

Arbitration and Award.

46.

An arbitration under this and the following sections upheld. Under what circumstances an award will be set aside. *Dominion Marble Co. v. Morrow*, 130 Md. 258.

Ejectment.

71.

The plea of "not guilty" admits the possession and ejectment, and puts in issue the title to the premises, the right of possession, and the amount of damages. Admission of evidence held not reversible error. *Abromatis v. Amos*, 127 Md. 397, 400.

See notes to section 73.

73.

In a proceeding under this section, rent falling due subsequent to the filing of the declaration cannot be recovered, *qua* rent; such rent may, however, be considered in fixing the plaintiff's damages. The right to rent and taxes due prior to the filing of the declaration is not extinguished by an action of ejectment. As this section does not provide what shall be included in the declaration, section 71 must be looked to for that purpose; declaration held in compliance with section 71. Not only the plaintiff's right of possession, but damages and *mesne* profits may be recovered under this section as well as under section 71. Where a suit is brought under section 73, claiming the recovery of certain items, the same items cannot be recovered in a subsequent suit; *res adjudicata*. History of this section. *Gibbs v. Didier*, 125 Md. 493.

79.

Except for an omission of courses and distances it would not have been necessary in an action of trespass *q. c. f.*, to have offered a patent in evidence in view of this section. Since plaintiffs and those under whom they claim held title to the lot since 1855, the law would presume a patent. *Malone v. Long*, 128 Md. 381.

80.

This section made radical changes in the practice. The court may, when it is satisfied that there is a dispute about the boundaries, order a warrant of re-survey to be issued although the defendant has not taken defence on warrant; when a warrant is so issued, the practice applicable to surveys made after defence on warrant is taken, applies. The defendant may no longer take defence on warrant as *a matter of right*, and have a re-survey of the disputed land. Application must be made to the court and the warrant can only issue on its order or by agreement of parties. Under section 82 the warrant may be taken out at the instance of either party. The foregoing statements apply in an action of trespass *q. c. f.* Where the title depends upon conflicting contentions or disputed lines, and a warrant of re-survey is issued, the evidence must be restricted to such objects, etc., as are located on the plats. *Andrews v. Pitts*, 126 Md. 333.

81.

See notes to section 80.

82.

See notes to section 80.

85.

See notes to section 80.