

IV. And be it enacted, That the moneys advanced under this Act to the Treasurers of the Corporations aforesaid, shall be accounted for in the manner by law provided, with regard to money received and expended by the said Corporations. Accounting clause.

V. And be it enacted, That the foregoing provisions of this Act shall have force and effect upon, from and after the first day of January next, and not before. Commencement of Act.

## CAP. LIII.

An Act for the further amendment of the Laws relating to the Public Works in this Province.

[ 30th August, 1851. ]

**W**HEREAS it is expedient and necessary further to amend the Laws relating to the Public Works in this Province: Be it therefore 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 so much of the Third Section of the Act of the Parliament of this Province, passed in the Session thereof held in the tenth and eleventh years of Her Majesty's reign, and intituled, *An Act to amend the Act intituled, 'An Act to amend the Law constituting the Board of Works,'* as provides that in Lower Canada the cost and expenses of arbitration therein mentioned, shall be taxed by the proper Officer of the Court of Queen's Bench, shall be, and the same is hereby repealed.

Preamble.

So much of 10 & 11 Vict. c. 24, s. 3, as relates to costs of arbitration in L. C. repealed.

II. And be it enacted, That in Lower Canada such costs and expenses of arbitration shall be taxed by a Judge of the Superior Court; and that in every case in which the claimant has been represented or assisted by an Attorney in the proceedings before the Arbitrators, the fees of such Attorney shall be taxed and allowed to him as in a contested case in the said Superior Court, or in the Circuit Court, according to the sum awarded.

Such costs to be taxed in L. C. by a Judge of the Superior Court.

III. And be it enacted, That the Fifth Section of the said Act, and the Fourth Section 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 relating to the Public Works of this Province*, shall be, and the same are hereby repealed.

Sec. 5 of 10 & 11 Vict. c. 24, and sec. 4 of 13 & 14 Vict. c. 13, repealed.

IV. And it is hereby declared and enacted, That the authority of the Arbitrators and Appraisers appointed or to be appointed hereafter for either portion of this Province, under the provisions of the Acts relating to the Public Works thereof, to command the attendance of Witnesses, extends to both portions of the Province.

Powers of Arbitrators &c., in a certain case, to extend to both portions of the Province.

## CAP. LIV.

An Act to amend and consolidate the Laws affording protection to Magistrates and others in the performance of public duties.

[ 30th August, 1851. ]

**W**HEREAS there are divers Acts of Parliament in force in Canada, both public, local and personal, whereby certain protections and privileges are afforded to Magistrates and others; and whereas the said Acts are not of an uniform character, and it is desirable that many of the provisions of such Acts should be altered and amended, and the whole reduced into one Act: Be it therefore 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

Preamble.

So much of any Act as confers certain privilege on any Magistrate, &c., repealed.

Notice to be given to any Magistrate, in a certain form, and the plaintiff to be bound by such notice.

Such Magistrate, &c., may tender amends: Consequences of such tender.

In what county the venue shall be laid.

Proviso as to changing the venue.

General issue may be pleaded and special matter given in evidence.

Magistrate may pay money into Court.

enacted by the authority of the same, That so much of any such Act or Acts now in force in this Province, whether public, local or personal, as confers any privilege, either as to notice or limitation of action, or as to amount of costs, or as to pleading the general issue and giving the special matter in evidence, or as to the *venue* of the action, or as to tender of amends or payment of money into Court, upon any Magistrate, public officer, or other person, for any act done, either by virtue of his office, or under the provisions of any such Act or Acts, be and the same is hereby repealed, except as to any action, suit or proceeding which has been commenced or prosecuted before the passing of this Act.

II. And be it enacted, That no Writ shall be sued out against any Justice of the Peace or other officer or person fulfilling any public duty, for any thing by him done in the performance of such public duty, whether such duty arises out of the common law, or is imposed by Act of Parliament, either Imperial or Provincial, nor shall any judgment or verdict be rendered against him, unless notice in writing of such intended Writ, specifying the cause of action with reasonable clearness, shall have been delivered to such Justice, officer or other person, or left at the usual place of his abode, by the Attorney or Agent of the party who intends to sue out such Writ, at least one calendar month before suing out such Writ, and in computing such calendar month, the day of the service of such notice and the day of suing out such Writ shall both be excluded, and on such notice shall be written the name and place of abode of such Attorney or Agent suing out such Writ, and by the cause of action stated in such notice the party suing out such Writ shall be bound, and shall not be allowed to give evidence of any other cause of action at the trial thereof.

III. And be it enacted, That any such Justice, officer or other person acting as aforesaid, may, at any time within one calendar month after the service of such notice as aforesaid, tender amends to the party complaining, or his agent or attorney; and in case the same is not accepted, may plead such tender in bar to any action brought against him grounded on such Writ, together with the plea of not guilty, and any other plea; and if the Court or jury shall find the amount tendered to have been sufficient, they shall find for the defendant; but if the Court or jury shall find they were insufficient, or that no tender of amends was made, and they shall also find the other issues against the defendant, or if they find against the defendant where no tender of amends is made or pleaded, then they shall give a judgment or verdict for the plaintiff, with such damages as they shall think proper, and the plaintiff shall have his costs of suit.

IV. And be it enacted, That any such action against such Justice, officer or other person, acting as aforesaid, shall be laid and tried within the County in Upper Canada or District or Circuit in Lower Canada, as the case may be, where the act complained of was done and committed: Provided always, that such Justice, officer or other person, acting as aforesaid, may change the *venue* in such action, upon notice to the plaintiff in such action, if he shall think fit so to do: And provided also, that the *venue* may be changed to any other County in Upper Canada or District or Circuit in Lower Canada, as the case may be, that the Court in which such action is brought, or any Judge thereof in Chambers may order, if it shall be made appear to such Court or Judge that such action cannot be tried fairly and without prejudice in the County or District or Circuit in which the *venue* in such action is laid.

V. And be it enacted, That every such Justice, officer or person acting as aforesaid, in any such action or suit as aforesaid, may plead the general issue only thereto, that he or they is or are not guilty, and give all special matters of justification or excuse, or that he or they received no notice of action thereunder, as fully and amply as if the same were specially pleaded in such action.

VI. And be it enacted, That it shall be lawful for such Justice, officer or other person acting as aforesaid, if he shall not have tendered amends, or shall have tendered insufficient amends, to pay into Court such sum as he shall think fit, without requiring the leave of the Court or a Judge therefor; and such payment into Court shall be specially

specially pleaded, and shall have the same effect, and such proceedings shall be had thereafter, as in ordinary cases of payment of money into Court.

VII. And be it enacted, That if in any such action or suit, judgment shall be rendered in favor of such Justice, officer or other person acting as aforesaid, either on demurrer, verdict, non-suit, or *non-pros*, or otherwise, or the plaintiff shall discontinue his suit, the defendant shall be entitled to and recover against the plaintiff all his costs, as between attorney and client, but no double or treble costs shall in any case be taxed or allowed against the plaintiff.

What costs the defendant shall recover if successful.

VIII. And be it enacted, That no such action or suit shall be brought against any Justice, officer or other person acting as aforesaid, for any thing done by him in the performance of his public duty, as aforesaid, unless commenced within six calendar months after the act committed.

Limitation of action against Magistrates, &c.

IX. And be it enacted, That the privileges and protection given by this Act, shall be given to such Justice, officer or other person acting as aforesaid, only, and to no other person or persons whatever, and any such Justice, officer and other person acting as aforesaid, shall be entitled to such protection and privileges in all such cases as he shall act *bonâ fide* in the execution of his duty, although in such act done, he shall have exceeded his powers or jurisdiction, and have acted clearly contrary to law.

Privileges to extend to the Magistrate, &c., only: and in what cases to him.

C A P . L V .

An Act to continue for a limited time an Act intituled, *An Act to encourage the establishment of and regulate Savings Banks in this Province.*

[ 30th August, 1851. ]

**W**HEREAS in and by an Act of the Parliament of this Province passed in the Session thereof held in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to encourage the establishment of and regulate Savings Banks in this Province*, it is amongst other things enacted That the said Act should continue and remain in force during ten years from and after the passing thereof, and from thence until the end of the then next ensuing Session of the Legislature, and no longer; And whereas it is expedient that the said Act should be further continued for a limited time: Be it therefore 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 so much of the said Act as limits the duration thereof as aforesaid, shall be, and the same is hereby repealed; and that the said Act shall continue and remain in force during five years from and after the passing of this Act, and from thence until the end of the then next ensuing Session of the Legislature, and no longer.

Preamble.

4 & 5 Vict. c. 32, cited.

Said Act continued for five years, &c.

C A P . L V I .

An Act to extend the period for payment of Fees on Crown Patents, and for other purposes therein mentioned.

[ 30th August, 1851. ]

**W**HEREAS by the fifth section of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to amend an Act therein mentioned, and to make other provisions for the management and disposal of the Public Lands, and to limit the period for making Free Grants*, it was declared That all lands upon the grant of which fees are now due, or upon which settlement duties remain to be performed, or the performance to be proved, should be forfeited, unless such fees were paid, and such settlement duty performed, and the performance thereof proved to the satisfaction of

Preamble. 12 Viet. c. 31.