

Registered copy  
proof in certain  
cases.

XLVII.—Where a deed or document shall have been duly registered in pursuance of the laws of this Colony, and the same shall, on the trial of any cause, suit, or proceeding, be proved to be lost, such registry, or a certified copy thereof by the Registrar, shall, without further proof, be admitted in evidence in all cases where the original, if produced, would be receivable.

19 Vic cap. 15,  
repealed.

XLVIII.—An Act passed in the nineteenth year of the reign of Her present Majesty, entitled “An Act to amend the Law of Evidence,” shall be and the same is hereby repealed; Provided always that nothing herein contained shall be construed to revive any Acts or parts of Acts by the said recited Act repealed.

6th and 8th sec-  
tions of 12 Vic.  
cap 8, repealed.

XLIX.—The sixth and eighth sections of an Act passed in the twelfth year of the reign of Her present Majesty, entitled “An Act for the further amendment of the Law and the better advancement of Justice,” shall be and the same are hereby repealed.

## CAP. XII.

*An Act to Amend and Consolidate the Law relating to Costs on the Common Law Side of the Supreme and Central Circuit Courts.*

[Passed 13th April, 1864.]

Preamble.

WHEREAS it is expedient to amend and consolidate the Law relating to the Costs on the Common Law Side of the Supreme Court and Central Circuit Court :

Be it therefore enacted, by the Governor, Legislative Council and Assembly, in Legislative Session convened, as follows :

Taxable costs in  
all actions.

I.—In actions at law instituted in the said Courts, taxable costs shall be paid and recovered by the parties to such suits, as follows.

II.—A plaintiff who recovers final judgment for the whole or any part of his demand, whether of money, lands or chattels, shall recover also the general costs of the cause, but subject to the restrictions hereinafter contained.

Plaintiff's costs.

III.—A defendant who recovers final judgment against the whole demand of the plaintiff, whether upon verdict, demurrer, non-suit, non pros., nolle prosequi, discontinuance or otherwise howsoever, shall recover also the general costs of the cause, but subject to the restrictions hereinafter contained.

Defendant's costs.

IV.—The costs of any issue, either in fact or in law, shall follow the finding or judgment upon such issue, and be adjudged to the successful party whatever may be the result of the other issue or issues, and may be set off against costs payable to the opposite party, or execution may issue for the same as in other cases.

Costs of issue to follow the finding.

V.—On all rules of Court and Judge's orders, the costs shall be costs in the cause unless otherwise directed by the Court or Judge in making such rules or orders.

Costs on rules to be costs in the cause unless otherwise ordered.

VI.—Upon an arrest of judgment, or judgment *non obstante veredicto*, the Court shall adjudge to the party against whom such judgment is given, the costs occasioned by the trial of any issues of fact arising out of the pleading for defect of which such judgment is given, and upon which such party shall have succeeded, and such costs shall be set off against any money or costs adjudged to the opposite party, and execution may issue for the balance, if any.

Costs in arrest of judgment, &c.

VII.—If any plaintiff, having given the usual notice of trial shall neglect to try his cause when called on, and the defendant be then ready to proceed to trial, the defendant shall be entitled to tax against the plaintiff all costs occasioned by such neglect, and may recover the same in manner prescribed in the preceding section.

If plaintiff after giving notice neglect to try—defendant entitled to costs.

Costs on appeal.

Proviso.

VIII.—Costs in a cause removed from an inferior Court, before and after removal shall follow the final event of the cause; Provided that where a cause so removed shall be sent back to the inferior Court for trial, the party removing the same shall not be entitled to the costs incident to removal, notwithstanding he shall finally succeed in the suit.

Costs in actions by executors.

IX.—In every action brought by an executor or administrator in right of the testator or intestate, he shall be liable to pay costs to the defendant in like manner as if he were suing in his own right.

On nolle prosequi.

X.—Where a *nolle prosequi* shall have been entered upon any count, or as to part of any declaration, a defendant shall be entitled to and shall recover his reasonable costs in that behalf.

On new trial.

XI.—When a new trial is granted, the costs of the former trial shall be subject to the direction of the Court, as contained in the rule granting the new trial; and where no mention of costs is contained in the rule, each party shall pay his own costs of such former trial.

When a venire de novo is awarded.

XII.—When a *venire de novo* is awarded, the costs of the former trial shall be subject to the order of the Court at the time of making such award.

When a jury shall be discharged.

XIII.—When for any reason a Jury shall be discharged without a verdict, each party shall pay his own costs of trial.

In cases of trespass or a case when less than \$8 recovered.

XIV.—If the plaintiff in any action of trespass, or on the case, other than assumpsit, shall recover less damages than eight dollars, he shall not recover any costs, unless the Judge before whom the trial shall have been had shall immediately after certify on the roll that the action was brought to try a right besides the mere right to recover damages for the trespass or grievance for which the action was brought, or that the trespass or grievance for which the same was brought

was wilful and malicious ; but nothing in this section shall be construed to deprive any plaintiff of costs in any action of trespass to lands or tenements in respect of which notice not to trespass thereon shall have been previously served or left at the last place of abode of the defendant by or on behalf of the owner or occupier.

XV.—The party applying for a Special Jury shall bear the costs thereof, and shall not be entitled to any further allowance for the same upon taxation of costs, other than he would have been entitled to had the cause been tried by a Common Jury, unless the Judge before whom the cause is tried shall, immediately after the verdict or trial, certify upon the roll that the same was a cause proper to be tried by a Special Jury, and this provision shall apply as well to cases in which the plaintiff shall be non-suited before or after verdict, as to cases in which a verdict shall pass against him.

Special Jury.

XVI.—A person admitted to sue *in forma pauperis* shall not in any case be entitled to costs from the opposite party, unless by order of the Court or a Judge.

Suits in forma pauperis.

XVII.—No set-off of damages or costs between parties shall be allowed to the prejudice of the attorney's lien for costs in the particular suit against which the set-off is sought ; Provided nevertheless that interlocutory costs in the same suit awarded to the adverse party may be deducted.

No set-off of damages or costs to prejudice Attorneys.

Proviso.

XVIII.—Nothing in this Act contained shall affect the provisions of any Act relating to the Revenue, providing for the indemnification of Officers of Her Majesty's Customs from costs in certain cases.

Not to affect indemnification of Revenue officers from costs.

XIX.—Security for costs may, in the discretion of the Court or a Judge, be ordered to be given by the plaintiff or by a defendant in replevin, in the following cases, namely, where such plaintiff, or defendant, in replevin, resides beyond the jurisdiction of the Court, where a plaintiff or such defendant is an uncertified

Security for costs.

bankrupt or insolvent, or becomes a bankrupt or insolvent, during the pendency of the suit, or where he has assigned his property for the benefit of his creditors ; and in a second ejectment for the same premises against the same defendant, or one defending under the former defendant, and by the same plaintiff, or one claiming through him, where the first action shall have been unsuccessfully brought, and such security may be ordered with or without a stay of proceedings, or with such other conditions as to the said Court or Judge may seem just.

Costs payable  
under rule of  
Court.

XX.—Costs payable under rule of Court or Judge's order, may be recovered by process of contempt, the Judge's order being first made a rule of Court ; all other interlocutory costs by set off, or judgment and execution, as in ordinary cases.

Costs on writ  
execution.

XXI.—Upon a writ of execution the costs of executing such writ, and also the costs of other ineffectual writs of execution, may be levied in addition to the amount of the judgment.

Notice of taxa-  
tion.

XXII.—One day's notice of taxing costs, with copies of the bill of costs, shall be given by the Attorney of the party whose costs are to be taxed, to the other party or his attorney ; Provided that such notice shall not be necessary to a defendant who has not appeared.

Proviso.

No action by  
attorney for  
costs until after  
one month's no-  
tice.

XXIII.—No action shall be commenced by an attorney for costs incurred in any action until after the expiration of one calendar month from the time when he shall have delivered to the intended defendant, or left at his last place of abode, a fair copy of his bill of such costs, written in words at length and figures, and signed by the attorney, with the place of his office or residence.

Reference to  
Schedule.

XXIV.—The costs enumerated in the schedule annexed shall be those payable in the said Courts, in cases where such charges shall be applicable.

XXV.—The eleventh, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-sixth, twenty-seventh, thirty-second, thirty-third, thirty-sixth, and thirty-seventh, of the new rules of the Supreme Court, and the forty-first, fifty-fourth, and fifty-fifth, of the old rules of the Supreme Court, are hereby repealed; Provided that nothing in this section contained shall prevent the said rules from remaining in force, as heretofore, in the Northern and Southern Circuit Courts.

Repealing section.

XXVI.—This Act shall come into operation on the thirtieth day of June next.

### Schedule.

Fees to be taken by Attorneys in the Supreme and Central Circuit Courts:

Warrant of Attorney .. .. .	\$0.75	Cents	
Notice of Action .. .. .	0.75	"	Schedule.
Every Process—whether original, mesne or final .. .. .	0.75	"	
Copies, each .. .. .	0.25	"	
Declaration .. .. .	1.50	"	
Copies, each .. .. .	0.75	"	
Entering Appearance .. .. .	0.75	"	
Interlocutory Judgment by default .. .. .	0.75	"	
General Issue .. .. .	0.75	"	
Special Plea .. .. .	1.50	"	
Copies, each .. .. .	0.75	"	
Every subsequent Pleading .. .. .	1.50	"	
Copies, each .. .. .	0.75	"	
Affidavit of Debt .. .. .	0.75	"	
Affidavit of Service .. .. .	0.25	"	
Special Affidavit according to necessary length .. .. .	0.75 to 1.50	"	
Every necessary Notice .. .. .	0.75	"	

Every Rule of Court or Judge's order	0.75	Cents
Copies, each .. .. .	0.25	"
Issue Roll .. .. .	1.50	"
Every necessary Suggestion .. .. .	1.50	"
Postea and Judgment .. .. .	1.50	"
Demurrer Book .. .. .	1.50	"
Every additional copy for Judges .. .. .	0.75	"
Every necessary attendance on a Judge .. .. .	1.50	"
Attendance to tax costs .. .. .	1.50	"
Every necessary attendance on a reference to the Master or an Arbitrator } .. .. .	1.50	"
Cognovit .. .. .	1.50	"
Warrant of Attorney and entering up Judgment thereon—where no process has been issued .. .. .	5.00	"
Counsel fee on every necessary motion or argument—such as for a Commission, or for a postponement of trial, and such like .. .. .	2.50	"
Counsel fee with Brief, in actions <i>ex contractu</i> —		
In matters over fifty dollars .. .. .	2.50	"
In matters over one hundred dollars.. .. .	5.00	"
In matters over two hundred dollars.. .. .	10.00	"
In matters over four hundred dollars.. .. .	15.00	"
—Or such further fee, not exceeding in all twenty-five dollars, as the Master may consider reasonable, having regard to the amount sought to be recovered, and the difficulty and length of the case.		
In Actions <i>ex delicto</i> the Counsel fee may vary from five dollars to twenty-five dollars, according to the difficulty and importance of the cause.		

A Brief fee for a Junior Counsel may be taxed in cases of importance, and where the cause extends over one day it shall be competent for the Court to increase the Brief fee as it may consider reasonable.

Counsel fee on argument of special rule *nisi*, five dollars to fifteen dollars, according to the difficulty and importance of the cause.

Subpoena Tickets, each .. .. .	\$0.25	Cents
Attendance to draw and strike a Special Jury .. .. .	1.50	"
Attendance on examination of Witnesses <i>de bene esse</i> .. .. .	2.50	"
Drafting interrogatories or cross-interrogatories on a Commission, according to their length and difficulty } .. .. .	2.50 to 10.00	"
Copies, each .. .. .	1.50	"
Settling a Special case .. .. .	2.50 to 5.00	"
Copies, for Judges—each .. .. .	1.50	"

In summary cases, *ex contractu*, where the amount *bona fide* sought to be recovered shall not exceed fifty dollars, no greater amount than four dollars in all shall be taxed as Attorney's costs between party and party.

**ALLOWANCE TO WITNESSES.**

Ordinary Witnesses, each, per diem, .. .. .	\$0.75	Cents
Professional men .. .. .	2.50	"
Surveyors, Architects, and skilled witnesses .. .. .	1.00	"
—And reasonable expenses actually incurred and authenticated by proper accounts and vouchers.		



## CLERK'S FEES.

Every process except Subpoena ..	\$0.50	Cents
Writs of Subpoena, each, ..	0.25	"
Every Verdict .. ..	0.50	"
On Signing Final Judgment ..	0.50	"
Rule of Court .. ..	0.25	"
Every Affidavit .. ..	0.25	"
Every Search .. ..	0.25	"
Every Certificate .. ..	1.00	"

## COMMISSIONER'S FEES.

Drawing and swearing affidavit ..	\$1.00	Cents
Administering oath on affidavit previously prepared .. ..	0.25	"
For every writ .. ..	1.00	"
For every witness examined ..	2.50	"

## SHERIFF'S FEES.

Service of each copy of original writ ..	\$0.50	Cents
Every arrest .. ..	2.50	"
Return to an attachment or <i>capias ad respondendum</i> .. ..	0.75	"
Bail bond .. ..	1.00	"
Drawing, summoning and returning Special Jury .. ..	4.00	"
Necessary travelling to serve or execute process—per mile .. ..	0.25	"
Poundage on attachment, if moveables, and on levies, if moveables, five per cent. on the first five hundred dollars, and two-and-half per cent. on all over that amount.		
Executing a Writ of Possession ..	\$2.50	"
Fee on every Jury sworn .. ..	1.00	"
Service of Subpoena .. ..	0.25	"
—And reasonable expenses necessarily incurred in the removal and safe custody of property, to be verified by proper vouchers.		

Poundage on Writs of *Capias ad satisfaciendum*, as on levies on moveables, in proportion to the amount recovered by the arrest.

Every Warrant of Attachment ..	\$0.25 Cents
Executing a Writ of Partition ..	5.00 "
No fee shall be paid to the Sheriff of the Central District on a special deputation.	

### JURORS.

Jurors on Writ of Partition, each ..	\$2.00 Cents
Special Jurors, each .. .. .	1.00 "
Petty Jurors, each .. .. .	0.50 "
Petty Jurors in Assessments under 200 dollars, each.. .. .	0.25 "

### CAP. XIII.

*An Act for the Amendment of the Law with respect to Wills in this Island.*

[Passed 13th April, 1864.]

Be enacted by the Governor, Legislative Council, and House of Assembly, in Session convened, as follows:—

Preamble.

I.—No will shall be valid unless it be made in writing, and unless it be either in the hand-writing of the testator, and signed by him, or if not so written and signed, be signed by him in the presence of at least two witnesses, who shall, in the presence of the testator, sign the same as witnesses; and in case such will shall be made by a marksman, unless the same shall

Will to be written, and how executed.