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ORDINANCE ESTABLISHING MILITARY COURTS.¹

Delapart de Son Excellence, Monsieur JACQUES MURRAY, Gouverneur de Quebec, &c.²

Notre principale Intention ayant été dans le Gouvernement Qu'il a plû à Sa Majesté Britannique de nous confier de faire rendre la Justice a ses Nouveaux sujets, tant Canadiens que françois Etablies dans la ville et coste de ce Gouvernement: Nous avons crû également Necessaire d'établir la forme de proceder, de fixer le jour de nos Audiances, ainsi que ceux de notre Conseil Militaire que nous avons établis en cette ville afin que chacun puisse sy conformer dans les affaires qu'ils auront a faire Juger en nos audiances ou celles que nous Jugerons nécessaires de renvoyer aud. Conseil: A ces causes Nous avons réglé et ordonné, reglons et ordonnons par le présent Reglement ce qui suit.

Art. 1^{er}

Toutes plaintes ou affaires d'interets civils ou Criminels, nous seront faites par placets ou Requetes adressantes à Nous les quels seront remises Néanmoins a M. M. Cramahé Notre Secretaire qui les répondra pour que les Assignations soient ensuite donnés par le premier huissier aux parties adverses aux fins de comparaitre pour déffendre en notre audience suivant les Delays marqués eu egard a la distance des lieux.

2^o

Les Jours de nos audiances seront le Mardi de chaque semaine depuis dix heures du matin Jusques a Midi et se teindront en notre hotel a commencer Mardi prochain 4 Novembre.

3^o

Les placets ou Requestes qui auront été réponduës par notre Secretaire dans la forme expliqué par l'art. 1^{er} signifié aux parties adverses et le delay de l'assignation expirés seront remise à notre secretaire la veille de l'audiance, c'est a dire le Lundi pour l'audiance de Mardi sans quoy elles ne seront point Jugés, et Remise a la prochaine audience.

4^o

Les parties adverses qui auront quelques papiers ou écritures servant a la deffense de leur cause seront pareillement tenus de les remettre a notre

¹ The general system of justice and administration established by Amherst and Murray was approved by the King through the Earl of Egremont, successor to Pitt as Secretary of State, in a despatch to Amherst, December 12th, 1761. This system continued until the introduction of civil government in 1764, and its general character is summarized in the preamble to the Ordinance of 20th September, 1764, which confirmed the judgments given in the military courts.

² From "Registre de la cour militaire" folio I. Vol. I. Quebec.

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secretaire la veille de l'audience sinon sera fait droit sur la demande de la Partie.

5^e

Sy les parties assignés n'ont aucune écriture a produire, elles seront tenus de comparoir en notre audience au Jour de l'assignation, soit en personne ou par procureur, sinon il ne sera donné aucun deffaut, et sera pareillement et sera pareillement fait droit sur le seule assignation qui leur aura été donné afin deviter la Longueur des procédures et la Multiplicité des frais.

6^e

Si la trop grande quantité d'affaires ne pouvoit permettre de les Juger toutes dans une seule audience elles seront remises a la prochaine et les parties tenues dy comparoir sans autre assignation.

7^e

Les Jugements qui seront rendus en notre hotel a l'audience seront executés sans appel et les parties contraintes dy satisfaire suivant ce qui sera prononcée a l'exception des affaires que nous Jugerons de Renvoyer au Conseil Militaire, pour estre Jugés, les quelles seront remises a un des Conseillers que nous nommerons qui en fera son Rapport au Conseil pour sur iceluy estre fait droit a qui il Appartiendra.

8^e

Le Conseil de Guerre s'assemblera les Mercredi et Samedi de chaque semaine et se tiendra en la maison de M. de Beaujeu rue St. Louis.

9^e

Les Jugements rendus en notre audience ainsi que les arrêts Militaires seront écrits sur le Registres par le Greffier que nous avons Commis pour cet effet, et les expéditions par luy délivrés aux parties.

10^e

Tout ce que dessus sera exécuté tant pour la ville que pour les campagnes a l'exception Néanmoins des différens que les habitants des Costes pourroient Avoir entr'eux pour raison de Clostures, Dommages, ou autres cas provisoires, dont nous renvoyons la connoissance au comd^t de la troupe dans chaque coste qui les Jugera sur le champ, sauf l'appel au Conseil Militaire sy le cas y échoit et quil y ait matiere.

Et sera le présent Reglement lué publié et affiché tant dans les lieux et endroits accoutumés de cette ville, que dans chaque Costes de ce gouvernement, a ce que personne n'en pretendent cause d'ignorance, et ayt a s'y

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conformer. Interdisons toutes autres Cours et Jurisdictions, qui auroient put etre etablies tant dans la ville, que dans les fauxbourgs et Campagnes.

Fait et donné sous notre scel et le contreseing de Notre Secretaire, a Quebec le 31 8^{bre} 1760.

“JA. .MURRAY.

“*Par Son Excellence.*

“H. T. CRAMAHÉ.”

(*Translation.*)

By His Excellency Mr. James Murray, Governor of Quebec, etc.

Our chief object having been, in the government which it has pleased His Majesty to entrust to us, to ensure the administration of Justice to his new subjects, Canadian as well as French, settled in the town and neighbourhood of this Government, we have likewise thought it necessary to establish the form of procedure; to fix the day for our audiences, as well as those of our military council, which we have established in this town: to the end that every one may conform to it, in the causes that they may require to have judged at our courts, or such as we may think necessary to send to the said Council. For this reason, we have ruled and ordered by the present regulations as follows:

1st Article

All compliants, or matters of civil or criminal interest shall be brought before us by petitions, or requests, addressed to us, which shall, however, be delivered to M^r H. Cramahé, our secretary, who shall return them, so that the summons may then be delivered to the defendants by the first bailiff, so that they may appear to defend themselves in our Court, at the time appointed, regard being paid to the distance of the places.

2^d Article

The Court days shall be Tuesday in each week, from ten in the morning till noon, and they shall be held at our residence, beginning with next Tuesday, the 4th of November.

3rd Article

The petitions, or requests which shall have been returned by our secretary, in the manner explained in the first article, having been served on the defendants, and the term allowed in the summons having expired, shall be re-delivered to our secretary, on the day before the hearing, that is to say, on the Monday, for the hearing of Tuesday: failing this, they shall not be judged, but shall be postponed till the next sitting.

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4th Article

The defendants, who shall have any papers or writings available for the defence of their cause, shall likewise be obliged to deliver them to our secretary, on the day before the hearing, otherwise judgment will be given on the demand of the plaintiff.

5th Article

If the parties summoned have no writing to produce they shall be obliged to appear at our Court, on the day fixed, either in person or through an attorney, otherwise no plea will be allowed them for default, and in like manner judgment will be given, on the single summons which shall have been served on them, in order to avoid long lawsuits, and the increase of costs.

6th Article

If the excessive amount of business does not allow the judging of all cases at a single sitting, they shall be postponed till the next one, and the parties shall be obliged to appear, without other summons.

7th Article

Judgments which shall be delivered at our Residence at the Court, shall be executed without appeal, and the parties shall be compelled to give satisfaction according to what shall be decreed, with the exception of such cases as we may think fit to send to the Military Council to be tried; which shall be delivered to one of the Councillors whom we shall name, who will make his report to the Council, so that judgment may be given on the same for him to whom it shall belong.

8th Article

The Council of War shall assemble on the Wednesdays and Saturdays of each week, and shall be held in the house of M. de Beaujeu, rue St. Louis.

9th Article

Judgments given in our Courts, as well as the military decrees, shall be inscribed on the register, by the registrar whom we have appointed for this purpose, and copies delivered by him to the parties.

10th Article

All the above shall be executed, as well for the town as for the country; with the exception however of disputes that the habitants of the district may have amongst themselves, with respect to enclosures, damages, or other provisional cases, of which we authorize the commandant of the troops to

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take cognizance in each locality and try summarily, reserving appeals to the Military Council, if the case pertains thereto, and there is reason for it.

And the present regulation shall be read, published and posted in the usual places and precincts of this town, as well as in every part of this government, that no one may urge the plea of ignorance, and that all shall be compelled to conform to it; and we interdict all other courts and jurisdictions which may have been established as well in the town, as in the suburbs and country.

Executed and given under our seal, and countersigned by our secretary, at Quebec, the 31st October, 1760.

(Signed) J. A. MURRAY.

By His Excellency,
(Signed) H. T. CRAMAHÉ.