

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

2 Victoria – Chapter 2 (Session 2)

An Ordinance for establishing an efficient system of Police in the Cities of Quebec and Montreal.

Whereas it is expedient to establish an efficient system of Police in the Cities of Quebec and Montreal, and to constitute Offices of Police, which acting under the immediate authority of the Civil Secretary of the Governor of the Province of Lower Canada for the time being, shall direct and control the whole of such system of Police within the said Cities:—Be it therefore Ordained and Enacted by His Excellency the Governor of the said Province, by and with the advice and consent of the Special Council for the affairs of Lower Canada, 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 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 by the authority of the same, that it shall and may be lawful for the Governor, Lieutenant Governor or person administering the Government of the said Province, for the time being, to cause Police Offices to be established in the said Cities, and by a Commission under the Great Seal of the Province, to appoint fit and proper persons to be Inspectors and Superintendents of the Police of the said Cities, to execute the duties of Justices of the Peace at the said Offices, and in all parts of the said Cities, together with such other duties as shall be hereinafter specified, or as shall be from time to time directed by such Civil Secretary, for the more efficient administration of the Police within the limits of the said Cities, and that the Governor or person administering the Government of the said Province for the time being, shall and may remove the said Inspectors and Superintendents of Police, if he shall see occasion so to do, and may, upon any vacancy in the said offices, by death, removal or otherwise, appoint other fit persons as Inspectors and Superintendents of the Police for the said Cities, to execute the duties aforesaid, in lieu of the persons making such vacancy; and that it shall be lawful for the Governor or person administering the Government of the said Province, to appoint any person to be Inspector and Superintendent of the Police, for either of the said Cities, under and by virtue of this Ordinance; and that it shall be lawful for any person so appointed, during the continuance of his appointment, to execute the duties of Justice of the Peace for the said Cities, although he may not have any such qualification, by estate or property, or is or may be required by Law, in case of any other person being a Justice of the Peace for the said Cities. Provided always, and it is hereby further Ordained and Enacted by the authority aforesaid, that no person appointed to be such Inspector and Superintendent of the Police, shall act as a Justice of the Peace at any Court of General Quarter Sessions.

II. And be it further Ordained and Enacted by the authority aforesaid, that every person to be appointed Inspector and Superintendent of the Police of the said Cities by virtue of this Ordinance shall, before he begin to execute the duties of his office take the following Oath before a Judge of Her Majesty's Court of King's Bench, that is to say:—

"I, A. B., do swear, that I will faithfully, impartially and honestly, according to the best of my skill and knowledge, execute all the powers and duties of a Justice of the Peace under and by virtue of an Ordinance passed in the second year of the reign of Queen Victoria, intituled, 'An Ordinance for establishing an efficient System of Police in the Cities of Quebec and Montreal.'"

III. And be it further Ordained and Enacted by the authority aforesaid, that a sufficient number of fit and able bodied men shall from time to time, by the directions of the said Civil Secretary, be appointed as a Police force for the said Cities, who shall be sworn by the said Inspectors and Superintendents of the Police, to act as Constables for preserving the Peace and preventing robberies and other felonies, and apprehending offenders against the Peace; and the men so sworn, shall within the said Cities have all such powers, authorities, privileges and advantages, and be liable to all such duties and responsibilities as any Constable duly appointed now has, or hereafter may have by virtue of the Laws of this Province, or any Statutes made, or to be made, and shall obey all such lawful commands as they may from time to time receive from the said Inspector and Superintendents of the Police, for conducting themselves in the execution of their office.

IV. And be it further Ordained and Enacted by the authority aforesaid, that the said Inspector and Superintendent of Police may from time to time, subject to the approbation of the Civil Secretary, make such orders and regulations as they shall deem expedient relative to the general government of the men to be appointed members of the Police force under this Ordinance, the places of their residence, the classification, rank and particular service of the several members, their distribution and inspection, the description of arms, accoutrements and other necessaries to be furnished to them, and all such other orders and regulations relative to the said Police force, as the said Inspectors and Superintendents of the Police shall from time to time deem expedient, for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties; and the said Inspectors and Superintendents of the Police may at any time suspend, or dismiss from his employment any man belonging to the said Police force, whom they shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same; And be it further Ordained and Enacted, that when any man shall be so dismissed or cease to belong to the said Police force, all powers vested in him as a Constable by virtue of this Act, shall immediately cease and determine.

V. And be it further Ordained and Enacted by the authority aforesaid, that if any Victualler or Keeper of any house, shop, room, or other place for the sale of any liquors, whether spirituous or otherwise, shall knowingly harbour or entertain any man belonging to the said Police force, or permit such man to abide or remain in his or her house, shop, room, or other

place during any part of the time appointed for his being on duty, every such Victualler or Keeper as aforesaid, being convicted thereof before any two Justices of the Peace, shall for every such offence forfeit and pay such sum not exceeding five pounds sterling money of Great Britain, as they shall think meet.

VI. And it is further Ordained and Enacted by the authority aforesaid, that it shall and may be lawful for any man belonging to the said Police force, during the time of his being on duty, to apprehend all loose, idle and disorderly persons whom he shall find disturbing the public peace, or whom he shall have just cause to suspect of any evil designs, and all persons whom he shall find lying in any field, highway, yard or other place, or loitering therein, and not giving a satisfactory account of themselves, and to deliver any person so apprehended, into the custody of the Constable appointed under this Ordinance, who shall be in attendance at the nearest watch-house, in order that such person may be secured until he can be brought before a Justice of the Peace, to be dealt with according to Law.

VII. And be it further Ordained, and Enacted by the authority aforesaid, that if any person shall assault or resist any person belonging to the said Police force in the execution of his duty, or shall aid or incite any person so to assault or resist, every such offender being convicted thereof before two Justices of the Peace, shall for every such offence forfeit and pay such sum, not exceeding five pounds, sterling- money aforesaid, as the said Justices shall think meet.

VIII. And be it further Ordained and Enacted by the authority aforesaid, that it shall be lawful for any Justice of the Peace to commit all loose, idle and disorderly persons, being convicted before him by his own view, or by his, her or their own confession, or by the oath of one or more credible witness or witnesses, to the common Gaol or House of Correction, there to be kept at hard labour, for any time not exceeding two calendar months; Provided always, that it shall be in the discretion of the Justice of the Peace, before whom any person apprehended as a loose, idle and disorderly person shall be brought, either to commit or discharge such person although an act of vagrancy be proved against the person so charged, provided also, that it shall be in the discretion of such Justice, on discharging such loose, idle and disorderly person, to bind him or her in a sufficient recognizance, to appear before the Justices at their next General or Quarter Sessions of the Peace, to answer such, charge or charges as shall be alleged against him or her respectively.

IX. And be it further Ordained and Enacted by the authority aforesaid, that persons who being able to work and thereby or by other means to maintain themselves and families, shall willfully refuse or neglect to do so;

Persons openly exposing or exhibiting in any street, road, public place, or highway any indecent exhibition, or openly and indecently exposing their persons;

Persons loitering in the streets or highways, and obstructing passengers, by standing across the footpaths, or by using insulting language or in any other way, tearing down or defacing

signs, breaking windows, breaking door or door plates, or the walls of houses, yards or gardens; destroying fences; causing a disturbance or noise in the streets or highways by screaming, swearing, or singing; being drunk and impeding or incommoding the peaceable passengers;

All common prostitutes or night walkers wandering in the fields, public streets or highways, not giving a satisfactory account of themselves;

Persons in the habit of frequenting houses of ill-fame, not giving a satisfactory account of themselves;

Persons tipping in taverns or tap-rooms after the hour of ten at night, and before the hour of five in the morning, between the twenty-first day of March and the first day of October, and after the hour of nine at night, and before the hour of six in the morning, from the first day of October to the twenty-first day of March;

Persons winning money or other valuable thing in playing at cards, dice or other chance game in taverns, shall be deemed loose, idle, and disorderly persons within the meaning of this Ordinance.

X. And be it further Ordained and Enacted by the authority aforesaid, that it shall be lawful for any Justice of the Peace, upon information upon oath before him made, that any persons hereinbefore described are loose, idle, and disorderly persons, and are, or are reasonably suspected to be harboured or concealed in any house or houses of ill fame, tavern or taverns, boarding house or boarding houses, by warrant under his hand or seal to authorize any Constable or other person or persons to enter at any time such house or houses, tavern or taverns, and to apprehend and bring before him or any other Justice or Justices, all persons found therein and so suspected as aforesaid; and if on examining such person or persons so apprehended and brought as aforesaid, it shall appear to such Justice or Justices that they or any of them cannot give a satisfactory account of themselves, it shall and may be lawful for such Justice or Justices to commit him, her or them to the Common Gaol or House of Correction, there to be dealt with in the same manner as loose, idle and disorderly persons are hereinbefore directed to be dealt with by this Ordinance.

XI. And be it further Ordained and Enacted by the authority aforesaid, that it shall be lawful for any Justice of the Peace to commit any person or persons being convicted before him by his own view or by the oath of one or more credible witness or witnesses, or by his, her or their confession, of over loading, over driving, or otherwise ill treating any horse, dog or other animal, to the Common Gaol for any time not exceeding one Calendar month; and all Constables shall and may apprehend such person or persons, and bring him, her or them before a Justice of the Peace, to be dealt with according to the provisions of this Ordinance.

XII. And for the more effectual prosecution of offences punishable by a penalty upon summary conviction by virtue of this Ordinance, be it further Enacted by the authority

aforesaid, that where any person shall be charged on the oath of a credible witness with any such offence before any Justice of the Peace, the Justice may summon the person charged to appear before any two Justices of the Peace at a time and place to be named in such summons, and if the person charged shall not appear accordingly then (upon proof of the due service of the summons by delivering a copy thereof to such person or by delivering a copy to the wife or servant or some inmate of the family of such person, at his or her usual place of abode,) the Justices before whom he ought to have appeared may either proceed to hear and determine the case *ex parte*, or may issue their warrant for apprehending such person, and bringing him or her before them: Provided always that the prosecution for any offence punishable by a penalty upon summary conviction by virtue of this Ordinance shall be commenced within three calendar months after the commission of the offence and not otherwise.

XIII. And be it further Ordained and Enacted by the authority aforesaid, that every sum which by any Justice of the Peace shall be adjudged to be paid for any offence against this Ordinance, shall be paid to Her Majesty's Receiver General, to be by him added to and applied as part of the Funds for the purposes of the Police under this Ordinance, and no person shall by reason of the application of any penalty to the use of the Police Funds be deemed to be an incompetent witness before any Court of Justice or Justices of the Peace in any proceeding whatever for any offence against this Ordinance.

XIV. And be it further Ordained and Enacted by the authority aforesaid, that the Justices of the Peace by whom any person shall be convicted and adjudged to pay any sum of money for any offence against this Ordinance may adjudge that such person shall pay the same either immediately or within such period as they shall think fit, and in default of payment at the time appointed, the said person shall be imprisoned in the Common Gaol or House of Correction for any term not exceeding two calendar months, which said imprisonment shall cease upon payment of the sum due.

XV. And be it further Ordained and Enacted by the authority aforesaid, that no conviction, order, warrant or other matter made or purporting to be made by virtue of this Ordinance, shall be quashed for want of form or be removed by *Certiorari* or otherwise into any of Her Majesty's Courts of Record, and no warrant of commitment shall be held void by reason of any defect therein; Provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

XVI. And be it further Ordained and Enacted by the authority aforesaid, that for the protection of the persons acting in the execution of this Ordinance, all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Ordinance shall be laid and tried in the District where the fact was committed, and shall be commenced within six calendar months after the fact committed and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action; and in such action the defendant may plead the general issue and give this Ordinance and the special matter in

evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought by or on the behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become non-suit or discontinue any such action after issue joined, or if demurrer or otherwise judgement shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in such action, such plaintiff shall not have costs against the defendant; unless the Judge before whom the trial shall be, shall certify his approbation of the action and of the verdict obtained thereupon.

XVII. And be it further Ordained and Enacted by the authority aforesaid, that it shall be lawful for the Governor or other person administering the Government of the Province for the time being, to pay or cause to be paid out of any moneys which may be in the hands of the Receiver General of this Province, not otherwise appropriated by law, such sums as may be required for the maintenance of the Police under this Ordinance, and that all salaries, allowances and contingent charges in that behalf shall be paid upon pay lists to be made out on the first of each month, by the Inspector and Superintendent of Police, signed by him and approved by such Civil Secretary as aforesaid.

XVIII. And be it further Ordained and Enacted by the authority aforesaid, that for the purposes of this Ordinance, any person acting as Secretary of the Governor, or of the person authorized to execute the Commission of Governor, shall be taken to be the Civil Secretary of the Governor.

XIX. And be it further Enacted, that for the purposes of this Ordinance, the word City or Cities, as applied to the Cities of Quebec and Montreal, wherever used in this Ordinance, shall be held to denote the said Cities together with such neighbouring Districts as the Governor or person administering the Government of the Province of Lower Canada shall at any time direct.

Durham

Ordained and Enacted by the authority aforesaid, and passed in Special Council, at the City of Quebec, the twenty-eighth day of June, in the second year of the Reign of our Sovereign Lady Victoria, by the Grace of God, of the United Kingdom 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.