

Case No. 8,620.

LYELL V. MILLER ET AL.

{6 McLean, 422.}¹

Circuit Court, D. Michigan.

June Term, 1855.

TAXATION OF COSTS.

There can be no taxation of costs, except under the act of 1853 [10 Stat. 161]. That law abolishes all previous laws on the subject, without any reservation.

[Cited in *Ethridge v. Jackson*, Case No. 4,541.]

At law.

OPINION OF THE COURT. This is a motion in regard to the taxation of costs. The above cause was submitted to a jury, and before a verdict was rendered the plaintiff submitted to a non-suit. A motion was made to set aside the non-suit, which was overruled by the court. The taxation is made in part under the present fee bill, and in part under the late one. The act of 26th February, 1853, which is now in force, declares, "that in lieu of the compensation now allowed by law to attorneys, solicitors and proctors in the United States courts, to United States district attorneys, clerks of the district courts, marshals, witnesses, jurors, commissioners and printers, in the several stages, the following, and no other compensation, shall be taxed and allowed." The above law applies to all taxations of costs, after it took effect, and it abolished all prior laws on the subject. As there is no provision in the present act that, for services previously rendered, cost should be taxed under the former law, there can be no taxation under it.

¹ [Reported by Hon. John McLean, Circuit Justice.]