

Laws of Her Majesty's Province of Upper Canada, passed in the year 1849. Montreal: Stewart Derbshire & George Desbarats, 1849.

12 Victoria – Chapter 40

An Act to amend the Law relative to the administration of Justice in Gaspé. 30th May, 1849.

Whereas by Acts of this Session, the present Courts of Queen's Bench (or King's Bench) and the Court of Appeals for Lower-Canada, will be abolished after the time when those Acts shall come fully into effect, and a Court of Queen's Bench will be established having jurisdiction in appeal and error in civil cases, and original jurisdiction in Criminal matters, and a Superior Court will be established having original jurisdiction in civil matters, and the several Circuit Courts in Lower-Canada will be united into one Court, the jurisdiction of the said three last mentioned Courts extending throughout all Lower-Canada; and whereas it is necessary so to amend the Act hereinafter mentioned, that its provisions may be consistent with those of the Acts aforesaid: 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 Upper 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 passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to establish the District of Gaspé, and to provide for the due administration of Justice therein*, as requires that the District Judges (who will be, and be salled Circuit Judges under the Act hereinafter secondly mentioned,) shall respectively reside at the place directed in the Letters Patent appointing them, or that any case in which a District or Circuit Judge shall be a party or shall be recused shall be heard or determined by or before any other District or Circuit Judge, or that any Writ be tested in the name of any Judge, or that any Bailiff shall be hereafter appointed by the Circuit Court at any place, or as provides what days shall be return days in the Circuit Court at any place, or gives power to the Judge to close the Court at the end of the third juridicial day of any Term, or establishes a Court of Queen's Bench (or King's Bench) in the said District, or directs by what Judges or Justices the same shall be held, or in what manner Writs issuing out of the said Court shall be tested, or fixes the terms of the said Court or the return days for Suits and Process returnable therein, and so much of the said Act as may be inconsistent with this Act, or with the Act of this Session, intituled, *An Act to establish a Court having jurisdiction in Appeals and Criminal matters for Lower-Canada*, or with the Act of this Session, intituled, *An Act to amend the Laws relative to the Courts of Original Civil Jurisdiction in Lower-Canada*, or with any other Act of this Session, shall be, and so much of the said Act first above cited is hereby repealed.

II. And be it enacted, That the Term of the Superior Court shall be holden in the District of Gaspé, at and during the time mentioned in the Act last aforesaid, by such number of Judges of the Superior Court or of the Circuit Court as shall be requisite to form a *Quorum* of the Superior Court, provided that not more than two of the Judges sitting in the said Court at any one time shall be Circuit Judges; and it shall be the duty of the Circuit Judges resident in the said District to assist in holding the said Term, if not prevented by sickness or other cause beyond their control.

III. And be it enacted, That the Superior Court and the Judges thereof shall, in the District of Gaspé, have and exercise not only the jurisdiction, powers and authority of the Superior Court and of the Judges thereof in other Districts, but also, and subject to the like provisions of law in the exercise thereof, the jurisdiction, powers and authority of the Court of Queen's Bench (established by an Act of this Session) and of the Judges thereof, in Criminal matters or on the "Crown side," of the said Court; and the joint Prothonotaries of the Superior Court in the said District, shall be the joint Clerks of the Crown for the same, and shall as such be the Clerks as well of the Superior Court in the exercise of its jurisdiction, powers and authority last aforesaid, as of the said Court of Queen's Bench on the Crown side thereof, whenever any Term or Terms of the said last mentioned Court shall be holden in the said District under any Act of the Legislature, or any extraordinary Term of the said Court shall be holden in the said District, under the provisions of the Act secondly above cited; the provisions of which said Act relative to the continuance in the Court of Queen's Bench thereby established of proceedings of a criminal nature pending in any of the present Courts of Queen's Bench, when the said Act shall come into effect, and to the return of Process in such cases, are hereby declared to apply to like proceedings pending in the Court of Queen's Bench in the District of Gaspé, when this Act shall come into effect, and to Process in such cases, except only that such proceedings shall be continued in, and such Process shall be returnable into the Superior Court in the District of Gaspé.

IV. And be it enacted, That in so far as they may not be inconsistent with the provisions of this Act or of any Act of the present Session, the provisions of the Act first above cited and in part repealed, relative to the Court of Queen's Bench (or of King's Bench) therein mentioned, or to the Judges or Officers thereof, or to the Summoning of Jurors to attend the same, shall apply and extend to the Superior Court and to the Judges and Officers thereof, in the District of Gaspé, and the provisions of the said Act, relative to Circuit Courts or to the Judges or Officers thereof, shall apply to the Circuit Court and to the Judges or Officers thereof in the said District.

V. And be it enacted, That the foregoing provisions of this Act shall have force and effect, upon, from and after the day which shall be appointed for that purpose in any proclamation to be issued by the Governor of this Province by and with the advice of the Executive Council thereof, and not before; and that the Interpretation Act shall apply to this Act.