

to him may appear just and right, with such costs as may have accrued in the case; which judgment, if in favor of the defendant, shall be of equal effect as a judgment in favor of the plaintiff and may be enforced in the same manner.

This section contemplates and requires a trial, and though the trial is *ex parte*, the plaintiff must prove his claim. *Wagner v. Shank*, 59 Md. 321.

1904, art. 52, sec. 37. 1888, art. 52, sec. 35. 1884, ch. 327.

39. The costs attending the issue of warrants of the peace and of the execution thereof and taking of recognizance thereunder shall be charged to and collected from the person at whose instance such warrant is issued; and no justice of the peace or constable shall charge any costs of such proceeding against the county nor collect the same from the county commissioners thereof.

*Ibid.* sec. 38. 1888, art. 52, sec. 36. 1868, ch. 443. 1880, ch. 400.

40. All judgments rendered by justices of the peace within the city of Baltimore or in any of the counties of this State, may be made liens on the real estate or leasehold interest and terms for years of the defendant in land in the city of Baltimore, or in the county where the same have been so rendered, except leases from year to year and leases for terms of not more than five years, not renewable, to the same extent and effect as liens are now created by judgment upon real estate, whenever the plaintiff in any such judgment shall file a copy of the judgments under the hand and seal of the justice by whom the same was rendered with the clerk of the superior court of Baltimore city, or with the clerk of the circuit court for the county, as the case may be, where said judgment was rendered, to be by such clerk recorded in a book kept for that purpose, and for which said clerk shall receive twenty-five cents in each case, which sum shall be recovered by the plaintiffs as a part of the costs of the judgment; and if for any cause such copy cannot be had from the justice rendering such judgment, then the clerk, as aforesaid, shall record such judgment from the docket of the justice when produced to him and shall give to the plaintiff a certified copy thereof when so recorded.

Magistrate's judgments duly recorded and on which executions are issued under section 40, constitute liens according to their priority upon an equitable interest, rendering it liable to sale. *Hinkle v. Wilson*, 53 Md. 294.

The law was to the contrary prior to the adoption of this section. *Candler v. Fisher*, 11 Md. 332. See also, *Coombs v. Jordan*, 3 Bl. 309.

Cited but not construed in *Union Bank v. Shriver*, 68 Md. 436.

As to supplementary proceedings upon judgments rendered by justices of the peace, see art. 75, sec. 143.

As to the issue of the writ of *habere facias possessionem* upon executions issued on magistrate's judgments, see art. 75, sec. 96.

*Ibid.* sec. 39. 1888, art. 52, sec. 37. 1868, ch. 443. 1880, ch. 400. 1890, ch. 402.

41. The said clerk shall record the said judgment forthwith, and shall endorse thereon the time and place of its record and may then deliver the same to the plaintiff, and the clerk shall have said judgments