

*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 3 (Session 3)

**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.**

Whereas a traitorous Conspiracy, for the subversion of the authority of Her Majesty, and for the destruction of the Established Constitution and Government, hath unfortunately existed within this Province for a considerable time, and hath broken out in acts of the most daring and open rebellion:—And whereas His Excellency Sir John Colborne, Administrator of the Government of this Province, did lawfully, and by virtue of the authority in him reposed, by Proclamation under his hand and seal at Arms, bearing date at the Government House, in the City of Montreal, the fourth day of this present month of November, declare Martial Law to be in force in the District of Montreal, in the said Province, and as well before as since the said declaration of Martial Law in the said Province, the said Rebellion did greatly extend insomuch, that large bodies of armed Traitors did openly array themselves, and make the most daring and violent attacks upon Her Majesty's Forces, and upon other persons in authority, and commit the most horrid excesses and cruelties on the properties and persons of Her Majesty's loyal subjects; and whereas the said Rebellion still continues to rage in the said District of Montreal, and the parties therein concerned continue to desolate and lay waste the country, by the most savage and wanton violence, excess and outrage, and the civil power is set at defiance, and the ordinary course of justice and of the law of the land is stopped in the said District; And whereas it is expedient and necessary to provide a remedy for the speedy trial and punishment of persons offending in that behalf:—Be it therefore Ordained and Enacted, by His Excellency 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, by the authority aforesaid, that from and after the passing of this Ordinance, it shall and may be lawful for the Governor of the said Province, or the person administering the Government thereof, from time to time during the continuance of the said Rebellion, whether the ordinary Courts of Justice shall or shall not, at such time, be open, to issue his orders to all officers commanding Her Majesty's forces and to all others whom he shall think fit to authorize in that behalf, to take the most vigorous and effective measures for suppressing the said Rebellion, in any part of the said District of Montreal, which shall appear to be necessary for the public safety, and for the safety and protection of the persons and properties of Her Majesty's peaceable and loyal subjects, and

to punish all persons, who, before the passing of this Ordinance, that is to say, since the first day of the present month of November, have been, or were or hereafter may be, acting, aiding, or in any manner assisting in the said Rebellion, or maliciously attacking the persons or properties of Her Majesty's loyal subjects, in furtherance of the same according to Martial Law, either by death or otherwise, as to him shall seem expedient, for the punishment and suppression of all Rebels in the said District of Montreal, and to arrest and detain in custody all persons heretofore or now engaged in such Rebellion, or suspected thereof, and to cause all persons so arrested and detained in custody, to be brought to trial, in a summary manner, by Courts Martial, to be assembled under such authority, and to be constituted in such manner, and of such description of persons as the said Governor, or person administering the Government of the said Province shall, from time to time, direct, for all offences committed since the said first day of November, or hereafter to be committed, in furtherance of the said Rebellion, whether such persons shall have been taken in open arms against Her Majesty, or shall have been otherwise concerned in the said Rebellion, or in aiding, or in any manner assisting the same, and to execute the sentence of all such Courts Martial, whether of death or otherwise, and to do all other acts necessary for such several purposes.

II. And be it further Ordained and Enacted by the authority aforesaid, that no act of this Ordinance, or of the powers thereby granted, which shall be done in pursuance of it, shall be questioned in any of Her Majesty's Courts of Justice in the said Province.

III. And be it further Ordained and Enacted by the authority aforesaid, that if any person, who shall be detained in custody under the powers created by this Ordinance, shall sue forth a Writ of Habeas Corpus, it shall be a good and sufficient return to such Writ, that the party suing forth the same, is detained by virtue, and under the authority of this Ordinance, and that in answer to any such Writ of Habeas Corpus, it shall not be necessary to produce the body of the person or persons so detained in custody.

IV. Provided always, and be it further Ordained and Enacted by the authority aforesaid, that nothing in this Ordinance contained, shall be construed to take away, abridge, or diminish the acknowledged prerogative of Her Majesty, for the public safety, to resort to the exercise of Martial Law against open enemies or Traitors, or any powers by law vested in the Governor or Person administering the Government of the said Province, or of any other person or persons whomsoever, to suppress Treason and Rebellion, and to do any act, warranted by law, for that purpose, in the same manner as if this Ordinance had never been made, or in any manner to call in question any acts heretofore done for the like purposes.

V. And be it further Ordained and Enacted by the authority aforesaid, that it shall and may be lawful for the Governor or person administering the Government of this Province, by Proclamation, under his Hand and Seal at Arms, from time to time, to extend all and every the provisions of the present Ordinance, to any other Districts, or parts of this Province, for such period or periods of time as to him may seem meet.

VI. 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 June next, and no longer.

VII. 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 authorized 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 eighth day of November, 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.