

The Provincial Statutes of Lower-Canada, Being the sixth session of the of the Special Council, begun and holden at the City of Montreal, in the said Province of Lower Canada, fifth day of November, 1840, and ending the ninth day of February, 1841. Quebec: John Carleton Fisher & William Kemble, Law Printer to the Queen's Most Excellent Majesty, 1841.

4 Victoria – Chapter 19 (Session 6)

An Ordinance to amend two certain Ordinances therein-mentioned, relative to the administration of justice in this Province, and to make other and further provision on the same subject.

Whereas it is expedient to amend a certain Ordinance passed in the fourth year of Her Majesty's reign and intituled "An Ordinance to provide for the easy and expeditious administration of Justice in civil causes and matters involving small pecuniary value and interest throughout this Province," and a certain other Ordinance passed in the same year of Her Majesty's reign, and intituled "An Ordinance to establish new territorial divisions of Lower-Canada, and to alter and amend the judicature, and to provide for the better and, more efficient administration of Justice throughout this Province," and to make other and further provision touching the administration of Justice within this Province, and whereas in and by the Ordinance first above mentioned it is among other things in effect enacted that it shall be lawful for the Governor of this Province, with the advice of Her Majesty's Executive Council thereof, on or before the first day of December next ensuing after the passing of the said Ordinance, to issue a Proclamation under the Great Seal of the Province, whereby this Province shall be divided into Districts for the purposes of the said Ordinance, and the limits of such Districts, shall be fixed and appointed; and whereas no Proclamation as aforesaid did issue, on or before the said first day of December next ensuing after the passing of the said Ordinance, and it is therefore necessary to make other and further provision for effecting such Division of this Province into Districts for the purposes aforesaid:—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 also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the third and fourth years of Her Majesty's Reign, and intituled, "An Act to Re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada;" And it is hereby Ordained and Enacted by the authority of the said Acts of Parliament, that it shall be lawful for the Governor of this Province, by and with the advice of her Majesty's Executive Council for the said Province at any time and times before the twenty ninth day of December, in the year of our Lord, one thousand eight hundred and forty two, and not afterwards, to issue his

Proclamation or Proclamations under the Great Seal of the said Province, and by such Proclamation or Proclamations to divide or to re-divide this Province, or any portion thereof, into Judicial Districts for the purposes of Judicature and of the Ordinance herein first above mentioned and to adopt as a division or divisions for the said purposes, any District or Districts into which this Province may then be divided for municipal purposes, under the authority of a certain Ordinance passed in the present session of the Legislature of this Province, and intituled "An Ordinance to provide for the better internal Government of this Province, by the establishment of local or municipal authorities therein," and in and by any such Proclamation or Proclamations as aforesaid, to unite any two or more Municipal Districts into one Judicial District, and again to disunite or to re-unite the same, and to appoint or change, the place or places in each Judicial District, at which the District Court shall be held after the said Ordinance herein first above mentioned shall come into force, and also, when such District Court, shall be appointed to be held at more than one place in any Judicial District, (but not otherwise) to appoint or change the days in each month on which such District Court shall be held at each place; and such District Court shall be held at the places so appointed, respectively and on the days so prescribed, and not at any other time; any thing in the Ordinance last mentioned or in any other Ordinance or law to the contrary notwithstanding: Provided always, that whenever any such District Court shall be held at one place only in any Judicial District, it shall be held at the times appointed for that purpose in the Ordinance herein first above mentioned.

II. And be it further Ordained and Enacted, that so much of the thirtieth section of the said Ordinance, of the Legislature of this Province, passed in the fourth year of Her Majesty's reign, intituled, "An Ordinance to establish new Territorial Divisions of Lower Canada, and to alter and amend the judicature, and provide for the better and more efficient administration of justice, through, out this Province," as provides for the holding of a General Session of the Peace, in each of the Territorial Divisions of Quebec, Montreal and Sherbrooke, shall be, and the same is hereby repealed.

III. And be it further Ordained and Enacted, that there shall be held four times in every year, in each of the Judicial Districts in which the Cities of Quebec and Montreal, and the Towns of Three-Rivers [Trois-Rivières], and Sherbrooke, and New Carlisle, Carleton, Perce and Douglas Town, in the present Inferior District of Gaspé respectively, shall be situate, a General or Quarter Session of the Peace, by the Justices of the Peace, of the said Judicial Districts, respectively, or any three of them, one of whom shall be of the Quorum, who shall hear, try and determine all matters relating to the conservation of the Peace, and all crimes and criminal offences, causes and matters, which are or may be cognizable in and by General or Quarter Sessions of the Peace according to the laws in force in this Province; and the said General or Quarter Sessions of the Peace, for the said last mentioned Judicial Districts, shall respectively be held as follows, that is to say, at the Cities of Quebec, and Montreal, and at the Towns of Three-Rivers and Sherbrooke, and at the places aforesaid in the said Inferior District of Gaspé, from the tenth to the nineteenth day of each of the months of January, and July, and from the twenty first to the thirtieth day of each of the months of April, and October, the first and last days of each of the said periods, being included, and Sundays and

holidays excepted: And the said Justices of the Peace, in the said General or Quarter Sessions of the Peace, to be held as aforesaid, shall be invested with, and shall and may exercise, within the said last mentioned Districts, respectively, all and every the powers, authorities, and jurisdictions which, at the time hereinafter appointed for the commencement of this section, shall by Law be vested in and required to be exercised by the General or Quarter Sessions of the Peace in the several Districts of Quebec, Montreal, and St. Francis [Saint-François], and at the places aforesaid in the said Inferior District of Gaspé.

IV. And be it further Ordained and Enacted, that all and every the records, registers, muniments and judicial and other proceedings of the several Courts of General or Quarter Sessions of the Peace, in the several Districts of Quebec, Montreal, Three-Rivers and St. Francis, and at New Carlisle, Carleton, Perce and Douglas Town aforesaid, as now constituted, shall forthwith, after the period hereinafter appointed for the commencement of this section, be transmitted into and make part of the records, registers, muniments, and judicial and other proceedings of the Courts of General or Quarter Sessions of the Peace, which are hereby substituted to and for the said Courts, in the said Judicial Districts in which the Cities of Quebec, Montreal, and the Towns of Three-Rivers, and Sherbrooke, and the places aforesaid in the said Inferior District of Gaspé, shall, respectively be situate; and all and every the records, registers, muniments, and judicial and other proceedings of the Provincial Court of the said District of St. Francis, shall in like manner, forthwith after the commencement of this section, be transmitted into, and make part of the records, registers, muniments and judicial and other proceedings of the Court of Common Pleas for this Province, in the third division thereof.

V. And be it further Ordained and Enacted, that no judgment, rule or order of the said Courts of General or Quarter Sessions, in the said Districts of Quebec, Montreal, Three Rivers, and St. Francis, or at New Carlisle, Carleton, Perce, or Douglas Town aforesaid, or in the said Provincial Court of the said District of St. Francis, as now constituted, which have been or may be legally pronounced, given, had, or done, before the period hereinafter appointed for the commencement of this section, shall hereby, or by any other Ordinance or Law, be avoided, but shall remain in full force and virtue, as if this section or any other Ordinance or Law relating to the jurisdiction of the said Courts, enacted by this Legislature, had not been passed; nor shall any indictment, information, suit, appeal, or proceeding, depending in the said Courts of General or Quarter Sessions, or any action, suit, cause or proceeding depending in the said Provincial Court, be abated, discontinued, or annulled, but the same shall be transferred, in their then present condition, respectively, to and subsist and depend in the said Courts of Quarter Sessions, hereby established in the Judicial Districts in which the Cities of Quebec and Montreal, and the Towns of Three Rivers and Sherbrooke, and at the places aforesaid in the said Inferior District of Gaspé shall be situate, and in the said Court of Common Pleas in the said third division thereof respectively, to all intents and purposes, as if they had been respectively commenced, brought, found, prosecuted, or removed in or into the said Courts respectively, to which they are to be transferred as aforesaid: And the said Courts of General or Quarter Sessions, hereby established in the Judicial Districts in which the Cities of Quebec and Montreal, and the Towns of Three-Rivers

and Sherbrooke, and the places aforesaid in the said Inferior District of Gaspé shall respectively be situate, shall have full power and authority to proceed accordingly, to judgment and execution, and to make such rules and orders in the premises, as the said Courts of Quarter Sessions hereby established might lawfully make in causes, appeals, actions, suits and proceedings commenced or depending before the said, last mentioned Courts respectively.

VI. And whereas it is necessary to make further provision for the administration of Justice in criminal cases, until Court Houses and Gaols shall be erected in the aforesaid several Judicial Districts as aforesaid Be it therefore further Ordained and Enacted, that all treasons, murders, felonies, and misdemeanors, crimes and criminal offences which have been or may be committed in the Judicial Districts so constituted as aforesaid and lying, within the Territorial Division of Quebec, or any of them, or at any place or places included in the same shall and may, until Court Houses and Gaols shall have been erected and completed in the said Judicial Districts respectively, be enquired of, examined, tried, determined, and adjudged, and punishment thereupon be awarded, and executed, in the Judicial District in which the City, of Quebec shall be situate, in like manner and form as if the said treasons, murders, felonies, misdemeanors, crimes and criminal, offences, had been done, committed, or perpetrated, within the said last mentioned Judicial District; and all treasons, murders, felonies, misdemeanors, crimes and criminal offences, which have been or may be committed in the Judicial Districts, so constituted as aforesaid, and lying within the Territorial Division of Montreal, or any of them, or at any place or places included in the same, shall and may until Court Houses and Gaols shall be erected and completed in the said last mentioned Judicial Districts respectively, be enquired of, examined, tried, determined, and adjudged, and punishment thereupon be awarded and executed in the Judicial District in which the city of Montreal shall be situate, in like manner and form as if the said last mentioned treasons, murders, felonies, misdemeanors, crimes and criminal offences had been done, committed, or perpetrated, within the said last mentioned Judicial District; and all treasons, murders, felonies, misdemeanors, crimes and criminal offences which have been or may be committed in the Judicial Districts constituted as aforesaid, and lying within the Territorial Division of Sherbrooke, or any of them, or at any place or places included in the same, shall and may, until Court Houses and Gaols shall be erected and completed in the said last mentioned Judicial Districts respectively, be enquired of, examined, tried, determined, adjudged and punishment thereupon be awarded and executed in the Judicial District in which the Town of Sherbrooke shall be situate, in like manner and form as if the said last mentioned treasons, murders, felonies, misdemeanors, crimes and criminal offences had been done, committed, or perpetrated, within the said Judicial District last mentioned; Provided always that nothing herein contained shall in any manner abridge, alter or affect the jurisdiction, power and authority of the General Sessions of the Peace to be held in the said Judicial Districts respectively, or any of them, in pursuance of the provisions hereinbefore contained, which jurisdiction, power and authority shall and may be exercised, in the manner hereinbefore provided; any thing to the contrary thereof herein contained notwithstanding.

VII. And be it further Ordained and Enacted, that the Gaols now erected and being at the cities of Quebec and Montreal, and at the Town of Three Rivers, shall, from and after the commencement of this section, be and be deemed and taken to be the Common Gaols and Houses of Correction of the Judicial Districts in which the Cities of Quebec, Montreal, and the Town of Three Rivers, respectively, as constituted and declared by the Proclamation or Proclamations aforesaid shall be situate, to all intents and purposes, and in like manner as the same are now the Common Gaols and Houses of Correction for the Districts of Quebec, Montreal, and Three Rivers respectively, as now constituted.

VIII. And be it further Ordained and Enacted, that the Gaol now erected and being at the Town of Sherbrooke, in the Territorial Division of Sherbrooke, shall, from and after the commencement of this section be and be deemed and taken to be the Common Gaol of and for the Judicial District as constituted and declared by the Proclamation or Proclamations aforesaid, in which the Town of Sherbrooke shall be situate, to all intents and purposes whatsoever.

IX. And be it further Ordained and Enacted, that the Gaol now erected and being at the City of Quebec, in the territorial division of Quebec shall, to all intents and purposes, constitute and be a Common Gaol of and for each and every of the respective Judicial Districts comprehended within the said territorial division in which a Gaol is not now erected, and until a Gaol shall be erected and made fit for the reception of prisoners, in the said Judicial Districts respectively: and in like manner the Gaol now erected and being at the City of Montreal, in the Territorial Division of Montreal, shall, to all intents and purposes, constitute and be the Common Gaol of and for each and every of the respective Judicial Districts comprehended within the said last mentioned territorial division, in which a Gaol is not now erected and until a Gaol shall be erected and made fit for the reception of prisoners in the said Judicial Districts respectively: and in like manner the Gaol now erected and being at the Town of Sherbrooke, in the Territorial division of Sherbrooke, shall to all intents and purposes, constitute and be the Common Gaol of and for each and every of the respective Judicial Districts comprehended within the said last mentioned territorial division in which a Gaol is not now erected, and until a Gaol shall be erected and made fit for the reception of prisoners, in the said last mentioned Judicial Districts respectively; and the Sheriffs of the Judicial Districts in which the said Gaols, at the said Cities of Quebec and Montreal, and at the said Town of Sherbrooke, respectively, are situate, shall receive into the said Gaols, and there safely keep all persons who may be therein imprisoned, or required to be imprisoned, in pursuance of the provisions hereinbefore contained: and the said Sheriffs of the said last mentioned Judicial Districts, respectively, shall be answerable for the safe keeping of the persons committed to the said Common Gaol, in pursuance of the said provision hereinbefore contained, in the same manner as if they were Sheriffs of the Judicial Districts for and in respect of which the Gaols at the Cities of Quebec and Montreal, and the Town of Sherbrooke are constituted Common Gaols as aforesaid, and, with respect to the persons so committed, shall be deemed and held to be Sheriffs of the said last mentioned Judicial Districts respectively.

X. And be it further Ordained and Enacted, that it shall be lawful for the Governor of this Province, by his Proclamation under the Great Seal thereof, to fix and appoint the day from and after which the said two Ordinances cited; in the Preamble of this Ordinance and hereby amended, and also a certain Ordinance passed during the present Session of the Legislature, and intituled, "An Ordinance for the better regulation of the office of Sheriff in this Province," and also the third, fourth, fifth, sixth, seventh, eighth, and ninth sections of this Ordinance, shall have force and effect, and the said three Ordinances, (excepting such parts thereof as have been repealed, or derogated from by any Ordinance subsequent to them or any of them respectively, or by this Ordinance) and the said sections of this Ordinance, shall have force and effect from and after the day appointed for that purpose in such Proclamation and not before; any thing in the said three Ordinances or in any other Ordinance heretofore passed to the contrary notwithstanding. Provided always, that the day so fixed and appointed for the commencement of the said Ordinances and sections, shall not be later than the thirty-first day of December, which will be in the present year of our Lord one thousand eight hundred and forty-one.

XI. And be it further Ordained and Enacted, that the words "Governor of this Province," wherever the same occur in the foregoing enactments, shall be understood as comprehending the Governor or person authorized to execute the commission of Governor within this Province for the time being.

XII. And be it further Ordained and Enacted, that this Ordinance, and the provisions herein contained, 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 and public law, and in force in this Province until the same shall be repealed or altered by competent Legislative authority; and all Judges, Justices, and other persons therein concerned, shall take notice thereof, though the same be not specially pleaded.

SYDENHAM.

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 Thirtieth day of January, in the Fourth 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-one.

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