

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.

P. G. L., (1860,) art 37, sec. 25. 1828, ch 165, sec. 4.

26. 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.

Ibid sec 26. 1779, ch 8, sec. 6.

27. 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.

Ibid. sec. 27. 1828, ch. 165, sec. 3.

28. 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.

Collins v. Elliott, 1 H. & J. 1. Williams v. Banks, 5 Md. 198. Waters v. Waters, 35 Md. 531.

Ibid. sec 28. 1826, ch. 222. 1828, ch. 165, sec. 1. 1829, ch. 159.

29. 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