

the plaintiff in respect of counts in declaration not established.

In actions on notes, &c., costs to be allowed for one count only, or on such as the damages may be assessed upon,

Preamble.

Unnecessary in legal proceedings to designate a party by more than one christian or first name, and initial letters or usual contractions for other names where party has more than one.

Not to apply to recital of Deeds, &c.

Nor to control the operation of 12 V c 39, s 38.

No plea in abatement allowed for misnomer for not setting out at length the right christian or first name where one such name is set out and others by initial letters or contractions, unless on affidavit, &c.

Name may be altered on application to the Court.

Be it therefore enacted, That where there is more than one count in the plaintiff's declaration, and he fails to establish a distinct subject matter of complaint in respect to each count, a verdict and judgment may at the instance of the defendant, pass against the plaintiff upon each count which he shall have so failed to establish, and he shall also be liable to the defendant for the reasonable costs occasioned by such count, including those of the evidence, pleading and notices relating to such count, unless the Judge before whom the trial is had shall certify that there was a reasonable cause for the insertion of such count.

VI. And be it enacted, That in action brought on any note, bill of exchange, bond, or other writing, where damages may be assessed by the Court or a Judge, after judgment on demurrer or by default, costs only shall be allowed the plaintiff for one count in the declaration, or in case there be several causes of action in the same declaration, on such counts as the damages may be assessed upon, unless the Court or Judge making the assessment shall certify that there was a reasonable cause for the insertion of other counts.

CAP. XXXIII.

An Act to remove doubts as to the abbreviation of the names of parties and persons in proceedings at Law or in Equity.

Passed 26th April 1850.

WHEREAS it has been the almost invariable practice in this Province, 'instead of setting out the whole christian or first name or names of 'any of the parties in suits at law or in equity, to designate such persons by one 'christian or first name, and using initial letters, contractions or abbreviations for 'any other christian or first name such persons may have; which practice has, 'without the least disadvantage, tended to shorten proceedings: And Whereas 'doubts have lately arisen whether such mode of proceeding is regular, and 'whether it is not necessary to set out the whole christian or first names at length; 'for remedy whereof,'

I. Be it declared and enacted by the Lieutenant Governor, Legislative Council and Assembly, That it shall not be necessary in any process, pleading, affidavit, or other proceeding whatsoever, in any Court of Law or Equity in this Province, to designate any of the parties or any other person whose name may be introduced into any such proceeding, by any other than one christian or first name, being a name commonly used by such person himself or herself, or by which he or she may generally have been known or called, and to insert initial letters or usual contractions or abbreviations for any other christian or first name, where such person may have more than one; and that no process, pleading, affidavit or other proceeding whatsoever, shall be vacated, annulled, set aside, or be demurred to, or otherwise affected, or treated as nugatory, defective or irregular, by reason of the insertion of initial letters, or other usual contractions or abbreviations of christian or first names, where one christian or first name commonly used by the person or by which he or she may be generally called or known, is set out at length; provided always, that nothing herein contained shall extend or be construed to apply to the insertion of names in the recital or setting forth of any deed or paper where it is necessary, or it is purported, to recite or set out such deed or paper *in hæc verba*; and provided also, that nothing herein contained shall extend or be construed to limit or control the operation of the thirty eighth section of an Act passed in the twelfth year of Her Majesty's Reign, intituled *An Act to consolidate and amend various Acts of Assembly relating to the further amendment of the Law*.

II. And be it enacted, That no plea in abatement for misnomer for not setting out at length the right christian or first name of any defendant where one such name is set out, and another or others designated by initial letters, contractions or abbreviations, shall be allowed or filed, unless the same is accompanied by an affidavit of such defendant, that he or she doth not commonly use and is not generally known by that name, but by some other and which of the names designated by initial letters, contractions or abbreviations, and further, that he or she hath not in the matter in contest in such suit or other transaction with the plaintiff or plaintiffs, described or designated himself or herself by that name; and that in case of any plea in abatement being duly filed, with such affidavit, it shall be open to the plaintiff or plaintiffs, by application to the Court in which such proceeding may be had, or any Judge thereof, to have the name in the declaration or writ altered and amended so as to conform to the name set out in such plea in abatement, upon such terms as such Court or Judge may prescribe; and so in case of motion to set aside any proceeding for such misnomer, the Court or Judge shall have the same power to alter and amend the proceeding objected to on that ground on like conditions.