Certain reasons assigned in support of motion in arrest of judgment, held to involve matters of form only, and this section applied. Eakle *v.* Clarke, 30 Md. 326. And see Campbell *v.* Webb, 11 Md. 478.

The last clause of this section applied. Davis *v.* Carroll, 71 Md. 569; Kellenbeck *v.* State, 10 Md. 437.

A judgment under practice act of 1864 applicable to Baltimore City will not be arrested because claim was not filed with declaration. Loney *v.* Bailey, 43 Md. 16.

The judgment will not be arrested because there are two counts in the declaration, both of which are good. Streeks *v.* Dyer, 39 Md. 428.

For cases involving art. 75, sec. 9 of the Code of 1860, see Keller *v.* Stevens, 66 Md. 134; Northern Central R. R. Co. *v.* Mills, 61 Md. 363; Loney *v.* Bailey, 43 Md. 16; Gent *v.* Coel, 38 Md. 114; Blackburn *v.* Beall, 21 Md. 230.

Cited but not construed in Gaither *v.* Wilmer, 71 Md. 366; Montgomery Bus Lines *v.* Diehl, 158 Md. 243.

An. Code, 1924, sec. 12. 1912, sec. 10. 1904, sec. 10. 1888, sec. 10. 1856, ch. 112, sec. 89. 1888, ch. 547.

12. The plaintiff in any action may plead in answer to the plea, or any subsequent pleading of the defendant, as many several matters as he shall think necessary to sustain his action; and the defendant in any action may plead, in answer to the declaration or other subsequent pleading of the plaintiff, as many several matters as he shall think necessary for his defense; provided, that the pleading of the party be consistent with his previous allegation and not a departure therefrom.

Not objectionable under this section for defendant at once to offer two defenses, one that there was agreement that services were to be rendered without cost, and the other accord and satisfaction. Surratt *v.* Wagner, 161 Md. 159.

This section does not change rule of common law that duplicity should be taken advantage of by demurrer. When plea is bad for duplicity. State *v.* McNay, 100 Md. 625.

An Code, 1924, sec. 13. 1912, sec. 10A. 1914, ch. 68.

13. In all cases in which a defendant shall plead a dilatory plea, and such dilatory plea shall be overruled or disallowed upon demurrer to or traverse of the same, the defendant who has so pleaded shall thereupon have the right to plead over to the merits of the case without withdrawing his dilatory plea, and upon appeal or writ of error he shall be entitled to have the questions of law arising upon his dilatory plea decided and determined as fully to every intent as if he had not pleaded over to the merits.

Reason of this section. In Maryland pleas to jurisdiction and pleas in bar cannot be submitted to jury at same time; this section held to have no application. O'Brien *v.* State, 126 Md. 283.

An. Code, 1924, sec. 14. 1912, sec. 11. 1904, sec. 11. 1888, sec. 11. 1785, ch. 80, sec. 3.

14. No plea of *"non est factum"* shall be received in any action, unless the party for whom such plea be tendered verify the same by affidavit, or unless the defendant being heir, executor or administrator of the person alleged to have made the deed obtain leave from the court, upon showing just cause, to put in such plea.

This section was cited as being applicable in separate opinion in Surratt *v.* State, 167 Md. 367.

This section requires a plea that alleged deeds are not defendant's deeds to be sworn to; as issue was joined on a plea unsworn to, it was treated as sufficient. Conowingo Land Co. *v.* McGaw, 124 Md. 652.

The execution of a bond can only be denied by plea of *non est factum,* which must be verified by oath except as provided in this section. State *v.* Duvall, 83 Md. 124.

It was unnecessary to determine whether plea of *non est factum* was verified by affidavit, since issue had been joined on it, and certain other pleas were demurred to. Milburn *v.* State, 1 Md. 12.

See sec. 4.