

did belong. And in case any such offender who shall be convicted as aforesaid, or assisting any such deserter or deserters, of harbouring, or having knowingly received any arms, clothes, caps, or other furniture, belonging to the King; or any hats, shoes, shirts, stockings or other regimental necessaries provided and paid for as aforesaid, without leave in writing as aforesaid; or having caused the colour of such clothes to be changed, contrary to the intent of this Act, shall not have sufficient goods and chattels, whereon distress may be made, to the value of the penalties recovered against him for such offence, or shall not pay such penalties within four days after such conviction; then, and in such case, such Justices may, by warrant under their hands and seals, commit such offender to the common jail; there to remain without bail or mainprize for the space of three months, or cause such offender to be publickly whipped at the discretion of such Justices. *Provided always*, That no commission officer shall break open any house to search for deserters without a warrant from a Justice of the Peace, obtained upon oath made of a desertion, from the regiment to which he belongs, and that there is reason to believe that such deserter or deserters be concealed in the dwelling or out-house in which it is proposed to search for him or them, and into which he the said officer, has been refused admittance. And that every commission officer, who shall without warrant from one or more of His Majesty's Justices of the Peace, (which said warrant the said Justice or Justices are hereby empowered to grant) forcibly enter into, or break open the dwelling-house, or out-house, of any person whatsoever, under pretence of searching for deserters, shall, upon due proof thereof, forfeit the sum of twenty pounds.

Commissioned officers entering houses to search for deserters, liable to a penalty.

## CAP. VI.

## An ACT to amend, and reduce into one Act, the several Laws now in being, relating to a Militia in this Province.

**B**E it enacted, by the Lieutenant-Governor, Council and Assembly, That from and after the publication hereof, every male inhabitant or resident within this Province, from sixteen to sixty years of age, inclusive, shall be enrolled in some independent company, or in one of the regimented companies in the district where he dwells or resides, and the clerk of such company, is hereby required to keep a book for the purpose of registering the names of all persons required by this Act to be enrolled in the Militia, and to make fair entries therein of all such names: such book to be ready at all times for the inspection of the captains or other officers belonging to such company, and every person enrolling himself in any independent company shall continue therein for three years, unless in case of his removal from the county, in which such company may be, or of his being discharged by the captain or officer commanding such company.

For Acts in amendment of this Act, see 36th Geo. 3d. cap. 10, 37th Geo. 3d. cap. 6, 40th Geo. 3d. cap. 18.

Men from sixteen to sixty to be enrolled in Militia.

II. *And be it further enacted*, That the militia shall be formed into regiments by counties; and in case any county shall be sufficiently populous to admit of the regiment being subdivided into two, or more battalions, then, and in such case, the said regiment may be subdivided into battalions, not consisting of less than three hundred men each; that no independent company shall consist of more than fifty four men rank and file; nor any artillery company, (that of Halifax excepted,) of more than thirty two rank and file, and there shall not be more than one independent company in any county, for every battalion of militia in said county; and all regimented companies, those of grenadiers and light infantry excepted, shall be formed by districts in such manner, as that such companies may be assembled as conveniently as possible; that no such company shall consist of less than thirty men, to be commanded by one captain and two subalterns; and when any such company shall exceed sixty men, ad-

Forming of Militia into regiments and battalions.

Forming of companies.

ditional

ditional officers may be appointed thereto, in the proportion of one officer to twenty rank and file, the limits of such district, and the number of men in each of such companies, to be regulated by the field officers, and officers commanding companies, at their meetings herein after directed; and it shall and may be lawful for the Governor, Lieutenant-Governor, or Commander in Chief for the time being, to consolidate the aforesaid independent companies into a battalion or regiment.

Militia Soldier to furnish himself with arms, ammunition, &c.

III. *And be it further enacted*, That from and after the publication of this Act, every militia soldier enrolled, or to be enrolled in any company within this Province, shall provide himself, and continue at all times to be provided, with proper and sufficient fire arms, consisting of a musket, gun, or fuzil, not less than three feet long in the barrel, two spare flints, and twelve charges of powder and ball, suitable to their respective fire arms and to the satisfaction of the commissioned officers of the company, to which he belongs; with all which he shall appear on every day of exercise or training, and other occasions of duty, whereon he may be ordered, under the penalty of forfeiting and paying for the want of a musket, gun, or fuzil, a fine of three shillings, and the sum of six pence, for each and every other appurtenance, with which he shall be unprovided: The fine to be paid by the parents for their sons under age, and under their command, and by masters or heads of families for their domestics or servants, other than servants on wages; and until such arms can be so provided, all such militia soldiers shall appear with the best arms they have or use for exercise, or on duty, such as may be procured for them from his Majesty's stores, or otherwise.

How often Militia must assemble.

IV. *And be it further enacted*, That every regiment or battalion of militia, shall be called out, and assemble, six times in each and every year, that is to say: by companies, four times, and by every regiment or battalion, two times, either entire, or by such detachments as the commanding officers of the respective regiment or battalion, from local, or other circumstances, shall judge fit, and direct; for the purpose of training, disciplining, and improving in martial exercises; the time and place of assembling for the companies, regiments and detachments, to be appointed by the colonel, or commanding officer of the regiment, and arranged on different days, that the field and staff officers may have an opportunity of attending the several companies, detachments and regiments, exercised in detail, in order to introduce uniformity in the manœuvres and discipline of the regiment: And that every independent company shall be called out and rendezvous for the like purposes, six times in every year at least, at such time and place as the captains or commanding officers of such companies shall respectively direct and appoint, of all which several and respective days of rendezvous previous notice shall be given at least three days by warning from a non-commissioned officer; and every field officer neglecting to give orders for such assembling and training, shall forfeit and pay the sum of twenty pounds; and every captain or officer commanding an independent company, and every officer commanding a regimented company, having received orders for such purpose, who shall neglect to call out and discipline his company so many times, and in the manner prescribed by this Act, shall forfeit and pay the sum of five pounds for every offence; which said sums of twenty pounds, and five pounds, shall and may be recovered in any of His Majesty's Courts of Record in this Province, by bill, plaint or information: the one half thereof, shall go to the person prosecuting, and the the other half to be applied as herein after directed; and every person enrolled as aforesaid, who shall refuse or neglect to appear agreeable to the provisions of this Act; when called upon, or appearing under arms, shall refuse or neglect to perform such military duty, as shall be required of him, or shall on the day of muster or training depart from such company without leave from the commanding officer, shall forfeit and pay, for each and every offence, a sum not less than five, nor exceeding ten shillings, unless such person shall have reasonable excuse for non-attendance, to be adjudged by a majority of the commissioned officers of the company, then present.

Field officers neglecting to give orders for assembling to forfeit 20l.

Captains neglecting to discipline their companies to pay 5l.

Persons enrolled, refusing to perform military duties, forfeit ten shillings.

V. *And be it further enacted*, That no established or licenced clergyman shall be liable to any of the provisions of this Act; and that the persons hereafter named shall be exempted from all trainings, except such as shall receive commissions in the militia, viz. The Members of His Majesty's Council; the Members of the Assembly for the time being; the Chief Justice, and Judges of Courts; the Attorney and Solicitor General; Justices of the Peace; high Sheriff; Coroners; all persons who have held commissions, civil or military, under His Majesty; the Secretary; Surveyor General and Treasurer of the Province; Officers of His Majesty's Customs; the Naval Officer and his Deputies; Physicians, Surgeons, and Attornies at Law; constant Ferrymen, (being licenced as such) one Miller to each grist mill; and all persons between the ages of fifty and sixty years, and persons commonly called Quakers, and duly certified as such by their society. *Provided always*, That all persons so exempted from training, shall be, at all times, furnished with arms and ammunition in manner prescribed by this Act, and under the like penalties for neglect thereof; and shall be liable to, and attend, all other duties directed by this Act for persons enrolled in the militia, by themselves, or sufficient substitutes, excepting only the following persons, viz. The Members of His Majesty's Council; the Judges of the Supreme Court; the Secretary of the Province; and persons commonly called Quakers, and duly certified as such by their society, shall not be liable to the duties of watching and warding.

Persons exempted from training

VI. *And be it further enacted*, That if any non-commissioned officer, or private, of any company of militia, shall be guilty of drunkenness, contemptuous behaviour, disobedience of orders, or shall otherwise misbehave himself at any muster or training, in such case it shall and may be lawful for the officers commanding the company to cause such person so offending to be immediately apprehended and committed to the county goal, for a time not exceeding three days, nor less than twelve hours: there to remain without bail or mainprize; and the captain, or officer commanding such company, shall, with the person to be committed, send to the Sheriff of the county, or his goaler, a warrant under his hand and seal, for the receiving and keeping the said offender, in the words following, that is to say:

Punishment of persons guilty of drunkenness or misbehaviour.

To A. B. Sheriff of the County of                      or to his Goaler.

You are hereby required to receive C. D. of my company, who was guilty of                      on the day of                      in the year of our Lord 17                      at a muster (or training) and him closely confine in your goal for the space of                      hours, from the time of his being delivered into your custody, and, at the expiration whereof, you are to release the said C. D. on his paying your fees, and this to you, or either of you, shall be your sufficient warrant.

And on refusal or neglect of the said Sheriff, or Goaler, to receive such person so committed into his custody, he shall forfeit and pay the sum of five pounds for each and every offence; and the serjeant or corporal, who shall be ordered by the officer commanding the said company to escort the said offender to goal, shall, in case of neglect or refusal, be reduced to the ranks, and shall for each and every such offence forfeit and pay the sum of forty shillings; and each and every private, who shall be ordered by the commanding officer as aforesaid, for the purpose of escorting the said offender as aforesaid, who shall neglect or refuse to do the same, shall forfeit and pay the sum of ten shillings.

VII. *And be it further enacted*, That there shall be an adjutant appointed to each regiment, or battalion, in the Province, whose duty it shall be to attend at the place of assembling each company, regiment, and detachment of the regiment, when called out as aforesaid, then and there, under the direction of the officer commanding, to inspect their arms, ammunition and accoutrements, to superintend their exercise and manœuvres, and introduce a proper system of military discipline, agreeable to such orders as he shall receive from time to time from the

Appointment of Adjutant for each regiment, and his duty.

Allowance to Adjutant, while employed.

colonel, or commanding officer, of the regiment, and to do and perform such other duties and services, suitable for an adjutant, as the colonel, or commanding officer of the regiment, shall from time to time order and direct; and that every such adjutant shall be allowed, as a full compensation for all the services he is required to perform by this Act, the sum of five shillings by the day, for every day he shall be actually employed in the exercising and manœuvring as aforesaid, to be paid out of the Provincial Treasury, by warrant from the Governor, Lieutenant-Governor, or Commander in Chief for the time being, on the certificate of the field officer, and a majority of the captains of the regiment or battalion, that such adjutant is duly qualified, and has faithfully performed the services prescribed by this Act. *Provided always*, That no one adjutant be allowed more than fifteen pounds in any one year.

Appointment of Sergeants, Corporals and Clerks.

VIII. *And be it further enacted*, That the captain, or officer commanding each company, shall, and is hereby fully impowered to, nominate and appoint proper persons to serve as sergeants, corporals, and clerks, in the respective company, which such captain or officer commands and to displace them, and appoint others in their room, as he shall see occasion; and if any person so appointed, shall refuse to accept such appointment, he shall forfeit and pay a fine of forty shillings, and another shall be appointed in his room, who, in case of refusal, shall be liable to the same fine, and so on, until one do accept.

Clerk to take the following oath.

IX. *And be it further enacted*, That all clerks of companies, before they enter on the execution of their duty, shall take the following oath, viz.

I do swear truly to perform the office of clerk of the militia company under the command of A. B. to the utmost of my skill and power in all things appertaining to my office, according to law. So help me God.

Duties to be performed by the Clerk.

And the duties of clerks of companies shall be to keep registers of their respective companies, to notify such non commissioned officer or officers, as shall be appointed by the officers commanding companies, to warn the men for training, and all other duties prescribed by this Act, to take lists of such companies as often as required by the officers commanding them, to attend commissioned officers making inspection of arms, to attend all musters, and to prosecute for all offences, and sue for all penalties incurred by this Act, when so ordered by the officers commanding such company or regiment, and such clerk shall be allowed and paid one fourth part of all fines and forfeitures he shall recover by virtue of this Act, as a reward for his trouble, in doing the duties enjoined thereby.

Removal of Drummers and Fifers.

X. *And be it further enacted*, That when any person shall be enrolled as drummer or fifer in any company, he shall remain in such company, notwithstanding he may not reside in the district which composes the same. *Provided*, That no drummer or fifer shall be obliged to serve in any company, but in the town where he resides, unless ordered on a march.

Of returns of the Militia.

XI. *And be it further enacted*, That twice in every year, viz. on or before the last day of March and November, the colonels, or other officers commanding regiments or battalions, and the officers commanding independent companies, shall make out and transmit to the Adjutant-General, at the Secretary's office in Halifax, for the information of the Governor, Lieutenant-Governor, or Commander in Chief, returns of the strength of their regiments, battalions or companies, and also returns of arms; and all captains, or officers commanding regimented companies, are hereby required to make out and transmit to the officers commanding the regiment or battalion to which such companies belong, twice in every year, viz. on or before the fifteenth day of March and November, annually, and as often further as required by the commanding officer of the regiment, returns of the strength of their respective companies, with fair rolls thereof, and also returns of arms: all forms of returns prescribed by the Adjutant-General to be uniformly adopted; and any officer guilty of wilfully making any false returns

returns, shall be cashiered by the sentence of a general court-martial, to be appointed as is hereinafter directed, and shall moreover be liable to a fine not exceeding twenty pounds.

XII. *And be it further enacted*, That the colonel, or officer commanding any regiment or battalion, shall, twice in every year (besides the usual times of training,) order an inspection of the arms, accoutrements and ammunition, of the several companies under his command, to be made at one and the same time, by one subaltern from each company, attended by the clerk thereof, and by calling on each and every man of the said company, at the usual place of his or their abode; which subaltern, shall make an exact return of such arms, accoutrements and ammunition, describing the state and condition thereof; and every person required by law to be provided with arms, accoutrements and ammunition, who shall, at such inspection, have such arms in unserviceable condition, or shall be deficient in any of the appurtenances prescribed by this Act, shall forfeit and pay for each deficiency, the like sum as if such deficiency had happened at a muster or training.

Inspection of Arms, &c.

XIII. *And be it further enacted*, That if any person shall wilfully interrupt any company or detachment of militia at exercise, or on any duty prescribed by this Act, it shall and may be lawful for the officer commanding such company or detachment, to confine such person during the time of such exercise or duty, (if necessary,) to prevent the continuance of such insult or wilful interruption; and the person so offending shall forfeit and pay the sum of ten shillings, for each and every offence.

Penalty for such as interrupt Militia when at exercise.

XIV. *And be it further enacted*, That when any person enrolled in the militia, shall make it appear to the colonel, or officer commanding the battalion, and captain, or officer commanding the company to which such person may belong, that by reason of sickness, accidental or natural infirmity, he is unable to perform the military duties required by this Act; that it shall and may be lawful for such colonel, and captain, or officers, to give such person a certificate thereof, which certificate shall exempt such person from such duties during the continuance of his disability, and in case such colonel, and captain, or officers commanding such battalion and company, shall judge it necessary to have the opinion of some able surgeon or physician, as to the disability of the person claiming an exemption from military service as aforesaid; that it shall and may be lawful for such colonel, captain or officer, to apply to any able physician or surgeon, residing within the county or district to which such battalion belongs, for his opinion, on the complaint and disability of the person claiming exemption as aforesaid: which opinion the said physician or surgeon is hereby required to give forthwith, without fee or reward, under penalty of forfeiting, for every offence, the sum of forty shillings.

Of persons claiming exemption from duty, by reason of sickness, &c.

Surgeon obliged to give his opinion of such complaint.

XV. *And be it further enacted*, That the colonel, or officer commanding any regiment or battalion, shall, once in every year, within the first fourteen days of the month of March, and as often further as, with the advice of three captains of his regiment, he shall judge fit, require the captains, and officers commanding companies, to meet at such time and place, as he shall appoint, and there, with them, confer and take order for the better regulation of their companies, for establishing and altering the limits of districts, and prescribing the number of men in each company; appropriating such fines as by this Act are to be applied to the service of the regiment; and to make such rules and regulations as to them, or the major part of them, may seem meet, for the promotion of subordination and military discipline in the regiment or battalion to which they belong, and all officers shall yield obedience to the warrants or commands of their superior officers, and shall observe such regulations, being in writing, as may be made at the meetings herein prescribed, under penalty not exceeding five pounds, to be adjudged at the next meeting as aforesaid. *Provided always*, That no officer shall be bound by any regulation, regarding his dress or appointments, unless two thirds of all the commissioned officers of the regiment or battalion shall have concurred thereto. *And provided also*, That an account of all fines, with their appropriations, as aforesaid, shall, from time to time, be rendered

Officers commanding companies to confer for the better regulation of their companies.

Dress of the Officers.

Account of the Fines.

to the Secretary's office, by the colonels, or other officers commanding regiments or battalions, and by the officers commanding independent companies, and subject to the like penalty for defaults; and that no rule or regulation, made at any of the aforesaid meetings (excepting only such as may relate to the establishing the limits of districts, and numbers of men in each company, or to the appropriation of fines) or any warrant or command thereupon, shall be of any force or validity, till the same shall have been transmitted to the Governor, or Commander in Chief, and shall have received his approbation.

*And whereas there are sundry militia officers holding commissions, who, by removing from one district to another, or, from other circumstances, are not attached to any particular regiment or company:*

Officers removing, to do duty where they reside

XVI. *Be it enacted*, That such officers shall not be obliged to do duty in any situation under the rank to which their commissions entitle them, but shall nevertheless hold themselves in readiness to join companies, or to do duty according to their rank, when ordered by the officers commanding in the counties where they reside, and in case of neglect or refusal, shall be considered as having resigned their commissions. *Provided always*, That nothing contained in this clause, shall extend, or be construed to extend, to any person who, having received a commission in the militia, shall have resigned the same.

Calling of the Militia into actual service.

XVII. *And be it further enacted*, That the Governor, or Commander in Chief, shall be, and he is hereby authorized and empowered in case of any invasion or sudden attack made, or threatened, by his Majesty's enemies, to call out the militia of the several counties, or any part thereof, into real service, as he, in his discretion, shall think fit; and that the militia, or any part thereof, so called into real service by virtue of the provisions in this Act, shall and may be ordered to march from one county or part of the Province to another, on any necessary service, occasioned by any such invasion, or sudden attack made, or threatened.

Commanding Officer for the time, if occasion require, to order militia on service, and empowered to impress men, horses, boats, carts and waggons that may be wanted.

XVIII. *And be it further enacted*, That in case of any invasion, or sudden attack, made, or threatened to be made, as aforesaid, in any county where the Commander in Chief cannot be immediately consulted, the commanding officer of the militia in such county shall have power, if he in his discretion shall think it absolutely necessary, to call out the militia of such county, or any part thereof, into real service; and in case of any such invasion, or sudden attack being made, or threatened to be made, in any town, parish or district, in any county where the colonel or commanding officer of the militia of such county cannot be immediately consulted, the officer commanding the militia in such town, parish or district, shall have power, if he in his discretion shall think it absolutely necessary or expedient to call out the militia under his command, or any part thereof, into real service, and such officer last mentioned, shall forthwith report his proceedings, and the reasons and grounds thereof, to the colonel, or commanding officer of the militia of the county, who is hereby empowered and required, in case he shall call out, or continue in real services, any part of the militia under his command, forthwith to dispatch, if necessary, an express to the Governor, or Commander in Chief for the time being, notifying the danger, and the strength and motions of the enemy; and the said colonel, or commanding officer, is hereby empowered to impress men and horses, boats, carts or waggons, as the service may require; and all expresses so ordered, and the men so impressed, or owners of such horses, shall be allowed a reasonable compensation for such service, to be paid out of the Provincial Treasury, by warrant from the Governor, Lieutenant-Governor, or Commander in Chief for the time being, with the advice of His Majesty's Council, and on certificate of such colonel, or commanding officer, and two captains of the militia of such county, that such expenses have been justly incurred.

Compensation for such impress.

Duty of Militia when called into service to be re-

XIX. *And be it further enacted*, That when, in consequence of the order of the Commander in Chief, or in the cases herein before mentioned of the colonel or officer commanding the militia

militia of any county, shall be called into real service in the county to which they belong, all duties to be performed, except in cases of great emergency, shall be regulated by rosters, to be kept of the militia fit for duty, so that such service may be equitably distributed; and every officer, or person enrolled in the militia, so called into actual service, is hereby bound and required to yield obedience to all lawful commands of his superior officers for mounting guards, erecting works, and other military services; for repelling, resisting, or guarding against the attacks of the enemy, under penalty of incurring the forfeitures appointed by this Act, for disobedience of orders.

XX. *And be it further enacted*, That if any officer, or non-commissioned officer or soldier of the militia, under arms on real service, on a march, or on guard, or that shall be ordered for any of the above mentioned duties, shall disobey orders, or neglect doing his duty, or shall shew any contemptuous behaviour towards his superior officers: if an officer, he shall, on conviction thereof before a general court martial, to be constituted and appointed as herein after is directed, be cashiered by the sentence of such court martial; if a non-commissioned officer, or soldier, he shall be confined by the commanding officer of such party or guard; and it shall be lawful for the commanding officer of the regiment, or any party or detachment not under the degree of a captain, to order a regimental court martial to be forthwith held for the trial of such offender, the said court martial to consist of one captain, and two subalterns at least, but when they can be had, of one captain, and four subalterns; who may give judgment by laying a fine on such offender, in any sum not exceeding forty shillings, which fine, so ordered by the court-martial, if he neglect or refuse to pay, the said offender shall be committed to the county goal, for any time not exceeding ten days. *Provided nevertheless*, That no sentence of a regimental court martial shall be put into execution until approved by the commanding officer of the regiment, or of the detachment where the crime may have been committed; and no officer being the accuser shall sit as a member.

XXI. *And be it further enacted*, That if any officer, non-commissioned officer or soldier, of the militia, shall, in the field, upon a march, or in quarters on actual service, begin, excite or join in, any mutiny, or knowing of such mutiny begun or intended, shall not give information thereof to his commanding, or other superior officer, or shall not, when thereunto ordered, use his utmost endeavours to suppress such mutiny, or shall desert the troop, company or command, to which he belongs, or shall disobey orders, if a commissioned officer, he shall be put under arrest by any superior officer, if a non-commissioned officer or soldier, he shall be committed to the next county or other goal as soon as convenient, by warrant under the hand and seal of the officer commanding the regiment, company or detachment, to which such person, so offending, shall belong, and it shall and may be lawful for the Governor, Lieutenant-Governor, or Commander in Chief of the Province for the time being, to order a general court martial, by warrant under his hand and seal, for the trial of such offender, as speedily as the service will admit, which court martial shall not consist of a less number than thirteen commissioned officers of the militia, and the president of such court martial shall not be under the rank of a field officer, and there shall be as many captains as conveniently can be had, the eldest subalterns to make up the number, and that such court martial shall have power to administer an oath to any witness, in order to the examination or trial of the above offences, that shall come before them.

XXII. *And be it further enacted*, That such general court martial shall have power to punish with death, or otherwise, by fine, or imprisonment, in proportion to the enormity of the offence, the fine not exceeding one hundred pounds, or imprisonment not more than twelve months. *Provided always*, That the power of punishing with death shall be limited to the offences of mutiny and desertion only. *And provided always*, That in all trials by general court martial every officer, before any proceedings be had, shall take the following oath, and the Judge Advocate is hereby authorized to administer the same, viz. I.

regulated by rosters except in cases of great emergency.

Men enrolled to obey superior officer.

Punishment of persons disobeying the orders of their superiors.

Forming Court Martial for trial of Mutiny, Desertion and disobedience of order.

Power of Court Martial in cases of Mutiny and Desertion, and to punish other offences.

Oath to be taken  
by Members of  
the Court.

I A. B. Do swear, that I will duly administer justice, according to the laws of this Province now in force for the better regulating the militia, without partiality, favour or affection ; and I further swear, that I will not divulge the sentence of this court until it shall be approved by His Majesty, or some person duly authorized by him ; neither will I, upon any account 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.

No sentence of  
death to be given  
unless twelve  
concur.  
Appointment of  
a Judge Advocate.

And no sentence of death shall be given against any offender, by such general court martial, unless twelve officers present shall concur therein ; and the Governor, Lieutenant-Governor or Commander in Chief, shall have power to appoint any one of His Majesty's Justices of the Peace for said Province, or other fit person, to act as Judge Advocate at any such general court martial. *And provided always,* That the Judge Advocate, previous to any proceedings had on the trial of any prisoner, take the following oath, to be administered by the president of the court martial to wit :

Oath to be taken  
by Judge Advocate.

I A. B. do swear, that I will not 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 that no sentence of such general court martial shall be put in execution before the same be approved by the Governor, Lieutenant-Governor, or Commander in Chief for the time being.

Of able bodied  
volunteers.

XXIII. *And be it further enacted,* That whenever the Governor, or the Commander in Chief for the time being, shall, in consequence of any invasion or attack made, or threatened as aforesaid, think it expedient to order a proportion of the militia of any county, to march out of such county on real service, that all volunteers, who offer themselves for such service, (being able of body in the opinion of the field officers of the regiment, to which such volunteer or volunteers belong,) shall be accepted therefor, and being so accepted, shall be subject to all the provisions of this Act, as though they had been draughted by ballot, the remainder of the proportion of said county to be ballotted for as herein after directed ; and every person so accepted as a volunteer from any independent company, or regimented company, of the militia, shall have the privilege of exempting from balloting, for that especial service, so many men belonging to the same, or any other company or companies of the militia of said county, as shall amount to his proportion of the number ordered from such county ; and such men shall be exempted from balloting for that special service as aforesaid, in the companies to which they respectively belong, on producing a certificate from any officer ordered for service out of the said county as aforesaid, that such volunteers have been accepted to serve for such men.

Mode of balloting.

XXIV. *And be it further enacted,* That all ballots shall be in exact proportion to the number of men fit for duty in each company, who have not been already draughted for service, or who be not exempt by certificate, as herein before directed, from balloting for that especial service ; and where any emergency shall render it impracticable to assemble any company for the purpose of balloting, such balloting shall be made by the officer commanding such company, in presence of one of His Majesty's Justices of the Peace, and two other credible persons not belonging to the said company, who shall be upon oath : and each and every person so draughted shall go in his own proper person, or find a sufficient substitute, to be approved of by the officer commanding the detachment, or field officer of the regiment in his room ; and in case of neglect or disobedience herein, he shall be confined by the commanding officer, and shall pay a fine of ten pounds, or remain in goal three months, and another man shall be draughted as aforesaid, to march in his place, who shall have the whole of the said fine, if he shall not refuse or neglect to go, or find a sufficient substitute in his room as aforesaid : but if he shall also neglect, or refuse, then he shall be subject to the like fine or imprisonment, and a further draught shall be made of another man, who shall have the whole of



of the fine last mentioned, if he shall not neglect or refuse to go, or find a sufficient substitute in his room as aforesaid, and so often as such case shall happen. *Provided always, and it is hereby declared,* That the rest of such fines, if more than one, shall accumulate and be recoverable to the use of the regiment, to which such draughts belong. *Provided also,* That in case any part of the militia in any county shall be called not more than once within four years, no person who has been once draughted as aforesaid, and shall have served, shall be again draughted, until all the others belonging to the same company, who are not exempted by volunteers serving for them, shall have been draughted, and shall have served in their turns also. *Provided always,* That no person commonly called quakers, and duly certified as such by their society, shall be liable to the foregoing fine; but in case of such quaker being draughted as aforesaid, and refusing to serve or procure a substitute as aforesaid, it shall and may be lawful, for the captain or officer commanding the company, to which such quaker belongs, to procure and hire a substitute for such quaker, and such quaker shall be liable to pay the expence of such hiring, to be recovered before any two of His Majesty's Justices of the Peace; and provided the same shall not exceed the sum of ten pounds.

Servitude of the men of each battalion or regiment.

Quakers being drafted and refusing to serve to pay for a substitute.

*Whereas the people called quakers are exempted from meeting with the militia on the several days of training by this Act; and whereas it is but just and right those people should contribute to the public service of the country:*

XXV. *Be it therefore enacted,* That every person, under the aforesaid description, from the age of twenty one years, to the age of fifty years, shall, yearly, during the continuance of this Act, work for the space of four days on the public highways, under the direction of the overseers of the highways in the district to which he belongs, over and above the time he is, by any other Act of the Province, bound to work; or shall pay the sum of three shillings for every day he shall neglect so to work, to be recovered before any one of His Majesty's Justices of the Peace.

Quakers liable to work on the roads.

XXVI. *And be it further enacted,* That when any part of the militia shall be ordered to march from one part of the Province to another, on real service as aforesaid, or shall be called out as aforesaid, to do actual duty, on real service, within any town or county in this Province, (otherwise than by mounting ordinary guards, for the defence of any place in such town or county) there shall be allowed and paid to the commissioned, and non-commissioned, officers, drummers, fifers and private men, for so long a time as they shall remain on such service, at and after the same rates following: that is to say, to the commissioned officers, at and after the same rate as officers of the like rank in His Majesty's troops; to every serjeant two shillings and two pence per day; to every corporal, one shilling and six pence per day; to every drummer, and to each fifer, one shilling and six pence per day; to every private man, one shilling and three pence per day, together with the like allowance of rations of provisions of all kinds, as are distributed and allowed to His Majesty's regular forces, and subject to the like deductions therefor.

Payment of Militia, when called out, (except for ordinary guards, where they reside.)

XXVII. *And be it further enacted,* That in any county, exposed to the attacks of an enemy by water, it shall and may be lawful for the General Sessions of the Peace, on presentment of the Grand Jury of such county, to assess such sum or sums, as may be so presented, for the providing one or more armed boats, for the defence of such county or township; such boat or boats to be under the direction of the officer commanding the militia in such county, until by the sessions, and on presentment of the grand jury aforesaid, such boat or boats shall be judged no longer necessary; when they shall be at the disposal of such sessions, on the presentment of said Grand Jury, for the benefit of such county.

Manner of furnishing armed boats, in places exposed to attack by water.

XXVIII. *And be it further enacted,* That whenever the colonel, or commanding officer of the militia in any county, where such boats are provided, shall find it necessary to order the boats,

What is required of the militia when ordered on service in boats.

boats so provided, or any other boats or vessels with which he may be furnished, to proceed in repelling the enemy, or to the assistance of any neighbouring district or place, or to be stationed as a watch for the defence of any such place, the militia of such county, shall, on the orders of such commanding officer, proceed in such boats accordingly. *Provided always*, That the officer commanding the party of militia on board such boat or boats, shall have the command also of such boat or boats, and that the militia shall not be obliged to proceed more than three leagues from the land when so ordered.

Muster roll of independent companies, to be rendered: and to whom.

XXIX. *And be it further enacted*, That every captain, or officer commanding an independent company, shall thrice a year, if thereunto required, deliver a copy of His muster roll to the colonel, or commanding officer of the regiment or battalion of the county, where such independent company may be, and in case of the militia in such county, or any part thereof, being called into actual service on account of any invasion or sudden attack made, or threatened to be made, by His Majesty's enemies every such independent company shall, in the absence of the Governor, or Commander in Chief of the Province, or until otherwise ordered by him, be under the immediate command and direction of the colonel, and, in his absence, of the next commanding officer of such regiment.

Disabled men to be taken care of at the expense of the Province.

XXX. *And be it further enacted*, That if any person be wounded or disabled upon any invasion or attack of the enemy, he shall be taken care of at the expense of the Province, during the time of such disability.

*And whereas arms and accoutrements have been issued from His Majesty's stores, for the use of some of the militia, in several parts of this Province; and it is necessary to provide for the security of these arms and accoutrements, or such as may hereafter be issued on any occasion:*

Of the issuing of Arms, &c.

XXXI. *Be it further enacted*, That such arms so issued, or which may hereafter be issued, shall be branded distinctly on the broad part of the butt, with the letter M. and the name of the county to the militia of which they are issued (such brand to be provided by the Treasurer of such county) and delivered to the officer commanding the militia thereof, and all captains, or other officers commanding companies, shall be, and are hereby made responsible (except in case of unavoidable accident) for the safe keeping, and return, if called for, of such arms and accoutrements as were issued to the men in their respective companies, or may hereafter be so issued; and such captains, or officers commanding companies, are hereby empowered and required, to take into their possession all such arms and accoutrements, except where the persons to whom they have been issued shall give unexceptionable security for the safe keeping and return of the said arms and accoutrements, in which case such persons shall be intitled to keep possession of such arms and accoutrements, while they remain in the township in which such company may be; and, in case of the removal of any such persons from one company in said township to another, their security shall be transferred to the officer commanding the company to which such person shall remove, who shall give a receipt for such arms, accoutrements, which receipt shall exonerate the captain, or officer commanding the company from which such person removed, from his responsibility for such arms and accoutrements, which shall then attach to the captain, or officer commanding the company into which such person shall remove; and if any person having such arms or accoutrements in his possession, shall vend, pledge, or exchange, the same, or any part thereof (without leave of the officer commanding the company, to which such person belongs) or shall convey, or cause the same, or any part thereof, to be conveyed out of the township to the militia of which such arms and accoutrements were issued, (except when ordered on real service); or shall convey, or cause the same to be conveyed, on board any boat, ship or vessel, with intent to have the same carried out of the county, or Province;

vince; or if the master of such boat, ship or vessel, shall wilfully receive into his boat, ship or vessel, any such arms or accoutrements so intended to be conveyed out of the Province, every person so offending shall, for each and every offence, forfeit and pay the sum of ten pounds: and all fines, recovered by virtue of this clause, shall be applied to the purpose of defraying the expences incurred in repairing such arms and accoutrements, and making good any deficiency, which, from unavoidable accident, may have happened, in such arms and accoutrements; the overplus, if any, to be appropriated as other fines incurred by the provisions of this Act.

Application of the above fines.

XXXII. *And be it further enacted,* That the Governor, or Commander in Chief of the militia for the time being, is hereby impowered to cause alarm posts, and signals, to be established, when and so often as he may think it necessary in time of war, in any place or places of this Province; and all orders received from the Governor, or Commander in Chief, or by the officer appointed by him for this purpose, shall be punctually obeyed, under the penalty of incurring the forfeiture incurred for disobedience of orders; and every person or persons who shall wilfully make, or cause to be made, any false alarm, shall forfeit and pay, for every and each offence, the sum of fifty pounds.

Governor to establish Alarm Posts and Signals.

Persons making false alarms to forfeit Fifty Pounds.

XXXIII. *And be it further enacted,* That when the militia of this Province, or any part thereof, shall be ordered to march from one district to another, it shall and may be lawful for the Justices of Peace, inhabiting in, or near any town, village or place, into, or through, which such militia shall arrive or pass, to quarter and billet the officers and soldiers of the militia, so on their march as aforesaid, in inns, taverns and ale-houses, and where there shall not be found sufficient room in the inns, taverns and ale-houses, then to quarter and billet the remainder of such officers and soldiers of the militia as aforesaid, in the houses of persons selling spirituous liquors by retail, and in the houses of persons who have, within one month previous to the marching of such militia, kept an inn, tavern or ale-house; and all persons on whom the militia shall be quartered and billeted as aforesaid, shall, and are hereby required to, furnish the said officers and soldiers, so billeted on them as aforesaid, with lodging, and good and sufficient provisions, consisting of bread, flesh and vegetables; and the officer commanding each, and every, detachment of militia, so quartered and billeted as aforesaid, shall give to the person or persons on whom they shall be so quartered and billeted, receipts, or certificates, of the number of meals furnished to his detachment, which receipt shall entitle such person or persons to receive from the treasury of the Province, six pence for every meal, so to be furnished as aforesaid, and one penny for every night's lodging so to be furnished, the same to be drawn for by warrant on the treasury, by the Governor, Lieutenant-Governor, or Commander in Chief for the time being, with the advice of His Majesty's Council; and if any officer shall give any receipt, or certificate, for any greater number of men than he has then actually present with him, or for a greater number of meals of provisions, or nights' lodging, than has actually, and *bona fide*, been by him received for the use of his detachment or command, such officer, on conviction thereof before a general court-martial, shall be cashiered, and shall moreover forfeit and pay a fine of fifty pounds: to be recovered by bill, plaint or information, in any of His Majesty's Courts of Record in this Province: one half whereof shall go to the informer, and the remainder be paid into the treasury of the Province, for the use of the Province.

Billeting of Officers and Soldiers on a march through the Province.

Recovery and application of all Fines.

XXXIV. *And be it further enacted,* That all fines and forfeitures incurred by this Act, not exceeding three pounds, shall be recovered before any one of His Majesty's Justices of the Peace, not being an officer of the company in which such fines shall be incurred; and it shall not be lawful for the Justice, before whom such fines and forfeitures shall be recovered, to accept or take any fees for doing the duties enjoined by this Act, on his own account: and all other fines and forfeitures, above three pounds, shall be recovered in any of His Majesty's Courts of Record within this Province, unless the recovery of the same be otherwise provided

for by this Act. *Provided*, That no person or persons whomsoever shall be prosecuted by virtue of any clause in this Act, for any breach thereof, after the expiration of three months from the commission of the offence; and all fines, penalties and forfeitures, arising by virtue of this Act, not otherwise disposed of therein, shall be for the use of the regiment or independent company respectively, wherein the same doth arise, and payable; and the officer commanding such regiment or independent company; that is to say, for the procuring and repairing arms, drums, colours, pay of drummers, and other charge of the said regiment or independent company, and the overplus, if any be; to be laid out for arms and ammunition, for the use of such regiment or independent company.

Officers commanding companies to read this Act at their head once a year, under penalty.

XXXV. *And be it further enacted*, That this Act shall be read once every year by the officers commanding companies, at the head of their respective companies, on pain of such commanding officer forfeiting for every offence, the sum of five pounds.

All former Acts, respecting Militia, repealed.

XXXVI. *And be it further enacted*, That an Act, made and passed in the thirty-second year of His late Majesty's reign, entitled; An Act for establishing and regulating a militia; and also an Act, made and passed in the thirty-second year of His present Majesty's reign, entitled, An Act for the better regulating a militia in time of war: together with all the additions to, and amendments of, the said recited Acts, shall be, and the same are hereby, repealed; and the militia, raised by virtue of the said former Acts, shall be subject to all the provisions and regulations herein contained in lieu thereof.

Continuance of this Act.

XXXVII. *And be it further enacted*, That this Act shall continue, and be in force, to the first day of July, one thousand seven hundred and ninety six, and until the end of the next Session of the General Assembly, and no longer.

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CAP. VIII.

Expired.

An ACT to provide for the Summary Trial of Actions, heretofore vested in His Majesty's Justices of the Peace, in the Town and Peninsula of Halifax.

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