

Prayer for immediate return of writ and hearing granted under this section. Motion to quash attachment overruled—see notes to sec. 4. Hedrick *v.* Markham, 132 Md. 161.

If the attachment is quashed, the whole proceeding (including the short-note case where the defendant is not summoned and does not appear), fails. Randle *v.* Mellen, 67 Md. 188.

Where a judgment of condemnation *nisi* has been entered before the defendant appears, he should move to strike out the judgment before moving to quash. Boarman *v.* Patterson, 1 Gill, 379.

A defendant may appear in the attachment case for the purpose of moving to strike out the judgment of condemnation and to quash the execution thereon, without thereby being in the jurisdiction of the court so as to lay himself open to a personal judgment in an action of *assumpsit* brought at the same time as the attachment. Potomac, etc., Co. *v.* Clyde, 51 Md. 179.

A disability of the plaintiff to sue, should be raised by plea in abatement, and not by motion to quash. Albert *v.* Freas, 103 Md. 590.

At the hearing of a motion to quash, the plaintiff opens and closes. Johnson *v.* Stockham, 89 Md. 379.

An. Code, sec. 21. 1904, sec. 21. 1900, ch. 139, sec. 49.

21. In all cases where a motion to quash an attachment is made, and testimony is required to be taken in support of or against such motion, any party in interest shall have the right to have such testimony taken orally, in open court.

An. Code, sec. 22. 1904, sec. 22. 1888, sec. 21. 1852, ch. 155, sec. 2.

22. Either party shall be at liberty to appeal from the decision of the judge on said petition within two months thereafter.

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23. If the judge shall quash said attachment, and the plaintiff shall appeal and give bond in such penalty and with such security as said judge may approve, conditioned to prosecute said appeal with effect, or in default thereof to pay such costs and damages as the absent defendant or other persons interested in said property or credits may incur, or suffer by reason of such attachment and appeal, the attachment shall remain in force as if no such petition had been filed.

See notes to sec. 39.

An. Code, sec. 24. 1904, sec. 24. 1888, sec. 23. 1852, ch. 155, sec. 2.

24. The party appealing under the preceding section shall have ten days from the date of the judgment quashing any such writ of attachment, within which he may file his appeal bond, and the writ of attachment shall remain in force during that time.

Attachments After Two Non Ests.

An. Code, sec. 25. 1904, sec. 25. 1888, sec. 24. 1715, ch. 40, sec. 2.

25. When two summonses have been returned *non est* against the defendant in any of the courts of law of this State, the plaintiff, upon proof of his claim as hereinbefore required, shall be entitled to an attachment, and the judge of the court where such action is pending shall order such attachment to issue, and the same proceedings shall be thereupon had as in attachments issued against absconding debtors.