

2D SESSION, 3D PARLIAMENT, 12 VICTORIA, 1849.

BILL

An Act to establish a Court having jurisdiction in Appeals and Criminal matters, for Lower Canada.

Received and read first time,

Second reading,

[250 Copies.]

Honble. Mr.

S. Derbishire and G. Desbarats, Queen's Printer.

BILL.

An Act to establish a Court having jurisdiction in Appeals and Criminal matters, for Lower Canada.

WHEREAS it is expedient to alter and reform the judicial system of Lower Canada, which hath been found in some respects inadequate to the due administration of justice in that division of the Province, and for that purpose, among other things, to establish therein a Court having jurisdiction in Appeals and Criminal matters : Be it therefore enacted, &c.,

Preamble.

And it is hereby enacted by the authority of the same, That the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act for the establishment of a better Court of Appeals in Lower Canada*, shall be and is hereby repealed ; but all Acts and provisions of law thereby repealed shall nevertheless remain repealed.

Act 7 Vict. c. 18. repealed.

Proviso.

II. And be it enacted, That there shall be and there is hereby established in and for Lower Canada a Court of Record to be called "The Court of Queen's Bench," and to consist of four Judges, that is to say, of a Chief Justice and three Puisné Judges, to be appointed from time to time, by Her Majesty, Her Heirs or Successors, by Letters Patent under the Great Seal of this Province ; but no person shall be appointed to be such Chief Justice or Puisné Judge, unless at the time of his appointment he shall have been a Justice of one of the several Courts of Queen's Bench in Lower Canada, or a Judge of the Superior Court, or a Circuit Judge, or shall be an Advocate of at least ten years' standing at the Bar of Lower Canada : Provided always, that the said Court shall be called "The Court of Queen's Bench," or "The Court of King's

Court of Queen's Bench established. Four Judges.

Who may be appointed a Judge.

Proviso as to the name of the Court.

Bench," according as the Sovereign then reigning shall be a Queen or a King. 2

Act 7 Vict.
c. 15, to apply
to the Judges
of the Court,
&c.

III. And be it enacted, That the Act passed in the seventh year of Her Majesty's 4
Reign, and intituled, *An Act to render the* 6
Judges of the Courts of King's Bench in 6
that part of this Province heretofore Lower 8
Canada, independent of the Crown, shall 8
apply to the Judges of the Court hereby es-
tablished, as if they had been expressly 10
mentioned in the said Act; and that no such
Judge shall sit in the Executive or Legis- 12
lative Council, or in the Legislative Assem-
bly, or hold any other place of profit under 14
the Crown. 14

Residence of
the said
Judges.

IV. And be it enacted, That the Judges 16
of the said Court shall respectively reside
either at Quebec or at Montreal; and that 18
at least one of them shall reside at each of
the said places. 20

Appellate
jurisdiction of
the Court.

V. And be it enacted, That the said
Court, and the Judges thereof, shall have, 22
hold and exercise an appellate civil juris-
diction and also the jurisdiction of a Court 24
of Error, within and throughout Lower
Canada, with full power and authority to 26
take cognizance of, hear, try and determine
in due course of law, all causes, matters 28
and things appealed or to be appealed, re-
moved or to be removed, by Writ of Appeal 30
or of Error, from all and every the Courts
and jurisdictions wherefrom an Appeal or 32
Writ of Error by law lies or is allowed, or
hereafter may by law lie or be allowed, 34
unless such Appeal or Writ of Error is ex-
pressly directed to be to some other Court. 36

Certain powers
vested in the
Court and
Judges.

VI. And be it enacted, That all and
every the powers, authorities and jurisdic- 38
tions which immediately before the coming
into force of the Act herein first above cited 40
and repealed, were by law required to be
exercised, or might be exercised by and 42
were vested in the Provincial Court of
Appeals abolished by the said Act, and by 44

or in the several Judges or Members thereof, or any of them, as well in Court as out of Court, in Term as out of Term or in Vacation, shall, in so far as the same may not be inconsistent with the provisions of this Act or of any other Act of this Session, become and be vested in the Court hereby established, and shall and may be as effectually exercised by the said Court, and the Judges thereof severally and respectively, in Court or out of Court, in Term or out of Term or in Vacation, as the same might have been exercised and enjoyed by the said Provincial Court of Appeals abolished by the said Act, and the several Judges or Members thereof, or any of them, in Court or out of Court, in Term or out of Term or in Vacation, if neither the said Act nor this Act had ever been passed.

VII. And be it enacted, That in the Court hereby established, the Chief Justice thereof shall preside, or if he be absent, then the Puisné Judge thereof, entitled by his commission to precedence in the Court.

Who shall
preside in the
Court.

VIII. And be it enacted, That two Terms of the said Court in Appeal and Error, shall be held in each year in the City of Quebec, and two in the City of Montreal; but at either of the said Cities, any case in Appeal or Error may be heard or determined, whatever be the place from which the same shall have been appealed or removed.

Number of
Terms.

Proviso.

IX. And be it enacted, That the said Terms shall be held in the City of Quebec, from the _____ to the _____ of _____, and from the _____ to the _____ of _____, both days inclusive; and in the City of Montreal, from the _____ to the _____ of _____, and from the _____ to the _____ of _____, both days inclusive; but the Court may, on the last juridical day of any Term, adjourn, for the purpose of rendering judgments only, to

Times and
places of hold-
ing the Terms.

Power to
adjourn.

any day thereafter, on and after which day it may again adjourn for the like purpose; and such adjournment may be to any day during the Criminal Term or subsequent thereto. 4

Quorum fixed: its powers.

Provision as to the reversal or affirmation of judgments.

X. And be it enacted, That any three 6 Judges of the said Court shall form a Quorum thereof in Appeal and Error, and 8 may hold the Court and exercise all the powers and authority thereof; and any 10 judgment or order concurred in by any majority of a Quorum of the Court shall 12 have the same force and effect as if concurred in by all the Judges present; except- 14 ing always, that no judgment appealed from shall be reversed or altered unless such 16 reversal or alteration be concurred in by at least three Judges of the said Court; but 18 any two Judges thereof, an other or the others being present, may affirm any such 20 judgment, with costs against the appealing party. 22

As to Judges having been Members of the Court appealed from.

XI. And be it enacted, That no Judge of the said Court shall be disqualified 24 from sitting in any case, by the mere fact of his having been a Judge of the Court whose 26 judgment is in question, while such case was there pending, unless he shall have sat 28 in the case at the rendering of final judgment, or, if the appeal be brought before 30 final judgment from some interlocutory judgment, then unless he shall have sat in 32 the case at the rendering of such interlocutory judgment. 34

Clerk of Appeals to be appointed. Where to reside.

May appoint a Deputy.

XII. And be it enacted, That there shall be appointed from time to time a 36 Clerk of the said Court, who shall be the Clerk thereof for all matters depending 38 upon its jurisdiction as a Court of Appeal and Error, and shall be known as the 40 "Clerk of Appeals;" and the said Clerk shall reside either in the City of Quebec 42 or in the City of Montreal, and shall by an instrument under his hand and seal appoint 44 a Deputy who shall reside in that one of

the said Cities in which the said Clerk shall not himself reside : and such Deputy is hereby empowered to perform any duty of the Clerk of Appeals, and shall continue to perform all the duties of that office, in case of the death, dismissal, suspension from office or resignation of the said Clerk, until the appointment of his successor in the said office ; and the instrument by which such Deputy Clerk shall have been appointed shall be entered at full length in the Register of the Court : but it shall be at all times lawful for the said Clerk to remove such Deputy and appoint another.

Powers and duties of such Deputy, &c.

XIII. And be it enacted, That no Clerk or Deputy Clerk of Appeals shall, while he remains such, practise as an advocate, proctor, solicitor, attorney or counsel in Lower Canada.

Clerk or Deputy not to practise as attorney, &c.

XIV. And be it enacted, That all Writs and Process to be issued from and out of the said Court in the exercise of its jurisdiction as a Court of Appeal and Error, shall be distinguished as being so issued, and shall run in the name of Her Majesty, Her Heirs or Successors, and shall be sealed with the seal of the said Court, and signed by the Clerk thereof or his Deputy, whose duty it shall be to make out and prepare the same ; and they shall not be tested in the name of any Judge, but the words " in witness whereof we have caused the Seal of Our said Court to be hereunto affixed," shall be instead of such *teste* ; and every such writ and process may be either in the English or in the French language ; any law, usage or custom to the contrary notwithstanding.

Form of Writs and Process.

Languages thereof.

XV. And be it enacted, That whenever two or more of the Judges of the said Court shall be lawfully recused or disqualified, or rendered incompetent; either by reason of interest or otherwise to sit in the said Court in any cause cognizable thereby,

Judges *ad hoc* may be appointed in certain cases

or shall be suspended from office, or absent
 from the Province with the permission of
 the Governor, so as to leave the said Court
 without a *Quorum* to take cognizance of
 such cause, it shall be the duty of the
 Clerk of Appeals, when duly required so
 to do in writing by any of the parties, to
 report the fact under his hand and the seal
 of the Court, to the Governor, who may
 thereupon, by an instrument under his
 hand and seal, appoint *ad hoc* a like number
 of persons to sit in the said Court
 in the place and stead of the Judges so
 recused, or disqualified, or rendered incom-
 petent, or suspended, or absent, for the
 purpose of hearing and determining such
 cause as aforesaid, and of doing all such
 judicial Acts therein as may be required
 before or after the determination thereof;
 taking such persons in his discretion either
 from among the Judges of the Superior
 Court, or the Circuit Judges, or from among
 the Members of the Bar of Lower Canada of
 least ten years' standing: and the persons at
 so appointed to act as Judges *ad hoc*, shall,
 when acting as such, have the same powers
 and authority in and with respect to the
 said cause, as the Judges so recused, dis-
 qualified, or rendered incompetent, or sus-
 pended, or absent, would otherwise have
 had; and in case they or any of them shall
 die, resign, or be recused, disqualified or
 otherwise rendered incompetent, so as to
 leave the Court without a *Quorum* to take
 cognizance of the cause with reference to
 which they were appointed, other Judges
ad hoc may be appointed in their stead in
 like manner and with like effect.

Who may be
 appointed.

Powers of
 Judges *ad
 hoc*.

Others may be
 appointed in
 certain cases.

What laws
 shall apply to
 the Court.

XVI. And be it enacted, That all and
 every the Laws, which immediately before
 the coming into force of the Act hereinbefore
 cited and repealed, were in force in Lower
 Canada, to govern and direct the proceed-
 ings and practice of the Provincial Court
 of Appeals abolished by the said Act, in
 so far as they are not repealed or varied
 by this Act or by any other Act of this

Session, or inconsistent with the provisions of such Act or of this Act, shall continue to be in force and shall apply to and be observed in and by the Court hereby established, in the same manner as they would have applied to and been observed in and by the said Provincial Court of Appeals, if neither the said Act nor this Act had been passed.

XVII. And be it enacted, That the said Court, shall and may (and it shall be the duty of the Court so to do within one year from the time when this Act, shall come fully into effect,) make and establish a Tariff of Fees for the officers of the said Court and the Counsel, Advocates and Attornies practising therein, and also such Rules of Practice as shall be requisite for regulating the due conduct of the causes, matters and business before the said Court or the Judges thereof or any of them, and in Term or out of Term, and all process and proceedings therein or thereunto relating; which Tariff of Fees and Rules of Practice the said Court shall have full power and authority to repeal, alter and amend from time to time: Provided always, that no such Rule of Practice shall be contrary to or inconsistent with this Act, or any other Act or Law in force in Lower Canada, otherwise the same shall be null and void: And provided also, that until such Tariff of Fees and Rules of practice shall be made and duly established by the said Court, the Tariff of Fees and Rules of Practice in force immediately before the coming of this Act into full effect, with regard to the "Court of Appeals for Lower Canada," established by the Act hereinbefore cited and repealed, shall continue to be in force and shall apply to the Court hereby established and the proceedings therein, subject to such amendments and alterations as shall be from time to time made therein by the said Court.

The Court to make a Tariff of Fees and Rules of practice within one year;

and may repeal or alter them.

Provido.

What Tariff and Rules shall apply until others are so made.

Final Judgments to be *motivés*, &c.

XVIII. And be it enacted, That all final judgments rendered by the said Court shall contain a summary statement of the points of fact and law, and the reasons upon which such judgments shall be founded, and the names of the Judges who shall have concurred therein or entered their dissent therefrom. 2
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In what cases and on what conditions an Appeal shall lie to the Queen in Council.

XIX. And be it enacted, That an appeal shall lie from the judgments of the said Court, to Her Majesty, Her Heirs and Successors, in Her or their Privy Council in that part of the United Kingdom of Great Britain and Ireland called England, in all, each and every of the cases in and with respect to which an appeal, immediately before the commencement of the Act hereinbefore cited and repealed, would lie from the judgments of the Provincial Court of Appeals thereby abolished, to Her Majesty in Her Privy Council, upon the terms and conditions, and in the manner and form, and under and subject to the restrictions, rules and regulations established with regard to Appeals from the said Provincial Court of Appeals to Her Majesty in Her Privy Council. 10
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Certain Records, &c. to be transmitted into the Court.

XX. And be it enacted, That all and every the Records, Registers, Documents and proceedings of the said Provincial Court of Appeals and of the Court of Appeals for Lower Canada, shall forthwith after this Act shall come fully into effect, be transmitted into and make part of the Records, Registers, Documents and proceedings of the Court hereby established. 28
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32
34
36

Judgments, &c. of former Courts not to be avoided.

XXI. And be it enacted, That no Judgment, Order, Rule or Act of the said Provincial Court of Appeals, or of the said Court of Appeals for Lower Canada, legally pronounced, given, had or done before this Act shall come fully into effect, shall be hereby avoided, but shall remain in full force and virtue as if this Act had not been passed; nor shall any cause, appeal, writ of error 38
40
42
44

or proceeding depending in the said Court
 2 of Appeals for Lower Canada be abated,
 discontinued or annulled, but the same shall
 4 in their then present condition, be respecti-
 vely transferred to and subsist and depend
 6 in the Court hereby established, to all intents
 and purposes as if they had respectively
 8 been commenced, brought or recorded in the
 said last mentioned Court, which shall
 10 have full power and authority to proceed
 accordingly in and upon all such causes, ap-
 12 peals, writs of error and proceedings, to judg-
 ment and execution, and to make such rules
 14 and orders respecting the same as the said
 Court of Appeals for Lower Canada might
 16 but for this Act have made, or as the Court
 hereby established, is hereby empowered to
 18 make in causes, appeals, writs of error
 and proceedings commenced in and depend-
 20 ing before the said last mentioned Court.

Proceedings in
 former Courts
 to be con-
 tinued in the
 Court hereby
 established.

XXII. And be it enacted, That every
 22 Writ, Rule, Process or Order, which shall
 have been made returnable into the said
 24 Court of Appeals for Lower Canada, or by
 or under which any thing shall have been
 26 ordered or ought to be done in or before the
 said Court, on any day subsequent to the
 28 time when this Act shall come fully into
 effect, shall be returnable into the Court
 30 hereby established, or the thing so required
 to be done shall be done in or before
 32 the same, (as the case may be) on that
 juridical day in Term which shall be
 34 next after the day on which such Writ,
 Rule, Process or Order shall have been
 36 made returnable, or on which such thing
 shall have been ordered to be done: Provi-
 38 ded always, that after the passing of this
 Act, but before it shall come fully into effect,
 40 it shall be lawful for the said Court of Ap-
 peals for Lower Canada, to make any Writ,
 42 Rule or Process returnable into the Court
 hereby established, or to order any thing to
 44 be done in or before the same, or before any
 Judge or Officer thereof by his name of office,
 46 on any day after this Act shall come fully
 into effect, in the same manner as if the said

As to the
 return of
 Process issued
 before this
 Act shall be
 in force.

Proviso: the
 present Court
 may make
 process return-
 able before the
 Court of Q.
 B. &c.

Court were one and the same with the said Court of Appeals for Lower Canada, and the name and the times of holding the terms thereof were alone altered. 4

Certain sections to apply to the Appeal side of the Court only.

XXIII. And be it enacted, That the eighteen next preceding Sections of this Act, shall apply to the Court hereby established in the exercise of its jurisdiction and functions as a Court of Appeal and Error only, or the "Appeal Side" of the said Court. 10

The Court to have original criminal jurisdiction in Lower Canada.

XXIV. And whereas by an Act of this Session, to come fully into effect at the same time with this Act, the several Courts of Queen's Bench in Lower Canada will be abolished:—Be it therefore enacted, That the Court of Queen's Bench hereby established, and the Judges thereof, shall have original criminal jurisdiction throughout Lower Canada and in the several Districts thereof, in like manner as the several Courts of Queen's Bench in Lower Canada now have and may exercise original criminal jurisdiction within their respective Districts, with full power and authority to take cognizance of, hear, try and determine, in due course of law, all pleas of the Crown, treasons, murders, felonies and misdemeanors, crimes and criminal offences whatsoever, heretofore had, done or committed, or hereafter to be had, done or committed, or whereof cognizance may lawfully be taken within Lower Canada, save and except such as are cognizable only by the jurisdiction of the Admiralty. 34

Exception.

Court and Judges to have the powers of the present Court and Judges of Q. B.

XXV. And be it enacted, That all and every the powers, authorities and jurisdictions in pleas of the Crown, crimes and criminal offences, of what kind or nature soever, which by law are required to be exercised and may or might be exercised by and are vested in the several Courts of Queen's Bench in the several Districts of Lower Canada, as now constituted, or any or either of them, and by the several Justices of the said Courts or any or either of

them, as well in term as out of term or in
 2vacation, shall from and after the time when
 this Act shall come fully into effect, become
 4and be vested in the Court hereby establish-
 ed, and shall and may be as effectually
 6exercised by the said Court, and the
 Judges thereof severally and respectively,
 8as the same may now be exercised
 and enjoyed by the said several Courts of
 10Queen's Bench, or any or either of them,
 and the several Justices thereof, or any or
 12either of them, excepting always such
 powers, authorities and jurisdictions as
 14may, by any Act of this Session, be
 vested in the Superior Court for Lower
 16Canada; and provided always, that no
 cause, matter or thing shall be removed
 18into the Court hereby established, from any
 other Court or jurisdiction, except cases
 20pending before any Court of General
 or Quarter Sessions of the Peace, in which
 22a Trial by Jury is by law allowed, which
 cases may be removed into the Court here-
 24by established, by *certiorari*, in the same
 manner (except in so far as it may be other-
 26wise provided by any Act of this Ses-
 sion) as they may now be removed into
 28the proper Court of Queen's Bench: and
 provided also, that nothing in this Act shall
 30be construed to interfere with the exercise
 of the powers, authorities and jurisdiction
 32in criminal matters vested by an Act of this
 Session in the Superior Court, when sitting
 34in the District of Gaspé.

Exception.

Proviso as to
the removal of
cases from
other Courts.

Proviso as to
the District of
Gaspé.

XXVI. And be it enacted, That all and
 36every the laws of Lower Canada, which
 immediately before the time when this
 38Act shall come fully into effect, shall be
 in force to govern and direct the proceedings
 40and practice of the several Courts of
 Queen's Bench in Lower Canada, in the
 42exercise of their powers, authorities and
 jurisdictions in pleas of the Crown, crimes
 44and criminal offences, or the Sheriffs or
 other Officers of, or the Jurors, witnesses
 46or other parties, attending the same, and
 which are not repealed or varied by this
 48Act, or by any other Act of this Session, or

What laws
shall apply to
the Courts,
&c.

inconsistent with the provisions of such Act or of this Act, shall continue to be in force and shall apply to and be observed in and by the Court hereby established, and the Sheriffs or other Officers of, and Jurors attending the same, in the same manner as they would have applied to, and been observed in and by the said several Courts of Queen's Bench, and the Sheriffs or other Officers thereof, or the Jurors, witnesses or other parties attending the same, if this Act had not been passed.

Judges to be
Justices of
the Peace, &c.

XXVII. And be it enacted, That the Judges of the Court hereby established shall severally and respectively be, and they are hereby appointed to be, Justices and Conservators of the Peace and Coroners in and throughout Lower Canada.

Form of Writs
and Process.

XXVIII. And be it enacted, That all writs and process of the said Court, issued in the exercise of its jurisdiction in criminal matters, shall be distinguished as being so issued, and shall be signed by the Clerk of the Crown in and for the District in which they shall issue, and shall run and be sealed and attested in the manner hereinbefore provided with regard to the writs and process thereof issued in the exercise of its jurisdiction as a Court of Appeal and Error.

Clerk of the
Crown to be
appointed in
each District.

XXIX. And be it enacted, That there shall be appointed, from time to time, a Clerk of the Crown, in and for each of the Districts where terms or sittings of the said Court shall be held for the exercise of its jurisdiction in criminal matters, who shall be the Clerk of the said Court, in and for such District, with regard to all matters dependent upon its jurisdiction in such matters; and each such Clerk of the Crown, may, by an instrument under his hand and seal, appoint a Deputy, who is hereby empowered to perform any duty of such Clerk of the Crown and shall continue to perform all the duties of that office, in case of the death, dismissal, suspension from office or resignation of such Clerk of the Crown, until the appoint-

A Deputy
may be ap-
pointed; his
powers.

ment of his successor in the said office; and the instrument by which such Deputy Clerk is appointed, shall be entered at full length in the Register of the Court; but it shall be at all times lawful for such Clerk of the Crown, to remove such Deputy, and to appoint another.

May be removed.

8 XXX. And be it enacted, That nothing herein contained shall prevent any Prothonotary of the Superior Court, or any Clerk of the Circuit Court, from being appointed Clerk of the Crown, in and for any District; but no Clerk of the Crown shall, while he remains such, practise as an Advocate, Proctor, Solicitor, Attorney or Counsel, in Lower Canada.

Prothonotary of Superior Court may be Clerk of the Crown.

XXXI. And be it enacted, That two terms or sittings of the Court hereby established, in the exercise of its jurisdiction in criminal matters, shall be held in each year, in and for each and every of the Districts into which Lower Canada is now or may be hereafter divided, other than the District of Gaspé; except that in the District of Ottawa and the District of Kamouraska respectively, no such term shall be held until the Governor shall by proclamation have declared, that a proper Gaol and Court house have been erected in such District, until which time the District of Ottawa shall for all the purposes of this Act, be held to form part of the District of Montreal, and the District of Kamouraska to form part of the District of Quebec; and provided also, that notwithstanding any such proclamation as aforesaid, all cases, proceedings, matters and things theretofore commenced, or pending before the said Court, or where the offender shall, before the said proclamation have been committed for Trial to the Gaol at Quebec or Montreal, or bound to appear at some Term of the Court to be held at either of the said Cities, shall be proceeded with, heard, tried and determined by the said Court, sitting at Quebec or at Montreal, (as the case may be) as if the said proclamation

Two terms to be held yearly in each District, except Gaspé.

Exception as to Ottawa and Kamouraska.

Proviso as to cases pending when any new District is proclaimed.

had not issued: but all other cases arising in the new District, shall be heard, tried and determined therein.

Quorum of the Court, and power of Quorum.

XXXII. And be it enacted, That such Terms or sittings of the said Court in the exercise of its criminal jurisdiction, shall respectively be held by any one or more Judges of the said Court; and any one or more of them, shall at such Terms or Sittings form a quorum, and may exercise all the powers and jurisdiction of the Court.

Judges of the Superior Court may hold the Court of Q. B. in certain cases.

XXXIII. And be it enacted, That if at any time during any such term or sitting of the said Court, there shall not be a Judge thereof present and able to hold the same, any Judge or Judges of the Superior Court, may sit in and hold the Court hereby established, as if he was or they were a Judge or Judges thereof; but it shall always be the duty of the Judges of the said Court, or some of them, to hold the said Court, unless prevented by circumstances beyond their control, and it shall not be the duty of any of the Judges of the Superior Court so to do, except in the case above provided for.

Times and places of holding the Terms.

XXXIV. And be it enacted, That the said Terms or Sittings of the Court hereby established, in the exercise of its jurisdiction in criminal matters, as aforesaid, shall respectively commence:

At Quebec, for the District of Quebec, on the _____ :32
 and on the _____ :34
 at Montreal, for the District of Montreal, on the _____ 36
 and on the _____ :
 at Three-Rivers, for the District of Three-Rivers, on the _____ :38
 and on the _____ :40
 at Sherbroöke, for the District of St. Francis, on the _____ :
 and on the _____ :42
 at _____ for the District of Otttawa, on such _____

two days, respectively, in each year as the
 2 Governor shall for that purpose appoint in
 and by his proclamation declaring that a pro-
 4 per Gaol and Court House have been erect-
 ed and completed in the said District ;

6 at for the District of
 Kamouraska, on such two days, respectively,
 8 in each year as the Governor shall for that
 purpose appoint in and by his proclamation
 10 declaring that a proper Gaol and Court
 House have been erected and completed in
 12 the said District.

And if any of the said days be a Sunday
 14 or Holiday, the Term or Sitting shall com-
 mence on the next juridical day thereafter.

As to
 Holidays.

16 XXXV. And be it enacted, That the
 said Terms or Sittings shall respectively con-
 18 tinue and be holden until the said Court shall
 declare the same closed, which shall not be
 done until the Court shall be of opinion that
 20 there remains no trial, matter or proceeding
 to be had or done by or before it, which
 22 cannot more conveniently remain over
 until the then next Term ; and the Court
 24 shall have full power, if it be deemed advi-
 sable, or if the attendance of the Judge
 26 or Judges holding the same, shall be re-
 quired at any other place or Court, to
 28 adjourn from day to day, or to any day
 before the first day of the then next Term.

Term to con-
 tinue until the
 business be
 closed.

Court may ad-
 journ to any
 day before the
 next term.

30 XXXVI. And be it enacted, That the
 Governor may, at any time and from time to
 32 time, by Proclamation, direct an extraordi-
 nary Term of the said Court to be held
 34 in and for any District, and to commence
 on the day to be named for that purpose
 36 in such Proclamation, which shall be issued
 at least thirty days before such day ; and
 38 to such extraordinary Term all the provi-
 sions of this Act and of the law, with regard
 40 to the ordinary Terms of the said Court,
 shall apply.

Extraordinary
 terms may be
 held under
 Proclamation.

42 XXXVII. And be it enacted, That all
 and every the Records, Registers, muni-
 44 cations and judicial and other proceedings

Transmission
 of Records,
 &c. from form-
 er Courts.

and documents of the several Courts of Queen's Bench in and for the several Districts of Lower Canada, except the District of Gaspé, in Criminal matters, and appertaining to the original Criminal jurisdiction of the said Courts, or to any case removed thereto from any Court of Quarter Sessions or General Sessions of the Peace, and in which a trial by Jury is by law allowed, shall forthwith after the time when this Act shall come fully into effect, be transmitted into and make part of the Records, Registers, Muniments, judicial and other proceedings and documents of the Court hereby established, in the Districts and at the places in and at which the said Courts of Queen's Bench are now respectively established and held; that is to say, the Records, Registers, Muniments, judicial and other proceedings of the present Court of Queen's Bench for the District of Montreal shall be transmitted into the Court hereby established, and shall be kept in the Office of the Clerk of the Crown for the said District, at the City of Montreal; and the Records, Registers, Muniments, judicial and other proceedings of the present Court of Queen's Bench for the District of Quebec, shall be transmitted into the Court hereby established, and shall be kept in the Office of the Clerk of the Crown for the said District, at the City of Quebec; and the Records, Registers, Muniments, and judicial or other proceedings of the present Court of Queen's Bench for the District of Three-Rivers, shall be transmitted into the Court hereby established, and shall be kept in the Office of the Clerk of the Crown for the said District, at the Town of Three-Rivers; and the Records, Registers, Muniments, judicial or other proceedings of the present Court of Queen's Bench for the District of St. Francis, shall be transmitted into the Court hereby established, and shall be kept in the Office of the Clerk of the Crown for the said District, at the Town of Sherbrooke.

To what places such Records, &c. shall be respectively transmitted.

XXXVIII. And be it enacted, That no
 2 Judgment, Order, Rule, or Act of the said
 Courts of Queen's Bench in the several Dis-
 4 tricts of Lower Canada, respectively, in
 criminal matters, and appertaining to the
 6 criminal jurisdiction of the said Courts,
 legally pronounced, given, had or done
 8 before the time when this Act shall come
 fully into effect, shall be hereby avoided,
 10 but shall remain in full force and effect; nor
 shall any indictment, information, suit or
 12 proceeding depending in the said Courts of
 Queen's Bench respectively, be abated, dis-
 14 continued or annulled, but the same shall
 be transferred in their then present condi-
 16 tion respectively, to, and shall subsist and
 depend in the Court hereby established on
 18 the Crown side thereof, severally and respec-
 tively to all intents and purposes as if they
 20 had been respectively commenced, brought,
 found, presented or recorded in the said
 22 Court; and the said Court shall have full
 power and authority to proceed accordingly
 24 on and in all such indictments, informations,
 suits and proceedings, to judgment and exe-
 26 cution, and to make such rules and orders
 respecting the same, as the said Courts of
 28 Queen's Bench might have made, or as the
 Court hereby established is hereby em-
 30 powered to make in cases, suits and pro-
 ceedings commenced in or depending before
 32 the said Court.

Judgments,
 &c. of former
 Courts not to
 be avoided.

Suits and pro-
 ceedings to be
 continued in
 the Court
 hereby estab-
 lished.

XXXIX. And be it enacted, That every
 34 writ or process, recognizance or other do-
 cument, which is or shall be returnable into
 36 any of the several Courts of Queen's Bench
 as now constituted, (except as aforesaid the
 38 Court of Queen's Bench for the District of
 Gaspé) in the exercise of their juris-
 40 diction in criminal matters, or by which any
 party shall be bound to appear or attend at
 42 any such Court of Queen's Bench, or any
 thing shall have been ordered to be done
 44 in or before any such Court, in the exercise
 of its jurisdiction aforesaid, on any day sub-
 46 sequent to the time when this Act shall
 come fully into effect, shall be returned
 48 into the Court hereby established, on the

When Process
 issued out of
 former Courts
 shall be re-
 turnable after
 this Act shall
 be in force.

Proviso: the present Courts may make Process, &c. returnable before the Court hereby established.

Crown side, and shall be held and considered to be returnable, or such party shall be held to appear or attend, or such thing shall be done, in or before the said Court, on that juridical day in term, which shall be next after the day on which such writ, process, recognizance or document shall have been made returnable, or on which such party shall have been bound to appear or attend, or on which such thing shall have been ordered to be done: Provided always, that after the passing of this Act, but before it shall come fully into effect, it shall be lawful for the said several Courts of Queen's Bench respectively, to make any writ or process returnable into the Court hereby established or to order any thing to be done in or before the same, or any Judge or Officer thereof by his name of office, or for any Judge or Justice of the Peace to bind over any party to appear before the said Court, on any day after this Act shall come fully into effect, in the same manner as if the said Court were, as regards its jurisdiction in criminal matters, one and the same with the said several Courts of Queen's Bench, respectively, and the times of holding the terms of such Courts of Queen's Bench were alone altered.

Certain sections to apply only to the Crown side of the Court.

XL. And be it enacted, That the sixteen next preceding sections of this Act shall apply to the Court hereby established in the exercise of its functions as a Court of Criminal Jurisdiction only, or the "Crown Side" of the said Court.

Habeas Corpus powers vested in the Court and Judges

XLI. And be it enacted, That all and every the powers and authorities which immediately before the time when this Act shall come fully into effect, shall be by law vested in the several Courts of Queen's Bench in the several Districts of Lower Canada, and in the Chief Justices and the Justices thereof respectively, relating in any manner or way to the Writ of Habeas Corpus, as well in criminal as in civil cases, and to the awarding or issuing or return thereof, and to the hearing and determining

in due course of law, of any question, issue
 2 or matter thence arising or incident thereto,
 shall be and the same are hereby vested in
 4 the said Court hereby established (concur-
 rently with the other Courts and Judges in
 6 whom like powers may by any Act of this
 Session be vested) and in each and every
 8 of the Judges of the said Court respectively,
 as well in term as in vacation; which said
 10 Judges shall respectively be subject and
 liable to the same penalty, for denying in
 vacation time any Writ or Writs of Habeas
 12 Corpus, as is by law provided for the de-
 nial of a Writ of Habeas Corpus in vaca-
 14 tion time by any Judge or Justice; and the
 said penalty shall be recovered from the
 16 Judges of the Court hereby established, res-
 pectively, in the like cases and circum-
 18 stances, and in the same manner as is by
 law provided, with respect to any Judge or
 20 Justice.

Penalty for
 refusing the
 Writ in vaca-
 tion.

XLII. And be it enacted, That nothing
 22 in this Act shall be construed to prevent the
 issuing of any General or Special Com-
 24 mission and Oyer or Terminer or of General
 Gaol Delivery, for any District City or
 26 place, or to derogate from, abridge or affect
 any right or prerogative of the Crown not
 28 herein expressly mentioned.

Rights of the
 Crown saved.

XLIII. And be it enacted, That all Acts
 30 or enactments or provisions of law incon-
 sistent with this Act shall be and are hereby
 32 repealed.

Repeal of for-
 mer Acts, &c.
 inconsistent
 herewith.

XLIV. And be it enacted, That the Inter-
 34 pretation Act shall apply to this Act.

Interpretation
 Act to apply.

XLV. And be it enacted, That the fore-
 36 going sections of this Act shall come into
 force and effect, upon, from and after the
 38 day of next, and
 not before, except in so far as it may be
 40 herein otherwise provided: and upon, from
 and after the said day, any Judge or Officer
 42 then appointed under this Act, shall and
 may perform all or any of the duties or
 44 functions of his office although the Court
 hereby established may not have met or sat.

Commence-
 ment of this
 Act, &c.