

where the prosecution shall be carried on shall be chargeable with and pay the imprisonment fees of such witness; and the county commissioners or the mayor and city council of Baltimore shall levy the same, from time to time, as the case may require.

Where a witness for the state is detained in jail, his inability to give security for his appearance being due to no fault of his, he should be compensated as prescribed in section 11; *contra*, if such inability is due to the witness' fault or default. *Hall v. Somerset County*, 82 Md. 620.

1904, art. 35, sec. 15. 1888, art. 35, sec. 14. 1860, art. 37, sec. 14.
1809, ch. 188, sec. 24.

15. If any person shall be presented or indicted for a misdemeanor, or any offense of an inferior nature, and shall on trial thereof be acquitted, or shall plead guilty and submit his case to the court, the court may, at its discretion, order that no compensation for any attendance of the prosecutor be allowed.

Commissions to take Testimony out of this State.

Ibid. sec. 16. 1888, art. 35, sec. 15. 1860, art. 37, sec. 15. 1773, ch. 7,
sec. 7. 1843, ch. 348. 1884, ch. 82.

16. The several courts of law and any of the judges thereof in recess, upon written application to be filed in the cause made to them by a party to or interested in a suit, action or other proceeding therein depending, either original or on appeal from a justice of the peace, and the orphans' court of this State, in any proceeding pending before them, and on being satisfied, by affidavit or otherwise that there are material and competent witnesses in such cause residing or living out of this State, or who, for any reason cannot be brought before them, may direct the respective clerks of such court, or the register of wills, as the case may be, to issue a commission for taking the depositions of such witnesses; and such commission shall issue, and the commissioners shall be appointed and qualified, interrogatories be proposed or exhibited, the commissions be executed and returned; and the depositions taken in pursuance thereof shall be published in the same manner and form as heretofore has been the practice in the case of a commission from a court of equity for the examination of witnesses residing and living out of this State; and the depositions which shall be duly taken in virtue of any such commission, or copies thereof duly attested, shall be admitted as evidence at the trial of the cause or the proceeding for which the same may have been taken.

Issue of commission; notice; waiver.

There are two modes of giving notice of the execution of a foreign commission: first, actual notice given directly by the commissioner; second, constructive notice by filing interrogatories in the clerk's office before the commission goes out. Time of filing interrogatories. *Hatton v. McClish*, 6 Md. 407. And for other cases involving the sufficiency of notice of the taking of depositions, and the time of filing interrogatories, see *Parker v. Sedwick*, 5 Md. 281; *Young v. Mackall*, 4 Md. 362; *Stockton v. Frey*, 4 Gill, 424; *Parker v. Sedwick*, 4 Gill, 318; *Calvert v. Cox*, 1 Gill, 95; *Law v. Scott*, 5 H. & J. 438; *Snively v. McPherson*, 5 H. & J. 150; *Boreing v. Singery*, 2 H. & J. 455;