

Laws of Her Majesty's Province of Upper Canada, passed in the year 1850. Toronto: Stewart Derbyshire & George Desbarats, 1850.

13 & 14 Victoria – Chapter 33

An Act to remove doubts as to the right of the Crown to recover Costs in certain cases in Lower Canada. 24th July, 1850.

Whereas it hath been doubted whether the Courts of Civil jurisdiction in Lower Canada, have power to award costs to the Crown, in certain cases where it is manifestly fair and right that such costs should be recoverable; and whereas the loss to the public from the want of such power must be considerable, inasmuch as the costs in such cases frequently amount to more than the sum recovered: For remedy thereof, Be it 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 declared and enacted by the authority of the same, That in every suit or proceeding of a civil nature, by or on behalf of the Crown, before any Court, Judge or Tribunal in Lower Canada, the object whereof is or shall be to recover or to prevent the loss of any immoveable or moveable property, rent, duty, toll or sum of money, or to maintain, enforce or preserve any right, privilege or lien to or upon the same, such Court, Judge or Tribunal may award to the Crown, if successful in such suit or proceeding, the same costs which might be awarded to any private party in the like case, and that the Crown hath and shall have the same remedy for recovering such costs as such private party would have: Provided always, that nothing herein contained shall be construed to impair the right of the Crown to recover costs in any case where such right is now given by law.

II. And be it declared and enacted, That if in any case to which the foregoing section is applicable, the Crown be unsuccessful, the Governor in Council may if he shall deem it right, direct the payment to the successful party, of such costs as the said party would in like case have recovered from any other unsuccessful party.

III. And for the avoidance of doubt as to the interpretation of this Act or of any other Act, passed or to be passed, respecting the judicature or judicial proceedings in Lower Canada, Be it declared and enacted, That whatever would be held to be a Civil suit or proceeding if all the parties thereto were private individuals, shall be held to be so although one of such parties be the Crown, unless it be otherwise provided or such interpretation be inconsistent with the context or intent of the Act.