

Laws of His Majesty's Province of Upper Canada, passed in the year 1837. Toronto: Robert Stanton, 1837.

7 William IV – Chapter 12

An Act to amend the Law relating to the Court of Requests. Passed 4th March, 1837.

Whereas it is necessary to alter and amend an Act passed in the third year of His present Majesty's reign, entitled, "*An Act to repeal part of, amend, and reduce to one Act of Parliament, the several Laws now in force in this Province for the recovery of small debts, and to extend the jurisdiction of the same;*" Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled "*An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'*" and by the authority of the same, That from and after the passing of this Act, any person having a demand against another, not exceeding the sum of Ten Pounds, may, if he thinks proper, summon such person from any part of the District wherein he resides, to appear at the Court of Requests in the Division where the debt was contracted, anything in the before recited Act to the contrary notwithstanding.

II. And be it further enacted by the authority aforesaid, That it shall be the duty of the Clerk of each or any Court of Requests for the Division within the limits of which any debt, as aforesaid, shall have been contracted, upon request to him made by the person or persons to whom such debt is due, to issue a Summons, requiring the Debtor or Debtors to appear at the Court of Requests to be holden in and for the Division from which such Summons shall issue, at a day in such Summons to be named; which Summons, together with a copy thereof, and the copy of the amount for the recovery of which such action is brought, shall be transmitted to the Bailiff of the Division or Divisions wherein such Debtor or Debtors reside; and it shall be the duty of such Clerk to deliver the same to a Bailiff to be served, which Bailiff shall, and he is hereby required to serve such Summons, as is now provided by law: Provided always, that every such Summons shall be served, not less than ten days before the return thereof.

III. And be it further enacted by the authority aforesaid, That the Bailiff who shall serve any copy of such Summons, shall make affidavit of such service, and the necessary mileage, before some one of the Commissioners of the Division for which he shall be Bailiff, and shall transmit the original Summons, together with such affidavit, without delay, to the Clerk of the Court from whom he shall have received it, as aforesaid.

IV. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Commissioners of the Court from which the Summons issued, on production of the same, together with the affidavit of service thereof, to hear and determine the cause, in the same manner as if the Defendant resided within the Division for which such Commissioners shall hold

their Court: Provided always, that proof shall be adduced before such Commissioners, that the debt so sued for was contracted within the said Division.

V. And be it further enacted by the authority aforesaid, That the costs of the service of such Summons, affidavit, and the transmission thereof, shall form part of the costs to be allowed by the said Commissioners, and shall be collected and accounted for to the Bailiff making such service, or to such other person as shall be entitled to the same; and if the said Commissioners shall give judgment against any such Debtor or Debtors, it shall and may be lawful for them to cause and direct execution to be issued for the debt and costs, to be directed to the Bailiff of the Division or Divisions, within which such Defendant or Defendants shall reside, who shall levy the same in the same manner as is by law directed, in respect to Executions from the Court of the Division for which he is Bailiff, as aforesaid.

VI. And be it further enacted by the authority aforesaid, That the Bailiff of any Court of Requests neglecting or refusing to perform any of the duties required by this Act, or to pay over monies collected or levied by him, as aforesaid, shall be liable to the same penalties or punishment, as if such neglect or refusal had happened with regard to any duty required to be by him performed in respect to any Writ, Process or proceeding, issuing from the Court for which he shall be Bailiff, as aforesaid.

VII. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Clerk of any Court of Requests, at the request of any Plaintiff or Defendant, to issue a Subpoena or Subpoenas for such and so many Witnesses as such Plaintiff or Defendant may desire, commanding the attendance of such Witness or Witnesses at any Court of Requests where a trial is to take place, in which any such Plaintiff or Plaintiffs, Defendant or Defendants, is a party or parties; and every such Witness who shall have been duly served with such Subpoena, and in the event of being required to travel out of the Division wherein such Witness shall reside, shall have his or her reasonable charges, not exceeding One Shilling for every Five Miles necessary travel, paid or tendered to him or her at the time of such service, and who shall, without sufficient cause, neglect or refuse to obey such Subpoena, shall be liable to forfeit and pay a sum, in the discretion of the Commissioners, not exceeding Forty Shillings, to be recovered with costs of Suit, by the party aggrieved, before the Commissioners of the Court of Requests for the Division within which such Witness shall reside; and such sum so recovered shall be paid over to the Commissioners of the Highways within such Division, to be expended on the improvement of the Roads.

VIII. And be it further enacted by the authority aforesaid, That in any case where by the before recited Act personal service of a Summons is required, the same shall not be deemed necessary, upon the Bailiff entrusted with the service of any Summons, making oath before one of the Commissioners of his Court, that he left the same at the usual place of residence of the Defendant, and that he the said Bailiff verily believes such Defendant absented himself for the purpose of avoiding the service as aforesaid, provided the sum shall not exceed Five Pounds.

IX. And be it further enacted by the authority aforesaid, That whereas doubts have arisen as to the power of the Magistrates in Quarter Sessions, to vary or change the Divisions of the several Courts of Requests within their respective Districts, after the same have been by them determined: Be it therefore enacted by the authority aforesaid, That it shall and may be lawful for the Magistrates aforesaid, to vary the Division of the Courts of Requests, as to them from time to time may seem necessary.