

The Provincial Statutes of Lower-Canada, Being the third session of the Special Council, begun and holden at the City of Montreal, in the said Province of Lower Canada, the fifth day of November, 1838. Quebec: John Carleton Fisher & William Kemble, Law Printer to the Queen's Most Excellent Majesty, 1838.

2 Victoria – Chapter 15 (Session 3)

An Ordinance to declare that the second Chapter of the Statutes of the Parliament of England, passed in the thirty-first year of the Reign of King Charles the Second, is not, nor has ever been, in force in this Province, and for other purposes.

Whereas a certain Writ, purporting to be a Writ of Habeas Corpus, in Her Majesty's name, was on application of John Teed, of the City of Quebec, Tailor, charged with Suspicion of High Treason, granted by the Honorable Philip Panet, one of the Justices of Her Majesty's Court of King's Bench for the District of Quebec, and was issued out of the said Court of King's Bench, bearing teste on or about the twenty-first day of November, in the second year of Her Majesty's Reign, addressed to the Keeper of the Common Gaol of the District of Quebec, commanding him to bring up the body of the said John Teed; And whereas the said Writ of Habeas Corpus was granted and issued under the pretended authority of an Act of the Parliament of England, passed in the thirty-first year of the Reign of King Charles the Second, intituled, "An Act for the better securing the liberty of the subject, and for prevention of imprisonment beyond seas;" And whereas a certain other Writ, purporting to be a Writ of Habeas Corpus, in Her Majesty's name, was, on the application of the said John Teed, charged with Suspicion of High Treason, as aforesaid, granted by the Honorable Philip Panet, one of the Justices of Her Majesty's Court of King's Bench for the District of Quebec, and was issued out of the said Court of King's Bench, bearing teste on or about the twenty-eighth day of November now last past, addressed to Thomas Ainslie Young, of Quebec, Esquire, Justice of the Peace and Superintendent of Police for the City and Banlieu of Quebec, commanding him to bring up the body of the said John Teed, which said last mentioned Writ of Habeas Corpus was granted and issued under the pretended authority of the said Act of the Parliament of England; And whereas the said Act of the Parliament of England, was not at the time and times of the granting and issuing of the said Writs of Habeas Corpus, nor ever has been, in force in this Province; And whereas for an alleged contempt for an insufficient return to the said first mentioned Writ of Habeas Corpus, a Writ of Attachment, bearing teste on or about the twenty-second day of November, in the second year of Her Majesty's Reign, was issued out of the said Court of King's Bench, against the body of John Jeffreys, then being the Keeper of the said Common Gaol, by virtue whereof the said John Jeffreys was committed to the Common Gaol of the said District of Quebec, and is now detained in the Common Gaol of the said District of Quebec; And whereas for an alleged contempt for an insufficient return to the secondly above mentioned Writ of Habeas Corpus, a certain Writ of Attachment bearing teste on or about the twenty-ninth day of November now last past, was issued out of the said Court of King's Bench, against the body of the said Thomas Ainslie Young; And whereas the said Act of the Parliament of England, passed in the thirty-first year of the Reign of King Charles the Second,

is not, nor has ever been, in force in this Province, and it is expedient and necessary to declare the same, and to make other provisions in the premises:—Be it therefore Ordained, Declared, and Enacted by His Excellency the Administrator of the Government of this Province, authorised to execute the Commission of the Governor thereof, by and with the advice and consent of the Special Council for the affairs of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the Reign of Her present Majesty, intituled, “An Act to make temporary provision for the Government of Lower Canada;”—And it is hereby Ordained, Declared and Enacted by the authority aforesaid, that the said Act of the Parliament of England, passed in the thirty-first year of the Reign of King Charles the Second, is not, nor has ever been in force in this Province, and that the granting and issuing of the said two several Writs of Habeas Corpus, under and by virtue of the said Act, and all and every the proceedings, acts, matters and things had and done, or to be had and done under, for, or by reason of the said two Writs of Habeas Corpus, and the said Writs of Attachment, and each and every of them were and are wholly irregular, illegal and void, and that the said John Jeffreys, the Keeper of the Common Gaol of the said District of Quebec, be, and he is hereby discharged from confinement and imprisonment under the said Writ of Attachment against him issued as aforesaid, and that the said Thomas Ainslie Young, be, and he is hereby wholly, to all intents and purposes whatsoever, discharged and set free from the said Writ of Attachment, issued against him as aforesaid.

II. And whereas a certain other Writ of Habeas Corpus in Her Majesty’s name was, on the application of the said John Teed, granted by the Hon. Elzear Bedard, one of the Justices of the said Court of King’s Bench for the District of Quebec, and was issued out of the said Court of King’s Bench for the said District of Quebec, bearing date on or about the the twenty-first day of November, in the second year of Her Majesty’s Reign, addressed to George Bowles, Esquire, a superior officer in Her Majesty’s Foot Guards, commanding him to bring up the body of the said John Teed, which said last Writ of Habeas Corpus was so issued in virtue of an Act of the Legislature of this Province, passed in the fifty second year of the Reign of His late Majesty King George the Third, intituled, “An Act to secure the liberty of the subject, by extending the powers of Her Majesty’s Courts of Law in this Province, as to the Writs of Habeas Corpus ad subjiciendum, and as to the means of enforcing obedience to such Writs;” And whereas for want of a return to the said last mentioned Writ of Habeas Corpus, a Writ of Attachment, bearing teste on or about the twenty-first day of November, in the second year of Her Majesty’s Reign, was issued out of the said Court of King’s Bench for the said District of Quebec, against the body of the said George Bowles; And whereas the said John Teed, so charged with Suspicion of Treason aforesaid, was necessarily committed to the custody of the said George Bowles, to the end that he might be safely kept and detained, and that the provisions and intentions of an Ordinance of His Excellency the Administrator of the Government of the said Province, and of the Special Council for the affairs thereof, passed in the second year of Her Majesty’s Reign, intituled, “An Ordinance for the suppression of the Rebellion which unhappily exists within this Province of Lower Canada, and for the protection of the persons and properties of Her Majesty’s faithful subjects within the same,” might, as to the said John Teed, being a person charged with one

of the crimes and offences in the said Ordinance mentioned, be in force and fulfilled, and it is expedient and necessary that relief should be granted to the said George Bowles in that behalf; Be it, therefore further Ordained and Enacted by the authority aforesaid, that the said last mentioned Writ of Attachment, so as aforesaid issued against the said George Bowles, and all the proceedings which may be had under the same, are hereby superseded, set aside, and annulled, and that the said George Bowles be, and he is hereby fully discharged and set free from the same, to all intents and purposes whatsoever.

III. And be it further Ordained and Enacted by the authority aforesaid, that an Ordinance of this Province, made and passed in the first year of the Reign of Her Majesty, intituled, "An Ordinance to declare and ascertain the period when the Laws and Ordinances made and passed by the Governor or person authorised to execute the Commission of Governor and Special Council of this Province, shall take effect," be and the same is hereby repealed as to this Ordinance only, and that this present Ordinance shall commence and have effect within the said Province, so soon as the Governor or person authorised to execute the Commission of Governor of the said Province shall have assented to and signed this present Ordinance.

J. COLBORNE.

Ordained and Enacted by the authority aforesaid, and duly passed in Special Council, at the Government House, in the City of Montreal, the twenty first day of December, in the second year of the Reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the Year of our Lord One Thousand Eight Hundred and Thirty-eight.

By His Excellency's Command,
W. B. LINDSAY,
Clerk Special Council.