

Question for our private satisfaction of any persons therein Concerned untill the Cause be fully argued and pleaded by the attorneys or suitors etc. and that in their argueing debateing and pleadeing the[y] observe this methode, First the plaintife or him upon whom the affirmative matter Rests and lyes stand up and make his argument, produce his authorities or Witnesses and Examine them without any Interruption or hinderance of the other party unlesse by leave of the Court hee have any objection to the legallity or Qualification of an Evidence or the like and that at the discretion of the Court and rarely admitted not without substantiall and reall matter. That done the plaintife or affirmant is to sitt down, the defendant or adverse part to stand up make his argument Examine his Evidence, and if hee will Cross Examine the plaintifes Evidence or putt any necessary question to them, which done the plaintife or affirmant may Cross Examine the adverse party or Wittnesses and the defendant after to Conclude his argument and then the plaintife or affirmant to stand up make his Concludeing argument upon the whole Cause and soe the Cause to be shutt up and Closed as to the attorneys or suitors pleadeing of it, And then the Court (vizt) the Chiefe Judge to give the Jury their Charge if a Jury Cause and send them from the barr; and if tryed by the Court then the Court to Consider of their Judgement and if occasion require to debate the matter among them without any Interruption of Either attorney or suiter, And if any attorney or suiter shall presume to breake this Rule or Methode Either by interrupting one another or an Evidence or by disturbeing or offerring any thing to the Judges or any of them while they are in Judgement unlesse thereto required by the Court they shall be fined for Every such offense one hundred pounds of tobacco: etc.⁵⁵

A few laws contained provisions as to evidentiary requirements. A 1692 enactment (An Act Providing what shall be good Evidence to prove Forreign Debts) made comprehensive provision for the method of proving foreign debts—those owing to persons in England and other places outside the province. A 1695 act laid down the conditions under which an ordinary keeper might recover judgment on a bill, bond or other security taken for accounts charged in his book. Under an act governing the fencing of corn fields against strays, two “indifferent witnesses” were required to judge the sufficiency of the fencing, to witness the giving of warning after the first offense and to judge the quantum of damage necessary to confer jurisdiction on the county courts (200 pounds of tobacco) in actions of trespass. An act regulating the making of tobacco hogsheads provided that in actions by the aggrieved party the matter of fact was to be proved “by two good and Sufficient Evidences.”⁵⁶ No general requirement of two witnesses in civil causes is evident from the *Liber*.

Presumably Quakers taking the affirmation were allowed to give evidence in

55. *CCCR, Liber S, No. 1*, 63. Cf. the rule in the Baltimore County Court which read as follows (*BCCP, Liber G, No. 1*, 557): “Ordered that upon every Action brought upon Tryall in this Court the Plaintiff by himselfe or Attorney if any doe first open the Cause and produce their Witnesses to prove their Charge who shall be by the Court appointed when to Offer what the[y] have to give in Evidence after which by the appointment of the Court the Defendant by himselfe or his Attorney if any shall Offer what they have to Give in Barr to the Action aforesaid and produce their Witnesses who shall be by the said Court appointed when to give in their Evidences aforesaid which being done the Plaintiff or his Attorney (if any as aforesaid) shall proceed to sum up the Evidence and Answer the Objections made by the defendant after which noe further debate shall be of the matter in question but the Court thereupon proceed to giving in the Charge The like method to be Observed in all Causes and Controversies Tryable and determinable by the Court Only That noe person or persons Plaintiffs or Defendants by themselves or their Attorneys do presume to Contradict or Interrupt the Adverse party in any Allegation by him made or matter of thing Offered but that in all such Cases he or they make their Observations and Offer what they have against it at their proper time of Speaking under the Penalty of Fifty pounds of tobacco for every default towards the defraying of the Commissioners Expences.”

56. 13 *MA* 502; 38 *id.* 46; 13 *id.* 472; 22 *id.* 477; 19 *id.* 104.