

*At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Tuesday the 28th of May 1765 in the Fifth Year of His Majesty's Reign.*

5 George III – Chapter 11

**An Act for the Summary Trial of Actions.**

Whereas the trial of causes in a summary way has been found useful, and a means of determining many suits with little costs.

Be it enacted by the governor council and assembly, that the supreme court and the inferior courts of common pleas within this province, be and are hereby impower'd in all causes of action brought before them, the sum total whereof shall not exceed ten pounds, to proceed in a summary way by witnesses, to examine the merits of such causes, wherein no dilatory plea shall be allowed, and to determine therein according to law or equity, and make up judgment accordingly, subject to a writt of error to be brought from the said inferior courts of common pleas to the supreme court, when the judgment shall exceed five pounds.

Provided always, that when on the examination of the witnesses (which shall be taken in writing) the matters of fact from the evidence may be doubtfull, in such case they may order a jury to try the same, any former law of the province to the contrary notwithstanding.

And be it further enacted, that any one of the justices of the supreme court or courts of common pleas within this province, is hereby impower'd in all causes of action brought before him, where the debt does not exceed ten pounds, to take the voluntary confession of the debtor for the sum demanded by the creditor, as agreed between the debtor and creditor, and upon such confession so made by the debtor, and the specialty contract or account on which the said debt arose, being filed with said justice and a record made of the same, that then said justice by whom such record is made, is hereby empowered to grant execution thereon according to such agreement, upon the oath of the creditor, that the debt is bona fide due to him, in the same manner as if the said action had been tried in either of the said courts, and that the whole costs on such confession and record of the same, and execution, shall not exceed five shillings exclusive of the provost marshals fees; and the proceeding so had before the said justice (where the debt is three pounds and upwards) shall be filed by him with the clerk of the court to which such justice belongs, that the same may be recorded therein, and the clerks fees for so doing shall not exceed one shilling; and where the debt is under three pounds, the record thereof shall remain with the justice before whom the debt was confessed.

And be it further enacted, that all causes where the sum shall not exceed twenty shillings, shall be sued for and recover'd before one justice of the peace, and that all causes where the sum shall not exceed three pounds shall be sued for, and recover'd before two justices, subject to an appeal at heretofore hath been practised, and they are hereby impower'd to award execution returnable to him or them within ten days after the date thereof, and if not

satisfied he or they may issue out alias or pluries returnable respectively within the term of ten days each, and all writts of summons issuing from such justice or justices, shall be made returnable at least seven days after their dates respectively.

And be it further enacted, that the form of the writts to be issued by the justices of the peace, for the recovery of small debt, shall be by summons only in the following form.

County of \_\_\_\_\_

To the Provost Marshal or his deputy greeting.

In his Majesty's name you are hereby commanded to summon A. B. of \_\_\_\_\_ if he may be found in your precinct, to be and appear before \_\_\_\_\_ his Majesty's justice of the peace for said county, at the dwelling house of \_\_\_\_\_ on \_\_\_\_\_ day being the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ of the clock in the \_\_\_\_\_ noon, then and there to answer to C. D. of \_\_\_\_\_ in a plea of \_\_\_\_\_ to the damage of the said C. D. as \_\_\_\_\_ says the sum of \_\_\_\_\_ which \_\_\_\_\_ will then and there make appear, and do you make due return of this summons, with your doings thereon to \_\_\_\_\_ on or before said day witness \_\_\_\_\_ hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ year of his Majesty's reign, annoque domini 17\_\_.

A copy of which shall be left with the defendant at his last place of above at least seven days before the trial.

And be it enacted, that all writs of execution issued by the said justices shall run against the goods and chattles of the defendant, and for want thereof to take the body of the said defendant.

And be it enacted, that this act shall continue and be in force for the space of two years from the publication thereof, and from thence to the end of the next session of the general assembly.

Published according to law, the 18th day of June 1765.