

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1864. Fredericton, NB: G. E. Fenety, Printer to the Queen's Most Excellent Majesty, 1864.

27 Victoria – Chapter 46

An Act further to enlarge the jurisdiction of the City Court of the City of Saint John, and in amendment of the Law relating to said Court. Passed 13th April, 1864.

Section.	Section.
1. In what actions Court has jurisdiction.	9. Court may tax Counsel fees.
2. Right to reduce claim.	10. In case of non-jurisdiction, judgment how rendered.
3. Process, forms, &c.	11. Judgment, how proved.
4. Provisions of Sec. 9, Vic. cap. 38, extended to this Act.	12. Executions over forty dollars, to whom directed.
5. Provisions of 13 Vic. cap 57, extended to this Act.	13. Executions over forty dollars, to whom directed.
6. Provisions of 13 Vic. cap. 1, extended to this Act.	14. Defendant, if imprisoned, how brought up to attend trial.
7. Provisions of Charter, &c. extended to this Act.	15. Limit of Act.
8. Plaintiff or Defendant may conduct suit in person or by Attorney.	16. Sections of former Acts repealed.
	17. Fees and costs.

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

1. The City Court of the City of Saint John shall have jurisdiction overall actions of debt where the sum demanded does not exceed eighty dollars.
2. The same right to reduce a claim originally over eighty dollars by credit of payment, or by abandonment, so as to bring the claim within the jurisdiction extended by this Act, and also similar proceedings as to the set off of adverse claims, shall be had and allowed in suits under this Act as at present exist and are in force in the said Court in actions of debt for twenty dollars and under.
3. The process, forms and proceedings shall be, the same as are now established, used and allowed in actions, of debt in the said Court.
4. The provisions of the ninth Section of an Act passed in the twenty second year of the Reign of Her present Majesty, intituled *An Act to enlarge the jurisdiction of the City Court of the City of Saint John*, shall extend and apply to suits brought under this Act.
5. The several provisions and provisos of the fourth and fifth Sections of an Act passed in the twenty third year of the Reign of Her present Majesty, intituled *An Act relating to the City Court of the City of Saint John*, shall extend and apply to suits brought under this Act.

6. The provisions of the Act of Assembly 13 Victoria, Chapter 1, relating to the relief of persons confined for debt in the body of the gaol in the City mid County of Saint John, shall extend and apply to suits brought under this Act.
7. All, the provisions of the Charter of the City of Saint John, and of the several Acts of Assembly relating to the City Court of the City of Saint John, and the practice and proceedings of said Court now in force and applicable to and not inconsistent with the provisions of this Act, and the jurisdiction hereby created, shall extend and apply to suits brought under this Act.
8. Any plaintiff or defendant in a suit before the said Court may appear and conduct his suit either in person, by his agent, or by Attorney of the Supreme Court, whose authority may be either written or oral; but on the trial such Attorney shall not be a competent witness for the party for whom he appears.
9. In defended cases, where the sum demanded exceeds twenty dollars, the Court may in their discretion, tax a Counsel fee to the successful party on the trial of the cause, not in any case to exceed four dollars, to be included with costs recoverable on judgment; but the Court shall not tax a fee in any case unless, in the opinion of the Court, under the circumstances, the assistance of Counsel was reasonably required.
10. If on the trial of any action brought in the said Court, it shall appear that the Court has not jurisdiction in the case, judgment shall be rendered as in case of non-suit, and the, defendant shall have execution for costs accordingly.
11. A judgment recovered in the said Court may be proved by a copy of the record of such judgment certified under the hand of the Common Clerk, or his Deputy, to be a true copy, and to have been compared with the original entry of such judgment in a record book of the said Court.
12. All executions issued upon any judgment had in the said Court under this Act upon suits for the recovery of sums over forty dollars, shall be directed to the Sheriff of the City and County of Saint John, instead of to one of the Marshals of said Court as in other cases, and the form of execution shall be altered as may be required accordingly; and every such execution shall be dated on the day upon which the same is issued, and shall be returnable thirty days after the date thereof; and the said Sheriff shall register all executions received by him under this Act, in a record book to be kept by him for the purpose, and shall make return thereof to the Common Clerk's office; and the said Sheriff shall proceed on such executions according to the exigency thereof, in the same manner and with like powers and authorities as upon executions issued out of the Supreme Court of this Province.
13. Executions delivered to the Sheriff against the body of any defendant under this Act, shall have the like effect, as regards fixing bail, as if delivered to a Marshal for the purpose of being executed according to the practice of the said Court; and any defendant, after judgment obtained against him in the said Court, may render himself or be rendered by his bail in discharge of his bail, in like manner and with the like effect as may now be done in said Court before judgment; and if a

suit shall have been commenced against the bail, the same shall at any time before judgment recovered therein be dismissed by the Court on payment into Court of the costs in such suit up to the time of render.

14. Any defendant in a suit before the said Court, who may be imprisoned in the common gaol in any civil suit, may be brought up to attend the trial of his suit in the said Court by an order under the hand of the Aldermen or Common Clerk presiding in said Court, and after the trial shall be recommitted to prison; and no Sheriff or Gaoler acting in obedience to such order shall be liable to an action for an escape.

15. This Act shall continue and remain in force until the first day of May one thousand eight hundred and sixty nine.

16. The tenth and twenty sixth Sections of an Act passed in the thirteenth year of the Reign of Her present Majesty, intituled *An Act to alter and amend the practice and proceedings in the City Court of Saint John*; the fourth and fifth Sections of an Act passed in the twenty second year of the Reign of Her present Majesty, intituled *An Act to enlarge the jurisdiction of the City Court of the City of Saint John*; and the twenty fifth Section of an Act passed in the twenty third year of the Reign of Her said Majesty, intituled *An Act relating to the City Court of the City of Saint John*; are hereby repealed.

17. The fees and costs in actions in the said City Court, and for the Aldermen, Common Clerk, and Marshals, shall be taxed and allowed according to the following Table, that is to say:—

To the Aldermen.

Every Judgment in suits for the recovery of any sum not exceeding twenty dollars,	\$0 50
Every Judgment in suits for the recovery of any sum over twenty dollars and not exceeding forty dollars,	1 00
Every Judgment in suits for recovery of any sum over forty dollars and not exceeding sixty dollars,	1 50
Every Judgment in suits for the recovery of any sum over sixty dollars	2 00
Every Oath administer out of Court,	0 20
Every Order out of Court,	0 30
Every Order to postpone the trial of a cause,	0 40

To the Common Clerk for the use of the Corporation.

Summons,	...	...	...	...	...	0 13
Each copy,	...	...	...	...	...	0 07
Attachment,	...	...	...	...	...	0 13
Each copy,	...	...	...	...	...	0 07
Each Oath,	...	...	...	...	...	0 10
(Not more than two to be taxed for witness on a trial.)						
Subpoena and Ticket,	...	...	...	...	...	0 14
Each additional Ticket,	...	...	...	...	...	0 06
Venire,	...	...	...	...	...	0 14
Execution,	...	...	...	...	...	0 14
Each Certificate,	...	...	...	...	...	0 20
Copies of paper per folio of one hundred words,						
...	...	...	...	...	...	0 10
Every Judgment in suits for the recovery of any sum over twenty dollars and not exceeding forty dollars,						
...	...	...	...	...	...	1 00
Every Judgment in suits for the recover of any sum over forty dollars and not exceeding sixty dollars,						
...	...	...	...	...	...	\$1 50
Every Judgment in suits for the recovery of any sum over sixty dollars,						
...	...	...	...	...	...	2 00

To the Marshals.

In suits for the recovery of any sum not exceeding twenty dollars:---

Serving Summons,	...	...	...	...	\$0 20
Serving Attachment,	...	...	...	...	0 30
Seving Executions,	...	...	...	...	0 50

In suits for the recovery of any sum over twenty dollars and not exceeding forty dollars:---

Serving Summons,	...	...	...	...	\$0 40
Serving Attachment,	...	...	...	...	0 50
Seving Executions,	...	...	...	...	0 80

In suits for the recovery of any sum over forty dollars and not exceeding sixty dollars:---

Serving Summons,	...	...	...	...	\$0 60
Serving Attachment,	...	...	...	...	0 70

To the Sheriff of the City and County of Saint John.

For registration and return of every Execution directed to him under the provisions of this Act, the sum of thirty five cents, to be paid by the party obtaining Execution, and included in the amount for which Execution issued. Serving Execution in suit for the recovery of any sum over forty dollars and not exceeding sixty dollars, one dollar. Serving Execution in suit for the recovery of any sum over sixty dollars, one dollar and fifty cents.

Witness.

To every necessary Witness, for each day's attendance, \$0 25 Travelling, if over one mile, going and returning, each mile, 0 5
No Witness fees to be taxed for any party unless it shall appear on oath that he has actually paid the same to such witness.

Parties to suits, attending as Witnesses, to be allowed same fees as witness.

Jurors.

Each Juror who shall be sworn in a cause, 20 cents, to be paid into Court by parties applying for Jury, and be costs in the cause.