

SESSIONAL PAPER No. 18

And respecting the Trial of Causes above Ten Pounds sterling, and such beneath that Sum, of which the Courts have cognizance, the same shall be proceeded in, heard and determined only in regular Terms, consisting of the first 14 days, Sundays and Holydays excepted, in the months of June, August, October, December, February and April yearly, the first return days whereof shall always be the first day of the Term, and the rest and the general Rules of Practice, such as the respective Judges of the Common Pleas may state in a formulary, and present to the Provincial Court of Appeals, who shall have authority from time to time to establish the same.

rules of practice to be made by Com. P & estab. by Co. of Appeals.

And it being *indispensibly requisite* to the safety of Property in every suit at Law, to *exclude* all Legislative authority from being united with the exercise of the Judicial Power of the said Courts of Common Pleas, lest the Estates and Rights of the People should be subject to the erroneous or arbitrary opinions of the Judges.

§3. Be it enacted by the same authority, that in every Instance where the fact is not verified by a Verdict of the Jury, but by other proof, or the testimony of witnesses, the same shall be inserted in the Record of the Cause, that in Case of Appeal, the whole Proceedings may go up to be adjudged in the Superior Tribunal, as regularly, and as fully as the same was before the Court below.

And *wherever the opinion or judgement of the Court*, is pronounced upon any Law, usage or custom of the Province, the same shall in like manner be stated upon the Minutes or Record of the Court, and referred to and ascertained, that the real Ground of the Opinion or Judgement may also appear to the Court of Appeals, AND UPON ALL opinions conceived by any Party to be to his Injury, he shall be allowed his exception to be preserved in the minutes, all which proceedings shall be transmitted under the Signatures of the Judges or any two of them, and the Seal of the Court, that all his Majesty's subjects, and especially his Canadian subjects, by these means may be effectually protected in the enjoyment of all the Benefits secured to them for their Property and Civil Rights by the Statute and Ordinance aforesaid.

Nothing is made a requisite qualification but integrity and a good sound understanding. The Judges will be standing Arbitrators for their Circle.

All the Officers of the Court of Requests are to be upon Oath. There are Guards against perjuries, contempt and Extortions.

Until a Parish is in some Circle, the old Course of *Tournee*, is to continue there, and when incircled it is to cease as to that Circle and all the Parishes it includes, and the Inhabitants be saved from all the waste of time, trouble, and charge of referring for Justice to Quebec and Montreal: and it is thus hoped that a general spirit of useful Industry will spread through the Province, and contentment be given to all, as their differences will thus be speedily adjusted, by those to whom, as neighbours, they may have easy access, and by whom the Parties will be known.

These Commissioners are not to be Justices of the Peace, nor the Justices to be Commissioners, the confounding these Trusts in the same Person being subject to many objections, as former experience has shewn here and elsewhere. in the low Character of Trading Justices as they are called.

The Justices are to be left to their proper business in preserving the public Peace, and preventing and punishing Crimes. *Private Disputes* will be settled by the Commissioners in the Court of Requests for the people, by their own Countrymen, and as it were at their own Doors, and according to good Conscience and their own usages, and in their own language, every man managing his own cause by himself or his friend. No Lawyers to be there, unless both Parties chuse to have their assistance.