
THE
PROVINCIAL STATUTES
OF
LOWER-CANADA.

Anno Regni GEORGII III. Quadragesimo Tertio.

HIS EXCELLENCY

SIR ROBERT SHORE MILNES, BARONET,

LIEUTENANT GOVERNOR,

“ **A**T the Provincial Parliament, begun and holden at *Quebec*, the eighth day of
“ January, *Anno Domini* One thousand eight hundred and one, in the
“ Forty Second Year of the Reign of our Sovereign Lord GEORGE the Third, by
“ the Grace of GOD, of the United Kingdom of *Great Britain* and *Ireland* KING,
“ Defender of the Faith, &c.

“ And from thence continued by several Prorogations, to the eighth day of
“ February, One thousand eight hundred and three, being the third Session of the
“ third Provincial Parliament of LOWER-CANADA.”

C A P. I.

An ACT for the better Regulation of the Militia of this Province, and for
repealing certain Acts or Ordinances therein-mentioned.

(18th. April, 1803.)

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 the repealing certain Acts or Ordinances relating to the same,*” was by another
Act

Preamble.

24. Geo. 3. Cap.
17.

36. Geo. 3.
Cap. XI.

Act passed in the thirty-sixth year of His Majesty's Reign, intituled, "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 repealing certain Acts or Ordinances relating to the same," amended and 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: And Whereas it is expedient to provide for the further security and defence of the Province, by a better organization of the Militia thereof: 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, passed in the thirty-first year of His Majesty's Reign, 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 every man residing, or who shall come to reside within this Province, from the age of eighteen years to sixty (excepting such as are herein-after excepted) is hereby declared to be a Militia-man, and bound to serve in the Militia of the city, town, parish, township, seigniory or division thereof, wherein he resides.

All men from the age of 18 to 60 declared to be militia men.

All militia men residing within the limits which may be assigned for a Company, to cause themselves to be enrolled.

Penalty for neglecting to enrol.

Every militia man removing from the limits of his company shall cause himself to be enrolled in the place of his new residence.

II. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, every Captain or officer commanding a company of Militia, already appointed, or who may be appointed by the Governor, Lieutenant Governor, or Person administering the Government, shall, as soon as conveniently may be, fix a time and place of meeting for enrolling all the Militia-men who reside within the limits which shall be assigned for his company, by the Colonel or Field-Officer commanding the Militia of the district or battalion; of which time or place of meeting, each Captain or officer commanding a company of Militia shall give, or cause to be given, public notice at the door of the parish church, and other public places of divine worship, on a Sunday, immediately after divine service in the morning; and where there is no church or other place of public worship, then at the most central public place within the parish or township, which time of meeting shall be, if in the country, either on a Sunday or a holy day, or if in the cities or towns, on a day which, in all cases, shall not be less than seven days after that on which the public notice shall be given; and every Militia-man who, after public notice so given, shall not either present himself in person and give in his name, age and place of residence, or cause his name, age and place of residence to be made known in some certain way to the Captain or other officer of the company, attending at the time and place so fixed for the meeting of the Militia-men of the limits of such company, so as that such Militia-men may be enrolled, shall, for such neglect, forfeit and pay the sum of ten shillings; and every Militia-man who shall remove out of the limits assigned for the company, in which

Penalty.

All persons above 15, to enroll themselves, &c.

All strangers above 15, to enroll them within 3 months.

Penalty.

In cases of neglect the Captain to enroll them.

To be liable to this Act as if they had enrolled themselves.

Claims for exemption to be proved.

Captains within two months after passing of this Act, to transmit a roll of their Companies.

And to transmit such rolls in the month of December, yearly.

which he is or ought to be enrolled, and shall not, within ten days after his arrival at the place of his new residence, or where he shall hire himself, either present himself for enrollment, or cause his name, age and place of residence, with that from whence he last removed, to be made known as aforesaid, to the Captain, or in his absence, to the senior Officer commanding the company of Militia of such place, so as that he may be enrolled, shall for such neglect, forfeit and pay the sum of ten shillings; and every person in this Province, who shall not, within one month after he shall have attained the age of eighteen years, either present himself for enrollment, or cause his name, age and place of residence to be made known as aforesaid, so as that he may be enrolled in the company of Militia of the limits wherein his place of residence may be, shall, for such neglect, forfeit and pay the sum not exceeding ten shillings; and every man within the age above described, who shall come to reside within this Province, and shall not within three months after his arrival therein, either present himself for enrollment, or cause his name, age and place of residence to be made known as aforesaid, so as that he may be enrolled in the company of Militia of the limits wherein his place of residence may be, shall, for such neglect, forfeit and pay the sum of ten shillings.

III. Provided always, and it is further enacted, that the neglect of any person, in either of the cases herein-before specified, so to present himself for enrollment; or to cause himself to be made known in some certain way, so as to be enrolled, shall not be construed to prevent the Captain of the Company of Militia of the limits, wherein the place of residence of any such person may be, from entering the name; and such Captain is hereby required to enter the name of every such person as shall come to his knowledge, upon the roll of his company; and when so entered, every such person shall be subject to perform all and every the like Militia duties, and under the same penalties, as if he had personally presented himself for enrollment; provided also, that if any difference shall arise betwixt a Captain and any Militia man, touching the age of such Militia man, it shall be incumbent on the said Militia man to prove his age.

IV. And be it further enacted by the authority aforesaid, that all Captains of Militia shall, within two months after the passing of this Act, transmit to one of the nearest Field-Officers, to be by him transmitted to the Colonel of Militia of their Districts, or in case of his absence, to the senior Field-Officer, a roll of the number of Officers and Militia men fit for service in their respective companies, distinguishing those who are married and those who are unmarried, and also a list of infirm persons of those above the age of sixty years, and of every person residing within their respective Divisions, notwithstanding he may not be liable to serve in the Militia; and they shall continue to transmit such rolls and lists, stating such changes as may have happened, to their Colonel of Militia or senior Field-Officer, in the course of the month of December in every year, to be by them reported to His Excellency the

Governor

Printed form of Returns to be sent annually to the Field Officers.

Governor, Lieutenant Governor, or person administering the government for the time being; and printed forms of returns shall be sent each year, by the Adjutants General of Militia to the different Field-Officers, commanding Districts or Battalions for each Captain of their department.

Captains to assemble their companies for exercise, between 10th April and 10th October, of every year.

V. And be it further enacted, by the authority aforesaid, that every Militia man between the age of eighteen and forty years, shall be assembled in their respective parishes or townships, between the tenth day of April and the tenth day of October of each year by the Captains or commanding officers of companies on such days, being Sunday or holy days, as shall be fixed upon by the officers commanding their respective divisions, to wit, one third of the said Militia men, the four first days, one third the four following days, and the other third, the four last days, in order that the said Militia men be then mustered, and for a time not exceeding three hours each day, go through such exercise as shall be prescribed and ordained by the Field or other officer who shall of right preside at such muster and exercise, according to their rank. Provided always, that in the County of *Gaspé*, the commanding officer of Militia shall have power to fix upon for such muster and exercise, any days in the year that may best suit the local situation of the said County; and every non-commissioned officer or Militia man who shall refuse or neglect to attend at such muster and exercise when thereunto commanded, or who shall disobey or leave the place of meeting without permission, shall for the first offence, pay a fine not exceeding five shillings, and for every repetition thereof, a fine not exceeding ten shillings. Provided always, that it shall be lawful for the commanding officers of Protestant Battalions to fix upon any other days than Sundays and holy days, for such exercise.

The Commanding Officer of *Gaspé* to fix on days for Exercise.

Protestant Battalions to assemble on any other days than Sundays.

Governor, &c. to form the Militia into districts, battalions and companies.

VI. And be it further enacted, by the authority aforesaid, that it shall and may be lawful for the Governor, Lieutenant Governor, or Person administering the Government, to form the Militia into districts, battalions and companies, in such manner as to him may seem expedient and necessary, or to authorize the officer commanding any District or Battalion, to form the same into companies, in such manner as to him may appear most conducive to the good of the service; and that it shall also 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, and every non-commissioned officer or Militia man who shall not come to such review of the battalion or company to which he belongs, not being prevented by sickness or other unavoidable necessity, or who shall leave the place of meeting without permission of the commanding officer, shall incur for the first offence, a penalty not exceeding five shillings, and for every such subsequent offence a penalty not exceeding ten shillings.

And may order two Reviews.

Penalty.

VII.

Captains, &c. to take an account of the fire arms of the militia of their companies.

VII. 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 at any review herein directed, to demand from 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, musket, 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.

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

VIII. And be it further enacted by the authority aforesaid, that within ten days after every review, held under the authority of this Act, 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 Adjutants General of Militia to the commanding officer of each division, within this Province, to be distributed to the officers commanding companies in his district, as soon as it can be conveniently done, and all such Returns shall be transmitted by officers commanding battalions to the Adjutants General of Militia, to be by them reported to the Governor, Lieutenant Governor, or person administering the Government for the time being.

Field - Officers to fix the number of Serjeants.

IX. And be it further enacted by the authority aforesaid, that every Field officer commanding a district or battalion, shall fix the number of Serjeants who shall serve in each company in his district or battalion, and the Captains of the companies shall respectively nominate the Serjeants thus fixed, and make a return of their names to the Field Officer commanding the district or battalion, who is hereby authorized to approve or disapprove of such nomination; and the Captain shall continue to make out such returns until the number required is approved, and thereon the Field Officer aforesaid shall grant to every such Serjeant, a Certificate under his hand and seal, of his appointment, and every Field-Officer shall nominate and appoint one orderly Serjeant to execute his orders independent of the Serjeant Major of the district or battalion; and the Serjeant Major of every battalion of Militia shall not be obliged to serve as a Jury-man or Constable so long as he continues to be a Serjeant Major: and every person who shall be duly nominated and appointed a Serjeant of Militia, who shall refuse to accept such appointment, shall for such refusal forfeit a sum not exceeding two pounds current money of this Province. Provided always, that no person shall be held to serve as a Serjeant for more than three years, or more than once unless he consents thereto.

Penalty.

Serjeants not liable to serve for more than 3 years.

Penalty on Mi-

X. And be it further enacted by the authority aforesaid, that every Militia man who

Militia men refusing to obey lawful orders,

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.

Non-commissioned Officers or Militia men, appointed Constables, exempted from Militia duty during that year.

XI. 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.

Officers neglecting their duty, &c. may be tried by a Court-martial.

XII. And as good order depends much on the ready obedience of officers in the execution of their duty, and on the example they show to the Militia men; Be it further enacted by the authority aforesaid, that in all cases where a Militia officer shall refuse or neglect to attend any court-martial to which he is called, and to take the oath herein-after mentioned, or shall absent himself from musters, exercise or reviews, established by this Act, refuse to attend, (unless prevented by sickness or unavoidable necessity,) neglect his duty, or be guilty of partiality or disobedience to the orders of his superior officers, quarrel with or insult them by injurious or abusive words; the said officer shall be liable to be brought before a Court-martial, which shall be assembled for that purpose, and composed of one Field-Officer at least, and of a number of other Militia officers of the district or battalion, who shall not be less than eight; to which officers, or any of them, it may always be legally objected, before the hearing of the cause that he or they are interested in the complaint, and which Court-martial composed as above, and in which a Field-Officer shall preside, shall proceed to hear and determine the complaint brought before it concerning the said officer, and shall, if he is found guilty, inflict upon him such penalty, proportioned to the offence, as the said Court shall judge proper, which may be either by censure, or suspension, or depriving him of his commission and degrading him from his rank.

Governor, &c. to appoint the President of each Court-martial.

XIII. And be it further enacted, by the authority aforesaid, that in all cases where a Court martial shall be held as above established, the Governor, Lieutenant Governor, or person administering the Government, upon complaint and application to him, made through the Colonel or field officer of Militia commanding the respective district or battalion, or in case he is inculpated, through the next in command, shall issue an order under his hand and seal, appointing the President of the court, and directed to such Colonel or Field-Officer, or the next in command, as the case may require, therein nominating, or authorizing him to nominate the members of the Court, and to fix a time and place for convening the same; provided always, that

Sentence of a Court-martial shall not be executed, unless passed with the concurrence of two thirds of the members, & approved by the Governor, &c.

that the judgment of every such Court-martial shall have passed with the concurrence of two-thirds of the Officers present, and shall not be put in execution until the Governor, Lieutenant Governor, or person administering the Government has approved thereof.

Judge Advocate and members of the court-martial to be sworn.

XIV. And be it further enacted, by the authority aforesaid, that in all trials by Court-martial, to be held in virtue of this Act, on officers not embodied on actual service, the Governor, Lieutenant Governor, or person administering the Government, shall nominate and appoint a fit person to act as Judge Advocate, and every member assisting at such trial, before any proceedings be had thereupon, shall take the following Oath, upon the Holy Evangelists, before the said Judge Advocate, (who is hereby authorized to administer the same,) that is to say:—“ I, A. B. do

The Oath.

“ swear that I will duly administer justice, to the best of my understanding, in the matter now before me, according to the evidence, and the Militia Laws now in force in this Province, without partiality, favor, or affection; and I further swear, that I will not divulge the sentence of the Court, until it shall be approved by the Governor, Lieutenant Governor, or person administering the Government; neither will I upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the Court-martial, unless required to give evidence thereof as a witness, by a Court of Justice, in a due course of Law. So help me God.” And as soon as the said Oath has been administered to the respective members, the President of the Court is hereby authorized and required to administer to the person acting as Judge Advocate, an Oath in the following words:—“ I, A. B. do swear, that I will

President to swear the Judge Advocate.

The Oath.

“ not upon any account, 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.”

President to summon witnesses.

XV. And be it further enacted, by the authority aforesaid, that the person appointed to sit as President of every Court-martial, assembled in the manner hereinbefore directed, shall have power and authority to issue summons, for compelling the attendance of witnesses, at any trial to be held before the said Court, and such summons being duly served by a Sergeant of Militia, at least two days before the day fixed for the trial, if the place of residence of the witness is not more than three leagues distance, and one day more for every five leagues, that such place of residence shall be further distant, every witness making default in appearing conformable thereto, shall for such offence, forfeit and pay a sum not exceeding forty shillings current money of this Province, unless prevented by sickness or other unavoidable necessity; and for every repetition of the like offence, shall be subject to suffer imprisonment for a time not exceeding thirty days; and before hearing the testimony of any witness the person acting as Judge Advocate, is hereby authorized and required to administer to him, the following oath:—“ The evidence you shall give to

By Sergeants of Militia.

Witnesses not attending, to forfeit a sum not exceeding 40s.

Witnesses to be sworn.

The Oath.

“ this Court-martial on the trial of A. B. shall be the truth, the whole truth, and nothing but the truth. So help you God.”

XVI.

Witnesses to be paid their reasonable expences.

XVI. Provided always, and be it further enacted by the said authority, that each witness summoned in the manner herein-before directed, shall have right to demand and receive from the party, who shall have caused him to be summoned, a reasonable allowance for his travelling expences, not exceeding one shilling per league, in going from and returning to his place of residence, besides the expences of Ferries, if any there are; and as an indemnity for loss of time, a further sum not exceeding ten shillings, nor less than two shillings and sixpence per day, which costs and indemnity shall be taxed by the Court, and paid by the person who shall have caused the witness to be summoned, and the party against whom judgment is given by the said Court, may be prosecuted to reimburse the same by Action of Debt, in any of the Civil Courts of this Province.

Officers of Militia to apprehend Deserters, and all disorderly persons, &c.

XVII. And be it further enacted, by the authority aforesaid, that all officers of Militia are hereby 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 in 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 whoever shall harbour or lodge any person of the above description, knowing him to be such, without giving immediate notice to the Captain, or some other officer of their Company, shall incur a fine not exceeding five pounds, and in case of a repetition thereof, a fine not exceeding ten pounds; and all deserters who shall have been apprehended, as well as disorderly persons, vagabonds, and others of the above description, shall be brought from Captain to Captain, under the charge of a Sergeant and a sufficient number of Militia men, that each Captain, or the Commanding Officer shall command for that purpose, before the nearest Justice of the Peace, 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 Sergeant, (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. And as it hath been experienced, that inconveniences have arisen, respecting the Ferries across rivers; all persons holding Ferries or Bridges that may be on the public high roads, shall be held to cross over all such prisoners, with the persons destined to conduct them, free of all charges of ferriage

Penalty on any who harbour persons of the above description.

Persons so apprehended, to be carried before the nearest Justice of the Peace.

Penalty on Militia men who suffer persons arrested to escape.

Prisoners, and persons conducting them, to be crossed over all Ferries free of toll or expences.

Penalty..

ferriage or toll whatsoever; as also to repay the said conductors immediately upon their return, under a penalty not exceeding twenty shillings, and in case of a repetition thereof, a penalty not exceeding forty shillings; and when it shall be necessary to cross the River St. Lawrence, or other great rivers, where regular passage Boats are not established, the Captain or senior Officer of the Militia of the Parish shall provide for the same, by ordering as aforesaid.

Where no Ferries, Captains of Militia to provide Boats, &c.

The informer to be entitled to one half of the fine.

XVIII. Provided always, and be it further enacted, that the person or persons informing against any offender, as aforesaid, shall be entitled to receive one half of the fine or fines hereby imposed.

Goaler to receive and detain Prisoners.

XIX. And be it further enacted by the authority aforesaid, that the Goaler or keeper of every Prison or House of Correction in this Province, is hereby authorized and required to receive into his custody, all and every prisoner or prisoners committed in pursuance of this Act, and him or them in Prison or House of Correction, to detain and keep, pursuant to the Warrant of Commitment to him directed.

When any fine exceeding 40s. imposed on militia men refusing to obey orders is not paid, offender may be committed to Goal.

XX. And be it further enacted, by the authority aforesaid, that when any fine imposed on any Militia man, for refusing to obey the lawful orders of his superior Officer or Officers, when employed on Militia duty, or for quarrelling with or insulting by abusive words or otherwise, any Officer or non-commissioned Officer, being also in the execution of his duty, shall exceed forty shillings lawful money of this Province, and the same is not paid within eight days after judgment is pronounced against such Militia man, it shall and may be lawful for any two of his Majesty's Justices of the Peace, by Warrant under their hands and seals, to commit such offender to the common Goal or House of Correction of the District, for any time not exceeding ten days, and for every such subsequent offence, every such offender may be fined in a sum not exceeding four pounds, and if not paid within the time above specified, then to be committed in the manner herein-before directed, for any time not exceeding twenty days, to the common Goal or House of Correction for the District, respectively, where the offence shall be committed.

Officers changing their place of residence, to give notice to the field officer of the district, &c.

XXI. And be it further enacted, by the authority aforesaid, that when any Officer of Militia shall change his place of residence, it shall be the duty of such Officer to give notice thereof, within one month, to the Field-Officer, or other Officer commanding the District, division or battalion, within which he shall have fixed his new place of residence, that he may be entered on the Rolls of the District, division or battalion, according to his rank, and such Officer shall not be subject to serve in any quality inferior to his former rank.

Governor empowered to call

XXII. And whereas in cases of war, invasion or imminent danger thereof, insurrection, or other pressing exigences, it may be requisite for the safety of the Province,

out the whole and
any part of the
Militia in cases of
war, invasion &c.

Province, that the whole Militia thereof, or the whole or part of the Militia of certain Districts or battalions, be called out and embodied, without loss of time: Be it therefore enacted, by the authority aforesaid, that in all or any of the foregoing cases, it shall and may be lawful for the Governor, Lieutenant Governor, or the person administering the Government, to call out the whole or such part as to him may appear expedient, of the Militia of any District, division, battalion, or company in this Province, in such manner as he shall order and direct, and the Militia so called out, to form into Companies and Battalions, 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 such place or places, and in such manner as to him or to the Officers whom he shall for that purpose appoint, may appear best adapted to the circumstances of the danger. Provided always, that no part of the Militia called forth in the manner aforesaid, shall be obliged to continue in actual service for more than six Months at one time; and no Militia man shall be called out who shall be above the age of fifty years, unless that the whole of the Militia of any District or battalion to which he may belong, shall be called out and embodied. Provided also, that it shall not be lawful to order the Militia nor any part thereof, to march out of the Province, except for the assistance of the Province of Upper Canada, when the same shall be actually invaded, and except in pursuit of an enemy who may have 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 an 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.

No part of such
Militia shall con-
tinue in actual
service more than
6 months at one
time.

Not to be or-
dered out of the
Province, except
in certain cases.

Governor may
draw out detach-
ments of the Mi-
litia.

XXIII. And whereas it is just and reasonable, that when time and circumstances will permit, the number of Militia necessary should be furnished by drawing the same by Lot, and that when practicable, every part of the Province should contribute to the general defence thereof, in cases of War, Invasion or imminent danger, Insurrection or other pressing exigences; as also that when the whole or a great part of any Division or Battalion, shall have been called out and embodied, in the manner herein-before mentioned, a part thereof should be discharged and replaced by Detachments from more distant parts, as soon as can be conveniently done. Be it therefore enacted by the authority aforesaid, that in all or any of the foregoing cases, it shall and may be lawful, for the Governor, Lieutenant Governor or person administering the Government, if to him it shall appear expedient, to call out Detachments from the Militia of all the different Districts, divisions, battalions and companies in this Province, by issuing his orders to the Commanding Officer of every District, division or battalion, specifying the Quota to be furnished by such District, division or battalion, in proportion to the total number of Militia in the Province, by the last Returns, and the time or times, or place or places of general *Rendez-vous* for the Detachments drawn from such District, division or battalion; on receipt of which order, every such Commanding Officer shall issue his Orders
without

without loss of time, to the Captains or other Officers commanding Companies, specifying the Quota to be furnished by each company, in a proportion as near as possible to the strength of the companies by the last Returns, and fixing the time and place at which such companies are to attend, for the purpose of drawing by Lot, for the number of men to be furnished by each of them, respectively; and also the time at which they are to march off to the Rendez-vous for the District, with the time and place of such rendez-vous, 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 description mentioned in the order, by notice signified to him, personally, or to some grown person, at his usual place of residence, by a Sergeant of the company, to appear at the time and place fixed, and at such time and place, the Captain, or other officer commanding the company, in the presence of one Justice of the Peace, or in his absence, of two of the principal Inhabitants of the place, of upwards of sixty years of age, shall proceed to cause every man of the description mentioned, in the order then present, betwixt the age of eighteen and fifty years, inclusive, 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 who shall then 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 places agreeable to the orders he may receive from the Commanding Officer of the District or battalion, at which the Militia men on whom the Lot 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 Sergeant 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 District or battalion, times and places for the detachments to assemble and march off to the Rendez-vous of the District; 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 District by an Officer or Sergeant, 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 District or battalion, at such time or times, and to such place or places, as shall be ordered by the Governor, Lieutenant Governor, or person administering the Government; and it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the Government, to form the said Detachments into Companies or Battalions, under the command

command of such officers as he shall appoint, in such manner as he shall think proper, and them to march to such place or places, under the restrictions herein-before mentioned, as to him shall appear necessary and expedient for the purposes herein-before recited.

Militia Men to be discharged at the end of the year.

XXIV. Provided always, and be it further enacted, that all Militia men drawn by Lot, as aforesaid, shall be discharged, at the end of one year from the time of drawing, or sooner, if circumstances will allow thereof; and that they shall not be liable to draw again by Lot until, by rotation, it shall come to their turn, nor shall they be liable to be ordered out, unless that the exigencies of the service shall require the whole of the Militia of the District, division or battalion, where there 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 can be conveniently replaced by detachments drawn from distant parts of the Province. Provided also, that there shall always be at least six days, betwixt the time to be 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. And provided also, that in all cases, it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government, to order the detachments to be furnished from each company of Militia, either by command, or by drawing by Lot, as he shall think most expedient.

A certain time allowed betwixt the drawing by Lot and marching to the rendez-vous.

Governor empowered to order detachments either by command or by drawing by Lot.

Bachelors to be first commanded or drawn by Lot.

XXV. Provided further and be it enacted by the said authority, that in any of the cases herein-before mentioned, for commanding or drawing by Lot, any part of the Militia, to the end of being incorporated for the purpose of actual service, it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government, when he shall judge it necessary, having regard to the number of men he may wish so to command or draw by Lot, and according to the circumstances of such command or drawing by Lot, to order that the bachelors of the age and description required by this Act, be first commanded or drawn by Lot, in preference to the married men: and if the bachelors shall be first commanded or drawn by Lot, the number to be furnished by each District and battalion of Militia, shall be apportioned according to the total number of Militia men, whether married or bachelors, in each District and battalion of Militia, respectively, by the last Returns; and each Colonel or Field-Officer commanding a District or battalion, shall then apportion the number of men he is required to furnish from his District or battalion, amongst the companies of which it is composed, according to the number of bachelors in each company, after which apportionment, the number to be thus furnished by each company, shall be commanded or drawn by Lot, as the order may be, from amongst the bachelors of each company, respectively; but if there shall not be a sufficient number of bachelors in any company, to complete the number so apportioned, to be furnished by such company, then the deficiency shall be supplied from amongst the married men, of such company, so deficient; and after the expiration of the time of service of such Militia men, ordered out as aforesaid; they

But if there shall not be a sufficient number of Bachelors, the deficiency to be supplied by the married Men.

they shall not be subject to be again commanded or drawn by Lot, until that, by rotation of all the other Militia men of the companies to which they respectively belong, it shall come again to their turn, unless that the exigency of the service should require the whole Militia of the District or battalion to which they respectively belong, to be ordered out; in which case they shall be discharged as soon as the nature of such exigency will permit.

Exemption, in
certain cases.

XXVI. 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, or commanded 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 and in such case, 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 or commanding as aforesaid, such only Son or Grandson shall be exempted from drawing or being commanded, so long as he resides in the House or Family of such aged person or Widow.

Officers may
order out the
Militia in certain
cases.

XXVII. And whereas circumstances may render it indispensable to the safety of the Province, that the Field-Officers and Captains of Militia nearest to any place in immediate danger, should have authority to order out the Militia, or part thereof under their command, without waiting for the orders of their senior officer or of the Governor, Lieutenant Governor, or person administering the Government: Be it therefore further enacted, by the authority aforesaid, that in cases of actual invasion, or insurrection, when there may not be time to communicate with their senior officer, or for the senior officer to communicate with the Governor, Lieutenant Governor, or person administering the Government, it shall and may be lawful for the Field-Officer or Officers, Captain or Captains of Militia, nearest to the place or places in danger, to order out, and they are hereby required, immediately, to order out the whole, or such part of the Militia, respectively under their command, as they shall judge necessary to repel, suppress or check such invasion or insurrection; intelligence of which they shall immediately transmit, by express, to the Colonel or Field-Officer, commanding their respective District or battalion; and such Colonel or Field-Officer, on receipt of such intelligence, shall give his provisional orders therein to the Militia under his command, and forthwith forward on also by express, the intelligence by him received, to the Governor, Lieutenant Governor, or person administering the Government, who shall thereupon give such orders respecting the discharging, relieving or reinforcing the part of the Militia, so provisionally embodied, as the nature of the exigency may require.

Every Militia
man ordered, out

XXVIII. And be it further enacted by the authority aforesaid, that whenever the
Militia,

who shall not appear at the rendez-vous to for-
suit.

Militia, or any detachments thereof, shall be called out in the manner herein-before mentioned, every Militia man, who shall have been commanded or drawn by Lot, who, (not labouring under any infirmity incapacitating him,) shall abscond or neglect to appear at the time or place of Rendez-vous, fixed for assembling and marching off the company, or detachment of the company in which he is enrolled, having been thereto warned in the manner herein-before directed, or having there appeared, shall afterwards desert, before that the said company or detachment shall have reached the 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 considered a deserter, and liable to be taken up 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 shall upon the oath of one credible Witness other than the informer, that such deserter belongs to such detachment, company or battalion, in the which such detachment might have been embodied, shall issue a Warrant under his hand and seal to have him conducted from Captain to Captain, under a guard of Militia, to such detachment, company or battalion from which he deserted; that he may there perform the service for which he was commanded or drawn by Lot; and on proof given before two Justices of the Peace of the aforesaid offence, they shall, by their Warrant under their hands and seals, addressed to a Bailiff or Sergeant of Militia, of the place where the person so convicted, resides, seize and sell the goods and chattels of such deserter or person so convicted, to levy the aforesaid fine and the costs of suit which shall be taxed; and for want of goods and chattels whereon to levy the aforesaid fine, every such deserter shall be liable to serve six months longer than the time he was first commanded or drawn for by Lot, whenever he shall be thereunto required; and on refusal to comply with such requisition, when made by the Field-Officer commanding any District in which he may be resident, shall be again liable to the same fines and penalties, as are herein-before imposed on Militia men, drawn for by Lot to serve in detachments.

Five pounds
and be considered
a deserter, &c.

When apprehended, to be
conducted to the
detachment.

On conviction
the Fine and costs
may be levied on
his goods and
chattels.

For want thereof
shall be liable
to serve 6 months
longer.

Substitutes al-
lowed.

XXIX. Provided always, and be it further enacted, that every man called out by order, or drawn by Lot, to serve in any detachment as aforesaid, may present at the place of Rendez-vous of the District, division or battalion, to which he shall have been ordered, a good and sufficient substitute, subject to the approbation of the Field-Officer there commanding; and on such approbation, and the said substitute agreeing before the said Field-Officer, to take the tour of duty which had fallen to the lot of the Militia man, presenting him, or on which he had been ordered, the said Militia man shall be discharged therefrom, and 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, or ordered for the same; and after the expiration thereof, he shall be liable to draw in his own turn, in the company to which he belongs, in like manner as if no tour of duty had been by him performed.

XXX.

Militia on actual service to receive pay, &c.

XXX. And be it further enacted, by the authority aforesaid, that whenever any part of the Militia of this Province shall be called out for the defence thereof, in manner as herein-before directed, the officers and private men of the said Militia, shall be entitled to the same pay and allowances, as the officers and private men of his Majesty's regiments of foot receive, to be reckoned from the day that they march from the Rendez-vous of their company to go on actual service, till they are dismissed by order of the Governor, Lieutenant Governor, or person administering the Government; and at the time of their dismissal, there shall be further allowed to every officer and private 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 men when called out into actual service, shall, upon their arrival at the first Military post, or at the place of general Rendez-vous, where they are to be formed into battalions or companies, be furnished and supplied with rations, upon the same terms as they are furnished and supplied to his Majesty's troops, and provisions shall be furnished to Militia men who may desire the same, to conduct them from the Rendez-vous to their respective parishes, to the towns, forts or places of general Rendez-vous, and the 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, Lieutenant Governor, or person administering the Government: Provided always, that the value of the provisions so furnished, do not exceed sixpence currency per day for each Militia man desiring such provisions; the which value shall be deducted from their pay, respectively.

Provisions not to exceed 6d.

The widows & children of Militia men killed, to receive a pension of £7 10s. per Annum.

Militia men disabled, to receive a pension of £9 per Annum.

Muskets to be marked.

Militia men selling, or neglecting to return their arms or accoutrements forfeit £5.

XXXI. And be it further enacted by the authority aforesaid, that every non-commissioned officer, or private Militia man, who in any engagement with an enemy, shall be killed, and shall leave a widow or child or children lawfully begotten, his said widow shall be entitled to receive, during her widowhood, (and in case of the death of such widow, then the eldest child, or tutor, or guardian for the use of the children, until that the youngest thereof shall have attained to the age of sixteen years,) an annuity of seven pounds ten shillings current money; and also, that every non-commissioned officer, or private of Militia, who in any engagement with an enemy, shall be wounded or disabled, so as to be rendered incapable of earning his livelihood, shall be allowed an annuity of nine pounds, same currency, during the time he shall continue under such incapacity.

XXXII. And be it further enacted, by the authority aforesaid, that all muskets, delivered for the service of the Militia, shall be marked distinctly in some visible place, in such manner as the Governor, Lieutenant Governor, or person administering the Government, may direct; and in case any Militia man shall sell, pawn or lose, unless he proves some unavoidable accident, any of the arms or accoutrements to him delivered, or neglect or refuse to return the same to his Captain, or other officer appointed to receive the same, at the time of his being discharged, every such Militia man shall, for every such offence, forfeit and pay a sum not exceeding five

five pounds current money; and on proof of such offence, by the oath of one credible witness, other than the prosecutor, before one or more Justices of the Peace, if the said penalty is not immediately paid, the said Militia Man, shall, by a Warrant under the hands and seals of such Justices, be committed to the nearest Goal, there to remain for a term not exceeding one month, or until he shall have paid the said penalty.

Penalty on persons buying arms or accoutrements.

XXXIII. And be it further enacted by the authority aforesaid, that if any person shall knowingly buy, take in exchange, or conceal any arms or accoutrements, delivered from his Majesty's stores to any Militia Man, upon any account or pretence whatsoever contrary to the true intent and meaning of this Act; every person so offending and being convicted thereof, before any Justice of the Peace, upon the Oath of one credible Witness, other than the informer, shall forfeit and pay for such offence, the sum of five pounds current money of this Province, besides restoring the arms or accoutrements so bought, exchanged or concealed; the said fine to be levied by Warrant under the hand and seal of such Justice of the Peace of the district, wherein such offender shall reside; and for want of goods and chattels, whereon to levy such fine, or for want of the said arms or accoutrements being belivered up to the Justice of the Peace, imposing the fine aforesaid, the said offender shall be committed, by Warrant, under the hand and seal of the said justice of the Peace, to the nearest Goal, there to remain without bail or mainprize, for one month.

One half of the fine to be paid to informer.

XXXIV. Provided always, and be it further enacted, that the person or persons informing against any offender as aforesaid, shall be entitled to receive one half of the fine hereby imposed.

Rules and articles for 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.

XXXV. And whereas the Governor of this Province, in virtue of the power and authority to him granted by the Act passed in the thirty-fourth year of His Majesty's Reign herein-before mentioned, and in conformity to the restrictions 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 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.

Persons exempted from serving in the Militia.

XXXVI. Provided always, and be it further enacted by the authority aforesaid, that the members of the Legislative Council and of the Assembly, the members of the

the Executive Council, the Clergy, the Judges of the criminal and civil Courts of this Province, the Justices of the Peace who have taken the Oath of Office, the Attorney and Solicitor-General, the Surveyor-General, Secretary of the Province; the Deputy Post-Master-General, and his Deputies, the *Grands Voyers*, the Clerk of his Majesty's Terrier, or land register, the Inspector of Police, half-pay officers, Captains and other officers of Militia who have obtained leave to retire, the Officers of the Customs, Sheriffs and Coroners, the Clerks and Commissioned Officers of the Executive Council and of the Legislature, Clerks of the Courts, Notaries, Gaolers, Cryers of the Courts, School-masters approved of by the Governor, Lieutenant Governor, or person administering the Government, or by such persons as are authorized for the purpose, a *Maitre de Poste*, and one Assistant for each Post house, licensed Ferry-men, one Miller to each mill, Students of the Seminary or Colleges of Quebec and Montreal, licensed Physicians, Surgeons and Apothecaries, and a Steward for each of the religious communities of women, shall not be liable to serve personally, or by substitute, in the Militia, agreeable to the directions of this Act: Provided always, that this Act, or the exceptions contained therein, shall not be construed to extend to prevent any and each of the persons above mentioned; to hold or receive commissions as Officers of the Militia of this Province, or to exempt any of the above persons, the Clergy excepted, from Militia duty, when the county, in which any of them may, respectively, reside, shall be invaded.

May hold commissions as Officers.—Not exempted in case of invasion, except the Clergy.

This Act not to repeal an Act of 39 Geo. 3, chap. 4.

XXXVII. And provided also, and be it further enacted, that nothing contained in this Act, shall be construed to extend to repeal an Act passed by the Legislature of this Province, in the thirty-third year of the reign of his Majesty, intituled, "*An Act for granting indulgencies to the people called Quakers.*"

Field-Officers, &c. to employ militia men to execute orders.

XXXVIII. 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 for refusal.

No Militia man to be called on more than once in 6 months, not to go to a distance exceeding three leagues.

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

Governor empowered to call out every year

XL. And whereas it will be the means of augmenting the security of this Province, that a part of the Militia thereof be called together arrayed, armed, trained and

1200 men, (batch-
elors,) from the
age of 15 to 25
years.

and exercised once in every year, be it enacted by the authority aforesaid, that it shall and may be lawful for the Governor, Lieutenant Governor or person administering the Government, when he shall judge it expedient, to call out once in every year, any numbers of Batchelors between the age of eighteen and twenty-five years, not exceeding twelve hundred men in the whole Province, or any proportion thereof, in any District, division, battalion or company; and the Militia men so called out, to form into companies and battalions, 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 such place or places, in their respective Districts in such manner as to him or to the officers whom he shall for that purpose appoint, may appear best adapted for training or exercising the same. Provided always, that the respective Districts shall furnish their *Quota* of the said twelve hundred men, in proportion only to the number of Militia men, which the respective Districts bear to the whole Militia of the Province. And provided also, that each battalion in the said Districts, shall furnish only a number of men proportioned to the whole of the Militia Men of the respective Districts, of which said battalion makes a part, conformable to the orders which may be issued by the Governor, Lieutenant Governor, or person administering the Government, for the time being, to that effect: and no part of the Militia men called out in manner aforesaid, shall be obliged to continue in service, for more than twenty-eight days, and the said Militia shall not be again liable to the same service, until by rotation it shall come to their turn; And the Militia who shall be embodied as above, shall be drawn by lot, or commanded in the manner prescribed by this Act, for embodying the Militia in case of War, Invasion or Insurrection, and subject to the same penalties and rules and articles of war as directed by this Act.

The respective
Districts to fur-
nish their Quota
of the 1200 men.

Each Battalion
to furnish their
number of men
proportioned to
the whole Militia
of their Districts.

Governor em-
powered to accept
the services of
Volunteers.

The total number
of Militia men not
to exceed 1200
men.

Substitute in the
Militia allowed.

Substitute sub-
ject to the like
service as if serv-
ing on his own
behalf.

XLI. Provided always, and be it further enacted, that it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the Government for the time being, whenever he shall have ordered a number of Militia men to be drawn out or commanded, short of twelve hundred men, to accept such number of volunteers as he may judge proper. Provided that the total number of Militia-men incorporated, do not exceed that of twelve hundred men, as is herein-before provided for. Provided also, that it shall be lawful for such person as shall be balloted, or commanded to serve in the Militia, to produce for his substitute, a man of the same Parish or Township of the age required, and fit for service, and who, upon being approved by the Field-Officer there commanding, shall be accepted to serve in his stead, and the person so balloted and commanded, shall be exempted from service in the Militia, as if he himself had served. Provided also, that such person as shall consent to become a substitute for any person so balloted or commanded, shall be subject to the like service, rules, regulations, and penalties, as if serving on his own behalf, and shall not be exempted from his turn of service by ballot or command, but subject to the same in like manner, as if he had not served as the substitute of another,

at other, and shall be disqualified from becoming a substitute, a second time, until he shall have served as a Militia man, on his own behalf.

27 Geo. 3. Cap. 3.

XLII. And be it further enacted by the authority aforesaid, that all and singular, the Provisions of an Ordinance passed by the Governor and Legislative Council of the former Province of *Quebec*, in the twenty-seventh year of his Majesty's Reign, intituled, "*An Ordinance for quartering the Troops upon certain occasions in the Country Parishes, and providing for the conveyance of effects belonging to Government,*" shall extend to the Militia of this Province, when called and embodied in manner herein-before directed, and to the detachments thereof, when on a march from their respective companies or Districts, to any place of rendez-vous, until it is otherwise provided by the Legislature.

Expences of postage and other charges allowed.

XLIII. And whereas Officers belonging to the Militia, are sometimes exposed to expence for postage, and such like necessary charges, in the execution of their duty; Be it further enacted by the authority aforesaid, that every officer of Militia who shall have disbursed any sum or sums of money, in the discharge of his duty, shall twice in every year, on or before the tenth day of April, and the tenth day of October, respectively transmit to one of the Adjutants General, at *Quebec*, an account of the money so by him disbursed, and the said Adjutant General shall make up a general statement of the accounts so transmitted to him, and of his own disbursements, which shall be laid before the Governor, Lieutenant Governor, or person administering the Government for the time being, in his Majesty's Executive Council, and such account being approved of in Council, by the Governor, Lieutenant Governor or person administering the Government for the time being, a Warrant shall be issued under his Hand and Seal, to the Receiver General of the Province, ordering him to pay the same to the Adjutant General, who shall pay to the different officers claiming payment of monies disbursed by them, respectively, the sum or sums which shall have been approved of, in the manner herein-before directed.

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

XLIV. 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 cases of Desertion or harbouring, concealing, aiding, or abetting Deserters, or buying, taking in exchange or concealing Arms or Accoutrements delivered to Militia.

Limitation of actions.

XLV. And be it further enacted by the authority aforesaid, 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

Special matter.

given.

given for the Defendant or Defendants, in any such action or suit, or if the Plaintiff or Plaintiffs shall be non-sued, 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.

Treble costs.

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

XLVI. 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 Witnesses, other than the informer; (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 Chattels, 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 Sergeant of the 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. Provided always, that where the fine awarded exceeds forty shillings, 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, before 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 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.

When Fines exceed 40s. or where the penalty extends to more than 8 days imprisonment, the defendant may appeal to the next quarter Sessions.

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

XLVII. 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

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.

Adjutants, or
Aide Majors, to
prosecute delin-
quents.

XLVIII. And be it further enacted by the authority aforesaid, that it shall be the duty of the Adjutant, or *Aide Major*, of each Division or battalion, to prosecute the delinquents, according to the orders he shall receive thereon, from the Commanding Officer of the division or battalion, where such offence shall have been committed, and the disbursements and reasonable expence of such Adjutants or *Aide Majors*, for such prosecutions, shall be paid out of the Funds provided by this Act.

Disbursements
and Expences al-
lowed.

Justices of the
Peace shall keep
a Register of pro-
secutions under
this Act.

XLIX. And be it further enacted by the authority aforesaid, that the Justices of the Peace, respectively, before whom any prosecutions shall be had in consequence of this Act, shall keep a record or register of all such prosecutions, stating the names of the Prosecutors and defendants, and their usual places of abode, also the names of the witnesses, with the evidence they may give, and the judgment that may be pronounced; also the quantum of fine that shall be imposed in the respective prosecutions, which by them, or either of them, may be heard and determined conformable to this Act.

This Act not to
annul the com-
mission of any of-
ficer of Militia.

L. Provided always, and be it further enacted by the authority aforesaid, that nothing in this Act contained, shall extend, or be construed to extend, to revoke or annul all or any of the commissions of the different Officers of Militia, at present appointed in the Province, till such time as further provision be made therein, by the Governor, Lieutenant Governor, or person administering the Government for the time being.

Governor em-
powered to apply
£2500 yearly, in
providing arms,
&c. for the mili-
tia.

LI. And be it further enacted by the authority aforesaid, that it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the Government of this Province, out of any sum or sums of money raised under the authority of the Legislature of this Province, that are or shall be in the hands of the Receiver General, unappropriated, to apply and appropriate a sum, not exceeding two thousand five hundred pounds, currency, yearly, in providing Arms, Accoutrements, Cloathing, Provisions and other necessaries for the Militia embodied for the purpose of exercise, and in providing ammunition and other necessaries for the exercise of the Militia, in their respective Parishes and Townships, and also for the payment of such officers and non-commissioned officers and Militia men, as it may be found expedient to employ, for the purpose aforesaid, and for the payment of all other expences of the Militia of this Province, under the authority of this Act. And the due application of all such monies, pursuant to the directions of this Act, shall be accounted for to His Majesty, his Heirs and Successors, through the Lords Commissioners of His Majesty's Treasury, in such manner and form, as His Majesty, his Heirs and Successors, shall direct.

The due appli-
cation of the mo-
ney to be ac-
counted for to the
Crown.

The Governor, &c. may, in case of war, &c. summon the Legislature to meet within 14 days.

LII. And be it further enacted by the authority aforesaid, that in case of war, invasion, or imminent danger thereof, insurrection, or other pressing exigences, if the Legislature shall then be separated by such adjournment or prorogation as will not expire within fourteen days, it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the Government, to issue a Proclamation for the meeting of the Legislature, within fourteen days; and the Legislature shall accordingly meet, and sit upon such day as shall be appointed by such Proclamation, and continue to sit and act, in like manner, to all intents and purposes, as if it had stood adjourned or prorogued to same day.

Who shall sit, &c. as if by prorogation.

27 Geo. 3. Cap. 2. repealed.

29 Geo. 3. Cap. 4. repealed.

34 Geo. 3. Cap. 4. repealed.

36 Geo. 3. Cap. 4. repealed.

LIII. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, an Ordinance of the late Province of Quebec, passed in the twenty-seventh year of His Majesty's Reign, intituled, "*An Ordinance for better regulating the Militia of this Province, and rendering it of more general utility towards the preservation and security thereof;*" And also another Ordinance, passed in the twenty-ninth year of his Majesty's Reign, intituled, "*An Act or Ordinance to explain and amend an Act, intituled, 'An Act or Ordinance for better regulating the Militia of this Province, and rendering it of more general utility towards the preservation and security thereof;'*" And also an Act of the Legislature of this Province, passed in the thirty-fourth year of His 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 repealing certain Acts or Ordinances relating to the same.*" And also another Act, passed in the thirty-sixth year of his present Majesty's Reign, intituled, "*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 repealing certain Acts or ordinances relating to the same,'*" shall be and are hereby repealed.

Continuance of this Act. If the Province is in a state of war, this Act to continue to the end of such war.

LIV. And be it further enacted by the authority aforesaid, that this Act shall be and continue in force from the passing thereof, until the first day of July, which will be in the year of our Lord one thousand eight hundred and seven, and no longer. Provided always, that if at the term above fixed for the expiration of this Act, the Province shall be in a state of War, Invasion or Insurrection, the said Act shall continue and be in force until the end of such War, Invasion, or Insurrection.

C A P. I I.

An Act for applying a certain sum of money therein-mentioned, to make good the like sum issued and advanced by His Majesty's Orders, in pursuance to an Address of the House of Assembly.

(18th April, 1803.)

CAP. III.