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JOURNALS
OF THE
SPECIAL COUNCIL
OF THE PROVINCE OF
LOWER CANADA.

FROM THE 5TH. NOVEMBER TO THE 21ST. DECEMBER, 1838.

IN THE SECOND YEAR OF THE REIGN OF

QUEEN VICTORIA.

U 6 L - 3

LT.-GEN. SIR JOHN COLBORNE, G. C. B. & G. C. H.

ADMINISTRATOR OF THE GOVERNMENT.

PRINTED BY ORDER OF THE SPECIAL COUNCIL.

QUEBEC:

PRINTED BY T. CARY & GEORGE DEGRATTS,
FREE-MASONS' HALL.

VOLUME, 3.





JOURNALS

OF THE

SPECIAL COUNCIL,

OF

LOWER-CANADA.

ANNO 2^o—VICTORIÆ REGINÆ.

AT a Session of the Special Council begun and holden at the Government House in the City of *Montreal*, in pursuance of an Act passed in the Parliament of the United Kingdom of *Great-Britain* and *Ireland*, intituled, "*An Act to make temporary provision for the Government of Lower-Canada.*"

MONDAY 5TH NOVEMBER, 1838.

Alexander Maurice Delisle, Esquire, Commissioner appointed by *Dedimus Potestatem*, for administering the Oath to the Members of the Council was introduced in the Council Chamber, when the Oath prescribed by the Act 1st VICTORIA, Cap. IX. was administered to the following Members, who after having subscribed the Roll containing the Oath,—took their seats at the Council Table, viz :—

Toussaint Pothier,
George Moffatt,
Peter McGill,
Pierre DeRocheblave,
Samuel Gerrard,
Jules Quesnel,

*John Molson,
Turton Penn,
Dominique Mondelet.*

The Commissioner then withdrew.

His Excellency Lieutenant General Sir JOHN COLBORNE, G. C. B. and G. C. H., Administrator of the Government, having been informed that the Members of the Council had taken the Oath and their Seats.

He entered the Council Chamber and took his seat at the head of the Table.

PRAYERS.

His Excellency proposed to the Council for consideration and adoption the following Ordinance, which was read for the first time.

An Ordinance to authorize certain Banks therein named to suspend specie payments in certain cases.

His Excellency was then pleased to name the Honorable *Toussaint Pothier*, to preside at the Council Table, during His Excellency's absence.

His Excellency then withdrew.

The Honble. Mr. *Pothier*, took the Chair.

The Presiding Member then informed the Council, that a Commission had been issued under the Great Seal, appointing *Thomas Leigh Goldie*, Esquire, Assistant Clerk, of this Special Council, during the necessary absence of the Clerk.

A Message was received from His Excellency the Administrator recommending the adoption of certain Rules and Orders for the guidance of the proceedings of the Special Council, with the exception of the first Rule.

[*Vide Rules and Orders of the Session of April, 1838.*]

On motion of the Honble. Mr. *McGill*, seconded by Mr. *Gerrard*,

RESOLVED, That the Rules and Orders, submitted by His Excellency, for the guidance of the proceedings of this Council, be adopted.

On motion of Mr. *Gerrard*, seconded by the Honble. Mr. *Moffatt*,

ORDERED, That the Petition of the President, Directors and Company of the Bank of *Montreal*, be now received.

The said Petition is as followeth :

To His Excellency Lieutenant General SIR JOHN COLBORNE,
*Knight Grand Cross of the Most Honorable Military Order
of the Bath and of the Royal Hanoverian Guelphic Order,
Commander of Her Majesty's Forces in Upper and Lower-
Canada, and Administrator of the Government of Lower-
Canada, &c. &c. &c.*

The Petition of the President Directors and Company of the Bank of *Montreal*.

HUMBLY SHEWETH,

That the affairs of the Bank of *Montreal* are in such a state, as, under ordinary circumstances to render undoubted its capability not only to meet all its engagements to the public but to secure to the holders of its stock ample remuneration for the capital invested ; the extraordinary situation however, in which the Bank feels itself placed by the political occurrences of the last few days renders it a duty incumbent on your Petitioners to lay the same before your Excellency, to the end that your Excellency may be pleased to adopt such remedy to the evil alluded to as may best comport with the public good and the security of Her Majesty's Government.

Your Petitioners therefore beg leave to state that for some time past it has been evident that one of the measures of the disaffected in this District, preparatory to their attempt to overthrow Her Majesty's Government in this Province, was to withdraw the specie from the coffers of the several Chartered Banks in this City, by demanding the redemption of their notes in current coin, thereby weakening the resources of the Banks, while they inanced their own means towards their contemplated revolution.

That during the last ten or twelve days the demand upon the Chartered Banks in this city for specie has been unremittingly kept up by those who are known to be leading promoters of the Rebellion and by their misguided and too-willing followers.

This continued demand for specie would necessarily create some alarm in the minds of your Petitioners if they were not confident that the supplies of specie contained in their vaults in this City and at *Quebec* are amply sufficient to meet any just demands that can be made upon the Bank, added to which your Petitioners have now in the city of *New York*, (whence the Banks in this Province always draw their specie) a large amount which they were on the eve of importing into this city, but which the disturbed state of the frontier and of the intervening country renders at the present moment, imminently hazardous, and indeed, your Petitioners have reason to believe that in keeping up the demand on the Bank for specie the disaffected have in view to compel the Bank to import from *New York* the specie above mentioned in order that they may intercept the same on its route to this City.

Your Petitioners therefore, humbly submit the consideration of the case to your Excellency in full confidence that your Excellency will grant such a measure of relief, either by an Ordinance authorising your Petitioners and the other chartered and lawful Banks in this Province to suspend the redemption of their notes in specie without incurring a forfeiture of their charter, or otherwise, as to your Excellency may seem meet for the public good.

And as in duty bound your Petitioners will ever pray.

Montreal, 5th November, 1838.

By order, and on behalf of the Board of Directors,

(Signed,) PETER MCGILL, Prest.

Bank of *Montreal*.

Statement of specie on hand in the *Montreal* Bank Vaults on Monday the 5th November.

In this City,	£49,500, Silver.
	18,169, Gold:
In <i>Quebec</i> ,	47,748, Silver.
	<u>£115,417, Currency.</u>

The amount paid away since the 30th October, nearly all of which to check the demand has been paid in very small change is £10,000 and upwards.

Montreal, 5th November, 1838.

(Signed) BENJAMIN HOLMES,

Cashier.

Had prepared for importation in *New York* £25,000 H. Currency.

Circulation on Saturday evening £186,175 5s. 0d.

(Signed) B. H.

On motion of Mr. *Gerrard*, seconded by the Honble. Mr. *Moffatt*,

RESOLVED, That in conformity with His Excellency's recommendation to proceed with the Ordinance to authorise certain Banks therein named to suspend specie payments in certain cases; the standing rules respecting the second and third reading of Ordinances, be suspended.

ORDERED, That the said Ordinance be now read a second time.

The said Ordinance was accordingly read a second time.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *DeRocheblave*,

ORDERED, That the following amendments be made to the said Ordinance :—

Press 1, line 11—After “ same,” insert the following words :—

“ That any Bank in this Province, now incorporated or
 “ chartered by any Ordinance or Law thereof, or by Royal
 “ Charter, which has heretofore ceased, or which shall cease
 “ to redeem its Notes or other liabilities in the Current Coin
 “ of this Province, shall not in consequence thereof be com-
 “ pelled to cease its Banking operations, or be deemed to
 “ have forfeited its Ordinance, Act, or Royal Charter of In-
 “ corporation, or be liable to any disability, penalty or forfei-

“ ture, by reason of its having ceased to redeem its Notes
“ and liabilities in lawful Current Coin as aforesaid, any thing
“ or any Ordinance, or Law, or Act of Incorporation of this
“ Province, or in any Royal Charter of such Bank, to the con-
“ trary notwithstanding: Provided that it shall appear pro-
“ per to the Governor, Lieutenant Governor, or person admi-
“ nistering the Government of the Province, that such Banks
“ should, under the circumstances disclosed by them, be al-
“ lowed to continue their business of Banking, notwithstand-
“ ing their suspension of Cash payments, in which case it
“ shall be lawful for the Governor, Lieutenant Governor, or
“ person administering the Government of the Province, in
“ Council, to make an Order or Minute to that effect, which
“ shall be published in the *Quebec Gazette* during the time of
“ such suspension of Cash payments, and such Order or Mi-
“ nute of the Governor, Lieutenant Governor, or person ad-
“ ministering the Government of the Province, and Council,
“ shall have the effect of saving such Bank from any forfei-
“ ture of the rights, benefits or privileges and other advantages
“ conferred on or granted to it by any Ordinance of the Gover-
“ nor and Special Council for the affairs of this Province, or by
“ any Act of the Legislature of this Province, or by Royal Char-
“ ter, by reason of their suspension of Cash payments, before
“ or after the making of such Order or Minute, and from any
“ and every penalty or disability which would or might other-
“ wise ensue thereon; and Provided also, that such Bank
“ shall, with its Petition or application for an Order or Minute
“ in the behalf aforesaid, and whensoever afterward, during
“ the time of such suspension of Specie or Cash payments,
“ the same shall be required, render unto the Governor, Lieur-
“ tenant Governor, or person administering the Government
“ of this Province, a statement of the affairs of the said Bank,
“ containing on the one part, the amount of Notes in circu-
“ lation, the net profits in hand, the balances due to other
“ Banks and the Cash deposited in such Bank, distinguish-
“ ing deposits bearing interest if any there be, and on the
“ other part, the amount of Current Coins, and Gold and Sil-
“ ver Bullion in the Vaults of the said Bank, the value of the
“ Buildings and other real estate belonging to the said Bank,
“ and Notes of other Banks held by the said Bank, the balan-
“ ces due from other Banks, and the amount of all debts ow-
“ ing to the said Bank, including and particularizing the
“ amount so owing on Bills of Exchange, discounted Notes,

" mortgages and other securities, thus exhibiting, on the one
 " hand, the debts due by the said Bank, and on the other
 " hand, the resources thereof, and which statement of the
 " affairs of the said Bank shall also contain a statement of
 " the amount of the Capital Stock subscribed, and the amount
 " thereof actually paid in, the rate and amount of the then
 " last dividend declared by the said Bank, the amount of the
 " profits reserved at the time of declaring such dividend, the
 " amount of debts due to the said Bank, and secured by the
 " pledge of the Stock thereof, belonging to the persons from
 " whom such debts are due, and the amount of debts overdue
 " and not paid, with an estimate of the loss which may pro-
 " bably be incurred from the non-payment of such debts ;
 " and a list of the names of all persons, who shall at the com-
 " mencement of every quarter of the year, during the time
 " for which such statement shall be required to be made,
 " have been share holders in the said Bank, specifying the
 " number of Shares held by each and every such person at
 " the commencement of each quarter, and also the amount of
 " paper discounted for, or monies loaned to the Directors, or
 " for which they may be in any way security to the said Bank,
 " and the said statement of the affairs of the said Bank shall
 " be rendered, as aforesaid, under the oaths of the President
 " or Vice President and three of the Directors and the Cashier
 " or principal Officer of the Bank rendering the same ; which
 " oaths shall and may be administered by any Judge of Her
 " Majesty's Court of King's Bench for this Province : Pro-
 " vided always, that nothing herein-contained shall compel
 " or authorize any Bank to particularize in any such state-
 " ment the private account of any person or persons with the
 " said Bank."

Press 3, line 31—After " possession," insert " or to make any other disposition
 " thereof which shall diminish the amount according to its
 " legal value, than by paying in change the fractional parts of
 " a Dollar : Provided always, that nothing herein-contained
 " shall prevent the said Banks respectively from disposing of
 " the specie in their Vaults to Her Majesty's Government for
 " the public service, by and with the consent of the Governor,
 " Lieutenant Governor, or person administering the Govern-
 " ment of this Province, and the Executive Council thereof."

On the seventh Clause of the said Ordinance being read,

The Council divided,

FOR THE CLAUSE.

Messrs. *McGill*,
De Rocheblave,
Gerrard,
Quesnel,
Molson,
Mondelet.

AGAINST THE CLAUSE.

Messrs. *Moffatt*,
Penn.

So it was carried in the affirmative.

On Motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *De Rocheblave*,

ORDERED, That the following amendments be also made to the said Ordinance :

Press 4—Strike out the ninth Clause and insert the following in lieu thereof :

“ And be it further Ordained and Enacted by the au-
 “ thority aforesaid, that this Ordinance shall continue and
 “ be in force until the first day of June, one thousand eight
 “ hundred and thirty-nine, and no longer : Provided always,
 “ that it shall and may be lawful for the Governor, Lieute-
 “ nant Governor, or person administering the Government of
 “ this Province, by and with the advice of the Executive
 “ Council thereof, by his Proclamation under the Great Seal
 “ of the Province, to declare that this Ordinance and all the
 “ provisions thereof, shall cease and determine at any time
 “ before the lapse of the period aforesaid, but not less than
 “ two months from and after the date and publication of the
 “ said Proclamation.”

Preamble—After “ Whereas,” strike out the remaining part of the Preamble and insert the following words in lieu thereof—“ it is expedient in
 “ the present disturbed state of the Province, that certain
 “ Banking Institutions thereof should be authorised to sus-
 “ pend the redemption of their Notes in specie.”

On motion of the Honble. Mr. *McGill*, seconded by Mr. *Gerrard*,

ORDERED, That the said Ordinance, as amended, be fairly transcribed.

Then on motion of Mr. *Penn*, seconded by Mr. *Molson*,

The Council adjourned until to-morrow, at eleven o'clock A. M.

TUESDAY, 6th NOVEMBER, 1838.

Eleven o'clock, A. M.

PRESENT.

The Honble. *Toussaint Pothier*, Presiding Member.

Messrs. *Moffatt*,
McGill,
De Rocheblave,
Gerrard,
Quesnel,
Molson, and
Penn.

PRAYERS.

His Excellency the Administrator of the Government having entered the Council Chamber, he took his seat at the head of the Table.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Moffatt*,

ORDERED, That an Ordinance to authorize certain Banks therein named to suspend specie payments in certain cases ; be now read for the third time.

The said Ordinance was accordingly read for the third time.

His Excellency having put the question,

“ That this Ordinance do now pass ? ”

It was

RESOLVED, in the affirmative.

His Excellency then signed the said Ordinance.

His Excellency then withdrew.

The Honble. Mr. *Pothier* resumed the Chair.

Then on motion of the Honble. Mr. *McGill*, seconded by Mr. *Gerrard*,

The Council adjourned.

WEDNESDAY, 7th NOVEMBER, 1838,**PRESENT.**

Messrs. *Pothier,*
Moffatt,
McGill,
De Rocheblave,
Gerrard,
Quesnel, and
Penn.

The Honorables *James Cuthbert* and *John Neilson*, and *William P. Christie*, Esquire, having previously taken the prescribed Oath, and subscribed the Roll containing the same, took their seats at the Council Table.

His Excellency the Administrator of the Government having entered the Council Chamber, he took his seat at the head of the Table.

PRAYERS.

His Excellency was pleased to address the Council on the present state of the Province, and proposed the following drafts of Ordinances for consideration and adoption, which were severally read for the first time :

An Ordinance for authorizing the seizing and detaining, for a limited time, of Gun Powder, Arms, Weapons, Lead, and Munitions of War.

An Ordinance for the suppression of the Rebellion which unhappily exists within this Province of *Lower Canada* and for the protection of the persons and properties of Her Majesty's faithful subjects within the same.

An Ordinance to authorize the apprehension and detention of persons charged with High Treason, Suspicion of High Treason, Misprision of High Treason, and Treasonable Practices, and to suspend, for a limited time, as to such persons, a certain Ordinance therein mentioned, and for other purposes.

His Excellency then withdrew.

The Honble. Mr. *Cuthbert* then took the Chair:

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*,

RESOLVED, That in the present state of the Province it is necessary for the Public Security, that the Standing Orders of this Council, with respect to the second and third reading of the Ordinances now submitted by His Excellency the Administrator of the Government, be suspended.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *McGill*,

ORDERED, That an Ordinance for authorizing the seizing and detaining, for a limited time, of Gunpowder, Arms, Weapons, Lead and Munitions of War; be now read a second time.

The said Ordinance was accordingly read a second time.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Moffatt*,

ORDERED, That the following amendments be made to the said Ordinance.

Page 3, line 7—Strike out "Peace Officer."

— 8—After "whomsoever," insert "by any of them authorized."

— 4, — 12 and 13—Strike out "Peace Officer."

— 13—After "persons" insert "by any of them authorized."

— 6, — 12—Fill up the Blank in the second Clause with the words "three Calendar."

The Honble. Mr. *Moffatt* moved, seconded by the Honble. Mr. *Neilson*,

That the following amendment be made to the said Ordinance :

Page 6, line 18—Strike out "January" and insert "June."

The Council divided on the proposed amendment.

FOR THE AMENDMENT.

Messrs. *Moffatt*,
De Rocheblave,
Neilson,
Quesnel,

AGAINST THE AMENDMENT.

Messrs. *Pothier*,
McGill,
Gerrard,
Christie,
Penn,

So it passed in the negative.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Moffatt*,

ORDERED, That the following amendment be also made to the said Ordinance,

Page 6, line 20—After “longer,” at the end of the third Clause, add the following Proviso :

“ Provided always, that it shall be competent for the Governor, Lieutenant Governor, or person administering the Government of this Province, by and with the advice of the Executive Council, to limit by Proclamation, the duration of this Ordinance to a period within the said date.”

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*,

ORDERED, That the said Ordinance, as amended, be fairly transcribed.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *McGill*.

ORDERED, That an Ordinance for the suppression of the Rebellion which unhappily exists within this Province of *Lower-Canada*, and for the protection of the persons and properties of Her Majesty's faithful subjects, within the same ; be now read a second time.

The said Ordinance was accordingly read a second time.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *Pothier*.

ORDERED, That the following amendment be made to the said Ordinance.

Page 8 line 10.—Fill up the blank with the words “first day of June next.”

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Moffatt*.

ORDERED, That the said Ordinance, as amended, be fairly transcribed.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*.

ORDERED, That an Ordinance to authorize the apprehension and detention of persons charged with High Treason, Suspicion of High Treason, Misprision of High Treason and Treasonable Practices, and to suspend for a limited time, as to such persons, a certain Ordinance therein mentioned and for other purposes; be now read a second time.

The said Ordinance was accordingly read a second time.

On motion of the Honble. Mr. *Neilson*, seconded by the Honble. Mr. *McGill*,

ORDERED, That the following amendments be made to the said Ordinance.

Page 4, line 12.—Fill up the blank with the words "first day of June."

— 25.—Fill up the blank with the words "first day of June."

— 5, — 9.—Fill up the blank with the words "first day of June."

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *DeRocheblave*.

ORDERED, That the said Ordinance, as amended, be fairly transcribed.

Then ;

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*.

The Council adjourned until to-morrow at nine o'clock, A. M.

THURSDAY, 8th NOVEMBER, 1838.*Nine o'clock, A. M.***PRESENT.****The Honble. Mr. Cuthbert**, Presiding Member.

Messrs. *Pothier,*
Moffatt,
McGill,
DeRocheblave,
Neilson,
Gerrard,
Quesnel,
Christie, and
Penn.

PRAYERS.

His Excellency the Administrator of the Government having entered the Council Chamber, he took his seat at the head of the Table.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *Pothier*.

ORDERED, That an Ordinance for authorizing the seizing and detaining, for a limited time, of Gun Powder, Arms, Weapons, Lead and Munitions of War ; be now read for the third time.

This said Ordinance was accordingly read for the third time.

His Excellency having put the question,

“ That this Ordinance do now pass.”

It was

RESOLVED, in the affirmative.

His Excellency then signed the said Ordinance.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *McGill*.

ORDERED, That an Ordinance for the suppression of the Rebellion which unhappily exists within this Province of *Lower-Canada*, and for the protection of the persons and properties of Her Majesty's faithful subjects within the same ; be now read for the third time.

The said Ordinance was accordingly read for the third time.

His Excellency having put the question,

“ That this Ordinance do now pass.”

It was

RESOLVED, in the affirmative.

His Excellency then signed the said Ordinance.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Moffatt*:

ORDERED, That an Ordinance to authorize the apprehension and detention of persons charged with High Treason, Suspicion of High Treason, Misprision of High Treason and Treasonable Practices, and to suspend for a limited time as to such persons, a certain Ordinance therein mentioned and for other purposes ; be now read for the third time.

The said Ordinance was accordingly read for the third time.

His Excellency having put the question,

“ That this Ordinance do now pass.”

It was

RESOLVED, in the affirmative.

His Excellency then signed the said Ordinance.

His Excellency then withdrew.

The Honble. Mr. *Cuthbert*, resumed the Chair.

Then on motion of the Honble. Mr. *McGill*, seconded by the Honble Mr. *Neilson*,

The Council adjourned.

FRIDAY, 9th NOVEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
DeRocheblave,
Neilson,
Gerrard,
Quesnel, and
Christie.

The Honble. *Barthelemie Joliette*, and *William Walker* and *Joseph E. Faribault*, Esquires, having previously taken the prescribed Oath, and subscribed the Roll containing the same, took their seats at the Council Table.

PRAYERS.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*.

The Council adjourned.

SATURDAY, 10th NOVEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
Joliette,
De Rocheblave,
Neilson,
Christie,
Walker, and
Faribault.

PRAYERS.

A letter of excuse from the Honble. *Charles E. C. De Léry*, and also one from the Honble. *Amable Dionne*, for not attending the Council for the present, owing to ill health, were laid upon the Table, by the Presiding Member.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *Neilson*,

The Council adjourned until Monday next.

MONDAY, 12th NOVEMBER, 1838.

PRESENT,

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
Joliette,
De Rocheblave,
Neilson,
Quesnel,
Christie,
Walker, and
Faribault.

D

Charles E. Casgrain, and *Thomas Austin*, Esquires, having previously taken the prescribed Oath, and subscribed the Roll containing the same, took their seats at the Council Table.

PRAYERS.

On motion of the Honble. Mr. *Neilson*, seconded by Mr. *Casgrain*,

The Council adjourned.

TUESDAY, 13th NOVEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
Joliette,
Neilson,
Quesnel, and
Christie.

Joseph Dionne, Esquire, having previously taken the prescribed Oath, and subscribed the Roll containing the same, took his seat at the Council Table.

PRAYERS.

On motion of the Honble. Mr. *Pothier*, seconded by Mr. *Quesnel*.

The Council adjourned.

WEDNESDAY, 14th NOVEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *McGill*,
Joliette,
De Rocheblave,
Neilson,
Quesnel,
Christie,
Casgrain,
Faribault,
Penn, and
Joseph Dionne.

PRAYERS.

On motion of Mr. *Casgrain*, seconded by Mr. *Joseph Dionne*.

The Council adjourned.

THURSDAY, 15th NOVEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
Joliette,
De Rocheblave,
Neilson,
Gerrard,
Quesnel,
Christie.
Casgrain,
Faribault,
Molson,
Penn, and
Joseph Dionne.

PRAYERS.

His Excellency the Administrator of the Government having entered the Council Chamber, he took his seat at the head of the Table.

His Excellency then proposed to the Council for consideration and adoption the following Ordinance, which was read for the first time.

An Ordinance to authorize the Governor, or person Administering the Government of this Province to appoint persons as Justices of the Peace and Stipendary Magistrates, notwithstanding an Act of the Legislature of the Province of *Lower-Canada*, passed in the sixth year of the reign of His late Majesty King *William* the Fourth, intituled, "An Act for the qualification of the Justices of the Peace."

His Excellency then withdrew.

The Honble. Mr. *Cuthbert*, resumed the Chair.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*.

ORDERED, That an Ordinance to authorize the Governor, or person Administering the Government of this Province to appoint persons as Justices of the Peace and Stipendary Magistrates notwithstanding an Act of the Legislature of the Province of *Lower-Canada*, passed in the sixth year of the reign of His late Majesty King *William* the Fourth, intituled, "An Act for the qualification of the Justices of the Peace;" be read a second time to-morrow.

The Council was adjourned during pleasure.

After some time the Council was resumed.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
Joliette,

*Neilson,
Gerrard,
Quesnel,
Casgrain,
Faribault
Molson,
Penn, and
Joseph Dionne:*

His Excellency the Administrator of the Government having entered the Council Chamber, he took his seat at the head of the Table.

His Excellency then proposed to the Council for consideration and adoption the following Ordinance, which was read for the first time.

An Ordinance to declare and define the period when the Rebellion now unhappily existing in this Province shall be taken and held to cease, and for other purposes.

His Excellency then withdrew.

The Honble. Mr. *Cuthbert*, resumed the Chair.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*.

RESOLVED, That with reference to the Ordinance now submitted, the Public interest requires that the standing Rules and Orders, respecting the second and third reading of Ordinances, be suspended.

ORDERED, That the said Ordinance be now read a second time.

The said Ordinance was accordingly read a second time.

The question of concurrence having then been separately put upon each Clause of the said Ordinance, they were agreed to unanimously.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*,

ORDERED, That the said Ordinance be fairly transcribed.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*.

ORDERED, That when this Council adjourns, it adjourns until tomorrow at ten o'clock in the forenoon.

The Council then adjourned accordingly.

FRIDAY, 16th NOVEMBER, 1838.

Ten o'clock, A. M.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
Joliette,
De Rocheblave,
Neilson,
Gerrard,
Quesnel,
Christie,
Casgrain,
Faribault,
Molson,
Penn, and
Joseph Dionne,

PRAYERS.

His Excellency the Administrator of the Government having entered the Council Chamber, he took his seat at the head of the table.

On motion of the Honble. Mr. *Pothier*, seconded by the Honble. Mr. *Moffatt*.

ORDERED, That an Ordinance to declare and define the period when the Rebellion now unhappily existing in this Province, shall be taken and held to cease, and for other purposes; be now read for the third time.

The said Ordinance was accordingly read for the third time.

His Excellency having put the question,

“That this Ordinance do now pass.”

It was

RESOLVED, in the affirmative.

His Excellency then signed the said Ordinance, and the Great Seal of the Province was affixed thereto by the Secretary of the Province.

His Excellency then proposed to the Council for consideration and adoption the following Ordinance, which was read for the first time.

An Ordinance for more effectually preventing the administering or taking of unlawful Oaths, and for better preventing Treasonable and Seditious Practices.

His Excellency then withdrew.

The Honble. Mr. *Cuthbert* resumed the Chair.

On motion of the Honble. Mr. *Pothier*, seconded by Mr. *Gerrard*,

ORDERED, That an Ordinance for more effectually preventing the administering or taking of unlawful Oaths, and for better preventing Treasonable and Seditious Practices ; be read a second time to-morrow.

An Ordinance to authorize the Governor or person Administering the Government of this Province to appoint persons as Justices of the Peace and Stipendary Magistrates, notwithstanding an Act of the Legislature of the Province of *Lower Canada*, passed in the sixth year of the Reign of His late Majesty, King *William* the Fourth, intituled, “ An Act for the qualification of the Justices of the Peace,” was, according to order, read a second time.

The first Clause of the said Ordinance being again read,

The Honble. Mr. *De Rocheblave* moved, seconded by Mr. *Quesnel*.

That the following amendment be made to the said Clause :—

Page 3, line 12—After “ notwithstanding,” insert “ Provided always, that not more
“ than two Magistrates shall be appointed in any County.”

The Council divided on the proposed amendment.

FOR THE AMENDMENT.

Messrs. *De Rocheblave*,
Quesnel,
Faribault,
Joseph Dionne,

AGAINST THE AMENDMENT.

Messrs. *Pothier*,
Moffatt,
Joliette,
Neilson,
Gerrard,
Christie,
Casgrain,
Molson,
Penn.

So the amendment passed in the negative.

The question of concurrence having then been separately put upon each Clause of the said Ordinance, they were agreed to.

On motion of the Honble. Mr. *Pothier*, seconded by Mr. *Gerrard*,

ORDERED, That the said Ordinance be fairly transcribed.

Then,

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *Neilson*,

The Council adjourned until two o'clock, P. M., this day.

FRIDAY, 16th NOVEMBER, 1838.

Two o'clock, P. M.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
Joliette,
De Rocheblave,
Neilson,
Gerrard,
Quesnel,
Christie,
Casgrain,
Faribault,
Molson,
Penn, and
Joseph Dionne.

PRAYERS.

His Excellency the Administrator of the Government having entered the Council Chamber, he took his seat at the head of the Table.

On motion of the Honble. Mr. *Pothier*, seconded by Mr. *Gerrard*,

ORDERED, That an Ordinance to authorize the Governor or person Administering the Government of this Province, to appoint persons as Justices of the Peace and Stipendary Magistrates, notwithstanding an Act of the Legislature of the Province of *Lower Canada*, passed in the sixth year of the Reign of His late Majesty King *William* the Fourth, intituled, "An Act for the qualification of the Justices of the Peace," be now read for the third time.

The said Ordinance was accordingly read for the third time.

His Excellency having put the question,

E

“ That this Ordinance do now pass ”

It was

RESOLVED, in the affirmative.

His Excellency then signed the said Ordinance, and the Great Seal of the Province was affixed thereto by the Secretary of the Province.

His Excellency then proposed to the Council for consideration and adoption, the following Ordinances, which were severally read for the first time.

An Ordinance for the attainder of persons against whom sentences or judgments of Courts Martial shall be given under and by virtue of an Ordinance passed in the second year of Her Majesty's Reign, intituled, “ An Ordinance for the suppression of the Rebellion which unhappily exists within this Province of *Lower Canada*, and for the protection of the persons and properties of Her Majesty's faithful subjects within the same,” and of another Ordinance passed in the said second year of Her Majesty's Reign, intituled, “ An Ordinance to declare and define the period when the Rebellion now unhappily existing in this Province shall be taken and held to cease, and for other purposes.”

An Ordinance to extend the provisions of certain Ordinances therein mentioned to the District of *Saint Francis*, in the Province of *Lower-Canada*.

His Excellency then withdrew.

The Honble. Mr. *Cuthbert*, resumed the Chair.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*.

ORDERED, That the Ordinances, now submitted, be severally read a second time, at the next sitting day.

The Honble. Mr. *McGill*, moved, seconded by the Honble. Mr. *Pothier*,

That when this Council adjourns, it adjourns until to-morrow at ten o'clock the forenoon.

The Honble. Mr. *Moffatt*, moved in amendment, seconded by Mr. *Quesnel*.

That the word "ten" in the said motion be struck out and the word "twelve" substituted.

The Council divided on the motion of amendment.

FOR THE MOTION.

Messrs. *Moffatt*,
DeRocheblave,
Quesnel,
Christie,
Penn,

AGAINST THE MOTION.

Messrs. *Pothier*,
McGill,
Joliette,
Neilson,
Gerrard,
Casgrain,
Faribault,
Molson,
Joseph Dionne.

So it passed in the negative.

The question being then put on the main motion.

It was agreed to,

And the Council accordingly adjourned until to-morrow at ten o'clock, A. M.

SATURDAY, 17th NOVEMBER, 1838.

Ten o'clock, A. M.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
Joliette,
De Rocheblave,
Neilson,
Gerrard,
Quesnel,
Christie,
Casgrain,
Faribault,
Molson,
Penn, and
Joseph Dionne.

PRAYERS.

The Presiding Member informed the Council that His Excellency the Administrator, had been pleased to allow Messrs. *Walker* and *Austin* to absent themselves from the sittings of this Council.

A letter of excuse from *Etienne Mayrand*, Esquire, and also one from *Paul Holland Knoulton*, Esquire, for not attending the Council for the present, were laid upon the table, by the Presiding Member.

The order of the day for the second reading of an Ordinance for more effectually preventing the administering or taking of unlawful Oaths, and for better preventing Treasonable and Seditious Practices, being read.

On motion of Mr. *Penn*, seconded by Mr. *Molson*.

ORDERED, That the said order of the day be postponed, and be the second order of this day.

An Ordinance for the attainder of persons, against whom sentences or judgments of Courts Martial shall be given, under and by virtue of an Ordinance passed in the second year of Her Majesty's Reign, intituled, "An Ordinance for the suppression of the Rebellion, which unhappily exists within this Province of *Lower-Canada*, and for the protection of the persons and properties of Her Majesty's faithful subjects within the same," and of another Ordinance passed in the said second year of Her Majesty's Reign, intituled, "An Ordinance to declare and define the period when the Rebellion, now unhappily existing in this Province, shall be taken and held to cease, and for other purposes," was, according to order, read a second time.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *DeRocheblave*.

RESOLVED, That the further discussion on this Ordinance be postponed till the next sitting day.

An Ordinance for more effectually preventing the administering or taking of unlawful Oaths, and for better preventing Treasonable and Seditious Practices; was according to order, read a second time.

On motion of the Honble. Mr. *Neilson*, seconded by the Honble. Mr. *McGill*.

ORDERED, That the following amendments be made to the said Ordinance.

First Clause.—Fill up the blank with the word "Seven."

Second Clause.—Fill up the first blank with the word "Eight."

Ibid. —Fill up the second blank with the word "Eight."

On motion of the Honble. Mr. *Neilson*, seconded by the Honble. Mr. *McGill*.

RESOLVED, That the further discussion on this Ordinance be postponed till Monday next.

An Ordinance to extend the provisions of certain Ordinances therein mentioned to the District of *Saint Francis*, in the Province of *Lower-Canada*; was according to order, read a second time.

On motion of the Honble. Mr. *Pothier*, seconded by the Honble. Mr. *Moffatt*,

RESOLVED, That the further discussion on this Ordinance be postponed till Monday next.

On motion of the Honble. Mr. *McGill*, seconded by Mr. *Gerrard*.

ORDERED, That when this Council adjourns, it adjourns until Monday morning next, at ten o'clock.

The Council then adjourned accordingly.

MONDAY, 19th NOVEMBER, 1838.

Ten o'clock, A. M.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
Joliette,
DeRocheblave,
Neilson,
Gerrard,
Quesnel,
Christie,
Casgrain,
Faribault
Molson,
Penn, and
Joseph Dionne.

PRAYERS.

According to order, the Council resumed the discussion on an Ordinance for the attainder of persons against whom sentences or judgments of Courts Martial shall be given, under and by virtue of an Ordinance passed in the second year of Her Majesty's Reign, intituled, " An Ordinance for the suppression of the Rebellion which unhappily exists within this Province of Lower Canada, and for the protection of the persons and properties of Her Majesty's faithful subjects within

“ the same,” and of another Ordinance passed in the said second year of Her Majesty’s Reign, intituled, “ An Ordinance to declare and define the period when the Rebellion, now unhappily existing in this Province, shall be taken and held to cease, and for other purposes.”

Mr. *Penn* moved, seconded by the Honble. Mr. *McGill*,

That the following amendment be made to the said Ordinance :

Page 3, lines 23 and 24.—Strike out “ whether of death or otherwise,” and insert “ whereby the pain of death shall be adjudged.”

The Council divided on the proposed amendment.

FOR THE AMENDMENT.

Messrs. *Pothier*,
Moffatt,
McGill,
Joliette,
Neilson
Gerrard,
Quesnel,
Christie,
Casgrain,
Faribault,
Molson,
Penn.

AGAINST THE AMENDMENT.

Messrs. *De Rocheblave*,
Joseph Dionne.

So it was carried in the affirmative.

On motion of Mr. *Penn*, seconded by the Honble. Mr. *McGill*,

ORDERED, That the following amendments be also made to the said Ordinance :

Page 4, line 12.—Strike out “ for any of the offences mentioned in,” and insert “ by virtue of.”
 ———— 23.—Strike out “ attained,” and insert “ sentenced or adjudged.”

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *McGill*,

ORDERED, That the following amendments be also made to the said Ordinance :

Page 4, line 25.—After “to,” strike out the remainder of the Clause and insert
 “ the Queen’s Majesty, her Heirs and Successors for ever,
 “ without prejudice however to the rights of the *bond fide*
 “ creditors of such persons so sentenced or adjudged to suffer
 “ the said pain of death, for all dues, charges, and incumbran-
 “ ces existing prior to the commission of the offence for
 “ which such sentence or judgment shall have been so made,
 “ given or passed.”

The Honble. Mr. *Moffatt* moved, seconded by the Honble. Mr. *Pothier*,

That the following Clause marked A, be added to the said Ordinance, and do follow the third Clause :

CLAUSE, A.

“ And to the end that all Creditors and Claimants upon the
 “ property of such person or persons, so sentenced or ad-
 “ judged to suffer the pain of death, may have an opportu-
 “ nity of establishing such claims, charges and incumbrances
 “ as may be respectively due to each, and be paid the same
 “ out of the proceeds of such property: Be it, therefore,
 “ further Ordained and Enacted by the authority aforesaid,
 “ that, within fifteen days after the affiling of such Judg-
 “ ments or Sentences of such Courts Martial with the Pro-
 “ thonotary of the said Court of King’s Bench, it shall and
 “ may be lawful for and on behalf of Her said Majesty to sue
 “ out Writs, in virtue of such Sentences or Judgments, di-
 “ rected to the Sheriff of the said District, commanding him
 “ to seize and sell the moveable and immoveable property of
 “ such persons, so sentenced or adjudged to suffer the pain
 “ of death, after such advertisements, and in the same mode
 “ and manner as may now, by Law, be used in respect to
 “ executions or judgments for debt, rendered in the said
 “ Court of King’s Bench, and to make return, of his doings
 “ and levyings on such Writs, to the said Court, as he is now,
 “ by Law, held and bound to do on Writs of Execution ;
 “ And all persons having claims, *afin de distraire* or *afin de*
 “ *charge*, or for dower upon such immoveable property, shall
 “ be held, as is now practised, to make and file oppositions
 “ in support of the same, with the said Sheriff, accompanied
 “ by affidavits establishing the claim, fifteen days, at least, be-
 “ fore the day fixed for the sale of such immoveable property ;

“ And all persons having claims upon the monies levied and returned by the said Sheriff before the said Court, shall be held to make and file their claim on the day after such return shall be made by the said Sheriff, and all persons failing to make such opposition within the delays herein prescribed for the same, respectively, shall be wholly and forever precluded from so doing, and from all claims which, under such oppositions, might have been established.”

The Council divided on the proposed Clause.

FOR THE CLAUSE:

Messrs. *Pothier,*
Moffatt,
Mc Gill,
Joliette,
Neilson,
Gerrard,
Christie,
Casgrain,
Faribault,
Penn,
Joseph Dionne.

AGAINST THE CLAUSE.

Messrs. *DeRocheblave,*
Quesnel.

So it was carried in the affirmative.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *McGill*,

ORDERED, That the following Clause marked B, be also added to the said Ordinance.

CLAUSE, B.

“ And be it further Ordained and Enacted by the authority aforesaid, that all purchasers at such Sheriff's Sales, under such Writs as aforesaid, shall have a valid, absolute, and indefeasible title to such property so by them purchased, to them, their heirs, and assigns for ever.”

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Moffatt*.

ORDERED, That the said Ordinance as amended, be fairly transcribed.

According to order, the Council resumed the further discussion on an Ordinance for more effectually preventing the administering or taking of unlawful Oaths and for better preventing Treasonable and Seditious Practices.

On motion of the Honble. Mr. *Neilson*, seconded by the Honble. Mr. *McGill*.

ORDERED, That the following Clauses marked A. B. C. D., be added to the said Ordinance, and do follow the fifth clause.

CLAUSE, A.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that from and after the passing of this Ordinance,
 “ all and every Society or Association now established or
 “ hereafter to be established, the Members whereof shall,
 “ according to the rules thereof, or to any provision or any
 “ agreement for that purpose, be required to keep secret the
 “ acts or proceedings of such Society or Association, or
 “ admitted to take any Oath or engagement, which shall be an
 “ unlawful Oath or engagement, within the intent and
 “ meaning of the foregoing provisions of this Ordinance,
 “ or to take any Oath or engagement not required
 “ or authorized by law ; and every Society or Association,
 “ the Members whereof or any of them shall take or in any
 “ manner bind themselves by any such Oath or engagement,
 “ or in consequence of being Members of such Society or
 “ Association ; and every Society or Association, the Mem-
 “ bers whereof or any of them shall take, subscribe, or assent
 “ to any engagement of secrecy, test or declaration not
 “ required by Law, and every Society, of which the names of
 “ the Members or any of them shall be kept secret from the
 “ Society at large, or which shall have any Committee or
 “ select body so chosen or appointed, that the Members consti-
 “ tuting the same shall not be known by the Society at
 “ large to the Members of such Committee or select
 “ body, or which shall have any President, Treasurer,
 “ Secretary or Delegate or other Officer so chosen or
 “ appointed, that the election or appointment of such
 “ persons to such offices, shall not be known to the
 “ Society at large, or of which the names of all the persons
 “ and of all Committees or select bodies of Members, and of

“ all Presidents, Treasurers, Secretaries, Delegates and other
 “ Officers shall not be entered in a book or books for
 “ that purpose, and to be open to the inspection of all the
 “ Members of such Society or Association ; and every Society
 “ or Association which shall be composed of different divi-
 “ sions or branches; or of different parts acting in any
 “ manner seperately or distinct from each other, or of which
 “ any part shall have any separate or distinct President,
 “ Secretary, Treasurer, Delegate or other Officer elected or
 “ appointed by or for such part, or to act as an Officer for
 “ such part, shall be deemed and taken to be unlawful com-
 “ binations and confederacies : and every person, who, from
 “ and after the passing of this Ordinance, shall become a
 “ Member of any such Society or Association, at the passing
 “ of this Ordinance, shall, afterwards act as a Member thereof,
 “ and every person who, after the passing of this Ordinance,
 “ shall directly or indirectly maintain correspondence or
 “ intercourse with any such Society or Association, or with
 “ any division, branch, Committee or other select body,
 “ Treasurer, Secretary, Delegate or other Officer or Member
 “ of such Society or Association, whether within or without
 “ the Province, as such or who shall by contribution of
 “ money or otherwise aid, abet or support such Society, or any
 “ Members or Officers thereof as such, shall be deemed guilty
 “ of an unlawful combination or confederacy.”

CLAUSE, B.

“ And be it further Ordained and enacted by the authority
 “ aforesaid, that every person, who, at any time after the
 “ passing of this Ordinance, shall in breach of the provisions
 “ thereof, be guilty of any such unlawful combination or con-
 “ federacy as in this Ordinance is described, and shall be con-
 “ victed thereof upon indictment by due course of Law, shall
 “ and may be transported for a term not exceeding seven
 “ years, in the manner provided by Law for the transportation
 “ of offenders, or imprisoned for any time not exceeding two
 “ years, as the Court before whom such offenders shall be
 “ tried shall think fit ; and every such offender who shall be so
 “ ordered to be transported, shall be subject and liable to all
 “ Laws concerning offenders ordered to be transported.

CLAUSE, C.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that if any person shall knowingly permit any
 “ meeting of any Society or Association hereby declared to
 “ be an unlawful combination or confederacy, or of any
 “ division, branch, or committee of such Society to be held
 “ in his or her house, apartment, barn, outhouse, or other
 “ building, such person shall, for the first offence, forfeit a
 “ sum not exceeding Fifty Pounds currency, and shall, for
 “ any such offence committed after the date of his or her
 “ conviction for such first offence, be deemed guilty of an
 “ unlawful combination and confederacy in breach of this
 “ Ordinance, and shall be punished as thereby directed.”

CLAUSE, D.

“ And whereas certain Societies have been long accustomed
 “ to be holden in this Province, under the denomination of
 “ Lodges of Free Masons, the meetings whereof have been,
 “ in great measure, directed to charitable purposes ; Be it
 “ therefore Ordained and Enacted by the authority aforesaid,
 “ that nothing in this Ordinance shall extend to the meetings
 “ of any such Society or Lodge, which before the passing of
 “ this Ordinance have been, or which may hereafter be holden
 “ under the said denomination, and in conformity to the
 “ rules prevailing among the said Societies of Free Masons :
 “ Provided always that such Societies or Lodges shall have
 “ been, or shall be, erected and constituted by, or under the
 “ authority of, Warrants in that behalf, granted by, or derived
 “ from, any Grand Master, or Grand Lodge, in the United
 “ Kingdom of Great Britain and Ireland.”

The Honble. Mr. *Pothier* moved, seconded by the Honble. Mr. *McGill*,

That the following Clause, marked E., be also added to the said Ordinance :

CLAUSE, E.

“ And be it further Ordained and Enacted by the autho-
 “ rity aforesaid, that it shall be imperative on each and every
 “ Rector, Curate, Vicar, or other Priest or Minister perform-
 “ ing the Parochial or Clerical duty of any Parish or other

“ Church in this Province, to read this Ordinance, or cause
 “ it to be read publicly at the door of the Parish Church,
 “ and where there is no Church, at any other place of Public
 “ Worship, immediately after Divine Service in the
 “ morning, on the three consecutive Sundays immediately
 “ following the reception of this Ordinance by such Rector,
 “ Curate, Vicar, or other Priest or Minister in each Parish,
 “ Township, or extra Parochial place within this Province.”

The Council divided on the proposed Clause.

FOR THE CLAUSE.

Messrs. *Pothier,*
Moffatt,
McGill,
Gerrard,
Christie,
Faribault,
Molson,
Penn.

AGAINST THE CLAUSE.

Messrs. *Joliette,*
De Rocheblave,
Neilson,
Quesnel,
Casgrain,
Joseph Dionne.

So it was carried in the affirmative.

On motion of the Honble. Mr. *Neilson*, seconded by the Honble. Mr. *Joliette*,

ORDERED, That the following Clause marked F, be also added to the said Ordinance:

CLAUSE, F.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that it shall be the duty of the Law Officers of the
 “ Crown to make an abstract of the said Ordinance, which
 “ abstract shall be printed and forwarded with the said Ordinance,
 “ and be distributed and posted in each Parish, Township, and extra
 “ Parochial place within this Province, in such
 “ manner as the Governor, Lieutenant Governor, or person
 “ administering the Government thereof, may direct.”

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Neilson*,

ORDERED, That the blank in the last Clause of the said Ordinance be filled up with the words “ first day of November, in the year of our Lord one thousand eight hundred and forty-two.”

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Neilson*,

ORDERED, That the said Ordinance, as amended, be fairly transcribed.

According to order the Council resumed the discussion on an Ordinance to extend the provisions of certain Ordinances therein mentioned to the District of *Saint Francis*, in the Province of *Lower-Canada*.

The question of concurrence having been put upon the said Ordinance,

It was agreed to unanimously.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Neilson*,

ORDERED, That the said Ordinance, be fairly transcribed.

His Excellency the Administrator of the Government having entered the Council Chamber, he took his seat at the head of the Table.

His Excellency then proposed to the Council for consideration and adoption, the following Ordinance which was read for the first time.

An Ordinance to confirm certain Ordinances of the Governor of this Province and of the Special Council for the affairs thereof, and to declare the period at which they respectively commenced and took effect.

His Excellency then withdrew.

The Honble. Mr. *Cuthbert*, resumed the Chair.

The Honble. Mr. *McGill* moved, seconded by the Honble. Mr. *Neilson*,

That with reference to the Ordinance now submitted, the Standing Rules and Orders, respecting the second and third reading of Ordinances, be suspended.

The Council divided on the motion :

FOR THE MOTION.

AGAINST THE MOTION.

Messrs. *Pothier,*
McGill,
Joliette,
De Rocheblave,
Neilson,
Gerrard,
Quesnel,
Christie,
Casgrain,
Faribault,
Molson,
Penn,
Joseph Dionne.

Mr. *Moffatt,*

So it was carried in the affirmative, and

RESOLVED, accordingly.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Neilson*,

ORDERED, That the said Ordinance be now read a second time.

The said Ordinance was accordingly read a second time.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Neilson*,

ORDERED, That the first blank in the said Ordinance be filled up with the words
 “ An Ordinance to prevent the discharge of certain persons until they shall
 “ have given security.”

ORDERED, That the second blank in the said Ordinance be filled up with the words
 “ An Ordinance to make provision for defraying the Civil Expenditure of the
 “ Provincial Government from the first day of April, one thousand eight
 “ hundred and thirty eight, to the tenth day of October of the same year.”

The Honble. Mr. *Neilson* moved, seconded by Mr. *Casgrain*,

That the third blank in the said Ordinance be filled up with the words, “An
 “ Ordinance to make good two certain sums of money therein mentioned advanced

“ in payment of certain indispensable expenses of the Civil Government of
 “ *Lower-Canada*, between the first day of March, one thousand eight hundred and
 “ thirty eight and the thirty first day of October of the same year.”

The Council divided on the motion.

FOR THE MOTION.

Messrs. *Moffatt*,
McGill,
Joliette,
Neilson,
Gerrard,
Quesnel,
Christie,
Casgrain,
Faribault,
Molson,
Joseph Dionne.

AGAINST THE MOTION.

Messrs. *Pothier*,
De Rocheblave,
Perrin.

So it was carried in the affirmative.

The Honble. Mr. *McGill* moved, seconded by the Honble. Mr. *Neilson*.

That the fourth blank in the said Ordinance be filled up with the words “ An
 “ Ordinance to appropriate certain sums annually to enable Her Majesty to defray
 “ the expense of pensions conferred on the Honorable *Jonathan Sewell*, Esquire,
 “ and the Honorable *James Reid*, Esquire;”

The Council divided on the motion.

FOR THE MOTION.

Messrs. *Moffatt*,
McGill,
Joliette,
Neilson,
Gerrard.

AGAINST THE MOTION.

Messrs. *Pothier*,
De Rocheblave.

*Quesnel,
Christie,
Casgrain,
Faribault,
Molson,
Penn,
Joseph Dionne.*

So it was carried in the affirmative.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Neilson*,

ORDERED, That the said Ordinance, as amended, be fairly transcribed.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*.

ORDERED, That when this Council adjourns, it adjourns until to-morrow, at three o'clock, P. M.

The Council then adjourned accordingly.

TUESDAY, 20th NOVEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier,
Moffatt,
McGill,
Joliette,
De Rocheblave,
Neilson,
Gerrard,
Quesnel,
Christie,
Casgrain,
Faribault,
Molson,
Penn, and
Joseph Dionne.*

G

PRAYERS.

His Excellency the Administrator of the Government having entered the Council Chamber, he took his seat at the head of the Table.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*.

ORDERED, That an Ordinance for the attainder of persons against whom sentences or judgments of Courts Martial shall be given, under and by virtue of an Ordinance passed in the second year of Her Majesty's Reign, intituled, "An Ordinance for the suppression of the Rebellion which unhappily exists within this Province of *Lower Canada*, and for the protection of the persons and properties of Her Majesty's faithful subjects within the same," and of another Ordinance passed in the said second year of Her Majesty's Reign, intituled, "An Ordinance to declare and define the period when the Rebellion now unhappily existing in this Province, shall be taken and held to cease, and for other purposes;" be now read for the third time.

The said Ordinance was accordingly read for the third time.

His Excellency having put the question,

"That this Ordinance do now pass."

It was

RESOLVED, in the affirmative.

His Excellency then signed the said Ordinance, and the Great Seal of the Province was affixed thereto, by the Secretary of the Province.

On motion of the Honble. Mr. *Neilson*, seconded by Mr. *Casgrain*,

ORDERED, That an Ordinance for more effectually preventing the administering or taking of unlawful Oaths, and for better preventing Treasonable and Seditious Practices; be now read for the third time.

The said Ordinance was accordingly read for the third time.

His Excellency having put the question,

“ That this Ordinance do now pass.”

It was

RESOLVED, in the affirmative.

His Excellency then signed the said Ordinance, and the Great Seal of the Province was affixed thereto, by the Secretary of the Province.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Moffatt*,

ORDERED, That an Ordinance to extend the provisions of certain Ordinances therein mentioned to the District of *Saint Francis*, in the Province of *Lower-Canada*; be now read for the third time.

The said Ordinance was accordingly read for the third time.

His Excellency having put the question,

“ That this Ordinance do now pass.”

It was

RESOLVED, in the affirmative.

His Excellency then signed the said Ordinance, and the Great Seal of the Province was affixed thereto, by the Secretary of the Province.

On motion of the Honble. Mr. *Neilson*, seconded by the Honble. Mr. *McGill*.

ORDERED, That an Ordinance to confirm certain Ordinances of the Governor of this Province, and of the Special Council for the affairs thereof, and to declare the period at which they respectively commenced and took effect; be now read for the third time.

The said Ordinance was accordingly read for the third time.

His Excellency having put the question,

“ That this Ordinance do now pass. ’

It was

RESOLVED, in the affirmative.

His Excellency then signed the said Ordinance, and the Great Seal of the Province was affixed thereto, by the Secretary of the Province.

His Excellency then withdrew.

The Honble. Mr. *Cuthbert* resumed the Chair.

Then ;

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Moffatt*,
The Council adjourned.

WEDNESDAY, 21st NOVEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
Joliette,
De Rocheblave,
Neilson,
Gerrard,
Quesnel,
Christie,
Casgrain,
Faribault,
Penn, and
Joseph Dionne.

PRAYERS.

On motion of the Honble. Mr. *Pothier*, seconded by Mr. *Gerrard*,
The Council adjourned.

THURSDAY, 22d NOVEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
Joliette,
Neilson,
Gerrard,
Quesnel,
Christie.
Casgrain,
Faribault,
Molson,
Penn, and
Joseph Dionne.

PRAYERS.

Captain *Thomas Leigh Goldie*, Civil Secretary to His Excellency the Administrator, was admitted in the Council Chamber, and delivered to the Presiding Member, a Message from His Excellency.

And then he withdrew.

And the said Message was read by the Presiding Member, and is as followeth :

J. COLBORNE,

Administrator.

The Administrator of the Government in transmitting to the Special Council, the accompanying project of an Ordinance for their consideration, for the erection of a Court of Judicature for the trial of certain crimes therein-mentioned, and for other purposes ; thinks it right to cite the following passage of a Despatch from the Secretary of State for the Colonies, addressed to Lord *Durham*, which he has lately received.

“ Your Lordship asserts in your Despatch, that in the present state of the Province, trial by Jury, exists only to defeat the ends of Justice, and to provoke the righteous scorn and indignation of the community. This is a picture of a most

“ lamentable state of things, of which the truth, I fear, must be admitted, and the
“ evil cannot be overrated.

“ On the due execution of Justice the whole relations of Society depend—If
“ men find that the murder of their relatives and friends is not visited with retri-
“ bution in a Court of Justice, it can scarcely be expected that they will abstain
“ from a recurrence to the personal revenge, which in reliance upon Law, they had
“ relinquished. This state of insecurity imperatively requires a remedy.—It is
“ therefore the desire of Her Majesty’s Government, that an Ordinance should be
“ passed by the Special Council of *Lower-Canada*, constituting a Tribunal for the
“ trial of Treason and Murder.”

Government House,

Montreal, 22d November, 1838.

An Ordinance for the erection of a Court of Judicature for the trial of certain crimes and offences therein mentioned, and for other purposes; was read for the first time.

On motion of Mr. *Gerrard*, seconded by the Honble. Mr. *Neilson*,

ORDERED, That the said Ordinance be read a second time, to-morrow.

Then ;

On motion of the Honble. Mr. *Pothier*, seconded by Mr. *Gerrard*,

The Council adjourned.

FRIDAY, 23d NOVEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
Joliette,
DeRocheblave,
Neilson,
Gerrard,
Quesnel,
Christie.
Casgrain,
Faribault.
Molson,
Penn, and
Joseph Dionne.

PRAYERS.

An Ordinance for the erection of a Court of Judicature for the trial of certain Crimes and offences therein mentioned, and for other purposes ; was according to order read a second time.

Captain *Thomas Leigh Goldie*, Civil Secretary to His Excellency the Administrator, was admitted in the Council Chamber, and delivered to the Presiding Member, a Message from His Excellency.

And then he withdrew.

And the said Message was read by the Presiding Member, and is as followeth :

J. COLBORNE,

Administrator.

The Administrator transmits the Drafts of three Ordinances for the consideration of the Special Council, viz :

An Ordinance to provide for the more speedy attainder of persons against whom informations for High Treason, Suspicion of High Treason, and for Treasonable Practices have been preferred and fyled, who have fled from the Province, or remain concealed therein to escape from Justice.

An Ordinance to authorize the Trial of persons charged with certain Crimes and Offences, in any District of this Province.

An Ordinance to authorize the Governor or Person Administering the Government of this Province to cause the confinement of persons committed or detained for certain crimes, in any of the Gaols in this Province, and for other purposes.

The Ordinance, intituled, "An Ordinance for the more speedy attainder of persons against whom informations for High Treason, &c. &c.," is framed with reference to the Ordinance transmitted yesterday, and cannot be proceeded on, till that is passed.

Government House,

Montreal, 23rd November, 1838.

An Ordinance to authorize the trial of persons charged with certain Crimes and Offences, in any District of this Province; was read for the first time.

An Ordinance to authorize the Governor or Person Administering the Government of this Province, to cause the confinement of persons committed or detained for certain crimes in any of the Gaols in this Province, and for other purposes; was read for the first time.

The Council resumed the discussion on an Ordinance for the erection of a Court of Judicature for the trial of certain crimes and offences therein mentioned, and for other purposes.

On motion of the Honble. Mr. *McGill*, seconded by Mr. *Penn*,

RESOLVED, That the further discussion on this Ordinance be postponed till Monday next.

On motion of the Honble. Mr. *Neilson*, seconded by the Honble. Mr. *McGill*,

RESOLVED, That with reference to the Ordinances, this day submitted, the Standing Rules and Orders, respecting the second and third reading of Ordinances, be suspended.

On motion of the Honble. Mr. Neilson, seconded by the Honble. Mr. McGill,

ORDERED, That an Ordinance to authorize the trial of persons charged with certain Crimes and Offences, in any District of this Province; be now read a second time.

The said Ordinance was accordingly read a second time.

On motion of the Honble. Mr. Neilson, seconded by the Honble. Mr. McGill,

ORDERED, That the following amendment, be made to the said Ordinance.

Fill up the blank in the second Clause with the words " the first day of November, in the year of our Lord, one thousand eight hundred and forty-two, and no longer."

On motion of the Honble. Mr. Neilson, seconded by the Honble. Mr. McGill,

ORDERED, That the said Ordinance, as amended, be fairly transcribed.

On motion of the Honble. Mr. Neilson, seconded by the Honble. Mr. McGill,

ORDERED, That an Ordinance to authorize the Governor, or Person Administering the Government of this Province to cause the confinement of persons committed or detained for certain Crimes in any of the Gaols in this Province, and for other purposes; be now read a second time.

The said Ordinance was accordingly read a second time.

On Motion of the Honble. Mr. Neilson, seconded by the Honble. Mr. McGill,

ORDERED, That the following amendment, be made to the said Ordinance :—

Fill up the blank in the second Clause with the words " the first day of November, in the year of our Lord, one thousand eight hundred and forty-two, and no longer."

On motion of the Honble. Mr. *Neilson*, seconded by the Honble. Mr. *McGill*,
ORDERED, That the said Ordinance, as amended, be fairly transcribed,

On motion of the Honble. Mr. *Neilson*, seconded by the Honble. Mr. *McGill*,
ORDERED, That when this Council adjourns, it adjourns until to-morrow, at ten
o'clock in the forenoon.

The Council then adjourned accordingly.

SATURDAY, 24th NOVEMBER, 1838.

Ten o'clock, A. M.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
De Rocheblave,
Neilson,
Gerrard,
Quesnel,
Christie,
Casgrain,
Molson,
Penn, and
Joseph Dionne.

PRAYERS.

His Excellency the Administrator of the Government having entered the Council Chamber, he took his seat at the head of the Table.

On motion of the Honble. Mr. *Neilson*, seconded by the Honble. Mr. *McGill*,

ORDERED, That an Ordinance to authorize the trial in any District of this Province, of persons charged with certain Crimes and Offences ; be now read for the third time.

The said Ordinance was accordingly read for the third time.

His Excellency having put the question,

“That this Ordinance do now pass,”

It was

RESOLVED, in the affirmative.

His Excellency then signed the said Ordinance, and the Great Seal of the Province was affixed thereto, by the Secretary of the Province.

On motion of the Honble. Mr. *Neilson*, seconded by the Honble. Mr. *McGill*,

ORDERED, That an Ordinance to authorize the Governor or Person Administering the Government of this Province, to cause the confinement in any of the Gaols in the said Province, of persons committed or detained for certain Crimes, and for other purposes ; be now read for the third time.

The said Ordinance was accordingly read for the third time.

His Excellency having put the question,

“That this Ordinance do now pass,”

It was

RESOLVED, in the affirmative.

His Excellency then signed the said Ordinance, and the Great Seal of the Province, was affixed thereto by the Secretary of the Province.

His Excellency then withdrew.

The Honble. Mr. *Cuthbert* resumed the Chair.

Then,

On motion of the Honble. Mr. *McGill*, seconded by Mr. *Gerrard*,

The Council adjourned till Monday next.

MONDAY, 26th NOVEMBER, 1838.

PRESENT,

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
De Rocheblave,
Gerrard,
Quesnel,
Christie, and
Penn.

PRAYERS.

According to order the Council resumed the discussion on the Ordinance for the erection of a Court of Judicature for the trial of certain Crimes and Offences therein mentioned, and for other purposes.

The Honble. Mr. *De Rocheblave* moved, seconded by Mr. *Quesnel*.

That the further discussion of the said Ordinance be postponed until the first day of May next.

Mr. *Penn*, moved in amendment, seconded by the Honble. Mr. *McGill*,

That the words "*the first day of May next*," in the said motion, be struck out, and the words "*to-morrow*" be substituted.

The Council divided on the motion of amendment.

FOR THE AMENDMENT.

Messrs. *Pothier*,
McGill,
Gerrard,
Christie,
Penn.

AGAINST THE AMENDMENT:

Messrs. *Moffatt*,
De Rocheblave,
Quesnel.

So it was carried in the affirmative.

The Question being then put on the main motion, as amended.

It was agreed to, and

RESOLVED, accordingly.

Then,

On motion of the Honble. Mr. *McGill*, seconded by Mr. *Gerrard*,

The Council adjourned.

TUESDAY, 27th NOVEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
DeRocheblave,
Gerrard,
Quesnel,
Christie, and
Penn.

PRAYERS.

According to order, the Council resumed the further discussion of the Ordinance for the erection of a Court of Judicature for the trial of certain Crimes and Offences therein mentioned, and for other purposes.

Mr. *Penn* moved, seconded by the Honble Mr. *McGill*,

That the following amendments be made to the said Ordinance :

Page 1, line 24—After “ have,” insert “ every power, right, jurisdiction and authority by Law appertaining to any Court of King’s Bench, having Criminal Jurisdiction in this Province, or to any Court of Oyer and Terminer, Gaol delivery or Sessions of the Peace, constituted or to be constituted in virtue of the Laws of this Province, as far as such power, right, jurisdiction, and authority may be applicable to the proceedings of such Court to be erected and constituted in virtue hereof, and shall have.”

“ “ 28—After “ which,” insert “ shall or may have been committed by any person or persons at any time or times between the sixteenth day of November, in the year of our Lord, one thousand eight hundred and thirty-seven, and the first day of the present month of November, within the intent and meaning of this Ordinance, or which shall or may be committed from and after the day when Martial Law shall be declared to cease and determine in the said Province, or.”

“ lines 28 and 29—Strike out the words “ may be committed, or may arise from and after the passing of this Ordinance.”

Page 2, line 1—Strike out “ Courts,” and insert “ Court.”

“ “ “ 1 and 2—Strike out the words “ in all and every the cases aforesaid.”

“ “ “ 3—After “ of,” insert “ all and every such Crimes and Offences.”

“ “ “ 4—Strike out “ such cases.”

“ “ *Ibid.*—Strike out “ the.”

“ “ “ 5 and 6—Strike out the words “ same powers and authorities as are possessed by a Court having Criminal Jurisdiction,” and insert “ all such power, right, jurisdiction and authority as is possessed by such Court of King’s Bench having Criminal Jurisdiction, or by such Court of Oyer and Terminer, Gaol delivery, or Sessions of the Peace aforesaid.”

“ “ “ 8—After “ conviction,” insert “ by such Court to be erected and constituted in virtue hereof,”

Page 2, line 13—Strike out “ are,” and insert “may.”

“ “ “ 14—Strike out “ to.”

“ “ “ 15—After “ offending,” add the following Proviso :

“ Provided always, that the said Court, so to be erected
“ and constituted, shall have no power, right, jurisdiction and
“ authority, and shall have no cognizance of, and shall not
“ try any of the crimes and offences aforesaid, committed
“ between the said first day of the present month of Novem-
“ ber, and the day when the said Martial Law shall be so
“ declared to cease and determine.”

The question of concurrence having been separately put on the proposed amendments,

They were carried in the affirmative.

On motion of Mr. *Penn*, seconded by the Honble. Mr. *McGill*,

RESOLVED, That the further discussion of the said Ordinance, be postponed till to-morrow.

Then ;

On motion of the Honble. Mr. *McGill*, seconded by Mr. *Penn*,

The Council adjourned.

WEDNESDAY, 28th NOVEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
De Rocheblave,
Gerrard,
Quesnel,
Christie, and
Penn.

PRAYERS.

According to order, the Council resumed the further discussion on the Ordinance for the erection of a Court of Judicature for the trial of certain Crimes and Offences therein-mentioned, and for other purposes.

Mr. *Penn* moved, seconded by the Honble. Mr. *McGill*,

That the following amendment be made to the said Ordinance.

Fill up the blank in the first Clause with the words " five or more."

The question of concurrence having been put on the proposed amendment,

It was carried in the affirmative.

Captain *Thomas Leigh Goldie*, Civil Secretary to His Excellency the Administrator, was admitted in the Council Chamber, and delivered to the Presiding Member, a Message from His Excellency,

And then he withdrew.

And the said Message was read by the Presiding Member, and is as followeth :
 J. COLBORNE,

Administrator.

The Administrator acquaints the Special Council, that being desirous of proposing for their consideration further measures connected with the formation of a New Tribunal for the trial of certain offences ; he requests that the Ordinance now before them, intituled, " An Ordinance for the erection of a Court of Judicature for the trial of certain Crimes and Offences therein mentioned, and for other purposes," may not be proceeded on.

Government House,

Montreal, 28th November, 1838.

Then ;

On motion of the Honble. Mr. *McGill*, seconded by Mr. *Gerrard*,

The Council adjourned.

THURSDAY, 29th NOVEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Moffatt*,
De Rocheblave,
Quesnel,
Christie and
Penn.

PRAYERS.

On motion of the Honble. Mr. *Moffatt*, seconded by Mr. *Penn.*,

The Council adjourned.

FRIDAY, 30th NOVEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
De Rocheblave,
Gerrard,
Quesnel,
Christie, and
Penn.

PRAYERS.

Captain *Thomas Leigh Goldie*, Civil Secretary to His Excellency the Administrator, was admitted in the Council Chamber, and delivered to the Presiding Member, two Messages from His Excellency,

And then he withdrew.

And the said Messages were read by the Presiding Member, and are as followeth :—

J. COLBORNE,

Administrator.

The Administrator transmits for the perusal of the Special Council, a Despatch from the Secretary of State for the Colonies, dated 16th October, 1838, relative to the suspension of Specie payment by the Banks.

Government House,

Montreal, 30th November, 1838.

(Duplicate No. 116.)

“ DOWNING STREET,

“ 16th October, 1838.

“ My Lord,

“ With reference to my Despatch, No. 80, of the 2d August, on
 “ the subject of the Ordinances passed by Sir John Colborne and the Special
 “ Council of *Lower-Canada*, I have the honor to enclose, for your Lordship’s in-
 “ formation, a copy of a letter from the Secretary of the Treasury, conveying the
 “ sentiments of the Lords Commissiouters on several of those Ordinances, which,
 “ as they were of a financial nature, had been referred for their Lordships’ consi-
 “ deration.

“ The Ordinance authorizing the Banks to suspend the redemption of their
 “ Notes in specie, will be left to its operation ; but I have to desire that in confor-
 “ mity with their Lordships’ suggestion, you will make the suspension of all pay-
 “ ments of dividends, or other division of profits, during the period of suspension of
 “ specie payments, an invariable condition of granting your Lordship’s sanction
 “ for the exemption of any Banking Establishment from the obligation of redeem-
 “ ing its Notes in specie on demand.

“ The Ordinance relating to the Bank of British *North America*, is considered
 “ to be so highly objectionable, that the Lords of the Treasury have recommended
 “ its immediate disallowance. I entirely concur with their Lordships in the view
 “ which they have taken of this Ordinance.

“ I am, however, unwilling to advise Her Majesty to disallow it at once, with-
 “ out previous communication with your Lordship. I have, therefore, to suggest that
 “ the Ordinance should be repealed by another Ordinance, the provisions of which
 “ should be limited in the manner pointed out in the conclusion of Mr. Spearman’s
 “ letter. I have to request that your Lordship will inform me as early as practicable
 “ of the course which you will have adopted on this subject.

“ I have the honor to be,

“ My Lord,

“ Your Lordship’s most obedient

“ humble servant,

(Signed) GLENELG.”

“ The Earl of Durham, G. C. B.,

“ &c. &c. &c.”

(Duplicate—Copy.)

“ TREASURY CHAMBERS,

“ 21st September, 1838.

“ Sir,

“ The Lords Commissioners of Her Majesty's Treasury having had under
“ their consideration your letter dated 6th ultimo, with the Ordinances of the Go-
“ vernor and Special Council of *Lower-Canada*, therein enclosed, I am commanded
“ by their Lordships to request you will state to Lord Glenelg, that my Lords have not
“ seen any reason to object to the provisions of Nos. 16, 17, and 18, appropriating
“ certain monies “For the encouragement of Education,” “For the support of charita-
“ ble Institutions,” and “For the encouragement of Agriculture” and that although,
“ as his Lordship is already aware, my Lords consider the principle of the Ordi-
“ nance, No. 29, For authorizing the Banks in the Province to suspend the redemp-
“ tion of their Notes in specie” to be open to great objection, yet adverting to the
“ circumstances which have induced Her Majesty's Government to assent to
“ enactments for the same purpose passed by the Legislature of *Upper-Canada*,
“ their Lordships are not prepared to recommend its disallowance, provided the
“ Governor General is instructed to make the suspension of all payments of divi-
“ dends, or other division of profits during the period of suspension of specie pay-
“ ment, an invariable condition of granting his sanction for the exemption of any
“ Banking Establishment from the obligation of redeeming its Notes in specie on
“ demand.

“ With respect, however, to the Ordinance, No. 25, relating to the Bank of
“ British *North America*, although my Lords would not object to the Company
“ being empowered to sue and to be sued within the Province, in the name of the
“ Local Directors or Manager, they are by no means prepared to assent to the other
“ provisions of the Ordinance.

“ The communications addressed to you on the 6th, 9th, and, 14th June last, res-
“ pecting the Banking Companies in *New Brunswick*, will have apprised Lord
“ Glenelg, that my Lords have felt it necessary to object to any further extension
“ of issues of Notes of so low a denomination as 5s. currency, and their Lord-
“ ships are not aware of any circumstances which should call for, or justify the
“ special enactment of the very severe penalties for the protection of this Company
“ against Embezzlement or Forgery, for which the Ordinance provides, and which
“ likewise appear to be extremely objectionable—My Lords, consequently, conceive
“ it will be necessary that the Ordinance should be disallowed forthwith, and they
“ have to suggest, that in notifying the disallowance to the Governor General of
“ *Canada*, he should be apprized that any renewed Ordinance for enabling the

“ Company to sue and be sued in the name of the Local Director or Manager,
 “ should be limited to that object only, and to making provisions for the observance
 “ of such conditions and regulations on the part of the Banking Company within
 “ the Province, as the concession of that privilege may be considered to call for.

“ I have, &c.

(Signed) A. Y. SPEARMAN.”

“ James Stephen, Esquire,”
 “ &c. &c. &c.”

J. COLBORNE,

Administrator,

The Administrator transmits for the consideration of the Special Council the Draft of an Ordinance to regulate the summoning of Petty Juries in Criminal Cases.

Government House,

Montreal, 30th November, 1838.

An Ordinance to regulate the summoning of Petty Juries in Criminal Cases ;
 was read for the first time.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *Pothier*,

ORDERED, That the said Ordinance be read a second time, on Monday next.

Then ;

On motion of the Honble. Mr. *Pothier*, seconded by Mr. *Gerrard*.

The Council adjourned.

SATURDAY, 1st. DECEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
DeRocheblave.
Gerrard,
Quesnel, and
Christie.

PRAYERS.

On motion of the Honble. Mr. *Moffatt*, seconded by Mr. *Quesnel*,

The Council adjourned till Monday next.

MONDAY, 3d. DECEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member,

Messrs. *Pothier*,
Moffatt,
McGill,
DeRocheblave,
Gerrard,
Quesnel,
Christie, and
Penn.

PRAYERS.

An Ordinance to regulate the summoning of Petty Juries in Criminal Cases ;
 was, according to order, read a second time.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *Pothier*,

RESOLVED, That the further discussion on this Ordinance, be postponed, till Thursday next.

Then ;

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Moffatt*,

The Council adjourned until to-morrow, at one o'clock, P. M.

TUESDAY, 4th DECEMBER, 1838.

One o'clock, P. M.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
De Rocheblave,
Gerrard,
Quesnel,
Christie, and
Penn.

PRAYERS.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*.

The Council adjourned.

WEDNESDAY, 5th DECEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
De Rocheblave,
Gerrard,
Quesnel,
Christie, and
Penn.

PRAYERS.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *DeRocheblave*,

The Council adjourned.

THURSDAY, 6th DECEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
DeRocheblave,
Gerrard,
Quesnel,
Christie.
Molson, and
Penn.

PRAYERS.

According to order the Council resumed the discussion on the Ordinance to regulate the summoning of Petty Juries in Criminal Cases.

The Honble. Mr. *Moffatt*, laid upon the Table, for the information of the Members of the Council, certain amendments which he intends moving to the said Ordinance.

On motion of the Honble. Mr. *Moffatt*, seconded by Mr. *Penn*,

RESOLVED, That the further discussion on the said Ordinance, be postponed until Monday next.

Captain *Thomas Leigh Goldie*, Civil Secretary to His Excellency the Administrator, was admitted in the Council Chamber, and delivered to the Presiding Member, a Message from His Excellency.

And then he withdrew.

And the said Message was read by the Presiding Member, and is as followeth :

J. COLBORNE,

Administrator.

The Administrator of the Government transmits for the consideration of the Special Council, the draft of an Ordinance, intituled, An Ordinance for indemnifying persons who since the first day of November, one thousand eight hundred and thirty eight, have acted in apprehending, imprisoning, or detaining in custody persons suspected of High Treason or Treasonable Practices, and in the suppression of unlawful assemblies and for other purposes therein mentioned.

Government House,

Montreal, 6th December, 1838.

An Ordinance for indemnifying persons who since the first day of November, one thousand eight hundred and thirty eight, have acted in apprehending, imprisoning or detaining in custody persons suspected of High Treason, or Treasonable Practices, and in the suppression of unlawful assemblies, and for other purposes therein mentioned ; was read for the first time.

K

On motion of the Honble. Mr. *Pothier*, seconded by Mr. *Gerrard*,

ORDERED, That the said Ordinance be read a second time, on Monday next.

Then ;

On motion of the Honble. Mr. *Pothier*, seconded by Mr. *Gerrard*,

The Council adjourned.

FRIDAY, 7th DECEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
DeRocheblave,
Gerrard,
Quesnel,
Christie,
Molson, and
Penn.

PRAYERS.

On motion of the Honble. Mr. *McGill*, seconded by Mr. *Penn*,

ORDERED, That the amendments intended to be proposed by the Honble. Mr. *Moffatt*, to the Ordinance to regulate the summoning of Petty Juries in Criminal cases; which were laid on the Table yesterday, be printed for the use of the Members of this Council.

Then ;

On motion of the Honble. Mr. *McGill*, seconded by Mr. *Molson*,

The Council adjourned until half past-six o'clock, P. M., this day.

FRIDAY, 7th DECEMBER, 1838.

Half-past Six o'clock, P. M.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
De Rocheblave,
Gerrard, and
Christie,

PRAYERS.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*,
 The Council adjourned till Monday next.

MONDAY, 10th DECEMBER, 1838.

PRESENT,

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
De Rocheblave,
Gerrard,
Quesnel,
Christie,
Molson,
Penn, and
Mondelet.

PRAYERS.

The order of the day being read, for the further discussion of the Ordinance to regulate the summoning of Petty Juries in Criminal cases.

On motion of the Honble. Mr. *Moffatt*, seconded by Mr. *Penn*,

ORDERED, That the said order of the day be postponed, till Wednesday next.

Then,

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Moffatt*.

The Council adjourned.

TUESDAY, 11th DECEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member,

Messrs. *Pothier*,
Moffatt,
McGill,
DeRocheblave,
Gerrard,
Quesnel,
Christie, and
Penn.

PRAYERS.

His Excellency the Administrator of the Government having entered the Council Chamber, he took his seat at the head of the Table.

His Excellency then proposed to the Council for consideration and adoption, the following Ordinances, which were severally read for the first time.

An Ordinance to declare that the second chapter of the Statute of the Parliament of *England* passed in the thirty-first year of the Reign of King Charles the Second, is not, nor, has ever been, in force in this Province.

An Ordinance to authorize the Governor, or Person Administering the Government of this Province, to appoint one or more Assistant Judges for the Courts of King's Bench for the Districts of *Quebec* and *Montreal* in this Province, and an Assistant Judge of the District of *Three Rivers*, in case of the sickness, necessary absence or suspension from office of any of the Justices of the said several Courts of King's Bench, or of the Resident Judge for the District of *Three Rivers* in the said Province.

His Excellency then withdrew.

The Honble. Mr. *Cuthbert*, resumed the Chair.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Moffatt*,

ORDERED, That an Ordinance to declare that the second chapter of the Statute of the Parliament of *England*, passed in the thirty-first year of the Reign of King Charles the Second is not, nor, has ever been, in force in this Province; be read a second time to-morrow.

The Honble. Mr. *McGill*, moved, seconded by the Honble. Mr. *Moffatt*,

That the Standing Rules and Orders with respect to the second and third reading of Ordinances, be suspended, as regards the Ordinance to authorize the Governor, or Person Administering the Government of this Province to appoint one or more Assistant Judges for the Courts of King's Bench, for the Districts of *Quebec* and *Montreal*, in this Province, and an Assistant Judge of the District of *Three Rivers*, in case of the sickness, necessary absence, or suspension from office of any of the Justices of the said several Courts of King's Bench or of the Resident Judge for the District of *Three Rivers*, in the said Province.

The Honble. Mr. *DeRocheblave*, moved in amendment, seconded by Mr. *Quesnel*.

That the said Ordinance be read a second time to-morrow.

The Council divided on the motion of amendment.

FOR THE AMENDMENT.

Messrs. *De Rocheblave*,
Quesnel.

AGAINST THE AMENDMENT.

Messrs. *Pothier*,
Moffatt,
McGill,
Gerrard,
Christie,
Penn.

So it passed it the negative.

The question being then put on the main motion, it was agreed to, and

RESOLVED, accordingly.

The Honble. Mr. *DeRocheblave* withdrew.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Moffatt*,

ORDERED, That the said Ordinance be now read a second time.

The said Ordinance was accordingly read a second time.

The question of concurrence having been seperately put upon each Clause of the said Ordinance, they were agreed to unanimously.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Moffatt*,

ORDERED, That the said Ordinance, be fairly transcribed.

Then ;

On motion of the Honble. Mr. *McGill*, seconded by Mr. *Gerrard*,

The Council adjourned.

WEDNESDAY, 12th DECEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
DeRocheblave,
Gerrard,
Christie and
Penn.

PRAYERS.

His Excellency the Administrator of the Government having entered the Council Chamber, he took his seat at the head of the Table.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Moffatt*,

ORDERED, That an Ordinance to authorize the Governor, or Person Administering the Government of this Province, to appoint one or more Assistant Judges for the Courts of King's Bench for the Districts of *Quebec* and *Montreal*, in this Province, and an Assistant Judge of the District of *Three-Rivers*, in case of the sickness, necessary absence, or suspension from office of any of the Justices of the said several Courts of King's Bench, or of the resident Judge for the District of *Three-Rivers*, in the said Province ; be now read for the third time.

The said Ordinance was accordingly read for the third time.

His Excellency having put the question,

“ That this Ordinance do now pass.”

It was,

RESOLVED, in the affirmative.

His Excellency then signed the said Ordinance.

His Excellency then withdrew.

The Honble. Mr. *Cuthbert*, resumed the Chair.

Mr. *Molson* enters.

According to order the Council resumed the further discussion on the Ordinance to regulate the summoning of Petty Juries in Criminal cases.

The Honble. Mr. *Moffatt* moved, seconded by Mr. *Penn*,

That the following amendment be made to the said Ordinance.

Enacting Clause.—Strike out all the words in the said Clause, and substitute the following, “ And it is hereby Ordained and Enacted by
 “ the authority aforesaid that every Male Inhabitant of this
 “ Province, except as hereinafter excepted, between the
 “ ages of twenty one years and sixty years, able to read and
 “ write, and otherwise qualified according to the provisions
 “ of this Ordinance, shall be competent and be liable to
 “ serve as Juries in Criminal and Civil matters, in all the
 “ Courts of Justice in this Province.”

The Council divided on the proposed amendment.

FOR THE AMENDMENT.

Messrs. *Moffatt*,
McGill,
Gerrard,
Christie,
Penn.

AGAINST THE AMENDMENT.

Messrs. *Pothier*,
De Rocheblave,
Molson,

So it was carried in the affirmative.

On motion of the Honble. Mr. *Moffatt*, seconded by Mr. *Gerrard*,

RESOLVED, That the further discussion of the said Ordinance, be postponed till to-morrow.

The order of the day for the second reading of an Ordinance to declare that the second Chapter of the Statute of the Parliament of *England* passed in the thirty first year of the Reign of King Charles the second is not, nor has ever been in force in this Province; being read,

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*.

ORDERED, That the said order of day be postponed; until to-morrow, and be then the first order of the day.

Then ;

On motion of the Honble. Mr. *McGill*, seconded by Mr. *Molson*,

The Council adjourned.

THURSDAY, 13th DECEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
De Rocheblave,
Gerrard,
Christie,
Molson, and
Penn.

PRAYERS.

An Ordinance to declare that the Second Chapter of the Statute of the Parliament of *England* passed in the thirty first year of the Reign of King Charles the second is not, nor has ever been, in force in this Province ; was according to order, read a second time.

On motion of the Honble. Mr. *Pothier*, seconded by the Honble. Mr. *McGill*,

RESOLVED, That the further discussion on this Ordinance be postponed, until to-morrow.

According to order, the Council resumed the further discussion on the Ordinance to regulate the summoning of Petty Juries in Criminal cases.

On motion of the Honble. Mr. *Moffatt*, seconded by Mr. *Penn*,

ORDERED, That the following Clause marked A, be added to the said Ordinance.

CLAUSE, A.

“ And be it further Ordained and Enacted by the authority aforesaid, that from and after the passing of this Ordinance, the Sheriffs of the several Districts of this Province, respectively, shall make out, by themselves or their respective deputies, a list of every person residing within the limits of their respective Districts, competent and liable to serve on Juries as aforesaid, who shall then be qualified in the manner following, that is to say; every such person residing in the Districts of *Quebec*, *Montreal* and *Three Rivers* respectively, who shall then be a proprietor of real property of the value of not less than _____ pounds by the year, over and above all ground rents and incumbrances to which such real property shall be subject, and every such person residing within the Districts of *St. Francis* and *Gaspé*, respectively, who shall then be a proprietor of real property of the value of not less than _____ pounds by the year, over and above all ground rents and incumbrances to which such real property shall be liable; and every such person who shall then occupy a House as tenant in either of the Cities of *Quebec* or *Montreal*, for which he shall *bona fide* pay a rent of not less than _____ pounds by the year, or in the Town of *Three Rivers*, for which he shall *bona fide* pay a rent of not less than _____ pounds by the year.”

ORDERED, That the first blank in the said Clause, be filled up with the word “Sixty.”

That the second blank in the said Clause, be filled up with the words “Twenty-five.”

That the third blank in the said Clause, be filled up with the words “Seventy five.”

That the fourth blank in the said Clause, be filled up with the word “Forty.”

ORDERED, That the following Clause marked B, be added to the said Ordinance.

CLAUSE, B.

“ And be it further Ordained and Enacted by the authority aforesaid, that from the list to be made in conformity with the preceding Section, the said Sheriffs shall respectively, and they are hereby required to select, according to the best of their judgment and discretion, from and among the persons whose names shall be contained in the said list, a sufficient number of the most fit and competent persons to serve as Grand Jurors in the Superior Courts in Criminal matters, Oyer and Terminer and General Gaol Delivery, and Courts of Quarter Sessions of the Peace, respectively, and the said Sheriffs shall, and they are hereby further required to make out two lists of the said persons selected as aforesaid, whereof the one shall contain the names of persons to serve as Grand Jurors in the said Superior Courts, and the other, the names of persons to serve in the said Courts of Quarter Sessions of the Peace.

ORDERED, That the following Clause marked C, be added to the said Ordinance.

CLAUSE, C.

“ And whereas, by reason of the great extent of the several Districts of this Province, the unequal distribution of the population therein, and the difficulties of communication in many places, and other obstacles of the same nature, the summoning of Petty Jurors in Criminal matters, and of Jurors for the trial of Civil causes, from all parts of the said Districts respectively, would be accompanied by difficulties which are for the present insurmountable; Be it therefore Ordained and Enacted by the authority aforesaid, that for the formation of a list of Petty Jurors in Criminal matters in all the Courts of Justice in this Province, the said Sheriffs of the said Districts respectively, shall, within months after the passing of this Ordinance, make out a list of every Juror aforesaid, whose name shall not have been inserted in the said general list of Grand Jurors aforesaid, who shall then be resident in any Parish, Seignior, or Town-

“ ship, or place reputed as such, within leagues around
 “ the place of holding the Court in the said Districts of *Que-*
 “ *bec, Montreal, and Three Rivers*, respectively, and within
 “ ten leagues of the place of holding the Court in
 “ the Districts of *St. Francis* and *Gaspé* respectively, and who
 “ shall then be a proprietor of real property in the District in
 “ which he shall reside, of the value of not less than
 “ pounds by the year, over and above all ground rents and
 “ incumbrances to which such real property may be subject,
 “ or who shall then occupy a house as tenant in such Parish,
 “ Seigniorship or Township, or place reputed as such, for
 “ which he shall *bona fide* pay a rent of not less than
 “ pounds by the year. And after the surname of every such
 “ Juror aforesaid, the said Sheriffs shall add his christian
 “ name, his profession, and his residence.”

ORDERED, That the first blank in the said Clause, be filled up with the word “two.”

That the second blank in the said Clause, be filled up with the word “ five.”

The Honble. Mr. *Moffatt* moved, seconded by Mr. *Penn*,

That the third blank in the said Clause, be filled up with the word “ Ten”

The Honble. Mr. *McGill*, moved in amendment, seconded by the Honble. Mr. *Pothier*,

That the word “ Ten” in the said motion, be struck out, and the words
 “ Twelve pounds ten shillings” substituted.

The Council divided on the motion of amendment.

FOR THE AMENDMENT.

Messrs. *Pothier*,
McGill,
DeRocheblave,
Christie.

AGAINST THE AMENDMENT.

Messrs. *Moffatt*,
Gerrard,
Molson,
Penn.

The votes being equally divided, the Presiding Member gave his casting vote,
 in the affirmative.

And,

ORDERED, accordingly.

The Honble. Mr. *Moffatt* moved, seconded by Mr. *Penn*,

That the fourth blank in the said Clause, be filled up with the word "Fifteen."

The Honble. Mr. *DeRocheblave* moved in amendment, seconded by the Honble. Mr. *Pothier*,

That the word "Fifteen" in the said motion be struck out, and the word "Twenty" substituted.

The Council divided on the motion of amendment.

FOR THE AMENDMENT.

Messrs. *Pothier*,
De Rocheblave.

AGAINST THE AMENDMENT.

Messrs. *Moffatt*,
McGill,
Gerrard,
Christie,
Molson,
Penn.

So it passed in the negative.

The Honble. Mr. *McGill*, then moved in amendment, seconded by the Honble. Mr. *Pothier*,

That the word "Fifteen" in the main motion, be struck out, and the words "Seventeen pounds ten shillings" substituted.

The Council divided on the motion of amendment,

FOR THE AMENDMENT.

Messrs. *Pothier*,
McGill,
De Rocheblave.

AGAINST THE AMENDMENT

Messrs. *Moffatt*,
Gerrard,
Christie,
Molson,
Penn.

So it passed in the negative.

The question being then put on the main motion.

The Council divided thereon.

FOR THE MOTION.

Messrs. *Moffatt*,
Gerrard,
Christie,
Molson,
Penn.

AGAINST THE MOTION.

Messrs. *Pothier*,
McGill,
DeRocheblave.

So it was carried in the affirmative, and

ORDERED, accordingly.

ORDERED, That the following Clause marked D, be added to the said Ordinance.

CLAUSE, D.

“ Provided always, and be it further Ordained and Enact-
“ ed by the authority aforesaid, that the said Sheriffs shall not
“ insert in any of the said lists of Grand Jurors or Petty
“ Jurors, the name of any person who shall not have resided
“ one year in the District in which the said lists shall be
“ made, previous to the making thereof.”

The Honble. Mr. *Moffatt* moved, seconded by Mr. *Penn*,

That the following Clause marked E, be added to the said Ordinance.

CLAUSE, E.

“ And be it further Ordained and Enacted by the authori-
“ ty aforesaid, that all and every Juror, before being impan-
“ nelled to serve upon any Grand Jury, Petty Jury, or Special
“ Jury respectively, shall, in the presence of the Court in

“ which he shall be summoned so to serve, read audibly
 “ and distinctly, in the English or French language, the
 “ oath usually and heretofore administered to Grand Jurors,
 “ Petty Jurors, or Special Jurors respectively, upon being
 “ impannelled to serve as aforesaid; and shall moreover
 “ sign his name, in writing, at length, upon paper or parch-
 “ ment, headed with the said oath, printed in English and
 “ French, to be provided by the Clerk of the Court before
 “ which the said oath shall be taken; and the said paper or
 “ parchment shall remain in the possession of the Clerk of
 “ the said Court. Provided always, that it shall not be ne-
 “ cessary for any Juror to read and subscribe the said oath
 “ more than once, during the term or session of the Court in
 “ which he shall have been summoned to serve as aforesaid.”

The Honble. Mr. *DeRocheblave* moved in amendment, seconded by the Honble. Mr. *Pothier*,

That the words “Petty Jury” in the third line, and the words “Petty Jurors” in the eighth line of the said Clause be struck out.

The Council divided on the proposed Amendment.

FOR THE AMENDMENT.

Messrs. *Pothier*,
DeRocheblave.

AGAINST THE AMENDMENT.

Messrs. *Moffatt*,
McGill,
Gerrard,
Christie,
Molson,
Penn.

So it passed in the negative.

The question of concurrence being then put on the said Clause, it was agreed to,

And,

ORDERED, accordingly.

ORDERED, That the following Clauses marked F, G, H, and I, be added to the said Ordinance.

CLAUSE, F.

“ And be it further Ordained and Enacted by the authority
“ aforesaid, that in making the Lists of Jurors required to be
“ made according to the B. and D. sections of this Ordinance,
“ the said Sheriffs shall have a right to require the officiating
“ Church Wardens, Officers of Militia, and senior Notary, or
“ any of them, severally appointed in each Parish, Seignory
“ or Township, or place reputed as such, in the said Districts
“ respectively, to assist in making out and preparing the Lists
“ of all persons qualified and liable, according to the provi-
“ sions of this Ordinance, to serve as Jurors, and resident
“ within the limits of every such Parish, Seignory or Town-
“ ship, or place reputed as such, or division thereof respec-
“ tively.”

CLAUSE, G.

“ And be it further Ordained and Enacted by the authority
“ aforesaid, that every such Church Warden, Officer of Mi-
“ litia, or senior Notary, who shall refuse or neglect to com-
“ ply with the requirements of this Ordinance respecting the
“ formation of the said Lists, shall incur a penalty not ex-
“ ceeding Five Pounds currency, for the first offence, nor
“ exceeding Ten Pounds currency, for every subsequent
“ offence.”

CLAUSE, H.

“ And be it further Ordained and Enacted by the authority
“ aforesaid, that each and every such Church Warden, Offi-
“ cer of Militia, or senior Notary, who shall have so assisted
“ in the original making of the said Lists, shall be entitled to
“ receive, for each day he shall have been so employed, a sum
“ of money not exceeding Five Shillings currency, to be paid to
“ him by the said Sheriffs respectively, and the amount thereof,
“ so paid by the said Sheriffs, shall be reimbursed by an order
“ or orders under the hand of the Governor, Lieutenant-
“ Governor, or person administering the Government, out of
“ any unappropriated monies in the hands of the Receiver
“ General of this Province: Provided always, that the per-

“ sons who shall, at any subsequent time, assist in revising
 “ the said Lists, shall be entitled to no fees or emoluments
 “ whatsoever.”

CLAUSE, I.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that all the Lists of Jurors to be made under the
 “ provisions of this Ordinance, shall be made and signed by the
 “ said Sheriffs respectively, who shall keep the said Lists in
 “ their respective Offices, and shall deposit official copies
 “ thereof, as follows, that is to say, the Lists made for each Pa-
 “ rish, Seigniorly or Township, in the keeping of the Road Sur-
 “ veyor of the place, and those for the Cities of *Quebec* and
 “ *Montreal*, or Town of *Three Rivers*, and the Banlieus of the
 “ said Cities or Town respectively, in the Office of the Pro-
 “ thonotaries or Clerks of the Superior Courts of original
 “ Jurisdiction, or the Provincial Court respectively ; the Lists
 “ of Grand and Petty Jurors for the said Superior Courts in
 “ Criminal matters, and the Lists of Special Jurors under the
 “ provisions of this Ordinance, in the said Offices of the Pro-
 “ thonotaries or Clerks of the Superior Courts of original Ju-
 “ risdiction, or of the Provincial Court respectively ; and
 “ lastly, the List of Grand Jurors, for the Courts of Quarter
 “ Sessions of the Peace, and a List of Petty Jurors aforesaid,
 “ in the Office of the Clerks of the Peace respectively ; and
 “ all persons shall have free access to all the Lists so deposit-
 “ ed, including those which shall be deposited in the Sheriff’s
 “ Office, between the hours of nine in the morning and four
 “ in the afternoon of every day, (Sundays and Holidays ex-
 “ cepted,) without becoming thereby liable to the payment of
 “ any fee or charge whatsoever.”

On motion of the Honble. Mr. *Moffatt*, seconded by Mr. *Penn*,

RESOLVED, That the further discussion of the said Ordinance, be postponed until
 to-morrow.

Then,

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*,

The Council adjourned.

FRIDAY, 14th DECEMBER, 1838.
PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
De Rocheblave,
Gerrard,
Christie,
Molson, and
Penn.

PRAYERS.

The order of the day for the discussion of an Ordinance to declare that the second Chapter of the Statute of the Parliament of *England* passed in the thirty first year of the Reign of King Charles the Second is not, nor has ever been, in force in this Province ; being read.

On motion of the Honble. Mr. *McGill*, seconded by Mr. *Penn*,

RESOLVED, That the further discussion of the said Ordinance, be postponed until to-morrow.

According to order, the Council resumed the further discussion on the Ordinance to regulate the summoning of Petty Juries in Criminal Cases.

On motion of the Honble. Mr. *Moffatt*, seconded by Mr. *Penn*.

ORDERED, That the following Clauses marked from J to Z, both inclusive and A A, be added to the said Ordinance.

CLAUSE, J.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that in the formation of the said List of Petty
 “ Jurors, the said Sheriffs respectively shall be, and they are

“ hereby bound to take all the names of Petty Jurors contained in the local Lists required to be made by the fourth section of this Ordinance, and to intermix the said names in the said List as nearly as may be in equal proportions, according to the number of the said names contained in the several Local Lists aforesaid.”

CLAUSE, K.

“ And be it further Ordained and Enacted by the authority aforesaid, that the said General Lists of Grand and Petty Jurors, and the said Lists of Special Jurors shall be severally written in Registers in which the names of the Jurors shall be entered, consecutively ; and when the said Lists shall have been once made, deposited and registered as by this Ordinance directed, they shall not be changed nor altered in any manner whatsoever, except at the time and in the manner hereinafter directed.”

CLAUSE, L.

“ And be it further Ordained and Enacted by the authority aforesaid, that the said Lists of Jurors shall be renewed and made, in the manner hereinbefore directed, in the month of July in each and every year after such Lists shall have been first made, and shall be in like manner renewed and made, in the month of July in every year.”

CLAUSE, M.

“ Provided always, and be it further Ordained and Enacted by the authority aforesaid, that nothing contained in the preceding sections of this Act, shall be construed to prevent any such lists from being altered or changed by order of the Judges of the Courts of original Jurisdiction in civil matters sitting in Superior Term, whenever complaint shall have been made before them by any person, that the said Sheriffs have used partiality in making the said Lists, or that they have inserted therein the names of persons who were not qualified to serve as Jurors, or that they have omitted to insert therein the names of persons fit and qualified to serve as such, or that the said Lists have not been made in the manner herein directed ; in all which cases such Court may, on proof being made in a summary man-

“ner of the truth of such allegations, order the names of all
 “unqualified persons to be struck out of such Lists, or
 “the names of the persons duly qualified to serve as Jurors
 “to be inserted therein, in the manner herein directed, as the
 “case may be, and as to law and justice may appertain.”

CLAUSE, N.

“Provided always, and be it further Ordained and Enacted by
 “the authority aforesaid, that the said Justices sitting in the
 “Circuit Courts, may hear all remonstrances and complaints
 “made before them, with respect to the local lists hereinbe-
 “fore mentioned, by any person within the Circuit in which
 “they shall be so sitting, in order that the whole matter may
 “be brought before the Court of original Jurisdiction in civil
 “matters, at the then next Superior Term thereof, and such
 “further proceedings had with respect to the said remonstrances
 “or complaints, as are directed by the preceding section of
 “this Ordinance, and as to law and justice shall appertain.”

CLAUSE, O.

“ Provided always, and be it further Ordained and Enacted
 “by the authority aforesaid, that nothing herein contained
 “shall be construed to deprive any party to any cause of the
 “right of challenging any Juror, who shall not be qualified in
 “the manner herein required, or for any other lawful cause
 “of challenge, nor to prevent the said Judge or Judges from
 “proceeding to determine the validity of such challenge, in
 “the manner and according to the form prescribed by law.”

CLAUSE, P.

“ And be it further Ordained and Enacted by the authority
 “aforesaid, that all Grand and Petty Jurors who shall here-
 “after be summoned to serve at any Court of Criminal Juris-
 “diction, shall be taken in turn by following uninterruptedly
 “and successively the order of the several Lists, required to
 “to be made by the B and J, sections of this Ordinance, be-
 “ginning at the name next after the names of those last sum-
 “moned, and so on successively, until the list shall have been

" entirely gone through : and the names of the Petty Jurors
 " so summoned shall be written on tickets, of the same size
 " and form, made of parchment or pasteboard, and put into an
 " urn or box, and on every trial in which the said Petty Ju-
 " rors shall be called upon to give a verdict, the Clerk of the
 " Court shall draw out the said tickets indiscriminately, and
 " one after another, and shall read them aloud, and the first
 " twelve Jurors whose names shall be so read, and
 " who shall be present in Court, and shall not be
 " lawfully challenged, shall be sworn for such trial ; and
 " the said Clerk shall, on every trial, begin by replacing
 " in the box the tickets which shall have been drawn out of it ;
 " Provided always, that at every term of the Superior Courts
 " of Criminal Jurisdiction, or at any Court of Oyer and Ter-
 " miner and General Gaol Delivery, no more than sixty Petty
 " Jurors shall be summoned, nor more than thirty-six at every
 " General Quarter Session of the Peace."

CLAUSE, Q.

" And be it further Ordained and Enacted by the authority
 " aforesaid, that the Jurors for Criminal matters, shall in every
 " case be summoned at least ten days before the day on which
 " they shall be enjoined to attend."

CLAUSE, R.

" And be it further Ordained and Enacted by the authority
 " aforesaid, that from and after the passing of this Ordinance
 " those who shall sue or prosecute in the Queen's name in
 " any Criminal cause, shall not in any case challenge any Ju-
 " ror, except for cause, and the ground of such challenge
 " shall not be declared sufficient by the Court, unless legal
 " proof shall be made of the truth of the fact alleged as form-
 " ing the same, and that no person arraigned for murder or
 " felony shall be admitted to any peremptory challenge above
 " the number of twenty."

CLAUSE, S.

" And be it further Ordained and Enacted by the authority
 " aforesaid, that the Members of the Special Council, the
 " Members of the Clergy, Schoolmasters, not exercising any
 " other profession, Advocates and Attornies practising in the

“ Courts, the Prothonotaries or Clerks of the Courts of the
 “ King’s Bench, or of the Quarter Sessions of the Peace, or of
 “ the Provincial Courts respectively, Notaries exercising their
 “ profession, the Coroners, Gaolers, Keepers of Houses of
 “ Correction, Physicians and Apothecaries, and Pilots licen-
 “ ced by the Trinity House, Military Officers on full pay, per-
 “ sons employed in the Public Offices, Officers of the Customs,
 “ Sheriff’s Officers, Constables or Bailiffs of the said Courts,
 “ and all persons disabled by lunacy or imbecility of mind, or
 “ by deafness, blindness or other permanent infirmity of body,
 “ are declared exempt from service as Jurors, and their names
 “ shall not be inserted on the said Lists, nor those of all per-
 “ sons already exempted by law.”

CLAUSE, T.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that all Aliens shall only be Jurors in cases in
 “ which a *Jury de medietate lingue*, may be prayed for and
 “ obtained.”

CLAUSE, U.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that no person who hath been or shall be attaint-
 “ ed of any Treason or Felony, or convicted of any crime that
 “ is infamous, is or shall be qualified or liable to serve on Ju-
 “ ries in any Court of Justice in this Province.”

CLAUSE, V.

“ And whereas it is expedient to grant to the parties the
 “ benefit of Special Juries in Civil matters, in certain cases, be
 “ it further Ordained and Enacted by the authority aforesaid,
 “ that each and every person, who shall be party to any suit
 “ wherein a trial by Jury may, according to Law, be had, may,
 “ if he shall deem it expedient, demand that the issue or issues
 “ of the said suit may be tried by a Special Jury, taken from
 “ among those qualified, as hereinafter mentioned, and in
 “ the manner hereinafter provided.”

CLAUSE, W.

“ And be it further Ordained and Enacted by the authority
“ aforesaid, that the said Sheriffs respectively, shall make out
“ a List of Special Jurors, by taking from the Lists of Grand
“ Jurors, provided for in the third section of this Ordinance,
“ alternately, and in the order in which they occur therein, the
“ names of all persons residing within one league of the place,
“ of holding the Court: And the persons whose names shall
“ be inserted in the said List, shall be competent and liable to
“ serve as Special Jurors.”

CLAUSE, X.

“ And be it further Ordained and Enacted by the authority
“ aforesaid, that whenever a Special Jury shall be required to
“ be summoned in civil matters, the Prothonotaries or Clerks
“ of the Court of King’s Bench in the several Districts respec-
“ tively, shall take the thirty Jurors whose names shall be first
“ on the List of Special Jurors, prepared in conformity with
“ the requirements of the preceding section, and shall continue
“ to call them in that order, until the said list shall be gone
“ through; and that it shall then be lawful for each
“ party, Plaintiff and Defendant, or their Attornies res-
“ pectively, to strike out of the said List the names of
“ six of the said Jurors, and that the eighteen Jurors
“ remaining after such striking out, shall be the Jurors
“ to be summoned by the Sheriff, and from and among whom
“ shall be taken in their original order, the twelve Jurors who
“ shall be sworn to hear and determine the matter at issue be-
“ tween the said parties.”

CLAUSE, Y.

“ And be it further Ordained and Enacted by the authority
“ aforesaid, that in all civil causes to be tried by a Jury,
“ whenever the capacity assigned to, or assumed by either of
“ the parties to the suit, shall be put in issue, the Court shall
“ hear and determine the issue so raised, before the issues rais-
“ ed upon the merits shall be submitted to the Jury for their
“ verdict.”

CLAUSE, Z.

“ And be it further Ordained and Enacted by the authority
“ aforesaid, that in all suits between Merchant and Merchant,
“ and Trader and Trader, in commercial matters, the Court,
“ upon the demand of either party, may order that one half of
“ the persons to be summoned on that Jury be Merchants or
“ Traders, and taken in the order in which they may stand in
“ the list required to be made by the twenty-fourth section of
“ this Ordinance, and that one-half of the Jurors sworn be
“ also Merchants or Traders.”

CLAUSE, A A.

“ And be it further Ordained and Enacted by the authority
“ aforesaid, that in suits between Trader and Trader, and
“ Merchant and Merchant, respecting commercial matters, the
“ Court, by consent of parties, may order that the Panel be
“ composed of Traders and Merchants taken from the said
“ List of Special Jurors, and in the order in which they may
“ be found to stand therein.”

On motion of the Honble. Mr. *Moffatt*, seconded by Mr. *Penn*,

RESOLVED, That the further discussion of the said Ordinance, be postponed until to-morrow.

Then,

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*,

The Council adjourned.

SATURDAY, 15th DECEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Gerrard*,
Christie, and
Penn.

PRAYERS.

At Three o'clock, P. M., there being no Quorum, the Presiding Member, declared this Council adjourned, till Monday next.

MONDAY, 17th. DECEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member,

Messrs. *Pothier*,
Moffatt,
McGill,
DeRocheblave,
Gerrard,
Quesnel,
Christie,
Molson, and
Penn.

PRAYERS.

According to order, the Council resumed the further discussion on the Ordinance to regulate the summoning of Petty Juries in Criminal Cases.

On motion of the Honble. Mr. *Moffatt*, seconded by Mr. *Penn*,

ORDERED, That the following Clauses marked, from BB to MM, both inclusive, be added to the said Ordinance :—

CLAUSE, B B.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that the fifteenth, sixteenth, seventeenth, eigh-
 “ teenth, nineteenth and twenty-first sections of the Provincial
 “ Ordinance of the twenty-fifth year of the reign of His late Ma-
 “ jesty King George the Third, intituled, “ *An Ordinance to re-
 “ gulate the proceedings in the Courts of Civil Judicature, and to
 “ establish trials by Jury in actions of a commercial nature, and
 “ personal wrongs to be compensated in damages, in the Province
 “ of Quebec,*” and also so much of the twentieth section of the
 “ said Ordinance as ordains “ that the Jurors serving on spe-
 “ cial Juries as abovesaid, and struck from the first List or
 “ Jury Book, shall have and receive two shillings and six
 “ pence each, for every verdict to be made and delivered, and
 “ before returned into Court, and Jurors struck from the se-
 “ cond List or Jury Book, one shilling each, for every verdict
 “ in manner as aforesaid,” shall be, and they are hereby sus-
 “ pended during the continuance of this Ordinance : And that
 “ from and after the passing of this Ordinance, each and every
 “ Juror summoned to give his verdict in any civil matter, shall
 “ have and receive two shillings and six-pence currency before
 “ giving such verdict in Court.”

CLAUSE, CC.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that every Sheriff who shall wilfully or negligently
 “ offend against any of the provisions of this Ordinance, shall
 “ for the first offence, incur a penalty not exceeding twenty-
 “ five pounds, for the second offence not exceeding fifty
 “ pounds, and for the third offence not exceeding one hundred
 “ pounds.”

CLAUSE, DD.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that every person summoned to serve as a Juror,
 “ under the authority of this Ordinance, who shall refuse or

“ neglect to serve as such, without assigning some lawful
 “ cause or excuse therefor, shall incur a penalty not exceed-
 “ ing five pounds.”

CLAUSE, EE.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that every person who shall refuse to furnish to
 “ the persons employed to make the Lists of Jurors requir-
 “ ed by this Ordinance, the information necessary for making
 “ the same, shall incur a penalty of not less than five shillings
 “ nor exceeding twenty shillings, to be recovered with costs, in
 “ a summary manner, by complaint before one Justice of the
 “ Peace, and one moiety thereof shall go to Her Majesty and
 “ the other moiety to the informer.”

CLAUSE, FF.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that the penalties hereby imposed shall be sued
 “ for within six months next after the offence committed, and
 “ not afterwards, and be recovered with costs, by suit, in any
 “ of Her Majesty’s Courts of competent jurisdiction, in the
 “ Districts within which the offence shall have been commit-
 “ ted, and that every such penalty shall be levied with costs
 “ in the ordinary course of law: Provided always, that if any
 “ action against the Sheriff shall be declared by the judgment
 “ unfounded and vexatious, the Sheriff who shall be discharged
 “ therefrom, shall be entitled to and shall recover double
 “ costs.”

CLAUSE, GG.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that one moiety of the penalties hereby imposed
 “ shall belong to Her Majesty, and be paid into the hands of
 “ the Receiver General, for the public uses of the Province,
 “ subject to the future disposition of the Provincial Legisla-
 “ ture, and that the other moiety shall belong, and be paid
 “ to the informer.”

CLAUSE, HH.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that the due application of all monies raised or
 “ affected under and by virtue of this Ordinance, shall be ac-
 “ counted for to Her Majesty, Her Heirs and Successors,
 “ through the Lords Commissioners of Her Majesty’s Trea-
 “ sury, for the time being, in such manner and form as Her
 “ Majesty, Her Heirs and Successors shall direct.”

CLAUSE, I I.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that the term “ House,” hereinbefore mentioned,
 “ shall be held and taken to mean and to include all Dwelling
 “ Houses, Warehouses, Stores, Offices, or other Buildings,
 “ and all lodgings, and parts of Counting-Houses, Warehouses,
 “ Stores, Offices and other Buildings for which the rent res-
 “ pectively hereinbefore provided for, shall *bona fide* be paid,
 “ to qualify and render liable persons to serve as Grand Ju-
 “ rors, Petty Jurors, or Special Jurors, respectively.”

CLAUSE, J J.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that the words “ Proprietor” and “ Proprietors,”
 “ hereinbefore contained, shall mean and shall be held to in-
 “ clude, as well all and every sole Proprietor or Proprietors, as
 “ Joint Proprietors and Proprietors in common *par indivis* of
 “ any real property, whose joint or individual share whereof
 “ shall be of the value hereinbefore required, to qualify and
 “ render liable persons to serve as Grand Jurors, Petty Ju-
 “ rors, or Special Jurors respectively.”

CLAUSE, K K.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that the words “ Tenant” and “ Tenants,” here-
 “ inbefore contained, shall mean and be held to include, as
 “ well all and every sole Tenant and Tenants in severalty, as
 “ Tenants in co-partnership of any such house as aforesaid,
 “ whose proportion of the rent whereof shall be of the value
 “ hereinbefore required to qualify persons to serve as Grand
 “ Jurors, Petty Jurors, or Special Jurors respectively. And

“ whenever the said rent shall be insufficient to qualify all the
 “ Partners of such Co-partnership, the Partner or Partners,
 “ being competent, who shall be thereby qualified and liable to
 “ serve under the provisions of this Ordinance, shall be the
 “ senior resident Partner or Partners, of such Co-partnership,
 “ respectively.”

CLAUSE, LL.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that all sums of money hereinbefore mentioned,
 “ shall be held to mean current money of this Province of
 “ *Lower-Canada*, and no other.”

CLAUSE, MM.

“ And be it further Ordained and Enacted by the authority
 “ aforesaid, that this Ordinance shall continue in force, until
 “ the first day of November, in the year one thousand eight
 “ eight hundred and forty-two, and no longer.”

The Honble. Mr. *Moffatt* moved, seconded by Mr. *Molson*,

That the Clause marked C, be now reconsidered.

The Council divided on the motion :

FOR THE MOTION.

Messrs. *Pothier*,
Moffatt,
McGill,
Gerrard,
Quesnel,
Christie,
Molson,
Penn.

AGAINST THE MOTION.

Mr. *DeRöcheblave*,

So it was carried in the affirmative.

And,

ORDERED, accordingly.

The said Clause being again read,

The Honble Mr. *Moffatt* moved, seconded by Mr. *Penn*,

That in lieu of "Twelve pounds, ten shillings" the third blank, in the said Clause, be filled up with the word "Ten."

The Council divided on the motion.

FOR THE MOTION.

Messrs. *Moffatt*,
Gerrard,
Molson,
Penn.

AGAINST THE MOTION.

Messrs. *Pothier*,
McGill,
DeRocheblave,
Quesnel,
Christie.

So it passed in the negative.

The Honble. Mr. *Moffatt*, then moved, seconded by Mr. *Penn*,

That in lieu of "Twelve pounds, ten shillings," the third blank, in the said Clause, be filled up with the word "Twelve"

The Council, also divided on the said motion.

FOR THE MOTION.

Messrs. *Moffatt*,
McGill,
Gerrard,
Christie,
Molson,
Penn.

AGAINST THE MOTION.

Messrs. *Pothier*,
DeRocheblave,
Quesnel.

So it was carried in the affirmative, and

ORDERED, accordingly.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *Pothier*

RESOLVED, That the further discussion of the said Ordinance, be postponed till tomorrow.

Then ;

On motion of the Honble. Mr. *Pothier*, seconded by Mr. *Gerrard*,

The Council adjourned.

TUESDAY, 18th DECEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
De Rocheblave,
Gerrard,
Quesnel,
Christie,
Molson, and
Penn.

PRAYERS.

According to order, the Council resumed the further discussion on the Ordinance to regulate the summoning of Petty Juries in Criminal Cases.

The Honble. Mr. *De Rocheblave* moved, seconded by Mr. *Quesnel*,

That the Enacting Clause, be now reconsidered.

The Council divided on the motion.

FOR THE MOTION.

Messrs. *Pothier,*
DeRocheblave,
Quesnel,
Molson.

AGAINST THE MOTION.

Messrs. *Moffatt,*
McGill,
Gerrard,
Christie,
Penn.

So it passed in the negative.

The Honble. Mr. *DeRocheblave* moved, seconded by Mr. *Quesnel*,

That the Clause marked E, be now reconsidered.

The Council divided on the motion.

FOR THE MOTION.

Messrs. *DeRocheblave,*
Quesnel.

AGAINST THE MOTION.

Messrs. *Pothier,*
Moffatt,
McGill,
Gerrard,
Christie,
Molson,
Penn.

So it passed in the negative.

The Honble. Mr. *Moffatt* moved, seconded by Mr. *Penn*,

That the following amendment be made to the said Ordinance :

Preamble.—Strike out all the words after the second “and” in the seventh line to “thereof” inclusive, in the nineteenth line, and insert “ it is expedient to make further provision in that behalf.”

The Council divided on the proposed amendment.

FOR THE AMENDMENT.

Messrs. *Pothier,*
Moffatt,
McGill,
Gerrard,
Christie,
Molson,
Penn.

AGAINST THE AMENDMENT.

Messrs. *DeRocheblave,*
Quesnel.

So it was carried in the affirmative,

And,

ORDERED, accordingly.

The Honble. Mr. *Moffatt* moved, seconded by Mr. *Penn*,

That the following amendment, be made to the said Ordinance.

Title.—Strike out all the words after “the” and insert “qualification and summoning
 “ of Jurors in Civil and Criminal matters.”

The Council divided on the proposed amendment.

FOR THE AMENDMENT.

Messrs. *Pothier,*
Moffatt,
McGill,
Gerrard,
Christie,
Molson,
Penn.

AGAINST THE AMENDMENT.

Messrs. *DeRocheblave,*
Quesnel.

So it was carried in the affirmative.

And,

ORDERED, accordingly.

The Honble. Mr. *Moffatt* moved, seconded by the Honble. Mr. *McGill*,

That the said Ordinance, as amended, be fairly transcribed.

Mr. *Penn* moved in amendment, seconded by Mr. *Molson*,

That in the present situation of the Country, it is inexpedient to proceed further on this Ordinance.

The Council divided on the motion of amendment,

FOR THE AMENDMENT.

AGAINST THE AMENDMENT.

Messrs. *DeRocheblave*,
Gerrard,
Quesnel,
Christie,
Molson,
Penn.

Messrs. *Pothier*,
Moffatt,
McGill.

So it was carried in the affirmative, and

RESOLVED, accordingly.

On motion of the Honble. Mr. *Pothier*, seconded by the Honble. Mr. *McGill*,

ORDERED, That the order of the day of the 10th instant, for the second reading of an Ordinance for indemnifying persons who since the first day of November, 1838, have acted in apprehending, imprisoning or detaining in custody persons suspected of High Treason or Treasonable Practices and in the suppression of unlawful assemblies and for other purposes therein mentioned ; be revived, and that the said Ordinance be read a second time, to-morrow.

Then,

On motion of the Honble. Mr. *Pothier*, seconded by the Honble. Mr. *McGill*,

The Council adjourned.

WEDNESDAY, 19th DECEMBER, 1838.
PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
McGill,
DeRocheblave,
Quesnel,
Christie, and
Penn.

PRAYERS.

An Ordinance for indemnifying persons who since the first day of November 1838, have acted in apprehending, imprisoning or detaining in custody persons suspected of High Treason or Treasonable practices and in the suppression of unlawful assemblies, and for other purposes therein mentioned ; was according to order ; read a second time.

The question of concurrence having then been separately put upon each Clause of the said Ordinance, they were agreed to unanimously.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*,

ORDERED, That the said Ordinance, be fairly transcribed.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*,

ORDERED, That the order of the day of the 14th instant, for the further discussion of an Ordinance to declare that the Second Chapter of the Statute of the Parliament of *England* passed in the thirty first year of the Reign of King Charles the Second is not, nor has ever been, in force in this Province ; be revived, and that the said discussion be had, to-morrow.

Then ;

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Pothier*,

The Council adjourned.

THURSDAY, 20th DECEMBER, 1838,
PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
McGill,
De Rocheblave,
Gerrard,
Quesnel, and
Christie.

PRAYERS.

According to order, the Council resumed the further discussion on the Ordinance to declare that the Second Chapter of the Statute of the Parliament of *England* passed in thirty first year of the Reign of King Charles the Second is not, nor has ever been, in force in this Province.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *McGill*,

ORDERED, That the following amendments be made to the said Ordinance :

Page 1, line 12.—After “Tailor” insert “charged with suspicion of High Treason.”

“ “ “ 18.—After “ teste” insert “on or about.”

“ 2 “ 14.—After “ Teed” insert “ charged with suspicion of High Treason
“ as aforesaid.”

“ 3 “ 13.—After “ teste” insert “on or about.”

“ “ “ 27.—Strike out “ severally” and insert “ secondly.”

“ 4 “ 4 and 5.—Strike out “ it is expedient and necessary to declare that.”

“ “ “ 10.—After “and” insert “it is expedient and necessary to declare the
“ same and.”

Page 5, line 4.—Strike out “Habeas Corpus” and insert “attachment.”

“ “ “ 21.—After “ date” insert “ on or about.”

“ 6 “ 16.—After “ teste” insert “ on or about.”

Title.—After “ Province” insert “ and for other purposes.”

The Honble. Mr. *Moffatt* moved, seconded by the Honble. Mr. *McGill*,

That the said Ordinance, as amended, be fairly transcribed.

The Council divided on the motion.

FOR THE MOTION.

Messrs. *Polhier*,
Moffatt,
McGill,
Gerrard,
Christie.

AGAINST THE MOTION.

Messrs. *DeRocheblave*,
Quesnel.

So it was carried in the affirmative.

And,

ORDERED, accordingly.

Then ;

On motion of the Honble. Mr. *McGill* seconded by the Honble. Mr. *Moffatt*,

The Council adjourned.

FRIDAY, 21st DECEMBER, 1838.

PRESENT.

The Honble. Mr. *Cuthbert*, Presiding Member.

Messrs. *Pothier*,
Moffatt,
De Rocheblave,
Gerrard,
Quesnel,
Christie,
Molson, and
Penn.

PRAYERS.

His Excellency the Administrator of the Government having entered the Council Chamber, he took his seat at the head of the Table.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *Pothier*.

ORDERED, That an Ordinance for indemnifying persons who since the first day of November, one thousand eight hundred and thirty eight, have acted in apprehending, imprisoning or detaining in custody, persons suspected of High Treason, or Treasonable Practices, and in the suppression of unlawful assemblies and for other purposes therein mentioned; be now read for the third time.

The said Ordinance was accordingly read for the third time.

His Excellency having put the question,

“ That this Ordinance do now pass.”

It was,

RESOLVED, in the affirmative.

His Excellency then signed the said Ordinance.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *Pothier*,

ORDERED, That an Ordinance to declare that the second chapter of the Statute of the Parliament of *England* passed in the thirty first year of the Reign of King Charles the Second, is not, nor has ever been, in force in this Province, and for other purposes ; be now read for the third time.

The said Ordinance was accordingly read for the third time.

His Excellency having put the question,

“ That this Ordinance do now pass.”

It was,

RESOLVED, in the affirmative.

His Excellency then signed the said Ordinance.

His Excellency then withdrew.

The Honble. Mr. *Cuthbert*, resumed the Chair.

Then ;

On motion of the Honble. Mr. *Pothier*, seconded by the Honble. Mr. *Moffatt*,

The Council adjourned, until the tenth day of January next.

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transmitting for the perusal of the
Council, a Despatch from the Secretary of State for the Colonies,
relative to the suspension of Specie payments by the Banks, 60.

Apprehension and detention of certain persons. See Ordinances, (4.)

Arms. See Ordinances, (2.)

Assistant Judges for the Courts of King's Bench. See Ordinances, (18.)

Attainder of certain persons. See Ordinances, (8.) (12.)

BANK of *Montreal*. Petition of the President, Directors and Company thereof,
to be authorised to suspend the redemption of their Notes in Specie, 5.

Banks. See Administrator ; Ordinances, (1.)

CCOURT of *Judicature*. See *Ordinances, (11.)*

Courts Martial. See Ordinances, (8.)

D.

I N D E X.

E.

F.

GOLDIE, *Thomas Leigh*, Esquire. See *Special Council*.

Gunpowder. See *Ordinances*, (2.)

HABEAS CORPUS Act. See *Ordinances*, (4.)

High Treason. See *Ordinances*, (4.) (12.) (16.)

INDEMNIFICATION of certain persons. See *Ordinances*, (16.)

JUDGES of the Courts of King's Bench. See *Ordinances*, (18.)

Justices of the Peace. See *Ordinances*, (5.)

K,

LEAD. See *Ordinances*, (2.)

MESSAGES. See *Administrator*.

Misprision of High Treason. See *Ordinances*, (4.)

Munitions of War. See *Ordinances*, (2.)

I N D E X.

N.

ORDINANCES:—

- 1. To authorize certain Banks therein named, to suspend Specie payments in certain cases, read the first time, 4. Read the second time, 7. Amended, 7, 10. Passed by the Administrator and Council, 11.
- 2. For authorizing the seizing and detaining, for a limited time, of Gunpowder, Arms, Weapons, Lead, and Munitions of War, read the first time, 12. Read the second time, 13. Amended, 13, 14. Passed by the Administrator and Council, 16.
- 3. For the suppression of the Rebellion which unhappily exists within this Province of Lower Canada, and for the protection of the persons and properties of Her Majesty's faithful subjects within the same, read the first time, 12. Read the second time, and amended, 14. Passed by the Administrator and Council, 17.
- 4. To authorize the apprehension and detention of persons charged with High Treason, Suspicion of High Treason, Misprision of High Treason, and Treasonable practices, and to suspend for a limited time, as to such persons, a certain Ordinance therein mentioned, and for other purposes, read the first time, 12. Read the second time, and amended, 15. Passed by the Administrator and Council, 17.
- 5. To authorize the Governor or person administering the Government of this Province, to appoint persons as Justices of the Peace and Stipendiary Magistrates, notwithstanding an Act of the Legislature of the Province of Lower Canada, passed in the sixth year of the reign of His late Majesty King William the Fourth, intituled, "An Act for the qualification of the Justices of the Peace," read the first time, 22. Read the second time, 25. An amendment proposed, 25. Negatived, upon a division, 26. Read the third time, 27. Passed by the Administrator and Council, 28.
- 6. To declare and define the period when the Rebellion now unhappily existing in this Province shall be taken and held to cease, and for other purposes, read the first time, 23. Read the second time, and considered, *ibid.* Read the third time, 24. Passed by the Administrator and Council, 25.

I N D E X.

Ordinances, continued :

7. For more effectually preventing the administering or taking of unlawful Oaths, and for better preventing Treasonable and Seditious practices, read the first time, 25. Read the second time, 31. Amended, 31, 36, 38, 39. Read the third time, 44. Passed by the Administrator and Council, 45.
8. For the attainder of persons against whom sentences or judgments of Courts Martial shall be given under and by virtue of two of the preceding Ordinances (3.) (6.), read the first time, 28. Read the second time, 31. Amended, 33, 34, 35. Passed by the Administrator and Council, 44.
9. To extend the provisions of certain Ordinances therein mentioned to the District of St. Francis in the Province of Lower Canada, read the first time, 28. Read the second time, 31. Considered, 40. Passed by the Administrator and Council, 45.
10. To confirm certain Ordinances of the Governor of this Province, and of the Special Council for the affairs thereof, and to declare the period at which they respectively commenced and took effect, read the first time, 40. Read the second time, 41. Amended, 41, 42. Passed by the Administrator and Council, 45.
11. For the erection of a Court of Judicature for the trial of certain Crimes and Offences therein mentioned, and for other purposes, read the first time, 48. Read the second time, 49. Considered, 50, 54. Motion to put off the further consideration till the 1st May next, 54. An amendment proposed and agreed to, upon a division, *ibid.* Again considered, and amended, 55, 56, 57, 58. Message from the Administrator requesting that the said Ordinance may not be proceeded on, 59.
12. To provide for the more speedy attainder of persons against whom informations for High Treason, Suspicion of High Treason, and for Treasonable practices, have been preferred and fyled, who have fled from the Province, or remain concealed therein to escape from justice, transmitted for the consideration of the Council, 50. See *Administrator*.
13. To authorize the trial of persons charged with certain Crimes and Offences, in any District of this Province, read the first time, 50. Read the second time, and amended, 51. Passed by the Administrator and Council, 53.

I N D E X.

Ordinances, continued :

- 14. To authorize the Governor or person administering the Government of this Province, to cause the confinement in any of the Gaols in the said Province, of persons committed or detained for certain Crimes, and for other purposes, read the first time, 50. Read the second time, and amended, 51. Passed by the Administrator and Council, 53.
- 15. To regulate the summoning of Petty Juries in Criminal Cases, read the first time, 63. Read the second time, 64. Considered, 67, 74, 76, 84. Amended, 74, 76, 77, 78, 80, 81, 83, 84, 92. A clause reconsidered ; Motion to amend it, *negd.* It is amended, 96. Two Motions to reconsider two other clauses, *negd.* Further amended, 98, 99. Council resolve, upon a division, that in the present state of the Country, it is inexpedient to proceed further on this Ordinance, 100.
- 16. For indemnifying persons who, since the 1st November, 1838, have acted in apprehending, imprisoning or detaining in custody, persons suspected of High Treason or Treasonable practices, and in the suppression of unlawful assemblies, and for other purposes therein mentioned, read the first time, 67. Read the second time, and considered, 104. Passed by the Administrator and Council, 104.
- 17. To declare that the second chapter of the Statute of the Parliament of England, passed in the thirty-first year of the Reign of King Charles the Second, is not, nor ever has been, in force in this Province, read the first time, 71. Read the second time, 75. Amended, 102, 103. Passed by the Administrator and Council, 105.
- 18. To authorize the Governor or person administering the Government of this Province, to appoint one or more Assistant Judges for the Courts of King's Bench for the Districts of Quebec and Montreal in this Province, and an Assistant Judge of the District of Three Rivers, in case of the sickness, necessary absence, or suspension from office of any of the Justices of the said several Courts of King's Bench, or of the Resident Judge for the District of Three Rivers in the said Province, read the first time, 71. Read the second time and considered, 72. Passed by the Administrator and Council, 73.
- Of the Governor and Special Council. See *supra* (10.)

I N D E X.

Ordinances, continued :

——— Amendments intended to be proposed to an Ordinance (15.) laid upon the table, 67. To be printed, 68.

PERSONS charged with High Treason, &c. See *Ordinances*, (4.) (13.) (14.)

Petition. See *Bank of Montreal*.

Petty Juries. See *Ordinances*, (15.)

Presiding Member, Hon. Toussaint Pothier appointed, 4. Hon. James Cuthbert takes the Chair, 13.

QUESTIONS amended, 54, 100.

——— Negatived, 14, 26, 29, 72, 79, 81, 96, 98.

REBELLION, period defined when it shall be held to cease. See *Ordinances*, (6.)

——— Suppression of it. See *Ordinances*, (3.)

Rules and Orders for the guidance of the proceedings of the Council, submitted by the Administrator of the Government, 4. Adopted, *ibid*.

——— With regard to the second and third readings of Ordinances, suspended, 7, 13, 23, 40, 51, 71.

SAIN'T FRANCIS, District of. See *Ordinances*, (9.)

Seditious Practices. See *Ordinances*, (7.)

Special Council. Members take the Oath and their Seat, 3, 12, 18, 20.

——— Is informed that Thomas Leigh Goldie, Esquire, has been appointed Assistant Clerk, during the necessary absence of the Clerk, 4.

I N D E X.

Special Council, continued :

- The names of the Councillors taken down upon divisions, 10, 14, 26, 29, 33, 35, 39, 41, 42, 54, 72, 74, 78, 79, 80, 81, 95, 96, 98, 99, 103.
- Excuses from Members for non-attendance, laid upon the table, 19, 30.
- Members have leave of absence, 30.
- A Member lays upon the table certain amendments which he intends to move to an Ordinance, (15.) 67.
- Adjourns to particular hours on future days, 10, 15, 24, 26, 28, 32, 43, 52, 65.
- ——— to a particular hour on same day, 68.
- ——— during pleasure, 22.
- ——— for want of a Quorum, 91.
- ——— till the 10th January, 1839, 105.
- Motion to adjourn to a particular hour on the ensuing day, 28. An amendment proposed, and *negd.* 29. Motion agreed to, *ibid.*
- Meets and adjourns, 18, 19, 20, 21, 46, 59, 64, 65, 66, 69.
- Resolves that in the present state of the Country, it is inexpedient to proceed further on the Ordinance (15.) to regulate the summoning of Petty Juries, 100.

Statute of the Parliament of England, 31st Car, II. Cap. 2. See Ordinances, (17.)

Stipendiary Magistrates. See Ordinances, (5.)

Summoning of Petty Juries. See Ordinances, (15.)

Suppression of the Rebellion. See Ordinances, (3.)

Suspicion of High Treason. See Ordinances, (4.)

TREASONABLE *Practices. See Ordinances, (4.) (7.) (16.)*

I N D E X.

Trial of certain persons in any District of the Province. See *Ordinances*, (13.)

UNLAWFUL Oaths. See *Ordinances*, (7.)

V.

WEAPONS. See *Ordinances*, (2.)

X.

Y,

Z.