

At the GENERAL-ASSEMBLY of the Province of *Nova-Scotia*, begun and holden at HALIFAX, on the Sixth Day of *June*, Anno Domini 1770, in the Tenth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great-Britain, France, and Ireland*, King, Defender of the Faith, &c. and there continued by several Prorogations until the Twentieth Day of *October*, Anno Domini 1775, in the Fifteenth Year of His said Majesty's Reign, being the Fifth GENERAL-ASSEMBLY convened in the said Province.

C A P. I.

An ACT in Addition to the several Acts of this Province, made for regulating the Militia, and more particularly an Act made in the Second Year of His present Majesty's Reign, intituled, *An Act for the better regulating the Militia on actual Service in Time of War.*

32. Geo. 2. cap 6.  
2. Geo. 3. 6.  
7.

*W* H E R E A S many and great Inconveniencies may arise for Want of a sufficient Power by Law being granted to the Governor, Lieutenant Governor, or Commander in Chief of the Province for the Time being, to enlist and embody out of the Militia such sufficient and able bodied Persons as are best qualified, and fit for actual Service in Time of Danger.

Preamble.

I. Be it enacted by the Governor, Council and Assembly, That the Governor, Lieutenant Governor or Commander in Chief, for the time being, or any and every Person by him or them for that Purpose appointed, shall and may enlist as Volunteers, and enter into the Service of this Province, or any Regiment of Militia

Governor, &c. or Person by him appointed may enlist Volunteers to serve in Militia.

to be embodied within the same, all and every able bodied person as may be willing to enlist in the said provincial Militia.

No Apprentice or indented Servant to be enlisted.

II. *Provided always*, That no Apprentice, or indented Servant shall be enlisted as a Volunteer in the said Militia.

Governor, &c. may Commission and appoint Officers being Persons resident and Freeholders, to draft by Ballot from the Militia, so many Men as the Governor, &c. shall think necessary.

III. *And be it Enacted*, That the Governor, Lieutenant Governor or Commander in Chief, for the Time being, shall and may commission and appoint such Officer or Officers, as He or They shall think proper (being Persons resident and Freeholders in this Province for at least one Year last before their appointment) to elect and draught by Ballot from the Militia of this Province, so many able bodied Men as the Governor, Lieutenant Governor or Commander in Chief for the Time being, with the Advice and Consent of his Majesty's Council shall from Time to Time think necessary to assist in the Defence of this Province.

Commanding Officer within 48 Hours after receiving Orders, to muster the Regiment or Company (from which Drafts are to be made.)

IV. *And be it also Enacted*, That the Commanding Officer of each and every Regiment, troop or Company of Militia in this Province, or such other Person so commissioned as aforesaid, shall under the Penalty of Twenty Pounds for each and every Neglect or Offence, from Time to Time, and at all Times, upon receiving Orders from the Governor, Lieutenant Governor, or Commander in chief, for the Time being, within Forty Eight Hours after receiving such Orders, order and direct to be warned by a proper or usual warning Officer, the Regiment Troop or Company, from which Draughts are to be made as aforesaid, to be drawn out, muster and appear, at some convenient Place in each Township or District, where such Militia reside, within three Days from the issuing such Orders.

Every Person obliged by Law to serve in the Militia, shall, on Notice, attend the Muster. Penalty £10.

V. *And be it also further Enacted*, That each and every Person, who by the Laws of this Province are obliged to serve in the Militia, upon being warned by a proper or usual warning Officer, either by personal Notice or a written Notice, left at his or their usual Place of Abode, shall personally attend at the Time and Place of muster as aforesaid, under the Penalty of ten Pounds for each and every Neglect or Offence, unless it be made appear upon the Trial, that the Attendance of such Person so notified to muster, was prevented by Sickness or other unavoidable accident.

VI. *And Whereas in the Eighth Section of the Act, made in the Second Year of his present Majesty's Reign, intituled, "An Act for the better Regulating the Militia on actual Service in Time of War." It is Enacted*, "That when any Part of the Militia shall be draughted to march from one Part of the Province or Town to another, on real service, all such Draughts or Detachments shall be made by Ballot from each Company, in exact Pro-  
" portien,

“ portion, according to the Numbers then fit for Duty, which shall be on the Oath of the Captain or commanding Officer, to the best of his Knowledge.” But no Form of the said Oath is prescribed in the said Act; *Be it Enacted*, That before such Ballot shall be made by every such Captain or commanding Officer, he shall take the following Oath, before One of His Majesty’s Justices of the Peace.

“ **I** Do solemnly swear, that I will without Fear, Favour, Affection, Reward or Promise thereof, make a just and true Ballot to the best of my Skill and Knowledge, of all and every able bodied Man, fit and sufficient for actual Service, in the Militia under my Command.”

Oath to be taken by the Officer making the Ballot from each Company for Service.

VII. *And be it also Enacted*, That the Governor, Lieutenant Governor or Commander in Chief, for the Time being, is hereby empowered, and may order such Corps or Body of Militia so to be raised and embodied, to march into any Part or Parts of this Province for the Defence of the same, and there to execute and perform such Duties and Services, as from Time to Time, He or they shall with the Advice and Consent of his Majesty’s Council judge necessary for the Defence and Service of this Province.

The Governor &c. empowered with Advice and Consent of Council to order the Militia to march to any part of the Province for the defence of the same.

VIII. *And be it also further Enacted*, That all and every commissioned and non-commissioned Officer, Drummer and private Soldier, of such embodied Militia, shall receive and be paid as his or their Allowance and Pay, the same Rates, Proportions and Allowances, as are appointed and directed by an Act, made in the second Year of his present Majesty’s Reign, intitled, “ An Act for the better regulating the Militia on actual Service in Time of War,” and also, that each and every Officer in the said Militia so to be embodied, shall receive and be allowed the like, and every such like Rations of Provisions and Allowances as Officers of the like Appointment serving in his Majesty’s Army, and that the aforesaid Rates and Proportions of Monies and Provisions, shall be paid, delivered and accounted for unto all, such commissioned Officers monthly, and unto all and every non-commissioned Officer and Soldier weekly.

Officers, &c. to be paid as by Act of 2d Geo. 3. Cap. 7. and to receive the same Rates and Allowances.

Officers to be allowed the like Rations of Provisions and Allowances as Officers serving in His Majesty’s Army.

IX. *Provided always, and be it Enacted*, That the Governor, Lieutenant-Governor or Commander in Chief, for the Time being, with the Advice and Consent of his Majesty’s Council, and the Field Officers of such Corps, Regiment, Troops, or Companies of Militia so to be embodied, may order and direct, to be retained and stopped such Sum or Sums of Money out of the Allowance and Pay to each and every non-commission Officer, Soldier and Drummer, not exceeding one third of their daily Pay and Subsistence, for purchasing and providing such Cloathing and

The Governor, &c. with Advice and Consent of Council and Field Officers of Militia, to order and direct Stoppages from Non-Commission Officers and Soldiers, not exceeding  $\frac{1}{3}$  of daily Pay for purchasing Cloathing and Necessaries,

and Necessaries, as may be requisite for such Militia, and which Cloathing and Necessaries, shall belong, pertain and be the Property of each respective Person, for whom the same are provided, subject nevertheless to such military Regulations, Laws and Orders, as may be made from Time to Time by the Governor, Lieutenant-Governor, or Commander in Chief for the Time being, with the Advice and Consent of his Majesty's Council, and the Field Officers of such Militia so to be embodied.

Fines and penalties how recovered levied and appropriated.

X. *And be it also Enacted*, That all and every Fine and Penalty that may be incurred by Force or Virtue of this Act, shall and may be recovered upon the Oath of one or more credible Witnesses, before any two of his Majesty's Justices of the Peace (not being Officers of such Corps or Body of Militia, so to be raised or embodied) and the said Fines and Penalties shall be levied by Warrant of Distress or Execution under the Hands and Seals of such Justices, upon the Body, Goods Chattles or Estate, of each and every Delinquent, and that all and every Fine and Penalty levied, recovered and received by Force or Virtue of this Act, shall be paid into the Hands of the Treasurer of this Province, to be expended and laid out for such Military Uses as shall be thought necessary by the Governor, Lieutenant-Governor, or Commander in Chief of this Province for the Time being.

The Militia when embodied, to continue in actual Service so long as may be judged necessary by the Governor and Council.

XI. *And be it also further Enacted*, That the said Militia so to be embodied, and all and every Person that may be draughted or received therein, as aforesaid, shall continue so embodied and in actual Service, from the Time of their being so draughted and embodied, on Occasions of actual Danger, for and during so long a Period and Time, as may be judged absolutely necessary, by the Governor, Lieutenant-Governor, or Commander in Chief, for the Time being, and his Majesty's Council, for the Defence and Service of this Province.

The Governor, &c. and Council may declare Martial Law over the Militia so embodied,

XII. *And be it Enacted*, That the Governor, Lieutenant-Governor, or Commander in Chief, for the Time being, with the Advice and Consent of his Majesty's Council, may declare Martial Law over, and to operate upon, and in the said Corps or Body of Militia, so to be draughted, raised and embodied as aforesaid, and that the Governor, Lieutenant-Governor, or Commander in Chief for the Time being, together with his Majesty's Council, and the Field Officers of such Militia, so to be embodied, as aforesaid, may and are hereby impowered to make, publish and declare all such Laws, Rules and Orders for the military Discipline of such Corps or Body of Militia, so to be draughted and embodied as aforesaid, as they may think just and necessary, for the good Order and Discipline of the same, and that all such

and with the Field Officers to make rules and orders for the military Discipline thereof.

Rules

Rules and Orders so as aforesaid to be made, shall have full Force, and Effect in such Militia, so to be embodied.

XIII. *Provided always, and be it Enacted,* That all and every such Rule and Order so to be made as aforesaid, shall not extend to the Life of any Person, or to the depriving him of his Property, above Forty Shillings, for each and every Offence, to be committed against such Rules and orders so to be made as aforesaid.

Such Rules and Orders not to extend to the Life nor Fine above 40/.

XIV. *And be it Enacted,* That each and every Regiment, Troop, Company or Body of Militia of this Province, so to be drafted, raised and embodied, as aforesaid, and every Part thereof, shall be officer'd and commanded by Persons, who are at the Time of their being appointed, and who have been for at least one Year next before the Time of their being appointed or commissioned, Freeholders and Residents in this Province, and by no other Person or Persons whatsoever.

The Militia so to be raised and embodied to be Officer'd and Commanded by persons who are and have been at least one year Freeholders and Residents in the Province.

XV. *Provided always,* That it shall and may be lawful for the Governor, Lieutenant Governor or Commander in Chief for the Time being, to appoint one proper Person, who shall have served, or shall at the Time of such Appointment actually serve, in some of his Majesty's Forces, to be Adjutant to each Regiment or Corps of Militia, and also one proper Person as a Serjeant to each Company of such Militia, so ordered out on Service as aforesaid.

The Governor &c. to appoint one proper person as Adjutant to each Regiment or Corps of Militia and one Serjeant to each Company.

XVI. *Provided always, and be it Enacted,* That this Act nor any Part thereof, shall be put in Force, or take Effect, but in Times of actual Invasion, Insurrection, Rebellion, sudden Attack from an Enemy or imminent Danger thereof, to be determin'd by the Governor Lieutenant Governor or Commander in Chief, with the Advice and Consent of his Majesty's Council, any thing herein contained to the contrary notwithstanding.

This Act not to be put in Force or take Effect but in times of actual Invasion &c. or Imminent danger thereof.