

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.

29. If any person against whom the depositions herein authorized to be taken are to be used in evidence, shall attend the taking of the same, either in person or by agent, attorney or guardian, then such depositions shall be admitted in evidence without proof of notice to the party to attend the taking thereof.

Id s 27
1828, c 165, s 3
If party or
agent attends,
proof of notice
unnecessary.

30. Any commissioner appointed by a court having common-law and equity jurisdiction, whether such commissioner be appointed to take depositions in chancery or depositions to be used at law, may take depositions under this article; but no commissioner shall take depositions out of the county or city for which he was appointed, except by consent of the parties in writing, to be returned with the commission.

Id s 28
1826, c 222,
1828, c 165, s 1,
1829, c 159
Commissioners
at law or in
equity may take
depositions
19 Md 549,
28 Md 436

Not to be taken
out of county
without written
consent of
parties.

COMMISSIONS TO TAKE TESTIMONY OUT OF THIS STATE.

31. The several courts of law of this State, upon application made to them in court by a party to a suit or action therein depending, either original or an appeal from a justice of the peace, and upon being satisfied by affidavit or otherwise that there are material and competent witnesses in such cause residing or living out of this State, may direct the clerk of such court to issue a commission for taking the deposition of such witnesses, and such commission shall issue and the commissioners shall be appointed and qualified, interrogatories be proposed or exhibited, the commission be executed and returned, and the depositions taken in pursuance thereof shall be published, in the same manner and form as in a case of a commission from a court of equity for the examination of witnesses residing and living out of this State, and the depositions which shall be duly taken in virtue of this commission, or copies thereof duly attested, shall be admitted as evidence at the trial of the cause.

Art 37, s 15
1773, c 7, s 7,
1843, c 348
Commissions to
take testimony
out of the State,
how issued by
courts of law
17 Md 75, 159,
33 Md 146, 40
Md 212, 45 Md.
290
5 Gill. 207

COMMISSIONS TO TAKE EVIDENCE FROM OTHER STATES.

32. Whenever any commission or process in the nature of a commission to take testimony, shall be issued by any court of any of the United States, or by any court of any district or territory of the United States, directed to any person either by name or otherwise in this State, and any witness who shall have been duly notified so to do, shall fail to attend at the execution of said commission, or refuse to answer such question as may be propounded to him under such commission, it shall be the duty of the commissioner therein named, at the request of either party to the suit in which it is proposed to use such testimony, or his attorney, to certify such failure to attend, or refusal to testify, to the judge of the Circuit Court of the city or county where said commission is to be executed, and the said judge, on receiving the said certificate, shall forthwith issue

1862, c 147
Commissions
from other
States.

How attend-
ance of wit-
nesses com-
pelled, under
commissions
from abroad