

The Provincial Statutes of Lower-Canada, Being the third session of the thirteenth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1830.

10 & 11 George IV – Chapter 4

An Act to restrain all Persons from undermining the Cliffs on which the Fortifications of Quebec are constructed. (26th March, 1830.)

Whereas the practice of blasting the Rock which forms the Cliffs of Quebec, by individuals, for the purpose of enlarging the limits of their possessions at the foot thereof, or for any other purpose, tends to the undermining of the Fortifications and Defences of the Garrison of Quebec, and also to occasion the sudden descent of masses of stone upon the buildings beneath, and that it is expedient, and necessary to obviate the mischief which there is reason to apprehend from the continuance of that unwarranted practice: 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 no proprietor or occupier of any lot of ground, or portion of any lot of ground adjacent to that part of the Rock within the City of Quebec, and whereon the fortifications are erected, which is commonly called the Cliffs of Quebec, or other persons whosoever, shall by blasting or mining, or in any other way, remove or cause to be removed, any portion of the said Rock, which constitutes the said Cliffs, within the City of Quebec, without having first presented a Petition to His Majesty's Court of King's Bench for the District of Quebec, during term, or to any two Justices of the said Court in vacation, praying permission so to do, which Petition shall be served upon the Attorney-General, or in his absence, upon any other Law Officer of the Crown, together with the order of the said Court or Justices to shew cause, if any can be shewn against granting the prayer of such Petition, within forty-eight hours after the service aforesaid, and if no cause against the same be shewn accordingly, it shall be lawful for the said Court or Justices to grant the said permission, and upon cause being shewn, the said Court or Justices are hereby empowered to hear and determine upon the merits of the said Petition, according to the titles of the parties respectively, and as to law and justice it shall appertain: Provided always, that in every such permission the extent to which such mining, or blasting, or other operation for the like purposes may proceed, and the time during which such permission is to avail, shall be set forth and specially and clearly determined: Provided also, that it shall be lawful for any of the parties aggrieved or pretending to be aggrieved by the judgment upon such petition to appeal from the same to the Provincial Court of Appeals, constituted and appointed according to the Law now in force in that respect, the decision of which Court shall be final: Provided also, that nothing herein contained shall be construed to deprive the Governor, Lieutenant-Governor, or

person administering the Government, of the authority to grant if he think fit, the before mentioned permission to any person or persons applying for such, permission without application to the Court or Justices aforesaid: Provided also, that in every permission so to be granted by the Governor, Lieutenant-Governor, or person administering the Government, the extent to which the mining or blasting, or other operation for the like purpose may proceed, and the time during which such permission is to avail, shall be set forth.

II. And be it further enacted by the authority aforesaid, that any person, who, by blasting or mining, or in any other way, shall remove, or cause to be removed any portion of the said Rock which constitutes the Cliffs within the City of Quebec, without having previously applied for, and obtained such permission so to do, shall for every such offence incur a penalty not exceeding twenty pounds nor less than five pounds currency.

III. Provided always, and be it further enacted by the authority aforesaid, that it shall be lawful for the said Court of King's Bench in Term or for any two of the Justices thereof in vacation upon the application of His Majesty's Attorney General, or other Law Officer of the Crown, or of any person who may feel himself aggrieved by such blasting or mining after hearing the parties interested to issue if it shall seem expedient to such Court or Justices an injunction for the purpose of staying such blasting or mining until the rights of the party or parties so to mine or blast the said Cliffs, shall be determined in manner as herein before provided.

IV. And be it further enacted by the authority aforesaid, that whensoever proof that the penalty hereby inflicted, has been incurred, shall be made before any two Justices of the Peace for the district of Quebec residing in the City of Quebec, either by the confession of the offender, or the oath of one or more credible witness or witnesses, (which oath such Justices are hereby authorized to administer,) such penalty with the costs of prosecution, shall be levied, by distress and sale of the goods and chattels of such offender, by warrant under the hands and seals of such Justices, and any overplus after deducting the penalty and costs, and the charges of distress and sale, shall upon demand be returned to the owner of such goods and chattels, and such penalty shall belong to His Majesty, and shall be paid into the hands of the Receiver-General, and shall await the disposal of the Provincial Legislature for the public uses of this Province,

V. Provided always, and be it further enacted by the authority aforesaid, that if goods and chattels shall not be found belonging to such offender, sufficient to satisfy the penalty, costs and charges as aforesaid, then and in that case it shall be lawful for such Justices of the Peace to commit such offender to the common Gaol of the District of Quebec, there to be confined for a space of time which shall not be less than one month, nor more than six months.

VI. And be it further enacted by the authority aforesaid, that the due application of all monies levied by virtue 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 be pleased to direct.

VII. And be it further enacted by the authority aforesaid, that this Act shall be and remain in force until the first day of May, one thousand eight hundred and thirty-three, and no longer.