

as shall be stated and contained in the demand or account entered as hereinbefore directed.

that mentioned
in the demand

XXXVII. And be it enacted, that all Defendants shall be allowed to set off any debt or demand not exceeding Ten Pounds claimed to be due to them from the Plaintiff, or to set up, by way of defence, and to claim and have the benefit of any statute of limitation, or of any other relief or discharge under any statute, now or hereafter to be in force in Canada West; Provided always, that if the Defendant's demand as proved, exceed that proved by the Plaintiff, the Court may give judgment in favour of the Defendant for such balance as may appear due from the Plaintiff, with costs of suit: Provided also, that no such defence shall be admitted on the hearing or trial of any cause under this Act, unless notice thereof in writing shall have been delivered to the Plaintiff, or left for him at his usual place of abode or business, three days at least before the trial.

Defendant
may plead set
off &c.

And may re-
cover any ba-
lance due to
him by the
Plaintiff.

Proviso.

XXXVIII. And be it enacted, that the Judge of the District Court shall have power from time to time, to make general rules for regulating the practice and proceedings of the said Division Courts, and also to frame forms for every proceeding in the said Courts, for which he shall think it necessary that a form be provided, and from time to time to alter any such form and also to alter all or any of the forms given in the Schedule to this Act: Provided always, that such rules and forms so made, framed or altered, shall not be brought into use until the same shall have been submitted to and approved by the Chief Justice and Judges of the Court of Queen's Bench, for that part of this Province formerly called Upper Canada, or any two of them.

The District
Judge may
make Rules of
practice and
forms for the
Division
Courts.

Proviso.

XXXIX. And be it enacted, that if on the day named in the summons, the Defendant shall not appear as aforesaid, or sufficiently excuse his or her absence, or shall neglect to answer, the Judge, on proof of due service of the summons, may proceed to the hearing or trial of the cause on the part of the Plaintiff only, and the order, verdict or judgment thereupon which shall be given, made or rendered after hearing the evidence to be adduced on the part of the Plaintiff shall be final and absolute and as valid as if both parties had attended. Provided always, that the Judge may make any order for granting any time to the Plaintiff or Defendant to proceed in the prosecution or defence of the suit.

Proceedings
if the Defen-
dant shall make
default.

The Judge
may give time
for the prosecu-
tion or defence
of any suit.

XL. And be it enacted, that it shall be lawful for the Defendant in any action brought under the provisions of this Act, at any time before the day appointed for the trial thereof, to pay into Court such sum of money as he shall think a full satisfaction for the demand of the Plaintiff, together with the costs incurred by the Plaintiff up to the time of such payment; and notice of such payment shall

Defendant
may pay money
into Court be-
fore the day on
which he is
summoned to
appear.