

7.

Appeal dismissed for failure to comply with act 1916, ch. 625, applicable to Baltimore City. *Bastable v. Bastable*, 144 Md. 214.

10.

When prayer wholly excluded defense of one of parties which had evidence to support it, failure to take special exception not fatal. Assumption of defendant's liability under such circumstances, not such assumption of facts as statute has in view. *Buckey v. White*, 137 Md. 131, commented on. *Louis v. Johnson*, 146 Md. 120.

Where there is no proof that plaintiff was qualified to engage in business, question of submission to jury of whether injury disabled her from engaging in business for which otherwise she would have been qualified, should be raised by special exception. *White v. Parks*, 154 Md. 201.

Special exceptions must be taken during progress of trial so prayer can be amended; no application to oral exceptions later reduced to writing. *Kahn v. Carl Schoen Silk Corp.*, 147 Md. 528.

Remarks of trial judge, not excepted to, not considered on appeal. *Brill v. State*, 144 Md. 74.

Instruction of trial court not objected or excepted to below, not subject to review on appeal. *Moore v. State*, 149 Md. 300; *Price v. State*, 159 Md. 496.

Conduct of court and counsel not objected to at time cannot be considered on appeal. *Brawner v. Hooper*, 151 Md. 594.

Question of variance not raised at trial cannot be considered on appeal. *White v. Parks*, 154 Md. 202.

To first and fourth notes to this section, page 211, vol. 1, of Code, add *Asphalt Block & Tile Co. v. Klopper*, 152 Md. 533.

To first note under heading "Special Exceptions," page 210, vol. 1, of Code, add *Kent County v. Pardee*, 151 Md. 72; *Lansburgh v. Fish & Oyster Co.*, 153 Md. 318; *Lohmuller Bldg. Co. v. Gamble*, 160 Md. 538; *Von Schlegell v. Ford*, 167 Md. 591.

A plea of *res judicata* filed by defense not considered on appeal, as it had not been ruled upon by the trial court. *State v. Coblentz*, Daily Record, July 17, 1935.

Question of misjoinder not raised or decided in lower court cannot be considered in Court of Appeals. *Mylander v. Page*, 162 Md. 261.

Objection to sufficiency of voucher or cause of action not made in trial court cannot be considered in Court of Appeals. *Obrecht v. Ensor*, 162 Md. 396.

To fifth paragraph to this section, page 212, vol. 1, of Code, add *Laporte Corp. v. Cement Corp.*, 164 Md. 645; *Ice Machinery Corp. v. Sachs*, 167 Md. 123; *Legum v. State*, 167 Md. 352.

This section applied in *Cohen v. Fink Piano Co., Inc.*, 160 Md. 443.

Cited but not construed in *Kroh v. Rosenberg*, 158 Md. 280; *Fid. & Dep. Co. v. Sanford & Brooks Co.*, 158 Md. 540; *Parks v. Skipper*, 164 Md. 396; *Loan Service v. Grossman*, 165 Md. 480.

11.

This section has no effect on right of appellant to test ruling on demurrer. This section applies to prayers. Omissions of prayers, testimony and exceptions from record. *Victory Sparkler Co. v. Francks*, 147 Md. 371.

To second note to this section, page 213, vol. 1, of Code, add *Caltrider v. Weant*, 147 Md. 344; *Kahn v. Carl Schoen Silk Corp.*, 147 Md. 519; *DeCrette v. Mohler*, 147 Md. 113; *Baltimore v. Terlo*, 147 Md. 334; *Kent County v. Pardee*, 151 Md. 73; *Askin v. Moulton*, 149 Md. 145; *Cohen v. Herbert*, 145 Md. 205; *Taxicab Co. v. Hamburger*, 146 Md. 129; *Kelso v. Rice*, 146 Md. 275; *Washington Ry. & Elec. Co. v. Anderson*, Daily Record, March 1, 1935.

Cited but not construed in *May Co. v. Drury*, 160 Md. 150.

As to powers of Court of Appeals *re* forms of process, writs, pleadings, etc., see art. 26, sec. 35A.

As to appeals in Workmen's Compensation claims, see art. 101, sec. 56.

As to Board of Zoning Appeals, see art. 66B, sec. 7.