

or sums for which he had contracted or agreed to perform such work; nor shall the said Arbitrators have power to award such claimant any amount of interest upon any sum of money which they may consider to be due to such claimant in the absence of any contract or agreement in writing, stipulating payment of such interest; and no clause in any such contract in which any drawback or penalty shall be stipulated for the non-performance of or neglect to complete any public work, or to fulfil any of the covenants contained in such contract shall be considered as comminatory, but the same shall be taken, construed and enforced as importing an assessment by mutual consent of the damages arising out of such non-performance or neglect.

As to interest.

Penalties not to be deemed comminatory.

VII. And be it enacted, That whenever the said Commissioners have made and put up, or shall have made or put up, any fence or fences, dividing the property of private individuals from any bridge, canal or other work heretofore constructed or which shall hereafter be constructed at the public expense, the said Commissioners of Public Works, and the Government of the Province, shall be for ever released and discharged from all liability or obligation in regard to such fences which shall thenceforward be maintained, repaired and renewed, when necessary, by the adjoining proprietors, who shall be alone liable for any damages arising out of the disrepair of any such fences: Provided always, that nothing herein contained shall be so construed as to require or make it imperative upon the said Commissioners to construct fences along any public road made or to be made through any wild or uncultivated land.

Fences put up by Commissioners, by whom to be kept in repair.

Proviso.

VIII. And inasmuch as the said Commissioners fulfil all duties and exercise all powers conferred upon them by law as the servants or agents of Her Majesty, in respect of the Public Works of this Province: And inasmuch as all property acquired by them under the authority of law is acquired for and vested in Her Majesty: And inasmuch as the said Commissioners are not by law clothed with any Corporate capacity: Be it declared and enacted, That the said Commissioners cannot and shall not as such Commissioners sue or be sued or impleaded in any Court of Law or Equity in this Province, for any cause or under any pretence whatever: Provided always, That in case any claim should arise against the said Commissioners of a nature different from those described in this Act, or the Acts hereinbefore recited, which the said Commissioners are unable to settle amicably, then every such disputed claim (unless the same be made for salary, wages, or allowances, by any subordinate officer or person in the employ of the said Commissioners) shall and may be referred to the said Arbitrators, who shall have power and authority, and are

Recital,

Commissioners not to be sued.

Proviso: all disputes with them may be referred to the Arbitrators;