

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1822. Fredericton, NB: George K. Lugin, Printer to the King's Most Excellent Majesty, 1822.

3 George IV – Chapter 23

An Act to alter and amend an Act, intituled "An Act for the organization and regulation of the Militia of this Province." Passed the 21st March, 1822.

Whereas in and by the ninth Section of an Act made and passed in the fifty-sixth year of the Reign of His late Majesty King George the Third, intituled "An Act for the organization and regulation of the Militia of this Province," it is enacted, that fines shall be recoverable before the Captains and Commanding Officers of Companies, and be levied by distress and sale of the delinquent's goods, by an order of such Commanding Officer, directed to a Non-Commissioned Officer of the Company, who is thereby authorized to serve and execute the same.

And whereas Non-Commissioned Officers have found it very difficult, and in many cases impossible to levy the fines or execute the warrants in such cases to them directed, and it is considered that the fines may be levied with much greater facility and certainty if the orders and warrants are directed to the Constables in the several Parishes, to be by them executed as Justices' summons and warrants are accustomed to be done: And it is a matter of great importance, in order to enforce the punctual attendance of the Militia, that the fines should be strictly exacted—

I. Be it therefore enacted by the Lieutenant-Governor, Council, and Assembly, That the said ninth Section of the said Act, and also so much of the eleventh and fourteenth Sections of the said Act, as relates to the levying of the fines thereby imposed by the Non-Commissioned Officers of the Company to which the person on whom such fine is imposed, may belong, be, and the same are hereby repealed.

II. And be it further enacted, That all fines which may be imposed by virtue of the eighth, eleventh, and fourteenth Sections of the said in part recited Act, shall be recoverable before the Captain or Officer commanding the Company to which the delinquent shall belong, and be levied by distress and sale of the delinquent's goods, by an order of the said Commanding Officer, to the Constable or Constables of the City, Town, or Parish wherein such delinquent shall reside, which Constables are hereby authorized and required to execute the same, and also the warrants hereinafter mentioned, taking the same fees as in other similar cases, and rendering the overplus, if any, after deducting the cost 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, the Constable to whom the execution of the said order may be committed, shall make a return thereof on the back of such order, and thereupon the 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 of each day's delinquency; and the Keeper of any Gaol is hereby authorized and required to receive and keep such delinquent during the time specified in such warrant, and then discharge him on payment of the customary fees: Provided always, that such delinquent shall not

be kept in Gaol more than two days beyond the term specified in the warrant, for any default in the payment of fees.

III. 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, or the above in part recited Act, shall be in the form following:

To the Constables of the _____ of _____ and each and every of them.

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 charges 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, viz:

To the Constables of the _____ of _____ and each and every of them.

Whereas a fine of _____ has been imposed on N. B. for an offence against the Militia Law, these are therefore to require and command you to take and arrest the said N. B. and convey and deliver him into the custody of the Keeper of the Common County Gaol, and you the said Keeper are hereby required to receive the said N. B. into your custody in the said Gaol, and him safely keep for the space of _____ days, unless the said fine, with the accustomed fees, shall be sooner paid.

Given under my hand and seal, the _____ day of _____ 18____.

IV. And be it further enacted, That this Act shall extend to the recovery of all fines already imposed, where the same have not actually been paid, or the delinquent taken into custody, as well as to those fines which may be imposed after the passing of this Act.

V. And be it further enacted, That the Constables shall without unnecessary delay, pay over the fines collected from any delinquent, to the Quarter-Master of the Battalion to which such delinquent shall belong, or in default of payment, shall be liable to an action of debt at the suit of such Quarter-Master, in any Court having jurisdiction of the same.

VI. And whereas doubts have arisen whether Aliens who may be prosecuted at the suit of the Quarter-Master, for the recovery of the sum payable by them, in and by the forty-second section

of the said in part recited Act, are liable to the costs of prosecution, and it is expedient to make other provision in this regard—

Be it further enacted, That the said forty-second section of the said Act, be, and the same is hereby repealed: And in lieu thereof,

Be it enacted, That all persons other than British subjects, (or those who have taken the oath of allegiance prior to the late war between Great-Britain and the United States of America) who shall have resided for the space of two months in this Province, shall pay to the Quarter-Master of the Battalion in the district in which they shall reside, the sum of thirty shillings; and the Quarter-Master of such Battalion is hereby authorized and required to proceed for the recovery thereof, with costs of suit, before any one of His Majesty's Justices of the Peace resident within such district; and upon recovery, the said sum of thirty shillings, together with all costs of suit, shall be levied by distress and sale of such Aliens' goods and chattels, and for want of such goods and chattels, such Justice shall commit such Aliens to the common Gaol of the County, there to remain for the space of six days, unless the said fine, with costs and all customary fees, be sooner paid; and the Keeper of any Gaol is hereby authorized and required to receive and keep such delinquent Alien, during the term specified in such warrant, and then discharge him on payment of the customary fees. Provided always, that such delinquent Alien shall not be kept in Gaol more than three days beyond the term specified in the warrant, for any default in the payment of fees.

VII. And be it further enacted, That the Captains or Commanding Officers of Companies, shall on or before the first day of June in each year, make out and transmit to the Quarter Master of the Battalion, lists of all Aliens within the district of their respective Companies.

VIII. And be it further enacted, That the eighteenth Section of the herein before recited Act, to which this is an amendment, be, and the same is hereby repealed.

IX. And be it further enacted, That the Commanding Officers of Battalions, when thereunto required by the Governor or Commander in Chief, are hereby authorized and required to appoint fit and convenient places within their respective districts, to serve as depots for arms for the use of their respective Battalions.

X. And be it further enacted. That all the fines, penalties, and sums of money whatever received under and by virtue of the provisions of this Act, or of the Act to which this is an amendment, from any Battalion of Militia in this Province, shall, after defraying the contingent expenses of such Battalion, pursuant to the forty-third Section of the herein before recited Act, be appropriated by the Commander in Chief, to such an amount as may be necessary, for the cleaning and keeping in repair the arms placed in the depots appointed for the use of such Battalion; and in case the said fines, penalties, and sums of money received from any Battalion, after paying the contingent expenses thereof as aforesaid, shall not be found sufficient to defray the expense incurred in cleaning and keeping in repair the arms placed in depot for the use of such Battalion, that then such further sum as the Commander in Chief may think proper, shall be paid by the Treasurer of the Province, to the Commanding Officer of such Battalion, to be by him appropriated to the

cleaning and keeping in repair the arms of such Battalion, by warrant of the Lieutenant-Governor or Commander in Chief, by and with the advice of His Majesty's Council: Provided nevertheless, that no greater sum than twenty pounds, over and above the fines, penalties, and sums of money received from such Battalion, after deducting the contingent expenses thereof as aforesaid, shall be paid to the Commanding Officer of any Battalion in any one year, for the purpose of cleaning and keeping in repair the arms of such Battalion.

XI. And be it further enacted, That the said eleventh and fourteenth Sections, and all other parts of the said in part recited Act, (except as far as the same are hereby expressly repealed, altered, or amended) shall be, and the same are hereby declared to be and remain in full force.

XII. And. whereas doubts have arisen whether any Officer guilty of disobedience of orders, or other misconduct, in any case when not on real service, can be brought to a Court Martial under and by virtue of the provisions of the said in part recited Act: Be it declared and enacted, that any Officer who may disobey orders, neglect his duty, or be guilty of any misconduct, although not on real service, may be brought to a General Court Martial, to be constituted and appointed as in the same Act directed, the proceedings of which Court Martial shall be in the manner in the same Act mentioned, which Court Martial shall have power to punish such offender by cashiering, suspension, or reprimand, as the case may require, provided that no sentence of such Court Martial shall be carried into execution until approved of by the Lieutenant-Governor or Commander in Chief for the time being.