

Laws of Her Majesty's Province of Upper Canada, passed in the year 1838. York: Robert Stanton, 1838.

1 Victoria – Chapter 3

An Act to protect the Inhabitants of this Province against Lawless Aggressions from Subjects of Foreign Countries, at Peace with Her Majesty. Passed 12th January, 1838.

Whereas a number of persons lately inhabiting the State of New York, or some one of the other United States of America, have within the said State of New York, lately enlisted or engaged themselves to serve as Soldiers, or have procured others to enlist or engage themselves to serve as Soldiers, and have within the said State of New York collected Artillery, Arms and Ammunition, and made other preparations for a hostile invasion of this Province, under the pretext of assisting certain Traitors who have fled from this Province to the said United States: And whereas the said persons, without the authority of their Government, and in defiance of its express injunctions, have actually invaded this Province, contrary to the faith and obligations of the Treaties subsisting between the United Kingdom of Great Britain and Ireland, and the said United States, and during the continuance of the relations of amity and peace between the two Countries: And whereas, it is necessary for protecting the peace and security of this Province, to provide for the prompt punishment of persons so offending: Be it therefore enacted by the Queen'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, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, '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 if any person, being a Citizen or Subject of any Foreign State or Country at peace with the United Kingdom of Great Britain and Ireland, having joined himself before or after the passing of this Act, to any Subjects of our Sovereign Lady the Queen, Her Heirs or Successors, who, or hereafter may be, traitorously in arms against Her Majesty, Her Heirs or Successors, shall after the passing of this Act be or continue in arms against Her Majesty, Her Heirs or Successors, within this Province, or commit any act of hostility therein, then it shall and may be lawful for the Governor of this Province to order the assembling of a Militia General Court Martial for the trial of such person, agreeably to the Militia Laws of this Province, and upon being found guilty by such Court Martial of offending against this Act, such person shall be sentenced by such Court Martial to suffer death, or such other punishment as shall be awarded by the Court.

II. And be it further enacted by the authority aforesaid, That if any Subject of Her Majesty, Her Heirs or Successors, shall within this Province levy War against Her Majesty, Her Heirs or Successors, in company with any of the Citizens or Subjects of any Foreign State or Country, then being at peace with the United Kingdom of Great Britain and Ireland, and offending against the provisions of this Act, then such Subject of Her Majesty, Her Heirs or Successors, shall be liable to be tried and punished by a Militia General Court Martial, in like manner as any Citizen or Subject of

a Foreign State or Country at peace with Her Majesty, Her Heirs or Successors, is liable under this Act to be tried and punished.

III. And be it further enacted by the authority aforesaid, That the Citizen or Subject of any Foreign State or Country offending against the provisions of this Act, shall be deemed guilty of Felony, and may notwithstanding the provisions hereinbefore contained, be prosecuted and tried before any Court of Oyer and Terminer and General Gaol Delivery in and for any District of this Province, in the same manner as if the offence had been committed in such District, and upon conviction shall suffer death as in cases of Felony.