

and if they fail to do so the defendant may interpose the objection to evidence (on the ground of a variance), under the general issue. (See, however, section 38, *et seq.*) *Smith v. Crichton*, 33 Md. 107. And see *Kent v. Holliday*, 17 Md. 387.

*Forms of affidavit to Pleas in Abatement.*

84. ——— county.

M. R. (the defendant in the cause), makes oath and says, that the plea, hereunto annexed, is true in substance and in fact.\*

Sworn before.

A plea in abatement may be struck out on motion, if not sworn to. *Graham v. Fahnestock*, 5 Gill, 215; *Deheaulme v. Boisneuf*, 4 H. & McH. 413.

*Form of Declaration when the summons is returned as to some of the Defendants non est.*

85. R. G., by S. T., his attorney (or in person), sues J. T. and M. B. (but M. B. has been returned *non est* by the sheriff), for (here state the cause of action), and the plaintiff claims from J. T. (the person summoned), \$———.

*Commencements of Declarations by Persons Suing in Special Characters.*

86. A. B., executor of the last will (or administrator of the goods, &c.), of O. H., deceased, by S. T., his attorney, (or in person,) sues D. E. for (here state the cause of action).

87. J. T., who is within age, by S. T., his next friend (or guardian), sues W. B. for (here state the cause of action).

88. G. H., who was the husband of L. K., deceased, formerly L. B., who has survived his said wife, by S. T., his attorney, (or in person,) sues C. P. for (here state the cause of action).

89. B. H. and F. W., surviving partners of T. K. and I. M. (trading under the name of B. H., F. W. & Co.), by S. T., their attorney\* (or in person), sue T. H., surviving partner of M. S. (trading under the name of T. H. and M. S.), for (here state the cause of action).

(The words "trading under the name of," etc., may be omitted, unless the name of the firm be contained in the contract sued on.)

(The conclusion of declarations, by persons suing in special characters, shall be the same with that of declarations by persons suing in their proper characters.)

*Conclusions of Declarations by Executors and Administrators.*

90. "And the plaintiff claims therefor" \$——— (or if the action is detinue, brought to recover specific goods), "the plaintiff claims a return of the said goods, or their value, and \$——— for their detention;" (or

\*The affidavit should also contain the averment in the form prescribed by any special law. Such as *e. g.*, "that the affiant verily believes that the defendant will be able to produce sufficient evidence to support the same, and that he is advised by counsel to file said plea under oath."