

An amendment of name of an individual defendant held justified upon court's being satisfied that party summoned as defendant was in fact the party intended to be sued; leave granted accordingly may not be reviewed by court of appeals. *Abromatis v. Amos*, 127 Md. 404.

The name of plaintiff may be amended as freely as any other step in the case. Striking out judgment after term. *Pumpian v. Rice*, 135 Md. 366.

This section applied so as to allow correction of defendant corporation's name, there being two corporations of very similar names. *Western Union Tel. Co. v. State*, use *Nelson*, 82 Md. 306; *Abromatis v. Amos*, 127 Md. 404.

This section applied to a misnomer of an individual defendant. *Union Bank v. Tillard*, 26 Md. 452; *Abromatis v. Amos*, 127 Md. 404.

Prior to the act of 1880, ch. 135, a misnomer of the plaintiff could not be cured by amendment. *Thanhauser v. Savins*, 44 Md. 414.

An. Code, 1924, sec. 42. 1912, sec. 38. 1904, sec. 38. 1888, sec. 37. 1856, ch. 112, sec. 27.

42. If there be a non-joinder or misjoinder of plaintiffs, the court may allow an amendment by which a plaintiff may be added or stricken out, as the case may require.

Another defendant added. *Cohen v. Herbert*, 145 Md. 204.

The allowance of an amendment is confided to discretion of trial court, provided it be within power of court to make it. *Thillman v. Neal*, 88 Md. 529.

This and two following sections do not affect rule that where a debt is due to a partnership or to several individuals jointly, they must all join as plaintiffs, and if they fail to do so, the objection may be raised to the proof (on ground of a variance), under general issue. *Smith v. Crichton*, 33 Md. 107. And see *Kent v. Holliday*, 17 Md. 387.

Where a suit is brought by H. S., "next friend" of J. S., declaration may be amended so as to make H. S. and J. S. joint plaintiffs without amending writ. *Condon v. Sprigg*, 78 Md. 333.

This section referred to in construing sec. 45—see notes thereto. *Wright v. Gilbert*, 51 Md. 153.

See notes to secs. 39 and 41.

An. Code, 1924, sec. 43. 1912, sec. 39. 1904, sec. 39. 1888, sec. 38. 1856, ch. 112, sec. 30.

43. If there be a misjoinder or non-joinder of defendants, the court may allow a defendant to be stricken out or added, as the case may require; but if a new defendant be added, he shall be summoned and have the same time to plead as if a new action were brought against him.

Under this and the following section, plaintiff is entitled in an action of replevin, to strike out a misjoined defendant. *Herzberg v. Sachse*, 60 Md. 434.

An amendment of affidavit before a notary, and warrant of justice to the clerk, in attachment cases, are not within purview of this section. (See art. 9, sec. 28.) *Halley v. Jackson*, 48 Md. 260.

This section referred to in overruling a motion in arrest of judgment. *Vernon v. Tucker*, 30 Md. 463.

Cited in *Thompson v. Sun Cab Co.*, 170 Md. 303.

See notes to secs. 39, 41 and 42.

An. Code, 1924, sec. 44. 1912, sec. 40. 1904, sec. 40. 1888, sec. 39. 1856, ch. 112, secs. 26-30.

44. Amendments for misjoinder or non-joinder of either plaintiffs or defendants may be made at any time before the jury retire to make up their verdict, or before judgment given on demurrer, or other trials before the court, as the case may be; and the court may grant such continuances and may award such costs against the party making the amendment as may be deemed just and reasonable.

Cited in construing sec. 45. *Christy v. Hammond*, 161 Md. 139.

Cited in *Thompson v. Sun Cab Co.*, 170 Md. 303.

As to costs, see also sec. 49.

See notes to secs. 39, 41, 42, 43 and 48.

An. Code, 1924, sec. 45. 1912, sec. 41. 1904, sec. 41. 1888, sec. 40. 1856, ch. 112, secs. 26-30.

45. In amendments for non-joinder or misjoinder entire new parties, either plaintiffs or defendants, can not be introduced, but some one of the