

XXXIX. And be it enacted, That every summons and writ of execution issued by a Clerk of any Division Court shall be entirely filled up, and shall have no blank either in the date or otherwise at the time of its delivery to a
 5 Bailiff or any other person, to be executed; and every such summons or execution which shall be issued and delivered to any person to be executed, contrary to the foregoing provision, shall be void.

No writ of summons or execution to have any blank.

XL. And be it enacted, That on the day named in the
 10 summons, the plaintiff shall appear in the Division Court in person, or by some person in his or her behalf, and thereupon the defendant shall be required by himself or herself or by some person on his or her behalf, to answer; and on answer being made in Court, the Judge shall proceed
 15 in a summary way to try the cause and give judgment without further pleading or formal joinder of issue.

Proceedings on day of appearance.

XLI. And be it enacted, That no evidence shall be given by the plaintiff on the trial of any such cause as
 20 aforesaid, of any cause of action except such as shall be stated and contained in the demand or account entered as hereinbefore directed.

Cause of action proved to be that stated in the demand.

XLII. And be it enacted, That all defendants shall be allowed to set off [against any claim or demand of the plaintiff for any cause of action within the jurisdiction of
 25 the Division Court] any debt or demand to the extent of claimed to be due to them from the plaintiff, or to set up by way of defence [on the hearing or trial] and to claim and have the benefit of any Statute of Limitations, or of any other relief or discharge under any statute
 30 now or hereafter to be in force in Upper Canada: 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: Pro-
 35 vided also, that no such defence shall be admitted on the hearing or trial of any cause under this Act, unless notice thereof in writing [and a copy of such debt or demand by way of set off,] shall have been delivered to the Clerk of the said Court at least six days before the trial or hearing.

Defendant may plead set-off.

Proviso.

Proviso.

XLIII. And be it enacted, That when a defendant hath any claim or demand against a plaintiff exceeding the sum
 40 of twenty-five pounds, he may abandon the excess, and on proving such demand he shall be entitled to set off the same in like manner as he is entitled to do in cases
 45 where the demand of such defendant does not exceed the sum of twenty-five pounds; and the judgment of the Court on such set off shall be a full discharge as well of the amount allowed to be set off, as the amount by which such claim of the defendant exceeded twenty-five pounds
 50 and such judgment shall be so entered accordingly.

Defendant may abandon excess in his claim.

Judgment on set-off to be a discharge.