

16A. In addition to the mode prescribed in the preceding section, the testimony of non-resident witnesses may be taken by either party to any case in any court of this state, or before any justice of the peace of this state, upon giving notice of not less than five days to the opposite party of the time and place, when and where the testimony of such non-resident witnesses is proposed to be taken, and the name of the commissioner, notary public, or justice of the peace before whom the same is proposed to be taken, together with the names of the witnesses proposed to be examined; and the deposition of any such witnesses taken pursuant to such notice and duly certified by the officer taking the same, under his hand and seal, shall be admitted as evidence at the trial of the case as fully to all intents and purposes as if the same had been taken under a commission as prescribed in the preceding section. Depositions when taken under this section, shall be signed by the witnesses unless their signature shall be waived by consent of the parties, and returned to the court in which the case is pending; and shall be treated in all respects, as if taken under a commission regularly issued by said court, and shall be subject to the like exceptions as testimony taken under commission. It shall be competent for the parties to any case to dispense with formal notice of time and place and name of the officer before whom such depositions are to be taken, and by agreement to provide for the taking of such depositions; and the provisions of section twenty-eight of this article shall be applicable to all depositions taken under this section.

Mode of taking depositions.

Shall be signed

Repealed.

SEC. 3. *And be it enacted*, That section five of said article thirty-seven, as amended by the act of eighteen hundred and sixty-four, chapter one hundred and nine, entitled "An act to repeal sections one, two, three, four and five of article thirty-seven of the Code of Public General Laws, entitled 'Evidence,' and to enact in lieu thereof the following;" be and the same is hereby repealed.

Effective.

SEC. 4. *And be it enacted*, That this act shall take effect from the date of its passage.

Approved April 5, 1888.