

zance, such person, on the return of the execution, may appear and plead in discharge thereof any plea which would have been good and sufficient to a *scire facias* on said recognizance, if a *scire facias* had issued thereon; and upon such plea being determined in favor of the person pleading the same, he shall be discharged from the said forfeiture; provided, such person shall not be discharged from such execution until the trial of the plea, unless he shall pay and satisfy the execution or give bond payable to the State before the sheriff, or enter into recognizance in court with one good and sufficient security in double the forfeiture and costs due upon such execution, conditioned to appear and plead in discharge of said execution and to abide by and fulfil the judgment of the court thereupon.

Whether there is such a record as the execution on recognizance recites, can only be tried on a plea of *nul tiel record* under this section. Questions of irregularity in taking and forfeiting of recognizance cannot be tried on motion to quash execution. Other matters to be disposed of under plea of *nul tiel record*. That traverser actually appeared according to condition of recognizance, is a matter of discharge to be availed of by plea. *Schultze v. State*, 43 Md. 305.

This section does not cover a recognizance under art. 87, sec. 40, to pay a fine or penalty—it only refers to an execution issued on a forfeited recognizance for not appearing. See notes to art. 87, sec. 40. *Albrecht v. State*, 132 Md. 159.

Cited but not construed in *Roth v. Baltimore Trust Co.*, 159 Md. 586.

An. Code, 1924, sec. 24. 1912, sec. 20. 1904, sec. 20. 1888, sec. 20. 1856, ch. 112, sec. 94. 1888, ch. 409.

**24.** It shall be lawful for the defendant, or for one or more of several defendants, in all actions (except actions for assault and battery, false imprisonment, libel, slander, malicious arrest or prosecutions for criminal conversation, or debauching of the plaintiff's daughter or servant), to pay into court a sum of money by way of compensation or amends; and when two or more causes of action are joined in one suit or action, it shall be lawful for the defendants or for one or more of several defendants to pay into court a sum of money by way of compensation or amends for and on account of either or all of said causes of action.

Surety on bond to pay demurrage "legally determined" to be due held liable for interest only from date of decree to date of tender. Effect of tender to stop interest and entitle surety to costs. *Black Diamond S. S. Co. v. Fid. & Dep. Co.*, 33 Fed. (2nd), 769.

The effect of a tender and payment under this and the following section is to admit liability of defendant and to raise as the only issue the extent of such liability. Object of these sections. The tender and payment may be set up by plea. Where plaintiff replies that the money paid is not enough to satisfy his claim the court will hold money until that issue is decided, and then pay to plaintiff so much of it as jury may find to be due. Costs. How verdict should be rendered. *Gamble v. Sentman*, 68 Md. 75; *Palatine Ins. Co. v. O'Brien*, 107 Md. 352. And see *Palatine Ins. Co. v. O'Brien*, 109 Md. 111; *Crook v. New York Life Ins. Co.*, 112 Md. 272.

An. Code, 1924, sec. 25. 1912, sec. 21. 1904, sec. 21. 1888, sec. 21. 1856, ch. 112, sec. 96. 1888, ch. 409.

**25.** The plaintiff, after payment of money into court for and on account of any cause of action in any suit or action in which said payment shall be lawful under the provisions of the preceding section shall be at liberty to reply to the same by accepting the sum so paid into court in full satisfaction and discharge of the cause of action for and on account of which said payment shall have been made, and he shall be at liberty in such case to have his costs taxed, and if they are not immediately paid he shall have judgment for the costs so taxed; provided, however, that when two or more causes of action are joined in one suit and payment shall be made on account of one or more of said causes of action, the costs shall be apportioned by the court; and when any cause or causes of action upon account