

be burdened with the payment of any costs or fees accruing on such prosecution, but all such costs and fees, with the legal costs of the party accused, shall be paid by the county; and no person taken upon any warrant or *capias* on presentment where no bill of indictment is found shall be liable to pay or give security for costs, but such costs shall be paid by the county. The mayor and city council of Baltimore shall not, however, be liable in any such cases tried in the criminal court of Baltimore for the appearance fees allowed by law to the attorney of the traverser.

This section only applies in case the defendant is acquitted, or fined not exceeding fifteen cents. *Schamer v. Washington County*, 83 Md. 129.

1904, art. 24, sec. 8. 1888, art. 24, sec. 8. 1860, art. 27, 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 the 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 the name of the equitable plaintiff and inserting another person as equitable plaintiff, the former remains liable for costs incurred at the 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 the legal plaintiff, the defendant may proceed against him, or against the equitable plaintiff. *Selby v. Clayton*, 7 Gill, 243.

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

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

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

*Ibid.* sec. 9. 1888, art. 24, sec. 9. 1860, art. 27, sec. 10. 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-