

corporate, shall affect any salary or wages of the debtor which are not actually due at the date of the attachment; and the sum of one hundred dollars of such wages or hire due to any laborer or employee by any employer or corporation shall always be exempt from attachment by any process whatever.\*

Where a man is paid five per cent. of the cost of erecting a building for his services in superintending the work, etc., he is an employee, and money due him comes within the exemption of this section. *Moore v. Heaney*, 14 Md. 558.

Where money is in bank in the name of an insurance company for which the defendant is agent, but which money is proved at the trial to belong to the agent, such money is not exempt under this section. *First National Bank v. Jagers*, 31 Md. 52.

The construction of the word "employee" as used in this section contrasted with the construction of such word as used in article 47, section 15—see notes thereto. *Roberts v. Edie*, 85 Md. 186.

The law prior to 1874 and the act of 1874, ch. 45, must be construed *in pari materia*—the latter has no retroactive effect. *Shryock v. B. & O. R. R. Co.*, 56 Md. 521; *House v. B. & O. R. R. Co.*, 48 Md. 130.

For a construction of this section prior to the act of 1886, ch. 65, see *First National Bank v. Weckler*, 52 Md. 39.

As to the assignment of wages, see art. 8, sec. 11, *et seq.*

1904, art. 9, sec. 34. 1888, art. 9, sec. 33. 1874, ch. 230.

**34.** The wages or hire of any person or persons, not residing in this State, shall be subject to attachment upon judgment, warrant or upon two *non ests*, in the same manner and to no larger extent than the wages or hire of any person or persons, resident in this State.

#### **Judgment Pleadable by Garnishee Against Defendant.**

*Ibid.* sec. 35. 1888, art. 9, sec. 34. 1860, art. 10, sec. 37. 1715, ch. 40, secs. 3-7. 1888, ch. 401.

**35.** Any judgment of condemnation against a garnishee and execution thereon, or payment by such garnishee, shall be sufficient and pleadable in bar in any action brought against him by the defendant in the attachment for or concerning the property or credits so condemned, even though such judgment of condemnation be afterwards reversed or set aside, unless at the time of execution made, or payment, such judgment or execution thereon shall have been stayed according to law.

Where there is a judgment of condemnation by a competent court of the District of Columbia (having jurisdiction), against a Maryland garnishee who pays the judgment, the garnishee may plead such judgment and payment in bar of a suit here by his creditor. *Savin v. Bond*, 57 Md. 228. See also, *Taylor v. Phelps*, 1 H. & G. 502; *Williams v. Jones*, 38 Md. 567. And see *Harris v. Balk*, 198 U. S. 215.

The fact that a garnishee consents to a judgment impounding his debt to the principal debtor, he being absolutely without defense, does not make the payment under the judgment voluntary, so as to prevent him from pleading such payment in bar of an action on the debt. Duty of the garnishee to notify the defendant. *Harris v. Balk*, 198 U. S. 215.

The mere pendency of the attachment is not a defense in bar—there must have been a judgment of condemnation and execution. *Cole v. Flitcraft*, 47 Md. 317.

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\*This section has been repealed and re-enacted as to Allegany county—see acts of 1908, ch. 665.