

*At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Tuesday the Twenty Eighth Day of May, 1765, in the Fifth Year of His Majesty's Reign, and there continued by several Prorogations until the Twenty Second Day of October, 1768, in the eighth year of His said Majesty's Reign; being the Seventh Session of the Fourth General Assembly convened in the said Province.*

8 George III – Chapter 2 (Session 2)

**An Act for the rating and levying of the Charges for conveying Malefactors and Offenders to the Gaol.**

Whereas His Majesty's subjects are much charged and burthened in conveying felons and other malefactors and offenders against His Majesty's laws, unto the gaol, punishable by imprisonment there, the said felons and other malefactors and offenders having goods and chattels of their own, whereby to defray the same charges themselves, to the great encouragement of such malefactors and offenders in their said wicked and bad courses, and to the discouragement of His Majesty's said subjects, in prosecuting the said malefactors and offenders to be punished according to their demerits; Be it therefore enacted by the Lieutenant Governor, Council, and Assembly, that all and every person and persons whatsoever, that shall hereafter be committed to the common or usual gaol within any county in this Province, by any Justice or Justices of the Peace, for any offence or misdemeanor, that the said person or persons so to be committed as aforesaid, having means or ability thereunto, shall bear their own reasonable charges for so conveying or sending them to the said gaol, and the charges also of such as shall be appointed to guard them to such gaol, and shall so guard them thither: And if any such person or persons, so to be committed as aforesaid, shall refuse at the time of their commitment and sending to the said gaol, to defray the said charges, or shall not then pay or bear the same, that then such Justice or Justices of the Peace shall and may, by writing under his or their hand and seal, or hands and seals, give warrant to the constable or constables of the town or place where such person or persons shall be dwelling and inhabit, or from whence he or they shall be committed as aforesaid, or where he or they shall have any goods within the county, town or place, to sell such and so much of the goods and chattels of the said persons, so to be committed, as by the discretion of the said Justice or Justices of the Peace, shall satisfy and pay the charge of such his or their conveying and sending to the said gaol; the appraisement to be made by four of the honest inhabitants of the town or place where such goods or chattels shall remain and be, and the overplus of the money which shall be made thereof to be delivered to the party to whom the said goods shall belong.

II. And be it further enacted, that if the said person or persons so to be committed as aforesaid, shall not have or be known to have any goods or chattels, which may be sold for the purpose aforesaid, within the county, town or place, that then the said Justice or Justices, on application by any constable or other officer who so conveyed such person or persons to gaol, shall upon oath examine into and ascertain the reasonable expences to be allowed such constable or other officer, and shall forthwith, without fee or reward, by

warrant under his or their hand and seal, or hands and seals, order the treasurer of the county to pay the same, which the said treasurer is hereby required to do, as soon as he receives such warrant; and any sum so paid shall be allowed in his accounts.

III. And whereas the expence as well as loss of time in attending courts of justice, is a discouragement to the poorer sort to appear as witnesses against offenders, who thereby escape the public justice, and the punishment due to their crimes, be it further enacted, that when any poor person shall appear on recognizance in any court, to give evidence against another accused of any grand or petit larceny, or other felony, it shall and may be in the power of the court, at the prayer and on the oath of such person, and on consideration of his circumstances, in open court to order the treasurer of the county in which the offence shall have been committed, to pay unto such person such sum of money, as to the said court shall seem reasonable for his time trouble and expence; which order the proper officer of such court is hereby directed and required to make out, and to deliver unto such person, upon being paid for the same the sum of six pence and no more and such treasurer is hereby authorized and required, upon delivery of such order, forthwith to pay to such person, or other person authorized to receive the same, such sum of money as aforesaid, and shall be allowed the same in his accounts.

II. And be it further enacted, that in such counties where no county treasurer shall have been chosen, or in case such treasurer shall not have any money in his hands, to pay the sum to ordered for conveying poor prisoners to gaol, or for the attendance of witnesses, that then and in such case the same shall be paid out of the public treasury of the Province.

III. And be it further enacted, that if any action of trespass or other suit shall happen to be attempted or brought against the person or persons for taking of any distress, making of any sale, or any other act by authority of this present Act, the defendant or defendants, in any such action or suit, shall and may either plead guilty, or otherwise make avowry, cognizance or justification, for the taking of the said distress, making of sale, or any other act by virtue of this act, alledging in such avowry, cognizance, or justification, that the said distress, sale, trespass or other thing whereof the plaintiff or plaintiffs complained, was done by authority of this act, and according to the tenor, purport, and effect of this act, without any expressing or rehearsal of any other matter of circumstance contained in this present act: To which avowry, cognizance, or justification, the plaintiff shall be admitted to reply, that the defendant did take the, said distress, made the said sale, or did any other act or trespass supposed in his declaration, of his own wrong, without any such cause alledged by the said defendant; whereupon the issue in every such action shall be joined to be tried by verdict of twelve men, and not otherwise, accustomed in other personal actions, and upon the trial of that issue the whole matter to be given on both parties in evidence, according to the very truth of the same; and after such issue tried for the defendant, or nonsuit of the plaintiff after appearance, the said defendant to recover treble damages by real on of his wrongful vexation in that behalf, with coils also on that part sustained, and that to be assessed by the same jury, or writ to enquire of the damages, as the same shall require.