

*At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Tuesday, the Twelfth day of December, 1820, in the First year of the Reign of our Sovereign Lord George the Fourth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith &c. &c. and ended on the Third Day of March, in the Second Year of the Reign of our Sovereign Lord George the Fourth, being the First Session of the Twelfth General Assembly, convened in the said Province. From William Hill & W. B. Bliss, The Statutes at Large, passed in the General Assemblies held in His Majesty's Province of Nova Scotia: from the Year 1817, to the year 1826, inclusive (vol. 3). Halifax: John Howe & Son, 1827.*

## 1 & 2 George IV – Chapter 2

### **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 hereinafter 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.

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's being subdivided into two or more battalions, it shall and may be lawful for the Governor, Lieutenant-Governor or Commander in Chief, to subdivide the said regiment into battalions, to consist of not less than three hundred, nor more than eight hundred men each, and to affix the limits of the district composing such battalions. And all companies, (flank companies excepted) shall be formed by districts in such manner as that such companies may be assembled as conveniently as possible: and such company shall consist of not less than thirty, nor more than eighty, men, to be commanded by one captain and two subalterns, and when it shall exceed sixty men, one additional officer may be appointed thereto. And the field officers, and officers commanding companies, at their meeting hereinafter 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 for that purpose by him, the names of all persons belonging to such company, which book is to be ready at all times for the inspection of the captain and other officers of the company.

III. Provided always, and be it further enacted, that in harbours 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.

IV. And be it further enacted, that there shall not be more then two flank companies to any regiment, or battalion of militia, which flank companies shall consist of light infantry or riflemen only, (except the regiment at Halifax, in which grenadier companies are 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.

V. And be it further enacted, that it shall be lawful for the Governor, Lieutenant-Governor or Commander in Chief, for the time being, 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 who shall hereafter enrol themselves, to serve either in the artillery companies, or in the grenadier companies of the regiments at Halifax, or in any light-infantry or rifle company, of any regiment or 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 five 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.

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 al persons who shall enrol themselves in any troop shall continue in such troop for five 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.

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.

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.

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, enrol all the militia men who reside within the limits which shall be assigned for his company, and every militia-man (not being already enrolled in such company) who, after the publication of this act, shall neglect to present himself in person, to the captain or officer commanding the company in which he resides, 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 officer commanding the company, 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 the 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 officer commanding the company of militia, of his new place of residence, shall, for such neglect, forfeit and pay a fine of ten shillings; and every person who shall not, within thirty days 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 ages hereinbefore described, who shall come to reside in the province, and shall not, within thirty days 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 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 may be hereafter issued for the use thereof, and it is necessary to provide for their safe keeping:

XI. Be it therefore 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, regiment or battalion, to which such freeholder shall belong, for the use of the militia-men, of such company, regiment or battalion, furnish and provide himself with a good and sufficient musquet, and a bayonet, suitable thereto, for 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, ammunition and accoutrements, such freeholder shall appear at each and every meeting of the company, regiment 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, above-mentioned 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 \_\_\_\_ day of \_\_\_\_ 18 \_\_\_\_.

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 by the officer commanding the regiment or battalion, one King's musquet, &c. which have been issued to him under and pursuant to an act, entitled, "An Act to provide for the greater security of the 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 shall remain in full force and effect.

Which bond shall be, in 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 provided 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 hereinafter mentioned.

XIII. And be it further enacted, that every person who shall give such security shall pay therefore 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 hereinbefore 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 expense, with a set of straps for the purpose of carrying a great coat or blanket, a pricker and brush, to clean the pan of his musquet or rifle-gun, a leathern or canvass knapsack, with straps and buckles, three good flints, eighteen ball cartridges of a size to fit his musquet or rifle, and forty buck shot, under the penalty of ten shillings, to be recovered and applied as hereinafter 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 expense, 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.

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.

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, or other persons, who shall

receive any of the said arms and accoutrements, for the purpose 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, hereinafter directed.

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 regiment or 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 regiment or 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, 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 of five pounds, forty days; and for each fine of ten pounds, three months, unless such fine 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 expenses incurred in repairing such arms and accoutrements.

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.

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.

XXII. And be it further enacted, that the colonel or officer commanding any regiment or battalion, shall, once in every year, or as often as he may think necessary, 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 subalterns 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 abovementioned, shall forfeit and pay, for each deficiency, the like sum, as if such deficiency had happened at a muster or training.

XXIII. And be it further enacted, that any militia-man, who hath, or may hereafter receive, arms and accoutrements, under the provisions of any act relating to the militia of the province, and shall remove out of the district of the company in which he may be enrolled, shall, before such removal, return to the captain or officer commanding the company, in good and perfect order, the arms and accoutrements so received by him, under the penalty of five pounds.

XXIV. 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 any of the acts heretofore in force relating to the militia of the province, and any 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 acts, shall be liable, and are hereby made liable, for the same, in the same manner as if the said acts had not been repealed: any thing herein contained to the contrary notwithstanding.

XXV. And be it further enacted, that if any person enrolled in the militia of this province, shall appear on the respective days of muster and training, with arms and accoutrements, any of which in the opinion of the captain or officer commanding the company to which he belongs, are dirty and not in good and serviceable order, such person shall forfeit and pay a sum not less than two shillings and six-pence, nor more than ten shillings.

XXVI. And be it further enacted, that if any person enrolled as aforesaid, who has received, or shall hereafter receive, militia arms and accoutrements, shall use the said militia arms or accoutrements, for fowling, or the like private purposes, shall forfeit and pay for each offence, the sum of five shillings.

XXVII. And be it further enacted, that every regiment, battalion or company, of militia, shall be called out and assemble four times in each and every year, that is to say: by companies twice, 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 purposes of training, disciplining and improving, in martial exercises: the times and places of assembling for the companies, battalions, regiments and detachments, to be appointed by the colonel or commanding officer of the regiment or battalion, and arranged on different days, that the field or staff officers may have an opportunity of attending the several companies, detachments, battalions and regiments, exercised in detail, in order to introduce uniformity in the manoeuvres and discipline of the regiment or battalion; of all which several and respective days of assembling for the purposes aforesaid, previous notice shall be given, at least three days, by notice or warning to every militia-man, from the commanding officer or any other commissioned or non-commissioned officer of the regiment, battalion or company, to which such militia-man may belong, or by any private militia-man, provided such private militia-man hath the written orders of the commanding officer of such regiment, battalion or company, to that effect, or public notice at one meeting of the time of holding the next meeting: and when a militia-man is not found at his own usual place of dwelling, to receive personal notice, the leaving notice either verbally or in writing, with such militia man's master, parent, or wife, or with his child or servant, of the years of discretion, or giving him notice in any other reasonable and discreet manner, according to the special circumstances of the case, shall be deemed a sufficient notice, until the delinquent militia-man shall fully satisfy the commanding officer of his company, or a board of officers, that he was ignorant of such notice having been given him.

XXVIII. And be it further enacted, that every field-officer, commanding a regiment or battalion, neglecting to give orders for assembling his regiment or battalion, by companies or otherwise, the number of days mentioned aforesaid, for the purpose of training, disciplining and improving, the men, belonging to his regiment or battalion shall forfeit and pay the sum of twenty pounds, and every officer commanding a company, having received orders from the commanding officer of the regiment or battalion, to which he belongs, to call out and discipline his company, in the manner prescribed by this act, and neglecting to do so, shall, for each and every offence, forfeit and pay the sum of five pounds; which said sum shall and may be recovered as hereinafter provided: the one half thereof, to go to the person prosecuted, and the other half to be applied as hereinafter directed; and every person enrolled as aforesaid, who shall refuse or neglect to appear, agreeably to the provisions of this act, when called upon, by warning or notice, as hereinbefore prescribed, to attend any company, regiment or battalion, meeting, not being prevented by sickness, unavoidable accident, or other reasonable excuse, satisfactory to the commanding officer of his company, shall be subject, for the first offence, to a fine of five shillings; for the second offence, to a fine of ten shillings; for the third offence, to a fine of fifteen shillings, and for every subsequent offence, to a fine of twenty shillings. And every militia-man, enrolled as aforesaid, appearing on parade, who shall refuse or neglect to perform such militia 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 of the regiment, battalion or company, to which he shall belong, shall forfeit and pay, for each and every offence, a sum



not exceeding twenty shillings, and not less than five shillings, which fine shall be imposed by the commanding officer of the company present, and on parade.

XXIX. And be it further enacted, that notice of the imposition of the fines aforesaid, shall be given by the clerk or non-commissioned officer, or such person as shall, for the time being, perform the duty of clerk of the company such militia-man shall belong to, either personally, or in writing, left with the master, parent or wife, or with his child or servant, of the age of discretion.

XXX. And be it further enacted, that it shall and may be lawful for every militia-man, upon whom a fine shall be imposed as aforesaid, within the period of four days, if he shall adjudge himself aggrieved, to appeal to a board of officers, to be formed as hereafter is directed, and any person or persons so appealing shall give notice thereof to the clerk or person doing the duty of clerk, within the period hereinbefore limited.

XXXI. And be it further enacted, that all officers under the rank of Lieutenant-Colonel, who shall fail to attend any meeting of the regiment, battalion or company, of militia, to which they respectively belong, without reasonable excuse, to be adjudged by a board of officers, to be appointed as is hereinafter directed, for the purpose of hearing and determining appeals, shall respectively forfeit and pay, for each and every default, according to their rank, that is to say, if a major, five pounds; if a captain, three pounds; and if a subaltern officer, two pounds; which fines shall be sued for by the adjutant of the regiment or battalion, and recovered in like manner as fines are that are imposed upon militia-men for non-attendance. And out of the said fines, the said adjutant shall deduct to his own use one fourth part for his trouble of collecting, and the other three fourths parts he shall pay over to the quarter master of the regiment or battalion, to the use of the regiment or battalion.

XXXII. And be it further enacted, that it shall be lawful for the Lieutenant-Colonel, or Commanding-Officer of each regiment or battalion, from time to time, as occasion may require, to form a board of officers of his regiment or battalion, consisting of three captains, or of a field-officer and two captains, for the purpose of hearing and determining all appeals which shall be made by any militia-man, under the provisions of this act; and if the said board shall confirm the proceedings of the officers who shall have imposed the fine or fines upon the militia-men, the said board shall certify the same in a schedule, signed by the field officer or president of the said board, and the said fines shall be levied and collected as in and by this act is directed.

XXXIII. And be it further enacted, that all fines incurred by this act for non-attendance, and imposed upon any militia-man, conformable to the provisions of the same, shall be recovered before any one of His Majesty's justices of the peace, not being an officer of the company to which the militia-man belongs, which justice of the peace shall have no power to remit any such fine or fines, but, on proof that the delinquent militia-man had the notice by this act required of the imposition of the fine, and that he had not been relieved upon appeal, the said justice shall issue process for collecting the same, as in cases of debt.

And whereas, great inconvenience is experienced by reason of the frequent changing of the militia-men of the Halifax regiments of militia, out of one company thereof, into another:

XXXIV. Be it further enacted, that each and every militia-man, of the Halifax regiments of militia, shall be bound to do and perform his several militia duties in and with that company of militia in which he is properly enrolled before the first day of April, in each and every year, to which company he shall be deemed as belonging for the year next following such enrolment, any transfer of his residence within the limits of his regiment or battalion notwithstanding.

XXXV. And be it further enacted, that any militia-man of the said regiments or battalions, who shall remove from the limits of the company district, in which he is enrolled, shall, one week after the removal to another company district, give notice to the clerk of his company of his new place of residence, and in like manner shall notify the said clerk of any removal, and in case of neglect the said militia-man shall, for each offence, forfeit and pay a fine of ten shillings.

XXXVI. And be it further enacted, that where militia guards shall be appointed for the purpose of watching and warding, that the said duties shall be equally and fairly distributed to and amongst, and equally and fairly borne by, each and every able-bodied man of the district, as well officers and those exempted from militia trainings, as others in his turn, according to a list or roster, to be kept by the commanding officer of each militia company, and every person refusing or neglecting by himself or sufficient substitute, to perform his fair term of watching and warding in manner, and at the time directed by the commanding-officer of his company, shall forfeit and pay, for each and every neglect or refusal, a fine of ten shillings, to the use of the company, and to be disposed of for the use and benefit of the company in such manner as the commanding-officer of the said company shall direct.

Provided always, that nothing in this act contained shall extend, or be construed to extend, the number of days required for training to be performed by militia-men between the ages of forty-five and sixty-years, or to subject any militia-man above forty five years of age, to any of the fines imposed by this act for non-attendance at company or battalion trainings.

XXXVII. And be it further enacted, that where, from the exposed situation of the district, and the appearance or threatenings of the enemy, or by direction of the Governor, Lieutenant-Governor or Commander in Chief for the time being, militia guards shall be so appointed and kept, as that any militia-man's duty of watching and warding shall exceed the number of six days or nights in any one year, it shall and may be lawful for the Governor, Lieutenant-Governor, or Commander in Chief, for the time being, to cause every such militia-man's service, over and above the said number of six days or nights, to be paid for out of the treasury of the province, according to the rate of Militia-Pay, by this act allowed, upon such over service being duly stated and certified by the commander of each battalion or regiment

of militia respectively, in manner and form as shall be prescribed by the said Governor, Lieutenant-Governor, or Commander in Chief.

XXXVIII. And be it further enacted, that every person or persons, who shall wilfully make, or cause to be made, any false alarm, shall forfeit and pay, for each and every offence, the sum of ten pounds, to be recovered by bill, plaint or information, in any court of record in this province: one half thereof to the person who shall prosecute for the same, the other half to the use of the battalion in the district of which the offence shall be committed.

XXXIX. 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, to draw, by warrant, from the treasury of the province, such sum and sums of money as may be necessary to defray the expense attending such militia courts of inquiry, as the Governor, Lieutenant-Governor, or Commander in Chief, may, from time to time, think proper to form, for the purpose of enquiring into such charges and allegations as may be exhibited against militia officers.

XL. And be it further enacted, that no established or licensed clergyman, or regularly ordained minister of the gospel, shall be liable to any of the provisions of this act; and that the persons hereinafter named shall be exempted from all musters and 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, 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, and established waiters; the naval officer and his deputies; physicians, surgeons, and attorneys at law, clerks, storekeepers, and other persons, actually employed in the civil and military departments of the army, constant ferrymen, (being licensed as such), one miller to each grist mill, post masters and carriers, actually appointed and employed as such, and persons usually 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, certified as such by their society, for which exemptions every such Quaker shall pay annually the sum of twenty shillings.

XLI. 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 whatever, whether in regiment, battalion or company, in such case it shall and may be lawful for the officer commanding the regiment, battalion or 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 then twelve hours, there to remain without bail or mainprize; and the captain

or officer commanding such regiment, battalion or 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:

To A. B. Sheriff of the county \_\_\_\_\_ or his Jailor,

You are hereby required to receive C. D. of my \_\_\_\_\_ 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 serjeant or corporal, who shall be ordered by the officer commanding the said regiment, battalion or 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.

XLII. 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, battalion and detachment, of the regiment or battalion, 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 manoeuvres, 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 or battalion 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 fifteen pounds per year, to be paid out of the provincial treasury by warrants 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 attended all the regimental and company trainings, distributed the orders, and made up the returns of the regiment or battalion, and faithfully performed the other services prescribed by this act.

XLIII. 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 regiment or battalion, to nominate and appoint proper persons to serve as sergeants, corporals, clerks, drummers or fifers, in the company which such captain or officers 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; and in case any sergeant, corporal, drummer or fifer, accepting such appointment, and refusing or neglecting the duty thereof, he shall forfeit and pay, for each offence, forty shillings.

XLIV. And be it further enacted, that all clerks of companies, before they enter on the execution of their duty, shall take an oath before one of His Majesty's justices of the peace, who is hereby authorised to administer the same. 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.

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, and 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.

XLV. And be it further enacted, that if any clerk of a militia company shall refuse or neglect to perform the duties hereinbefore enjoined, he shall forfeit and pay for each offence, or neglect of duty, a fine not exceeding five pounds, nor less than twenty shillings, to be prosecuted for by the officer commanding the company.

XLVI. And be it further enacted, that it shall and may be lawful for the colonel, or officer commanding any regiment or battalion of militia, to appoint a sergeant-major and clerk, for such regiment or battalion (and in those counties or districts where, from local circumstances, the regiment or battalion cannot be assembled entire, one additional clerk for such division of said regiment or battalion, which cannot be assembled at the place of general rendezvous,) provided there be but one additional clerk to any regiment or 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 in hereinbefore prescribed for clerks of companies, and shall be subject to the same penalties as the clerks of companies for any neglect of duty.

XLVII. 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 of the militia, 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 commanding the regiment or battalion to which such companies belong, twice in every year, viz. on or before the fifteenth days 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 hereinafter directed, and shall moreover be liable to a fine not exceeding twenty pounds; and if any colonel or other officer commanding a regiment or battalion, shall neglect to make the returns required of him as aforesaid, he shall, for every such neglect, forfeit and pay a fine of twenty pounds; and if any captain or other officer commanding a company, shall neglect to make the return required of him as aforesaid, he shall forfeit and pay a fine of five pounds, for every such neglect.

XLVIII. And be it further enacted, that if any person shall wilfully interrupt any regiment, battalion, 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 regiment, battalion, company or detachment, to confine such persons 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.

XLIX. And be it further enacted, that when any person enrolled in the militia shall complain to the officer commanding the regiment or battalion to which he belongs, that, by reason of sickness, or accidental or natural infirmity, he is unable to perform the militia duties required by this act, it shall and may be lawful for the colonel, or other field-officer, to order a board of one field-officer and two captains to inquire 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 regiment or 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 regiment or battalion, that the party complaining is really unable to perform the said militia 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.

L. 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 field-officers, 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 or battalion; 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 a 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 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, 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.

LI. 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.

LII. And be it further enacted, that no officer who has been, or hereafter may 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 regiment or 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.

LIII. And be it further enacted, that the Governor, Lieutenant-Governor or Commander in Chief, shall be, and is hereby authorised 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 of 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.

LIV. 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, as 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 expenses have been justly incurred.

LV. And be it further enacted, that when, in consequence of the order of the commander in chief, or in the cases hereinbefore 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.

LVI. 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 forty-five 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 forty-five, 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 person shall be furnished therewith.

LVII. And be it further enacted, that 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 hereinafter 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 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 person 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.

LVIII. 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 hereinbefore prescribed for companies of regiments or battalions.

LIX. 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 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 as 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 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 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 expense of such hiring, so as the same do not exceed ten pounds, to be recovered before any two justices of the peace.

LX. And be it further enacted, that when any militia-man shall remove from one company district to another, and shall be enrolled in the company of the district to which he has removed, he shall fall in immediately before the person who has drawn the same number as the said militia-man held in his former company, and shall stand there ready to be called on for actual service, as if he had originally drawn such number in the company to which he has so removed.

LXI. Provided always, 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 depends 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.

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 thereof:

LXII. 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 expense 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.

LXIII. 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 or assessment to the officer commanding the regiment, or to any person by him duly authorised to receive the same; and if any such clerk, storekeeper, mechanic or labourer, shall refuse or neglect to pay such rate or assessment, it shall and may be lawful for any of His Majesty's justices of the peace for the town of Halifax, on complaint of the officer commanding the regiment, and on due proof of such clerk, storekeeper, mechanic or labourer, having been notified of the amount of his rate or assessment, and of his neglect or refusal to pay the same, to issue his warrant to any of the constables of the town of Halifax, directing them to levy by distress and sale of the goods and chattles of such clerk, storekeeper, mechanic or labourer, the sum so proved to be by him due and owing as his proportion, rate or assessment, aforesaid, with costs of suit, and for want of goods and chattles to commit such clerk, storekeeper, mechanic or labourer, to jail, there to remain until the amount so specified in the warrant be duly paid. Provided always, that nothing in

this act contained, shall extend, or be construed to extend, to prevent the said clerks, storekeepers, mechanics or labourers, in each of the aforesaid departments respectively, from procuring substitutes agreeably to law, or performing the aforesaid militia duty in person, on due notice given to them of such duty, and on their declaring such their intention at the time of notification and carrying the same into effect.

LXIV. And be it further enacted, that whenever, agreeably to the authority granted by this act, the Governor, Lieutenant-Governor, or Commander in Chief, or the colonel or officer commanding any regiment or battalion, or the officer commanding in any township, shall order any part of the militia into actual service, any non-commissioned officer or private, enrolled in the militia, who shall neglect or refuse to obey such order, or shall not by himself or sufficient substitute, march and proceed to perform such service as may be legally required of him, that such non-commissioned officer or man shall be confined by the officer commanding the battalion, regiment or company, to which such person belongs, and shall be subject to a fine of ten pounds, to be recovered before any two of His Majesty's justices of the peace for the county wherein the offence is committed, to be levied of his goods and chattels, by warrant of distress under the hands and seals of such justices, or, in default of such distress, to be liable to three months close imprisonment.

LXV. And be it further enacted, that whenever any part of the militia of this province shall be called out into actual service, the officers, non-commissioned officers, trumpeters, drummers, fifers and privates, shall be entitled to the same pay and allowances as the officers, non-commissioned officers, trumpeters, drummers, fifers and privates, of His Majesty's regular troops respectively receive, to be reckoned from the day that they march from the rendezvous of their respective companies, to go on actual service, until they shall be dismissed by order of the Governor, Lieutenant-Governor or Commander in Chief, and at the time of their dismissal they shall be allowed respectively a number of days pay to defray their expenses to their usual places of residence, according to the distance, at the rate of fifteen miles per day. And the militia, when called out into actual service, shall, on their arrival at the first military post, or at the place of general rendezvous, where they are to be embodied into regiments, battalions or companies, be furnished with rations in the same manner, and on the same terms, as they are supplied to His Majesty's troops.

LXVI. Provided always, and be it further enacted, that if the pay so to be allowed to persons under the rank of commissioned officers shall not amount to the rates of pay hereinafter mentioned, clear of all deductions, that is to say, to every serjeant two shillings per day, to every corporal, trumpeter, drummer or fifer, one shilling and six pence per day, and to every private man, one shilling and three pence per day; it shall be lawful for the Governor, Lieutenant-Governor or Commander in Chief, at the monthly or other periods of paying the militia, to cause the said deficiency to be made up to the non-commissioned officers, trumpeters, drummers, fifers and private men, out of the treasury of the province, and to draw his warrants therefor accordingly, by and with the advice and consent of His Majesty's council.

LXVII. And be it further enacted, that in any county or district exposed to the attack 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 or district, to assess such sum or sums of money, as may be so presented, for the providing one or more armed boats, for the defence of such county or district; such boat or boats to be under the direction of the officer commanding the militia in such county or district, 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 the said grand jury, for the benefit of such county or district.

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

LXIX. 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 expence of the province, during the time of such disability.

LXX. And be it further enacted, that in cases of invasion of an enemy, or imminent danger thereof, when any part of the militia shall be drawn out and embodied for actual service in the manner hereinbefore directed, from the time that such part of the militia shall be so embodied until they shall be discharged by order of the Governor, Lieutenant-Governor, or Commander in Chief, such of the articles of war now in force for the government of His Majesty's forces in this province, as the Governor, Lieutenant-Governor, or Commander in Chief, by and with the advice and consent of His Majesty's council, shall consider applicable, and shall alter so as to render the same conformable to the restrictions hereinafter mentioned, shall be printed agreeable to such alterations, and such of the said articles when so altered and printed (until otherwise provided for by the Legislature) shall be judicially taken notice of by all judges and all courts whatsoever, and shall be binding on, and extend to, all the officers, non-commissioned officers, and private men, of the militia embodied as aforesaid, in all cases whatsoever not provided for by this act; which articles of war, the Governor, Lieutenant-Governor or Commander in Chief, may cause to be made and published, as soon after the publication of this act as he may think proper.

LXXI. Provided always, and be it further enacted, that no officer serving in His Majesty's regular forces shall sit on any court-martial, upon the trial of any officer, non-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 ad sedition, for

traitorous correspondence with, or traitorously delivering up to, the enemy, any garrison, fortress, 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.

LXXII. 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 hereinbefore-mentioned; which court shall consist of not less than thirteen commissioned officers, the president whereof shall not be under the rank of field-officer.

LXXIII. 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 authorised 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, favor 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 authorised by him; neither will I, upon any account whatsoever, disclosed 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 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:

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.

LXXIV. 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 may 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 warrant for the execution thereof, shall be publicly read in the hearing of the bye-standers, at the time and place appointed for such execution.

LXXV. 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.

LXXVI. 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 any 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 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.

LXXVII. And be it further enacted, that officers commanding regiments, 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.

LXXVIII. 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.

LXXIX. 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 regiment, 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.

LXXX. And be it further enacted, that all courts-martial shall have power, and they are hereby empowered, to administer an oath to witness, in the same manner as is accustomed by the courts-martial in the British regular army; and to punish all and every person or 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.

LXXXI. 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.

LXXXII. And be it further enacted, that the quarter-master of every regiment or battalion shall, before he commences the duties of his office, give bond with two sufficient sureties to the colonel or officer commanding such regiment or 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 regiment or battalion; and the quarter-master of every regiment or 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 accounts; and such quarter-master shall annually, at the general meeting of the commissioned officers of the regiment or battalion to which he belongs, and three times further if thereto required by the officer commanding such regiment or battalion, exhibit fair accounts of the receipt and disbursement of all monies coming into his hands for the use of his regiment or battalion, and it shall and may be lawful for every quarter-master, with the approbation of the officer commanding the regiment or battalion to which he belongs, to appoint a quarter-master serjeant, and with the like approbation to remove him, and to appoint another in his stead; and the quarter-master shall be, and he is hereby made, responsible for all monies applicable to the use of the battalion or regiment which shall come into the hands of such quarter-master serjeant.

LXXXIII. 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 regiment or battalion, into the hands of the quarter-master of such regiment or 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 regiment or battalion, for providing or repairing of arms, drums or colours, or for other contingent charges, of such regiment or battalion.



LXXXIV. 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 meeting shall direct and appoint.

LXXXV. 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 regiment, 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, or such prosecution in the supreme court, shall, by a verdict of 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 justice, 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.

LXXXVI. 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 three 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 be had thereupon.

LXXXVII. 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.

LXXXVIII. 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 regiments or battalions of the militia throughout the province, or to limit the command and inspection of such officers to a particular number of regiments or 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 commands.

LXXXIX. And be it further enacted, that it shall and may be lawful for the Lieutenant-Governor, or Commander in Chief for the time being, to accept the voluntary service of any one or more of the embodied militia-men of this province, for the defence of the neighbouring province of New Brunswick, against the common enemy; and such militia-men, while serving in the said province of New-Brunswick, shall be subject to, and governed by, the laws and regulations made for the ordering and government of the embodied militia of this province, and none other.

XC. And be it further enacted, that all negro militia-men, or people of colour, commonly so called, shall be set apart by the commanding officer of each and every regiment or battalion respectively, and formed into district companies, or bands of pioneers, as their numbers may admit, to be commanded by such trusty non-commissioned officer of colour or otherwise, as the said commanding officer may appoint; under which non-commissioned officer such companies, or bands of pioneers, shall assemble and train at such times as the commanding officer of the regiment or battalion shall direct, so as that no greater share of militia training, or other militia duty, be imposed on such men of colour, than is or may be authorised by this or any subsequent acts to be imposed on other militia-men.

XCI. And be it further enacted, that all persons enrolled in, and belonging to, the fire-engine companies, and fire-men, of the town of Halifax, certified by the captains of such companies respectively, shall, in consideration of their services as engine and fire-men, be exempt from the performance of militia trainings, during the continuance of this act.

XCII. And be it further enacted, that all and every act and acts heretofore made and passed relative to the militia of the province, together with all additions to, and amendments and alterations of, the said 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.

XCIII. And be it further enacted, that this act shall be and continue in force for one year from the publication hereof, and from thence to the end of the next session of the general assembly, and no longer.