



BY AUTHORITY.

ANNO DUODECIMO VICTORIÆ REGINÆ.

CAP. XXXI.

(Continued from page 4450 of last Gazette.)

XL. And be it enacted, That in every such action the venue shall be laid in the County where the act complained of was committed; and the defendant shall be allowed to plead the general issue therein, and to give any special matter of defence, excuse or justification under such plea at the trial of such action. Venue.

XLI. And be it enacted, That in every such case after notice of action shall be so given as aforesaid, and before such action shall be commenced, such Justice to whom such notice shall be given, may tender to the party complaining or to his attorney or agent such sum of money as he may think fit as amends for the injury complained of in such notice; and after such action shall have been commenced and at any time before issue joined therein, such defendant, if he have not made such tender, or in addition to such tender, shall be at liberty to pay into Court such sum of money as he may think fit, and which said tender and payment of money into Court, or either of them, may afterwards be given in evidence by the defendant at the trial, under the general issue aforesaid; and if the Jury at the trial shall be of opinion that the plaintiff is not entitled to damages beyond the sum or sums so tendered or paid into Court, then they shall give a verdict for the defendant, and the plaintiff shall not be at liberty to elect to be non-suit, and the sum of money (if any) so paid into Court, or so much thereof as shall be sufficient to pay or satisfy the defendant's costs in that behalf, shall thereupon be paid out of Court to him, and the residue (if any) shall be paid to the plaintiff; or if where money is so paid into Court in any such action, the plaintiff shall elect to accept the same in satisfaction of his damages in the said action, he may obtain from any Judge of the Court in which such action shall be brought an order that such money shall be paid out of Court to him, and that the defendant shall pay him his costs to be taxed, and thereupon the said action shall be determined, and such order shall be a bar to any other action for the same cause. Tender and payment of money into Court.

XLII. And be it enacted, That if at the trial of any such action the plaintiff shall not prove that such action was brought within the time hereinbefore limited in that behalf, or that such notice as aforesaid was given one calendar month before such action was commenced, or if he shall not prove the cause of action stated in such notice, or if he shall not prove that such cause of action arose in the County or place laid as venue in the margin of the declaration, then and in every such case such plaintiff shall be non-suit, or the Jury shall give a verdict for the defendant. Plaintiff to be non-suit in certain cases.

XLIII. And be it enacted, That in all cases where the plaintiff in any such action shall be entitled to recover, and he shall prove the levying or payment of any penalty or sum of money under any conviction or order as parcel of the damages he seeks to recover, or if he prove that he was imprisoned under such conviction or order, and shall seek to recover damages for any such imprisonment, he shall not be entitled to recover the amount of such penalty or sum so levied or paid, or any sum beyond the sum of two pence as damages for such imprisonment, or any costs of suit whatsoever, if it shall be proved that he was actually guilty of the offence of which he was so convicted, or that he was liable by law to pay the sum he was so ordered to pay, and (with respect to such imprisonment) that he had undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for non-payment of the sum he was so ordered to pay. Plaintiff not to recover amount of penalty in certain cases.

XLIV. And be it enacted, That if the Plaintiff in any such action shall recover a verdict, or the defendant shall allow judgment to pass against him by default, such plaintiff shall be entitled to costs, in such manner as if this Act had not been passed; or if in such case it be stated in the declaration that the act complained of was done maliciously and without reasonable or probable cause, the plaintiff if he recover a verdict for any damages, or if the defendant allow judgment to Costs.