court of orders of the Department of Banking and for quo warranto and injunction proceedings against corporations, institutions and persons subject to the supervision of the Department.

(6) Sections 605, 606, 701 of the Act approved May 15, 1933, P. L. 565, No. 111, as amended, 71 P. S. §§ 733-605, 733-606, 733-701.

**Official Note:** These sections regulate bank receiverships.

(7) Section 9(d) of the Act approved June 1, 1937, P. L. 1168, No. 294, as amended by Section 1 of the Act approved June 9, 1939, P. L. 293, No. 162, 43 P. S. § 211.9(d).

**Official Note:** This section relates to enforcement and review of orders of the Pennsylvania Labor Relations Board.

(8) Sections 4, 6 to 14, inclusive, 16, 17, of the Act approved June 2, 1937, P. L. 1198, No. 308, 43 P. S. §§ 206d, 206f to 206n, inclusive, 206p, 206q.

**Official Note:** These sections relate to injunctions in labor disputes, prescribe procedure therein and prohibit injunctions without hearing.

(9) Sections 601 to 602 of the Act approved June 22, 1937, P. L. 1987, No. 394, as amended, 35 P. S. §§ 691.601, 691.602.

**Official Note:** Section 601 of the Clean Streams Law authorizes suits to abate nuisances and to restrain violations of and compel compliance with the Law. Section 602 provides penalties for violation of the Law.

(10) Sections 1984 to 1986 of the Associations Code, 15 Pa.C.S. §§ 1984 to 1986, insofar as they relate to the appointment of receivers in corporate dissolutions.

(11) Section 502 of the Public Utility Code, 66 Pa.C.S. § 502.

**Official Note:** This section provides for injunction actions to enforce orders of the Public Utility Commission.

#### Source

The provisions of this Rule 1549 amended September 26, 1990, effective January 1, 1991, 20 Pa.B. 5195; amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial pages (255270) to (255271).

#### Rule 1550. Acts of Assembly Suspended.

The following Acts of Assembly are suspended insofar as they apply to the practice and procedure in a civil action to the extent hereinafter set forth, in accordance with Article V, Section 10(c) of the Constitution of 1968:

(1) Section 7 of the Act of April 11, 1929, P. L. 488, No. 205, 3 P. S. § 297, insofar as it relates to venue.

**Official Note:** This section relates to actions to enjoin the unlawful use of the words “certified, inspected or registered seeds.”

(2) Section 121 of the Act of July 17, 1961, P. L. 659, 52 P. S. § 701-121, insofar as it relates to venue.

**Official Note:** This section relates to actions by the Commonwealth to enjoin the illegal operation of mines.

(3) Section 1201 of the Act of November 10, 1965, P. L. 721, No. 346, 52 P. S. § 70-1201, insofar as it relates to venue.

**Official Note:** This section relates to injunctions against the unlawful operation of mines.

#### Source

The provisions of this Rule 1550 amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255271) .

### Subchapter B. PARTITION OF REAL PROPERTY

Rule	
1551.	Form of Action.
1552.	Venue.
1553.	Parties.
1554.	Specific Averments.
1555.	Pleading More Than One Cause of Action.
1556.	Counterclaim.
1557.	Order Directing Partition. Post-Trial Relief.
1558.	Preliminary Conference. Appointment of Master.
1559.	Master. Hearing.
1560.	Property Capable of Division Without Prejudice.
1561.	Property Capable of Proportionate Division. Award.
1562.	Property Not Capable of Proportionate Division. Award.
1563.	Property Not Capable of Division Without Prejudice. Sale. Objections.
1564.	Life Estates.
1565.	Retention of Undivided Interests. Election. Parties Not Appearing.
1566.	Preliminary Determination. Notice to Accept or Reject. Private Sale Confined to Parties.
1567.	Private Sale Confined to Parties. Conduct. Confirmation.
1568.	Public Sale.
1569.	Master's Report. Exceptions.
1570.	Decision and Order.
1571.	Trustees to Satisfy Liens and Charges.
1572.	Sale Not Confined to Parties.
1573.	Return of Sale and Schedule of Distribution.
1574.	Costs and Counsel Fees.

#### Rule 1551. Form of Action.

Except as otherwise provided in this chapter, the procedure in an action for the partition of real estate shall be in accordance with the rules relating to the civil action.

**Source**

The provisions of this Rule 1551 adopted April 26, 1955, effective November 1, 1955; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255272).

**Rule 1552. Venue.**

An action for the partition of real property, including an action in which the Commonwealth is a party, may be brought in and only in a county in which all or any part of any property which is the subject matter of the action is located.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.

**Rule 1553. Parties.**

An action for partition may be brought by any one or more co-tenants. All other co-tenants shall be joined as defendants.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.

**Rule 1554. Specific Averments.**

The complaint shall include

- (a) a description of the property and
- (b) a statement of the nature and extent of the interest of each party in the property.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.

**Rule 1555. Pleading More Than One Cause of Action.**

(a) The plaintiff may state in the complaint causes of action for the partition of all or any part of any properties in which the plaintiff and the defendants are co-tenants, irrespective of their location in the Commonwealth or of the proportion of the plaintiff's interest in the several properties.

(b) If the rights of all the parties are derived from a common source of title, causes of action may be joined even though one or more of the defendants are co-tenants of less than all the properties.

**Source**

The provisions of this Rule 1555 adopted April 26, 1955, effective November 1, 1955; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274. Immediately preceding text appears at serial pages (223286) to (223287).

**Rule 1556. Counterclaim.**

A defendant may counterclaim for the partition of any or all property which the plaintiff might have included in the complaint.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.



**Rule 1557. Order Directing Partition. Post-Trial Relief.**

If the court determines that there shall be partition because of a default or admission or after a hearing or trial, the court shall enter an order directing partition which shall set forth the names of all the co-tenants and the nature and extent of their interests in the property. No exceptions may be filed to an order directing partition.

**Official Note:** Pennsylvania Rule of Appellate Procedure 311(a)(7) provides that an appeal may be taken as of right from an order directing partition.

However, a motion for post-trial relief must be filed following trial to an order which does not direct partition or which disposes of a claim other than a claim for partition.

**Source**

The provisions of this Rule 1557 adopted April 26, 1955, effective November 1, 1955; amended October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629; amended July 28, 1995, effective January 1, 1996, 25 Pa.B. 3337; amended December 5, 1996, effective immediately, 26 Pa.B. 6068. Immediately preceding text appears at serial page (197727).

**Rule 1558. Preliminary Conference. Appointment of Master.**

(a) The court, after the entry of the order directing partition, shall direct the parties or their attorneys to appear for a preliminary conference to consider

- (1) whether the parties can agree upon a plan of partition or sale;
- (2) the simplification of the issues;
- (3) whether any issues or matters relating to the carrying out of the order of partition shall be referred to a master; and
- (4) such other matters as may aid in the disposition of the action.

(b) The court, at any time after the preliminary conference, may appoint a master to hear the entire matter or to conduct any sale, or to act upon only specified issues or matters relating to the carrying out of the order of partition.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.

**Rule 1559. Master. Hearing.**

A master who is appointed by the court shall make such examinations and hold such hearings as may be necessary, giving reasonable notice thereof. The master may employ appraisers and, with the authorization of the court, such other experts as are necessary to enable the master to perform his or her duties.

**Source**

The provisions of this Rule 1559 adopted April 26, 1955, effective November 1, 1955; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274. Immediately preceding text appears at serial page (223288).

**Rule 1560. Property Capable of Division Without Prejudice.**

If division can be made without prejudice to or spoiling the whole, the property shall be divided as follows:

(a) into as many purparts as there are parties entitled thereto, the purparts being proportionate in value to the interests of the parties;

(b) if it cannot be divided as provided in Subdivision (a), then into as many purparts as there are parties entitled thereto, without regard to proportionate value;

(c) if it cannot be divided as provided in Subdivisions (a) or (b), then into such number of purparts as shall be most advantageous and convenient without regard to the number of parties.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.

**Rule 1561. Property Capable of Proportionate Division. Award.**

Property divided under Rule 1560(a) shall be awarded to the parties according to their respective interests.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.

**Rule 1562. Property Not Capable of Proportionate Division. Award.**

Subject to acceptance or refusal and private sale among the parties as hereinafter provided, property not capable of division under Rule 1560(a) but capable of division under Rule 1560(b) or (c), shall be awarded equitably among the parties with appropriate provisions for owelty. Sums payable as owelty shall be secured and paid in such manner and time as the court shall direct.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.

**Rule 1563. Property Not Capable of Division Without Prejudice. Sale. Objections.**

(a) Except as otherwise provided in Subdivision (b), property not capable of division without prejudice to or spoiling the whole shall be offered for private sale confined to the parties.

(b) Parties defendant owning a majority in value of the property may object in writing to any sale, requesting that the property be awarded to them at its valuation fixed by the court and that their interests in the same remain undivided. Upon such request the entire property shall be awarded to the parties objecting to sale, as tenants in common, subject to payment to the parties desiring partition and sale of the amounts of their respective interests based upon the valuation. The amounts due the parties shall be charged as liens upon the property, to be paid in such manner and time as the court shall direct.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.

**Rule 1564. Life Estates.**

Property subject to a life estate may be partitioned upon the entry of security as the court may direct conditioned upon the payment of annual rental value, interest or income of such property to the life tenant. If a life tenant is entitled to exclusive possession of any part of the premises subject to partition, the court may deny partition of that part or may direct partition subject to such exclusive right of possession.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.

**Rule 1565. Retention of Undivided Interests. Election. Parties Not Appearing.**

(a) The court shall permit the shares of any two or more co-tenants to remain undivided between them if they so elect by writing filed within such time as the court or master shall direct.

(b) The court may permit the shares of any two or more co-tenants who do not appear in the action to remain undivided between them.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.

**Rule 1566. Preliminary Determination. Notice to Accept or Reject. Private Sale Confined to the Parties.**

(a) Preliminary notice of the proposed partition and allotment of purparts under Rule 1560(b) or (c) or the inability to partition the property as provided under Rule 1563 shall be given to the parties in such manner as the court by local rule or special order shall direct.

(b)(1) The notice in the case of proposed partition under Rule 1560(b) or (c) shall require the parties within twenty days after service thereof to accept or reject the proposed plan of allocation. The notice in the case of inability to partition shall state that the property will be sold unless objection is made as provided in Rule 1563(b).

(2) The notice shall include a description of the property and the proposed partition, the valuation of the property as a whole and of the purparts, if any, into which it is proposed to be divided, the mortgages, liens, encumbrances or charges which affect the whole or any part of the property and the amounts due thereon. A plan or map of the proposed division of the property may be attached to the notice.

(3) In lieu of the detailed information set forth in Subdivision (2), the notice may specify a place within the county where the proposed plan and information may be examined.

(c) If any party rejects the proposed allotment of the purparts or if no objection is made to a sale under Rule 1563, the property shall be offered for private sale by open bidding confined to the parties to be held upon not less than twenty days' notice.

**Source**

The provisions of this Rule 1566 adopted April 26, 1955, effective November 1, 1955; amended November 14, 1978, effective December 2, 1978, 8 Pa.B. 3410; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274. Immediately preceding text appears at serial pages (223289) to (223290).

**Rule 1567. Private Sale Confined to Parties. Conduct. Confirmation.**

In any private sale confined to the parties, the property, if divided into purparts, shall be offered for sale both in purparts and as a whole to determine which will bring the greater price. No sale of the whole shall be confirmed unless the amount bid equals or exceeds the valuation of the whole fixed by the court. No sale of any purpart shall be confirmed unless the amount bid for such purpart equals or exceeds its valuation as fixed by the court. The award and allocation to the successful bidder shall be made subject to the payment of owelty where required.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.

**Rule 1568. Public Sale.**

If a private sale of the property or of any purpart is not confirmed under Rule 1567, the property or purpart shall be sold at public sale or at private sale not confined to the parties, as the court may direct.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.

**Rule 1569. Master's Report. Exceptions.**

(a) A master who is appointed by the court shall file a report with respect to the matters submitted. The report shall follow the form of decision in Rule 1570, insofar as the scope of the reference to the master permits.

(b) The master shall give all persons in interest written notice of the date on which he or she intends to file the report and proposed order and shall specify an address within the county where they may be examined. The master may change the report and proposed order as he or she deems proper before filing them, but if any changes are made written notice thereof shall be given to all parties.

(c) Within ten days after notice of the filing of the report exceptions may be filed by any party to rulings on evidence, to findings of fact, to conclusions of law and to the proposed order. The court may, with or without taking testimony, remand the report or enter a decision in accordance with Rule 1570 which may incorporate by reference the findings and conclusions of the master in whole or in part.

**Source**

The provisions of this adopted Rule 1569 April 26, 1955, effective November 1, 1955; amended October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255277).

**Rule 1570. Decision and Order.**

- (a) The decision shall include findings of fact as follows:
- (1) whether the property is capable of division, without prejudice to or spoiling the whole, into purparts proportionate in value to the interests of the co-tenants;
  - (2) the number of purparts into which the property can be most advantageously divided, if partition proportionate in value to the interests of the parties cannot be made;
  - (3) the value of the entire property and of the purparts;
  - (4) the mortgages, liens and other encumbrances or charges which affect the whole or any part of the property and the amount due thereon;
  - (5) the credit which should be allowed or the charge which should be made, in favor of or against any party because of use and occupancy of the property, taxes, rents or other amounts paid, services rendered, liabilities incurred or benefits derived in connection therewith or therefrom;
  - (6) whether the interests of persons who have not appeared in the action, or of defendants who have elected to retain their shares together shall remain undivided;
  - (7) whether the parties have accepted or rejected the allocation of the purparts or bid therefore at private sale confined to the parties; and
  - (8) whether a sale of the property or any purpart not confined to the parties is required and if so, whether a private or public sale will in its opinion yield the better price.
- (b) The order shall include:
- (1) an appropriate award of the property or purparts to the parties subject to owelty where required;
  - (2) if owelty is required, the amount of the awards and charges which shall be necessary to preserve the respective interests of the parties, the purparts for or against which the same shall be charged, the time of payment and the manner of securing the payments;
  - (3) the protection required for life tenants, unborn and unascertained remaindermen, persons whose whereabouts are unknown or other persons in interest with respect to the receipt of any interest; and
  - (4) a public or private sale of the property or part thereof where required.

**Source**

The provisions of this Rule 1570 adopted April 26, 1955, effective November 1, 1955; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9 . Immediately preceding text appears at serial pages ( 255277) to (255278).

**Rule 1571. Trustees to Satisfy Liens and Charges.**

(a) The court, upon motion of any party or person in interest, or upon recommendation of the master, may appoint a trustee to receive payment of

- (1) any sum due any party or person in whose favor a lien exists and who is unknown or cannot be found;
- (2) a principal sum necessary to secure the payment of any amount charged upon property to be partitioned;
- (3) the purchase price of any property sold in partition which is subject to a life estate and remainder.

(b) The trustee shall, upon entry of such security as the court shall direct and upon payment of the sums decreed, be authorized to satisfy of record any lien, whereupon the property shall be freed and discharged from such lien.

**Official Note:** adopted April 26, 1955, effective November 1, 1955.

**Rule 1572. Sale Not Confined to Parties.**

(a) A sale not confined to the parties shall be conducted in such manner and upon such terms as the court shall direct by local rule or in the order of sale. It shall be subject to the power of the court to order a resale because of inadequacy of price.

(b) A public sale shall be held at such time and place as the court may direct. It shall be advertised in each county where any part of the property lies.

(c) A purchaser who is a party or a lien holder whose lien is discharged by the sale shall be allowed a credit equal to the amount of his or her distributive interest in the purchase price, less any charges assessed against him or her. The excess of the bid shall be paid in cash.

(d) If the court directs a master to conduct the sale, the master before accepting payment for the property shall file a bond in double the amount of the payment or in such lesser amount as shall be fixed by the court.

**Source**

The provisions of this Rule 1572 adopted April 26, 1955, effective November 1, 1955; amended November 14, 1978, 8 Pa.B. 3410; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274. Immediately preceding text appears at serial page (223292).

**Rule 1573. Return of Sale and Schedule of Distribution.**

(a) Where the sale has been conducted by a master, the master shall promptly file with the prothonotary a return of sale together with a proposed order which shall

- (1) confirm the sale;
- (2) authorize the master to execute and deliver to the purchaser all necessary deeds and other instruments of title;
- (3) contain appropriate provisions for the protection of life tenants, unborn and unascertained remaindermen, persons whose whereabouts are unknown, or other persons in interest and for the release or discharge of such interests;
- (4) direct distribution of the proceeds to the persons or parties entitled; and
- (5) provide for the payment of costs.

(b) The master shall give all persons in interest written notice of the date on which he or she intends to file the return of sale and proposed order and shall specify an address within the county where they may be examined. The master may change the return of sale and proposed order as he or she deems proper before filing them, but if any changes are made written notice thereof shall be given to all parties.

(c) If the court approves the return of sale in whole or in part, the court shall enter an appropriate order. Any part of the order as to which a motion for post-trial relief is not filed within ten days shall become final.

#### Source

The provisions of this Rule 1573 adopted April 26, 1955, effective November 1, 1955; amended October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial pages (255279) to (255280).

#### Rule 1574. Costs and Counsel Fees.

Costs shall be paid by the parties in proportion to their interests in the property. The compensation of appraisers, the master's fee and compensation of experts authorized by the court shall be taxed as part of the costs. Reasonable counsel fees may be charged against the property or fund resulting therefrom, and apportioned among the parties and their counsel in such amount and manner as the court shall deem equitable.

**Official Note:** adopted April 26, 1955, effective November 1, 1955; amended September 1, 1958, effective forthwith.

### Subchapter C. ACTIONS TO PREVENT WASTE

#### Rule 1576. [Rescinded].

**Official Note:** A claim to prevent waste may be brought as a civil action for equitable relief.

**Source**

The provisions of this Rule 1576 adopted March 30, 1960, effective November 1, 1960; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial pages (255280) to (255281).

**Rule 1577. [Rescinded].**

**Official Note:** An original action to restrain waste should be brought as a civil action seeking equitable relief.

**Source**

The provisions of this Rule 1577 adopted March 30, 1960, effective November 1, 1960; rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255281).

**Subchapter D. ACTS OF ASSEMBLY NOT SUSPENDED**

**Rule 1580. [Rescinded].**

**Official Note:** The provision of this rule has been transferred to Rule 1549(1).

**Source**

The provisions of this Rule 1580 rescinded December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255281).

**Subchapter E. ACTS OF ASSEMBLY SUSPENDED**

Rule  
1581. [Rescinded].

**Rule 1581. [Rescinded].**

**Official Note:** Former Rule 1581 suspended statutory provisions which were subsequently repealed.

**Source**

The provisions of this Rule 1581 rescinded June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010. Immediately preceding text appears at serial pages (146691) to (146693).

**Subchapter F. ACTS OF ASSEMBLY NOT SUSPENDED**

Rule  
1590. Partition of Real Property. Acts of Assembly Not Suspended.

**Rule 1590. Partition of Real Property. Acts of Assembly Not Suspended.**

The rules governing partition of real property shall not be deemed to suspend or affect

- (1) Section 1 of the Act approved June 24, 1895, P. L. 237, 68 P. S. § 101.



**Official Note:** This section provides that tenants in possession must deduct from their distributive share in partition that portion of the rental value to which co-tenants not in possession are entitled.

(2) Sections 5 and 6 of the Act approved April 22, 1943, P. L. 68, 16 P. S. §§ 9905, 9906.

**Official Note:** These sections relate to registration of partition titles with Registry Survey Bureaus of counties having such bureaus.

**Source**

The provisions of this Rule 1590 amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010. Immediately preceding text appears at serial pages (146694) to (146695).

**Subchapter G. ACTS OF ASSEMBLY SUSPENDED**

Rule  
1591. [Rescinded].

**Rule 1591. [Rescinded].**

**Source**

The provisions of this Rule 1591 amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010. Immediately preceding text appears at serial pages (146695) to (146700).

[Next page is 1600-1.]

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