

**Certiorari.**

An. Code, 1924, sec. 61. 1912, sec. 57. 1904, sec. 57. 1888, sec. 55. 1816, ch. 187. 1822, ch. 131.

**61.** Upon the allowance of any writ of *certiorari* for the removal of the proceedings by a justice of the peace between landlords and tenants, and also in all cases of inquest for a forcible entry and detainer, or a forcible detainer, the party obtaining the said writ of *certiorari* shall give bond with security to the opposite party, to be approved by the judge or clerk of the court allowing the writ, in such penalty as the said judge or clerk shall direct, conditioned for the payment of all costs and damages that may be incurred or suffered by the delay of the proceedings, if the matter in controversy upon such writ shall be decided against the person obtaining the same.

As to proceedings before a justice of the peace between landlord and tenant, see art. 53, sec. 1, *et seq.*

**Continuance.**

An. Code, 1924, sec. 62. 1912, sec. 58. 1904, sec. 58. 1888, sec. 56. 1787, ch. 9, sec. 1. 1806, ch. 41, sec. 1. 1829, ch. 166.

**62.** No cause shall be continued beyond the second term after process has been served on the defendant, unless by consent of parties or upon good cause shown by the party asking the continuance.

The purpose of this section is the orderly and prompt dispatch of business. This section referred to in upholding judgment of *non pros.* for failure to reply to plea. *Marsh v. Johns*, 49 Md. 570. And see *Kent v. McEldery*, 9 Gill, 496.

No appeal lies from refusal of court to grant continuance. *Hopkins v. State*, 53 Md. 517; *Universal, etc., Co. v. Bachus*, 51 Md. 32; *Miller v. Miller*, 41 Md. 624; *Cumberland, etc., Co. v. McKaig*, 27 Md. 267.

See notes to sec. 63.

An. Code, 1924, sec. 63. 1912, sec. 59. 1904, sec. 59. 1888, sec. 57. 1787, ch. 9, secs. 2, 3, 8.

**63.** Upon suggestion, supported by the affidavit of the party or some other credible person, that the evidence of a witness who resides in some place beyond the limits of this State, or the evidence of a witness residing within this State is wanting, the court shall continue the cause for such time as may be deemed necessary to enable the party to procure the attendance or obtain the testimony of such absent witness; provided, the party applying for the continuance shall comply with the provisions of the two following sections.

Ordinarily the granting of a discontinuance is in the discretion of the court and is not appealable. *Cumberland, etc., Transit Co. v. Metz*, 158 Md. 454.

The granting of a continuance is within sound discretion of trial court, and unless such discretion is arbitrarily exercised, is not reviewable. This and two following sections not having been complied with, trial court acted properly in refusing a continuance. *Harris v. State*, 141 Md. 530.

An. Code, 1924, sec. 64. 1912, sec. 60. 1904, sec. 60. 1888, sec. 58. 1787, ch. 9, sec. 2, 3.

**64.** The party applying for a continuance under the preceding section shall prove by his affidavit, or the affidavit of some other credible person to be filed in the cause, that the testimony of the absent witness (naming him) is material, competent and proper in such suit; that he believes that the cause cannot be tried with justice to the party without such evidence; that he has used his proper and reasonable endeavors to procure the same and that he has a reasonable expectation and belief that the same can thereafter be procured in some reasonable time.

See notes to sec. 63.