

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1814. Saint John, NB: George K. Lugin, Printer to the King's Most Excellent Majesty, 1814.

54 George III – Chapter 21

An Act to continue and amend an Act, intituled "An Act for regulating the Militia." Passed the 7th of March, 1814.

Whereas the Act made and passed in the Fifty-third Year of his present Majesty's Reign, intituled "An Act for regulating the Militia," is near expiring, and whereas it is deemed expedient to continue the same with some amendments thereto—

I. Be it enacted by the President, Council and Assembly, That the third, fifth, sixth and seventh sections of the said recited Act, be and the same sections are hereby repealed.

II. And be it further enacted, That the Commander in Chief may, at such convenient season of the year as he may judge fit, interfering as little as possible with Seed Time and Harvest, order out and keep each Battalion, together or in Divisions within their respective Districts (those above fifty years of age excepted) for any time not exceeding two days in each year: Provided always, that no person shall be required to travel more than thirty miles from his usual place of residence to attend the training of the Battalion or the Division thereof to which he may belong.

III. And be it further enacted, That every Battalion, except those persons above fifty years of age, shall be called out and rendezvous by Companies four days in every year, for the purpose of disciplining and improving in Martial Exercises; the times and places of such rendezvous to be appointed by the Commanding Officer of the 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 manoeuvres and discipline of the Battalion; and the Commanding Officer of any Battalion may assemble any two or more of the Companies together as he may judge expedient: Provided that no Company shall be obliged to go more than twelve miles from the usual place of rendezvous of such Company.

IV. And be it further enacted, That notice of the times and places appointed for assembling the Militia by Battalions or Divisions thereof, or by Companies as aforesaid, shall be given in writing by the Captains or Officers commanding Companies, who shall cause such notice to be posted up by a Non-commissioned Officer, at least ten days before the respective times of meeting, in three of the most public and conspicuous places within the Districts of the several Companies; which notification so given, shall be deemed a sufficient warning: Provided always, that five days personal notice to the individual of the time and place of assembling shall in all cases be deemed sufficient without such notice in writing.

V. And be it further exacted, 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 Battalions and Companies, at the several and respective times when such Battalions and Companies shall be called out for training and exercise, under and by virtue of this Act, and the Act to which this is an amendment, shall be entitled to 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 several Battalions are authorised to employ proper Drills not exceeding four for any one Battalion, 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 Battalion or Company in the drilling of which such persons shall be respectively employed.

VI. And be it further enacted, That every Non-commissioned Officer and Private who shall neglect to appear at any Battalion or Company muster, agreeably to the provisions of this Act, shall be liable to a fine of ten shillings for each and every day that he shall so neglect to appear; and every Non-commissioned Officer and Private, who after having appeared at any Battalion or Company muster, shall at any time during the said days herein before required of him to attend, be absent from his Battalion or Company without leave from his Commanding Officer, shall for each and every time that he shall be so absent without leave, be liable to a fine of ten shillings, which fines shall be recovered as herein after mentioned: Provided always, that no excuse shall be admitted for non-attendance, except sickness or lameness of the individual to prevent his attendance, or extreme illness of some part of his family, or detention by unforeseen and unavoidable circumstances, to be manifest by legal proof given on the part of the delinquent: And provided also, that persons other than substitutes who shall have been embodied and on actual service, for the space of twenty days, and also persons who shall have procured substitutes to perform such actual service, shall not be required to attend any such Battalion or Company muster, during the same year in which such actual service shall have been performed.

VII. And be it further enacted, That the Commanding Officer of each Battalion shall have power to appoint from time to time, suitable persons as Drummers, Buglers, and Fifers to his Battalion, and to displace them and to appoint others in their stead; and that the Commanding Officer of a Company shall have power, with the consent of the Commanding Officer of the Battalion to which he may belong, to nominate and appoint Serjeants and Corporals, for the Company under his command; and if any person so to be appointed shall refuse to accept the office to which he shall be appointed, or having accepted, shall refuse or neglect to perform his duty, he shall for every offence forfeit and pay the sum of twenty shillings; but there shall not be appointed more than three Serjeants and three Corporals to any one Company, except Flank Companies, which may have four Serjeants each.

VIII. And be it further enacted, That all fines imposed by the foregoing sections of this Act, shall be recoverable before the Captain or Officer commanding the Company to which the delinquent may belong, and be levied by distress and sale of the delinquent's goods by an order of the said Commanding Officer, directed to a Non-commissioned Officer of the same Company, who is hereby empowered to serve and execute the same (with the like fees as Constables may receive)

rendering the overplus if any, after deducting the costs and charges of such distress and sale to the delinquent; and if no goods or effects shall be found whereon to levy the said fine, such delinquent shall, by warrant under the hand and seal of such Commanding Officer, be committed to the County Gaol, there to remain for the term of two days for the fine for each day's delinquency; and the keeper of any Gaol is Hereby authorised to receive and keep such delinquent during the time specified in such warrant, and then to discharge him on payment of the customary Gaol fees, together with such fees as the Non-commissioned Officer may be entitled to receive as herein before mentioned: Provided always, that any such delinquent may appeal front the sentence of the Commanding Officer of the Company to which he may belong, to the Commanding Officer of the Battalion, who is hereby authorised and empowered to remit the fine imposed upon such delinquent either in part or the whole, as the circumstances of the case may require.

IX. And be it further enacted, That all orders to be issued by any Commanding Officer of a Company, under and by virtue of the provisions of this Act, for the purpose of levying fines, shall be in the form following, to wit:—

“To A. B. Serjeant, (or Corporal)

“You are hereby required forthwith to demand of N. B. the sum of _____ being the amount of a Fine imposed upon him under and by virtue of the Militia Law, and on his refusal to pay the same, to levy and distrain the amount thereof, of the goods and chattels of the said N. B. and to sell and dispose of the goods and chattels so to be distrained, within six days, unless the said sum of _____ together with reasonable charts of taking and keeping such distress shall be sooner paid, and return to me what you shall do by virtue of this order.

“Given under my Hand this _____ day of _____.”

And that all Warrants to be issued by the Commanding Officer of any Company for the imprisonment of any delinquent, shall be in the form following, to wit:—

“To A. B. Serjeant, (or Corporal)

“Whereas a Fine of _____ has been imposed upon N. B. for an offence against the provisions of the Militia Law, which fine has not been paid, these are therefore to require and command you to convey and deliver into the custody of the keeper of the common County Gaol the body of the said N. B. and you the said keeper are hereby required to receive the said N. B. into your custody in the said Gaol, and him there safely keep for the space of _____ days unless the said fine with accustomed fees shall be sooner paid.

“Given under my Hand and Seal the _____ day of _____.”

X. And be it further enacted, That every Non-commissioned Officer or Private, who shall be guilty of drunkenness, contemptuous or riotous behaviour, disobedience of orders, or shall otherwise misbehave himself during the time he shall be ordered out, as herein before provided by this Act; and every person who shall wilfully interrupt any body of Militia when ordered out under this Act, whilst on duty or at exercise; and every Captain or Subaltern Officer of any Battalion who shall be guilty of contemptuous behaviour, disobedience of orders, or otherwise misbehave himself at any time when ordered out as herein before mentioned, shall be

respectively subject to the like pains and penalties as are provided in and by the twelfth, thirteenth, and fourteenth sections of the herein before recited Act, to be recovered and inflicted in the same manner as therein and thereby is provided.

XI. And be it further enacted, That every person enrolled in the Militia, shall at all times when called out, under and by virtue of this Act, appear with such arms, accoutrements and ammunition, as have been or may hereafter be issued to him by Government, or with arms, accoutrements and ammunition of his own, equally sufficient in complete order, and for not appearing with 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 Commanding Officer for the time being, at the place where such Militia are ordered to assemble, are not in good and serviceable order, such person shall for each and every neglect, forfeit and pay a sum not less than two nor more than ten shillings, to be inflicted and recovered by the Commanding Officer of the Company to which such person shall belong, who is hereby authorised and empowered to levy and receive the same in manner and form, as is directed in and by the seventh section of this Act.

XII. And be it further enacted, That all persons other than British Subjects, and of the Battalion in the District in which they shall reside, the sum of forty shillings each, and the Quarter-Master of such Battalion is hereby authorised to demand and receive the same, and upon neglect or refusal to pay the same, the said Quarter-Master is hereby authorised and required to proceed for the recovery thereof in the like manner as is provided by the twentieth section of the herein before recited Act: Provided always, that no person not being a British Subject, shall be liable to pay in any one year during his residence in this Province, more than the said sum of forty shillings.

XIII. And be it further enacted, That all fines, penalties and sums of money whatsoever, received, or which shall hereafter be received, under and by virtue of the provisions of this Act and the herein before recited Act, shall be paid into the hands of the Quarter-Masters of the different Battalions; and the Quarter-Master of each Battalion shall every six months render an account of all such fines, penalties, and sums of money, so by him received, to the Commanding Officer of the Battalion, and forthwith pay the amount thereof into the Province Treasury, rendering therewith an account of the same; subject nevertheless to such appropriations as the Commander in Chief shall from time to time direct for the contingent uses of the respective Battalions.

XIV. And be it further emitted, That the said herein before recited Act, except wherein it is hereby altered, together with this Act, shall continue in force for two years, or until the end of the next Session of the General Assembly.