

Arbitration and Award.

An. Code, 1924, sec. 50. 1912, sec. 46. 1904, sec. 46. 1888, sec. 45. 1778, ch. 21, sec. 8.

50. 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.¹

An arbitration under this and following sections upheld. Under what circumstances award will be set aside. *Dominion Marble Co. v. Morrow*, 130 Md. 258.

This and following sections are remedial laws and to be construed liberally. The power of the arbitrators depends upon terms of their appointment. How judgment will be entered on 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 whole case to be tried on merits. *Ing v. State*, 8 Md. 295.

The award to be binding must be concurred in by all arbitrators, unless the reference provides to contrary. Effect of a failure of 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 consent of both parties. *Contee v. Dawson*, 2 Bl. 276; *Bushey v. Culler*, 26 Md. 534.

While due notice of time and place for hearing cause should be given by referees, it need not appear upon face of 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. Lanthicum*, 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. 28, sub-sec. 23.

As to arbitration and award, see also art. 7, and art. 93, sec. 267, *et seq.*

An. Code, 1924, sec. 51. 1912, sec. 47. 1904, sec. 47. 1888, sec. 46. 1778, ch. 21, sec. 9.

51. Such award shall remain four days in court during its sitting after the return thereof before any judgment shall be entered thereon, and if it shall appear to the court within that time that the same was obtained by fraud or malpractice in, or by surprise, imposition or deception of the arbitrators, or without due notice to the parties or their attorneys, the court may set aside such award and refuse to give judgment thereon.

No reasons are good on a caveat to an award, except such as are specified in this section, and those apparent on face of award. *Northern Central Ry. Co. v. Canton Co.*, 24 Md. 506; *Ing v. State*, 8 Md. 293; *Dorsey v. Jeoffray*, 3 H. & McH. 121; *Tillard v. Fisher*, 3 H. & McH. 118.

Exceptions to an award held sufficient. *Johnston v. George*, 6 Md. 456.

See notes to sec. 50.

An. Code, 1924, sec. 52. 1912, sec. 48. 1904, sec. 48. 1888, sec. 47. 1785, ch. 80, sec. 11.

52. All causes so referred shall be continued until an award is returned; and if the death of either of the parties happens before an award is returned and judgment thereon, the cause shall not abate, but upon reasonable notice to the person succeeding to the interest of the deceased in the matter in contest, and not being a minor, the arbitrators shall proceed to a determination and return their award, upon which judgment may be entered notwithstanding the death of either of the parties.

¹ 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 Md. Digest.