

The Provincial Statutes of Canada, passed in the year 1843. Kingston: Stewart Derbishire & George Desbarats, 1843.

7 Victoria – Chapter 35

An Act to afford to persons having been Boundary Line Commissioners a more easy and less expensive mode of recovering costs still due on Judgments rendered in that capacity. 9th December, 1843.

Whereas, by an Act of the Legislature of the late Province of Upper Canada, passed in the first year of Her Majesty's Reign, and intituled, *An Act to authorize the Establishment of Boundary Line Commissioners within the several Districts of this Province*, power was given to the Commissioners appointed under the said Act in any District to issue their Warrant to levy by sale of goods and chattels the costs of any Judgment given by the Board: And whereas, the said Act has expired, and the persons who were Commissioners under the same are unable by any summary proceedings to recover the amount of costs incurred and due and payable on certain Judgments by them rendered, but which cannot, in consequence of the expiration of the Act aforesaid, be recovered, except by action at Law: And whereas it is expedient to afford to the said persons such remedy in the premises, as is just and reasonable; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the persons having been Members of the Board of Commissioners of any District under the aforesaid Act, or any of them, or the Executors or Administrators of any of them, may file their Petition in the District Court of the District of which they were Commissioners, which Petition shall set forth the amount and particulars of the costs, charges and expenses on all the proceedings in any matters in which judgments were actually rendered by them before the expiration of the Act aforesaid, the name of the party or parties liable to pay the same, and the amount payable by each of the said parties, respectively, with his or their respective places of residence, and the nature of the claim or difference with regard to which such costs, charges and expenses were incurred; and if on examination it shall appear just and reasonable, the Court in term time, or any Judge thereof in vacation, on the return of such petition, may order and direct a Writ of Execution to issue out of the said Court, commanding the Sheriff or other proper officer to levy of the goods and chattels of each party, respectively, the amount due by such party, together with such portion of the costs to be taxed in the manner hereinafter provided, as may be payable by such party: Provided it shall appear that a copy of such petition has been served either in person or by leaving the same at the usual place of abode of the person or persons from whom such costs, charges and expenses are sought to be recovered, together with a written notice that on a day to be thereafter mentioned, at least eight days after the service of such notice, the Court will be moved or the Judge will be applied to, to proceed on the petition in the manner provided by this Act.

II. Provided always, and be it enacted, that when the facts alledged in any petition to be filed as aforesaid under the provisions of this Act shall be controverted by any of the parties against whom it shall have been preferred, the answer or objection to the petition shall be made in writing in the form of a plea, to which the petitioner or petitioners may reply or demur, to the end that the matter in dispute may be reduced to an issue in law or fact, and receive a determination by the Court or by a Jury in the manner other issues are determined, and such issue shall be so determined accordingly.

III. And be it enacted, that the Court or Judge before whom any such petition shall be decided and adjudicated upon, may in his discretion grant or refuse the costs on the application, and if he shall grant the same he shall tax the costs and expenses on the proceedings consequent thereupon, and the portion thereof to be paid by each party, and if the same be not paid shall issue execution therefor against the goods and chattels of the party or parties against whom the decision or adjudication shall be given, and who shall not have paid such costs or the proportion thereof for which they shall be liable.