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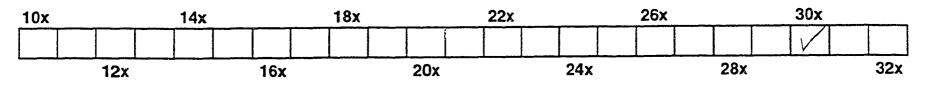
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Commentaires supplémentaires:



4th Session, 3rd Parliament, 14 Victoria, 1851.

BILE.

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

Received and read a first time, Monday, 5th June, 1851.

Second reading, Thursday, 12th June, 1851.

Mr. MORRISON.

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BILL.

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

WHEREAS there are divers Acts of Parliament in Preamble. force in Upper Canada, both public, local and nersonal, whereby certain protections and privileges are afforded to Magistrates and others, and whereas the said 5 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 ittherefore enacted, &c.,

That so much of any such Act or Acts now in force in So much of 15 Upper Canada, whether public, local or personal, as any Act as confers any privilege, either as to notice or limitation of privileges on action, or as to amount of costs, or as to pleading the any Magisgeneral issue and giving the special matter in evidence, repealed. oras to the venue of the action, or as to tender of amends 10 or payment of money into Court, upon any Magistrate, public officer, or other persons, 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act done, either by virtue of his office, or under the provisions of any such Act or Acts, be and the same is hereby repealed, except as to any action, suit or proceeding which has been comp5 menced or prosecuted before the passing of this Act.

II. And be it enacted, That no writ shall be sued out Notice to be against any Justice of the Peace or other officer or per- fiven to any Magistrate, son fulfilling any public duty, for any thing by him done in a certain in the performance of such public duty, whether such Plaintiff to be 30 duty arises out of the common law, or is imposed by act bound by such of Parliament, either Imperial or Provincial, nor shall notice. any verdict be rendered against him, unless notice in writing of such intended writ, specifying the cause of action with reasonable clearness, shall have been deli-35 vered 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 10 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

15 shall not be allowed to give evidence of any other cause of action at the trial thereof.

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

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 5 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 jury shall find the amount tendered to have been sufficient. they shall find for the defendant; but if the jury shall find 10 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 verdict for the plaintiff, with such damages as they 15 shall think proper, and the plaintiff shall have his costs of suit.

In what County the renue shall be Isid. Troviso: the venue.

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 where the 20 act complained of was done and committed: Provided as tochanging 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 25 any County that the Court in which such action is brought, or any Judge 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 in which 30 the venue in such action is laid.

General issue in evidence.

Magistrate may pay money into Couri.

V. And be it enacted, That every such Justice, officer d and special or person acting as aforesaid, in any such action or suit matter given as aforesaid, may plead the 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 re-35 ceived 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 40 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 pleaded, and shall have the same effect, and such proceedings shall be had thereafter, as in ordinary 45 cases of payment of money into Court.

What costs shall recover if successful.

VII. And be it enacted, That if in any such action or the Defendant suit, judgment shall be rendered in favor of such Justice, officer or other person acting as aforesaid, either in demurrer, verdict, non-suit, or non-pros, or the plaintiff 50

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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.

VIII. And be it enacted, That no such action or suit Limitation of 5shall be brought against any Justice, officer or other per- action against Magistrates, son acting as aforesaid, for any thing done by him in the &c. performance of his public duty, as aforesaid, unless commenced within six calendar months after the act 10 committed.

IX. And be it enacted, That the privileges and pro- Privileges to tection given by this Act, shall be given to such Justice, ^{cxtend to the} Magistrate, officer or other person acting as aforesaid, only, and to &c., only: and no other person or persons whatever, and any such to him. 15 Justice, officer and other person acting as aforesaid, shall be entitled to such protection and privileges in all such

cases as he shall act bond 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 20 to law.

X. And be it enacted, That this Act shall extend only Extent of Act. to Upper Canada.