

## CAP. IX.

An ACT for better regulating the Militia in this Province. Passed the 14th of March, 1810.

**W**HEREAS a well regulated Militia in this Province will at all times tend, not only to the security and defence thereof, but to the honor and service of His MAJESTY; and whereas in times of imminent danger either by hostile invasion or attack made or threatened to be made on any part of this Province, it may be expedient and necessary that the Militia of the several and respective Counties, or a part thereof, should be drawn out and embodied, and ordered into actual service; in which case it will become requisite that due subordination should be observed: And whereas the Law now in force is inadequate to these important purposes.

I. *Be it enacted by the President, Council, and Assembly, That* an Act made and passed in the forty-eighth year of His MAJESTY's reign, intituled "An Act for the greater security of this Province, by the better regulating the Militia thereof," and also an Act made and passed in the forty-fifth year of His MAJESTY's reign, intituled "An Act for the better regulating the Militia of this Province," and the Act, in addition to the said Act, made and passed in the forty-seventh year of His MAJESTY's reign, intituled "An Act in addition to an Act intituled an Act for the better regulating the Militia of this Province," be; and the same are hereby repealed, saving nevertheless the right of recovery of such fines and penalties as may have been incurred by the said first mentioned Act.

II. *And be it further enacted, That* every male white inhabitant or resident within this Province from sixteen to sixty years of age (excepting such as are herein after excepted), shall be enrolled in and be liable to serve in the Militia; and the Militia shall be formed into Regiments by Counties: and if any County shall be sufficiently populous to admit of the Regiment being subdivided into two or more Battalions, it shall be lawful for the Governor or Commander in Chief to subdivide such Regiment into Battalions, and to affix the limits of the district composing such Battalions; and each Company in such Regiment or Battalion shall consist of not more than sixty rank and file, to be commanded by one Captain and two Subalterns; and the extent of the districts of the Companies shall be determined by the Commanding Officer for the time being of the Regiment or Battalion to which they belong: And all Captains or Commanding Officers of Companies are hereby required to take due care to enrol in a Book to be kept by them for that purpose the names of those persons who are liable to serve as aforesaid, within their respective districts: *Provided always,* that in insular and remote situations where the number of persons in the Island or neighbourhood liable to serve in the Militia exceeds the number of sixty, but does not exceed the number of eighty, the whole may be enrolled in one Company. *And provided also,* that the Members of His MAJESTY's Council, Members of the Assembly, established

Preamble.

Former Acts repealed.

Male white inhabitants from 16 to 60 years of age to be enrolled.

Militia to be formed into Regiments by Counties &amp; in Counties sufficiently populous may be subdivided into Battalions.

Companies not to exceed sixty rank and file, with one Captain and two Subalterns.

Districts of Companies to be determined by the Commanding Officer of the Regiment or Battalion.

Officers commanding Companies to enrol persons liable to serve.

In insular and remote situations where the number of men liable to serve, does not exceed eighty, the whole may be formed into one Company.

Persons exempted from being enrolled.

established Clergymen, and licensed Ministers of the Gospel, all persons exercising Commissions civil or military under His MAJESTY, Officers on Half-Pay, Supernumerary Militia Officers now in Commission, Officers of His MAJESTY'S Customs, Revenue and Naval Officers, Physicians and Surgeons, one Miller to each Grist Mill, and one Ferryman to each established Ferry, shall be exempted from being enrolled as aforesaid: *And provided also*, that every person professing himself to be of the people called Quakers, and producing to the Commanding Officer of the Regiment or Battalion of the district in which he resides a certificate, signed by two principal people of that persuasion, that such person has been deemed and allowed to be one of the same persuasion, for at least one year before the date of such certificate, shall in like manner be exempted from being enrolled as aforesaid.

Quakers, producing a certificate, exempted.

III. *And be it further enacted*, That it shall be the duty of

Captains, when required, to make returns of their Companies and of arms, &c. to the commanding Officer of the Regiment or Battalion.

Officers commanding Regiments to make returns to the commander in chief.

each and every Captain or Commanding Officer of a Company, to furnish to the Officer Commanding the Regiment or Battalion to which he belongs, so often as he shall be thereunto required, a fair written roll or return of his Company, and also a return of the state of the arms and accoutrements of his Company, and it shall be the duty of the Officers Commanding the several Regiments, to furnish from time to time to the Commander in Chief or to such person as he may appoint, such rolls, returns, and statements of their several Regiments as may be required.

IV. *And be it further enacted*, That the Captains or Officers

Captains with consent of the commanding Officer of the Regiment to appoint Serjeants, Corporals, Drummers and Fifers.

Persons so appointed refusing to serve, to forfeit 20s.

Commanding Companies shall be, and they are hereby fully empowered, with the consent of the Commanding Officer of the Regiments or Battalions respectively, to nominate and appoint proper persons to serve, as Serjeants, Corporals, Drummers, and Fifers in their several Companies, and to displace them and appoint others in their room as they shall see occasion. And if any person so to be appointed, shall refuse to accept the office to which he shall be appointed, or after having been appointed, shall refuse or neglect to perform such duties as appertain to his office, he shall forfeit for such refusal or neglect and pay the sum of *twenty shillings*, to be adjudged by and before such Captain or Commanding Officer of the Company, and levied by warrant of distress and sale of the offenders goods and chattels: *Provided* that there shall not be appointed to any one Company, more than three Serjeants, three Corporals, one Drummer, and one Fifer, except flank Companies which may have four Serjeants each.

Three Serjeants, three Corporals, one Drummer and one Fifer to each Company, except Flank Companies, which may have four Serjeants.

V. *And be it further enacted*, That every Regiment or Battalion

Militia to be called out by Companies twice a year at such times and places as the commanding Officer of the Regiment or Battalion shall appoint.

shall be called out and rendezvous by Companies, twice in every year for the purpose of training, disciplining, and improving in martial exercises; the times and places of rendezvous to be appointed by the Commanding Officer of the Regiment or Battalion, and arranged on different days or in such manner that the Field and Staff Officers may have an opportunity of attending the several Companies in order to introduce uniformity in the manœuvres

manœuvres and discipline of the Regiment or Battalion; of which ten days notice in writing to which several and respective days of rendezvous and training, be given by the Captain, previous notice shall be given in writing by the Captains or Officers Commanding Companies, at least ten days, which notice shall be posted up by a Non-Commissioned Officer at three of the most public and conspicuous places within the Parish or district of such Company, which notification shall be deemed a lawful and sufficient warning.

VI. *And be it further enacted*, That there shall be an Adjutant appointed to each Regiment and each Battalion in the Province, whose duty it shall be to attend all the places of rendezvous of each Company when called out as aforesaid, then and there to inspect their arms, ammunition, and accoutrements, superintend their exercises and manœuvres, and introduce such a system of military discipline as shall be established by the Governor or Commander in Chief for the time being, and to do and perform such other duties and services suitable for an Adjutant as the Commanding Officer of the Regiment or Battalion shall from time to time order and direct, and that every such Adjutant shall be allowed as a full compensation for all the services he is required to perform by this Act (except when on real service) the sum of *ten shillings* by the day, for every day he shall be actually employed as such, the number of days to be certified by the Commanding Officer of the Regiment or Battalion. *Provided always*, that no one Adjutant be allowed more than *fifteen pounds* in any one year, except the Adjutant of the *Charlotte County Regiment*, who shall not be allowed more than *thirty pounds* in any one year.

VII. *And be it further enacted*, That all persons enrolled as aforesaid, except those above forty-five years of age, shall be drilled by Companies in their respective districts, or where in the opinion of the Officer commanding the Regiment or Battalion that cannot conveniently be done by half Companies, eight days in each and every year, that is to say, four days commencing the last Monday in the month of June, and four days commencing the last Monday in the month of October, in each year, in each and every County, except the Counties of *Saint John, Queen's, and York*, in which the times of such drilling shall be as follows, that is to say, in the City and County of *Saint John*, for four days commencing the last Monday in July, and for four days commencing the last Monday in September; in the County of *Queen's* for four days commencing the last Monday in June, and four days commencing the first Monday in October; and in the County of *York*, for four days commencing the last Monday in June, and for four days commencing the last Monday in September, in each and every year, over and above the number of days directed by the fifth Section of this Act; and such Companies or half Companies shall be drilled under the direction of a Commissioned Officer, by such persons as the Governor or Commander in Chief shall appoint for that purpose.

VIII. *And be it further enacted,* That all persons enrolled as aforesaid, except those above forty-five years of age, shall assemble by Regiments, or Battalions, or detachments thereof, one day in the year, or three days successively, if the Commander in Chief shall so order and direct, for the purpose of training and disciplining as aforesaid, the time and place of which general trainings, shall be as the Commander in Chief shall direct and appoint, in order that an opportunity may be afforded to the Inspecting Field Officer to attend the same: And whenever the Commander in Chief shall deem it necessary to exercise or review any Regiment or Battalion as aforesaid, more than one day, in any one year as aforesaid, the Officers, Non-Commissioned Officers, Drummers, Fifers, and Privates shall be entitled to receive out of the Province Treasury the like pay and allowances for each day more than one, as aforesaid, as is herein after provided for the Militia when on actual service. *Provided always,* that no person shall be obliged to go more than twenty miles from his place of residence to attend any such general training. *And provided also,* that the Commander in Chief (whenever he may deem the Militia of any Regiment, or Battalion, or any part thereof, to be sufficiently trained and disciplined, may, and he is hereby authorised, by order directed to the Commanding Officer of any such Regiment or Battalion to dispense with or lessen so much and such parts of the duties required by this Act as to him may seem meet.

Persons under the age of forty-five to assemble by Regiments, Battalions, or Detachments, one day in the year, or three days successively, if the Commander in Chief shall so order, at such time and place as the Commander in Chief shall direct. If called out more than one day in the year, to be paid.

No person to go more than twenty miles from home to such training.

Commander in Chief may lessen the duties required by this Act.

Commissioned Officers to be drilled.

IX. *And be it further enacted,* That it shall be the duty of the several Officers commanding Regiments or Battalions, to cause the commissioned Officers, under their respective commands, at reasonable and proper times and places apart from their men, to be drilled and instructed as well in the Manual, and Platoon, as field exercise.

X. *And be it further enacted,* That such Non-Commissioned Officers and other fit persons as the Commander in Chief shall in his discretion think proper to employ (and under such regulations and directions as he shall think fit) for the purpose of drilling the Commissioned, Non-Commissioned Officers and Privates in the several and respective Regiments, Battalions, and Companies, at the several and respective times when such Regiments, Battalions, and Companies shall be called out for training and exercise, under and by virtue of this Act, shall be entitled to and receive *four shillings* per day, during the time they shall be so employed, and at the same rate for every fifteen miles travelling in going to and returning from such service, to be paid out of the Treasury of this Province; and in such districts and places, where military drills cannot conveniently be sent, the commanding Officers of the Regiment or Battalions are authorised to employ proper drills, who shall be entitled to the same pay as other drills, to be paid in manner aforesaid, which service and travel of such persons so to be employed, shall be certified by the commanding Officer of the Regiment, Battalion, or Company, in the drilling of which, such persons shall be respectively employed.

Persons appointed to drill the Militia to be paid four shillings per day during the time they are employed, and at the same rate for every fifteen miles travel, the service and travel to be certified by the commanding Officer of the Regiment, Battalion, or Company.

XI. *And be it further enacted,* That every person enrolled as aforesaid; who shall neglect to appear agreeably to the provisions of this Act, when called upon, shall pay for each neglect, on each and every of the days herein before required of him to attend *ten shillings*; and upon neglect or refusal to pay the same to any Non-Commissioned Officer, having an order to receive the same, signed by the Officer commanding the company to which such delinquent belongs, the same shall be recovered before any one of His MAJESTY'S Justices of the Peace, or the Clerk's Court of the City of *Saint John*, with costs at the suit of such Commanding Officer, in the same manner as other sums are by the Act for the recovery of small debts, and by him paid into the hands of the Quarter-Master of the Regiment or Battalion.

Persons neglecting to appear when called on to pay ten shillings, and upon refusal to pay the same to a non-commissioned Officer, it shall be recovered before a Justice of the Peace or Clerk's Court of St. John, with costs and paid to the Quarter-Master.

XII. *And be it further enacted,* That every person enrolled as aforesaid, shall at all times when called out as aforesaid, appear with such arms, ammunition, and accoutrements as have been or may be hereafter issued to him by Government, or with arms, accoutrements and ammunition, of his own, equally sufficient, in complete order, and for appearing without such arms, accoutrements, and ammunition, or appearing with a part, and not the whole, or with any of them, which in the opinion of the Field Officer, if present, or otherwise of the Commanding Officer of the Company, are not in good and serviceable order, such person shall forfeit, and be forthwith ordered by the Field Officer, or, if none present, the Officer commanding the Company, to pay a sum not less than *two shillings*, nor more than *ten shillings*, and for neglect to pay the same, to the commanding Officer of the Company, within twenty-four hours after the parade is dismissed, the same shall be by an order of the same commanding Officer directed to either of the Non-Commissioned Officers of the Company levied (with the like fees as Constables may receive) upon the goods and chattels of the delinquent; and for want of goods and chattels whereon to levy the same, the said delinquent shall by warrant under the hand and seal of such commanding Officer of the Company be committed to the County Gaol, there to remain for any term not exceeding twenty four hours, and the keeper of such Gaol is hereby required to receive such delinquent, and keep him safely during the time specified in such Warrant, and then discharge him upon his paying the customary Gaol fees, together with such fees as the Non-Commissioned Officer may be entitled to receive as herem before mentioned.

Persons called out to appear with arms, ammunition and accoutrements in complete order, and for appearing without or with only a part, to forfeit not less than two nor more than ten shillings, which if not paid within twenty-four hours after the parade is dismissed, shall be levied by the commanding Officers warrant directed to a Non-Commissioned Officer.

For want of goods to be imprisoned not exceeding 24 hours.

XIII. *And be it further enacted,* That the Officer commanding any Regiment or Battalion, shall once in every year, and as much oftener as he shall judge necessary (besides the usual days of training) order an inspection of arms, accoutrements, and ammunition of the several Companies under his command, to be made at one and the same time, by the Subalterns of each Company (each taking a part of the Company, as the same shall be for that purpose, divided by the Captain or Officer commanding it,) and calling on each and every man of the Company, at the usual place of his abode, and that each Subaltern shall

Officers commanding Regiments or Battalions to order inspections to be made by the Subaltern Officers of the arms, accoutrements and ammunition of the several Companies at the places of abode of the men.

Returns to be made to the Officer commanding the Company. shall make an exact return to the commanding Officer of the Company, of such arms, accoutrements, and ammunition, describing the state and condition thereof, and every person required by Law, to be provided with arms, accoutrements, and ammunition, who shall at such inspection, refuse to shew his arms, accoutrements, and ammunition, to the Officer, or have such arms out of order, or shall be deficient in any of the accoutrements or appurtenances beforementioned, shall forfeit and pay, for each deficiency, the like sum, as if such deficiency had happened at a muster or training, to be assessed by the commanding Officer, of such Company, who shall issue his order for the payment thereof, directed to a Non-Commissioned Officer of the Company; and upon non-payment thereof upon demand the same to be recovered in the same manner as is provided in the next preceding Section.

*XIV. And be it further enacted,* That if any Non-Commissioned Officer or private, of any Company, shall be guilty of drunkenness, contemptuous behaviour, disobedience of orders, or shall otherwise misbehave himself at any muster or training, it shall and may be lawful in any such case for the Field Officer, if present, or if not present, for the Officer commanding the Company, to order such person or persons so offending, to be confined under a guard, during the time of such muster or training and also to impose a fine on such offender or offenders, not exceeding the sum of *ten shillings*, to be recovered as other fines and forfeitures are directed to be recovered in the twelfth Section of this Act.

*XV. And be it further enacted,* That if any person shall wilfully interrupt, any company, detachment, battalion, or regiment of Militia at exercise or muster, or any duty herein before prescribed, it shall and may be lawful for the Officer commanding such Company, detachment, battalion, or regiment, to confine such person during the time of such exercise or muster, (if he shall think it necessary) to prevent the continuation of such insult, or wilful interruption, and the persons so offending, shall forfeit and pay the sum of *twenty shillings*, for each and every offence, to be recovered on conviction, before any one Justice of the Peace, and by him paid into the hands of the Quarter-Master of the Regiment.

*XVI. And be it further enacted,* That whenever any general muster or training shall be ordered in pursuance of this Act, and any Captain or Subaltern Officer of any regiment, battalion, or detachment thereof, shall be guilty of disobedience of orders, or contemptuous or improper behaviour, during such muster or training, or if at any Company muster, or training, any Subaltern of such Company shall be guilty of disobedience of orders, or contemptuous or improper behaviour during the same, it shall and may be lawful for the commanding Officer of such regiment, battalion, or detachment, to order a Court Martial forthwith on such Officer so misbehaving, which Court shall consist of two Captains and three Subalterns belonging to the same regiment, or battalion, and in case such charge is proved, it shall be their duty

duty to report their proceedings to the Colonel, or commanding Officer of the regiment or battalion, and if the sentence of such Court Martial shall be approved by the Commander in Chief of this Province, such Officer so found guilty, shall be dismissed.

who shall report to the Colonel, and if the sentence be approved by the Commander in Chief, the offender shall be dismissed.

XVII. *And be it further enacted,* That it shall be the duty of the commissioned Officers of the several Companies to attend all the trainings and musters of their respective companies; and of all the commissioned Officers of the several regiments or battalions, to attend the trainings and musters of their respective regiments or battalions, and at all times to appear equipped, with sufficient swords and belts, and for each and every neglect to appear, or appearing without such sword or belt, the Officer so neglecting, shall forfeit and pay the sum of *twenty shillings*, to be recovered before the commanding Officer of the regiment or battalion to which he belongs.

Commissioned Officers to attend all trainings proper equipped under the penalty of 20s.

XVIII. *And be it further enacted,* That it shall and may be lawful for the Officer commanding any regiment or battalion of Militia, to appoint a Serjeant-Major, Quarter-Master-Serjeant, and Clerk, for such regiment or battalion, who are hereby made liable to be tried by a Regimental Court Martial for disobedience of orders, or contemptuous and improper behaviour, which said Court Martial shall be constituted as herein before mentioned, and shall have power to punish by fine, or imprisonment in the County Goal, such fine not exceeding *forty shillings*, or imprisonment ten days. *Provided always, and be it further enacted,* that no sentence of any such Court Martial, shall be put in execution until approved by the commanding Officer of such regiment or battalion; and the Serjeant-Major, Quarter-Master-Serjeant, and Clerk, so appointed shall be exempted from all balloting for actual service.

Serjeant-Major, Quarter-Master-Serjeant and Clerk, to be appointed, who are liable to be tried and punished by a Court Martial.

XIX. *And be it further enacted,* That the Quarter-Master of every regiment or battalion, shall before he commences the duties of his Office, under this Act, give bond to His MAJESTY, with two sufficient sureties in the penal sum of *two hundred pounds*, for the faithful discharge of such duties, and for his duly accounting for and applying all monies he may receive, by virtue of this Act, and for all arms and accoutrements, provisions and stores, he may receive as Quarter-Master of such regiment or battalion; which bond shall be taken by the commanding Officer of such regiment or battalion, and lodged by him in the Secretary's Office, of the Province, and that each Quarter-Master, shall be allowed in his general account of Monies, ten per cent, for all sums received and paid over by him; this allowance to cease to be made to any Quarter-Master who may be on actual service and in receipt of full pay.

Quarter-Masters to give Bonds for faithful discharge of their duty.  
Allowed ten per cent, for monies received.

XX. *And be it further enacted,* That the Captain or Officers commanding Companies, shall, on or before the first day of June, in each year, make out and transmit to the Officer commanding the regiment or battalion, lists of all persons residing within the districts of their companies respectively, who are by the second Section of this Act, exempted from being enrolled in

List of exempts to be transmitted by Officers commanding Companies to the commanding officer of the regiment or Battalion, and entered by the Clerk in a book.

Exempts to pay to  
the Clerk 20s. a  
year.

the Militia, specifying the ages of such persons, and the causes of their respective exemptions; which lists shall be entered by the Clerk of the regiment or battalion, in a book to be by him kept for that purpose; and that all persons so exempted, (one ferryman to each established ferry excepted) shall on or before the first day of September, in each and every year, pay to the said Clerk, *twenty shillings*, and if not then paid, the same to be recovered with costs, by and at the suit of such Clerk, in the like manner as is provided by the eleventh Section of this Act, and when received by him, the same to be forthwith paid into the hands of the Quarter-Master of the regiment or battalion.

Exempts may ex-  
cuse themselves from  
paying by enrolling  
themselves.

*Provided always, and be it further enacted*, that any person liable as aforesaid, to pay the said sum of *twenty shillings*, shall be excused from paying the same, by enrolling himself in the Company of Militia of the district in which he resides: And that when such person has so enrolled himself, he shall be, and he is hereby made liable to do and perform all and singular the duties required of other men belonging to the Company, and under and subject to the same penalties and forfeitures in every respect.

Ferry-men to convey  
Militia-men going  
on duty over their  
Ferries, free of ex-  
pence.

XXI. *And be it further enacted*, That the Ferry-men excepted by the next preceding Section, shall upon all occasions, when the Militia are called out by battalion or detachment for general training, carry over their respective ferries, the said Militia, and each and every of them in going out and returning home, without any demand for ferryage whatever, under the penalty of *ten shillings*, for each and every offence, to be recovered by the party complaining before any one of His MAJESTY'S Justices of the Peace, upon the oath of one credible witness.

Arms to be marked.

XXII. *And whereas*, arms and accoutrements have been issued from His MAJESTY'S stores, for the use of the Militia in several parts of this Province, and it is necessary to provide for the the security of those arms and accoutrements, and such as may hereafter be issued. *Be it further enacted*, that such arms so issued, or which may hereafter be issued, shall be branded distinctly on the broad part of the butt with the letter M and the name of the County to the Militia of which they are issued, also with a capital letter to denote the Company to which they belong, and a number to distinguish each Firelock to its owner, such brand to be provided by the Commanding Officer of the Regiment or Battalion, and all Captains or other Officers commanding Companies shall be, and they are hereby made responsible (except in case of unavoidable accident) for the safe keeping and return (if called for) of such arms and accoutrements as were issued to the men in their respective Companies, or may hereafter be so issued; and such Captains or Officers commanding Companies are hereby empowered and required to take into their possession all such arms and accoutrements, except where the person to whom they have been, or shall be issued, shall give bond with sufficient surety to our Sovereign Lord the King, in the penalty of *five pounds*, conditioned for the safe keeping, and return of the said arms and accoutrements; which bonds so given, shall be lodged with the Clerks of the Peace, in

Captains made re-  
sponsible for arms,  
and empowered to  
take the same into  
their possession un-  
less the persons to  
whom they are issued  
will give bonds.

the



the respective Counties, who are hereby required to receive and file the same in their respective offices, which person so giving bond as aforesaid, shall be entitled to keep possession of such arms and accoutrements while he continues in the same Company; and in case of the removal of any such person from such Company, his arms and accoutrements shall be returned to the Captain or other Officer, commanding the said Company, who shall give a receipt for the same, to the person so delivering the said arms: And if any person having such arms and accoutrements in his possession, shall vend, pledge, or exchange the same, or any part thereof, (without leave of the Officer commanding the Company to which such person belongs,) or shall convey, or cause the same, or any part thereof, to be conveyed out of the Province, or shall convey, or cause the same to be conveyed on board any boat, ship, or vessel, with intent to have the same carried out of the Province, or if the master of such boat, ship, or vessel, shall wilfully receive into his boat, ship, or vessel, any such arms or accoutrements so intended to be conveyed out of the Province, or if any person shall purchase the said arms, every person so offending, shall for each and every offence forfeit and pay the sum of *ten pounds*; to be recovered upon conviction before any two Justices of the Peace, upon the oath of one or more credible witness or witnesses, and levied by warrant of distress and sale of the offenders goods, rendering the overplus, if any, after deducting the costs and charges of such distress and sale, to the offender, one half of which penalty, shall be paid to the person who shall prosecute for the same, and the other half into the hands of the Quarter-Master of the Regiment or Battalion, to which such arms and accoutrements belong: And for want of effects, whereon to levy the said fine of *ten pounds*; such offender shall be imprisoned not exceeding six nor less than three months. And in case the said arms and accoutrements, shall at any time be called for, to be delivered to His MAJESTY'S stores, all deficiencies shall be paid for, out of the Treasury of the Province, excepting such arms and accoutrements, as shall have been lost on actual service against an enemy. *Provided always, and be it further enacted*, that nothing herein contained shall be construed to render void the bonds given for any arms and accoutrements, under and by virtue of the seventh Section of the Act, passed in the Forty-eighth year of His MAJESTY'S reign, now by this Act repealed, but that the same bonds shall be, and remain in full force and effect, as if the same Act had not been repealed or any thing herein contained to the contrary thereof notwithstanding.

Penalty of 10l. for selling, exchanging, or conveying away any arms and accoutrements lent by Government.

In case the arms be called for, to be delivered to the King's stores, the deficiencies to be paid for by the Province.

Bonds given for arms not to be avoided.

XXIII. *And be it further enacted*, That no person who has been, or may hereafter be furnished with arms, accoutrements, and ammunition by government, shall use the same for any other purpose, than that for which they may have been supplied, under a penalty of *ten shillings* for each and every offence; to be recovered before any one Justice of the Peace, in the same manner as prescribed in the next preceding Section, and when recovered to be paid to the person who shall prosecute for the same; and for want of effects whereon to levy the said fine of

Arms lent by Government, not to be used for any other purpose than that for which they may have been supplied.

ten shillings, such offender shall be imprisoned not more than four nor less than two days.

Militia may be called out in case of invasion or imminent danger thereof.  
 XXIV. *And be it further enacted,* That the Governor or Commander in Chief shall be, and he is hereby authorised and empowered in case of any actual invasion, or imminent danger thereof, if he, in his discretion, shall think it necessary or expedient to call out the Militia of the Province, and the exempts, as described in the second Section of this Act; (established Clergymen, licensed Ministers of the Gospel, Millers and Ferry-men excepted) or any part thereof, into actual service.

Where the Commander in Chief cannot be immediately consulted, the commanding Officer of the Regiment may call out the Militia of the County.  
 XXV. *And be it further enacted,* That in case of any actual invasion or imminent danger thereof, in any County or district, where the Commander in Chief cannot be immediately consulted, the commanding Officer of the Regiment or Battalion of Militia, in such County or district, shall have power (if he, in his discretion, shall think it necessary or expedient) to call out the Militia in such County or district, and the exempts as aforesaid, or any part thereof, into real service: And in case of any such actual invasion, or imminent danger thereof, in any Town, Parish, or Company district, where the commanding Officer of the Regiment or Battalion cannot be immediately consulted, the Officer commanding the Militia in such Town, Parish, or Company district, shall have power (if he, in his discretion, shall think it necessary or expedient) to call out the Militia under his command, and also the exempts as aforesaid, within the same, or any part thereof, into real service: And such Officer last mentioned, shall forthwith report his proceedings, and the reasons and grounds thereof, to the Officer commanding the Regiment or Battalion to which he belongs, who is hereby required in either case forthwith, to dispatch an express to the Commander in Chief for the time being, notifying the danger, and the strength and motions of the enemy.

Where the commanding Officer of the Regiment cannot be immediately consulted, inferior Officers may call out the Militia under their command, and report to the Col. &c. who is to send an express to the Commander in Chief.

Militia on service to march to any part of the Province.  
 XXVI. *And be it further enacted,* That the Militia, or any part thereof, and the exempts as aforesaid, so called out into real service by virtue of the provisions of this Act, shall and may be ordered to march from one County or part of the Province to another, on any necessary service occasioned by such actual invasion or imminent danger thereof.

Militia on service to obey all lawful commands of superior Officers.  
 XXVII. *And be it further enacted,* That when the Militia or any part thereof, shall be called into real service, every Officer or person so called into service, is hereby bound and required to yield obedience to all lawful commands of his superior Officers, for mounting guards, erecting works, and other military services, for repelling, resisting, or guarding against the attacks of the enemy, under the penalty of incurring the forfeitures appointed by this Act for disobedience of orders.

Militia to be draughted for service by ballot.  
 XXVIII. *And be it further enacted,* That whenever the Governor or Commander in Chief, shall direct any part of the Militia, or the exempts as aforesaid, of any, or either of the Counties to be called out as aforesaid, into real service, a draught by ballot

ballot shall be made from each Company in exact proportion according to the number then fit for duty, which shall be on the oath of the Captain or Commanding Officer of such Company; to the best of his knowledge; if required; of all persons from the age of eighteen to fifty years, which ballot shall take place, and be made in the presence of one or more of His MAJESTY'S Justices of the Peace; or if no such Justice shall be resident near to the place where such ballot shall be made, then and in that case the same shall be made in presence of three or more respectable Freeholders; who are exempted by age from being draughted themselves; and on such occasions all the persons within the County in which any part of the Militia shall be called out as aforesaid, between eighteen and fifty years of age, who are here-<sup>Exempt, to be for- med into a company, and subject to be draughted.</sup> before declared to be exempted from being enrolled in the Militia in manner herein before mentioned (except established Clergymen, and licensed Ministers of the Gospel, one Miller to each Grist Mill, and one Ferryman to each established Ferry) who shall not have joined any Company, shall be formed into a Company by, and under the direction of the commanding Officer of the Regiment or Battalion, and shall be liable to the same draught by ballot as any other Company in such Regiment or Battalion, in proportion to their numbers then fit for duty as aforesaid; and each and every person so draughted, shall go in his own proper person, or find a good and sufficient man in his room; and for his neglect or disobedience herein, he shall be subjected to a fine of *ten pounds*, which if he neglect or refuse to pay, he shall be committed to the nearest County Gaol, where he can be safely kept, by warrant from the commanding Officer of the Regiment or Battalion, or if necessary to his safe custody, be removed to any other Gaol at the discretion of the commanding Officer; where he shall remain three months, or until he pays the said fine, and another man shall be draughted as aforesaid, to march in his place, who shall have half of the said fine, if he shall not refuse or neglect to go, or find a good and sufficient man in his room as aforesaid; but if he shall so neglect or refuse, then he shall be subjected to the like fine, and a further draught shall be made of another man who shall have half of the fine last mentioned, if he shall not neglect or refuse to go, or find a good and sufficient man as aforesaid, and so as often as such case shall happen. *Provided always*, that in case any part of the Militia or exempts as aforesaid, shall be called out more than once, no person who has been once draughted as aforesaid, shall be again draughted, until all the others belonging to the same Company shall have been draughted. *Provided also*, that nothing in this Act shall be construed to extend to oblige the Firemen appointed by the Corporation of the City of *Saint John*, to the two Engines in that City, or Firemen that may be appointed to any Engine that may be hereafter established in any other Town in this Province, not exceeding fifteen men to each Engine, to do duty beyond the limits of the said City or Town respectively. *Provided also*, that if any person called, and duly certified to be a Quaker, shall upon being draughted, refuse to serve or procure a substitute as aforesaid, it shall and may be lawful for the Captain or Officer commanding the Com-<sup>Persons draughted to serve in their own persons, or find good substitutes under the penalty of 10l.</sup> <sup>No person to be a second time draughted till all the others belonging to the same Company shall have been draughted.</sup> <sup>Firemen in St. John, &c. not to do duty beyond the limits of the City.</sup> <sup>Substitutes to be hired for Quakers, who are to pay the expence not exceeding 10l.</sup> pany

pany to which such Quaker belongs, to procure and hire a substitute for him, and at his expence, not to exceed the sum of *ten pounds*, which if he shall refuse or neglect to pay the same, shall and may be recovered before any two of His MAJESTY'S Justices of the Peace, in a summary way, at the suit of the said Captain or commanding Officer of the Company, and levied with costs upon the goods and chattels of such delinquent, or for want thereof, commitment of his person to Gaol, there to remain for three months or until he pays the same. *Provided also,*

That those who have already served in the embodied Militia, and those to be hereafter draughted, shall not be liable to be again draughted, until all the others belonging to the same Company, shall have been draughted.

Persons who have served in the Embodied Militia exempted from draught till all the others of the same Company have been draughted.

Volunteers may be accepted, and to be on the same footing with draughted men.

XXIX. *And be it further enacted,* That whenever the Governor or Commander in Chief, for the time being, shall in consequence of any actual invasion or imminent danger thereof as aforesaid, think it expedient to order a proportion of the Militia of any County to march out of such County on real service; Volunteers who offer themselves for such service, being able of body, in the opinion of the Field Officers of the Regiment or Battalion to which such Volunteers shall belong, shall be accepted, and being so accepted, shall be subject to all the provisions of this Act as though they had been draughted by ballot.

Officers on service may be cashiered by a General Court Martial for disobedience or neglect of duty.

XXX. *And be it further enacted,* That if any Officer, Non-Commissioned Officer, or private of the Militia, or exempts as aforesaid, under arms for real service on a march, or on guard, or that shall be ordered for any of the duties or services herein before mentioned, shall disobey orders, or neglect doing his duty, or shall shew any contemptuous behaviour towards his superior Officer, if an Officer, he shall on conviction thereof before a General Court Martial to be constituted and appointed as herein after directed, be cashiered by the sentence of such Court Martial, if a Non-Commissioned Officer or private, he shall be confined by the commanding Officer of the party or guard, and it shall be lawful for the commanding Officer of the Regiment or Battalion, or of any party or command, not under the degree of a Captain, to order a regimental Court Martial to be forthwith held for the trial of such offender, the said Court Martial to consist of three Commissioned Officers at least, but where they can be had of five, who may give judgment by laying a fine on such offender in any sum not exceeding *forty shillings*, and in addition thereto, if a Non-Commissioned Officers, reducing him to the ranks, at the discretion of the Court, which fine so ordered by the Court Martial, if he neglect or refuse to pay, shall be either stopped out of the pay of such offender, or recovered by warrant of distress and sale of his goods and chattels, under the hand and seal of the commanding Officer of such Regiment or Battalion, or party, and for want thereof, such offender to be imprisoned or subject to hard labour, for a term not exceeding ten days. *Provided always nevertheless,* that no sentence of a Regimental Court Martial, shall be put in execution until approved of by the Officer ordering such Court Martial, and no Officer being the accuser shall be a member.

Non-Commissioned Officers and privates may be confined and tried by a Regimental Court Martial and fined.

Fines may be stopped out of the pay.

No sentence to be put in execution till approved by the Officer ordering the Court.

XXXI. *And be it further enacted,* That if any Officer, Non-Commissioned Officer, or private, shall in the field, upon a march, or in quarters, on actual service, begin, excite or join any mutiny, or knowing of such mutiny, begun or intended, shall not give information thereof, to his commanding or other superior Officer, or shall not when thereunto ordered, use his utmost endeavours to suppress such mutiny, or shall desert the Company or command to which he belongs, or shall disobey orders, if a commissioned Officer, he shall be put under arrest by any superior Officer; if a Non-Commissioned Officer or private, he shall be committed to the next County, or other Gaol, as soon as convenient; by order in writing under the hand of the Officer commanding the Regiment, Battalion, Company, or Detachment to which such person so offending; shall belong, and it shall and may be lawful for the Governor or Commander in Chief of the Province, for the time being; to order a general Court Martial by warrant under his hand and seal, for the trial of such offenders as speedily as the service will admit; which Court Martial shall not consist of a less number than thirteen commissioned Officers of the Militia; and the President of such Court Martial, shall not be under the rank of a Field Officer; and there shall be as many Captains as conveniently may be had, the eldest Subalterns to make up the number; and that such Court Martial shall have power to administer an oath to any witness, in order, to the examination or trial of any of the above offences that shall come before them, and shall also have power to punish with death, or by fine and imprisonment, in proportion to the enormity of the offence, the fine not to exceed *fifty pounds*, nor imprisonment six months. *Provided always,* that no sentence of any Court Martial shall extend to death, unless for desertion to the enemy, for mutiny and sedition, for traitorous correspondence with, or traitorously delivering up to the enemy any Garrison, Fortress, Post or Guard, nor shall the sentence of any general Court Martial, be carried into execution until it has been approved of by the Governor or Commander in Chief, for the time being.

XXXII. *And be it further enacted,* That in all trials by general Court Martial, the President, and every Member thereof, before any proceedings be had, shall take the following oath, and the Judge Advocate is hereby authorised to administer the same, to wit "I (A. B.) do swear, that I will duly administer justice, according to the Laws of this Province now in force, for the better regulating the Militia, without partiality, favor, or affection; and I do further swear that I will not divulge the sentence of this Court, until it shall be approved by the Commander in Chief of this Province, neither will I, on any account, at any time whatever, 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 no sentence of death, shall be given by any such General Court Martial, unless twelve Officers present, shall concur therein.—  
 And the Governor or Commander in Chief shall have power to appoint any fit person to act as Judge Advocate, at any such  
 General

Mutiny, desertion, and disobedience of orders on actual service, to be tried before a general Court Martial to be appointed by warrant under the hand and seal of the Commander in Chief.

Court may administer oaths, and may punish with death, or by fine and imprisonment not exceeding 50l. and six months.

Members of a General Court Martial to be sworn.

No sentence of death to be given unless twelve Officers concur.

Judge Advocate to be appointed and sworn, and allowed 15s. per day.

General Court Martial, who shall be allowed for his services *fifteen shillings* per diem; during the time he shall actually be employed in such service; which Judge Advocate so appointed, shall previous to any proceedings had on the trial of any prisoner, take the following oath, to be administered by the President of the Court, to wit: "I (A. B.) do swear, that I will not upon any account at any time whatever, disclose or discover the vote or opinion of any particular Member of this 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!"

No sentence of death to be executed without a warrant under the hand and seal of the Commander in Chief.

Manner of execution to be by shooting or hanging.

Warrant to be read previous to execution.

No Officer under the rank of Capt. to try a Field Officer.

Militia on service to receive the same pay and allowances as the King's Troops,

and also a bounty to those who have served faithfully, of 30s. per month, not to exceed in the whole 5l.

XXXIII. *And be it further enacted,* That no person shall be put to death; under the sentence of a General Court Martial, until a warrant under the hand and seal of the Governor or Commander in Chief, shall issue for the execution of such sentence, which warrant shall direct the time and place, when and where the person sentenced to death shall be executed; and all sentences of death shall be executed by either shooting or hanging the offender, as the same may be directed and ordered in the said warrant; which warrant shall be a sufficient justification to the officer or officers to whom the same shall be directed, and to all those lawfully employed under them, in executing such sentence. *Provided always,* that previous to any persons being put to death, pursuant to the sentence of a General Court Martial, such sentence and warrant for the execution thereof, shall be publicly read in the hearing of the bye standers, at the time and place appointed for such execution.

XXXIV. *And be it further enacted,* That no Officer under the rank of Captain shall sit upon a Court Martial for the trial of any Field Officer.

XXXV. *And be it further enacted,* That whenever the whole or any part of the Militia of this Province, shall be called out into actual service, the Officers, Non-Commissioned Officers, Drummers, Fifers, and Privates, shall be intitled to the same pay and allowances as the Officers, Non-Commissioned Officers, Drummers, Fifers, and Privates of His MAJESTY'S regular troops respectively receive, to be reckoned from the day that they march from the rendezvous of their respective Companies, to go on actual service, until they shall be dismissed by order of the Governor or Commander in Chief; and at the time of their dismissal they shall be allowed respectively, a number of days pay to defray their expences to their usual places of residence, according to the distance, at the rate of fifteen miles per day, together with a bounty to each man of the Non-Commissioned Officers, Drummers, Fifers, and Privates, who shall have served faithfully during the time or times they shall so have continued on actual service, at and after the rate of *thirty shillings* per month, for every calendar month which they shall respectively have been and remained on actual service but not to exceed in the whole the sum of *five pounds*, for each separate time or occasion on which they shall so have respectively been called out into actual service as aforesaid.

XXXVI. *And be it further enacted,* That all the male Blacks, and people of Colour, between sixteen and fifty years of age, within each and every of the Counties within this Province, shall be formed into one or more Companies as may be thought expedient, and attached to the several Regiments or Battalions, within the districts of which, they may respectively reside, and shall have such Officers to command them as the Governor or Commander in Chief for the time being, may think fit to appoint, and shall be considered as the Pioneers of the Regiments or Battalions to which they may respectively belong, or otherwise as the Commander in Chief may direct: and be subject to the same, or the like draughts for actual service as the Militia in general are liable to in times of invasion or imminent danger thereof.

Male Blacks to be enrolled and formed into Companies, and to serve as Pioneers, or as the Commander in Chief may direct,

and be draughted for service.

XXXVII. *And be it further enacted,* That it shall and may be lawful for the Governor or Commander in Chief for the time being, and he is hereby authorised in case of actual invasion or imminent danger thereof, to direct the building of such a number of Boats as in his judgment and discretion may appear requisite, and on such a construction as he shall judge most proper for the purposes of transporting the Militia with greater facility to different parts of this Province, as well as for annoying the enemy, provided that the sum or sums, to be expended in building such Boats, shall not exceed the sum of *four hundred pounds*:

In case of invasion, &c. the Commander in Chief may direct the building of Boats.

XXXVIII. *And be it further enacted,* That it shall and may be lawful for the Governor or Commander in Chief, for the time being, in any place or places, where he may judge it to be necessary or expedient, to cause one or more Company or Companies of Sea Fencibles to be formed, (to be composed of the Sea-faring people; and such as are principally employed on the water) to belong to and form a part of the Regiments or Battalions of Militia, respectively, in the districts of which the same may be formed, and to direct the mode of drilling and instructing the Officers and men of the same Companies, provided that the time required of the Officers and men thereof, shall not exceed that required by this Act, of other persons belonging to the Militia; and for neglect, or refusal, on the part of either the Officers or men of either of the said Companies of Sea Fencibles to discharge the duty required of them in compliance with such direction of the Commander in Chief, they shall severally incur the like penalty and penalties as other persons of the like rank in the Regiments or Battalions to which they may belong, and to be recovered and applied in like manner as is herein provided.

Commander in Chief may in places where he may judge it necessary, order Companies of Sea-Fencibles to be formed of the Sea-faring people, and direct the mode of drilling and instructing them.

XXXIX. *And be it further enacted,* That whenever the Commanding Officer of the Militia, in any County or district, where such Boats are provided, shall find it necessary to order the Boats so provided, or any other Boats or Vessels with which he may be furnished, to proceed in repelling the enemy, or to the assistance of any neighbouring district or place, or to be stationed as a watch for the defence of any such place, the Militia of any such County, and particularly the Sea Fencibles, shall on the orders of such commanding Officer, proceed in such Boats accordingly.

Militia and Sea-Fencibles may be ordered to do duty in the Boats.

*XL. And be it further enacted,* That if any Captain or Officer commanding a Company, shall refuse or neglect to collect or refuse or neglect to pay into the hands of the Quarter-Master, any fine or penalty by him imposed, or any sum or sums by him received, it shall in any such case or cases, be the duty of the commanding Officer of the regiment or battalion to which such Officer may belong, to order and direct such Officer to be prosecuted by the Quarter-Master, as well for the money by him received, as that which he has neglected to collect, before any one of His MAJESTY'S Justices of the Peace; provided the same shall not exceed the sum of *five pounds*; and when the same shall exceed the sum of *five pounds*, then before any two of His MAJESTY'S Justices of the Peace, and that it shall be the duty of such Quarter-Master forthwith to proceed for the recovery of the same.

*XLI. And be it further enacted,* That all fines not herein before particularly appropriated, shall be paid to the respective Quarter-Masters of Regiments or Battalions, for the purpose of defraying the contingent expences of such Regiments or Battalions, and that it shall be the duty of the respective commanding Officers of such Regiments or Battalions; to see that the fines and sums to be collected by this Act, be laid out for the purposes herein provided for, and that the commander of every Regiment or Battalion, render an account to the Commander in Chief, every six months, of the application of such fines and sums of money, and what may be remaining in the hands of the Quarter-Master, that the same may be paid into the Province Treasury, if the Commander in Chief shall so direct.

*XLII. And be it further enacted,* That whenever the Militia, or any part thereof, shall be called into actual service, it shall and may be lawful for the Officer commanding any Regiment or Battalion, detachment or party, to impress Boats, Men, Horses, and teams as the service may require.

*XLIII. And be it further enacted,* That whenever it shall be rendered necessary by any attack, made or threatened suddenly to be made in any Sea-port, City, Town, or other place at or in the Harbour of which any Merchant Ships, or Vessels, may be lying, the Officer commanding the Militia, is hereby authorised and fully empowered to compel the persons belonging to such Ships or Vessels, to do duty on shore, with the Militia Artillery, if any such there be, or in any boats or vessels, or with any part of the Militia, where they can be the most usefully employed in resisting the attack of the enemy; And that in case of any great emergency which may render the service of Artillerymen necessary, the Officer commanding any Regiment or Battalion, to which there may be an Artillery Company, may require the service of the whole, or a part of such Artillery Company as he may judge necessary although the numbers required may exceed the proportion of men wanted or required from the rest of the Regiment or Battalion and so in like manner with any Company of Sea Fencibles, or any or either of the Flank Companies.

*XLIV. And be it further enacted,* That the Commissioned Officers



Officers of the Militia, when on actual service, and doing duty in Garrison or the Field, with any of His MAJESTY'S Regular or Fencible forces, shall take rank with the Officers of such forces, as the youngest of their degree, and that the said Officers of the Regular and Fencible forces in this Province, and the Officers of the Militia thereof, shall be entitled reciprocally to command; and be subject to be commanded in the same manner as is provided by the Laws of Great-Britain, and the Articles of War, for the Government of the Regular and Militia forces thereof; and subject to the like pains and penalties on the part of the Officers of the Militia as are prescribed by the thirty-first Section of this Act. Provided that nothing in this Section contained, shall be in force until the same shall be more effectually established, as far as it relates to the Officers of the Regular and Fencible forces, by a general Order of the Lieutenant-General Commanding His MAJESTY'S forces, and published by the Governor or Commander in Chief, for the time being, in General Orders to the Militia.

Militia Officers doing duty with His Majesty's regular Forces to take rank as youngest of their degree.

Not to be in force until an order of the Lieut. General commanding the regular Forces be published.

XLV. *And be it further enacted,* That if any person be wounded or disabled upon any invasion or attack of the enemy, he shall be taken care of, and provided for, at the expence of the Province, during the time of such disability.

Persons disabled to be provided for at the expence of the Province.

XLVI. *And be it further enacted,* That this Act, shall continue and be in force for two years and no longer.

Limitation.

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CAP. X.

An ACT, to continue an Act, intituled " An Act to prevent illicit and clandestine Trade, and for imposing a duty upon articles illegally imported or brought into this Province, to be levied and paid after the condemnation and sale thereof." Passed the 14th of March, 1810:

*BE it enacted by the President, Council, and Assembly,* That an Act passed in the forty-seventh year of His MAJESTY'S Reign, intituled " An Act to prevent illicit and clandestine Trade, and for imposing a duty upon articles illegally imported or brought into this Province, to be levied and paid after the condemnation and sale thereof," be, and the same is hereby continued to the first day of April, which will be in the year of our Lord one thousand eight hundred and fifteen.

Continued to the first of April 1815.

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CAP. XI.

An ACT to authorise the Justices of the Sessions in the City and County of Saint John; to levy an assessment for the purpose of repairing and adding