

**THE NEW FEDERAL EQUITY RULES:  
PROMULGATED BY THE UNITED STATES  
SUPREME COURT AT THE  
OCTOBER TERM, 1912: TOGETHER WITH  
THE COGNATE STATUTORY PROVISIONS  
AND FORMER EQUITY RULES**

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The New Federal Equity Rules: Promulgated by the United States Supreme Court at the October Term, 1912: Together with the Cognate Statutory Provisions and Former Equity Rules by James Love Hopkins

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*U. S. Supreme Court*

THE NEW  
FEDERAL EQUITY  
RULES

PROMULGATED BY THE UNITED STATES SUPREME  
COURT AT THE OCTOBER TERM, 1912

TOGETHER WITH THE COGNATE STATUTORY  
PROVISIONS AND FORMER EQUITY RULES

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WITH AN INTRODUCTION, ANNOTATIONS  
AND FORMS

BY

JAMES LOVE HOPKINS

OF THE BAR OF THE UNITED STATES SUPREME COURT

AUTHOR OF "HOPKINS ON PATENTS," "HOPKINS ON UNFAIR  
TRADE," "HOPKINS ON TRADE-MARKS," AND ANNO-  
TATOR OF "HOPKINS' JUDICIAL CODE."

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BY PERMISSION TO  
HONORABLE HORACE H. LURTON  
ASSOCIATE JUSTICE OF THE SUPREME COURT  
OF THE UNITED STATES





## PREFATORY NOTE

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It is the purpose of this little book to conveniently present those rules for the conduct of proceedings in equity in the national courts which the United States Supreme Court has, under the direction of statute, promulgated from time to time. No amount of revision can make altogether obsolete the opinions interpreting any particular ancient rule which the revision has fallen short of abrogating altogether.

In undertaking the revision which has lately been completed, the bench for the first time in its history invoked the aid of the bar (of the nine Circuit Courts of Appeals), and the committee of the Supreme Court, composed of the Chief Justice, Mr. Justice Lurton and Mr. Justice Van Devanter, received and considered the recommendations of the committees from the various circuits, whose personnel is given in the succeeding pages. The high attainments of the gentlemen of the bar who have thus contributed to the revision, no less than the imprimatur of the Supreme Court, gives to the new rules an unusual interest to the student of equity jurisprudence; to the practitioner they are, like all revised rules, an added incident of his day's work, and their use and understanding a matter of immediate necessity.

The deliberation of this revision, the unusual number of lawyers responsible for it, and the representative character of those lawyers, leads to the reasonable hope that further revision will not be necessary or sought for in the near future.

What light the best-considered opinions on the old rules may throw upon the new, this book attempts to present compactly. Here and there are interpolated the Orders of the English High Court of Chancery on which particular rules are rooted, or which

have been taken over in their entirety; a matter of direction to the practitioner, who may pursue the study in the older English texts, and, it is hoped, a stimulus to the student, impelling him to keener interest in the history of equity practice.

The thanks of the annotator are due, and gratefully extended to Mr. Justice Lurton, through whose courtesy there is herein reproduced the invaluable letter of Lord Chancellor Loreburn upon the modern chancery practice in England; also to Mr. James D. Maher, of the clerk's office of the Supreme Court, for his many valuable suggestions, which have included the correction of errors existing in the first official printing of New Rules 26, 30, 32, 34 and 45.

JAMES LOVE HOPKINS.

Chemical Building, St. Louis.

December 1, 1912.

**SUPREME COURT OF THE UNITED STATES**  
OCTOBER TERM, 1912

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**ORDER.**

It is now here ordered by the court that the rules of practice for the courts of equity of the United States, this day adopted and established by the court, be, and the same are hereby, promulgated as such, to be in force on and after February 1, 1913.

The Chief Justice said:

“The court, in announcing the adoption of the new rules, expresses its appreciation of the interest in the subject manifested generally by the judges of the courts of the United States, and especially by the judges of the circuit courts of appeals, in appointing bar committees from their respective circuits to consider and make recommendations upon the subject. The result of the intelligent and careful labors of such committees, embodied in the reports which they made, as well as the interest shown by the entire bar, and the many individual suggestions which came to the court, greatly facilitated the performance of the duty of framing the new rules.

“The court also desires to record its appreciation of the courtesy shown by the Lord Chancellor of England in replying in writing to certain questions concerning the practical operation of English chancery rules submitted to him by Mr. Justice Lurton while he was in England for the purpose of observing such operation.”<sup>1</sup>

November 4, 1912.

<sup>1</sup> See *post*, p. 27.