



ANNO DECIMO ET UNDECIMO
VICTORIÆ REGINÆ.

CAP. IV.

An Act for preventing malicious injuries to persons and property by fire,
 or by explosive or destructive substances.

[9th July, 1847.]

WHEREAS the unlawful and malicious destruction of buildings and attempts to injure persons and property by fire or by gunpowder, and other explosive or destructive substance is not adequately punishable by law: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That whoever shall unlawfully and maliciously by the explosion of gunpowder or other explosive substance, destroy, throw down or damage the whole or any part of any dwelling house, any person being therein, shall be guilty of felony. Preamble.

II. And be it enacted, That whoever shall unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, destroy or damage any building with intent to murder any person, or whereby the life of any person shall be endangered, shall be guilty of felony. Destroying any dwelling house by explosive substance, any person being therein, to be felony. And so if with intent to destroy life.

III. And be it enacted, That whoever shall unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, burn, maim or disfigure, disable or do any grievous bodily harm to any person, shall be guilty of felony. Doing bodily harm to any person.

IV. And be it enacted, That whoever shall unlawfully and maliciously cause any gunpowder or other explosive substance to explode, or send or deliver to or cause to be taken or received by any person any explosive substance, or any other dangerous or noxious thing, or cast or throw at or upon, or otherwise apply to any person any corrosive fluid, or other destructive or explosive substance, with intent in any of the cases aforesaid to burn, maim, disfigure or disable any person, or to do some grievous bodily harm to any person, shall, although no bodily injury be effected, be guilty of felony. Causing explosion, throwing corrosive fluids, &c. with like intent.

V. And be it enacted, That whoever shall be convicted of any felony hereinbefore mentioned, shall be liable, at the discretion of the Court, to be imprisoned in the Provincial Punishment of persons con-

Victed of such offences.

Provincial Penitentiary for any term not less than seven years, or to be imprisoned in any Common Gaol for any term not exceeding three years.

Throwing explosive substances into or near to any buildings, &c.

VI. And be it enacted, That whoever shall unlawfully and maliciously place or throw in, into, upon, against or near any building or vessel, any gunpowder or other explosive substance, with intent to do any bodily damage to any person, or to destroy or damage any building or vessel, or any machinery, working tools, fixtures, goods or chattels, shall, whether or not any explosion takes place and whether or not any injury is effected to any person, or any damage to any building, vessel, machinery, working tools, fixtures, goods or chattels, be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned in the Provincial Penitentiary for any time not exceeding seven years, nor less than three years, or to be imprisoned in any Common Gaol for any period not exceeding two years.

Punishment for such offence.

Attempting to set fire to any building, vessel, &c. the offence not being complete.

VII. And be it enacted, That whoever shall unlawfully and maliciously by any overt act attempt to set fire to any building, vessel, or to any stack, or to any vegetable produce of such kind, and with such intent, that if the offence were complete the offender would be guilty of felony, and liable to be imprisoned in the Provincial Penitentiary for any term not less than seven years, shall, although such building, vessel, stack, or vegetable produce be not actually set on fire, be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned in the Provincial Penitentiary for any time not exceeding seven years, nor less than three years, or to be imprisoned in any Common Gaol for any term not exceeding two years.

Punishment for such offence.

Having explosive substances with intent to commit an offence against this Act, &c. Punishment.

VIII. And be it enacted, That whoever shall knowingly have in his possession, or make or manufacture any gunpowder, explosive substance or any dangerous or noxious thing, or any machine, engine, instrument or thing with intent by means thereof to commit, or for the purpose of enabling any other person to commit any offence against this Act, shall be guilty of a misdemeanour, and on conviction thereof shall be liable to be imprisoned in any Common Gaol for a period not exceeding two years.

Male offenders under 18 years may be whipped.

IX. And be it enacted, That every male person under the age of eighteen years who shall be convicted of any offence under this Act, or who shall be convicted of feloniously setting fire to any building, vessel or to any stack, shall be liable, at the discretion of the Court before which he shall be convicted, in addition to any other sentence which may be passed upon him, to be publicly or privately whipped in such manner and as often, not exceeding thrice, as the Court shall direct.

Punishment of principals in the second degree and of accessories.

X. And be it enacted, That in the case of every felony punishable under this Act every principal in the second degree and every accessory before the fact shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act shall on conviction be liable to be imprisoned in any Common Gaol for any time not exceeding two years.

Court may order hard labor and solitary confinement.

XI. And be it enacted, That when any person shall be convicted of any offence punishable under this Act for which imprisonment may be awarded, it shall be lawful for the Court to sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour; and also to direct that the offender shall be kept in solitary confinement for

for any portion or portions of such imprisonment, or of such imprisonment with hard labour not exceeding one calendar month at any one time, and not exceeding three calendar months in any one year, as to the Court in its discretion shall seem meet.

Limitation.

XII. And be it enacted, That any Justice of the Peace of any District, City, Town or place in which any gunpowder or other explosive, dangerous or noxious substance is suspected to be made or kept for the purpose of being used in committing an offence under this Act, upon reasonable cause assigned upon oath by any person or persons, may issue a warrant or warrants under his hand and seal for searching in the day time any house, shop, cellar, yard or other building, or any vessel in which such gunpowder or other explosive dangerous or noxious substance is suspected to be made or kept for such purpose as aforesaid, and that every person acting in the execution of any such warrant shall have power to seize any gunpowder, explosive substance or any dangerous or noxious thing, or any machine, engine or instrument or thing which he shall have good cause to suspect to be intended to be used in committing or enabling any other person to commit any offence against this Act, and with all convenient speed after the seizure to remove the same to such proper places as they shall think fit, and may detain the same until ordered to restore it to the person or persons who shall claim the same by any Judge of any of Her Majesty's Courts of Queen's Bench; and such searcher or searchers, seizer or seizers shall not be liable to any suit for such detainer, or for any loss of or damages which may happen to the same, other than by the wilful acts or neglects of them or the persons with whom they shall entrust the keeping thereof.

Search warrants may be issued to search for gunpowder or explosive substance suspected to be kept for illegal purposes.

The same if formed may be seized; how to be dealt with.

Protection to persons searching.

XIII. And be it enacted, That any gunpowder, explosive substance or any dangerous or noxious thing, or any machine, engine, instrument or thing which shall be intended to be used in committing or in enabling any other person to commit any offence against this Act, and which shall be seized and taken possession of under the provisions thereof, shall, in the event of the person or persons in whose possession the same shall be found, or the owner or owners thereof being convicted for any offence under this Act, be forfeited; and the same shall be sold under the direction of the Court before which any such person shall be convicted, and the proceeds thereof shall be paid into the hands of the Receiver General to and for the use of the Province.

Forfeiture of gunpowder, &c. found with persons convicted under this Act.

Sale of such gunpowder.

XIV. And be it enacted, That it shall be lawful for any Constable or Peace Officer to take into custody, without a warrant, any person whom he shall find lying or loitering in any highway, yard or other place during the night, and whom he shall have good cause to suspect of having committed or being about to commit any felony under this Act, and to detain such person until he can be brought before a Justice of the Peace to be dealt with according to law.

Persons loitering, &c. and suspected of intention to commit offences against this Act, may be detained.

XV. Provided always, and be it enacted, That no such person having been so apprehended shall be detained after noon of the following day without being brought before a Justice of the Peace.

Must be brought before a Justice within a certain time.

XVI. And be it enacted, That neither the Justices of the Peace acting in and for any District, Division or City, nor the Recorder of any City, shall, at any Session of the Peace or at any adjournment thereof, try any person or persons for any offence under this Act.

Offender not to be tried by Justices of the Peace or Recorders.

XVII.

Offences with-
in the Juris-
diction of Vice
Admiralty,
how dealt with.

XVII. And be it enacted, That where any felony punishable under this Act shall be committed within the jurisdiction of any Court of Admiralty in this Province, the same shall be dealt with, inquired of and tried and determined in the same manner as any other felony committed within that jurisdiction.

Act may be
amended in
this Session.

XVIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament. *

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