

*Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1802.* Saint John, NB: John Ryan, Printer to the King's Most Excellent Majesty, 1802.

42 George III – Chapter 1

**An Act for Regulating the Militia. Passed the 5th of March, 1802.**

Whereas a well regulated Militia will tend to the defence and security of His Majesty's subjects—

I. Be it enacted by the Lieutenant-Governor, Council and Assembly, That every male Inhabitant within this Province, from Sixteen to Fifty years of age, shall be enrolled in one of the Independent Companies or Troops of Horse, or of the Regimental Companies of Foot, in the district where he dwells or resides, the extent of which district shall be determined by the Colonel or commanding Officer of the Militia of the County, and all Captains or commanding Officers of Independent and other Companies in the several Towns or Parishes within the Province, are hereby required to take due care to enroll in a Book or Register, to be kept by them for that purpose, all male Inhabitants from Sixteen to Fifty years of age; and that once in every year and oftener if thereunto required, each Captain or commanding officer of a Company shall give to his Colonel or in his absence to the next commanding officer of the Regiment, and such Colonel or next commanding officer of the Regiment and the Captains or commanding officers of unregimented Companies, shall give to the Captain-General or Commander in Chief for the time being, fair written Rolls of their respective Companies and Regiments.

II. And be it enacted, That the Militia shall be formed into Regiments by Counties.

III. And be it also enacted, That once in every year and not oftener, command shall be given by the Captain and in his absence by the next commanding officer of each and every Company, that the Company under his orders, whether the same be an Independent or Regimental Company or Troop of Horse, shall meet at some convenient place within his district, and as near the centre thereof as conveniently may be, to be then and there mustered and exercised, whereof notice shall be given to the person or left at his place of abode, at least Ten days before the day of Muster.

IV. And be it further enacted, That no unregimented or Independent Company or Troop of Horse, shall consist of more than Fifty men, including non-commissioned Officers; and that every Captain or Officer commanding such Company, shall when thereunto requested, a copy of his Muster-Roll to the Colonel or commanding Officer of the Regiment or Battalion of the County where such unregimented or Independent Company or Troop of Horse may be; and in case of a general alarm or Invasion, all such unregimented or Independent Companies or Troops of Horse 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 such Regiment or Battalion.

V. And be it enacted, That every person enrolled as aforesaid, shall provide himself with a good and sufficient Musket or Fuzee, Bayonet, Cartouch-box, one pound of Gun-powder and two pounds of sizeable Bullets, and being so provided shall, if required, once in every year, and not oftener, appear at the time and place appointed as aforesaid, to be mustered and exercised; and on failure thereof, shall forfeit and pay a Fine of Ten shillings, to be levied by distress and sale of the offender's goods, by the Captain's or commanding Officer's warrant, directed to a Serjeant or Corporal of the Company to which such person so offending belongs, who are respectively empowered to serve and execute the same, rendering the overplus, if any, after deducting the costs and charges of such distress and sale, to the offender; such Fine to be applied to defray the charges of purchasing Drums, Fifes and Colours, for the use of the said Company.

VI. And be it enacted, That every person enrolled as aforesaid, and appearing under Arms, who shall refuse or neglect to perform such Military duty as shall he required of him, or shall on the day of Muster depart from the Company when under Arms, without leave from the commanding Officer, shall forfeit and pay a Fine of Twenty shillings, to be recovered and applied as 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 who have held any Commission, Civil or Military, under His Majesty, Ministers of the Gospel, Physicians, Surgeons, Schoolmasters, one Miller to a Grist Mill, and one Ferryman to every public Ferry, shall be free from being enrolled in the Militia.

VII. And be it enacted, That no Militia commissioned Officer shall be liable or subject to serve as a Constable, any Law or usage to the contrary notwithstanding.

VIII. And be it further enacted, That in case of an Alarm, Invasion, Insurrection or Rebellion, every officer of 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 every commanding Officer of the Regiment 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 the strength and motions of the enemy, and the said commanding Officer is hereby empowered to impress Boats, Men and Horses, as the service may require; and shall call together the Militia under his command, and march them to such place or places within this Province as he shall judge most convenient for opposing the enemy; or to such place or places within the Province as shall be directed by the Captain-General or Commander in Chief for the time being; and every non-commissioned Officer or private Man, for his neglect of such duty shall forfeit and pay Ten pounds, to be recovered and applied as aforesaid, and that no distress for any Fine under this Act shall be made, or punishment inflicted, unless within Three Months next after the offence be committed.

IX. And be it further enacted, That the notice of Muster required by this Act, and the levying of the several Fines herein before recited, shall be served and executed by a non-commissioned Officer under the Warrant of the commanding Officer of each Company; and in case of neglect or refusal, such non-commissioned Officer shall forfeit and pay a Fine of Forty shillings, to be recovered and applied as aforesaid. And in all cases where there are no effects whereon to levy

the several Fines imposed by this Act, the said commanding Officer is hereby empowered by his Warrant to commit the person so offending to the next Gaol; there to be and remain not exceeding Ten days.

X. And be it enacted, That if any person be wounded or disabled upon any Invasion, Insurrection or Rebellion, he shall be taken care of and provided for, at the expence of the Province, during the time of such disability.

XI. Provided always, and it is enacted, 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 he resides, a Certificate signed by two or more persons professing themselves to be of the people called Quakers, that such person had been deemed and allowed one of the people called Quakers for the space of one whole year or more before the date of the Certificate, such person so producing such Certificate shall be and hereby is exempted from the ordinary duties of training or mustering, unless upon an Alarm, Invasion, Insurrection or Rebellion.

XII. And be it further enacted, That no person or persons shall be arrested on any civil Process whatever, during his attendance on the day of said training, or during the time of service, if called out in case of an Alarm, Invasion, Insurrection or Rebellion.

XIII. And be it enacted, That this Act shall be and remain in force for Five years and no longer.