

Where suit is for a balance of purchase money of land the justice has jurisdiction, unless it affirmatively appears that contract is still executory and defendant has not accepted a deed. *Cole v. Hynes*, 46 Md. 185.

A suit for rent does not come under this section, the title to land not being "necessarily and directly in issue." This section must be construed in connection with secs. 6 and 8. *Randle v. Sutton*, 43 Md. 88; *Dietrich v. Swartz*, 41 Md. 200; *Legum v. Blank*, 105 Md. 131; *Shippler v. Broom*, 62 Md. 319.

This section does not oust justice's jurisdiction in proceeding for the recovery of demised premises in Baltimore city, where question is whether or not defendant rented them from plaintiff. *Josselson v. Sonneborn*, 110 Md. 549.

Neither a justice nor the city court on appeal, has jurisdiction to determine whether a title has expired; and it makes no difference that it did not appear that matter of jurisdiction was raised before justice or in city court. *Presstman v. Silljacks*, 52 Md. 660.

How the question of jurisdiction should be raised before justice, and also on appeal. Bills of exception are not allowed. *Shippler v. Brown*, 62 Md. 319; *Cole v. Hynes*, 46 Md. 183. Cf. *Presstman v. Silljacks*, 52 Md. 660.

Cited but not construed in *O'Reilly v. Murdock*, 1 Gill, 38.

As to landlord and tenant cases, see art. 53, sec. 6.

An. Code, sec. 8. 1904, sec. 8. 1888, sec. 8. 1813, ch. 162, secs. 1, 5. 1824, ch. 138, sec. 6. 1825, ch. 51, sec. 1.

8. If the defendant in an action before a justice of the peace for cutting, destroying or carrying away timber or wood to or from any land in this State or for doing any other injury to such lands shall allege in writing that he claims title to said lands or that he acted under a person claiming title to the same, whom he shall name in such allegation, and shall verify said allegation by oath, the justice shall take no further cognizance of the case.

Statement of defendant that title to land is involved is not conclusive, but such fact must appear from nature of action itself. Sale of timber, whether cut or standing, is a sale of goods only. *Whittington v. Hall*, 116 Md. 468.

This section held to have no application, and hence defendant was not affected by a failure to file allegation as to claim of title. *Josselson v. Sonneborn*, 110 Md. 549. Cf. *Shippler v. Broom*, 62 Md. 319; *Cole v. Hynes*, 46 Md. 183.

Cited but not construed in *Legum v. Blank*, 105 Md. 128.

See notes to sec. 7.

An. Code, sec. 9. 1904, sec. 9. 1888, sec. 9. 1819, ch. 167, sec. 2. 1892, ch. 619. 1902, ch. 408.

9. The jurisdiction of justices of the peace of the State of Maryland shall extend to all cases wherein executors or administrators are parties, plaintiffs or defendants, except that no administrator or executor shall be sued before a justice of the peace within thirteen months from the date of his letters, unless such executor or administrator shall within six months of the date of such letters dispute or reject any claim filed against his decedent's estate.

See art. 93, sec. 106.

An. Code, sec. 10. 1904, sec. 10. 1888, sec. 10. 1819, ch. 167, sec. 2.

10. If any administrator shall allege in writing and verify the same by oath that he has no assets in his hands, or that he has reasonable cause to believe the assets will not be sufficient to pay the debts of the decedent, then the justice of the peace shall transmit the proceedings in relation thereto to the next circuit court for the county, or the Baltimore city court, and such court shall hear and decide the case.

See art. 26, sec. 26, *et seq.*