

The last sentence of this section does not prevent the court from referring to the special prayer for a preliminary injunction, in order to ascertain the extent of such injunction. *Consol. Gas Co. v. Baltimore County*, 98 Md. 694.

The prayer for process in an amended bill held to be in conformity with this section; the original bill contained the name and address of the then sole defendant and thus gave all the information that would have been given if such name and address had been repeated in the prayer for process. *Longley v. McGeoch*, 115 Md. 186.

Cited in *Abrams v. Abrams* (Judge Offutt, Circuit Court for Baltimore Co.), *Daily Record*, Jan. 9, 1939.

See notes to sec. 38.

An. Code, 1924, sec. 172. 1912, sec. 157. 1904, sec. 148. 1888, sec. 135.

178. At any time before the bill is taken *pro confesso*, or afterwards (before final decree), by the special leave of the court or judge thereof, the defendant may answer, plead or demur to the bill; and he may plead or demur to the whole bill, or to part thereof, and he may demur to part, plead to part, and answer as to the residue; but in every case in which the bill specially charges fraud, usury or combination, a plea to such part must be accompanied with an answer supporting the plea, and explicitly denying the fraud, usury or combination, and the facts on which the charge is founded.

A defendant should assign some satisfactory reason for the delay, and the petition should be verified by oath, but the sufficiency of the reasons are not reviewable by the court of appeals, nor the terms upon which the defendant is allowed to answer, such matters being within the discretion of the lower court. Decree rescinded and replication filed after a bill has been dismissed for failure to file it. Petition by a party in default not sworn to and in the names of the solicitors instead of the plaintiffs, does not justify the court of appeals in reviewing action of lower court. *Norris v. Ahles*, 115 Md. 67.

A contention that the action of the lower court was irregular in directing that the denial of the fraud alleged in the bill, by which the defendants supported their plea as required by this section, should stand for an answer, held premature even if such question were not within the discretion of the trial court. *Wilmer v. Placide*, 128 Md. 172.

To entitle a party to answer, plead or demur after a decree *pro confesso*, he must assign some satisfactory reason under oath for his delay. The sufficiency of such reasons, and the terms upon which the defendant may be allowed to answer, etc., are not reviewable on appeal. This section does not repeal or change the requirements of sec. 173, but enlarges them. *Belt v. Bowie*, 65 Md. 353.

The defendant cannot plead or demur to the whole bill, and at the same time file an answer to it, nor can he at the same time demur and plead to the whole bill, or to the same part of it. *Frederick County v. Frederick City*, 88 Md. 662.

An. Code, 1924, sec. 173. 1912, sec. 158. 1904, sec. 149. 1888, sec. 136. Rule 18.

179. Pleas are hereby abolished. Every defense in point of law arising upon the face of the bill or petition, whether from misjoinder, nonjoinder or insufficiency of fact to constitute a valid cause of action in equity, which might heretofore have been made by demurrer or plea, shall be made by demurrer or by answer; and every point of law, raised by demurrer, may be made to the whole or a material part of the cause or causes of action stated in the bill. No demurrer shall be allowed to be filed to any bill, or part thereof, unless it be supported by affidavit that it is not intended for delay. The form of demurrers shall be substantially as follows: "The defendant demurs to the whole," or "to so much of the bill, or petition, or discovery, or relief," stating the particular part or parts demurred to, and the special grounds of demurrer. Every defense heretofore presentable by plea in bar or abatement shall be made in the answer, and may be separately heard and disposed of before the trial of the principal case in the discretion of the Court. If any defendant demur to the bill, or any part thereof, the demurrer may be set down for hearing by either party upon five days' notice, and if overruled the defendant shall answer within five days thereafter, unless a longer time be allowed by the Court. In any case, however,