

moned and sworn by the sheriff or other officer to whom the writ of replevin is directed, and to all cases of attachments against non-resident or absconding debtors where the sum claimed does not exceed one hundred dollars, and also to all cases of attachment in any of the cases mentioned in section 36 of article 9 where the sum claimed shall not exceed one hundred dollars; provided, that nothing herein contained shall be held or construed to affect suits pending on April 5, 1900, nor judgments then existing.

Where principal and interest the plaintiff is entitled to recover exceeds \$100, a justice of the peace has no jurisdiction. This may not be cured by rendering judgment, contrary to sec. 37, for principal of debt with interest from date of obligation. Relief in equity against judgment rendered by a justice without jurisdiction. *Dunn v. Wilmer*, 131 Md. 499.

The test of the justice's jurisdiction in actions *ex contractu* is amount recovered and not amount claimed; *contra* in actions of tort. *Bushey v. Culler*, 26 Md. 552; *Ott v. Dill*, 7 Md. 254 (construing also the acts out of which this section grew); *Beall v. Black*, 1 Gill, 206; *O'Reilly v. Murdock*, 1 Gill, 38. See also *Reese v. Hawks*, 63 Md. 131; *Rohr v. Anderson*, 51 Md. 217; *Carter v. Tuck*, 3 Gill, 251; *Abbott v. Gatch*, 13 Md. 336.

In action of tort, where amount claimed is \$100; and the verdict on appeal from a justice is for \$100; the jurisdiction is not exceeded. *Herzberg v. Adams*, 39 Md. 312.

Where in an action *ex contractu*, plaintiff is entitled to interest as a matter of right and total of principal and interest (if recovered), would amount to more than one hundred dollars, a justice has no jurisdiction. *Reese v. Hawks*, 63 Md. 131. See also *Barger v. Collins*, 7 H. & J. 220. *Cf. Harris v. Dorsey*, 1 H. & J. 416.

A justice has no jurisdiction in a suit on a bond with collateral conditions for the discharge of official duty. This section refers only to bonds conditioned for payment of money. *State v. Tabler*, 41 Md. 239.

This section, in connection with sec. 11, confers exclusive jurisdiction upon justices in replevin, where the value of thing in controversy does not exceed \$50. *Deitrich v. Swartz*, 41 Md. 200.

In actions of replevin if there is no appraisalment or a fictitious one in order to give justice apparent jurisdiction (which amounts to same thing), the justice has no jurisdiction. *Darrell v. Briscoe*, 94 Md. 686.

This section referred to in discussing meaning of a "trial by jury," and in deciding that where either party may have a jury trial upon appeal, the constitutional right to such trial is satisfied. *Capital Traction Co. v. Hof*, 174 U. S. 1.

Cited but not construed in *Wced v. Lewis*, 80 Md. 128.

See secs. 7, 45, *et seq.*, 53, *et seq.*, and notes thereto.

Cf. art. 26, sec. 38.

An. Code, sec. 7. 1904, sec. 7. 1888, sec. 7. 1852, ch. 239, sec. 1. 1824, ch. 138, sec. 6. 1834, ch. 296, sec. 1.

7. But no justice of the peace shall have any jurisdiction in actions where the title to land is involved, nor in actions for slander, for breach of promise to marry or to enforce any lien for work done or materials furnished.

In order to defeat jurisdiction of justice of the peace under this section, it must appear from nature of action itself that it was one in which title to land is necessarily and directly in issue; a suit for improper and negligent construction and operation of trains at and near plaintiff's residence is not such a case. *B. & O. R. R. v. Owens*, 130 Md. 679.

Statement of the defendant that title to land is involved is not conclusive, but such fact must appear from nature of action itself. This section referred to in construing sec. 8—see notes thereto. *Whittington v. Hall*, 116 Md. 468.

A suit cannot be brought before justice to recover a deposit on a contract for purchase of leasehold property providing that ground rent was an original rent, and that if it were not so the contract should be void. When title to land is involved. *Legum v. Blank*, 105 Md. 128; *Randle v. Sutton*, 43 Md. 67.