

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Thursday, the Eighth day of January, 1824, in the Fourth 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. being the Fourth Session of the Twelfth General Assembly, convened in the said Province.

4 George IV – Chapter 36

An Act relating to the Court of Commissioners at Halifax.

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-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 purpose 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.
- 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.
- 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.
- 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.
- 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.

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 established by the said supreme court, and shall be directed to the sheriff, constables or officers, appointed by the said commissioners.

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.

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.

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.

X. 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.

XI. 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:

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 recognizance, each person – one shilling.

Each and every writ of subpoena – 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.

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.