

The Provincial Statutes of Lower-Canada, Being the third session of the thirteenth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1830.

10 & 11 George IV – Chapter 22

An Act to repeal in part and to amend an Act passed in the Thirty-fourth year of the Reign of His late Majesty, intituled, "An Act for the division of the Province of Lower Canada, for amending the judicature thereof and for repealing certain Laws therein mentioned," in certain matters relating to the District of Three-Rivers. (26th March, 1830.)

MOST GRACIOUS SOVEREIGN,

Whereas in and by an Act of the Provincial Parliament of Lower Canada, made and passed in the thirty-fourth year of the Reign of our late Sovereign Lord King George the Third, intituled, "An Act for the division of the Province of Lower Canada, for amending the Judicature thereof, and for repealing certain Laws therein mentioned," it is, among other things enacted, "that there shall be held at the Town of Three-Rivers [Trois-Rivières], for the District of Three-Rivers, by two of the Justices of the Courts of King's Bench for the Districts of Quebec and Montreal, and the Provincial Judge to be appointed for the District of Three-Rivers, a Court of King's Bench to sit in two Terms every year, that is to say; from the thirteenth to the last day of each of the months of March and September, both days inclusive, (Sundays and holy-days excepted) and during the four first juridical days of each of the said Terms, the said two Justices and Provincial Judge, or any two of them with the Chief Justice of the Province, or the Chief Justice of the Court of King's Bench at Montreal, shall have cognizance of all crimes and criminal offences, and during the remainder of each of the said Terms, the said two Justices and Provincial Judge, or any two of them, shall have original Jurisdiction, take cognizance of, hear, try, and determine, all civil suits or actions, and where the King is a party in the said District, those purely of Admiralty jurisdiction, and suits or actions wherein the value of the matter in dispute shall not exceed the sum of ten pounds sterling, excepted, unless the said suits or actions, not exceeding ten pounds sterling, shall relate to any fee of office, duty, rent, revenue, or any sum or sums of money, payable to His Majesty, titles to lands or tenements, annual rents or such and the first and every juridical day in each part of the said terms for criminal and civil causes, shall be return days for all writs and process, issuing from the said court for criminal and civil causes respectively, and the said Court of King's Bench, to be held as aforesaid at Three-Rivers, and the Justices and Provincial Judge composing the same, or any of them, shall have within that District, both in and out of Court the same powers and authorities, in all cases, as are granted by this Act to the Courts of King's Bench of the District of Quebec and Montreal, and to the Justices thereof, or any of them, in or out of Court, or out of Term:" and whereas in and by the said Act it is also enacted that there shall be appointed a Provincial Judge for the District of Three-Rivers, who shall hold a Provincial Court at the town of Three-Rivers in six Terms every year, that is to say: from the first to the tenth day, both days inclusive, in each of the months of February, April, June, August, October and December (the Sundays and holy-days in the

said Terms excepted), which shall have cognizance of, hear, try and determine in a summary manner, without appeal, every civil suit or action, (those purely of Admiralty Jurisdiction excepted,) wherein the amount claimed shall not exceed the sum of ten pounds sterling: Provided always, that if such suit or action shall relate to any fee of office, duty, rent, revenue, or any sum or sums of money payable to His Majesty, titles to lands or tenements, annual rents, or such like matters or things, where the rights in future may be bound, the defendant or defendants shall have the same right to form an exception to the jurisdiction of the said Provincial Court, and to require a removal of the suit or action into the Court of King's Bench to be held at Three-Rivers, in the same manner and under the same condition as are herein before provided for the removal of suits or actions from the inferior to the superior Terms of the Courts of King's Bench at Quebec and Montreal, and every juridical day in each term shall be a return day for all writs and process issuing from the said Provincial Court:" And whereas His Excellency Sir JAMES KEMPT, Administrator of the Government of this Province, by His Message sent to both Houses of this Provincial Parliament, hath recommended that the Provincial Judge of the said District of Three-Rivers be put on the same footing in every respect as the Justices of His Majesty's Courts of King's Bench for the Districts of Quebec and Montreal, and that provision be made for the due discharge of the duty of the said Judge in case of his illness or necessary absence: therefore, We Your Majesty's faithful and loyal subjects, the Legislative Council and Assembly of your Province of Lower Canada, in Provincial Parliament assembled, humbly beseech your Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America,' and to make further provision for the Government of the said Province;" and it is hereby enacted by the authority of the same, that from and after the passing of this Act, so much of the said above in part recited Act as relates to the appointment of a Provincial Judge for the District of Three Rivers, and to the powers, jurisdiction, authority, duty, rank and pre-eminence of the said Provincial Judge shall be and the same is hereby repealed.

II. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, the Provincial Judge appointed for the District of Three Rivers, under the authority of the said Act of the thirty-fourth year of the Reign of his late Majesty King George the Third, shall be to all intents and purposes, one of the Justices of the Court of King's Bench for the District of Three Rivers, and shall be called the resident Judge of the District of Three Rivers, and shall reside in the said District, and shall have and hold in the said District, all and singular the jurisdiction, powers, authority, rank and emolument, which by any law or laws in force in this Province, are vested in any one of the Justices of the Courts of King's Bench for the Districts of Quebec and Montreal, within the Districts respectively, and also all powers, jurisdiction, and authority now vested in the Provincial Judge of the District of Three Rivers by any law or laws in force in this Province.

III. And be it further enacted by the authority aforesaid, that the resident Judge of the District of Three Rivers, shall and may hold the Court of King's Bench in and for the said District, with the other Justices appointed by law to hold the same, as well for the cognizance of all crimes and criminal offences, as for hearing, trying, and determining suits and actions of a civil nature, according to the laws which now are, or which hereafter shall be in force in this Province.

IV. And be it further enacted by the authority aforesaid, that in lieu of the Provincial Court now required by law to be holden by the Provincial Judge of the District of Three Rivers, there shall be holden at the town of Three Rivers, by the resident Judge of the District of Three Rivers, six Inferior Terms of the Court of King's Bench for the said District of Three Rivers, at the respective times now appointed by law for holding the said Provincial Court, in which Inferior Term the Judge holding the same, shall have and exercise the same jurisdiction, powers, and authority, now vested by law in the said Provincial Court, and shall be subject to the same regulations, limitations, and restrictions to which the said Provincial Court is subject according to the laws now in force.

V. And be it further enacted by the authority aforesaid, that the Circuit Courts now appointed by law to be holden by the Provincial Judge for the District of Three Rivers, shall be holden by the resident Judge of the said District with all the powers and jurisdiction now vested by law, in the Circuit Courts holden by the said Provincial Judge, and subject to the same regulations, limitations and restrictions, without any exceptions whatsoever.

VI. And be it further enacted by the authority aforesaid, that all writs and process whatsoever to be issued from the Court of King's Bench for the District of Three Rivers, from and after the appointment of the resident Judge of the said District by virtue of this Act, whether the same shall be returnable into the Superior or into the Inferior Term thereof, shall be tested in the name of the resident Judge of the said District of Three Rivers, any law, usage or custom, to the contrary notwithstanding.

VII. And be it further enacted by the authority aforesaid, that in case of illness or other temporary incapacity of the resident Judge of the District of Three Rivers, or in case of his necessary absence from the said District, with the permission and licence of the Governor, Lieutenant-Governor, or person administering the government of this Province, all and singular the powers, authority, and jurisdiction of the said resident Judge, shall and may be held and exercised in the said District by any one of the Justices of the Courts of King's Bench for the Districts of Quebec or Montreal, who may be appointed for that purpose by an instrument under the hand and seal of the Governor, Lieutenant-Governor, or person administering the Government of the Province.