

Technical and Bibliographic Notes / Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming are checked below.

- Coloured covers / Couverture de couleur
- Covers damaged / Couverture endommagée
- Covers restored and/or laminated / Couverture restaurée et/ou pelliculée
- Cover title missing / Le titre de couverture manque
- Coloured maps / Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black) / Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations / Planches et/ou illustrations en couleur
- Bound with other material / Relié avec d'autres documents
- Only edition available / Seule édition disponible
- Tight binding may cause shadows or distortion along interior margin / La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure.
- Blank leaves added during restorations may appear within the text. Whenever possible, these have been omitted from filming / Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments / Commentaires supplémentaires:

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured pages / Pages de couleur
- Pages damaged / Pages endommagées
- Pages restored and/or laminated / Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed / Pages décolorées, tachetées ou piquées
- Pages detached / Pages détachées
- Showthrough / Transparence
- Quality of print varies / Qualité inégale de l'impression
- Includes supplementary material / Comprend du matériel supplémentaire
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image / Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.
- Opposing pages with varying colouration or discolourations are filmed twice to ensure the best possible image / Les pages s'opposant ayant des colorations variables ou des décolorations sont filmées deux fois afin d'obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below /
Ce document est filmé au taux de réduction indiqué ci-dessous.

| | | | | | | | | | | | |
|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| 10x | | 14x | | 18x | | 22x | | 26x | | 30x | |
| | | | | | | | | | | ✓ | |
| | 12x | | 16x | | 20x | | 24x | | 28x | | 32x |

No. 12.

1st Session, 6th Parliament, 21 Victoria, 1858.

BILL.

An Act to amend the Division Court Acts
of Upper Canada.

Received and read, first time, Tuesday, 16th
March, 1858.

Second reading, Tuesday, 23rd March, 1858.

MR. BENJAMIN.

TORONTO:

PRINTED BY JOHN LOVELL, YONGE STREET.

An Act to amend the Division Court Acts of Upper Canada.

WHEREAS the laws at present in force, establishing Division Courts in Upper Canada, for the recovery of Small Debts, enable the County Judges, who are *ex officio* Judges of the Division Courts, to appoint the Clerks of the said Courts without reference to their occupation or profession; And whereas the practice now prevails of appointing persons to the said office of Clerk, who are engaged in trade, thereby giving such traders an undue advantage over other traders having recourse to the Courts for the recovery of their lawful demands, and it is deemed expedient to remedy the same: Therefore Her Majesty, &c., enacts as follows:

Preamble.

- I. From and after the passing of this Act it shall not be lawful for any County Judge as Judge of a Division Court, to appoint any person to the office of Clerk of a Division Court who is engaged in trade as a merchant or shopkeeper.
- Traders not to be made Clerks of Division Courts.
- 15 II. Within six months of the passing of this Act it shall be the duty of each County Judge in Upper Canada, as Judge of the Division Courts within the limits of his County or Union of Counties, as the case may be, to remove all Clerks of Division Courts who are merchants or shopkeepers; and any Judge failing so to remove such Clerk or Clerks shall be deemed guilty of a neglect of duty, and subject to such fine as the Court appointed for the investigation of charges against County Judges shall see fit to impose.
- Clerks who are traders to be removed.
- Penalty on Judges failing to remove them.
- 20 III. No removal of any such Division Court Clerk, so being a merchant or shopkeeper as aforesaid, shall in anywise have the effect of impairing the liability of his sureties for defaults committed before the date of such removal or at the date thereof, or in any manner whatsoever to affect the rights of the Crown, or of any individual, upon any bond, obligation, or other security, before the date of such removal entered into by or in respect of such Clerk.
- Bonds, &c., of Clerks not invalidated by such removal.
- 25 IV. When the plaintiff or defendant in any action now pending or hereafter to be brought in any of the said Division Courts, shall be desirous of procuring the testimony of any aged or infirm person resident within Upper Canada, or of any person who is about to withdraw himself or herself out of the same, or who is residing without the limits of Upper Canada or without the limits of the Province, it shall and may be lawful to and for any of Her Majesty's Division Courts, or for any Judge thereof in vacation, upon hearing the parties upon the motion of such plaintiff or defendant, to issue one or more commissions
- 30 Commissions for the examination of witnesses may issue in cases before Division Courts.

under the seal of any such Judge to one or more Commissioners to take the examination of such persons, due notice being given to the adverse party to the end that he may cause such witness to be cross-examined.

How the Com-
missions shall
be returned
and their
effect.

V. In case of witnesses residing without the limits of Upper Canada, such Commission or Commissions, with the examination of the witness or witnesses taken pursuant thereto, shall be returned to the said Judge, with an affidavit of the due taking thereof thereto annexed, sworn before and certified by the Mayor or Chief Magistrate of the City or place where the same shall or may be taken, clos. under the hand and seal or hands and seals of one or more of such Commissioners, and shall be taken *prima facie* to have been duly executed and returned, and shall be received as evidence in the said cause; Provided always, that such examination or examinations shall not be read or given in evidence in the said cause, in case the deponent or deponents respectively shall be living within Upper Canada, and of sound mind, memory and understanding, at the time such examination or examinations shall be offered to be given in evidence, and provided it is made to appear to the Court before which such examination or examinations is or are put in, that the same has or have not been duly taken.

Proviso: Evi-
dence so taken
not to be used
in certain
cases.