

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Thursday, the Fourteenth Day of February, 1822, in the Third year of the Reign of our Sovereign Lord George the Fourth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith &c. &c. and ended on the Third Day of March, in the Second Year of the Reign of our Sovereign Lord George the Fourth, being the First Session of the Twelfth General Assembly, convened in the said Province.

3 George IV – Chapter 30

An Act for the Summary Trial of Actions.

Be it enacted by the Lieutenant-Governor, Council and Assembly, that it shall and may be lawful for any person or persons who have debts owing to him or them, by any other person or persons, where the whole dealing, or cause of action, shall not exceed five pounds, to sue for the same in the manner following, that is to say: if the sum demanded shall not exceed three pounds, to cause such debtor to be summoned to appear before any one justice of the peace, of the county or district where the debtor shall reside; and if the sum demanded shall be more than three pounds, but does not exceed five pounds, to cause such debtor to be summoned to appear before any two justices of the peace of the county or district where the debtor shall dwell: and the said justice or justices, after such summons, issued and duly served, is, and are hereby impowered to proceed to make up final judgment between the parties, and shall allow the defendant to produce his account against the plaintiff, or any receipt or other discharges, for payment made, either in whole or in part; and the said justice or justices shall examine and enquire into the merits of both accounts, and of such discharges, and by such other proof as to him or them shall seem requisite, or upon confession of the debtor, to ascertain the debt due, and to decree the payment thereof, and to award the costs as he shall find, whether for the plaintiff or defendant, without appeal, unless the debt or cause of action shall amount to twenty shillings or upwards, any law, usage or custom, to the contrary notwithstanding.

II. And be it further enacted, that if any debtor, after being duly summoned to appear, shall, without just cause, to be allowed of by the said justice or justices, refuse or neglect to perform such decree or judgment as shall be made concerning such debt as aforesaid, it shall and may be lawful for such justice or justices to issue execution against the goods, chattles or body, of such debtor, for the sum awarded, with costs: which execution shall be returnable in twenty days from the day on which it shall be issued, any law, usage or custom, to the contrary notwithstanding. Provided always, that no person shall be arrested in any case, for a debt due by him under twenty shillings, nor for any larger debt not exceeding three pounds, unless, in addition to the affidavit of the debt, the party applying shall also make oath that he verily believes that unless a writ of *capias* be allowed the debt will be lost.

III. And be it further enacted, that the summons or *capias* shall be served on such defendant at least three days previous to the day on which such writ shall be made returnable as aforesaid.

IV. And be it further enacted, that the forms of the writs of the summons, capias and executions, to be used by the justices of the peace, under this act, shall be the same, in every respect, as those described in an act, made and passed in the forty-eighth year of the reign of His late Majesty King George the Third, entitled, "An Act for the Summary Trial of Actions."

V. And be it further enacted, that the fees to be taken and received in all causes before such justice or justices shall be as follows:

Justice's Fees.

On writ of summons – two shillings.
On capias and affidavit – two shillings and six pence.
On Judgment – one shilling.
On execution – one shilling.

Constable's Fees.

Service – one shilling.
Travel – three pence per mile.

Witnesses – each two shillings and six pence, and travel three pence per mile.

Subpoena – one shilling.

VI. And be it further enacted, that all actions, for the recovery of any debt, between five pounds and twenty pounds, shall be brought in the supreme and inferior court of common pleas, within this province, which said courts are empowered to try the same in a summary way, by witnesses, to examine the merits of such causes, and to make up judgment accordingly. Provided always, that, when either of the parties shall desire it, the court shall order a jury to try the same.

VII. And be it further enacted, that the fees, to be hereafter received in the said supreme and inferior court, in all causes between five pounds and ten pounds, shall be as follows:

Attornies' Fees.

On writ – five shillings
Trial and judgment – four shillings.
Subpoena – one shilling.
Execution – two shillings and six pence.

Judges' Fees.

On judgment only, the whole court – two shillings and six pence.

Prothonotary's Fees.

On writ – one shilling.

On judgment – one shilling and six pence.

VIII. And be it further enacted, that if any justice or justices, judge or judges, attorney or attornies, prothonotary or prothonotaries, shall ask, demand or receive, any greater or other fees than are herein allowed, he or they shall forfeit and pay a fine of ten pounds, together with costs, to be recovered in any action or suit, by him or them that will sue for the same, in any court of record within the county where such greater fee or fees than are herein allowed, shall have been received: which court of record shall hear and determine such action in a summary way.

IX. And be it further enacted, that the commissioners of the several courts heretofore established within this province, shall have power to issue executions on the several judgments which may have been obtained heretofore, in their respective courts, and to proceed to collect the money due on such judgments in the same manner as if the act for the summary trial of actions, made and passed in the fifty-eighth year of the reign of His late Majesty King George the Third, was in full force and effect.

X. And be it further enacted, that this act shall be in force for one year, and from thence to the end of the next session of the general assembly.