

The Provincial Statutes of Lower-Canada, Being the first session of the fourth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1805.

45 George III – Chapter 13

An Act to provide for the erecting of a common Gaol in each of the Districts of Quebec and Montreal, respectively, and the means for defraying the expences thereof. (25th March, 1805.)

Most Gracious Sovereign,

Whereas the present common Goals of the Districts of Quebec and Montreal, are not sufficiently spacious, nor in other respects well adapted for the reception and safe custody of prisoners, so that a new common Gaol for the District of Quebec, and new common Gaol for the District of Montreal, are indispensably necessary. And whereas your Majesty in your paternal regard, for the welfare of your loyal subjects, hath been graciously pleased to give your Royal attention, to the representations which have been made relative to the said common Gaols, and to appropriate in the City of Quebec, a lot of land belonging to your Majesty, for the scite of the said common Gaol for the District of Quebec: and in the City of Montreal, a certain other lot of Land, belonging also to your Majesty, for the scite of the said common Gaol for the said District of Montreal, May it therefore please Your Majesty that it may be enacted, and 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 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 aforesaid, that it shall and may be lawful, to and for the Governor, Lieutenant Governor or the Person administering the Government of this Province for the time being, by an Instrument under his Hand and Seal at arms, to appoint, in each of the said Districts of Quebec and Montreal, respectively, three persons, to be Commissioners for erecting the common Gaols to be erected in pursuance of this Act, in each of the said Districts, respectively; and a person, to act as Treasurer and Clerk to the said Commissioners in each of the said Districts, respectively, with a fixed salary, to remove from time to time, the said Commissioners, Treasurer, and Secretary, or any of them, and to appoint others, in the place and stead of such as shall be removed, or shall die, or resign their trust.

II. And be it further enacted by the authority aforesaid, that it shall and may be lawful for the said Commissioners, or any two of them, in each said Districts, respectively, and they are hereby required, to cause to be erected and finished, one strong and substantial common Gaol on the lots of ground, in the said Cities of Quebec and Montreal, belonging to his Majesty, and intended to be appropriated by his Majesty for that purpose. Provided always,

that the sum to be expended by virtue of this Act, in and about the building of a common Gaol in the said District of Quebec, shall not exceed Nine Thousand Pounds Current money of this Province; and that the sum to be expended by virtue of this Act, in and about the building of a common Gaol in the said District of Montreal, shall not exceed Nine Thousand Pounds Current money aforesaid, to which said sums, the said Commissioners in each of the said Districts respectively, are hereby expressly limited and restrained.

III. And be it further enacted by the authority aforesaid, that before the building of the said common Gaols shall be commenced, the said Commissioners or any two of them in each of the said Districts, respectively, shall and they are hereby directed, to cause a plan of the said Gaols respectively, with an estimate of the expence of erecting the same to be made, which plan and Estimate shall by the said Commissioners or any two of them, in each of the said Districts respectively, be laid before and approved of by the Governor, Lieutenant Governor or person administering the Government of the Province for the time being and after such approbation, it shall and may be lawful for the said Commissioners or any two of them in each of the said Districts respectively, from time to time, to agree by contract or contracts, in writing, or otherwise in their direction, with any person or persons, as well for conducting and inspecting the works, as for providing materials and hiring workmen, and labourers and for the building of the said common Gaols in each of the said Districts respectively, or for the building of such part or parts of such common Gaols as, and for which they the said Commissioners, or any two of them, in each of the said Districts respectively, shall think expedient, to contract or agree. Provided always, that previous to making any contract or contracts in writing, fourteen days notice at least shall be given in one or more of the public News Papers, printed within the said Districts respectively, expressing the object and intention of such contracts, and the time and place for receiving proposals for the same.

IV. And be it further enacted by the authority aforesaid, that the said Commissioners, in each of the said Districts respectively, from time to time, when thereunto required, shall account to the Governor, Lieutenant Governor or person administering the Government of this Province for the time being, for the application and expenditure of all and every the sum or sums of money to be advanced to them, and distributed by them, in the erection and finishing of the said Gaols, in such manner and form, as the Governor, Lieutenant Governor, or the person administering the Government of this Province for the time being, shall appoint and direct.

V. And be it further enacted by the authority aforesaid, that the said Gaols, when erected as aforesaid, shall be and become the common Gaols for the Districts of Quebec and Montreal, severally and respectively; and the Sheriffs of the said Districts for the time being, shall severally and respectively have the keeping of the said Gaols, and when and so soon as the said Gaols severally and respectively shall be fit for the reception of Prisoners, the said Commissioners or any two of them, shall cause notice thereof to be given to the Sheriffs of the said Districts severally and respectively, who, severally and respectively, shall, with all convenient speed, remove to such Gaols respectively all such Prisoners as shall be then in their several and respective, custodies.

VI. And for defraying the expences to be incurred in erecting the said common Gaols; Be it further enacted by the authority aforesaid, that from and after the passing of this Act, there shall be raised, levied, collected and paid for and upon the respective Goods, Wares and Merchandises, herein after mentioned, which shall be imported or brought into any part of this Province, from any place or places, from whence the same may be legally imported, over and above all other duties now charged and payable thereon, in this Province, by any Act or Acts of the Parliament of Great Britain, or of the Provincial Parliament of this Province, the several Rates and Duties following, that is to say: For every Pound Avoir dupois weight of Bohea Tea, Two Pence; Secondly, for every Pound like weight of Souchong or other Black Tea, Four Pence; Thirdly, for every Pound like weight of Hyson Tea, Six Pence. Fourthly, for every Pound like weight of all other Green Teas, Four Pence. Fifthly, for every Gallon, English measure, or all Spirits or other strong Liquors, Three Pence. Sixthly, for every Gallon like measure, of all Wine, three Pence. Seventhly, for every Gallon, like measure, of all Molasses and Syrops, Two Pence: and after those Rates, for any greater or less quantity of such Goods, respectively.

VII. And be it further enacted by the authority aforesaid, that the several Rates and Duties herein before recited, shall be raised, levied, collected and paid in the same manner and form, and under the same Rules and Regulations, Penalties and Forfeitures, as are by Law now established, in this Province, for the leveying and collecting of other Rates and Duties, making the same allowances, for leakage, and for the waste of articles subject to the aforesaid Duties, by weight. Provided always, that the proprietor or proprietors, or his, her or their agent or agents, of any Goods, Wares and Merchandises imported in any ship or vessel, on which any Rates and Duties are by this Act imposed, may at his or their option, deposit the money or secure the same to be paid by Bond to his Majesty, his Heirs and Successors, payable to the Collector of the Customs for the time being, with condition for the payment of so much as such Duties shall be found to amount unto, (when the same shall be ascertained by the return or certificate of the proper officer, who shall guage, weigh, measure or tell the said Goods, Wares and Merchandises, so subject to the payment of Duties,) in eight months from the date of such bond, if the same shall be dated on or before the first day of October, or if dated after the first day of October, then with condition for the payment thereof, as aforesaid, on the first day of June next following, which bond shall be executed by the proprietor or proprietors or his, her or their agent or agents, they giving at same time, one or more sureties to the satisfaction of the Collector aforesaid, for the payment of the said Duties, as herein before specified, or depositing in the hands of the said Collector, such quantity of effects and merchandises as to his satisfaction, may be necessary, to injure the payment of the said Duties at the time that such bond entered into, as aforesaid, shall become due.

VIII. And be it further enacted by the authority aforesaid, that all Goods, Wares, Merchandises and Effects whatsoever, which shall or may at any time or times, from and after the first day of May next, be put up to sale at any Public Auction or Outcry, within this Province, by any Auctioneer or Auctioneers, or by any person whomsoever who shall be duly

qualified and licenced as by this Act is hereafter prescribed and directed, shall be struck off to the highest bidder, and shall be and hereby are declared to be subject to a Duty of Two Pounds Ten Shillings, for every Hundred Pounds of the value or price at which the same shall be sold as aforesaid, and at and after the same Rate, for every greater and less sum, to be paid by such person or persons who shall so sell and dispose of the same; and in all cases where the Auctioneer or Auctioneers or the owner or owners of such goods so put up to sale, or any person or persons employed by them, or on their behalf, or any or either of them, shall be the highest bidder, the said Goods shall be subject to the payment of the said Duties, in like manner, as if the same has been sold to any other person or persons whomsoever.

IX. And be it further enacted by the authority aforesaid, that no person or persons whomsoever, other than the persons authorised and licenced, in the manner herein after prescribed, shall, from and after the passing of this Act, sell, dispose of or expose to sale, at Public Auction, or Outcry within this Province, any Goods, Wares, Merchandises or other Effects whatsoever; and that it shall and may be lawful to and for the Secretary of this Province of Lower Canada, and he is hereby required by Licence, under his hand and seal to authorise and empower such person or persons, being subjects of his Majesty, as shall or may apply for the same (qualified as in and by this Act is herein after required,) to act as Auctioneer or Auctioneers, within this Province, which licence shall be in force during the continuance of this Act.

X. And be it further enacted by the authority aforesaid, that no licence shall be granted to any person or persons in the manner herein before mentioned, until such person or persons shall have entered into a recognizance, to our Sovereign Lord the King, with two good and sufficient sureties before the said Secretary of the Province, or before such person or persons by him duly authorised, to that purpose, in the sum of One Hundred Pounds, lawful money of this Province of Lower Canada, with conditions for the payment of the duty herein before mentioned, to the Receiver General of this Province for the time being, or to some person duly authorised by him for that purpose, in the manner herein directed; and also, that the person or persons so licenced, as Auctioneer or Auctioneers, shall in all thing well, truly and faithfully behave and conform himself, and themselves, according to the true intent and meaning of this Act, of the Record of which recognizance, the Secretary of the Province, before whom the same is taken, shall make duplicates, one whereof, shall be delivered as soon as conveniently may be, to the Receiver General of this Province; and the other be retained by such Secretary of the Province, and deposited of record in his office.

XI. And be it further enacted by the authority aforesaid, that any person or persons who shall presume to sell or dispose of any Goods, Wares, Merchandises and Effects, by way of Public Auction, or Outcry, which are liable to duty by this Act, without having previously obtained a Licence, as in and by this Act is before directed and prescribed, shall forfeit the sum of Fifty Pounds, current money of this Province, for each offence, one moiety whereof to the Prosecutor, and the other moiety for the use of his Majesty, and every such forfeiture shall be sued for and recovered by Action at Law, to be brought by such prosecutor in any

Court of Record, for the District in which the offence was committed. Provided always; that such Action shall be brought within three Months next after the offence shall have been committed, and not after.

XII. Provided always, and it is hereby further enacted by the authority aforesaid, that all Lands and Tenements, and Goods belonging to his Majesty, his Heirs and Successors, and all Lands, Houses and other Immoveables whatsoever, and all Goods and Chattels which shall or may be seized by any Public Officer, for or on account of any forfeiture or forfeitures, penalty or penalties, all Goods and effects of deceased persons appertaining to Dissolutions de Communauté, or Goods distrained for rent, or taken in execution, effects of insolvent debtors, Goods damaged at sea, or in the River Saint Lawrence, and sold for the benefit of the owners or insurers; effects sold for the benefit of Churches the, usufruit and produce of farms belonging to minors, to absentees or to persons interdicted; and also household furniture and utensils that have been in use, and clothes that have been worn, shall in no wise be subject to, but are hereby exempted and declared to be free from the Duty above mentioned, and may be sold by and person or persons being a subject or subjects of his Majesty, any thing herein to the contrary in any wise notwithstanding.

XIII. And be it further enacted by the authority aforesaid, that the Secretary of the Province who shall grant such Licence, and take such recognizance, in manner as by this Act is required, shall not exact or receive any greater or other fees, than the sum of Twenty Shillings for taking the said recognizance and granting the said Licence as aforesaid.

XIV. And be it further enacted by the authority aforesaid, that every Auctioneer or Auctioneers qualified and licensed, as is by this Act directed, who shall sell and dispose of any Goods, Chattels, Wares, Merchandises or Effects at Public Auction, or Outcry, shall within ten days after the first day of the month, of January, April, July and October, in each year, render a just and true account in writing, by him or them, respectively, with his or their name or names subscribed to the Receiver General of this Province, for the time being, or to some person or persons by him duly authorised for that purpose, of all Goods, Wares, Merchandises or Effects by him or them sold at Public Auction or Outcry, from the time of his or their appointment, or the time that the last account by him or them was rendered, to the Receiver General, or to such person or persons by him duly authorised, for that purpose, as aforesaid, the amount of each day's sale, and the days when the same were respectively sold, and shall thereupon take the following Oath or (if of the people called Quakers Affirmation,) "I- do solemnly and sincerely swear, (or affirm) that the account now exhibited by me, and to which I have subscribed my name, contains a just and true account of all Goods, Wares, Merchandises and Effects sold by me subject to Duty by Law, within the time mentioned in the said account, and of the days upon which the same where so respectively sold, so help me God". Which Oath the said Receiver General or any Justice of his Majesty's Court of King's Bench if the Auctioneer reside in the Cities of Quebec or Montreal, or Town of Three Rivers, or any Justice of the Peace, if the Auctioneer resides at the distance of six leagues or more from such Cities or Town, respectively, is hereby authorised to administer, and shall within ten days after the rendering of the said account, and taking the said Oath,

pay to the said Receiver General, or to the person or persons by him authorised as abovesaid, the amount of the duty upon such account of sales as aforesaid, according to the true intent and meaning of this Act.

XV. And be it further enacted by the authority aforesaid, that if any Auctioneer or Auctioneers, shall neglect or refuse to render his or their account, or to pay the money due from him or them to our Sovereign Lord the King, for the said Duties, according to Law, the Receiver General of this Province, shall and may in every case of such neglect, and refusal, certify and publish the same in the Quebec Gazette, and from the time of publishing such advertisement, the Licence of every such delinquent Auctioneer, or Auctioneers, shall be and is hereby declared to be revoked, null and void, without prejudice nevertheless to the Duties imposed by this Act.

XVI. And be it further 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 for the time being, from time to time, out of any unappropriated monies remaining in the hands of the Receiver General of this Province, to advance to the Commissioners appointed for the erection of the said common Gaols in each District, respectively, such sum or sums of money, as he shall see fit and expedient, to be replaced from time to time by the monies to be levied and raised under and by virtue of this Act.

XVII. And be it further enacted by the authority aforesaid, that any person or persons who shall be convicted of wilfully taking a false Oath, in any of the cases in which an Oath is required to be taken, by virtue of this Act, shall be liable to the pains and penalties to which by Law persons are liable for willful and corrupt perjury.

XVIII. And be it further enacted by the authority aforesaid, that all the sums of money and the Duties imposed and made payable by this Act, shall continue to be paid and be payable in the manner herein before directed, for and during the space and term of six years, from the day of passing this Act, and no longer. And in case the produce of the sums of money, and duties imposed by this Act should exceed the amount of the sums appropriated, by the present Act, for building the said common Gaols, then such residue shall remain and be reserved in the hands of the Receiver General, for the future disposition of the Provincial Parliament of this Province.

XIX. And be it further enacted by the authority aforesaid, that all the monies, fines and forfeitures which shall be levied by virtue of this Act, shall be for the use of his Majesty, and shall be paid and applied for the purposes mentioned in this Act; and the same shall be accounted for to his Majesty, through the Lords Commissioners of his Majesty's Treasury for the time being, in such manner and form as his Majesty shall direct.

XX. And be it further enacted by the authority aforesaid, that this Act shall be deemed and taken to be a Public Act, and as such, shall be noticed by all Judges, Justices and other persons whomsoever, without specially pleading the same.