

in person) says that the declaration (or plea, &c.,) is bad in substance;"

And some substantial matter of law intended to be argued showing the defeat in the pleading shall then be stated; and if any demurrer without such statement or with a frivolous statement shall be filed, it may be set aside by the court, and judgment may be entered up for want of a plea.

38. The form of a joinder in demurrer shall be as follows or to the like effect: Form of a joinder.

"The plaintiff (or defendant) says that the declaration (or plea, &c.) is good in substance."

39. Every demurrer shall be taken as a confession of all the facts pleaded without regard to form. Demurrer to be taken as a confession.

40. When issue is joined on demurrer, at any stage of the cause, the court shall consider the allegations through the whole series of pleadings, and give judgment according as the very right of the cause and matter in law shall appear unto it, without regarding any imperfection, omission, defect in, or lack of form, for the party who on the whole appears to be entitled to it. And no judgment shall be arrested, stayed or reversed for any such imperfection, omission, defect in or lack of form.

41. There shall not be a demurrer upon a demurrer. Not to be a demurrer upon a demurrer.

OF THE EFFECT OF PLEADING OVER WITHOUT DEMURRER.

42. If a declaration be defective in substance, and the defendant pleads over; and the plea supplies, by express statement of fact, but not otherwise, the defect in the declaration, such defect shall be thereby cured. Defect in declaration cured.

43. Where there is any imperfection, or omission whatever, in any pleading, which would be a fatal objection on demurrer, yet if the issue joined be such as necessarily required on the trial proof of the facts so imperfectly stated, or omitted, such imperfection or omission shall be cured by the verdict. Defect in pleading cured.

ARTICLE 2ND.

OF TRAVERSE.

44. There shall be only two forms of traverse, viz: a direct traverse, and an indirect traverse. Only two forms of traverse.