

*Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1787.* Saint John, NB: J. Ryan, 1787.

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**An Act for establishing a Militia, in the Province of New-Brunswick, and for regulating the same.**

Whereas a well regulated Militia in this Province, will tend not only to the security and defence thereof, but to the honor and service of his Majesty.

Be it enacted, by the Lieutenant-Governor, the Council, and Assembly, That within three months after the passing of this act, every person residing within this province, from sixteen to fifty years of age, and every person that is under sixteen, within one month after he arrives at the age of sixteen, shall enlist himself with the Captain, or in his absence with the next commanding officer of one of the independent companies, in the town or parish, or of the regimental company of foot where he dwells, or resides, under the penalty of five shillings, and three shillings for every month that such person shall remain unlisted. And all Captains of independent and regimented companies, in the several towns and parishes within this province, are hereby commanded, to take due care to enlist all inhabitants from sixteen to fifty years of age, which age in case of doubt is to be proved by the oath of the person whose age is in question, on the oath of his parent, or some other credible witness, to be taken by the officer before whom the dispute shall happen to be, who shall administer the same in the words following. "I do swear, upon the Holy Evangelist of Almighty God, that \_\_\_\_\_ summoned before Captain \_\_\_\_\_ in order to be enlisted, is \_\_\_\_\_ years old, and no more according to the best of my knowledge. So help me God." Which oath being duly administered by the Captain or other officer, who hath summoned such person before him in order to be enlisted, and it appearing that he is under sixteen, he shall be for that time dismissed; and if any dispute shall arise about older persons, and it shall appear that he or they are above the age of fifty, such persons shall be exempted at all times thereafter.

II. And be it enacted, That all Captains of independent or regimented Companies, shall provide for their companies, drums, fifes, colours and banners, and drummers and fifers, to be paid for out of the fines and forfeitures to be incurred by this act, under the penalty of two pounds, and for every month such Captain shall remain unprovided thereof, the sum of one pound.

III. Be it further enabled, That the Colonels, or commanding officers of all regiments or battalions, or unregimented companies within this province, shall at lead once in every year, issue out their warrants to their inferior officers, commanding, him or them to make diligent search and inquiry in their several districts, that all persons be duly lifted, armed, and equipped; and to return to them the names of such defaulter, as he or they shall find, to the end they may be punished according to this act.

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IV. And be it also enacted, That once in every year, if the Captain-General or Commander in Chief shall give orders therefor, command shall be given by the Colonels, and in his absence: by the next commanding officer of the respective regiments or battalions, that the several companies in each regiment or battalion shall meet at the most convenient place therein to be appointed by the respective officer commanding the regiment or battalion, to be then and there mustered and exercised; and the several independent companies in this province shall meet twice in every year, at the most convenient place, to be appointed by the respective officers commanding them to be mustered and exercised; and once in every year and not oftener, command shall be given by the Captain, and in his absence by the next commanding officer of the respective companies in each regiment or battalion in this province, that the company under his command shall meet at some place within his district, to be appointed, by the said officer to be then and there mustered and exercised.

V. And be it further enacted, That in case of a general alarm or invasion, all unregimented or independent companies shall in the absence of the Captain-General or Commander in Chief, be under the immediate command and direction of the Colonel, and in his absence the next commanding officer of the regiment or battalion of the city, county, town, or district, where such unregimented or independent companies may be.

VI. And be it enacted, That the independent companies in this province are to consist; each, of fifty men, besides officers, and if the Colonel or commanding officer of the regiment or battalion in the city, or in any town or parish, where there is an independent company or companies, shall have reason to suppose, that the Captain or Captains of the said company or companies have inlisted a greater number of men than is limited above, such Captain or Captains shall within fifteen days after notice, deliver to the Captain-General or Commander in Chief, or to such person as he shall appoint to receive the same, a true and compleat roll of the name of every person he or they have on his list; and if it thereby appears that more are inlisted than the number above-mentioned, all such supernumerary men shall be immediately discharged out of such list, and the Captain or Captains shall give a list of their names to the Colonel or next commanding officer aforesaid; and the person or persons so discharged, shall within fifteen days thereafter inlist him or themselves in one of the companies of the said regiment or battalion; and such of the persons so discharged, as shall omit to inlist themselves accordingly, shall be subject to the fines inflicted in this act on persons omitting or neglecting to inlist in the Militia.

VII. And be it further enacted, That every soldier in any of the regiments or battalions, or independent companies in this province, shall at all times be provided, with a good well fixed musket, or fusee, good bayonet that suits it, a cartridge box, nine cartridges of gun-powder, and nine sizeable bullets; and so provided shall appear, when and where required as aforesaid, upon penalty of three Shillings for

each musket or fusee not well fixed, and for want of a proper bayonet, belt, or cartridge-box, shall forfeit for each one shilling, and the same sum for want of each cartridge or bullet; the whole penalty for the default of one person for one day not to exceed ten shillings, and the sufficiency of the musket or fusee, bayonet, belt, and cartridge-box, shall be judged of and determined by the commanding officer then present. And every soldier shall at his habitation or place of abode, have one pound of good gun-powder, and three pounds of sizeable bullets, upon penalty of ten Shillings for each soldier. And if any soldier shall refuse to show to his Captain or person sent by him or other officer for that purpose by this act appointed, all or any of the equipage, arms or ammunition herein mentioned, he shall be deemed and esteemed to be unprovided thereof, and shall be fined accordingly.

VIII. And be it enacted, That upon notice given of a general muster, or of the review, or appearance in the field of any particular company or companies as aforesaid, no person whatsoever inlisted in the Militia in manner aforesaid, shall absent or withdraw himself from the service without having first obtained leave of his Captain or commanding officer, so to do, under the penalty of ten shillings and no commissioned officer shall remove himself out of the town, parish or district, or withdraw from the service without leave from his superior officer, under the penalty of forty shillings; and no serjeant, corporal, drummer or fifer, shall absent themselves in manner aforesaid, under the penalty of twenty shillings.

IX. And be it further enabled, That if any person or persons being duly inlisted, if thereunto required by their superior and proper officer, shall refuse to warn the people to appear under arms when thereunto required by his Captain or next commanding officer, he shall for every such neglect or refusal forfeit the sum of twenty Shillings.

X. And be it enacted, That every soldier inlisted, to serve either in regimented or independent companies, and appearing under arms, and during such appearance, who shall refuse or neglect to perform such military duty, as shall be required from him, or shall depart from his colours or guard without leave from the commanding officer, shall forfeit twenty shillings; and for non-payment thereof, shall be committed by warrant from the commanding officer then present to the next goal, till the said twenty shillings be paid, with the prison charges; and the sheriff of such county and city, is hereby required to receive the body or bodies of such offender or offenders against this act, as shall be brought to him by virtue of a warrant or warrants under the hand and seal of such officer as aforesaid, and him or them to keep in safe custody, until such fees and fines mentioned in such warrant are paid. And such sheriff or keepers of goals shall be intitled to the same fees as are allowed in other cases, and the fines so recovered, shall be disposed of by the commanding officer, for the benefit of the company to which the offender doth belong.

XI. And be it further enacted, That the several other fines, penalties and forfeitures in this act mentioned, shall be levied, recovered, and disposed of as followed: That is to say, that all such forfeitures, as do relate to any person under the degree of a

Captain, shall be adjudged by and be taken to the respective Captains, to defray the charges of their companies, and to be levied before the next exercising day, by distress and sale of the offenders goods by the Captains warrant, directed to a serjeant, or corporal of the company wherein such offence was committed. But if the offender be a servant, or under his parents care, then in such case the masters or parents goods shall be liable to such distress and sale as aforesaid, till satisfaction be made. And if any serjeant or corporal shall refuse to execute such warrant to him directed, he shall for every such offence forfeit for the uses above-mentioned the sum of thirty shillings, to be levied in manner before expressed, by such other officer, serjeant, or corporal, as such warrant shall be directed to. And for all other penalties and forfeitures in this ad mentioned, the same shall be levied by distress and sale of the offenders goods by warrant, from the Colonel, or the next field-officer where such offenders are; which forfeiture and penalty shall be for the use and benefit of the regiment or battalion in the city, town, or county where the offence is committed; and the serjeants and corporals of the regiment or battalion, are to receive to themselves, out of the distress or forfeiture, the sum of three shillings, for executing each warrant from their Captain or other superior officer.

XII. And be it enabled, That all Drummers and Fifers that shall be put in service by the several Captains, shall serve upon the salary of twenty shillings per year, if they find Drum and Fife, and if the Captain finds the Drums and Fife, then they shall serve for one half that sum, and each Drummer or Fifer re-filling to serve shall forfeit twenty shillings, to be levied in manner aforesaid. Always provided, that the Members of his Majesty's Council, Members of the Assembly, Justices of the Peace, High Sheriffs, Coroners, and all persons that have held any commission, Civil or Military under his Majesty, Ministers of the Gospel, Physicians, Surgeons, School-Mailers, one Miller to a Grist Mill, and one Ferryman to every public Ferry, shall be free from being lifted in the Militia of this Province.

XIII. And be it enacted, That no Militia commissioned officer in this Province shall be liable, or subject to serve as Constable; any law or usage to the contrary notwithstanding.

XIV. And be it further enacted, That in case of an alarm, invasion, insurrection or rebellion, every officer of the Militia shall have full power and authority, by virtue of this act, and is hereby required forthwith to raise the Militia or company under his command, and to send immediate intelligence to the commanding officer of the regiment or battalion to which he belongs, who also are hereby required to send forward the intelligence forthwith to the commanding officer of the next adjacent counties, informing him and them at the same time in what manner he intends to proceed: And every commanding officer in every county upon any alarm, or receiving intelligence of any insurrection, invasion or rebellion, shall forthwith dispatch an express to the Captain-General or Commander in Chief for the time being, notifying the danger, and shall therewith signify the strength and motions of the enemy, and the said commanding officer hath hereby full power to impress boats, men and horses, as the service may require, and shall draw together the

Militia of his county, town, or parish, or such part thereof as he shall think necessary, and march them to such place or places as he shall judge most convenient for opposing the enemy, and to such place or places within this province, as shall be directed by the Captain-General or Commander in Chief for the time being. And every Captain or commissioned officer under the degree of Major, that shall neglect or refuse to perform his duty hereby required, shall forfeit the sum of twenty pounds. And every non-commissioned officer or private man for his neglect or refusal of such duty, shall forfeit the sum of five pounds. And every such commissioned officers, besides paying such forfeitures, shall be degraded, and rendered incapable thereafter of holding or exercising any office civil or military within this province.

XV. And be it enacted, That if any person or persons shall be sued, molested, or impleaded for any matter or thing lawfully done and commanded in the execution and performance of this act, he or they may plead the general issue, and give this act in evidence, and if the plaintiff discontinue his action, be non-faited, or a verdict pass against him, the defendant shall recover treble cost, nor shall any such suit be brought unless three months next after the offence is committed.

XVI. And be it enacted, That once in every year, and oftener if thereunto required, each Captain shall give to his Colonel, or in his absence to the next field-officer, and such field-officer, and the Captains of unregimented companies, to the Captain General or commander in chief for the time being, fair written Rolls of their respective Regiments and companies, on the penalty of forty shillings; and if any person be wounded or disabled upon any invasion, insurrection or rebellion, he shall be taken care of, and provided for, by the public during the time of such disability. Provided always, and it is enacted, that all persons above the age of fifty, and not exceeding sixty years of age, shall in case of an alarm, invasion, insurrection or rebellion, appear under arms, under the Captain, or commanding officer of the district where they dwell or reside, any thing herein contained to the contrary notwithstanding.

Provided always, That every person professing himself to be of the people called Quakers, and producing to the Captain or commanding officer of the company, in whose district or beat he resides, a certificate from one of their meetings, signed by six or more of the principal people of such meeting, that such person had been deemed and allowed one of the people called Quakers, for the space of one whole year or upwards before the date of the certificate, such person so producing such certificate shall be and is hereby exempted from the ordinary duties of training or mustering, unless upon an alarm, invasion, insurrection or rebellion.

XVIII. And be it enacted, That this act shall be and remain in force till the first day of March, which will be in the year of our Lord One Thousand Seven Hundred and Ninety Two, and no longer.