

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

3 Victoria – Chapter 33 (Session 5)

An Ordinance to provide more effectually for the safe storing and keeping of Gunpowder within and near the City and Town of Montreal.

Whereas it is expedient and necessary to make more effectual provision for the safe storing and keeping of Gunpowder in and near the City and Town of Montreal:—Be it therefore Ordained and Enacted by His Excellency the Governor of this Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this Province, constituted and assembled by virtue 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 also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the second and third years of the Reign of Her present Majesty, intituled, “An Act to amend an Act of the last Session of Parliament, for making temporary provision for the Government of Lower Canada;” and it is hereby Ordained and Enacted by the authority of the said Acts of Parliament, that from and after the first day of July, now next ensuing, it shall not be lawful for any person or persons whomsoever, to store, keep or have, within the City or Town of Montreal, or within three miles from the boundaries thereof, any quantity of gunpowder exceeding in weight twenty-five pounds, at any one time in any house, building or place, other than and except in a building or buildings constructed or to be constructed of stone, covered with metal, made fire proof, and furnished with proper lightning rods, or conductors, and at the distance of at least two hundred feet on every side, from any other building whatever; which building or buildings constructed and completed as aforesaid, before any gunpowder shall be stored or kept therein, shall be certified by a person of competent skill, to be sufficient for the safe storing and keeping of gunpowder therein, and shall be approved of as being sufficient for that purpose by two or more of the Justices of the Peace resident in the said City or Town of Montreal.

II. And be it further Ordained and Enacted, that any person or persons who shall store, keep or have any quantity of gunpowder exceeding the said quantity of twenty-five pounds, at any one time, in any building or place within the limits aforesaid, other than and except in a building constructed, covered, furnished and situated as aforesaid, shall forfeit to Her Majesty, Her Heirs and successors for every such offence the sum of ten pounds, sterling money of Great Britain, and all and every such gunpowder so stored or kept, contrary to the provisions of this Ordinance, shall be and remain forfeited to Her Majesty, Her Heirs and Successors.

III. And be it further Ordained and Enacted, that one half of the said penalty of ten pounds and of the gunpowder forfeited in virtue of this Ordinance, shall belong to the person who shall sue for the same within three months from the commission of the offence, and one half thereof to Her Majesty, Her Heirs and successors, and the said penalty may be sued for and recovered, and the forfeiture of gunpowder in pursuance of this Ordinance, be declared and adjudged in any Court of Record in this Province, or by and before any two Justices of the Peace for the District of Montreal, who may cause the said penalty with costs to be levied by and under their warrant of distress, after conviction of the offender or offenders, on the oath of one or more credible witness or witnesses other than the informer, and shall and may declare and adjudge such forfeiture of gunpowder as aforesaid, and that the same be sold and the proceeds thereof divided under their authority, according to the provisions of this Ordinance.

IV. And be it further Ordained and Enacted, that it shall be lawful for any Justice of the Peace for the District of Montreal, on information and complaint on oath made before him, or on complaint by any two or more householders, being inhabitants within the said limits, assigning a reasonable cause for believing that any quantity of gunpowder exceeding in weight twenty-five pounds, is stored or kept within the limits aforesaid, contrary to the provisions of this Ordinance, to issue his warrant under his hand and seal, to be directed to one or more constables of the said City and Town of Montreal, for the seizure of the said gunpowder, and for the conveyance of the same to a place in which it may be lawfully stored and kept with safety; and the constable or constables charged with the execution of any such warrant, shall have full power and authority to enter into, and if there shall be occasion, to break open the door of the house, building or place mentioned in such warrant, in the day time only, and there search for, seize and secure such gunpowder, to be conveyed, as aforesaid, and to be detained until it shall be determined, in due course of law, as aforesaid, whether the same hath been, or shall be declared forfeited by virtue of this Ordinance.

V. Provided always, and be it further Ordained and Enacted, that this Ordinance or any thing therein contained, shall not be construed in any manner to relate to, or affect any store-house or magazine belonging to Her Majesty, Her Heirs or Successors, wherein gunpowder or other stores shall be kept for the use of the public, or to the conveyance of gunpowder to or from Her Majesty's magazines, or by Her Majesty's Forces employed on Military service.

VI. And be it further Ordained and Enacted, that this Ordinance and the provisions therein, shall not cease or expire on the first day of November, which will be in the year of our Lord one thousand eight hundred and forty-two, but shall be and remain a permanent law, and in full force in this Province, until the same shall be repealed or altered by competent Legislative authority; and shall also be held and taken to be a Public Act, and as such

judicially taken notice of in all Courts, and by all Judges, Justices and others without specially pleading the same.

C. POULETT THOMSON.

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 Sixteenth day of June, in the third 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 forty.

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