

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on the fifth day of December 1785, in the Twenty Sixth Year of his said Majesty's Reign, and there continued by several Prorogations unto the Twenty Fifth Day of October, 1787, in the Twenty Eighth Year of his Majesty's Reign, being the Third Session of the Sixth General Assembly convened in the said Province.

28 George III – Chapter 7

An Act for regulating the Manner of issuing Process and Execution from the Inferior Courts of Common Pleas for the several Counties in this Province, and also for altering the Form of the Summons heretofore used.

Whereas the manner of issuing process from the inferior courts of common pleas has been found inconvenient and troublesome, and the form of the summons heretofore used, has been found expensive and vexatious, for remedy whereof;

I. Be it enacted, by the Lieutenant Governor, Council and Assembly, that from and after the publication hereof no writ or execution issuing from the inferior court of common pleas shall be directed to any sheriff within the province, except to the sheriff of the county or district in which such inferior court of common pleas shall sit or belong to, and no person or persons whatsoever shall hereafter be sued in or before any inferior court of common pleas, within this province, unless such person or persons shall be actually resident within the county or district, wherein such inferior court of common pleas shall sit or belong to.

II. And be it further enacted, by the authority aforesaid, that from and after the publication hereof all summon's issuing from any court of record within this province, shall instead of being directed to the sheriff or constable, be directed to the party or parties, and the form of the summons hereafter to be issued from, or by any court of record in this province, shall be as follows:

George the Third, by the grace of God of Great Britain, France and Ireland, King, Defender of the faith, &c. &c. &c.

To A. B. of C. in the county of D. (occupation) we command you, that you be and appear before our justices of our _____ court, next to be held at _____ on the _____ day of _____ next, then and there to answer to the suit of C. D. of E. in the county of F. (occupation) in a plea of _____ to the damage of the said C. D. _____ pounds, as he says, and herein fail not. Witness _____ esquire, this _____ day of _____ in the _____ year of our reign, annoque domini.

And the form of a summons from a justice of the peace, shall be as follows:

To A. B. of C. You are hereby commanded to appear before me on the _____ day of _____ at _____ o'clock in the _____ to answer to C. D. of E. in the sum of _____ and herein

fail not. Witness my hand and seal, this _____ day of _____ in the _____ year of our reign, annoque domini.

III. And be it further enacted, by the authority aforesaid, that a copy or copies of such summons or summonses shall and may be served on the defendant or defendants at least eight days before the day of return thereof by any person or persons whatsoever of good fame and reputation, who shall be above the age of twenty one years, and who can read and write (save the party at whose suit the same shall issue) and the person serving a summons issued out of any of his Majesty's courts, shall make and subscribe on the back of said summons the following oath or affidavit to be made before any one of his Majesty's justices of the peace, and attested by him, viz. "I A. B. do swear that on the _____ day of _____ last I served the within named _____ defendant C. D. with a true copy of the within summons by delivering the same to _____ at _____ and at the same time told to the said _____ what was the meaning thereof," which service shall be deemed and taken to be as good and effectual in law as the service of the sheriff heretofore was; and if any doubt shall arise before a justice of the peace relative to the service of any summons issued by him as aforesaid, he shall before he proceeds further on said summons call on the person who served the same to make the foregoing affidavit.

IV. And he is further enacted, that all plaintiffs who shall hereafter recover judgment in any court of record on such summons or summonses shall have taxed and allowed in their bill of costs for the service thereof, as follows, viz. two shillings and six pence for the service, one shilling for the affidavit, and one penny per mile travel, the travel to be computed from the court house to the place of the defendant's residence, and the plaintiffs shall be allowed for service of a justices summons, six pence, if the distance of the defendant's residence from the justices house shall not exceed six miles, and if the distance shall exceed six miles than one shilling and no more.