

An. Code, sec. 262. 1904, sec. 244. 1888, sec. 226. Rule 42.

**281.** Upon any petition, motion, or other interlocutory application, for the hearing and determination of which evidence may be required, the court or judge thereof may order testimony to be taken before an examiner, or before a justice of the peace, upon such notice, and in such manner as the court or judge may think proper to direct, to be used at the hearing of such matter.

An. Code, sec. 263. 1904, sec. 245. 1888, sec. 227. 1826, ch. 222, sec. 1.

**282.** All commissions which shall be issued to take testimony in causes pending in any court of equity of this State shall be issued and directed to two persons to be named and appointed by the said court, or the judge thereof.

See notes to sec. 283.

As to the issue of commissions by the clerks of the courts having jurisdiction, see art. 17, sec. 37.

An. Code, sec. 264. 1904, sec. 246. 1888, sec. 228. 1795, ch. 88, sec. 4. 1799, ch. 79, sec. 6. 1829, ch. 159. 1840, ch. 109, sec. 5. 1852, ch. 173, sec. 2.

**283.** A commission to take testimony may issue to one person with consent of the parties.

If a defendant receives notice of name of plaintiff's commissioner, his neglect to name another commissioner is a waiver of his right to have two commissioners. *Billingslea v. Smith*, 77 Md. 516; *Sewell v. Gardner*, 48 Md. 183.

Commissioners regularly appointed under this and the preceding section, are for this purpose as much ministerial officers of court as if they had been nominated in a commission in ancient form. *Winder v. Diffenderfer*, 2 Bl. 196.

Held that 27th rule of court of common pleas of Baltimore city could not be construed to contravene secs. 282, 283 and 284. *Sewell v. Gardner*, 48 Md. 182.

An. Code, sec. 265. 1904, sec. 247. 1888, sec. 229. 1841, ch. 22, sec. 6. 1842, ch. 229, sec. 6. 1878, ch. 202.

**284.** Where a commission to take testimony in chancery shall issue to two commissioners, only one shall act on the same day, unless both are called upon under a requisition of the parties; and the commissioner shall also be required to act as clerk, without extra compensation, unless a clerk is asked for by one of the parties contestant.

The execution of the commission by one of the commissioners, upheld under this section. *Purner v. Piercy*, 40 Md. 219.

See notes to sec. 283.

An. Code, sec. 266. 1904, sec. 248. 1888, sec. 230. 1785, ch. 72, sec. 15. 1795, ch. 88, sec. 4. 1818, ch. 193, sec. 3.

**285.** With a view to the speedy execution and return of commissions to take testimony, the court, or any judge thereof, shall prescribe such rules as the nature of the case may require; each commissioner to take testimony shall be allowed four dollars *per diem* for every day he shall actually serve in the execution of such commission, to be paid by the parties, according to the time that such commissioner serves in taking the testimony of such parties respectively, and to be taxed as part of the costs of the suit; and the clerk to any commissioner to take testimony shall be allowed two