

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1850.* Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1850.

13 Victoria – Chapter 47

**An Act to consolidate and amend the Laws to provide for the administration of Justice in the Inferior Courts of Common Pleas and General Sessions of the Peace. Passed 26th April 1850.**

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That the second section of an Act made and passed in the twenty sixth year of the Reign of King George the Third, intituled *An Act for enabling the Justices of the Supreme Court to try all causes at Nisi Prius, and authorising Attornies of the Supreme Court to practise in the Inferior Courts of Common Pleas within this Province*; also an Act made and passed in the thirty first year of the said Reign, intituled *An Act for altering the times of holding the Courts of General Sessions of the Peace and Inferior Court of Common Pleas in the Counties therein mentioned*; also the first, second, third and fourth sections of an Act made and passed in the thirty fifth year of the said Reign, 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*; also an Act made and passed in the forty fifth year of the said Reign, intituled *An Act to alter one of the Terms of holding the Inferior Court of Common Pleas for the County of York*; also an Act made and passed in the sixtieth year of the said Reign, intituled *An Act to authorise and empower the Inferior Courts of Common Pleas in the respective Counties of this Province to appoint Commissioners to take Bail in the same Courts*; also an Act made and passed in the fifth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to authorize the enlargements of the Sittings of the Courts of General Sessions of the Peace and Inferior Courts of Common Pleas in this Province*; also an Act made and passed in the same year of the said last mentioned Reign, intituled *An Act to alter the time of holding the November Term of the Inferior Court of Common Pleas of the County of Gloucester*; also the second section of an Act made and passed in the same year of the said last mentioned Reign, intituled *An Act to regulate the Fees in actions not Summary in the Inferior Courts of Common Pleas, and to restrain the removal of such actions to the Supreme Court*; also an Act made and passed in the seventh year of the said last mentioned Reign, intituled *An Act to alter the additional Terms of the Inferior Court of Common Pleas for the County of Kent*; also an Act made and passed in the second year of the Reign of Her present Majesty Queen Victoria, intituled *An Act to repeal the Act establishing the times of holding the Courts of General Sessions of the Peace and Inferior Courts of Common Pleas in the County of Northumberland, and for enlarging the times of the Sittings of the said Courts, and for making other and better regulations concerning the same*; also an Act made and passed in the third year of the said last mentioned Reign, intituled *An Act for altering the times of holding one of the Terms of the Inferior Court of Common Pleas and General Sessions of the Peace, and also one of the additional Terms of the said Inferior Court of Common Pleas for the County of King's*; also an Act made and passed in the same year of the said last mentioned Reign, intituled *An Act to alter the time for holding the Terms of the Inferior Court of Common Pleas and General Sessions of the Peace for the County of York*; also an Act made and passed in the fourth year of the said last mentioned Reign, intituled *An Act to alter the times for holding the Terms of the Inferior Courts of Common Pleas and General Sessions of the Peace for the*

*County of Sunbury*; also an Act made and passed in the fifth year of the said last mentioned Reign, intituled *An Act to authorize Commissioners for taking Affidavits in Causes pending in the Supreme Court, to take Affidavits in Causes pending in the several Inferior Courts of Common Pleas for the several Counties in this Province*; also the first section of an Act made and passed in the sixth year of the said last mentioned Reign, intituled *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*; also an Act made and passed in the seventh year of the said last mentioned Reign, intituled *An act for altering the times of holding one of the Terms of the General Sessions of the Peace and Inferior Courts of Common Pleas of the County of Carleton*; also an Act made and passed in the eighth year of the said last mentioned Reign, intituled *An Act to alter the time of holding the Terms of the Inferior Court of Common Pleas and General Sessions of the Peace for the County of Gloucester*; also the third section of an Act made and passed in the seventh year of the said last mentioned Reign, intituled *An Act for the division of the County of Carleton into two Counties, and to provide for the Government and Representation of the new County*; be and the same are hereby repealed: Provided that nothing in this Act contained shall extend to repeal any of the said recited Acts, so far as they or any of them repeal any former Acts; provided also, that any Rules of Court or Regulations heretofore made under and by virtue of the authority given in and by the said recited Acts, shall be and continue in full force and effect; and all actions, suits, prosecutions and proceedings of all kinds commenced, had or taken before the passing of this Act, shall be continued and prosecuted to their final termination and satisfaction, in the same manner as if this Act had not been passed; and all fines and penalties imposed under the authority of any of the Acts hereby repealed; and all bonds, recognizances, judgments or securities, and all real and personal property held by Justices of the Peace in any County of this Province; and all leases, contracts or conveyances made to or by any such Justices or Courts respectively; and all appointments of Town or County Officers, and every matter or thing done under the authority of any of the said Acts hereby repealed, shall be and remain good, valid and effectual to all intents and purposes as if the said Acts had not been repealed.

II. And be it enacted, That there shall be in each and every County of this Province two Terms of the Inferior Court of Common Pleas at which Juries shall be summoned and required to attend for the trial of all causes brought to issue in the said Courts, and two additional Terms for the return of Writs and the transaction of other business therein, but at which no Juries shall be summoned to attend, to-wit: For the County of York, on the second Tuesdays in January and June; additional Terms, the third Tuesday in March and the second Tuesday in October: For the County of Sunbury, the second Tuesday in January and third Tuesday in June; additional Terms, third Tuesdays in March and October: For Queen's County, the fourth Tuesdays in January and June; additional Terms, the fourth Tuesdays in April and October: For King's County, the first Tuesday in March and third Tuesday in October; additional Terms, the first Tuesdays in January and May: For the County of Charlotte, the second Tuesday in April and the third Tuesday in September; additional Terms, the second Tuesdays in July and December: For the County of Westmorland, on the third Tuesdays in June and November; additional Terms, the first Tuesday in April and the second Tuesday in September: For the County of Northumberland, on the second Tuesdays in January and July; additional Terms, the first Tuesdays in May and October: For the County of Kent, on the second Tuesday in January and fourth Tuesday in June; additional Terms, the last Tuesdays in April

and September: For the County of Gloucester, on the first Tuesdays in January and July; additional Terms, the first Tuesday in April and last Tuesday in October: For the County of Carleton, on the first Tuesday in January and fourth Tuesday in June; additional Terms, the first Tuesdays in March and October: For the County of Restigouche, on the first Tuesday in January and the second Tuesday in July; additional Terms, on the second Tuesdays in April and October: For the County of Albert, on the fourth Tuesday in June and second Tuesday in November; additional Terms, on the second Tuesdays in March and September: For the County of Victoria, on the first Tuesday in July and second Tuesday in January; additional Terms, on the second Tuesdays in March and October: and such Terms and additional Terms shall be deemed to continue and include the whole week from Tuesday to Saturday inclusive; and it shall be lawful for the said Courts at the Terms at which Juries are summoned to attend, if the Justices of the said Court respectively, or a majority thereof, shall deem the same expedient, to adjourn their sittings or either of them to the week next succeeding the said Terms respectively; and all causes and matters heard and determined, and all business transacted on any day during the week next succeeding the said Terms respectively, pursuant to such adjournment, shall have the same and the like force and effect to all intents and purposes as if heard and determined and transacted at any time during the said Terms respectively; and all parties concerned shall take due notice of such adjournment from time to time, and govern themselves accordingly; provided always, that no trials of any issues by Jury shall be had at any such adjourned.

III. And be it enacted, That in the City and County of Saint John the sittings of the Inferior Court of Common Pleas shall be holden on the third Tuesday in March, and the first Tuesdays of June, September and December in each and every year, and continue from Tuesday until Saturday in each Term respectively.

IV. And be it enacted, That the jurisdiction of the said Courts respectively shall be considered to extend to all transitory actions, and all other actions arising within any other place or County, except where the title to lands shall come in question, and shall in those cases, except as aforesaid, have a concurrent jurisdiction with the Supreme Court of this Province; and that the said Justices, of the Inferior Court of Common Pleas be and are hereby empowered to issue Subpoena or Subpoenas for any witness or witnesses residing in any part of the Province; and that all Subpoenas so issued from the said Justices of the said Inferior Court of Common Pleas shall be of the same validity to compel the appearance of the witness or witnesses as if such Subpoena or Subpoenas had been issued from the Inferior Court of Common Pleas where the witness or witnesses reside.

V. And be it enacted, That it shall be lawful for any defendant or defendants in any suit, not summary, now or hereafter pending in either of the said Inferior Courts of Common Pleas, at any time before interlocutory judgment signed or issue joined in such suit, to remove the same by Habeas Corpus into the Supreme Court, or after judgment is obtained in any such suit, to bring a Writ of Error to remove the same into the Supreme Court.

VI. And be it enacted, That in cases where the plaintiff's cause of action shall amount to upwards of five pounds, and affidavit thereof made and filed, the defendant or defendants may be held to

bail, as has been heretofore accustomed; and such affidavit may be made before the Chief Justice or any other Justice of the Supreme Court, or a Justice of the Inferior Court of Common Pleas, or any Commissioner appointed for taking affidavits to be read in the Supreme Court.

VII. And be it enacted, That the several Commissioners now appointed, and that may be from time to time hereafter appointed to take affidavits in causes pending and to be pending in the Supreme Court, shall be and they are hereby severally authorized to take and receive all and every such affidavit and affidavits, as any person or persons shall be willing and desirous to make before them severally in or concerning any cause, matter or thing pending or to be pending, or in anywise concerning any of the proceedings of any of the said Inferior Courts of Common Pleas for the several Counties, as the Clerks of the said Inferior Courts respectively do use to do; provided that no such affidavit shall be taken by any Commissioner who is the Attorney in the cause to which such affidavit may relate, except affidavits to hold to bail.

VIII. And be it enacted, 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 inquire of the truth of any matters, or to assess the damages or the amount to be recovered without the intervention of a Jury, such inquiry 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 inquiry 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 inquiry and assessment made by a Jury, and that the Judge who may be applied to in vacation to make such inquiry 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.

IX. And be it enacted, That all and every of the Attorneys of the Supreme Court may commence prosecution or defend any action or suit for his or their clients in any Inferior Court of Common Pleas within this Province.

X. And be it enacted, That it shall and may be lawful for the said Courts to appoint Commissioners to take bail in the same Courts in such part of their respective Counties as the majority of the Justices of any of the said Courts in Term assembled shall at any time or times see fit and necessary; and such Commissioners to take bail as aforesaid shall be appointed by the Courts in the same manner as Commissioners to take bail are appointed by the Supreme Court.

XI. And be it enacted, That in each of the said several Terms of the Inferior Courts of Common Pleas in each and every County of this Province there shall be holden a Court of General Sessions of the Peace for the transaction of all business within the competency of such Court of General Sessions; and the said Justices in Sessions or a majority thereof shall have power to adjourn the sitting of the said Courts or either of them to the week next succeeding the said Terms respectively; and all causes and matters heard and determined, and all business transacted on any day during the week next succeeding the said Terms respectively, pursuant to such adjournment,

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shall have the same and the like force and effect to all intents and purposes as if heard and determined and transacted at any time during the said Terms respectively; and all parties concerned shall take due notice of such adjournment from time to time and govern themselves accordingly; provided always, that no trials of any issues by Jury shall be had at any adjourned sittings.