

Provincial Statutes of Canada, passed in the year 1845. Montreal: Stewart Derbishire & George Desbarats, 1845.

8 Victoria – Chapter 6

An Act for the better preservation of the Peace, and the prevention of Riots and violent Outrages at and near Public Works while in progress of construction. (17th March, 1845.)

Whereas it is necessary to make further provision for the preservation of the peace, and for the protection of the lives, persons, and property of Her Majesty's subjects, in the neighbourhood of public works on which large bodies of labourers are congregated and employed: 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 it shall be lawful for the Governor in Council, from time to time, and as often as occasion shall require, to declare by Proclamation the several places in this Province, within the limits whereof any Canal or other public work whatsoever shall be in progress of construction, or such places as shall be in the vicinity of any such Canal or other public work, within which it shall be found necessary that this Act shall come into force and effect; and that this Act shall, upon, from, and after the day to be named in any such Proclamation, take effect and come into force and operation within the places designated in and by such Proclamation; and it shall also be lawful for the Governor in Council in like manner, from time to time, to declare this Act to be no longer in force in any of such places as aforesaid; but this shall not prevent the Governor in Council from again declaring the same to be in force in any such place or places: Provided always, that no such Proclamation shall in any case have force or effect within the limits of any City in this Province.

II. And be it enacted, That upon and after the day to be fixed in such Proclamation for that purpose, no person employed in or upon any such Canal or other public work within the limits specified in such Proclamation, shall have or keep in his possession or under his care or control, within such limits, any gun, blunderbuss, pistol, or other fire-arm, or any stock, lock, barrel, or any other part of such gun, blunderbuss, pistol, or other fire-arm, or any bullets, sword, sword blade, bayonet, pike, pikehead, spear, spearhead, dirk, dagger, or other instrument intended for cutting or stabbing, or other arms, ammunition, or weapon of war, under a penalty of not less than ten shillings, nor more than twenty shillings for every such weapon found in his possession.

III. And be it enacted, That within the time appointed as aforesaid in such Proclamation, every person employed in or upon the Canal or public work to which the same shall relate, shall bring and deliver up to some Magistrate or Commissioner, to be appointed by the Governor for the purposes of this Act, every such weapon as aforesaid in his possession, and shall obtain from such Magistrate or Commissioner a receipt for the same.

IV. And be it enacted, That when this Act shall cease to be in force within the place where any weapon shall have been delivered and detained in pursuance thereof, or when the owner or person lawfully entitled to any such weapon shall satisfy the Magistrate or Commissioner that he is about to remove immediately from the limits within which this Act shall at the time be in force, it shall be lawful for the Magistrate or Commissioner to deliver up to the owner or person authorized to receive the same, any such weapon, on production of the receipt given for it as aforesaid.

V. And be it enacted, That every such weapon which shall be found in the possession of any person employed as aforesaid, after the day named in any Proclamation, as that on or before which such weapon ought to be delivered up as aforesaid, and within the limits or locality set forth in the Proclamation bringing this Act into force, shall be liable to be seized; and being seized by any Justice, Commissioner, Constable, or other Peace Officer, shall be forfeited to the use of Her Majesty, Her Heirs and Successors.

VI. And be it enacted, That if any person shall, for the purpose of defeating this Act, harbour, receive or conceal, or aid or assist in harbouring, receiving or concealing, or cause or procure to be harboured, received or concealed, at any place within the limits or locality within which this Act shall at the time be in force, any such weapon as aforesaid, belonging to or in the care and custody of any person employed on any Canal or other public work in this Province, every such person shall forfeit a sum of not less than ten pounds nor more than twenty- five pounds; one-half to belong to the informer, and the other half to Her Majesty, Her Heirs and Successors.

VII. And be it enacted, That any Justice of the Peace, or Commissioner appointed under this Act, having authority within the place or places within which this Act shall at the time be in force, upon the oath of a credible witness that he believes that any such weapon as aforesaid is in the possession of any person contrary to the provisions of this Act, or in any house or place, may issue his warrant to any Constable or Peace Officer to search for and seize the same, and he, or any person in his aid, may search for and seize the same in the possession of any person, or in any such house or place; and in case admission to any such house or place cannot be obtained within a reasonable time after demand, such Constable or Peace Officer, and person in his aid, may enter the same by force by day or by night, and seize such weapon; and unless the party within whose possession or in whose house or place the same shall have been found, do, within four days next after the seizure, prove to the satisfaction of such Justice or Commissioner that the weapon so seized was not in his possession or in his house or place contrary to the true spirit and meaning of this Act, such weapon shall be forfeited to the use of Her Majesty, Her Heirs or Successors.

VIII. And be it enacted, That any Justice or Commissioner, Constable or Peace Officer, or any person acting under a Justice's or Commissioner's warrant, or in aid of any Justice, Commissioner, Constable or Peace Officer, may arrest and detain any person employed on any Canal or other public work, found carrying any such weapon as aforesaid, within the limits or locality within which this Act shall at the time be in force, at such time and in such manner as in the judgment of such Justice, Commissioner, Constable or Peace Officer, or person acting under a warrant, shall afford just cause of suspicion that they are carried for purposes dangerous to the public peace, and the

act of so carrying any such weapon by any person so employed as aforesaid, shall be a misdemeanor, and the Justice or Commissioner who shall arrest such person, or before whom he shall be brought under such warrant, may commit him for trial for a misdemeanor, unless he shall give sufficient bail for his appearance at the next Assizes or General Quarter Sessions of the Peace, to answer to any indictment to be preferred against him.

IX. And be it enacted, That every such Justice or Commissioner as aforesaid shall make a monthly return to the Secretary of the Province of all weapons which shall have been delivered to him, and which he shall have detained under the provisions of this Act.

X. And be it enacted, That all weapons declared forfeited under the authority of this Act, shall be sold under the direction of the Justice or Commissioner by whom or by whose authority they were seized, and the proceeds of such sale, after deducting necessary expenses, shall be received by such Justice or Commissioner and be paid over by him to the Receiver General of this Province for the public uses thereof.

XI. And be it enacted, That any action which shall be brought against any Justice or Commissioner, Constable, Peace Officer, or other person, for any thing done in pursuance of this Act, shall be commenced within six calendar months next after the fact; and the venue shall be laid or the action instituted in the District where the fact was committed; and the Defendant may plead the general issue and give this Act and the special matter in evidence; and if such action shall be brought after the time limited, or the venue be laid or the action brought in any other District than as above declared, the Jury shall find for the Defendant; and in such case, or if the verdict be given for the Defendant on the merits, or if the Plaintiff becomes nonsuit or discontinues after appearance is entered, or have judgment rendered against him on demurrer, the Defendant shall be entitled to recover double costs.

XII. And be it enacted, That all penalties imposed by this Act, may be prosecuted and recovered before any two Justices of the Peace acting for the District within which the fact, in respect of which such penalty is sought to be recovered, happened or was committed; and such Justices shall, on complaint on oath of such offence, issue their warrant for bringing the offender before them, and shall, on the offender being brought before them, hear the complaint and adjudge upon the same; and if the offender be convicted on the oath of one witness other than the informer, or by his own confession, the Justices shall impose such penalty.

XIII. And for better carrying this Act into effect and more effectually ensuring the preservation of the peace, and that safety to the lives and property of Her Majesty's Subjects which it is the object of the Act to attain; Be it enacted, That it shall be lawful for the Governor in Council to cause a body of men not exceeding in number one hundred inclusive of officers, and to be called The Mounted Police Force, to be raised, mounted, armed and equipped, and to be placed under the command and orders of such Chief Officer and Subordinate Officers as the Governor in Council may deem necessary, and to cause such Police Force or any portion thereof, to be employed in any place in this Province in which this Act shall be then in force, under and subject to such Orders, Rules and Regulations as the Governor in Council shall from time to time make or issue.

XIV. And be it enacted, That it shall be lawful for the Governor of this Province, to appoint the Chief Officer and such of the Subordinate Officers of the said Mounted Police Force, and such other persons as he may deem necessary, to be respectively Justices of the Peace for the purposes of this Act, within all or any of the places in which this Act shall be in force; and such officers and persons respectively may be so appointed, and may act as Justices of the Peace although they may not have the qualification in property required of other persons so appointed or acting elsewhere: Provided always, that in so far as may regard the detention, conveyance to gaol and imprisonment of any person committed by any Justice of the Peace appointed under the authority of this Act, his order and commitment shall be valid, and shall be obeyed and executed, although the common gaol to which the prisoner may be committed, be out of the limits of any place within which this Act shall have been proclaimed to be in force.

XV. And be it enacted, That the men employed in the said Mounted Police Force shall be, and are hereby declared to be respectively Constables and Peace Officers for the purposes of this Act, for the District in which they shall be employed for the time being.

XVI. And be it enacted, That the expenses to be incurred in carrying this Act into effect, shall be paid through the Board of Works out of the monies appropriated for the work on which such expences shall be respectively incurred, and shall be charged and accounted for as part of the cost of such work, and the sum to be so charged against each work, shall be as nearly as possible in proportion to the number of Policemen employed on such work and the lime during which they shall be so employed—provided the sum so expended in any one year shall not exceed the sum of ten thousand pounds, currency.

XVII. And be it enacted, That in construing this Act, the term “Governor” shall be held to include the Governor, Lieutenant Governor, or person administering the Government of this Province; the words “Governor in Council” shall mean the Governor or person administering the Government, acting by and with the advice of the Executive Council thereof; and the term “weapon” shall be held to include every species of weapon, arms or ammunition, enumerated in the second section of this Act; and that words in the singular number shall be held to extend to and include several persons, matters or things as well as one person, matter or thing, and the converse; and every word importing the masculine gender only shall mean and include a female as well as a male.

XVIII. And be it enacted, That this Act shall continue in force for two years, and from thence to the end of the next ensuing session of Parliament and no longer.