

**XXXVII.** If the answer contain new matter constituting a defence and the Plaintiff fail to reply within the time prescribed by Section *thirty-six*, the Defendant may sign interlocutory judgment for want of such reply to such new matter, and if the case require it, contingent damages may be assessed at the trial of the cause, to abide the judgment of the Court in respect thereof, or the judgment of the Court may be first obtained and damages in respect thereof be subsequently assessed as the Court may order.

Proceeding if the answer contain new matter, and the Plaintiff fail to reply.

- 10 1. If a reply of the Plaintiff to any defence set up by the answer of the Defendant be insufficient, the Defendant may sign interlocutory judgment, stating the ground thereof, and contingent damages may, if the case require it, be assessed as if the Plaintiff had failed to reply to an answer requiring a 15 reply.

### GENERAL RULES OF PLEADING.

**Section 38.** Pleas in Abatement and Demurrers abolished, and applications to the Court to set aside any proceeding, substituted in the cases specified.

- 39. Court to make order and decide as to Costs.
- 40. No further pleading allowed except on special application and order.
- 41. By whom pleadings must be subscribed. As to verification of pleadings.
- 42. Case of an account provided for.
- 43. Pleadings to be liberally construed.
- 44. How the decision of any Court must be pleaded.
- 45. Performance of conditions of a contract how pleaded.
- 46. Private Statute how pleaded.
- 47. What must be stated in complaint in an action for Slander or Libel.
- 48. And in the answer of the Defendant.
- 49. And in the answer in action to recover property distrained doing damage &c.
- 50. In what cases Plaintiff may unite several causes of action.
- 51. Causes of action united must all belong to the same class and affect the same parties, &c.
- 52. What matters may be pleaded in defence. By way of set off, or in reply.
- 53. Material allegations in pleadings to be taken as true if not denied.

**XXXVIII.** Pleas in abatement and demurrers are abolished, and instead thereof an application may be made to the Court or a Judge thereof by the adverse party, after giving six days' notice thereof, that the writ, action, complaint, answer, or 20 reply, or the part thereof objected to may be abated, stricken out or amended, as the case may require, in any of the following cases, and the Court or a Judge thereof may make such order in relation thereto and as to costs on account thereof as may appear reasonable :

Pleas in Abatement and Demurrers abolished, and applications to the Court to set aside any proceeding, substituted in the cases specified.

- 25 1. Where the Court has no jurisdiction over the Defendant or the subject of the action ;