

or writing involved in the case, except in so far as the presence or absence of a seal may affect the substantive rights of the parties (such as necessity for a valuable consideration, period of limitation, etc.), as distinct from matters of procedure; and counts for recovery upon sealed instruments may be joined with counts for recovery upon unsealed contracts, express or implied; and there shall be but one form of action for recovery upon any cause of action arising *ex contractu* or *quasi ex contractu*, namely, the action of assumpsit, in which it shall be sufficient for the plaintiff to state briefly in his declaration the facts essential to recovery (but nothing hereunder shall be construed as abolishing the use of the common counts). Provided, that no period of limitations now prescribed by law with respect to any cause of action now existing or hereafter arising shall be altered by this section. And in any such suit at law it shall be sufficient for the defendant to file a general issue plea that the defendant never was indebted as alleged, or that the defendant never promised as alleged, under either of which forms of plea all matters of defence and discharge shall be admissible in evidence, except any matters which could only be availed of by a special plea, or by a more express denial than such general issue plea, in an action of assumpsit prior to the enactment of this section.

And the provisions of this section shall apply, *mutatis mutandis*, to the pleadings when the defendant relies upon matter *ex contractu* in a plea of set-off.

An. Code, sec. 4. 1904, sec. 4. 1888, sec. 4. 1856, ch. 112, sec. 91.

5. It shall not be necessary to state any formal commencement or conclusion to any declaration or other plea.

This section applied to a declaration. *Wilms v. White*, 26 Md. 386.

A replication and rejoinder held sufficient under this section, and in the light of secs. 3, 7 and 8. *Cumberland, etc., R. R. Co. v. Slack*, 45 Md. 178.

See notes to sec. 2. For forms of pleading, see sec. 28.

An. Code, sec. 5. 1904, sec. 5. 1888, sec. 5. 1856, ch. 112, secs. 53, 111, 112.

6. It shall not be 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 defense.

In a suit by an employee against his employer for discharging him prior to expiration of the term of service, the day and month of the discharge need not be set out in declaration. Any statement of a fact not necessary to be proved is but a matter of form. *Spencer v. Trafford*, 42 Md. 16. And see *Richardson v. Hall*, 21 Md. 399; *Dietus v. Fuss*, 8 Md. 161.

See notes to sec. 2 and to sec. 28, sub-sec. 37. For forms of pleadings, see sec. 28.

An. Code, sec. 6. 1904, sec. 6. 1888, sec. 6. 1763, ch. 23. 1856, ch. 112, sec. 36.

7. No special demurrer shall be allowed in any civil case.

The special demurrer provided for in sec. 137 constitutes an exception to this section. *Chesapeake, etc., Telephone Co. v. MacKenzie*, 74 Md. 44. Where no objection is made below to form of demurrer under this and following section, and defendant joint issue upon demurrer, he will be held to have waived any objection which he might otherwise make. *Shoop v. Powles*, 13 Md. 310.

This section applied. *Mitchell v. Wedderburn*, 68 Md. 143; *Horner v. Frazier*, 65 Md. 10; *Gott v. State*, 44 Md. 336.