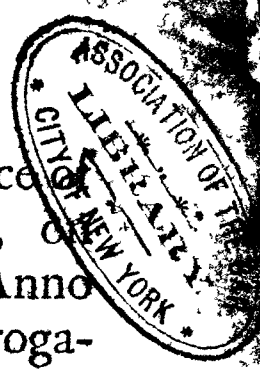


APR 15 1808

ANNO quadragesimo octavo GEORGII III. C. I.



At the GENERAL ASSEMBLY of the Province Nova-Scotia, begun and holden at Halifax, on Tuesday the Eighteenth day of November, Anno Domini, 1806, and continued by several Prorogations to Thursday the Nineteenth day of May, 1808; in the Forty-Eighth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God of the United Kingdom of Great-Britain and Ireland, KING, Defender of the Faith, &c. &c. being the Third Session of the Ninth General Assembly, convened in the said Province.*

* In the time of Sir George Prevost, Baronet, Lieutenant Governor; S. S. Blowers, Chief Justice and President of Council; L. M. Wilkins, Speaker of the Assembly; M. Wallace, Acting Secretary of the Council; and James B. Francklin, Clerk of Assembly.

CAP. I.

An ACT to provide for the greater Security of this Province by a better regulation of the Militia, and to repeal the Militia Laws now in force.

BE it enacted by the Lieutenant-Governor, Council and Assembly, That every man residing, or who shall come to reside, within this Province, from sixteen to sixty years of age (excepting such as are herein after excepted) shall be enrolled in the Militia, and be bound to serve in the militia of the county, district, town or place wherein he resides.

Persons liable to do militia duty.

II. And be it further enacted, That the militia shall be formed into regiments by counties or districts, being divisions of counties; and if any such county or district shall be sufficiently populous to admit of the regiment being subdivided into two or more battalions, it shall be lawful for the Governor, or Commander in Chief, to subdivide the said regiment into battalions, to consist of not less than three hundred nor more than six hundred men each, and to affix the limits of the district composing such battalions; and all regimented companies, (flank companies excepted) shall be formed by districts in such manner as that such companies may be assembled as conveniently as possible; and each company shall consist of not less than forty men, to be commanded by one captain and two subalterns, and when it shall exceed sixty men, additional officers may be appointed thereto, in the proportion of one officer to twenty rank and file, and the field officers, and officers commanding companies, at their meeting, herein after directed, shall regulate the limits of the company districts, and the number of men to be enrolled in each company; and the clerk of the company is hereby required to register in a book, to be provided and kept by him for that purpose, the names of all persons belonging to

Formation of Militia into regiments, &c.

Register of each company to be kept.

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to such company, which book is to be ready at all times for the inspection of the Captain and other officers of the company.

Militia in small settlements.

III. *Provided always, and be it further enacted,* That in harbors and settlements where the persons liable to serve in the Militia are not so numerous as to form a complete company, it shall be lawful to form the same into smaller companies, and if they shall not amount to more than twenty men then only one officer shall be appointed for such company; and if more than twenty and not exceeding thirty, only two officers shall be appointed to such company.

Two flank companies to each battalion, Halifax excepted.

IV. *And be it further enacted,* That there shall not be more than two flank companies to any battalion of Militia, which flank companies shall consist of light infantry or rifle men only, (except the battalion at Halifax, in which a grenadier company is already formed); and such flank companies shall be composed of such numbers as the Governor, Lieutenant-Governor, or Commander in Chief shall think proper to determine.

Artillery companies.

V. *And be it further enacted,* That it shall be lawful for the Governor, Lieutenant Governor or Commander in Chief, to establish one or more artillery companies in any county or district in the Province, and to limit the numbers of which such company shall consist, and all persons who are now enrolled, or shall hereafter enrol themselves to serve, either in the artillery companies, or in the grenadier company of the battalion at Halifax, or in any light infantry or rifle company of any regiment or battalion of Militia in this Province, shall continue in such company for three years from the date of his enrolment, unless in case of removal from the county or district, or being discharged by the commanding officer of such company.

Servitude of volunteers.

Cavalry.

VI. *And be it further enacted,* That it shall be lawful for the Governor, Lieutenant Governor, or Commander in Chief, to establish one or more troop, or troops of cavalry, in any county or district in this Province, and to limit the number of officers and men of which such troop shall consist, and all persons who shall enrol themselves in any troop shall continue in such troop for three years from the date of his enrolment, unless in case of removal from the county or district, or being discharged by the captain or officer commanding such troop.

Disposal of cavalry horses.

VII. *And be it further enacted,* That if any non-commissioned officer or private enrolled in any such troop or troops of cavalry, shall at any time during his enrolment, sell, exchange or otherwise dispose of his horse belonging to such troop, without the consent and approbation of the captain or officer commanding such troop, he shall forfeit and pay the sum of ten pounds, to be recovered in manner as is herein after mentioned, and applied to the repairing the arms and accoutrements belonging to the troop, and other incidental charges attending the same.

Drummers and fifers.

VIII. *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.

Enrolment of militia.

IX. *And be it further enacted,* That every captain or officer commanding a company of Militia, or who may be thereto appointed by the Governor, Lieutenant-Governor, or Commander in Chief, shall as soon as conveniently may be after the passing of this Act 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, giving due notice publicly, at least seven days before, of the time and place of meeting; and every militia man (not being already enrolled in such

such company) who, after public notice so given, shall neglect to present himself in person, and give in his name, age and place of residence, or cause the same 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 man may be enrolled, shall for such neglect forfeit and pay a fine of ten shillings; and every militia man who shall remove out of the limits assigned for that company in which he is, or ought to be, enrolled, and shall not within ten days after his removal at the place of his new residence, or where he shall hire himself, either present himself for enrolment, or cause his name, age and place of residence, with that from which he last removed, to be made known to the captain, or in his absence to the senior officer of the company of Militia of such place, shall for such neglect forfeit and pay a fine of ten shillings; and every person who shall not within three months after he shall have attained the age of sixteen years, either present himself for enrolment, or cause his name, age and place of residence to be made known as aforesaid, so that he may be enrolled in the militia company of the limits wherein his place of residence may be, shall for such neglect forfeit and pay a fine of five shillings; and every man within the age herein before described, who shall come to reside in the Province, and shall not within three months after his arrival therein, present himself for enrolment, or cause his name, age and place of residence to be made known as aforesaid, so that he may be enrolled in the militia company of the limits wherein he shall have come to reside, shall for such neglect forfeit and pay a fine of ten shillings.

X. *Provided always and be it enacted*, That the neglect of any such persons to cause themselves to be enrolled shall not be construed to prevent the captain or officer commanding a company of militia to enter, and he is hereby required to enter on the roll of his company, the name of every such person residing within the limits of his company as shall come to his knowledge, and when so entered, every such person shall be subject to perform all militia duties under the same penalties as if he had personally presented himself for enrolment. And if any difference shall arise between a captain or officer commanding a militia company and any militia man, touching the age of such militia man, it shall be incumbent on the militia man to prove his age.

And whereas arms have been heretofore granted by government for the use of the militia, and others are intended to be issued for completely equipping the whole of the militia, and it is necessary to provide for the safe keeping thereof:

XI. *Be it enacted*, That every Freeholder enrolled in the militia who is of the age of twenty one years or upwards, shall within twenty days after public notice given that arms, accoutrements and ammunition of the kind hereinafter described, are lodged within the precinct of the company or battalion to which such freeholder shall belong, for the use of the militia men of such company or battalion, furnish and provide himself with a good and sufficient musquet and a bayonet suitable thereto, of the same kind and size with those used in his Majesty's service, or if such freeholder shall be enrolled in any company of riflemen, he shall provide himself with a good and sufficient rifle gun and a bayonet or sword suitable thereto, and shall also in addition to such musquet or rifle, provide himself with a cartouch box sufficient to contain eighteen ball cartridges, a bayonet or sword belt, a cartouch box belt, a set of straps for the purpose of carrying a great coat or blanket, a pricker and brush to clean the pan of such musquet or rifle gun, a leathern or canvas knapsack with straps and buckles, three good flints and eighteen ball cartridges of a size to fit such musquet or rifle gun, and also forty buck shot: with all which aforesaid

arms,

Removal of militia from one district to another.

Persons obliged to enrol themselves.

Commanding officers to enrol all persons who move into their limits.

Arms, accoutrements, &c.

arms, ammunition and accoutrements such freeholder shall appear at each and every meeting of the company or battalion to which he may belong (and on other occasions of duty whereon he may be ordered to appear with his arms) under the penalty of forfeiting and paying for the want of a musquet or rifle gun a fine of ten shillings, and the sum of one shilling for each and every other appurtenance, the flints, cartridges and buck shot to be considered only as three appurtenances.

XII. *And be it further enacted,* That every freeholder of the above description, shall be entitled to receive the arms, cartouch box, sword and belt abovementioned, from the captain or officer commanding his company, upon such freeholder producing and leaving with him a bond with one sufficient surety in the sum of five pounds, with a condition thereunder written in the form following :

Know all men by these presents, that we A. B. and C. D. are held and firmly bound to our Sovereign Lord the King in the penal sum of five pounds to be paid to our said Sovereign Lord the King, his heirs or successors, for which payment well and truly to be made, we bind ourselves and either of us by himself, our and each of our heirs, executors and administrators firmly by these presents, sealed with our seals, and dated this

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day of The condition of this obligation is such that if the said A. B. shall at all times hereafter, safely keep in good and serviceable order and have ready to return when called for, one king's musquet, &c. which have been issued to him under and pursuant to an Act intituled "An Act to provide for the greater security of this province by a better regulation of the militia, and to repeal the militia laws now in force," and shall in all things well and truly perform the provisions of the said Act, touching the same, then this obligation shall be void, otherwise to be and remain in full force and effect.

Which bond shall be by the said captain or officer commanding such company, lodged with the clerk of the peace for the county or district; and if any freeholder of the description aforesaid, shall neglect or refuse to enter into such bond, and receive such arms, or shall not within the time before limited, provide himself with arms, accoutrements and ammunition of the like kind at his own expence, he shall forfeit and pay the sum of two pounds, to be recovered and applied in the manner and for the purposes herein after mentioned.

XIII. *And be it further enacted,* That every person who shall give such security shall pay therefor a fee of one shilling at the time of the delivery of the bond as aforesaid, one half of which shall go to the clerk of the company for his trouble in filling up the bond, and the other half of said fee shall be paid over to the clerk of the peace for receiving and filing such bond.

XIV. *And be it further enacted,* That persons who are bound to serve in the militia but are not of the above description, shall be entitled to receive arms and accoutrements as aforesaid, upon their entering into a bond with one sufficient surety, being a freeholder, in manner herein before directed, provided that in cases where any such person is under the age of twenty-one years, he shall find two good sureties for his due performance of the condition of the bond.

XV. *And be it further enacted,* That every person who is by law bound to enrol himself in the militia, shall provide himself at his own expence with a set of straps for the purpose of carrying a great coat or blanket, a prick and brush to clean the pan of his musquet or rifle gun, a leathern or canvas knapsack with straps and buckles, three good flints, eighteen ball cartridges of a size to fit his musquet or rifle, and forty buck shot,

Bond to be given for arms, &c.

Form of bond.

Where lodged.

Persons refusing to enter into a bond.

Bond fee.

To whom arms, &c. will be furnished.

Accoutrements to be found by militia.

shot, under the penalty of ten shillings, to be recovered and applied as herein after directed.

And whereas in many companies there may be minors and other persons, who cannot get security for the safe keeping of arms and accoutrements :

XVI. *Be it enacted,* That the captain or other officer commanding a company shall make out a regular list of the names of the persons in his company who are not compellable to give security or to provide themselves with arms at their own expence, and shall immediately receive a complete set of arms and accoutrements from the person having the custody of arms, for each and every person contained in the above list, for the safe keeping and returning which, such captain shall be responsible, and shall give two receipts for the same, one of which shall be entered in the orderly book of the battalion, and the other shall be lodged in the office of the clerk of the peace of the county or district ; and if any captain or other officer commanding a company shall neglect or refuse to make the list or give the receipts herein directed, he shall forfeit and pay the sum of five pounds, and on complaint to the Governor, Lieutenant-Governor or Commander in Chief, such officer may be deprived of his commission, and shall not thereafter be entitled to any exemption from being enrolled and performing all the duties of a private militia man.

Inability of minors & others to give security for arms, &c.

XVII. *And be it further enacted,* That all arms to be issued in pursuance of this Act shall be distinctly numbered and marked with a brand on the left side of the broad part of the butt with the name of the county or district to which the militia man who shall receive the same shall belong, and with the letter M. immediately following the same, such brand to be provided by the treasurer of the respective counties or districts, and the commanding officer of each regiment or battalion shall cause the arms to be marked and numbered before they are issued to such regiment or battalion.

Issue of arms.

XVIII. *And be it further enacted,* That the captain or other officer commanding a company shall lodge the arms and accoutrements so received by him, in some suitable and convenient place or places within the limits of his company, where they may be delivered out to persons for whom they are intended upon all days of training or muster, or such other times as the said captain or officer shall direct ; and the minors and other persons who shall receive any of the said arms and accoutrements for the purposes of training, muster or otherwise, shall return the same, and every part thereof, to the place of deposit, within twenty four hours after such training, muster or other service, shall be over, under the penalty of five shillings for every day's neglect, to be recovered in the manner and for the purposes herein after directed.

Lodgment of arms

XIX. *And be it further enacted,* That every person having such arms or accoutrements in his possession, under the provisions of this Act, who shall vend, pledge or exchange, the same or any part thereof, or shall convey, or cause the same, or any part thereof, to be conveyed out of the limits of the battalion to which such arms and accoutrements were issued, (except when ordered on real service) ; and every person who shall buy, receive, or accept in exchange, any such arms or accoutrements, shall severally forfeit and pay a fine of five pounds for each firelock, and a fine of ten shillings for each accoutrement so sold, purchased, exchanged, or conveyed out of the limits of the battalion ; and every person or persons who shall convey, or cause to be conveyed, any such arms or accoutrements, on board of any boat, ship or vessel, with intent to have the same carried out of the county or province, and the master of any such boat, ship or vessel, who shall knowingly receive into his boat, ship or vessel, any such arms or accoutrements so intended to be conveyed out of the county or province, shall for each and every offence

Embezzlement of arms, &c.

forfeit and pay the sum of ten pounds : which fines shall and may be recovered, on the oath of one credible witness, before any one of his Majesty's Justices of the Peace for the county or district wherein such offence shall be committed ; and in case of non-payment of any such fines, the said Justice shall, by his warrant, cause each and every offender to be committed to the county or district jail for the term hereinafter mentioned, that is to say, for each fine of ten shillings, four days ; for each fine of five pounds, forty days ; and for each fine of ten pounds, three months ; unless such fines shall sooner be paid ; and one fourth part of all fines, recovered by virtue of this clause, shall be paid to the informer, and the residue thereof shall be applied, first of all, to make good all deficiencies of arms or accoutrements, and the residue to the purpose of defraying the expences incurred in repairing such arms and accoutrements.

Information against such as embezzle arms, &c.

XX. *And be it further enacted*, That if information shall be given on oath to the Justice, that the person or persons so offending (not being a freeholder) is about to leave the province, or to remove out of the county or district with such arms or accoutrements, it shall and may be lawful for the said Justice before whom such information on oath shall be made, to issue his warrant to the deputy sheriff or either of the constables of the county or district, to apprehend such person or persons, and to bring him, her or them, forthwith before such Justice to answer such complaint.

Recovery of arms

XXI. *And be it further enacted*, That any person or persons, charged with selling, purchasing or receiving, any arms or accoutrements as aforesaid, who shall immediately restore such arms or accoutrements, and cause the same to be delivered to such Justice, shall be entitled to a remission of one half the fine or imprisonment herein before imposed for such offence.

Remission of punishment

Inspection of arms, &c.

XXII. *And be it further enacted*, That the colonel or officer commanding any regiment or battalion, shall once in every year, besides the usual days 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 above mentioned, shall forfeit and pay for each deficiency, the like sum, as if such deficiency had happened at a muster or training.

Arms issued under the late Act.

XXIII. *And be it further enacted*, That every person who has received arms, ammunition or accoutrements, issued from his Majesty's stores under the provisions of the Act hereby repealed, and every person who shall have in his possession any of the arms, ammunition or accoutrements, issued from his Majesty's stores for the use of the Militia, and all persons liable to account for such arms, ammunition and accoutrements, under the said Act, shall be liable and are hereby made liable for the same, in the same manner as if the said Act had not been repealed : any thing herein contained to the contrary notwithstanding.

And whereas it is of the highest importance that the Militia should be expert in the management of their arms, and in other parts of military duty :

Drilling militia in squads.

XXIV. *Be it enacted*, That the captains and officers commanding companies shall divide their companies into small divisions or squads to consist of not more than twelve nor less than five militia men, to be drilled and taught such exercise and manœuvres as the Governor,

Governor, Lieutenant-Governor or Commander in Chief, shall direct; and captains and officers commanding companies shall fix the limits of the squads, and the times of their assembling, and the places for them to meet within the district of each company for the purpose of exercise as aforesaid, according to local circumstances, in the most convenient manner for his men, and no person shall be bound to travel more than four miles from his usual place of abode to attend such meetings.

XXV. *And be it further enacted*, That within the first twelve months after the Governor, Lieutenant-Governor or Commander in Chief, shall direct the clauses of this Act, which respect squad meetings, to be put in force within any county, district or place, in the Province, every militia man residing in such county, district or place, from the age of sixteen to the age of fifty years inclusive, shall be bound to attend twelve such squad meetings, and every militia man above fifty, and not exceeding sixty years of age, shall be bound to attend two such meetings (except the persons herein after exempted) and every man shall bring with him his musquet, and such other accoutrements as shall be ordered by his officer, and shall submit himself to be drilled and exercised for three hours at each meeting by such person or persons as the commanding officer of the battalion shall appoint, and one officer or non commissioned officer shall attend such squad meeting to report to the officer commanding the company the names of the militia men, who attended at the meeting, who shall report to the commanding officer of the battalion the names of the men who have attended each squad meeting, and the names of the men who have been absent from the same.

Number of squad meetings.

Report of such as attend squad meetings, and such as do not.

XXVI. *Provided always, and be it further enacted*, That one field officer and the adjutant of any battalion, together with the captain of the company, may exempt any squad of militia men, or any individual of such company, from an attendance at one half of the squad meetings herein before directed, whenever such officers shall be satisfied that such squad or individual has acquired a due degree of discipline.

Exemption from drilling, when perfect in discipline.

XXVII. *And be it further enacted*, That if any militia man, being duly notified, shall neglect to attend any squad meeting without leave or sufficient excuse to be judged of by the commanding officer of his company, or shall be drunk at such meeting, or shall refuse or neglect to be drilled as herein before mentioned, or shall insult any officer or non commissioned officer being in the exercise of his duty at the time of such drilling, every militia man so offending shall forfeit and pay for every such offence a fine of not less than five shillings, nor more than ten shillings, as the case may require.

Non-Attendance

Disorderly conduct.

XXVIII. *And be it further enacted*, That every person who by reason of his arriving at the age of sixteen years, coming into this province, or from any other cause, shall hereafter be enrolled in the militia, shall within the first six months after his enrolment, attend to be drilled as aforesaid, at such convenient times and places as the officer commanding his company shall appoint, not exceeding the number of times herein before limited for squad meetings, or until such persons shall obtain from one field officer and the adjutant of the battalion, and the captain of his company, a certificate that such person is sufficiently instructed.

Drill of persons arriving in the province or coming to at the age of sixteen.

XXIX. *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 twice, either entire or by such detachments as the commanding officers of the respective regiments or battalions, 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,

Companies to exercise four times a year and battalions twice.

regiments and detachments to be appointed by the colonel or commanding officer of the regiment, and arranged on different days, that the field or 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 : 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, or public notice at one meeting of the time of holding the next ; and every field officer neglecting to give orders for such assembling and training, shall forfeit and pay the sum of twenty pounds, and every officer commanding a 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 as herein after provided ; the one half thereof shall go to the person prosecuting and 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.

Exemptions
from militia du-
ty

XXX. *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 training. (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, who have taken the oath of office, High Sheriffs, Coroners, the Secretary, Surveyor General and Treasurer of the Province, officers of his Majesty's Customs and of the Excise, the Naval Officer and his Deputies, Physicians, Surgeons and Attornies at Law, Clerks, Storekeepers, and persons actually employed in the civil and military departments of the army, 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 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, who shall not be liable to the duties of watching and warding.

Compensation
to be made by
those who are
excused from
squad meetings.

XXXI. *And be it further enacted*, That all persons exempted from squad meetings and company meetings, by the provisions of the foregoing clause (persons above the age of fifty years and constant Ferrymen excepted) shall pay to the clerk of the company in which they are severally enrolled, within ten days after their enrolment, the sum of twenty shillings, and annually thereafter on or before the last day of March, ten shillings, to be recovered before any one of his Majesty's justices of the peace not enrolled in said company ; the said sums to form a fund for keeping in order the arms and accoutre-
ments

ments in the custody of the officer commanding such company, and for the purchase of powder to be fired on days of muster or rejoicing, and other incidental charges of said company; an account of the expenditure of which shall be laid before the officers of the battalion at their general annual meeting,

XXXII. *And be it further enacted*, That if any non-commissioned officer, or private, of any company of militia, shall be guilty of drunkenness or 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 officer commanding the company to cause such persons so offending to be immediately apprehended and committed to the county jail 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 jailor, a warrant under his hand and seal for the receiving and keeping the said offender, in the words following, that is to say:

Drunkenness or
contemptuous be-
haviour.

To A. B. sheriff of the county of _____ or to his jailor.

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 18____ (at a muster or training) and him closely confine in your jail 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 jailor 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 sergeant, or corporal, who shall be ordered by the officer commanding the said company to escort the said offender to jail, 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.

XXXIII. *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 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 service he is required to perform by this Act. the sum of six shillings and eight pence 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, and of the inspecting field officer, if any of the district for which the adjutant may be appointed, 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 twenty pounds in any one year.

Appointment of
adjutant.
His duty.

Compensation
to adjutant.

Appointment of
sergeants, corporals
and clerks.

XXXIV. *And be it further enacted,* That the captain or officer commanding each company shall, and is hereby fully empowered, with the approbation of the officer commanding the battalion, to nominate and appoint proper persons to serve as sergeants, corporals and clerks, in the respective company which such captain or officer commands; and so to displace them, and appoint others in their room: 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.

Clerks to be
sworn.

XXXV. *And be it further enacted,* That all clerks of companies before they enter on the execution of their duty shall take an oath before some one of his Majesty's Justices of the Peace, who is hereby authorized to administer the same.

Form of oath.

The form of the oath to be as follows, 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.

Duty of clerks.

And the duties of clerks of companies shall be to keep registers of their respective companies, to furnish the non-commissioned officers with lists of the men whom they are directed to warn for training, and other duties prescribed by this Act; to take lists of the 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 fines, and sue for all penalties, incurred by this Act, applicable to the use of their respective companies, when so ordered by the officers commanding such company: and such clerk shall be allowed and paid one fourth 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, and shall be exempt from being drafted or balloted for actual service.

Compensation to
clerks.

Refusal to serve
as clerk.

XXXVI. *And be it further enacted,* That if any clerk of a militia company shall refuse or neglect to perform the duties herein before enjoined, he shall forfeit and pay for each offence or neglect of duty a fine not exceeding five pounds, nor less than twenty shillings.

Appointment of
sergeant major
and clerk to each
battalion.

XXXVII. *And be it further enacted,* That it shall and may be lawful for the colonel or officer commanding any battalion of militia to appoint a sergeant major and clerk for such battalion (and in those counties where from local circumstances the battalion cannot be assembled entire, one additional clerk for such division of said battalion which cannot be assembled at the place of general rendezvous) provided there shall be but one additional clerk to any battalion, and to displace such sergeant major and clerks, and appoint others in their room, as he shall see occasion, and the sergeant major and the clerks so appointed shall be exempted from all balloting for actual service; and the clerks so appointed shall take the oath for the faithful discharge of their duties in manner as is herein before prescribed for the clerks of companies, and shall be subject to the same penalties as the clerks of companies for any neglect of duty.

Returns of the
strength of bat-
talions.

Returns of arms,
&c.

Account of fines,
collected and
their application.

XXXVIII. *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 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 an account of all fines collected or paid to them, and of the expenditure thereof with certified copies of the vouchers for each expenditure, and all captains or officers commanding companies are hereby required to make out and transmit to the
officers

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

Returns of the strength of the companies, with their arms, &c.

Interruption of militia in their exercise.

Infirmities.

Conferences of officers for better regulation of militia.

XXXIX. *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.

XL. *And be it further enacted*, That when any person enrolled in the militia shall complain to the officer commanding the battalion to which he belongs that, by reason of sickness or accidental or natural infirmity, he is unable to perform the military duties required by this Act, it shall and may be lawful for the colonel or other field officer to order a board, consisting of one field officer and four captains, to enquire into and decide on the said complaint, and it shall be lawful for such board to apply, or to cause the party complaining to apply to any able physician or surgeon residing within the county or district to which the battalion belongs, for his certificate or opinion respecting the nature and extent of the sickness or infirmity of the complainant, which opinion or certificate the said physician or surgeon is hereby required to give forthwith, without fee or reward, under penalty of forfeiting forty shillings for each refusal or neglect, and if after a full consideration of the said complaint the board shall report thereon, to the officer commanding the battalion, that the party complaining is really unable to perform the said military duties, the said commanding officer shall grant a certificate thereof accordingly, which shall exempt the complainant from such duties so long as the disability shall exist.

And every physician or surgeon who shall give a certificate or opinion of the actual existence of any sickness, complaint, or disability of any militia man, knowing that such sickness, complaint or disability, is false or pretended, shall forfeit and pay a fine of ten pounds for every such offence.

XLI. *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 company 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

Dress of militia
officers.

Account of fines.

Officers remov-
ing from the dis-
trict to which
their battalions
belong.

Reduced officers

Real service.

When the gover-
nor cannot be
consulted on any
sudden attack.

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 therein; *and provided also*, that an account of all fines with their appropriations as aforesaid, shall from time to time, be rendered to the secretary's office by the colonels or other officers commanding regiments or battalions, 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 until the same shall have been transmitted to the Governor, Lieutenant Governor or Commander in Chief, and shall have received his approbation.

XLII. *And be it further enacted*, That every militia officer who shall remove from the county or district to which his regiment or battalion belongs, or who from other causes is not attached to any regiment or battalion, but retains a commission in the militia, shall be liable to sit on courts martial, and to perform the other duties of his rank, when thereto required by his superior officer, and may in cases of necessity or vacancy be ordered to take his station in the regiment or battalion of the county or district in which he shall reside, and in case of refusal or neglect to obey such orders, such officer shall be tried by a general court martial, and on conviction of such offence, be deprived of his commission.

XLIII. *And be it further enacted*, That no officer who has been or may hereafter be cashiered by the sentence of a general court martial; no officer who may hereafter resign his commission in the militia, and no officer who has been heretofore dismissed his Majesty's service, or who shall neglect within six months after the publication of this Act, to qualify himself for the duties of his station, and shall upon the representation of the commanding officer of the battalion to which he belongs, and the inspecting field officer of the district, be on that account deprived of his commission by the Governor, Lieutenant Governor, or Commander in Chief, shall be entitled to any rank or privilege from having held such commission, or exempted from enrolment, or the performance of the duties of a private militia man.

XLIV. *And be it further enacted*, That the Governor, Lieutenant 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 into real service the militia of the several counties, or any part thereof, 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.

XLV. *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

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 service any part of the militia under his command, forthwith to dispatch if necessary an express to the Governor, Lieutenant 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 expences have been justly incurred.

XLVI. *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 of any county, or any part thereof, 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 when 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.

Regulation of duty in actual service.

XLVII. *And be it further enacted*, That as soon after the publication of this Act, as the Governor, Lieutenant-Governor or the Commander in Chief for the time being, shall appoint, and thereafter, in time of war, between the tenth and twentieth days of March, in each and every year, unless otherwise directed by the Governor, Lieutenant-Governor or Commander in Chief for the time being, the officers commanding the several regiments or battalions of militia, shall cause the captains or commanding officers of companies in their respective regiments or battalions, to divide the men enrolled in such companies into two classes, the first class to consist of all the able men from the age of eighteen to the age of fifty years inclusive, which is to be considered as the first class for service, and the second class to consist of men above the age of fifty and under the age of eighteen years, which is to be considered as the second class for service, and in case a sufficiency of arms and accoutrements shall not be provided at the expence of the province, or otherwise, for arming the whole of the militia, the men of the first class shall be completed with arms and accoutrements before any other persons shall be furnished therewith.

Companies to be formed into two classes.

XLVIII. *And be it further enacted*, That as soon as the classes shall be formed as aforesaid, the commanding officers of the respective companies shall cause a draft or ballot to be made of the first class, as herein after mentioned, for the purpose of framing a list or roster by which the men of such class may be called into actual service when required, that is to say, the names of each and every person in such class shall be written on separate

Rosters to be formed by ballot

N n n

pieces

pieces of paper, all as near as may be of equal size, which shall be rolled or folded up as near as may be in the same manner, and put into a hat, and therein be well mixed and shaken together, and in like manner, numbers from one to the extent of the number of men contained in such class, shall be written on distinct pieces of paper of equal size as near as may be, and separately rolled or folded up, as nearly alike as possible, and put into another hat, and well mixed or shaken together, and two indifferent persons shall be nominated by the commanding officer of the company publicly to draw the same. And the said persons shall respectively begin by drawing out of each hat one of the said papers, and the clerk of the company, if present, or otherwise a person appointed to officiate as clerk, shall form a list on a paper to be provided for that purpose, and shall first set down thereon the name of the person first drawn out of the hat, and opposite to such name the number first drawn out of the other hat, and then the persons appointed to conduct the drawing as aforesaid, shall draw another name and another number respectively, and the clerk shall set down as aforesaid such name so secondly drawn and opposite thereto the number secondly drawn, and the drawing shall proceed in like manner until the whole of the names and numbers of such first class shall be drawn and set down in writing as aforesaid: and from such list the clerk of the company shall form a new list or roster, beginning with the name of the person against whom the number one stands in the list, and proceeding in numerical order to the name of the person who drew the last or highest number.

Cavalry and artillery companies to be classed

XLIX. *And be it further enacted,* That the men enrolled in any troop of cavalry or company of artillery, shall be drafted and classed for service, in the manner herein before prescribed for companies of regiments or battalions.

Drafts for actual service.

L. *And be it further enacted,* That when the commanding officers of any regiment or battalion, or of any troop of cavalry, or company of artillery, shall be ordered by the Governor, Lieutenant-Governor or Commander in Chief, to furnish or embody any number of men of his regiment, battalion, troop or company, for actual service, they shall be furnished in as exact proportion as possible to the number of effective men of each company or troop, and each company or troop shall furnish its proportion of men out of the first class, beginning with number one in the list or roster formed by draft as aforesaid, and proceeding in the order as the names stand in such list or roster until the numbers required are completed. And each and every person so liable to serve unless prevented by sickness or other sufficient cause, shall go in his proper person or find a sufficient substitute to be approved of by the officer commanding the detachment or the field officer of the regiment; and in case of any wilful absence, neglect or disobedience herein, of any person so liable to serve, he shall be confined by the commanding officer, and shall pay a fine of ten pounds or remain in jail three months, and the person next on the list or roster, shall be called out to serve in his place, who shall have the whole of the said fine, if he shall not neglect or refuse to go, or to find a sufficient substitute in his room to be approved as aforesaid, but if he also shall refuse or neglect, he shall be subject to the like fine and imprisonment, and the person then next in rotation on the list or roster shall be called out to serve, who shall have the whole of the last mentioned fine if he shall not neglect or refuse to go or find a sufficient substitute as aforesaid, and so often as such case shall happen.

Provided always, and it is hereby declared, That the fines, if more than one shall accumulate and be recoverable to the use of the regiment or battalion, troop, or artillery company, wherein they have been incurred. *And provided,* that if any part of the militia in

in any county shall not be called out oftener than once within four years ; no man who has been called out and served in person or by a sufficient substitute, shall be liable to serve again, until all the other effective men of his company shall have served in their turns personally or by substitute.

Provided also, That no Quaker, duly certified as such, shall be liable to the foregoing fine ; but in case he shall stand for service on the list, and shall refuse to go or find a proper substitute, it shall be lawful for the officer commanding the company to which such Quaker belongs, to procure a substitute in his place, and such Quaker shall be liable to pay the expence of such hiring, so as the same do not exceed ten pounds, to be recovered before any two Justices of the Peace.

Justice

Ll. *Provided always, and be it further enacted,* That all the non-commissioned officers and privates of the militia, who during the last year were drafted, under the laws for regulating the militia, hereby repealed, and actually served in the embodied militia by themselves or their substitutes, or who actually served in said embodied militia as volunteers, without receiving wages or any allowance from the other non-commissioned officers or men of their respective companies or battalions, shall be exempted from service under the provisions of the foregoing clause, for the term of four years, unless all the men in the said first class shall be called into service within that period.

Those who have served their draft not liable to be called out again for four years.

Exemption.

LII. *Provided also and be it further enacted,* That when it shall happen that there are two or more sons residing in the house or family of their father or mother, and who shall have resided therein for one year preceding, then in case such sons shall stand on the list or roster aforesaid, so as to be liable to be ordered for service at the same time, one of the said sons shall be excused from serving, and the next on the list or roster shall be called out in his stead ; and if any person aged sixty years or upwards, or any widow having a son, grandson or an apprentice, on whom he or she depend for support, living with such aged person or widow for the space of twelve months before the ordering of any draft as aforesaid, such son, grandson or apprentice, shall be exempted from serving so long as he resides in the house or family of such aged person or widow, and contributes to his or her support.

Exemption.

And whereas, the drafting of militia men employed as clerks, storekeepers, mechanics or labourers in his Majesty's ordnance stores and naval or careening yard, and in the civil and military departments of the army, is frequently injurious to his Majesty's service, for remedy whereof :

LIII. *Be it further enacted,* That whenever a proportion of the militia of the town of Halifax, shall be called into service, it shall and may be lawful for the colonel or officer commanding the regiment of militia, to which clerks, storekeepers, mechanics or labourers, belong, who are employed in his Majesty's ordnance stores, or in the navy or careening yard, or in the departments of the army, to apportion the number of drafts such clerks, storekeepers, mechanics and labourers, which each of the said departments respectively ought to furnish, and to procure good and sufficient substitutes in the place or stead of such clerks, storekeepers, mechanics and labourers, on the most reasonable terms, the amount of which cost and expence for procuring such substitutes, shall be duly assessed by the colonel, lieutenant colonel or officer commanding the regiment, with the assistance of two captains of the said regiment, on each clerk, storekeeper, mechanic or labourer so employed in each of the aforesaid departments respectively, in proportion to the daily pay of each and every of the said clerks, storekeepers, mechanics and labourers.

Clerks, &c. in government employ.

Substitutes to be found for government clerks.

Expence defrayed by assessment on clerks.

LIV. *And be it further enacted,* That each and every such clerk, storekeeper, mechanic or labourer, so assessed as aforesaid, shall, on due notice thereof, pay the amount of such rate

Provido.

rate

commissioned officer or private man serving in the militia, nor shall any sentence of any general court martial extend to death, unless for desertion to the enemy, for mutiny and sedition, for traitorous correspondence with, or 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 or otherwise corporally punished in any case whatsoever, except by imprisonment, 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 Commander in Chief, for the time being.

Appointment of general courts martial.

LXIII. *And be it further enacted*, That the Governor, Lieutenant-Governor or Commander in Chief, for the time being, shall have power, and is hereby empowered, by warrant under his hand and seal, to constitute and appoint general courts martial for the trial of all offences made cognizable by such courts by virtue of this Act, or which shall be made cognizable by such courts, under such articles of war as shall be published for the government of the militia as herein before mentioned, which courts shall consist of not less than thirteen commissioned officers, the president whereof shall not be under the rank of field officer.

Members of court martial to be sworn.
Form of oath.

LXIV. *And be it further enacted*, 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 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.

Sentence of death.

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 a 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, takes the following oath, to be administered by the president of the court martial, to wit :

Judge advocate to be sworn.

Form of oath.

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.

Persons sentenced to death by a court martial, not to be executed without a warrant from the governor.

LXV. *And be it further enacted*, That no person shall be put to death, under the sentence of a general court martial, until a warrant under the hand and seal of the Governor, Lieutenant-Governor or Commander in Chief, shall issue for the execution of such sentence, which warrant shall direct the time and place when and where the person sentenced to death shall be executed : and all sentences of death shall be executed by either shooting or hanging the offender, as the same may be directed and ordered in the said warrant, which warrant shall be a sufficient justification to the officer or officers to whom the same shall be directed, and to all those lawfully employed under them in executing such sentence. *Provided always*, that previous to any persons being put to death, pursuant to the sentence of a general court martial, such sentence, and the war-
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Sentence of court martial and war-

commissioned officer or private man serving in the militia, nor shall any sentence of any general court martial extend to death, unless for desertion to the enemy, for mutiny and sedition, for traitorous correspondence with, or 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 or otherwise corporally punished in any case whatsoever, except by imprisonment, 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 Commander in Chief, for the time being.

Appointment of general courts martial.

LXIII. *And be it further enacted*, That the Governor, Lieutenant-Governor or Commander in Chief, for the time being, shall have power, and is hereby empowered, by warrant under his hand and seal, to constitute and appoint general courts martial for the trial of all offences made cognizable by such courts by virtue of this Act, or which shall be made cognizable by such courts, under such articles of war as shall be published for the government of the militia as herein before mentioned, which courts shall consist of not less than thirteen commissioned officers, the president whereof shall not be under the rank of field officer.

Members of court martial to be sworn. Form of oath.

LXIV. *And be it further enacted*, 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 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.

Sentence of death.

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 a 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, takes the following oath, to be administered by the president of the court martial, to wit :

Judge advocate to be sworn.

Form of oath.

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.

Persons sentenced to death by a court martial, not to be executed without a warrant from the governor.

LXV. *And be it further enacted*, That no person shall be put to death, under the sentence of a general court martial, until a warrant under the hand and seal of the Governor, Lieutenant-Governor or Commander in Chief, shall issue for the execution of such sentence, which warrant shall direct the time and place when and where the person sentenced to death shall be executed : and all sentences of death shall be executed by either shooting or hanging the offender, as the same may be directed and ordered in the said warrant, which warrant shall be a sufficient justification to the officer or officers to whom the same shall be directed, and to all those lawfully employed under them in executing such sentence. *Provided always*, that previous to any persons being put to death, pursuant to the sentence of a general court martial, such sentence, and the war-

Sentence of court martial and war-

rant

rant for the execution thereof, shall be publicly read in the hearing of the bye standers, at the time and place appointed for such execution. rant for execution, to be publicly read.

LXVI. *And be it further enacted,* That no officer under the rank of captain shall sit upon a court martial for the trial of any field officer.

LXVII. *And be it further enacted,* That general courts martial shall have power, and they are hereby empowered, upon an appeal being made from the sentence of regimental courts martial, to enquire into and to confirm or annul the said sentence, as to the same court shall appear fit and right, and in case it shall appear to the court that an appeal hath been made without any sufficient cause by a person sentenced by such regimental court martial, then and in that case the said general courts martial shall have power, and they are hereby empowered, to increase the punishment of such appellant by imprisonment in the jail of the county where such appellant doth reside, for a time not exceeding thirty days. Appeal from the regimental court martial to general court martial.

LXVIII. *And be it further enacted,* That officers commanding battalions or detachments not under the rank of captains, shall have power, and they are hereby empowered, to order a regimental court martial, for the trial of all offences cognizable by such court, under and by virtue of this Act or any other Act made, or that shall be made, for the better regulating the militia; and that such regimental court martial shall consist of five members at the least, the president whereof shall not be under the rank of captain. Regimental court martial.

LXIX. *And be it further enacted,* That the said regimental courts martial shall have power, and they are hereby empowered; to fine or imprison offenders for offences made by law cognizable by such court in their discretion, according to the nature of the offence, provided that the fine, to be by them imposed, shall in no case exceed the sum of five pounds, and the imprisonment shall in no case exceed thirty days. Power of regimental court martial.

LXX. *And be it further enacted,* That no sentence of a regimental court martial shall be executed, until the same shall be approved of, and confirmed by the officer commanding the battalion or detachment of militia in which the person prosecuted shall serve, nor shall the same be executed without an order under the hand of such commanding officer for that purpose. Sentence of regimental court martial to be submitted to the commanding officer of the battalion.

LXXI. *And be it further enacted,* That all courts martial shall have power, and they are hereby empowered, to administer an oath to witnesses in the same manner as is accustomed by the courts martial in the British regular army, and to punish all and every person and persons for contempt of the court, by disobedience of its orders made in pursuance of the power and authority vested in them; or gross abuse of the said court in presence of the said court, by fine or imprisonment, so as the said fine by them imposed, shall in no case exceed the sum of five pounds, and the imprisonment shall in no case exceed twenty days. Witnesses to be sworn.

LXXII. *And be it further enacted,* That no person shall sit as a member of any court martial, for the trial of any offender, who shall be related, within the fourth degree, either to the prosecutor, or to the person or persons prosecuted, nor shall any accuser sit as a member of the court for the trial of the person accused. Consanguinity of members of court martial to delinquents.

LXXIII. *And be it further enacted,* That the quarter master of every battalion, shall, before he commences the duties of his office, give bond with two sufficient sureties to the colonel or officer commanding such battalion, for his faithful discharge of such duties, and for his duly accounting for and applying all monies he may receive by virtue of this Act, and for all provisions and stores he may receive as quarter master of such battalion; and the quarter master of every battalion, shall receive all fines and forfeitures applicable Quarter master.

applicable to the service of his battalion; for collecting, receiving, and paying over which, he shall be entitled to a commission of ten per cent. to be allowed in his general account, and such quarter master shall annually at the general meeting of the commissioned officers of the battalion to which he belongs, and three times further, if thereto required by the officer commanding such battalion, exhibit fair accounts of the receipt and disbursement of all monies coming into his hands for the use of his battalion; and it shall and may be lawful for every quarter master, with the approbation of the officer commanding the battalion to which he belongs, to appoint a quarter master serjeant, and, with the like approbation, to remove him, and appoint another in his stead; and the quarter master shall be, and is hereby made responsible for all monies applicable to the use of the battalion, which shall come into the hands of such quarter master serjeant.

Quarter master serjeant.

LXXIV. *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 all fines and forfeitures above three pounds, and not exceeding five pounds, shall be recovered before two Justices, not being officers of the said company, and all other fines and forfeitures above five 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 recovered by virtue of this Act, not exceeding ten shillings, nor otherwise disposed of therein, shall be paid into the hands of the clerk of the company to whose use such fine may be applicable, or if applicable to the use of the battalion into the hands of the quarter master of the battalion, to be applied under direction of the officers commanding such companies, to the use of such companies, according to the directions of this Act, or by the colonel or officer commanding any battalion, for providing or repairing of arms, drums or colours, or for other contingent charges of such regiment or battalion.

Fines, how recovered.

LXXV. *And be it further enacted,* That all fines and forfeitures not exceeding ten shillings, to be recovered by the clerks of companies, shall be applied by the captain or officer commanding each company for the keeping in order, the arms and accoutrements of such company, for the purchase of drums and fifes for the same, and other incidental charges attending the said company, and if any surplus shall arise the same shall be paid into the hands of the quarter master of the regiment or battalion, to be applied to such uses as the field officers and captains in their annual or other meetings shall direct and appoint.

Fines, how applied.

LXXVI. *And be it further enacted,* That if any person or persons whomsoever, shall encourage, persuade, entice or procure, or endeavour to encourage, persuade, entice or procure, any non-commissioned officer or private man of the militia, on actual service to desert, or shall harbour, conceal or assist, any deserter from the militia on actual service, knowing him to be such, it shall and may be lawful for the commanding officer of the battalion, company or detachment, to which such non-commissioned officer, private man or deserter, may belong, at his option, to cause the person or persons so offending to be prosecuted by information in his Majesty's supreme court or before two of his Majesty's Justices of the Peace according to the nature and circumstances of the case: and if the person or persons on such prosecution in the supreme court shall by the verdict of

Desertion from actual service.

a jury, be convicted of any or either of the foregoing offences, such person or persons shall severally forfeit and pay for each and every offence, a sum not exceeding twenty pounds, or be liable to close imprisonment not exceeding the term of three months, and if such prosecution shall be carried on before two of his Majesty's Justices of the Peace, the person or persons who on the oath of one or more credible witnesses shall be convicted by such Justices of any or either of the said offences, shall severally forfeit and pay for each and every offence, the sum of five pounds, and in default of such payment such offender or offenders shall by such Justices be committed to jail, and closely confined for a term of twenty days, or until he, she or they, shall pay and discharge the said penalty of five pounds, together with the costs of prosecution.

LXXVII. *And be it further enacted*, That if any action shall be brought against any 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 any 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.

Prosecution for any thing done in pursuance of this Act.

LXXVIII. *And be it further enacted*, That so many sections of this Act, as the Governor, Lieutenant-Governor or Commander in Chief for the time being, shall from time to time order and appoint, together with the articles of war when made and published, shall be read so many times in each year, as the Governor, Lieutenant Governor or Commander in Chief shall direct.

Militia law &c. to be read.

LXXIX. *And be it further enacted*, That it shall and may be lawful for the Governor, Lieutenant Governor or Commander in Chief for the time being, from time to time, to commission and appoint proper officers to inspect and command all the battalions of the militia throughout the province, or to limit the command and inspection of such officers to a particular number of battalions, or to the inspection and command of all the militia in particular divisions of the province, or particular counties or districts, as may be considered most convenient, fit and proper; and all such officers when so commissioned and published in general orders to the militia, shall be obeyed in all things lawful, by all persons who shall be so placed under their respective command.

Appointment of inspecting officers.

LXXX. *And be it further enacted*, That the Act made and passed in the thirty-fifth year of his present Majesty's reign, entitled, An Act to amend and reduce into one Act the several Acts now in being, relating to a militia in this province; and all the Acts of this province made in addition thereto, or in alteration or amendment of the said Act, shall be, and the same are hereby repealed.

Repeal of militia Acts.

LXXXI. *And be it further enacted*, That this Act shall continue and be in force for one year from the publication thereof; and from thence to the end of the next session of the General Assembly, and no longer.

Continuance of this Act.

CAP. II.

An ACT to provide for the accommodation and billeting of His Majesty's Troops, or of the Militia, when on their march from one part of the Province to another.

BE it enacted, by the Lieutenant-Governor, Council and Assembly, That whenever any regiment or detachment of his Majesty's forces, or of the militia forces of this province,

Troops or militia on a march.