

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1859.* Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1859.

22 Victoria – Chapter 24

**An Act relating to the recovery of Damages against the Commissioners of the European and North American Railway, in certain cases. Passed 13th April 1859.**

Section.	Section.
1. Commissioners of European and North American Railway incorporated.	5. Judgment for Plaintiff, how payable.
2. Actions for damages maintainable against the Corporation.	6. When actions to be commenced.
3. Form of action; abatement.	7. Act not to give right of action for entry on lands, or contracts.
4. Costs.	8. Notice before issue of summons.

Whereas it is expedient for public protection, that persons sustaining injury through the negligence or default of the Commissioners of the European and North American Railway, or their agents, officers, or servants, should have a remedy by Law to recover damages for the same;—  
Be it therefore enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. That the Commissioners for the construction and management of the European and North American Rail Road, now appointed by virtue of an Act made and passed in the nineteenth year of the Reign of Her present Majesty, intituled *An Act to authorize the construction of Railways in this Province*, or hereafter to be appointed by the authority of the said Act, or of any Act of the General Assembly of this Province made or hereafter to be made in amendment of or in addition to the same, shall be deemed a body corporate for the purpose of this Act, by the name of 'The Commissioners of the European and North American Railway.'

2. Any person sustaining injury or damage, either to his property or person, through the negligence or default of such Commissioners, or any of them, or of any agent, officer, or servant under the direction and control of such Commissioners, whether appointed by the said Commissioners or by the Governor in Council, in any act, matter, or thing connected with the European and North American Railway, may maintain an action at Law, and recover damages in respect thereof, and proceed to final judgment against the said Commissioners, by the name of 'The Commissioners of the European and North American Railway;' such action, nevertheless, to be instituted in Her Majesty's Supreme Court of Judicature in this Province, and conducted and governed by the rules and practice of the said Supreme Court, and by the Laws of this Province, in like manner as in cases between party and party, except as hereinafter excepted.

3. All actions shall be commenced and prosecuted by summons, in like form as may now be used in actions against Corporations, mutatis mutandi and no such action shall abate or be

suspended by any change of the persons, or any of them, filling the office of Commissioners of the European and North American Railway.

4. In all such actions, if the plaintiff or plaintiffs shall suffer judgment of non pros, or nonsuit, or if a verdict shall pass against him or them, the Commissioners of the European and North American Railway shall recover their costs, and have execution for the same as in ordinary cases.

5. If judgment shall be rendered for the plaintiff or plaintiffs in any such action against the said Commissioners, the amount of such judgment shall be paid to the party or parties entitled to the same, or their legal representatives, by Warrant on the Provincial Treasurer, under the hand anti seal of His Excellency the Lieutenant Governor in Council, who is hereby authorized to issue the same.

6. All actions to be instituted under the authority of this Act, shall be commenced within six calendar months after the cause of action shall have accrued, and not after.

7. Nothing in this Act contained shall extend to give any right of action against the said Commissioners of Railways, for any entry upon lands, or act done under the authority of an Act made and passed in the nineteenth year of Her Majesty's Reign, intituled *An Act relating to Lands required for Railway purposes*; or to give parties having entered into contracts, or who may hereafter enter into contracts with the said Commissioners for the construction of said Railway or any part thereof, or for the supply of materials or repairs connected therewith, a right of action on such contracts against the said Commissioners.

8. No summons shall issue in any action to be instituted under the authority of this Act, until a notice in writing shall be delivered to some one of the Commissioners one month before the suing out of such summons, containing a statement of the cause of action; within which month the said Commissioners may tender amends, and if on the trial such tender shall be found sufficient, and the same be pleaded, or notice of the same given, and the amount lodged in Court, a verdict shall pass against the plaintiff.