

*At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Thursday the Sixth day of February, 1812, and continued by several Prorogations to Thursday the Thirteenth day of February, 1817, in the Fifty-Seventh 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 Tenth General Assembly, convened in the said Province.*

57 George III – Chapter 11

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

Whereas experience has proved that the trial of cases in a summary way, has been beneficial to the inhabitants of this province, in as much as the same is attended with but little expence:

- I. Be it therefore enacted, by the Lieutenant-Governor, Council and Assembly, that it shall and may be lawful for the Governor, Lieutenant-Governor, or Commander in Chief, for the time being, to appoint five fit and proper persons in each county or district within this province, which five fit and proper persons so appointed, or any three of them, shall be a court for the purposes of this Act.
- II. And be it further enacted, that it shall and may be lawful for the Governor, Lieutenant-Governor, or Commander in Chief, for the time being, to grant commissions to such persons, giving all necessary power, and declaring therein who shall preside at any meeting of the said court, in whose name all writs and process shall be tested.
- III. And be it further enacted, that three or more of the persons to be appointed as aforesaid, after being sworn before some one of the justices of the Court of Common Pleas, for the faithful discharge of their duty, shall meet on the first Monday in every month, within the county or district for which they shall be appointed, and are hereby empowered in all actions, not exceeding ten pounds, to proceed in a summary way, to try the same by examining the parties, and witnesses, on oath, and to determine the same with the least possible delay, and to give judgment thereon.
- IV. And be it further enacted, that when the sum for which judgement is given, shall exceed five pounds, either party may appeal to the Supreme Court, and Execution shall be stayed, if the party appealing shall give sufficient security to abide by the judgement of the Supreme Court had therein; and the Supreme Court shall try the cause over again in a summary way, or by a jury, if the court think it necessary.
- V. And be it further enacted, that the said court may give judgement, on the verbal or written confession of any defendant, made before them, in open court, and entered by their clerk, for any sum not exceeding ten pounds.

VI. And be it further enacted, that said court shall appoint a clerk, who shall issue writs of summons, capias, attachments, and executions according to such forms as shall be established by the Supreme Court, which Court shall have power to change the said forms whenever it may be thought expedient; and the said clerk shall be sworn to the due execution of his office, and shall faithfully record all proceedings.

VII. And be it further enacted, that persons imprisoned under the process of the said court, shall be entitled to their discharge, according to the provisions of the several acts of this province, relating to insolvent debtors.

VIII. And be it further enacted, that no action shall be brought in the Supreme Court, or in any Inferior Court of Common Pleas, where the whole dealing or cause of action shall not exceed ten pounds.

IX. And be it further enacted, that the said court, to be constituted as aforesaid, shall not try or give judgement on any action, in which the title of lands are in question; but all actions of trover, of assault and battery, trespass on lands, where the title is not in question and replevin; and also Special Actions on the case for slander, or any other personal action, if sued before them, may be tried, and judgement given thereon; provided, the damage demanded shall not exceed five pounds; also provided, the defendant shall not, before the trial commences, object to the jurisdiction of the said court, but if in any of the causes last above described, the defendant shall object to the jurisdiction of the said court the cause shall be discontinued, and no further proceeded in by the said court.

X. And be it further enacted, that the following fees and no other, shall be taken by the respective officers and persons after named, that is:—

CLERK.

For every summons, two shillings and six pence.

For every affidavit and capias, three shillings and six pence.

For every affidavit and attachment, three shillings and six pence.

For all other proceedings to judgement, one shilling.

For witnesses, each one shilling.

For writ, and execution, one shilling.

Judges, whole court, trial and judgement, five shillings.

SHERIFF OR CONSTABLE.

Service of writ of summons, one shilling.

Service of capias or attachment, one shilling.

Bail bond, two shillings.

Poundage, if the money is paid, three pence per pound.

Poundage, when property is taken and sold, six pence in the pound.

And if any of the persons before named shall ask, demand, or receive, any other or greater fees than are herein allowed, he shall forfeit and pay a fine of five pounds, together with costs, to be recovered in any action or suit by him or them that will sue for the same, either in the said court, or in his Majesty's Supreme Court, where the same shall be tried and determined in a summary way.

XI. And be it further enacted, that if the inferior court of common pleas, for any county within the province, is by law obliged to sit in more than one place within the same county, it shall and may be lawful for the Lieutenant-Governor or Commander in Chief, to appoint six Commissioners for such county, instead of five, as herein before mentioned.

XII. And be it further enacted, that the said court shall be held at the usual places of the sitting of the Courts of Commons Pleas, in the several counties and districts of this province, and the term shall not continue more than two days.

XIII. And be it further enacted, that this act shall be and continue in force for one year from the publication thereof, and from thence to the end of the next session of the General Assembly.