

fering or neighboring elder surveys, he shall be entitled to a commission to mark and bound any such elder survey, if the person, or some one of the persons, applying for the commission, shall have given notice in writing to the person seized of such elder tract, of his or their intention of applying for such commission, nine months before the petition therefor, and the person seized of such elder tract shall have neglected to apply and obtain a commission.

An. Code, 1924, sec. 5. 1912, sec. 5. 1904, sec. 5. 1888, sec. 5. 1786, ch. 33, sec. 2.

5. Any person entitled to lands, as mentioned in the preceding sections, and intending to apply for a commission to mark and bound the same, shall give notice two months before the meeting of the court at which he intends to make his application, by advertisement set up at the court-house door of the county, and at two other public places in the district where such lands lie, of his intention to apply to the court for a commission to mark and bound his land, named or otherwise described in such advertisement; and shall also give notice in writing to the persons holding the adjoining lands, if residing thereon, or if absent, by leaving such notice at the houses of such persons, thirty days before the meeting of the court as aforesaid; and if no person lives on the adjoining land, he shall give such notice by advertisement for four successive weeks in some newspaper printed in the city of Baltimore, and also give personal notice to the owner of the adjoining land, or his agent or attorney, if known and in the State, thirty days before the meeting of the court as aforesaid.

It must appear upon the face of the return that sufficient notice was given by the commissioners. *Lowes v. Holbrook*, 1 H. & J. 153.

Where depositions taken under this article are duly sworn to and the plaintiff's ancestor was present, they are admissible in evidence in an ejectment suit, as declarations or hearsay of persons not living, though the proper notice under this section was not given; but an agreement set out in the return fixing the location of certain land, is not evidence. *Weems v. Disney*, 4 H. & McH. 156.

An. Code, 1924, sec. 6. 1912, sec. 6. 1904, sec. 6. 1888, sec. 6. 1786, ch. 33, sec. 2.

6. Upon proof being made to the satisfaction of the court, that such advertisements were duly set up and notice given as aforesaid, or upon the persons interested appearing, the court may issue a commission to any five or three persons, agreed on by all parties, empowering them, or a majority of them, to mark and bound the land mentioned in such commission; but if the persons interested, or any of them, shall not agree on the persons for commissioners, the court shall appoint three or five persons, skilled in land affairs, not interested in the lands nor related to either of the parties, to whom a commission shall issue as aforesaid.

An. Code, 1924, sec. 7. 1912, sec. 7. 1904, sec. 7. 1888, sec. 7. 1786, ch. 33, sec. 3.

7. The said commissioners, or a majority of them shall give notice of the time and purpose of their meeting, by advertisements to be set up at the door of the court house of their county, and such other public places as they may judge most effectual, thirty days at least before such meeting.

An. Code, 1924, sec. 8. 1912, sec. 8. 1904, sec. 8. 1888, sec. 8. 1786, ch. 33, sec. 3.

8. Each commissioner shall, before he proceeds in the execution of the commission, otherwise than by giving such notice and issuing summonses for witnesses as herein provided, take an oath before a justice of the peace, or some other of the commissioners, that he will settle and adjust the loca-