

The Provincial Statutes of Lower-Canada, Being the second session of the fourteenth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1832.

2 William IV – Chapter 42

An Act to authorize the appointing of Courts of Inquiry for investigating the qualification of Militia Officers in certain cases. (25th February, 1832.)

MOST GRACIOUS SOVEREIGN.

Whereas the Act passed in the tenth and eleventh years of the Reign of His late Majesty, chapter forty-four, for regulating the Militia of this Province, does not provide for the appointing of Courts of Inquiry for investigating and determining complaints against officers charged with accepting or acting under commissions without being qualified, and it is expedient to make provision for facilitating the decisions of such complaints: May it therefore please your Majesty that it may be enacted, and be it 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 Québec, 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 it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government, upon complaint in writing to him made under the signature of the party complaining, (and which it shall be the duty of the officer commanding such Battalion or Corps to forward,) that any person has accepted or acted under a commission appointing him an officer in the Militia of this Province, without being qualified according to Law, or on complaint that such a person is not worthy of enjoying such a commission nor of discharging the duties of the same, to order the holding of a Court of Inquiry in the Battalion or Corps of Militia in which such person has accepted such commission, to inquire into, hear and determine every such complaint.

II. And be it further enacted by the authority aforesaid, that every such Court of Inquiry shall consist of five officers of the Battalion or Corps in which the person accused has accepted or acted under such commission and shall proceed in the manner and according to the forms which govern Courts of Inquiry in His Majesty's Army, and that no member of such Court shall receive any indemnification for his services as such.

III. And be it further enacted by the authority aforesaid, that such Court may appoint a Clerk to enter their proceedings and draw up their report and may pay him a reasonable allowance for his time and trouble, which allowance shall in no case exceed the sum of twenty shillings currency per diem inclusive of the stationary which lie shall be bound to provide.

IV. And be it further enacted by the authority aforesaid, that it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government, by warrant under his hand to take out of any unappropriated monies in the hands of the Receiver General, all such sums as shall be necessary for paying the Clerk and for defraying the expenses of summoning witnesses and of making them compensation for their expenses and time according to the allowance to be made them by such Court.

V. Provided always, and be it further enacted by the authority aforesaid, that in every case in which the party complaining shall fail in proving the complaint by him made, he shall be liable to and shall defray all the costs, allowances and expences which shall be fixed and allowed by such Court in respect of such enquiry under the authority of this Act, and such Court shall not proceed to the hearing of any complaint until the party complaining shall have given security to His Majesty, his heirs and successors to the satisfaction of the said Court and to such amount as they shall think sufficient to answer and defray the said costs allowances and expences in case of such failure as aforesaid, and the amount of such security shall and may in such case be sued for and recovered in due course of Law in any Court of Competent Jurisdiction in the District or Inferior District in which the party complaining shall reside.

VI. And be it further enacted by the authority aforesaid, that every person summoned to attend such Court who shall neither attend according to the summons, (of the personal service of which proof shall be made on oath before such Court,) nor assign a sufficient reason for his non attendance shall incur a penalty not exceeding twenty shillings currency, in default of payment whereof the offender shall be imprisoned for a time not exceeding eight days.

VII. And be it further enacted by the authority aforesaid, that every such Court shall have power to administer all necessary oaths to witnesses, persons serving process and others whose affidavit may be necessary in any proceeding before such Court; and that any person who shall be convicted of having wilfully sworn falsely in any matter in which an oath may be administered under this Act, shall be deemed guilty of wilful and corrupt perjury, and be liable to the pains and penalties thereof.

VIII. And be it further enacted by the authority aforesaid; that every person to whom shall be entrusted the expenditure of any portion of the monies, hereby appropriated, shall make up detailed accounts of such expenditure, showing the sum advanced to the accountant, the sum actually expended, the balance, if any, remaining in his hands, and the amount of the monies hereby appropriated to the purpose for which such advance shall have been made, remaining unexpended in the hands of the Receiver General, and that every such account shall be supported by Vouchers therein distinctly referred to by numbers corresponding to the numbering of the Items in such account, and shall be made up to and closed on the tenth day of April and tenth day of October in each year, during which such expenditure shall be made, and shall be attested before a Justice of the Court of King's Bench or a Justice

of the Peace, and shall be transmitted to the Officer whose duty it shall be to receive such account, within fifteen days after the expiration of the said periods, respectively.

IX. And be it further enacted by the authority aforesaid, that the due application of the monies appropriated by this Act shall be accounted for to His Majesty, His Heirs and Successors through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct, and that a detailed account of the expenditure of all such monies shall be laid before the several branches of the Provincial Legislature within the first fifteen days of the next Session thereof.

X. And be it further enacted by the authority aforesaid, that this Act shall continue and be in force until the first day of May one thousand eight hundred and thirty-four, and no longer.