

*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 58 (Session 4)

**An Ordinance to establish Circuit Courts of Requests in the Districts of Quebec, Montreal, and Three Rivers, and for other purposes.**

Whereas it is expedient to suspend in part an Act of the Legislature of this Province, passed in the sixth year of the Reign of His late Majesty King William the Fourth, intituled "An Act to provide for the Summary Trial of Small Causes," in as far as regards the appointment of Commissioners in certain parts of this Province-, and in other respects hereinafter expressed, and to vest the power, authority and jurisdiction to them given in and by the said Act, in another tribunal:—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 from and after the first day of May next, the said Act of the Legislature of this Province, in so far as the same authorizes the Governor, Lieutenant Governor, or person administering the Government for the time being, to nominate and appoint Commissioners for the trial of Small Causes, as is thereby provided; be, and the same is hereby suspended, except within the limits hereinafter mentioned; and that from and after the said first day of May next, all and singular the commissions whereby any person or persons have been or shall be appointed Commissioners in the behalf aforesaid, elsewhere than within the District of Saint Francis [Saint-François], or the Inferior District of Gaspé, shall be, and they are hereby vacated and annulled.

II. And be it further Ordained and Enacted by the authority aforesaid, that there shall be, and there is hereby constituted in each of the Districts of Quebec, Montreal, and Three Rivers [Trois-Rivières], a Court for hearing, trying, and determining in a summary way all civil suits or actions purely personal, wherein the amount claimed or the thing in dispute shall not exceed the sum or value of ten pounds sterling, and that such Court shall be called the Court of Requests for each of the said Districts respectively, and that the said Court of Requests shall have all and singular the powers, authority and jurisdiction vested in the said Commissioners, in and by the said Act, subject to the limitations in the said Act set forth, excepting only the amount of their jurisdiction, which shall be as aforesaid.

III. And be it further Ordained and Enacted by the authority aforesaid, that it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the Government of this Province, by Commission under the Great Seal of the said Province, from time to time,

to nominate, constitute, and appoint a fit and proper person, being a Barrister of ten years standing at the least, to be the Commissioner of the said Court of Requests in each and every of the said Districts of Quebec, Montreal, and Three Rivers, and that such Commissioner, being appointed a Justice of the Peace, shall be the Chairman of the Quarter Sessions in the District wherein he shall be Commissioner of the Court of Requests: Provided always, that no such Commissioner shall practice as an Advocate, Counsel, Attorney, Proctor, or Solicitor, unless such Commissioner be a Queen's Counsel, in which case he may practice for the Crown only.

IV. And be it further Ordained and Enacted by the authority aforesaid, that the Commissioner of any one of the said Court of Requests, respectively, shall have authority at any place where sittings of the said Court are hereby appointed to be holden, either during such sitting or at any other time, to proceed to the election of Tutors or Guardians, Curators, and other Counsels of relations and friends, closing of inventories, attestations of accounts, insinuations, affixing and taking off seals of safe custody, the taking of any affidavit to be used in any of the Courts of King's Bench, and to do other acts of the like nature which ought not to suffer delay; in all which matters he shall have the same powers and authority as any Judge of any Courts of King's Bench has in like matters.

V. And be it further Ordained and Enacted by the authority aforesaid, that if in any suit, the said Commissioner of the Court of Requests shall be lawfully recused by either party, (which recusation and the grounds thereof shall be reduced to writing) such suit and the proceedings thereon shall be immediately transmitted to the Inferior Term of the Court of King's Bench, or to the Provincial Court for the same District, which is hereby authorized and required to hear, try, and determine such suit.

VI. And be it further Ordained and Enacted by the authority aforesaid, that the Commissioner of the Court of Requests in each of the said Districts, shall hold a Circuit Court at all and every the places hereinafter mentioned; and the jurisdiction of each such Circuit Court shall extend over all that part of the District in which it lies, which is on the same side of the River Saint Lawrence with it: Provided always, that in any suit brought at any other such Circuit Court than that nearest to the residence of the Defendant, the Plaintiff shall recover no greater amount of costs than he would have received, if the suit had been brought at the Circuit Court nearest to the residence of the Defendant, or at the Inferior Term of the Court of King's Bench, or at the Provincial Court, if the sittings thereof be nearer to the Defendant's residence than any such Circuit Court: And this provision shall extend as well to costs after judgment as before, and if judgment be given for the Defendant, he shall be allowed and recover a fair compensation for the extra travelling expenses and loss of time to which he shall have been subjected by being summoned to such Court, instead of that nearest to his residence; and the provisions of this section shall be considered and allowed for by the Commissioner in taxing the amount of costs in such suit: Provided further, that the Parish of Grondines, in the District of Quebec, shall be for all the purposes of this Ordinance, and all matters arising out of any of the provisions thereof, considered to be within the District of Three Rivers.

VII. And be it further Ordained and Enacted by the authority aforesaid, that the sittings of the said Courts of Requests shall be held in each year (Sundays and holidays excepted) at the times and places following, that is to say:

For the District of Quebec, except the Parish of Les Grondines.

At Rimouski, on the first, second, and third of March; on the tenth, eleventh and twelfth of May; on the first, second, and third of September; on the fifth, sixth, and seventh of November; and on the twenty-ninth, thirtieth, and thirty-first of December.

At Kamouraska, on the third, fourth, and fifth of January; on the fifth, sixth, and seventh of March; on the fourteenth, fifteenth, and sixteenth of May; on the fifth, sixth, and seventh of September, and on the ninth, tenth, and eleventh of November.

At L'Islet, on the twenty-second, twenty-third, and twenty-fourth of January; on the ninth, tenth, and eleventh of March; on the eighteenth, nineteenth, and twentieth of May; on the ninth, tenth, and eleventh of September; and on the thirteenth, fourteenth, and fifteenth of November.

At St. Gervais, on the twenty-sixth, twenty-seventh, and twenty-eighth of January; on the thirteenth, fourteenth, and fifteenth of March; on the twenty-second, twenty-third, and twenty-fourth of May; on the thirteenth, fourteenth, and fifteenth of September; and on the seventeenth, eighteenth, and nineteenth of November.

At Saint Joseph, Nouvelle Beauce, on the thirtieth and thirty-first of January and the first of February; on the seventeenth, eighteenth, and nineteenth of March; on the twenty-sixth, twenty-seventh, and twenty-eighth of May; on the seventeenth, eighteenth, and nineteenth of September; and on the first, second, and third of December.

On the Craig's Road, in the Township of Leeds, and as near to the line of the Seigniorship of St. Giles as may be found possible, on the (third, fourth, and fifth of February; on the twenty-first, twenty-second, and twenty-third of March; on the thirtieth and thirty-first of May and the first of June; on the thirtieth and thirty-first of July and the first of August; on the twenty-first, twenty-second, and twenty-third of September; and on the fifth, sixth, and seventh of December.

At Lotbiniere, on the seventh, eighth, and ninth of February; on the twenty-fifth, twenty-sixth, and twenty-seventh of March; on the third, fourth, and fifth of June; on the twenty-fifth, twenty-sixth, and twenty-seventh of September; and on the ninth, tenth, and eleventh of December.

At Cap Sante, on the eleventh, twelfth, and thirteenth of February; on the twenty-ninth, thirtieth, and thirty-first of March; on the seventh, eighth, and ninth of June; on the twenty-

ninth and thirtieth of September and the first of October; and on the thirteenth, fourteenth, and fifteenth of December.

At Les Eboulemens, on the eighteenth, nineteenth, and twentieth of February; on the fifth, sixth, and seventh of May; on the fourteenth, fifteenth, and sixteenth of June; on the sixth, seventh, and eighth of October; and on the twentieth, twenty-first, and twenty-second of December.

For the District of Montreal.

At Vaudreuil, on the third, fourth, and fifth of January; on the first, second, and third of March; on the second, third, and fourth of May; on the second, third, and fourth of September; and on the second, third, and fourth of November.

At Terrebonne, on the twenty-first, twenty-second, and twenty-third of January; on the fifth, sixth, and seventh of March; on the sixth, seventh and eighth of May; on the sixth, seventh, and eighth of September; and on the sixth, seventh, and eighth of November.

At L'Assomption, on the twenty-fifth, twenty-sixth, and twenty-seventh of January; on the ninth, tenth, and eleventh of March; on the tenth, eleventh and twelfth of May; on the tenth, eleventh, and twelfth of September; and on the tenth, eleventh, and twelfth of November.

At Berthier, on the twenty-ninth, thirtieth, and thirty-first of January; on the thirteenth, fourteenth, and fifteenth of March; on the fourteenth, fifteenth, and sixteenth of May on the fourteenth, fifteenth, and sixteenth of September; and on the fourteenth, fifteenth, and sixteenth of November.

At Vercheres, on the second, third, and fourth of February; on the seventeenth, eighteenth, and nineteenth of March on the eighteenth, nineteenth, and twentieth of May; on the eighteenth, nineteenth, and twentieth of September; and on the eighteenth, nineteenth, and twentieth of November.

At St. Denis, on the sixth, seventh, and eighth, of February; on the twenty, first, twenty-second, and twenty-third of March; on the twenty-second, twenty-third, and twenty-fourth of May; on the twenty-second, twenty-third, and twenty-fourth of September; and on the twenty-second, twenty-third, and twenty-fourth of November.

At the West Church, in the Township of Shefford, on the tenth, eleventh, and twelfth of February; on the twenty-fifth, twenty-sixth, and twenty-seventh of March; on the twenty-sixth, twenty-seventh and twenty-eighth of May; on the twenty-sixth, twenty-seventh, and twenty-eighth of September; and on the twenty-sixth, twenty-seventh, and twenty-eighth of November.

At Chambly, on the fourteenth, fifteenth, and sixteenth of February; on the twenty-ninth, thirtieth, and thirty-first of March; on the thirtieth and thirty first of May, and the first of June; on the thirtieth of September, and the first and second, of October; and on the thirtieth of November, and the first and second of December.

At Dorchester, commonly called St. Johns, on the eighteenth, nineteenth, and twentieth of February; on the second, third, and fourth of April; on the third, fourth and fifth of June; on the fourth, fifth, and sixth of October; and on the fourth, fifth, and sixth of December.

At Chateauguay, on the twenty-second, twenty-third, and twenty-fourth of February; on the sixth, seventh, and eighth of April; on the seventh, eighth and ninth of June; on the eighth, ninth and tenth of October; and on the ninth, tenth, and eleventh of December.

For the District of Three Rivers, and the Parish of Les Grondines.

At Riviere du Loup, on the third, fourth, and fifth of January; on the first, second, and third of March; on the second, third, and fourth of May; on the first, second, and third of September; and on the second; third, and fourth of November.

At St. Anne's, on the twenty-first, twenty-second, and twenty-third of January; on the sixth, seventh, and eighth of March; on the seventh, eighth, and ninth of May, on the sixth, seventh, and eighth of September; and on the seventh, eighth, and ninth of November.

At Gentilly, on the twenty-fifth, twenty-sixth, and twenty-seventh of January; on the tenth, eleventh, and twelfth of March; on the eleventh, twelfth, and thirteenth of May; on the tenth, eleventh, and twelfth of September; and on the eleventh, twelfth, and thirteenth of November.

At La Baie du Febvre, on the twenty-ninth, thirtieth, and thirty-first of January; on the fourteenth, fifteenth, and sixteenth of March; on the fifteenth, sixteenth and seventeenth of May; on the fourteenth, fifteenth, and sixteenth of September; and on the fifteenth, sixteenth and seventeenth of November.

And each of the days on which any such Circuit Court of Requests is so appointed to be holden, shall be a return day for all writs and process; Provided always, that the jurisdiction of no such Circuit Court for either of the Districts of Montreal or Three Rivers, shall extend over any part of the District of Saint Francis.

VIII. And be it further Ordained and Enacted by the authority aforesaid, that it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government, to appoint, from time to time, a fit and proper person at each of the places where the sittings of the said Court of Requests are to be holden, to be Clerk of the said Court of Requests at such place: Provided always, that such person shall reside at the place at which the sittings

for which he is appointed are to be holden, and shall give security for the due performance of the duties of his office, in such manner and form and to such amount as the Governor, Lieutenant Governor, or person administering the Government of the said Province may direct.

IX. And be it further Ordained and Enacted by the authority aforesaid, that all writs and process issued from and returnable into the said Courts of Requests shall be in the form and forms prescribed for, or used by the Court of King's Bench, in its Inferior Jurisdiction, or the Provincial Court for such Districts, respectively, and shall be tested in the name of the Commissioner of the Court of Requests of such District, and shall be signed by the Clerk of the Circuit within which the same shall issue, and be sealed with the seal of the said Court of Requests, and that all and every such writs and process shall be made returnable before the Commissioner of the Court of Requests, at the place or places whence the same shall issue.

X. And be it further Ordained and Enacted by the authority aforesaid, that in all cases of seizure, attachment and execution, the said Courts of Requests shall have the same power and extent of jurisdiction as the Courts of King's Bench in their Inferior or Circuit Jurisdiction now have.

XI. And be it further Ordained and Enacted by the authority aforesaid, that the same delay shall be allowed to the Defendant in the said Courts of Requests, between the service of any writ of summons and the return thereof, as would be allowed to a Defendant in the Inferior Term of the Court of King's Bench for the District, residing at the same distance from the places where the writ or process may be returnable.

XII. And be it further Ordained and Enacted by the authority aforesaid, that the Commissioners of the said Courts of Requests shall have the same power to tax costs therein as the Judges of the other Courts of this Province now have; Provided always, that in no case determined in any one of the said Courts of Requests, shall the costs taxed against the party Defendant exceed the sum or the value of the thing which such party is condemned to pay or deliver, nor shall the costs taxed against the party prosecuting any seizure, in case of an opposition, exceed the sum or value of the thing recovered under the judgment on such opposition.

XIII. Provided also, and be it further Ordained and Enacted by the authority aforesaid, that in any suit brought in any other Court, which might be lawfully brought and determined in any of the said Courts of Requests, or which is of the kind and amount over which the said Courts of Requests have Jurisdiction under this Ordinance, the proceedings in such suit shall be as summary, and the officers of the Court shall be allowed and the Plaintiff shall recover no greater amount of costs than if such suit had been brought in one of the said Courts of Requests.

J. COLBORNE.

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 Eleventh day of April, 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.