

without any Reversal or undoing of the same by Writ of Error, or of false Judgment, in like form as though no such Default or Negligence had never been had or committed.

III. (2) This present Act, with the Proviso, to endure till the last Day of the next Parliament.

I. This Act extended to all Writs of *Mandamus*, &c., by 9 Ann. c. 20, s. 7. 1 Roll. 86, 200, 303, 374. 2 Roll. 161, 168, 187, 368. Stiles, 307. 2 Cr. 568. The several Inconveniences which have heretofore followed by Delays in Suits. Moor. 574, pl. 790. Moor. 623, pl. 852. Moor. 867, pl. 1198. 1 Cr. 78. Jones, 140. After an Issue tried, there shall be Judgment given notwithstanding any *Jeofail* or Misplaying. 2 Saund. 318. 1 Salk. 177, 178. 1 Leon. 175, 238. 2 Leon. 195. 1 Bulstr. 25. 2 Bulstr. 66. 3 Bulstr. 180, 301. Godbolt, 107, pl. 127. Hob. 69. 5 Co. 43, 36, 37, 49. 11 Co. 7. Bro. Repleader, 40. Dyer, f. 284, 353, 367. Cro. El. 131, 133, 153, 227, 257, 308, 339, 535.

III. Made perpetual by 2 & 3 Ed. 6, c. 32. 18 El. c. 14. 21 Jac. 1, c. 13.

Defects cured by verdict.—If there be in any pleading any defect, or omission, or ambiguity, which would have been fatal on demurrer, but the issue joined necessarily required at the trial proof of the facts so defectively stated or omitted, such defect or omission is cured at common law by the verdict,¹ Code, Art. 75, sec. 9,² see *Dorsey v. Hays*, 7 H. & J. 370; *Vandersmith v. Washmeins Adm'r*, 1 H. & G. 4; *Cappeau v. Middleton*, 1 H. & G. 154; *Osgood v. Lewis*, 2 H. & G. 495; *Charlotte Hall School*

¹ *Wilson v. Cottman*, 65 Md. 190; *Treusch v. Kamke*, 63 Md. 274; *N. C. Ry. Co. v. Mills*, 61 Md. 355; *Soper v. Jones*, 56 Md. 503; *McKnew v. Duvall*, 45 Md. 501, 511; *Herbert v. Wich*, 45 Md. 474; *Black v. Woodrow*, 39 Md. 194; *Gent v. Cole*, 38 Md. 110; *Balto. C. P. Ry. Co. v. Sewell*, 35 Md. 250; *Vernon v. Tucker*, 30 Md. 456. Cf. *Hartsock v. Mort*, 76 Md. 281; *Charles Co. v. Mandanyohl*, 93 Md. 156.

² This section of the Code of 1860, which was but an affirmance of the common law rule, was repealed by the Act of 1888, ch. 547. This act, however, repealed and re-enacted sec. 8 of the Code of 1860 as follows: "No judgment shall be arrested or set aside for any omission of mere matter of form, nor because one or more of the counts in the declaration may be bad, if there be one count sufficient in substance, *nor because of any misjoinder of forms of actions or of counts, nor for any other matter or cause which might have been subject of general demurrer to the declaration or other pleadings.*" Code 1911, Art. 75, sec. 9. The amendment consists of the words in italics. The question of when a defect in the pleadings will and when it will not be cured by verdict is therefore a matter of little importance, as under this act no judgment can be arrested for any cause which might have been the subject of general demurrer. For a full discussion of this subject, see *Poe's Pleading*, secs. 702-704, 752-756 A.

For a defective instruction cured by verdict, see *Webster v. Moore*, 108 Md. 572.