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25 Victoria – Chapter 20

An Act relating to the Militia. Passed 23rd April 1862.

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18. Any Company of Class A may assemble for drill, or be ordered out by officer commanding; regulations not inconsistent with this Act shall be enforced.

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22. No person belonging to any Company of Class A shall leave without two month's notice, unless legally discharged; period of engagement.

23. Volunteer Corps to be inspected.

24. Men of Class B and C to be enrolled, and assemble for muster one day in each year.

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Be it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. The Provincial Militia shall be divided into two classes, Active and Sedentary.

ACTIVE MILITIA.

2. The Active Militia shall consist of all the male inhabitants of the Province of the age of eighteen years and under forty five, not exempt or disqualified by law, and being British born or naturalized subjects.
3. The Active Militia shall be divided into three classes, to be called respectively Class A, Class B, and Class C. Class A shall consist of Volunteer Troops of Cavalry, Field Batteries, Foot Companies of Artillery, and Companies of Infantry armed as Riflemen, to be formed at places to be designated by the Commander in Chief; Class B shall consist of unmarried men and widowers without children; and Class C shall consist of married men and widowers with children.
4. Each Volunteer Troop of Cavalry, Company of Foot Artillery, or Company of Riflemen, shall consist of a Captain, a Lieutenant, a Cornet, second Lieutenant or Ensign, three Sergeants, three Corporals, a Trumpeter or Bugler, and not exceeding forty three Privates; except in Companies of Riflemen, wherein the number of privates shall not be less than forty, nor exceeding seventy five; and each Field Battery of Artillery shall consist of a Captain, two first Lieutenants, a second Lieutenant, a Sergeant Major, three Sergeants, three Corporals, three Bombardiers, a Trumpeter, a Farrier, fifty nine Gunners and Drivers,—including Wheelers, Collar Maker and Shoeing Smith, fifty six horses, exclusive of Officers' horses, and of four spare horses when the Battery is called into actual service.
5. The Commander in Chief shall have full power to appoint Staff Officers of the Active Militia, with such rank as he shall, from time to time, think requisite or necessary for the efficiency of the Militia Service; and any such Staff Officers shall have such rank and authority in the Militia as are held relatively in Her Majesty's Service, and their duties shall be the same for the Militia as prescribed for the Army by the Queen's Regulations.
6. The Commander in Chief shall have full power to constitute any number of Rifle Companies of the Active Militia at any one locality, or within any one district, not being less than six or more than ten Companies, into a Regiment or Battalion, and to assign or appoint thereto by Commission, a Lieutenant Colonel, two Majors, one Adjutant, one Paymaster, one Quarter Master, one Surgeon, one Assistant Surgeon, whose rank and authority therein shall be the same as in the relative positions in Her Majesty's Service; and such Regiment or Battalion shall be subject, in so far as the same are not in-consistent with the Militia Laws of this Province, to the Queen's Regulations for the Army published by authority; and any such Lieutenant Colonel shall have authority to appoint Staff Sergeants for any Battalion.
7. One or more Volunteer Companies, as Sea Fencibles, may be formed in any County, City, or District, as the Commander in Chief may determine; each Company to consist of a Captain, a

Lieutenant, and fifty men, and an Officer may be appointed to command the whole, and to rank as Lieutenant Colonel of Militia; Captains in the Sea Fencibles shall rank as Majors in the Militia, and Lieutenants as Captains in the same.

8. The said Sea Fencibles shall be armed in such manner as the Commander in Chief directs, and shall be trained and drilled as well to the use of small arms, as in the management of Gunboats and Vessels, and the working of great guns on board Vessels.

9. In each Military District there may be formed a Volunteer Company of Engineers, to consist of a Captain, a Lieutenant, second Lieutenant, and such number of men not exceeding seventy five, as the Commander in Chief may direct, but such Companies shall not be subject to drill or service in time of peace.

10. Any Volunteer Company now in existence, who may desire to continue as such, and who shall signify their willingness to that effect through their commanding officer, in writing, to the Commander in Chief, may, for the purpose of being brought within the provisions of this Act, be continued by authority of the Commander in Chief, in such manner as may in his opinion best tend to further the purposes of this Act and the public good.

11. Except in cases of Companies to be exempted from the operation of this Section by the special order of the Commander in Chief, the uniform of the several field batteries, of the several troops of cavalry, and of the several rifle companies continued or organized under this Act, shall be of such one and similar color, pattern and design as may be ordered by the Commander in Chief; provided that but one and that a similar color, pattern and design, shall be approved for each of them respectively—the field batteries, troop of cavalry, rifle companies, and companies of foot artillery; and each of such corps shall conform in all particulars to the order of the Commander in Chief in such respect; but the several Companies in existence at the passing of this Act may continue to wear their then clothing until the same requires to be replaced; and it shall be the duty of the superior officer of the said corps respectively, to see that the same are, upon any such replacing of clothing, uniformed according to the order of the Commander in Chief in such respect.

12. The arms and accoutrements of the non-commissioned officers and men of the several Volunteer Companies, shall be such as the Commander in Chief from time to time directs, but of the best and most serviceable kind, without unnecessary ornament, but they shall always remain Provincial property, and the parties receiving them shall be accountable for them; and the Commander in Chief may direct such security as he thinks proper to be taken for the safe keeping or good order of such arms and accoutrements, and the re-delivery thereof to such officer as may be appointed to receive them, whenever the Commander in Chief, for any purpose, directs such re-delivery.

13. The arms and accoutrements of non-commissioned officers and men of the Active Militia shall be kept in public armories wherever there are such, and where there are no such public armories, then the Captain of each Volunteer Company shall be personally responsible for the

arms and accoutrements of the non-commissioned officers and men of his Company, and shall himself actually keep the same, and may be allowed annually a sum not exceeding forty dollars for so doing and for taking care of the arms and accoutrements. Nothing herein shall be construed to relieve the officers or men of the Volunteers or Active Force of any liability in respect to the arms and accoutrements thereof, delivered to the custody, care or possession of any of them, or in any other respect.

14. No corps of Active Militia, and no non-commissioned officer or private thereof, shall at any time appear armed or accoutred, except when bona fide at drill or at target practice, or at reviews, or on field days or inspections, or for receiving distinguished persons, or rendering funeral honors to deceased comrades, nor shall the arms or accoutrements be taken out of this Province.

15. Commissioned officers of the said Companies shall furnish their own arms and accoutrements.

16. The Companies of Class A of the Active Militia, (to the number of ten hundred men at least) shall be drilled and exercised at such times in each year, and at such places as the Commander in Chief may from time to time appoint, and for such number of days not exceeding six in each year for the respective corps, as the Commander in Chief may order: Should the number of men in Class A fall short of the above number of ten hundred men, the Commander in Chief may direct that such further number as may be required to make up such deficiency shall be drawn by lot from Class B, at such places and in such manner as he may deem proper,—which men so drawn from Class B shall, for the purposes of such drill and exercise, be removed into Class A, and be subject to the like drill and exercise as herein prescribed for Class A.

17. The Adjutant General or the Deputy Adjutant General shall draw up, under the direction of the Commander in Chief, a code of instructions, drill and exercise for the said Active Militia, based on that in use in Her Majesty's Regular Army, and each commissioned officer of a Company shall be furnished with a copy, and shall be governed by the said code in drilling and exercising the corps to which he belongs.

18. Nothing herein contained shall be construed to prevent any Company of Class A from assembling, or being ordered out by the officer commanding it, for drill or exercise, according to any articles of engagement or regulations of such Company, previously approved by the Commander in Chief; and any such articles, in so far as they are not inconsistent with this Act, shall be enforced, and the penalties which may thereby be imposed shall, whenever they may be incurred, be recoverable in the manner hereinafter mentioned, by the person or officer designated for that purpose in such articles, to such uses as may be therein directed.

19. Sufficient ammunition for practice at drill and ball practice shall be supplied to the Volunteer Companies, at the expense of the Province, in such manner as the Commander in Chief may direct.

20. The Commander in Chief shall from time to time appoint competent persons, not less than six, to instruct and drill the Active Militia under such regulations as he may be pleased from time to time to issue; which persons shall receive such remuneration as the Governor in Council may prescribe.

21. The officers, non-commissioned officers and men of Volunteer Corps shall, while they continue such, and the men of Class B who may be compelled to perform drill and exercise under provision of Section 16 of this Act, during the continuance of such service respectively, be exempt from serving as jurors or constables, and from the performance of statute labour; and a certificate under the hand of the commanding officer of any such corps shall be sufficient evidence of the service in his corps of any officer, non-commissioned officer, or man, for the then current year.

22. No officer, non-commissioned officer or man of any Company in Class A shall, in any case, unless legally discharged, leave the same without giving at least two month's notice in writing to the commanding officer thereof, of his intention so to do; nor shall he at any time leave the same contrary to the engagement contained in any articles of engagement he has signed, and the term of engagement shall not be less than two years.

23. The several Volunteer Corps shall be subject to inspection from time to time, by such person or persons as shall be appointed by the Commander in Chief for such inspection.

24. The men of Class B and Class C of the Active Militia shall be carefully enrolled, and shall, when not exempted from muster, assemble for muster upon one day in each year, at such place and hour, in such manner and for such purpose as the commanding officer of each Battalion may direct, with respect to each Company therein, interfering as little as possible with seed time and harvest; but no person shall be required to travel more than twelve miles from his usual place of residence to attend such muster.

25. The Commander in Chief may, by any Militia General Order, dispense with the annual general muster of the Active Militia, or any part thereof, either in any particular year, or until further order, and may in like manner again direct such muster to be held if he sees fit; and any such order shall have the force of law according to the terms thereof.

SEDENTARY MILITIA.

26. The Sedentary Militia shall consist of all the male inhabitants of the Province of the age of forty five years and under the age of sixty years, not exempted or disqualified by law.

27. In time of peace no actual service or drill shall be required of the Sedentary Militia, but they shall be carefully carolled from time to time.

EXEMPTS.

28. The following persons only between the age of eighteen years and sixty years, shall be exempt from enrolment and from actual service in any case:—

The Judges of the Supreme Court of Law or Equity in this Province;

The Judge of the Court of Vice Admiralty;

The Clergy and Ministers of all religious denominations;

The Professors of any College or University recognized by Law;

The Keepers and Guards of the Provincial Penitentiary;

And the following persons, although enrolled, shall be exempt from attending muster, and from actual muster at any time, except in case of war, invasion, or insurrection, viz:—

The Sedentary Militia;

The Members of the Executive and Legislative Councils;

The Members of the House of Assembly;

The Provincial Secretary and Assistant Secretaries;

All Civil Officers appointed to any civil office in this Province under the Great Seal;

All persons lawfully authorized to practice Physio or Surgery;

Half pay and retired Officers of Her Majesty's Army and Navy;

Postmasters and Mail Carriers;

Ferry-men;

One Miller for each run of stones in every grist mill;

The engine drivers, conductors and switchmen connected with Railways actually in use in this Province;

All persons disabled by bodily infirmity;

Any person professing to be a Quaker, producing to the commanding officer of the Battalion where he resides, a certificate to that effect, signed by two persons of that persuasion, shall be exempt from being enrolled;

Members of fire companies and of book and ladder companies, in any City or Town, shall be exempt from duty beyond the limits of the same respectively;

But such exemption shall not prevent any person from serving or holding a Commission in the Militia if he desires it, and is not disabled by bodily infirmity; and whenever exemption is claimed, whether on the ground of age or otherwise, the burden of proof shall always be upon the claimant.

DISTRICTS AND DIVISIONS.

29. The Commander in Chief may, from time to time, by any Militia General Order, divide the Province into such number of Military Districts as he deems expedient, and to be designated as he sees fit; and he may, from time to time, by any Militia General Order, alter such division of the Province into Military Districts, and increase or diminish the number thereof.

30. The Commander in Chief may, from time to time, by any Militia General Order, divide the Military Districts respectively, into Regimental Divisions, and Regimental Divisions into Battalion Divisions, and may designate such divisions by such names or numbers as he sees fit.

31. The Militia resident in each Battalion Division shall form a Battalion of the Regiment of the Regimental Division in which it lies, and all the Battalions in any Regimental Division shall form the Regiment thereof.

32. In every Military District there shall be an Inspecting Officer, whose duty it shall be to inspect and report upon the efficiency of the several Regiments, Battalions, and Companies, within his District; and to each Battalion a Lieutenant Colonel, and such number of Majors and Regimental Officers shall be appointed as may be deemed necessary.

33. Each Lieutenant Colonel may, by any order made with the approval of the Inspecting Officer of the Military District, from time to time divide his Battalion Division into Company Divisions; and the Militia resident within each Company Division shall form a Company of the Battalion.

34. All Militia Divisions existing before the passing of this Act shall remain in force until altered as aforesaid, and such of them as are allowed to remain unaltered, shall be held to have been made by the proper authority under this Act, and for the purposes thereof.

35. To each Company of Militia there shall be appointed, of Commissioned Officers, a Captain, a Lieutenant, and an Ensign; and of Non-Commissioned Officers, three Sergeants and three Corporals.

36. The Commander in Chief may appoint to all Militia Regiments or Corps, the proper number of Surgeons, Assistant Surgeons, and Veterinary Surgeons.

ENROLMENT.

37. The enrolment of the Sedentary Militia Men, and of the Men of Class B and Class C of the Active Militia, except on the eastern side of the Harbour of Saint John, shall be made in each Company Division by the Captain thereof, with the assistance of the officers and non-commissioned officers of the Company; and it shall be the duty of the Captain, and under his orders, of the other officers and non-commissioned officers of the Company, by actual inquiry at each house in the Company Division, and by every other means in their power, to keep at all times a correct Roll of the Company, in such form as may be directed by the Adjutant General.

38. Each man liable to be enrolled under this Act in any Company, and not so enrolled, shall give in his name, age, and place of residence, in writing, to the Captain or officer commanding such Company, within twenty days after he becomes so liable, whether by the alteration of any Militia Division, change of residence, or otherwise howsoever, under a penalty of five dollars.

39. The Officer commanding a Sedentary Company, or Company of Class B or C of the Active Militia, shall on or before the first day of October in each year, make out a corrected Roll thereof and transmit a certified copy thereof to the officer commanding the Battalion, who within twenty days after the receipt of the same, shall forward a correct return of the Battalion to the Colonel commanding the same, who shall transmit the same to the Adjutant General at Head Quarters.

40. Each Company Roll shall be corrected, from time to time, as changes occur which affect it; and every householder and resident in the Company Division, and every Assessor, Town Clerk, or other Municipal officer, shall be at all times bound to give to the commanding officer or any officer or non-commissioned officer of the Company, such information as may be required to make such corrections, and to answer all such questions as any of them may pertinently put to him, for the purpose of obtaining such information; and every Militiaman shall be bound to inform the officer commanding the Company, in writing, of any change of residence or other circumstances affecting such Militiaman, by which the Roll of the Company is affected, whether such Militiaman comes into or leaves the Company Division for which the Roll is made.

ENROLLING OFFICER AT SAINT JOHN.

41. The Commander in Chief shall appoint a Regimental Enrolling Officer for the eastern side of the Harbour of the City of Saint John; the said officer, with the approbation of the officer commanding the Militia on said eastern side, shall appoint a time for taking the enrolment of all persons (not Volunteers) liable to do Militia duty; he shall put up printed notices thereof in the most public places of the City five days before the time appointed, requiring all such persons liable and not enrolled to come and enroll themselves, or send a written notice of their names, ages, and places of abode.

42. The said enrolling officer shall keep a General Muster Roll of all persons so liable to do duty in the said City Militia, in order to which the several Captains or officers commanding Companies in

said Militia (not being Volunteers) shall furnish him with lists of the persons belonging to such Companies.

43. The persons so from time to time enrolled and unattached, shall be appointed to such Companies in the said eastern side as the enrolling officer, with the approval of the commanding officer, may direct.

44. A General Order may be issued, forming such unattached persons, or any of them, into regular Companies, as additional Companies of the City Battalions, or to either of them.

45. If any dispute arises as to which Company any man belongs, the officer commanding the Battalion shall determine, and his decision shall be final.

46. Any person on the said eastern side not enrolled, and liable as aforesaid to do Militia duty, neglecting to enroll or to send a written notice of his name, age and residence to the enrolling officer, after public notice being given for that purpose as aforesaid, shall pay a fine of four dollars, which shall be recovered with costs before the Police Magistrate of said City, on complaint of the said enrolling officer.

47. All sums of money recovered under the last preceding Section, shall be paid over to the commanding officer of the Battalions on the said eastern side, for the purposes thereof; which shall include payment of a reasonable sum, to be estimated by such commanding officer, for the services of the said enrolling officer, and necessary expenses actually incurred by him.

GENERAL PROVISIONS.

48. All non-commissioned officers in the Provincial Militia shall be appointed by the officer commanding the Battalion to which they belong, except in Volunteer Companies, when they shall be appointed by the Captain thereof, and shall in either case hold their rank during pleasure.

49. No person shall be an officer of Militia, unless he is one of Her Majesty's subjects by birth or naturalization; nor if he is such subject by naturalization only, unless he has taken the oath of allegiance.

50. Commissions in the Provincial Militia, and appointments of non-commissioned officers existing immediately before the passing of this Act, shall remain in force, such Commissions being subject to be cancelled by the Commander in Chief, and such appointments by the officer commanding the Battalion; but no person shall be bound to serve in the Provincial Militia in a lower grade than he has once held, unless he has resigned his Commission, or is reduced by sentence or order of some lawful Court or authority; nor shall any person who has been a non-commissioned officer in Her Majesty's Army, be bound to serve in the Militia in a lower grade than he held in the Army, unless he has been reduced as aforesaid.

51. All contraventions of this Act, and of regulations or orders lawfully made or given under it, when the Militia or that portion thereof to which the offender belongs, is not called out for actual service, shall be punishable by penalties to be imposed by one or more Justices of the Peace, and in a summary manner as hereinafter provided, and in such cases Courts Martial shall not be held.

52. The Commander in Chief may call out the Militia or any part thereof, whenever it is in his opinion advisable so to do, by reason of war, invasion, or insurrection, or imminent danger of any of them.

53. The Lieutenant Colonel commanding any Battalion Division, may upon any sudden emergency of invasion or insurrection, or imminent danger of either, call out the whole or any part of the Militia within his command, until the pleasure of the Commander in Chief is known.

54. The Militia so called out by their Lieutenant Colonel, shall immediately obey all such orders as he may give, and march to such place within or without the division, as he may direct.

55. When the Militia of any local division are called out in case of war, insurrection, or invasion, or imminent danger thereof, all Companies of Volunteers in such division shall be included in the order, and shall obey the officer issuing it.

56. When the whole Militia of the Province are called out, all the Volunteer Companies shall be included.

57. Each Sedentary Militiaman, and men of Class B and C of the Active Militia, called out for actual service, shall attend at such time and place as may be directed by the officer commanding him, with any arms and accoutrements he has received from the Province, and with such provisions as such officer may direct.

58. When the Commander in Chief calls out the Militia, and the emergency is not such as to require that the whole of the Militiamen in any Militia Division, or of any Class of Militiamen therein, be taken for actual service, he may from time to time direct the number of men to be furnished from the Militia of the whole Province, or of any Militia Division thereof, over and above the Volunteer Companies therein, which shall always be the first taken for actual service.

59. The number of men to be so furnished shall, in the first instance, be taken from Class B of the Active Militiamen in the several Company Divisions in that part of the Province to which the order applies, and in proportion as nearly as may be to the number of such men in each: Volunteers shall be first taken from each Company, but if the number of volunteers be not sufficient, then such further number as may be required shall be drawn by lot under the superintendence of the commanding officer of the Company, whose certificate that any man has so been drafted, or volunteered, or consented to serve as substitute for a drafted man, shall be evidence of the fact.

60. No Militiaman drafted for actual service shall be exempt from serving, unless he forthwith pays a penalty of forty dollars, which shall be given to any approved man of the same class who is not himself drafted for service, and will serve in the place of the Militiaman paying such penalty; or such Militiaman may provide an approved substitute of the same class and not drafted, to serve in his place; and any volunteer or substitute, by his consent to serve as such, shall become liable in all respects as if drafted.

61. No man drafted, and unfit from bodily infirmity to perform his duty, shall be taken for service.

62. If a greater number of men are required than the whole number of men in Class B of the Active Militia, then the requisite number shall be taken from Class C of the Active Militiamen, in like manner; if a greater number be still required than the whole number of Class C, then the requisite number shall be taken from the Sedentary Militia in like manner.

63. The said Militiamen so respectively taken or drafted for actual service shall, by such officers as may be detailed for that purpose by the Lieutenant Colonel of the Battalion from which they are taken, be marched to such place within the Province as the Commander in Chief may appoint, and shall there be embodied into Companies and Battalions, in such manner as the Commander in Chief may direct, and being so embodied, shall be commanded by such officers as from their qualifications and fitness he thinks proper to appoint.

64. Any Volunteer Companies so called out for actual service, may be embodied into Battalions, if the Commander in Chief thinks fit so to order.

65. The Militiamen so taken or drafted for actual service from Class B and C of the Active Militia, shall serve during one year, unless sooner disbanded, and may then be replaced by others taken as aforesaid, and shall not be liable to be again taken until all others of the same class be taken: But the men in Volunteer Militia Companies shall serve for the time for which they have engaged to serve, which time shall not be less than two years, subject however to be determined on two months notice as hereinbefore mentioned; provided that no volunteer shall leave the service, either with or without notice, at any time when the Militia are called out, unless he is regularly discharged or has served out the time for which he engaged.

66. The Militia so called out may be marched to any part of the Province, or to any place without the Province but conterminous therewith, where the enemy is, and from which an attack on this Province is apprehended.

67. The Militia so called out, and every officer or man belonging to it, shall from the time he has been ordered, taken or drafted for actual service, be subject to the Articles of War and to the Act for punishing Mutiny and Desertion, and all other Laws then applicable to Her Majesty's Troops in this Province, and not inconsistent with this Act; except that no Militiaman shall be subject to any corporal punishment except death or imprisonment, for any contravention of such laws; and except also that the Commander in Chief may direct that any provision of the said Laws shall not apply to the Militia.

68. Any body of Militia so called out shall be commanded by the officer highest in rank then present, or the senior of two or more officers of equal rank; Officers of Her Majesty's Regular Army shall always be reckoned senior to all Militia Officers of the same rank, whatever be the dates of their respective Commissions.

69. The arms and accoutrements for the Militia (except those in actual use by Volunteers) shall, when such Militia is not called out for actual service, be kept in Armories at Saint John and Fredericton, and at such other places as the Governor in Council may from time to time direct.

70. The arms in such Armories respectively shall be delivered out to the Militia when called into actual service, in such way as the Commander in Chief shall appoint.

OFFENCES AND PENALTIES.

71. Any officer or non-commissioned officer of Militia of this Province, appointed or to be appointed to the Active Force, or to the Sedentary Militia, who obtains under false pretences, or who retains or keeps in his own possession, with intent to apply to his own use or benefit, any of the pay or moneys belonging to any non-commissioned officer or private of any corps, shall be guilty of a misdemeanor, and shall be dismissed from the said Militia Force.

72. Any person making an affidavit or declaration required in and by this Act, and swearing or declaring falsely therein, shall be guilty of perjury.

73. Any officer of Militia refusing or neglecting to make or transmit, as herein prescribed, any roll or return, or copy thereof, required by this Act or by any lawful authority, or wilfully making any false statement in any such roll or return, or copy, shall thereby incur a penalty not exceeding forty dollars for each offence.

74. Any Militia officer or man, not exempt from attending drill and exercise, who neglects or refuses to attend the same, at the place and hour appointed therefor, or refuses or neglects to obey any lawful order at or concerning such drill and exercise, shall thereby incur a penalty of not more than twenty dollars for each offence.

75. Any person who intercepts or hinders any Militia at drill, or trespasses on the bounds set out by the proper officer for such drill, shall thereby incur a penalty of five dollars for each offence, and may be taken into custody and detained by any person, by the order of the commanding officer, until such drill be over for the day.

76. Any person who unlawfully disposes of, or removes any arms or accoutrements, or other articles belonging to the Crown, or refuses to deliver up the same when lawfully required, or has the same in his possession except for lawful cause, (the proof of which shall lie upon him), shall thereby incur a penalty of twenty dollars for each offence; but this shall not prevent such offender from being indicted and punished for any greater offence, if the facts amount to such, instead of

being subject to the penalty aforesaid; and any person charged with any act subjecting him to the penalty imposed by this Section, may be arrested by order of the Magistrate before whom the complaint is made, upon affidavit shewing that there is reason to believe that such person is about to leave the Province, carrying any such arms, accoutrements or articles with him.

77. Any officer, non-commissioned officer, or militiaman, disobeying any lawful order of his superior officer, or guilty of any insolent or disorderly behaviour towards such officer, shall thereby incur a penalty of not exceeding twenty dollars for each offence; and every person who shall not, during the hours of drill and exercise, or of his being under arms, or wearing the arms or accoutrements of the corps, and going to any place of exercise or assembly of the corps, conduct himself in a decent and orderly manner, or shall not obey the lawful commands of the officer or officers commanding, may be ordered by such officer into the custody of any person or persons belonging to such corps, for the time during which such corps shall then remain under arms.

78. Any officer, non-commissioned officer, or militiaman, who fails to keep any arms or accoutrements delivered or intrusted to him in proper order, or who appears at drill, parade, or any other occasion, with his arms or accoutrements out of proper order, or unserviceable, or deficient in any respect, shall incur a penalty of four dollars for each such offence.

79. Any person who wilfully contravenes any enactment of this Act, when no other penalty is imposed for such contravention, shall thereby incur a penalty not exceeding twenty dollars for each offence, but this shall not prevent his being indicted and punished for any greater offence, if the facts amount to such.

80. All penalties incurred under this Act, or any regulations, orders, or articles of engagement lawfully made or entered into under it, where no other mode is herein prescribed for the recovery thereof, shall be recoverable, with costs, on the evidence of one credible witness, on complaint or information before one Justice of the Peace, if the amount do not exceed twenty dollars, and before two Justices of the Peace if the amount exceeds that sum; and to the recovery of such penalties all the provisions of any law then in force relative to the performance of the duties of the Justices of the Peace out of Sessions, with respect to summary convictions and orders, shall apply in so far as may not be inconsistent with this Act; and any officer, non-commissioned officer, or private of any Volunteer Militia Company, shall be a competent witness in any such case, although the penalty is applicable to the purposes of such Company.

81. No prosecution against any officer of Militia for any penalty under this Act shall be brought except on the complaint of the Adjutant General; and no such prosecution against any non-commissioned officer or private of the Sedentary Militia, or of Class B and C of the Active Militia, shall be brought except on the complaint of the commanding officer, or Adjutant of the Battalion, or Captain of the Company to which such non-commissioned officer or private belongs; and no such prosecution against any private or non-commissioned officer of a Volunteer Company shall be brought except on complaint of the Captain or commanding officer thereof; but the Adjutant General may authorize any officer of Militia to make such complaint in his name, and the authority

of any such officer alleging himself to have been so authorized to make any complaint, shall not be controverted or called in question except by the Adjutant General.

82. The penalty when recovered shall, if the offender belongs to the Active or Volunteer Militia, be paid over to the officer commanding the Company, for the purposes thereof, and shall be applied by him to such purposes, and accounted for by him to the Adjutant General; and if the offender belongs to the Sedentary Militia, then the same shall be paid over to the Receiver General for the public uses of the Province, and it shall make part of the public revenue; provided that nothing herein contained shall apply to the recovery of the penalties or fines of the enrolling officers on the eastern side of the Harbour of the City of Saint John, as hereinbefore provided.

83. No such prosecution shall be commenced after the expiration of six months from the commission of the offence charged, unless it be unlawfully buying, selling, or having in possession arms or accoutrements delivered to the Militia.

84. It shall not be necessary that any order or notice under this Act be in writing, unless it is herein required that it shall be so, provided it be communicated to the person who is to obey or be bound by it in person, either directly by the officer or person making or giving it, or by some other by his order.

85. All General Orders of Militia, or other Militia Orders, issued through or by the Adjutant General, shall be held to be sufficiently notified to all persons whom they may concern, by their insertion in the Royal Gazette, and a copy of the said Gazette, purporting to contain them, shall be prima facie evidence of such orders.

86. All Orders made by the commanding officer of a Militia, Regimental, or Battalion Division, shall be held to be sufficiently notified to all persons whom it may concern, by their insertion in some Newspaper published in such Division, or if there be none, then in some neighbouring Division, and by posting a copy thereof on the door of any Church, or of some Court House, Mill, or other public place in each Company Division in such Regimental or Battalion Division.

87. The production of a Commission or appointment, warrant or order, in writing, purporting to be granted or made according to the provisions of this Act, shall be *prima facie* evidence of such Commission or appointment, warrant or order, without proving the signature or seal thereto, or the authority of the person granting or making such Commission, warrant or order.

88. Every bond to the Crown, entered into by any person under the authority of this Act, or according to any general order or regulations made under it, or for the purpose of securing the payment of any sum of money, or the performance of any duty or act hereby required or authorized before any Judge or Justice of the Peace, or officer therein authorized to take the same, shall be valid, and may be estreated or enforced accordingly.

89. Every sum of money which any person or Corporation is, under this Act, liable to pay or repay to the Crown, or which is equivalent to the damages done to any arms or other property of the

Crown used for Militia purposes, shall be a debt due to the Crown, and may be recovered in any manner in which such debts may be recovered.

90. Every action and prosecution against any officer or person, for any thing done in pursuance of this Act, shall be laid and tried in the County where the act complained of was done, and shall not be commenced after the end of six months from the doing of such act, nor until one month's notice in writing of the action, and of the cause thereof, has been given to the defendant; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at the trial; and no plaintiff shall recover in any such action, if a tender of sufficient amends was made before the action was brought, or if a sufficient sum of money has been paid into Court by the defendant after the action was brought.

91. If a verdict passes for the defendant in any action referred to in the next preceding Section, or the plaintiff becomes non-suit or discontinues the action after issue joined, or if on demurrer or otherwise judgment is given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and shall have the same remedy therefor as any defendant hath in other cases; and though a verdict is given for the plaintiff, he shall not have costs against the defendant, unless the Judge before whom the trial has been had, certifies his approbation of the action and the verdict therein.

92. A detailed account of all moneys advanced or expended under this Act, shall be laid before each branch of the Provincial Legislature within fifteen days after the opening the then next Session thereof.

93. The word 'Corps' shall, for the purposes of this Act, include any Field Battery, Troop of Cavalry, Foot Company of Artillery, or Rifle Company, or any Battalion or Regiment.

94. The Commander in Chief shall have power from time to time, in his discretion, to make Rules and Regulations for Artillery and Rifle practice in the Active Militia, and for awarding prizes; for enforcing due discipline in every branch of the Militia; and for defining the details of Regiments, Battalions, Companies, Troops, and Batteries.

95. The Commander in Chief may appoint such number of efficient Staff Officers for the Head Quarters Staff, District Staff, Regimental Staff, and Battalion Division Staff, as he may from time to time deem necessary for the public service, and prescribe by regulations their respective duties.

96. Before any person shall be appointed to any Commission, or promoted as an officer in the Militia, he shall undergo such examination as to his education and fitness, as the Commander in Chief in his discretion may, by any general or special order, require.

97. When the Militia or any part thereof are called out into actual service, they shall be entitled to the same pay, according to their respective ranks, as Her Majesty's regular troops respectively, to be reckoned from the day of march from rendezvous for actual service until dismissed by the

Commander in Chief, each man to receive one day's pay for every fifteen miles travel to his usual place of residence.

98. Each non-commissioned officer, drummer, fifer, bugler, and private, shall, in addition to the pay prescribed by the last preceding Section, receive from the Provincial Treasury six dollars per month for every month they shall respectively have remained on actual service, to be paid out of a Treasury.

99. In case of invasion, actual or threatened, the Commander in Chief may direct the building of such a number of boats for transporting the Militia as he may deem necessary, the expense of building not to exceed four hundred pounds.

100. The commanding officer of any Regiment, Battalion, detachment, or party, when the Militia or any part thereof are called into actual service, may impress boats, men, horses, or teams, as the service may require.

101. The commanding officer of the Militia, when it shall be necessary by any attack made or threatened suddenly in any sea-port Town, or any place where merchant vessels may be lying, may compel the persons belonging thereto to do duty on shore with the Militia Artillery, or in any boat or vessel, or with an part of the Militia; and in case of great emergency, with commanding officer of any Regiment or Battalion to which an Artillery Company is attached, or any Company of Sea Fencibles, or any of the Flank Companies.

102. The Quarter Master of every Battalion, before commencing his duties as required under this Title, shall give a Bond to the Queen, with two sufficient sureties, in the sum of eight hundred dollars, conditioned for the faithful discharge of his duties, and his duly accounting for and applying all moneys received by him as such.

103. Whenever the commanding officer in any County or District where boats are provided, shall find it necessary to order such or any other boats or vessels he may obtain, to proceed in repelling the enemy, or the assistance of any neighbouring district or place, or be stationed as a watch for the defence thereof, the Militia, and particularly the Sea Fencibles, shall, on the order of such commanding officer, proceed in such boats accordingly.

104. If any person be wounded or disabled when on actual service, he shall be provided for at the expense of the Province during his disability.

105. No non-commissioned officer or private shall be arrested upon any process, except criminal, while attending any training of his Battalion, Division, or Company, or on actual service, or marching to or returning from the place appointed for such training or duty, except the original sum due for which he may be arrested shall amount to eighty dollars.

106. Any person who shall entice or encourage a Militiaman when on service, to desert, or aid, assist, or harbour any deserter, knowing him to be such, shall for each offence pay a fine of

forty dollars; and on failure of payment shall be committed to gaol, there to remain for three months, or until the fine be paid.

107. Chapters 73, 74, 75, 76, 78, 79, 80, 81, 82, and 83, Title xi, of the Revised Statutes, 'Of the Militia;' and also an Act made and passed in the nineteenth year of Her present Majesty's Reign, intituled An Act relating to the Militia; and also an Act made and passed in the twenty third year of Her present Majesty's Reign, intituled *An Act relating to Out Militia Law*, are hereby repealed.

108. This Act shall continue and remain in force for three years from the passing thereof.