Thomas' Admx. v. Visitors of Frederick Co. School, 9 G. & J. 115. Where a judgment is arrested each party pays his own costs, and it is error to give them to either party, Charlotte Hall School v. Greenwell, 4 G. & J. 407. And on issues sent for trial from the Orphans Court, it is erroneous to enter a judgment for costs on the verdict, the practice being to certify the finding and costs to the Orphans Court and leave it to enter the judgment, Browne v. Browne, 22 Md. 103; Levi v. Levi, 28 Md. 25.[20] And the same rule prevails as to issues from Chancery.

Costs in ejectment.—In ejectment, where a defendant on amendment of his plats lessened his defence but retained possession afterwards of the land thus relinquished, the Court ordered judgment for the plaintiff for the part thus relinquished, and that the defendant should pay the whole costs of suit of the plaintiff until judgment, the other costs to abide the event of the suit, Berry's Lessee v. Willet, 2 H. & McH. 376. And if plaintiff in ejectment is nonsuited and brings another action against the same defendant, the rule here, as in England, is to stay the second action until the costs of the first are paid,[21] Bull's Lessee v. Sheridine, 1 H. & J. 206; but from Doe v. Thomas, 2 B. & C. 622, it seems that the Court will not stay proceedings in a second ejectment, where the first verdict was obtained by fraud and perjury. The real defendant also may, in a summary way, be made to pay the costs, though not a party to the record, as where parish officers put a pauper in possession of the premises, ejectment being the only action, however, where it is done, Doe v. Gray, 10 B. & C. 615; Thrustout v. Shenton, 10 B. & C. 110; and therefore it was refused to be done in Evans v. Rees, 2 Q. B. 334, an action of replevin, and it was observed there that the proper course in such cases, where the real plaintiff or defendant does not appear on the record, is to move, pending the cause, for a stay of proceedings until security for costs be given. And even in ejectment, it must be shown that the defence was conducted by strangers to the record in another name for their own benefit, and that the defendant had no substantial interest, Anstey v. Edwards, 16 C. B. 212. But the practice still holds in ejectment in spite of the abolition of the old fictions on which the action was grounded, Hutchinson v. Greenwood, 4 E. & B. 324.

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[20] Brown v. Johns, 62 Md. 333; Johns v. Hodges, 60 Md. 215; Bantz v. Bantz, 52 Md. 686; Hubbard v. Barcus, 38 Md. 166; Code 1911, Art. 93, sec. 255. See also note 9 to 3 Hen. 7 c. 10.

[21] Now by the Act of 1888, ch. 271, the court in which an action shall be after a new trial has been ordered by the Court of Appeals or by that court, shall have power to stay all further proceedings in such action until all costs adjudged by the Court of Appeals, or by that court, shall be paid by the party adjudged to pay them. Code 1911, Art. 75, sec. 70. The Act is constitutional. Knee v. Balto. Ry. Co., 87 Md. 623. A motion to stay proceedings under this act is addressed to the sound discretion of the trial court and its refusal to grant a stay will not be reviewed on appeal in the absence of an abuse of discretion by it. Brinsfield v. Howeth, 110 Md. 520; 107 Md. 278.