

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1855. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1855.

18 Victoria – Chapter 9

An Act concerning Tender in Actions at Law and Suits in Equity. Passed 3rd April 1855.

Section.

1. Consent to judgment for a sum certain.
2. Costs, if no more be recovered.

Section.

3. No consent not accepted to be evidence.

Be it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows —

1. From and after the passing of this Act, whenever any defendant in any Action at Law, or in any Suit in Equity, wherein debt or damages only are sought to be recovered, pending in any Court in this Province, shall file in the office of the Clerk of the Court in which such suit or action is pending, or with the Justice in case the suit is pending in the Court of any Justice of the Peace, an offer and consent in writing to suffer judgment by default, and that judgment shall be rendered against him as debt or damages for a sum by him specified in the said writing, the same shall be entered of record, together with the time when the same was tendered, and the plaintiff or his Attorney may, at any time within ten days after he has received notice of such offer and consent, file as aforesaid a memorandum in writing of his acceptance of judgment for the sum so offered as debt or damages, and judgment may be entered up accordingly, with costs; or if after such notice any Judge of the Court in which such offer shall be made, shall for good cause grant the plaintiff a further time to elect, then the plaintiff may signify his acceptance as aforesaid, at any time before the expiration of the time so allowed, and judgment may be rendered upon such acceptance as if the acceptance had been within ten days as aforesaid; provided always nevertheless, that nothing herein contained shall extend or be construed to extend to actions of replevin.

2. Whenever in the final disposition of any such suit or action as is named in the preceding Section, such offer and consent as is therein named shall have been made by the defendant, and the plaintiff shall not recover a greater sum than the sum so offered, not including interest on the sum recovered in debt or damages from the date of such offer, the defendant shall have judgment against the plaintiff for his costs by him incurred after the date of such offer, and execution shall issue therefor and the plaintiff if he shall recover any debt or damages, shall be allowed his costs only up to the date of such offer and consent.

3. No offer or consent made in accordance with the afore-going Sections, which shall not be accepted, shall be evidence against the party making the same, either in any subsequent proceeding in the action or suit in which such offer is made, or in any other action or suit.