

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on the fifth day of December 1785, in the Twenty Sixth Year of his said Majesty's Reign, and there continued by several Prorogations unto the Twenty Fifth Day of October, 1787, in the Twenty Eighth Year of his Majesty's Reign, being the Third Session of the Sixth General Assembly convened in the said Province.

28 George III – Chapter 5

An Act for the more effectually carrying into Execution the Provisions of an Act made in the Sixth Year of His Majesty's Reign, intituled, "An Act to prevent the Multiplicity of Law Suits."

Whereas the act, intituled, "An Act to prevent the Multiplicity of Law Suits," has been found insufficient to prevent litigious and vexatious cross actions, for remedy whereof;

- I. Be it enacted, by the Lieutenant-Governor, Council and Assembly, and by the authority of the same it is hereby enacted, that in all actions commenced in any court of record, or brought before any justice of the peace on bond, bill, note, book account, agreement in writing, or any other assumption or promise whatsoever, the defendant or defendants in such actions shall file his, her, or their account, receipt or demand as an offset against the plaintiff or plaintiffs with the clerk of the court, where such cause shall have been commenced, or justice of peace from whom the summons or compulsory process issued, which account, receipt or demand shall be filed at least four days before the sitting of the said court; or at any time previous to the trial before the justice of the peace, and the said court and justice respectively, are hereby empowered and directed on issue, joined to enquire into the merits of both demands on trial, and to give judgment accordingly.
- II. Provided always nevertheless, that if the defendant or defendants for want of evidence or any other unavoidable accident shall be unable to prove and authenticate his, her or their accounts, receipt or demand, as an offset, against the plaintiff or plaintiffs, that then and in such case, the defendant and defendants may at a future period commence and prosecute his, her, or their action or actions against the plaintiff or plaintiffs in the original cause within the respective time, as limited by the act of assembly of the province, for the limitation of actions, and for avoiding suits of law. Provided he, she, or they (the original defendant or defendants) shall at the time of the trial of the first cause notify the court, and make affidavit of the same, that he, she, or they, have a just and equitable demand against the plaintiff or plaintiffs, which for want of evidence then without the jurisdiction of the court, he, she, or they, are unable to prove and authenticate.
- III. And be it further enacted, that in all actions, which shall hereafter be commenced and prosecuted, and wherein it may appear to the court, that the plaintiff or plaintiffs in such action have had an opportunity of pleading his, her, or their demand, by way of offset, by virtue of, and agreeable to this act, that then and in such case the plaintiff or plaintiffs, altho'

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a verdict is found for him, her, or them, shall pay the costs of suit, any law to the contrary notwithstanding.