

Process and Practice.

1904, art. 52, sec. 20. 1888, art. 52, sec. 19. 1860, art. 51, sec. 17. 1818, ch. 106, sec. 2.

22. No justice of the peace shall grant any blank summons or execution to any constable or party; and any justice so granting a blank summons or execution shall, on conviction, be fined not less than one hundred dollars and not exceeding four hundred dollars.

Ibid. sec. 21. 1888, art. 52, sec. 20. 1860, art. 51, sec. 18. 1791, ch. 68, sec. 6. 1841, ch. 139. 1852, ch. 76, sec. 3.

23. The process to be issued by justices of the peace in civil cases shall be a summons, wherein shall be stated briefly the purpose for which the party is summoned, and shall be made returnable before the justice issuing the same, or before some other justice to be named therein, on a day to be stated in said summons, not exceeding forty days from the time of issuing the same.

Where there is no summons, the justice is without jurisdiction, and his judgment is a nullity. *Fahey v. Mottu*, 67 Md. 253.

Ibid. sec. 22. 1888, art. 52, sec. 21. 1860, art. 51, sec. 19. 1852, ch. 76, sec. 3.

24. If the summons shall be returned "summoned" and the defendant shall fail to appear on the return day thereof, then the justice shall fix a day of trial, not less than six nor more than fourteen days from the return day, and on such day proceed to try such case *ex parte*; the defendant to have the right to appear at any time before judgment and make any defense he may have as if he had appeared at the return day of the summons.

That a justice had jurisdiction must affirmatively appear on the face of the proceedings. *Fahey v. Mottu*, 67 Md. 254.

Where the defendant has been summoned (in a proper case), the justice has jurisdiction which can not be ousted by a subsequent failure to comply with the law. *Mottu v. Fahey*, 78 Md. 393.

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. This section has no application to attachments. *Weed v. Lewis*, 80 Md. 128. (See sec. 43, *et seq.*)

See sec. 33, and (as to replevin), sec. 53.

Ibid. sec. 23. 1888, art. 52, sec. 22. 1860, art. 52, sec. 20. 1852, ch. 76, sec. 4.

25. Where there are more than one defendant and some shall appear and some who have been summoned shall fail to appear, the justice shall proceed to try the cause as if all had appeared.

Ibid. sec. 24. 1888, art. 52, sec. 23. 1860, art. 51, sec. 21. 1791, ch. 68, sec. 8.

26. A justice of the peace shall issue summonses for witnesses at the instance of either party and shall compel the attendance of such witnesses by attachment of contempt.

As to the compensation of witnesses before justices of the peace, see art. 35, sec. 12.

Ibid. sec. 25. 1888, art. 52, sec. 24. 1860, art. 51, sec. 22. 1801, ch. 42, secs. 1, 2.

27. If the witness shall fail to appear on the return day of the summons the justice shall issue an attachment of contempt made returnable