

Statutes of Upper-Canada, Passed in the third session of the fifth provincial parliament (1811).
From *The Provincial Statutes of Upper-Canada: Revised, Corrected, and Republished* (York, R. C. Horne, 1818.)

51 George III – Chapter 7

An Act to amend an Act passed in the forty-eighth year of His Majesty's Reign, intituled, "An Act to explain, amend, and reduce to one Act of Parliament, the several Laws now in being, for the raising and training the Militia of this Province." (Passed 13th March, 1811.)

Whereas, by the twenty-seventh Section of an Act passed in the forty-eighth year of His Majesty's Reign, intituled, "An Act to explain, amend, and reduce to one Act of Parliament the several Laws, now in being, for the raising and training the Militia of this Province," it is enacted, that the people called Quakers, Menonists, and Tunkers [Anabaptists], who, from certain scruples of conscience, decline bearing arms, shall not be compelled to serve in the Militia, but every person professing that he is one of the people called Quakers, Menonists, or Tunkers, and producing a certificate of his being a Quaker, Menonist, or Tunker, signed by the Clerk of the Meeting of such Society, or by any three or more of the people called Quakers, Menonists, or Tunkers, shall be excused and exempted from serving in the said Militia, Provided nevertheless, That every such person or persons that shall or may be of the people called Quakers, , Menonists, or Tunkers, from the age of sixteen to sixty, shall, on or before the first day of December, in each and every year, give in his name and place of residence, to the Treasurer of the District where he or they shall reside, and pay to such Treasurer, to and for the public uses of such District, in time of Peace, the sum of twenty shillings, and in time of Invasion or Insurrection, or when any part of the Militia of that District shall be called out on Actual Service, the sum of five pounds, and in default of such payment, it shall and may be lawful, on information or complaint on oath, made by the said Treasurer before any Justice of the Peace of such District, for the said Justice to issue his Warrant under his hand and seal, to levy the same by distress and sale of the offender's goods and chattels returning so much of the said distress as shall exceed the sum of twenty shillings per annum, in time of Peace, and five pounds per annum, in time of actual Invasion or Insurrection, or when any part of the Militia of that District shall be called out on Actual Service, deducting therefrom the charges and all other incidental expenses of such distress and sale. And whereas, the people called Quakers, cannot avail themselves of the indulgence intended to be granted them, as by their said scruples of conscience, they cannot pay any commutation or composition to be exempt from bearing arms, nor in case of distress and sale of their goods and chattels, in consequence of non-payment of fines and forfeitures incurred under and by virtue of the said Act, can they receive the surplus, (if any,) after such distress and sale: Be it enacted by the King's Most Excellent Majesty, by and with the advice and Consent of the Legislative Council and Assembly of the Province of Upper-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That when and so often as the goods and chattels of any Quaker taken by distress and sale, for or on account of any exemption money, fine,

51 George III – Chapter 7

forfeiture, or penalty, under or by virtue of the said Act, shall exceed the amount thereof, the overplus, after deducting the amount of such distress, together with the costs and charges of sale, shall be paid by the Constable or other person making such distress and sale, to the Treasurer of the District in which such Quaker shall reside, which overplus shall be and remain, and be accounted for as so much for future exemption money, for the person whose goods and chattels have been so distrained as aforesaid, and if any Constable or other person, making such distress and sale, as aforesaid, and refusing or neglecting, within one month after such sale, to pay such overplus as herein before directed, shall forfeit and pay the sum of twenty-five pounds, over and above the said overplus, upon confession or conviction by the oath of one credible witness, before any two of His Majesty's Justices of the Peace, for the District wherein such distress and sale were made, and in default of payment, it shall and may be lawful for such Justices, by Warrant under their hands and seals, to cause the same to be levied by distress and sale of the goods and chattels of the offender, and if no such distress can be found, to commit the offender by Warrant, as aforesaid, to the Common Gaol of the District, until the same shall be paid, or for a space of time not exceeding six Calendar Months. Provided always, That no sale of any effects, so taken, shall be made until public notice is given thereof at least eight days previous thereto, at the most public place in the Town or Township where such effects may have been taken in execution, and of the time and place when such effects are to be exposed to sale.

II. And be it further enacted by the authority aforesaid, That so much of the said Act passed in the forty-eighth year of His Majesty's Reign, as relates to the returning to any Quaker, such sum or sums of money levied by distress and sale, under and by virtue of that Act, as shall exceed the exemption money required by the said Act to be paid by him for not serving in the said Militia, with the costs and expences incident to the making such distress and sale, shall be and the same is hereby repealed: Provided nevertheless, That if the sum or sums of money, so levied by distress, shall exceed the said exemption money, but shall not be equal to the exemption money to be paid by the said Quaker, for the year succeeding that for which such distress and sale were made, that then and in such case the residue of the exemption money so to be paid for that succeeding year, if not paid when due, shall be levied by distress and sale of the goods and chattels of the offender.

III. And be it further enacted by the authority aforesaid, That it shall be the duty of every Constable or other person levying or taking any distress of the goods and chattels of any Quaker under and by virtue of this Act, to take as near the value as may be sufficient to satisfy the Warrant for levying such distress, with the costs and expences incident to the sale thereof, and shall stop and discontinue the sale when a sufficiency is sold to satisfy the amount of such Warrant and costs as aforesaid, and shall return the residue of the goods and chattels so taken and remaining unsold, if any, to the person from whom they were taken, or in default thereof, shall forfeit and pay a sum double the amount of such distress, and sale, to be recovered as before mentioned.

IV. And be it further enacted by the authority aforesaid, That all fines, forfeitures and penalties, incurred under and by virtue of this Act, shall be paid into the hands of the Treasurer of the District, in which they may be incurred, to and for the uses of such District, and every such Treasurer upon information thereof, is hereby authorised and required to prosecute for and receive the same.

V. And be it further enacted by the authority aforesaid, That it shall be the duty of all Justices of the Peace issuing or granting any Summons or Warrant, under and by virtue of this Act, or of the said Act of the forty-eighth year of His Majesty's Reign, and they are hereby required to direct every such Summons or Warrant, as aforesaid, to the Constable living in the Township where the person or persons so to be summoned, or against whose goods and chattels such Warrant shall be issued or granted, may reside; or in case of no Constable living in such Township, then and in that case, such Summons or Warrant shall be directed to the Constable living nearest to the residence of the person or persons so to be summoned, or against whose goods and chattels such Warrant shall be issued or granted, and every Constable shall, in computing his costs upon every such service, charge his milage from the place where he received such Summons or Warrant, and no more.