

on Conviction shall suffer as a Felon.

Crime shall be adjudged Felony, and such Person so convicted shall suffer as a Felon.

This Act not to extend to Firewood & underwood used in the Fishery and within half Mile of Sea Shore.

IV. *Provided*, That nothing in this Act shall be construed to extend to such Fire Wood and underwood as is commonly used in the Fishery, and shall be within Half a Mile of the Sea Shore.

### C. A. P. IV.

An Act for admitting Depositions *de bene esse*, of Witnesses aged, Infirm, and otherwise unable to travel, and of Witnesses departing from the Province.

When it shall happen that Witnesses in a Cause are infirm, aged or unable to travel, or obliged to leave the Province.

One of the Judges on due Notice given to adverse Party may take the Deposition of such Witnesses, which shall be Sealed up and directed to the Court where Cause is to be tried.

\*\*\* E it Enacted, by the Governor, Council and Assembly, B \* That when it shall so happen that any of the Witnesses which shall be judged necessary to be produced on the \*\*\* Trial of any Cause between Party and Party, shall be infirm, aged, or otherwise unable to travel, or when any such Witness or Evidence is obliged to leave the Province, it shall and may be lawful for any One of the Judges of the Court where the Cause is to be tried, on due Notice given to the adverse Party to be present (if he sees fit) to take the Deposition of such Infirm or aged Person, or Persons unable to travel, or who is obliged to leave the Province, and such Depositions so taken and certified under the Hand and Seal of the said Judge and sealed up, and directed to such Court, shall be received as legal Evidence in such Cause.

Oath to be made of Notice given to adverse Party.

II. *Provided*, That Proof be made on Oath, that due Notice was given to the adverse Party of the Time and Place of taking such Depositions.

If such Witness is in the Province or able to travel testimony *viva voce* required.

III. *And provided nevertheless*, That if such Witnesses shall at the Time of the Trial of the Cause, be in the Province, or able to travel, they shall be required to give their Testimony *viva voce*, at such Trial, in the same Manner, as if such Depositions had not been taken.

Saving benefit of exceptions to the Credit of such Witnesses.

IV. *Provided also*, That all Benefit of Exceptions to the Credit of such Deponents shall be reserved in the same Manner as on producing Witnesses for Examination, *viva voce*, at the Trial.

Quakers allowed to make Affirmation.

V. *And be it Enacted*, That every Person of the Profession of the People called Quakers, who shall be required to take an Oath as aforesaid, shall instead of an Oath be permitted to make his or her Solemn Affirmation.