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T H E  
P R O V I N C I A L S T A T U T E S  
O F  
L O W E R - C A N A D A .

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Anno Regni GEORGE III. Tricesimo Quinto,

HIS EXCELLENCY THE RIGHT HONORABLE

GUY LORD DORCHESTER GOVERNOR.

‘ A T the Provincial Parliament, begun and holden at *Quebec*, the seventeenth day of  
‘ December, *Anno Domini* one thousand seven hundred and ninety-two, in  
‘ the thirty-third Year of the Reign of our Sovereign Lord GEORGE the Third, by  
‘ the Grace of GOD, of *Great-Britain, France and Ireland* KING, Defender of the  
‘ faith, &c.

‘ And from thence continued by several Prorogations to the fifth day of January,  
‘ one thousand seven hundred and ninety-five, being the third Session of the first  
‘ Provincial Parliament of LOWER-CANADA.

C A P. I.

An Act to explain and amend an Act made in the thirty-fourth year of the  
reign of his present Majesty, intituled “ *An Act for the division of the Pro-  
vince of Lower-Canada, for amending the Judicature thereof and for repea-  
ling certain Laws therein mentioned.*”

Preamble.

W H E R E A S by an Act passed by the Legislative Council and by the House of  
Assembly in the last Session of the Legislature of this Province, intituled, “ *An  
Act for the division of the Province of Lower-Canada, for amending the Judicature thereof, and  
for repealing certain Laws therein mentioned,*” which said Act was referred by the Gover-  
nor, for the signification of his Majesty’s pleasure thereon, and his Majesty hath been  
graciously pleased to grant his assent to the same, and it was therein enacted, that the  
county of Gaspé should be erected into an inferior district; and that in the same dis-  
trict there should be appointed a Provincial Judge, who should hold a provincial  
court within and for the said district, with full cognizance of and hear, try and de-  
termine in a summary manner, without appeal, every writ, suit or action, and where  
the King is a party, (those purely of Admiralty jurisdiction excepted,) wherein the  
amount claimed shall not exceed the sum of twenty pounds sterling: and whereas it  
is expedient that further provision be made regarding the said inferior district of Gaspé,  
be it therefore enacted by the King’s most excellent Majesty, by and with the advice  
and consent of the Legislative Council and Assembly of the province of Lower-Canada,  
constituted and assembled by virtue of and under the authority of an Act, passed in  
the Parliament of Great-Britain, intituled, “ *An Act to repeal certain parts of an Act pas-  
sed*”

Power of issuing summons for the inferior district of Gaspé, &c.

“ *sed in the fourteenth year of his Majesty's reign, intituled “ An Act for making more effectual provision for the Government of the province of Quebec in North America, and to make further provision for the Government of the said Province;”* that it shall and may be lawful to and for all and every person having rights, claims or demands for any fee of office, duty, rent, revenue or any sum or sums of money payable to his Majesty, or titles to lands or tenements, annual rents or such like matter or thing, where rights in future may be bound, arising in the district of Gaspé aforesaid; to institute his, her or their suit and demand by summons from the Provincial Judge at Gaspé returnable into the court of King's Bench at Quebec, in the same manner as if the demand exceeded the sum of twenty pounds sterling, any law to the contrary notwithstanding.

Transmission of records.

II. And whereas by the aforesaid Act passed in the last Session of the Legislature, it was enacted, that all records, registers and proceedings in custody of or belonging to the court of King's Bench of this Province, should be taken and considered to belong to and be in custody of the court of King's Bench to be established under the said Act, for the district of Quebec; and whereas it is expedient that all and every the records of the said court of King's Bench, which have been formed upon proceedings had in causes moved and prosecuted in the district of Montreal, or in the inferior district of Three Rivers, should be lodged and deposited with some proper and sufficient Officer in the several courts of King's Bench of the said district of Montreal and Three Rivers respectively; be it therefore further enacted, that all and every the indictments, recognizances, registers, papers, proceedings and records of what nature soever, which during the establishment of the court of King's Bench, prior to the passing the above mentioned Act, shall have been possessed by the said court or any Officer or person holding custody of the same for the said court, or that may now be possessed by the court of King's Bench of the district of Quebec, or any Officer or person holding custody of the same for the said court, relating to any suit or prosecution moved or heard in the said court of King's Bench, for the province of Quebec or Lower-Canada, sitting at the city of Montreal, for the district of Montreal; and at the town of Three Rivers, for the district of Three Rivers, shall be forthwith transmitted to the said district of Montreal and Three Rivers respectively, and into the office of the Clerk of the Crown or proper Officer of the court of King's Bench of the said several districts, and by the said Clerk of the Crown or other proper Officer of the said court shall be received, held and preserved as making part of the records of the said courts respectively, and to all legal intents and effects whatsoever, as if the same records and proceedings had been originally formed in the said courts of King's Bench of the district of Montreal and Three Rivers, established since the passing of the Act before mentioned; and that the said court of King's Bench of the district of Montreal and Three Rivers respectively, shall have full power and authority, from time to time, to order and compel such person and persons as are in possession of any of the records before mentioned, to transmit and deliver over the same in manner aforesaid, and every refusal so to do, shall be deemed a contempt of the respective court issuing such order therefor, and the person or persons so refusing may be proceeded against as in cases of contempt and adjudged accordingly.

Superior and inferior Terms for the trial of civil causes at Quebec and Montreal established.

III. And whereas by the aforesaid Act passed in the last Session of the Legislature, it was enacted, that the courts of King's Bench to be held in and for the district of Quebec and Montreal, for the trial of Civil Pleas, as well as the superior Terms as inferior thereof, should be held at certain days and times, as in the said Act specified: and which days and times may be more conveniently appointed for the administration of justice; be it therefore further enacted, that the superior Terms of the courts of King's Bench for the district of Quebec and Montreal respectively, shall sit and be held at

at stated times for the trial of suits and actions of a civil nature, that is to say, on the first twenty days in the months of February, April, June and October, in every year; and shall sit and be held every of the said twenty days during the Terms aforesaid, (Sundays and holy-days excepted,) any thing to the contrary notwithstanding.

Justices of the Peace to commit offenders &c.

IV. And be it further enacted, that it shall and may be lawful for any Justice of the Peace or other Magistrate having jurisdiction in the district in which any offender may be found, to cause such offender for any crime or offence committed within the limits of this Province to be arrested and imprisoned, or in cases where it may be lawful to be holden to bail in order for his or her trial, before such court of this said Province, which by the Laws, Statutes and Ordinances thereof has cognizance of such crime or offence, and the examination of such offender, and the depositions of the witnesses taken before such Justice of the Peace or other Magistrate as aforesaid, upon the arrest of such offender, shall be by them respectively returned with all convenient speed into the office of the Clerk of such court, together with the recognizances of such witnesses for their appearance at the then next Session or Term of such court, to testify and give evidence in such case, which recognizances the Justice of the Peace or other Magistrate as aforesaid, before whom the examination of such offender shall be had, is hereby authorized to require on pain of imprisonment.

Powers granted to the Justices of the court of K. B. to grant writs of habeas corpus.

V. Provided always and it is hereby enacted, that in all cases where such recognizances shall by law be forfeited, it shall be lawful for the court to which such recognizances shall so as aforesaid be returned, to proceed thereon in like manner as if the said recognizances had been taken in the district in which such court hath complete jurisdiction; and if such commitment of such offender shall be in a district other than that in which the offence is to be tried, the Justices of the court of King's Bench of that district in which such offender shall be so imprisoned, or any or either of them, upon application of his Majesty's Attorney or Solicitor General, and in default of such application, upon the application of such offender, shall issue a writ of Habeas Corpus commanding the keeper of the gaol in which such offender shall be so imprisoned, to have the body of such offender before them or either of them, at a convenient time and place to be specified in such writ, together with the true cause of his commitment and detainer; and if thereon it shall appear that such offender is detained upon such commitment as aforesaid, for any crime or offence committed in another district, the Justices of the said court of King's Bench, or any or either of them, before whom such writ of Habeas Corpus shall be so made returnable, shall take course for the immediate removal of such offender to the common gaol of the district in which the trial of such offender for such crime or offence is to be had, by warrants under their hands and seals, directed to the keeper of the gaol and to the Sheriff of the district in which such offender shall be so imprisoned, and to the keeper of the gaol of the district in which the trial of such offender is to be had, authorizing the delivrance of the body of such offender from the gaol of the district in which such offender shall be so imprisoned, and commanding the Sheriff of the district in which the offender shall be so imprisoned to remove the body of such offender forthwith, with all care and diligence, to the gaol of the district in which the trial of such offender is to be had, and commanding the keeper of the gaol of the district in which the trial of such offender is to be had, to receive such offender, charged with such crime or offence, into his custody in the gaol of the said district, there to remain till he be thence delivered in due course of law, which warrants the Sheriff of such district and the keepers of such goals as aforesaid, are hereby required to execute.

VI. And be it further enacted, that if any witness or witnesses in any criminal case cognizable

And to issue writs of Subpœna to witnesses,

cognizable in the courts of King's Bench for the district of Quebec, Montreal or Three Rivers, shall reside in any part of this Province, without the jurisdiction of that court of King's Bench in which such criminal case is cognizable, it shall and may be lawful for the court of King's Bench in which such criminal case is cognizable, to issue a writ or writs of sub pœnâ, directed to such witnesses, in like manner as if such witnesses were resident within the jurisdiction of such court of King's Bench, and in case such witnesses shall not obey such writ or writs of sub pœnâ, it shall be lawful for the court of King's Bench from whence such writ or writs of sub pœnâ issued, to proceed thereon against such witnesses for contempt or otherwise, in like manner as if such witnesses were resident within the jurisdiction of such court, any law, usage or custom to the contrary thereof in any wise notwithstanding.

## C A P. II.

An Act for the appointment of Inspectors to ascertain the quality of Pot and Pearl-ashes for exportation.

Preamble.

WHEREAS Pot and Pearl-ashes are articles of increasing consequence in the exports from this Province, and it would tend to the improvement of the quality thereof, and have other beneficial effects that the same should be ascertained previous to their being shipped for exportation; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled "An Act to repeal certain parts of an Act passed in the fourteenth year of his Majesty's reign" intituled "An Act for making more effectual provision for the Government of the Province of Quebec in North-America and to make further provision for the Government of the said Province." And it is hereby enacted by the authority of the same, that it shall and may be lawful for the Governor, Lieutenant Governor or Person administering the Government from time to time, as to him may seem reasonable, to appoint one or more capable person or persons in such of the cities, towns or places in this Province, where it is or shall be necessary to be Inspector or Inspectors of Pot and Pearl-ashes who shall thereupon be the Inspector or Inspectors for putting this Act in execution, with all the powers and subjects to all the penalties herein after described, and each of the Inspectors before he enters upon the execution of his Office, shall take and subscribe an oath before one of his Majesty's Justices of the court of King's Bench of this Province in the words following *Videlicet*.

Govr. empowered to appoint Inspectors of Pot and Pearl ashes.

The Oath.

"I A. B. do solemnly swear, that I will faithfully, truly and impartially, to the best of my judgment, skill and understanding execute, do and perform the Office and duty of an Inspector and Examiner of Pot and Pearl-ashes, according to the true intent and meaning of an Act of this Province" intituled "An Act for the appointment of Inspectors to ascertain the quality of Pot and Pearl-ashes for exportation" and that I will not directly or indirectly by myself or by any other person or persons for me, buy or sell any Pot or Pearl-ashes during the time I shall continue Inspector of the same on my own account or upon the account of any other person or persons whomsoever. So help me God"

And the same to be filed.

Which oath he shall file or cause to be filed in the Office of the clerk or clerks of the court of King's Bench or provincial court of the district in which he resides.

Pot and Pearl-ashes after the first of Sept. not to be imported into this Province unless examined.

II. And be it further enacted by the authority aforesaid, that no person or persons whatsoever shall after the first day of September next ship any Pot or Pearl ashes for exportation from this Province, before he shall submit the same to the view and examination of an inspector to be appointed as aforesaid for that purpose, who shall empty the same out of the casks and carefully examine, try and inspect and sort the