

This and the preceding section referred to in holding that when the landlord sues for rent the tenant may recoup any damages he has sustained by the landlord's failure to comply with his covenant to repair. *Cramer v. Baugher*, 130 Md. 217.

See section 3A.

### Forms of Pleadings.

24.

Allegations of declaration held insufficient either in assumpsit or covenant; assumpsit is not sustainable upon a specialty and covenant will not lie when the payments are all due and payable. The suit being in debt on a specialty, general issue pleas in assumpsit are improper. The general issue plea in debt is *non est factum*; if other defenses are relied on they must be specially pleaded. *Merryman v. Wheeler*, 130 Md. 569.

See notes to section 3.

14.

This sub-section referred to in construing article 13, sections 43, 47, 77, 33 and 14—see notes to section 47. *Shaffer v. Bond*, 129 Md. 659.

107.

The action of the trial court in refusing a demand for a bill of particulars and for extension of time to plead held prejudicial error. Distinction between incorporating an account in the *narr.* and attaching an account to the *narr.* Office and effect of bill of particulars. *Newbold v. Green*, 122 Md. 652 (decided prior to the act of 1914, chapter 378).

108.

While under this section the fact that the defendants are partners may be admitted, such admission does not carry with it the further admission that the suit was on a partnership transaction or that what one partner did in reference to it necessarily bound the other. *Tippett v. Meyers*, 127 Md. 531.

The defendant's signature to a note proved, although such proof was not required under this section. *Shaffer v. Bond*, 129 Md. 649.

To the second note to this section on page 1650 of volume 2 of the Annotated Code, add *Tippett v. Myers*, 127 Md. 530.

## II.

### PRACTICE.

#### Abatement and Revivor.

26.

Whether this section is given effect or not, a libel by a stevedore filed in the District of Maryland does not abate upon his death. *The Student*, 238 Fed. 936.

#### Amendment.

37.

An amendment of the name of an individual defendant held justified upon the court's being satisfied that the party summoned as defendant was in fact the party intended to be sued: leave granted accordingly may not be reviewed by the Court of Appeals. *Abromatis v. Amos*, 127 Md. 404.

To the first and second notes to this section on page 1657 of volume 2 of the Annotated Code, add *Abromatis v. Amos*, 127 Md. 404.