

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1843. Fredericton, NB: John Simpson, Printer to the King's Most Excellent Majesty, 1843.

6 Victoria – Chapter 33

An Act to amend the Law relating to the Practice in the Inferior Courts of Common Pleas, and render the same uniform in the several Counties. Passed 11th April 1843.

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That in all actions in the Inferior Courts of Common Pleas in this Province in which the said Courts may be authorized by Law after judgment by default to enquire of the truth of any matters, or to assess the damages or the amount to be recovered in the action without the intervention of a Jury, such enquiry and assessment may be made by a Judge of the said Court in vacation; and upon the production of such assessment signed by such Judge, it shall be lawful for the Clerk of such Court to tax the costs and sign judgment, whereupon execution may issue forthwith: Provided always, that no such enquiry or assessment shall be made in vacation, until the expiration of twenty days after the day on which the judgment by default shall have been entered: Provided also, that the Defendant in any such action, may, upon due application therefor, have such enquiry and assessment made by a Jury, and that the Judge who may be applied to in vacation to make such enquiry or assessment, shall have power to order the same to be made by a Jury in like manner as is now the Law and practice in cases before the Court in Term.

II. And be it enacted, That in all Summary Actions hereafter brought in the said Courts, a copy of the particulars of the Plaintiff's demand in all cases when the Defendant shall be entitled to the same, shall be annexed to the copy of the Writ to be served on the Defendant in such Action, and in every such Summary Action, wherein the Plaintiff may be entitled to judgment by default, such judgment may be entered in vacation as an Interlocutory Judgment, and the damages or amount to be recovered may be assessed and proceedings had to final judgment in like manner as is provided by the first Section of this Act.

III. And be it enacted, That the time for any Defendant in any Summary Action in the said Courts to put in Bail or enter an appearance and file the general Issue, shall be and is hereby enlarged to the period of thirty days after the day on which the Writ is returnable; and that in all actions not summary the time for appearance and entering Bail shall also be enlarged to thirty days.

IV. And be it enacted, That every Judgment to be entered by virtue of this Act, may be entered as the Judgment of the Court, although the Court may not then be sitting on the day of entry and signing thereof; and every Execution issued by virtue of this Act shall and may bear teste on the day of issuing thereof (if issued before the next term after Judgment be so signed) and such Judgment and Execution shall be as valid and effectual as if the same had been entered of record signed and issued in the ordinary course.

V. And be it enacted, That all final Judgments entered and made up in the said Courts, whether in Term or Vacation, shall be signed by the Clerk of such Courts only, any law, usage or practice to the contrary thereof in any wise, notwithstanding.

VI. And be it enacted, That the Fees attending the Prosecution of Suits in a summary way shall be as follows, viz:—

To the Justices of the said Court.

Upon Entering the Cause,.....	£0 2 0
Assessing Damages,.....	0 3 0
Trial,.....	0 3 4
Taking Bail,.....	0 2 0

To the Clerk.

For Signing and Sealing Writ and filing Precipe,.....	0 1 6
Filing all other Papers each,.....	0 0 6
Filing Writ and Entering Cause,.....	0 1 6
Entering Assessment and final Judgment	
Taxing Costs,.....	0 2 0

To the Attorney.

Writ, Precipe, Affidavit and Declaration,.....	0 11 8
If no Affidavit,.....	0 10 0
Copy of Writ for Defendant or Bail each,.....	0 5 0
Bill of Particulars, for original and copy, per folio,.....	0 0 6
Attending Assessment of Damages and Entering Judgment,.....	0 3 4
Attending Taxation of Costs,.....	0 1 0
Attending Execution of Writ of Enquiry,.....	0 3 4
And in all cases that do not go to a Jury, for all other proceedings to final Judgment,.....	0 8 4

For every motion necessarily made to the Court in Term, and for all other necessary proceedings in conducting or defending any cause under the provisions of this Act and not herein otherwise provided for, the Fees shall be the same as are allowed and taxable in and by the Act of Assembly regulating the Fees in actions not Summary in the Inferior Courts of Common Pleas.

Counsel.

On every cause entered for Trial, and for every Argument before the Court in Term, not less than eleven shillings and eight pence, nor more than one pound three shillings and four fence, as the Judge presiding may determine on.

VII. And be it enacted, That such part of the fifth 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 trial of certain actions* as requires the Court to grant a stay of execution for three months, or until the next Term as therein mentioned, and such part

of the seventh Section of the said recited Act as requires the presiding Justice to sign the entry made in the Minutes of the said Court of the Judgments given in the said Courts as therein mentioned, and the whole of the eighth Section of the same Act, and also the fourth Section of an Act made and passed in the Forty second year of the Reign of His said Majesty George the Third, intituled *An Act in addition to 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 trial of actions*, be and the same are hereby repealed.