

shall declare into writing, in the presence of all the parties concerned that shall be there present and return the same to the said court to be recorded in perpetual memory.

A commissioner to bound lands cannot declare in evidence anything which was taken down in writing as the deposition of a witness sworn before him, since the deposition itself would be better evidence. Return of a commission to bound lands may be read in evidence for what it is worth, although five years have not elapsed since the recording thereof. *Lowes v. Holbrook*, 1 H. & J. 153.

As to bounding lands, see art. 15.

An. Code, sec. 33. 1904, sec. 33. 1888, sec. 31. 1723, ch. 8, sec. 4.

**33.** The said commissioners, before their meeting on such land, where all the parties concerned live in the county, or where they are not known, shall cause public notice of such meeting and the object thereof to be set up in the most public places in the county at least twenty days before such meeting; and where all the persons interested are known and any one of them lives out of the county, they shall cause such notice to be given by advertisement in some newspaper forty days before such meeting and shall return a certificate of having given such notice with the examination of the witnesses.

The return of a commission to bound lands must show that sufficient notice was given by commissioners to parties interested. *Lowes v. Holbrook*, 1 H. & J. 153. And see *Gittings v. Hall*, 1 H. & J. 23; *Johnson v. Kramer*, 2 H. & McH. 243.

As to admissibility in evidence of commissions to bound lands, defectively executed, see *Ringgold v. Galloway*, 3 H. & J. 451; *Gibson v. Smith*, 1 H. & J. 258; *Weems v. Disney*, 4 H. & McH. 156.

An. Code, sec. 34. 1904, sec. 34. 1888, sec. 32. 1723, ch. 8, sec. 3.

**34.** All examinations of witnesses taken by the said commissioners shall be as good and available as if taken according to the rules and practice of the courts of equity, notwithstanding any defect or want of form or of filing or exhibiting a bill.

An. Code, sec. 35. 1904, sec. 35. 1888, sec. 33. 1723, ch. 8, sec. 6.

**35.** The said commissioners shall receive four dollars a day for their services in taking such depositions and the witnesses attending upon their summons the sum of one dollar per day for each day they shall attend.

### **Commissions to take Evidence from Other States.**

An. Code, sec. 36. 1904, sec. 36. 1888, sec. 34. 1841, ch. 107, sec. 1. 1862, ch. 147. 1906, ch. 239.

**36.** A party to any civil action, suit or special proceeding, pending in a court without this State, either in any State, district or territory of the United States or in a foreign country, may obtain in the following manner, the testimony of a witness or witnesses, and in connection therewith, the production of books and papers within this State, to be used in such action, suit or special proceeding.

Whenever any commission, or process in the nature of a commission, to take the testimony of a witness or witnesses named therein within this State shall be issued by any court without the State, either in any State, district