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3d Session, 3d Parliament, 13 Victoria, 1850.

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## **BILL.**

An Act to amend the Law, simplify the Practice, and reduce the Expense of Legal Proceedings in Upper Canada.

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May, 1850.

Second Reading, Wednesday, 5th June, 1850.

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**MR. SMITH (of Durham.)**

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**BILL.**

An Act to amend the law, simplify the practice, and reduce the expense of legal proceedings in Upper Canada.

**WHEREAS** the mode of proceeding in many cases in the Superior Courts of Law in Upper Canada is attended with unnecessary forms and expense :—Be it therefore enacted, &c. Preamble.

- 5 And it is hereby enacted by the authority of the same, That hereafter in personal actions no summons or writ of mesne process shall be required except in actions where it is intended to hold the defendants or some or one of the defendants to special bail, and in actions of Replevin, Summons and writ of mesne process to be required in certain cases only.
- 10 but that all civil suits at Law, except as aforesaid, in the several Courts of Record in Upper Canada, shall be commenced by filing a declaration in the form heretofore used in the particular case, in the proper office of the Clerk or County or Deputy Clerk of the Court in which Mode of commencing actions in other cases.
- 15 the action shall be brought, omitting any allusion to the service of a writ or summons on the Defendant, and also omitting any claim or allusion to any privilege of any description by or against any party in such declaration, a copy of which declaration shall be served personally
- 20 upon each defendant, or in the case of a Corporation upon the officer who might formerly have been served with process, together with a notice in the form or to the purport of that to this act annexed, marked Schedule A; Provided that the practice with respect to the service Provido, as to service of particulars;
- 25 of particulars of demand with the declaration, shall be and remain the same as before the passing of this Act until otherwise ordered by the Court, and that in any notice of action required by any statute or otherwise, to be given one month or any other time previous to the And as to notices of action.
- 30 commencement of any action against any Justice of the Peace, or any other person or party, when it is intended to commence the action by filing a declaration as provided by this Act, the Plaintiff in such notice shall and may state his intention of filing a declaration instead of issuing
- 35 process, and that in other respects the notice shall remain as before the passing of this Act, except in so far as any variation therein may be necessary to make such notice conformable to the change hereby instituted in the commencement of the action.

- 40 II. And be it enacted, That after such service and upon proof thereof duly made by affidavit filed, every On proof of service of declaration.

Defendant to be deemed in Court, and Plaintiff may proceed accordingly without formal appearance by Defendant.

As to filing pleas.

Where there are several defendants, plaintiff may amend declaration if some be not served, by striking out their names, &c.

Proviso: Defendant not served may plead voluntarily, until so struck out.

Act of U. C. 59 Geo. 3, c. 25, to apply to actions under this Act.

Certain actions to be commenced as heretofore.

defendant in such action so served, shall be deemed and taken to be in Court for all the purposes of proceeding with such action, without the necessity of any formal or other appearance being entered for any such defendant, and in default of a plea within the time specified in the notice for pleading, the plaintiff may sign judgment, and proceed therein to execution according to the course of proceeding and practice hitherto pursued in such Courts respectively in similar cases, and in the event of a plea or pleas being put in, the same shall be filed in the office mentioned in the notice only, and a copy thereof shall be served and all subsequent proceedings in the cause shall be conducted agreeably to the rules of pleading and practice prevailing before the passing of this Act in the particular Court wherein the action may be brought.

III. And be it enacted, That in actions against two or more defendants severally liable, the plaintiff, in any case, in the event of any defendant named in the declaration, not being served, where the declaration is intended to be the commencement of the action under the provisions of this Act, at the expiration of eight days from the service thereof upon any defendant or defendants, may, without any application to the Court for that purpose, amend either by entering a *nolle prosequi* as to the defendant or defendants not served or in cases of tort, by striking out the name of any defendant or defendants not served, and proceed in the same manner as if the names so struck out had never been inserted therein. Provided always, that any defendant named in the declaration, and not served therewith, may plead to any such action at any time before his name shall be so struck out, or before the entry of a *nolle prosequi* as aforesaid.

IV. And be it enacted, That the provisions of the Act of the Parliament of Upper Canada passed in the fifty-ninth year of the Reign of King George the Third, and intituled, "*An Act to prevent the abatement of any action against a joint obligor, contractor or partner, on account of the other joint parties not being made defendants,*" shall be extended and held to apply to actions to be commenced under this Act, and actions may be commenced and prosecuted under the provisions thereof and of this Act, by filing a declaration and proceeding to judgement thereon against one or more of several persons jointly liable upon a contract, when one or more of the joint obligors, contractors or partners reside out of the jurisdiction of the Courts of Upper Canada, or cannot be served with such declaration.

V. And be it enacted, That the mode of commencing and proceeding in actions of ejectment, and by *scire facias*, shall be and remain as before the passing of this Act.

VI. And be it enacted, That from and after the passing of this Act, it shall not be necessary for the plaintiff in any action or proceeding against an absconding or concealed debtor to sue out or serve any writ of summons, *5 capias ad respondendum* or other writ of mesne process against, nor to enter any appearance for such absconding or concealed debtor, but at the expiration of the time limited in that behalf after the issuing of the attachment, the plaintiff shall be at liberty to proceed with his action, *10* by filing his declaration in the form prescribed by this Act and describing the defendant as an absconding or concealed debtor, which declaration shall be served and all subsequent proceedings carried on in the manner prescribed by the Statutes regulating the proceedings against *15* absconding or concealed debtors.

Mode of proceeding in cases against absconding or concealed debtors.

VII. And be it enacted, That the action of dower shall be commenced by filing a declaration, or plaint in the form heretofore used, in the office of the proper Court in the Counties or United Counties wherein the premises *20* are situate for which dower is sought to be recovered, a copy whereof and of the notice to this Act annexed, marked Schedule D., shall and may be served upon the defendant personally or upon the tenant in possession of the premises, his wife or servant, or in the case of a Corporation, *25* upon such officer thereof as might formerly have been legally served with process, and in default of a plea after such service within the time specified therefor in such notice, upon proof of such service duly made by affidavit filed, it shall and may be lawful for the plaintiff or Dem- *30* mandant to proceed to judgment and have execution as in similar cases before the passing of this Act, and in case of a plea or pleas being put in the same shall be filed in the office mentioned in, the notice only, and a copy thereof shall be served, and all subsequent proceedings therein had agreeably to the practice of the Court *35* wherein the action may be brought.

Action of Dower, how to be commenced.

VIII. And be it enacted, That every tenant to whom any declaration or plaint in dower shall be delivered, shall forthwith give notice thereof to his landlord, or to *40* the servant, attorney, agent, bailiff, or receiver of his landlord, under the penalty of forfeiting three years improved or rack rent of the premises so demised, holden or in the possession of such tenant, to the person of whom he holds, to be recovered by action of debt, to be *45* brought in any of Her Majesty's Courts of Record in this Province.

Tenant to give notice to his landlord of any action for dower.

Penalty for neglecting so to do.

IX. And be it enacted, That in all actions hereafter to be brought for the recovery of dower, wherever the right of the demandant to dower shall be contested at *50* the trial, or denied by any defendant or tenant in the pleadings in the cause, costs shall be recovered by the

Costs to be recoverable in actions for Dower.

successful party, and the judgment shall embrace an award of costs as in other cases, and execution may thereupon issue for the costs, in addition to seisin, or otherwise, as the case may be.

Commencement of action as herein provided, to stop the operation of any statute of limitations.

X. And be it enacted, That the commencement of any action by filing a declaration under the provisions of the first section of this Act, shall be deemed and held to be available to prevent the operation of any statute, whereby the time for commencement of any such action may be limited, as against all the parties named as Defendants in such Declaration at the time of filing thereof, and as well against the parties served as against any Defendant named therein, but who may not be subsequently served therewith. 5  
10

Demand of plea, &c., not to be requisite or taxed.

.XI And be it enacted, That no demand of plea, nor rule to plead shall be necessary (or allowed in taxing the costs) in any action commenced by fyling a declaration as provided by this Act. 15

Plaintiff compelled to compute, tax costs, and enter judgment in certain cases, instead of assessing by Jury.

XII. And be it enacted, That from and after the passing of this Act, it shall be compulsory upon the plaintiff to compute the amount of his claim, before the Master or Deputy, as the case may be, instead of assessing damages before a jury, and to tax costs, enter judgment and proceed thereon in all cases where before the passing of this Act, the principal and interest of the plaintiff's claim might have been computed by the officer, unless the Court or a Judge of the Court in which the action is pending shall otherwise order:—And that hereafter, in actions on bills of exchange and promissory notes, upon no plea being fyled within the time limited in that behalf, it shall be lawful for the plaintiff without signing interlocutory judgment, and without any notice, summons, rule or order for that purpose, to compute principal and interest, tax costs, and sign final judgment in the first instance, before the proper officer of the Court, and sue out execution; Provided always, that an affidavit of due service of the declaration, and notice to plead, and that the bill or note was duly declared on or set out in the declaration, shall be produced and fyled with the officer at the time of such computation. 20  
25  
30  
35  
40

Exception,

As to actions on notes or bills where there is no plea.

Proviso: affidavit of service of declaration, &c. required.

Any party to, or interested in an action, may be examined as witness, and compelled to attend for that purpose.

XIII. And be it enacted, That any party to any action, or for whose immediate benefit any action is prosecuted or defended, though not named as party to the action, may be examined as a witness at the instance of the adverse party or of any one or more of several adverse parties, and for that purpose may be compelled, in the same manner, and subject to the same rules of examination as any other witness, to testify either at the trial or upon interrogatories:—Provided always, that any party examined by an adverse party, as in this section provided, 45  
50

Proviso: but may then

may be examined also on his own behalf, in respect to any matter pertinent to the issue, provided that if such party testify to any new matter not responsive to the enquiries put to him by the adverse party such adverse party may offer himself, and shall be allowed to give evidence as a witness in his own behalf in respect to such new matter;—And provided further, that the examination or evidence of any party to be taken under the provisions of this section may be rebutted by adverse testimony.

be also examined on his own behalf.

Proviso: if he testify to new matter.

Proviso: examination may be rebutted.

XIV. And be it enacted, That any party liable to be examined under the next preceding section of this Act upon interrogatories, shall be entitled to four days previous notice of the time and place of such intended examination; and upon his neglect or refusal to attend and testify accordingly, it shall be the duty of the Court in which the action is pending, or of any Judge thereof, if in vacation, or at the trial, if application be then made, of the Judge before whom the trial may be intended to be had, upon proof of the facts by affidavit or otherwise, to the satisfaction of the Court or Judge, to make such order for the attainment of justice in the premises, as shall seem meet, either by staying proceedings or rejecting or striking out the particular pleading with reference to which such refusal or neglect to give testimony may occur.

Notice to be given to party to be examined.

Proceedings in case of his refusal to attend.

XV. And be it enacted, That any person or party who shall refuse to attend, and testify at the trial, after being duly subpoenaed for that purpose, shall and may be punished by the Court, as for a contempt in other cases.

Refusal to attend punishable as a contempt.

XVI. And be it enacted, That any person or party examined under the provisions of this Act, who shall wilfully swear, or affirm falsely in giving his testimony, shall be liable to all the pains and penalties incident to the crime of wilful and corrupt perjury, and shall and may be indicted, tried, convicted and punished therefor before any Court of competent jurisdiction.

False swearing by such party to be perjury.

XVII. And be it enacted, That after verdict the Attorney of the successful party, or entitled to the *postea* in the cause, shall prepare the same, which together with the judgment, shall be added or annexed to the Record, and that the Record, *postea* and judgment thus made up, shall form and constitute the Judgment Roll, and shall answer and be treated as such for all purposes, and no other Judgment Roll in any such case shall be required.

Who shall prepare the *postea*, and what shall form the Judgment-roll.

XVIII. And be it enacted, That from and after the passing of this Act, all writs of execution against goods and chattels shall be tested on the day of the issuing thereof, and be and be made returnable in thirty days from the delivery thereof to the Sheriff to be executed, and that all writs of execution against lands to be issued after the passing of

On what day writs of execution against goods or lands shall be tested.

When return-  
able. - this Act, shall be tested on the day of the issuing thereof,  
and shall be and be made returnable in six months from  
the delivery thereof to the Sheriff to be executed, instead  
of twelve months from the teste thereof as heretofore:—  
Provided that if either of the said periods of time for the 5  
return of any execution, shall in any case happen to fall  
on Sunday, every such writ shall be and be deemed and  
taken to be returnable on the following day.

Debtors of the  
Judgment  
Debtor may  
pay to the  
Sheriff or  
Bailiff a suf-  
ficient amount  
to satisfy the  
judgment.

XIX. And be it enacted, That after the issuing and be-  
fore the return of execution against goods and chattels, or 10  
against lands and tenements in Upper Canada, any person  
indebted to the Judgment Debtor may pay to the Sheriff  
having the writ, or to any Bailiff to whom a writ of exe-  
cution may be directed and in whose hands the same  
may be, the amount of such debt or so much thereof as 15  
shall be necessary to satisfy the execution, and the She-  
riff's or Bailiff's receipt shall be a sufficient discharge or  
evidence of payment thereof, and the Sheriff or Bailiff  
shall account and be liable for the amount thus paid in  
the same manner as if he had collected the same in the 20  
ordinary course, by seizure and sale of the debtor's  
property.

Notice to be  
served on debi-  
tors of the judg-  
ment debtor.

XX. And be it enacted, That after judgment entered  
in any action for any sum or amount in money, it shall be 25  
lawful for the party in whose favour the same shall be  
entered to serve a notice in the form or to the purport of  
that to this Act annexed, marked Schedule B, upon any  
person or party indebted to the judgment debtor; and if  
any person or party, so being indebted, as aforesaid, after  
being duly served with such notice, before such judgment 30  
shall be satisfied, shall pay any debt or demand to any  
such judgment debtor, his, her, or their agent, attorney,  
factor or assigns, the person or party, so paying such  
debt, shall be deemed to have paid the same fraudulently;  
and every such party, his executors or administrators, is 35  
and are hereby made liable to answer the same, or the  
amount thereof to the judgment creditor.

Money, notes,  
and securities  
may be seized  
under *fi : fa :*  
&c.

XXI. And be it enacted, That by virtue of any writ of  
*feri facias* to be sued out of any Court of Record in 40  
in Upper Canada, or any precept in pursuance thereof,  
the Sheriff or other officer having the execution thereof,  
may and shall seize and take any money or Bank notes,  
and any cheques, bills of Exchange, promissory notes,  
bonds, specialties, or other securities for money, belong-  
ing to the person against whose effects such writ of *feri* 45  
*facias* shall be sued out, and may and shall pay or deliver  
to the party suing out such execution any money or Bank  
notes which shall be so seized or a sufficient part thereof,  
and may and shall hold any such cheques, bills of Ex-  
change, promissory notes, bonds, specialties, or other 50  
securities for money, as a security or securities for the



amount by such writ of *feri facias* directed to be levied, or so much thereof as shall not have been otherwise levied and raised.

XXII. And be it enacted, That it shall and may  
 5 be lawful for the judgment creditor, upon a return of *nulla bona*, to sue for and recover of and from any party indebted to the judgment debtor, the amount of the debt so owing by such party to the said judgment debtor, or so much thereof as may be necessary to satisfy  
 10 such judgment and execution; and any payment made by any such party to such judgment creditor shall be considered legal and valid, and shall operate as a payment and discharge of the debt, (or so much thereof as the case may be,) due to the judgment debtor; and that in any  
 15 such action the Plaintiff may declare in the form or to the purport of the form of the schedule to this Act annexed, marked C, adapting the same to the nature of the cause of action.

Judgment creditor may recover from the debtors of the judgment debtor.

XXIII. And whereas it is expedient to extend the pro-  
 20 visions of the Act of the Parliament of Upper Canada, passed in the fifth year of the Reign of His late Majesty King William the Fourth, and intituled "*An Act to prevent the unnecessary multiplication of Law-suits and increase of Costs in Actions on Notes, Bonds, Bills of Exchange*  
 25 "*and other instruments*:"—Be it therefore enacted, That it shall and may be lawful to include the several parties to any bill or note whatever may be the amount for which the same is payable, in one action, and all the provisions of the said Act shall extend and apply to any  
 30 such action in the same manner and to the same extent as if the second and twelfth sections thereof had contained no proviso restricting the operation thereof to notes and bills made for a sum not exceeding one hundred pounds, and that from and after the passing thereof, the said  
 35 second and twelfth sections so far as they limit the operation of the said Act to notes and bills made for a sum not exceeding one hundred pounds, shall be and the same are hereby repealed, and furthermore that all the provisions of the said Act, in force at the time of the passing hereof,  
 40 shall extend and be held to apply to any action to be commenced by filing a declaration under the provisions contained in the first section of this Act on any bill of exchange, promissory note, or otherwise, in the same manner and to the same extent as such provisions applied  
 45 to such actions when commenced by process before the passing hereof.

Recital, Act of U. C. 5 W. 4, c. 1.

The said Act extended to actions on Bills or Notes, whatever be the amount demanded.

XXIV. And be it enacted, That the endorser of any note, or the drawer or endorser of any bill of exchange shall be entitled to recover and may recover from the maker  
 50 of such note or the acceptor of such bill in an action upon the common count for money paid, any costs, charges

Endorser may on the common count for money paid, recover expenses actually incurred by

him, by the non-payment of the note or bill.

Proviso: as to accommodation bills or notes.

and expenses which such drawer or endorser may have actually paid, and to which he may have been subjected by reason of the non-payment by the said maker or acceptor of the said note or bill respectively :—Provided always, that nothing herein contained shall render any accommodation maker of a note or accommodation acceptor of a bill liable to pay any such costs, charges or expenses to the party for whose accommodation he may have made or accepted such note or bill respectively. 5

Clerk and Deputy Clerks of the Crown to be *ex-officio* Clerks of Assize and perform the duties of that office and of Marshals of Assize and *Nisi Prius*, &c.

Their duties as such in transmitting papers to Toronto, &c.

Postage allowed.

Duty of Officers of particular Courts.

XXV. And be it enacted, That the Clerk of the Crown 10 in the Common Pleas in the County of York and Deputy Clerks of the Crown in the several Counties or Unions of Counties in Upper Canada, shall *ex officio* be and act as Clerks of Assize, and discharge the duties thereof and of Marshals at the Courts of Assize and *Nisi Prius* and 15 General Gaol Delivery, to be holden in their respective Counties or Unions of Counties, and shall have all the powers, and perform all the functions incident to the same, as such Clerks of Assize and Marshals, and it shall be the duty of the said Clerks respectively, immediately after 20 each sitting of such Courts, to forward to the officer, to whose custody the same properly appertains, at the head office at Toronto or elsewhere, all and every Recognizance, Indictment, Record, Exhibit, or other paper fyled by him or in his custody as such officer, together with the 25 usual and proper returns, as such Clerk of Assize and Marshal, by Post, charging the postage thereon to Her Majesty's Government in this Province, which postage shall be allowed in his account as such officer in addition to his salary :—And it shall be the duty of such officer 30 of the particular Court in which the cause is pending to have and produce in Court every Record or other paper in his custody, when required, for the purpose of motions for new trial or otherwise.

Recital.

Common Law Courts empowered to sit in Banc out of Term.

Sittings how to be appointed.

XXVI. And whereas it would greatly facilitate the 35 despatch of business in the Courts of Queen's Bench and Common Pleas at Toronto, if the said Courts were enabled to sit in *Banc* out of term, for the purpose of hearing motions and arguments, pronouncing judgments, making 40 rules and orders and disposing of such matters as may be from time to time pending in the said Courts respectively : Be it therefore enacted, that from and after the passing of this Act, it shall and may be lawful for the said Courts respectively to sit in *Banc*, out of Term, for the transaction and despatch of the general business of the said 45 Courts respectively; and that the Judges of the said Courts shall from time to time, fix and appoint a day or days for such sittings in *Banc*, as occasion may require, and that all the proceedings of the said Courts under the authority of this Act, shall have the same effect, to all 50 intents and purposes as if the same had been had or taken in Term: Provided always, that nothing herein

contained shall authorize the said Courts to hear or entertain, out of Term, any motion or application for a rule nisi, which by the present practice of the said Courts is required to be made within the first four days of Term.

Proviso: certain motions not to be heard at such sittings.

5 XXVII. And whereas it is desirable that Law Costs, Fees, and Disbursements should be reduced and fixed by Legislative provision, so far as practicable; Be it therefore enacted, that the charges set down in the several schedules of costs to this Act annexed, and no others, shall be lawful, allowed, taxed, or taken upon legal proceedings, in the respective Courts therein mentioned, in Upper Canada, against and from the unsuccessful party; any law, usage, practice, or rule of Court to the contrary notwithstanding.

Recital.

Charges in the Schedule to be the only charges taxable against the unsuccessful party.

15 XXVIII. And be it enacted, That all enactments, regulations, orders or rules of Court, repugnant to or inconsistent with any of the provisions of this Act, shall be deemed and taken to be, and the same are hereby, so far as they, or any them are so repugnant to or inconsistent with the provisions hereof, repealed and annulled: Provided that such repeal shall not have the effect of reviving any enactment formerly thereby repealed, or in part repealed.

Enactments inconsistent with this Act repealed.

Proviso.

SCHEDULE

*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	5	0
Letter of notice before action.....	0	2	6
Drawing bail-piece and attending when bail taken ..	0	5	0
Drawing declarations, and all other pleadings, per folio of 100 words .....	0	0	6
Copies thereof, per folio of 100 words .....	0	0	6
Declaration, not exceeding five folios in length ....	0	5	0
Copy thereof .....	0	2	6
Other pleadings, not exceeding five folios.....	0	2	6
Affidavits to hold to bail.....	0	2	6
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

	£	s	d
Entries on the roll, and engrossing record, per folio of 100 words .....	0	0	6
Notice of trial and assessment, including copy and service, except mileage. ....	0	2	6
Attendance at the Judge's Chambers.....	0	1	3
Attendance at the Crown Office, and other common attendances in the course of a cause.....	0	1	3
Special attendance before a Judge, on applications intended to be opposed.....	0	2	6
Attending to search for bail, or other necessary searches, each.....	0	1	3
Signing interlocutory judgment.....	0	2	6
Fee on examining and passing records or paper books, including attendance .....	0	2	6
Attending and taking instructions for brief.....	0	5	0
Preparing brief in cases appearing to the Master to be special, 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	1	6
Taking <i>cognovit</i> , and entering judgment thereon, where there has been no previous proceeding, and the true debt does not exceed £50.....	1	5	0
For the same services when the true debt does exceed £50.....	2	10	0
Taking <i>cognovit</i> , and attending execution where there have been previous proceedings.....	0	5	0
All other proceedings in such causes, as in other cases.			
Bond and warrant of Attorney .....	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> , on argument in causes not special,.....	1	5	0
Counsel's fee on arguing demurrer, or other special arguments in term time.....	2	10	0
Counsel's fee, with brief at trial or assessment, in actions of assumpsit, debt or covenant, where the sum to be recovered exceeds £100, and in all actions for torts .....	2	10	0
In other cases .....	1	5	0
Drawing bill of costs, and attending taxation, after verdict or assessment.....	0	5	0
The same before verdict or assessment, or upon applications in term or collateral proceedings.....	0	2	6
Mileage on the service of notices or other papers served by the Attorney, per mile .....	0	0	4

£   s.   d.

**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 filing precipe.....	0	1	3
For every folio above three .....	0	0	6
Fee on every declaration filed as the commencement of the action .....	0	2	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
Filing each pleading or paper.....	0	0	3
For every certificate under the seal of the Court, per folio of 100 words .....	0	1	0
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 filing 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

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**SHERIFF, CORONER, SHERIFF'S OFFICER,**

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

For every warrant to arrest under any process, or to levy or attach, or to execute any final process, to a bailiff not being deputy sheriff .....	0	1	3
Arrest to the amount of £50.....	0	2	6
Over £50 .....	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 bond to the limits.....	0	2	9
Assignment of bond .....	0	1	3
Service of <i>scire facias</i> , each party served .....	0	1	3
Serving subpoena, declaration, notices or other papers, where no 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, filing, and entering all writs, declarations, rules, notices or other papers to be served, each entry made.....	0	0	6

	£	s.	d.
Return of all bailable writs, writs of execution or attachment .....	0	1	3
Every search, not being by a party in the cause, or his Attorney .....	0	0	6
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	1	3
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 or on attachments in the nature of executions, or on executions against the body, upon the sum actually levied and made by the Sheriff, 2½ per cent.			
No poundage to be allowed except upon the amount actually made and paid over by Sheriff.			
For every schedule of goods taken in execution, including copy to defendant, five folios.....	0	2	6
Each folio over five.....	0	0	6
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	5	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	0	0
Preparing and executing deed of land sold under <i>fi. fa.</i> , to each purchaser.....	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.			

#### IN CRIMINAL PROCEEDINGS:

Arrest .....	0	2	6
Travelling in going to make the arrest, per mile....	0	0	4
Serving subpoena on each person, where no mileage is charged .....	0	1	3

	£	s.	d.
Bringing up prisoner on attachment or <i>habeas corpus</i> , and making return.....	0	5	0
Summoning jurors for each Court of Assize, including the grand jury.....	2	10	0
Levying fines or estreats on recognizances estreated, on the sum levied, besides mileage, 2½ per cent.			
Attending the Assizes, per day, and the Court of Queen's Bench in Term, per day.....	0	5	0
For carrying into execution the sentence of the Court, whether capital or otherwise, all such sums as have been unavoidably disbursed, to be taxed by the Court or Judge having passed the sentence.			

### CLERK 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 ser- vice rendered in Court, including swearing of witnesses and minute of witnesses, names, and reading and filing exhibits.....	0	5	0

### CRIER.

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

### CONSTABLES' FEES.

Arrest upon a <i>capias</i> or warrant.....	0	2	6
Service of subpoena or other process, and where no mileage is charged.....	0	1	3
Traveling, per mile, to make the service.....	0	0	4

### JURORS IN CIVIL CASES:

Common jurors, each.....	0	1	3
Special jurors.....	0	2	6

### F E E S

*Allowed to be taken for business done in the Court of Queen's Bench, or under Commissions of Oyer and Terminer, and General Gaol Delivery, in criminal prosecutions; or in the Common Pleas.*

	£	s.	d.
Indictment in criminal matters.....	0	10	0
All proceedings subsequent thereto, in conducting to judgment.....	2	0	0
Information in matters of revenue.....	1	5	0

	£	s.	d.
All proceedings subsequent thereto, where no claim is made .....	2	0	0
In cases of claim, all proceedings subsequent to information, to be allowed as in civil cases.			
Information in criminal matters.....	1	10	0
All subsequent proceedings to be allowed as in civil cases, if the same shall exceed £4 10s., but the allowance for conducting to judgment, not to be less than.....	3	15	0

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FEE FUND; COUNTY COURTS.

On every declaration filed 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 subpœna.....	0	0	6
Every judgment entered .....	0	1	3

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SHERIFF.

Every jury sworn.....	0	2	6
Every writ of mesne process executed, 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, sixpence in the pound.			
Fee on every writ of execution against the body or land of the defendant, exclusive of expense of advertising, and in lieu of poundage.....	1	0	0
For deed of lands sold under <i>fi. fa.</i> , to each purchaser.	0	10	0



## COMMISSIONER.

	£	s	d
Taking recognizance of bail.....	0	1	6
Every affidavit administered .....	0	1	0

## ATTORNEY.

Instructions to sue or defend.....	0	5	0
Fee on every writ of <i>capias</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, &c., (and in no case to exceed 10s., whatever number filed,) each.....	0	2	6
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.....	0	10	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

## CRIER.

Swearing the jury .....	0	1	0
Calling the cause .....	0	0	6
Each witness sworn .....	0	0	3

## CLERK.

Every writ of <i>capias ad respondendum</i> , and filing <i>præcipe</i> .....	0	0	6
Filing every separate paper .....	0	0	2
Taking verdict, including swearing jury and witnesses, and other services at trial or assessment .....	0	1	6

	£	s.	d.
Taking any recognizance of bail .....	0	1	6
Every rule drawn up and signed by the clerk.....	0	0	6
Every rule of reference .....	0	1	3
Every subpoena.....	0	0	6
Every search.....	0	0	4
Entering every judgment.....	0	1	0
Every writ of execution, including filing <i>præcipe</i> ....	0	1	0
For each quarterly account rendered by him to the Treasurer, to be paid by the Treasurer out of the fee fund.....	0	10	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	5	0
Examining and filing record.....	0	1	3
Taxing costs when no judgment entered.....	0	0	6

**JUDGE'S CLERK IN CHAMBERS.**

For every Judge's summons .....	0	1	3
For every order.....	0	1	3
Filing every paper .....	0	0	3
On every record returned to him .....	0	1	6

**SCHEDULE A.**

In the Queen's Bench, Common Pleas, County Court; &c.  
(as the case may be.)

A. B., Plaintiff,  
and  
C. D., Defendant.

Take Notice, that a Declaration, of which the annexed is a true copy, was this day filed in the Office of E. F., &c., Clerk or Deputy Clerk, &c., at \_\_\_\_\_ in the County of \_\_\_\_\_ &c., (as the case may be,) and that unless you plead thereto, either in person or by Attorney, within eight days from the service hereof, judgment will be signed against you by default; and subsequent proceedings, and execution follow thereon according to law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18

Yours, &c.

G. H., of (here insert the place of residence, in full, of the Plaintiff, if he sues in person, or of the Attorney, if by Attorney.)

Plaintiff or Plaintiff's

Attorney.

To

C. D., of the County  
of \_\_\_\_\_

the above Defendant.

## SECHEDULE B.

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In the *(insert the style of the Court.)*

A. B.	or	A. B.	}	As the case may be.
vs.		ad.		
C. D.		C. D.		

Take notice that on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, judgment was entered in this honorable Court in the above mentioned cause, in favour of the above named \_\_\_\_\_ for the sum of \_\_\_\_\_ and that you are hereby notified not to pay to the said \_\_\_\_\_ (the party against whom judgment is recovered,) or to any one for his use, unless to the Sheriff of the County of \_\_\_\_\_ or his officer, to be applied on executions against the said \_\_\_\_\_ (judgment debtor,) any sum due or to become due by you to the said \_\_\_\_\_ upon pain of being compelled to pay such sum over again to the above named \_\_\_\_\_ (judgment creditor,) in the event of the execution in this cause or any part thereof being returned unsatisfied, and that any such payment made by you to the said \_\_\_\_\_ (judgment debtor,) after service upon you of this notice, will be fraudulent and of no effect.

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## SCHEDULE C.

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In the *(insert style of the Court.)*

The \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_

County of } A. B. who is a judgment creditor of C. D., by E.  
 } F. his Attorney, (or "in person," as the case may be,) according to the Statute in such case made and provided, complains of G. H., who is a debtor of the said C. D.

For that whereas (set out the judgment, the execution against the goods of the judgment debtor and the return of the same, and the service of the notice, mentioned in the twentieth clause of this Act, upon the defendant, and continue as follows): And whereas the said G. H., before and at the time of the commencement of this suit, was and still is indebted to the said C. D. in the sum of &c., (as in other cases,) or made his promisory note, &c., (describing the cause of action and liability as in other cases, and conclude,) whereby and by force of the Statute in such case made and provided, the defendant G. H. became liable and promised to pay to the plaintiff (or an action hath accrued to the plaintiff to recover,) the said last mentioned sum of money, (or so much thereof as may be necessary to satisfy the said judgment,) yet he hath not paid the same or any part thereof, to the damage of the said A. B. of \_\_\_\_\_ and therefore he bring this suit.

