

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

18 Victoria – Chapter 128

An Act to amend and consolidate the Acts relating to the appointment of Reporters to the several Courts of Law and Equity in Upper Canada, and to repeal certain Acts therein mentioned. Assented to 30th May, 1855.

Whereas it is expedient to repeal several Acts and parts of Acts relating to the appointment of Reporters of Her Majesty's several Courts of Law and Equity in Upper Canada, and to amend and consolidate the provisions of the same: 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 Act of the Parliament of the late Province of Upper Canada, passed in the fourth year of the reign of His late Majesty, King George the Fourth, chapter three, and intituled, *An Act providing for the publication of Reports of the decisions of His Majesty's Court of King's Bench in this Province*, and also, the first, second, third, fourth, fifth, sixth and seventh Sections of the Act of the said Province, passed in the third year of the reign of Her present Majesty, chaptered two, and intituled, *An Act for the better regulation of the Office of Reporter to the Court of Queen's Bench in this Province*, and also the Act of the Parliament of this Province, passed in the eighth year of Her Majesty's reign, chaptered thirty-nine, and intituled, *An Act to authorize the appointment of a Reporter in the Court of Chancery*, the Act of the Parliament of this Province, passed in the twelfth year of Her Majesty's reign, chaptered sixty-five and intituled, *An Act to increase the Salary of the Reporter of the Court of Chancery in Upper Canada*, and also the sixth, seventh, eighth, ninth, tenth and eleventh Sections of the Act of the Parliament of this Province, passed in the Session held in the thirteenth and fourteenth years, of Her Majesty's reign, chaptered fifty-one, and intituled, *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 derisions of certain of those Courts*, shall be and the same are hereby repealed.

II. It shall and may be lawful for the Law Society of Upper Canada in Convocation, by Instruments under the seal of the Society, to appoint some fit and proper person and persons to be Reporters respectively of each of Her Majesty's three Superior Courts of Law and Equity in Upper Canada, that is to say, one for the Court of Queen's Bench, one for the Court of Chancery, and one for the Court of Common Pleas, such Reporters to be severally amenable to the said Society in Convocation for the correct and faithful discharge of their respective duties, and to be subject to such rules and regulations for the discharge of the duties of their respective offices, including the printing and publishing of their reports, as already have been made, or as shall or may from time

to time hereafter be made for that purpose by the said Society in Convocation, with the approbation of the Judges of Her Majesty's three Superior Courts of Law and Equity for Upper Canada, as Visitors of the said Society, passed and approved according to the usual course practised in respect of other general rules of the said Society, with power to the said Society in Convocation from time to time to remove any of such Reporters, and to appoint another in his place; Provided always, that no person shall be eligible to the office of Reporter of any of the said Courts other than the members of the said Society of the degree of Barrister at Law, and that no appointment to or removal from any of the said offices shall take place without the assent of the Judges of the particular Court to which such person shall be appointed Reporter, or to which he shall belong, signified to the said Society in writing under the hands of such Judges upon report made to them by the said Society in Convocation, of the purposed appointment or removal of such person.

III. It shall be the duty of each of such Reporters respectively, to report as well the substance of such of the oral decisions of the Court to which he shall belong as shall be of general importance, as also to report such decisions as may be delivered in writing, and it shall farther 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 such Court, which reports after due examination and correction shall be signed by such Judges respectively or such of them as shall not be prevented by absence or sickness from doing so.

IV. It shall be lawful for the said Law Society of Upper Canada in Convocation, by any rule or rules already made or from time to time hereafter to be made with such approbation as aforesaid, according to the usual course of the said Society, to make it part of the duty of the Reporters to the said two Courts of Common Law jointly, or of either of such Common Law Reporters separately, to act as Reporter of the decisions of the several Judges of such Courts of Common Law when sitting in Banc apart from their brethren for the disposal of such matters relating to the business of the said Courts as may be so disposed of according to Law, or when sitting at Chambers, and in and by any such rate or rules so made or to be made as aforesaid, to regulate and direct the manner in which the reports of such last mentioned decisions shall be made, entered and submitted for correction and approval of the individual Judges who may have pronounced the same, and afterwards primed and published, as the said Society is by this Act empowered to do with respect to the decisions of such Common Law Courts in Banc generally.

V. It shall be lawful for the said Law Society of Upper Canada in Convocation, by any rule or rules already made or from time to time hereafter to be made with such approbation as aforesaid according to the usual course of such Society, to make it part of the duty of the said three Reporters jointly or of any two of such Reporters jointly or of any one of such Reporters separately, to act as Reporter of the decisions of Her Majesty's Court of Error and Appeal for Upper Canada, or to make it the duty of each of such Reporters separately to act as Reporter of such of the decisions of the said Court of Error and Appeal as shall have been pronounced by such Court on Writs or Petitions of Error or Appeal from the particular Court below of which such Reporter shall be the appointed Reporter as aforesaid, and by any such rate or rules so made or to be made as aforesaid, to regulate and direct the manner in which the reports of such last

mentioned decisions shall be made, entered and submitted for correction and approval, and afterwards printed and published, as the said Society is by this Act empowered to do with respect to the decisions of Her Majesty's said three Superior Courts of Law and Equity for Upper Canada, as aforesaid.

VI. Each of such Reporters shall be at liberty to print and publish such his Reports or a digest thereof, and it shall be his duty so to do whenever thereto required by the said Law Society in Convocation, when the same shall be done in such manner as the said Society by any general rule or rates made and approved as aforesaid already has directed, or from time to time hereafter shall or may direct in that behalf as aforesaid; Provided always, nevertheless, that the profits to arise from the publication of such Reports shall belong to each of such Reporters respectively.

VII. The Salary of each of such Reporters shall not exceed the sum of One Hundred and Fifty Pounds per annum, and shall or may be fixed at or varied within that amount, as the said Society in Convocation, with such approbation as aforesaid, shall or may from time to time think just and proper.

VIII. For the purpose of providing such Salaries, it shall and may be lawful for the said Law Society in Convocation, by any rule or rules made or to be made by them with such approbation as aforesaid, to appoint such sum as they may think proper not exceeding the sum of One Pound Five Shillings in respect of each Court, to be paid to the Treasurer of the said Society annually, by every Attorney of either of the said Courts, of Queen's Bench and Common Pleas practising therein, and by every Solicitor of the said Court of Chancery practising therein; and in case of persons being as well Solicitors of the said Court of Chancery as also Attorneys of both of such first mentioned Courts or either of them, it shall and may be lawful for the said Society as they shall think fit, to appoint one sum of money to be paid by every such person annually as such Attorney or as such Solicitor and Attorney.

IX. And whereas it would tend not only to the greater convenience of the gentlemen practising in the said Courts, but also to the more easy and certain detection of such persons as shall so practise without having taken out the certificate heretofore issued by the officers of the different Courts, upon the production to them respectively of the receipt of the Treasurer of the said Society for the said sum of money so appointed by the said Society as aforesaid, if such certificates were issued from the same office where such money is required to be paid as aforesaid: Be it therefore enacted, that such certificate shall hereafter be issued by the Secretary of the said Law Society instead of the officers of such Courts, for which purpose such Secretary shall be annually furnished with such certificates in blank by the respective Clerks of the Crown and Pleas and Registrar of such Courts respectively, as hereinafter more particularly provided: Provided always nevertheless, that no such certificate shall be so issued or delivered to any such Attorney or Solicitor, being at the time a Member of the said Law Society of Upper Canada of what standing or degree soever, who shall at the time of such payment of the said certificate fee, as hereinafter provided, be indebted to the said Society for any term fee, or other fee or due payable to the said Society, until all such last mentioned fees and dues shall have been fully paid and satisfied to the

Treasurer of the said Society as well as the said sum of money so appointed to be paid in respect of such certificate as aforesaid.

X. Every Attorney practising in either of the said Courts of Queen's Bench or Common Pleas, and every Solicitor practising in the said Court of Chancery, shall annually, in Michaelmas Term in each year, pay to the Treasurer of the Law Society of Upper Canada such sum of money as already has been or hereafter shall be in that behalf appointed as aforesaid, and thereupon the Secretary of the said Society shall fill up, issue, and deliver to such Attorney or Solicitor one or more of the certificates with which he shall have been so furnished in blank as aforesaid, of such Attorney or Solicitor being an Attorney or Solicitor of such Court, respectively.

XI. The Clerks of the Crown and Pleas of Her Majesty's Courts of Queen's Bench and Common Pleas at Toronto, and the Registrar of the Court of Chancery there, shall as soon, as conveniently may be after the passing of this Act, prepare and deliver to the Secretary of the said Society, a copy certified under their respective hands and the seals of such Courts respectively, of the Rolls of Attorneys and Solicitors of their respective Courts, as the same stood on the last day of the Vacation after Trinity Term in the year of; our Lord one thousand eight hundred and fifty-four, and shall hereafter annually on or before the last day of the Vacation after Trinity Term, in each year, prepare and deliver to such Secretary or leave for him at his office in Osgoode Hall, a copy certified as aforesaid of all entries on such Rolls made on or before that day and subsequently to the last return made by them respectively to the said Secretary according to the provisions of this Act.

XII. The Secretary of the Law Society of Upper Canada shall enter all such certified copies of Rolls in a book to be kept in his office for that purpose, adding to each name a number by which the same may be the more readily referred to on the same, so that the names on each copy of Roll when so entered shall be numbered from one forward in the whole series of numbers belonging to such Roll respectively.

XIII. Whenever any Attorney or Solicitor of any of the said Courts shall be struck off the Roll of Attorneys or Solicitors of such Court, the Clerk of the Crown and Pleas or Registrar of such Court shall certify the same under his hand and the seal of such Court to the Secretary of the said Society, stating whether the same had been so struck off at the request of such Attorney or Solicitor or otherwise, and such Secretary shall thereupon attach such certificate to the certified copy of Roll on which the name of such person stands, and shall in the book so to be kept in his office as aforesaid, make a note or memorandum near or opposite to the name of such party, of his having been so struck off such Roll as aforesaid.

XIV. The Clerks of the Crown and Pleas of Her Majesty's Courts of Queen's Bench and Common Pleas at Toronto, and the Registrar of the Court of Chancery there, shall annually on or before the last day of Trinity Vacation in each year, furnish to the Secretary of the Law Society of Upper Canada, as many blank Attorneys' and Solicitors' certificates as there shall be Attorneys or Solicitors then standing on the Rolls of such Court respectively, which certificate; shall briar date of the said last day of Trinity Vacation in such year.

XV. The Secretary of the said Society when he shall issue any of such certificates to any Attorney or Solicitor aforesaid shall in the margin thereof, under his hand, note the day of the actual issue of such certificate to the Attorney or Solicitor taking out the same, and shall at the commencement of every new year, destroy all blank certificates of the previous year then remaining with him unissued.

XVI. The Secretary of the said Society shall, in a second book to be kept in his office for that purpose, enter all the names on the copies of Rolls to be so transmitted to him as aforesaid, alphabetically arranged, with a reference to the numbers of each name on the Roll or Rolls on which the same shall stand; and shall moreover, annually, on or before the first day of February in each year, put up in his office and also in the offices of each of the Clerks of the Crown and Pleas and Registrar in Chancery, respectively, an alphabetical list certified by him, under his hand, of all such Attorneys and Solicitors as shall have taken out their certificates for the then current year, which said list so to be put up in his office as aforesaid, he shall, from time to time, amend by the addition of the name or names of such Attorneys and Solicitors as may from time to time take out their certificates at a subsequent period of such year, adding a note of the date when such last mentioned certificates were respectively taken out as aforesaid.

XVII. If any Attorney or Solicitor shall omit to take out such annual certificate within the time aforesaid, he shall not be entitled thereto until he shall have paid to the Treasurer of the Law Society of Upper Canada, as well the sum that shall have been or shall be so appointed as aforesaid, together with any fees or dues that he, if a Member of the said Society, shall be indebted to them as aforesaid, and also the additional sum hereinafter mentioned by way of penalty in respect of each of such Courts, that is to say, if he shall not take out such certificate until after the last day of Hilary Term in any such year, the further sum of ten shillings, if not until after the last day of Easter Term in any such year, the further sum of fifteen shillings, and if not until after the last day of Trinity Term in any such year, the further sum of twenty shillings.

XVIII. If any Attorney or Solicitor shall practise in any of the said Courts of Queen's Bench, Chancery, or Common Pleas, respectively, without such certificate, he shall forfeit the sum of ten pounds, to be recovered by information, in either of the said Courts of Queen's Bond) or Common Pleas, and to be paid into the hands of the Treasurer of the said Society for the uses thereof.

XIX. Nothing herein contained shall extend to require any person admitted as an Attorney or Solicitor of any of the said Courts during Michaelmas Term, or during the vacation after the same in any year, to take out any such, certificate in respect of such admission before the Michaelmas Term next following such admission.

XX. The Clerks of the Crown and Pleas of the said Courts of Queen's Bench and Common Pleas and the Registrar of the said Court of Chancery shall, and also the Deputies of such Officer in the country shall, at the commencement of each calendar year, make out a list of the names of all such Attorneys and Solicitors as by the papers or proceedings filed, taken or had in their respective offices during the preceding year, ending with the thirty-first day of December of the same, shall appear to have practised as such Attorney or Solicitor at any time during the same, which lists,

certified under their respective hands, such Clerks and Registrar and their respective Deputies shall, on or before the first day of Hilary Term in the year next to that for which they shall be made up, deliver or hand to the Secretary of the Law Society of Upper Canada at Osgoode Hall.

XXI. Nothing herein contained shall extend, to vacate the Office of any of the present Reporters of the said three Courts, but any such Reporter shall continue to hold his Office, subject to removal as herein provided, and to all the other provisions' of this Act, as well as to the Rules and Regulations of the said Society, made or to be made under or according to the same.

XXII. Notwithstanding the Repeal of the several Acts and parts of Acts in the first Section of this Act mentioned, any certificate fee that shall have been paid, and any certificate that shall have been taken out for the year commencing in the year one thousand eight hundred and fifty-four, in accordance with the provisions of the said Acts and parts of Acts so hereby repealed, shall avail to the benefit of the Attorney or Solicitor who shall have paid and taken out the same respectively, for the year commencing with the first day of Michaelmas Term, in the year of our Lord, one thousand eight hundred and fifty- four, as if such payment had been made and such certificate taken out in Michaelmas Term in that year, under and according to the provisions of this Act.