

of the sheriff to serve such notice, and proof of such service shall be made to the satisfaction of the court before such judgment shall be entered.

A judgment under this section will not be set aside after the term, except upon proof of fraud, surprise or irregularity. This section constitutes an exception to art. 75, sec. 155. The proof of service of notice warrants court in proceeding to summary judgment at first term, unless collector or his sureties proceed under sec. 82. *Sprigg v. State*, 54 Md. 477.

Under act of 1841, ch. 23, sec. 48, if instead of a summary judgment the case is controverted, the certificate of treasurer is admissible in evidence even after testimony of clerk of commissioners, that commissioners' books did not show that any tax was levied during years for which collector was charged with taxes. *Crane v. State*, 1 Md. 29.

The certificate of the treasurer to an account against a collector authorized by the act of 1841, ch. 23, authenticates itself. *Milburn v. State*, 1 Md. 1.

The duty of the treasurer under act of 1841, ch. 23, devolved under sixth article of state Constitution upon comptroller. *Billingsley v. State*, 14 Md. 376.

An. Code, sec. 77. 1904, sec. 75. 1888, sec. 72. 1841, ch. 23, sec. 48. 1874, ch. 483, sec. 71.

**82.** If such collector or his sureties shall, in person or by attorney, desire a trial by jury of any matter in controversy in said suit, which shall by them be pleaded, the court shall thereupon direct a jury to be empanelled at the said term to try and determine the matter in controversy.

This section referred to in construing sec. 81—see notes thereto. *Sprigg v. State*, 54 Md. 479.

An. Code, sec. 78. 1904, sec. 76. 1888, sec. 73. 1847, ch. 261. 1874, ch. 483, sec. 72.

**83.** It shall not be necessary for the State in any suit brought on any bond given by any person who has the collection of any part of the State's revenue in reply to the plea of performance to set out at large in its replication the breaches for which damages are claimed, but may reply generally that the obligor or obligors hath or have not performed the conditions of his or their bond, accompanying the same by a substantial statement of the amount demanded, and give the special matter in evidence, upon which issue the jury shall assess such damages as the State may have sustained, and upon such verdict, if for the State, judgment shall be entered for the penalty of the bond, to be released upon the payment of the damages assessed by the jury, with interest thereon until paid, and costs.

This section applied. *Wilson v. Ridgely*, 46 Md. 244.

An. Code, sec. 79. 1904, sec. 77. 1888, sec. 74. 1812, ch. 191, sec. 36. 1831, ch. 68, sec. 3. 1862, ch. 236. 1874, ch. 483, sec. 73.

**84.** The attorney prosecuting such action shall be allowed the usual commissions for such services; but no payment of any money due the State, either in suit or on judgment, shall be valid and effectual unless made to the State's attorney or to the treasurer, or such person as shall have been specially appointed and authorized by him to receive the same, or unless made to such sheriff, coroner or elisor as may be authorized to receive the same by virtue of any execution issued to enforce the payment thereof. No attorney, other than the state's attorney prosecuting such action, as provided for in this section, shall receive any part of the money thus sued for, except the fees allowed by law, under a penalty of a fine of not less