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1st Session, 4th Parliament, 16 Victoria, 1858.

BILL

An Act to make better provision for the Administration of Justice in the unorganized tracts of Country in Upper Canada.

Received and Read a first time, Monday, 11th April, 1853.

Second Reading, Friday, 15th April, 1853.

Hon. Mr. Atty. Gen. Richards.

QUEBEC: PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

1852-3.]

BILL.

[No. 340.

An Act to make better provision for the administration of Justice in the unorganized tracts of Country in Upper Canada.

[The Clauses in Italics are intended to be proposed in Committee.]

WHEREAS it is desirable to make better provision for the Preamble W Administration of Justice in the unorganized tracts of country in this Province, bordering upon and adjacent to Lakes Superior and Huron, including the Islands in those Lakes which 5 belong to this Province, and also all other parts of Upper Canada which are not now included within the limits of any County or Township, and to provide for the laying out of roads therein, and for the general well-being and protection of those who may resort thither for purposes of settlement or temporary residence 10 connected with mining, lumbering or other business pursuits, and to deter evil disposed persons from inciting the Indians and halfbreeds frequenting or residing in those tracts of country to the disturbance of the public peace, or to the committing of any other indictable offence, and to prevent and punish such disturbance of 15 the public peace and violation of the laws; Be it therefore enacted, &c.,

That it shall be lawful for the Governor of this Province from time Governor may to time, and whenever it may be deemed expedient and necessary visional juso to do, by Proclamation under the Great Seal, to declare that dicial Dis-20 from and after a certain day to be therein named, a certain part tricts. or certain parts or the whole of such unorganized tracts of country shall form a Provisional Judicial District or Provisional Judicial Districts, and to define the limits of such Provisional Judicial District or Provisional Judicial Districts; and such Provisional 25 Judicial District or Provisional Judicial Districts shall thereupon be formed accordingly.

II. And be it enacted, That it shall be lawful for the Governor Governor may of this Province from time to time and at all times hereafter during authorize the holding of the continuance of any such Provisional Judicial District or Pro- certain Courts 30 visional Judicial Districts, whenever it may be deemed advisable in such P.J. Districts. and expedient to do so, to issue the necessary commissions authorizing the holding of Courts of Assize and Nisi Prius, Over and

Terminer and General Gaol Delivery in any such Provisional Judicial District or Provisional Judicial Districts so formed as aforesaid.

Governor may appoint tricts: their powers, &c.

III. And be it enacted, That it shall be lawful for the Governor of this Province, from time to time, to appoint in each and every 5 Judges for of this Province, from time to time, to appoint in each and every such P. J. Dis- such Provisional Judicial District a fit and proper person, being a Barrister of not less than five years' standing at the Bar of Upper Canada, to be Judge thereof, and such Judge shall have the same powers, duties and emoluments, and be paid in the same manner as any County Judge in Upper Canada, save and ex-10 cept that his salary shall not exceed per annum, and shall hold his office during pleasure, and shall reside within the limits of his Provisional Judicial District, and shall not directly or indirectly practise or carry on or conduct any business in the profession or practice of the Law, while holding his office of Judge, 15 on pain of forfeiting the same, and of a penalty of one hundred pounds.

Governor may pay Sheriffs, de.

IV. And be it enacted, That it shall be lawful for the Governor of this Province to pay to the Sheriffs and other Officers of every Provisional Judicial District, by way of Salary or otherwise, out 20 of any unappropriated monies belonging to the Consolidated Revenue Fund of this Province, such several sums of money as he shall think reasonable for the services performed by such Officers respectively.

Certain Laws considered as regard to them.

V. And be it enacted, That all and every the Acts and Laws 25 to apply to P. J. Districts, now in force, with respect to the holding of Courts of Quarter which shall be Sessions of the Peace, County Courts and Division Courts re-Counties with spectively, in the several Counties and Unions of Counties in Upper Canada, to the composition, powers and jurisdiction of such Courts respectively, and to the appointment, powers, duties and 30 emoluments of Sheriffs, Coroners, Clerks, Constables and all other officers attached to such Courts or employed in the administration of justice in connection therewith, shall extend and apply to such Provisional Judicial Districts as aforesaid, which shall be held and deemed to be Counties for all and every the 35 purposes of such Acts and Laws, and of each and every of them, save and except that such Courts shall be held at such place in each such Provisional Judicial District as the Governor in Council by Proclamation shall from time to time appoint, and that the word "District" shall be substituted for the word "County" in the titles 40 of such Courts and Officers, as well as in the interpretation of such Acts and Laws respectively, as applied to such Provisional Judicial Districts.

VI. And be it enacted, That the Justices of the Peace appointed Peace to have or to be appointed for any such Provisional Judicial District or 45

Provisional Judicial Districts, or for any part or parts of this Pro- wheh J. P's vince included therein, or wherein the same may be included, shall Districts in have, use, exercise and enjoy within such Provisional Judicial U.C. before the passing of Districts respectively, all and every the jurisdiction, powers and 4 and 5 vic., 5 authorities, and discharge and perform all the duties which the cap. 10. Justices of the Peace in and for the several Districts in Upper Canada, by law had and were entitled and required to use, exercise and enjoy, discharge and perform within such Districts respectively, immediately previous to and at the time of the passing of 10 the Act of the Parliament of this Province, passed in the Session thereof held in the fourth and fifth years of Her Majesty's Reign, chaptered ten, and intituled, "An Act to provide for the better 4 and 5 Vie. " internal Government of that part of this Province which for-" merly constituted the Province of Upper Canada, by the estab-15 " lishment of Local or Municipal authorities therein," and also all such other powers and jurisdiction as may have been since conferred upon Justices of the Peace in general, in Upper Canada: Provided always, that it shall not be necessary for any such Justice Proviso. of the Peace to possess the property qualification required by the 20 Act passed in the sixth year of Her Majesty's Reign, and intituled, "An Act for the qualification of Justices of the Peace;" And provided also, that all such Justices of the Peace and other officers, Proviso. shall be entitled to the benefit of all provisions of law in force in

VII. And be it enacted, That it shall be lawful for the Governor, Any territory by Proclamation as aforesaid, to include within the limits of any in any Townsuch Provisional Judicial District as aforesaid, any portion or por-ship may be tions of a County or of Counties in Upper Canada not included in P. J. District. 30 any Township; and thereupon such portion or portions shall for all purposes connected with the administration of Justice cease to belong to such County or Counties; but whenever such portion or portions so included in any such Provisional Judicial District as When it shall aforesaid, or any of them, or any part thereof, shall be formed or parated. 35 erected into a Township or Townships, the same shall thereupon cease to belong to or form part of any Provisional District in which the same may have been included; and whenever any portion or portions of any such Provisional Judicial District or Provisional Judicial Districts, which at the time of the formation thereof was 40 not or were not included in any Township or County, shall be formed or erected into a Township or Townships, and attached to any County in Upper Canada, the same shall in like manner thereupon immediately cease to belong to or form part of such Provisional Judicial District or Provisional Judicial Districts.

Upper Canada, for the protection of Justices of the Peace and

25 such other Officers as aforesaid.

VIII. And be it enacted, That nothing in this Act shall extend Act of U. C. or be construed to extend to repeal or alter any of the provisions 59. Geo. 8, c.

10. not to be affected.

of an Act of the Parliament of Upper Canada, passed in the fifty ninth year of King George the Third, intituled, "An Act to au, " thorize the inquiry and trial of crimes and offences committed " within this Province, without the limits of any described Town-" ship or County, to be had in any District thereof."

Persons in-&c., to the certain offences how punishable.

IX. And be it enacted, That any person inciting Indians or halfciting Indians, breeds frequenting or residing in such tracts of country as aforecommission of said, to the disturbance of the public peace or to the commission of any other indictable offence, shall be guilty of a felony, and upon conviction thereof shall be sentenced to imprisonment for 10

years in the Provincial not more than nor less than Penitentiary: and that for and notwithstanding any thing to the contrary contained in an Act of the Parliament of this Province passed in the ninth year of Her Majesty's Reign, intituled, "An " Act to provide for the appointment of Magistrates for the more 15

9 Vic. c. 41.

Persons

accused or

such P. J.

convicted of crimes in any

District may be committed

to any Gaol in U. C.

" remote parts of this Province," or in any other Act or law in force in Upper Canada, persons accused of inciting Indians or half-breeds as aforesaid or accused or convicted of any other crime or offence

in any such Provisional District as aforesaid, may be committed to any Common Gaol in Upper Canada; and it shall be lawful for 20 the Constable or other officer having charge of such person and entrusted with his conveyance to any such Common Gaol, to pass through any County or Counties in Upper Canada with such person in his custody, and for the keeper of the Common Gaol of any County or Union of Counties in Upper Canada in which it may 25. be found necessary to lodge for safe keeping any such person as

keep and detain in such Common Gaol for such period as may be reasonable or necessary, and for the keeper of any Common Gaol 30 in Upper Canada, to which any such person may be committed as: aforesaid, to receive such person and him safely to keep and detain in such Common Gaol under his custody until discharged in due course of law, or bailed in cases in which bail may by law be

aforesaid so being conveyed through such County or Counties in custody as aforesaid, to receive such person and him safely to

Any persons may be returned as Jurors in the said Provision al Districts.

taken.

X. And be it enacted, That any Sheriff or other officer of any kind, whose duty it is or who may be legally required to summon and return Jurors or persons to serve as Jurors, within any of the said Provisional Districts, shall and may select, choose and return for such Jurors any of the inhabitants of such Provisional Districts 40 respectively, without reference to the mode prescribed for selecting, balloting or returning such Jurors by the Upper Canada Jurors Acts, or any other Act or law which limits the choice of such officer or person in the selection of Jurors: Provided always, that Juries de medietate linguae, and Juries of a like nature, may be 45 ordered by the Court before which any cause or prosecution in any of the said Provisional Districts may be pending.

Proviso.

XI. And be it enacted, That this Act shall be a Public Act.

l'ublic Act.