1888, art. 75, sec. 38. 1860, art. 75, sec. 27. 1856, ch. 112, sec. 30.

39 If there be a misjoinder or non-joinder of defendants, the court may allow a defendant to be stricken out or added, as the case may require; but if a new defendant be added, he shall be summoned and have the same time to plead as if a new action were brought against him.

Pendergast *v.* Reed, 29 Md. 398. Bowie *v.* Neal, 41 Md. 124. Halley *v.* Jackson, 48 Md. 254. Herzberg *v.* Sachse, 60 Md. 426.

Ibid. sec. 39. 1860, art. 75, sec. 28. 1856, ch. 112, secs. 26-30.

40. Amendments for misjoinder or non-joinder of either plaintiffs or defendants may be made at any time before the jury retire to make up their verdict, or before judgment given on demurrer, or other trials before the court, as the case may be; and the court may grant such continuances and may award such costs against the party making the amendment as may be deemed just and reasonable.

Pendergast *v.* Reed, 29 Md. 398. Smith *v.* Crichton, 33 Md 103. Herzberg *v.* Sachse, 60 Md. 426.

Ibid. sec. 40. 1860, art. 75, sec. 29. 1856, ch. 112, secs. 26-30.

41. In amendments for non-joinder or misjoinder entire new parties, either plaintiffs or defendants, cannot be introduced, but some one of the original plaintiffs and some one of the original defendants must remain parties to the action; and in no case of amendment can entire new parties, either plaintiffs or defendants, be made.

Wright *v.* Gilbert, 51 Md. 154. B. & O. R. R. Co. *v.* State, 62 Md. 487.

Ibid. sec. 41. 1860, art. 75, sec. 30. 1785, ch. 80, sec 1.

42. Where an heir at law or devisee has been omitted as a defendant, the plaintiff may amend by making such heir or devisee a party and such proceedings shall be had as will produce a fair trial.

Ibid. sec. 42. 1860, art. 75, sec. 31. 1852, ch. 177, sec. 11.

43. Nothing in the preceding sections of this article relating to amendments shall affect any plea of limitations, in abatement, to the jurisdiction or other dilatory plea.

Oliver *v.* Gray, 1 H. & G. 215. Wall *v* Wall, 2 H. & G. 79 Kunkel *v.* Spooner, 9 Md. 462. Farmers' Bank *v.* Sprigg, 11 Md. 389. Eschbach *v.* Bayley, 28 Md. 495. Griffin *v.* Moore, 43 Md 246.