

Laws of Her Majesty's Province of Upper Canada, passed in the year 1849. Montreal: Stewart Derbyshire & George Desbarats, 1849.

12 Victoria – Chapter 8

An Act to make provision for the preservation of the Public Health in certain emergencies. 25th April, 1849.

Whereas it is expedient to make special provision for the protection of the Public Health in cases when the Province shall be visited by epidemic, endemic or contagious diseases, by enabling the Governor of this Province in Council, to issue orders and adopt measures at any time for that purpose; and whereas it is advisable to intrust the selection of the local agents in the execution¹ of such measures to the Municipal bodies in the various localities which may from time to time be interested therein: 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, 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 whenever this Province, or any part thereof, or place therein, shall appear to be threatened with any formidable epidemic, endemic or contagious disease, the Governor of this Province may by Proclamation, to be by Him from time to time issued by and with the advice and consent of the Executive Council of this Province, declare this Act to be in force in this Province, or in such part thereof, or "place therein as; may be mentioned in such Proclamation; and the same shall thereupon become and be in force accordingly: and His Excellency may in like manner from time to time, as to all or any of the parts or places to which any such Proclamation may extend, revoke or renew any such Proclamation; and, subject to revocation and renewal as aforesaid, every such Proclamation shall have effect for six calendar months, or for such shorter period as in such Proclamation shall be expressed.

II. And be it enacted, That from and after the issuing of any such Proclamation, and whilst the same shall continue in force, the first, second and sixth Sections of the Act of the Legislature of Upper Canada, passed in the fifth year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to promote the Public Health, and to guard against infectious diseases in this Province*, and so much of the fourth section thereof as provides for the trial and punishment of any person accused of wilfully disobeying or resisting any lawful Order of any Health Officers duly appointed under the said Act, or of wilfully resisting or obstructing such Health Officers in the execution of their duties, shall be and the same are hereby suspended as to every place mentioned in such Proclamation, or being within any part of this Province designated therein or included thereby: Provided always, that any person accused of having wilfully disobeyed or resisted such Order, or resisted, or obstructed such Officer before the issuing of any such Proclamation, may nevertheless be tried and dealt with as if such Proclamation had not been issued.

III. And be it enacted, That from time to time after the issuing of any such Proclamation, and whilst the same shall continue to have effect, it shall be lawful for the Governor of this Province, to appoint by Commission under his Hand and Seal, five persons, to be and to be called "The Central Board of Health," and to have and execute all the powers and duties vested in or imposed on such Board by this Act, and also, such and so many Officers and Servants as he may deem necessary to assist such Board in the execution of its powers and duties; and His Excellency may from time to time at his pleasure remove all or any of the persons so appointed and appoint others in their stead; and the powers and duties vested in or imposed on the said Board by this Act, may be exercised and executed by any three Members thereof; and during any vacancy in the said Board, the continuing Members or Member thereof, may act as if no vacancy had occurred; and every such Commission shall ipso facto be revoked or determined by the revocation of the Proclamation under which it issued as to all the parts and places mentioned in such Proclamation, or by the expiration of six calendar months, from the date of such Proclamation, or of such shorter period as may have been expressed in such Proclamation, unless in either case) such Proclamation be renewed as to all or some of such parts and places.

IV. And be it enacted, That from time to time after the issuing of any such Proclamation, and whilst the same shall continue to have effect, it shall be lawful for the Mayor, Townreeve, or other Head of the Municipal Corporation, Inspecting Trustee or other Chief Municipal Officer, of any and every place mentioned in such Proclamation, or being within any part of this Province designated therein or included thereby, to call a special meeting of the Council or other Municipal Corporation or of the Police Trustees of such place over which he presides, for the purpose of nominating, and such Municipal Corporation or Police Trustees are hereby authorized and required to nominate accordingly not less than three persons, being residents within the limits of their respective jurisdictions, or, in the case of a City, Town or Village, within seven miles thereof, to be and to be called "The Local Board of Health" for such place; and such Mayor, Townreeve, or other Head of such Municipal Corporation, Inspecting Trustee, or other Chief Municipal Officer, is hereby expressly required and enjoined to call such Special Meeting within two days from the receipt of a written requisition to that effect, signed by ten or more inhabitant-householders of the place under the jurisdiction of the body over which he presides, on pain of being personally liable to the penalty hereinafter mentioned; and if at any time after the issuing of any such Proclamation, and whilst the same shall continue to have effect, it shall be certified to the Governor of this Province, by any ten or more inhabitant-householders of any place mentioned in such Proclamation, or being within any part of this Province designated therein, or included thereby, that the Mayor, Townreeve, or other Head of such Municipal Corporation, or Inspecting Trustee, or other Chief Municipal Officer of such place, has failed to comply with such requisition as aforesaid, within such time as aforesaid, it shall thereupon become: and be lawful for His Excellency in Council, forthwith to appoint not less than three persons resident within the limits of such place, or, in the case of a City, Town or Village, within seven miles thereof; to be and to be called "The Local Board of Health," for such place: Provided always, that every nomination or appointment of a Local Board of Health, under this Act, shall ipso facto be revoked or determined by the revocation, as to the place within the limits of which such Local Board shall be authorized to act, or as to any part of this Province in which the same shall be included, or the whole of this Province, as the case may be, of the Proclamation under which such Local Board shall have been nominated or appointed, or by

the expiration of six calendar months from the date of such Proclamation, or of such shorter period as may have been expressed in such Proclamation, unless in either case such Proclamation be renewed as to such place, or any part of this Province in which the same shall be included, or the whole of this Province, as the case may be.

V. And be it enacted, That the Central Board of Health, or any three or more Members thereof, may from time to time issue such directions or regulations as they shall think fit, for the prevention, as far as possible, or mitigation of such epidemic, endemic or contagious diseases, and revoke, renew, or alter any such directions or regulations, or substitute such new directions and regulations as to them or any three of them may appear expedient; and the said Board may by such directions and regulations provide for the frequent and effectual cleansing of streets, by the Surveyors or Overseers of highways and others intrusted by law with the care and management thereof, or by the owners or occupiers of houses and tenements adjoining thereto; and for the cleansing, purifying, ventilating and disinfecting of houses, dwellings, churches, buildings and places of assembly by the owners and occupiers, and persons having the care and ordering thereof, for the removal of nuisances, for the speedy interment of the dead, and generally for preventing or mitigating such epidemic, endemic or contagious diseases in such manner as to the said Central Board may seem expedient; and the said Central Board may by any such directions and regulations, authorize and require the Local Boards of Health to superintend and see to the execution of any such directions and regulations, and (where it shall appear that there may be default or delay in the execution thereof, by want or neglect of such Surveyors or others intrusted as aforesaid, or by reason of poverty of occupiers, or otherwise,) to execute or aid in executing the same within their respective limits, and to provide for the dispensing of medicines, and for affording to persons afflicted by or threatened with such epidemic, endemic or contagious diseases, such medical aid as may be required, and to do and provide all such acts, matters and things as may be necessary for superintending or aiding in the execution of such directions and regulations, or for executing the same as the case may require; and the said Central Board of Health, may also by any such directions and regulations authorize and require the Local Boards of Health, in all cases in which diseases of a malignant and fatal character, shall be discovered to exist in any dwelling-house or out-house, temporarily occupied as a dwelling, situated in an unhealthy or crowded locality, or being in a neglected or filthy state, in the exercise of a sound discretion, and at the proper costs and charges of such Local Boards of Health, to compel the inhabitants of any such dwelling-house or out-house, to remove therefrom, and to place them in sheds or tents, or other good shelter, in some more salubrious situation, until measures can be taken, by and under the directions of the Local Boards of Health, for the immediate cleansing, ventilation, purification and disinfection of the said dwelling-house or out-house; and the directions and regulations to be issued as aforesaid, shall extend to all parts or places, in which this Act shall, for the time being, be put in force under such Proclamations as aforesaid, unless such directions and regulations shall be, expressly confined to some of such parts or places, and then to such parts or places as in such directions and regulations shall be specified, and (subject to the power of revocation and alteration herein contained,) shall continue in force so long as this Act shall be in force under such Proclamation, in the parts or places to which such directions and regulations shall under this provision extend.

VI. And be it enacted, That the Members of the said Local Boards of Health, shall be called Health Officers, and that any two or more of them acting in the execution of any such directions or regulations as aforesaid, at reasonable times in the day-time, may and they are hereby empowered to enter and inspect any dwelling or premises, if there be ground for believing that any person may have recently died of any such epidemic, endemic, or contagious disease in any such dwelling or premises, or that there is any filth or other matter dangerous to health therein or thereupon, or that necessity may otherwise exist for executing in relation to such dwelling or premises, all or any of such directions and regulations as aforesaid; and in case the owner or occupier of any such dwelling or premises shall neglect or refuse to obey the orders given by such Health Officers, in pursuance of such directions and regulations, it shall be lawful for such Health Officers to call to their assistance all Constables and Peace Officers, and such other persons as they may think fit, and to enter into, and upon such dwelling or premises, and to execute or cause to be executed therein or thereupon such directions and regulations, and to remove therefrom and destroy whatsoever in pursuance of such directions and regulations it may be necessary to remove and destroy, for the preservation of the public health.

VII. And be it enacted, That the expenses incurred by the said Central Board of Health shall be defrayed out of any monies which may from time to time be appropriated by the Provincial Parliament for that purpose from the Consolidated Revenue Fund of this Province; and that the expenses incurred by the said Local Boards of Health in the execution or in superintending the execution of the directions and regulations of the Central Board shall be defrayed and provided for in the same manner and by the same means as any expenses incurred by the Municipal Corporations, Councils, or other Municipal Bodies of or having jurisdiction over the respective places for which such Local Boards of Health shall have been nominated or appointed now are or at any time hereafter may be by law required to be defrayed and provided for.

VIII. And be it enacted, That no direction or regulation of the said Central Board of Health shall have any force or effect until the same shall have been sanctioned and confirmed by the Governor of this Province in Council, and shall thereafter have been published in the Canada Gazette; and every Proclamation of the Governor of this Province in Council under this Act shall also be published in the Canada Gazette; and such publication of any such Proclamation, direction or regulation shall be conclusive evidence of the Proclamation, direction or regulation so published, and of the sanction and confirmation of such direction or regulation as aforesaid, and of the dates thereof respectively to all intents and purposes; and every such Proclamation, direction and regulation shall forthwith upon the issuing thereof be laid before both Houses of the Provincial Parliament if the said Parliament be then sitting, and if not, then within fourteen days, next after the commencement of the then next Session of the said Parliament.

IX. And be it enacted, That upon the issuing and publication of any such directions and regulations as aforesaid, and whilst the same shall continue in force, all by-laws made by the Town Council, Municipal Corporation, or other like Body of any place, to which the same or any of them may relate for preserving the inhabitants thereof from contagious diseases, or for any other of the purposes for which such directions and regulations are by this Act required to be issued, shall become and be suspended; and upon, from and after the nomination or appointment, and during

the existence, of a Local Board of Health, under this Act for any such place, any Board of Health or Health Officer, or other like Officer, or any Committee appointed under any such by-law, shall be and remain deprived and relieved of all and every the powers, authorities and duties conferred and imposed upon him or them by any such by-law; but in any interval which may occur between the issuing of such directions and regulations, and the nomination or appointment of such Local Board of Health, he or they may, and shall exercise and perform such powers, authorities and duties in conformity with such directions and regulations, and shall and may act in every respect as if he or they were a Local Board of Health nominated or appointed under this Act.

X. And be it enacted, That whosoever shall wilfully obstruct any person acting under the authority or employed in the execution of this Act, or who shall wilfully violate any direction or regulation issued by the Central Board of Health under this Act, or shall neglect or refuse to comply with such directions or regulations, or with the requirements of this Act in any matter whatsoever, shall be liable, for every such offence, to a penalty not exceeding live pounds, to be recovered by any person before any two Justices, and to be levied by distress and sale of the goods and chattels of the offender, together with the costs of such distress and sale, by Warrant under the hands and seals of the Justices before whom the same shall be recovered, or any other two Justices; and in case it shall appear to the satisfaction of such Justices, before or after the issuing of such Warrant, either by the confession of the offender, or otherwise, that he hath not goods and chattels within their jurisdiction sufficient to satisfy the amount, they may commit him to any Gaol or House of Correction for any time not exceeding fourteen days, unless the amount be sooner paid, in the same manner as if a Warrant of Distress had issued, and a return of *nulla bona* had been made thereon; and all penalties whatsoever recovered under this Act shall be paid to the Treasurer, and applied in aid of the rates or funds, of the place in which such penalties may have been incurred respectively: Provided always nevertheless, that all offences committed against this Act or any of the provisions therein contained, while the same shall be in force in this Province or in any part thereof, shall and may be prosecuted, and the parties committing the same convicted and punished therefor as herein provided, as well after as during the time that this Act shall be declared to be in force in or by any such Proclamation or Proclamations as aforesaid.

XI. And be it enacted, That no Order nor any other proceeding, matter or thing, done or transacted in, or relating to the execution of this Act shall be vacated, quashed or set aside for want of form, or be removed or removable by Certiorari, or other Writ or Process whatsoever, into any of the Superior Courts in this Province.

XII. And be it enacted, That in this Act the following words and expressions shall have the meanings hereinafter assigned to them, unless such meanings be repugnant to or inconsistent with the context, that is to say: the words "Governor of this Province," or "His Excellency" shall mean the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being; the words "Governor of this Province in Council," shall mean the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being, acting by and with the advice and consent of the Executive Council of this Province; the words "two Justices," shall mean two or more Justices of the Peace acting for the place where the matter, or any part of the matter, as the case may be, requiring the cognizance of such two

Justices, arises, assembled or acting together; the word "place," shall mean a City, Town, Borough, Village, Township, Parish, or any other territorial division recognized or designated by law as a separate Municipality or municipal division; the word "Street," shall include every Highway, Road, Square, Row, Lane, Mews, Court, Alley and Passage, whether a thorough-fare or not; the word "person," and words applying to any person or individual, shall apply to and include Corporations, whether aggregate or sole; words importing the singular number or the masculine gender only, shall include more persons, parties or things of the same kind, than one, and females as well as males, and the converse.