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4th Session, 3d Parliament, 14 Victoria, 1851.

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## **BILL.**

**An Act to reduce law expenses and to establish a tariff of fees for the Superior Courts of Law in Upper Canada.**

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Received and read a first time, Tuesday, 3rd  
June, 1851.

Second Reading, Monday, 9th June, 1851.

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**Mr. SMITH (Durham.)**

**B I L L.**

An Act to reduce law expenses and establish a tariff of Fees for the Superior Courts of Law in Upper Canada.

**W**HEREAS it is desirable to diminish law costs and Preamb'l.e. establish a tariff, by statute, for law expenses in the Superior Courts in Upper Canada: Be it therefore enacted, &c.,

That from and after the passing of this Act the costs and fees in the several Schedules to this Act shall alone be taxable and recoverable in the several Courts therein mentioned as between party and party, for the charges, services or proceedings therein mentioned. No other fees than those in the Schedule to be recovered as between party and party.

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**SUPERIOR COURTS.**

—————  
**SCHEDULE A.**

*Of Fees for Services, by ATTORNEY AND COUNSEL, in the Queen's Bench and Common Pleas.*

|                                                                                                          | £ | s. | d. |
|----------------------------------------------------------------------------------------------------------|---|----|----|
| Taking instructions, with warrant to prosecute or defend .....                                           | 0 | 6  | 3  |
| Each letter of notice before action.....                                                                 | 0 | 1  | 3  |
| Drawing bail-piece and attending when bail taken.                                                        | 0 | 5  | 0  |
| Drawing declarations and all other pleadings, per folio of 100 words.....                                | 0 | 1  | 0  |
| Copies thereof, per folio of 100 words.....                                                              | 0 | 0  | 6  |
| Affidavits to hold to bail.....                                                                          | 0 | 5  | 0  |
| Affidavits of service, and other common affidavits, including attendance.....                            | 0 | 2  | 6  |
| All special affidavits, per folio of 100 words, including fair copy.....                                 | 0 | 1  | 0  |
| Copy of special affidavit, when required to be delivered, per folio of 100 words.....                    | 0 | 0  | 6  |
| Paper and demurrer books, and other such proceedings, not otherwise charged, per folio of 100 words..... | 0 | 0  | 6  |
| Entries on the roll, and engrossing record, per folio of 100 words.....                                  | 0 | 0  | 6  |
| Notice of trial and assessment, and every other notice, including copy and service, except mileage.....  | 0 | 2  | 6  |

|                                                                                                                                                                | £ | s. | d. |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|----|
| Special attendance before a Judge, on applications intended to be opposed.....                                                                                 | 0 | 2  | 6  |
| Attending to search for bail, or other necessary attendances, each.....                                                                                        | 0 | 1  | 3  |
| Signing interlocutory judgment.....                                                                                                                            | 0 | 2  | 6  |
| Fee on examining and passing records or paper books, including attendauce.....                                                                                 | 0 | 2  | 6  |
| Attending and taking instructions for brief.....                                                                                                               | 0 | 5  | 0  |
| Preparing brief in cases where Judge certifies Counsel fees, per folio of 100 words, including copy.....                                                       | 0 | 1  | 0  |
| In all other cases.....                                                                                                                                        | 0 | 10 | 0  |
| When such copy exceeds 10 folios of 100 words each, then per folio.....                                                                                        | 0 | 0  | 6  |
| Subpœna-ticket and service, exclusive of mileage..                                                                                                             | 0 | 2  | 6  |
| Taking <i>cognovit</i> and entering judgment thereon, where there has been no previous proceeding..                                                            | 2 | 0  | 0  |
| Taking <i>cognovit</i> , and attending execution where there have been previous proceedings.....                                                               | 0 | 5  | 0  |
| All other proceedings as in other cases.                                                                                                                       |   |    |    |
| Bond and Warrant of Attorney, or other bond in a Suit.....                                                                                                     | 0 | 7  | 6  |
| Fee on all writs, orders or rules of Court, to the Attorney obtaining the same.....                                                                            | 0 | 2  | 6  |
| Fee to Counsel on motions of course.....                                                                                                                       | 0 | 5  | 0  |
| Fee to Counsel on special motions (only one counsel to be taxed on any motion for rule <i>nisi</i> ).....                                                      | 1 | 5  | 0  |
| Fee to Counsel for opposing or supporting rule <i>nisi</i> , in matters of Practice.....                                                                       | 1 | 5  | 0  |
| Counsel's fee on arguing demurrer, or other special arguments in term time, only one to be taxed..                                                             | 2 | 10 | 0  |
| Counsel's fee, with brief at trial or assessment, such fees and number of counsel as the Judge at the trial shall certify on the record without argument ..... |   |    |    |
| In other cases.....                                                                                                                                            | 1 | 0  | 0  |
| Drawing bill of costs, and attending taxation, after verdict or assessment.....                                                                                | 0 | 5  | 0  |
| The same before verdict or assessment, or upon application in term or collateral proceedings....                                                               | 0 | 2  | 6  |
| Mileage on the service of notices or other papers when not served by the Attorney or his clerks, per mile.....                                                 | 0 | 0  | 4  |

## SCHEDULE B.

### FOR THE CLERKS OR DEPUTY CLERKS OF THE CROWN AND PLEAS.

|                                                                                                                                           |   |   |   |
|-------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| For preparing, signing and sealing every writ, not special, and when the same does not exceed three folios, including fyling precipe..... | 0 | 1 | 3 |
| For every folio above three.....                                                                                                          | 0 | 0 | 6 |
| Signing and sealing writ, or signing rule or order when drawn up by the Attorney.....                                                     | 0 | 0 | 6 |
| For rule drawn and given by the Clerk.....                                                                                                | 0 | 1 | 3 |
| Fyling each pleading or paper.....                                                                                                        | 0 | 0 | 3 |
| For every certificate under the seal of the Court, per folio of 100 words.....                                                            | 0 | 1 | 0 |

|                                                                                                       | £ | s. | d. |
|-------------------------------------------------------------------------------------------------------|---|----|----|
| Taking recognizance in Court.....                                                                     | 0 | 1  | 0  |
| Every estreat of recognizance in Court.....                                                           | 0 | 2  | 6  |
| Passing record.....                                                                                   | 0 | 2  | 6  |
| Taxing costs and giving allocatur after verdict or assessment .....                                   | 0 | 2  | 6  |
| The same service before verdict or assessment, or on any bill, not including trial or assessment..... | 0 | 1  | 3  |
| Entering judgment.....                                                                                | 0 | 1  | 3  |
| Searching judgments, including examination of roll when required.....                                 | 0 | 1  | 0  |
| Entering satisfaction on record, and fying satisfaction piece, including any necessary search....     | 0 | 1  | 0  |
| All exemplifications of records or extracts therefrom, or copies of papers, per folio of 100 words... | 0 | 0  | 6  |
| Fees on information in revenue cases, where no claim is entered, in all.....                          | 0 | 5  | 0  |

SCHEDULE C.

SHERIFF, CORONER, SHERIFF'S OFFICER,

And other persons serving papers, &c., in Civil Proceedings.

|                                                                                                                                                                                                                      |   |   |   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| For every warrant.....                                                                                                                                                                                               | 0 | 2 | 6 |
| Every arrest.....                                                                                                                                                                                                    | 0 | 5 | 0 |
| Travel to arrest, when arrest made.....                                                                                                                                                                              | 0 | 0 | 4 |
| Conveying defendant to gaol from place of arrest..                                                                                                                                                                   | 0 | 0 | 4 |
| Bail-bond or recognizance for the limits.....                                                                                                                                                                        | 0 | 2 | 6 |
| Assignment of bond.....                                                                                                                                                                                              | 0 | 2 | 6 |
| Service of <i>scire facias</i> , each party served.....                                                                                                                                                              | 0 | 1 | 3 |
| Serving Subpœna, declaration, notices or other papers, exclusive of mileage, charged, on each party or witness, (only one service to be allowed where several papers in the same cause served at the same time)..... | 0 | 1 | 3 |
| Receiving, fying, serving and returning every writ, declaration, rule, notice or other paper served..                                                                                                                | 0 | 1 | 3 |
| Return of allailable writs, writs of execution or attachments .....                                                                                                                                                  | 0 | 1 | 3 |
| Every search, not being by a party in the cause, or his Attorney .....                                                                                                                                               | 0 | 1 | 3 |
| Certificate of the result of each search, when required for any purpose.....                                                                                                                                         | 0 | 1 | 0 |
| Fee on striking special jury.....                                                                                                                                                                                    | 0 | 5 | 0 |
| Serving each special juror.....                                                                                                                                                                                      | 0 | 2 | 6 |
| Summoning special jury, travel per mile.....                                                                                                                                                                         | 0 | 0 | 4 |
| Returning panel of special jurors.....                                                                                                                                                                               | 0 | 5 | 0 |
| Every jury sworn.....                                                                                                                                                                                                | 0 | 1 | 3 |
| Attending view, <i>per diem</i> .....                                                                                                                                                                                | 0 | 6 | 3 |
| Poundage on executions against the goods, upon the sum actually levied and made by the Sheriff, or on the value of the goods seized, if claim settled with or money paid to party or his Attorney, 2½ per cent.      |   |   |   |
| For every schedule of goods taken in execution, including copy to defendant, <i>five folios</i> .....                                                                                                                | 0 | 2 | 6 |
| Each folio over five.....                                                                                                                                                                                            | 0 | 0 | 6 |

|                                                                                                                                                                           | £ | s. | d. |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|----|
| Advertising lands, sums actually disbursed.                                                                                                                               |   |    |    |
| Drawing up advertisement and transmitting the same, in each suit.....                                                                                                     | 0 | 2  | 6  |
| Notice of sale of goods in each suit.....                                                                                                                                 | 0 | 2  | 6  |
| Executing writ of possession or restitution, besides travel .....                                                                                                         | 0 | 10 | 0  |
| Fee on every writ against lands, exclusive of mileage and disbursements for advertising, and in lieu of poundage, where money actually made and paid over by Sheriff..... | 1 | 5  | 0  |
| Preparing and executing every deed of lands sold under <i>fi. fa.</i> .....                                                                                               | 0 | 10 | 0  |
| Bringing up prisoners on attachment, or <i>Habeas Corpus</i> , per mile.....                                                                                              | 0 | 1  | 0  |
| For mileage from Court House to place of service of process, and other papers.....                                                                                        | 0 | 0  | 4  |
| Seizure of estate and effects on attachments, under the Absconding Debtor's Act.....                                                                                      | 0 | 10 | 0  |
| Inventory—same as on executions.                                                                                                                                          |   |    |    |
| Removing or returning property—such disbursements as shall be ordered by the Master, or the Court, or by a Judge, according to the circumstance of each particular case.  |   |    |    |

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### SCHEDULE D.

#### CHIEF CLERK OF ASSIZE OR DEPUTY CLERK OF CROWN.

*As Clerk of Assize and Marshall in Civil Proceedings, for Fee Fund.*

|                                                                                                                                                                                |   |   |   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| In each cause withdrawn or settled before jury sworn .....                                                                                                                     | 0 | 2 | 6 |
| In each cause in which a jury is sworn, for every service rendered in Court, including swearing of witness and minute of witnesses' names, and reading and fying exhibits..... | 0 | 5 | 0 |

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### SCHEDULE E.

#### CRIER.

|                                                                                    |   |   |   |
|------------------------------------------------------------------------------------|---|---|---|
| Calling and swearing jury.....                                                     | 0 | 1 | 3 |
| Calling Plaintiff on non-suit.....                                                 | 0 | 1 | 3 |
| Proclamation and calling parties on recognizance, (for each person) answering..... | 0 | 1 | 0 |
| Witnesses or constable, each.....                                                  | 0 | 1 | 3 |
| Proclamations in revenue cases, upon each information.....                         | 0 | 2 | 6 |

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### SCHEDULE F.

#### JURORS IN CIVIL CASES.

|                          |   |   |   |
|--------------------------|---|---|---|
| Common jurors, each..... | 0 | 1 | 3 |
| Special jurors.....      | 0 | 5 | 0 |

SCHEDULE G.

JUDGE'S CLERK IN CHAMBERS.

|                                | £ | s. | d. |
|--------------------------------|---|----|----|
| For every Judge's summons..... | 0 | 1  | 3  |
| For every order.....           | 0 | 2  | 6  |
| Filing every paper.....        | 0 | 0  | 3  |

COUNTY COURTS.

SCHEDULE H.

FEE FUND.

|                                                                                                          |   |   |   |
|----------------------------------------------------------------------------------------------------------|---|---|---|
| On every declaration fyled as the commencement of the action.....                                        | 0 | 1 | 3 |
| Every writ of <i>capias ad respondendum</i> .....                                                        | 0 | 1 | 3 |
| Every verdict.....                                                                                       | 0 | 2 | 6 |
| Executing each writ of trial or inquiry, and making return thereto.....                                  | 0 | 5 | 0 |
| Every report made by the Judge of the proceedings on executing a writ of trial or inquiry.....           | 0 | 5 | 0 |
| Every certificate of proceedings made by the Judge to be transmitted to the Court of Queen's Bench.....  | 0 | 2 | 6 |
| Every rule requiring a motion in open Court.....                                                         | 0 | 1 | 3 |
| Every rule or order of reference.....                                                                    | 0 | 1 | 3 |
| Every other rule or Judge's order.....                                                                   | 0 | 1 | 0 |
| Every recognizance of bail taken by Judge.....                                                           | 0 | 1 | 6 |
| Every affidavit administered by Judge.....                                                               | 0 | 1 | 0 |
| Every computation of principal and interest on a bill, note, bond, or covenant for payment of money..... | 0 | 1 | 3 |
| Every writ of <i>subpœna</i> .....                                                                       | 0 | 0 | 6 |
| Every judgment entered.....                                                                              | 0 | 1 | 3 |

SCHEDULE I.

SHERIFF OR CORONER.

|                                                                                                                                                                                                                                                    |   |   |   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| Every Jury sworn.....                                                                                                                                                                                                                              | 0 | 1 | 3 |
| Serving every writ of <i>mœsne</i> process, including return.....                                                                                                                                                                                  | 0 | 2 | 6 |
| Every declaration, rule or other paper served, where no mileage charged.....                                                                                                                                                                       | 0 | 1 | 0 |
| Every execution received.....                                                                                                                                                                                                                      | 0 | 1 | 3 |
| Every Return of Execution.....                                                                                                                                                                                                                     | 0 | 1 | 3 |
| Mileage—four pence per mile, in all cases where service effected.....                                                                                                                                                                              |   |   |   |
| Every bail-bond taken.....                                                                                                                                                                                                                         | 0 | 2 | 6 |
| Every assignment of bail-bond.....                                                                                                                                                                                                                 | 0 | 1 | 0 |
| Poundage upon all moneys actually made and paid over by the Sheriff on <i>fi. fa.</i> against goods, or execution against persons, or on the value of the goods seized if claim settled with, or money paid to party or his attorney, 2½ per cent. |   |   |   |

|                                                                                                                                                                                           | £ | s. | d. |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|----|
| Fee on every writ of Execution against the lands of the defendant, exclusive of expense of advertising, and in lieu of poundage, when money actually made and paid over by the Officer... | 1 | 5  | 0  |
| For drawing and executing every deed of lands sold under <i>fi. fa.</i> ....                                                                                                              | 0 | 10 | 0  |

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## SCHEDULE J.

### COMMISSIONER.

|                                    |   |   |   |
|------------------------------------|---|---|---|
| Taking recognizances of bail.....  | 0 | 1 | 6 |
| Every affidavit administered ..... | 0 | 1 | 0 |

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## SCHEDULE K.

### ATTORNEY.

|                                                                                                                            |   |    |   |
|----------------------------------------------------------------------------------------------------------------------------|---|----|---|
| Instructions to sue or defend.....                                                                                         | 0 | 5  | 0 |
| Fee on every writ of <i>cupias</i> .....                                                                                   | 0 | 1  | 3 |
| Drawing declaration.....                                                                                                   | 0 | 5  | 0 |
| Copy of every paper, half the amount allowed for the original.                                                             |   |    |   |
| General issue, interlocutory judgment, <i>cognovit</i> or entering final judgment, each .....                              | 0 | 2  | 6 |
| Special pleas, replications, rejoinders and demurrers, each 2s. 6d. (but in no case to exceed 10s. whatever number filed.) |   |    |   |
| Every notice, including copy and service.....                                                                              | 0 | 2  | 6 |
| Drawing bill of costs after verdict .....                                                                                  | 0 | 2  | 6 |
| Drawing bill of costs when no verdict .....                                                                                | 0 | 1  | 3 |
| Necessary entries of proceedings on the judgment roll, or record for trial .....                                           | 0 | 0  | 6 |
| Demurrer book and other necessary entries, per folio of 100 words .....                                                    | 0 | 0  | 6 |
| For every necessary attendance.....                                                                                        | 0 | 1  | 0 |
| Brief and fee on assessment.....                                                                                           | 0 | 10 | 0 |
| Brief and fee on a trial.....                                                                                              | 1 | 5  | 0 |
| Fee on argument for new trial or on demurrer....                                                                           | 1 | 0  | 0 |
| Every special motion in Term time.....                                                                                     | 0 | 5  | 0 |
| Every common motion in term or motion before the Judge in Chambers.....                                                    | 0 | 2  | 6 |
| Drawing bail-piece .....                                                                                                   | 0 | 4  | 0 |
| Drawing recognizance of bail.....                                                                                          | 0 | 2  | 0 |
| Drawing every affidavit, including attendance....                                                                          | 0 | 2  | 6 |
| Fee on every execution.....                                                                                                | 0 | 1  | 3 |
| Drawing bond on Appeal .....                                                                                               | 0 | 5  | 0 |

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### CRIER.

|                                               |   |   |   |
|-----------------------------------------------|---|---|---|
| Calling the cause and swearing the jury ..... | 0 | 1 | 3 |
| Each witness sworn .....                      | 0 | 0 | 3 |



## CLERK.

|                                                                                                                               | f | s  | d. |
|-------------------------------------------------------------------------------------------------------------------------------|---|----|----|
| Every writ of <i>capias ad respondendum</i> , and fying <i>præcipe</i> .....                                                  | 0 | 1  | 3  |
| Fying every separate paper .....                                                                                              | 0 | 0  | 3  |
| Taking verdict, including swearing jury and witnesses, and all other services at trial or assessment .....                    | 0 | 2  | 6  |
| Taking any recognizance of bail.....                                                                                          | 0 | 1  | 6  |
| Every rule drawn up and signed by the Clerk.....                                                                              | 0 | 1  | 3  |
| Every rule of reference .....                                                                                                 | 0 | 1  | 3  |
| Every subpœna .....                                                                                                           | 0 | 1  | 1  |
| Every search .....                                                                                                            | 0 | 0  | 6  |
| Taxing costs and entering every judgment.....                                                                                 | 0 | 1  | 6  |
| Every writ of execution, including fying <i>præcipe</i> ..                                                                    | 0 | 1  | 3  |
| For each quarterly account rendered by him to the Treasurer, to be paid by the Treasurer out of the Fee Fund.....             | 1 | 0  | 0  |
| For every other account of fees received, made and rendered on a legal requisition, to be also paid out of the Fee Fund ..... | 0 | 10 | 0  |
| Examining and fying record .....                                                                                              | 0 | 1  | 0  |
| Taking costs when no judgment entered .....                                                                                   | 0 | 1  | 1  |