

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 8 (Session 3)

An Ordinance for more effectually preventing the administering or taking of unlawful oaths, and for better preventing Treasonable and Seditious Practices.

Whereas divers wicked and evil-disposed persons have, of late, attempted to seduce divers of Her Majesty's subjects in this Province from their allegiance to Her Majesty, and to incite them to acts of sedition, rebellion, treason, and other offences, and have endeavoured to give effect to their wicked and traitorous proceedings by imposing upon the persons whom they have attempted to seduce and incite, the pretended obligation of oaths unlawfully administered; and whereas divers societies and associations have been of late instituted in this Province of a new and dangerous nature, inconsistent with the public tranquillity and with the existence of regular government:—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, 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 of the same, that any person or persons who shall in any manner or form whatsoever, administer, or cause to be administered, or being aiding or assisting at, or present at and consenting to the administration or taking of any oaths or engagement, purporting or intending to bind the person taking the same to commit any treason or murder, or any felony, punishable by law with death, or to engage in any seditious, rebellious, or treasonable purpose, or to disturb the public peace, or to be of any association, society, or confederacy, formed for any such purpose, or to obey the order or commands or any Committee or body of men not lawfully constituted, or of any leader or commander, or other person not having authority by law for that purpose, or not to inform or give evidence against any associate, confederate or other person, or not to reveal or discover any illegal act, done or to be done, or not to reveal or discover any illegal oath or engagement which may have been administered, or tendered to, or taken by such person or persons, or to or by any other person or persons, or the import of any such oath or engagement shall, on conviction thereof by due course of law, be adjudged guilty of felony, and may be transported for any term of years not exceeding twenty-one years; and every person who shall take any such oath or engagement, not being compelled thereto, shall, on conviction thereof by due course of law, be adjudged guilty of felony, and may be transported for any term of years not exceeding seven years.

II. Provided always, and be it further Ordained and Enacted, that compulsion shall not justify or excuse any person taking such oath or engagement, unless he or she shall, within eight days after the taking thereof, if not prevented by actual force or sickness, and then within eight days after the hindrance produced by such force or sickness shall cease, declare the same, together with the whole of what he or she shall know touching the same, and the person or persons by whom, and in whose presence, and when and where such oath or engagement was administered or taken, by information on oath before one of Her Majesty's Justices of the Peace, for the District in which such oath or engagement was administered or taken.

III. And be it further Ordained and Enacted by the authority aforesaid, that persons aiding and assisting at, or present and consenting to the administering or taking of any such oath or engagement as aforesaid, and persons causing any such oath or engagement to be administered or taken, though not present at the taking or administering thereof, shall be deemed principal offenders, and shall be tried as such although the person or persons who actually administered such oath or engagement, if any such there shall be, shall not have been tried or convicted.

IV. And be it further Ordained and Enacted by the authority aforesaid, that it shall not be necessary, in any indictment against any person or persons administering, or causing to be administered or taken, or taking any such oath or engagement as aforesaid, or aiding or assisting at, or present at and consenting to the administering or taking thereof, to set forth the words of such oath or engagement, and that it shall be sufficient to set forth the import of such oath or engagement, or some material part thereof.

V. Provided always, and be it further Ordained and Enacted by the authority aforesaid, that any engagement or obligation whatever, in the nature of an oath, shall be deemed an oath, within the intent and meaning of this Ordinance, in whatever form or manner the same shall be administered or taken, and whether the same shall be actually administered by any person or persons, or taken by any person or persons without any administration thereof by any person or persons.

VI. And be it further Ordained and Enacted by the authority aforesaid, that from and after the passing of this Ordinance, all and every society or association now established, or hereafter to be established, the members whereof shall, according to the rules thereof, or to any provision, or any agreement for that purpose, be required to keep secret the acts or proceedings of such society or association, or admitted to take any oath or engagement, which shall be an unlawful oath or engagement, within the intent and meaning of the foregoing provisions of the Ordinance, or to take any oath or engagement not required or authorised by law; and every society or association, the members whereof or any of them, shall take or in any manner bind themselves by any such oath or engagement, or in consequence of being members of such society or association; and every society or association, the members whereof or any of them, shall take, subscribe, or assent to any engagement of secrecy, test or declaration not required by law; and every society of which

the names of the members, or any of them, shall be kept secret from the society at large, or which shall have any committee or secret body so chosen or appointed that the members constituting the same shall not be known by the society at large to be members of such committee or select body, or which shall have any President, Treasurer, Secretary or Delegate, or other officer, so chosen or appointed that the election or appointment of such persons to such office as shall not be known to the Society at large, or of which the names of all the persons, and of the committee or select bodies of members, and of all Presidents, Treasurers, Secretaries, Delegates, and other officers, shall not be entered in a book or books for that purpose, and to be open to the inspection of all the members of such society or association; and every society or association, which shall be composed of different divisions or branches, or of different parts acting in any manner separately or distinct from each other, or of which any part shall have any separate or distinct President, Secretary, Treasurer, Delegate, or other officer elected or appointed by or for such part, or to act as an officer for such part, shall be deemed and taken to be unlawful combinations and confederacies; and every person who, from and after the passing of this Ordinance, shall become a member of any such society or association, at the passing of this Ordinance, shall afterwards act as a member thereof, and every person, who, after the passing of this Ordinance, shall, directly or indirectly, maintain correspondence or intercourse with any such society or association, or with any, division, branch, committee, or other select body, Treasurer, Secretary, Delegate, or other officer or member of such society or association, whether within or without the Province, as such, or who shall by contribution of money or otherwise, aid, abet, or support such society, or any members or officers thereof, as such, shall be deemed guilty of an unlawful combination or confederacy.

VII. And be it further Ordained and Enacted by the authority aforesaid, that any person who, at any time after the passing of this Ordinance, shall, in breach of the provisions thereof, be guilty of any such unlawful combination or confederacy as in this Ordinance is described, and shall be convicted thereof upon indictment by due course of law, shall and may be transported for a term not exceeding seven years, in the manner provided by law for the transportation of offenders, or imprisoned for any time not exceeding two years, as the Court before whom such offenders shall be tried shall think fit; and every such offender who shall be so ordered to be transported, shall be subject and liable to all laws concerning offenders ordered to be transported.

VIII. And be it further Ordained and Enacted by the authority aforesaid, that if any person shall knowingly permit any meeting of any society or association here. by declared to be an unlawful combination or confederacy, or of any division, branch, or committee of such society, to be held in his or her house, apartment, barn, outhouse, or other building, such person shall, for the first offence, forfeit a sum not exceeding fifty pounds currency, and shall, for any such offence committed after the date of his or her conviction for such first offence, be deemed guilty of an unlawful combination, and confederacy in breach of this Ordinance, and shall be punished as hereby directed.

IX. And whereas certain societies have been long accustomed to be holden in this Province, under the denomination of Lodges of Free Masons, the meetings whereof have been in great measure directed to charitable purposes;—Be it therefore Ordained and Enacted by the authority aforesaid, that nothing in this Ordinance shall extend to the meetings of any such Society or Lodge, which, before the passing of this Ordinance have been, or which may hereafter be holden under the said denomination, and in conformity to the rules prevailing among the said Societies of Free Masons: Provided always that such Societies or Lodges shall have been, or shall be, erected and constituted by, or under the authority of Warrants in that behalf, granted by or derived from any Grand Master or Grand Lodge, in the United Kingdom of Great Britain and Ireland.

X. And be it further Ordained and Enacted by the authority aforesaid, that it shall be imperative on each and every Rector, Curate, Vicar, or other Priest or Minister performing the parochial or clerical duty of any parish or other church of this Province, to read this Ordinance, or cause it to be read publicly at the of door the Parish Church, and where there is no Church, at any other place of public worship, immediately after divine service in the morning, on three consecutive Sundays, immediately following the reception of this Ordinance, by such Rector, Curate, Vicar, or other Priest or Minister in each Parish, Township, or extra-patrochial place within this Province.

XI. And be it further Ordained and Enacted by the authority aforesaid, that it shall be the duty of the Law Officers of the Crown to make an abstract of the said Ordinance, which abstract shall be printed and forwarded with the said Ordinance, and be distributed and posted in each parish, township and extra-parochial place within the said Province, in such manner as the Governor, Lieutenant Governor, or or person administering the Government thereof, may direct.

XII. 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, in the year of our Lord, one thousand eight hundred and forty-two, and no longer.

J. COLBORNE.

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

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