

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 20 (Session 1)

An Ordinance for preventing mischiefs arising from the printing and publishing Newspapers, Pamphlets and Papers of like nature, by persons not known, and for other purposes.

Whereas it is expedient that regulations should be provided touching publications of the nature hereinafter mentioned:—Be it therefore Ordained and Enacted, by the Administrator of the Government of Lower Canada, 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 no person shall, after thirty days from the passing of this Ordinance, print or publish, or cause to be printed or published in this Province, any Newspaper, Pamphlet, or other paper containing public news or intelligence, or serving the purpose of a Newspaper, or for the purpose of posting or general circulation in detached pieces as such Newspaper, until an affidavit or affidavits, or affirmation or affirmations, made and signed as hereinafter mentioned, shall be delivered to the Clerk or Clerks of the Peace for the District in which such Newspaper or Pamphlet, or other paper shall be printed or published, containing the several matters and things hereinafter for that purpose specified and mentioned.

II. And be it further Ordained and Enacted by the authority aforesaid, that such affidavit or affidavits, affirmation or affirmations, shall specify and set forth the real and true names, additions, descriptions and places of abode, of all and every person or persons who is or are, or who is or are intended to be, the printer and printers, publisher and publishers of the newspaper, pamphlet, or other paper mentioned in such affidavit or affidavits, affirmation or affirmations, and of all the proprietors of the same, if the number of such proprietors, exclusive of the printer and publisher, does not exceed two; and in case the same shall exceed such number, then of two such proprietors, exclusive of the printer and publisher, and also the amount of the proportioned shares of such proprietors in the property of the newspaper, pamphlet or other paper, and the true description of the house or building wherein such newspaper, pamphlet or other paper is intended to be printed, and likewise the titles of such newspaper, pamphlet or other paper.

III. Provided always, and be it further Ordained and Enacted by the authority aforesaid, that in every case where the number of such proprietors, exclusive of the printer and publisher, does not exceed two, the names of two proprietors, the amount of each of whose

proportional shares in the property of such newspaper, pamphlet, or other paper, shall not be less than the proportional share of any other proprietor, exclusive of the printer and publisher, shall be specified and set forth in such affidavit or affidavits, affirmation or affirmations.

IV. And be it further Ordained and Enacted by the authority aforesaid, that an affidavit or affirmation, affidavits or affirmations of the like import, shall be made, signed and given in like manner, as often as any of the printers, publishers or proprietors named in such affidavits or affirmations shall be changed, or shall change their respective places of abode, or their printing house, place or office, and as often as the title of the newspaper, pamphlet or other paper shall be changed.

V. And be it further Ordained and Enacted by the authority aforesaid, that every such affidavit or affirmation shall be in writing, and signed by the person or persons making the same, and shall be taken by any Justice of the Peace for the District in which such newspaper, pamphlet or other paper shall be printed or published.

VI. And be it further Ordained and Enacted by the authority aforesaid, that where the persons concerned as printers and publishers of any newspaper, pamphlet or other such paper as aforesaid, together with such number of proprietors as are hereinbefore required to be named in such affidavits or affirmations as aforesaid, shall not altogether exceed the number of four persons, the affidavit or affirmation hereby required, shall be sworn or affirmed and signed by all the said persons who are adult, and when the number of all such persons shall exceed four, the same shall be signed and sworn or affirmed by four such persons, if so many of them are adult, or by so many of them as are adult; but the same shall contain the real and true names, descriptions and places of abode of all and every person or persons, who is and are, or is and are intended to be the printer and printers, publisher and publishers, and of so many of the proprietors as are herein before for that purpose mentioned, of such newspaper, pamphlet or other such paper as aforesaid; and the person and persons so signing and swearing or affirming to the truth of such affidavit or affirmation in the last mentioned case, shall and are hereby required to give notice, within eight days after such affidavit or affirmation shall be so delivered as aforesaid, to each of the persons not signing and swearing or affirming such affidavit or affirmation, but named therein as a proprietor, printer or publisher of such newspaper, pamphlet, or other paper as aforesaid, that he, or they are so named therein; and in case of neglect to give such notice, each and every person who has so signed and sworn or affirmed such affidavit or affirmation shall forfeit and lose the sum of twenty pounds.

VII. And be it further Ordained and Enacted by the authority aforesaid, that if any person shall knowingly or wilfully print or publish, or cause to be printed and published, or shall knowingly and wilfully, either as a proprietor thereof or otherwise, sell, vend, or deliver out any newspaper, pamphlet or other such paper as aforesaid, such affidavit or affirmation containing such matters and things as are required by this Ordinance to be therein contained, not having been duly signed, sworn or affirmed and delivered, and as often as by

this Ordinance is required or any other matter or thing required by this Ordinance, to be done or performed according to this Ordinance, not having been done or performed, such person shall forfeit and lose the sum of five pounds.

VIII. And be it further Ordained and Enacted by the authority aforesaid, that if any person or persons making such affidavit or affirmation, as in and by this Ordinance is required to be made, shall knowingly and wilfully insert and set forth therein the name or names, addition or additions, place or places of abode of any person as proprietor, publisher or printer of any newspaper, or other such pamphlet or paper as aforesaid, to which such affidavit or affirmation relates, who is not a proprietor, printer or publisher thereof; or shall knowingly or wilfully omit to mention in such affidavit or affirmation the name or names, addition or additions, and place or places of abode of any of the proprietors, printers or publishers thereof, contrary to the true meaning of this Ordinance, or shall knowingly and wilfully in any other manner or respect, set forth in such affidavit or affirmation any matter or thing by this Ordinance required to be set forth, otherwise than according to the truth, or shall knowingly and wilfully omit to set forth therein according to the truth any matter or thing required by this Ordinance to be therein set forth, every person so offending shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury.

IX. And be it further Ordained and Enacted by the authority aforesaid, that all such affidavits and affirmations as aforesaid shall be filed and kept and preserved by the Clerk or Clerks of the Peace for the District in which such newspaper, pamphlet or other paper shall be printed or published, and the same, or copies thereof certified to be true copies as hereinafter is mentioned, shall respectively in all proceedings, civil and criminal, touching any newspaper or other such pamphlet or paper as aforesaid, which shall be mentioned in any such affidavits or affirmations, or touching any publication, matter or thing contained in any such newspaper, pamphlet, or paper as aforesaid, be received and admitted as conclusive evidence of the truth of all such matters set forth in such affidavits or affirmations, as are hereby required to be therein set forth against every person who shall have signed and sworn or affirmed such affidavits or affirmations, and shall also be received and admitted in like manner as sufficient evidence of the truth of all such matters against all and every person who shall not have signed or affirmed the same, but who shall be mentioned therein to be a proprietor, printer and publisher of such newspaper, pamphlet or other paper, unless the contrary shall be satisfactorily proved. Provided always that if any such person or persons respectively, against whom any such affidavit or affirmation or any copy thereof, shall be offered in evidence, shall prove that he, she, or they, hath or have signed, sworn or affirmed, and delivered to the Clerk or Clerks of the Peace of the District, previous to the day of the date or publication of the newspaper, pamphlet or other such paper as aforesaid, to which the proceedings civil or criminal shall relate, an affidavit or affirmation that he, she or they hath or have ceased to be the printer or printers, proprietor or proprietors, or publisher or publishers of such newspaper, pamphlet or such paper as aforesaid, such person or persons shall not be deemed, by reason of any former affidavit or affirmation so delivered as aforesaid, to have been the printer or printers or publisher or publishers of such newspaper, pamphlet or other paper after the day on which such last

mentioned affidavit or affirmation shall have been delivered to the Clerk or Clerks of the Peace.

X. And be it further Ordained and Enacted by the authority aforesaid, that in some part of every newspaper, pamphlet, or other such paper as aforesaid, there shall be printed the true and real name and names, addition and additions, and place and places of the abode of the printer and printers, and publisher and publishers of the same, and also a true description of the place where the same is printed; and in case any person or persons shall knowingly and wilfully print or publish, or cause to be printed or published, any such newspaper, pamphlet, or other paper as aforesaid, not containing the particulars as aforesaid and every of them, every such person shall forfeit and lose the sum of twenty pounds, and that proof in the manner hereinafter mentioned, in any proceeding to recover the same, that the person proceeded against is a printer or publisher of a newspaper, pamphlet, or other such paper so printed and published as aforesaid, shall be deemed and taken to be proof, that such party is a person wilfully and knowingly printing or publishing the same, or causing the same to be printed or published, unless he shall satisfactorily prove the contrary thereof.

XI. And be it further Ordained and Enacted by the authority aforesaid, that it shall not be necessary after any such affidavit or affirmation, or a certified copy thereof, shall have been produced in evidence as aforesaid, against the persons who made and signed such affidavit or affirmation, or are therein named according to this Ordinance or any of them, and after a newspaper, pamphlet, or other such paper as aforesaid shall be produced in evidence, intituled in the same manner as the newspaper, pamphlet or other paper mentioned in such affidavit or affirmation or copy is intituled, and wherein the name or names of the printer and publisher, or printers and publishers, and the place of printing, shall be the same as the name or names of the printer and publisher, or printers and publishers, and the place of printing mentioned in such affidavit or affirmation, for the plaintiff, informant, or prosecutor, or person seeking to recover any of the penalties given by this Ordinance, to prove that the newspaper, pamphlet or paper to which such suit or trial relates, was purchased at any house, shop, or office belonging to or occupied by the defendant and defendants, or any of them, or by his or their servants or workmen, or where he or they by themselves, or their servants or workmen, usually carry on the business of print or publishing such newspaper, pamphlet, or other such paper, or where the same is usually sold.

XII. And be it further Ordained and Enacted by the authority aforesaid, that the Clerk or Clerks of the Peace of each and every of the Districts of this Province, by whom such affidavits and affirmations, or any of them, shall be kept according to the directions of this Ordinance, shall and they are hereby required upon application made to them or any of them, by any person or persons requiring a copy, certified according to this Ordinance, of any such affidavit or affirmation as aforesaid, in order that the same may be produced in any civil or criminal proceeding, to deliver to the person so applying for the same such certified copy, he or they paying for the same, the sum of one shilling, and no more.

XIII. And be it further Ordained and Enacted by the authority aforesaid, that in all cases a copy of such affidavit or affirmation, certified to be a true copy under the hand of the Clerk or Clerks of the Peace possessing the same, shall be received in evidence as sufficient proof of such affidavit or affirmation, and that the same was duly sworn or affirmed, and of the contents thereof, and that such copies so produced and certified, shall also be received as evidence that the affidavits or affirmations of which they purport to be copies, have been sworn or affirmed according to this Ordinance, and shall have the same effect for the purposes of evidence to all intents whatsoever, as if the original affidavits or affirmations, of which the copies so produced and certified shall purport to be copies, had been produced in evidence, and been proved to have been duly so certified, sworn and affirmed by the person or persons appearing by such copies to have sworn or affirmed the same as aforesaid.

XIV. And be it further Ordained and Enacted by the authority aforesaid, that all fines, penalties and forfeitures shall be recovered by action of debt in the Court of King's Bench for the District in which the offence or offences against the provisions of this Ordinance shall be committed, and that the money arising by all such fines, penalties and forfeitures shall be as to one moiety thereof to and for the use of our Sovereign Lady the Queen, her heirs and successors, and as to the other moiety thereof, to and for the use of the person who shall inform and sue for the same.

XV. And be it further Ordained and Enacted by the authority aforesaid, that this Ordinance shall continue and be in force until the first day of November, which shall be in the year of our Lord, one thousand eight hundred and forty, and no longer.

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.