

the trial of any criminal case in said courts whenever in the judgment of the court in which any such case is pending a just regard for the rights of the accused requires it.

This section and sec. 8, in connection with art. 24, sec. 266, of the public local laws, held to confer authority upon the court not only to assign counsel but to fix the counsel fee not exceeding the maximum mentioned in sec. 8. Worcester County v. Melvin, 89 Md. 40; Anne Arundel County v. Melvin, 107 Md. 536; Charles County v. Wilmer, 131 Md. 178.

Suit for fee by assignee of counsel appointed under this section. Practice. See notes to art. 4, sec. 7, of the Md. Constitution. Charles County v. Wilmer, 131 Md. 177.

See art. 10, sec. 21, *et seq.*

An. Code, sec. 8. 1904, sec. 8. 1888, sec. 8. 1856, ch. 19, sec. 2. 1886, ch. 46.

8. The county commissioners of the several counties and the mayor and city council of Baltimore shall levy and pay for the services rendered by any person appointed by the court to assist in the prosecution or defense of any case; provided, the amount paid for such services in any one case shall not exceed one hundred dollars; and provided, that in no case tried in any court of criminal jurisdiction in the city of Baltimore shall any attorney be entitled to demand or receive the appearance fees for defending in criminal cases fixed by law except when such fees are taxed against and paid by the accused as part of the costs of the case.

County commissioners have nothing to do with the amount of fee, and have no discretion as to paying it, provided it does not exceed one hundred dollars. Worcester County v. Melvin, 89 Md. 40; Charles County v. Wilmer, 131 Md. 178.

See notes to sec. 7.

#### **Appointment of Auditors.**

An. Code, sec. 9. 1904, sec. 9. 1888, sec. 9. 1785, ch. 80, sec. 12. 1888, ch. 447.

9. In all actions brought in any court founded on account, or on which it may be necessary to examine and determine on accounts between the parties, the court may order the accounts and dealings between the parties to be audited and stated by an auditor or auditors to be appointed by such court, and there shall be the same proceedings thereon as in courts of equity upon bills for an account, reserving to the parties, however, the right to a jury trial if demanded.

Proceedings before auditor must be same as in actions of account after judgment *quod computet*, is rendered. The defendant may plead; issues may be joined or demurrers may be filed, which must be certified to court. Issues of fact must be passed upon by the jury, matters of law, by the court. While auditor may examine the parties, he has no authority to examine other witnesses. This section held to have been misconstrued and misapplied. Wisner v. Wilhelm, 48 Md. 10 (decided prior to the act of 1888, ch. 447). See also Mantz v. Collins, 4 H. & McH. 65.

This section referred to in holding that constitutional right of jury trial is not infringed by the compulsory appointment of an auditor in an action of law involving intricate accounts, with a view to his making a report which will simplify issues for jury. Power to appoint auditor inherent in district court as a trial court. Limitations on right of jury trial. Matter of Walter Peterson, 253 U. S. 308.

#### **Appointment of Surveyor.**

An. Code, sec. 10. 1904, sec. 10. 1888, sec. 10. 1827, ch. 44, sec. 1. 1900, ch. 581.

10. In any case pending in any court where it is necessary to lay out and locate any lands and where, upon the application of either party to