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No. 124.

3D SESSION, 3D PARLIAMENT, 13 VICTORIA, 1850.

BILL.

An Act to remove doubts as to the right of
the Crown to recover Costs in certain cases
in Lower Canada.

Received and read first time,

Second reading,

[250 Copies.]

Honble Mr.

S. Derbishire and G. Desbarats, Queen's Printer.

BILL.**An Act to remove doubts as to the right of the Crown to recover Costs in certain cases in Lower Canada.**

2 **W**HEREAS it hath been doubted whether the Courts
 of civil jurisdiction in Lower Canada, have power to
 4 award costs to the Crown, in certain cases where it is
 manifestly fair and right that such costs should be recover-
 6 able; 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
 8 recovered: For remedy thereof be it declared and enacted,
 &c.

Preamble.

10 and it is hereby declared and enacted by the authority of
 the same, that in every suit or proceeding of a civil
 12 nature, by or on behalf of the Crown, before any Court,
 Judge or Tribunal in Lower Canada, the object whereof is
 14 or shall be to recover or to prevent the loss of any immove-
 able or moveable property, rent, duty, toll or sum of
 16 money, or to maintain, enforce or preserve any right,
 privilege or lien to or upon the same, such Court, Judge
 18 or Tribunal may award to the Crown, if successful in such
 suit or proceeding, the same costs which might be
 20 awarded to any private party in the like case, and that the
 Crown hath and shall have the same remedy for recover-
 22 ing such costs as such private party would have: provided
 always, that nothing herein contained shall be construed
 24 to impair the right of the Crown to recover costs in any
 case where such right is now given by law.

In what civil cases the Crown may recover costs.

Proviso.

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

Costs may be paid by the Crown in certain cases.

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

What shall be deemed a civil case.