

CAP. LXXVII.

An Act to regulate the Militia of this Province, and to repeal the Acts now in force for that purpose.

[Assented to 19th May, 1855.]

WHEREAS it is expedient to repeal the Acts relative to the Militia of this Province, with a view to their amendment and adaptation to the actual position and circumstances of the Country, and to their re-enactment as so amended: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows:

I. The Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to repeal certain Laws therein mentioned, to provide for the better defence of this Province, and to regulate the Militia thereof*; and the Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, and intituled, *An Act to continue for a limited time therein mentioned, the Act for the better defence of the Province, and to regulate the Militia thereof*; and the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to amend the Militia Law of that part of this Province formerly constituting the Province of Upper Canada*; and the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to amend the Militia Law of this Province, in so far as regards the enrolment of, and fines imposed upon Quakers, Mennonists and Tunkers*; and the Act passed in the year of Her Majesty's Reign last aforesaid, and intituled, *An Act to alter the day on which the Militia shall annually assemble for muster and discipline in Upper Canada*, shall be and the said Acts are hereby repealed; but all Acts and Laws repealed by the said Acts or any of them shall nevertheless remain repealed; and all offences committed against them or any of them before this Act shall come into force, shall and may be prosecuted and punished after this Act shall come into force, under the said Acts and Laws, which shall remain in force as to such offences.

II. The Governor or other person administering the Government of this Province, for the time being, shall, by virtue of his Office, be Commander in Chief of the Provincial Militia.

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

SEDENTARY MILITIA.

Of whom to
be composed.

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

Divided into
Service men,
and Reserve
men.

V. The Sedentary Militiamen shall be divided into two classes, to be called respectively Service men and Reserve men; the Service men shall be those of eighteen years of age and upwards, but under forty years, and the Reserve men shall be those of forty years of age and upwards, but under sixty years.

In time of
Peace Seden-
tary Militia
to be enrolled,
and Service
men mustered
once a year.

VI. In time of peace, no actual service or drill shall be required of the Sedentary Militia, but they shall be carefully enrolled from time to time; and the Service men not exempted from muster, shall also assemble for muster annually, at such place and hour, in such manner and for such purposes, as the Commanding Officer of each Battalion shall direct with respect to each Company therein; the muster day being in Lower Canada the twenty-ninth of June, and in Upper Canada the Queen's Birthday, or if that day fall on a Sunday, then the day next thereafter.

Exemptions
from enrolment
and service
in any
case.

VII. The following persons only between the ages of eighteen and sixty as aforesaid, shall be exempt from enrolment and from actual service in any case:

- The Judges of the Superior Courts of Law or Equity in Upper and Lower Canada;
- The Judge of the Court of Vice-Admiralty;
- The Judges of the Circuit and County Courts;
- The Clergy and Ministers of all Religious denominations;
- The Professors in any College or University, and all teachers in religious orders;
- The Warden, Keepers and Guards of the Provincial Penitentiary.

Exemptions
from muster
and from enrolment
except in
case of war,
&c.

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

- The Reserve Men;
- The Members of the Executive and Legislative Councils;
- The Members of the Legislative Assembly;
- The Officers of the said Councils and Assembly respectively;
- The Attorneys and Solicitors General;
- The Provincial Secretary and Assistant Secretaries;
- All Civil Officers who shall have been appointed to any Civil Office in this Province under the Great Seal;
- All persons lawfully authorized to practise Physic or Surgery;
- All Advocates, Barristers, Solicitors and Attorneys;

Notaries

- Notaries in Lower Canada ;
 Half-pay and Retired Officers of Her Majesty's Army or Navy ;
 Postmasters and Mail Carriers ;
 Seafaring Men actually employed in their calling ;
 Masters of Public and Common Schools actually engaged in teaching ;
 Ferrymen ;
 One Miller for each run of stones in every Grist Mill ;
 Keepers of public Toll-Gates ;
 Lock Masters and Labourers employed in attending to Locks and Bridges on public Canals ;
 The Engine Drivers, Conductors and Switchmen connected with the several Railways actually in use in this Province ;
 Members of Fire Companies and of Hook and Ladder Companies ;
 Jailors, Constables and Officers of Courts of Justice, not being such solely by virtue of their being non-commissioned Officers of Militia ;
 Students attending Seminaries, Colleges, Schools and Academies, who have been attending such at least six months previous to the time at which they claim such exemption ;
 All Persons disabled by bodily infirmity.

All persons bearing Certificates from the Society of Quakers, Men-
 Quakers, Mennonists and Tunkers, or any Inhabitant of this nonists, &c.
 Province, of any Religious denomination, otherwise subject to Military duty in time of peace, but who from the doctrines of his Religion, shall be averse to bearing arms, and shall refuse personal Military Service, shall be exempt therefrom.

But such exemption shall not prevent any person from serving or holding a Commission in the Militia, if he desire it and be not disabled by bodily infirmity : And no person shall have the benefit of such exemption, unless he shall, at least one month before he shall claim such benefit, have filed his claim thereto, with his affidavit before some Magistrate of the facts on which he rests his claim, with the Commanding Officer of the Company within the limits whereof he resides : And whenever exemption is claimed, whether on the ground of age or otherwise, the burden of proof shall always be upon the claimant.

Exemption not to be disqualification.
How to be claimed.
Burden of proof to be on claimant.

VIII. With a view to actual service in case of war, invasion or insurrection, the Service men shall be divided into two classes, to be called respectively, first class Service men and second class Service men ; the first class to consist of unmarried men and widowers without children, and the second class of married men and widowers with children.

Service men divided into two classes.

IX. When the Sedentary Militia are called out in case of war, invasion or insurrection, those first taken for actual service, shall be volunteers from the Service men, then the first class Service men,

Order in which they shall be taken for actual service.

men, then the second class service men, and lastly the Reserve men.

Eighteen Military Districts to be formed.

X. The Commander in Chief shall have power from time to time, by any Militia General Order, to divide the Province into eighteen Military Districts, to be designated as he shall see fit, nine to be in Upper Canada and nine in Lower Canada.

Also Regimental and Battalion divisions.

XI. The Commander in Chief shall have power from time to time, by any Militia General Order, to divide the Military Districts respectively into Regimental divisions, and the Regimental divisions into Battalion divisions, and to designate such divisions by such names or numbers as he shall see fit.

What men shall form the Regiments and Battalions.

XII. The Militiamen 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.

Officers of Regiments and Battalions.

XIII. To each Military District a Colonel shall be appointed who shall command the Militia in such District, and to each Battalion a Lieutenant Colonel, and such number of Majors and Regimental Staff Officers as may be deemed necessary.

Company divisions to be formed.

XIV. Each Lieutenant Colonel shall have power, by any order made with the approval of the Colonel of the Military District, from time to time to divide his Battalion division into Company divisions, each containing, as nearly as may be conveniently practicable, not less than fifty nor more than seventy-five resident Service men; and the Militiamen resident within each Company division shall form a Company of the Battalion.

Existing divisions to remain unaltered.

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

Officers and non-Commissioned Officers of Companies.

XVI. 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 Serjeants and three Corporals.

Enrolment how to be made by Officers.

XVII. The enrolment of the Sedentary Militiamen 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 enquiry at each house in the Company division, and by every other means in their power, to make and keep at all times a correct Roll of the Company in such form as shall be directed by the Adjutant General.

XVIII. It shall also be the duty of each man liable under this Act to be enrolled in any Company, and not so enrolled, to give in his name, age and place of residence, in writing, to the Captain or Officer commanding such Company, within twenty days after he shall become so liable, whether by the passing of this Act, the alteration of any Militia division, change of residence, or otherwise howsoever.

Militiamen bound to give in their names, &c.

XIX. The Officer commanding a Sedentary Company of the Militia shall within twenty days after the annual muster day for such Company, make out a corrected Roll thereof, and transmit a certified copy thereof to the Officer commanding the Battalion, who, within forty days after such muster, shall forward a correct Return of the Battalion under his command to the Assistant Adjutant General of the Military District, to be laid before the Colonel commanding the same; and the said Return shall then be transmitted by the Assistant Adjutant General, under the orders of the said Colonel, to the Adjutant General at Head Quarters.

Rolls of Companies to be made annually, also Returns of Battalions.

XX. 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 any Company shall be affected, whether such Militiaman shall come into or leave the Company division for which the Roll is made.

Company Rolls to be corrected from time to time.

Duty of Householders, &c., to give all information requisite.

And of Militiamen.

ACTIVE OR VOLUNTEER MILITIA COMPANIES.

XXI. The Active Militia of the Province in time of peace, 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, but not exceeding in the whole sixteen Troops of Cavalry, seven field Batteries of Artillery, five foot Companies of Artillery, and fifty Companies of Riflemen: the total of such Volunteer Corps not exceeding five thousand Officers and Men.

Volunteer Companies to be formed.

Of what to consist.

Total limited.

XXII. 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 may be any number from forty-three

Force of Volunteer Companies, respectively.

three to seventy-five ; and each Field Battery of Artillery shall consist of a Captain, two first Lieutenants, a Second Lieutenant, a Serjeant Major, three Serjeants, three Corporals, three Bombardiers, a Trumpeter, a Farrier, fifty-nine Gunners and Drivers, including Wheelers, Collarmaker and Shoeing-smith, fifty-six horses, exclusive of Officers' horses, and of four spare horses when the Battery is called into actual service.

Volunteer Marine Companies may be formed at certain places.

XXIII. A Volunteer Marine Company may be formed at each of the following places, Kingston, Cobourg, Toronto, Hamilton, Port Stanley, Dunnville and Oakville : each Company to consist of a Captain, a Lieutenant and fifty men : and a Commodore of Provincial Marine may be appointed to command the whole and to rank as a Lieutenant Colonel of Militia ; Captains in the Provincial Marine shall rank as Majors in the Militia, and Lieutenants as Captains in the same.

How to be armed and drilled.

XXIV. The said Marine Companies shall be armed in such manner as the Commander in Chief shall direct, and shall be trained and drilled as well to the use of small arms, as in the management of gun-boats and vessels, and the working of great guns on board vessels.

Volunteer Company of Engineers.

XXV. In each Militia District there may be formed a Volunteer Company of Engineers, to consist of a Captain, a Lieutenant, a Second Lieutenant, and such number of men not exceeding seventy-five, as the Governor may direct : but such Companies shall not be subject to drill or to service in time of peace.

On what authority formed and disbanded.

XXVI. All Volunteer Companies shall be formed and may be disbanded by authority of the Commander in Chief, as may in his opinion best tend to further the purposes of this Act and the public good.

Arms, &c., of Volunteer Companies.

XXVII. The arms and accoutrements of the officers and men of the several Volunteer Companies, shall be such as the Commander in Chief shall from time to time direct, but of the best and most serviceable kind, without unnecessary ornament ; such arms and accoutrements shall be furnished to the non-commissioned officers and privates of the said Volunteer Corps at the expense of the Province, but 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 may think proper to be taken for the safe-keeping in 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 shall for any purpose direct such re-delivery.

To be furnished by the Province, except to Officers ;

Security may be taken for safe-keeping, &c.

Repairing of arms, &c.

XXVIII. The said arms and accoutrements shall be renewed and kept in repair at the cost of the Province, whenever such renewal or repair shall become necessary from wear in service or other

other cause than the fault or neglect of the person having charge thereof, in which last named case they shall be renewed or repaired by such person, or, if renewed or repaired at the cost of the Province, the cost may be recovered from such person as a debt due by him to the Crown.

XXIX. The arms and accoutrements of non-commissioned officers and men of Volunteer Companies shall be kept by them, except in cases where the Commander in Chief shall direct them to be kept in Armouries, as he may do; in which case, if there be no Public Armoury in which he shall direct them to be kept, the Captain of the Company shall provide a proper place, and may be allowed annually a sum not exceeding five pounds for so doing and for taking care of such arms and accoutrements.

By whom and where they shall be kept.

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

Officers' arms.

XXXI. The Arms and Accoutrements of the officers and men of such Volunteer Companies, and the Horses used by them as such, shall be exempt from seizure in execution and from distress and assessment, nor shall any such horse be disposed of by any officer or man without leave of the Officer Commanding the Company.

Exemption of arms, horses, &c., from seizure.

XXXII. The Volunteer Militia Companies shall be drilled and exercised, at such time in each year and at such places as the Commander in Chief may from time to time appoint; the Volunteer Field Batteries being so drilled and exercised during twenty days in each year, of which twenty days ten shall be continuous, and the other Volunteer Corps once in each year during ten continuous days, (Sundays not reckoned in either case,) and the Companies under drill being encamped during the whole or any part of the period for drill, if the Commander in Chief shall see fit.

How Volunteer Companies shall be drilled and exercised.

XXXIII. The Adjutant General shall draw up, under the direction of the Commander in Chief, a code of instruction, drill and exercise for the said Volunteer Companies, based on that in use in Her Majesty's Regular Army, and each Commissioned Officer of a Volunteer 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.

Adjutant General to draw up code of instructions.

XXXIV. For each day on which they shall be so drilled, the officers and men of the said Volunteer Companies shall be paid by the Province the following sums :

Volunteers to be paid while so at drill; and at what rates.

Captains per diem.....	£0 10 6
Lieutenants „	0 7 6
Second do Cornets or Ensigns.....	0 6 6
Non-Commissioned Officers and Privates.	0 5 0

and

and a further sum of five shillings per diem for each horse actually and necessarily present and used for such drill, whether belonging to officers or to privates.

Volunteers may be drilled at other times according to their articles of engagement.

XXXV. Nothing herein contained shall be construed to prevent any such Company from assembling or being ordered out by the Officer Commanding it for drill or exercise, without receiving any pay therefor from the Province, 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 be thereby imposed shall, whenever they are 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.

Ammunition or practice.

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

Pay of Serjeant Major of Artillery Companies.

XXXVII. Each Serjeant Major of a Volunteer Field Battery of Artillery shall, on account of the great responsibility attached to the office, be paid by the Province at the rate of fifty pounds per annum; and competent persons shall be appointed by the Commander in Chief to drill the other Volunteer Companies, and shall be paid by the Province seven shillings and six pence currency per diem, when so employed.

Volunteers may be called out in aid of the Civil power.

XXXVIII. The said Volunteer Companies shall be liable to be called out in aid of the ordinary Civil power in case of riot or other emergency requiring such services, and shall when so employed receive from the Municipality in which their services shall be required, the rates of pay above mentioned, and a further sum of two shillings and six pence per man per diem for additional expenses, and shall be also provided with proper lodging by such Municipality; and the said sums, and the value of such lodging if not furnished by the Municipality, may be recovered from it by the Captain of the Company, in his own name, and when received or recovered shall be paid over to the Officers and men entitled thereto.

They shall be paid in such cases by the Municipality.

How they may be so called out, and their duty in such cases.

XXXIX. It shall be the duty of the Captain or Officer commanding any such Volunteer Company to call out the same, or such portion thereof as may be necessary, for the purpose of quelling any Riot, when thereunto required in writing by the Mayor, Warden or other Head of the Municipality in which such Riot shall be, or any two Magistrates therein, and to obey such instructions as shall be lawfully given him by any Magistrate in regard to the mode of quelling such Riot: and every Officer, non-Commissioned Officer and man of such Company

Company shall on every such occasion obey the orders of his Commanding Officer; and the Officers and men when so called out shall, without any further or other appointment and without taking any oath of office, be Special Constables, and may and shall act as such so long as they shall remain so called out.

To be sworn
as Special
Constables.

XL. The Officers, non-Commissioned Officers and men of Volunteer Companies, shall, while they shall continue such, be exempt from serving as Jurors or Constables; and whenever they shall have served as such in one or more Volunteer Companies during a term of seven years, such exemption shall continue after the expiration of the said term.

Exemptions in
favor of Vo-
lunteers.

XLI. No non-Commissioned Officer or Man of any Volunteer Company, shall, in any case, unless legally discharged, leave the same without giving at least one month's notice in writing to the Commanding Officer thereof of his intention to leave the same; nor shall he, at any time, leave the same contrary to the engagement contained in any articles of engagement he shall have signed.

Notice to be
given before
leaving any
Volunteer
Company:

XLII. The several Volunteer Companies, shall be subject to inspection from time to time by Field Officers to be appointed by the Commander in Chief for that purpose, one for Upper and one for Lower Canada, and paid by the Province, who shall report fully to the Governor on the state of such corps and their arms, and act generally according to the instructions they shall receive from the Commander in Chief, and shall be paid by the Province at the rate of four hundred pounds per annum each, and reimbursed their travelling expenses.

Field Officers
to inspect
Volunteer
Companies.

GENERAL PROVISIONS.

XLIII. All Commissions of Officers in the Provincial Militia shall be granted by the Commander in Chief and during pleasure.

Commissions
by whom
granted.

XLIV. 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 where they shall be appointed by the Captain thereof, and shall hold their rank during pleasure.

Non-Commis-
sioned Officers.

XLV. No person shall be an Officer of Militia unless he be one of Her Majesty's subjects by birth or naturalization, and shall have taken the oath of allegiance.

Officers must
be H. M's.
subjects.

XLVI. Existing Commissions in the Provincial Militia and appointments of non-Commissioned Officers, 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

Existing
Commissions
to remain until
cancelled.

No person bound to serve in a lower grade than he has held.

serve in the Provincial Militia in a lower grade than he has once held, unless he shall have resigned his commission or be 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 has held in the Army, unless he have been reduced as aforesaid.

Adjutant General and Deputies.

Rank.

Pay.

XLVII. There shall be an Adjutant General of Militia for the Province, and two Deputy Adjutants General, one for Upper and the other for Lower Canada; the Adjutant General shall have the rank of Colonel in the Provincial Militia, and each of the Deputy Adjutants General the rank of Lieutenant Colonel therein, and they shall hold their Offices during pleasure: the Adjutant General shall be paid by the Province at the rate of seven hundred and fifty pounds, and each of the Deputy Adjutants General at the rate of five hundred pounds, per annum.

Assistant Adjutants General.

Rank and duties.

XLVIII. There shall be in and for each Military District an Assistant Adjutant General, who shall have the rank of Major in the Militia, and shall act under the orders of the Colonel commanding the District, and of the Adjutant General of the Province, in preparing, obtaining and transmitting all Militia returns and orders required or issued by the Adjutant General, and generally in assisting that Officer in the performance of his duties as regards such Military District.

Pay.

XLIX. Each Assistant Adjutant General shall, in time of peace, be paid by the Province for his services, at the rate of thirty pounds per annum.

Assistant Quarter Master General.

L. There shall be in and for each Military District an Assistant Quarter Master General, whose duty it shall be to make himself thoroughly acquainted with the roads and communications and other matters appertaining to the topography of his District, and to furnish such information on the subject as may be required by the Commander in Chief, in which duty the Officers of the Volunteer Engineer Corps shall assist him with the local information they may acquire.

Militia offences punishable by fine in time of Peace, without Courts Martial.

LI. 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 Courts Martial shall not be held.

CALLING OUT THE MILITIA.

Governor may call out Mili-

LII. The Commander in Chief shall have full power to call out the Militia or any part thereof, whenever it shall in his opinion

opinion be advisable so to do, by reason of war, invasion or insurrection, or imminent danger of any of them.

LIII. The Colonel commanding any Military District, or the Lieutenant Colonel commanding any Battalion division, shall have power upon any sudden emergency of invasion or insurrection, or imminent danger of either, to call out the whole or any part of the Militia within his command, until the pleasure of the Commander in Chief shall be known.

tia in certain cases.

And Colonels or Lieutenant Colonels in their divisions until Governor's pleasure be known.

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

Militiamen bound to obey.

LV. 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.

Volunteer Companies to be included.

LVI. When the whole Militia of the Province are called out, all the Volunteer Companies shall be included and shall immediately obey the orders they may receive.

And so when the whole Militia is called out.

LVII. Each Sedentary Militiaman 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 may have received from the Province, and with such provisions as such officer shall direct.

Sedentary Militiamen to attend with their arms, &c.

LVIII. When the Commander in Chief shall call out the Militia, and the emergency shall not be such as to require that the whole of the Sedentary Militia or of any class thereof, or the whole 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 Sedentary 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.

When the whole are not taken, a certain number may be directed to be furnished.

LIX. The number of men to be so furnished shall in the first instance be taken from the first class service men 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 been so drafted, or volunteered, or consented to serve as substitute for a drafted man, shall be evidence of the fact.

How such number shall be taken.

Drafting men.

Militiaman drafted must serve, find a substitute or pay the fine.

LX. No Militiaman drafted for actual service shall be exempt from serving, unless he shall forthwith pay a penalty of ten pounds, 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.

Infirm persons exempted.

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

In what cases second class service men may be taken.

LXII. If a greater number of men be required than the whole number of first class service men, then the requisite number shall be taken from the second class service men, in like manner.

How men so taken shall be embodied and commanded.

LXIII. The Sedentary Militiamen so taken or drafted for actual service, shall be marched to such place as the Commander in Chief shall appoint, by such Officers as shall be detailed for that purpose by the Lieutenant Colonel of the Battalion from which they are taken, and shall there be embodied into Companies and Battalions, in such manner as the Commander in Chief shall direct, and being so embodied shall be commanded by such Officers as he shall from their qualification and fitness think proper to appoint.

Volunteer Companies may be embodied.

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

Term of service.

LXV. The Militiamen so taken or drafted for actual service from the Sedentary 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 in the same class shall have been 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 five years, subject, however, to be determined on one month's 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 be regularly discharged or have served out the time for which he engaged.

To what places they may be marched.

LXVI. 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 may be, and from which an attack on this Province may be apprehended.

LXVII. The Militia so called out and every Officer or man belonging to it, from the time he shall be ordered, taken or drafted for actual service, shall 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 provisions of the said laws shall not apply to the Militia.

Militia called out to be subject to articles of war, &c.

Exception.

Exception.

LXVIII. 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 the respective commissions; and Colonels appointed by Commission signed by the Commander of Her Majesty's Regular Forces in Canada, shall command Colonels of Militia, whatever be the date of their respective Commissions.

Rank and command of Officers as regards Militia.

LXIX. No Militia Officer or Militiaman shall be sentenced to death by any Court Martial except for mutiny, desertion to the enemy, or traitorously delivering up to the enemy any garrison, fortress, post or guard, or traitorous correspondence with the enemy; and no sentence of any General Court Martial shall be carried into effect until approved by the Commander in Chief.

For what offences only Militiamen may be sentenced to death.

Sentence must be first approved.

LXX. No Officer of Her Majesty's regular army shall sit on any Militia Court Martial.

Officer of army not to sit, &c.

ARMAMENT OF SEDENTARY MILITIA.

LXXI. The arms and accoutrements for the Sedentary Militia shall, when such Militia is not called out for actual service, be kept in Armouries at the following places: Quebec, Three-Rivers, Rivière-du-Loup (below), Sorel, St. John's, Montreal, the City of Ottawa, Prescott, Kingston, Peterborough, Toronto, Guelph, Hamilton, London and Chatham.

Arms, &c. of Sedentary Militia to be kept in Armouries at certain places.

LXXII. If there be at any such place no building adapted to be used as such Armoury, the Commander in Chief may cause a proper building to be erected, at a cost not exceeding seven hundred and fifty pounds for each such building; or he may cause any public building or part thereof to be altered so as to adapt it for such Armoury at a cost not exceeding one half the said sum.

Buildings for Armouries.

LXXIII. The Commander in Chief may employ a proper person to have charge of each such Armoury and of the arms therein, and may cause such person to be paid at a rate not exceeding seventy-five pounds per annum.

Care of such Armouries.

LXXIV.

Arms, how delivered to Sedentary Militia.

LXXIV. The arms in such Armouries respectively, shall be delivered out to the Sedentary Militia called into actual service, in such way as the Commander in Chief shall appoint.

May be kept by Militiamen in certain cases.

LXXV. If there be any Militia division in which, from its position, it shall not be deemed advisable to have the arms of the Sedentary Militia kept in an Armoury, such arms may be delivered out to the enrolled service men of the first class or of the first and second classes in such division, as the Commander in Chief may order, each man giving a receipt for those received by him and security for their safe keeping and delivery to any Officer authorized to demand them.

BILLETING AND CANTONING TROOPS AND MILITIA WHEN ON ACTUAL SERVICE, AND FURNISHING CARRIAGES, HORSES, &C., FOR THEIR TRANSPORT AND USE.

What shall be furnished by those on whom they shall be billeted.

LXXVI. When Her Majesty's Regular Forces or the Militia, shall be on a march within this Province, and billeted as herein-after mentioned, every householder therein shall, when required, furnish them with house-room, fire and utensils for cooking, and candles; and in cases of emergency, by actual invasion or otherwise, the Officer commanding the Regiment, Battalion or Detachment of Troops or Militia, may direct and empower any Officer or non-commissioned Officer of the same, or other person, after having first obtained a warrant for such purpose from a Justice of the Peace, to impress and take such horses, carriages or oxen as the service may require, the use of which shall be thereafter paid for at the usual rate of hire for such horses, carriages or oxen.

Impressing carriages, &c., on emergency.

Justice of the Peace to billet on requisition of commanding Officer.

LXXVII. When the said Troops of Her Majesty, or the Militia, or any Regiment, Battalion, or Detachment of the same, are on a march as aforesaid, the Officer or non-commissioned Officer commanding them shall require a Justice of the Peace to billet, and such Justice shall immediately thereupon so billet the said Troops or Militia as to facilitate their march, and in such manner as may be most commodious to the inhabitants; and every inhabitant householder shall receive the Troops or Militia, so billeted upon him, and furnish them with the lodging and articles mentioned in the next preceding section.

Lodging of Officers not to be paid for:

Allowance for men billeted.

Proper Officer to settle accounts of Officers and Soldiers

LXXVIII. No Officer shall be obliged to pay for his lodging where he shall be regularly billeted; but each householder upon whom such soldiers are billeted shall receive from Government for each non-commissioned Officer, Drummer and Private of Infantry, a daily rate of six pence, and for each cavalry soldier, whose horse shall be also provided with stabling and forage, a daily rate of fifteen pence; and every Officer or non-commissioned Officer to whom it belongs to receive, or who does actually receive the pay for any officers or soldiers, shall, every four

four days, or before they shall quit their quarters if they shall not remain so long as four days, settle the just demands of all householders, victuallers, or other persons upon whom such officers and soldiers are billeted, out of their pay and subsistence money, before any part of the said pay or subsistence money shall be distributed to them respectively, provided such demands do not exceed in amount their pay and subsistence money for the time, credit beyond which is not to be granted.

diers, out of their pay, &c.

LXXIX. When the safety of this Province shall require that the said Troops of Her Majesty or Militia, or any Regiment, Battalion or Detachment of the same should be cantoned in any part of this Province, any Justice of the Peace in the places where such Troops or Militia may be cantoned, upon receiving an order from the Officer commanding them or on a requisition from the Officer commanding any such cantonment, may quarter and billet, and the said Justice is hereby required to quarter and billet the Officers, non-commissioned Officers, Drummers and Privates of the said Troops or Militia, upon the several inhabitant householders, as near as may be to the place of cantonment, avoiding as much as possible to accommodate the said inhabitants, and taking due care to accommodate the said Troops or Militia.

Quartering and billeting Troops, &c. in cantonment.

LXXX. If any inhabitant shall consider himself aggrieved by having a greater number of the said Troops or Militia billeted upon him than he ought to bear in proportion to his neighbours, then on complaint being made to two or more Justices of the locality where such Troops or Militia shall be cantoned, they may and are hereby authorized to relieve such inhabitant, by ordering such and so many of the said Troops or Militia to be removed and quartered upon such other person or persons as they shall see cause, and such other person or persons shall receive such Troops or Militia accordingly.

Complaint of persons aggrieved, and how redressed.

LXXXI. No Justice of the Peace having any Military Office or Commission in the said Troops or Militia, shall directly or indirectly be concerned in the quartering or billeting of any Officer, non-commissioned Officer, Soldier or Soldiers of the Regiment, Corps or Detachment under the immediate command of such Justice or Justices.

No justice being an officer to billet or quarter troops.

LXXXII. Nothing in this Act contained shall be construed to authorize the quartering or billeting of any Troops or Militia either on a march or in cantonment, in any Convent or Nunnery of any Religious Order of Females, or to oblige any such Religious Order to receive such Troops or Militia, or to furnish them with lodging or house room.

Troops not to be billeted upon nuns.

LXXXIII. When any Troops of Her Majesty or Militia or any part of them, shall be so cantoned as aforesaid, any Justice of the Peace where such cantonment is made, upon receiving an order

Justice may require persons to furnish order

carriages &c.
for troops.

On refusal
they may be
impressed.

Limitation of
travel.

At what rate
to be paid for.

In cases of
emergency,
boats, &c., may
be required in
like manner.

Rate of pay
for the same.

May be im-
pressed on re-
fusal to fur-
nish.

Proviso : as to
Railway Com-
panies.

order to that effect from the Officer commanding the said Troops or Militia, or a requisition in writing from the Officer commanding that cantonment, for such and so many carriages as may be requisite and necessary for the said Troops or Militia, is hereby required to issue his Warrant to such person or persons as may be possessed of carriages, horses or oxen, within his jurisdiction, requiring him or them to furnish the same for the service aforesaid, and if he refuse to furnish the same after receiving such Warrant, they may be impressed and taken for such service; but no such carriage, horse or ox, or any carriage, horse or ox, mentioned in the previous sections of this Act, shall be compelled to proceed more than thirty miles, unless in cases where other carriages, horses or oxen cannot immediately be had to replace them; and such carriages, horses or oxen shall be paid for at the usual rate of hire.

LXXXIV. In cases of emergency, when it may be necessary to provide proper and speedy means for the conveyance by Railway or by water, of the said Troops of Her Majesty or Militia, and also of their ammunition, stores, provisions and baggage, any Justice of the Peace of and in the locality where such Troops or Militia may be either on a march or in cantonment, upon receiving a requisition in writing from the Officer commanding such Troops or Militia, for such railway cars and engines, boats or other craft as may be requisite for the conveyance of the said Troops or Militia and their ammunition, stores, provisions and baggage, may issue and is hereby required to issue his warrant to such person or persons as may be possessed of such railway cars and engines, boats or other craft within his jurisdiction, requiring him or them to furnish the same for that service, at and after the rate of payment to be allowed by the said Justice, not exceeding the usual rate of hire for such railway cars and engines, boats or other craft; and if any such person or persons shall neglect or refuse, after receiving such Warrant, to furnish such railway cars or engines or his or their boats or craft for that service, such railway cars or engines, boats or other craft may be impressed and taken for such service: Provided always, that nothing herein shall be construed to impair the effect of any Act obliging any Railway Company to convey such Troops, Militia, and other articles aforesaid, in any manner or on any terms and conditions therein mentioned, or to release any such Company from any obligation or penalty thereby imposed.

PENALTIES.

Refusing to
make rolls, &c.

LXXXV. 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, Return, or copy, shall thereby incur a penalty of ten pounds, for each offence.

LXXXVI.

LXXXVI. Any Officer or non-commissioned Officer of Militia refusing or neglecting to assist his Commanding Officer in making any such Roll or Return, or refusing or neglecting to obtain or to assist him in obtaining any information which he may require in order to make or correct any Roll or Return, shall thereby incur a penalty of five pounds, for each offence.

Refusing to assist in making rolls, &c.

LXXXVII. Any Militiaman or other person refusing or neglecting to give any notice or information which may be necessary for making or correcting the Roll of any Company, and which he is required by this Act to give to the Commanding Officer of such Company, or to any Officer or non-commissioned Officer thereof demanding the same at any seasonable hour and place, shall thereby incur a penalty of two pounds ten shillings, for each offence.

Refusing to give information for making roll, &c.

LXXXVIII. Any Militia officer or man, not exempt from attending muster, who shall neglect or refuse to attend the same at the place and hour appointed therefor, or shall refuse or neglect to obey any lawful order at or concerning such muster, shall thereby incur a penalty of not more than one pound five shillings, for each offence.

Neglecting to attend muster or misbehaving thereat, &c.

LXXXIX. Any person who shall interrupt or hinder any Militia at Drill, or shall trespass on the bounds set out by the proper officer for such Drill, shall thereby incur a penalty of one pound five shillings, 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.

Hindering Militia at drill.

XC. Any Officer, non-commissioned Officer or Militiaman, who shall disobey any lawful order of his superior officer, or shall be guilty of any insolent or disorderly behaviour towards such Officer, shall thereby incur a penalty of one pound five shillings, for each offence.

Disobeying orders, &c.

XCI. Any Officer, non-commissioned Officer or Militiaman, who shall fail to keep any arms or accoutrements delivered or entrusted to him in proper order, or shall appear at drill, parade, or on any other occasion, with his arms or accoutrements out of proper order, or unserviceable, or deficient in any respect, shall incur a penalty of one pound, for each such offence.

Not keeping arms in proper order.

XCII. Any Officer, non-commissioned Officer or man of any Volunteer Company of Cavalry or Field Artillery, who shall, without the consent of the Commanding Officer of such Company, sell or dispose of any horse which shall have been drilled for the purposes of such Company, or which he shall have undertaken to furnish for such purposes, and which shall have been approved by the Commanding Officer of the Company, shall thereby incur a penalty of five pounds for each offence.

Selling without leave horse drilled or approved for any troop, &c.

Unlawfully disposing of arms, &c.

XCIII. Any person who shall unlawfully dispose of or remove any arms, accoutrements or other articles belonging to the Crown, or refuse to deliver up the same when lawfully required, or shall have the same in his possession, except for lawful cause the proof of which shall lie upon him, shall thereby incur a penalty of five pounds 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 subjected 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.

Not to prevent indictment; arrest of offender about to leave the Province.

Volunteers refusing to turn out in aid of Civil power.

XCIV. Any Officer or Man of a Volunteer Militia Company who, when such Company shall be lawfully called upon to act in aid of the Civil power, shall refuse or neglect to go out with such Company, or to obey any lawful order of his Superior Officer or of any Magistrate, shall thereby incur a penalty of five pounds for each offence.

Refusing to receive Militia billeted.

XCV. Any inhabitant householder who shall refuse or neglect to receive any Troops or Militia billeted upon him or to furnish them with the lodging and articles which he is by this Act required to furnish, shall thereby incur a penalty of two pounds for each such offence.

Refusing to furnish carriage, &c., when lawfully required;

XCVI. Any person lawfully required under this Act to furnish any carriage, horse or ox, for the conveyance or use of any Troops or Militia, who shall neglect or refuse to furnish the same, shall thereby incur a penalty of two pounds for each such offence.

Or any car, engine, boat or craft.

XCVII. Any person lawfully required under this Act to furnish any railway car or engine, boat or other craft, for the conveyance or use of any Troops or Militia, who shall neglect or refuse to furnish the same, shall thereby incur a penalty of five pounds for each such offence.

Contravening this Act where no other penalty is provided.

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

Recovery of penalties.

XCIX. All penalties incurred under this Act or under any Regulations, Orders or Articles of Engagement lawfully made or entered into under it, 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 five pounds, 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 Act or Acts then in force relative to the performance of the duties of 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 may be applicable to the purposes of such Company.

Summary proceedings, Acts to apply.

Militia officers &c., may be witnesses.

C. No prosecution against an 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, 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 shall belong; 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.

On whose complaint penalties may be sued for.

Evidence of authority to sue.

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

Limitation of time for such prosecutions.

CII. The penalty when recovered shall, if the offender belong 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 belong to the Sedentary Militia, then the same shall be paid over to the Assistant Adjutant General, who shall account for and pay it over to the Receiver General for the public uses of the Province, and it shall make part of the Consolidated Revenue Fund.

Application of penalties.

MISCELLANEOUS PROVISIONS.

CIII. It shall not be necessary that any order or notice under this Act be in writing, unless it is herein provided 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.

Orders and notices need not be in writing if given in person.

General orders how notified. Evidence. CIV. 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 *Canada Gazette*, and a copy of the said Gazette purporting to contain them shall be *prima facie* evidence of such orders.

Regimental or battalion orders, how notified. CV. 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 the Church, or of some Court-house, Mill, or other public place, in each Company division in such Regimental or Battalion division.

Evidence of commissions, warrants, &c. CVI. 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, appointment, warrant or order.

Bonds entered into in pursuance of this Act to be valid. CVII. Every Bond to the Crown which may be 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.

Sums of money payable to the crown under this act, how recoverable. CVIII. Every sum of money which any person or corporation shall be under this Act liable to pay or repay to the Crown, or which shall be equivalent to the damages done to any arms or other property of the Crown and 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.

Protection of Officers, &c., acting in pursuance of this Act. CIX. Every action and prosecution against any Officer or person, for any thing done in pursuance of this Act, shall be laid and tried in Lower Canada in the District, and in Upper Canada in the County, where the act complained of was done, and shall not be commenced after the end of six months from the

Limitation of action. doing of such act, nor until one calendar month's notice in writing of the action and of the cause thereof shall have 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

Tender of amends.

has

has been paid into Court by the defendant after the action was brought.

CX. If a verdict shall pass for the defendant in any action referred to in the next preceding Section, or the plaintiff shall become non-suit or discontinue the action after issue joined, or if on demurrer or otherwise judgment be 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 be given for the plaintiff, he shall not have costs against the defendant, unless the Judge before whom the trial shall be, shall certify his approbation of the action and of the verdict therein.

If Plaintiff be non-suit, &c.
No costs against Defendant except with approval of Judge.

CXI. All sums of money required to defray any expense authorized by this Act, may be paid out of the Consolidated Revenue Fund of this Province, upon warrant directed by the Governor to the Receiver General; and such warrants may be made in favour of the Adjutant General of Militia, to enable him to pay such expense, or in favour of the party directly entitled to the money: Provided always, that no sum of money shall be so paid out of the Consolidated Revenue Fund until first approved of by Resolution of the Legislative Assembly in the annual estimates.

Payment of mon-ys under this Act.
Proviso.

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

Accounting to Parliament.

CXIII. The due application of all moneys advanced or expended under the authority of this Act, shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

Accounting to Her Majesty.

CXIV. The Interpretation Act shall apply to this Act, and to all Regulations, orders and articles of engagement lawfully made or entered into under it.

Interpretation.

CXV. This Act shall come into operation upon the first day of July, one thousand eight hundred and fifty-five, and shall be in force for three years, and from thence until the end of the then next ensuing Session of Parliament of this Province, and no longer; Provided, that if at the time when this Act would otherwise expire, there should happen to be War between Her Majesty and the United States of America, then this Act shall continue in force until the end of the Session of the Provincial Parliament next after the Proclamation of Peace between Her Majesty and the said United States, and no longer.

Commencement and duration of this Act.
Proviso for case of War.