

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

12 Victoria – Chapter 77

An Act to authorize the Judges of the Superior Courts of Record in Upper-Canada to appoint Commissioners for taking Affidavits in Lower-Canada. 30th May, 1849.

Whereas it is desirable that the Judges of the Superior Courts of Record in Upper-Canada, should have power to appoint Commissioners for taking Affidavits 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, 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 it shall and may be lawful for the Chief Justice and any one of the Justices of the Court of Queen's Bench in Upper-Canada for the time being, or in the event of the death or absence from the Province of the Chief Justice for the time being, for any two of the Justices of the said Court for the time being, by one or more commission or commissions under the seal of the said Court, from time to time to empower what and as many persons as they shall think fit and necessary in Lower-Canada, to take and receive all and every such affidavit or affidavits as any person or persons shall be willing and desirous to make before any of the persons so empowered, in or concerning any cause, matter or thing depending, or hereafter to be depending, or in any wise concerning any of the proceedings to be had in the said Court of Queen's Bench, or in any other Court of Law of Record in Upper-Canada; which said affidavits taken as aforesaid shall be filed in the Office of the said Courts respectively, and there be read and made use of in the said Courts respectively, to all intents and purposes as other affidavits taken in the said Courts respectively ought to be; and that all and every affidavit and affidavits taken as aforesaid, shall be of the same force as affidavits taken in the said Courts respectively shall and may be.

II. And be it enacted, That proof of the execution of any deed, will or probate thereof or memorial of the same in Lower-Canada, maybe made before any of the Commissioners to be appointed under the authority of this Act, in the same manner as such proof may now by law be made before the Chief Justice or Judge of any Court of Queen's Bench in Lower-Canada, and all Registers of Counties in Upper-Canada shall enregister such deeds, wills, probates and memorials upon the execution thereof being so proven.

III. And be it enacted, That the Chief Justice and Justices of the Court of Common Pleas in Upper-Canada shall have the same power and authority to appoint such Commissioners as are hereby given to the Chief Justice and Justices of the Court of Queen's Bench and the Commissioners to be so appointed by the said Chief Justice and other Justices of the Court of Common Pleas shall have the same power and authority, and the affidavits made before them shall have the same force and effect in all respects, as those made before any of the Commissioners to he appointed by the said Chief Justice and other Justices of the Court of Queen's Bench.

IV. And be it enacted, That all and every person or persons forswearing him, her or themselves in any affidavit or affidavits to be made before any of the said Commissioners appointed or to be appointed under the authority of this Act, shall incur and be liable unto the same pains and penalties as if such affidavit or affidavits had been made and taken in open Court.