

The matter of granting a continuance is within the discretion of the trial court, and is not the subject of appeal. *Clagett v. Easterday*, 42 Md. 626; *Adams Express Co. v. Trego*, 35 Md. 59.  
See notes to sections 35, 36 and 37.

1904, art. 75, sec. 45. 1888, art. 75, sec. 44. 1860, art. 75, sec. 33. 1785, ch. 80, sec. 4. 1809, ch. 153, sec. 1.

**45.** In all cases of amendment the allowance of costs shall be in the discretion of the court.

As to costs, see also, sec. 40.  
See notes to sections 35 and 37.

### Arbitration and Award.

*Ibid.* sec. 46. 1888, art. 75, sec. 45. 1860, art. 7, sec. 1. 1778, ch. 21, sec. 8.

**46.** Any cause instituted in any of the courts of this State may, by rule of court and by consent and agreement of the parties thereto, be submitted and referred to the award and arbitrament of any person or persons, and the court may give judgment on the award of the person or persons to whom such submission and reference shall be made as of the term to which said award shall be returned and award execution thereon as upon verdict, confession or non-suit.\*

This and the following sections are remedial laws and to be construed liberally. The power of the arbitrators depends upon the terms of their appointment. How judgment will be entered on the award, and enforced. *Shriver v. State*, 9 G. & J. 11.

An award cures many defects in the pleading; technical exceptions waived. The arbitrator has nothing to do with the particular issue joined in court. The reference is of the whole case to be tried on the merits. *Ing v. State*, 8 Md. 295.

The award to be binding must be concurred in by all the arbitrators, unless the reference provides to the contrary. Effect of a failure of the arbitrators to agree. *Harryman v. Harryman*, 43 Md. 140.

This and the following sections are applicable only to cases pending at law, and not to cases in equity. *Phillips v. Shipley*, 1 Bl. 516.

Under this section and "the approved custom of the court," referees have power to examine evidences on oath by the consent of both parties. *Contee v. Dawson*, 2 Bl. 276; *Bushey v. Culler*, 26 Md. 534.

While due notice of the time and place for hearing the cause should be given by the referees, it need not appear upon the face of the award that such notice was given. Practice. The award is to be taken as *prima facie* regular. Various alleged irregularities in an award overruled. *Rigdon v. Martin*, 6 H. & J. 403; *Lutz v. Linthicum*, 8 Pet. 165. And see *Thornton v. Carson*, 7 Cranch. 596; *Alexandria Canal Co. v. Swann*, 5 How. 83.

For cases held not to be within the purview of this and the following sections, see *Wisner v. Wilhelm*, 48 Md. 12; *State v. Jones*, 2 Gill, 59.

For a form of declaration on an award, see sec. 24, sub-sec. 23.

As to arbitration and award, see also art. 7, and art. 93, sec. 257. *et seq.*

*Ibid.* sec. 47. 1888, art. 75, sec. 46. 1860, art. 7, sec. 2.  
1778, ch. 21, sec. 9.

**47.** Such award shall remain four days in court during its sitting after the return thereof before any judgment shall be entered thereon.

\*No attempt is made in this or the following sections to annotate the cases dealing with the conduct of arbitrators or the ratification of awards, apart from express statutory reference—see *Brantly's Digest*.