

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

A declaration which does not allege that the liberos 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 the cause of the accident to be the 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.

A declaration which fails to allege that the plaintiff at the 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.

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.

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.

Commencements of Pleas.

39. The defendant, by S. T., his attorney, or in person, says (here state the substance of the plea).

Pleas criticised for not following the form prescribed by this and the following sub-section. *Wilson v. Merryman*, 48 Md. 339; *Keefer v. Zimmerman*, 22 Md. 284.

The defence of arbitration and award must be specially pleaded in an action of debt. *Yingling v. Kohlhas*, 18 Md. 161.

40. And for a second plea the defendant says (here state the second plea).

See notes to sub-sec. 39.

Pleas in Actions on Simple Contract.

41. That he never was indebted as alleged, or that he never promised as alleged.