

licenses "contrary to the form of the act of assembly," etc., is not demurrable. *Weber v. State*, 116 Md. 409.

This section referred to in deciding that a clerk who deposits in bank until it is paid over, money of the state collected for licenses and from other sources, is liable for interest received thereon from the banks. *Vansant v. State*, 96 Md. 124.

Under art. 4, sec. 15, of the Constitution of 1851, the clerk of the court of common pleas was held to have no authority to record mechanics' liens, since by said section they were required to be recorded in the office of the clerk of the superior court. *Miller v. Barroll*, 14 Md. 184.

Cited but not construed in *State v. Little*, 157 Md. 457.

Sec. 39. The General Assembly shall, as often as it may think the same proper and expedient, provide by Law for the election of an additional Judge of the Supreme Bench of Baltimore City, and whenever provision is so made by the General Assembly, there shall be elected by the voters of said City another Judge of the Supreme Bench of Baltimore City, who shall be subject to the same constitutional provisions, hold his office for the same term of years, receive the same compensation, and have the same powers as are, or shall be, provided by the Constitution or Laws of this State, for the Judges of said Supreme Bench of Baltimore City, and the General Assembly may provide by Laws, or the Supreme Bench by its rules for requiring causes in any of the Courts of Baltimore City to be tried before the Court without a jury, unless the litigants or some one of them shall within such reasonable time or times as may be prescribed, elect to have their causes tried before a jury. And the General Assembly may reapportion, change or enlarge the jurisdiction of the several Courts in said city.¹

Where the only election of a jury trial is that immediately following the plaintiff's declaration, these words appear: "The plaintiff prays a jury trial," such election is not sufficient under the rules applicable to common law cases in Baltimore city. The election of a jury trial must be separate and distinct from the declaration. *City Passenger Ry. Co. v. Nugent*, 86 Md. 360. And see *Condon v. Gore*, 89 Md. 231.

Where a *narr.* under the practice act of 1886, was filed in the superior court of Baltimore city on July 1, 1909, and on July 12, 1909, one of the defendants demurred and an order was passed extending the time for filing pleas to fifteen days after a decision on the demurrer; and on October 27, the demurrer was overruled with leave to plead within ten days, and on October 30, each of the defendants filed an election for a jury trial, such election was made in due time under a rule of the supreme bench providing that as to defendants an election of a jury trial shall be made at or before the time of first filing of pleas, but not after the time allowed by law to plead. *Baltimore v. Thomas*, 115 Md. 214.

For cases involving various questions relative to a jury trial arising under rules adopted in pursuance of this section, see *Chappel Chemical, etc., Co. v. Sulphur Mine Co.*, 85 Md. 681-684.

This section and art. 11A of Constitution, referred to in overruling objection to zoning ordinance of Baltimore City, based on its extending jurisdiction of Baltimore City Court by providing appeal to it from Board of Zoning Appeals. *Goldman v. Crowther*, 147 Md. 310.

This section referred to in construing art. 23, sec. 415, of Code—see notes thereto. *Public Serv. Commn. v. Byron*, 153 Md. 476.

Cited in *Brandt, Inc. v. Y. W. C. A.*, 169 Md. 615.

See art. 4, sec. 8; art. 15, sec. 6, and notes to art. 4, sec. 28.

Part V:—Orphans' Courts.

Sec. 40. The qualified voters of the City of Baltimore, and of the several counties, shall on the Tuesday next after the first Monday in November next, and on the same day in every fourth year thereafter, elect three men to be Judges of the Orphans' Courts of said city and counties, respectively, who shall be citizens of the State, and residents for the twelve months pre-

¹ Thus amended by ch. 313, acts of 1892, ratified November 7, 1893.

Under this section, the general assembly, by the act of 1888, ch. 194, established circuit court No. 2 of Baltimore city, conferring upon it the same jurisdiction as that possessed by circuit court of Baltimore city, and by ch. 218, 1922, provided for additional judge of Supreme Bench.