

C A P. I V.

An ACT to provide for the greater security of this PROVINCE, by the better regulation of the MILITIA thereof, and for repealing certain Acts or Ordinances relating to the same.

Preamble.

WHEREAS a respectable Militia, established under proper regulations, is essential to the protection and defence of this Province; and whereas the laws, now in force, regarding the Militia, are inadequate to the purposes intended; be it therefore enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act of the Parliament of Great-Britain, passed in the thirty-first year of His Majesty's reign, 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 it is hereby enacted by the authority of the same, that every man residing, or who shall come to reside within this Province, from the age of eighteen years to sixty (excepting such as are herein after excepted) is hereby declared to be a Militia man, and bound to serve in the Militia of the city, town, parish, township or feignory or division thereof, wherein he resides.

All men from the age of 18 to 60 declared to be militia men.

All Militia men residing within the limits which may be assigned for a Company to cause themselves to be enrolled.

Penalty for neglecting to enroll.

Every Militia man removing from the limits of his Company shall cause himself to be enrolled in the place of his new residence.

Penalty. All persons above 18, to enroll themselves, &c.

II. And be it further enacted by the said authority, that from and after the passing of this Act, every Captain or Officer commanding a company of Militia, already appointed or who may be appointed by the Governor, Lieutenant Governor, or Person administering the Government, shall, as soon as conveniently may be, fix a time and place of meeting for enrolling all the Militia men who reside within the limits which shall be assigned for his company, by the Colonel or Field-Officer commanding the Militia of the district or battalion; of which time and place of meeting, each Captain or Officer commanding a company of Militia shall give, or cause to be given, public notice at the door of the parish church, and of other public places of divine worship within the parish, on a Sunday, immediately after divine service in the morning; which time of meeting shall be, if in the country, either on a Sunday or a holy day, or if in the cities or towns on a day which, in all cases, shall not be less than seven days after that on which the public notice shall be given, and every Militia-man, who after public notice so given, shall not either present himself in person and give in his name, age and place of residence, or cause his name, age, and place of residence to be made known in some certain way to the Captain or other Officer of the company, attending at the time and place so fixed for the meeting of the Militia men of the limits of such company, so as that such Militia-men may be enrolled, shall, for such neglect, forfeit and pay the sum of ten shillings: and every Militia-man who shall remove out of the limits assigned for the company, in which he is or ought to be enrolled, and shall not, within ten days after his arrival at the place of his new residence, or where he shall hire himself, either present himself for enrollment, or cause his name, age and place of residence, with that from whence he last removed, to be made known as aforesaid, to the Captain, or in his absence to the senior Officer commanding the company of Militia of such place, so as that he may be enrolled, shall for such neglect, forfeit and pay the sum of ten shillings; and every person in this Province, who shall not, within one month after he shall have attained the age of eighteen years, either present himself for enrollment, or cause his name, age, and place of residence to be made known as aforesaid, so as that he may be enrolled in the company of Militia of the limits, wherein his place of residence may be, shall, for such neglect, forfeit and pay the sum of ten shillings; and every

All strangers above 18 to enroll within 3 months.

Penalty.

In cases of neglect the Captain to enroll them.

To be liable to this act as if they had enrolled themselves.

Claims for Exemption to be proved.

Captains within Two months after passing of this Act, to transmit a roll of their Companies.

And to transmit such rolls in the month of December yearly.

Printed forms of Returns to be sent annually to the Field-officers.

Captains to assemble their Companies twice every year.

Penalties for non-attendance of Militia men.

Governor &c. to form the Militia into Districts, Battalions and Companies,

every man within the age above described, who shall come to reside in this Province, and shall not, within three months after his arrival therein, either present himself for enrollment, or cause his name, age, and place of residence to be made known as aforesaid, so as that he may be enrolled in the company of Militia of the limits wherein his place of residence may be, shall for such neglect, forfeit and pay the sum of ten shillings: provided always, and it is further enacted, that the neglect of any person, in either of the cases herein before specified, so to present himself for enrollment, or to cause himself to be made known in some certain way, so as to be enrolled, shall not be construed to prevent the Captain of the Company of Militia of the limits, wherein the place of residence of any such person may be, from entering the name, and such Captain is hereby required to enter the name of every such person as shall come to his knowledge, upon the roll of his company; and when so entered, every such person shall be subject to perform all and every the like Militia duties, and under the same penalties, as if he had personally presented himself for enrollment: provided also, that if any difference shall arise betwixt a Captain and any Militia man, touching the age of such Militia man, it shall be incumbent on the said Militia man to prove his age.

III. And be it further enacted, by the authority aforesaid, that all Captains of Militia shall, within two months after the passing of this Act, transmit to one of the nearest Field-Officers, to be by him transmitted to the Colonel of Militia of their District, or in case of his absence, to the senior Field-Officer, a roll of the number of Officers and Militia men fit for service in their respective companies, distinguishing those who are married and those who are unmarried, and also a list of infirm persons of those above the age of sixty years, and of every person residing within their respective divisions, notwithstanding he may not be liable to serve in the Militia; and they shall continue to transmit such rolls and lists, stating such changes as may have happened, to their Colonel of Militia or senior Field-Officer, in the course of the month of December in every year, to be by them reported to His Excellency the Governor, Lieutenant-Governor, or Person administering the Government for the time being; and printed forms of returns shall be sent each year, by the Adjutant-General of Militia to the different Field-Officers, commanding districts or battalions, for each Captain of their department.

IV. And be it further enacted, by the authority aforesaid, that the Captains or the Officers commanding companies, shall assemble their respective companies twice a year, to wit: for the first time one day in the month of June, and for the second time, one day in the month of October, and such days shall be fixed by an order of the Field-Officer commanding the Militia of the district or battalion, in which such companies are, holydays and Sundays not excepted, in order that a proper muster of such Companies may be made, and such exercise performed as may be commanded by the Field-Officer or senior Officer then present; and such non-commissioned Officers or Militia men as shall not attend, or who shall disobey, or who shall leave the place of meeting without leave of the Officer commanding the company, shall each of them incur a penalty not exceeding five shillings for the first offence; and for every repetition a penalty not exceeding ten shillings.

V. 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, to form the Militia into districts; battalions and companies, in such manner as to him may seem expedient and necessary, or to authorize the Officer commanding any districts or Battalion, to form the same into companies, in such manner as to him may appear most conducive to the good of the service; and that it shall also be lawful for the Governor,

And may order two Reviews annually.

Field-Officers to fix the number of Serjeants
But Captains to nominate them.

Field-Officers to approve them and give certificates of their appointments

Field-Officers may appoint orderly Serjeants.

Serjeants not to serve as Jurors or Constables, if they produce their certificates.

Penalty for any Militia man quarrelling with or abusing any Officer.

Officers neglecting or refusing the execution of their duty, &c. may be tried by a court-martial.

Governor, &c. to appoint the President of each court-martial.

Governor, Lieutenant Governor, or Person administering the Government to order two reviews annually of the whole or any part of the Militia at such time or times, or place or places as he may judge to be most convenient for the Militia of the district, battalion or company to be reviewed.

VI. And be it further enacted, by the authority aforesaid, that every Field-Officer commanding a district or battalion, shall fix the number of Serjeants who shall serve in each company in his district or battalion; and the Captains of the companies shall respectively nominate the Serjeants thus fixed, and make a return of their names to the Field-Officer commanding the district or battalion; who is hereby authorized to approve or disapprove of such nomination; and the Captains shall continue to make out returns till the number required is approved; and thereon the Field-Officer aforesaid shall grant to every such Serjeant a certificate under his hand and seal of his appointment, and every Field-Officer shall nominate and appoint one orderly Serjeant to execute his orders independent of the Serjeant-Major of the district or battalion: and the Serjeants of the cities, towns, suburbs and their precincts, or *banlieues*, shall not be compelled to serve as Jurors or Constables, as long as they continue to be Serjeants: provided always, that every such Serjeant, previous to being summoned as a Juror, shall have produced his certificate of appointment to the Sheriff of the district.

VII. And be it further enacted, by the authority aforesaid, that every Militia man who shall quarrel with, or insult, by abusive words or otherwise, any Officer or Serjeant being in the execution of his duty, shall be liable to a penalty, according to the nature of such offence, not exceeding a fine of ten Shillings.

VIII. And as good order depends much on the ready obedience of Officers in the execution of their duty, and on the example they show to the Militia men; be it further enacted, by the authority aforesaid, that in all cases where a Militia Officer shall refuse or neglect to attend any court-martial to which he is called, and to take the oath herein-after mentioned, or shall absent himself from musters, exercise or reviews established by this Act, refuse to attend them, (unless prevented by sickness or unavoidable necessity,) neglect his duty, or be guilty of partiality or disobedience to the orders of his superior Officers, quarrel with or insult them by injurious or abusive words; the said Officer shall be liable to be brought before a court-martial which shall be assembled for that purpose, and composed of one Field-Officer at least, and of a number of other Militia Officers of the district or battalion, who shall not be less than eight, to which Officers, or to any of them, it may always be legally objected, before the hearing of the cause, that he or they are interested in the complaint, or relations to the fourth degree of any one of the contending parties; and which court-martial composed as above, and in which a Field-Officer shall preside, shall proceed to hear and determine the complaint brought before it concerning the said Officer, and shall, if he is found guilty, inflict upon him such penalty, proportioned to the offence, as the said court shall judge proper, which may be either by censure, or suspension, or depriving him of his commission and degrading him from his rank.

IX. And be it further enacted, by the authority aforesaid, that in all cases where a court shall be held as above established, the Governor, Lieutenant-Governor, or Person administering the Government, upon complaint and application to him made, through the Colonel or Field-Officer of Militia commanding the respective districts or battalion, or in case he is inculpated, through the next in command, shall issue an order under his hand and seal appointing the President of the court, and directed to such Colonel or Field-Officer or the next in command, as the case may require, therein nominating or authorizing him to nominate the members of the court, and to fix a time and place

Sentence of a court-martial shall not be executed, unless passed with the concurrence of two thirds of the Members, and

for convening the same: provided always, that the judgment of every such court-martial shall have passed with the concurrence of two thirds of the Officers present, and shall not be put in execution until the Governor, Lieutenant-Governor or Person administering the Government has approved thereof.

approved by the Governor, &c.

Officers of Militia to apprehend Deserters, and all disorderly persons &c.

X: And be it further enacted, by the authority aforesaid, that all Officers of Militia are hereby authorized and required to apprehend, or cause to be apprehended, by such number of Militia men as they shall consider necessary, all deserters, whether soldiers, Militia men in actual service, or seamen, all disorderly persons, vagabonds, foreign enemies, prisoners of war escaping, and every other person or persons fowing sedition or dissention, or disturbing the public tranquility: And whoever shall harbour or lodge any person of the above description, knowing him to be such, without giving immediate notice to the Captain or some other Officer of their Company, shall incur a fine not exceeding five pounds, and in case of a repetition thereof a fine not exceeding ten pounds: and all deserters who shall have been apprehended, as well as disorderly persons, vagabonds, and others of the above description, shall be brought from Captain to Captain, under the charge of a Serjeant and a sufficient number of Militia men, that each Captain or the Commanding Officer shall command for that purpose, before the nearest Justice of the Peace, to be dealt with by such Justice of the Peace according to law: and by his order, such prisoner or prisoners shall be conducted in manner as aforesaid to their respective corps, at such place as is directed in the said order: and any Militia man who shall have been so commanded as aforesaid, to apprehend or conduct any person apprehended, and who do not obey, or who through negligence, shall let the prisoners entrusted to their care escape, shall each be liable to a fine not exceeding the sum of two pounds. And as it hath been experienced, that inconveniencies have arisen respecting the ferries across rivers, all persons holding ferries or bridges that may be on the public high roads, shall be held to cross over all such prisoners, with the persons destined to conduct them, free of all charges of ferriage or toll whatsoever; as also to repass the said conductors immediately upon their return, under a penalty not exceeding twenty shillings, and in case of a repetition thereof, a penalty not exceeding forty shillings; and when it shall be necessary to cross the river St. Lawrence or other great rivers where regular passage boats are not established, the Captain or senior Officer of the Militia of the parish shall provide for the same by ordering as aforesaid: provided always, and be it further enacted, that the person or persons informing against any offender as aforesaid, shall be entitled to receive one half of the fine or fines hereby imposed.

Penalty on any who harbour persons of the above description.

Persons so apprehended, to be carried before the nearest Justice of the Peace.

Penalty on Militia men who suffer persons arrested to escape.

Prisoners and persons conducting them, to be crossed over all ferries free of toll or expence.

Penalty.

Where no ferries Captains of Militia to provide boats, &c.

Fines and penalties not exceeding 20s. to be adjudged by one Justice, and exceeding 20s. or for imprisonment by two Justices.

XI. And be it further enacted, by the authority aforesaid, that in all cases where the mode of prosecution for fines and penalties inflicted by this act, has not been particularly directed and provided; it is hereby declared and enacted, that wherever the fine inflicted for a contravention committed against this Act, does not exceed twenty shillings, one Justice of the Peace, and wherever the fine exceeds twenty shillings and that the penalty extends to imprisonment, two Justices of the Peace, is and are by these presents authorized to hear all informations, and decide summarily on the deposition of one credible witness, other than the informer, each contravention against the meaning of this Act, to inflict the penalties and levy the fines, with the travelling and other expences of the prosecutor, by a warrant of seizure and sale of the moveables and effects of the offender or offenders, under his or their hands and seals, addressed to a Bailiff or Serjeant of Militia of the place where the person so convicted resides; being nevertheless lawful to any one finding himself aggrieved by the judgment or decision of the said Justices of the Peace, imposing a fine above forty shillings, or which carries a penalty of imprisonment for more than eight days; to appeal therefrom to

Appeal to the Quarter Sessions of the Peace.

Upon all appeals the sum forfeited and costs to be deposited before appeal.

the General Quarter Sessions of the Peace to be held for the district, where such judgment was given in the first instance; (the Justices of the Peace who first gave such judgment or decision, excepted,) provided always, that no person shall be allowed to appeal, unless he do first deposit the money forfeited upon his conviction, together with the costs awarded upon such conviction in the hands of one of the Justices of the Peace, before whom he shall have been convicted; to be repaid to the appellant, if the judgment is reversed: and if the judgment is confirmed, the appellant shall pay to the prosecutor, the costs he shall have been put to by the appeal; which costs shall be levied upon the goods and chattels of the appellant, by warrant of the Justices in their said Quarter Sessions, directed as aforesaid.

Judge Advocate and members of the court-martial to be sworn.

The Oath.

President to swear the Judge Advocate.

The Oath.

President to summons witnesses.

By Serjeants of Militia.

Witnesses not attending to forfeit a sum not exceeding 40s.

Witnesses to be sworn.

The Oath.

Witnesses to be paid their reasonable expences.

XII. And be it further enacted, by the authority aforesaid, that in all trials by court-martial, to be held in virtue of this Act, on Officers not embodied on actual service, the Governor, Lieutenant-Governor or Person administering the Government shall nominate and appoint a fit person to act as Judge Advocate, and every member assisting at such trial, before any proceedings be had thereupon, shall take the following Oath upon the Holy Evangelists, before the said Judge Advocate (who is hereby authorized to administer the same) that is to say: — “ I, A. B. do swear that I will duly administer justice, to the best of my understanding in the matter now before me, according to the evidence and the Militia laws now in force in this Province, without partiality, favor or affection; and I further swear that I will not divulge the sentence of the court, until it shall be approved by the Governor, Lieutenant-Governor or Person administering the Government, neither will I upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof, as a witness, by a court of justice, in a due course of law. So help me God.” And as soon as the said oath has been administered to the respective members, the President of the court is hereby authorized and required to administer to the person acting as judge Advocate, an Oath in the following words: — “ I, A. B. do swear, that I will not upon any account, disclose or discover the vote or opinion of any particular member of the court martial, unless required to give evidence thereof, as a witness, by a court of justice, in a due course of law. So help me God.”

XIII. And be it further enacted, by the authority aforesaid, that the person appointed to sit as President of every court-martial, assembled in the manner herein before directed, shall have power and authority to issue summons, for compelling the attendance of witnesses, at any trial to be held before the said court, and such summons being duly served by a Serjeant of Militia, at least two days before the day fixed for the trial, if the place of residence of the witness is not more than three leagues distance; and one day more for every five leagues, that such place of residence shall be further distant, every witness making default in appearing conformable thereto, shall for such offence, forfeit and pay a sum not exceeding forty shillings current money of this Province, unless prevented by sickness or other unavoidable necessity: And before hearing the testimony of any witness, the person acting as Judge Advocate, is hereby authorized and required to administer to him the following Oath: — “ The evidence you shall give to this court-martial on the trial of A. B. shall be the truth, the whole truth, and nothing but the truth. So help you God.” Provided always, and be it further enacted by the said authority, that each witness summoned in the manner haveabove directed, shall have right to demand and receive from the party, who shall have caused him to be summoned, a reasonable allowance for his travelling expences, not exceeding one shilling per league; and as an indemnity for loss of time, a further sum not exceeding two shillings and six-pence per day, which costs and indemnity shall be taxed by the court, and paid by the person who shall have caused the witness to be summoned, and the party against whom judgment is given by the said court, may be prosecuted

secuted to re-imburse the same by action of debt, in any of the civil courts of this Province.

Justices of the Peace shall keep registers of prosecutions under this Act.

XIV. And be it further enacted, by the authority aforesaid, that the Justices of the Peace respectively, before whom any prosecutions shall be had in consequence of this Act, shall keep a record or register of all such prosecutions, stating the names of the prosecutors and defendants, and their usual places of abode, also the names of the witnesses, with the evidence they may give, and the judgment that may be pronounced: also the quantum of fine that shall be imposed in the respective prosecutions, which by them, or either of them may be heard and determined conformable to this Act.

Gaolers to receive every person committed under this Act.

May take a fee of 3s

In cases of war &c. the Governor may embody the whole or part of the Militia.

XV. And be it further enacted, by the authority aforesaid, that the gaoler or keeper of every prison in this Province, is hereby authorized and required to receive into his custody, all and every prisoner or prisoners committed in pursuance of this Act, and him or them in prison to detain and keep, pursuant to the warrant of commitment to him directed; and every person so committed, shall be liable to pay to the Gaoler a fee of three shillings currency, before he is enlarged.

No part of such Militia shall continue in actual service more than 6 months at one time. Militia men above 50 not to be called out &c. Not to be ordered out of the Province, except in certain cases.

XVI. And whereas in cases of war, invasion, or imminent danger thereof, insurrection or other pressing exigencies, it may be requisite for the safety of the Province, that the whole Militia thereof, or the whole or part of the Militia of certain districts or battalions, be called out and embodied without loss of time; be it therefore enacted, by the authority aforesaid, that in all or any of the foregoing cases, it shall and may be lawful for the Governor, Lieutenant-Governor or Person administering the Government, to call out the whole or such part, as to him may appear expedient, of the Militia of any district, division, battalion or company in this Province, in such manner as he shall order and direct; and the Militia so called out, to form into companies and battalions in such manner as he in his discretion shall think proper; and under the command of such Officers as he shall appoint; and them to march to such place or places, and in such manner as to him, or to the Officers whom he shall for that purpose appoint, may appear best adapted to the circumstances of the danger, provided always, that no part of the Militia called forth in the manner aforesaid, shall be obliged to continue in actual service for more than six months at one time: and no Militia man shall be so called out, who shall be above the age of fifty years, unless that the whole of the Militia of any district or battalion to which he may belong, shall be called out and embodied: provided also, that it shall not be lawful to order the Militia nor any part thereof, to march out of the Province, except for the assistance of the province of Upper Canada, when the same shall be actually invaded; and except in pursuit of an enemy, who may have invaded this Province; and except also for the destruction of any vessel or vessels, built or building: or any depot or magazine, formed or forming; or for the attack of an enemy who may be embodying or marching for the purpose of invading this Province; or for the attack of any fortification, which may be erecting to cover an invasion thereof.

The Governor &c. may call out detachments of Militia, to be drawn by Lot.

XVII. And whereas it is just and reasonable, that when time and circumstances will permit, the number of Militia necessary, should be furnished by drawing the same by lot; and that when practicable, every part of the Province should contribute to the general defence thereof, in cases of war, invasion, or imminent danger, insurrection, or other pressing exigencies; as also, that when the whole or a great part of any division or battalion, shall have been called out and embodied, in the manner herein before mentioned, a part thereof should be discharged and replaced by detachments from more distant parts, as soon as can be conveniently done; be it there-

Fore enacted, by the authority aforesaid, that in all or any of the foregoing cases, it shall and may be lawful for the Governor, Lieutenant-Governor or Person administering the Government, if to him it shall appear expedient, to call out detachments from the Militia of all the different districts, divisions, battalions and companies in this Province, by issuing his orders to the Commanding Officer of every district, division, or battalion, specifying the quota to be furnished by such district, division, or battalion, in proportion to the total number of Militia in the Province by the last returns; and the time or times, or place or places of general rendez-vous for the detachments drawn from such district, division or battalion; on receipt of which order, every such Commanding Officer shall issue his orders without loss of time to the Captains or other Officers commanding companies, specifying the quota to be furnished by each company, in a proportion as near as possible to the strength of the companies by the last returns, and fixing the time and place at which such companies are to attend, for the purpose of drawing by lot for the number of men to be furnished by each of them respectively; and also the time at which they are to march off to the rendez-vous for the district, with the time and place of such rendez-vous; and on receipt of every such order, every Captain or other Officer commanding a company, shall, without loss of time, order every man in his company of the description mentioned in the order, by notice verbally signified to him personally, or to some grown person at his usual place of residence, by a Serjeant of the company, to appear at the time and place fixed; and at such time and place the Captain or other Officer commanding the company, in the presence of one Justice of the Peace, or in his absence, of two of the principal inhabitants of the place, of upwards of sixty years of age, shall proceed to cause every man of the description mentioned in the order, then present, betwixt the age of eighteen and fifty inclusive, to draw publicly by lot, for the term of duty then ordered, and shall appoint some discreet person also to draw publicly, for every man in his company of the foregoing description, who shall not then appear, or who shall then decline drawing; which drawing shall be as valid and effectual, as if such absentee or absentees, or person or persons so declining, had appeared and drawn for himself, or themselves; and the Captain or other Officer commanding a company, shall immediately after such drawing, notify the time and place, agreeable to the orders he may receive from the Commanding Officer of the district or battalion, at which the Militia men on whom the lot shall have fallen, are to assemble and march off to the rendez-vous of the district or battalion; and if any of the lots shall have fallen on any absentee or absentees, he shall give him or them notice thereof, without loss of time, by an order verbally notified to him or them personally, or to a grown person at his, or their usual place of residence, by a Serjeant of the company, to appear at the time and place fixed as aforesaid; and in case that there shall not be then fixed by the Commanding Officer of the district or battalion, times and places for the detachments to assemble and march off to the rendez-vous of the district, the Captain or other Officer presiding at every such drawing by lot, shall give notice to the Militia men on whom the lots shall have fallen, to hold themselves in readiness to assemble and march off at such time and place, as may be afterwards ordered; and every detachment drawn by lot as aforesaid, shall be conducted to the rendez-vous of the district, by an Officer or Serjeant, to be appointed for that service, by the Officer commanding the company from whence they shall be conducted under the command of such Officer or Officers as shall be ordered for that service, by the Field-Officer commanding the district or battalion, at such time or times, and to such place or places, as shall be ordered by the Governor, Lieutenant-Governor, or Person administering the Government. And be it further enacted, that it shall and may be lawful for the Governor, Lieutenant-Governor, or Person administering the Government, to form the said detachments into companies or battalions, under the command of such Officers as

The Quota to be furnished to be specified, &c.

Manner of forming the proportion or Quota of Militia for such service.

The Captain to notify the rendez-vous.

The Detachments to be conducted to the rendez-vous.

The Governor, &c. may form such Detachments into companies, &c.

And march them to such places as necessary, &c.

To be discharged at the end of one year.

Not liable to a like service but in regular rotation, &c.

The Governor &c. may order the detachments to be furnished by command or by lot.

The Governor &c. may first order batchelors &c.

From which the number required shall be taken.

Any deficiency among the batchelors, shall be made up from the unmarried men.

Militia men so serving not to serve again but in rotation unless special exigency may require.

In certain cases of invasion &c. the Officer nearest to the place of danger, may order out the Militia.

he shall appoint, in such manner as he shall think proper, and them to march to such place or places, under the restrictions herein before mentioned, as to him shall appear necessary and expedient, for the purposes herein before recited: provided always and be it further enacted, that all Militia men drawn by lot as aforesaid, shall be discharged at the end of one year from the time of drawing or sooner if circumstances will allow thereof; and that they shall not be liable to draw again by lot, until by rotation it shall come to their turn, nor shall they be liable to be ordered out, unless that the exigencies of the service shall require the whole of the Militia of the district, division or battalion, where they shall reside, to be called out, in which case they shall be discharged as soon as the nature of such exigency will permit, or that they can be conveniently replaced by detachments drawn from more distant parts of the Province: provided also, that there shall always be at least six days betwixt the time to be appointed for drawing by lot, and the time to be fixed for marching off the detachments from companies, to the rendez-vous for the district; and provided also, that in all cases it shall be lawful for the Governor, Lieutenant-Governor or Person administering the Government, to order the detachments to be furnished from each company of Militia, either by command or by drawing by lot, as he shall think most expedient.

XVIII. Provided further and be it enacted by the said authority, that in any of the cases herein-before-mentioned for commanding or drawing by lot any part of the Militia, to the end of being incorporated for the purpose of actual service, it shall be lawful for the Governor, Lieutenant-Governor or Person administering the Government, when he shall judge it necessary, having regard to the number of men he may wish so to command or draw by lot, and according to the circumstances of such command, or drawing by lot, to order that the batchelors of the age and description required by this Act, be first commanded or drawn by lot, in preference to the married men; and if the batchelors shall be first commanded or drawn by lot, the number to be furnished by each district and battalion of Militia shall be apportioned according to the total number of Militia men, whether married or batchelors, in each district and battalion of Militia respectively, by the last returns, and each Colonel or Field-Officer commanding a district or battalion, shall then apportion the number of men he is required to furnish from his district or battalion, amongst the companies of which it is composed, according to the number of batchelors in each company, shall be commanded or drawn by lot, as the order may be, from amongst the batchelors of each company respectively: But if there shall not be a sufficient number of batchelors in any company to complete the number so apportioned to be furnished by such company, then the deficiency shall be supplied from amongst the married men of such company so deficient; and after the expiration of the time of service of such Militia men, ordered out as aforesaid, they shall not be subject to be again commanded or drawn by lot, until that, by rotation of all the other Militia men of the companies to which they respectively belong, it shall come again to their turn; unless that the exigency of the service should require the whole Militia of the district or battalion, to which they respectively belong, to be ordered out; in which case they shall be discharged as soon as the nature of such exigency will permit.

XIX. And whereas circumstances may render it indispensable to the safety of the Province, that the Field-Officers and Captains of Militia, nearest to any place in immediate danger, should have authority to order out the Militia, or part thereof under their command, without waiting for the orders of their senior Officer, or of the Governor, Lieutenant-Governor, or Person administering the Government; be it therefore further enacted by the authority aforesaid, that in cases of actual invasion, or insurrection, when

when there may not be time to communicate with their senior Officer, or for the senior Officer to communicate with the Governor, Lieutenant-Governor, or Person administering the Government, it shall and may be lawful, for the Field-Officer or Officers, Captain or Captains of Militia, nearest to the place or places in danger, to order out, and they are hereby required immediately to order out the whole or such part of the Militia, respectively under their command, as they shall judge necessary to repel, suppress, or check such invasion or insurrection; intelligence of which they shall immediately transmit by express, to the Colonel or Field-Officer commanding their respective district or battalion; and such Colonel or Field-Officer, on receipt of such intelligence, shall give his provisional orders therein to the Militia under his command, and forthwith forward on, also by express, the intelligence by him received, to the Governor, Lieutenant-Governor, or Person administering the Government, who shall thereupon give such orders respecting the discharging, relieving or reinforcing the part of the Militia so provisionally embodied, as the nature of the exigency may require.

To inform the Officer commanding the district &c.

Who shall communicate such intelligence to the Governor, &c.

Every Militia man ordered, who shall not appear at a rendez-vous shall forfeit.

Five pounds, and he considered a deserter, &c.

When apprehended, to be conducted to the detachment.

On conviction the fine and costs may be levied on his goods and chattels.

For want thereof shall be liable to serve 6 months, &c.

May serve by substitutes.

XX. And be it further enacted, by the authority aforesaid, that whenever the Militia, or any detachments thereof, shall be called out in the manner herein before mentioned, every Militia man, who shall have been commanded or drawn by lot, who (not labouring under any infirmity incapacitating him.) shall abscond or neglect to appear at the time and place of rendez-vous, fixed for assembling and marching off the company, or detachment of the company in which he is enrolled, having been thereto warned in the manner herein before directed, or having there appeared shall afterwards desert, before that the said company or detachment shall have reached the battalion, into which it may be embodied, shall, for such offence, forfeit a sum not exceeding five pounds current money of this Province, and shall be considered a deserter, and liable to be taken up as such, by any Officer, or Non-commissioned Officer of Militia, and conducted from Captain to Captain, under a guard of Militia, to the nearest Justice of the Peace, who shall, upon the oath of one credible witness, other than the informer, that such deserter belongs to such detachment, company or battalion, in the which such detachment might have been embodied, shall issue a warrant under his hand and seal, to have him conducted from Captain to Captain, under a guard of Militia, to such detachment, company, or battalion from which he deserted; that he may there perform the service for which he was commanded or ballotted; and on proof given before two Justices of the Peace of the aforesaid offence, they shall, by their warrant under their hands and seals, addressed to a Bailiff or Serjeant of Militia of the place where the person so convicted resides, seize and sell the goods and chattels of such deserter or person so convicted, to levy the aforesaid fine and the costs of suit which shall be taxed; and for want of goods and chattels whereon to levy the aforesaid fine every such deserter shall be liable to serve six months longer than the time he was first commanded or drawn for by lot, whenever he shall be thereunto required, and on refusal to comply of such requisition, when made by the Field Officer commanding any district in which he may be resident, shall be liable to the same fines and penalties, as are imposed on Militia men, commanded or drawn for by lot to serve in detachments.

XXI. Provided always and be it further enacted, that every man called out by order or drawn by lot to serve in any detachment as aforesaid, may present at the place of rendez-vous of the district, division, or battalion, to which he shall have been ordered, a good and sufficient substitute, subject to the approbation of the Field-Officer there commanding; and on such approbation, and the said substitute agreeing, before the said Field-Officer, to take the tour of duty which had fallen to the lot of the Militia-man presenting him or on which he had been ordered, the said Militia-man

Substitute to perform his principal duty.

And be allowable for his own.

man shall be discharged therefrom, and considered to have taken and performed the same; and the said substitute shall perform the said tour of duty, in the same manner and under the same penalties, as if he had been drawn by lot, or ordered for the same; and after the expiration thereof he shall be liable to draw in his own turn, in the company to which he belongs, in like manner as if no tour of duty had been by him performed.

Militia on actual service to receive pay.

And rations up on the same terms as his Majesty's troops.

Officers authorized to furnish provisions, &c. Provided such advances do not exceed six-pence per day.

To be deducted from their pay.

The widows and children of Militiamen killed, to receive a pension of £ 4. per. Ann.

Militia men disabled to receive a pension of £ 5 per ann.

Muskets to be marked.

Militia men selling disposing of neglecting to return their arms or accoutrements forfeit £ 5.

XXII. And be it further enacted by the authority aforesaid, that whenever any part of the Militia of this Province, shall be called out for the defence thereof, in manner as herein-before directed, the Officers and private men of the said Militia shall be entitled to the same pay and allowances as the Officers and Private-men of his Majesty's regiments of foot receive, to be reckoned from the day that they march from the rendez-vous of their company to go on actual service, till they are dismissed by order of the Governor, Lieutenant-Governor or Person administering the Government; and at the time of their dismissal, there shall be further allowed to every Officer and private Militia man a number of days pay to defray his expences to the place of his usual residence, according to the distance, at the rate of five leagues per day; and the Militia, when called out into actual service, shall upon their arrival at the first military post, or at the place of general rendez-vous where they are to be formed into battalions or companies, be furnished and supplied with rations upon the same terms as they are furnished and supplied to his Majesty's troops, and provisions shall be furnished to Militia-men who may desire the same, to conduct them from the rendez-vous of their respective parishes, to the towns, forts or places of general rendez-vous; and the Officer who may be charged to conduct such Militia men, is authorized and required to furnish such provisions, whereof the payment shall be reimbursed to him, by such person or persons as shall be appointed for the purpose by the Governor, Lieutenant-Governor or Person administering the Government: provided always, that the value of the provisions so furnished do not exceed six-pence currency per day for each Militia man desiring such provisions; the which value shall be deducted from their pay respectively.

XXIII. And be it further enacted by the authority aforesaid, that every Non-commissioned Officer or private of Militia, who in any engagement with an enemy shall be killed, and shall leave a widow or child or children lawfully begotten, his said widow shall be entitled to receive during her widowhood, and in case of the death of such widow, then the eldest child, or tutor, or guardian for the use of the children, until that the youngest thereof shall have attained to the age of sixteen years, an annuity of four pounds current money; and also that every Non-commissioned Officer or private of Militia, who in any engagement with an enemy shall be wounded or disabled, so as to be rendered incapable of earning his livelihood, shall be allowed an annuity of five pounds same currency, during the time he shall continue under such incapacity.

XXIV. And be it further enacted by the authority aforesaid, that all muskets, delivered for the service of the Militia, shall be marked distinctly in some visible place, in such manner as the Governor, Lieutenant-Governor or Person administering the Government may direct; and in case any Militia man shall sell, pawn, or loose any of the arms or accoutrements to him delivered, or neglect or refuse to return the same, to his Captain or other Officer appointed to receive the same at the time of his being discharged, every such Militia man shall, for every such offence, forfeit and pay a sum not exceeding five pounds current money; and on proof of such offence, by the oath of one credible witness, other than the prosecutor, before one or more Justices of the Peace, if the said penalty is not immediately paid, the said Militia man shall, by a warrant

If not paid, to be committed to Gaol for two months.

warrant under the hands and seals of such Justice or Justices, be committed to the nearest gaol, there to remain for a term not exceeding two months, or until he shall have paid the said penalty.

Penalty on persons buying arms or accoutrements.

XXV. And be it further enacted by the authority aforesaid, that if any person shall knowingly buy, take in exchange, or conceal any arms or accoutrements, delivered from his Majesty's stores to any Militia man, upon any account or pretence whatsoever, contrary to the true intent and meaning of this Act; every person so offending and being convicted thereof before any Justice of the Peace, upon the oath of one credible witness, other than the informer, shall forfeit and pay for such offence, the sum of two pounds current money of this Province, besides restoring the arms or accoutrements so bought, exchanged or concealed; the said fine to be levied by warrant under the hand and seal of such Justice of the Peace of the district, wherein such offender shall reside; and for want of goods and chattels whereon to levy such fine, or for want of the said arms or accoutrements being delivered up to the Justice of the Peace, imposing the fine aforesaid, the said offender shall be committed, by warrant under the hand and seal of the said Justice of the Peace, to the nearest gaol, there to remain without bail or mainprize, for two months: provided always and be it further enacted, that the person or persons, informing against any offender as aforesaid, shall be entitled to receive one half of the fine hereby imposed.

Prosecutions on this Act, limited to 6 months.

XXVI. And be it further enacted by the authority aforesaid, that no complaint or prosecution, shall be brought against any person or persons, for any fine or penalty herein before imposed, unless the same is commenced within six months after the offence committed, except in cases of desertion, or harbouring, concealing, aiding or abetting deserters, or buying, taking in exchange, or concealing arms or accoutrements delivered to the Militia.

Cases of concealing deserters, buying arms, &c. excepted.

XXVII. And be it further enacted by the authority aforesaid, that in cases of war, invasion or imminent danger thereof, insurrection or other pressing exigency, when any part of the Militia shall be drawn out and embodied for actual service, in the manner herein before directed; from the time that such part of the Militia shall be so embodied, till they shall be discharged by order of the Governor, Lieutenant-Governor or Person administering the Government, such of the articles of war now in force for the government of his Majesty's forces in this Province, as the Governor, Lieutenant-Governor or Person administering the Government, shall consider applicable, and shall alter so as to render the same conformable to the restrictions herein after mentioned, shall be printed in the English and French languages, agreeable to such alterations; and such of the said articles, when so altered and printed, shall, until otherwise provided for by the Legislature, be judicially taken notice of by all Judges, and in all courts whatsoever, and shall be binding on and extend to all the Officers, Non-commissioned Officers and private men of the Militia, embodied as aforesaid, in all cases whatsoever not provided for by this Act; provided always and be it further enacted, that no Officer serving in his Majesty's forces, shall sit in any court-martial, upon the trial of any Officer, Non-commissioned Officer or private man serving in the Militia; nor shall any sentence of a general court-martial, extend to death, unless for desertion to the enemy, for mutiny and sedition, for traitorous correspondence with, or for traitorously delivering up to the enemy any garrison, fortrefs, post or guard; nor shall any man serving in the Militia be subject to be whipped in any case whatever; nor shall the sentence of any general court-martial be carried into execution, until it has been approved of by the Governor, Lieutenant-Governor or Person administering the Government for the time being.

Articles of war to extend to the Militia from the time of their being embodied.

So far, as the Governor, shall consider them applicable, and render them conformable to this Act.

Officers of his Majesty's forces not to sit on Courts martials.

Sentence of death only in cases of desertion, mutiny, traitorous correspondence or delivering up a garrison, &c.

Militia men not to be whipped.

Sentences to be approved by the Governor.

XXVIII. And be it further enacted, that if any action shall be brought against any person

Actions on this Act limited to 6 months.

Defendant may plead the general issue, &c.

If Judgment in his favour, shall have treble Costs.

Persons exempted from serving in the Militia.

May hold commissions as Officers. — Not exempted in case of invasion.

This Act not to repeal an Act of 33. Geo. 3. chap. 4.

Ordinance 27 Geo. 3. chap. 8. to extend to the Militia when embodied, &c.

Ordinances 27 Geo. 3. chap. 2. and 29 Geo. 3. chap. 4. repealed.

person or persons, for any thing done in pursuance of this Act, such action or suit shall be commenced within six months next after the fact committed, and not afterwards; 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 at any trial to be had thereupon: And if judgment shall be given for the defendant or defendants in any such action or suit, or if the plaintiff or plaintiffs shall be non-suited, or discontinue his or their action or suit, after the defendant or defendants shall have appeared; the defendant or defendants shall have treble costs, and have the like remedy for the same, as any defendant hath in other cases to recover costs by law.

XXIX. Provided always and be it further enacted by the authority aforesaid, that the members of the Legislative Council and of the Assembly, the members of the Executive Council, the Clergy, the Judges of the criminal and civil courts of this Province, the Justices of the Peace who have taken the Oath of Office, the Attorney and Solicitor-General, the Surveyor-General, Secretary of the Province, the Deputy Post-Master-General, and his Deputies, the *Grand Voyers*, the Clerk of his Majesty's Terrier, or land register, the Inspectors of Police, half-pay Officers, Captains and other Officers of Militia who have obtained leave to retire, the Officers of the Customs, Sheriffs and Coroners, the Clerks and Commissioned Officers of the Executive Council and of the Legislature, Clerks of the courts, Notaries, Gaolers, Cryers of the courts, Constables for the time being, school-masters approved of by the Governor, Lieutenant-Governor, or Person administering the Government, or by such persons as are authorized for the purpose, a *Maitre de Poste* and one Assistant for each post-house, licensed ferry-men, one miller to each mill, students of the seminary or colleges of Quebec and Montreal, licensed physicians, surgeons and apothecaries, and a steward for each of the religious communities of women shall not be liable to serve personally or by substitute in the Militia, agreeable to the directions of this Act: provided always that this Act or the exceptions contained therein, shall not be construed to extend to prevent any and each of the persons above-mentioned, to hold or receive commissions as Officers of the Militia of this Province, or to exempt any of the above persons, the Clergy excepted, from Militia duty, when the county, in which any of them may respectively reside, shall be invaded; and provided also, and be it further enacted, that nothing contained in this Act, shall be construed to extend to repeal an Act passed by the Legislature of this Province, in the thirty-third year of the reign of his Majesty, intituled, "*An Act for granting indulgences to the people called Quakers.*"

XXX. And be it further enacted by the authority aforesaid, that all and singular the provisions of an Ordinance, passed by the Governor and Legislative Council of the late province of Quebec, in the twenty-seventh year of his Majesty's reign, intituled, "*An Ordinance for quartering the troops upon certain occasions, in the country parishes, and providing for the conveyance of effects belonging to Government.*" shall extend to the Militia of this Province when called out and embodied in manner herein before directed, and to the detachments thereof when on a march from their respective companies or districts to any place of rendez-vous, until it is otherwise provided for by the Legislature.

XXXI. And be it further enacted and declared by the authority aforesaid, that from and after the passing of this Act, an Ordinance of the late province of Quebec, passed in the twenty-seventh year of His Majesty's reign, intituled, "*An Ordinance for better regulating the Militia of this Province, and rendering it of more general utility towards the preservation and security thereof;*" and also an Ordinance passed in the twenty-ninth year of His Majesty's reign, intituled, "*An Act or Ordinance to explain and amend an Act intituled, 'An Act or Ordinance for better regulating the Militia of this Province, and rendering it of more general utility towards the preservation and security thereof,'*" shall be, and they are

All orders issued under these Ordinances by the Governor continued in force—Militia men ordered to serve under the provisions of this Act.

Detachments called out by command to serve six months.

By ballot—12 months.

This Act not to annul the commission of any officer of militia.

Monies arising from fines imposed by this Act, to be annually paid to the Receiver-General, &c.

And applied to purposes that respect the Militia. To be accounted for to the Crown, &c.

The Governor, &c. may in case of war &c. summon the Legislature, to meet within 14 days. Who shall sit, &c. as if by prorogation.

This Act to continue until the first of July 1796.

are hereby repealed: provided always, and be it further enacted by the authority aforesaid, that all detachments of Militia which have been drawn out by order of the Governor, Lieutenant-Governor, or Person administering the Government, under the power and authority for that purpose to him granted by the aforesaid Ordinances, shall be respectively bound and obliged to perform the services for which they have been so drawn out, and shall be liable to be formed into companies and battalions, and be subject to the same forfeitures and penalties, rules, orders, and discipline, and be entitled to the same pay and rations, from and after the passing of this Act, as if they have been drawn out under the powers and authorities thereby granted: and all orders given previous to the passing of this Act by the Governor, Lieutenant-Governor, or Person administering the Government, for drawing out detachments of Militia under the power and authority for that purpose to him granted by the aforesaid Ordinances, shall continue to be in force and be carried into execution, for drawing out the said detachments, in the same manner as if this Act had not passed, and the detachments drawn out in pursuance thereof, shall also be liable to be formed into companies and battalions, and be subject to the same forfeitures, penalties, rules, orders and discipline, and be entitled to the same pay and rations, from and after the passing of this Act, as if they had been drawn out under the powers and authorities thereby granted, excepting only that such detachments as have been called out by command, shall not be bound to continue in actual service more than six months, and that such detachments as have been called out by drawing lots, shall not be bound to continue in actual service more than twelve months, to be reckoned from the day that such detachments shall have respectively marched from their usual places of residence.

XXXII. Provided always and be it further enacted by the authority aforesaid, that nothing in this Act contained, shall extend or be construed to extend to revoke or annul all or any of the commissions of the different Officers of Militia, at present appointed in the Province, till such time as further provision be made therein by the Governor, Lieutenant-Governor, or Person administering the Government for the time being.

XXXIII. And be it further enacted by the authority aforesaid, that all sums of money arising from fines, forfeitures and penalties by this Act imposed, (excepting such part thereof as by this Act is granted to prosecutors or informers,) together with a list of such fines, forfeitures and penalties, shall once every year be transmitted by the Justices or Clerks of the Peace respectively receiving the same, to the Receiver-General of this Province, to be disposed of as the Governor, Lieutenant-Governor, or Person administering the Government shall direct, to purposes only that shall respect the said Militia, and which shall be accounted for to the Crown, through the Commissioners of his Majesty's Treasury for the time being, as the Crown shall direct.

XXXIV. And be it further enacted by the authority aforesaid, that in case of war, invasion or imminent danger thereof, insurrection or other pressing exigencies, if the Legislature shall then be separated by such adjournment or prorogation as will not expire within fourteen days, it shall and may be lawful for the Governor, Lieutenant-Governor, or Person administering the Government, to issue a proclamation for the meeting of the Legislature within fourteen days; and the Legislature shall accordingly meet, and sit upon such day as shall be appointed by such proclamation, and continue to sit and act, in like manner, to all intents and purposes, as if it had stood adjourned or prorogued to the same day.

XXXV. And be it further enacted by the authority aforesaid, that this Act shall be and continue in force from the passing thereof, until the first day of July, which will

In case of war
&c. continued till
the end of such
war &c.

will be in the year of our Lord one thousand seven hundred and ninety-six, and no longer: provided always, that if, at the term above fixed for the expiration of this Act, the Province shall be in a state of war, invasion or insurrection, the said Act shall continue and be in force until the end of such war, invasion or insurrection.

C A P. V.

An Act for establishing regulations respecting Aliens and certain subjects of his Majesty, who have resided in France, coming into this Province, or residing therein; and for empowering his Majesty to secure and detain persons charged with or suspected of High Treason; and for the arrest and commitment of all persons, who may individually, by seditious practices, attempt to disturb the Government of this Province.

Preamble.

WHEREAS a number of persons, not being natural born subjects of His Majesty, nor Denizens, nor persons naturalized by Act of Parliament, nor subjects of his Majesty, having become such by conquest or cession of the province of Canada, have lately resorted to this Province: and whereas under the present circumstances, much danger may arise to the public tranquility, from the resort and residence of Aliens, unless due provision be made in respect thereof; be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower 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 it is hereby enacted by the authority of the same; that during the continuance of this Act, the Master or Commander of every ship or vessel that shall arrive in any port or place in this Province, from sea, shall, immediately on his arrival, declare in writing to the Collector and Comptroller or other chief Officer of his Majesty's Customs, at or near such port or place, whether there are, to the best of his knowledge, any Foreigners on board his ship or vessel; and shall in his said declaration specify the number of Foreigners, if any on board his said ship or vessel, and also specify their names and respective rank, occupation or description, as far as he shall be informed thereof.

Master of every vessel upon his arrival to declare in writing to the Collector, &c. the names, &c. of all Foreigners on board his vessel, &c.

Neglecting to make such declaration to forfeit £10.

II. And be it further enacted by the authority aforesaid, that the Master or Commander of every ship or vessel, so arriving as aforesaid, who shall neglect or refuse to make such declaration as aforesaid, shall, for every such offence, forfeit and pay the sum of ten pounds current money of this Province for each and every Foreigner who shall have been on board, at the time of the arrival of such ship or vessel as aforesaid, or of her coming into the gulph or river St. Lawrence whom he shall have wilfully neglected or refused to declare as aforesaid; one moiety whereof shall be to the informer or informers, and the other moiety to the use of the poor of the parish or place where such offence shall have been committed, to be recovered before any two or more Justices of the Peace acting in and for the said district, city, town or place, in which such offence shall have been committed, by the confession of the party, or on the oath of one or more credible witness or witnesses: and in case such Master or Commander shall neglect or refuse forthwith to pay such penalty, as he shall be adjudged to pay in manner aforesaid, that it shall and may be lawful for any Collector, Comptroller or other chief Officer of the Customs in this Province, to detain such ship or vessel as aforesaid, until the same shall have been paid.

To be recovered before any two Justices of the Peace.

Collector, &c. may detain his vessel until the penalties be paid.