

Laws of Her Majesty's Province of Upper Canada, passed in the year 1838. York: Robert Stanton, 1838.

1 Victoria – Chapter 11

An 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.

Whereas in some parts of this Province, men clandestinely and unlawfully assembled have practised Military Training and Exercising in Arms, to the great terror and alarm of Her Majesty's loyal Subjects, and the imminent danger of the public peace: 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, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, '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 all meetings and assemblies of persons for the purpose of Training or Drilling themselves, or of being Trained and 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 the same are hereby prohibited, as dangerous to the peace and security of Her Majesty's liege Subjects, and of this Province; and every person who shall be present or attend any such meeting or assembling, for the purpose of Training and Drilling any other person or persons, to the use of Arms, or to the practice of Military Exercise, Movement or Evolution, or who shall Train or Drill any other person or persons to the use of Arms, or to the practice of Military Exercise, Movement or Evolution, or who shall aid or assist therein, being legally convicted thereof, shall be liable to be confined in the public Penitentiary of this Province, for any term not exceeding two years, or to be punished by fine and imprisonment in any of the Common Gaols in this Province, for a period not exceeding two years, at 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 Exercise, Movements or Evolutions, being legally convicted thereof, shall be liable to be punished by fine, and imprisonment not exceeding two years, at the discretion of the Court in which such conviction shall be had.

II. And be it further enacted by the authority aforesaid, That 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, to answer to any Indictment which may be preferred against him, for any such offence against this Act.

III. Provided always, and be it further enacted by the authority aforesaid, 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.

IV. 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 authorised and empowered to seize and detain such arms and weapons: Be it therefore enacted by the authority aforesaid, That 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, is, 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, 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 so found or seized as aforesaid, unless the owner thereof shall prove, to the satisfaction of such Justice, that such arms or weapons were not kept for any purpose dangerous to the public peace.

V. Provided always, and be it further enacted by the authority aforesaid, That it shall be lawful for any person from whom any such arms or weapons 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 of the Peace, upon giving ten days previous notice of such application to such Justice, for the restitution of such arms or weapons, or any part thereof, and the Justices assembled at such General Quarter Sessions of the Peace, 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 be proper.

VI. And be it further enacted by the authority aforesaid, That it shall and may 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 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 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 for his appearance at the next Assizes or General Quarter Sessions of the Peace, to answer to any Indictment which may be preferred against him.

VII. And be it further enacted by the authority aforesaid, That all Justices of the Peace in and for any District in this Province, shall have concurrent jurisdiction, as Justices of the Peace, with the Justices of any other District, in all cases, as to the carrying into execution the provisions of this Act, and as to all matters and things relating to the preservation of the public peace, as fully and effectually as if each of such Justices was in the Commission of the Peace for each of such Districts.

VIII. And be it further enacted by the authority aforesaid, That any action or suit which shall be brought or commenced 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; and that the venue in every such action or suit shall be laid in the proper District where the fact was committed, and not elsewhere; and the Defendant or Defendants in every such action or suit, 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 shall be brought or commenced after the time limited for bringing the same, or the venue shall be bid in any other place than as aforesaid, then the Jury shall find a verdict for the Defendant or Defendants; and in such case, or if the Plaintiff or Plaintiffs shall become non-suit, or discontinue his, her or their action, after appearance, or if the Jury find a verdict for the Defendant or Defendants upon the merits, or if upon demurrer judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have double costs, which be or they shall and may recover in such and the same manner as any Defendant can by law in other cases.

IX. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, by and with the advice of the Executive Council, by Proclamation, to declare that this Act shall be no longer in force in any particular District therein specified; and from and after the period specified in any such Proclamation, the powers of this Act shall no longer be in force in such District: Provided always, that nothing herein contained shall prevent, or be construed to prevent, the Governor, Lieutenant Governor, or Person Administering the Government of this Province, upon such advice as aforesaid, declaring, by Proclamation, any such District to be again within the powers of this Act.

X. Provided always, and be it further enacted by the authority aforesaid, That no person shall be prosecuted for any offence done or committed contrary to the provisions of this Act, unless such prosecution be commenced within six calendar months after the offence committed.

XI. And be it further enacted by the authority aforesaid, That the fourth, fifth and sixth Clauses of this Act, shall continue in force during the present Parliament, and to the end of the first Session of the next Parliament, and no longer.

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XII. Provided also, and be it further enacted by the authority aforesaid, That this Act may be repealed in the whole or any part thereof, or in any manner altered and amended during the present Session of Parliament.