

of said examiners while in the discharge of their duties shall be reported by the examiners, together with the facts of the case, to the court; and upon hearing, the court, if satisfied of the facts as reported, and that the party was guilty of the matter charged, shall punish the party so offending. Such examiners shall be entitled to receive four dollars per day, for each and every day actually employed; to be paid by the party at whose instance the service may have been rendered. And it shall be the duty of such examiners, in making their returns to the court, in each case, to certify the time that they have been actually employed, and at whose instance, and the amount taxable to each party for services rendered.

As to testimony in injunction cases, see sec. 86.

As to commissions to take testimony outside of Maryland, see art. 35, secs. 16, 17 and 18, and notes.

As to commissions at law to take testimony in this state, see art. 35, sec. 19, *et seq.*

An. Code, sec. 253. 1904, sec. 235. 1888, sec. 217. Rule 35.

**270.** Whenever any cause is at issue involving matter of fact, or whenever any evidence is required to be taken, to be used in any proceeding in equity, it shall be competent to the party desiring to take evidence to notify one of the regular examiners, or any special examiner that may be appointed, of such desire, and to furnish him with the titling of the cause and the names of witnesses to be summoned to testify; and the examiners so applied to shall fix some reasonable day or days for the examination of witnesses, and the taking of evidence, of which he shall give due notice to the parties concerned, or those entitled to receive such notice, as if he were proceeding under a commission to take testimony, under former practice, provided that for the taking of testimony in divorce cases leave shall first be obtained from the court or a Judge thereof. He shall issue subpoenas for witnesses for either party, except where he is required to proceed *ex parte*; and he shall cause to come before him all witnesses subpoenaed, at the time appointed, to be examined; and their attendance and duty to testify may be enforced by attachment, to be issued and returned as provided in section 287.<sup>1</sup>

An. Code, sec. 254. 1904, sec. 236. 1888, sec. 218. Rule 36.

**271.** All examinations of witnesses before the examiners shall be conducted in the presence of the parties, or their solicitors, if they think proper to be present; and the mode of examination shall be either by written interrogatories filed with the examiner, to be by him propounded to the witnesses, and the answers thereto written down by him, as has heretofore been the practice of commissioners in taking testimony; or the witnesses may be examined by the parties, or their solicitors, *viva voce*, and in such case, the answers of the witnesses shall be reduced to writing by the examiner, and the questions also, if necessary to the understanding of the answers of the witness, or if it be required by either party. By agreement of the parties or by order of Court, in its discretion, the testimony may be taken in

<sup>1</sup> Thus amended by equity rules 35 and 36, November 21, 1919, adopted by the court of appeals in accordance with sec. 18 of art. 4 of the Constitution.