



BY AUTHORITY.

ANNO DECIMO SEPTIMO VICTORIÆ REGINÆ.

CAP. LXVII.

An Act relating to the Administration of Justice in Equity.

Passed 1st May 1854.

CHAPTER I.

Of the Jurisdiction, Officers, and Practitioners of the Court.

Section.	Section.
1. Transfer of Chancery business to Supreme Court.	7. Master of the Rolls, his office and powers as Judge of the Supreme Court.
2. Practice of Supreme Court in Equity, what shall be.	8. Master in Chancery, office of, abolished; Examiners, how appointed.
3. Who to make Rules for further regulating same, and how.	9. Solicitors to serve copies of Pleadings and prepare Processes.
4. Business of the Court, how to be conducted, and by whom.	10. Commissioners.
5. Orders and Decrees, how to be carried out.	11. Clerk in Equity, his duty.
6. Stated Sittings, when.	12. Sheriffs and other officers, general duties.
	13. Sheriff to serve Processes of the Court.
	14. Common Gaols, what.
	15. Explanation of Terms.

BE it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. The Supreme Court shall hear and determine in Equity all causes heretofore cognizable by the Court of Chancery, with the like powers and jurisdiction, principles of equity law, and rules of practice, subject to the regulations in the several Chapters of this Title mentioned; and all suits remaining undetermined in Chancery, together with all the rolls, records, and proceedings of the Court, shall be transferred to the Supreme Court, and be there continued and kept, and such suits, with all other causes, be heard, tried, and determined according to the equity jurisdiction hereby established under the name of "The Supreme Court on the Equity side," or "In Equity;" and the said Court of Chancery is hereby abolished except where it may be necessary for the transaction of business in cases of lunacy.

2. The practice of the Court of Chancery in England prior to the twenty third day of March one thousand eight hundred and thirty nine, to be applied as has heretofore been done in this Province with respect to the practice of the said Court when this Province was erected, together with the existing rules, orders, practice, and fees as now established in the Court of Chancery of this Province, whether framed or constituted under the authority of any repealed Act of Assembly or otherwise, subject to the provisions of the several Chapters of this Title, and to any modifications of the whole under the next following Sections, shall be the system of proceeding for the said Supreme Court in Equity.

3. The Court may make, and they are hereby required from time to time to make, general rules and orders for carrying the purposes of the Chapters under this Title into effect, and for regulating the times, forms, and mode of procedure, and generally the practice of the Court in respect of the matters to which such Chapters relate, and, so far as may be found expedient, for altering the course of proceeding in the same prescribed in respect of the matters to which this Title relates, or any of them, and from time to time to rescind, alter, add to, and amend the same as the Judges of the said Court, or a majority of them, may deem necessary.

4. The Court shall always be open, and every matter, whether interlocutory or on the hearing of the cause, shall be decided by any one of the Judges, with the same powers as heretofore exercised by the Master of the Rolls, subject to appeal; and every appeal from the decision of a Judge, or from any decision of the Court of Chancery made before this Act comes into operation, shall be made to the Court in Term, which shall have the same authority and jurisdiction therein as the Chancellor has hitherto had on appeal.

5. Every order or decree of a Judge shall be entered and

carried out by the officers and Solicitors of the Court as the act of such Court, but when the Judge shall be satisfied that an immediate execution thereof may be necessary, the order or decree under his hand, or execution with his allowance thereon, may at once be issued by the Solicitor with the same effect as if a part of the ordinary process of the Court, and the papers shall be filed with the Clerk, and other directions obeyed, as the Judge shall prescribe.

6. Besides the ordinary business, stated Sittings in Equity shall be held at Fredericton by any one of the said Judges on the first Tuesday in every month in each year, excepting February and September, and instead of February the Sittings shall be on the last Tuesday in January, for the purpose of hearing all motions and causes cognizable in the said Court.

7. The Master of the Rolls shall be one of the five Judges of the Supreme Court, both at law and equity, but his salary as such Judge shall, during his incumbency, be paid in the same manner and to the same extent as when Master of the Rolls, without fees or allowances other than for travelling charges or Circuits; and the office of Master of the Rolls is hereby abolished.

8. The office of Master and Master Extraordinary in the Court of Chancery is hereby abolished, and any Barrister who may be at any time appointed by any Judge in any particular cause shall have power to act as an examiner, and on being sworn, shall have power to administer the oath to the witness, and take the examination in such cause; the oath to be taken by any examiner shall be taken and administered according to the established practice.

9. The Solicitors of the plaintiff and defendant respectively shall serve the opposite party with copies of all pleadings and writings drawn and filed by them, and may prepare all processes for signing and sealing.

10. The Commissioners for taking affidavits in the Supreme Court shall have similar powers on the Equity side of the said Court.

11. The Registrar of the Court of Chancery shall be Clerk of the Court on the Equity side, and shall file and have the custody of all papers, make office copies thereof when required, and entries, sign and seal processes, tax all costs, and draw orders and decrees in Equity; and the said office of Registrar is also abolished, except so far as it may be necessary to act in cases of lunacy.

12. All Sheriffs, Deputy Sheriffs, Coroners, Gaolers, Constables, and other officers, shall be aiding, assisting, and obeying the said Court in the exercise of its jurisdiction, whenever required to do so.

13. The Sheriffs, or if interested, the Coroners, shall serve or execute within their respective Counties, any process of the Court that may be sent to them for that purpose, and they shall be entitled to the same fees and emoluments in respect of the same as on the common law side of the Court.

14. The common gaols of the several Counties shall be the prisons of the Court.

15. Whenever the term "Court" shall be used in any of the Chapters of this Title, it shall mean the "Supreme Court on the Equity side," and when any Judge shall be required to perform any duty under any of the said Chapters, the same shall mean any Judge of the said Court sitting in Equity, unless there be something in the context repugnant thereto.

CHAPTER 2.

Of the General Procedure.

Section.	Section.
1. Causes in Equity, how commenced.	8. Answers, how to be made. Demurrer for want of parties not allowed.
2. Process, when not to be objected to.	9. Interrogatories may be filed for plaintiff to answer.
3. Proceeding when defendant out of limits of the Province.	10. Exceptions to answer, &c., how to be made.
4. Bill, when to file, and what to contain.	11. Impertinence, how remedied.
5. Injunctions, how to be obtained.	12. Answers, Commissions, &c., how to be sworn and returned.
6. Do. in what cases allowed, order for, and effect thereof.	13. Do. when party out of the jurisdiction.
7. Copy of Bill, how to serve on appearance, may be taken pro confesso, when and how.	14. After issue Judge to decide what admitted or denied.