ELECTION OF CAUSES OR GROUNDS OF ACTION IN A DUPPLICIOUS DECLARATION

In a recent West Virginia case, the Supreme Court of Appeals, by way of dictum, suggests that, when two or more grounds for recovery are alleged in a single count of a declaration, the plaintiff may be compelled to elect a single ground upon which he will rely at the trial. Since this seems to be the first West Virginia case in which such a procedure is prescribed, and the court states no reason to sustain it other than the fact that, under the local statutes, the fault of duplicity can no longer be reached by demurrer, it may be profitable to inquire into the authorities and reasoning upon which the proposition may be based. Before

2 The action was for death by wrongful act. In a single count, the death was alleged to have been caused (1) by negligence of the defendant and (2)