

*The Provincial Statutes of Lower-Canada, Being the second session of the eleventh Provincial Parliament of Lower-Canada.* Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1822.

2 George IV – Chapter 5

**An Act to extend the provisions of a certain Act therein-mentioned, as far as the same relates to the Judicature in the Inferior District of Gaspé, and more effectually to provide for the due Administration of Justice in the said District. (18th February, 1822.)**

Whereas from the increase of population and of commerce in the Inferior District of Gaspé, it is expedient to extend the Jurisdiction as at present by law exercised by the Provincial Court of the said Inferior District of Gaspé, under and in virtue of an Act passed by the Legislature of this Province, in the thirty-fourth year of the reign of His late Majesty 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;" Be it therefore 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 of 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, the Provincial Judge of the said Inferior District of Gaspé shall have Jurisdiction, and may take cognizance of, and have power to hear, try and determine, during the terms, and in the manner herein-after mentioned, in the first instance exclusively, of every Court, Judge or tribunal whatsoever, every suit or action purely personal, including the cases, where the King is a party, (those purely of Admiralty Jurisdiction or relating to any fee of office, duty, rent, revenue, or any sum or sums of money payable to His Majesty, annual rents, or such like matter or thing, where the rights in future may be bound, excepted,) wherein the amount claimed may not exceed the sum or value of one hundred pounds, currency, any Law or Statute heretofore in force in this Province to the contrary notwithstanding.

II. And be it further enacted by the authority aforesaid, that an appeal shall lie from all final Judgments of the said Provincial Court of the Inferior District of Gaspé to the Court of King's Bench for the District of Quebec, in cases where the demand or sum awarded may exceed the sum of twenty pounds, sterling, the party appealing giving security before the Provincial Judge, that he will well, truly and effectually prosecute his appeal, and in case of failure so to do, such appeal shall be held, deemed and considered to be abandoned, and the Appellant shall be diminished from his appeal, and the party in whose favor Judgment of the Provincial Court shall be given shall be entitled to and shall have and obtain the same executions and constraints (contraintes) upon the said Judgment, as if such appeal had not been instituted.

III. Provided always, and be it further enacted by the authority aforesaid, that no such appeal shall lie, nor be granted unless the same be notified and applied for to the Provincial Judge for the said Inferior

District of Gaspé, within fifteen days after Judgment shall have been rendered. Provided also, that the said term of fifteen days shall in no wise affect absentees or persons incapable of exercising their rights, who shall be receivable to appeal within the fifteen days next after the day of return of the absentee, and after the day on which the persons incapable of exercising their rights shall have ceased to be incapable to exercise them.

IV. And be it further enacted by the authority aforesaid, that when and as often, as any person or persons may appeal from any judgment of the Provincial Court of the said Inferior District of Gaspé, a true and certified copy of the Record of the cause appealed, shall at the instance or request of the party appealing be immediately transmitted by the said Provincial Judge to the Court of King's Bench at Quebec, the party appealing, paying for the copy of such record, to the Clerk of the said Provincial Court, at the rate of six pence for every one hundred words, and no more.

V. And be it further enacted by the authority aforesaid, that the Provincial Judge of the said Inferior District of Gaspé shall have power and authority to issue Writs of Capias, or attachment, against the body or moveable effects, according to Law, and the same to make returnable to His Majesty's Court of King's Bench at Quebec, in causes where the demand may exceed his jurisdiction: and when the sum demanded may not exceed his jurisdiction, then such Writs of Capias, or attachment shall be made returnable, and shall be returned into the aforesaid Provincial Court of the Inferior District of Gaspé, where the cause shall be heard and determined according to Law.

VI. Provided always, and be it further enacted by the authority aforesaid, that in cases where such Writs of Capias, or attachment against the body or effects may issue as aforesaid, the Defendant or Defendants shall be entitled to such relief on giving security, or otherwise, as he or they might or would be entitled to by Law, if the same had issued from any His Majesty's Court of King's Bench in this Province; and in case security be not given, the Defendant or Defendants may be committed to prison in the said Inferior District of Gaspé, until the cause be duly heard and determined, according to Law or other wise settled or disposed of, by the parties concerned.

VII. And be it further enacted by the authority aforesaid, that in cases over ten pounds sterling, there shall be at least fifteen intermediate days between judgment and issuing of Execution, and in cases of ten pounds sterling, and under, there shall also be at least eight intermediate days between judgment and execution.

VIII. And be it further enacted by the authority aforesaid, that when a return of nulla bona shall be made by the Sheriff to any Writ of Execution issuing from the said Provincial Court, or when the proceeds of sale of the moveables of the Defendant, pursuant to such Writ of Execution may not be sufficient to satisfy the amount of judgment and costs, the Plaintiff shall, if the balance or sum remaining due upon such judgment exclusive of costs, exceed ten pounds, sterling, be entitled to, and shall have a Writ of Execution against the real or immoveable property or estate of the Defendant, and such Writ may, on application to the Provincial Judge, accordingly, issue from the Provincial Court, directed to the Sheriff of the said Inferior District of Gaspé. Provided always, that when the Defendant shall not have sufficient Goods, Chattels, lands or tenements in the said Inferior District of Gaspé to satisfy the judgment, another Writ of Execution may issue from the said Provincial Court addressed to

the Sheriff of any other District of this Province, in the same manner as a Writ of Execution might issue from any of His Majesty's Courts of King's Bench in this Province, into any other District and be therein executed.

IX. Provided always, and be it further enacted by the authority aforesaid, that no lands or tenements, real or immoveable property, or estate taken in execution in the said Inferior District of Gaspé, in virtue of such Writ, shall be sold or adjudged by the Sheriff of the said District, unless the same shall have been duly seized taken in execution and published according to Law, in the same manner in every respect as if the same had been seized and taken in execution in virtue of a Writ of Execution issuing from any of His Majesty's Courts of King's Bench in this Province, and any sale or adjudication of real or immoveable property, made under and in virtue of such Writ of Execution, shall have the same force and effect to all intents and purposes as if made under and in virtue of a Writ of Execution from any of the said Courts of King's Bench, and the Sheriff of the said Inferior District shall be entitled to the same profits and emoluments upon the money levied in virtue of such Writ of Execution, as are by Law allowed in such cases to the Sheriffs of the other Districts.

X. And be it further enacted by the authority aforesaid, that the Provincial Judge of the said Inferior District of Gaspé, shall be vested with and may exercise within the said Inferior District of Gaspé, all and every the powers and authorities of and concerning, or in any wise relating to the granting, issuing, returning, and proceeding upon Writs of Habeas Corpus, which are by Law vested in any of the Justices of His Majesty's Court of King's Bench in this Province, or in the Provincial Judge of the District of Three-Rivers [Trois-Rivières], and the said Provincial Judge of the said Inferior District of Gaspé shall, in case of refusal or delay to grant any such Writ of Habeas Corpus, when the same may be applied for according to Law, incur and be liable to the same pains and penalties which such Judges or Provincial Judge might by Law in such or the like case incur or be liable to.

XI. And be it further enacted by the authority aforesaid, that a Trial by Jury shall at the instance of either of the parties, Plaintiff or Defendant, be granted by the said Provincial Court in all cases where by the Laws in force in this Province, a trial by jury might be allowed in His Majesty's Court of King's Bench of Civil Jurisdiction.

XII. And be it further enacted by the authority aforesaid, that the Sheriff of the said Inferior District of Gaspé shall annually in the month of June, prepare and return into the said Provincial Court, four several Lists of Jurors, duly qualified according to Law, that is to say, a List of Jurors qualified as aforesaid, for and residing at or contiguous to the several places in the said Inferior District where the Courts are to be held, which Lists shall be respectively by the Clerk of the said Provincial Court, duly classed into two separate lists or books, as ordained and enacted by an Ordinance of the Governor and Legislative Council of the Province of Quebec, passed in the twenty-fifth year of the Reign of His late Majesty George the Third, intituled, "An Ordinance to regulate she proceedings in the Courts of Civil Judicature and to establish Trials by Juries in Actions of a Commercial nature and personal wrongs to be compensated in damages," and all and every the enactments and provisions in the said Ordinance specified and contained relating to Juries, shall, with the modification herein above mentioned, be in full force and effect with respect to all Trials by Jury, which may at any time hereafter be lawfully

demanded, and had in the said Provincial Court in as full and ample a manner to all intents and purposes, as if the same were repeated and re-enacted in the Body of this Act.

XIII. And be it further enacted by the authority aforesaid, that in cases of appeal from judgments of the said Provincial Court, founded on the verdict of a Jury, no other appeal shall lie than an appeal in error, that the Law only, and not the fact, may be drawn into question.

XIV. And be it further enacted by the authority aforesaid, that instead of the terms of the said Provincial Court, as by Law heretofore established, the said Court shall hereafter be held at the places and during the following terms in every year;—that is to say, at New-Carlisle, for causes of ten pounds, sterling, and under, from the twenty-first to the thirtieth April, and from the twenty-first, to the thirtieth day of October, inclusively; and at the same place, for causes above ten pounds, sterling, and within the competence of the said Provincial Court, from the eleventh to the twentieth of May, and from the eleventh to the twentieth of November, inclusively;—At Carlton, for all causes as well under as over ten pounds sterling, within the competence of the said Court, from the twenty first, to the thirtieth July, inclusively; —At Percé, for all causes as well under as over ten pounds sterling, within the competence of the said Court, from the twenty-first: to the thirtieth of August, inclusively;—and at Douglass Town [Douglastown] in the Bay of Gaspé, for all causes as well under as over ten pounds, sterling, within the competence of the said Court, from the eleventh to the twentieth September, inclusively.

XV. And be it further enacted by the authority aforesaid, that instead of the Terms of the General Sessions of the Peace, as heretofore by Law established and to be held in and for the said Inferior District of Gaspé, the said Court of General Sessions shall hereafter be held at the several places, and during the following Terms, that is to say: at New-Carlisle aforesaid, from the tenth to the twentieth December, and from the first to the tenth of April; and at Carlton, Percé and Douglass-Town, during the eight days immediately following the Terms of the Provincial Court, as herein-above appointed.

XVI. Provided always, and be it further enacted by the authority aforesaid, that all Suits or Actions which, at the time of the passing of this Act, may have been returned into, and are pending and undetermined in the said Provincial Court, shall be tried and determined by the said Provincial Judge, at the several places where the same are respectively pending, at the terms by this Act established, hereafter to be held; with the exception of such Suits or Actions only, as have been instituted and are pending in the said Provincial Court heretofore held for Bonaventure, which said Suits or Actions shall be tried and determined by the said Provincial Court, in any term thereof that may hereafter be held at New-Carlisle aforesaid, in virtue of this Act; and the Records and Papers relating and appertaining to the several causes pending and undetermined in the said Provincial Court heretofore held for Bonaventure, shall be transferred to the Provincial Court, so as aforesaid to be held at New-Carlisle, and the same shall be and remain of record in the said Provincial Court.

XVII. And be it further enacted by the authority aforesaid, that all Writs which already are, or that hereafter may be issued and returnable into the said Provincial Court, for the terms as the same have heretofore been by Law established, shall be returned at the several places where the same are, or may be returnable, into the first Provincial Court, which may be held at the said places, respectively, in

virtue of this Act: With the exception nevertheless, of such Writs as are, or may be returnable at Bonaventure aforesaid, which Writs shall be returned into and be tried and determined in the first term that may be held after the passing of this Act, at New-Carlisle aforesaid, in virtue of the same Act.

XVIII. And be it further enacted by the authority aforesaid, that this Act shall continue to be in force until the first day of May, which will be in the year of our Lord one thousand eight hundred and twenty-six, and no longer.