

No. 235.

2nd Session, 3rd Parliament, 12 Victoria, 1849.

BILL.

An Act to amend the Act for the Summary Decision of Small Causes in Lower Canada.

Received and Read a first time, Wednesday, 4th April, 1849.

Second Reading, Monday, 9th April, 1849.

MR. LAURIN.

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BILL.

An Act to amend the Act for the Summary Trial of Small Causes in Lower Canada.

WHEREAS experience hath shewn the necessity of introducing certain changes in the provisions of the Act passed in the seventh year of Her Majesty's Reign, chapter nineteen, intituled, "*An Act to provide for the Summary Trial of Small Causes in Lower Canada*:" Be it therefore enacted, &c.

Preamble.

7. Vic., c. 19.

And it is hereby enacted by the authority of the same, That from and after the time when this Act shall come into force, no Commissioners' Court shall be held in any Parish, Township and extra-Parochial place in Lower Canada under the said Act, passed in the seventh year of Her Majesty's Reign, chapter nineteen: Provided always, and be it enacted, that when any number not less than of the proprietors of lands or hereditaments in any County of Lower Canada, with the exception of the Counties of Quebec and Montreal, shall present a petition to the Governor of this Province praying for the establishment of a Commissioners' Court for the purposes of the said Act cited in the Preamble of this Act, at the principal place in such County, it shall be lawful for the Governor to appoint one or more persons, and not more than five, qualified as far as circumstances will allow, in point of education and information, and able in any case to read and write, residing in such County, to be Commissioner or Commissioners for such County, and to hold therein one sole Commissioners' Court for the purposes of the said Act, which Court shall be called "*The Commissioners' Court of the County of*" (adding thereto the name of the County for which it is established,) and shall not in any manner be considered as a new Court, notwithstanding any change made by the present Act in its name, constitution or jurisdiction, and shall be governed and conducted in conformity with the provisions of the said Act, for all the purposes therein mentioned not being contrary to this Act, in like manner as any of the Commissioners' Courts abolished by this Act, and shall have the same jurisdiction, for the same purposes, rights and actions, and shall take cognizance of the same matters and to the same amount or value, within the limits of the County for which it shall be established, with regard to each and every person there resident, and in and for the County for which the Commissioner or Commissioners shall be appointed; the said Court shall sit and hold its sittings at the principal place in each such Coun-

No Commissioners' Court to be held in and for any Parish, &c.

A Commissioners' Court may be established for each County: to have the like powers and duties as to the County as the former Courts had with regard to the Parish, &c., in which they were established.

ty, at the times and places at which each of the Commissioners' Courts hereby abolished may be held in each Parish, Township or extra-Parochial place, and it shall be held by the same number of Commissioners; and the person or persons who shall be appointed Commissioner or Commissioners to hold the said Commissioners' Court at the principal place in each such County, shall have all the powers and privileges, and shall be subject to the same duties, obligations, fines or penalties as are imposed, vested in or conferred or imposed upon any of the Commissioners now appointed under the said Act, seventh Victoria, chapter nineteen; and the like rule shall obtain with regard to the Officers of such Courts serving and executing their orders, rules and judgments, who shall be the same for all purposes whatsoever as those of each of the Commissioners' Courts hereby abolished.

A second Court may be established in any County on certain conditions; and with like powers as the first.

Names of the Courts when there are two.

II. And be it enacted, That when a number of proprietors of lands, tenements or hereditaments not being less than in any County of Lower Canada, with the exception of the Counties of Quebec and Montreal, shall present a petition to the Governor of this Province, praying for the establishment in their County of a second Commissioners' Court for the purposes of the said Act, not being contrary to this Act, and for all the other purposes hereinafter mentioned, in addition to that which may have been established at the principal place of such County, it shall be lawful for the Governor to appoint one or more persons, and not more than five, qualified as far as circumstances will allow, in point of education and information, and able in any case to read and write, residing in each County, to hold therein a Commissioners' Court, in any Parish, Township or extra-Parochial place, which the Governor shall in and by the several Commissions by which he shall appoint any one or more persons to be Commissioner or Commissioners, or by proclamation, designate and determine; and such Commissioners' Court shall be called "*The Commissioners' Court No. 2, for the County of*" (adding thereto the name of the County in which it shall be established,) and from and after the day of the establishment of the last mentioned Court in any County, the Commissioners' Court established at the principal place of such County shall be called "*Commissioners' Court No. 1, of the County of*" (adding thereto as aforesaid, the name of the County for which it shall have been established,) and the said Commissioners' Court No. 2, shall have, within the limits of the County in which it shall be established, and with regard to each and every person resident therein, the same jurisdiction as the said Commissioners' Court No. 1; and it shall be governed and conducted in conformity with the same rules and the same laws, not being contrary to the provisions of this Act,

- and its officers shall be the same, and the Commissioners of such Court and the said officers shall be invested with the same powers and privileges, and subject to the same duties, obligations, fines or penalties; and the said Commissioners' Courts No. 1 and No. 2, shall have concurrent jurisdiction throughout the whole of the County in which they shall be established: Provided nevertheless, that the said Commissioners' Court No. 2, in each said County shall be held only in the Parish, Township or extra-Parochial place in which it shall have been established, and on the second Monday in each month, not being a *fête d'obligation*, and if such Monday shall be a *fête d'obligation*, then on the following day, and on such other days as the Court may deem necessary to adjourn to for the hearing of witnesses and decision of causes; and that no bailiff, serjeant of militia, tavern keeper, publican or person keeping a house of public entertainment, shall be appointed Commissioner to hold any Commissioners' Court under this Act.
- 20 III. And be it enacted, That all actions, suits and proceedings commenced in the Commissioners' Court in any Parish, Township or extra-Parochial place in Lower Canada, with the exception of the Parishes, Townships or extra-Parochial places in the Counties of Quebec and of Montreal, shall be transmitted to the Circuit Court of the Circuit: within the limits of which each such Parish, Township or extra-Parochial place shall be situate, to be there continued and determined as if they had been commenced in such Circuit Court, or as if such Court had been one and the same Court with the Commissioners' Court of each such locality; and all other papers, writings, documents and proceedings in the office of the Clerk of the Commissioners' Court in each of these Parishes, Townships or extra-Parochial places or being in his care, whether such papers shall relate to any action, suit or proceeding then pending or determined before this Act shall come into force, shall be immediately transmitted to each such Circuit Court respectively, and shall be preserved in the office of the Clerk of the said Court in the same place where it shall or should be held, and shall form part of the records and muniments of the said Court; and every writ or summons issued before this Act shall come into force by the Commissioners' Court of any of the said Parishes, Townships or extra-Parochial places, and which shall be returnable after the said period, shall be returned to each such Circuit Court respectively, at the place where it shall be held or appointed to be held in each such Circuit, and on the same day on which it shall have been made returnable, unless such day should happen not to be a return-day at such place for non-appealable causes in the Circuit Court, and in such case it shall be returned on that return-day in such cases which shall be next after the day on which it may have been made return-

Concurrent jurisdiction of the two Courts.

Proviso as to the second Court.

Certain persons not to be Commissioners.

Proceedings in former Commissioners' Courts to be transmitted to the Circuit Court and there continued.

As to process issued by any Commissioners' Court and returnable after this Act shall come into force.

able, and in either case it shall have the same and no other effect as if it had been issued from the Circuit Court and had been made returnable on the said day and at the said place: Provided always, that the charges and fees which the Clerk of any Circuit Court may claim for the duplicates or copies which he shall be required to deliver to whomsoever it may concern, of each and every paper and document transmitted from any of the said Commissioners' Courts abolished by this Act, shall be the same as those which might have been demanded by the Clerk of such Commissioners' Court.

Commencement of this Act.

IV. And be it enacted, That this Act shall come into force from and after the day of in the year one thousand eight hundred and forty-nine, and not before.