

*The Provincial Statutes of Lower-Canada, Being the second session of the thirteenth Provincial Parliament of Lower-Canada.* Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1829.

9 George IV – Chapter 5

**An Act to provide for the appointment of Commissaires Enqueteurs for the District of Montreal, and other purposes relating to the Administration of Justice in the said District. (14th March, 1829.)**

Whereas it is necessary to facilitate the administration of Justice in the District of Montreal, in consequence of the vast number of causes by which the Court of King's Bench for the District is overburdened in the Superior Terms thereof; Be it therefore 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 immediately after the passing of this Act, it shall be lawful for His Excellency the Governor of this Province, or the person administering the Government thereof, to appoint by commission under his Sign Manual, two Commissioners for receiving evidence, (Commissaires Enqueteurs,) who shall sit for that purpose in the City of Montreal during the continuance of this Act, and to whom or to one of whom may be referred the Enquetes to be taken in the causes pending in the Superior Terms of the Court of King's Bench for the District of Montreal, in the manner hereinafter set forth.

II. And be it further enacted by the authority aforesaid, that when and so soon as such Commissioners shall have been appointed, it shall be lawful for the Justices of the Court of King's Bench for the said District, to cause the records in any cause wherein the Enquetes shall have been or in any cause wherein the Enquete may be hereafter ordered during the continuance of this Act to be delivered to such Commissioners or to either of them to assign one or more rooms in the Court House as the place or places wherein such Enquete may be taken to fix the number of the clerks or writers to be provided for the said Commissioners by the Prothonotaries of the said Court, according to the exigence of the case, and from time to time to make such other regulations as they shall deem necessary to produce despatch in the taking of such Enquetes, and to promote in this respect the due administration of Justice in such cases as are not already provided for by law, to which regulations the said Commissioners shall conform.

III. And be it further enacted by the authority aforesaid that the said Commissioners for receiving evidence, Commissaires Enqueteurs, shall administer, and they are hereby authorised to administer the necessary oaths to the witnesses who shall be called by the

parties for the purpose of being examined before the said Commissioners, and such oath shall be considered in all respects, as if it had been taken before a Court of Law.

IV. And be it further enacted by the authority aforesaid, that the said Commissioners shall not be capable of exercising any judicial power, and in all cases wherein objection shall be taken by any of the parties litigant to the hearing of any witness, or to the legality or the admissibility of any question proposed to such witness, or to any answer by him or her made, it shall be the duty of such Commissioners to refer the validity of such objection to the decision of the Justices of the Court of King's Bench, or of any one of them, and the said Justice or Justices is and are hereby authorised to decide upon such objection out of the ordinary terms of the said Court of King's Bench, any law to the contrary notwithstanding; and his or their decision in such case shall have the same effect as if it has been given during any superior Term of the said Court of King's Bench.

V. Provided always, and it is further enacted by the authority aforesaid, that nothing herein-contained, shall prevent the parties to the cause in all cases where such objections shall have been made, from proceeding to the bearing of the witnesses to whom no objection shall have been made or from proceeding with their Enquete reserving their rights of objecting as above-mentioned, unless all the parties shall consent that such Enquete be suspended, otherwise it shall be the duty of the said Commissioners to proceed further in such Enquete upon the requisition of any one of the parties.

VI. And be it further enacted by the authority aforesaid, that it shall be the duty of the said Commissioners, as soon as the parties litigant shall have declared that they intend to call no further witness, or being called upon to proceed with their evidence, they shall neglect to do so, to declare the Enquete closed, and to give a certificate to that effect in writing which shall be by them inserted and filed in the Record of the cause to which it may relate, and shall form part thereof, reserving to the said parties, or to any one of them, the rights of moving in the said Court during the ordinary Terms thereof, that permission be given them to proceed further in their Enquete, or to cause other witnesses to be heard if such motion be well founded.

VII. And be it further enacted by the authority aforesaid, that nothing herein-contained shall prevent the Justices of the said Court of King's Bench from presiding at such Enquetes, if they think it right, or from ordering that such Enquetes shall be taken before them on such days as they shall appoint for that purpose in the manner in which Enquetes were taken before the passing of this Act.

VIII. And be it further enacted by the authority aforesaid, that the Justices of the Court of King's Bench sitting in the said District, or any one of them shall from the time of the passing of this Act, and during the continuance thereof, be and they are hereby authorised in all cases of Trial by Jury in civil cases to try the issue of Fact, and to receive the verdicts of Juries in the vacation between each of the superior Terms of the Court of King's Bench on such

days as they shall have appointed for that purpose in their ordinary sittings during the Terms of the said Court, any law to the contrary notwithstanding.

IX. And be it further enacted by the authority aforesaid, that it shall and may be lawful to the Governor, Lieutenant Governor or person administering the Government of the Province for the time being, by Warrant or Warrants under his hand addressed to the Receiver General of this Province, to advance half yearly to the said Commissioners for receiving evidence, (Commissaires Enqueteurs) respectively, reckoning from the time of the passing of this Act and during the continuance thereof, a sum not exceeding in the whole four hundred pounds currency, per annum to each of them, and that the due application of the said monies, according to the provisions of this Act, 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 direct.

X. And be it further enacted by the authority aforesaid, that this Act shall be in force during one year from the time of the passing thereof, and no longer.