

recovered against him, or shall not pay such penalties within four days after conviction, then and in such case the Justices before whom the said conviction is had, may, by warrant under their hands and seals, commit such offender to the common Jail, there to remain for the space of three months, or cause such offender to be publicly whipped. And whereas, Offenders under said Act, after conviction, and before the expiration of the said four days, have absconded, and evaded the punishment imposed by the said Act :

Justices authorized to commit Offenders immediately to Jail

BE it therefore enacted by the Lieutenant-Governor, Council and Assembly, That, from and after the publication of this Act, it shall and may be lawful for the said Justices, before whom any conviction shall be had against any Offender under the said Act, to commit such Offender to the Common Jail, after conviction and before the expiration of the said four days, unless such Offender shall enter into recognizances, with two Sureties, for his personal appearance before the said Justices, at the expiration of the said four days, mentioned in the said Act.

CAP. XXXV.

An ACT to continue an Act, entitled, An Act in addition to and amendment of an Act, passed in the forty-first year of His Majesty's Reign, entitled, An Act for repairing, cleansing and paving, the Streets in the Town and Peninsula of Halifax, and for removing obstructions therein; and also the Act, in amendment thereof, passed in the forty-second year of His present Majesty's Reign.

Acts 50th and 42d Geo. III. continued

BE it enacted by the Lieutenant-Governor, Council and Assembly, That, an Act, passed in the fiftieth year of His late Majesty's reign, entitled, An Act in addition to, and in amendment of, an Act, passed in the forty-first year of His Majesty's reign, entitled, An Act for repairing, cleansing and paving, the Streets in the Town and Peninsula of Halifax, and for removing obstructions therein; and also the Act, in amendment thereof, passed in the forty-second year of His late Majesty's reign, and every matter, clause and thing, in the said Acts contained, shall be continued, and the same are hereby continued, for one year, and from thence to the end of the next Session of the General Assembly.

CAP. XXXVI.

An ACT relating to the Court of Commissioners at Halifax.

Preamble

WHEREAS, by an Act of the General Assembly of the Province, made in the fifty-seventh year of His late Majesty's reign, entitled, An Act for the Summary Trial of Actions, the Lieutenant

Lieutenant-Governor, or Commander in Chief, for the time being, was authorised to appoint five fit and proper Persons, to be Commissioners for the Trial of Actions, not exceeding Ten Pounds, within certain Districts. And whereas, a Commission having issued accordingly, a Court, for the purposes mentioned in the said Act, hath been held before Commissioners appointed for the Town of Halifax, and it is now become expedient, inasmuch as the said Act will expire at the present Sessions, to provide for the continuance of the said Court :

I. BE it therefore enacted by the Lieutenant-Governor, Council and Assembly, That all the powers and authorities under the said Commission, vested in, and exercised by, the several Persons who are now the Commissioners of the said Court shall be, and the same are hereby, continued unto them respectively, so long as this Act shall be in force. Commissioners' Court continued

II. And be it further enacted, That upon the decease, resignation, or removal from Office, of any Commissioner, it shall be lawful for the Governor, Lieutenant-Governor, or Commander in Chief for the time being, as often as the case shall occur, to appoint such fit Person as he shall think proper, to supply the vacancy occasioned by such death, resignation, or removal from office, and to grant a Commission, with all necessary powers, accordingly. Death, resignation or removal of a Commissioner

III. And be it further enacted, That every Commissioner of the said Court, hereafter to be appointed, shall be sworn into office, and to the faithful discharge of his duty, before some one of the Judges of the Supreme Court at Halifax. Commissioners to be sworn into Office

IV. And be it further enacted, That the said Court of Commissioners shall appoint, during pleasure, a Clerk, who shall be sworn to the due execution of his office, and shall faithfully record all the proceedings thereof. Clerk to Commissioners

V. And be it further enacted, That the said Court shall be held before the said five Commissioners, now, or hereafter to be appointed, or any three of them, on the first Monday of every month in every year, and may continue sitting at each term, two days ; and shall have power and jurisdiction within the Township of Halifax, over all suits, and in which the whole dealing or cause of action shall have arisen within the said Township, and shall not exceed ten pounds ; and also, over all Actions of Trover, Assault and Battery, Trespass on Lands, where the Title is not in question, and for Slander, wherein respectively the damages claimed shall not exceed five pounds. *Provided always nevertheless,* That in such actions of Trover, Assault and Battery, Trespass on Land, and for Slander, the Defendant shall not, before the Trial commences, object to the Jurisdiction of the Court, but if such objection shall be made, the cause shall be forthwith discontinued. *Provided always nevertheless,* and be it further enacted, That Actions which involve the Title to land, or any other valuable right or duty, shall not be tried by the said Court, although the sum actually in dispute may not exceed ten pounds. Court to be held first Monday in every Month
Jurisdiction of Court
Proviso

VI. And be it further enacted, That the Process of the said Court shall be Writs of Summons, Capias and Execution, which shall be tested in the name of the Commissioner appointed to preside therein, and be issued by the Clerk thereof, according to such forms as are or shall be established by the said Supreme Court, and shall be directed to the Sheriff, Constables or Officers, appointed by the said Commissioners. Process of Court VII.

Causes deter-
mined in a
summary way

VII. *And be it further enacted*, That the said Court of Commissioners shall hear and determine all Causes in which they have jurisdiction in a summary way, by examining Witnesses on Oath, and shall decide the same with the least possible delay, and give Judgment thereon.

Judgment to
be recorded

VIII. *And be it further enacted*, That the said Court may enter Judgment for any sum not exceeding Ten Pounds, on the verbal or written confession of any Defendant, made before them in open Court, and recorded by the Clerk.

Appeal from
decision of
Court

IX. *And be it further enacted*, That when the amount of the Judgment recovered, or the cause of Action, in any Suit shall exceed twenty shillings, the party aggrieved by the Judgment may appeal to the Supreme Court, and Execution, and all other proceedings in the Suit shall be stayed upon sufficient security (which the said Court of Commissioners, or any one of them, is hereby empowered to take by recognizance) being given to abide the Judgment of the said Supreme Court thereon; and the Party appellant shall enter his Appeal, and proceed thereon before the said Supreme Court, at the first Term, and the Judges thereof shall try the Cause again, either in a summary way, or by a Jury, as to them shall seem proper, and give final Judgment thereon.

Suits can only
be carried by
appeal into In-
ferior or Su-
preme Court

X. *And be it further enacted*, That no Suit, subject to the Jurisdiction of the Court of Commissioners, and wherein the whole dealing, or cause of Action, does not exceed Ten Pounds, shall be brought in the said Supreme Court, or in the Inferior Court of Common Pleas, except by appeal.

Process of Ex-
ecution issuing
from the
Court

XI. *And be it further enacted*, That Process of Execution from the said Court of Commissioners, may be served in any part of the County of Halifax, except the Districts of Colchester and Pictou, and that all Parties imprisoned under such Process shall be entitled to their discharge, according to the provisions of the several Laws of this Province relating to Insolvent Debtors.

Allowance to
Commissioners

XII. *And be it further enacted*, That the Commissioners, and other Officers of the said Court, shall be allowed to take and receive of and from the Suitors therein, the several Fees which are specified for them respectively in the Schedule or Table to this Act annexed, under the limitations therein expressed, and the Fees so paid shall be adjudged against, and levied from, the Party failing in the Suit: but if the Debt recovered be under Twenty Shillings, no more costs shall be allowed than Seven Shillings and Six Pence; and if under Ten Shillings, no more Costs than Five Shillings; and if under Five Shillings, the allowance of any Costs shall be wholly at the discretion of the Court, but not to exceed Five Shillings.

Schedule of
Fees

SCHEDULE OF FEES :

By the Commissioners—For taking Affidavit, and endorsing a Bailable Writ—One Shilling.

For every Trial and Judgment, to the whole Court—Three Shillings.

By the Clerk—For every Writ of Summons—Two Shillings.

every Affidavit and Bailable Writ—Two Shillings and Six Pence.
all subsequent Proceedings, including final Judgment—Two Shillings.

Execution—One Shilling.

Every

Every Recognizance, each Person—One Shilling.

Each and every Writ of Subpœna—Six Pence.

By the Sheriff or Constable, in all cases—For service of every Writ, or Process—One Shilling.

Every Bail Bond—Two Shillings.

Poundage, if the Money be paid without sale of Property—Three Pence in the Pound.

If Property be taken and sold—Six Pence in the Pound.

Travel, per mile—Three Pence.

By Witnesses—So much as the discretion of the Court may deem proper, provided the sum does not exceed—Two Shillings and Six Pence for each day's attendance.

Travel, per mile—Three Pence.

XIII. *And be it further enacted*, That if any of the Persons named in the said Schedule, shall demand or receive any other or greater fees, than are by this Act allowed, he shall forfeit and pay a fine of five pounds, to be recovered with costs, in any action or suit by him or them that will sue for the same, either in the said Court of Commissioners, or the said Supreme Court, where the same shall be tried and determined in a summary manner. *Provided always, and be it further enacted*, That no writ of Capias shall hereafter be issued from the said Court of Commissioners against any Person, for any sum less than twenty shillings, unless the party applying for the same shall make and subscribe an affidavit in writing, setting forth that he verily believes that unless such Capias is allowed the Debt will be lost.

Officers of Court demanding greater Fees

Proviso

XIV. *And be it further enacted*, That this Act shall continue and be in force from the publication hereof, for and during the term of one year, and thence until the end of the next Session of the General Assembly.

Continuance of Act

CAP. XXXVII.

An ACT to regulate and increase the number of Times for holding the Inferior Courts of Common Pleas and General Sessions of the Peace in and for the County of Sydney.

WHEREAS, the present mode of holding the Inferior Courts of Common Pleas and General Sessions of the Peace within the County of Sydney, is found to be not only inconvenient but detrimental to the internal policy of the said County:

Preamble

I. *BE it enacted by the Lieutenant-Governor, Council and Assembly*, That, from and after the publication hereof, the Inferior Court of Common Pleas and General Sessions of the Peace, for said County of Sydney, shall be held four times in each and every year, that is to say: at Dorchester, in the Upper District of the said County, on the

Times and Places for holding Inferior Court in County of Sydney

M

second

second Tuesday of March, and on the first Tuesday of November, in each year; and at Guysborough, in the Lower District of the said County, on the fourth Tuesday of March, and on the third Tuesday of November, in each year.

Jurisdiction of
Court in Upper
District

II. *And be it further enacted*, That the Jurisdiction of the said Inferior Court of Common Pleas, and General Sessions of the Peace, to be held, and of all Judges of the said Court of Common Pleas, Justices of the Peace, and all other Ministers of the Law (the Sheriff of the said County excepted) residing in the said Upper District of the said County, shall extend over, and be limited within, the bounds following, that is to say: the Shores of the Gut of Canso, the Antigonish Bay, and the Gulf of Saint Lawrence, on the east and north; the line dividing the District of Pictou and the said County, on the west; and on the south by a line to commence at the south-eastern angle of the said District of Pictou, and to run thence in a right line until it intersects the South River of Antigonish, at the north-east angle of Land granted to James Archibald, Junior, thence in a right line until it intersects the west boundary line of the Township of Guysborough, at the point where the Main Road leading from Antigonish to Guysborough, crosses said boundary line, thence along said line to the north-west angle of the said Township, and thence north eighty degrees east to the line of the Gut of Canso aforesaid.

Jurisdiction of
Court in Lower
District

III. *And be it further enacted*, That the Jurisdiction of the said Inferior Courts of Common Pleas and General Sessions of the Peace, to be held, and all Judges of the said Court of Common Pleas, Justices of the Peace, and other Ministers of the Law (the High Sheriff of the said County excepted) residing within the said Lower District of the said County, shall extend over, and be limited to, such part of the said County as is not included within the bounds in the second section of this Act defined.

The Inferior
Court in Upper
and Lower Dis-
tricts to have
distinct Juris-
diction

IV. *And be it further enacted*, That the said Upper and Lower Districts of the said County, from and after the publication of this Act, shall respectively be deemed and held, in all things and in all respects touching and concerning the said Inferior Courts of Common Pleas and General Sessions of the Peace, to be held within them respectively, as aforesaid, and as to all acts done, or which may be necessary to be done, by any and all Judges of the said Inferior Court of Common Pleas, or General Sessions of the Peace, within their respective Jurisdictions, or by any Justice of the Peace, or other Minister of the Law, residing therein, (except the High Sheriff of the said County) as if the same were separate and distinct Counties of this Province.

Petit Jurors]

V. *And be it further enacted*, That the Lists of Petit Jurors to serve at the said Courts respectively, shall be drawn of Persons residing within their respective Jurisdictions.

Grand Jurors

VI. *And be it further enacted*, That it shall and may be lawful for the said Court of General Sessions of the Peace in each of the said Districts respectively, to cause to be drawn the usual number of Persons from those residing within their respective Jurisdictions, who are by law required to serve as Grand Jurors, and to issue a Venire for their attendance, which Jurors when summoned shall be bound to attend the Court, and shall, for all purposes, be taken and held to be the Grand Jury of the said District to which they belong.

VII. *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 appoint and commission so many fit and proper Persons (not exceeding four), to be Justices of the Inferior Court of Common Pleas, as may be thought necessary for each of the said Districts respectively.

Appointment of Justices of Inferior Court

VIII. *And be it further enacted*, That all Actions now depending in the said Inferior Court of Common Pleas, shall be determined, and final judgment entered up therein, in the District in which the Defendants in such Actions at the time may reside, or if such Defendants be absent from the Province, in the District or which he shall have usually resided, except Actions of Ejectment and Trespass, wherein the Freehold or Title to the Soil is in question, which Actions of Ejectment and Trespass, shall be tried and determined in the District where the land is situate.

Actions at present pending

IX. *Provided always, and it is further enacted*, That all Town and County business, and all appointments of Town and County Officers, and all rules and regulations done and transacted, made and entered into, by the Court of General Sessions of the Peace, at their sittings at Guysborough in November Term last, in so far as the same are authorised by Law, shall stand and remain in full force, operation and effect, until the first General Sessions of the Peace, which shall be held in the said Districts respectively, after the first day of January, which will be in the year of Our Lord one thousand eight hundred and twenty-five; *and provided always*, That nothing herein contained shall extend, or be construed to extend, to limit and restrain the power of the Supreme Court of the said County, to draw, and compel the attendance of, its Petit and Grand Jurors from the body of the said County, save and except that the said Grand and Petit Jurors shall be exclusively considered as belonging to, and only bound to attend the sittings of the Supreme Court in, the said County; *and provided always*, That nothing in this Act contained shall be deemed, taken or held, to interfere with the Office of Sheriff of the said County, or of any Person acting under him in his official capacity aforesaid.

Proceedings of Court of Sessions held at Guysborough in November last

Proviso

Expense of running lines of division of County how defrayed

X. *And be it further enacted*, That the Justices and Grand Jury, at a General Sessions of the Peace for the Upper District of the said County, may and shall assess upon the Inhabitants of the said District such sum or sums of Money as shall and may be necessary and requisite to defray the expenses of running out and marking the before mentioned line in the usual manner.

CAP. XXXVIII.

An ACT to make further Provision for the Equal Administration of Justice in the Province of Nova-Scotia.

Preamble

WHEREAS, it is deemed expedient to make some further Provision for the Administration of Justice in the Courts of Common Pleas and General Sessions of the Peace within the Province:

Division of Province

I. *Be it therefore enacted by the Lieutenant-Governor, Council and Assembly*, That the Counties and Districts of the Province of Nova-Scotia, excepting the County of Cape-Breton, and the District of Halifax Proper, be divided into three Divisions; the County

of