or stated, for in case of an adjusted or stated account, debt or assumpsit lies, see Scott v. M'Intosh, *2 Camp. 238; Tomkins v. Wilshear, 5 Taunt. 48
431; and 2°, privity in deed by consent of the party, for account will not lie against a wrong-doer, or in law, as in the case of a guardian, &c., between the complainant and the party called to account. But as regards partners, it was observed in Wadsworth v. Manning, 4 Md. 59, that one partner cannot sue another at law in an action of account unless there be an account stated, though he may in covenant, if the articles be under seal and any agreement or covenant in them be violated. However, see Co. Litt. 172 a, and a partner may it seems be charged as tenant in common and bailee under 4 Ann. c. 16, Baxter v. Hozier *supra;* Gibbs v. Clagett, 2 G. & J. 14; Hamilton v. Conine, *supra.* [3]

Pleading and practice.—The action [4] was formerly brought by a writ of account, but is now commenced by summons, see Baxter v. Hozier *supra,* and 1 Harr. Ent. 108, *et seq.* The declaration must in general specify the character in which the party is charged; if as receiver, from whom he received the money or goods for which he is held accountable, Bishop v. Eagle, 11 Mod. 187, though the defendant cannot take advantage of it after judgment, *ibid.* If he is charged as bailiff, however, this does not appear to be necessary, F. N. B. 118 F. The declaration should also state the time to which the account is to extend, for then the defendant must answer precisely, Southcot v. Rider, T. Raym. 57, see the precedents in Harr. Ent. *supra.* It seems that it is not necessary to aver, in the declaration, that a reasonable time elapsed between the request to account and the commencement of the action, for the duty of the defendant to account imposes on him the duty to be ready to account when called on, Beer v. Beer, 12 C. B. 60.

There is no general issue in account, and where the declaration discloses a legal liability to render an account, the defendant must plead specially, showing that he never was accountable; as to an action under 4 Ann. c. 16, that he is not tenant in common with the plaintiff, Ricketts v. Loftus, 14 Q. B. 462, or denying that he was receiver or bailiff, or stating that he was the plaintiff's hired servant or apprentice, or that he was within age at the

[3] The action of account will lie at law by one partner against his co-partner. Wilhelm v. Caylor, 32 Md. 151.

[4] The proceeding is very much like that had on bill in equity. The first judgment is that the defendant account with the plaintiff which is called a judgment *quod computet* answering to the preliminary decree to account in equity; after which the court assigns auditors to take and declare the account between the parties and upon that being done, the final judgment is that the plaintiff recover against the defendant as much as may be found due. By the Act of 1715, ch. 23, (Code 1911, Art. 57, sec. 1), the common law action of account is not only recognized as an existing remedy, but is required to be brought by express limitation within three years from the time the cause of action accrued. A bill for account in equity is a concurrent remedy with the action of account at law, and is by analogy equally barred by the statute of limitations. Wilhelm v. Caylor, 32 Md. 151. Cf. McKaig v. Hebb, 42 Md. 227; Weaver v. Leiman, 52 Md. 708.