

[No. .]

5th Session, 6th Parliament, 29-30 Victoria, 1866.

BILL.

An Act to prevent the unlawful training of persons to the use of arms, and to practice Military evolutions or exercises; and to authorize Justices of the Peace to seize and detain arms collected or kept for purposes dangerous to the public peace.

Received and read first time, Friday, 10th August, 1866.

Second reading, same day.

Hon. Mr. Atty. Gen. MACDONALD.

Printed by G. E. Desbarats.



1579

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5 **H**ER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

1. All meetings and assemblies of persons for the purpose of training or drilling themselves, or of being trained or drilled to the use of arms, or for the purpose of practising Military exercises, movements or evolutions, without any lawful authority for so doing, shall be and are hereby prohibited, and declared unlawful, as dangerous to the peace and security of Her Majesty's liege subjects, and of this Province; and every person who shall be present at or shall attend any such meeting or assembling for the purpose of training any other person or persons to the use of arms or to the practice of military exercises, movements or evolutions, or who shall train or drill any other person or persons to the use of arms, or to the practice of military exercises, movements or evolutions, or who shall aid or assist therein, being legally convicted thereof shall be liable to be imprisoned in the Provincial Penitentiary for the term of two years, or to be punished by fine and imprisonment in any of the common jails of this Province for a period less than two years, in the discretion of the Court in which such conviction shall be had; and every person who shall attend or be present at any such meeting or assembly, for the purpose of being or who shall at any such meeting or assembly be trained or drilled to the use of arms, or the practice of military exercises, movements or evolutions, being legally convicted thereof shall be liable to be punished by fine and imprisonment not exceeding two years, in the discretion of the Court before which such conviction shall be had.

2. It shall be lawful for any Justice of the Peace, or for any Constable or Peace Officer, or for any person acting in their aid or assistance, to disperse any such unlawful meeting or assembly as aforesaid, and to arrest and detain any person present at or aiding, assisting or abetting any such assembly or meeting as aforesaid; and it shall be lawful for the Justice of the Peace who shall arrest any such person or before whom

any person so arrested shall be brought, to commit such person for trial for such offence under the provisions of this Act, unless such person can and shall give bail for his appearance at the next assizes, if in Upper Canada, or at the next term or sitting of the Court of Queen's Bench in the exercise of its criminal jurisdiction, if in Lower Canada, to answer to any indictment which may be preferred against him for any such offence against this Act. 5

3. Provided always, that nothing in this Act contained shall extend to prevent any prosecution by indictment or otherwise, for any thing that shall be an offence within the intent and meaning of this Act, and which might have been so prosecuted if this Act had not been made, unless the offender shall have been prosecuted for such offence under this Act and convicted or acquitted of such offence. 10 15

4. And whereas arms and weapons of various sorts have, in some parts of this Province, been collected, and are kept for purposes dangerous to the public peace; and it is expedient that the Justices of the Peace should be authorized and empowered to seize and detain such arms and weapons, therefore it shall be lawful for any Justice of the Peace, upon information on oath of one or more credible witness or witnesses, that any pike, pike head or spear, is in possession of any person or persons, or in any house or place, or that any dirk, dagger, sword, pistol, gun, rifle or other weapon, gunpowder, lead cartridges, bullets or other ammunition or munitions of war, are for any purpose dangerous to the public peace, in the possession of any person, or in any house or place, to issue his warrant to any Constable or other Peace Officer, to search for and seize any such pike, pike head, spear, dirk, dagger, sword, pistol, gun, rifle or other weapon, gunpowder, lead, cartridges, bullets or other ammunition or munitions of war, being in the possession of any such person, or in any such house or place as aforesaid; and in case admission into such house or place be refused, or not obtained within a reasonable time after it shall have been first demanded, to enter by force, by day or by night, into every such house or place whatsoever, and to detain or cause to be detained in safe custody, in such place as the said Justice shall appoint and direct, the arms and weapons ammunition or munitions of war, so found or seized as aforesaid, unless the owner thereof shall prove, to the satisfaction of such Justice, that such arms or weapons ammunition or munitions of war, were not kept for any purpose dangerous to the public peace. 20 25 30 35 40

5. Provided always, that it shall be lawful for any person from whom any such arms or weapons, ammunition or munitions of war, shall be so taken as last aforesaid, in case the justice of the peace upon whose warrant the same shall have been taken, upon application made for that purpose, refuse to restore the same, to apply to the next General or Quarter Sessions 45

of the peace, or in Lower Canada in any district in which no such Court may then be held, to any Judge of the Court of Queen's Bench, upon giving ten days previous notice of such application to such justice for the restitution of such arms or
 5 weapons, or any part thereof, and the justices assembled at such General Quarter Sessions of the peace, or such Judge of the Court of Queen's Bench, shall make such order for the restitution or safe custody of such arms or weapons, or any part thereof, as upon such application shall appear to them to
 10 be proper.

6. It shall be lawful for any Justice of the Peace, or for any Constable, Peace Officer or other person acting under the Warrant of any Justice of the Peace, or for any person acting
 15 with or in aid of any Justice of the Peace, or of any Constable or other Peace Officer, having such warrant as aforesaid, to arrest and detain any person found carrying arms, in such manner and at such times as, in the judgment of such Justice of the Peace, to afford just grounds of suspicion that the same are for
 20 purposes dangerous to the Public Peace; and it shall be lawful for the justice who shall arrest any such person, or before whom any person arrested upon any such warrant shall be brought, to commit such person for trial for a misdemeanor; unless such person can and shall give good and sufficient bail
 25 Sessions of the Peace, or in Lower Canada in any District in which no Court of Quarter Sessions may then be held, at the next term of the Court of Queen's Bench in the exercise of its criminal jurisdiction, to answer to any indictment which may be preferred against him.

7. All Justices of the Peace in and for any District, County, City, Town or place, in this Province, shall have concurrent jurisdiction as Justices of the Peace, with the justices of any
 30 other District, County, City, Town or place, in all cases as to the carrying into execution the provisions of this Act, and as
 35 to all matters and things relating to the preservation of the public peace, as fully and effectually as if each of such justice was in the commission of the peace, or were *ex officio* Justices of the Peace for each of such Districts, Counties, Cities, Towns or places.

8. Any action or suit which shall be brought or commenced
 40 against any justice or justices of the peace, constable, peace officer or other person or persons for any thing done or acted in pursuance of this Act, shall be commenced within six calendar months next after the fact committed, and not afterwards;
 45 and the venue shall be laid in Upper Canada, and the action or suit shall be brought in Lower Canada, in the proper county, district or other judicial division, where the fact was committed and not elsewhere; and the defendant or defendants may plead the general issue and give

this Act and the special matter in evidence in any trial to be had thereupon; and if such action or suit be commenced or brought after the time hereby limited for bringing the same, or be brought or the venue laid in any other place than as aforesaid, then a verdict shall be found or judgment shall be given for the defendant or defendants; and in such case if the plaintiff or plaintiffs become non-suit or discontinue his, her, or their action after appearance, or if the jury find a verdict or the Court give judgment for the defendant or defendants on the merits, or if upon demurrer, judgment be given against the plaintiff or plaintiffs, the defendant or defendants shall have double costs, and may recover the same in such and the same manner as any defendant can by law in like cases. 5 10

9. The Governor in Council may, by Proclamation, declare that this Act shall be no longer in force in any particular district, counties, county or locality therein specified; and from and after the period specified in any such Proclamation the powers given by this Act shall be no longer in force in such district, counties, county or locality; but nothing herein contained shall prevent or be construed to prevent the Governor in Council from again declaring, by proclamation, any such district, counties, county or locality to be again subject to this Act and the powers hereby given, to be in force therein. 15 20

10. No person shall be prosecuted for any offence done or committed against the provisions of this Act, unless such prosecution be commenced within six calendar months after the offence committed. 25

11. This shall continue in force until the day of _____ in the year of Our Lord one thousand eight hundred and _____ and thence until the end of the then next session of the Parliament of this Province and no longer. 30