

Set-Off.

1. What demands may be set off.
2. Defendants to plead or give notice of.
3. Plaintiff to recover only balance due.
4. Defendant to have judgment, when. Remedy on such judgment.

An act concerning set-off.

Revision—Approved March 27, 1874.

R. S. 801.

1. That if any two or more persons be indebted to each other, such debts or demands not being for unliquidated damages, may be set off against each other; and if one of such debtors, or his executors or administrators shall commence an action against the other, his executors or administrators, in any court of this state it shall be lawful for the defendant at the trial, to set off as against the plaintiff, the debts or demands which may be due and owing to him as aforesaid; and any defendant failing to set off such debts or demands, shall thereafter be precluded from bringing any action for such debt or demand which might have been set off by virtue of this act. (a)

What demands may be set off.
R. S. 801, § 11.
Amended.

Such debts shall be set off or the defendant barred.

2. That defendant in any such action, in order to avail himself of such set-off, shall plead the same, or give notice thereof in writing, annexed to the plea by him filed in the action.

Defendant shall plead or give notice of his set-off.
Ib., § 11.

3. That if on the trial it shall appear that there is any debt or demand as aforesaid, due and owing to the defendant, but that the same is not equal in amount to the amount which shall be due to the plaintiff, on his cause of action, it shall be the duty of the jury to allow, and set off so much as shall be found to be due and owing to such defendant, against the claim of the plaintiff, and to find a verdict for the balance; upon which the plaintiff shall have judgment and execution, as in other cases.

Plaintiff shall recover only balance due him.
Ib., § 13.

4. That if on the trial, the amount found to be due to the defendant on his set-off, shall equal, or exceed the amount found to be due to the plaintiff on his cause of action, the defendant shall be entitled to a verdict and judgment; which verdict and judgment shall, in case of such excess, be for the amount or balance, which shall appear to be due to the defendant on the adjustment and allowance of the debts and demands of the parties under this act; and upon such judgment, the defendant may have an action of debt, or a scire facias, or may issue execution thereon, as in other cases; unless the plaintiff is suing in his representative capacity, as executor or administrator, in which case the sum so found to be due the defendant, shall be deemed a debt of record, to be paid in the course of administration.

If amount due defendant shall equal or exceed plaintiff's demand, the defendant shall have judgment.
Ib., § 14.
Remedy on such judgment.

(a) If in an action where a set-off is pleaded, the plaintiff be non-suited at the trial, the defendant is not precluded thereafter from maintaining an action upon the demand which he had interposed as a set-off. *Chapin-Hall Lumber Co. v. Dalrymple*, 24 Vr. 267. As to a set-off against an insolvent estate, see *Crisp*

v. Dunn, 27 Vr. 355. Set-off of an individual debt cannot be pleaded by one of two joint and several makers of a promissory note to an action against both makers under section 29 of the practice act. *Potts v. Barlow et al.*, 18 N. J. L. J. 246.

Sheriffs.

1. Who eligible to office of sheriff.
2. How to give bond.
3. Form of official oath.
4. Certificate of judges to governor.
5. When sheriff authorized to act.
6. Date of commission and official term.
7. Until sheriff qualified, coroner to act.
8. Sheriff not to act till qualified.
9. Office, when to be deemed vacant.
10. Penalty for presuming to act without giving bond.
11. Governor may order prosecution of bond.
12. Of suit and judgment on bond.
13. Sheriff and sureties, when not discharged from liability.
14. Amended by sections 53 and 58.
15. To receive prisoners.
16. Who may be let out on giving bail.
17. Returns of process, how made.
18. Duty as to prisoners in custody.
19. Privileges allowed prisoners.
20. Debtors and criminals to be kept separate.
21. Penalty for violating three preceding sections.
22. For what causes sheriff may be amerced.