

Clerks to pay postage in a certain case, and take credit for the same.

VII. And be it enacted, That the Deputy Clerks of the Crown shall pay the postage on the transmission of Indictments and other Proceedings in criminal cases, and take credit for such postages in accounting for the fees received under this Act, or fees in any other manner received by them, in case the fees under this Act shall not be sufficient for that purpose.

Case of the Marshall and Clerk of Assize for the County of York provided for.

VIII. And whereas William Alexander Campbell has, for twenty-six years now last past, held the office of Marshal and Clerk of Assize for the County of York : Be it enacted, That from and after the passing of this Act the said William Alexander Campbell shall continue to be the Marshal and Clerk of Assize for the County of York, and shall hold office during good behaviour, and be removeable by the Judges of the Superior Courts of Common Law, or a majority of them, and shall act as Marshal and Clerk of Assize at the Courts of Assize and Nisi Prius, and Oyer and Terminer and General Gaol Delivery for the said County of York, and shall receive as such Marshal and Clerk of Assize, the salary of Three Hundred Pounds per annum, which shall be charged upon the fund in this Act mentioned, and as Marshal and Clerk of Assize for the said County of York, shall be subject to all the provisions relating to Records, Exhibits and other Documents in this Act mentioned, and in the event of the death or removal from his said office of the said William Alexander Campbell, the Clerk of the Crown and Pleas for the time being, or his Deputy, in the said County of York, shall act as such Marshal and Clerk of Assize for the said County of York, and have all the powers and exercise all the functions that are had and exercised by the Clerks of Assize by law and under this Act.

As to his fees.

IX. And be it enacted, That the Marshal and Clerk of Assize of the County of York shall take and receive the same fees only as are taken by the other Marshals and Clerks of Assize under this Act, and such fees shall be accounted for, paid over and applied in the same manner as the other fees taken under the authority of this Act.

As to Precepts to be issued by Clerks appointed under this Act.

X. And be it enacted, That the several Clerks of Assize appointed under this Act shall issue the Precepts to the several Sheriffs of Counties in the same manner and with the same effect as such Precepts are now issued by law, by any Marshal or Clerk of Assize.

When this Act shall come into force.

XI. And be it enacted, That this Act shall not come into force until the first day of January next.

### CAP. CXIX.

An Act to establish an Uniform Rate of Fees to be received by Justices of the Peace in Upper Canada, and to repeal the Act of Upper Canada, passed in the fourth year of the reign of King William the Fourth, chapter seventeen.

[ 30th August, 1851. ]

Preamble.

**W**HEREAS it is expedient to establish a Uniform Rate of Fees to be received by Justices of the Peace in Upper Canada, for the duties therein mentioned, and to repeal the Act of Upper Canada, passed in the fourth year of the reign of His late Majesty King William the Fourth, chapter seventeen, intituled, *An Act to declare what Fees shall be received by Justices of the Peace for the duties therein mentioned*; and whereas, since the passing of the said Act, increased duties have been imposed upon Justices of the Peace in Upper Canada, for which no Fees have been established by law; and whereas, under the said recited Act doubts have arisen as to the meaning and application of some of its provisions; therefore, to remove such doubts and establish a Uniform Rate of Fees to be received by the Justices aforesaid for the services hereinafter mentioned—Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper*

*Upper and Lower Canada, and for the Government of Canada, and it is hereby enacted by the authority of the same, That the said Act, intituled, An Act to declare what Fees shall be received by Justices of the Peace for the duties therein mentioned, be, and the same is hereby repealed.*

II. And be it enacted, That from and after the passing of this Act, the following Fees, and no other, shall be taken from the parties prosecuting, by Justices of the Peace in Upper Canada, or by their Clerks, for the duties and services hereinafter mentioned, that is to say :

What Fees only shall be received by Justices of the Peace in U. C.

For information and Warrant for apprehension, or for an information and Summons for assault, trespass, or other misdemeanor, Two Shillings and Six Pence ;

For each Copy of Summons to be served on Defendant or Defendants, Six Pence ;

For a *Subpœna*, Six Pence, — only one on each side is to be charged for in each case, which may contain any number of names ; and if the justice of the case shall require it, additional *Subpœnas* shall be issued without charge ;

For every Recognizance, One Shilling and Three Pence, — only one to be charged in each case ;

For every Certificate of Recognizance under the Act of Upper Canada, Seventh William the Fourth, chapter ten, One Shilling and Three Pence ;

For information and Warrant for surety of the peace or good behaviour, to be paid by complainant, Two Shillings and Six Pence ;

For Warrant of Commitment for default of surety to keep peace or good behaviour, to be paid by complainant, Two Shillings and Six Pence ;

III. And be it enacted, That the costs to be charged in all cases of convictions, where the Fees are not expressly prescribed by any Statute, other than the Statute hereinbefore repealed, shall be as follows, that is to say :

Costs on conviction.

For information and Warrant for apprehension, or for information and Summons for service, Two Shillings and Six Pence ;

For every Copy of Summons to be served upon Defendant or Defendants, Six Pence ;

For every *Subpœna* to a Witness, (as provided in the second section of this Act,) Six Pence ;

For Hearing and Determining the case, Two Shillings and Six Pence ;

For Warrant to levy Penalty, One Shilling and Three Pence ;

For making up every Record of Conviction when the same is ordered to be returned to the Sessions, or on *Certiorari*, Five Shillings.

Provided always, That in all such cases as admit of a summary proceeding before a single Justice of the Peace, and wherein no higher penalty than Five Pounds can be imposed, the sum of Two Shillings and Six Pence only shall be charged for the Conviction, and One Shilling and Three Pence for the Warrant to levy the Penalty ; and that in all cases where persons are *subpœnaed* to give evidence before Justices of the Peace in case of assault, trespass or misdemeanor, such Witness shall be entitled, in the discretion of the Magistrate, to receive at the rate of Two Shillings and Six Pence for every day's attendance, where the distance travelled in coming to and returning from such adjudication does not exceed ten miles, and Three Pence for each mile above ten.

Proviso : as to summary proceedings.

Every Bill of Costs, when demanded to be made out in detail, when demanded, Six Pence.

Copy of any other paper connected with any trial, and the Minutes of the same if demanded,—every folio of one hundred words, Six Pence.

IV. And be it enacted, That in all cases of a summary conviction before any one or two Justices of the Peace, under the provisions of the several Acts passed in the Session held in the fourth and fifth years of Her Majesty's reign, chapters twenty-five, twenty-six and twenty-seven, and intituled respectively, *An Act for consolidating and amending the laws of this Province relative to larceny and other offences connected therewith*, — *An Act for consolidating and amending the laws in this Province relative to malicious injuries to property*, — and *An Act for consolidating and amending the*

In cases of summary conviction under 4 & 5 Vict. caps. 25, 26, 27, warrant of distress may issue, in discretion of the Justice or Justices.

*Statutes in this Province relative to offences against the person*, it shall and may be lawful for such Justice or Justices, in his or their discretion, to issue his or their Warrant to levy, by distress and sale of the offender's goods and chattels, the amount of fine and costs imposed, and in default of the same being levied or made, the offender or offenders may be committed to the Common Gaol or House of Correction for the period and in the manner prescribed by the above mentioned Statutes, or to proceed, as heretofore, by committal for default of payment, instead of issuing such Distress Warrant.

Costs against prosecution failing may be levied by distress.

V. And be it enacted, That in all cases where costs are payable by parties who may have failed in prosecuting with effect, it shall and may be lawful for the Justice or Justices before whom complaint may have been made, in his or their discretion, to issue his or their Warrant to levy, by distress and sale of the goods and chattels of such person so failing to prosecute, such costs as shall be determined by the Justice or Justices to be payable by him or them.

Act not to authorize fees or allowance to witnesses, in cases above misdemeanors, &c.

VI. And be it enacted, That this Act shall not be construed to authorize any claim being made by the Justices aforesaid, for Fees of any description connected with cases above the degree of misdemeanor; nor shall Witnesses in such cases be allowed anything for their attendance or travel, except under the Order of the Court before which the trial of the case shall be had; anything in this Act to the contrary thereof in any wise notwithstanding.

Commencement of Act.

VII. And be it enacted, That this Act shall come into operation on, and take effect from the first day of November next.

### C A P. C X X .

An Act to explain and amend the Act of the last Session, intituled, *An Act to amend the Laws relating to Tavern Licenses in Upper Canada.*

[ 30th August, 1851. ]

Preamble

**W**HEREAS doubts have arisen as to the true intent and meaning of the Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act to amend the Laws relative to Tavern Licenses in Upper Canada*, which doubts it is expedient to remove: Be it therefore declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it was and is the intention of the Act first above cited, that the seventh and eighth sections of the Act of the Parliament of Upper Canada, passed in the sixth year of the Reign of His late Majesty King William the Fourth, chaptered four, and intituled, *An Act to repeal and amend certain parts of an Act passed in the thirty-sixth year of the Reign of King George the Third, intituled, 'An Act to amend an Act for regulating the manner of Licensing Public Houses, and for the more easy conviction of persons selling spirituous Liquors without a License,' and for other purposes therein mentioned*, should be and they are and have been by the Act first above cited, continued in force in Upper Canada, to all intents and purposes whatsoever.

True intent and meaning of the Act 13 & 14 Vict. to amend the laws relative to Tavern Licenses in U. C., respecting the 7th and 8th sect. of 6 Will. 4, c. 4, declared.

As to the intention of the Act first above cited respecting the powers of Township Municipalities, &c., in U. C., in certain cases.

II. And be it declared and enacted, That it was and is the intention of the Act first above cited, that the Municipality of each Township or Incorporated Village, the Town Council of each Incorporated Town, and the Common Council of each City in Upper Canada, should have, and that they have and have had respectively, from the time of the passing of the said Act, power and authority to make By-laws for preventing the selling of wines or spirituous liquors, or the keeping of Inns, Taverns or Houses of Public Entertainment by persons not thereunto duly licensed, and to impose for any  
contravention