

An Act to amend in part the Act 13 and 14 Victoria, chapter 33, and to declare in what manner costs may be adjudged and secured to successful suitors, when contesting with the Crown in Lower Canada.

WHEREAS in and by the second section of the Act 13 and 14 Vict., cap. 33, it is declared and enacted, That if in any case to which the previous section (namely the first section of the said Act) 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 cases have recovered from any other unsuccessful party: And whereas the Crown can at pleasure sue the subject, and if successful recover costs as aforesaid, though if unsuccessful the Courts of Justice are not at liberty to condemn the Crown to pay costs, or by their Judgment to declare the successful party entitled to his costs, but the suitor is left to the precarious and uncertain course of obtaining the same by Petition to the Governor in Council, although before the passing of the said Act 13 and 14 Vict., cap. 33, the Crown neither paid nor received costs, and it is fitting and expedient that the said Act be amended in this particular; Therefore Her Majesty, &c., enacts as follows:

I. The said second section of the aforesaid Act is repealed; and from and after the passing of this Act, in every case to which the first section of the aforesaid Act is applicable, if the Crown be unsuccessful the successful party shall and may under the judgment to be pronounced, be entitled to have his costs against the Crown in the discretion of the Court, as in all ordinary cases, which costs when so awarded shall be duly taxed in duplicate, one part whereof being deposited in the office of the Receiver General of the Province, he shall be held and bound to pay the amount to such successful party, his heirs or assigns, and charge the same when paid to the public funds of the Province in such manner as he shall or may be advised.

Section 2 of 13, 14 Vic., c. 33, repealed. Costs may be awarded and taxed against the Crown in any case within section 1 of the said Act: and paid by the Receiver General.

II. This Act shall apply only to Lower Canada.

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