

An. Code, 1924, sec. 8. 1912, sec. 8. 1904, sec. 8. 1888, sec. 8. 1794, ch. 54, sec. 10. 1796, ch. 43, sec. 13. 1801, ch. 74, sec. 10.

8. Whenever any suit or action, whether in the name of the State or of an individual shall be marked for the use of any person, the person for whose use such suit or action is marked shall be liable for costs as if he were the legal plaintiff.

The liability of the *cestui que use* for costs becomes fixed the moment the case is marked to his use with his knowledge and consent, and continues as long as that of the legal plaintiff lasts. History of this section. It is immaterial that the *cestui que use* acquires no interest in the suit or judgment or that the entry is made only for collateral security. An order in lower court (pending an appeal) substituting one *cestui que use* for another, has no effect on the judgment for costs in the court of appeals. *Rudell v. Green*, 104 Md. 375; *Wilson v. Williams*, 106 Md. 672.

Where, pending an appeal and without consent of court, an order is filed with the clerk of the court of appeals striking out name of the equitable plaintiff and inserting another person as equitable plaintiff, former remains liable for costs incurred at time his name was stricken out. *Wilson v. Williams*, 106 Md. 672.

This section applies to chancery proceedings as well as to those at law. The legal and equitable plaintiffs are both liable for costs. *Wilson v. Williams*, 106 Md. 672. See also *Selby v. Clayton*, 7 Gill, 243.

An infant, who is defendant in a suit by his guardian, is liable for costs. *Lane v. Gover*, 1 H. & McH. 459.

While the costs are adjudged against legal plaintiff, defendant may proceed against him, or against equitable plaintiff. *Selby v. Clayton*, 7 Gill, 243.

Costs may be entered against state under this section, but equitable plaintiff is liable for such costs. *State v. Greenwell*, 4 G. & J. 417.

This section applied, where suit brought in name of state. *State v. Layman*, 46 Md. 192.

This section referred to in construing sec. 9. *United Rys. & E. Co. v. Winer*, 144 Md. 239.

For a case dealing with act 1794, ch. 54, sec. 10, see *Logan v. State*, 39 Md. 187.

An. Code, 1924, sec. 9. 1912, sec. 9. 1904, sec. 9. 1888, sec. 9. 1796, ch. 43, sec. 12. 1801, ch. 74, sec. 9. 1900, ch. 382.

9. The defendant in any action may at or before the trial court have a rule on the plaintiff or plaintiffs to give security for the payment of costs and charges which may be recovered against him or them in such action if the plaintiff or plaintiffs, or any of them, is not a resident or are not residents of this State at the time the motion is made for such rule: provided, that such rule shall be had only against a non-resident plaintiff or plaintiffs, or against a resident plaintiff or plaintiffs, who is an assignee or are assignees of or stand in the place of a non-resident plaintiff or plaintiffs. On such rule being laid, the plaintiff or plaintiffs, shall have until the second day of the next term of the court to comply therewith, and on his or their failure to do so he or they shall be non-suited.

This section does not apply where resident plaintiff has assigned claims, to limited amount, to non-resident indemnity company, which is not named as plaintiff and case not marked to its use. *United Rys. & E. Co. v. Winer*, 144 Md. 237.

Neither a rule security for costs nor a motion for such a rule extends the time in which to plead, since such rule is in no manner connected with the pleadings. *Wilkin Mfg. Co. v. Melvin*, 116 Md. 101.

Who is a "non-resident"? The "trial court" means any court at which the case is called and ready for trial. This section is constitutional. *Haney v. Marshall*, 9 Md. 208. See also *Knee v. City Pass. Ry. Co.*, 87 Md. 625.

This section is constitutional. A rule laid in one county may be enforced in another county to which the suit is removed. The right to claim a non-suit for non-compliance with the rule, continues up to the beginning of the trial. *Holt v. Tennallytown, etc., Co.*, 81 Md. 220.

A plaintiff who discovers during progress of trial that rule security for costs has not been complied with, cannot then insist that trial be stopped until the rule is complied with. *Spencer v. Trafford*, 42 Md. 18.

This section relates to the laying of the rule security for costs in actions at law. An appeal lies from a refusal to require a non-resident to give security for costs. *Watson v. Glassie*, 95 Md. 660.

Although the suit may be brought in the name of the state, if the equitable plaintiff is a non-resident, the rule may be laid. *State v. Layman*, 46 Md. 192.