

and the same, when recorded, shall be as good evidence in law or equity as if taken under a commission to perpetuate testimony issued from a court of equity.

As between the parties, the judgment of the commissioners is conclusive unless reversed upon appeal; as between other persons, the proceedings are admissible in evidence on the same ground that hearsay is admissible to prove the boundary of land. The depositions of a witness before a land commission cannot be offered in evidence unless the witness be dead. *Davis v. Batty*, 1 H. & J. 264.

Where the commission cannot agree, their return is not evidence, in an action of trespass *q. c. f.* *Green v. McClellan*, 4 H. & J. 200.

The return of a jury under the act of 1699, ch. 18, for fixing the bounds of land, held not to be evidence in an action of ejectment, because the land was not located on the plat agreeably to the return, and the return not made in accordance with the act. *Ruff v. Webster*, 4 H. & McH. 499.

An. Code, sec. 14. 1904, sec. 14. 1888, sec. 14. 1786, ch. 33, sec. 4.

14. The commissioners, or any two or more of them, may adjourn from time to time, and they, or a majority of them, or a major part of a majority met, concurring in opinion, shall cause the lands mentioned in the commission to be marked in the lines where convenient, and shall mark, or set up boundaries, at the termination of the lines, when course and distance only are given, according to their adjudication and adjustment of the location thereof, and shall return a plat and certificate of such marked lines and boundaries to the court under their hands, which return shall be received and recorded in the record of land commissions and returns of such court, unless the court shall otherwise order because of the misconduct of the commissioners.

An. Code, sec. 15. 1904, sec. 15. 1888, sec. 15. 1786, ch. 33, sec. 5.

15. If no suit or action shall be brought within five years next after recording the return of the commissioners, to call in question their adjudication, the marking and bounding such land as aforesaid, and the record thereof shall be conclusive evidence of the original location thereof both as to the direction and termination of the lines; or if the adjudication of the commissioners shall be confirmed by the verdict of a jury in any such suit, the adjudication of the commissioners in the point confirmed by the jury, and between the same parties and those claiming under them, shall conclude to every intent and purpose; provided, that every infant, married woman, insane person, or person in prison and beyond sea, and those claiming under either of them, shall have five years after the disability removed to commence such suit or action.

Although five years have not elapsed since the recording of the return of a commission, it may be offered in evidence, but it is not conclusive. *Lowes v. Holbrook*, 1 H. & J. 153.

An. Code, sec. 16. 1904, sec. 16. 1888, sec. 16. 1786, ch. 33, sec. 6.

16. If the parties interested have fairly agreed to settle the lines of any land, and have fixed boundaries at the termination of such lines to mark and ascertain as well the direction as the extent of the lines, or if such lines have been settled and ascertained by arbitration, no commissioners shall have authority between the same parties or those claiming under them, or either of them, to vary from the lines so settled, agreed or ascertained.