

within twelve months from the date of the articles respectively paid or delivered; and provided also, that in case any suit shall be brought to recover any money paid or delivered as aforesaid, or the price of any goods, wares, effects or chattels, as aforesaid, sold or delivered, the plaintiff shall, at or before the first imparlance court, make oath or affirmation as aforesaid, before some judge or justice of this state, that he believes the money, goods, wares, merchandises, effects or chattels, charged in the account to which such oath or affirmation as aforesaid shall be annexed, were bona fide delivered as charged, and that he hath not, nor any person for him to his knowledge or belief, received any payment or satisfaction for the articles charged, more than credit is duly given for in and appearing upon the account to which such oath or affirmation as aforesaid is annexed, nor hath he received any security for the same, and that the balance charged and claimed is justly due, according to the best of his knowledge and belief.

The act of 1798, No. 101, ch. 9, sec. 8, prescribes the proof of claims against the estates of deceased persons on open account, and declares that the account shall moreover appear to have been proved as is required by this act.

Proviso.

SEC. 6. *Provided always, and be it enacted*, That nothing in this act shall be taken or construed to preclude any debtor or defendant from controverting the proof as aforesaid made legal and admissible by this act, by any testimony which is legal and admissible by the rules of the common law, nor shall this act be construed or taken to prevent any creditor or plaintiff from giving any evidence admissible by the rules of the common law, in support of his claim, or pursuing any legal mode other than is given by this act to prove and establish his claim or demand.

In case of
suit, ac-
count may
be filed in
bar, &c.

SEC. 7. *And be it enacted*, That in case any suit shall hereafter be brought on any judgment, or on any bond, or other writing sealed by the party, and the defendants shall have any demand or claim against the plaintiff, upon judgment, bond, or other instrument under seal, or upon note, agreement, assumpsit, or account proved, as by this act is allowed the defendant, or otherwise according to law, shall be at liberty to file his account in bar, or plead discount to the plaintiff's claim, and judgment shall be given for the plaintiff for the sum only which remains due after just discount made; provided the sum which shall remain due after such discount be sufficient to support a judgment in the court where the cause may be tried, according to its established jurisdiction; and in all cases of suits upon simple contracts, the defendant may file an account in bar, or plead discount of any claim he may have against the plaintiff, proved as aforesaid, or otherwise proved according to law, which