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No. 82.

1st Session, 8th Parliament, 27 Victoria, 1868.

BILL:

An Act to amend the Law in relation to
Law Costs in Her Majesty's Courts of
Common Law and Chancery in Upper
Canada:

Received and read first time Tuesday, 1st
September, 1868.

Second reading, Wednesday, 2nd September,
1868.

Mr. SCATCHERD.

QUEBEC:

PRINTED FOR THE CONTRACTORS BY HUNTER,
ROSE & LEMIEUX, ST. URSULE ST.

An Act to amend the Law in relation to Law Costs in the Courts of Common Law and Chancery in Upper Canada.

WHEREAS the costs now allowed by law in actions and proceedings in Her Majesty's Courts of Common Law and Chancery in Upper Canada are exorbitant, and it is expedient that the law in relation thereto should be amended, so as to provide a tariff of costs better suited to the circumstances of the inhabitants of a new country: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

TAXATION OF ATTORNEYS' AND SOLICITORS' COSTS.

1. Upon the settlement of any suit in Her Majesty's Courts of Common Law or Chancery in Upper Canada, either in whole or in part, the attorney or solicitor claiming any fees or costs which shall not have been taxed, shall, upon being required by the defendant or plaintiff, or the attorney or solicitor of either party, and on payment or tender of the expenses of such taxation (one shilling and nine pence), have his fees or costs taxed by the usual taxing officer in the County in which the suit has been brought or the venue laid, and of the Court in which the suit may be pending.

TAXATION OF SHERIFF'S FEES.

2. Upon the settlement of an execution, either in whole or in part, by payment, levy or otherwise, the sheriff or officer claiming any fees, poundage, incidental expenses or remuneration which shall not have been taxed, shall, upon being required by either plaintiff or defendant, or the attorney of either party, and on payment or tender of the expenses of such taxation (one shilling and nine pence), have his fees, poundage, incidental expenses or remuneration, as the case may be, taxed by the Clerk or Deputy Clerk of the Crown of the County wherein such sheriff shall keep his office.

COSTS NOT TO BE COLLECTED UNTIL TAXED.

3. No sheriff, attorney or solicitor shall collect any fees, costs, poundage, or incidental expenses after having been required to have the same taxed, without taxation, and upon tender of the amount taxed no fees, costs, poundage or incidental expenses, in respect of proceedings subsequently taken, shall be allowed to any sheriff, attorney or solicitor.

TAXATION OF COSTS AFTER DELIVERY OF BILL.

4. Whenever an attorney or solicitor delivers his bill of costs according to law, the person liable to pay the same may at any time before payment give the attorney or solicitor delivering such bill, or the executor or administrator of such attorney or solicitor, notice in writing to

have such bill of costs taxed by the usual taxing officer of the Court in the County where such attorney or solicitor or their representatives then reside, and of the Court mentioned in such bill of costs.

5. It shall be the duty of the taxing officer, upon the production to him of the said notice requiring such taxation, with an affidavit of personal service thereof, or that the same was left at the party's usual place of business or abode with some grown up person, forthwith to make an appointment under his hand to tax such costs, and thereupon, after service of such appointment on the opposite party, to proceed with the taxation, according to the terms of such appointment; and such taxation may be postponed and continued as may be considered necessary until completed, when a certificate of the amount of such taxation shall be given by the taxing officer to either party requiring the same, and such costs shall only be recoverable by suit in some Court of competent jurisdiction, any law usage or practice to the contrary notwithstanding. 15

RETAINERS.

6. No retainer shall be allowed or taxed in any bill of costs; and it shall be the duty of the Judge presiding at the trial of any cause wherein such charge is made, to disallow the same, whether such action is contested or not. 20

JUDGE PRESIDING IN DIVISION COURT MAY ORDER BILL OF COSTS TO BE TAXED.

7. The Judge presiding in any Division Court may, if he thinks proper, in any suit pending before him in the said Court to recover the amount of an attorney's or solicitor's bill of costs, order the same to be taxed by the usual taxing officer in the County wherein such Division Court shall be holden and of the Court mentioned in such bill. 25

COSTS OF SALE OF LANDS UNDER POWER OF SALE CONTAINED IN A MORTGAGE TO BE TAXED.

8. The costs and expenses of a sale of any land, under a power of sale contained in any mortgage, shall be taxed by the Clerk or Deputy Clerk of the Crown, or other taxing officer of the County wherein such lands shall be situated, or of the County wherein such mortgage was executed, or wherein the mortgagee or assignee resides, upon the requisition of the mortgagor or any subsequent mortgagee, or of any party liable to pay the same or having any lien or claim on the mortgage promises, or of the attorney of any such mortgagor, mortgagee, or party, and upon payment or tender of the expenses of such taxation (one shilling and nine pence). 30

9. No more, or other, or greater costs or charges shall be payable, collected or received for or in respect of any sale of lands, in pursuance of a power of sale contained or referred to in any mortgage, than as follows:— 40

COSTS OF MORTGAGE SALE.		£	s.	d.
Notice of sale, inclusive of copies, demand of payment, attendances, drawing advertisements, letters, affidavits, and bill of costs.....		1	10	0
Every necessary conveyance		0	15	0
The Sheriff, or other person, for serving each notice or paper.....		0	1	3
Affidavit, when drawn by Sheriff.....		0	1	3
Actual and necessary mileage, from the Court House of the County wherein service of any notice of paper is made, per mile		0	0	6
The sum actually and necessarily disbursed for postage.				
The sum actually and necessarily disbursed for printing in some weekly paper.				

The sum actually disbursed for abstract of title.	£ s. d.
For selling each parcel of land	1 5 0
Commissioner for taking affidavit	0 0 6

Nors.—No charge to be allowed for selling any parcel of land after the second contained or described in the same mortgage.

DUTY OF TAXING OFFICERS.

10. It shall be the duty of every taxing officer referred to in this Act, to tax the bills of costs presented to him for taxation, as herein required, upon payment or tender of his fees, and to give when requested a certificate of such taxation and the amount thereof.

11. It shall be the duty of every taxing officer authorized to tax costs, to examine the bills presented to him for taxation, whether such taxation be opposed or not, and to be satisfied that the items charged in such bill are correct and legal, and to strike out all charges for services, which, in his opinion, were not necessary to be performed; and no bill previously taxed shall be again referred, unless under the special circumstances the Court or a Judge to whom the application is made thinks fit to direct a re-taxation thereof.

12. Whenever, in any action upon any written instrument, under seal or without seal, the execution thereof shall be denied by pleading, the plaintiff shall not be put to the proof of the execution of the instrument, or the handwriting of the defendant, unless the defendant (if resident in Upper Canada) or some one on his behalf, shall file and serve a copy of an affidavit of the truth of the plea, and the plaintiff shall annex a copy of such affidavit to the record entered for trial; and this section shall apply in actions brought against endorsers, as well as other parties to bills of exchange and promissory notes.

TABLE OF COSTS IN FORCE IN THE SUPERIOR COURTS OF COMMON LAW AND IN THE COUNTY COURTS ANNULLED, AND A NEW TABLE OF COSTS ENACTED FOR THE SAID COURTS.

13. The table of costs framed by the Judges of the Superior Courts of Common Law in Upper Canada, in the year of our Lord one thousand eight hundred and fifty-six, under the provisions of the Common Law Procedure Act; also the table of costs framed by the Judges of the Superior Courts of Common Law at Toronto, in the year of our Lord one thousand eight hundred and fifty-seven, in pursuance of the County Courts Amendment Act, 1857, are hereby repealed and annulled, and also every other table of costs, and every order for the allowance of costs now in force in the said Courts, or in the County Courts, are hereby declared void.

14. The table of costs set forth in schedule A in this Act shall, from and after the passing of this Act, be the general allowance of costs for plaintiffs and defendants, as well between attorney and client as between party and party, in suits and proceedings in Her Majesty's Courts of Queen's Bench, and Common Pleas, and in the County Courts in Upper Canada, and no other or greater costs shall be allowed in the said Courts respectively than are contained in the said schedule A, except fees expressly imposed by statute.

TABLE OF COSTS.

Explanation.

The first column shews the present allowance of costs in the Queen's Bench and Common Pleas.

The second column shows the costs proposed by this Act to be allowed in the Queen's Bench and Common Pleas.

The third column shows the present allowance of costs in the County Courts.

The fourth column shows the costs proposed by this Act to be allowed in the County Courts.

TO THE ATTORNEY.	1st Column.	2nd Column. Schedule A.	3rd Column.	4th Column. Schedule A.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
WRITS.				
Summons, including attendance.....	0 10 0	0 7 6	0 5 0	0 3 9
Concurrent Summons.....	0 7 6	0 6 0	0 3 9	0 3 0
Renewal Summons.....	0 7 6	0 6 0	0 3 9	0 3 0
Capias.....	0 10 0	0 7 6	0 5 0	0 3 9
Concurrent Capias.....	0 7 6	0 6 0	0 3 9	0 3 0
Renewal Capias.....	0 7 6	0 6 0	0 3 9	0 3 0
Capias ad satisfaciendum.....	0 10 0	0 7 6	0 5 0	0 3 9
Renewed Capias ad satisfaciendum.....	0 7 6	0 6 0	0 3 9	0 3 0
Capias ad satisfaciendum for the residue.....	0 10 0	0 7 6	0 5 0	0 3 9
Renewed do do.....	0 7 6	0 6 0	0 3 9	0 3 0
Fieri Facias.....	0 10 0	0 7 6	0 5 0	0 3 9
Renewed Fieri Facias.....	0 7 6	0 6 0	0 3 9	0 3 0
Concurrent Fieri Facias.....	0 7 6	0 6 0	0 3 9	0 3 0
Fieri Facias for the residue.....	0 10 0	0 7 6	0 5 0	0 3 9
Renewed do do.....	0 7 6	0 6 0	0 3 9	0 3 0
Habere Facias possessionem and Fieri Facias, or Capias ad satisfaciendum for costs in one writ	0 15 0	0 10 0		
Habere Facias possessionem alone.....	0 10 0	0 7 6		
Special endorsement of demand on writ of Sum- mons.....	0 5 0	0 3 9	0 3 9	0 3 0
Writ of Revivor.....	0 10 0	0 7 6	0 5 0	0 3 9
Ejectment (Summons in).....	0 10 0	0 7 6		
Subpoena ad testificandum.....	0 5 0	0 3 9	0 2 6	0 2 0
Subpoena duces tecum.....	0 6 3	0 4 9	0 3 9	0 3 0
and if above four folios, additional per folio.....	0 0 6	0 0 4	0 0 6	0 0 3
Attachment against Goods of absconding debtor.....	0 10 0	0 7 6	0 5 0	0 3 9
Attachment against Garnishee.....	0 10 0	0 7 6	0 5 0	0 3 9
Habes Corpus obtained by plaintiff, including allowance thereof.....	0 10 0	0 7 6		
Procedendo.....	0 10 0	0 7 6		
Venditioni exponas.....	0 10 0	0 7 6	0 5 0	0 3 9
Supersedeas.....	0 6 3	0 4 9	0 3 0	0 2 3
Mandamus.....	0 10 0	0 7 6		
Injunction.....	0 10 0	0 7 6		
All other writs necessary.....			0 5 0	0 3 9
Note—The above allowances include all charges for attendance for the writ and delivering it to the officer.				
Copy and service of writs of summons and other process, for each copy, including copies of all notices required to be endorsed.....	0 5 0	0 3 9	0 2 6	2 0
For each copy of writ of Subpoena.....	0 5 0	0 2 0	0 2 6	0 1 3
Service of each copy of writ, if not done by the Sheriff, or an officer employed by him, when taxable, to the Attorney.....	0 2 6	0 2 0	0 1 3	0 1 0
Mileage, per mile for the distance actually and necessarily travelled.....	0 0 6	0 0 6	0 0 6	0 0 6
INSTRUCTIONS.				
Taking instructions to sue or defend.....	0 10 0	0 7 6	0 5 0	0 3 9
INSTRUCTIONS FOR PLEADING.				
Instructions for special Affidavits, when allowed by the Master, and instructing Counsel in special matters.....	0 5 0	0 2 6	0 2 6	0 1 6

TO THE ATTORNEY.	1st Column.	2nd Column. Schedule A.	3rd Column.	4th Column. Schedule A.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Instruction to Counsel in common matters.....	0 2 6	.....	0 1 3	
Note —No Fee allowed for instructions to Counsel, where such Counsel is Attorney in the suit, or his partner.				
Instructions for Brief.....	0 5 0	0 3 9	0 2 6	0 2 0
Do if difficult and many witnesses or documents, the taxing officer on sight of the Brief may allow.....	0 10 0	0 5 0		
Instructions for every suggestion.....	0 5 0	.....	0 2 6	
Do for issue of fact by consent.....	0 7 6	0 6 0	0 3 9	0 3 0
Do for suggestion to revive, or for writ of Revivor, when no Rule necessary....	0 5 0	0 3 9	0 2 6	0 2 0
Do for Rule for writ of Revivor when necessary.....	0 5 0	0 3 9	0 2 6	0 2 0
Do to defend for Executor after suggestion of death of original defendant....	0 5 0	0 3 9	0 2 6	0 2 0
Do for agreement of damages.....	0 5 0	0 3 9	0 2 6	0 2 0
Do for confession of action in ejectment as to the whole or in part.....	0 5 0	0 3 9		
Do to strike or reduce a special Jury....	0 10 0	0 7 6		
DRAWING PLEADINGS, ETC.				
Declarations, inclusive of instructions and engrossing, and of attendance to file and serve, but not inclusive of copies to serve.....	0 12 6	0 7 6	0 6 3	0 5 0
If above ten folios, for every folio above ten in addition.....	0 1 0	0 0 6	0 1 0	0 0 6
One or more Pleas, if three folios or under, exclusive of instructions, but inclusive of engrossing, and copies to serve.....	0 5 0	0 3 9	0 2 6	0 2 0
If above three folios, for every folio in addition, exclusive of copy to serve.....	0 1 0	0 0 6	0 1 0	0 0 6
Joinder of issue, inclusive of copies and engrossing.....	0 2 6	0 2 0	0 1 3	0 1 0
Demurrer, inclusive of engrossing and copies to serve.....	0 5 0	0 3 9	0 2 6	0 2 0
Joinder of Demurrer, inclusive of copies and engrossing.....	0 2 6	0 2 0	0 1 3	0 1 0
Marginal statement of matters of Law for argument, exclusive of copies for the Judges.....	0 5 0	0 3 9	0 2 6	0 2 0
Replications, new assignments, and other Pleadings, the same as the foregoing charges for Pleas, Postea, including engrossing.....	0 5 0	0 2 0	0 2 6	0 2 0
Judgment, whether by default or final.....	0 2 6	0 2 0	0 2 6	0 2 0
Authority to receive moneys out of Court.....	0 2 6	0 2 0	0 1 3	0 2 0
Suggestions—Pleas to suggestions and subsequent Pleadings, if three folios or under, inclusive of engrossment and copies.....	0 4 0	0 3 0	0 2 0	0 1 6
If above three folios, for every folio, drawing and engrossing.....	0 1 0	0 0 6	0 1 0	0 0 6
Issue for the trial of facts by agreement, for every folio.....	0 1 0	0 0 6	0 1 0	0 0 6
Special case, per folio.....	0 1 0	0 0 6	0 1 0	0 0 6
Drawing interrogatories or answers for any purpose required by law, including engrossing, per folio.....	0 1 0	0 0 6	0 1 0	0 0 6
Agreement of damages and copy, if five folios or under.....	0 5 0	0 3 9	0 2 6	0 2 0
Above five folios, for every folio, drawing and engrossing.....	0 1 0	0 0 6	0 1 0	0 0 6
Copy, per folio.....	0 0 6	" 0 6		
Special particulars of demand and set off, including copy, per folio.....	0 1 0	0 0 6	0 1 0	9 0 6
Short ditto and copy.....	0 3 6	0 2 6	0 2 6	0 1 3
Bill of costs and copy for taxation.....	0 5 0	0 2 6	" 2 6	0 2 0

TO THE ATTORNEY.	1st Column.	2nd Column. Schedule A.	3rd Column.	4th Column. Schedule A.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Copy for the opposite party.....	0 2 6	0 1 3	0 1 3	0 1 0
Taking cognovit and entering judgment thereon, where there have been no previous proceedings, and the true debt does not exceed £50	2 0 0	1 0 0	2 0 0	1 0 0
For the same services when the true debt exceeds £50	3 0 0	1 10 0		
Drawing and engrossing cognovit and attending execution where there have been previous pro- ceedings	0 5 0	0 2 6	0 2 6	0 2 0
Replication accepting money out of Court in full of demands, inclusive of instruction	0 3 6	0 2 6	0 2 6	0 2 0
Drawing bond in appeal.			0 10 0	0 5 0
In all the above items, engrossing included, un- less separately allowed for.				
COPIES.				
Declarations, when not exceeding ten folios.....	0 6 3	0 3 9	0 3 9	0 2 6
do above ten folios, per folio.....	0 0 6	0 0 6	0 0 6	0 0 6
Other pleadings before enumerated, above three folios, per folio	0 0 6	0 0 6	0 0 6	0 0 6
Issue (Pleadings) if fifteen folios, or under	0 7 6	0 5 0	0 5 0	0 3 9
If above fifteen folios, for every folio.....	0 0 6	0 0 6	0 0 6	0 0 6
All Proceedings, Interrogatories, Answers, and other papers of which copies are to be delivered, per folio	0 0 6	0 0 6	0 0 6	0 0 6
Judgment for non-appearance on specially en- dorsed Writs or Writs of Revivor and in Eject- ment to be taken as nine folios, including the Writ.				
MORIOS.				
To declare reply and subsequent pleadings, copy and services	0 2 6	0 1 3	0 1 3	0 1 0
By defendant, to bring issue to trial, copy and service	0 3 6	0 2 6	0 2 6	0 2 0
To Executor or Administrator of sole defendant, deceased, to appear to writ and suggestions....	0 3 6	0 2 6	0 2 6	0 2 0
Of appearances, when appearance duly entered and notice given on the day of appearance, but not otherwise	0 2 6	0 1 3	0 1 3	0 1 0
Of appearance to Writ of Revivor	0 2 6	0 1 3	0 1 3	0 1 0
To plead	0 2 6	0 1 3	0 1 3	0 1 0
Of declaration, when necessary, copy and service.	0 2 6	0 1 3	0 1 3	0 1 0
Of objection, for misjoinder or nonjoinder of plain- tiff, copy and service	0 2 6	0 2 0	0 1 3	0 1 0
To Sheriff, to discharge a prisoner out of custody, copy and service	0 3 6	0 2 0	0 2 6	0 1 3
Notice in ejectment to defend for part of the pre- mises, and services.....	0 5 0	0 2 6		
Notice of claimant's or defendant's title	0 5 0	0 2 6		
If above three folios, for every folio additional...	0 1 0	0 0 6		
Notice of admission of right and denial of orders by a joint tenant, &c., and service.....	0 3 6	0 2 6		
If above three folios, for every folio.....	0 1 0	0 0 6		
Of discontinuance by claimant in ejectment, and service	0 3 6	0 2 0		
Of confession of action of ejectment as to the whole or part, and service	0 5 0	0 2 6		
Of trial and assessment, copy and service.....	0 3 6	0 2 0	0 2 6	0 1 3
Demand of residence of plaintiff, and all other com- mon notices, copy and service	0 2 6	0 1 3	0 1 3	0 1 0
To admit or produce, if not exceeding two folios, copy and service.....	0 2 6	0 1 3	0 2 6	0 1 3
For each folio above two.....	0 1 0	0 0 6		
NOTE.—Copy and service included in the above items when not otherwise expressed.				

TO THE ATTORNEY.	1st Column.	2nd Column. Schedule A.	3rd Column.	4th Column. Schedule A.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
COPY AND SERVICE.				
Of special and common rule	0 3 9	0 2 6	0 2 0	0 1 0
Of special rule, above three folios, per folio, additional	0 1 0	0 0 6	.....	0 0 6
Of summons or order of a Judge	0 2 6	0 1 3	0 1 3	0 1 0
Of order to charge a prisoner in execution	0 3 6	0 2 6	0 2 6	0 1 3
Mileage on service as on a Writ of Summons.				
JUDGMENT.				
Instructions to sue and examine deeds, as in other cases.				
If title contested.....	1 0 0			
ATTENDANCES.				
Attendances at Judge's chambers, at the Crown offices, at the Clerk's office, and all other common attendances in the course of a cause.....	0 2 6	0 1 3	0 1 3	0 1 0
Fee on every Record, Writ of Trial or Enquiry....	0 5 0	0 2 6	0 2 6	0 1 3
Fee on every rule of Court or Judge's order.....	0 5 0	0 2 6	0 2 6	0 1 3
Attending assizes or sittings of the Court for the trial of issues in fact, if cause entered where no fee is charged by the attorney as counsel	0 5 0	0 2 6	0 2 6	0 1 3
Attending on Master or Clerk on special matters..	0 5 0	0 2 6	0 2 6	0 1 3
For every hour after the first	0 5 0	0 2 0	0 2 6	0 1 3
Taxation of costs on postea	0 5 0	0 2 6	0 2 6	0 1 3
Of costs of cause otherwise than as postea.....	0 2 6	0 1 0	0 1 3	0 1 0
Of interlocutory matters	0 2 6	0 1 0	0 1 3	0 1 0
SHERIFFS.				
For drawing, per folio, of original and necessary matters	0 1 0	0 0 4		
Copies of pleadings or documents, when required, per folio	0 0 6	0 0 3	0 0 6	0 0 3
Copy for second counsel where fee taxed to him, per folio.....	0 0 6	0 0 3		
For drawing, in the County Court, of original matter			0 5 0	0 2 6
TERM FEES.				
Term fees, after declaration filed.....	0 5 0		0 2 6	
Every necessary letter on the business of the cause	0 2 6	0 1 3	0 1 3	0 1 0
AFFIDAVITS.				
Drawing special affidavits, per folio, including engrossing.....	0 1 0	0 0 6	0 1 0	0 0 6
Copies of affidavits, when necessary, per folio....	0 0 6	0 0 3	0 0 6	0 0 3
Common affidavits of five folios or under, including copy and oath	0 5 0	0 2 6	0 3 6	0 2 0
DEFENDANTS.				
Drawing bail piece			0 4 0	0 3 0
Entering appearance	0 3 6	0 2 6	0 2 6	0 1 3
For each additional defendant	0 1 3	0 0 6	0 0 6	0 0 6
NOTE.—A second summons and order for time to plead shall be allowed in special cases, when necessary.				
COUNSEL FEES.				
Fee on motion of course, or on motion for rule nisi, or on motion to make rule absolute in matters not special.....	0 10 0	0 5 0	0 5 0	0 2 6
On special motion for rule nisi (only one counsel fee to be taxed)	1 5 0	0 15 0	0 10 0	0 5 0
To attend reference to Master or Clerk where counsel necessary.....	1 5 0	0 10 0	0 10 0	0 5 0

TO THE ATTORNEY.	1st Column.	2nd Column. Schedule A.	3rd Column.	4th Column. Schedule A.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
For argument on supporting or opposing rule on return of rule nisi, or argument of demurrer, special case or appeal	2 10 0	1 10 0	1 5 0	0 15 0
Fee, with brief, on assessment	1 5 0	0 10 0	0 10 0	0 5 0
Fee, with brief, at trial in actions of a special and important nature (in the County Court)			1 10 0	1 10 0
NOTE.—To be increased by the Judge to such sum as shall appear to him proper under the circumstances, not exceeding			3 10 0	
The above note only applies to the County Court.				
Fee, with brief, at trial in cases of tort, or in ejectment	2 10 0	2 10 0		
or in matters of contract where the sum to be recovered exceeds £100, to be increased by the Master, in his discretion, to a sum not exceeding in actions of a special and important nature; or by a Judge, to such sum as shall appear to him proper under the circumstances of the case, not exceeding, in any case	5 0 0			
Fee, with brief, in other cases	20 0 0			
do in Queen's Bench or Common Pleas, to counsel in argument or examination in chambers, to be allowed by the Judge at the time when he considers the attendance of counsel necessary, not less than	1 5 0	0 15 0		
nor more than	0 10 0	0 5 0		
Fee, in the County Court, to counsel on argument or examination in chambers, to be allowed by the Judge at the time when he considers the attendance of counsel necessary, not less than	1 5 0	0 12 6		
nor more than			0 5 0	0 3 9
In all applications and proceedings before the County Judges, not relating to suits instituted in any Court of Civil Judicature, there shall be payable to the attorney and counsel the same fees as in the foregoing table, so far as the same are applicable.			0 15 0	0 7 6
Necessary postage.				
FEES				
To be taken and received by the Clerks of the Crown and Pleas, or their deputies, or by the Clerk of the Process, and by the Clerks of the County Courts—in addition to all fees expressly imposed by statute.				
Every writ	0 2 6	0 1 9	0 1 3	0 1 0
Every concurrent alias pluries or renewed writ	0 2 6	0 1 9	0 1 3	0 1 0
Every appearance entered and filing memorandum thereof	0 1 0	0 0 6	0 0 6	0 0 3
Every appearance each defendant after the first	0 0 6	0 0 3	0 0 4	0 0 2
Filing every affidavit, writ or other proceeding	0 0 4	0 0 2	0 0 4	0 0 2
Amending every writ or other proceeding	0 1 3	0 0 9	0 1 3	0 0 9
Every ordinary rule	0 1 3	0 1 0	0 1 0	0 0 9
Every special rule, not exceeding six folios, when prepared by the Master	0 3 6	0 2 6	0 2 0	0 1 0
Every special rule exceeding six folios, per folio	0 1 0	0 0 6		
Every judgment by default	0 2 6	0 2 0	0 1 3	0 1 0
Every final judgment otherwise than judgment by default	0 2 6	0 2 0	0 2 6	0 2 0
Taxing every bill of costs and giving allocatur or certificate	0 3 4	0 0 9	0 3 4	0 0 9
Every reference, enquiry, examination or other special matter referred to the Master, for every meeting not exceeding one hour	0 5 0	0 2 6	0 2 6	0 2 0
do for every additional hour or less	0 5 0	0 2 6	0 2 6	0 2 0

FEES, &c.	1st	3rd	4th	
	Column.	Column.	Column.	
	Column.	Schedule	Column.	Schedule
	A.	A.	A.	A.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Upon payment of money into Court, for every sum under £50.....	0 5 0	0 2 6	0 5 0	0 2 6
do do £50 and under £100.....	0 10 0	0 3 9	0 10 0	0 3 9
do do £100 and above that sum	1 0 0	0 5 0		
Every certificate made evidence by law or required by the practice, including any necessary search, Exemplification or office copy of proceedings, per folio.....	0 2 6	0 2 6	.....	0 2 6
Every search, if not more than two terms.....	0 0 6	0 0 6	.....	0 0 6
Every search exceeding two and not more than four terms.....	0 0 6	0 0 3		
Every search, if not more than one year.....			0 0 6	0 0 3
Every search exceeding one year, and not more than two years.....			0 1 0	0 0 6
Every search exceeding two years, or a general search.....			0 2 6	0 1 3
do four terms, or a general search..	0 2 6	0 1 3		
Every affidavit, affirmation, &c., taken before them	0 1 0	0 0 6	0 1 0	0 0 6
Every allowance or justification of bail.....	0 1 3	0 1 0		
Taking recognisance of bail.....	0 1 3	0 1 0		
Filing affidavit and enrolling articles previous to the admission of an attorney.....	0 2 0	0 1 0		
Every admission of an attorney.....	0 10 0	0 5 0		
Entering satisfaction on record and filing satisfaction piece, including any necessary search.....	0 2 6	0 1 3	0 1 3	0 1 0
Every commission for the examination of witnesses	0 5 0	0 2 6	0 2 6	0 1 3
Every commission for taking bail and affidavit to be on parchment.....	0 10 0			
Entering exoneretur on bail piece.....	0 1 0	0 0 6	0 1 0	0 0 6
Making up records of conviction or of acquittal, per folio.....	0 0 6	0 0 6		
Entering and docketing judgments.....	0 2 6	0 1 3		
For making the entry required in the debt attachment book or cognovit book.....	0 2 6	0 1 3	0 2 6	0 1 3
Every record entered in the sittings docket.....			0 1 3	0 1 0
Every verdict taken, nonsuit or jury discharged..			0 2 6	0 1 3
Every rule or order of reference at the trial.....			0 2 0	0 1 0
Drawing appointment made by Judge or Clerk...			0 1 0	0 0 6
For Judge's summons or fiat.....			0 1 0	0 0 6
Judge's order.....			0 2 0	0 1 0
Each quarterly account rendered by him to the proper officer to be paid out of the Fee fund....			1 0 0	0 5 0
For every other account of fees received, made and rendered in a legal requisition, to be paid out of the Fee fund.....			0 10 0	0 5 0
For attending at every special hearing before the Judge, under the County Court Procedure Act, and at taking examinations and evidences, and at sittings on reference to the County Judge from the Superior Courts, not exceeding one hour.....			0 1 3	0 1 3
For every additional hour or less.....			0 1 3	0 1 0
In all applications and proceedings before the County Judge, not relating to suits instituted in any Court of Civil Judicature, there shall be payable to the clerks of the County Courts the same fees as in the foregoing table so far as the same are applicable to Clerks of Assize and Marshal. The fees by statute to be accounted for to the Fee fund				
CLERK IN CHAMBERS.				
Every summons.....	0 1 3	0 1 0		
Every order.....	0 2 6	0 1 3		

	1st Column.	2nd Column. Schedule A.	3rd Column.	4th Column. Schedule A.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
For receiving and taking charge of Nisi Prius Records and exhibits in each cause.....	0 7 6	0 1 3		
Filing each paper.....	0 0 4	0 0 2		
Every fiat for a rule of Court.....	0 1 3	0 1 0		
Taking every affidavit or affirmation.....	0 1 0	0 0 6		
For searches, the same allowance as to the Clerk of the Crown and Pleas.				
SHERIFF (CIVIL SIDE).				
Every warrant to execute any process, mesne or final, when given to a Bailiff.....	0 2 6	0 1 3	0 1 3	0 1 0
Arrest when amount indorsed does not exceed £50	0 5 0	0 3 9	0 5 0	0 3 9
Arrest when amount endorsed is over £50 and under £100.....	0 10 0	0 7 6	0 10 0	0 7 6
do do over £100.....	1 0 0	0 10 0		
Mileage going to arrest, when arrest made, per mile, and conveying party arrested from place of arrest to the gaol, per mile.....	0 0 6	0 0 6	0 0 6	0 0 6
Bail bond, or bond for the limits.....	0 5 0	0 3 9	0 2 6	0 2 0
Assignment of the same.....	0 5 0	0 2 6	0 1 3	0 1 3
For an undertaking to give a bail bond.....	0 5 0	0 2 6		
Service of process not bailable, scire facias or writ of revivor (including affidavit of service) and oath, each defendant.....	0 3 0	0 2 6	0 3 6	0 2 0
For each summoner on writ of scire facias to be paid by the Sheriff.....	0 2 6	0 2 6	0 2 6	0 2 6
Serving subpoena, declaration, notices or other papers, besides mileage, for each party served.....	0 2 6	0 1 3	0 1 3	0 1 0
Receiving, filing, entering and endorsing all writs, declarations, rules, notices or other papers to be served, each.....	0 1 3	0 0 6	0 0 6	0 0 6
Return of all process and writs.....	0 2 6	0 1 3	0 1 3	0 1 0
Every search, not being by a party to a cause or his attorney.....	0 1 0	0 0 6	0 1 0	0 0 6
Certificate of result of search, when required.....	0 2 6	0 1 3	0 2 6	0 1 0
Fees on striking a special jury.....	1 0 0	0 10 0		
Serving each special juror.....	0 1 3	0 1 0		
Summoning special jury, each mile's travel from the Court House.....	0 0 6	0 0 6		
Returning panel of special jurors.....	0 5 0	0 5 0		
Every jury sworn.....	0 5 0		0 4 0	
Poundage in executions and in attachments in the nature of executions, where the sum made shall not exceed £100 in the £.....	0 1 0	0 0 6	0 1 0	0 0 6
Where it exceeds £100 and is less than £1,000 in the £, upon the sum actually made.....	0 0 6	0 0 6		
Over £1000, one per cent. on whatever exceeds £1000, in addition to the poundage allowed up to £1000, in lieu of all fees and charges for services and disbursements, except mileage in going to seize and disbursements for advertising, and except disbursements necessarily incurred in the care and removal of property in cases exceeding £100, to be allowed by the Master in his discretion.	One per cent.			
Schedule of goods taken in execution, including copy to defendant, if not exceeding five folios..	0 5 0	0 2 6	0 2 6	0 1 3
Each folio above five.....	0 0 6	0 0 6	0 0 6	0 0 6
The sum actually disbursed for advertisements required by law to be inserted in the official gazette or other newspaper. Drawing up advertisements when required by law to be published in the official gazette or other newspaper, and transmitting the same in each suit.....	0 5 0	0 2 6	0 2 6	0 1 3
Every notice of sale of goods in each suit.....	0 2 6	0 2 0	0 1 3	0 1 0

	1st Column.	2nd Column. Schedule A.	3rd Column.	4th Column. Schedule A.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Service of writ of possession or restitution, besides mileage	1 0 0	0 10 0		
Bringing up prisoners on attachment or habeas corpus, besides travel at one shilling per mile ..	0 5 0	0 5 0		
Every notice of postponement of sale of execution in each suit	0 1 2	0 1 0	0 1 0	0 0 9
Actual mileage from the Court House to the place where services of any process, paper or proceedings is made, per mile	0 0 6	0 0 6	0 0 6	0 0 6
Seizing estate and effects in attachment against an absconding debtor	0 10 0	0 7 6	0 5 0	0 3 9
Every inventory to be charged as in executions.				
Removing or retaining property—reasonable and necessary disbursements to be made by the Master or Clerk, or by the order of the Court or Judge.				
Power to secure goods taken under an attachment—Con. Stat. U. C., c. 25, s. 15—if prepared by the Sheriff	0 5 0	0 5 0	0 5 0	0 5 0
Presiding on execution of writ of enquiry	1 0 0	0 10 0		
SUMMONING JURY.				
Bailiff fee, summoning jury, mileage per mile	0 5 0	0 5 0		
Hire of room, if actually paid, not to exceed ten shillings	0 0 6	0 0 6		
Mileage from Court House to place where writ executed, per mile	0 10 0	0 10 0		
	0 0 6	0 0 6		
IN REPLEVIN.				
Precept to the Bailiff	0 2 6	0 1 3	0 2 3	0 1 0
Notice for service on defendant	0 2 6			
Delivering goods to the party obtaining the writ ..	0 10 0	0 7 6	0 5 0	0 3 9
For writ de retorno habendo	0 5 0	0 3 9	0 2 6	0 2 0
Replevin bond, when not prepared by the attorney	0 5 0	0 3 9	0 2 6	0 2 0
COJURORS.				
For services required to be rendered by them in civil proceedings, the same fees as are by this table allowed to the Sheriff.				
DRIVERS.				
Calling and swearing jury	0 2 6	0 1 3	0 2 0	0 1 4
Calling plaintiff on nonsuit	0 0 6	0 0 6	0 0 6	0 0 6
Swearing each witness or constable	0 0 6	0 0 6	0 0 6	0 0 4
Proclaiming and calling parties on recognizance, each person	0 1 0	0 1 0		
Jurors, where not specially provided for by statute.				
Jurors, when not paid by the County, every cause, each juror	0 1 3	0 1 3	0 0 7½	0 0 7½
Special jurors—each day's actual attendance to be paid to all summoned before verdict rendered ..	0 5 0	0 5 0		
ALLOWANCE TO WITNESSES.				
To witnesses residing within three miles of the Court House, per diem	0 3 0	0 3 0	0 3 0	0 3 0
To witnesses residing over three miles from the Court House	0 5 0	0 5 0	0 5 0	0 5 0
Physicians and surgeons, when called upon to give evidence in consequence of any professional service rendered by them, or to give professional opinions, per diem	1 0 0	1 0 0	1 0 0	1 0 0

	1st Column.	2nd Column. Schedule A.	3rd Column.	4th Column. Schedule A.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Engineers and surveyors, when called upon to give evidence of any professional service rendered by them, or to give evidence depending upon their skill and judgment, per diem.....	1 0 0	1 0 0	1 0 0	1 0 0
If the witnesses attend in one cause only, they will be entitled to the full allowance. If they attend in more than one cause, they will be entitled to a proportionate part in each cause only.				
The traveling expenses of witnesses over five miles shall be allowed according to the sums actually paid, but in no case shall exceed one shilling per mile one way.....	0 1 0	0 1 0	0 1 0	0 1 0
COMMISSIONERS.				
For taking every affidavit.....	0 1 0	0 0 6	0 1 0	0 0 6
Taking every recognizance of bail.....	0 2 6	0 1 3	0 1 6	0 1 0

TABLE OF COSTS IN FORCE IN THE COURT OF CHANCERY ANNULLED AND A NEW TABLE OF COSTS PROVIDED FOR THE SAID COURT.

15. The table of costs framed by the Judges of the Court of Chancery and contained in the orders of the said Court of the third day of June, in the year of our Lord one thousand eight hundred and fifty-three, in pursuance of the statute in that behalf; also every other table of costs, every order for the allowance of costs, every order for the allowance of fees to sheriffs and coroners now in force in the said Court, are hereby repealed and declared to be void.

16. The table of costs set forth in schedule B, from and after the passing of this Act, shall be the general allowance of costs for plaintiffs and defendants, as well between solicitor and client as between party and party, in suits and proceedings in the Court of Chancery for Upper Canada, and no other or greater costs shall be allowed in the said Court, except fees expressly imposed by statute.

TABLE OF COSTS.

(SCHEDULE B.)

Explanation.

The first column shows the present allowance of costs in The Court of Chancery.

The second column shows the costs proposed by this Act to be allowed in the Court of Chancery.

TO THE SOLICITOR.	1st Column.	2nd Column. Schedule B.
Instructions for suit	£ s. d.	£ s. d.
Instructions to defend	0 10 0	0 7 6
Letters of notice before suit	0 10 0	0 7 6
Bill, inclusive of engrossing and of attendance to file, but not inclusive of copies to serve	0 2 6	0 1 3
For every additional folio above twenty to be allowed, in the discretion of the Master, per folio	1 0 0	0 10 0
For every additional folio above twenty, but not exceeding thirty, per folio	0 1 0	0 0 6
Answer or other pleading, petition or special affidavit, not exceeding fifteen folios, per folio	0 0 6	0 0 6
Engrossing copies to file, copies to serve, each, per folio	0 1 0	0 0 6
Copies of orders or other papers or documents, not office copies, required to be served, per folio	0 0 6	0 0 6
Office copies and engrossment of affidavit read over by the Master, per folio	0 0 6	0 0 6
Affidavits of service, including attendance to swear, and oath	0 0 5	0 0 3
Practice for any process, including attendance	0 2 0	0 2 0
Special attendance on the Master's warrant or appointment, or on examination of witnesses, or on hearing of cause, or demurrer or special motion	0 1 3	0 1 3
When the hearing shall exceed one hour, then for every additional hour which shall be occupied by such hearing, and at which the solicitor shall be present in Court, provided the same be noted in the Registrar's book or be proved by affidavit (such affidavit to be without charge), the same not to exceed ten shillings	0 5 0	0 2 6
For every additional hour beyond one hour, in the Master's office	0 5 0	0 2 6
For every additional hour in the examination of witnesses where no counsel employed	0 5 0	0 2 6
Attending consultation of counsel, per hour	0 5 0	0 2 6
Appointment to settle minutes or to pass decree or order, copy and services	0 3 0	0 2 0
For every hour's attendance before the Registrar, by his appointment, or settling minutes, the same being noted by the Registrar	0 5 0	0 2 6
For every hour's attendance before the Registrar by his appointment, or passing decree or special order, the same being noted by the Registrar	0 5 0	0 2 6
Where minutes settled, or decree or special order approved of or passed between the solicitors after appointment issued by the Registrar	0 5 0	0 2 6
Fee in all writs and orders of Court, to the party obtaining the same	0 5 0	0 2 6
Instructions for brief after answer	0 5 0	0 2 6
Brief after answer (but in no other case)	0 5 0	0 2 6
Brief, per folio	0 0 6	0 10 0
Observations or other original matters, per folio	0 1 0	0 0 6
Advertisement for sale of real or personal estate under the direction of the Court, including all copies, except for printing	0 5 0	0 2 6
Copy for printing, per folio	0 0 6	0 0 6
Fee on conducting sale, including arrangement with auctioneer, correcting proof sheet (if any), and attending sale	1 5 0	0 12 6
For every hour, beyond three, occupied at such sale	0 5 0	0 2 6
Drawing bill of costs and attending taxation	0 5 0	0 2 6
Drawing Judge's appointment and attending for his signature, and to serve	0 5 0	0 3 0
Every necessary attendance	0 1 3	0 1 3
Postage—the amount actually disbursed.		
The sum actually and necessarily disbursed for abstracts and certificates of title.		

	1st Column.	2nd Column. Schedule B.
	£ s. d.	£ s. d.
COUNSEL.		
On argument at chambers	0 10 0	0 5 0
On settling and signing pleadings and petitions respectively where, from their special nature the Master shall think the pleading or petition a proper one to be settled by counsel.....	0 10 0	
On consultations	1 5 0	
On special application to the Court, arguing demurrer or other special argument, or at the hearing of a cause otherwise than where the judgment has been taken pro confesso.....	1 5 0	1 5 0
Fee when cause at issue and set down for the examination of wit- nesses	5 0 0	2 10 0
MASTERS IN ORDINARY AND DEPUTY MASTERS, MASTERS AND MASTERS EXTRAORDINARY.		
Every summons or warrant.....	0 1 3	0 1 0
Administering oath or taking affirmation	0 1 0	0 0 6
Marking every exhibit	0 1 0	0 0 4
Drawing depositions, reports or orders, per folio.....	0 1 0	0 0 6
One fair copy, when necessary, per folio.....	0 0 6	0 0 6
Copy of papers, when given out, per folio.....	0 0 6	0 0 3
Every attendance upon a reference	0 5 0	0 2 6
For each additional hour.....	0 5 0	0 2 6
Every certificate	0 2 6	0 1 3
Filing each paper	0 0 4	0 0 2
Taxing costs, including attendance.....	0 5 0	0 1 3
Making up and forwarding answers and depositions.....	0 1 3	0 1 0
Every special attendance within two miles.....	0 2 6	0 2 0
Every additional mile above two	0 1 0	0 0 6
Reading over affidavit, per folio	0 0 1	0 0 0
Matter added, per folio.....	0 1 0	0 0 6
Upon the setting down of cause for examination of witnesses.....	1 10 0	0 10 0
REGISTRAR OR DEPUTY REGISTRAR.		
Entering parties' names and filing bill, answer or demurrer.....	0 2 6	0 1 0
Entering and filing all other pleadings, interrogatories and depo- sitions, or other evidence.....	0 1 0	0 0 6
Filing and registering affidavits, exhibits or other papers	0 0 4	0 0 2
Subpoena, including filing præcipe.....	0 2 6	0 1 3
Special writ, writ of commission	0 5 0	0 2 6
Office copy of papers required to be given out, per folio.....	0 0 6	0 0 3
Examining and authenticating same when office copy prepared by solicitor, per folio	0 0 1	0 0 0
Attendance on appointment of guardian.....	0 2 6	0 1 3
Amendment of record when re-engrossment not necessary, per folio	0 1 0	0 0 6
Drawing fiat on petition	0 1 0	0 0 6
Attending a Judge for his signature to any document or paper....	0 1 3	0 1 0
Making up and forwarding interrogatories.....	0 1 3	0 1 0
Setting down cause	0 2 6	0 1 3
do other than those taken pro confesso	0 10 0	0 2 6
Certificate of pleadings filed.....	0 2 0	0 1 3
Certificate of state of cause.....	0 2 6	0 1 3
Drawing minutes of decrees or special order, per folio.....	0 1 0	0 1 0
Drawing decree or order, per folio.....	0 1 0	0 0 6
Entering same, per folio	0 0 6	0 0 6
Fee on payment of money into Court.....	0 1 3	0 1 0
do do out of Court	0 1 3	0 1 0
Fee on admission of solicitor	0 5 0	0 5 0
Certificate on each office copy at the time of filing bill.....	0 1 3	0 0 3
Searching files in office.....	0 1 0	0 0 6
Commission appointing Deputy Master or Master Extraordinary....	0 10 0	0 10 0

NOTE.—The above Fees are in addition to all Fees expressly imposed by Statute.

	1st Column.	2nd Column. Schedule B.
	£ s. d.	£ s. d.
SHERIFF OR CORONER.		
Receiving, entering and endorsing every paper.....	0 1 3	0 0 6
Return of all process and writs, except subpoenas.....	0 2 6	0 1 3
Warrant to Bailiff in writ not executed by Sheriff or Deputy.....	0 2 6	0 1 3
Serving each office copy bill, including affidavit of service and oath.....	0 5 0	0 2 6
Serving each warrant, notice, certificate, subpoena or other paper...	0 2 6	0 1 3
Ne Exeat, arrest on, when amount endorsed under £50.....	0 5 0	0 3 9
£50 and under £100.....	0 10 0	0 7 6
£100 and over.....	1 0 0	0 10 0
Attachment not defined, arrest on.....	0 10 0	0 7 6
Arrest upon attachment in the nature of an execution, when the sum endorsed is under £50.....	0 5 0	0 3 9
Over £50 and under £100.....	0 10 0	0 7 6
£100 and over.....	1 0 0	0 10 0
Besides poundage of sums endorsed, when sum endorsed is under £100 in the £.....	0 1 0	0 0 6
Over £100, but less than £1000 in the £.....	0 0 6	0 0 6
£1000 and over—1 per cent. on whatever exceeds £1000, in addition to the poundage allowed up to £1000.....		1 p. cent.
Sequestration—Upon seizure of estate:		
Effects under writ of sequestration.....	0 10 0	0 7 6
Schedule of goods taken in execution, including copy for defend- ant, if not exceeding five folios.....	0 5 0	0 2 6
Each folio above five.....	0 0 5	0 0 5
Removing or retaining property—reasonable and necessary dis- bursements and allowances to be made by the Master or by the order of the Court or Judge.		
Poundage upon sequestration, followed by sale, same as allowed by this Act upon attachment in nature of execution. For ser- vices not specified, the like charges as are allowed at Common Law for analogous services by this Act.		

17. No Judge in either of Her Majesty's Superior Courts of Common Law or Chancery, or of any County Court, nor the Master nor any taxing officer of the said Courts, shall after the passing of this Act increase any counsel fee with brief at trial, or on argument of demurrers, special case, appeal, or otherwise, in any case whatever.

18. This Act shall be deemed a Public Act, and shall take effect and come into force immediately, and shall apply to Upper Canada only.