

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on the Eighteenth day of November, 1806, and continued by several prorogations to Thursday the Fourteenth day of February, 1811, in the Fifty-first year of the Reign of our Sovereign Lord George the Third, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith &c. &c. being the Seventh Session of the Ninth General Assembly, convened in the said Province. From Henry H. Cogswell, The Statutes at Large passed in the General Assembly held in His Majesty's Province of Nova Scotia: from the Sixth Session of the Eighth General Assembly, to the Fifty-Sixth year of his Majesty's Reign. John Howe and Son, 1816.

51 George III – Chapter 3

An Act for the better regulation of Attornies, Solicitors and Proctors, practising in the Courts of Law and Equity in this Province.

Be it enacted by the Lieutenant-Governor, Council and Assembly, that, from and after the publication of this act, no person, other than such as now are admitted and enrolled as attornies, solicitors and proctors, shall be permitted to act as an attorney, solicitor or proctor, or to sue out any writ or process, or to commence, carry on, solicit or defend, any action or actions, or any other proceedings, either before or after judgment or decree obtained or passed, in the name or names of any person or persons in any of His Majesty's courts of this province, unless such person shall have been bound by contract in writing, duly executed, to serve from the day of the date of such contract, for the term of five years, as a clerk to some attorney already admitted and inrolled in His Majesty's supreme court of the said province, or who shall be duly and legally sworn and admitted as herein-after directed; and unless such person shall have, during the said term of five years, continued in such service and conformed himself to the rules herein prescribed, and also unless such person shall, after the expiration of the said term be examined, sworn, admitted and enrolled as is herein after directed.

II. Provided always, and be it further enacted, that nothing herein before contained, shall extend, or be construed to extend, or enlarge, the time of service of such persons as are already serving as clerks to any such sworn attorney according to the existing rules and orders of His Majesty's supreme court, provided such clerks shall, within three months after the publication hereof, enter into a contract in writing, if none has been previously made, to serve such attorney for the residue of the period required by the said rules and orders of the said court, and provided also, that nothing in this act contained, shall extend, or be construed to extend, to prevent any person or persons who are now residing in this province, and who may be entitled to admission as an attorney or attornies in any of His Majesty's courts within this province under the present existing rule of His Majesty's supreme court for the admission of attornies, from being admitted accordingly; any thing herein contained to the contrary notwithstanding.

III. And be it further enacted, that from and after the publication hereof, no attorney shall have, take or retain, any clerk who shall become bound by contract in writing as aforesaid, after such attorney shall have discontinued or left off, or during such time as he shall not actually practice or carry on the business of an attorney.

IV. And be it further enacted, that if any such attorney, to or with whom any such person shall be bound, shall happen to die before the expiration of such term, or shall discontinue or leave off such his practice as aforesaid, or if such contract shall, by mutual consent of the parties, be vacated before the expiration of the said term, and such clerk shall, in any of the said cases, be bound by another contract, or other contracts in writing to serve, and shall accordingly serve in manner herein before mentioned, as clerk to any other such practising attorney or attornies as aforesaid, during the residue of the said term of five years, then such service shall be deemed and taken to be as good, effectual and available, as if such clerk had continued to serve as a clerk for the said term to the same person to whom he was originally bound.

V. And be it further enacted, that the judges of the said court, or any one or more of them, shall, and they are hereby authorised and required, before they shall admit any such person to take the oath herein after directed to be taken by persons claiming to be admitted as attornies, to examine and enquire, by such ways and means as they shall think proper, touching his fitness and capacity to act as an attorney, and if such judge or judges respectively shall be thereby satisfied that such person is duly qualified to be admitted to act as an attorney, then, and not otherwise, the said judge or judges, shall and they are hereby authorised and required to, administer to such person, the oath herein after directed to be taken by attornies, and after such oath taken, to cause him to be admitted an attorney of the said court without any fee or reward, other than five shillings for administering such oath; which admission shall be written on parchment, in the English tongue, in a common legible hand, and signed by such judge or judges, and shall be delivered to such person so admitted.

VI. And be it further enacted, that no person, so to become bound as clerk as aforesaid, shall be admitted an attorney, unless he shall be of the full age of twenty-one years, and unless he shall cause an affidavit to be made and filed in the office of the prothonotary aforesaid, that he hath actually and really served, and been employed by, such practicing attorney or attornies to whom he was bound as aforesaid, during the said whole term of five years, according to the true intent and meaning of this act.

VII. And be it further enacted, that if any person shall claim to be admitted an attorney of the said court, by reason of his having been admitted and enrolled an attorney, or called to the bar in any of the superior courts of the United Kingdom of Great-Britain and Ireland, or of His Majesty's American Colonies, if such person shall claim to be admitted by reason of his having been called to the bar, or otherwise admitted and enrolled an attorney in any one of His Majesty's courts in either Kingdom, he shall, before he shall be admitted in the said supreme court, produce a certificate of his having been called, or a copy of his admission as

an attorney, or judges of the court in which he hath been called, or a copy of his admission as an attorney, duly certified under the seal of the court in which he hath been admitted an attorney; and if such person shall claim as aforesaid by reason of his admission in any of the courts of any of His Majesty's colonies, he shall produce a copy of his admission in the supreme court of such colony, duly certified under the seal of the said court, and also a certificate of recent date, from such court, that such person was, at the time of the granting thereof, an attorney of such court, duly admitted and sworn according to the rules and regulations relative to attornies in force in such colony, and that such person hath practiced in the said court with credit and reputation for at least one year after admission, and within three years next before the granting such certificate, and that his character is good; upon which certificate, if the judge or judges of the said supreme court shall think the rules and regulations under which such person obtained admission, to be such as would afford a reasonable opportunity to such person to have acquired a competent knowledge, the said judge or judges of the said supreme court, may admit such person to be sworn and enrolled an attorney of the said court, provided he shall have been examined as is herein before required, and shall have appeared to be duly qualified.

VIII. And be it further enacted, that every person who shall, pursuant to this act, be admitted and enrolled to be an attorney of the said court, shall, before he is admitted and enrolled as aforesaid, take and subscribe the oath of allegiance and supremacy, and the following oath, vizt:—

I, A. B. to swear, that I will truly and honestly demean myself in the practice of an attorney, according to the best of my knowledge and ability.

So help me God.

IX. And be it further enacted, that no attorney of the said court shall have or retain more than two clerks at one and the same time, who shall become bound by contract in writing as aforesaid, after the publication of this act, to serve him as clerks.

X. And be it further enacted, that from and after the publication hereof, if any sworn attorney of the said court shall knowingly and willingly permit or suffer any other person or persons to sue out any writ or process, or to commence, prosecute or defend, any action or actions, or other proceedings, in his name, not being a sworn attorney of the said court, and shall be thereof lawfully convicted, every person so convicted shall forfeit the sum of ten pounds for every offence, to the use of the person who shall sue for the same.

XI. And be it further enacted, that from and after the publication hereof, every writ or process, and every warrant, that shall be made out upon every such writ or process, shall, before the service or execution thereof, be subscribed with the name of the attorney, written in a common legible hand, by whom such writ or process respectively shall be sued forth, or such writ, warrant or process, shall be subscribed with the name of the party suing out the same, in case an attorney shall not be employed.

XII. And be it further enacted, that from and after the publication hereof, no person shall be admitted to practice as an attorney in the court of sessions, or in any of the inferior courts of common pleas, or as a solicitor and proctor in the court of chancery, court of admiralty, or courts for the probate of wills in this province, unless such person or persons shall have been previously admitted, sworn and enrolled, as an attorney, in the supreme court, pursuant to the provisions of this act.

XIII. And be it further enacted, that from and after the publication hereof, in case any person shall, in his own name, or in the name of any other person, sue out any writ or process, or commence, prosecute, solicit or defend, any action or suit, or proceedings, in any of the courts of this province, as an attorney, solicitor or proctor, for, in the expectation of, any gain, fee or reward, without being admitted and enrolled an attorney as aforesaid, every such person, for every such offence, shall forfeit and pay ten thousand pounds to the use of any person who shall prosecute him for the said offence.

XIV. And be it further enacted, that the penalties imposed by this act, shall be sued for, prosecuted, and recovered by bill, plaint or information, in any of His Majesty's courts of record in this province, to the use of him, or them who shall prosecute or sue for the same.

XV. And be it further enacted, that from and after the publication hereof, no merchant, trader or person, who shall be employed by any merchant or merchants, trader or traders, in the management or conducting of the business of such merchant or merchants as his, her, or their clerk, shall execute, hold or fill the office of prothonotary, clerk of the crown, deputy clerk of the crown, or deputy prothonotary, in any county or district within this province; nor shall any person or persons filling the office of prothonotary, or deputy prothonotary, clerk of the court, or deputy clerk of the court, on any account or in any manner, act or practice as, or for, an attorney, during the time he or they shall act and officiate as the prothonotary, clerk of the court, deputy clerk of the court, or deputy prothonotary, in this province, under the penalty of ten pounds, for each and every offence.

And whereas it is fit and proper to regulate the admission of persons to plead as barristers or advocates in the several courts of law in this province:

XVI. Be it therefore enacted, that from and after the publication hereof, no person shall be admitted to plead as a barrister or advocate in the courts of chancery, supreme court, or court of vice-admiralty, in this province, unless such person shall have been admitted, sworn and enrolled, as an attorney of His Majesty's supreme court, for at least one year previous to his application for admission to plead at the bar of any or either of the said courts, and shall have attended the said supreme courts at its regular sittings at Halifax, for at least three terms after his admission as an attorney as aforesaid.

Provided always, that, notwithstanding any thing contained to the contrary, any person who shall have been called to the bar in England or Ireland, or who shall have been taken a

degree of bachelor of arts in King's College at Windsor, in this province, may, after being admitted as an attorney of His Majesty's said supreme court, agreeably to the rules and regulations herein before specified and set forth, immediately be admitted to plead as a barrister or advocate, at the bar of any or either of the said courts.

XVII. And be it further enacted, that nothing in this act shall extend, or be construed to extend, to prevent the chief justice and judges of the supreme court, when at any time holding the said court, or a court of oyer and terminer, and general gaol delivery, in any part of this province, from appointing a practicing attorney, or any other fit and competent person, to do the duty, for the time being, of clerk of the crown, or prothonotary, to such court, during such its sitting, in case it shall appear to such court, that the person regularly appointed to do such duty, is incapable or unwilling to perform the same, either from the want of sufficient abilities, or from any other cause whatsoever.

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