

to such rule as shall be made by the said courts, respectively, may take the deposition of any witness before any of the said commissioners, to be used as testimony on the trial of such action, in case only of the death of such witness, or on proof to the satisfaction of the court of the inability of the party to procure the attendance of such witness at the time of trial and the probable continuance of said inability until and at the next term before the court shall permit such testimony to be used; and the opposite party shall be entitled to cross-examine any witness whose deposition shall be so taken, or to examine him or her on notice, before the same or any other commissioner.

*Bladen's Lessee v. Cockey*, 1 H. & McH. 234. *Thomas v. Clagett*, 2 H. & McH. 172. *Shank v. Clark*, 3 H. & McH. 100. *Ridgely v. Howard*, 3 H. & McH. 321. *Brashears' Lessee v. Hewett*, 4 H. & McH. 222. *Brydon v. Taylor*, 2 H. & J. 396. *Patterson v. Md. Ins. Co.*, 3 H. & J. 74. *Mitchell v. Mitchell*, 1 Gill, 66. *Negro Jerry v. Townshend*, 9 Md. 146. *Matthews v. Dare*, 20 Md. 248. *Quynn v. Carroll's Admr.*, 22 Md. 288. *Waters v. Waters*, 35 Md. 531. *Consolidated Ry. v. O'Dea*, 91 Md. 512.

1888, art 35, sec. 20. 1860, art. 37, sec. 19. 1828, ch. 165, sec. 2.

**22.** All depositions and examinations taken by such commissioner shall be certified and returned by the commissioner taking them, under his hand, to the clerk of the court in which it shall be intended to use them; and if such court shall be any other than that by which such commissioner was appointed, there shall be annexed to his return a certificate by the clerk, under the seal of the court, that he is commissioner.

*Ibid.* sec. 21. 1860, art. 37, sec. 20. 1828, ch. 165, sec. 2.

**23.** All depositions so taken and returned shall be subject to the same exceptions and objections as the testimony of the same witness would be if examined in open court and shall have the same effect and validity.

*Ibid.* sec 22. 1860, art. 37, sec. 21. 1779, ch. 8, sec 2. 1828, ch. 165, sec 3. 1832, ch. 111, sec. 2.

**24.** Any person may have the deposition of any witness who may have knowledge of any fact, in proving which such person may apprehend himself to be interested, taken before any of said commissioners upon ten days' notice to each party against whom such depositions shall be intended to be 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.