

CAP. XVIII.

An ACT for preventing the MULTIPLICITY of LAW SUITS.

I. **W**HEREAS a provision for setting mutual debts one against the other is highly just and reasonable at all times, and tends to prevent a multiplicity of law suits. Preamble.

II. *Be it enacted by the Governor, Council and Assembly,* That where there are mutual debts between the plaintiff and defendant in any court of record in this province, or if either party sue or be sued as executor or administrator where there are mutual debts between the testator or intestate and either party, one debt may be set against the other, and such matter may be given in evidence upon the general issue or pleading in bar, as the nature of the case shall require so as at the time of his pleading, the general issue where any such debts of the plaintiff his testator or intestate is intended to be insisted on in evidence, notice shall be given of the particular sum or debt so intended to be insisted on and upon what occasion it became due or otherwise, such matter shall not be allowed in evidence upon such general issue. Where mutual debts between plaintiff and defendant, one set against the other and given in evidence under general issue, notice to plaintiff of debt to be insisted on.

III. *And be it further enacted,* That by virtue of this act, mutual debts, may be set against each other, either by being pleaded in bar, or given in evidence on the general issue, in the manner herein before mentioned notwithstanding, that such debts are deemed in law to be of a different nature, unless in cases where either of the said debts shall accrue by reason of a penalty contained in any bond or specialty, and in all cases where either the debt for which the action hath been or shall be brought, or the debt intended to be set against the same, hath accrued or shall accrue by reason of any such penalty the debt intended to be set off, shall be pleaded in bar, in which plea shall be shown how much is truly and justly due on either side, and in case the plaintiff shall recover in any such action or suit, judgment shall be entered for no more than shall appear to be truly and justly due to the plaintiff after one debt being set against the other as aforesaid. And if upon trial of the issue between the parties, the plaintiff shall become nonsuit, or the jury shall not assess damages to the plaintiff over and above the debt, or sum of which notice of set-off shall have been given as aforesaid, then the plaintiff shall have no costs, but shall pay to the defendants or his attorney costs to be taxed. And if upon such trial, it shall appear to the jury that the plaintiff is over-paid, then they shall find a verdict for the defendant, and therewith certify to the court how much they find the plaintiff to be indebted or in arrear to the defendant more than will answer the debt or sum so set-off, and found due by the same verdict and the sum or sums so certified shall be recorded with the verdict, Where the debt to be set off shall accrue by reason of a penalty and is pleaded in bar, the sum justly due must be shown in the plea.

Costs paid by plaintiff if balance found for defendant.

If plaintiff refuse to pay the balance found against him, defendant shall have execution for the same and costs.

verdict, and shall be deemed as a debt of record, and if the plaintiff refuse to pay the same, the defendant for the recovery thereof, shall have execution for the same together with the costs of the said action, any law, usage or custom to the contrary in anywise notwithstanding.

CAP. XIX.

An ACT for permitting persons of the profession of the people called **QUAKERS** to make an **AFFIRMATION** instead of an **OATH**.

I. Be it enacted by the Governor, Council and Assembly,

People called Quakers to make affirmation instead of oath.

THAT every person of the profession of the people called Quakers, who shall be required upon any lawful occasion to take an oath, shall, instead of an oath in the usual form, be permitted to make his or her solemn declaration or affirmation in these words, to wit:

Form of affirmation.

I A. B. do solemnly, sincerely, and truly declare and affirm.

Which solemn affirmation shall and is hereby declared to be of the same force and effect in all cases where by law an oath shall be required, as if such Quaker had taken an oath in the usual form.

False affirmation punished as perjury.

II. And be it further enacted, That every person who shall have made such solemn affirmation, and shall be convicted of wilfully, falsely and corruptly having affirmed any thing which if the same had been sworn in the usual form would have amounted to wilful and corrupt perjury, shall incur the same penalties as persons convicted of wilful and corrupt perjury.

Not to affirm in criminal causes extending to life or limb.

III. Provided, That no Quaker or reputed Quaker, shall by virtue of this act, be admitted to give evidence in any criminal cause extending to life or limb, by such solemn declaration or affirmation as is hereby directed.

No persons deemed Quakers unless they affirm they are and have been so for one year.

IV. Provided also, That no persons shall be deemed Quakers within the intention of this act, unless they shall affirm in the form before directed, that they are of the profession of the people called Quakers, and have been so for one year then last past.