

No. 18.

2nd Session, 5th Parliament, 19 Victoria, 1856.

(LOCAL BILL.)

B I L L .

An Act to establish a Recorder's Court in the
City of Quebec.

Received and read, first time, Thursday, 28th
Feby., 1856.

Second reading, Wednesday, 5th March, 1856.

Mr. ALLKYN.

TORONTO :

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An Act to establish a Recorder's Court in the City of Quebec.

WHEREAS it is expedient to provide a summary and inexpensive Preamble.
mode of recovering the debts, fines and penalties, and of hearing
and determining the offences hereinafter mentioned, in the City of Quebec :
Therefore, Her Majesty, &c.:

5 I. There shall be a Court of Record in the said City, which shall
be called the "Recorder's Court" of the City of Quebec, and wherein the
Recorder for the time being shall preside, assisted by one or more of the
Councillors of the said City, or in the absence of the Recorder, from sickness
or other causes, or when there shall be no Recorder, the Mayor, or one of
10 the Councillors of the said City, shall preside; and such Court shall in all
cases possess the like powers, and have the like jurisdiction, as to crimes,
offences and misdemeanors committed in the said City, as the Court of
Weekly Sessions of the Peace for the said City of Quebec now has or
hereafter may have by law, as to crimes, offences and misdemeanors
15 committed within its local jurisdiction, as well as in all those matters of
civil concern, not belonging to the ordinary jurisdiction of a Court of
Justice, as have been or may hereafter be by law vested in the said Court
of Weekly Sessions of the Peace; and it shall be lawful for the said
Recorder's Court to hear and determine all causes and suits that may be
20 brought by the said Corporation of the said City, for the recovery of any
sum or sums of money that may be due and payable to the said Corpora-
tion of the said City, as the amount of any rate, assessment, tax, duty or
impost lawfully imposed by any By-law, rule, regulation or order now in
force, or that hereafter may be in force in the said City, and all causes and
25 suits that may be brought by the said Corporation for the recovery of any
sum or sums of money that may be due and payable to the said Corporation,
for the rent or occupation of any butcher's or huckster's stall, or other
stall or stand whatsoever, in or upon any of the public markets of the said
City, or as and for the amount of any rate, tax, duty or impost now levied
30 or collected, or that may hereafter be lawfully imposed, levied or collected
on any of the said public markets; also, to hear and determine all causes
and suits that may be brought by the said Corporation of the said City of
Quebec, for the recovery of any water rent or revenue, or any sum or sums
of money whatsoever, that may be due and payable to the said Corporation
35 for water rent, or for any supply of water given or furnished from the
Quebec Water Works, now the property of the said Corporation, to any
house or premises, or to or for the use of any person or persons in the said
City, or for the introduction of any pipe or pipes from the said works into
any house or premises in the said City, or the enlarging, extending, repair-
40 ing, altering, removing or changing of any such pipe or pipes, in any house
or premises, or at the instance or request, or for the use or benefit of any

person or persons in the said City; and also to hear and determine all offences against any such By-law, regulation or order, or against any law concerning any market or markets in the said City, or against any law concerning any assessment, tax or duty, to be levied in the said City, or against any of the provisions of an Ordinance of the Legislature of the Province of Lower Canada, passed in the second year of Her Majesty's Reign, and intituled, "*An Ordinance for establishing an efficient system of Police in the Cities of Quebec and Montreal;*" and also to hear and determine all suits and prosecutions that may be brought for the recovery of any fine or penalty that may hereafter be incurred, and be due and payable under any such By-law, rule, regulation or order now in force, or that hereafter may be in force in the said City as aforesaid, or under this Act, or under any Act or Acts concerning any market or markets in the said City, or under any act or acts concerning assessments to be raised in the said City, or under any of the provisions of the said Ordinance, passed in the second year of Her Majesty's Reign, and intituled, as above mentioned, "*An Ordinance for establishing an efficient system of Police in the Cities of Quebec and Montreal;*" And for the purposes aforesaid, the said Recorder's Court shall be held from time to time, as occasion may require, in the City Hall of the said City, or in such other place in the said City as the said Council of the said City may ordain; and the person appointed for that office by the Crown shall be the Clerk of the said Recorder's Court; and the precepts, writs and processes, to be issued out of the said Recorder's Court, shall not require to be under seal, but shall run and be in the name and style of Her Majesty, Her Heirs or Successors, and shall be signed by the said Clerk or his deputy; and it shall be lawful for the said Court to summon, by a writ to be signed as aforesaid, the party accused of any offence as aforesaid, or from whom any sum of money shall be claimed for any one or more of the causes in this section before set forth, and the witnesses to be heard as well in his favour as against such party, and upon the appearance or default of the party accused or complained against, or in case of his not appearing, upon proof of service of such summons by the return in writing of the person who made the service, to proceed with the examination of the witness or witnesses on oath, and to give judgment accordingly, awarding costs for the successful party; and when the party accused or complained against shall be convicted of such offence, or if judgment be given in favour of the prosecutors for the sum of money sought to be recovered, or for any part thereof, on proof or by confession, to issue a warrant or warrants, to be signed as aforesaid, requiring any constable or bailiff, of the goods and chattels belonging to the party convicted or against whom such judgment shall be rendered, to levy the amount of such judgment, or of any penalty or fine to be imposed by such conviction, as the case may be, and costs of suit, and to cause sale thereof to be made; which warrant shall authorise any constable or bailiff to execute such warrant in any part of the District of Quebec, by *saisie* and sale of any goods and chattels which shall and may be found in the said District, appertaining to the person or persons against whom such warrant shall thus be issued; provided that when a warrant or *saisie* execution shall issue against the goods, debts and chattels of a defendant, the following goods and chattels be exempted, to wit: one stove, every article of bedding and dress, one cord of firewood, one pig, one cow, and tradesmen's tools of any kind.

II. It shall be lawful for the said Recorder's Court to cause order to be preserved in the said Recorder's Court, and to punish by fine and imprisonment any person guilty of any contempt of the said Court, or of any member thereof, if such contempt be committed during the sitting, and in the

2 Vict. c. 2.

Place of holding the Court.

Clerk.

Process.

Execution.

Proviso: certain articles exempted from seizure.

Recorder's Court may punish contempt com-

- presence of the said Recorder's Court; to enforce the attendance of any witnesses in any action, cause or prosecution, that may be pending before the said Recorder's Court, and to compel such witnesses to answer all lawful questions; to authorize and require the examination of any party on interrogatories, on facts and articles (*faits et articles*), or on the *juramentum litis decisorium*, or on the *juramentum judiciaire*, in the same and like cases and circumstances in which such examination may be lawfully required and had in the ordinary Courts of civil jurisdiction in Lower Canada; and to cause the execution of, and obedience to any order, precept, writ, process or warrant, that may issue from the said Recorder's Court, for any one or more of the purposes aforesaid, by the like means as are used for any such purpose or purposes in the ordinary Courts of civil jurisdiction in Lower Canada; And it shall be lawful for the Council of the said City of Quebec, to appoint so many bailiffs of the said Court, as the said Council may think fit; and to make and settle a tariff of the fees which should be exacted by the Clerk of the said Recorder's Court, and by the bailiffs and other such officers, to be employed in and about the said Recorder's Court: Provided always, that no fee shall be exacted under such tariff until such tariff be approved by the Governor in Council; And it shall be the duty of the Clerk of the said Recorder's Court, to prepare and make out all the precepts, writs and processes severally that may issue from the said Court, and in a Register to be kept for that purpose, to enter in a succinct manner, all the proceedings had in the said Court, and to record at full length all the judgments rendered, and convictions pronounced by the said Court, but not to take in writing the depositions of witnesses or of parties examined in the said Court; and any person who shall, either as a party or as a witness, wilfully and corruptly give false evidence, in any cause, suit, action, prosecution, or other proceeding in the said Recorder's Court, shall be deemed guilty of wilful and corrupt perjury, and shall be liable to the penalties of wilful and corrupt perjury; and any member of the said Council, excepting the Mayor or Councillors of the said Council then sitting in the said Court, and any member, officer or servant of the said Corporation, shall be a competent witness in any suit or prosecution that may be instituted in the said Recorder's Court, if he have no direct interest in the issue of such suit or prosecution, or be not otherwise rendered incompetent, any law, usage, or custom to the contrary notwithstanding; And any toll, assessment, tax, duty or impost, fine or penalty that may be sued for in the said Recorder's Court, shall be recoverable there, upon the oath of one credible witness; and any person prosecuted in the said Court, for any offence that may be heard and determined by the said Court, shall be liable to be convicted on the oath of one credible witness; Provided always, that it shall be lawful for the said Recorder, or the person doing the duties of the Recorder, to grant a delay of at least one month, and which shall not exceed three months, to any defendant, on confession of judgment when the action is brought before the said Court.

mitted in Court.

Further powers, to compel attendance of witnesses, &c.

Bailiffs.

Fees.

Proviso.

Duties of Clerk of the Court.

False swearing, &c., to be perjury.

Who shall be competent witnesses.

One witness sufficient in cases in the said Court.

- III. The Recorder for the said City of Quebec shall be a Barrister of that part of the Province of Canada heretofore Lower Canada, of not less than five years' standing, and shall be appointed by the Crown during pleasure; and such Recorder shall be *ex officio* a Justice of the Peace in and for the said City and District of Quebec, and shall receive a salary of not less than three hundred pounds and not more than five hundred pounds per annum, payable monthly out of the funds of the said City; Provided always, nevertheless, that the said Recorder shall not in the first instance be appointed until after the Corporation of the said City shall have communicated to the Governor of this Province, through the Provincial Secretary thereof,

Recorder to be a Barrister of Lower Canada, &c.

Salary.

Proviso: not to be appointed except on request of the City Council.

their opinion that such an officer is required for the better conduct of the affairs of the said City, and the administration of justice therein.

Court may sit daily, and for what purposes.

2. V. c. 2.

Police may bring offenders before the said Court.

IV. It shall be lawful for the said Recorder's Court to be held and to sit daily, and as many times as may be necessary each day, without previous notice or time fixed, to summarily hear and determine upon the case of any person offending against the provisions of the said Ordinance passed in the second year of Her Majesty's Reign, and intituled, "*An Ordinance for establishing an efficient system of Police in the Cities of Quebec and Montreal,*" or the provisions of any Act or Acts concerning assessments to be raised in the said City, or concerning markets, or against any By-law, rule, regulation or order now in force, or that may be hereafter in force in the said City; and upon the case of any vagrant, loose, idle or disorderly person, and other offenders arrested by or in charge of the Police of the said City; And the cases of persons arrested on view, or immediately after the commission of any offence, or by warrant issued out of the said Court, or by the said Recorder, or by any Justice of the Peace for the said District of Quebec; And it shall and may be lawful for the Police or Constabulary Force of the said City of Quebec, or for any other peace officer or constable to bring before the said Recorder's Court, or before the said Recorder, or, in case of absence as aforesaid, before his deputy or before the Mayor, or such of the Councillors of the said City as may be appointed to act in his stead, in the City Hall of the said City, any person offending as aforesaid against the provisions of the said Ordinance, against any Act or Acts concerning assessments or markets, or against any By-law, rule, regulation or order now in force, or that may hereafter be so, in the said City, and any vagrant, loose, idle or disorderly person, and every person arrested as such, to be then and there dealt with according to law, as the said Recorder's Court, the said Recorder or his deputy individually, or the Mayor or Councillor aforesaid, may adjudge and determine.

How certain fines shall be recovered and applied.

To be sued for in the name of the Corporation.

Council may remit fines, or receive them without prosecution.

V. All fines and penalties imposed by any By-law, rule, order, or regulation, which may be in force at the time of the passing of this Act, whether made by the Justices of the Peace for the District of Quebec before the passing of the said Ordinance to incorporate the City or Town of Quebec, or by the said Council since the passing of that Ordinance, or hereafter to be made by the said Council, and all fines and penalties imposed by this Act or any Act concerning any market or markets in the said City, or by any Act concerning any assessment, tax or duty to be raised in the said City, or by the said Ordinance, intituled, "*An Ordinance for establishing an efficient system of Police in the Cities of Quebec and Montreal,*" which shall or may be prosecuted for or recovered in the said Recorder's Court, and generally, all fines and penalties sued for, recovered, imposed or levied in the said Court, shall be recovered in the name of "the Mayor, Councillors and Citizens of the City of Quebec," and for the use of that Corporation, and shall belong to and form part of the general funds of the said City, and in no other name or for no other use; And it shall be lawful for the said Council to remit any such fine or penalty, or to accept payment of any such fine or penalty from any party willing to pay the same without prosecution, and all fines or penalties that may be so paid without prosecution shall form part of the general funds of the said City.

Recorder may hold the Court alone

VI. It shall be competent for the Recorder for the said City of Quebec to hold the said Recorder's Court of the City of Quebec, with or without the assistance, or in the presence or absence of any one or more of the Councillors of the said City.

VII. It shall be lawful for the said Recorder's Court to hear, try and determine any case of common assault or assault and battery arising within the said City, upon complaint of the party aggrieved praying the said Court to proceed therein under this Act, in the same manner and to the same effect, and subject to the same provisions, as any Justice of the Peace may by law now summarily hear, try and determine any complaint of any such offence, and also to hear, try and determine any complaint under the Act passed in the eighteenth year of Her Majesty's Reign, intituled: "*An Act to amend and consolidate the provisions contained in the Ordinances to incorporate the City and Town of Quebec, and to vest more ample powers in the Corporation of the said City and Town,*" against any person for assaulting or resisting any officer or constable appointed under the said Act in the execution of his duty, or for aiding or inciting any person so to assault or resist.

Court may try certain cases of assault, &c.

18 V. c. 159.

VIII. In case of sickness or absence of the Recorder above mentioned, a Deputy may be appointed by the Crown to act during the sickness or absence of the said Recorder, which said Deputy shall be a Barrister of that part of the Province of Canada, heretofore Lower Canada, of not less than five years' standing, or shall be *ex officio* a Justice of the Peace, in and for the said City and District of Quebec during his continuance in office as Deputy of the said Recorder; but shall not be appointed until after the Corporation of the said City shall have communicated to the Governor of this Province, through the Provincial Secretary thereof, their opinion that such an officer is required for the better conduct of the affairs of the said City and administration of justice therein.

In case of sickness &c., of Recorder, Governor may appoint a Deputy.

Proviso.

IX. It shall be lawful for the Clerk of the said Recorder's Court of Quebec, from time to time, by an instrument under his hand and seal, to be acknowledged by him before and duly deposited and filed in the office of the said Recorder's Court, and entered and recorded in the Register thereof, to appoint one fit and proper person to be and act as his Deputy in the discharge of all and every his duties as Clerk of the said Recorder's Court, and to remove any person so appointed and appoint another in his stead; and each and every person so appointed shall at all times, while his said appointment shall remain in force and unrevoked, be to all intents and purposes a Clerk of the said Recorder's Court.

Clerk of the Court may appoint a Deputy.

X. Nothing in this Act contained, shall in any manner derogate from or affect, or be construed to derogate from or affect the rights of Her Majesty, Her Heirs and Successors, except in so far only as the same may be expressly derogated from or affected by the provisions of this Act.

Rights of the Crown saved.

XI. The words "Governor of this Province," whenever they occur in this Act, shall be understood as meaning the Governor, or any person authorised to execute the commission of Governor within this Province for the time being; and the word "Councillor" and the word "Councillors," whenever they occur in this Act, shall be understood as meaning any member or members of the said Council of the City of Quebec, unless by the context it shall appear clearly that the words "Councillor" or "Councillors," respectively, are intended to apply exclusively to a member of the said Council, who is not the Mayor of the said City; and the words "the said Corporation," or "the said Corporation of the City of Quebec," whenever they occur in this Act, shall be understood as meaning the said Corporation of "the Mayor, Councillors and Citizens of the City of Quebec," unless the context necessarily requires a different meaning to be

Interpretation clause.

given to those words; and that the words "Lower Canada," whenever they occur in this Act, are to be understood as meaning and comprehending that part of the Province of Canada which formerly constituted the Province of Lower Canada; and any word or words implying the singular number, or the masculine gender only, shall be understood to include several matters of the same kind as well as one matter, and several persons as well as one person, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction. 5

Public Act.

XII. This Act shall be held and taken to be a public Act, and as such shall be judicially taken notice of by all Judges, Justices, and other persons whomsoever, without being specially pleaded. 10