

way decayed or destroyed, without first giving notice to all persons concerned in such boundaries of the time and place proposed for setting up or making such new boundary, or that upon the failure of the persons concerned in such lands (upon notice, or when notice cannot be given,) being present at the time and place appointed, shall not take with him four substantial freeholders of his neighbourhood at the least, that may be present at the bounding such tree or trees, or setting up such other boundary, shall forfeit for every time he, she or they shall be convicted thereof, the sum of five thousand pounds of tobacco, the one half to the informer, or to him or them that shall sue for the same, the other half to the use of free-schools in the county where the offence is committed; all which fines aforesaid, to be recovered in his lordship's name, in any court of record within this province, by action of debt, bill, plaint or information, wherein no esoin, protection or wager of law shall be allowed.

IV. AND BE IT FURTHER ENACTED, That in all prosecutions against any of the offenders aforesaid, the attorney-general, or clerk of indictments, in their indictments or other proceedings, shall be as particular as possible in describing the place upon or to whose lands the boundaries relate, which have been made, so set up or destroyed, contrary to the true intent of this act.

Prosecutor's duty.

CHAP. IX.

An ACT to enable James Lloyd and Anne his wife, and Deborah Pemberton, surviving executors of Robert Grundy, deceased, to convey the lands and water-mill therein mentioned, according to the sales thereof made by the deceased in his life-time. Lib. LL. No. 4. fol. 561. A Private Act.

Passed 3d of Nov. 1722.

CHAP. X.

A Further supplementary act to the act for the better administration of justice in testamentary affairs, granting administrations, recovery of legacies, securing filial portions, and distribution of intestates estates. Lib. LL. No. 4. fol. 563.

1715, ch. 39.

BE IT ENACTED, by the right honourable the Lord Proprietor, by and with the advice and consent of his lordship's Governor, and the Upper and Lower Houses of Assembly, and the authority of the same, That every creditor having any sum of money, quantity of tobacco, or other goods, due from the estate of any deceased person by judgment, statute, recognizance, mortgage, obligation, protested bill of exchange, or other writing, before the executor or administrator of the debtor pay the same, shall be obliged to make a solemn oath, or affirmation if a Quaker, before some one justice of the provincial court, one justice of the peace, the commissary-general, or deputy-commissary, for the time being, "that no part or parcel of the money, tobacco, or other goods mentioned in such judgment, statute, recognizance, mortgage, obligation, protested bill of exchange, or other writing, hath been paid, nor any thing else given or delivered towards satisfaction thereof, more than is taken notice of and mentioned in such oath or affirmation," and that what the creditor shall confess on oath or affirmation to have received, shall be deducted out of the debt, and the residue paid by the executor or administrator having assets.

Creditor to make oath, &c.

II. AND BE IT ENACTED, That every executor or administrator of a creditor shall, before the receipt or recovery of any debt due as aforesaid from any other executor or administrator, swear or affirm, "that the creditor (to the knowledge of the executor or administrator, nor by any book, writing, account, or other thing appearing to such executor or administrator,) did not receive any part or parcel of the debt more than is mentioned in such oath or affirmation, and likewise that he or she hath not received any part of the debt, or any thing else towards satisfaction thereof, more than he or she gives an account of," which is always to be mentioned particularly in such oath or affirmation, and deducted as aforesaid.

Executor, &c. to swear, &c.

A mode of proof in some degree different from that in the above section is prescribed by 1798, 101, ch. 9.

III. AND BE IT ALSO ENACTED, That where any creditor, or executor or administrator of a creditor, shall obstinately refuse to swear or affirm according to the directions of this act, and will sue and implead the executor or administrator of the debtor that shall offer, on its being done, to pay what shall appear to be really due, shall be nonsuit, and pay full cost; provided always, that such nonsuit shall not bar or estop the plaintiff to bring a new action, if needful, first complying with the directions of this law; and that any person that shall swear or affirm falsely in the premises, and be thereof lawfully convicted, shall incur the same pains and penalties as in case of wilful and corrupt perjury.

Refusing to swear, to be nonsuit, &c.

IV. AND,