

No. 18.

1st Session, 4th Parliament, 16 Victoria, 1862.

BILL.

An Act to authorize Her Majesty's Subjects to plead and reason for themselves or others in all Her Majesty's Courts in Canada, and to abolish the title or distinction of Queen's Counsel.

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MR. MACKENZIE.

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BILL.

Act to authorise Her Majesty's Subjects to plead and reason for themselves or others, in all Her Majesty's Courts in Canada, and to abolish the title or distinction of Queen's Counsel.

WHEREAS the People of Canada ought to enjoy the right of choosing Preamble. their Advocates, Counsel and Attorneys, to plead and reason for in the Courts of Judicature, with a like freedom from State interference that they now possess in the selection of their Reeves, Town Councillors, Mayors and Legislators, and that is possessed by the members of several influential denominations of Christians, in the choice of their pastors and other spiritual guides: And whereas a close and exclusive monopoly of the practice at the bar in the Courts of Judicature has long reserved for, and secured to, an exceedingly small but well organized order of licensed Advocates, Barristers, Solicitors and other legal pleaders, to the complete exclusion of the great body of the people, of all persons, however well qualified, who may not have studied in a certain prescribed way or place, or become proficient in speaking the languages of certain ancient nations, and received licenses to plead and reason in the Courts on behalf of those who might choose to employ them: And whereas there are great differences of opinion, from time to time, among Judges and Courts, as to what is the law in many very material points, which disagreements may operate to the confusion of candidates for admission to the bar, in case they hold opinions at variance with those of the examiners: And whereas the pursuit of happiness in the free employment of labor, talent, and capital, for useful purposes, is a natural right which Governments ought not to check or interfere with, and the right to reason and plead in the Courts, enjoyed by the people, would afford them new and powerful inducements to study and comprehend the laws: And whereas it is manifestly unjust towards the members of the Bar, that the Crown Lawyers should have precedence in the Law Courts, in civil suits unconnected with their own business, without reference to their standing, or to the general rules which regulate the practice in such Courts: And whereas the title of Queen's Counsel is useless and unmeaning, and it is the interest of the mass of persons who profess to examine and license Lawyers to keep the legal monopoly as close and restricted as possible, the services as numerous as possible, and the tariff of fees as high as possible: And whereas, it is especially unjust to prevent any poor man from availing himself of the aid of learned, ingenious and skilful persons not licensed in any cause, to prosecute, appear, plead, pursue, or defend, on his behalf in the Courts of Judicature and there to maintain his right; and

it is preferable to open the Bar to all, instead of selecting favored individuals and admitting them by special Legislative enactments: And whereas Advocates in the Law Courts are relied on by the people as their protectors against oppression, and the preservers and defenders of civil and religious freedom, and of public and private rights; Be it therefore enacted, &c., 5

Any subject of H.M. 21 years of age may plead, &c., in any Court. That any of Her Majesty's subjects, twenty-one years of age, may plead and reason in any of Her Majesty's Courts in the Province of Canada, enjoying all rights and privileges therein in as full and ample a manner as these are now enjoyed by Advocates, Barristers, Proctors, Solicitors and Attorneys. 10

Title of Queen's Counsel abolished, &c.

II. And be it enacted, That the title of Queen's Counsel is hereby abolished; and that no person holding the office of Attorney-General, or Solicitor General, shall derive from such appointment or distinction, any precedence or advantage as to the time or manner of bringing forward or of conducting cases in his private practice, in the Courts of Judicature. 15

All enactments requiring a certain number of years standing at the bar as a qualification for office, repealed.

III. And be it enacted, That all Acts or parts of Acts which restrict the Executive Government or the people, in their power of appointment or election, by confining their choice of incumbents to Lawyers of five, ten, or any other number of years standing at the Bar, are hereby repealed; and that henceforth no such restriction shall be a bar to the appointment or election of any of Her Majesty's subjects to any legal or judicial office, the duties of which, in the opinion of the proper appointing power, he or they may be considered, in other respects, the most fit and capable to fulfil. 25