

The Provincial Statutes of Lower-Canada, Being the third session of the Third Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1803.

43 George III – Chapter 1 (Session 2)

An Act for the better preservation of His Majesty's Government, as by Law, happily established in this Province. (11th. August, 1803.)

Whereas it is necessary to defend and secure His Majesty's good and loyal Subjects within this Province of Lower Canada, against every traitorous attempt that may be formed for subverting the existing Law's and Constitution of the said Province, and for introducing the horrible system of anarchy and confusion, which has so fatally prevailed in France ; therefore and for the better preservation of His Majesty's Government, and for securing the Peace, the Constitution Laws and Liberties of the said Province; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the said 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 every person or persons who are or shall be in prison within this Province of Lower-Canada, at or upon the day on which this Act shall receive His Majesty's Royal Assent or after, by warrant of His said Majesty's Executive Council, of and for the said Province, signed by three of the said Executive Council, for High Treason, Misprision of High Treason, suspicion of High Treason or Treasonable Practices, may be detained in safe Custody, without Bail or Mainprize during the continuance of the present Act; And that for and during the continuance of this Act, no Court or Courts, Judge or Judges, Justice or Justices of the Peace, shall bail or try any such person or persons so committed, without a Warrant for that purpose from His Majesty's Executive Council, signed by three of the said Executive Council, any Law, Statute, Act or Ordinance to the contrary notwithstanding.

II. And be it further enacted by the authority aforesaid, that for and during the continuance of this Act, it shall not be lawful to or for any Justice or Justices of the Peace within this Province, or in any District or part thereof, to bail or admit to bail, any person or persons charged with the crime of High Treason, or Misprision of High Treason or suspicion of High Treason or Treasonable Practices any Law, Statute or Ordinance to the contrary notwithstanding.

III. And be it further enacted by the authority aforesaid, that for and during the continuance of this Act, in all and every case, in which application shall be made for His Majesty's writ of Habeas Corpus, to any Court or Courts, Judge or Judges within this Province, or in any District or part thereof, by any person or persons who are or shall be in

prison within this Province, at or upon the day on which this Act shall receive His Majesty's Royal Assent, or after, charged with High Treason, Misprision of High Treason, Suspicion of High Treason or Treasonable Practices, such writ of Habeas Corpus, (if allowed by such Court or Courts, judge or Judges,) shall not be made returnable in less than fourteen days from the day on which such writ of Habeas Corpus shall be allowed, and in all and every such case, it shall be the duty of such Court or Courts, Judge or Judges, and of each and every of them, and they are hereby required, when and so soon as such application for such writ of Habeas Corpus shall to them be respectively made, to give notice and information thereof in writing, together with Copies of such application, and of the affidavit or affidavits or other paper writings, on which such application shall be founded, to the Governor, Lieutenant Governor or Person administering the Government of this Province for the time being.

IV. Provided always, and be it enacted, that such writ of Habeas Corpus, or the benefit thereof, shall not be allowed by such Court or Courts, Judge or Judges to any person or persons detained in prison, at the time of his, her or their application of such writ of Habeas Corpus, by such warrant of His said Majesty's Executive Council, as aforesaid, for such causes as aforesaid, or any, or either of them: and that in all and every case, where such writ of Habeas Corpus shall be allowed, no Court or Courts, Judge or Judges shall bail or admit to bail, the person or persons to whom such writ of Habeas Corpus shall be allowed, if upon the return made to such writ of Habeas Corpus at the expiration of fourteen days, from the day on which such writ of Habeas Corpus shall be so allowed, it shall appear that such person or persons shall be then detained in prison, by such warrant of His said Majesty's Executive Council, as aforesaid, for such causes as aforesaid, or, any or either of them, any Law, Statute, Act or Ordinance to the contrary notwithstanding.

V. And be it further enacted by the authority aforesaid, that this Act shall continue and be in force, from the day on which it shall receive the Royal Assent, until the first day of January, One thousand eight hundred and four, and from thence to the end of the then next Session of the Provincial Parliament, and that after the expiration of this Act, all and every person or persons so committed shall have the benefit and advantage of the Laws relating to, or providing for, the liberty of the subjects in this Province.

VI. Provided always and be it enacted by the authority aforesaid, that nothing in this Act, shall extend or be construed to invalidate or restrain the lawful rights and privileges of either branch of the Provincial Parliament in this Province.