

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1840. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1840.

3 Victoria – Chapter 65

**An Act to amend the Law of Evidence in regard to the proof of Records and Letters Patent.
Passed 31st March 1840.**

Whereas unnecessary expense is frequently incurred in the exemplification of Judgments in the Supreme Court; Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That when parts only of Records or Rolls of Judgments in the Supreme Court may be necessary to be given in evidence, exemplifications of such parts which may be so necessary, may be received in evidence in any Court in this Province, without requiring the whole of the Record or Roll to be exemplified.

II. And whereas much expense is often incurred in procuring exemplifications under the Great Seal of Grants of Land by the Crown in this Province; Be it enacted, That a copy from the Record of any such Grant in the office of the Secretary and Register of the province, duly certified under the hand of such Officer, as having been examined by him with the Record, and found to be correct, or duly proved by any witness who shall have examined the same with the Record, shall be deemed and taken to be as good and sufficient evidence of such Grant or Letters Patent as an exemplification thereof under the Great Seal.

III. And be it enacted, That in the proof of title from the Crown by an exemplification under the Great Seal, or by a certified or an examined copy as is hereinbefore provided, it shall not be necessary to exemplify or copy the conditions contained in such Letters Patent, on the part of the Grantees, their Heirs and Assigns, to be observed and performed, or any other clause in the said Letters Patent which may not be pertinent or relevant to the matter in question; and that no such exemplification or copy shall be rejected in evidence on account of the omission of such clauses, provided such omission do not prejudice the opposite party, or affect the merits in question.

IV. Provided always, and be it enacted, That when the said Letters Patent or Grant refer to any Plat or Plan as annexed thereto, no exemplification or copy of such Letters Patent or Grant shall be received in evidence, unless there be annexed thereto a true transcript or copy of such Plat or Plan, unless it be proved by the certificate of the Secretary and Register or otherwise, to the satisfaction of the Court at which the evidence may be tendered, that there is no such Plat or Plan entered with the said Grant or Letters Patent in the said. Office of the Secretary and Register.

V. And be it enacted, That Grants of Land heretofore made under the Great Seal of Nova Scotia, prior to the erection and establishment of this Province, and registered in the Office of the Secretary and Register pursuant to an Act passed in the twenty sixth year of the Reign of King George the Third, intituled "An Act for the registering of Letters Patent and Grants made under the Great Seal of the Province of Nova Scotia, of Lands now situate within the limits of this Province," may be proved by certified or examined copies thereof, or of the material parts thereof, in like

manner as hereinbefore provided in respect to Grants passed under the Great Seal of this Province.

VI. And be it enacted, That the expense of any exemplification, or copy of any Roll, Record or Letters Patent, or any part thereof, or of any Plat or Plan given in evidence by virtue of this Act, may be charged and allowed in the taxation of costs in whole or in part by the taxing Officer of the Court wherein the suit may be pending, whose decision thereupon may be reviewed by the Court as in ordinary cases.