

used, or to his agent, attorney or guardian if such party be a minor if within this State, and the court in which the same is offered in evidence shall be satisfied that such notice has been given before such deposition is permitted to be offered in evidence.

Act of 1779, ch. 8, held to relate only to witnesses who were residents of the state at time when their depositions were taken, but who afterwards left state or died before trial. *Shane v. Clarke*, 3 H. & McH. 100.

As to notice of the taking of depositions, see notes to secs. 24 and 26.

An. Code, 1924, sec. 25. 1912, sec. 25. 1904, sec. 25. 1888, sec. 23. 1832, ch. 111, sec. 1.

**30.** If any minor be interested in any depositions to be taken under the preceding section and has no guardian the court by whom the commissioners were appointed before whom it is proposed to take such depositions, or the judge thereof, upon application of the plaintiff, his agent, attorney or guardian shall appoint a guardian for the purpose.

See Art. 72A.

An. Code, 1924, sec. 26. 1912, sec. 26. 1904, sec. 26. 1888, sec. 24. 1828, ch. 165, sec. 3.

**31.** If any party against whom such depositions are intended to be used shall be absent from this State and have no agent, attorney or guardian in this State (of which the commissioner may require satisfactory proof), the party desiring to take such depositions shall give such notice by advertisement or otherwise as the commissioner shall direct.

An. Code, 1924, sec. 27. 1912, sec. 27. 1904, sec. 27. 1888, sec. 25. 1828, ch. 165, sec. 3.

**32.** Every deposition taken under the three preceding sections as aforesaid shall be written by the commissioner and signed by the deponent, and the taking thereof certified by the commissioner before whom it shall be so taken, and by him lodged with the clerk of the court by which he was appointed, who shall record the same on receiving therefor compensation at the same rate allowed for recording deeds; and all such depositions, or a transcript thereof under seal, whether taken before or after any suit commenced, may be read in evidence on any arbitration or trial at law or in equity, if such deponent or deponents die before such arbitration or trial, or be out of this State, or cannot be had to attend, of which satisfactory proof shall be made to the court, and shall be subject to the same exceptions and objections as the testimony of the same witness would be if examined in open court.

See notes to sec. 29.

An. Code, 1924, sec. 28. 1912, sec. 28. 1904, sec. 28. 1888, sec. 26. 1828, ch. 165, sec. 4.

**33.** The several courts of law in this State shall from time to time prescribe what fees shall be allowed to the commissioners for the services authorized herein, which shall be paid by the party requiring the performance of the service and taxed as other costs in the action.

An. Code, 1924, sec. 29. 1912, sec. 29. 1904, sec. 29. 1888, sec. 27. 1779, ch. 8, sec. 6.

**34.** If any witness whose deposition is required is sick and likely to die, or is about to leave the State, the commissioner, upon proof of the fact, may take such deposition upon such notice as he may prescribe to be given to the opposite party, his agent, attorney or guardian; and such deposition shall be available as if taken on ten days' notice; and the commissioner shall return with his proceeding the proof which induced him to shorten the notice.