

and in all cases of presentments of indictments for offenses which are or may be punishable by death, pending in any of the courts of law in this State having jurisdiction thereof, upon suggestion in writing, under oath, of either of the parties to said proceedings, that such party cannot have a fair and impartial trial in the court in which the same may be pending, the said court shall order and direct the record of proceedings in such suit or action, issue, presentment or indictment, to be transmitted to some other court having jurisdiction in such case for trial; but in all other cases of presentment or indictment pending in any of the courts of law in this State having jurisdiction thereof, in addition to the suggestion in writing of either of the parties to such presentment or indictment that such party cannot have a fair and impartial trial in the court in which the same may be pending, it shall be necessary for the party making such suggestion to make it satisfactorily appear to the court that such suggestion is true, or that there is reasonable ground for the same; and thereupon the said court shall order and direct the record of proceedings in such presentment or indictment to be transmitted to some other court having jurisdiction in such cases for trial; and such right of removal shall exist upon suggestion in cases when all the judges of said court may be disqualified, under the provisions of the constitution, to sit in any such case; and said court to which the record of proceedings in such suit or action, issue, presentment or indictment may be so transmitted, shall hear and determine the same in like manner as if such suit or action, issue, presentment or indictment had been originally instituted therein.*

When right of removal applies.

This section has no application to cases in equity, or in the orphans' court. *Cooke v. Cooke*, 41 Md. 367.

The right of removal can only be exercised in courts having original jurisdiction. *Geekie v. Harbourd*, 52 Md. 461; *Cooke v. Cooke*, 41 Md. 367; *Hosshall v. Hoffacker*, 11 Md. 363.

The right of removal does not apply to proceedings instituted under the statute for the forfeiture of chartered franchises. *Belair Club v. State*, 74 Md. 300.

This section does not apply to issues framed in insolvency proceedings at the instance of a creditor. *Trayhern v. Hamill*, 53 Md. 91; *Michael v. Schroeder*, 4 H. & J. 227.

Up to what time a case may be removed.

The right of removal must be exercised before the trial commences, and an amendment of the declaration does not affect such right; but the fact that one trial has already been had ending in a disagreement by the jury, does not defeat the right of removal. *Cooke v. Cooke*, 41 Md. 367; *Sittig v. Birkestack*, 38 Md. 161; *Deford v. State*, 30 Md. 196.

A case may be removed at any time before the panel of jurors is completed by being sworn. *McMillan v. State*, 68 Md. 309; *Price v. State*, 8 Gill, 297. *Cf. Griffin v. Leslie*, 20 Md. 19.

Where a judgment by default has been entered, and nothing remains to be done but to assess the damages or determine the amount thereof, the case can not be removed. *Northern Central Ry. Co. v. Rutledge*, 41 Md. 372.

*This section is identical with article 4, section 8, of the Maryland constitution, save that by the last clause of the constitutional provision power is given the general assembly to modify the existing law so as to regulate and give force to such provision.