

ing for the continuance shall comply with the provisions of the two following sections.

C. C. & I. Co. v. McKaig 27 Md. 258. Dean v. Turner, 31 Md. 55. Adams Express Co. v. Trego, 35 Md. 59. Miller v. Miller, 41 Md. 623. Universal L. Ins. Co. v. Bacchus, 51 Md. 32. Hopkins v. State, 53 Md. 517.

P. G. L., (1860,) art. 75, sec. 36. 1787, ch. 9, sec. 2-3.

58. 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.

Ibid. sec. 37. 1787, ch. 9, sec. 2-3. 1866, ch. 311.

59. The court may examine on oath a party making the affidavit under the preceding section, in regard to the materiality of the testimony, the probability of procuring the attendance of the witness in a reasonable time, and on what information or knowledge he believes the witness will prove what he alleges; and if, on such examination, the court is satisfied of the truth of the affidavit, and that the testimony is material and competent, a continuance shall be granted, unless the adverse party will admit the facts which it is so alleged the absent witness will prove to be in evidence to the same effect as if said absent witness had testified thereto, saving, however, to the adverse party the same right to impeach or contradict said testimony as if said witness had been present.

Bryan v. Coursey, 3 Md. 61. Dean v. Turner, 31 Md. 55.

Ibid. sec. 38. 1787, ch. 9, secs. 5-6.

60. Where a new trial is granted, or a commission shall issue for the taking of testimony, or where a judgment shall be set aside for fraud or irregularity, the court may continue the cause so long as they shall deem necessary for a trial of the same on its merits.

Norwood's Lessee v. Owings, 1 H. & J. 296. Harper v. Hampton, 1 H. & J. 686. Munnikuyzen v. Dorsett, 2 H. & G. 374. Saddler v. Cox, 2 H. & G. 379.