v. Greenwell, 4 G. & J. 407; Ragan v. Gaither, 11 G. & J. 472; Baden v. the State, 1 Gill, 165; Merrick v. Bank of Metropolis, 8 Gill, 59; Ing v. the State, 8 Md. 287, and other cases. At common law, however, where any such even formal defect existed in some part of the pleading which was not in issue between the parties, and which therefore was said to be collateral to the issue, as there was no ground to presume that it was supplied by proof at the trial, it was not cured by the verdict, 1 Wms. Saund. 228, n. 1, Skennel v. Hogg. This was the reason why a verdict at common law did not aid such defects of form as are remedied by this and the other Statutes of Jeofails, as not giving colour, discontinuance, misjoining of the issue, and the like. But under our practice there is an exception, formerly a more extensive one than at present, to the effect of a verdict at common law, viz: that though the want of an averment may be aided after verdict upon a writ of error bringing up the pleadings alone, yet if a bill of exceptions be taken at the trial containing all the evidence offered to the jury, upon which the Court is required to instruct them, the question, if it can be raised under the Act of 1825, ch. 117,[3] is presented for review wholly uninfluenced by the verdict, for nothing can be presumed to have been proved which does not appear in the bills of exception, Walsh v. Gilmor, 3 H. & J. 383.

But though mispleadings in matters of substance to the issue, as well as collateral matters, are thus aided, the distinction still subsists between the defective statement of a title or cause of action, and the statement of a defective title or cause of action, the first being cured either by the verdict or the Statutes of Jeofails, while the last is not. Thus in Towson v. Havre-de-Grace Bank, 6 H. & J. 47, an action against an innkeeper for money stolen, it was alleged in the declaration that A., the loser, was a guest at the defendant's inn on the 27th September, and that afterwards on the 28th September, the money was stolen, without stating that A. was a guest *there at the time or on the day it was taken, and it was **329** held that the declaration shewed no cause of action, for, though a guest on the 27th, *non constitit* that A. was there on the 28th September, and it is necessary to state as the essence of the action that the plaintiff was a guest at the inn at the time of the loss, and see Neale v. Clautice, 7 H. & J. 377. So if husband and wife join in the action, the declaration must disclose the interest of the wife, Ridgely v. Crandall, 4 Md. 435. And many other cases might be cited. The forms of pleading given in the Code are expressly allowed to be sufficient in the cases to which they apply. In other cases, the pleader is to take care to state only the facts necessary to constitute the ground of action, defence, or reply, and not arguments or inferences, or matter of law, or of evidence or of which the Court takes notice *ex officio*. A plain statement of these facts is sufficient without reference to mere form, and it is not necessary to state time or place in any declaration or plea, except in cases where time or place forms a part of the cause of action or ground of defence. Code, Art. 75, secs. 2, 3, 5.[3a] In Cooke v. England, 27 Md. 14, the Court of Appeals observed that since the adoption of the Code forms of action are still observed, and the declaration

[3] See Code 1911, Art. 5, sec. 9.

[3a] Code 1911, Art. 75, secs. 2, 3, 5.