

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1862. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1862.

25 Victoria – Chapter 11

An Act to amend the Revised Statutes, Title xxxvii, Chapter 137, 'Of the jurisdiction of Justices in Civil Suits.' Passed 23rd April 1862.

Section.

1. Payment by defendant into Court, if sufficient, bars further costs.
2. Defendant in custody may be brought before Justice; Sheriff not liable if he escape.
3. Defendant on Bail may render himself, or be rendered in certain cases.

Section.

4. When suit against Bail may be discontinued.
5. Where process (except a Subpoena) cannot be served.
6. Fees to Justice, Sheriff, or Gaoler.

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

1. The defendant in a suit in a Justice's Court may pay to the Justice, at any time before the trial, a sum of money as compensation for the debt or damages claimed, which the plaintiff may accept in full, and may take judgment and issue execution for the costs incurred up to the time of such payment. If the plaintiff proceeds with the suit after notice of such payment, and does not recover a greater sum than the amount so paid, he shall not be entitled to any costs incurred after such notice; but such subsequent costs shall be paid by the plaintiff, and shall be deducted by the Justice out of such money, or out of the costs payable to the plaintiff.
2. Any defendant imprisoned for want of bail on a *capias* issued by a Justice, may be brought before the Justice to attend the trial in the said suit by an Order (A), and after the trial may be recommitted to prison; and no Sheriff or Gaoler acting in obedience to such order shall be liable to an action for an escape.
3. A defendant arrested, and having given bail, may render himself or be rendered in discharge of his bail to the gaol of the County where he may be, by an Order (B) of any Justice of the County, which order shall be delivered to the gaoler, who shall thereupon give a Certificate (C); the certificate shall be forthwith filed with the Justice who issued the *capias*, and he shall thereupon mark a discharge (D) upon the memorandum of bail, and the bail shall thereupon be discharged from liability, except in the case hereinafter provided.
4. If a suit shall have been commenced against the bail, before such order of render obtained and certificate filed, the Justice shall discontinue the same on the filing such certificate and payment of the costs up to that time.

5. No process (except a subpoena) issued by a Justice of the Peace, shall run into or be served within any City or Town in which a local Court for the trial of causes under ten pounds is established.

6. Every Justice shall be entitled to the following Fees:—

Order for render, or for bringing up a defendant in custody, six pence.

And every Sheriff or Gaoler shall be entitled to a fee of two shillings and six pence, and three pence per mile travel, for bringing up a defendant and returning him to prison.

For certificate of render, six pence.

SCHEDULE OF FORMS.

(A)

Between A. B. Plaintiff, and C. D. Defendant.

The Gaoler of the County of _____ is hereby authorized to bring the above named defendant before me at my Office in _____ on _____ the ___ day of _____ at ___ o'clock, to attend the trial of this cause. —Dated the _____ day of _____ 186__.

E. F., *Justice of the Peace.*

(B)

Between A. B. Plaintiff, and C. D. Defendant.

On the application of the above defendant, (or on application of E. F. and G. H. bail for the above defendant) I order that the above defendant be rendered in discharge of his bail in this suit, to the gaol of the County of _____. —Dated the _____ day of _____ 186__.

E. F., *Justice of the Peace.*

(C)

Justice's Court.

I certify that C. D. was this day rendered in discharge of his bail, at the suit of A. B., and is now confined in the gaol of the County of _____, in such suit.—Dated the ___ day of _____ 186__.
_____, Gaoler of _____ County.

(D)

The within Bail are discharged.—Dated the ____ day of _____ 186____.

E. F., *Justice of the Peace.*