



ANNO NONO

VICTORIÆ REGINÆ.

CAP. XXIX.

An Act to amend the Law relative to the Administration of Justice in Lower Canada.

[9th June, 1846.]

WHEREAS it is expedient to amend the Acts hereinafter mentioned, and to make further provision as to certain matters relative to the due Administration of Justice in Lower Canada: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the eighteenth section of the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts and Ordinances therein mentioned, and to make better provision for the Administration of Justice in Lower Canada*, and so much of the tenth section of a certain other Act, passed in the said seventh year of Her Majesty's Reign, and intituled, *An Act for the establishment of a better Court of Appeals in Lower Canada*, and of any other Act or Law in force in Lower Canada as requires that any Writ or Process issuing out of any of Her Majesty's Courts of Justice therein, should be in both the English and French languages, shall be and the same are hereby repealed, and henceforth any Writ or Process issuing out of any such Court may be either in the English or in the French language; any law, usage or custom to the contrary notwithstanding.

Preamble.

Section 18 of 7 Vict. c. 16., and part of sect. 10. of 7 Vict. c. 18, repealed. Writs or Process may be in either the English or the French language.

II. And be it enacted, That so much of the twenty-second and thirty-sixth sections of the said Act, secondly above cited, and so much of any other part thereof as directly or indirectly vests in any Court of Queen's Bench in the Districts of Montreal and Quebec, sitting in Inferior Term, concurrent jurisdiction within the extent and limits of the jurisdiction of any Circuit Court, with the Circuit Court sitting in and for such Circuit, or as enacts that if any evocation from any Circuit Court to such Court of Queen's Bench, sitting in Superior Term, be not maintained, the said Court, sitting in Superior Term, may, in its discretion, remit the cause either to the Circuit Court from which it shall have been evoked, or to the Inferior Term of the said Court of Queen's Bench, to be dealt with as if it had been originally brought in the said Inferior Term, shall be, and so much of the said sections, or

Part of sect. 22 & 36, of 7 Vict. c. 16, repealed, and the concurrent jurisdiction of the Circuit Courts and inferior terms of Q. B. abolished in the Districts of Quebec and Montreal.

of any other part of the said Act, is hereby repealed ; and every Circuit Court, in the said Districts, shall, within the limits of the Circuit thereof, have exclusive cognizance of Suits or Actions cognizable therein, subject to the same provisions as heretofore as to the evocation thereof to the Court of Queen's Bench for the District sitting in Superior Term, saving always, that if the evocation be not maintained, the cause shall be remitted to the Circuit Court, to be there tried and determined ; and the Court of Queen's Bench, sitting in Inferior Term, in either of the said Districts, shall have jurisdiction only within such parts of the District as are not within the limits of any Circuit ; and no person shall be bound to attend at any such Inferior Term as a Witness in any Suit or Action pending therein, unless he be resident within the jurisdiction of the Court sitting in Inferior Term, or within ten leagues of the place where such Term shall be held : Provided always, that nothing herein contained shall prevent any such Court, sitting in Inferior Term, from proceeding as if this Act had not been passed, to trial, judgment and execution in any case returned into Court, and pending before it when this Act shall come into force, or arising out of any intervention, opposition, or other proceeding, in any such case.

Proviso, as to cases pending when this Act shall come into force; and matters arising out of such cases.

Part of sect. 9, & 19 of 7 V. c. 16, repealed: And new times for holding the Terms or Session of the Courts of Q. B. at Quebec and Montreal.

In the District of Quebec.

In the District of Montreal.

What shall be Juridical days and Return days.

III. And be it enacted, That so much of the ninth and nineteenth sections or of any other part of the Act secondly above cited, as fixes the times at which the several Terms or Sessions of the Courts of Queen's Bench for the Districts of Quebec and Montreal are to be held, shall be and is hereby repealed, from and after the first day of August next, and the Terms or Sessions of the said Courts shall thereafter be holden at the times hereinafter appointed in each and every year, that is to say : In the District of Quebec, for the cognizance of all crimes and criminal offences, from the first to the tenth day of each of the months of February and August : in the said District, for the cognizance of all Suits or Actions of a civil nature, or where the Crown is a party, cognizable by the said Court in Superior Term, from the seventh to the thirty-first day of January, and from the first to the twenty-fifth day of each of the months of April, July and October, in the said District for the cognizance of all Suits or Actions of a civil nature, or where the Crown is a party, cognizable by the said Court, in Inferior Term, from the sixteenth to the twenty-fifth of each of the months of February and May, and from the first to the tenth of each of the months of September and December : In the said District of Montreal, for the cognizance of all crimes and criminal offences, from the first to the fifteenth day of each of the months of February and August ; in the said District, for the cognizance of all Suits or Actions of a civil nature, or where the Crown may be a party, cognizable by the said Court in Superior Term, from the seventh to the thirty-first day of January and from the first to the twenty-fifth day of each of the months of April, July and October ; in the said District, for the cognizance of all Suits or Actions, of a civil nature, or where the Crown may be a party, cognizable by the said Courts in Inferior Term, from the sixteenth to the twenty-fifth day of each of the months of February and May, and from the first to the tenth day of each of the months of September and December ; the first and last days named in every case inclusive : And the said Courts shall sit for the purposes aforesaid, on each and every day during the said Terms and Sessions, Sundays and Holidays excepted, and every Juridical day during the same shall be a return day.

IV. And be it enacted, That so much of the said nineteenth section of the said Act secondly above cited, as requires that an Inferior term of the Court of Queen's Bench for the District of Three-Rivers, should be held by the Resident Judge for that District, from the first to the seventh day of the month of June, be, and the same is hereby repealed, and that in lieu thereof an Inferior term of the said Court, shall be held by the said Resident Judge, from the fifteenth to the twenty-first day of May in every year, both days inclusive.

Part of sect. 19 of 7 V. c. 16, repealed, and the time of holding one of the Inferior terms at Three-Rivers altered.

V. And be it enacted, That so much of the sixth section or of any other part of the Act last above cited, as directs that a Term of the Court of Appeals shall be held from the first to the tenth day of July, in each year, shall be and is hereby repealed; and that instead of the said Term a Term of the said Court shall be held from the first to the tenth day of June in each year, both days inclusive.

Part of sect. 6 of 7 V. c. 18, repealed, and the time of holding one of the Terms of the Court of Appeals altered.

VI. And be it enacted, That every Writ or Process issued before this Act shall be in force, which shall have been made returnable into any Court of Queen's Bench, or into the Court of Appeals, or any day subsequent to the said first day of August next, shall be returned into such Court on that Juridical day of any Term of such Court held for the cognizance of matters of the nature of that in which such Writ or Process shall have issued, which shall be next after the day on which such Writ or Process shall have been made returnable.

Provision as to Writs and Process issued before this Act shall be in force, but made returnable after that time.

VII. And be it enacted, That whenever in any cause before any Court of Queen's Bench, a Judge or Judges *ad hoc* ought to be appointed under the provisions of the fourteenth section of the Act herein first above cited, and it shall happen that all or any of the Justices of the other Courts of Queen's Bench shall be also lawfully recused, disqualified or rendered incompetent by interest or otherwise to sit in such Court, then it shall be lawful for the Governor, Lieutenant-Governor, or person administering the Government, by an instrument under his hand and seal, to appoint and empower one or more of the Circuit Judges for either of the Districts of Quebec or Montreal, or other persons being Advocates for at least eight years standing, to sit in the place and stead of the Justice or Justices of the said Court recused, disqualified or rendered incompetent, for the purpose of hearing and determining such cause, and the person or persons so appointed a Justice or Justices *ad hoc* shall have, during the continuance of such appointment, the same power and authority in and with regard to the said cause as the Justice or Justices in whose stead he or they shall be appointed to act would otherwise have had.

Whenever under sect. 14 of 7 V. c. 16, a Judge *ad hoc* ought to be appointed, and the Judges of the other Courts of Q. B. shall be disqualified, a Circuit Judge or Advocate may be appointed to be Judge *ad hoc*.

Powers of such Judge *ad hoc*.

VIII. And be it enacted, That for and notwithstanding any thing in the said Act secondly above cited, the Circuit, therein called the "Shefford Circuit," shall, from and after the first day of August next, be called the "Missisquoi Circuit," and that from and after the said day, the Township of Stanbridge and the Parishes of Saint Armand East and Saint Armand West shall cease to form part of the Saint Johns Circuit, and shall be united to and form part of the said Missisquoi Circuit; and that notwithstanding as aforesaid, the Circuit Court for the said Circuit shall, from and after the ninth day of August next, be held at Nelsonville, in the Township of Dunham, instead of being held at or near West Church in the Township of Shefford; and all Writs and Process theretofore made returnable

Name of the "Shefford Circuit" changed to the "Missisquoi Circuit," and the extent of the Circuit, and place of holding the Court altered.

Proviso as to proceedings commenced before this Act shall come into force.

returnable at the place last named shall be thereafter returnable at Nelsonville aforesaid, to which place the records of the Court shall be accordingly removed : Provided always, that all suits, actions and matters commenced in the Circuit Court for the Saint Johns Circuit before the said first day of August next, and all oppositions and other proceedings incidental thereto, shall and may be made, heard, continued and completed, and execution issued therein in the said Circuit Court, as if this Act had not been passed, notwithstanding the change hereby made in the jurisdiction of the said Circuit Court.

When this Act shall come into force, and its duration.

IX. And be it enacted, That this Act shall have force and effect upon, from and after the first day of August, one thousand eight hundred and forty-six, and not before, and shall continue in force until the first day of August, in the year of our Lord, one thousand eight hundred and forty-seven, and thence until the end of the then next Session of Parliament, and no longer.

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