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3rd Session, 3rd Parliament, 13 & 14 Victoria, 1859.

## V:

## BILL.

An Acr 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 Decisions of certain of those Courts.

Received and read first time, Thursday, 1st August, 1850.

Second reading, Monday, 5th August, 1850.

HON. MR. LESLIE.

[250 Copies.]



## UPPER CANADA COURTS' PRACTICE BILL.

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 decisions of certain of those Courts.

WHEREAS the Judges of Her Majesty's Court of Preamble. Error and Appeal for Upper Canada have, under the authority of the Act of the Parliament of this Province passed in the last Session thereof, chaptered sixty-5 three, and intituled, "An Act to make further provision "for the administration of Justice, by the establishment "of an additional Superior Court of Common Law, and "also a Court of Error and Appeal in Upper Canada, "and for other purposes," made certain rules, orders, and 10 regulations respecting the practice of the said Court, and the costs to be allowed in the same, and the same have been laid before both Houses of the Provincial Parliament in the present Session thereof, being the Session during which such rules, orders, and regulations were made: 15 And whereas by the said Act it is provided that no such rule, order, or regulation shall have effect until six weeks after the same shall have been laid before both Houses of the Legislature; to remove therefore all doubts as to the force and effect of such rules, orders, and regulations, in 20 case Parliament should be prorogued before the expira-

Be it therefore enacted, &c.,

tion of the said term of six weeks:

I. That the said rules, orders, and regulations, so made Rules to have by the said Judges, shall have effect from the expiration effect after six 25 of six weeks from the fifth day of July in this present 5th July. 1850. year, whether the Provincial Parliament shall be prorogued before the expiration of such six weeks or not.

II. And be it enacted, That the Chief Justice of Upper Chief Justices. Canada for the time being, the Chancellor of Upper Chancellor, Puisne Judges,

and Vice-Chancellors, to be visitors of the Law Society of Upper Canada.

Canada for the time being, the Chief Justice of Her Majesty's Court of Common Pleas for Upper Canada for the time being, and all the Puisné Judges and Vice Chancellors of Her Majesty's Superior Courts of Law and Equity at Toronto for the time being, shall be and shall be deemed to have been visitors of the Law Society of Upper Canada, with all the powers conferred upon the Judges of Upper Canada with respect to such Society in and by the second section of the Act of the Parliament of that Province, passed in the thirty-seventh year of the 10reign of King George the Third, chaptered thirteen, and intituled. "An Act for the better regulating the Practice " of the Law."

Judges of Superior Courts of Common Law at Toroute, may sit apart in Banc during Term.

III. And be it enacted, That at any time wherein Her Majesty's Superior Courts of Common Law at Toronto 15 may by law sit in Banc, it shall and may be lawful for any one Judge of either of such Courts to sit in Banc apart from his brethren, either while they are actually so sitting, or while their sittings within such time shall be suspended or adjourned; and every such Judge so sitting apart in 20 Banc as aforesaid, shall have all the same powers and authority as belong to, or may hereafter be vested in either of such Courts touching or concerning, or in any way relating to the business of adding or justifying bail, discharging insolvent debtors, administering oaths, and hear-25 ing and determining matters on motion, and making rules. and orders in causes and business depending in either of the said Courts, in the same manner and with the same force validity and effect, as might be done by the Court in which such causes or business shall be respectively 30 depending.

Who shall be Banc.

IV. And be it enacted, That the Clerk of the Judges Clerk to Judge Chambers at Osgoode Hall, shall perform the duties of Clerk of such Court, so far as such duties apply to the business transacted before such Judge so sitting apart in 35 Banc as aforesaid.

Judges of . either of such Courts sitting at Chambers may dispose of business deother of such Courts.

V. And be it enacted, That it shall and may be lawful for any of the Judges of either of Her Majesty's said Superior Courts of Common Law at Toronto sitting lat Chambers to hear, determine and dispose of any 40 rending in the business depending in the Court of which he is not is member, as fully and effectually to all intents and purposes whatsoever, as if he were a Judge of such Court: subject always, nevertheless, to such proceedings by the Court in which the same shall be pending, for the revers- 45ing, setting aside, or confirming what may be so done by

such Judge in the same manner in the like cases, and to the like extent as if the same had been so done by one of the Judges of the Court in which the same shall be so pending as aforesaid at his Chambers.

VI. And whereas it is desirable that the decisions of Preamble. 5 Her Majesty's Court of Common Pleas in this Province should be recorded and published for general information, and there is reason to believe that the same cannot be effected otherwise than by the employ-10 ment of a reporter to the said Court under proper regulations: Be it therefore enacted, That it shall and may Law Society be lawful for the Law Society of Upper Canada, in of Upper Canada autho-convocation by an instrument under the seal of the rized to appoint Society, to appoint a fit and proper person to be Reporter a Reporter of the Court of 15 of the said Court of Common Pleas, such Reporter to be Common amenable to the said Society, in convocation, for the cor-Pleas. rect and faithful discharge of his duty, and to be subject to such rules and regulations for the discharge of the duties of his office, as shall or may be made for that puron pose by the said Society, in convocation, with the approbation of the Judges of the said Court; and it shall be in the power of the said Law Society, in convocation, to remove such Reporter, and to appoint another in his place from time to time: Provided always, that no person Provided 25 shall be eligible to the office of Reporter other than the members of the said Society of the degree of Barrister-at-Law, and that no appointment to or removal from the said office shall take place without the approbation of the Judges of the said Court, signified to the said Society in 30 writing under the hand of the said Judges.

And be it enacted, That it shall be the duty of Duty of such such Reporter to report as well the substance of such of Reporter. the verbal decisions of the Court as shall be of general importance, as to report also such decisions as may be 35 delivered in writing; and it shall further be his duty, without any unnecessary delay, to cause such reports to be fairly entered in a book, and to submit the same for the inspection of the judges of the said Court, which reports after due-examination and correction, shall be signed by 40 the said judges.

VIII. And be it enacted, That such Reporter shall be at Reporter may liberty to print and publish such Reports or a digest publish reports. thereof; and it shall be his duty so to do whenever thereto required by the said Law Society, in convocation, and in 45 such manner as the said Law Society shall direct, the profits arising therefrom to belong to such Reporter.

Salary of the Reporter and funds for its payment. £150.

£1 5s. 0d.

IX. And be it enacted, That the salary of such Reporter mode of raising shall not exceed the sum of per annum. and shall or may be fixed at or varied within the said amount as the said Law Society, in convocation, shall think just and proper; and for the purpose of providing such 5 salary, it shall be in the power of the said Law Society in convocation to appoint such sum as they may think proper not exceeding the sum of paid to the Treasurer of the said Law Society annually by every Attorney of the said Court, practising therein; 10 and in case of persons being as well solicitors of the Court of Chancery and Attorneys of the Court of Queen's Bench, as also Attorneys of the said Court of Common Pleas, it shall be lawful for the said Law Society, if they

Attorneys pay their conbefore 20th August Land tako out Certificate.

X. And be it enacted, That every Attorney practising in practising in Court of Common Pleas shall annually, on or before inon Pleas to the twentieth day of August, pay to the Treasurer of the Law tributions on or Society such sum of money as shall in that behalf be ap-20 pointed as aforesaid; and thereupon the Clerk of the Crown and Pleas in the said Court of Common Pleas shall, upon production of a receipt for such payment on or before such twentieth day of August give to such Attorney a certificate of his being an Attorney of the said Court 25 of Common Pleas, for which Certificate such Clerk shall he entitled to a fee of

shall think fit, to appoint one sum of money to be paid by 15 any such person annually as such Solicitor and Attorney.

25. Gd.

After 20th Certificate.

August Attorney to pay £4 neglect to take out such Certificate within the time for Certificate aforesaid, he shall not be entitled thereto until he shall 30 and penalty on Autorney prace have produced a receipt from the Treasurer of the Law tising without; Society for the sum of : and if any Attorney shall practise in the said Court, without such certificate, he shall forfeit the sum of to be recovered by information in Her Majesty's said Court of Common 35 Pleas, and to be paid into the hands of the Treasurer of the said Law Society; Provided always, that nothing herein contained shall extend to require any person admitted as such Attorney after the said twentieth day of August in any year, to take out any Certificate as aforesaid, 40

before the twentieth day of August following.

XI. And be it enacted, That if any Attorney shall

Proviso.

£10.