

84.

This sub-section referred to in holding an affidavit to a plea in abatement under the Rule Day Act applicable to Baltimore City, insufficient. *Hyson v. General Supply Co.*, 117 Md. 234.

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; provided that in all jurisdictions where provision has been or shall be made for the obtention of speedy judgments, when the cause of action filed with the declaration shall set forth the plaintiff's claim with the particularity required for a bill of particulars, the said cause of action shall become and be taken and treated as one of the pleadings in the case, and the plaintiff shall be restricted in his evidence to proof of the items so set out.*†

108.

This sub-section applied in a suit on a promissory note and a guaranty. *Booth v. Irving Nat. Exch. Bank*, 116 Md. 672; *Herrman v. Combs*, 119 Md. 48.

II.

PRACTICE.

Amendment.

35.

An appeal lies from the action of the court in refusing to allow an amendment of the declaration after the testimony on both sides has been taken; an amendment held proper and that it should have been allowed, although the refusal did not in itself justify a reversal. *Sterling v. Marine Bk. of Crisfield*, 120 Md. 398.

Some degree of discretion is reposed in the courts in allowing amendments, although the language of this section is extremely broad. While this section by its terms relates only to pleadings in courts of law, since no formal pleadings are required in the orphans' courts, a more stringent rule should not be applied to proceedings in the latter courts than to cases in courts of law. *Long v. Long*, 118 Md. 200.

As to amendments in criminal cases, see article 27, sections 493 and 494.

41.

Where the caption of a petition appealing from an award of the Commissioners for Opening Streets in a condemnation case, is "A. by B. Next Friend, v. The Mayor," etc., and the name of the petitioner as stated in the petition is "B.," and the affidavit to the petition is made by "B. as next friend," the lower court may permit an amendment of the petition so that it will read "A., Infant, by B., Next Friend." By such amendment this section is not violated. *Baltimore v. Yost*, 121 Md. 375.

*Thus amended by the act of 1914, chapter 378.

†The proviso added to this section by the act of 1914, chapter 378, has no application to cases pending or instituted prior to April 10, 1914.