

Provincial Statutes of Canada, passed in the year 1845. Montreal: Stewart Derbishire & George Desbarats, 1845.

8 Victoria – Chapter 14

An Act to make further Regulation for holding the Courts of Assize and Nisi Prius, Oyer and Terminer, and General Gaol Delivery in Upper Canada, and to provide for the Trial of Prisoners under certain circumstances. (17th March, 1845.)

Whereas it has been found that in several Districts of Upper Canada there has been at the half-yearly Circuits but little Civil or Criminal business, and it is expedient therefore to avoid the expense of holding such Circuits twice in the year, and to save the inhabitants of such Districts from the loss of time and inconvenience of attending thereat, without any sufficient necessity: 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 notwithstanding anything contained in the eighth section of an Act of the Parliament of Upper Canada, passed in the seventh year of the reign of His late Majesty King William the Fourth, it shall not be necessary for the Governor to issue Commissions of Assize and Nisi Prius, Oyer and Terminer, and General Gaol Delivery, more than once in the year in the following Districts, that is to say: the Districts of Talbot, Brock, Wellington, Huron, Simcoe, Prince Edward, Colborne, and Ottawa: Provided always, that this shall not be construed to prevent the issuing of any Special Commission as authorized by the said recited Act.

II. And be it enacted, That Commissions of Assize and Nisi Prius, Oyer and Terminer, and General Gaol Delivery, shall be issued for holding such Courts during the vacation between Hilary and Easter Terms in each year, (to be called the Spring Circuits,) in the Districts of Talbot, Brock, Wellington and Huron, and that like Commissions shall be issued for holding such Courts in the vacation between Trinity and Michaelmas Terms (to be called the Fall Circuits) in each year in the Districts of Simcoe, Prince Edward, Colborne, and Ottawa; and that in the other Districts of Upper Canada, such Commissions shall be issued as heretofore.

III. And be it enacted, That as soon as this Act shall come into force the second section of an Act passed in the first year of Her Majesty's Reign, intituled, "An Act to amend so much of an Act passed in the seventh year of His late Majesty's Reign, intituled, 'An Act to increase the present number of the Judges of His Majesty's Court of King's Bench in this Province, to alter the terms for the sittings of the said Court, and for other purposes therein mentioned, as relates to Hilary Term,'" shall be and is hereby declared to be repealed; and that from thenceforth the times and terms of sitting of the said Court shall be as follows, that is to say: Hilary Term shall begin on the first Monday in February, and end on the Saturday of the ensuing week; Easter Term shall begin on the second Monday in June, and end on the Saturday of the following week; Trinity Term shall begin on the last Monday in July, and end on the Saturday of the following week; and Michaelmas

Term shall begin on the first Monday in November, and end on the Saturday of the following week.

IV. And whereas it is expedient for the general information and convenience of suitors, and for the better arrangement of public business, to fix by law the days on which the several Courts of Assize and Nisi Prius, Oyer and Terminer, and General Gaol Delivery in Upper Canada, shall be opened and holden: Be it therefore enacted, That as soon as this Act shall come into force, such Courts shall commence and open in the several Districts of Upper Canada, on the respective days mentioned and set forth for that purpose in the Schedule to this Act annexed: Provided that nothing herein contained shall be construed to lessen or alter the power now exercised according to law for adjourning the said Courts or any of them.

V. And whereas it is necessary to provide for the cases of persons who may be committed for trial and kept in close custody in the Gaol of any of the Districts in which, according to this Act, only one Assize in the year will be held, charged with felony or some other offence, which from any cause cannot be tried at the Court of General Quarter Sessions for such District, at a period of the year when according to this Act no Assize will be holden in and for the District where such person is confined as aforesaid, for the space of six calendar months next, after the date of the Warrant of commitment: Be it enacted, That it shall be lawful for any Judge of Her Majesty's Court of Queen's Bench in Upper Canada, on application by any such prisoner, and under the circumstances as aforesaid, after notice to the committing Magistrate and also to the Attorney-General, if the Judge shall so direct, to order the removal of the Prisoner, and that the Sheriff in whose custody he then is shall deliver him and the Warrant for his commitment and the Judge's order for his removal, into the custody of the Sheriff of such adjoining District as the Judge, having due regard to the convenient administration of justice, shall direct; and such Prisoner shall, by virtue of such order, be removed and delivered into the custody of such other Sheriff, and be by him detained until discharged by due course of law, and the trial of such Prisoner for the offence with which he stands charged shall take place in the District to which he shall be so removed; and no exception shall be allowed, whether such offence be laid to have been committed in the District from whence he was removed or not, but the same may be laid to have been committed at some place within the District where the trial takes place, and proof that it was committed at any place within the District where he was originally committed, shall be no variance: Provided always, that the granting of any such order for removal shall always be in the discretion of the Judge to whom application for the same shall be made, on full consideration of all circumstances.

VI. And be it enacted, That it shall be duty of the Sheriff to whose custody such prisoner was originally committed, to give immediate notice of any order for his removal by serving a copy thereof on the committing Magistrate, which Magistrate is thereupon required to serve written notice on the several witnesses, who have been bound over to attend the trial of, and to give evidence against; such prisoner, informing them of the place to which such prisoner has been removed for trial, and of the day of the opening of the Assizes at the place where such prisoner is to be tried; and such Magistrate shall transmit without delay to the Clerk of the Peace of the District, all information, recognizances, and other things in his possession connected with the case, and a certificate that he has caused proper notices as required by this Act to be served on the

witnesses, and the time of such service; and if after such notice any witness shall fail to attend, his recognizance shall, on production thereof and of the certificate of notice, be forfeited in like manner as if he had failed in attending at the time and place mentioned in the condition of such recognizance.

VII. And be it enacted, That the expences of sending any prisoner from one District to be tried in any other District, as well as the expences of serving notices on witnesses, shall be borne by and paid out of the funds of the District from whence such prisoner is sent; as well as all such other expences as may be incurred after trial and conviction.

VIII. And be it enacted, That this Act shall come into force and effect upon, from and after the fifth day of June next.

IX. And be it enacted, That all Writs and other proceedings which may be made returnable in Easter Term next, as it is now by Jaw fixed, shall be deemed and taken to be returnable in Trinity Term after the passing of this Act.

X. And be it enacted, That it shall be the duty of the Clerk of the Crown and Pleas for Upper Canada, under the direction of the Judges of the Court of Queen's Bench aforesaid, to prepare and publish in the Canada Gazette, at or immediately after the end of Hilary and Trinity Terms in each year, a Tabular Statement, showing the Circuit to be holden after each of those terms, respectively, and the days of the month on which each Court will be opened, according to the provisions of this Act and the Schedule annexed thereto.

XI. And be it enacted, That in construing this Act, the word "Governor" shall mean the Governor, Lieutenant-Governor, or person administering the Government of this Province; and that every word importing the singular number shall, when necessary to give full effect to the enactments herein contained, be deemed to extend and be applied to several persons or things, as well as one person or thing; and every word importing the masculine gender shall, when necessary, extend and be applied to a female as well as a male; and that the words "Upper Canada" shall be taken to mean that portion of the Province formerly Upper Canada.

SCHEDULE

Table of the several days of opening the Courts of Assize and Nisi Prius, Oyer and Terminer and General Gaol Delivery, referred to in the fourth Section of the Act.

PART FIRST - SPRING CIRCUIT

DISTRICTS.	DISTRICT TOWNS.	DAYS OF OPENING.
Niagara.....	Niagara.....	On the second Tuesday in April in each and every year.
Gore.....	Hamilton.....	On Wednesday, the fifteenth day after the day appointed for opening at Niagara.
Brock.....	Woodstock.....	On Monday, the twelfth day after the day appointed for opening at Hamilton.
Talbot.....	Simcoe.....	On Friday, the fourth day after the day appointed for opening at Woodstock.
Western.....	Sandwich.....	On the first Tuesday in May in each and every year.
London.....	London.....	On Thursday, the ninth day after the day appointed for opening at Sandwich.
Huron.....	Goderich.....	On Friday, the eighth day after the day appointed for opening at London.
Wellington.....	Guelph.....	On Wednesday, the fifth day after the day appointed for opening at Goderich.
Midland.....	Kingston.....	On the second Tuesday in April in each and every year.
Johnstown.....	Brockville.....	On Thursday, the ninth day after the day appointed for opening at Kingston.
Eastern.....	Cornwall.....	On Wednesday, the seventh day after the day appointed for the opening at Brockville.
Dalhousie.....	Bytown.....	On Wednesday, the seventh day after the day appointed for the opening at Cornwall.
Bathurst.....	Perth.....	On Tuesday, the sixth day after the day appointed for opening at Bytown.
Home.....	Toronto.....	On the same day as that appointed for opening at Perth.
Victoria.....	Belleville.....	On the last Wednesday in May in each and every year.
Newcastle.....	Cobourg.....	On Tuesday, the sixth day after the day appointed for opening at Belleville.

SCHEDULE

Table of the several days of opening the Courts of Assize and Nisi Prius, Oyer and Terminer and General Gaol Delivery, referred to in the fourth Section of the Act.

PART SECOND - FALL CIRCUITS.

DISTRICTS.	DISTRICT TOWNS.	DAYS OF OPENING.
Western.....	Sandwich.....	On the second Monday in September in each and every year.
London.....	London.....	On Tuesday, the eighth day after the day appointed for opening at Sandwich.
Gore.....	Hamilton.....	On Tuesday, the seventh day after the day appointed for opening at London.
Home.....	Toronto.....	On Thursday, the ninth day after the day appointed for opening at Hamilton.
Prince Edward..	Picton.....	On Wednesday, the eighth day after the day appointed for opening at Hamilton.
Victoria.....	Belleville.....	On Monday, the fifth day after the day appointed for opening at Picton.
Newcastle.....	Cobourg.....	On Monday, the seventh day after the day appointed for opening at Belleville.
Colborne.....	Peterborough.....	On Monday, the seventh day after the day appointed for opening at Cobourg.
Simcoe.....	Barrie.....	On Thursday, the fourteenth day after the day appointed for opening at Toronto.
Niagara.....	Niagara.....	On the second Monday in September in each and every year.
Midland.....	Kingston.....	On Friday, the eleventh day after the day appointed for opening at Niagara.
Johnstown.....	Brockville.....	On Monday, the tenth day after the day appointed for opening at Kingston.
Eastern.....	Cornwall.....	On Monday, the seventh day after the day appointed for opening at Brockville.
Ottawa.....	L'Orignal.....	On Monday, the seventh day after the day appointed for opening at Cornwall.
Dalhousie.....	Bytown.....	On Friday, the fourth day after the day appointed for opening at L'Orignal.
Bathurst.....	Perth.....	On Thursday, the sixth day after the day appointed for opening at Bytown.