

trator of the person alleged to have made the deed, obtained leave from the court upon showing just cause to put in such plea.

74. In any suit brought on any judgment or bond or other writing sealed by the party, if the defendant shall have any demand or claim against the plaintiff, upon judgment, bond, or other instrument under seal, or upon bill of exchange, check, order for payment of money, promissory note, agreement, assumpsit, or account proved, he shall be at liberty to file such demand or claim in bar, or plead the same in discount of the plaintiff's claim, and judgment for the excess of the one claim over the other, as each is proved, with costs of suit shall be given for the plaintiff or the defendant, according as such excess is found in favor of the one or the other of these parties, if such excess be sufficient to support a judgment in the court, when the cause is tried according to its established jurisdiction, otherwise the finding of such excess to be due shall be sufficient *primâ facie* evidence of the fact of indebtedness for such excess, as upon an award of arbitrators in a suit in a court having jurisdiction to try and determine the same.

75. In any suit upon simple contract, the defendant may file in bar or plead in discount any claim he may have against the plaintiff proved according to law, which may be of equal or superior nature to the plaintiff's claim, and judgment shall be given for the difference found or other consequence follow thereon as in the preceding section is provided.

76. 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

77. 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.

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

79. 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.

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

Unless defendant be heir or executor

1876, c 398
1785, c 46 s 7
Claim in bar, or discount in suit on judgment, or sealed instrument
6 Md 51, 13 Md 379, 28 Md 495,
31 Md 12, 45 Md 161, 2 H & J 77.

Judgment for the party in whose favor the excess is found

1876, c 398
1785, c 46, s 7
Claim in bar, or discount in suit on simple contract

Art 75, s 14
1803, c 54
In libel, justification
45 Md 161

Id s 15.
1825, c 208, s 1
Pleading in suit on bond of clerk or register

Id s 16
1825, c 208, s 4
Plea of *non damnificatus* not allowed

Id s 17
1777, c 13, s 2
State's attorney may order execution on forfeited recognizance

Id s 18
1782, c 42, s 2
On return of execution defendant may plead as on *scire facias*
43 Md 295