

person who being hired or engaged out of this Province to perform a Voyage into the same, shall in the course of such Voyage steal any goods, wares, merchandize or other commodities whatsoever as aforesaid, shall and may for any such crime be lawfully apprehended; and in case he shall have any such stolen goods, wares, merchandize or other commodities in his possession or custody within this Province, it shall and may be lawful to indict, try and punish such person or persons in any District of this Province, where he or they shall have such goods, wares, merchandize or other commodities as aforesaid in his or their custody, as if the same had been originally stolen within the limits of such District, any Law, Usage or Custom to the contrary thereof notwithstanding.

C A P. XI.

AN ACT to continue and amend An Act passed by the Legislature of this Province, in the thirty-fourth year of His Majesty's reign, intituled, "An Act for the greater security of this Province by the better regulation of the Militia thereof, and for repairing certain Acts or Ordinances relating to the same."

(7th. May, 1796.)

Preamble.

WHEREAS an Act passed by the Legislature of this Province, in the thirty-fourth year of His present Majesty's reign, intituled "An Act to provide for the greater security of this Province by the better regulation of the Militia thereof, and for repairing certain Acts or Ordinances relating to the same," will expire on the first day of July next; and whereas it is expedient to provide for the further security and defence of this Province, by continuing and amending the aforesaid Act, be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and assembly of the Province of Lower Canada, constituted and assembled by virtue of and under the authority of an Act of the Parliament of Great Britain, intituled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled "An Act for making more effectual provision for the Government of the Province of Quebec in North-America, and to make further provision for the Government of the said Province," and it is hereby enacted by the authority of the same, that the before mentioned Act passed in the thirty-fourth year of the reign of His present Majesty, and every clause, matter and thing therein contained shall be and the same is hereby continued to the first day of July one thousand eight hundred and two, and from thence to the end of the then next Session of the Provincial Parliament, except in as far as relates to any of the Provisions therein contained, which are repealed, changed varied or altered by this Act.

Act 34 Geo. III cap 4. continued, except so far as altered by the present Act.

Captains of Militia to make up their annual Rolls in the month of May.

II. And whereas inconveniences have arisen by making the annual Rolls of the different Companies of Militia in the Cities of Québec and Montreal in the month of December, be it therefore further enacted by the authority aforesaid, that the Rolls and Lists of Militia men serving in the different Companies of Militia within the said Cities of Québec and Montreal, which are by the before mentioned Act, passed in the thirty-fourth year of His Majesty's reign, directed to be made up in the month of December in every year, shall henceforth be made up in the month of May in every year, in the same manner and under the same penalties and forfeitures as they are directed by the said Act to be made up in the month of December, and shall without loss of time be by the Captain or Senior Officer commanding every Company, delivered to the Colonel or other Officer commanding the Battalion to which he belongs, to be

And transmit the same to the Colonels of their respective regiments.

by

by him reported to the Governor, Lieutenant Governor, or Person administering the Government for the time being.

No assembly or review in the month of October.

III. And whereas it is directed by the before mentioned Act, passed in the thirty-fourth year of His present Majesty's reign, that the Captain or other Officers commanding Companies, shall assemble their respective Companies twice a year, to wit, "for the first time one day in the month of June, and for the second time one day in the month of October;" and whereas the assembling in the month of October has produced inconveniencies, be it therefore enacted by the authority aforesaid, that the assembly and review of Companies of Militia directed by the said Act to be held in the month of October, shall henceforth be discontinued.

Captains, &c. in Gaspé to assemble their companies in the month of March annually.

IV. And whereas the assembling of the Militia in the County of Gaspé in the month of June is, on account of the local situation of that Country, inconvenient to the Inhabitants thereof, who at that season are generally employed in the Fisheries, be it therefore enacted by the authority aforesaid, that the assembling and review of the different Companies of Militia which is by the aforesaid Act, passed in the thirty-fourth year of the reign of His present Majesty, directed to be held in the month of June, shall be discontinued, in so far as regards the said County of Gaspé, and that the Captain or other Officers commanding Companies in the said County of Gaspé, shall once in every year, in the month of March assemble their respective Companies in the manner and for the same ends and purposes, and under the same pains and penalties as by the before mentioned Act is directed to be done in the month of June, in every year.

Penalty on non-commissioned officers &c. not attending Reviews.

V. And whereas it is declared by the before mentioned Act, passed in the thirty-fourth year of the reign of His present Majesty, that it shall be lawful for the Governor, Lieutenant Governor or Person administering the Government to order two Reviews annually of the whole or any part of the Militia, at such time or times, or place or places, as he may judge to be most convenient for the Militia of the District, Battalion or Company to be reviewed, be it further enacted by the authority aforesaid, that every non-commissioned Officer and Militia man, who shall not attend at every such review of the Battalion or Company to which he belongs, (not being incapacitated by sickness or unavoidable necessity) or who shall leave the place of meeting without leave of the Officer commanding, shall for the first Offence, incur a penalty not exceeding five shillings, current money of this Province, and for every repetition thereof, a penalty not exceeding ten shillings like money.

Officers commanding at reviews to transmit returns according to printed forms to the Adjutant General, to be reported to the Governor.

VI. And be it further enacted by the authority aforesaid, that within ten days after every review held under the authority of this Act, or of the before mentioned Act, passed in the thirty fourth year of His Majesty's Reign, the Officer commanding at such review shall transmit to the Officer commanding the Battalion, a proper Return thereof, according to a printed form, which shall be transmitted by the Adjutant General of Militia to the Commanding Officer of each division, to be distributed to the Officers commanding Companies in his District within this Province, as soon as it can be conveniently done, and all such Returns shall be transmitted by Officers commanding Battalions to the Adjutant General of Militia, to be by him reported to the Governor, Lieutenant Governor or Person administering the Government for the time being.

So much of the former Act as exempts Serjeants from being Jurors repealed.

VII. And whereas it is provided by the before mentioned Act passed in the thirty-fourth year of His present Majesty's reign, that the Serjeants of Militia in the Cities, Towns, Suburbs and their precincts or *Banlieues*, shall not be compelled to serve as Jurors or Constables, from whence great inconveniency has arisen. be it therefore en-

acted

acted by the authority aforesaid, that so much of the said Act as extends or may be construed to extend, to exempt any Serjeant of the Militia from serving as a Juror or Constable, be, and the same is hereby repealed.

No non-commissioned officer appointed a constable obliged to serve in the Militia during the year of his appointment.

VIII. Provided always, and be it further enacted, that no non-commissioned Officer of Militia or Militia man who shall be lawfully appointed to serve the Office of Constable shall be obliged to perform any Militia duty during the year for which he is so appointed a Constable, unless the County in which he resides is actually invaded.

Penalty on persons refusing to be Serjeants.

IX. And whereas inconveniencies have arisen by persons well qualified and duly nominated to serve as Serjeants of Militia, refusing to accept the charge, for which no Remedy is provided, be it therefore enacted by the authority aforesaid, that every person enrolled as a Militia man, who shall be duly nominated and appointed a Serjeant of Militia in the manner directed by the before mentioned Act, passed in the thirty-fourth year of the reign of His present Majesty, who shall refuse to accept the appointment of a Serjeant, shall for such refusal forfeit a sum not exceeding two pounds current money of this Province, at the discretion of the Justices imposing such fine.

Penalty on Militia Men refusing to obey lawful orders, &c.

X. And be it further enacted by the authority aforesaid, that every Militia man who shall refuse to obey the lawful orders of his Superior Officer or Officers when employed on Militia duty, or who shall quarrel with or insult by abusive words or otherwise any Officer or non-commissioned Officer, being in the execution of his duty, shall for every such offence forfeit a sum not exceeding five pounds nor less than ten shillings current money of this Province, at the discretion of the Justice or Justices imposing such fine, and according to the nature of the Offence, any Law to the contrary notwithstanding.

Captains, &c. to take an account of the fire arms of the Militia of their Companies.

XI. And be it further enacted by the authority aforesaid, that it shall and may be lawful for the Captain or other Officer commanding any Company of Militia, at the time of making up the annual Rolls or Lists of Companies required by this Act, or by the before mentioned Act, passed in the thirty-fourth year of the reign of His present Majesty, or at any review directed by either of the said Acts, to demand of every Militia man enrolled in his Company, an account of the number of fire arms he has in his possession or at his disposal; and every such Militia man is required to give a true and faithful account of the same, and for every refusal to give such an account, or for every Gun, Mufket, Fowling piece or other fire arm, which any such Militia man shall at such time have in his possession or at his disposal, of which he shall not give a true and faithful account, he shall forfeit the sum of five shillings current money of this Province.

Penalty on Militia men refusing to give a true account thereof.

Field officers, &c. to employ Militia men to execute orders, -

XII. And be it further enacted by the authority aforesaid, that when it shall be necessary to transmit orders respecting Militia duty, from one Officer to another, or from one parish to another, it shall and may be lawful for any Field Officer of the Militia to call on every Militia man of the District or Battalion to which he belongs, or for any Captain or other Officer to call on any Militia man of the Company to which he belongs, to carry such orders to such person or place as he shall direct, and every such Militia man, (not being incapacitated by sickness or unavoidable necessity) is hereby required to perform such duty with diligence; and for every refusal or neglect to perform such duty, he shall forfeit the sum of ten shillings current money of this Province.

Penalty on refusal.

Provided no militia man be called

XIII. Provided always, and be it further enacted, that no Militia man shall be called

led on more than once in 6 months, or to go to a distance exceeding 3 leagues.

Soldiers, Militia men, &c. to be conducted from parish to parish to the corps to which they belong.

called on to perform such duty oftener than once in six Calendar months; nor shall he be at any time called on to carry any such orders to a greater distance than three Leagues from the place of his usual abode.

XIV. And whereas by the beforementioned Act passed in the thirty-fourth year of His Majesty's reign, "All Officers of the Militia are authorized and required to apprehend or cause to be apprehended by such number of Militia men as they shall consider necessary, all Deserters, whether Soldiers, Militia men on actual service, or seamen, all disorderly persons, Vagabonds, foreign Enemies, Prisoners of war escaping and every other person or persons sowing sedition or dissention or disturbing the public tranquillity;" and to cause them to be brought before the nearest Justice of the Peace in the manner as by the said Act is directed; and whereas doubts have arisen in what manner such persons so apprehended, and brought before a Justice of the Peace, are to be afterwards dealt with, be it therefore enacted by the authority aforesaid, that every Soldier, Militia man in actual service, or Sailor so apprehended, shall and may by order of such Justice, be conducted from parish to parish, by a sufficient party of Militia men under the command of a Serjeant, (which party every Captain or other Officer commanding a Company is authorized and required to order and command for such service) to the Corps, Ship or Vessel from which he deserted, as the case may be, if such Corps, Ship or Vessel is known to such Justice, otherwise to the Goal of the District in which he shall be apprehended, and every disorderly person, Vagabond, foreign Enemy, Prisoner of war, escaping and every other person sowing sedition or disturbing the public tranquillity, shall be conducted in like manner to the Goal of the district in which he shall be apprehended, to be dealt with according to Law; unless that the crime with which such person is charged, is bailable by Law, and that good and sufficient bail is tendered to the Justice of the Peace before whom he shall be brought.

Fines not exceeding 20^s may be sued for before one Justice of the Peace, and exceeding that sum, before two Justices.

XV. And be it further enacted by the authority aforesaid, that in all cases where the mode of prosecution for fines and penalties imposed by this Act, is not directed and provided for, the same shall be sued for and prosecuted before any Justice of the Peace, where the fine imposed does not exceed twenty shillings, and where the fine imposed exceeds twenty shillings, or the penalty extends to Imprisonment, the same shall be sued for and prosecuted before any two Justices of the Peace, and he and they respectively are hereby authorized and required to hear and determine the same in a summary manner, either by voluntary confession of the party or parties accused or on the oath of one or more credible Witnesses or Witnessess (which oath the said Justice or Justices are hereby authorized to administer) and in all cases of non payment of the sum awarded, the same shall be levied by distress and sale of the Offender's Goods and Chattles by warrant under the hand and seal of such Justice, or by Warrant under the hands and seals of such Justices, as the case may be, directed to any Peace Officer or Serjeant of Militia; and the overplus of the money so levied, (if any there be) after deducting the fine and reasonable Expences of the distress and sale, to be taxed by the said Justice or Justices, shall be returned to the Owner; and where the penalty extends to Imprisonment, the Offender shall be committed to the nearest Goal by Warrant under the hands and seals of such Justices.

When Fines exceed 4^s or where the penalty extends to more than 8 days imprisonment, the defen-

XVI. Provided always, that where the fine awarded exceeds forty shillings, or in default of payment thereof, the penalty extends to more than eight days imprisonment, it shall and may be lawful for the defendant to appeal to the next quarter Sessions of the Peace for the District, on depositing in the hands of one of the Justices be-

dent may appeal to the next Quarter Sessions.

fore whom he shall have been convicted, the sum awarded against him, which sum shall be repaid to the Appellant, if the Judgment is reversed; and if the Judgment is confirmed or a greater sum is awarded against the Appellant, he shall pay to the Prosecutor the costs of the Appeal, to be taxed by the said Justices in their Quarter Sessions, and levied by Warrant of distress and sale of the Goods and Chattels of the Appellant, directed in the manner herein before mentioned.

Governor empowered to draw out any number of Militia men not exceeding 600 batchelors between the age of 18 and 50.

XVII. And whereas it may be necessary as well for the exterior defence and protection of this Province as for the preservation of the internal tranquility thereof, that a certain number of Militia be trained, exercised and kept on foot for a longer space of time than is provided by the before mentioned Act, be it enacted by the authority aforesaid, that it shall and may be lawful for the Governor, Lieutenant Governor, or Person administering His Majesty's Government for the time being, if to him it shall appear expedient, to draw out and embody in the manner herein after directed any number not exceeding six hundred rank and file, of Batchelors of the age of eighteen years or upwards and not exceeding fifty years, enrolled, or who shall be enrolled as Militia men in pursuance of the before mentioned Act, passed in the thirty-fourth year of the reign of His present Majesty; and the number of Militia men so called out and embodied, shall be divided into two classes, one of which classes shall be discharged at the expiration of one year, and the other class at the expiration of two years respectively from the day on which (after having been so drawn out) they shall have marched from the respective parishes in which they reside, and they shall be respectively replaced by draughts from the divisions to which the Militia men discharged did; at the time of their being called out, respectively belong in manner herein after directed, if to the Governor, Lieutenant Governor, or Person administering His Majesty's Government for the time being the same shall appear expedient.

To be divided into two classes, one of which to be discharged at the expiration of one year, the other after two years.

And to be replaced by draughts.

Governor may discharge any number of Militia so called out before the expiration of the period for which they were embodied.

And the discharge to be made by ballot.

Militia men having performed their tour of duty entitled to a certificate of discharge.

XVIII. Provided always, and be it enacted, that nothing herein contained shall extend, or be construed to extend, to preventing the Governor, Lieutenant Governor or Person administering His Majesty's Government in this Province, from discharging any number of the Militia so called out, before the period shall have expired for which they were originally embodied, if he shall see good cause for so doing. Provided also, that when it shall appear expedient to the Governor, Lieutenant Governor or Person administering the Government to discharge a part of the Militia so called out, such discharge shall be made ballot. And every person discharged either by ballot or after having performed the tour of duty for which he was drawn by Lot, shall receive from the Officer commanding the Regiment, Battalion or Company in which he last served a certificate that he had performed such duty and was regularly discharged.

Governor to form the Militia so called out into Regiments, &c.

XIX. And be it further enacted by the authority aforesaid, that it shall and may be lawful for the Governor, Lieutenant Governor or Person administering His Majesty's Government in this Province for the time being, to form the Militia called out under the authority of this Act, into Regiments, Battalions or Companies, in such manner as he in his discretion shall think proper, and under the command of such Officers as he shall appoint, and them to march to and from such place or places, and in such manner as to him, or to the Officers whom he shall for that purpose appoint, may appear necessary. Provided always that no part of the Militia called out and embodied under the authority of this Act, shall march out of the Province, except for the assistance of the Province of Upper Canada, in case the same shall be actually invaded or in imminent danger thereof, and except in pursuit of an Enemy who may have

Militia not to march out of this Province except in certain cases.

invaded

invaded this Province, and except also for the destruction of any Vessel or Vessels built or building or any Depot or Magazine formed, or forming, or for the attack of any Enemy who may be embodying or marching for the purpose of invading this Province, or for the attack of any fortification which may be erecting to cover an invasion thereof.

Governor to fix the number of Bachelors to be drawn out from each division or Battalion.

And to issue his order to the Field Officers of each division, &c.

On the receipt of which the Officer commanding a division &c. to issue his orders to Officers commanding Companies, specifying the quota to be furnished and fixing the time and place for drawing by lot.

Captains, &c. to notify every Militia man of the foregoing description to appear at the place appointed.

Captains, &c. in the absence of a Justice of the Peace to name two principal Inhabitants of 50 years and to cause every man of the description aforesaid to draw by lot, and if such persons be not present then they shall appoint some discreet person to draw for them.

Immediately after such drawing, Captains to notify the place of *rendez-vous*.

Absentees to be notified by a Serjeant of Militia.

And in case no time or place be fixed, the Captains are to give notice to the Militia men on whom the lots have fallen to hold themselves in readiness to march off at such time as may be appointed afterwards.

XX. And for the purpose of drawing out the six hundred Militia men before mentioned, or such part thereof as the Governor, Lieutenant Governor or Person administering His Majesty's Government may judge expedient, be it further enacted by the authority aforesaid, that the Governor, Lieutenant Governor or Person administering His Majesty's Government, shall fix and determine (according to the last Returns made to him of the Militia) the number of Bachelors of the aforesaid description to be drawn out from every division or Battalion, in a proportion as near as possible to the number thereof in every division or Battalion, and the total number in the whole Province, and shall issue out an order to the respective Field Officers of the different Divisions or Battalions, specifying the number of Men to be drawn from each Division, and distinguishing what number of them are to serve for one or two years respectively, on receipt of which order every Officer commanding a Division or Battalion shall issue his orders without loss of time to the Captain or other Officers commanding Companies, specifying the *quota* to be furnished by every Company in a proportion as near as possible to the number of Bachelors in the Companies by the last Returns, and fixing the time and place at which such Bachelors are to attend for the purpose of drawing by Lot for the number of men to be furnished by each Company respectively; and on receipt of every such order, every Captain or other Officer commanding a Company shall without loss of time order every man in his Company of the aforesaid description, by notice verbally signified, to him personally, or to some grown person at his usual place of residence, by a Serjeant of the Company, to appear at the time and places fixed, and at such time and place the Captain or other Officer commanding the Company, in the presence of a Justice of the Peace, or in the absence of a Justice of the Peace, of two of the principal Inhabitants of upwards of fifty years of age, to be named by the Captain of Militia who shall attend accordingly, under the penalty of forty shillings, shall proceed to cause every man of the description mentioned in the order to draw publicly by lot for the tour of duty then ordered, and shall appoint some discreet person also to draw publicly for every man in his Company of the foregoing description, who shall not then appear, or having appeared shall decline drawing, which drawing shall be as valid and effectual as if such absentee or absentees or person or persons so declining had appeared and drawn for himself or themselves; and the Captain or other Officer commanding a Company shall immediately after such drawing notify the time and place according to the orders he may have received from the commanding Officer of the Division or Battalion at which the Militia men on whom the lots shall have fallen are to assemble and march off to the *Rendez-vous* of the District or Battalion; and if any of the lots shall have fallen on any absentee or absentees, he shall give him or them notice thereof without loss of time by an order verbally notified to him or them personally, or to a grown person, at his or their usual place of residence, by a Serjeant of the Company; to appear at the time and place fixed as aforesaid; and in case that there shall not be then fixed by the commanding Officer of the Division or Battalion, times and places for the Detachments to assemble and march off to the *Rendez-vous* of the District or Division, the Captain or other Officer presiding at every such drawing by lot, shall give notice to the Militia men on whom the lots shall have fallen, to hold themselves in readiness to assemble and march off at such time and place as may be afterwards ordered; and every detachment drawn by lot as aforesaid shall be conducted to the *Rendez-vous* of the

Detachments to be conducted by an officer, &c. to such place.

Militia men commanded or balloted for in 1794 exempted.

But not to extend to any subsequent ballot.

Militia men drawn by lot to be discharged at the end of one or two years according to the class in which they are ranked.

And exempted from serving again except in certain cases.

Six days allowed between the time of drawing and marching off the detachments.

A certain number of sons exempted from drawing by lot in certain cases.

Penalty on militia men not attending the rendez-vous or who shall desert before the detachment shall have joined the battalion to which it belongs.

District by an Officer or non-commissioned Officer to be appointed for that service by the Officer commanding the Company, from whence they shall be conducted under the command of such Officer or Officers as shall be ordered for that service by the field Officer commanding the Division or Battalion at such time and times and to such place or places as shall be ordered by the Governor, or Lieutenant Governor, or Person administering His Majesty's Government. Provided always that each and every Militia man who in the month of May one thousand seven hundred and ninety-four was balloted for or commanded to hold himself in readiness to march in conformity to the orders for that purpose issued, and did in obedience to such orders remain in his parish to receive the further orders of his commanding Officer, shall be exempted from balloting from the first detachment of Militia that may be ordered out under and by virtue of this Act. Provided always that such exemption shall not extend to any subsequent ballot that may hereafter be directed under and by virtue of this Act.

XXI. Provided always and be it further enacted, that all Militia men drawn by lot as aforesaid, shall be discharged at the expiration of one or two years at most according to the class in which the lot that shall have fallen on them was ranked, and they shall not be liable to drawn again by lot for any tour of duty directed by this Act, or by the aforesaid Act passed in the thirty-fourth year of His Majesty's reign, until by rotation it shall come to their turn, nor shall they be ordered out and embodied unless the exigencies of the service shall require the whole of the Militia of the District, Division or Battalion where they shall reside to be called out, in which case they shall be discharged as soon as the nature of such exigency will permit, or that they shall be replaced by Detachments drawn from more distant parts of the Province; provided also that there shall always be at least six days betwixt the time appointed for drawing by lot and the time to be fixed for marching off the Detachments from Companies to the *Rendez-vous* for the District.

XXII. Provided always and be it further enacted that when it shall happen that there are two or any greater, number of sons liable to draw by lot in the manner herein before directed, residing in the House or Family of their Father or Mother, and who shall have so resided for one year preceding, then that not more than one half of such number shall be bound to serve; and if any person aged sixty years or upwards, or any widow occupying and cultivating his or her own Land, and having an only son or grandson who shall have lived with such aged person or widow for the space of twelve months before the drawing as aforesaid, such only son or grandson shall be exempted from drawing so long as he resides in the House or Family of such aged person or widow.

XXIII. And be it further enacted by the authority aforesaid, that whenever Detachments of Militia shall be drawn out as herein before directed, every Militia man drawn by lot in the manner before mentioned who (not labouring under any infirmity incapacitating him) shall abscond or neglect to appear at the time and place of *Rendez-vous* fixed for assembling and marching off the detachment of the Company in which he is enrolled, having been thereunto warned in the manner herein before directed, or having there appeared, shall afterwards desert before the said detachment shall have joined the Company or Battalion into which it may be embodied, shall for such offence forfeit a sum not exceeding five pounds current money of this Province, and shall be held and considered to be a Deserter, and shall be liable to be apprehended as such, by any Officer or non-commissioned Officer of Militia, and conducted from Captain to Captain under a Guard of Militia to the nearest justice of the Peace who, on the oath of one credible Witness, that such person has deserted from any Detachment, Company or Battalion of embodied Militia, shall issue a Warrant under his hand and seal, commanding such Deserter to be conducted from Captain to Captain, under a Guard of Militia, to the Detachment from whence he deserted,

or to the Company or Battalion into which such Detachment may have been embodied, that he may there perform the tour of duty for which he was drawn by lot: and on proof made on the oath of one credible Witness, before two Justices of the Peace, of the aforesaid offence, they shall by warrant under their hands and seals, addressed to a Bailiff or Serjeant of Militia of the place where the person convicted did reside, or where he may possess any Goods or Chattels, order the aforesaid fine to be levied by distress and sale of the Offender's Goods and Chattels, rendering the overplus (if any there be) after deducting the expences of such distress and sale, to be taxed by the said Justices, and for want of Goods and Chattels whereon to levy the said fine, every Deserter shall be liable to serve six months longer than the period for which he was drawn by lot.

Bachelors liable to the performance of Militia duty who shall change their place of residence may be summoned by any Justice of the peace to appear before him, and if such bachelors have been chosen for service, such Magistrate may take the same course as is provided for respecting deserters.

XXIV. And in order to prevent persons from eluding such service, be it further enacted by the authority aforesaid, that whenever any Batchelor liable to the performance of such Militia duty as aforesaid shall change his place or residence and come to reside in any Town or Parish, it shall and may be lawful for any Justice of the Peace to summon such person to appear before him, and to interrogate such person upon oath, according to the best of his knowledge and belief whether his name has been inrolled in any Militia List, and if he has been so inrolled, to declare the name and place of abode of the commanding Officer of the Company to which he belonged, and whether or no he was present at the last Ballotting held for the said Company; and in case of information upon oath by any credible Witness, that such person has been duly chosen for service by ballot according to the Provisions of this Act, and that he is a Deserter from such service, it shall and may be lawful for such Magistrate to take such course as herein before is set forth respecting Deserters.

Persons drawn by lot may provide Substitutes.

XXV. Provided always, and be it further enacted, that every Man drawn by lot to serve any Detachment as aforesaid, may present at the place of *Rendez-vous* of the Division or Battalion to which such Detachment may have been ordered, a good and sufficient substitute, subject to the approbation of the Officer there commanding, and on such approbation, and the substitute agreeing before such Officer there commanding to take the tour of duty which had fallen to the lot of the Militia man presenting him, the said Militia man shall be discharged therefrom, and be considered to have taken and performed the same; and the said substitute shall perform the said tour of duty in the same manner and under the same penalties, as if he had been drawn by lot for the same; and after the expiration thereof he shall be liable to drawn by lot in his own turn in the Company in which he may at the time be inrolled, or in which he was last inrolled, in like manner as if no duty had been by him performed.

Officers, &c. allowed the same pay as the King's troops.

XXVI. And be it further enacted by the authority aforesaid, that all Officers, non-commissioned Officers and private Men of the Militia embodied under the power and authority by this Act granted, shall be intitled to the same pay and allowances as the Officers, non-commissioned Officers and private men of His Majesty's Regiments of foot receive: to be reckoned from the day on which they march from the *Rendez-vous* of their Parish or Company, to go on actual service till they are dismissed by order of the Governor, or Lieutenant Governor, or Person administering His Majesty's Government in this Province, and at the time of their dismissal, there shall be allowed to every Officer, non-commissioned Officer and private Militia man, a number of days pay to defray his expences to the place of his usual residence, according to the distance, at the rate of five Leagues per day; and the Militia, when called out as is herein before directed, shall upon their arrival at the first military post, or at the place of *Rendez-vous* where

A certain number of days pay allowed on their dismissal.

they

And to be furnished with rations.

The value of which not to exceed 6d per day.

The same provision as respects non-commissioned Officers, &c. under the Act 34 Geo. III. Cap. IV. extended to them under this Act.

Muskets delivered out to the Militia shall be marked as prescribed by the Act 34 Geo. III. Cap. IV. and the same fines &c. extended to the Militia under this Act.

No prosecution to be commenced unless within 6 months, except in certain cases.

The same persons exempted as by the Act 34 Geo. III. Cap. IV.

they are to be formed into Companies, Battalions or Regiments, be furnished and supplied with Rations on the same terms that they are furnished and supplied to His Majesty's Troops, and provisions shall be furnished to the Militia men, who desire the same to conduct them from the *Rendez-vous* of their respective Parishes, to the Towns, Forts or places of general *Rendez-vous*, and every Officer who may be charged to conduct such Militia men is authorized and required to furnish such provisions whereof the payment shall be reimbursed to him by such person or persons as shall be appointed for that purpose, by the Governor or Lieutenant Governor, or Person administering His Majesty's Government. Provided always that the value of the provisions so furnished, does not exceed six pence currency per day for each Militia man desiring such provision, which value shall be deducted from their pay respectively.

XXVII. And whereas by the before mentioned Act of the Legislature of this Province, passed in the thirty-fourth Year of His present Majesty's reign, provision was made for the Widows and Children of non-commissioned Officers and private Militia men who should be killed in actual service, and for non-commissioned Officers and private Militia men who should be disabled, be it further enacted by the authority aforesaid, that the same provisions shall respectively extend and be construed to extend to all non-commissioned Officers and private Militia men, and to the Widows and Children of all non-commissioned Officers and private Militia men drawn out under the authority of this Act, in as full and ample manner to all intents and purposes as if the said provisions were specially repeated and herein enacted.

XXVIII. And whereas by the aforesaid Act it was directed that all Muskets delivered for the service of the Militia, should be marked, and fines, forfeitures and penalties imposed on persons selling, pawning, or losing, or knowingly buying, taking in exchange or concealing any arms or accoutrements delivered from His Majesty's Stores to any Militia man, be it further enacted by the authority aforesaid, that all muskets delivered out to the Militia, to be embodied under the authority of this Act, shall be marked in the manner by the aforesaid Act directed, and all and every the fines, forfeitures and penalties by the said Act imposed on persons selling, pawning or losing, or on persons knowingly buying, taking in exchange or concealing any Arms or accoutrements delivered from His Majesty's Stores, to any Militia man, shall extend and be construed to extend, to all and every person or persons selling, pawning or losing or knowingly buying, taking in exchange or concealing any arms or accoutrements delivered from His Majesty's Stores, to any Militia to be embodied under the authority of this Act, and the same shall be raised, levied and inflicted in the manner and by the persons by the said Act directed, in as full and ample manner, as if every clause, matter and thing in the said Act contained thereunto relating, were here repeated and specially enacted.

XXIX. And be it further enacted by the authority aforesaid, that no complaint or prosecution shall be brought against any person or persons for any fine or penalty herein before imposed, unless the same is commenced within six months after the offence committed, except in case of Desertion or harbouring, concealing, aiding or abetting Deserters, or buying, taking in exchange or concealing Arms and accoutrements delivered to the Militia.

XXX. And whereas by the aforesaid Act, certain persons, and persons of certain professions therein specified are exempt from serving in the Militia personally or by substitute, be it further enacted by the authority aforesaid, that no person nor any person

person of such profession as by the said Act is declared not to be liable to serve personally or by substitute in the Militia, shall in virtue of this Act be liable to draw by lot for any tour of Militia duty thereby directed.

Rules and articles of the better government of the Militia of the Province of Lower-Canada when embodied for service declared to be valid and binding and to extend to all Officers &c. when embodied for service.

XXXI. And whereas the Governor of this Province, in virtue of the power and authority to him granted by the aforesaid Act of the Legislature of this Province, and in conformity to the resolutions therein contained, did cause to be printed in the English and French Languages (under the title of "*Rules and Articles for the better Government of the Militia of the Province of Lower-Canada when embodied for service*") such of the articles of war then in force for the Government of His Majesty's forces in this Province, as he considered applicable to the situation of the Militia of this Province when embodied for service, be it further enacted by the authority aforesaid, that the said Rules and Articles for the better Government of the Militia of the Province of Lower-Canada when embodied for service, shall continue to have force and be binding on and extend to all Officers, non-commissioned Officers and private men of the Militia when embodied under the authority of the aforesaid Act passed in the thirtyfourth year of His Majesty's reign, and shall also extend to and be binding on all the Officers, non-commissioned Officers and private men of the Militia, who shall be drawn out and embodied under the authority of this Act, and shall be judicially taken notice of by all Judges and in all Courts whatsoever.

And to be judicially taken notice of by all Judges.

Ordinance 27. Geo. III. extended to the Militia embodied under this Act.

XXXII. And whereas by the aforesaid Act passed in the thirty fourth year of His Majesty's reign, the provision of an Ordinance, intituled "*An Ordinance for quartering the troops upon certain Occasions in the County Parisiens, and providing for the conveyance of Effects belonging to Government.*" was extended to the Militia when embodied, be it enacted by the authority aforesaid, that all and every the provisions of the said Ordinance shall extend to the Militia to be drawn out and embodied under the authority of this Act.

Limitation of actions.

XXXIII. And be it further enacted, that if any action shall be brought against any person or persons for any thing done in pursuance of this Act, such action or suit shall be commenced within six months next after the fact committed, and not afterwards: and the Defendant or Defendants in every such action or suit, may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon. And if Judgment shall be given for the Defendant or Defendants in any such action or suit, or if the Plaintiff or Plaintiffs shall be non-suited, or discontinue his or their action or suit, after the Defendant or Defendants shall have appeared, the Defendant or Defendants shall have treble costs and have the like remedy for the same, as any Defendant hath in other cases to recover costs by Law.

Special matter

Treble costs.

Justices of the Peace to transmit annually a List of the fines to the Receiver General to be disposed of as they may respect the Militia.

XXXIV. And be it further enacted by the authority aforesaid, that all sums of money arising from fines, forfeitures and penalties by this Act imposed, (excepting such part thereof as by this Act is granted to prosecutors or informers), together with a List of such fines, forfeitures and penalties, shall once in every year, be transmitted by the Justices or Clerks of the Peace respectively receiving the same, to the Receiver-general of this Province, to be disposed of as the Governor, Lieutenant Governor or Person administering the Government, shall direct, to purposes only that shall respect the said Militia, and which shall be accounted for to the Crown, through the commissioners of His Majesty's Treasury for the time being, as the Crown shall direct.