ceased, and the action goes on. That is, an action is not abated by death simply, as at common law. It may be revived and continued. But if nothing is done to revive it, after the lapse of time prescribed by Statute it does *abate*. There seems, however, to be no authority, though *dicta* are to be found to that effect, that an executor may begin an action in the first instance after the period of limitation has expired.

There have been several instances in Maryland in which the provision of this section has been availed of. Thus in Drane v. Hodges, 1 H. & McH. 518, a case commonly referred to on the question of the extension of the Statute, which was trespass *q. c. f.* and judgment reversed, the plaintiff brought a new action within one month after, and on the point saved as to this section judgment was given for him. In Schnertzell v. Chapline, 3 H. & McH. 439, assumpsit on a promissory note, there was a replication of a former suit in which the judgment was arrested; the *replica- **464** tion will be found in 2 Harr. Ent. 353, and see Lynch v. Lambe, Cro. Car. 294. But in Cawood v. Whetcroft, 1 H. & J. 103, where the suit was "struck off" at the instance of the plaintiff, and a new action brought within a year afterwards, it was held that the Statute did not apply.

In Anon. 1 Vern. 74, it was said that if a man sue in Chancery, and pending the suit there the Statute attaches on his demand, and his bill is afterwards dismissed, the matter being properly determinable at common law, the Court will in such case preserve the plaintiff's right and will not suffer the Statute to be pleaded at law to his demand. But see the note to that case. At law, the plea of the Statue would be allowed. And it seems difficult to maintain, that if the plaintiff will sue in equity on a purely legal cause of action, he may, on this ground, exclude the time running pending the suit in equity from computation. And from Anon. 2 Ch. Ca. 217, it appears that there must be equitable circumstances attending his case, for unless he has been stayed by some act of the Court, as by injunction, the Court will not interfere. An injunction generally suspends the running of the Statute, Little v. Price, 1 Md. Ch. Dec. 182.

V. **Payment into Court.**—Lord Coke, 2 Inst. 107, after observing that the tenant may tender the arrearages of rent to the lord coming to distrain, &c., and that in case of a distress for *damage feasant* the tender of amends before the distress makes the distress unlawful, &c. goes on to say, "But if a man bring his action of trespass for taking away his beasts or other goods there tender of such sufficient amends before the action brought is no barre, because he that tendred the amends is not the owner of the goods, as in the other cases, but a trespasser whom the law favoureth not." Accordingly in Bailee v. Vivash, 1 Str. 549, in trespass for taking away goods, the defendant pleaded tender of amends, and on demurrer judgment was given for the plaintiff, the Stat. 21 Jac. 1, c. 16, giving such plea only in the case of an involuntary trespass with a disclaimer, and so is 2 Roll. Abr. 570. But now by the Code, Art. 75, secs. 19, 20,[59] it is lawful for the defendant, or for one or more of several defendants in

[59] As now amended, Code 1911, Art. 75, secs. 20, 21. Gamble v. Sentman, 68 Md. 75; Crook v. Ins. Co., 112 Md. 272.