

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1836. Fredericton, NB: John Simpson, Printer to the King's Most Excellent Majesty, 1836.

6 William IV – Chapter 48

An Act to amend the Law relating to the summary practice in the Inferior Courts of Common Pleas. Passed 16th March 1836.

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.

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.

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.

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.