

Laws of Her Majesty's Province of United Canada, passed in the year 1856. Quebec: Stewart Derbyshire and George Desbarts, 1856.

20 Victoria – Chapter 55

The Lower Canada Judicature Amendment Act of 1856. Assented to 19th June, 1856.

Whereas it is expedient further to amend the Act of H the Legislature of the Province of Canada passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to amend the Laws relative to the Courts of Original Civil Jurisdiction in Lower Canada*, and the several Acts amending the same: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. Whenever a Judge of the Superior or Circuit Court of Lower Canada is unable, from sickness or other cause, personally to render any Judgment taken by him *en délibéré* in the said Circuit Court, he shall transmit such Judgment to the Clerk of the Circuit Court of the Circuit in which the case is pending, and the said Clerk shall, on receipt thereof, record the said Judgment, and shall on the next day of term read the same in open Court; and every such Judgment shall have the same force as if pronounced in open Court by the Judge himself on the day on which it shall have been read.

II. All the authority given by the fifteenth section of the Act of the Legislature of Canada, passed in the sixteenth year of Her Majesty's Reign, intituled, *An Act to amend the Act to amend the Laws relative to the Courts of Original Civil Jurisdiction in Lower Canada*, to the Judge of the Superior Court resident in any District in Lower Canada, except the Districts of Quebec and Montreal, to hear and give Judgment in any case out of Term, is hereby extended to every Judge of the Circuit Court while exercising, in the District of Kamouraska or Ottawa, the powers of a Judge of the Superior Court under the fourteenth section of the same Act.

III. Whenever the Judge residing in any District other than the Districts of Quebec and Montreal, is absent from the place where the Superior Court is held, or unable from illness to perform his duties, the President of the General or Quarter Sessions of the Peace, or if there be no such officer in the District, the Prothonotary of the Superior Court, shall perform all the duties which the Resident Judge can by law perform out of Term.

IV. Notwithstanding any thing contained in the seventy-seventh section of the said Act to amend the Laws relative to the Courts of Original Civil Jurisdiction in Lower Canada, or in any Act amending the same, it shall be lawful for the Governor, by and with the advice of the Executive Council, by any proclamation or proclamations to be issued under the authority of the said section, to alter the number of Terms of the Circuit Court at any place, the times when such Terms are held, and the number of days included in the Terms.

V. So soon as it shall have been shown to the satisfaction of the Governor in Council, that suitable accommodation has been provided for the holding of the Circuit Court within any of the limits hereinafter mentioned, it shall be lawful for the Governor, by Proclamation, to declare that

any such limits shall on, from and after a day to be mentioned therein, constitute a Circuit, and by such Proclamation to fix the times and days at and on which, the terms of the Circuit Court in 9uch Circuit shall be held, and the number of days to be included in such terms.

VI. The said Circuits so soon as they shall be respectively established, as hereinbefore provided, shall be, holden at the places hereinafter appointed, and the local extent and limits of the said Circuits shall be as follows, that is to say:

1. At Portage du Fort, in the County of Pontiac; the Circuit to be called the "Pontiac Circuit," which shall comprise the whole of the County of Pontiac;

2. At Thurso, in the Township of Lochaber, in the County of Ottawa; the Circuit to be called the "Lochaber Circuit," which shall comprise all that part of the said County of Ottawa, which lies to the east of the Lelievre River, together with the Townships of Bigelow and Bowman, and all those parts of the Townships of Portland and Buckingham which lie on the west side of the said Lelievre River;

3. At Lachûte, in the County of Argenteuil; the Circuit to be called the "Argenteuil Circuit," which shall comprise the whole of the County of Argenteuil;

4. At the Village of Coteau-Landing, in the County of Soulanges; the Circuit to be called the "Soulanges Circuit," which shall comprise the whole of the said County of Soulanges;

5. At the Village of Huntingdon, in the County of Huntingdon; the Circuit to be called the "Huntingdon Circuit," which shall comprise the County of Huntingdon, and Russelltown in the County of Chateauguay;

6. At the *chef-lieu* or County Town of the County of Montcalm; the Circuit to be called the "Montcalm Circuit," which shall comprise the whole of the said County of Montcalm;

7. At the Village of Industry, in the County of Joliette; the Circuit to be called the "Joliette Circuit," which shall comprise the whole of the said County of Joliette, and all that part of the parish of St. Felix de Valois which is situated in the Township of Brandon, in the County of Berthier;

8. At the Village of Drummondville, in the County of Drummond; the Circuit to be called the "Drummond Circuit," which shall comprise the Townships of Wickham, Grantham, Simpson, Wendover, and the first seven Ranges of the Township of Upton, in the said County of Drummond.

VII. No change made by this Act or by any Proclamation issued under the authority thereof, in the limits of any Circuit established by any of the Acts hereinbefore mentioned, shall affect any action, suit or proceeding commenced in any such Circuit before the day mentioned in such Proclamation, on, from and after which any new Circuit shall be established; but the same and all proceedings and matters incident thereto, whether before or after execution, shall be continued

and dealt with as if the limits of the Circuit in which such action, suit or proceeding was commenced, had not been changed or affected by this Act or by such Proclamation issued under the authority thereof.

VIII. It shall be lawful for the Governor to name a Clerk for each of the said Circuits so soon as the Proclamation establishing the same shall have issued, and to appoint as such Clerk the person holding the office of Circuit Clerk of any adjoining Circuit; and any such Circuit Clerk so appointed for two Circuits may appoint a Deputy for each of the said Circuits.

IX. Notwithstanding any thing contained in the said *Act to amend the Laws relative to the Courts of Original Civil Jurisdiction in Lower Canada*, the total number of Circuit Judges may be ten, instead of nine, as in and by the said Act provided; and it shall be lawful for the Governor at any time after the passing of this Act, to appoint an additional Judge of the Circuit Court, who shall have and exercise all the powers in and by the said Act, and those amending the same, conferred upon the Judges of the said Circuit Court.

X. Notwithstanding any thing contained in the Act of the Legislature of this Province passed in the eighteenth year of Her Majesty's Reign, intituled, *An Act to amend the Judicature Acts of Lower Canada*, any Judge of the Circuit Court in any Circuit where there is no Resident Judge, may, either in Term or in Vacation, upon the application of the Plaintiff, Incidental Plaintiff, Opposant or Intervening Party in any appealable case, order that the evidence in such case be taken in accordance with the laws^a in force immediately before the passing of the said Act, which said laws are for such purposes hereby revived in so far as they may have been repealed or amended by the said Act.

XI. The eleventh Section of the Act passed in the eighteenth year of Her Majesty's Reign, intituled, *An Act to increase the number of sittings of the Courts of Justice within the District of; St. Francis*, and to make a more convenient arrangement thereof, is hereby repealed.

XII. This Act shall be called and known as "The Lower Canada Judicature Amendment Act of 1856."