

## CAP. XLVII.

An Act in addition to *An Act for regulating Juries and declaring the qualifications of Jurors.*

Passed 16th March 1836.

**W**HEREAS in and by an Act made and passed in the twenty sixth year 26 G. 3, c. 6.  
 of the reign of his late Majesty King George the Third, intituled *An Act for regulating Juries and declaring the qualifications of Jurors*, no provision is made respecting the qualification or summoning of Jurors on writs of inquiry and other inquests: And whereas it is expedient to make provision by law for the summoning such Jurors and for regulating their fees;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That no person or persons shall be liable to be summoned or empannelled to serve as a Juror or Jurors in any County in this Province upon any inquest or inquiry to be taken or made by or before any Sheriff or Coroner in any civil suit, by virtue of any writ of inquiry issuing out of any of the Courts of this Province, or by virtue of any other legal authority or power whatsoever, who shall not be duly qualified to serve as Jurors upon trials in any Court of law within this Province.

No person to be summoned as a Juror on any inquest, &c. who is not qualified to serve as such upon trials in Courts of law.

II. And be it enacted, That if any person or persons having been duly summoned to serve on a Jury in any County in this Province upon any inquest or inquiry before any Sheriff as aforesaid or Coroner shall not after being openly called three times appear and serve on such Jury, every such Sheriff or in his absence the under Sheriff, and every such Coroner, are hereby authorised and empowered (unless some reasonable excuse shall be proved on oath or affidavit) to impose such fine upon every person so making default as they shall respectively think fit, not exceeding ten shillings; and every such Sheriff, under Sheriff and Coroner respectively, shall immediately after taking any such inquisition make out and sign a certificate containing the christian and surname, the residence and trade or calling of every person so making default, together with the amount of the fine imposed and the cause of such fine, and shall transmit such certificate to the Clerk of the Court out of which the writ of inquiry in such case shall have issued within thirty days after imposing such fine, and every such Clerk is hereby required within such time as aforesaid, to enter the fines so certified on a roll or schedule in same manner as all other fines imposed by such Courts respectively on Jurors are entered, and the same shall be levied and applied in like manner and subject to the like powers, provisions and penalties in all respects as is provided by an Act made and passed in the sixth year of the reign of his late Majesty King George the Fourth, intituled *An Act to provide for the more effectual recovery of fines imposed upon Jurors and officers attending the Courts of Justice in this Province.*

Persons summoned and not appearing and serving on inquests before Sheriffs or Coroners to be fined.

Certificate of defaulters to be transmitted to the Clerk of the Court.

6 G. 4, c. 19.

III. And be it enacted, That no person or persons who shall after the passing of this Act serve on any such Jury in any County of this Province, upon any inquest or inquiry before any Sheriff or Coroner, shall be allowed to take for serving on such Jury more than the sum of money which such Sheriff, or in his absence the under Sheriff, or such Coroner shall think just and reasonable, not exceeding the sum of two shillings and sixpence.

Jurors not to receive more than two shillings and six pence for serving.

IV. And be it enacted, That from and after the passing of this Act no person shall be qualified to serve as a petit Juror unless he be possessed of real or personal estate of the value of fifty pounds.

Qualification of Petit Jurors.

V. And whereas from the increased business in the Supreme Court, it may sometimes be necessary to require the attendance of a second jury for the trial of

A Judge of the Supreme Court may issue a pre- of

cept for sum-  
moning a se-  
cond Jury at the  
Circuit Courts  
or Sittings.

‘ of causes at the Circuit Courts or Sittings ;’ Be it enacted, that it shall and may be lawful, whenever the same shall appear to be necessary, for any Judge of the said Supreme Court to issue a precept under his hand and seal, directed to the Sheriff of any County or City and County in this Province, commanding such Sheriff to summon twenty four men duly qualified for that purpose to appear and serve as jurors for the trial of causes both civil and criminal at any Circuit Court or Sittings, as the case may be, on a day to be named in such precept, which day shall in no case be earlier than the sixth day after the day appointed for the opening and commencement of such Circuit Court or Sittings; and such Sheriff shall cause such persons to be duly summoned, and shall return a panel of such jurors to the Court on the day named in the precept; and such jurors being duly summoned according to Law shall give their attendance, and shall be charged and bound in such and the like manner, and upon like pains and penalties for non appearance and non attendance, or for any misdemeanor or default at the Court to which they may be summoned, as if summoned and returned upon the first panel of jurors for the trial of causes at such Court.

CAP. XLVIII.

An Act to amend the law relating to the summary practice in the Inferior Courts of Common Pleas.

Passed 16th March 1836.

Where Plaintiff  
is entitled to  
judgment by de-  
fault under 35  
G. 3, c. 2, De-  
fendant may be  
let in as in ac-  
tions not sum-  
mary after in-  
terlocutory  
judgment.

I. **BE** it enacted by the Lieutenant Governor, Legislative Council and Assembly, That in any summary action in any of the Inferior Courts of Common Pleas within this Province, wherein the plaintiff may be entitled to judgment by default under the provisions of the sixth section of an Act made and passed in the thirty fifth year of the reign of His Majesty King George the Third, intituled *An Act to regulate the terms of the sittings of the Inferior Courts of Common Pleas in this Province, and to enlarge the jurisdiction of the same, and for the summary trials of certain actions*, the Court in which such action shall have been instituted, or any Judge thereof, may let in the defendant to appear and defend in like manner and upon such terms as in actions not summary by the practice of the said Courts may be done after interlocutory judgment, any thing in the said sixth section of the said Act or in any other Act to the contrary thereof in any wise notwithstanding.

Matter in bar  
to action may  
be given in evi-  
dence under ge-  
neral issue, no-  
tice of such mat-  
ters being given  
to Plaintiff's  
Attorney.

II. And be it enacted, That in all summary actions in the said Courts any matters in bar to the action, which in actions not summary ought to be pleaded specially, may be given in evidence under the general issue, provided that notice in writing of such matters be given to the plaintiff's attorney at the same time with the plea, and infancy or coverture of the defendant shall not in any summary action in the said Courts be given in evidence unless such notice thereof be given, and that notice of trial shall be given as in other cases.

Costs where  
proceedings are  
had as in ac-  
tions not sum-  
mary where  
they ought to  
be summary.

III. And be it enacted, That if any plaintiff proceed according to the practice of the said Courts in actions not summary in any case in which by the provisions of the several Acts of Assembly of this Province the proceedings ought to be summary, he shall not be entitled in any such case to more costs than if he had proceeded in a summary manner, unless he obtains the order of the Court in which such action shall be prosecuted for larger costs upon good cause shewn therefor, any law, statute or usage to the contrary notwithstanding.

Trial fee to be  
taxed as costs.

IV. And be it enacted, That in every such summary action which may be tried by a Jury a fee of one guinea shall be taxed as costs in the cause for the successful party.