

L A W S  
OF HIS MAJESTY'S PROVINCE OF  
U P P E R - C A N A D A .

PASSED IN THE FIRST SESSION OF THE PROVINCIAL PARLIAMENT OF UPPER-CANADA, MET AT NEWARK, ON THE SEVENTEENTH DAY OF SEPTEMBER, IN THE THIRTY-SECOND YEAR OF THE REIGN OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE FIFTEENTH DAY OF OCTOBER FOLLOWING.

C H A P. I.

An ACT to repeal certain parts of an Act passed in the Fourteenth Year of his Majesty's Reign, entitled "An act for making more effectual Provision for the Government of the province of Quebec, in North-America, and to introduce the English Law, as the Rule of Decision in all Matters of Controversy relative to Property and Civil Rights."

WHEREAS by an act passed in the fourteenth year of the reign of his present majesty, entitled "An act for making more effectual provision for the government of the province of Quebec in North-America," it was among other things provided, "That in all matters of controversy relative to property and civil rights, resort should be had to the laws of Canada as the rule for the decision of the same;" such provision being manifestly and avowedly intended for the accommodation of his majesty's Canadian subjects: and whereas since the passing of the act aforesaid, that part of the late province of Quebec, now comprehended within the province of Upper-Canada, having become inhabited principally by British subjects, born and educated in countries where the English laws were established, and who are unaccustomed to the laws of Canada, it is inexpedient that the provision aforesaid contained in the said act of the fourteenth year of his present majesty, should be continued in this province, 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 Upper Canada, constituted and assembled by virtue of and under the authority of an act passed in the parliament of Great-Britain, entitled an act to repeal certain parts of an act passed in the fourteenth year of his majesty's reign, entitled, "An Act for making more effectual provisions for the government of the province of Quebec, in North-America, and to make further provision for the government of the said Province," and by the authority of the same, That from and after the passing of this act, the said provision contained in the said act of the fourteenth year of his present majesty, be, and the same is hereby repealed, and the authority of the said laws of Canada, and every part thereof, as forming a rule of decision in all matters of controversy relative to property and civil rights, shall be annulled, made void, and abolished throughout this province; and that the said laws, nor any part thereof, as such, shall be of any force or authority within the said province, nor binding on any of the inhabitants thereof.

Preamble.

Recital of Act  
14 Geo. III.

The same repealed in so far as it constitutes the laws of Canada a rule of decision, in matters of controversy, relative to property and civil rights.

Without affecting claims on real property or contract already executed.

II. *Provided always, and be it enacted by the authority aforesaid,* That nothing in this act, shall extend to extinguish, release or discharge, or otherwise to affect any existing right, lawful claim or incumbrance, to and upon any lands, tenements or hereditaments within the said Province, or to rescind or vacate or otherwise to affect any contract or security, already made and executed conformably to the usages prescribed by the said laws of Canada.

The laws of England to be henceforth the rule of decision

III. *And be it further enacted by the authority aforesaid,* That from and after the passing of this act, in all matters of controversy relative to property and civil rights, resort shall be had to the laws of England as the rule for the decision of the same.

But the ordinances of the province of Quebec are no further repealed than by this act is necessary

IV. *Provided always, and be it enacted by the authority aforesaid,* That nothing in this act, shall extend, or be construed to extend, to repeal or vary any of the ordinances made and passed by the governor and legislative council of the province of Quebec, previous to the division of the same into the Provinces of Upper and Lower-Canada, otherwise than as they are necessarily varied by the provisions herein mentioned.

The rules of evidence to be regulated by those established in England.

V. *And be it further enacted by the authority aforesaid,* That all matters relative to testimony and legal proof in the investigation of fact, and the forms thereof, in the several courts of law and equity within this Province, be regulated by the rules of evidence established in England.

But no alteration is made in the subsisting provisions respecting the clergy, courts of justice poor and bankrupts.

VI. *Provided always, and be it enacted by the authority aforesaid,* That nothing in this act, contained, shall vary, or interfere with any of the subsisting provisions respecting ecclesiastical rights or dues in this Province, or with the forms of proceeding in civil actions or the jurisdiction of the courts already established, or to introduce any of the laws of England respecting the maintenance of the poor, or respecting bankrupts.

## C H A P. II.

### *An ACT to establish Trials by Jury.*

Preamble.

**W**HEREAS the trial by jury has been long established and approved in our mother country, and is one of the chief benefits to be attained by a free constitution; 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 Upper Canada, constituted and assembled by virtue of and under the authority of an act passed in the parliament of Great-Britain; entitled, an act to repeal certain parts of an act passed in the fourteenth year of his majesty's reign, entitled, "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 by the authority of the same, That from and after the first day of December, in this present year of our Lord one thousand seven hundred and ninety-two, all and every issue and issues of fact, which shall be joined in any action, real, personal or mixed, and brought in any of his majesty's courts of justice within the Province aforesaid, shall be tried and determined by the unanimous verdict of twelve jurors, duly sworn for the trial of such issue or issues, which jurors shall be summoned and taken, conformably to the law and custom of England.

All issues of fact to be determined by verdict of 12 jurors conformably to the law and custom of England.

Who may bring in a special verdict.

II. *Provided always, and be it further enacted by the authority aforesaid,* That nothing herein contained shall prevent, or be construed to prevent the said jurors, in all cases where they shall be so minded, from bringing in a special verdict,