

be introduced by amendment of the pleadings; the referee has nothing to do with the issues joined, nor is it material that issue was joined, *Ing v. the State*, 8 Md. 287, which was debt on an appeal bond taken in the name of the State and referred after replication suggesting a breach which was alleged to be insufficient, as neither *shewing the damages incurred nor the interest of the plaintiffs; but the Court said that the question, whether a matter is or is not within the submission, is well tested by another, to wit, whether the same matter could be introduced by way of amendment, either by varying an existing count or filing a new one, because if it is simply another mode of stating the same cause of action it is admissible, otherwise not, and there, as the plaintiff might have amended the replication by averring the necessary facts, the submission was held to do away with all necessity for the averment. And see *N. C. R. W. Co. v. Canton Co.*, 24 Md. 492, from which case *ibid.* 500, it also appears that, where a cause has been referred under the Act, all jurisdiction in it is transferred to the arbitrator, and the Court has lost all control over it, except to reinstate it, or to set aside the award, and it may be added, to enter judgment upon it, on its return, and therefore an injunction to restrain proceedings on the reference must be addressed to the arbitrators. It may be observed, that in *S. C. 21 Md. 383*, the order granting the injunction was reversed, the Court of Appeals holding that a decree for specific performance of an alleged contract, to which the injunction was sought as ancillary relief, ought not to pass. It has been held, however, in England, that there is no original jurisdiction in the Court of Chancery to restrain arbitrators, by a writ of prohibition, from proceeding to make an award, the only ground, on which the Court will interfere prior to an award being made, being such, if any, as may be afforded by the conduct of the parties; thus the repudiation by a Railway Company of a contract for the completion of its line, followed by a seizure of the works under an order of Court, was held to be a waiver of its right to proceed by arbitration under the same contract with reference to the question of the legality of the seizure, and all matters involved in and dependent on that question, *Pickering v. Capetown R. W. Co.*, 1 L. R. Eq. 84.

Method of proceeding.—With respect to the mode of conducting the inquiry. The arbitrators must give notice to the parties, or their attorneys, of the time and place of their attendance upon the arbitration, *Rigden v. Martin*, 6 H. & J. 403,¹³ though this need not appear upon the

¹³ A disregard of this duty renders the award void. *Wilson v. Boor*, 40 Md. 483. The award is not upheld unless the parties had a full and fair hearing and the award is the honest decision of the arbitrators and involves no mistake so gross as to work manifest injustice or furnish evidence of their misconduct. Arbitrators are not governed by strict rules of law as to the admissibility of evidence or the return of depositions. So when arbitrators refuse to consider depositions taken before a notary under the submission because they were not returned to them but to one of the parties, though they reached the arbitrators in an unaltered condition