

An Act to amend the Division Court Acts of Upper Canada.

WHEREAS the laws at present in force, establishing Division Courts in Upper Canada, for the recovery of Small Debts, enable the County Judges, who are *ex officio* Judges of the Division Courts, to appoint the Clerks of the said Courts without reference to their occupation or profession; And whereas the practice now prevails of appointing persons to the said office of Clerk, who are engaged in trade, thereby giving such traders an undue advantage over other traders having recourse to the Courts for the recovery of their lawful demands, and it is deemed expedient to remedy the same: Therefore Her Majesty, &c., enacts as follows:

Preamble.

- I. From and after the passing of this Act it shall not be lawful for any County Judge as Judge of a Division Court, to appoint any person to the office of Clerk of a Division Court who is engaged in trade as a merchant or shopkeeper.
- II. Within six months of the passing of this Act it shall be the duty of each County Judge in Upper Canada, as Judge of the Division Courts within the limits of his County or Union of Counties, as the case may be, to remove all Clerks of Division Courts who are merchants or shopkeepers; and any Judge failing so to remove such Clerk or Clerks shall be deemed guilty of a neglect of duty, and subject to such fine as the Court appointed for the investigation of charges against County Judges shall see fit to impose.
- III. No removal of any such Division Court Clerk, so being a merchant or shopkeeper as aforesaid, shall in anywise have the effect of impairing the liability of his sureties for defaults committed before the date of such removal or at the date thereof, or in any manner whatsoever to affect the rights of the Crown, or of any individual, upon any bond, obligation, or other security, before the date of such removal entered into by or in respect of such Clerk.
- IV. When the plaintiff or defendant in any action now pending or hereafter to be brought in any of the said Division Courts, shall be desirous of procuring the testimony of any aged or infirm person resident within Upper Canada, or of any person who is about to withdraw himself or herself out of the same, or who is residing without the limits of Upper Canada or without the limits of the Province, it shall and may be lawful to and for any of Her Majesty's Division Courts, or for any Judge thereof in vacation, upon hearing the parties upon the motion of such plaintiff or defendant, to issue one or more commissions

Traders not to be made Clerks of Division Courts.

Clerks who are traders to be removed.

Penalty on Judges failing to remove them.

Bonds, &c., of Clerks not invalidated by such removal.

Commissions for the examination of witnesses may issue in cases before Division Courts.