

CONSTITUTIONAL PAPER No. 18

13. For Preventing Accidents by Fire.
14. For preventing Persons leaving the Province without a Pass.
15. To empower the Commissioners of the Peace to regulate the Police of the Towns of Quebec and Montreal for a limited Time.
16. Concerning the Distribution of the Estates and Effects of Persons leaving the Province without paying their Debts.

(Copy.)

AN ORDINANCE FOR ESTABLISHING COURTS OF CIVIL JUDICATURE IN THE PROVINCE OF QUEBEC.¹

Preamble.

Whereas it is necessary to establish Courts of Civil Judicature for the speedy Administration of Justice within this Province ; It is therefore Ordained and Enacted by His Excellency the Captain General, and Governor in Chief of this Province, by and with the Advice and Consent of the Legislative Council of the same, That,

Division of
the Province
into Two
Districts.

Art. 1. For the Ease and Convenience of His Majesty's subjects residing in different Parts of this Province, the same shall be and hereby is divided into Two Districts, to be called and known by the names of Quebec and Montreal, which said Districts shall be divided and bounded by the River Godfroy on the South, and by the River St Maurice on the North side of the River St Lawrence.

Establish-
ment of a
Court of
Common
Pleas for
each District;
shall sit at
the City of
Quebec, and
the other at
the City of
Montreal, at
least one day
in every week,

Art 2. A Court of Civil Jurisdiction, to be called the Court of Common Pleas, shall be, and hereby is erected; constituted, and established for each of the said Districts, the one whereof shall sit at the City of Quebec, and the other at the City of Montreal, at least one Day in every week, for the decision of

¹ Canadian Archives Q 62 A-2, p. 586. The basis of these and the following Ordinances is given in Hey's draught of an Ordinance for Establishing Courts of Justice in the Province of Quebec, given in full p. 673, and outlined in the 14th and 15th articles of the Instructions to Governor Carleton 1775. See p. 600. On the 21st January, 1777, the Legislative Council was convened for the first time since September 2nd, 1775, and proceeded to take up, as the most important item of business, the establishment of regular courts of justice. The Attorney General, Wm. Grant, had been employed, evidently on the basis of Hey's draught and in many consultations with the Governor, in framing the heads of a general ordinance on the subject which was submitted to the Council on January 27th. Each member was asked to communicate his observations in writing. Mr. Grant, after consultation with the Committee of Council, divided the general draught into three separate ordinances, as finally passed. Mr. Grant's connection with the framing of these ordinances is indicated in the details of his account for fees. See Public Accounts of the Province of Quebec 1777-8. On January 31st, Hon. James Cuthbert submitted in writing his contention on behalf of the Seigniors, that inasmuch as the Quebec Act had provided for as complete a restoration as possible of the French rights, usages, and customs before the Conquest, the clauses in the Ordinance with reference to Courts should hold good "only until the seigniors, who have the right of holding civil courts of Justice in their several seigniories, shall establish Judges there, with the approbation of the Governor, Lieutenant Governor, or Commander in chief, for the time being." Minutes of Leg. Council, Vol. D., p. 9. Mr. Guty, on similar grounds, raised the point "Whether it would not be proper, in order to conform with the ancient customs and usages of this province, that all matters which concern seigniors, as well as those between habitant and habitant, as between seignior and seignior, should be heard and determined sommarily, and without any charges, by the Governor, Lieutenant Governor, Chief Justice, or some other person appointed for that purpose." Ibid., p. 10.