104 Md. 334; Melitch *v.* United Rwys. Co., 121 Md. 463; W., B. & A. R. Co. *v.* State, 136 Md. 120; White *v.* Safe Dep. & Tr. Co., 140 Md. 598.

Money collected by administrator under this section for damages to deceased and his estate must be duly accounted for like other assets; *contra* as to damages recovered by administrator under statute of another jurisdiction (similar to those recoverable in Maryland under article 67), on account of death of deceased. Dronenburg *v.* Harris, 108 Md. 616.

Suit may not be brought under this article or under art. 67, sec. 1, or art. 75, sec. 29, by husband of woman who was killed by man, since deceased, against personal representative of latter. "*Actio personalis moritur cum persona.*" Meaning of "injuries to the person." Demczuk *v.* Jenifer, 138 Md. 490. And see White *v.* Safe Dep. & Tr. Co., 140 Md. 599.

An action for alienation of wife's affections is an injury to the person within exception of the second clause of this section relative to suits against executors and administrators. Meaning of "injuries to the person." The latter part of this section may be referred to in construing the first portion. White *v.* Safe Dep. & Tr. Co., 140 Md. 593.

The words "personal action" construed. The act of 1798, ch. 101, held to include action of trespass *q. c. f.* Kennerly *v.* Wilson, 1 Md. 107. As to trover, see Brummett *v.* Golden, 9 Gill, 97.

The act of 1888, ch. 262, held to have no application where the plaintiff died before its passage. Harvey *v.* B. & O. R. R. Co., 70 Md. 324.

The act of 1861, ch. 44, strictly construed. That act had no application to actions for malicious prosecution. Clark *v.* Carroll, 59 Md. 182. And see White *v.* Safe Dep. & Tr. Co., 140 Md. 603.

See notes to sec. 82.

For the statute regulating suits for negligence resulting in death, for the benefit of the family of the deceased, see art. 67, sec. 1, *et seq.*

For forms of declarations and pleas in suits by and against executors and administrators, see art. 75, sec. 28, sub-sec. 90, *et seq.*

As to the plea by an administrator of "insufficient assets," and proceedings thereafter, see art. 26, sec. 26, *et seq.*

As to suits before a justice of the peace where executors or administrators are parties, see art. 52, secs. 9 and 10. See also art. 52, sec. 62.

As to abatement in the court of appeals, see art. 5, sec. 81, *et seq.*

An. Code. sec. 105. 1904, sec. 104. 1888, sec. 105. 1720, ch. 24, sec. 2. 1838, ch. 329.

107. No creditor shall bring a suit upon an administration or testamentary bond for any debt or damages due from or recovered against the decedent before a *non est* on a summons is returned against the administrator, or a *fieri facias* returned *nulla bona* by the sheriff of the county where the administration was granted, or where the effects of such deceased lie, or such other apparent insolvency or insufficiency of the estate of such administrator as shall, in the judgment of the court, render such creditor remediless by any other reasonable means save that of suing such bond.

This section limits the broad language of sec. 103. This section is applicable to creditors whose debts have been established, and a declaration must allege a compliance with prescribed conditions. Mertens *v.* Moore, 108 Md. 637. As to allegations of *narr.*, see also Dorsey *v.* State, 4 G. & J. 477; Laidler *v.* State, 2 H. & G. 280; Seegar *v.* State, 5 H. & J. 488. *Cf.* Laidler *v.* State, 2 H. & G. 282.

For a replication to a plea setting up a failure to comply with this section held sufficient as demonstrating that creditor was remediless save by suing bond, see Iglehart *v.* State, 2 G. & J. 245.

The act of 1720, ch. 24, is to be liberally construed—design thereof. Although administrator be returned *non est*, if before suit brought on bond he voluntarily appears, such suit on bond cannot be maintained. State *v.* Jones, 8 Md. 91.

This section has no application where the bond is simply conditioned upon the payment of all debts, legacies, etc. Duvall *v.* Snowden, 7 G. & J. 433.

This section has no application in creditors' suit. Emory *v.* Seth, 2 Bl. 542.

Cited but not construed in Seighman *v.* Marshall, 17 Md. 571; Brown *v.* Murdock, 16 Md. 531.