

Laws of His Majesty's Province of Upper Canada, passed in the year 1830. York: Robert Stanton, 1830.

11 George IV – Chapter 5

An Act to extend the Provisions of the Law of Set-off—and to prevent unnecessary and vexatious Law-Suits. Passed 6th March, 1830.

Whereas the Provision for setting Mutual Debts, one against the other, is highly just and reasonable at all times, and ought to be extended, so as to allow a Defendant to recover the balance due to him: Be it therefore enacted, by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of, and under the authority of, an Act passed in the Parliament of Great Britain, entitled, "*An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'*" and by the authority of the same, That if in any action to be hereafter commenced in His Majesty's Court of King's Bench, or in any of His Majesty's District Courts in this Province, the Defendant having given notice of Set-off, or pleaded the same according to Law, shall, on trial of said action, prove a sum due to him, or if he be sued as Executor or Administrator to the Testator or Intestate from the Plaintiff, or if the Plaintiff sue as Executor or Administrator from the Testator or Intestate, greater than such Plaintiff has proved due to him, or his Testator, or Intestate from such Defendant, or his Testator or his Intestate, it shall and may be lawful for the Jury to render a verdict for the Defendant to the amount of the difference of their respective claims proved as aforesaid, and for every such Defendant to enter up Judgment for such sum, besides his costs and charges, and to have execution therefore.

II. And be it further enacted by the authority aforesaid, That in any Action within its Jurisdiction which shall hereafter be commended in any Court of Requests in this Province, the Commissioners thereof shall give Judgment against the Plaintiff, for such sum not exceeding the limit of their Jurisdiction, as they may judge from the evidence to be a balance due from him to the Defendant, and such Defendant shall thereupon be entitled to an execution therefore in the same manner as if he had been the Plaintiff in the case, and the other party Defendant:—Provided always nevertheless, That such Court shall not have power to take cognizance of any Demand advanced on the part of the Defendant, which, from its nature or amount, would not come within the Jurisdiction of such Court, if brought forward on the part of the Plaintiff.