

The Provincial Statutes of Lower-Canada, Being the fourth session of the eleventh Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1824.

4 George IV – Chapter 3

An Act to authorise the erecting of a Common Gaol in the Inferior District of Saint Francis, and for providing the means of defraying the expences thereof, and for other purposes. (9th March, 1824.)

MOST GRACIOUS SOVEREIGN,

Whereas the due administration of Justice, the maintenance of good order, and the general welfare of Your Majesty's Subjects, resident in the newly erected Inferior District of Saint Francis, render it expedient to provide for the erection of a Common Gaol for the said Inferior District;— May it therefore please Your Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great-Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North-America,' and to make further provision for the Government of the said Province," and it is hereby enacted by the authority of the same, that from and after the passing of this Act, it shall be lawful to and for the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being, by an instrument under his hand, to appoint three persons, being Freeholders resident in the said Inferior District of Saint Francis, to be Commissioners for the erection of a Common Gaol in and for the Inferior District of Saint Francis, pursuant, to this Act, and the same, if need be, to remove from time to time, and others qualified as aforesaid to re-appoint in their stead as often as it may be necessary, whether by the removal, resignation, death or absence from the Province or Inferior District aforesaid, of any of the said Commissioners.

II. And be it further enacted by the authority aforesaid, that it shall be lawful for the said Commissioners, or any two of them, and they are hereby required to cause to be erected and finished, a strong and substantial Common Gaol at the Village of Sherbrooke, in the said Inferior District, on some lot of ground therein to be chosen for the purpose, and approved by the Governor, Lieutenant-Governor, or person administering the Government of the Province for the time being.

III. Provided always, and be it further enacted by the authority aforesaid, that the sum to be expended in virtue of this Act, in and about the building of such Common Gaol for the said Inferior District of Saint Francis, shall not exceed two thousand pounds, currency.

IV. And be it further enacted by the authority aforesaid, that the Commissioners appointed under and in virtue of this Act, shall be, and they are hereby authorised for the purposes thereof, from time to time, to borrow, and effect, on the best terms that can be procured, a loan or loans, from any person or persons, willing to lend them, at an interest not exceeding the legal interest, any sum or sums of money not exceeding in all the sum of two thousand pounds; currency, and which shall be reimbursed

with the interest that may be agreed upon, not exceeding the legal interest thereupon accrued, in the manner hereinafter mentioned and provided.

V. And be it further enacted by the authority aforesaid, that, before the building of the said Common Gaol is commenced, a plan and estimate of the probable amount of the expences of building and completing the same, shall be prepared and submitted for the inspection and approbation of the Governor, Lieutenant-Governor, or person administering the Government of the Province for the time being, by the Commissioners appointed in virtue of this Act.

VI. And be it further enacted by the authority aforesaid, that, after such plan and estimate shall have been approved of by the Governor, Lieutenant-Governor, or person administering the Government of the Province for the time being, it shall be lawful for the said Commissioners, or any two of them, from time to time, to contract, in writing, with any person or persons for the whole or such part or parts of the work to be done and performed in and about the erection of such Common Gaol, or any part thereof, as they may judge proper, as well for the conducting and superintending the works, as for the materials, and hire of workmen and labourers, whom it may be necessary to employ in and about the building of the said Common Gaol. Provided always, that previous to making any contract or contracts as aforesaid, fourteen days notice at least shall be given in one or more of the Public Newspapers printed and published at Quebec, and Montreal, expressing the work to be done, or materials to be contracted for, the time and place when and where proposals for the same will be received, and that such proposals as appear the most advantageous for the public and the purposes of this Act, will be accepted. Provided always, that no work shall be commenced until the contracts are signed by the contracting parties, and by two good and sufficient sureties for the due performance of their undertaking, and until the said Gaol and its dependencies, perfectly complete and finished according to the Report of Experts, (a dire d'Experts,) for sums not exceeding in the whole two-thousand pounds, currency as is herein before mentioned, and until such contracts have been approved by the Governor, Lieutenant-Governor, or person administering the Government.

VII. And be it further enacted by the authority aforesaid, that the said Commissioners shall, from time to time, and as often as they shall be thereunto required, account to the Governor, Lieutenant-Governor, or person administering the Government of the Province for the time being, for the application and expenditure of all and every the sum and sums of money, which they may borrow under and in virtue of this Act, and for the purposes of the same, in such manner and form as the Governor, Lieutenant-Governor, or person administering the Government of the Province for the time being, shall appoint and direct.

VIII. And be it further enacted by the authority aforesaid, that the said Gaol, when erected and finished, and public notice of the same given by a Proclamation to that effect, of the Governor, Lieutenant-Governor, or person administering the Government of the Province for the time being, shall be the Common Gaol of the said Inferior District of Saint Francis.

IX. And whereas it is necessary to create a Fund in the said Inferior District of Saint Francis, as well to reimburse the sum which shall be borrowed, as to pay the interest thereof, pursuant to this Act;—Be it therefore enacted by the authority aforesaid, that there shall be raised, levied and collected; and be

granted to His Majesty, his heirs and successors, for the purposes of this Act only, from and after the passing thereof, the following sums, that is to say—upon every Writ of Summons or of Seizure, wherein the sum demanded shall not exceed five pounds, currency, issuing in the said Inferior District of Saint-Francis, there shall be paid into the hands of the Prothonotary of the Provincial Court for the said Inferior District, or in cases where such Writ of Summons or Seizure may not issue from the said Provincial Court, into the hands of the proper officer or person from whom such Writ may issue, over and above all lawful fees to which such Prothonotary, or other proper officer, or person may be entitled, the sum of one shilling, currency; and upon every Writ of Summons or of Seizure, issuing as aforesaid, wherein the sum demanded shall exceed five pounds, currency, and not exceed ten pounds, sterling, there shall in like manner be paid into the hands of the Prothonotary, or other proper officer or person, over and above his lawful fees thereupon, the sum of two shillings and six pence, currency; and upon every Writ of Summons or of Capias ad Respondendum, or of Seizure, issuing as aforesaid, wherein the sum demanded shall exceed ten pounds, sterling, there shall in like manner be paid into the hands of the Prothonotary, or other proper officer or person, over and above his lawful fees thereupon, the sum of five shillings, currency; and upon every Writ of Subpoena, and every Commission Rogatoire, and every other Writ which shall issue, after the Writ of Summons, and before final Judgement in any case or cases wherein the sum demanded shall not exceed five pounds, currency, there shall in like manner be paid into the hands of the Prothonotary, or other proper officer or person, over and above his lawful fees thereupon, the sum of six pence, currency; and upon every Writ of Subpoena, and every Commission Rogatoire, and upon every other Writ which shall issue after the Writ of Summons, and before final Judgement in any case or cases, wherein the sum demanded shall exceed five pounds, currency, and not exceeding ten pounds, sterling, there shall in like manner be paid into the hands of the Prothonotary, or other proper officer or person, over and above his lawful fees, the sum of nine pence, currency; and for the like, in cases wherein the sum demanded shall exceed ten pounds, sterling, there shall be paid into the hands of the Prothonotary, or other proper officer or person, over and above his lawful fees, the sum of one shilling, currency; and upon every Writ of Execution, issuing as aforesaid, in cases wherein the sum to be levied does not exceed five pounds, currency, there shall in like manner be paid into the hands of the Prothonotary, or other proper officer or person, over and above his lawful fees, the sum of three pence, currency; and for the like, in cases wherein the sum to be levied shall exceed five pounds, currency, and not exceed ten pounds, sterling, there shall be paid into the hands of the Prothonotary, or other proper officer or person, over and above his lawful fees, the sum of six pence, currency; and for the like, in cases wherein the sum to be levied shall, exceed ten pounds, sterling, there shall be paid into the hands of the Prothonotary, or other proper officer or person, over and above his lawful fees, the sum of one shilling, currency; and upon every Writ of Appeal or Writ of Certiorari, which shall issue with respect to any case originally entered or instituted in the said Inferior District of Saint Francis, there shall be paid into the hands of the Prothonotary or Prothonotaries of the Court from which the same may issue, over and above his or their legal fees, the sum of five shillings, currency; and upon every Cloture d’Inventaire, or Conclusion of Inventory, in the office of the Prothonotary of such Provincial Court, there shall be paid into the hands of the said Prothonotary; over and above his lawful fees, the sum of one shilling, currency; and upon every Assembly of Relatives, (Assemblée de Parens,) for whatever purpose the same may be held, (except for the election of Tutors,) there shall be paid into the hands of the Prothonotary of the said Provincial Court, over and above his lawful fees, the sum of one shilling, currency; and upon every Marriage Contract; Contrat de Donation, and every other Act and Deed whatsoever that shall be

enregistered, (insinué) and upon every Probate of any Will, (renonciations pures et simples to Communautés, or to Successions, always excepted,) there shall be paid into the hands of the Prothonotary of the said Provincial Court, over and above his legal fees, the sum of three shillings and six pence, currency.

X. And be it further enacted by the authority aforesaid, that the said several sums or duties hereby imposed as aforesaid, shall be paid by the person or persons requiring such Writ or Writs as above specified, and shall be allowed in costs, and taxed in all causes against the party or parties who, by the Judgement rendered, shall be adjudged and condemned to pay costs.

XI. And be it further enacted by the authority aforesaid, that the Prothonotary of the said Provincial Court of Saint Francis, for the time being, as well as any other person or persons, having raised, levied and collected any of the duties or sums by this Act imposed, shall twice, yearly, to wit, on the first day of March and the first day of September in each year, render an account on oath, (which oath any Justice of the Peace is hereby authorised to administer,) to the Receiver-General of the Province, for the time being, of the amounted monies by them respectively raised, levied and collected, or that may have arisen or become due and payable to them respectively, by Virtue of this Act, during the six calendar months next preceding the day hereby appointed for rendering such account; and all and every the said sum and sums of money, which shall so as aforesaid have arisen, and become payable by virtue of this Act, shall then, to wit, on the first day of March and the first day of September in each year, be by the said Prothonotary, or other person or persons as the case may be, paid over into the bands of the said Receiver-General, for the purposes of this Act, such Prothonotary, or other person or persons as the case may be, having previously deducted therefrom, for their trouble of levying, collecting and paying, answering and accounting for the same, the sum of two pounds ten shillings, per centum, and if such Prothonotary, or other officer or person as the case may be, by this Act so accountable, shall refuse or neglect to render such account, and make such payment as aforesaid, in manner hereby directed, he shall forfeit and pay for every such refusal and neglect, over and above the sum arisen and become payable by him in virtue of this Act, as aforesaid, the sum of fifty pounds, current money of this Province, to be recovered by the said Receiver-General, by action of Debt, in any of His Majesty's Courts of competent Jurisdiction in this Province, and by him to be applied, when recovered, to the purposes of this Act, and towards the payment and discharge of the monies borrowed as aforesaid in virtue of the same, as well as the interest accrued upon such monies, according to the directions which such Receiver-General, shall, from time to time, receive from the Governor, Lieutenant-Governor, or person administering the Government of the Province for the time being.

XII. And be it further enacted by the authority aforesaid, that all and every of the said sums of money or duties hereby imposed and made payable upon all and every of the Writs to be issued from the said Provincial Court, or other lawful authority, and also all and every the sum or sums of money hereby imposed and made payable upon all and every cloture d'inventaire, assemblée de parens, and upon the enregistration of Marriage Contracts, Donations and other Acts and Deeds and Probates of Wills, as above-mentioned, shall continue to be paid, and be payable in the manner herein-before directed, for and during the space and term of fifteen years from the day of passing this Act. Provided always, that, if before the expiration of the said term, the Governor, Lieutenant-Governor, or person administering

the Government of the Province for the time being, shall make known, by a Proclamation, that the said sum of two thousand pounds, currency, with the interest thereupon accrued, as well as the other sums which shall have been expended for the temporary Gaol under the authority of this Act, and two pounds ten shillings upon every hundred pounds granted by this Act for the levying of the said duties have been realized and replaced from the several sums of money imposed and made payable by this Act, then and in such case, the aforesaid several sums of money imposed and made payable by this Act, and each and every of them, shall no longer be demanded or received, any thing herein-contained to the contrary notwithstanding.

XIII. And whereas it is expedient to provide a temporary Common Gaol for the said Inferior District of Saint Francis, until the Common Gaol hereby authorised can be erected and completed;—Be it therefore further enacted by the authority aforesaid, that the Commissioners who shall be appointed under and in virtue of this Act, or any two of them, may, and they are hereby authorised to provide or rent a fit and proper dwelling-house, or other suitable place, in some convenient and healthy situation in the Village of Sherbrooke aforesaid to serve as a temporary Common Gaol for the said Inferior District of Saint Francis, to all legal intents and purposes whatsoever, until the Common Gaol hereby authorised can be erected and completed, liable to the approbation of the Governor, Lieutenant-Governor, or person administering the Government of the Province for the time being, the expences whereof shall be taken from the fund by this Act provided. Provided always, that the expences of keeping such temporary Common Gaol shall not exceed the sum of fifty pounds, currency, per annum.

XIV. And be it further enacted by the authority aforesaid, that all such monies as are herein before appropriated and shall be collected, and all such monies as shall be levied by virtue of this Act, shall be paid and applied for the purposes of the same, and shall be accounted for to His Majesty, his heirs and successors, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, his heirs and successors, shall be pleased to direct.

XV. And be it further enacted by the authority aforesaid, that this Act shall be deemed and taken to be a Public Act, and as such shall be noticed by all Judges, Justices of the Peace, and other persons whosoever, without being specially pleaded.