

Ordinances of the Lieutenant Governor and Council of His Majesty's Province of Cape Breton passed in the year 1787. National Archives of the United Kingdom CO 219/1.

28 George III – Chapter 13

An Ordinance for Establishing and Regulating the Militia within the Island of Cape Breton and its Dependencies.

Whereas His Majesty's Royal Instructions to His Honor the Lieutenant Governor of this Island and its Dependencies direct a Militia to be Established as soon as possible And Whereas as it is thought necessary in Conformity to the Royal Mandate that the Inhabitants should be immediately enrolled and arrayed and put under such Rules and Regulations as may render them a useful Militia for preserving from encroachment the peculiar advantages arising from the extensive Fisheries on this Coast and for defending this Island against any violence or Invasion whatsoever which will equally tend to the security of the lives and properties of its Inhabitants and to the Honor and Service of Inhabitants and to the Honor and Service of our most Gracious Sovereign

Be it therefore ordained and ordered by His Honor the Lieutenant Governor by and with the advice and Consent of His Majesty's Council and by the authority of the same that as soon as the Governor, Lieutenant Governor or Commander in Chief for the time being that issue orders for that purpose all Male Persons Planters and Inhabitants and their Servants except Slaves between the ages of fourteen and sixty residing in and belonging to this Island and its Dependencies shall bear Arms and duly attend all Musters and Military Exercises of their respective Companies wherein they shall be inrolled or to which they belong allowing three months time to every son after coming to the age of fourteen and to every Indentured Servant so long after his time is out to provide himself with Arms and Ammunition.

2nd The Clerk of each Company once every Quarter shall take an exact list of all Persons living within the District of such Company and present the same to the Captain or Chief Officer on pain of forfeiting forty shillings for each default to be paid to His Majesty to be applied to the use of the Company and in case of non payment to be levied by Distress and sale of the offenders Goods by virtue of a Warrant from the Captain or Chief Officer who is hereby empowered to Grant the same.

3d That every Person enrolled in any Company shall attend all Duties in such Company until regularly discharged or removed out of the District of such Company, and in case of removal into the District of another Company he is to produce to the Chief Officer of his former Company a Certificate under the hand of the Captain or Chief Officer of the District whereunto he is removed that he is enrolled there.

4th If any Person liable to be enrolled as aforesaid do prevent himself by shifting from House to House or place to place from being so enrolled he shall pay a fine of Ten shillings for every such offence to the use of the Company being convicted thereof before any one of His Majesty's Justices of the Peace for the County wherein the Offence shall be committed.

5th That every enrolled Militia Soldier or other Householder residing as aforesaid shall if not already furnished, immediately, or as soon as Arms shall be to be purchased in this Government provide himself and at all times thereafter be provide with proper and sufficient fire Arms, consisting of a Musket Gun or Fusil, two spare flints, twelve charges of powder and Ball suitable to his respective Arms and to the satisfaction of the Officer Commanding the Regiment or Company to which they respectively belong on penalty of Forty Shillings for want of such Arms as are hereby required and two shillings for each other defective appurtenant and the like sum for every four weeks he shall so remain unprovided or deficient. The Fine to be paid by Parents for their Sons under age and by Masters or Heads of Families for their Domesticks or Servants other than Servants upon Wages or Slaves to be levied on the Goods and Chattels of the Offender or Offenders their Parents Masters or Mistresses by Warrant under the hand and Seal of one or more of His Majesty's Justices of the Peace for the County wherein the Offence shall be Committed and for want of sufficient Distress such offender or offenders to suffer one Month imprisonment and hard labour.

6th That Regimental Musters shall be made at least once in every six Months or as often as shall be required by the Governor, Lieutenant Governor or Commander in Chief for the time being and every Officer Commanding any Regiment or Company shall be obliged on penalty of five pounds to draw forth the officers, non Commissioned Officers and Privates thereof or cause them to be drawn forth once in every three Months or as often as shall be directed by the Governor or Commander in Chief for the time being, to Exercise and Instruct them in the use of Arms according to such Motions and Evaluations as the Governor or Commander in Chief for the time being shall think fit to direct, and any Person liable to be trained having three days Notice thereof and not appearing and attending the same shall for each days neglect pay a Fine of five shillings.

7th That the Commissioned Officers of every Company or the major part of them may order the Correcting and punishing disobedience or Contempt on a training day or on a Watch the punishment not being greater than Commitment to hard labour not exceeding forty eight hours or five shillings Fine.

8th That there be Militia Watches appointed and kept at such times in such places in such number and under such Regulations as the Governor or Commander in Chief for the time being by and with the advice of His Majesty's Council shall direct, and all Persons able of body and upwards of sixteen years of age shall by themselves or some proper Person in their stead, to the satisfaction of the Commanding Officer of the Watch attend the same on penalty of Ten shillings for each default there having been due warning given.

9th That the Persons hereafter named be exempted from all training except such as shall receive Commissions in the Militia viz. the Members of His Majesty's Council The Chief Justice and Judges of Courts of Record, Justices of the Record Attorney General, Clerk of the Crown, Register of the Province, Clerk of the Council and his Deputy Chief Surveyor of Lands, Naval Officer and his Deputy or Clerk, the Secretary Ministers of the Gospel, Provost Marshall, the Collector Comptroller and Surveyor of the Customs and the Waiter, constant Ferryman one Miller to each Grist Mill, the

general constant Town herdsman and lame Persons or otherwise disabled in body producing a Certificate thereof from two able Surgeons.

10th That the Members of His Majestys Council and Judges of the supreme Court of Record and Principal Custom House Officers, be and hereby are exempted from Military watching and warding.

11th That the Colonels or Commanding Officers of Regiments shall and are hereby fully impowered to nominate and appoint proper persons to serve as Serjeants and Corporals in their respective Corps, and such Persons who shall be so nominated and appointed to serve as a Serjeant or Corporal and refusing so to serve shall pay a fine of forty shillings and another shall be chosen in his room and so on until one do accept.

12th That twice every year or oftener if required by the Governor or Commander in Chief or Commanding Officer of any Corps every Captain or Chief Officers of each Company shall give orders for a diligent enquiry into the state of his Company and for taking an exact List of the names of his Soldiers and other Inhabitants within the limits of his Company and of the defects of arms or otherwise and names of the defective Persons that they may be prosecuted as the Law hath provided: and that such care may be taken as is proper to remedy the same.

13th That such Person as by the Commissioned Officers of any Company shall be appointed Clerk and shall refuse to serve shall pay a Fine of forty Shillings and another person be chosen in his room and so on until one do accept which Person shall be under Oath for the faithful discharge of his Office to be administered unto him by a Justice of the Peace in the words following "You do swear hereby to perform the office of Clerk of the Militia Company under the Command of A. B. Captain to the utmost of your skill and power in all things appertaining to your office according to Law so help you God."

14th And for every District made by the Clerk for every Fine not exceeding Forty Shillings he shall have one quarter part for his pains and trouble; But no Clerk shall make Distrain until six days after the offence has been Committed in order that the party may have opportunity to make excuse why he should not pay the Fine And every Clerk upon Ten days notice shall account with and pay the Captain or Chief Officer what Fines he hath received his own part being deducted and on neglect or refusal thereof such Captain or Chief Officer may issue a Warrant directed to the Constable to Distrain on the Clerk for so much as he hath or should have Collected or distrained for.

15th That all Commissioned and non Commissioned Officers and Privates yield obedience to the Warrants or Commands of their Superior Officers the Commissioned Officers in the penalty of five Pounds: non Commissioned officers Twenty Shilling, and Privates Ten Shillings to be heard and determined at a meeting of the Chief officers and Captains of the Regiment to be Convened by the Commanding Officer thereof and the Fine to be taken by Distress and Sale of the Offender's Goods by Warrant from the Chief Officer of the Regiment directed to the Clerk of the Company to which such offender belongs and to be applied to the use and benefit of such Company as the

officers so met shall determine – their Expenses not exceeding Twenty Shillings being first paid out of the same.

16th That alarm being made upon such Causes at such times and at such places as are conformable to Instructions to be given by the Governor or Commander in Chief for the time being, All persons as well enrolled Militia Men as o then Capable of bearing Arms shall forthwith appear compleat with their Arms and Ammunition according to Law at such place or places of Rendezvous as may from time to time be appointed by the Governor or Commander in Chief for the time being, there to attend such Commands as shall be given for His Majesty's Service, and that on neglect or refusal to attend without reasonable excuse shall on Conviction forfeit and pay a penalty of five Pounds or suffer three Months imprisonment. The Members of His Majestys Council, Judges, Attorney General, Justices of the Peace and Provost Marshall to attend upon the Governor, Lieutenant Governor or Commander in Chief for the time being and to advise with the Chief Military Officers of the place where such alarm shall be made and to be assisting in His Majestys Service according to their Quality, And if any Person shall wilfully make any false alarm he shall be Fined to His Majesty Fifty Pounds for the support of this Government or suffer twelve Months imprisonment.

17th That all Persons exempted by this Ordinance from training shall notwithstanding be provided with Arms and Ammunition compleat upon the same penalty as those who are obliged to train.

18th Provided that no Person or Persons whatsoever shall be sued prosecuted or his Goods and Chattels liable to any Seizure by Virtue of any Clause in this Ordinance but within the space of three months after the Committing the respective facts hereby made Offences, and not at any time after the said three months.

19th All Fines, Penalties and Forfeitures arising by Virtue of this ordinance or any breach thereof (not otherwise disposed of therein) shall be to His Majesty for the use of the Regiment or Company respectively wherein the same doth arise in such manner as the Governor, Lieutenant Governor or Commander in Chief for the time being shall direct the same to be recoverable by Action Bill Plaint or Information in any of His Majesty's Courts of Record. And that all Fines and forfeitures be Reported every six Months to the Governor, Lieutenant Governor or Commander in Chief for the time being by the respective Commanding Officers of Militia Corps.

20th And least doubts should arise whether the Militia are obliged in Cases of Invasion or Sudden Attack from an Enemy or imminent danger thereof to go onboard Boats or other Vessels to repel an Enemy or to the assistance of the neighbouring Ports and Harbours of this Island when Attacked or in danger of being Attacked as aforesaid. Be it ordained and ordered by the authority aforesaid that whenever the Commanding Officer of any District shall discover or have certain information of the approach of an Enemy it shall and may be lawful and he is hereby authorised to impress any Boat Vessel or shallop that he may Judge necessary to convey Intelligence thereof to the Governor Lieutenant Governor or Commander in Chief for the time being as also to the Ports and Districts adjacent and that if it should be found Expedient for the safety and preservation of this Island and the Inhabitants thereof to embark the whole or any part of the Militia under his

Command onboard such Boars or Vessels as he can obtain or Impress he is forthwith to embark the same and to use every means in his power either afloat or on shore to repel the Enemy and effect the purposes above mentioned provided that the Emergency will not admit as waiting for orders and Instructions from the Governor, Lieutenant Governor or Commander in Chief for the time being.

Approved ordained and ordered accordingly
in Council this fifth day of December
1787 in the Twenty eighth year of His
Majesty's Reign.
Wm. Macarmick

Passed in Council this
5th day of Decr. 1787.
R. Gibbons.

A true copy faithfully compared
with the original – A Cuyler