

the common practice is to give judgment, without admitting any account in favour of the defendant, whereby he is necessitated to bring forward a suit himself, which occasions a further cost, and sometimes exposeth him to the loss of his debt, by reason of the original plaintiff's poverty or absconding; for remedy whereof,—

Be it enacted by His Excellency the Governor, Council and Representatives in General Court assembled, and by the authority of the same,

[Sect. 1.] That when and so often as any person is or shall be served with an original process in any action or plea, either of debt, or of the case, for any sum of money due upon contract between the parties, for any goods sold or service done, due by book, whether the account be open, or a ballance thereof be made and signed by the parties (except specialities and express contracts in writing), to appear before any justice of the peace, or inferior court of common pleas before whom such case is cognizable, he shall be allowed by the court either to plead specially, or, upon the general issue, give, in evidence, what is due upon his book, by way of ballance to the plaintiff's demand, and be admitted to all such method and course of proving his account as any plaintiff upon his suit might; and the court or justice before whom such tryal shall be, are hereby directed and impowered to compare and ballance the books of plaintiff and defendant, and to give judgment for so much only as shall appear upon such ballance due to the plaintiff; and if nothing appear due to the plaintiff on such balance, to give judgment for costs to the defendant.

And to the intent the plaintiff may have sufficient opportunity to examine and make all just objections to the defendant's accompt,—

Be it further enacted by the authority aforesaid,

[Sect. 2.] That no defendant shall be admitted to produce or plead his book upon any suit or tryal, as above, in a cause tryable before a justice of the peace, unless he shall have left a copy of such accompt, four days at least before the day of tryal, with the justice before whom the same is to be tryed; and if the cause be before the inferior court of common pleas, then a copy of his accompt, as above, shall be left with the clerk of the court at least seven days before the day of the court's sitting; and the justice of the peace, and clerk of the court, respectively, are hereby directed and required, at the desire of the plaintiff or his attorney, to grant a copy of the accompt so left, taking, as a fee for the same, at the rate of one shilling for each page of twenty-eight lines: provided, nevertheless, for the least copy that may be taken, sixpence.

[Sect. 3.] This act to continue and be in force for the space of Limitation. seven years from the publication thereof, and from thence to the end of the then next session of the general assembly, and no longer.

[Passed July 4; published July 6.

Defendant allowed to plead or give in evidence his balance upon book.

Balance to be allowed to the plaintiff and defendant.

Copy of the defendant's account to be given in before trial.

CHAPTER 5.

AN ACT FOR REGULATING THE PROCEEDINGS ON BONDS OF ADMINISTRATORS ON INTESTATE ESTATES.

WHEREAS, in and by an act or law of this province, made in the fourth year of the reign of King William and Queen Mary, entitled "An Act for the settlement and distribution of the estates of intestates," the judges for probate of wills and granting of administrations, in the respective counties, are required to take bond of such person or persons

Preamble.

1692-3, chap. 14,
§ 1.

to whom they grant the administration of the estate of any intestate, and it sometimes happens that such judges do put those bonds in suit, and distribute the sums recovered thereon, to and among the parties interested, in such manner as in and by the said act is directed; and whereas it has happened that, after such distribution as aforesaid, the adminis[trato]r has brought his action of review, and thereupon obtained a reversal of the former judg[e]m[en]t, in which case the respective judges of probate are liable to an execution, and thereby exposed to great charge and inconvenience; for remedy whereof,—

Be it enacted by His Excellency the Governor, Council and Representatives in General Court assembled, and by the authority of the same,

Execution to be
staid upon
judgment re-
covered by the
judge of pro-
bate.

That when any of the judges for the probate of wills and granting of administrations shall put in suit any administrator's bond, and recover a judgment for the penalty therein expressed, or any part thereof, at any inferior court of common pleas, or superior court of judicature, execution of such judgment shall be staid until the next session of the court wherat the same was obtained, that so such administ[rato]r may then, if he sees cause, have an opportunity to review his action; and if he shall neglect so doing, execution shall thereupon be awarded, and the judge for probate shall make distribution of the sum recovered to and among the parties interested therein, agreeable to the direction of the law; and every such administ[rato]r is hereby forever precluded and bar'd from bringing any such action afterward. [Passed July 4; published July 6.]

CHAPTER 6.

AN ACT FURTHER TO EXEMPT PERSONS COMMONLY CALLED ANABAPTISTS, WITHIN THIS PROVINCE, FROM BEING TAXED FOR AND TOWARDS THE SUPPORT OF MINISTERS.

Preamble.
1728-29, chap. 4.
1729-30, chap. 6.

WHEREAS some inhabitants of this province, called Anabaptists, refuse to pay any part or proportion of such rates or taxes as are, from time to time, assessed for the support of the ministry in the several towns whereto they belong, alledging a scruple of conscience for such their refusal,—

Be it therefore enacted by His Excellency the Governo[r], Council and Representatives in General Court assembled, and by the authority of the same,

Anabaptists
exempted from
taxes for minis-
ters and meet-
ing-houses.

[SECT. 1.] That from and after the publication of this act, none of the persons commonly called Anabaptists, who alledge a scruple of conscience as the reason of their refusal to pay any part or proportion of such taxes as are, from time to time, assessed for the support of the minister or ministers of the churches established, by the laws of this province, in the town or place where they dwell, shall have their poll, or estate, real or personal, in their own hands, and under their actual improvement, taxed towards the support of such minister or ministers, or for the building of any meeting-house or place of public worship.

And to the intent that it may be [the] better known what persons are of that perswasion, and who are exempted by this act,—

Be it enacted by the authority aforesaid,

Method for
knowing who
are Anabaptists.

[SECT. 2.] That the assessors of each town, where any of the said Anabaptists live, or their lands in their own actual improvement ly[e], shall, on or before the twentieth of July next, and from thence annually, sometime before the twentieth day of April, take a list of all such persons, and forthwith transmit the same to the clerk of the town, which