

The Provincial Statutes of Lower-Canada, Being the fourth session of the of the Special Council, begun and holden at the City of Montreal, in the said Province of Lower Canada, fourteenth day of February, 1839. Quebec: John Carleton Fisher & William Kemble, Law Printer to the Queen's Most Excellent Majesty, 1839.

2 Victoria – Chapter 21 (Session 4)

An Ordinance for vesting all the Estates and Property in the Province of Lower Canada, occupied for the Ordnance Service, in the Principal Officers of Her Majesty's Ordnance, and for granting certain powers to the said Principal Officers, and for other purposes therein-mentioned.

Whereas divers Messuages, Lands, Tenements, Estates, and other Hereditaments in this Province of Lower Canada, have been, at various times, purchased for the use of the Department of Her Majesty's Ordnance, and have been conveyed to Her Majesty, or to Her Royal Predecessors, or to several different persons in trust for Her Majesty and Her Royal Predecessors, and her and their heirs and successors, and the same have been placed under the charge of the said Department, or of the Governor or Commander of Her Majesty's Forces in this Province: And whereas it may be expedient that such part of the said Messuages, Lands, Tenements, Estates, and other Hereditaments, as may not be wanted for the service of the said Department, should, from time to time, be sold and disposed of; And whereas for effectuating such sales, it is necessary that all and every the said Messuages, Lands, Tenements, Estates, and other Hereditaments, so already purchased, or used and occupied under and by virtue of any legal or equitable title, by, or for the service of the said Ordnance Department, and all other Messuages, Lands, Tenements, Estates, and other Hereditaments that may be hereafter purchased, or in any manner used or occupied by, and for the service of the said Department, should be vested in the Principal Officers of Her Majesty's Ordnance, for the time being:—Be it therefore Ordained and Enacted by His Excellency the Governor of the Province of Lower Canada, 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 of the same, that immediately from and after the passing of this Ordinance, all messuages, lands, tenements, estates, and other hereditaments, real property and servitudes whatever, situate within the said Province of Lower Canada, which have been heretofore purchased and taken by, or in the name of, or by any person or persons, in trust for Her Majesty, or Her Royal Predecessors, and her or their heirs and successors, for the use or service of the said Ordnance Department (by whatever mode of conveyance the same shall have been so purchased and taken) either in fee or for life or lives, or any term or terms of years, or any other or lesser interest, or a titre de cens, and under and by virtue of any other title or tenure whatsoever, within the said Province of Lower Canada, and all erections and buildings which now are, or which shall, or may be hereafter erected and built thereon, together with the rights, members, easements,

servitudes and appurtenances to the same respectively belonging, shall be and become and remain and continue vested in the principal Officers of Her Majesty's Ordnance in Great Britain, for the time being, and their successors in the said office, according to the respective nature and quality of the said messuages, lands, tenements, estates, and other hereditaments, and real property, and servitudes, and the several estates and interests of, and in the same respectively, in trust for Her Majesty, her heirs and successors, for the service of the said Ordnance Department, or for such other public service or services as the said Principal Officers or their successors in the said office, shall, from time to time, order and direct.

II. And be it further Ordained and Enacted by the authority aforesaid, that from and after the purchase and conveyance, grant, concession, lease or demise thereof, all other messuages, lands, tenements, estates, and other hereditaments, servitudes, and other real property within the said Province of Lower Canada, which shall or may at any time or times, hereafter be granted to, or purchased by, the Principal Officers of Her Majesty's Ordnance, for the time being, or by any other person or persons, by their order, for the service of the said Ordnance Department, and all erections and buildings which shall then, or which may thereafter be erected and built thereon, with the rights, members, easements, servitudes, and appurtenances to the same respectively belonging, by whatever mode of conveyance, either unto or in the name of tier Majesty, her heirs and successors, or otherwise, the same shall be purchased or taken, shall, in like manner, be, and become, and remain, and continue, vested in the said Principal Officers of Her Majesty's Ordnance, for the time being, and their successors in the said office, according to the nature and quality of the said messuages, lands, tenements, estates, and other hereditaments, real property, and servitudes, and the several and respective estates and interests of and in the same respectively, in trust as aforesaid.

III. And be it further Ordained and Enacted by the authority aforesaid, that upon the death, resignation, or removal of the present Principal Officers of the Ordnance in Great Britain, all such messuages, lands, tenements, estates, and other hereditaments, real property and servitudes, respectively, shall become vested in, and be held by the succeeding Principal Officers in Great Britain, according to the respective nature and quality of the said messuages, lands, tenements, estates, and other hereditaments, and the several estates and interests of, and in the same respectively, in trust, as aforesaid.

IV. And be it further Ordained and Enacted by the authority aforesaid, that it shall and may be lawful for the said Principal Officers for the time being, or any two or more of them, personally, or by and through any person or persons, whom they or any two or more of them shall appoint in that behalf, to sell, exchange, or in any manner dispose of, or let, or demise, as well any of the messuages, lands, tenements, estates, or other hereditaments, real property and servitudes, respectively, which shall be vested in them under and by virtue of this present Ordinance, with their respective appurtenances, either by public auction or private contract, and in due form of law to convey, surrender or assign, or make over, or to grant, or demise the the same respectively, (as the case may require,) to any person or

persons, who shall be willing to purchase, or take the same in exchange, or otherwise, respectively, and also to do any other act, matter, or thing, in relation to any such messuages, lands, tenements, estates, and other hereditaments, which shall by the said Principal Officers be deemed beneficial to the public' service in relation thereto, or for the better management thereof, which might be done by any person, having a like interest in any such like messuages, lands, tenements, estates, and other hereditaments.

V. And be it further Ordained and Enacted by the authority aforesaid, that the monies to arise, and be produced by the sale or exchange of any of the said messuages, lands, tenements, estates, and other hereditaments, real property or servitudes, which shall be so sold or exchanged, under the provisions of this Ordinance, shall be paid by the respective purchaser or purchasers thereof, or the person or persons making such exchange unto the respective, or other Chief Officer or Officers of the Ordnance, in the said Province of Lower Canada, for the time being, or to such other person or persons as the said Principal Officers, for the time being, or any two or more of them shall direct or appoint to receive the same, for the use of Her Majesty, her heirs and successors; and that the receipt of the said Principal Officers, or any two or more of them, or of the respective or other Chief Officer or Officers, or of such other person or persons aforesaid, for such monies (such receipt to be endorsed or written on or subjoined to every such conveyance, surrender, or assignment, as aforesaid,) shall effectually discharge the purchaser or purchasers, or person or persons; by, upon, or on whose account the same shall be paid.

VI. And be it further Ordained and Enacted by the authority aforesaid, that immediately from and after the payment of the said purchase money, and the execution of every such conveyance, surrender and assignment, as aforesaid, the purchaser or purchasers therein named, or the person or persons making such exchange, as aforesaid, shall be deemed and adjudged to stand seized and possessed of the messuages, lands, tenements, estates and other hereditaments, real estates and servitudes, which shall be so purchased or taken in exchange, and conveyed, surrendered, assigned, or made over to him, her or them, respectively, freed and absolutely discharged of and from all manner of prior estates, leases, rights, titles, interests, charges, incumbrances, claims and demands, whatsoever, which can or may be had, made, or set up, into, out, of, or upon, or in respect of the said, messuages, lands, tenements, estates, and other hereditaments, by any person or persons whomsoever, on any account whatever, (save and except such estates, leases, rights, titles, interests, charges, incumbrances, claims and demands, as in any such conveyance, surrender, deed of exchange, or assignment, shall be excepted.)

VII. And be it further Ordained and Enacted by the authority aforesaid, that it shall be lawful for the said Principal Officers for the time being, and for the said Respective and other Chief Officer or Officers, for the time being, and they are respectively hereby authorised and empowered, to bring, prosecute, and maintain, in the name of Her Majesty, her heirs or successors, any action or actions, or other proceedings at law, in the Court of King's Bench, in the said Province, or in any other Court there of competent jurisdiction, for recovering possession of any messuages, lands, tenements, estates, and other hereditaments, by this

Ordinance vested in them, as aforesaid, and to sue for any arrears of rent which shall have become or shall become due for or in respect thereof, under the respective or other Chief Officer or Officers, for the time being, as aforesaid, and also to bring, prosecute and maintain, in the name of Her Majesty, her heirs or successors, any other action, suit or process at law, in respect of, or in relation to the said messuages, lands, tenements, estates, or other hereditaments, or of any trespass or encroachment committed thereon, or damage or injury done thereto.

VIII. And be it further Ordained and Enacted by the authority aforesaid, that it shall be lawful for all bodies, politic or corporate, Ecclesiastical or Civil, and all Trustees for charitable or other public purposes, and for the husbands, guardians, trustees, committees, curators, or attornies of such of the owners or proprietors of or persons interested in any messuages, lands, tenements, estates, and other hereditaments, real property and servitudes in the said Province, which have been or may be hereafter agreed to be purchased or taken for the use of the said Ordnance Department, as shall be married women, minors, infants, lunatics, idiots, or persons beyond the seas, or otherwise incapable of acting for themselves, to contract or agree with the said Principal Officers, for the time being, either for the absolute sale or exchange of any such messuages, lands, tenements, estates or other hereditaments real property and servitudes, or for the grant and release of any estate, right, title or interest therein, or sale of any reversion after any estate or estates, for lives or years, or for the grant of any lease, either for life or lives, or for any term of years certain therein, or for such period as the exigency of public service shall require, and to convey, surrender, demise, or grant the same accordingly; and all contracts, sales, conveyances, surrenders, leases, and agreements, which shall be made in pursuance hereof, shall be valid and effectual in law, to all intents and purposes whatsoever, and shall be a complete bar to all dower and claims of dower, estates—tail, substitutions, and other estates, rights, titles, property trusts, and interests whatsoever.

IX. And be it further Ordained and Enacted by the authority aforesaid, that in every such case of purchase or exchange of any lands or hereditaments, or of any such reversion, as aforesaid, or purchase of any other interest, the purchase money of the same shall not be paid into the hands of the person or persons who shall execute and make such sale or exchange, or other conveyance, but that the same shall be deposited, with a copy of the deed of sale or exchange, as the case may be, in the hands of the Prothonotary or Prothonotaries of the Court of King's Bench, in the District wherein the property so sold, or exchanged, shall be situated, and that upon the making and granting the receipt, which such Prothonotary or Prothonotaries are hereby authorised and ordered to make and grant to the Principal Officers of the Ordnance, who shall have made the said deposit, the said lands or hereditaments, real property and securities so sold or exchanged, shall be and become vested in the said Principal Officers of the Ordnance, for the time being, for the public service, in trust for Her Majesty, her heirs and successors: Provided always, that it shall be the duty of such Prothonotary or Prothonotaries, within eight days after the receipt of such deposit, to make and insert a notice during three weeks, in both languages, in the Quebec and Montreal Gazettes, published by authority, in which the date of the deed of sale or

exchange, so passed, shall be mentioned, the amount of the money deposited in their hands, with the description of the property so sold or exchanged, and also an injunction on all and every person or persons, who may be legally entitled to claim the whole or part of the said money, or be possessed of any rights, titles, mortgages or interest whatsoever in the same, either in his or their own persons, or as duly representing other interested persons, to file their claims within thirty days of the date of such notice, in the office of such Prothonotary or Prothonotaries, after which delay no such claim shall be received or admitted; and it is further Ordained, that married women, entitled to a dower on the property so sold or exchanged, or possessed of any other rights in the same, before the sale or exchange thereof, as aforesaid, and all other persons duly representing minors, lunatics, idiots, or persons beyond the seas, having any right, title or interest in the monies arising from the sale or exchange of the said property, or any person or persons, having in his or their own name, any right, title, or interest, whatsoever, in the aforesaid monies, so deposited, are hereby authorised to file their claims, as above mentioned; and the Judges of the Court of King's Bench, in this Province, within whose jurisdiction such claims may be made, are hereby authorised to hear and determine the same, and to order a final distribution of the said monies to the parties entitled to the same, or the application or placing of the same, as the case may be so as to secure present or future rights, according to the Laws of this Province.

X. And be it further Ordained and Enacted by the authority aforesaid, that all contracts, conveyances, surrenders, leases, and other deeds, and instruments, whatsoever, relating to the public service, which shall hereafter be made, or entered into, by, to, or with the Principal Officer or Officers of the Ordnance, for the time being, in Lower Canada, or whereunto they or any of them shall be parties or a party, it shall be sufficient to call or describe the said Principal or other Chief Officer or Officers, as aforesaid, by the style or title of "The Officers, or Chief acting Officer, (as the case may be) of Her Majesty's Ordnance," without naming them, or any or either of them; and that all such contracts, conveyances, surrenders, leases and other deeds or instruments, wherein the said Principal Officers, or the said Respective, or other Chief Officers or Officer, as aforesaid, shall be called or described by their style or title, as aforesaid, and the execution thereof, respectively, by the said Principal Officers, or any two or more of them, or by the said Respective or other Chief Officers or Officer, as aforesaid, shall be valid and effectual, and have the like force and operation, to all intents and purposes whatsoever, as if the said Principal Officers, or any two or more of them, or the said Respective, or other Chief Officers or Officer, as aforesaid, had been respectively named therein.

XI. And be it further Ordained and Enacted by the authority aforesaid, that the said grounds, buildings, lands, tenements, property, and hereditaments, shall be liable to all the public charges and obligations, and to those of vicinage, to which other immoveable property and hereditaments, in this Province, are liable; and any injunction, demand or suit, concerning the said charges and obligations, may be made or brought by any person to whom it shall appertain, according to the laws in force in this Province, to and against the Principal Officers aforesaid, in their capacity aforesaid, or to or against the Officer, Agent, Director, Guardian,

or principal Servant present and resident in each place respectively; and for the satisfaction of any judgment rendered against them, and of the costs of suit, the property of which the said Principal Officers, incorporated for the purposes of this Ordinance, are hereby declared seized, and all moveable property belonging to Her Majesty, her heirs and successors, serving for the use of, or as furniture for each place, respectively, or which shall be found in, or belonging to, such places, shall be responsible, in the same manner as obtains with regard to private persons or property, according to the Laws in force in this Province: Provided always, and it is hereby expressly Enacted, that no Principal or other Officer of Her Majesty's Ordinance, shall be personally liable, nor shall the property of any such Officer be liable to any legal process, judgment, or execution in such action, injunction, demand, or suit, as aforesaid.

XII. And be it further Ordained and Enacted by the authority aforesaid, that this Ordinance shall be and remain in force, until the first day of November, one thousand eight hundred and forty two, and no longer.

XIII. 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 authorised 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 Fourteenth day of March, 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-nine.

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