

Laws of Her Majesty's Province of Upper Canada, passed in the year 1850. Toronto: Stewart Derbishire & George Desbarats, 1850.

13 & 14 Victoria – Chapter 51

An Act to confirm and give effect to certain Rules and Regulations made by the Judges of Her Majesty's Court of Error and Appeal for Upper Canada, and for other purposes relating to the powers of the Judges of the Courts of Law and Equity in that part of the Province, and the practice and decisions of certain of those Courts. 10th August, 1850.

Whereas the Judges of Her Majesty's Court of Error and Appeal for Upper Canada have, under the authority of the Act of the Parliament of this Province, passed in the last Session thereof, chaptered sixty-three, and intituled, *An Act to make further provision for the administration of Justice by the establishment of an additional Superior Court of Common Law, and also a Court of Error and Appeal in Upper Canada, and for other purposes*, made certain rules, orders and regulations respecting the practice of the said Court, and the costs to be allowed in the same, and the same have been laid before both Houses of the Provincial Parliament in the present Session thereof, being the Session during which such rules, orders and regulations were made: And whereas by the said Act it is provided, that no such rule, order or regulation shall have effect until six weeks after the same shall have been laid before both Houses of the Legislature; to remove therefore all doubts as to the force and effect of such rules, orders and regulations, in case Parliament should be prorogued before the expiration of the said term of six weeks, 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 said rules, orders and regulations, so made by the said Judges, shall have the like effect from the expiration of six weeks from the fifth day of July in this present year, as if the Provincial Parliament had remained in Session until after the expiration of that period.

II. And be it enacted, That the Chief Justice of Upper Canada for the time being, the Chancellor of Upper Canada for the time being, the Chief Justice of Her Majesty's Court of Common Pleas for Upper Canada for the time being, and all the Puisne Judges and Vice-Chancellors of Her Majesty's Superior Courts of Law and Equity at Toronto for the time being, shall be and shall be deemed to have been Visitors of the Law Society of Upper Canada, with all the powers conferred upon the Judges of Upper Canada, with respect to such Society in and by the second section of the Act of the Parliament of that Province, passed in the thirty-seventh year of the reign of King George the Third, chaptered thirteen, and intituled, *An Act for the better regulating the Practice of the Law*.

III. And be it enacted, That at any time wherein Her Majesty's Superior Courts of Common Law at Toronto, may by law sit in Banc, it shall and may be lawful for any one Judge of either of such Courts to sit in Banc apart from his brethren, either while they are actually so sitting, or while their sittings within such time shall be suspended or adjourned; and every such Judge so sitting apart in

Banc as aforesaid, shall have all the same powers and authority as belong to, or may hereafter be vested in either of such Courts touching or concerning, or in any way relating to the business of adding or justifying bail, discharging insolvent debtors, administering oaths and hearings and determining matters on motion, and making rules and orders in causes and business depending in either of the said Courts, in the same manner and with the same force, validity and effect, as might be done by the Court in which such causes or business shall be respectively depending.

IV. And be it enacted, That the Clerk of the Judges' Chambers at Osgoode Hall, shall perform the duties of Clerk of such Court, so far as such duties apply to the business transacted before such Judge so sitting apart in Banc as aforesaid.

V. And be it enacted, That it shall be lawful for any of the Judges of either of Her Majesty's said Superior Courts of Common Law at Toronto sitting at Chambers, to hear, determine and dispose of any business depending in the Court of which he is not a member, as fully and effectually to all intents and purposes whatsoever, as if he were a Judge of such Court: subject always, nevertheless, to such proceedings by the Court in which the same shall be pending, for the reversing, setting aside, or confirming what may be so done by such Judge in the same manner in the like cases, and to the like extent as if the same had been so done by one of the Judges of the Court in which the same shall be so pending as aforesaid at his Chambers.

VI. And whereas it is desirable that the decisions of Her Majesty's Court of Common Pleas in this Province should be recorded and published for general information, and there is reason to believe that the same cannot be effected otherwise than by the employment of a Reporter to the said Court under proper regulations: Be it therefore enacted, That it shall and may be lawful for the Law Society of Upper Canada, in convocation, by an Instrument under the Seal of the Society, to appoint a fit and proper person to be Reporter of the said Court of Common Pleas, such Reporter to be amenable to the said Society in convocation, for the correct and faithful discharge of his duty, and to be subject to such rules and regulations for the discharge of the duties of his office, as shall or may be made for that purpose by the said Society, in convocation, with the approbation of the Judges of the said Court; and it shall be in the power of the said Law Society in convocation, to remove such Reporter, and to appoint another in his place from time to time: Provided always, that no person shall be eligible to the office of Reporter other than the members of the said Society of the degree of Barrister at Law, and that no appointment to or removal from the said office shall take place without the approbation of the Judges of the said Court, signified to the said Society in writing under the hand of the said Judges.

VII. And be it enacted, That it shall be the duty of such Reporter to report as well the substance of such of the verbal decisions of the Court as shall be of general importance, as to report also such decisions as may be delivered in writing; and it shall further be his duty, without any unnecessary delay, to cause such reports to be fairly entered in a book, and to submit the same for inspection of the Judges of the said Court, which reports, after due examination and correction, shall be signed by the said Judges.

VIII. And be it enacted, That such Reporter shall be at liberty to print and publish such Reports or a digest thereof; and it shall be his duty so to do whenever thereto required by the said Law Society in convocation, and in such manner as the said Law Society shall direct—the profits arising therefrom to belong to such Reporter.

IX. And be it enacted, That the salary of such Reporter shall not exceed the sum of one hundred and fifty pounds per annum, and shall or may be fixed at or varied within the said amount as the said Law Society in convocation shall think just and proper: and for the purpose of providing such salary, it shall be in the power of the said Law Society in convocation, to appoint such sum as they may think proper, not exceeding the sum of one pound five shillings, to be paid to the Treasurer of the said Law Society annually by every Attorney of the said Court practising therein; and in case of persons being as well Solicitors of the Court of Chancery and Attorneys of the Court of Queen's Bench, as also Attorneys of the said Court of Common Pleas, it shall be lawful for the said Law Society, if they shall think fit, to appoint one sum of money to be paid by any such person annually as such Solicitor and Attorney.

X. And be it enacted, That every Attorney practising in the said Court of Common Pleas, shall annually, on or before the twentieth day of August, pay to the Treasurer of the Law Society, such sum of money as shall in that behalf be appointed as aforesaid; and thereupon the Clerk of the Crown and Pleas in the said Court of Common Pleas shall, upon production of a receipt for such payment on or before such twentieth day of August, give to such Attorney a Certificate of his being an Attorney of the said Court of Common Pleas, for which Certificate such Clerk shall be entitled to a fee of two shillings and six pence.

XI. And be it enacted, That if any Attorney shall neglect to take out such Certificate within the time aforesaid, he shall not be entitled thereto until he shall have produced a receipt from the Treasurer of the Law Society for the sum of four pounds: and if any Attorney shall practise in the said Court without such Certificate, he shall forfeit the sum of ten pounds to be recovered by information in Her Majesty's said Court of Common Pleas, and to be paid into the hands of the Treasurer of the said Law Society; Provided always, that nothing herein contained shall extend to require any person admitted as such Attorney after the said twentieth day of August in any year, to take out any Certificate as aforesaid, before the twentieth day of August following.