

ing may be denied by the answer.

may be lawful for the parties respectively to deny all or any of such material facts in the answer to such plea, replication or subsequent pleading.

Several replications allowed to plea of set-off, &c.

VI. And be it enacted, That whenever in any action or suit the defendant shall plead any plea of set-off or mutual credit, it shall and may be lawful for the plaintiff to plead several replications thereto. 5

Actions of trespass and trespass on the case abolished.

New form of action given.

VII. And be it enacted, That the forms of action known, called or used, as trespass and trespass on the case, shall be, and the same are hereby abolished, and in the place and stead thereof there shall be a form of action called, known and used as an action of wrong, which shall and may be applied to all actions indiscriminately which at the time of the passing of this Act would be classed either as actions of trespass or trespass on the case. 10 15

Plea not to be demurred to on certain grounds.

VIII. And be it enacted, That no special demurrer shall be allowed to any plea in any action, on the ground that such plea so demurred to amounts to the general issue. 20

Wrong form of action to be ground of special demurrer only.

IX. And be it enacted, That whenever in any form of action, it shall be apparent on the face of the pleadings, that the plaintiff has proceeded in a wrong form of action, such error in the form of action shall be a cause of special demurrer only, and shall not be heard or entertained as a ground for arresting the judgment, or bringing or allowing a writ of error or appeal. 25

Inconsistent pleas forbidden except by permission of the Court or Judge, for cause shown.

X. And be it enacted, That no defendant in any action or suit, shall be allowed to plead to the same count inconsistent pleas, or pleas varying the statement of defence, without a rule or order therefor, to be obtained from the Court or a Judge on affidavit shewing sufficient cause for such rule or order; and if such pleas are pleaded without such rule or order, the plaintiff shall be at liberty to sign judgment as for want of a plea:—Provided always, that such judgment may be set aside on sufficient cause shewn, by any Court or Judge having jurisdiction therein: 30 35
And provided also, that such rule or order authorizing such inconsistent plea or plea varying the statement of defence, shall also provide that the costs arising from such additional plea or pleas, shall be recoverable by attachment against the defendant in the event of a verdict being found or judgment recovered against the defendant thereon, unless the Court or Judge wherein such verdict was found or judgment recovered, shall certify that there was reasonable cause on the whole case for pleading such additional plea or pleas. 40 45

Proviso.

Proviso: permission to be on conditions.

And so as to replications to plea of set-off.

XI. And be it enacted, That the provisions contained in the next preceding clause shall be applicable to replications to a plea of set-off under this Act. 50