

An order in writing passed during recess, overruling a motion for a new trial, is valid under this section; but a verbal direction sent to the clerk to enter judgment (out of the presence of the judge), is disapproved. The term "open court," defined. *Hays v. Philadelphia, etc., R. R. Co.*, 99 Md. 419.

As to the powers of circuit courts on appeals from the county commissioners, see art. 5, sec. 91; see also art. 25, secs. 34 and 75.

This section referred to in construing art. 87, secs. 38 and 40—see notes to sec. 38. *Albrecht v. State*, 132 Md. 155.

Relief to Sheriffs and Collectors.

An. Code, sec. 40. 1904, sec. 40. 1888, sec. 38. 1852, ch. 75, sec. 1. 1878, ch. 349.

40. On application by petition in writing to the several circuit courts or circuit judges and the superior court of Baltimore city of any sheriff or collector of the county and State taxes, or either of them, who has failed or neglected to collect any taxes or fees within the time prescribed by law, the court or judge may, on such terms as they may prescribe, by an order, extend the time of such sheriff or collector to complete the collections, which extension may be limited in the discretion of the court or judge, and may be renewed as may be deemed reasonable, and the said petition and orders shall be filed in the office of the clerk of the circuit court, or superior court, where such application is made, and on application of the legal representative of any deceased sheriff or collector he shall be entitled to avail himself of the provisions of this section as fully as such deceased sheriff or collector could do if living.

When the collector's time has been extended under this section, he can proceed by distress or in any way authorized during his term. *Baldwin v. State*, use Hull, 89 Md. 597.

As to tax collectors, see art. 81, sec. 39, *et seq.*; see also art. 81, sec. 92. See art. 87, sec. 29, *et seq.*

An. Code, sec. 41. 1904, sec. 41. 1888, sec. 39. 1852, ch. 75, sec. 2.

41. The courts and judges aforesaid may grant the relief and extension provided in the preceding section in favor of sheriffs and collectors to the securities, executors, administrators or trustees of sheriffs and collectors, who may respectively succeed to their rights and duties.

An. Code, sec. 42. 1904, sec. 42. 1888, sec. 40. 1852, ch. 75, sec. 3.

42. The said courts and judges may, in their discretion, require the party applying for such relief to serve notice on the comptroller and county commissioners, or on either of them, according to the character of the taxes represented to be in arrears, previous to passing a final order on such application.

An. Code, sec. 43. 1904, sec. 43. 1888, sec. 41. 1852, ch. 75, sec. 5.

43. Nothing contained in the three preceding sections shall prevent or delay the enforcement by the comptroller, county commissioners or others interested of their rights and remedies.

Removal of Cases from Courts of Law to Courts of Equity.

An. Code, sec. 44. 1904, sec. 44. 1896, ch. 229, sec. 42.

44. In every case at law or in equity in which it shall appear that the plaintiff is entitled to some relief or to some remedy, but not in the par-