

It was agreed that other executions against lands came in before the 1st September, 1897, and as to these there should be ratable distribution of the balance pursuant to the Act, though not necessarily by the sheriff. It might be carried out either by the Clerk in Chambers or the Master at Chatham on the usual notices to creditors.

Atkinson, Q.C., for defendant George Robinson and the sheriff of Kent. *H. W. Mickle*, for plaintiffs' solicitors. *A. J. Boyd*, for official guardian.

Province of Nova Scotia.

SUPREME COURT.

Townshend, J.]

[In Chambers.

THORNE *v.* BENSON.

Collection Act 1894, c. 4, s. 9, as amended by 1897, c. 38, s. 2—Amount of costs not mentioned in commitment.

Application for discharge of defendant under c. 117, R. S. The defendant was confined in jail under a warrant made under the Collection Act, 1894, c. 4, s. 9, and amendment thereto, 1898, c. 38, s. 2, and the imprisonment was made terminable upon the defendant paying "the amount due on the judgment and all costs" without stating the amount of costs.

F. L. Milner. The amount of costs must be stated, otherwise the defendant cannot know how much to tender, or the jailor how much to accept: *Reg. v. Payne*, 4 D. & R. 72, and *Reg. v. Hall*, Cowper 60.

H. Ruggles. It may be no costs are to be paid, but if so the defendant can ascertain the amount by inquiring of the commissioner who made the warrant.

Held, that the warrant was bad. The defendant was discharged.