

the verdict, the judgment will be arrested upon motion. Where, however, no such motion is made and there is an agreement of record reading "judgment only to bind assets by agreement of counsel in open court," this amounts to a waiver of a defect in plaintiff's prayers relative to insufficiency of assets. *Gill v. Staylor*, 93 Md. 473.

If the bond is in suit, the judgment is for the penalty of it, and if not, then for the damages laid in the declaration to be released on payment of amount of verdict. *Neale v. Hermanns*, 65 Md. 479.

An. Code, 1924, sec. 28. 1912, sec. 28. 1904, sec. 28. 1888, sec. 27. 1802, ch. 101, sec. 1.

**27.** The sum so ascertained shall be levied of the goods and chattels of the deceased, or of the proper goods and chattels of the defendant, and the residue of the debt or damages so ascertained shall be levied of the goods and chattels of the deceased, which may thereafter come to the hands of the defendant, to be administered with interest as aforesaid, or of the proper goods and chattels of the defendant.

Cited but not construed in *Gill v. Staylor*, 93 Md. 473.

An. Code, 1924, sec. 29. 1912, sec. 29. 1904, sec. 29. 1888, sec. 28. 1802, ch. 101, sec. 1.

**28.** If such goods and chattels shall thereafter come to the hands of the defendant as administrator, or into the hands of any other person who may have authority to administer the goods of the deceased, the plaintiff may issue on the said judgment a writ of *scire facias*, suggesting the coming of assets to the hands of the administrator, liable to the payment of the residue of his debt or demand, with interest as aforesaid, so due, upon which, if the defendant contests the same, there shall be a trial by jury, as provided in section 25.

Cited but not construed in *Gill v. Staylor*, 93 Md. 473.

An. Code, 1924, sec. 30. 1912, sec. 30. 1904, sec. 30. 1888, sec. 29. 1870, ch. 371.

**29.** In all cases of proceedings to condemn lands, for any purpose whatever, under any law or charter, upon the return and ratification of the inquisition by the proper court, and in all cases in which inquisitions may have been heretofore returned and ratified, the said court shall render a judgment against the person or corporation for whose use the condemnation may be so made in favor of the owners named in the inquisition for the amount of the damages awarded by the jury, and unless, within ninety days after condemnation ratified, the same shall be abandoned by written notification to said owners, execution may immediately thereafter issue on said judgment, as in other cases of judgment rendered in courts of law.

In proceedings by State Roads Commission for condemnation of right of way, where jury awarded damages in excess of amount considered reasonable on account of a spring, held that Commission had authority to change the proposed right of way. *State Roads Commission v. Redmiles et al.*, Daily Record, June 13, 1939.

Condemnation proceedings may be abandoned. This section is not inconsistent with and is not repealed by act of 1912, ch. 117 (see art. 33A). The contention that this section makes it mandatory upon the court when it directs the entering of a judgment after the assessment of damages, overruled. *Pitsnogle v. W. Md. Rwy. Co.*, 123 Md. 672.

This section has no application to proceedings by the commissioners for opening streets of Baltimore City. *Norris v. Baltimore*, 44 Md. 605; *Merrick v. Baltimore*, 43 Md. 245.

### Court of Appeals.

An. Code, 1924, sec. 31. 1912, sec. 31. 1904, sec. 31. 1888, sec. 30. 1852, ch. 263.  
1892, ch. 521.

**30.** Any judge of the court of appeals, or any judge of a circuit court, or any judge of the supreme bench of Baltimore City, who shall be connected by consanguinity or affinity with any party to a cause within the