

*Laws of Her Majesty's Province of United Canada*, passed in the year 1854. Quebec: Stewart Derbyshire and George Desbarts, 1854.

18 Victoria – Chapter 104

**An Act to amend the Judicature Acts of Lower Canada. Assented to 30th May, 1855.**

Whereas it is expedient to amend the Acts relating to the judicature in Lower Canada so as to facilitate the administration of justice: 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, as follows:

- I. The Circuit Court holden at the cities of Quebec and Montreal for the Circuits known respectively as the "Quebec Circuit," and the "Montreal Circuit," shall from and after the first day of July next after the passing of this Act, cease to have cognizance of any civil suit or action wherein the sum of money 5 or the value of the thing demanded shall exceed the sum of Fifteen pounds currency; and all such suits and actions which otherwise would have been determined by the said Circuit Court in the said Circuits respectively, shall from and after the said day be heard, tried and determined by the Superior Court sitting at the said Cities of Quebec and Montreal respectively.
- II. All and every the records, documents and proceedings relating to all such suits or actions which shall be pending before the said Circuit Court in the said Quebec and Montreal Circuits respectively on the said first day of July, shall be forthwith transmitted into and make part of the records, documents and proceedings of the Superior Court holden at Quebec and Montreal respectively.
- III. The Costs to be allowed in all such cases shall continue to be those established by the tariff of the Circuit Court, unless the Judges of the Superior Court or a majority of them alter the same.
- IV. In all appealable cases before the Circuit Court in the Circuits in which there is no resident Judge, the parties shall, on the day fixed for proof proceed to the examination of their witnesses, who shall be examined *vivâ voce*, and in open Court, and it shall be the duty of the Judge to take full and complete notes of the evidence so given and of all the exceptions and objections made by the parties; and the said notes shall be read by the Judge, or by the Clerk of the Court, upon request made *viva voce* by any party, at anytime during or immediately after the *enquête*, and they shall be read to each witness immediately after his examination, with a view to the correction of any error or omission.
- V. A fair copy of the said notes of evidence shall be made by the Clerk of the Court, and the same having been certified by the Judge, shall be deposited with the said original notes among the

documents of record in the cause, for recourse thereto when necessary, and shall in case of appeal from any judgment pronounced in any such cause, be transmitted to the Court of Appeal, as forming part of such record, and the said notes and such copies shall be considered as forming the authentic record of the evidence in the cause.

VI. After the closing of the *enquête*, the Court may, on the same day, or on any other subsequent juridical day in appealable cases, on application made, *vivâ voce* by one of the parties, the others being present, without any inscription in writing being necessary for that purpose, by a simple entry which shall be made by the Clerk upon the roll *de droit*, fix the case for hearing upon some juridical day during the said Term or any other Term; provided that at least one clear day shall intervene before that fixed for such hearing, in case the parties do not consent to its being previously had.

VII. Notice of the inscription of every appealable case *en droit*, for *enquête* or for final hearing, shall be given by causing a copy of the inscription to be served on the opposite party at least one clear day before the day fixed, if such notice be given in Term, or at least four clear days previous thereto if such notice be given in vacation.

VIII. Every opposition to the execution of a Writ *de bonis*, issued out of the Circuit Court, shall hereafter be returnable into the Circuit Court in which the cause is pending, and not elsewhere; and every Circuit Judge, or Judge authorized to hold the Circuit Court, and the Clerk of the Circuit Court out of which the Writ issued, may administer all the oaths by law required in such cases; and the Circuit Court shall have full power and jurisdiction to hear and determine all such oppositions, whatever may be the amount or value of the sum or things thereby claimed.

IX. The Circuit Court shall have concurrent jurisdiction with the Superior Court for the issuing of Writs of *Certiorari* relative to proceedings had before Justices of the Peace, or before Commissioners for the summary trial of small causes within the limits of the Circuit in which such Circuit Court is held, and the said Justices of the Peace and Commissioners shall be subject to the supervision and to the orders and control of the said Circuit Court and of the Judges thereof, both in term and in vacation in the same manner as the said Superior Court and of the Judges thereof.

X. Any part of any Act or Law, contrary or incompatible with the provisions of this Act, is hereby repealed.