

The Provincial Statutes of Lower-Canada, Being the third session of the thirteenth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1830.

10 & 11 George IV – Chapter 3

An Act to provide for the better defence of the Province, and to regulate the Militia thereof. (26th March, 1830.)

Whereas it is expedient to provide by Law for the co-operation of the effective Male population of the Province for its defence in case of War or Invasion, or of the imminent danger thereof, and for the greater security of public order and tranquillity in time of peace:—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 every able bodied male inhabitant of this Province above eighteen years and under sixty years of age, being a British subject and having resided in the Province more than six months, and not being in His Majesty's Naval or Military service, shall be liable to serve as a Militia-man for the defence of the Province, and of the public order and tranquillity thereof, unless specially exempted from such service, by Law.

II. And be it further enacted by the authority aforesaid, that all Clergymen and Religious Teachers, the Members and Officers of the Legislative-Council, of the Assembly, of the Executive Council of this Province, the Judges, Advocates, Sheriffs, Coroners, Constables and Officers of the Courts of Justice, the Secretary of the Governor, Lieutenant Governor or person administering the Government and his assistants, the Secretary of the Province, the Receiver-General, the Inspector General of Accounts, the Surveyor General, the Inspector of the King's Domain, the Grand Voyers of the several Districts of the Province and their Deputies, the Collector, Comptroller and Officers of the Customs, the Post-Master General and his Deputies, Officers in His Majesty's Navy and Army on half-pay, and persons having served as Officers in the Militia before the passing of this Act, Physicians and Surgeons, Notaries, Land Surveyors, Ferrymen duly licenced as such, Millers, Schoolmasters having above twenty scholars in regular attendance, Stewards of Religious Communities, and all Students attending in Seminaries, Colleges, Schools and Academies, and having attended as such Students at least six months previous to the time at which they might otherwise be called upon to do Militia duty, shall be exempt from serving as Militiamen.

III. And be it further enacted by the authority aforesaid, that the Militia of this Province shall be commanded by such Officers as the Governor, Lieutenant Governor or person administering the Government shall appoint; and the persons enrolled therein shall be

formed into companies and battalions in the several Parishes, Townships and extra-parochial places and Counties in which they shall be respectively resident. Provided always that the said Counties be the Counties described in the Act passed at the last Session of the Provincial Parliament, intituled, "An Act to make a new and more convenient subdivision of the Province into Counties, for the purposes of effecting a more equal representation thereof in the Assembly than heretofore."

IV. And be it further enacted by the authority aforesaid, that the proportion of the number of Officers to the number of privates, shall not be greater in the said Militia, than in His Majesty's army, and every Officer in the said Militia shall be resident within the limits of his command.

V. And be it further enacted by the authority aforesaid, that no person shall be an Officer in the said Militia, above the rank of Captain, who shall not be the bona fide proprietor of a real estate of the clear annual value of fifty pounds currency, over and above all debts, charges and incumbrances payable out of, or in any way affecting the same; and no person shall be a Captain or Subaltern officer therein, who shall not be the bona fide proprietor of a real estate of the clear annual value of twenty-five pounds currency, over and above all debts, charges and incumbrances payable out of or in any way affecting the same: Provided always that the sons of persons so qualified, being of such age as to be subject to militia duty and being qualified with respect to residence, may be subaltern officers in the said militia, during the life time of their respective fathers, without being qualified with respect to property, in the manner aforesaid.

VI. And be it further enacted by the authority aforesaid, that the officers of the said militia, shall within the first three weeks in June in every year, enroll all persons liable to serve as militiamen, resident within their respective parishes, townships or extra parochial places, and shall in such rolls set forth the name of every such person, his age, and whether he be married or single.

VII. And be it further enacted by the authority aforesaid, that the officers by whom such enrolments shall be made, shall at the time of making the first enrolment, give sufficient notice to each militiaman of the time and place appointed by law for the ensuing muster.

VIII. And be it further enacted by the authority aforesaid, that the several companies of the said militia, shall muster annually on the twenty ninth day of June, at two hours after sun rise, at or near the Church in their respective parishes or townships, or extra parochial places, or if there is no such Church there, at some other place within their respective townships or extra parochial places, of which sufficient notice shall be given, and a true return of the militiamen present at every such muster, shall be made without delay, to the Governor, Lieutenant Governor or Person administering the Government, by the Commanding Officer of the battalion to which such companies shall respectively belong: Provided always that whenever the twenty-ninth day of June shall happen on a Sunday, the Commanding Officer may if he shall deem it expedient, appoint any day and hour in the

ensuing week for such muster, giving sufficient notice thereof to each militiaman before the said twenty-ninth day of June.

IX. And be it further enacted by the authority aforesaid, that a sufficient number of blank forms of returns shall be forwarded by order of the Governor, Lieutenant Governor or Person administering the Government, to the Commanding Officers of battalions to enable them to make their returns for the several parishes, townships or extra parochial places, included within the limits in which the militiamen composing their respective battalions are resident.

X. And be it further enacted by the authority aforesaid, that in case of war with the United States of America, or of invasion or imminent, danger thereof, it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government, to order out from amongst the Officers of the several Companies of the said Militia throughout the Province, and from amongst the unmarried Militiamen under thirty years of age, a number not exceeding one fifth of the whole, who shall be drawn by ballot, for the purpose of being trained, and shall serve during a time not exceeding six calendar months for the defence of the Province, and for the maintenance of good order and security thereof.

XI. Provided always, and be it further enacted by the authority aforesaid, that every man so called out to be trained and to serve as aforesaid, may in his stead provide a good and sufficient substitute, being a Militiaman in the same Battalion with himself, and subject to the approbation of the commanding officer of the detachment in which he shall have been called out to serve and if such substitute shall be approved and shall agree to perform the duty to which the Militiaman presenting him would otherwise be subject, the said Militiaman shall be discharged therefrom, and the said substitute shall serve in his stead, in the same manner and under the same penalties as if he had himself been balloted for such service.

XII. And be it further enacted by the authority aforesaid, that the Militia so ordered out shall be under the same Rules and Regulations, as at present in force, and shall be paid and provided for, in every respect, as His Majesty's army, but shall not be liable to corporal punishment; and all Courts Martial held for the trial of any person serving in the Militia so ordered out, shall be composed exclusively of Militia Officers, and shall be subject to the same Rules and forms of proceeding as Courts Martial in His Majesty's army.

XIII. And be it further enacted by the authority aforesaid, that all Officers of His Majesty's Navy or Army, serving with the Militia so ordered out, shall be held to be senior in rank to the Officers of Militia of their respective grades.

XIV. And be it further enacted by the authority aforesaid, that all or any part of the Militia in any Parish, Township, extra Parochial place or County, may be ordered out by the civil authority, in execution of the laws, on an order in writing, addressed to the Officer in command in such Parish, Township, Extra Parochial Place or County, or by an order from the

Governor, Lieutenant-Governor, or person administering the Government, in case of the County in which the Militia so ordered out are resident, or the adjoining County, being actually invaded, until such invasion shall be repelled; and the Militia so ordered out, shall be subject to the same rules and regulations as if ordered out, under the provisions of the eleventh Section of this Act.

XV. And be it further enacted by the authority aforesaid, that all persons holding ferries or bridges that may be on the public high roads, shall be held to carry all Militia-men or Officers of Militia, in the execution of their duty as such, and arc on their immediate return from the execution thereof, with any person or persons under their charge or in their custody, and the necessary conveyance over every such ferry, and to permit them to pass over every such bridge :free-of all charges of ferriage or toll whatsoever.

XVI. And be it further enacted by the authority aforesaid, that every Militia man not being at the time ordered out or embodied for actual service, shall for each and every act of disobedience to this Act, or to the lawful commands of a superior Officer, acting in the execution of his duty under the same, on conviction thereof, before any two Justices of the Peace, in Special Sessions convened, and publicly held for that purpose, incur such penalty not exceeding twenty shillings currency, nor less than five shillings currency, as in the discretion of the said Justice shall be proportionate to the nature of the offence, but without any costs against such Militiaman, and if such fine be not paid in eight days after conviction, the said Militiaman shall be by such Justices committed to the common Gaol, until such fine shall have been paid; and such Justices shall without delay transmit the amount of the penalty, when paid, to the Officer commanding the battalion to which such Militiaman shall belong, and such Officer shall enter the same in his return to the Governor, Lieutenant-Governor, or person administering the Government.

XVII. And be it further enacted by the authority aforesaid, that all penalties so received by any Officer commanding a battalion, shall be by him applied to such militia purposes, and shall be accounted for, in such manner as the Governor, Lieutenant-Governor, or person administering the Government shall direct, and an account of all sums so received, and of the manner in which the same shall have been applied, shall be submitted to the two houses of the Provincial Legislature, within fifteen days after the opening of every Session thereof.

XVIII. And be it further enacted by the authority aforesaid, that the due application of all monies so received under the authority of 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 be pleased to direct.

XIX. And be it further enacted by the authority aforesaid, that the foregoing sections of this Act shall remain in force until the first day of May, one thousand eight hundred and thirty-two, and no longer.

XX. 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, in the case of war, or of invasion, or of imminent danger thereof, or in case of the expiration of the foregoing provisions without the substitution of any other, by act of the Provincial Parliament, to call together the Legislature within fifteen days after any Proclamation announcing his intention of so doing, shall have issued.