

THE  
**S T A T U T E S**  
OF  
UPPER CANADA,  
TO THE TIME OF THE UNION.

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VOL. I.—PUBLIC ACTS.

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TORONTO:

ROBERT STANTON, PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

II. *And be it further enacted by the authority aforesaid,* That the Justices of all and every Court of Oyer and Terminer and General Gaol Delivery, at which any such indictment shall be found, as aforesaid, shall, upon the return of the Sheriff that the person or persons named in such indictment is not to be found within the District of such Sheriff, certify the said indictment, and the proceedings thereon, into the Court of King's Bench in this Province; and it shall be the duty of every such Sheriff, at the expiration of the term limited in such Proclamation, to make a return to the said Court of King's Bench, of the names of all and every such person or persons, who being named in any such Proclamation, as aforesaid, shall not have surrendered themselves to the custody of the said Sheriff, pursuant to the exigency of such Proclamation; and the said Court of King's Bench shall, during the Term in or before which such last-mentioned return shall be made, direct Judgment of Attainder against all and every such person or persons to be entered on record.

Justices of Oyer and Terminer to certify indictment and return of Sheriff, that party has not been arrested, into the Court of King's Bench.

III. *Provided always, and be it further enacted by the authority aforesaid,* That if any person against whom any such Judgment of Attainder shall have been entered, shall within three calendar months next after the day of entry of such Judgment, surrender himself to the custody of the Sheriff of the Home District, and by the oath of two credible witnesses shall establish, to the satisfaction of the Court of King's Bench, that such person was actually and bonâ fide prevented from surrendering himself, pursuant to the exigency of such Proclamation, by reason of absence beyond seas, sickness, or other inevitable necessity, then and in such case, it shall and may be lawful for the said Court of King's Bench to reverse the said Judgment of Attainder, and to transmit the indictment or indictments to any Court of Oyer and Terminer, to be held in and for the District wherein such indictment or indictments was or were found; and such person, so surrendering, shall be tried for the offence charged in such indictment in like manner as if no such Judgment of Attainder had been entered.

Persons against whom judgment of attainder shall have been entered, may surrender himself within three months, and upon proof that such person was prevented from surrendering himself, the Court of King's Bench may reverse the attainder, and admit party to be tried, &c.

→ CHAP. X.

*AN ACT to enable the Government of this Province to extend a conditional Pardon, in certain cases, to persons who have been concerned in the late Insurrection.*

[Passed 6th March, 1838.]

**WHEREAS** there is reason to believe that among the persons concerned in the late treasonable insurrection in this Province, there were some to whom the lenity of the Government may not improperly be extended, on account of the artifices used by desperate and unprincipled

Preamble.

persons to seduce them from their allegiance: *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, 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 upon the petition of any person charged with High Treason committed in this Province, preferred to the Lieutenant Governor before the arraignment of such person, and praying to be pardoned for his offence, it shall and may be lawful for the Lieutenant Governor of this Province, by and with the advice and consent of the Executive Council thereof, to grant, if it shall seem fit, a pardon to such person in Her Majesty's name, upon such terms and conditions as may appear proper; which pardon being granted under the Great Seal of this Province, and reciting in substance the prayer of such petition, shall have the same effect as an attainder of the person therein named for the crime of High Treason, so far as regards the forfeiture of his estate and property, real and personal: *Provided always*, that in case a pardon shall not be granted upon any such petition, no evidence shall be given of any admission or statement therein contained, upon any trial to be afterwards had.

Persons charged with High Treason, petitioning before arraignment to be pardoned, may receive a pardon if Governor and Council see fit, on such conditions as may be prescribed;

Pardon granted under Great Seal, reciting petition, to have same effect as attainder of High Treason, so far as regards forfeiture of estate, real and personal.

Persons pardoned on condition of transportation or banishment, returning without lawful excuse, to suffer death.

This Act not to extend to persons who have fled, &c.

II. *And be it further enacted by the authority aforesaid*, That in case any person shall be pardoned under this Act, upon condition of being transported, or of banishing himself from this Province, either for life or for any term of years, such person, if he shall afterwards voluntarily return to this Province, without lawful excuse, contrary to the condition of his pardon, shall be deemed guilty of felony, and shall suffer death as in cases of felony.

III. *And be it further enacted by the authority aforesaid*, That the provisions of this Act shall not extend, or be construed to extend to such persons as have fled, and are still absent from this Province under a charge of High Treason, and for whose apprehension a reward has been offered.

## CHAP. XI.

*ACT, ACT to prevent the unlawful training of persons to the use of Arms, and to practice Military evolutions and exercises; and to authorise Justices of the Peace to seize and detain Arms collected or kept for purposes dangerous to the public peace.*

[Passed 6th March, 1838.]

Preamble.

**WHEREAS** in some parts of this Province, men clandestinely and unlawfully assembled have practised military training and exercising in