

(33) That the plaintiff was possessed of land, called "Idlewild," in _____ county, and was entitled to a way from said land, over the land of the defendant, to a public highway, for himself and his servants, with horses and wagons, to go and return at all times, at his and their free will, for the more convenient occupation of the said land of the plaintiff; and that the defendant deprived him of the use of said way.

A declaration held to be in substantial compliance with this sub-section. *Offutt v. Montgomery County*, 94 Md. 120.

See notes to sub-sec. 32 of sec. 28.

(34) That the defendant falsely and maliciously spoke and published of the plaintiff the words following, that is to say: "he is a thief;" (if there be any special damage, here state it with such reasonable particularity as to give notice to the defendant of the particular injury complained of, for instance,) whereby the plaintiff lost his situation of bookkeeper in the bank of Washington.

As to the slander of females, see art. 88.

A declaration which does not allege that the words are false is insufficient. *Bottomly v. Bottomly*, 80 Md. 162.

(35) That defendant falsely and maliciously printed and published of the plaintiff in a newspaper called "The Examiner," the words following, that is to say: "he forswore himself."

Upon a demurrer to declaration, court must determine whether words charged amount in law to a libel. Effect of the *innuendo*. Words libelous *per se*. *Lewis v. Daily News Co.*, 81 Md. 466.

A declaration which does not allege that the libelous words are false is insufficient. *Bottomly v. Bottomly*, 80 Md. 162.

For a declaration framed under this sub-section, see *Hagan v. Hendry*, 18 Md. 188.

(36) That the defendant is a corporation, owning a railroad between B. and C.; that the plaintiff was a passenger on said railroad, and by reason of the insufficiency of an axle of the car in which he was riding the plaintiff was hurt; and the defendant did not use due care in reference to said axle, but the plaintiff did use due care.

[This form may be varied so as to adapt it to many cases, by merely changing the allegation as to the cause of the accident.]

A declaration alleging cause of accident to be defendant's negligence, "in managing its railroad and the car and train in which the plaintiff was a passenger," is sufficient. *Philadelphia, etc., R. R. Co. v. Allen*, 102 Md. 115. *Cf. Jeter v. Schwind Quarry Co.*, 97 Md. 700. And see *Smith v. Northern Central Rwy Co.*, 119 Md. 486.

A declaration which fails to allege that plaintiff at time of his injuries was using due care is defective. Case remanded for amendment. *State, use Dodson, v. Baltimore, etc., R. R. Co.*, 77 Md. 493.

Cited in *State v. Stewart* (Judge Dennis, Balto. City Court), *Daily Record*, Mar. 22, 1939.

See notes to sub-sec. 32 of sec. 28.

(37) That the defendant is an incorporated city, and is bound to keep its streets in repair; that one of its streets, called _____ street, was negligently suffered by the defendant to be out of repair, whereby the plaintiff in traveling on said street and using due care was hurt.

Narr. in suit for personal injuries against county commissioners upheld; allegation that defendants had notice of existence of hole in floor of bridge and of obstruction thereon, and as to time of accident, held unnecessary. See sec. 6. W., B. & A. R. Co. *v. Cross*, 142 Md. 505.

This section referred to in upholding a declaration in a suit for personal injuries. *Phelps v. Howard County*, 117 Md. 178.

See notes to sub-sec. 32 of sec. 28.

(38) That the defendant hired from the plaintiff a horse to ride from Frederick to Hagerstown, and thence back to Frederick, in a proper manner; and the defendant rode said horse so immoderately that he became lame and injured in value.