

The opposite party is only entitled to oyer in those cases in which before the adoption of this sub-section, profert was necessary. Oyer can not properly be craved of a bond which is a public record, but if it is craved, the demand may be complied with by a certified copy. *State v. Willson*, 107 Md. 131.

107. Either party may use the common law forms, or the forms hereinbefore given, at his election; and either party may require a bill of particulars where the pleading is so general as not to give sufficient notice to the opposite party of the evidence to be offered in support of it.

This sub-section is but the expression of the previous rule of practice. When a bill of particulars is properly demandable. *Black v. Woodrow*, 39 Md. 212.

This sub-section does not require that the bill of particulars disclose the plaintiff's witnesses. Office and effect of a bill of particulars. *Cairnes v. Pelton*, 103 Md. 44.

The first clause of this sub-section referred to in deciding that the actions of debt and assumpsit could not be joined. *Smith v. State*, 66 Md. 219.

108. Whenever the partnership of any parties, or the incorporation of any alleged corporation, or the execution of any written instrument filed in the case is alleged in the pleadings in any action or matter at law, the same shall be taken as admitted for the purpose of said action or matter, unless the same shall be denied by the next succeeding pleading of the opposite party or parties.

There must be a specific denial of the partnership, incorporation or the execution of any written instrument, or such matter is admitted. The filing of the general issue plea is not a sufficient denial. *Fifer v. Clearfield Co.*, 103 Md. 3; *Banks v. McCosker*, 82 Md. 525; *Junkins v. Sullivan*, 110 Md. 545; *Abbott v. Bowers*, 98 Md. 527.

Where the declaration charges the execution of an agreement by A as the agent of B, and the defendant does not in his pleas specifically deny the execution of such agreement, such execution is admitted, but not that A was the agent of B with authority to bind the latter as alleged in the *narr.* *Fifer v. Clearfield Co.*, 103 Md. 3.

This sub-section has no application where there is no allegation in the *narr.* of the execution of any instrument, but the mere averment that the defendant "guaranteed the payment of the mortgage debt." *Commonwealth Bank v. Kirkland*, 102 Md. 668.

In a suit brought under a local practice act, the denial in the defendant's affidavit of the execution of an instrument filed with the *narr.*, compels the plaintiff to prove such execution. The procedure provided by the practice act is complete in itself, and exclusive of this sub-section. *Horner v. Plumley*, 97 Md. 282; *Farmers' Bank v. Hunter*, 97 Md. 150; *Nicholson v. Snyder*, 97 Md. 420.

This sub-section applied in a suit on a promissory note under the practice act for Baltimore city. *Abbott v. Bowers*, 98 Md. 527. And see *McCarty v. Harris*, 93 Md. 741; *Junkins v. Sullivan*, 110 Md. 545.

Where a policy of insurance which is the basis of the action is set out in the declaration and its execution is not denied in the plea, its execution is admitted for the purposes of the action. *Prudential Ins. Co. v. Devoe*, 98 Md. 588; *Citizens' Ins. Co. v. Conowingo Co.*, 113 Md. 438.

Under this sub-section, the mere production of the promissory note sued on makes a *prima facie* case which, unless rebutted, entitles the plaintiff to recover. *Frederick Institution v. Michael*, 81 Md. 505 (dissenting opinion).

This sub-section applied so as to obviate proof of the incorporation of the defendant. *Norfolk, etc., R. R. Co. v. Hoover*, 79 Md. 267.

Cited but not construed in *Zihlman v. Cumberland Glass Co.*, 74 Md. 307.

For a similar section applicable to cases before justices of the peace, see art. 52, sec. 33.