

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

1 Victoria – Chapter 19 (Session 1)

An Ordinance to provide for the more speedy attainder of persons indicted for High Treason, who have fled from the Province, or remain concealed therein, to escape from Justice.

Whereas a wicked and unnatural Rebellion against Her Majesty hath been raised and carried on within this Province, and whereas divers persons who were concerned in such Rebellion have fled from this Province or remain concealed therein, in order to escape from Justice; and whereas it is expedient and necessary to provide for the speedy attainder of such persons, in order to deter others from the like high crimes and offences:—Be it therefore Ordained and Enacted, by the Administrator of the Government of this Province, authorized 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 and Enacted, that from and after the passing of this Ordinance, in case any Indictment shall be found by a Grand Jury, at and before any Court of competent jurisdiction in this Province, against any person or persons for High Treason, Misprision of High Treason, or Treasonable Practices, and when the Sheriff shall make return to any Warrant or Capias that may issue thereupon, that such persons, or any of them is, or are not to be found in his District, it shall and may be lawful for the Governor of this Province, or the person administering the Government thereof, by and with the advice of the Executive Council, immediately upon the making of such return, to issue a Proclamation to be published not less than six weeks, in the Quebec Gazette, calling upon and requiring the person or persons, against whom any such indictment shall have been found, to surrender himself, or themselves, to the custody of the Sheriff of the District, within which the Court before whom such Indictment or Indictments were found, was held, by a day, to be within the said Proclamation named, such day not less than three Calendar months from the first publication of such Proclamation in the Gazette; and if such person or persons shall not, by the day in such Proclamation named, surrender themselves to the custody aforesaid, and submit to justice, then, and in such case, they, and every of them, after the day in such proclamation named, shall stand and be adjudged, attainted of the crime expressed and set forth in such Indictment or Indictments, and shall suffer and forfeit, as a person attainted of such crime ought to suffer and forfeit, by, and according to the laws of this Province.

II. And be it further Ordained and Enacted by the authority aforesaid, that the Justices of all and every Court of Oyer and Terminer at which any such Indictment shall be found as

aforesaid, shall, upon the return of the Sheriff, that the person or persons named in such Indictment is, or are not to be found within the District of such Sheriff, certify the said Indictment and the proceedings thereon, into the Court of King's Bench for the District in which such Court of Oyer and Terminer shall be held, or shall have been holden; and it shall be the duty of every such Sheriff, at the expiration of the term limited in such Proclamation, to make a return to the Court of King's Bench for the District of which he is Sheriff, of the names of all and every such person or persons, who being named in any such Proclamation as aforesaid, shall not have surrendered themselves to the custody of the said Sheriff, pursuant to the exigency of such Proclamation; and such Court of King's Bench shall during the term, in or before which such last mentioned return shall be made, direct judgement of attainder against all and every such person or persons to be entered on record.

III. Provided always, and be it further Ordained and Enacted by the authority aforesaid, that if any person against whom any such judgement or attainder shall have been entered, shall within three Calendar months next after the day of entry of such judgement, surrender himself to the custody of the Sheriff of the District in which such judgement of the Court of King's Bench had been entered up, and by the oath of two credible witnesses, shall establish, to the satisfaction of the Court of King's Bench, that such person was actually, and bona fide prevented from surrendering himself pursuant to the exigency of such Proclamation, by reason of absence beyond seas, sickness, or other inevitable necessity, then and in such case, it shall and may be lawful for the Court of King's Bench of such District in which such judgement has been entered up, to reverse the said judgement of attainder, and to transmit the Indictment or Indictments to any Court of Oyer and Terminer, to be held in and for the District wherein such Indictment or Indictments was or were found, and such person so surrendering shall be tried for the offence charged in such Indictment, in like manner as if no such judgement of attainder had been entered.

J. COLBORNE.

Ordained and Enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House, in the City of Montreal, the fourth day of May, in the first 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, in the Year of our Lord One Thousand Eight Hundred and Thirty-eight.

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