

discretionary power to continue causes, under certain circumstances, as long as they may think absolutely necessary for the due and full administration of justice between parties : C H A P.
IX.

II. **Be it enacted, by the General Assembly of Maryland,** That no action shall be continued beyond the time limited by law on the suggestion that evidence is wanting from some other of the United States, or from beyond sea, but the general court, and any county court, may, in their discretion, continue any action depending in their respective courts, on its appearing to their full satisfaction, by the oath or affirmation of the party, or some other credible person in writing, that a witness (who shall be named) or testimony material, competent and proper in such suit, is really wanting from some other of the United States, or from beyond sea, and that the party alleging the same to be wanting, or his attorney or agent, hath used his proper and reasonable endeavours to procure the same, and that the party, or such other credible person, verily believes that the cause cannot be tried with justice to the party without such evidence or testimony, and that he has a reasonable expectation and belief that the same can be thereafter procured in some reasonable time, of which time the said courts shall determine, unless the court, on examination of the party or parties, shall be of opinion that the fact to be proved by such testimony is immaterial, or the adverse party will admit the truth of such allegation or fact thought material, or necessary to be proved, in either of which cases the trial shall proceed, or the cause be discontinued with costs to the party requiring no delay.

No action shall be continued, &c.

III. **And,** to enable the said courts respectively to guard as far as possible against the continuance of any cause for delay only, **Be it enacted,** That they may examine into the nature of the action, and the ground or cause of delay, and also into the proof alleged to be material, competent and proper, in such suit, and really wanting for the trial of the merits between the parties ; and the said courts respectively may also examine the party applying for a continuance, on oath or affirmation, as to any fact he shall allege that he expects to prove by the evidence or testimony declared to be wanting.

Courts may examine, &c.

IV. **And be it enacted,** That in any action of trespass or ejectment, if plots returned in any cause are defective, or if plots are not returned from the neglect of the surveyor, or if he is prevented by sickness, or other accident, from returning the same, and the said courts shall think a continuance of such cause necessary for the trial of the merits between the parties, they may continue such cause for such time as they shall judge necessary, not exceeding three courts after the usual time of continuance limited by law, and on such terms as they may think just and reasonable ; and if plots are not returned from the neglect of any surveyor, the court may order him to pay the costs of the term, and they may impose on him such fine as the circumstances of his neglect may require.

Court may continue cause, &c. if plots are defective, &c.

V. **And be it enacted,** That in any case where a verdict shall be set aside and a new trial granted, and also in any case where commission shall issue for taking the depositions of witnesses residing or living out of this state, the said courts respectively shall have a discretionary power to continue such cause for so long a time as they shall judge necessary, not exceeding four courts after the usual time of continuance limited by law, and on such terms as they may think just and reasonable.

And where a verdict shall be set aside, &c.

VI. **And be it enacted,** That in any case where a judgment shall be set aside for fraud, deceit, surprise or irregularity, in obtaining the same, the said courts respectively may direct the continuances to be entered from the court when such judgment was obtained, until the court such judgment shall be set aside, and may also continue such cause for so long a time as they shall judge necessary for the trial of the merits between the parties, not exceeding two courts after such cause hath been reinstated, unless evidence, or testimony or plots be wanting, as herein before provided, in which case the cause may still be continued, but under the limitations herein before made and provided.

Where judgment shall be set aside for fraud, &c. may direct continuances to be entered, &c.