

United States, where such absentees have no trustee, guardian, agent or attorney, the common and usual mode of perpetuating testimony, shall be adopted, and no other.—*ibid.* § 5.

6. In all cases where testimony may be perpetuated by this act, and where made appear, to the satisfaction of the judge or justice, by affidavit of the party, that his witness or witnesses are sick and not likely to live, or about to march out of this state, on public service, as a soldier or militia man, it shall be lawful to take the deposition or depositions of such witness or witnesses, on giving such notice less than 20 days, as the judge or justice may think reasonable, all circumstances considered, so that the party interested, his guardian, trustee, agent or attorney, may have convenient time to attend.—*ibid.* § 6.

7. The judge or justice shall give the party a certificate of having made affidavit, and of the number of days appointed for notice, which shall be lodged with the deposition or depositions, and an attested copy of such deposition or depositions, and of such certificate, shall be taken as good evidence of the truth of the facts therein contained.—*ibid.* § 7.

8. For regulating the chancery practice to perpetuate testimony, see *Chancery*, art. 17.

9. Hereafter, with the consent of both parties to any cause in the court of chancery, a commission for taking depositions, may issue to one person, instead of four persons now required by law, or by the usage and practice of chancery, and any one person to whom such commission shall be directed, shall be allowed for his services at the rate of 30s. *per diem*.—1795, c. 88, § 4.

See *Boundaries of land*, 21—*Chancery*, 39, 41, 43—*Continuance of actions*, 9.

D E S C E N T S.

1. **I**F after the commencement of this act (1st Jan. 1788) any person seized of an estate in any land, &c. lying or being in this state, in fee simple, or fee simple conditional, heretofore or hereafter acquired, or of an estate in fee tail, to the heirs of the body generally, created and acquired after the commencement of this act, shall die intestate thereof, such lands, &c. shall descend to the kindred, male and female, of such person, in the following order, to wit:

First to the child or children and their descendants, if any, equally, and if no child or descendant, and the estate descended to the intestate on the part of the father, then to the father, and if no father living, then to the

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