

house or storage receipt, or other negotiable instrument, shall be precluded from so recovering by reason of his inability from any cause to produce such instrument in evidence at the trial, or surrender the same to the defendant; provided, always, that the absence of such instrument shall be sufficiently accounted for, under the ordinary rules of evidence, to allow the introduction of secondary proof of the contents thereof at the trial, and that no judgment thereupon shall be entered for the plaintiff in such suit until a good and sufficient bond shall have been first filed therein by the plaintiff or on his behalf, in such penalty and with such surety or sureties as the court shall approve, conditioned to hold and keep the defendant harmless, upon satisfaction of the judgment by him, to the same effect and intent as if said missing instrument were then and there produced and surrendered to him, and the costs in all such cases shall be adjudged by the court, in its discretion, as may be equitable.

The bond need not be given before verdict, but before judgment entered. *Prayers. Councilman v. Towson Bank*, 103 Md. 478. See also *Ecker v. First Natl. Bank*, 59 Md. 305.

As to bills of lading, see art. 14, sec. 17. As to warehouse receipts, see art. 14A, sec. 14. For a case involving the remedy in equity where coupon bonds are lost see *C. & O. Canal Co. v. Blair*, 45 Md. 102. And see *Fell's Point Institution v. Weedon*, 18 Md. 320. This section is identical with art. 13, sec. 11—see notes thereto.

An. Code, 1924, sec. 19. 1912, sec. 15. 1904, sec. 15. 1888, sec. 15. 1803, ch. 54.

19. In case any person shall be prosecuted by indictment or any other criminal prosecution for a libel the party so prosecuted shall be entitled to give the truth of the matter charged in the said indictment or other prosecution, in evidence under the general issue by way of justification.

An. Code, 1924, sec. 20. 1912, sec. 16. 1904, sec. 16. 1888, sec. 16. 1825, ch. 208, sec. 1. 1888, ch. 547.

20. In any suit on the bond of any clerk or register it shall not be necessary to suggest the breaches in the replication, and if plea of performance is pleaded by defendants, it shall be sufficient to reply generally that the obligor has not performed the condition of his bond and give the special matter in evidence, and in this event the defendant shall be entitled to a bill of particulars of the plaintiff's claim.

As to a bill of particulars, see sec. 28, sub-sec. 107.

An. Code, 1924, sec. 21. 1912, sec. 17. 1904, sec. 17. 1888, sec. 17. 1825, ch. 208, sec. 4.

21. The plea of *non damnificatus* shall not be received to any suit on the bond of a clerk or register.

An. Code, 1924, sec. 22. 1912, sec. 18. 1904, sec. 18. 1888, sec. 18. 1777, ch. 13, sec. 2.

22. Whenever any recognizance taken for the appearance of any person to answer, or of any person to testify, shall be forfeited in any court of record, the state's attorney may order a writ of execution to be issued for the sum or sums thereon due.

This section does not cover a recognizance under art. 87, sec. 40—to pay a fine or penalty—it refers to the forfeiture of a recognizance to answer or testify. See notes to art. 87, sec. 40. *Albrecht v. State*, 132 Md. 159.

An. Code, 1924, sec. 23. 1912, sec. 19. 1904, sec. 19. 1888, sec. 19. 1782, ch. 42, sec. 2.

23. Whenever any execution has issued on a forfeited recognizance against a person for not appearing according to the tenor of the recogni-