

CAP XVII.

An Act to establish the District of Gaspé, and to provide for the due administration of Justice therein.

[9th December, 1843.]

Preamble.

WHEREAS, from the increase of Population and Commerce in the Inferior District of Gaspé, it hath become necessary to make more ample provision for the due administration of Justice therein, to change the system of Judicature heretofore existing there, which has been found by experience to be inadequate to the wants of the inhabitants of that important section of the Province, and to establish therein as nearly as circumstances will allow, the same system of Judicature which is established in other portions of the Province; 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, and intituled, *An Act to re-unite the Provinces of Uppcr and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that so much of the Act of the Legislature of Lower Canada, passed in the thirty-fourth year of the Reign of His late Majesty King George the Third, and intituled, "*An Act for the division of the Province of Lower Canada, for amending the Judicature thereof, and for repealing certain Laws therein mentioned*," as constitutes the Inferior District of Gaspé, or provides for the establishment of a Provincial Court therein, or enacts that the said Inferior District, or any part thereof, shall for any purpose whatever form part of the District of Quebec, shall be and so much of the said Act is hereby repealed, and the said Provincial Court shall be and is hereby abolished.

Certain parts of the Act of L. C. 34 Geo. 3, c. 6, repealed, and the Provincial Court and Inferior District of Gaspé abolished.

District of Gaspé constituted.

II. And be it enacted, that all that part of this Province which heretofore constituted the Inferior District of Gaspé, shall hereafter constitute and be called the "District of Gaspé," and shall be, for all purposes of Judicature whatever, entirely separate and distinct from the District of Quebec, and the said District of Gaspé and the Courts therein to be established shall be in all things in the same relative position with regard to the other Districts of Lower Canada and to the Courts therein, in which each of the said other Districts, and the Courts therein established, is with regard to the other Districts or with regard to the Courts therein established.

Two District Judges to be appointed in

III. And be it enacted, that there shall be appointed, by separate Letters Patent under the Great Seal of this Province, two District Judges in and for the said

said District of Gaspé, one of whom shall reside at Percé, in the County of Gaspé, and the other at New Carlisle, in the County of Bonaventure, as shall be directed by the Letters Patent appointing them, respectively ; and that no person shall be appointed to be such District Judge, unless he shall be at the time of his appointment as aforesaid, an Advocate of five years' standing at the Bar of Lower Canada, or shall have been a Judge of the Provincial Court hereby abolished ; and that no such District Judge shall sit or vote in the Executive Council, or in the Legislative Council, or in the Legislative Assembly of this Province, or shall hold any other place of profit under the Crown in this Province, so long as he shall hold the said office of District Judge.

the said District.

IV. And be it enacted, that in each of the said Counties of Gaspé and Bonaventure, there shall be Courts of Record of Civil Jurisdiction, to be called Circuit Courts, which shall be holden by and before one of the District Judges to be appointed as aforesaid : Provided always, that the Circuit Courts in the County of Gaspé, shall be ordinarily holden by and before the District Judge resident at Percé, and the Circuit Courts in the County of Bonaventure, shall be ordinarily holden by and before the District Judge resident at New Carlisle but if from illness, necessary absence, interest in a suit or action, recusation, or other cause, either of the said District Judges be unable to hold any Court, hear any cause or perform any duty, required to be holden, heard or performed in the County in which he shall be resident, it shall be the duty of the other Judge, on being informed thereof, to hold such Court, hear and determine such cause, or perform such duty, if it be in his power so to do, without neglecting equally important and urgent duties in the County in which he shall be resident ; nor shall any thing in this Act be construed to prevent either of the said District Judges from exercising or performing within either of the said Counties any power or duty which he could lawfully perform or exercise in the other, and the said District Judges shall mutually assist each other to the best of their ability in the performance of their judicial duties in the said District of Gaspé.

Circuit Courts established in the said District.

By whom to be held.

V. And be it enacted, that except in those cases in which it is otherwise provided by this Act, or where it shall be inconsistent with the express enactments thereof, the Circuit Courts hereby established, and the Judges and Officers thereof, shall have like jurisdiction, power, authority and duties with the Circuit Courts established by the Act passed during the present Session, and intituled, "*An Act to amend the law relative to the Administration of Justice in Lower Canada,*" and the Judges and Officers thereof respectively, and shall, as shall also the Attornies practising therein, be bound by the same Rules and Provisions of law ; and in all suits and actions, to be brought therein, an appeal shall lie, or such suits or actions may be evoked or removed to or into the Court of

Except as hereinafter excepted, the said Circuit Courts and the Judges and Officers to have the same powers as those in other Districts.

of Queen's Bench hereinafter established for the said District of Gaspé, in like cases and in the same manner, and subject to the same provisions of law, in and under which appeals lie or suits and actions may be removed from the Circuit Courts in any other District in Lower Canada to the Court of Queen's Bench in and for the same, sitting in superior Term.

Writs and
process how
tested.

VI. Provided always, that the Writs and process issuing out of any Circuit Court hereby established shall be tested in the name of the District Judge by whom such Court is to be ordinarily holden, except where such Judge shall be a party to the suit or action, in which case they shall be tested in the name of the other of the said District Judges; and that every suit or action brought in any such Court in which there shall be an appeal to the said Court of Queen's Bench, or which shall be evoked or removed to the said Court, shall be heard and determined (in appeal or otherwise, as the case may be,) at the sitting of the said Court of Queen's Bench held in the same County, unless by the consent of all the parties, with which consent it may be heard and determined in the other of the said Counties.

Certain Spe-
cial provisions
as to appeals
from the said
Courts.

VII. Provided also, and be it enacted, that the party desirous of appealing from any Judgment of any Circuit Court established by this Act, shall have a delay of thirty days after the rendering of such Judgment, to give the security in Appeal by Law required; that the Petition and notice of Appeal shall and may be served within forty days from the rendering of the Judgment appealed from; and that the said Petition shall and may be presented on any of the first ten juridical days of the sitting of the said Court of Queen's Bench hereby established, at which the Appeal can be heard, next succeeding the rendering of any such Judgment, if there shall be an interval of fifty days between the rendering of such judgment and the last of the said first ten juridical days of the said sitting, and if there shall not be such an interval, then on the first juridical day of the second sitting of the said last mentioned Court of Queen's Bench next succeeding the rendering of such judgment.

Bailiffs in the
said District,
by whom ap-
pointed and
their powers.
&c.

VIII. Provided also, and be it enacted, that Bailiffs appointed by the said Circuit Courts, or by the said Court of Queen's Bench hereby established, shall have power and authority to act as such within the limits of the said District of Gaspé, for the service and execution of all writs, orders and process issuing as well from the said last mentioned Court of Queen's Bench and the said Circuit Courts, as from all other Courts of Justice in Lower Canada; and such Bailiffs shall be removable by the said last mentioned Court of Queen's Bench, or by any of the said Circuit Courts; and all Bailiffs so appointed shall give security in the manner by Law required with regard to Bailiffs in other Districts, and
under

under like provisions, but the Bond shall be taken before the Clerk or Prothonotary of the Court in which the Bailiff shall be appointed, in whose office it shall remain, and who shall have the same duties with regard to it and to the Bailiff to whom it shall relate, as the Clerk or Prothonotary of any Court of Queen's Bench, in any other District, would by Law have in any case where a Bailiff had given security before him : Provided also, that Bailiffs who before the commencement of this Act, shall have been duly appointed to such office by the Provincial Court hereby abolished, shall have power and authority to act as such for the service and execution of all such writs, orders, and process issuing as aforesaid, during six months after the commencement of this Act, and no longer.

Proviso as to those appointed before the commencement of this Act.

IX. Provided also, and be it enacted, that each of the Circuit Courts, and the Court of Queen's Bench hereby established, shall have the like power and authority to inquire into the conduct of any Bailiff for the said district of Gaspé, or of any other officer of such Court acting under colour or pretence of the process of such court, who shall be guilty of extortion or misconduct, or shall not duly pay or account for any money levied or received by him under the authority of this act, and to punish any misconduct of such Bailiff, or such other officer, and to grant redress to the party aggrieved thereby, as any Court of Queen's Bench has by law to inquire into the conduct of any Bailiff or such other officer of the District in which it is established, and to punish him for misconduct, and to grant redress to the party aggrieved ; and if any such Bailiff or such other officer be committed to Goal in consequence of such misconduct, the committal shall be to the Common Gaol of that one of the said counties in which the Court committing him shall be held.

Powers of the Courts in Gaspé as to Bailiffs and other Officers.

X. Provided also, and be it enacted, that so far as it shall be found practicable, and a fit and competent person can be found willing to accept this office, a Bailiff or Bailiffs shall be appointed in each of the Townships or principal settlements in the said District of Gaspé, and it shall be the duty of any party suing out any process either from any Circuit Court or from the Court of Queen's Bench, or of the Sheriff, as the case may be, to cause such process to be served or executed by the Bailiff residing nearest to the place of service or execution.

Bailiffs to be appointed in each settlement, &c.

XI. And be it enacted, that the said Circuit Courts shall be holden every year at the times and places hereinafter appointed, and the local extent and limits of the jurisdiction of each of the said Courts shall be as follows, that is to say :—

Terms and local jurisdiction of Circuit Courts.

In the said County of Gaspé, at Percé, in and for the Circuit to be called "The Percé Circuit," from the first to the tenth day of each of the months of

Percé Circuit.

of March and November, both days inclusive ; and the said Circuit shall comprise that part of the said County which extends along the coast of the Gulf of Saint Lawrence, from Whale Head on the South side of the entrance to Gaspé Bay, to Cap D'Espoir, including the settlements of Point St. Peter, Malbay, Percé, Ance à Beaufils, and Ance du Cap :

Basin Circuit

In the said County of Gaspé, at the Basin of Gaspé, in and for the Circuit to be called "The Basin Circuit," from the fifteenth to the twenty fourth day of each of the months of March and November, both days inclusive; and the said Circuit shall comprise that part of the said County which extends along the coast of the River and Gulf of Saint Lawrence, from Cap Chat to Whale Head aforesaid, including all the settlements on Gaspé Bay and along the said coast within the limits above mentioned :

Grande Rivière Circuit.

In the said County of Gaspé, at Grande Rivière, in and for the Circuit to be called "The Grande Rivière Circuit," from the first to the tenth day of each of the months of April and December, both days inclusive ; and the said Circuit shall comprise that part of the said County, which extends along the coast of the said Gulf of St. Lawrence, from Cap D'Espoir aforesaid westward, to Point Mackerel, at the entrance of the Bay of Chaleurs, including the settlements of Cap D'Espoir, Petite Rivière, Grande Rivière, Pabos and Newport :

Magdalen Islands Circuit.

In the said County of Gaspé, at Amherst Harbour, on the principal island of the Magdalen Islands, in and for the Circuit to be called "The Magdalen Islands Circuit," from the first to the tenth day of July, both days inclusive ; and the said Circuit shall include all the Islands called the Magdalen Islands, so long as the same shall form part of this Province :

New Carlisle Circuit.

In the said County of Bonaventure, at New Carlisle, in and for the Circuit to be called "The New Carlisle Circuit," from the fifteenth to the twenty fourth day of each of the months of May and December, both days inclusive ; and the said Circuit shall comprise that part of the said County, which extends along the coast of the said Bay of Chaleurs, from Point Mackerel aforesaid, westward, to the river commonly called and known as the River Capelan, near Black Cape, in New Richmond, including the settlements of Ance aux Gascons, Port Daniel, East Nouvelle Hope, Paspébiac, New Carlisle and Bonaventure :

Carleton Circuit.

In the said County of Bonaventure, at Carleton, in and for the Circuit to be called "The Carleton Circuit," from the fifteenth to the twenty fourth day of each of the months of January and July, both days inclusive ; and the said Circuit shall comprise that part of the said County which extends westward from the

the said River Capelan, to the westernmost boundary of the Seigniorship of Shoobred :

In the said County of Bonaventure, or as near as conveniently may be to the place called The Mission, at Ristigouche, in and for the Circuit to be called "The Ristigouche Circuit," from the twenty seventh day of January to the fifth day of February, and from the twenty seventh day of July to the fifth day of August, both days inclusive ; and the said Circuit shall comprise all the settlements on the North side of the said River Ristigouche, from the River Escominac upwards, to the westernmost boundary of the said County.

Ristigouche
Circuit.

Provided always, that the said Circuit Courts shall sit every day during the said terms, Sundays and Holidays always excepted : Provided always that the three first Juridical days only of each Term shall be return days ; and at the close of the third juridical day, or at any time thereafter, the Judge may, if there be then no business before the Court, close the sittings thereof, until the then next Term : And provided also, that any person carrying on business as a trader, or as a fisherman, in more than one of the said Circuits, may be sued in the Circuit in which he shall have his domicile, or in any one in which he shall be carrying on business, as aforesaid.

Proviso.
Return days.
Persons carrying
on business in more
than one Circuit.

Three first
days to be re-
turn days, and
Court may be
closed by
Judge when
no business be-
fore the same.

XII. And be it enacted, that the Records, Registers, Documents and Proceedings of and in the Commissioners' Court for the Magdalen Islands, and of the Provincial Court hereby abolished in matters cognizable by the Circuit Courts hereby established, shall forthwith after the commencement of this Act be transmitted to and make part of the Records, Registers, Documents and Proceedings of the Circuit Court, to be held at the place, or within the Circuit in which they shall have been lawfully kept immediately before the commencement of this Act.

Transmission
of Records, &c.
of present
Courts.

XIII. And be it enacted, that no Judgment, Order, Rule, or Act of the said Commissioners' Court for the Magdalen Islands, or of the Provincial Court hereby abolished, legally pronounced, had or done in any matter cognizable by the said Circuit Courts before the commencement of this Act, shall be thereby avoided, but shall remain in full force as if this Act had not been passed ; nor shall any action, suit, or cause or proceeding, in any matter cognizable by the said Circuit Courts pending in the said Commissioners' Court for the Magdalen Islands, or in the said Provincial Court, be abated, discontinued or annulled, but the same shall be transferred in their then present condition respectively to, and shall subsist and depend in the Circuit Courts into which the Records, Registers, Documents and Proceedings of the said Commissioners' Court for the Magdalen

Continuation
of suits, &c.
commenced in
present Courts

dales Islands and the said Provincial Court, respectively, are to be transmitted as aforesaid, and other and further proceedings shall be thereon had in the said Circuit Courts, respectively, to judgment and execution and as to all matters and proceedings consequent upon such judgment and execution, as if such suit or action, cause or proceeding had been originally commenced or instituted in such Circuit Courts.

Court of Queen's Bench established in Gaspé : how constituted.

XIV. And be it enacted, that there shall be and is hereby established, in and for the said District of Gaspé, a Superior Court of Record of Civil and Criminal Jurisdiction, to be called the Court of Queen's Bench, (or of King's Bench, as the case may be,) for the District of Gaspé, which Court shall be held by any one or more of the Justices of the Court of Queen's Bench for the District of Quebec, or the Resident Judge of the District of Three Rivers, and the said two District Judges to be appointed under the authority of this Act for the said District of Gaspé, or by any two of them ; one of whom always to be one of the Justices of the said Court of Queen's Bench for the District of Quebec, or resident Judge of the District of Three Rivers, and each of the said District Judges shall be to all intents and purposes whatever, a Justice of the said Court of Queen's Bench, saving only that he shall always yield precedence therein to any Justice of any other Court of Queen's Bench, and that he shall not be a Justice of the Court of Appeals for Lower Canada, or entitled to sit in the said Court : And provided always, that all writs and process to be issued out of the said Court of Queen's Bench for the District of Gaspé, shall be tested in the name of the Chief Justice, or in his absence from the Province, of the senior Puisné Justice of the Court of Queen's Bench for the District of Quebec, then within the Province, as one of the Justices of the said Court of Queen's Bench for the District of Gaspé.

Writs and process, how tested.

Except as hereinafter excepted, the said Court to have the same powers as the Courts of Queen's Bench in other Districts.

XV. And be it enacted, that except in those cases in which it is otherwise provided by this Act, or where it shall be inconsistent with the express enactments thereof, the Court of Queen's Bench hereby established, and the Justices and Officers thereof, shall have like jurisdiction, powers, authority and duties with the other Courts of Queen's Bench established in Lower Canada and having jurisdiction in Criminal as well as in Civil matters, and the Justices and Officers thereof respectively, and shall, as shall also the Attornies practising therein, be bound by the same rules and provisions of Law ; and in all suits or actions to be brought in or removed into the Court of Queen's Bench for the District of Gaspé, an appeal shall lie from the judgment of the said Court to the said Court of Appeals for Lower Canada in like cases, and under and subject to the same provisions of Law, in and under which an appeal would lie from the Judgment of any other Court of Queen's Bench in Lower Canada, in suits or actions brought in or removed into such last mentioned Court : Provided always, that there

Appeals.

there shall be no Inferior Term of the said Court of Queen's Bench for the District of Gaspé.

XVI. And be it enacted, that the said Court of Queen's Bench for the District of Gaspé shall sit in each year at the times and places hereinafter mentioned, that is to say:—at Percé aforesaid, from the twenty-first to the thirtieth day of August, both days inclusive; and at New Carlisle aforesaid, from the fourth to the thirteenth day of September, both days inclusive, Sundays and Holidays always excepted; and the sittings of the Court in the said two places shall be held to constitute but one Term, each and every juridical day during which shall be a Return day for all suits and process returnable into the said Court; and in the said Term the Court may take cognizance of all crimes and criminal offences, and of all suits or actions of a civil nature or where the Crown may be a party, cognizable by the Courts of Queen's Bench for Lower Canada in Superior Term, giving precedence to any cases of a criminal nature, on the days (if any) appointed as hereinafter provided for hearing, trying or disposing of such cases.

Terms of the said Court.

Court at such Terms to have cognizance of civil and criminal cases.

XVII. Provided always, and be it enacted, that whenever any offence shall be committed in the said District of Gaspé, the offender, if committed to Gaol before trial, may be committed to the common Gaol of the County in which the offence shall have been committed, or may in Law be deemed to have been committed, and if tried before the Court of Queen's Bench for the said District, shall be so tried at the sitting of such Court held in the County to the Gaol of which he shall have been committed, and if imprisoned in the common Gaol after trial, shall be so imprisoned in the common Gaol of the County in which he shall have been tried.

Proviso as to offences committed in either County in the said District.

XVIII. And to exempt, as far as may be consistent with the due administration of Justice and the well being of the District, the inhabitants thereof from attending, unless in cases of necessity, the Criminal Sittings of the said Court of Queen's Bench as Jurors, by which considerable loss of time and expense are incurred, frequently to the serious inconvenience of individuals, as well as to avoid the expense of summoning at the public charge Grand and Petty Jurors, when there may be no business of urgency requiring the attendance of such at the sittings of the said Court of Queen's Bench at Percé or at New Carlisle; Be it enacted, that if during the sitting of the said Court at either of the places aforesaid, there shall be any criminal matters requiring despatch, it shall be lawful for the said Court to fix such day or days in the course of the sitting thereat as may best suit the public convenience for the hearing, trial and disposal of such criminal matters, and to issue the necessary precept addressed to the Sheriff for summoning Grand and Petty Jurors, but that without such special order of the Court, no precept shall issue for summoning Jurors to attend any criminal sitting of the said Court; and

Preamble.

Grand and Petty Jurors not to be summoned unless there be criminal business before the Court.

in

in case of the issuing of any such precept, it shall be the duty of the Sheriff of the District of Gaspé to be appointed in pursuance of this Act, to cause such precept to be executed with all possible despatch, and with as little expense as possible to the Province for mileage or other incidental charges arising therefrom.

In civil cases, persons not to be summoned to appear as witnesses out of the County in which they reside.

Proviso.

XIX. Provided always, and be it enacted, that in civil cases no person residing in the County of Gaspé shall be liable to be summoned thence as a witness before the said Court of Queen's Bench when sitting in the County of Bonaventure, nor *vice versa* shall any person residing in the County of Bonaventure be liable to be summoned before the said Court when sitting in the County of Gaspé: Provided always, that nothing herein contained shall exonerate any person being a non-resident in the County in which the said Court may be sitting or to sit, from appearing and giving evidence as a witness before the said Court, if duly served with a Subpœna or order of the Court to that effect, within such County, during the sitting of the Court or within three days next before such sitting.

Joint Clerk and Prothonotary of the said Court to be appointed.

Proviso.

XX. And be it enacted, that for the convenience of the inhabitants of the District of Gaspé, it shall be lawful for the Governor of this Province to appoint, during pleasure, two fit and proper persons of competent ability and experience in the practice of the Courts of Civil and Criminal Jurisdiction in Lower Canada, to be joint Clerks of the Crown and Prothonotaries of the said Court of Queen's Bench for the District of Gaspé, one of whom shall reside at Percé aforesaid, and shall keep his office open at the Court House thereat from ten in the forenoon, until three in the afternoon, daily, throughout the year, (Sundays and Holidays always excepted,) and the other shall reside at New Carlisle, and shall in like manner keep his office open at the Court House thereat, daily, throughout the year, (with the exceptions aforesaid,) during the hours above mentioned: Provided always, that the said Court shall have power, and the same is hereby authorized, when and so often as the Justices thereof shall see fit, to alter the said office hours and to fix in their stead such others as in their discretion they shall deem expedient, having always a due regard to the public convenience.

Records of the Court of Queen's Bench where to be kept.

XXI. And be it enacted, that the records and papers in all suits or actions real, personal or mixed, before the said Court of Queen's Bench, in which the cause of action shall have arisen in the County of Gaspé, shall be kept in the office of the joint Prothonotary of the said Court at Percé, and the records and papers in all such suits or actions in which the cause of action shall have arisen in the County of Bonaventure, shall be kept in the office of the joint Prothonotary of the said Court at New Carlisle; and in cases where the cause of action may not have arisen within the District of Gaspé, the records and papers shall be kept in the office of the joint Prothonotary in the County (of Gaspé or Bonaventure, as the case

case

case may be,) wherein the defendant shall reside, and if he be a non-resident in the said District, then in the office from which the first writ or process in such suit or action shall have issued: Provided always, that in all cases any records or papers or documents filed in the said Court, may be kept in or removed into either of the said offices in or into which the Justices of the said Court shall direct them to be kept or removed.

Proviso.

XXII. And be it enacted, that duplicate Registers and *Plumitifs* of all proceedings before the said Court of Queen's Bench, in civil cases, shall be kept by the joint Prothonotaries thereof, in like manner and form as Registers and *Plumitifs* are kept in like cases by the Prothonotary of the Court of Queen's Bench for the District of Quebec, to the end that in each of the said offices at Percé and New Carlisle, one set of the said Registers and *Plumitifs* may be found and access thereunto had, free of expense, by all persons desirous of consulting the same.

Duplicate Registers and Plumitifs to be kept.

XXIII. And be it enacted, that all records or papers relating to or affecting any real or immoveable property situate in the said County of Gaspé, which now are filed and of record at New Carlisle, in the office of the Clerk or Prothonotary thereof of the Provincial Court hereby abolished, shall forthwith after the commencement of this Act, be transferred to the office of the joint Prothonotary of the said Court of Queen's Bench to be kept at Percé, and shall there be kept and remain as part of the records and remembrances of the said office; except always the Registers in the said office at New Carlisle, known as "The Registers of Gaspé Land Claims," which shall be kept and remain in the office of the joint Prothonotary of the said Court of Queen's Bench, to be kept at New Carlisle; but it shall be the duty of the joint Prothonotaries aforesaid to cause, in the course of two years next after their appointment to office, an exact transcript or copy of all and every the entries and writings in the said Registers, to be made in books or Registers similar to the same, well bound for the purpose, and such transcript or copy being by the said joint Prothonotaries certified as such, by an entry to be by them expressly made therefor, on the first, second or third leaf at the beginning of each of the said books or Registers containing such transcript or copy, shall thereafter be deemed authentic, and as such shall be transferred to the office of the said joint Prothonotaries to be kept at Percé, and shall there be kept and remain as part of the records and remembrances of the said office at Percé, to the end that all whom it may concern may have free access thereto at all times without being subject to any fee or charge therefor, and that a copy or copies certified by the said joint Prothonotaries, (and for which they shall be entitled to receive at the rate of six pence per hundred words, and no more,) of any claim, adjudication, or entry in writing, in either of the said Registers shall be deemed authentic, and as such shall be taken and admitted in all Courts of Law in Lower Canada.

Transmission of certain Records.

Exception as to certain Registers of Land Claims, of which copies shall be made.

XXIV.

Transmission of Records of Provincial Court in cases cognizable in the Queen's Bench.

XXIV. And be it enacted, that the Registers, Records, Documents and Proceedings of and in the Provincial Court hereby abolished in matters cognizable by the said Court of Queen's Bench, shall forthwith, after the commencement of this Act, be transmitted into and make part of the Records, Registers, Documents and Proceedings of the said last named Court, to be kept at the office of the joint Prothonotaries thereof, in the County in which they shall be immediately before the commencement of this Act; subject always to be removed on the order of the Justices of the said Court.

Continuance of suits commenced in the Provincial Court.

XXV. And be it enacted, that no such judgment, order, rule or act of the said Provincial Court, legally pronounced, had or done before the commencement of this Act, shall be hereby avoided, but shall remain in full force as if this Act had not been passed; nor shall any such action, suit, cause or proceeding depending in the said Provincial Court be abated, discontinued or annulled, but the same shall be transferred in their then present condition, respectively, and shall subsist and depend in the said Court of Queen's Bench, and other and further proceedings shall be thereon had in the said Court to judgment and execution, and as to all matters and proceedings consequent on such judgment and execution, as if such suit or action, had been originally commenced or instituted in the said Court.

Sheriff to be appointed for the District of Gaspé.

XXVI. And be it enacted, that so soon as may be practicable after the commencement of this Act, it shall be lawful for the Governor of this Province to appoint a fit and proper person of competent ability and integrity to be Sheriff of the said District of Gaspé, who shall, before entering upon the duties of his office, give security in the manner by Law provided with regard to other Sheriffs in Lower Canada, to the amount of fifteen hundred pounds, currency.

Sheriffs' Sales of real property, how made in the said District.

XXVII. Provided always, and be it enacted, that from and after the commencement of this Act, all sales of real or immoveable property of whatsoever description, to be made in the said District of Gaspé by the Sheriff thereof, under any judgment, writ of execution, or order of Court, shall be made in the Township, Settlement or place where the property for sale is situate, and on the spot if practicable, or otherwise at the most public place nearest thereto, in the Township, Settlement or place within which the property for sale is situate, and of which most public place it shall be the duty of the Sheriff to give particular notice in his official publication of the sale, in addition to the other notices which by law he shall be bound to give in such publication.

Court of Queen's Bench at Quebec to complete

XXVIII. And be it enacted, that nothing in this Act contained shall prevent the Court of Queen's Bench for the District of Quebec, from continuing and finally

finally determining and completing any suit or action, matter or proceeding pending in the said Court at the commencement of this Act, although the same, if begun or instituted after the commencement of this Act, would be cognizable by and within the jurisdiction of the Court of Queen's Bench for the said District of Gaspé.

cases from Gaspé now pending before it.

XXIX. And be it enacted, that instead of the terms heretofore by law fixed for holding the General Sessions of the Peace in the Inferior District of Gaspé, which Terms are hereby discontinued, General Sessions of the Peace shall be held in each year in and for each of the said Counties of Gaspé and Bonaventure by any three Justices of the Peace, (one of whom shall be of the Quorum,) residing in such County, at the following times and places only, that is to say:— In and for the said County of Gaspé, at Percé, and at the Basin of Gaspé, during the three days immediately succeeding the sittings of the Circuit Court at the said places, respectively; and in and for the County of Bonaventure, at New Carlisle, and Carleton, during the three days immediately succeeding the sittings of the Circuit Court, at the said places, respectively; and the Commissioner of Bankrupts in the said Counties, respectively, shall be *ex officio* a Justice of the Peace for the County in which he shall reside, and it shall be his duty to act as Chairman of the General Sessions of the Peace therein: Provided always, that in case of his absence from illness or other cause, the Court, if otherwise legally constituted, shall not by reason of such absence become incompetent for the despatch of business: And provided also, that no property qualification shall be necessary to enable any such Commissioner of Bankrupts legally to act as a Justice of the Peace; any thing in the Act of the Legislature of this Province, passed in the sixth year of Her Majesty's Reign, and intituled, *An Act for the qualification of Justices of the Peace*, to the contrary notwithstanding.

New Terms of the General Sessions of the Peace in the said District appointed.

Commissioner of Bankrupts to be Chairman of such Sessions.

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XXX. And be it enacted, that from and after the commencement of this Act, the Act of the Legislature of Lower Canada, passed in the second year of the Reign of His late Majesty King George the Fourth, and intituled, *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*,—and the Act of the said Legislature passed in the fourth year of the Reign last aforesaid, and intituled, *An Act to amend a certain Act therein mentioned, and further to extend the jurisdiction of the Provincial Court for the Inferior District of Gaspé*,—and the Act of the said Legislature, passed in the sixth year of the Reign last aforesaid, and intituled, *An Act to amend and continue for a limited time two certain Acts therein mentioned, relating to the Judicature in the Inferior District of Gaspé*,—and the Act of the said Legislature, passed in the second year of the Reign of

Acts repealed.

2 G. 4. c. 5.

4 G. 4. c. 7.

6 G. 4. c. 25.

2 W. 4. c. 50. of His late Majesty King William the Fourth, and intituled, *An Act to continue and amend certain Acts relating to the Judicature of the Inferior District of Gaspé,*— and the Ordinance of the Governor and Special Council for the affairs of Lower Canada, passed in the Session held in the third year of Her Majesty's Reign, and intituled, *An Ordinance to render permanent certain Acts therein mentioned, relating to the administration of Justice in the Inferior District of Gaspé,*—and the Act of the Legislature of this Province, passed in the session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to provide temporarily for the administration of Justice in the Magdalen Islands in the Gulf of St. Lawrence,* shall be, and the said Acts and Ordinances, and all other Acts, Ordinances or Provisions of Law inconsistent with or repugnant to this Act, or any provision or enactment thereof, are hereby repealed, but all Acts, Ordinances or Provisions of Law thereby repealed shall nevertheless remain repealed.

Interpretation clause.

XXXI. And be it enacted, that the words "Governor of this Province," wherever they occur in the foregoing enactments, are to be understood as meaning and comprehending the Governor or the Person authorized to execute the Commission of Governor within this Province for the time being; and that the words "Lower Canada," wherever they occur in the said enactments, are to be understood as meaning and comprehending that part of this Province of Canada which formerly constituted the Province of Lower Canada; and any word or words importing the singular number or the masculine gender only, shall be understood to include several matters of the same kind as well as one matter, and several persons as well as one person, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

Commencement of this Act.

XXXII. And be it enacted, that this Act shall commence and have force and effect upon, from and after the twenty-first day of April, in the year of our Lord, one thousand eight hundred and forty-four, and not before.

C A P XVIII.

An Act for the establishment of a better Court of Appeals in Lower Canada.

[9th December, 1843.]

Preamble.

WHEREAS the Provincial Court of Appeals now existing in Lower Canada, has been found by experience to be altogether insufficient and inadequate for the due administration of Justice; Be it therefore enacted by the Queen's