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No. 61.

1st Session, 8th Parliament, 27 Victoria, 1863.

(2nd Session.)

BILL.

An Act respecting the Militia.

**Received and read first time, Friday, 4th
September, 1863.**

Second reading, Tuesday, 8th September, 1863.

Hon. Mr. Atty. Genl. MACDONALD.

G. Desbarats & M. Cameron, Queen's Printer.

An Act respecting the Militia.

(Sections between Brackets [] are new-sections.)

HER Majesty, by and with the advice and consent of the Preamble.
 Legislative Council and Assembly of Canada, enacts as follows :

1. The Governor shall, by virtue of his Office, be Com- Governor to be
5 mander in Chief of the Militia. Commander in
Chief.

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

3. The Militia shall be divided into three classes, to be Militia divided
10 called respectively first class Service Men, second class Service into three
Men and Reserve Men: the first class Service Men shall be classes.
those of eighteen years of age and upwards, but under forty- First.
five years, who are unmarried Men or widowers without Second.
15 children, and the second class Service Men shall be those Reserve.
between the ages last aforesaid who are married Men or
widowers with children,—and the Reserve Men shall be those
of forty-five years of age and upwards, but under sixty years.

EXEMPTIONS.

4. The following persons only, between the ages of eighteen Certain func-
and sixty years, shall be exempt from enrolment as hereinafter tionaries &c.,
20 mentioned, and from actual service at any time : to be wholly
exempt.

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 County Courts ;

25 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 Peni-
tentiary ;

Exemptions
except in case
of war, &c.

2. 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 ; 5

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 appointed to any Civil Office in this province under the Great Seal ; 10

All persons lawfully authorized to practice Physic or Surgery ;

All Advocates, Barristers, Solicitors and Attorneys ;

Notaries in Lower Canada ;

Half-pay and Retired Officers of Her Majesty's Army or Navy ; 15

Postmasters and Mail Carriers ;

Seafaring Men actually employed in their calling ;

Masters of Public and Common Schools actually engaged in teaching ;

Ferry-men ; 20

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 ; 25

Members of Fire Companies and of Hook and Ladder Companies ;--or persons having served as such regularly during seven consecutive years, and having a certificate thereof from the proper Officer under the *Act to exempt Firemen from certain local duties and services* ; 30

Jailors, Constables and Officers of Courts of Justice, not being such solely by virtue of their being non-commissioned Officers of Militia;

5 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;

10 All persons bearing Certificates from the Society of Quakers, Menonists and Tunkers, or any inhabitant of this Province, of any Religious denomination, otherwise subject to Military duty in time of Peace, but who, from the doctrines of his Religion, is averse to bearing arms and refuses personal Military Service, shall be exempt therefrom; but exemptions under this clause shall not prevent any person from serving, or, if an Officer holding a Commission in the Militia, if he desires it and is not disabled by bodily infirmity;—And no person shall have the benefit of such exemption, unless he has, at least one month before he claims such benefit, filed his claim thereto with his *affidavit* made before some Magistrate (or affirmation in cases where persons are allowed to affirm) of the facts on which he rests his claim, with the Clerk of the Municipality 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.

Persons having religious scruples.

Exemptions must be claimed.

Burden of proof.

REGIMENTAL DIVISIONS.

5. [All Military Districts heretofore and now existing, and all divisions thereof respectively, are hereby annulled and abolished;—And each County in this Province shall constitute a Regimental Division; and the Commander in Chief, by any General Order, may designate the Regiment in each of such divisions by such name or number or both as he sees fit, (e. g. The first or [*name of County*] Regiment of Militia) and may, from time to time, connect one or more Counties as a Regimental Division, and vary or alter the same; but for the purposes of this Act the City of Quebec shall be held to be in the County of Quebec, and the City of Montreal to be in the County of Hochelaga, and the City of Toronto to be in the County of York.]

Present divisions abolished.

Each County to be a Regimental division.

As to Quebec, Montreal and Toronto.

SERVICE MILITIA.

SERVICE ENROLMENT IN UPPER CANADA.

6. [The mode of enrolment of the Militia shall, in Upper Canada, be as follows, that is to say:—the Assessor

Mode of enrolment in U. C.

Rolls to be
made by assess-
sors.

of Assessors for each Municipality in Upper Canada shall, annually, commencing with the year one thousand eight hundred and sixty-four, and at the same time when they are engaged in taking the Assessment of real and personal property in their respective Municipalities, include in their Assessment Roll, the names and residences of all male persons in their respective Municipalities, between the ages of eighteen and sixty years; and they shall prepare three additional columns in such Assessment Roll, which shall be headed respectively "First Class Service Militia Roll," "Second Class Service Militia Roll" and "Reserve Militia Roll,"—and they shall insert in the "First Class Service Militia Roll" the names of all male persons of eighteen years of age and upwards, but under forty-five years, who are unmarried men or widowers without children, and in the "Second Class Service Militia Roll," the names of all male persons of eighteen years of age and upwards but under forty-five years, who are married men or widowers with children, and in the "Reserve Militia Roll," the names of such persons as are forty-five years of age and upwards, but under sixty years; and the copy required by Law to be made of any such Assessment Roll for transmission to the County Clerk, shall contain the additions herein specified; and in addition to any oath or certificate required under the present or any future Laws of this Province, to be taken or given by such Assessor or Assessors, in respect to the Assessment Roll, there shall also be made and attached to the said Roll the following certificate signed by such Assessor or Assessors;

Classes.

First class.

Second.

Reserve.

Copy trans-
mitted to
County Clerk
to contain such
Rolls and to be
certified.

Certificate.

"I do certify that I have truly and faithfully and to the best of my knowledge, information and belief, set down, in the above Militia Rolls, the names of all male persons within the Municipality of (*as the case may be*), liable to be enrolled by the Militia Laws of this Province;" and such certificate shall be verified by him, or them, upon oath, before a Justice of the Peace.]

County Militia
Rolls to be
made from
Assessment
Rolls and by
whom.

7. [The Clerk of the Council of each County or Union of Counties in Upper Canada, shall, within fourteen days after the receipt by him of such Assessment Rolls, carefully compile from them the County Militia Rolls, shewing the names and residences of those on the "First Class Service Militia Roll" "Second Class Service Militia Roll" and "Reserve Militia Roll" and shall make and attach to the said Roll the following certificate to be signed by him :

Certificate.

"I do certify that I have truly and faithfully copied from the Assessment Rolls of the several Municipalities in the County of the above Militia Rolls hereto-appended."

By whom such
Rolls shall be
kept.

And shall verify the same on oath before a Justice of the Peace; and such County Militia Roll so certified shall be by the County

Clerk forthwith delivered to the Clerk of the Peace to be filed away in his office for use as hereinafter mentioned ; and the Clerk of such County Council shall be paid for the same at the rate of Fee. for every one hundred persons on the said Rolls.]

5 8. [Chapter fifty-five of the Consolidated Statutes for Upper Canada, and its several provisions, subject to those of any Act amending them, relative to Assessments, shall be applicable to the enrolment of the Militia as hereinabove mentioned, and shall, in so far as such enrolment extends, be read and deemed as part thereof, and every Assessor shall, as regards 10 the making of the said Militia Rolls, have the same duties and powers and the same liabilities, in case of any default on his part, as he has with regard to the Assessment Rolls.]

9. [All tavern-keepers, keepers of boarding houses, persons 15 having boarders in their families, and every master and mistress of any dwelling house, shall, upon the application of any Assessor, give information of the names of all persons residing or lodging in such house, liable to be enrolled, and all other proper information concerning such persons as such Assessor may 20 demand.]

SERVICE ENROLMENT IN LOWER CANADA.

10. [The mode of enrolment of the Militia shall in Lower Canada be as follows, that is to say :--the Assessor or Assessors, Valuator or Valuators for each Municipality in Lower Canada, in which a Valuation or Assessment Roll 25 is made in each year, shall, annually, and the Assessors or Valuators in each Municipality in Lower Canada, in which such Roll is not made annually, shall in each year after the present in which such Roll is made, commencing with the year one thousand eight hundred and sixty-four, and at the 30 same time when they are engaged in taking the Assessment or Valuation of real and personal property in their respective Municipalities, include in their Valuation or Assessment Roll, the names and residences of all male persons in their respective Municipalities, between the ages of eighteen and 35 sixty years ; and they shall prepare three additional columns in such Valuation or Assessment Roll, which shall be headed respectively " First Class Service Militia Roll,"--and " Second Class Service Militia Roll,"--and " Reserve Militia Roll," --and they shall insert in the " First Class Service Militia 40 Roll " the names of all male persons of eighteen years of age and upwards, but under forty-five years, who are unmarried men and widowers without children, and in the " Second Class Service Militia Roll " the names of all persons of eighteen 45 years of age and upwards, but under forty-five years of ages, who are married men and widowers with children, and in the " Reserve Militia Roll," the names of such person as are forty-five years of age and upwards, but under sixty years ; and the

Certain powers and provisions relative to assessments, extended to the Militia Rolls.

Tavern keepers &c., to give the requisite information to assessors.

Mode of enrolling Militiamen in L. C.

Rolls to be made by Assessors or Valuators.

Form.

First Class.

Second.

Reserve.

Copy transmitted to Warden to contain such Rolls.

copy required by Law to be made of any such Valuation or Assessment Roll for transmission to the Warden of the County, shall contain the additions herein specified; and in addition to any oath or certificate required under the present or any future Laws of this Province, to be taken or given by such Assessor or Assessors, Valuator or Valuators in respect to the Assessment or Valuation Roll, there shall also be made and attached to the said Roll the following certificate signed by such Assessor or Assessors, Valuator or Valuators;

Certificate

"I do certify that I have truly and faithfully and to the best of my knowledge, information and belief, set down in the above Militia Rolls, the names of all male persons within the Municipality of (*as the case may be*), liable to be enrolled for service by the Militia Laws of this Province;" and such certificate shall be verified by him, or them, upon oath, before a Justice of the Peace.

Rolls to be sent to County Warden from certain Municipalities in L. C.

11. [As respects any City, Town, or Village Municipality in Lower Canada, the Assessment or Valuation Roll whereof is not by law required to be delivered to the County Warden, the assessors or valuator shall deliver a true copy, certified as aforesaid, of the Militia Rolls on any such Valuation or Assessment Roll, to the Warden of the County in which the Municipality lies, within *fourteen* days after they have completed such Roll.]

Provision as to Municipalities in Lower Canada where Assessment Rolls are not made yearly.

12. [In those Municipalities in Lower Canada in which the valuation or assessment is not made yearly, the assessors or valuator shall, between the day of in each year in which such Roll is not made, make out Militia Rolls for the Municipality, containing the particulars above mentioned, and shall certify the same as above directed and transmit them to the Warden of the County in which the Municipality is situated, before the day of in each such year; provided always,

Proviso.

that the Commander in Chief may, in any year, appoint any one or more officers of the Militia to make such Militia Rolls in any Parish, Township or other local Municipality in Lower Canada: And in respect of such Rolls the said assessors and valuator and each of them shall have the duties and the same powers for obtaining the requisite information, as they have with respect to the ordinary Valuation or Assessment Rolls and the Militia Rolls forming part thereof.]

Powers of officers making the rolls.

Proviso: Commander in Chief may cause the Militia Rolls to be made by Militia Officers in certain cases.

13. [Provided always, that in all cases where the Commander in Chief shall find that a failure to make the Militia Rolls for any Municipality has occurred, or sees reason to fear that such failure may occur, in any year, he may appoint one or more Officer or Officers of Militia, resident within such Municipality, to make the Militia Rolls therein for such year; and such Officer or Officers shall then have, with respect to such

Powers in such case.

Rolls, all the powers and perform all the duties, and be subject to all the liabilities, which the Assessors or Valuers for such Municipality would otherwise have had or have been subject to, with respect to the same.]

5 **14.** [The Secretary-Treasurer of each County Council in Lower Canada, to whom the copies of the proper Assessment, Valuation or Local Militia Rolls, shall for that purpose be forthwith after their receipt, delivered by the County Warden, shall, within fourteen days after the receipt by him of such
10 Rolls, carefully compile from them the County Militia Rolls, shewing the names and residences of those on the "Service Roll" and "Reserve Roll" and shall make and attach to the said Rolls the following certificate to be signed by him :]

Secretary-Treasurer to have the Rolls and make the County Roll from them.

15 [" I do certify that I have truly and faithfully compiled from
" the Assessment, Valuation and Militia Rolls of the several
" Municipalities in the County of the County
" Militia Rolls hereto appended."]

Certificate.

[And shall verify the same on oath before a Justice of the Peace ;
20 and such County Militia Rolls, so certified, shall be by the
said Secretary-Treasurer forthwith delivered to the Registrar of
the County, to be filed in his office for use as aforesaid ;
and the Secretary-Treasurer of such County Council shall be
paid for the same at the rate of for every one hundred
persons on the said County Rolls.]

County Rolls to be given to and kept by the Registrar.

25 **15.** [The several provisions of the Lower Canada Consolidated Municipal Act, and the Acts amending it, and the provisions of every special Act incorporating or governing any Town or City in Lower Canada, relative to Assessments or Valuations, shall be applicable to the enrolment of the Service
30 Militia as hereinabove mentioned, and shall, in so far as such enrolment extends, be read and deemed as part thereof, and every Assessor or Valuator shall, as regards the making of the said Militia Rolls, have the same duties and powers and the same liabilities, in case of any default on his part, as he has
35 with regard to the Assessment or Valuation Rolls.]

Provisions and powers for making Assessment Rolls, extended to Militia Rolls:

16. [All tavern-keepers, keepers of boarding houses, persons having boarders in their families, and every master and mistress of any dwelling house, shall, upon the application of any Assessor or Valuator, give information of the names of all persons
40 residing or lodging in such house, liable to be enrolled, and all other proper information concerning such persons as such Assessor or Valuator may demand.]

Tavern Keepers, &c., to give all necessary information.

PROVISIONS APPLYING TO THE WHOLE PROVINCE.

17. The Commander in Chief may call out the Militia or any part thereof for actual service, whenever it is in his opinion
Power to call out the militia.

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

18. [The Militia appearing by the then last Service Militia Rolls as resident in each Regimental division shall form the Regiment of the Regimental division in which they reside ;—and each Regiment shall be composed in the following manner: The first and each succeeding Service Battalion of a Regiment shall be composed of ten Companies, and shall embrace in the whole, exclusive of the proper complement of non-commissioned Officers, the number of seven hundred and fifty Service Men; and shall be taken as hereinafter provided, in the first place from the names on the First Class Service Roll, and when the names on the First Class Service Roll shall have been exhausted, from the names on the Second Class Service Roll, and, when those names shall have been exhausted either by organization in Battalions or by reliefs for Battalions already in existence, then recourse shall be had to the names on the Reserve Roll: Provided, that every person who may be balloted as hereinafter mentioned, shall from the time of such ballot, and during the period for which he shall remain in an organized Service Battalion, be exempt from non-Service enrolment.]

Regiments of Militia. 5
Battalions of Service Men. 10
How the names shall be taken. 15
Proviso. 20

19. [To each Service Battalion of any such Regiment may be appointed at such time as the Commander in Chief may think fit, a Lieutenant-Colonel, two Majors and such number of Regimental Staff Officers as may be deemed necessary, and for every Company of seventy-five men may be appointed a Captain, a Lieutenant, and an Ensign; provided always, that in such cases as the Commander in Chief may think fit, the appointment of any such Officers shall be provisional only and its confirmation contingent on proof of the qualification of such Officer examination as hereinafter provided.]

Officers of each Battalion. 25
Proviso. 30

20. [When the Service Militia or Battalion or any part thereof are or is called out in case of war, invasion or insurrection, or imminent danger thereof, those taken from the Regiment for actual service shall be firstly the Battalions composed of First Class Service Men, secondly, of Second Class Service Men, and lastly the Battalions composed of Reserve Men.]

Battalions of service men to be taken first for active service. 35

21. [When the Commander in Chief calls out the Militia, and the emergency is not such as to require that the whole of the Service Militia or of any class thereof, be taken for actual service, he may from time to time direct the number of Battalions to be furnished from the Service Militia of the whole province or of any Regimental Division thereof.]

When only part of the Militia is called out. 40 45

22. [The order of the Commander in Chief requiring the organization of a Battalion or Battalions of Service Militia,

Order to specify the proportion

shall in every case specify the proportion of men to be furnished for each such Battalion from each Township, Parish, City, Town or Incorporated Village having reference to the proportion of population of the same as appearing by the last census.]

to be taken from each place.

- 5 **23.** [For the purpose of organizing the Battalions hereinbefore mentioned, the Sheriff in Upper Canada, or the Registrar in Lower Canada, of the County forming such Regimental Division, shall, at some period in the year one thousand eight hundred and sixty-four, to be fixed by the
- 10 order of the commander in chief, and in each third succeeding year, within *twenty-one days* after the completion and filing of the Militia Rolls for the County, summon the County Judge and Warden of the County in Upper Canada, or in Lower Canada, one or more Officers of
- 15 the Service Militia of the County, to be designated to him by the Commander in Chief, to meet him at the Court House at the County Town in Upper Canada,—or in Lower Canada at the Office of the said Registrar,—and shall also forthwith summon the Clerk of the Peace of the County in
- 20 Upper Canada, to attend with the County Militia Rolls as aforesaid,—for the purpose of balloting from the names appearing on the Service Rolls, or the “Reserve Roll,” as the case may be, for the requisite number of men to form a Battalion or Battalions of the Regiment, as may be required by
- 25 the Commander in Chief to be organized.]

Proceedings for determining what service men shall form the several Battalions of a Regiment.

- 24.** [Each Battalion so organized shall be and continue so organized for a period of three years, and thence until the organization of a Battalion or Battalions in the same County in each
- 30 *three* succeeding years, when the same shall be deemed to be disbanded, and shall be succeeded in its organization by the Battalion or Battalions to be formed by Ballot in such succeeding third year; but in the event of the Militia being called out for actual service, any such Battalion, organized as aforesaid, shall serve for the period mentioned in the
- 35 section of this Act; Provided that if during the period of three years for which any person shall be balloted as a First Class or Second Class Service man, he shall attain such age as would exempt him from service as a First or Second Class Service man, such exemption shall have no force or effect until after
- 40 the expiration of the period of three years for which he shall have been so balloted.]

Battalions so organized to remain so for three years.

Proviso if called out.

Proviso: as to men attaining certain ages after being balloted.

- 25.** [The Sheriff, County Judge and Warden of the said County, in Upper Canada, and the Registrar and Officer or Officers of Militia designated as aforesaid in Lower Canada,
- 45 shall then proceed to select from the Militia Rolls, in the order hereinbefore mentioned, the names of the requisite number of persons to form a Battalion of the Regiment of the said Regimental Division, and the selection shall be conducted in the following manner, that is to say] :—

Ballot for selecting the men to compose any Battalion.

The Ballot.

1. [The name of each person appearing on the Service Rolls or Reserve Roll, as the case may be, of the said County, shall, by the Clerk of the Peace, or the Registrar of the County, be written distinctly on a piece of parchment, card or paper, as nearly as may be of the size following] :—

5

JOHN SMITH,
of (*designating his residence
by lot, concession or range,
township, parish, street, &c.,
as the case may be.*)

and so many of such names, as shall appear to be resident within any Township, Parish, City, Town or Incorporated Village mentioned in the order of the Commander in Chief, requiring the organization of the Battalion, so written, shall, by the direction and care of such Sheriff or Registrar, be put together in a box or urn to be by him provided for that purpose, and such box or urn shall be shaken so as sufficiently to mix the names ;]

Drawing the
Ballots, and
making up
the Roll.

2. [The County Judge or Warden in Upper Canada, or the Registrar, or the Militia Officers designated as aforesaid, or one of them, shall then draw out a sufficient number of names to complete the number of men specified as the proportion to be furnished to the Battalion by such Township, Parish, City, Town or Incorporated Village, and each name as called out shall be transcribed by the Clerk of the Peace or the Registrar, on a Battalion Roll ; and he shall specify, opposite the name of each person, his place of residence as aforesaid, and such Battalion Roll shall be signed by the said Sheriff, County Judge, Warden and Clerk of the Peace in Upper Canada, or any two of them, and by the Registrar and one at least of the Militia Officers designated as aforesaid in Lower Canada, and shall by the Sheriff or Registrar be transmitted within ten days thereafter to the Adjutant General ; and the Clerk of Peace or the Registrar (as the case may be) shall, on the Service Roll or Reserve Roll (as the case may be,) insert the letter B opposite the name of each person so balloted.

Same provisions to apply to formation of any other Battalion.

26. [The provisions of the three preceding sections shall apply to the case of each succeeding Battalion, other than the first Battalion, required by the Commander in Chief to be organized in any Regimental Division, and also in the event of the Militia being called out for actual service, to the case of reliefs whenever required by General Order of the Commander in Chief, to be balloted for to keep up the organization of a Battalion to its full strength as hereinbefore provided, and may also be adopted at any period in any year for the purpose of organizing any additional Battalion or Battalions of

any Regiment required by General Order of the Commander in Chief.]

- 27.** [In the case of a Union of Counties for Municipal and Judicial purposes, the same shall be treated as distinct for Provision as to Unions of Counties.
5 Militia purposes; but the proceedings hereinbefore provided as to ballot in a County shall be applicable to each County of the United Counties, in which said County any portion of the Militia may be organized or may be called out for actual service.]
- 28.** [No man of any Regiment of Service Militia shall be exempt from actual service when called out, unless exempt by this Act or unless he forthwith provides an approved man of the same class, who may not have been balloted and who is willing to serve as a substitute, and any substitute by his consent to act as such, shall become liable in all respects as if balloted.] Men drafted must serve or find a substitute.
10
15
- 29.** No man unfit from bodily infirmity to perform his duty, shall be obliged to serve. Infirm persons exempted.
- 30.** [Whenever such may be deemed requisite and so ordered Mode of notifying the men balloted when the Battalion is called out.
20 by the Commander in Chief, the Service Battalion or Battalions so organized as hereinbefore mentioned, shall, by the Officer appointed to command them, be warned by a notice to be served at the last known place of abode of each person so balloted as before provided, to attend on a day and place to
25 be stated in such notice for muster and inspection according to such regulations as the Commander in Chief may prescribe by General Order for that purpose; and whenever the Militia or any Service Battalion shall be called out for actual service, each such Battalion so called out shall be warned as aforesaid and
30 shall attend forthwith at some place and shall be marched to such place as the Commander in Chief may appoint, and shall there be organized for service, in such manner, as the Commander in Chief may direct, and shall be commanded by such Officers as from their qualification and fitness he thinks
35 proper to appoint, such Officers to be taken in preference from the Regimental Division so far as a sufficient number of persons duly qualified can be found therein.] Organization. Officers.
- 31.** [The Service Militia or any Battalion or Company thereof, may at any time in each year, be called out by General May be called out for six days drill.
40 Order of the Commander in Chief for drill or instruction, for a period not exceeding six days, under and pursuant to such rules and regulations in that behalf, as may be prescribed in any such General Order.]
- 32.** [The Service Militia or such Battalion or Battalions as
45 shall from time to time be called out for actual service, shall serve during years unless sooner disbanded, and may Term of service of enrolled men.

then be replaced by others to be called out in the manner hereinbefore specified, and shall not be liable to be again called out until all others in the same class have been taken.]

To what places may be marched.

33. The Militia, so called out, may be marched to any part of the Province, or to any place without the Province but not terminous therewith, where the enemy is, and from which an attack on this Province is apprehended. 5

Militia called out to be subject to articles of war.

34. The Militia, so called out, and every Officer or man belonging to it, shall, from the time he has been called out for actual service, be subject to the Rules and 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 man 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. 10 15

Exception.

Exception.

For what offences only Militiamen may be sentenced to death

35. No Officer, non commissioned Officer or private in the Militia, 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. 20 25

Sentence must be first approved.

Officer of regular Army on full pay not to sit, &c.

36. No Officer of Her Majesty's regular Army on full pay shall sit on any Militia Court Martial.

OFFICERS.

Commission, by whom granted.

Officers must be Her Majesty's subjects.

Officers' arms and uniform &c.

37. All Commissions of Officers in the Militia shall be granted by the Commander in Chief and during pleasure; no person shall be an Officer of Militia unless he is one of Her Majesty's subjects by birth, or naturalization. 30

38. Commissioned Officers of the Militia shall furnish their own uniform, arms and accoutrements.

Existing Commissions continued, until cancelled, &c.

39. [Commissions in the Militia, existing immediately before the passing of this Act, shall remain in force, the same being nevertheless subject to be cancelled by the Commander in Chief; and shall be deemed to constitute such officers as belonging to the Regimental division in which they respectively reside; and all officers of the Militia to be hereafter appointed shall be designated in their commission as officers of the Regimental Division, unless specially appointed to Battalions];—But no person shall be bound to serve in the Militia in a lower grade than he has once held, unless he has resigned 35 40

No person bound to serve

his commission or is reduced by sentence or order of some lawful Court or authority ;—[Provided that no future appointment to rank in the Militia shall be higher in time of peace than Lieutenant-Colonel.]

in a lower grade than he has held.
 Proviso: no rank above Lieut. Colonel, in peace.

5 **40.** The Commander in Chief may, whenever the Militia is called out, and the exigencies of the service so require, appoint Colonels in the same.

Colonels when militia is called out.

41. Officers of Her Majesty's Army shall always be reckoned senior to all Officers of the Militia of the same rank, whatever be the dates of their respective commissions ;—And Colonels appointed by Commission signed by the Officer Commanding Her Majesty's Forces in Canada, shall command Colonels of Militia, whenever hereafter appointed, (except the *Adjutant General* of the Militia), whatever be the dates of their respective Commissions.

Respective rank of officers in militia and H. M. army.

42. [After the passing of this Act, no officer of the Service Militia shall be appointed or promoted except provisionally until he shall have satisfactorily passed through the school of military instruction hereinafter referred to, and received a certificate thereof.]

Officer to pass School of instruction before appointment or promotion.

43. In case of war or any such emergency as may, in the opinion of the Commander in Chief, render it necessary or expedient, he shall have full power to appoint to the office of Adjutant General of Militia, an officer who has been educated to the military profession, and thoroughly competent to the satisfaction of the Commander in Chief, to discharge the duties of the said office of Adjutant General ; and the duties of Adjutant General, during the vacancy of the office, shall be performed by the Deputies Adjutant General for Upper and Lower Canada respectively, under orders from time to time of the Commander in Chief, or by such Officer as may be appointed by the Commander in Chief on any occasion for the special and temporary discharge of any such duties.

Adjutant General to be appointed only in cases of War or Emergency.

44. The Adjutant General, when appointed as aforesaid, shall act as such for the whole Province, and shall have the rank of Colonel in the Militia, and as such be the Senior Officer of the Militia, and shall be paid by the Province at the rate of *three thousand dollars* per annum, and allowances while discharging the duties of his office.

Pay of Adjutant General.

45. There shall be a Deputy Adjutant General for Upper Canada, and a Deputy Adjutant General for Lower Canada ; and each of them shall have the rank of Lieutenant Colonel in the Militia, and shall hold his Office during pleasure ; and each of the said Officers shall be paid by the Province at the rate of *two thousand dollars*, per annum.

Deputy Adjutant General.

Regimental Staff officers and a Assistant Quarter Master General. Duties.

46. The Commander in Chief may appoint in and for each Regimental Division such staff Officers as may in his opinion be requisite and also an Assistant Quarter Master General of Militia, whose duty it shall be to make himself thoroughly acquainted with the roads and communications and other matters appertaining to the topography of his Regimental Division, and to furnish such information on the subject as may be required by the Commander in Chief, in which duty the Officers of the Companies of Volunteer Engineers shall assist him with the local information they acquire. 5 10

Non-commissioned officers.

As to those who have been in H. M. service.

47. All non-commissioned officers in the Militia shall be appointed by the officer commanding the Corps to which they belong,—and shall hold their rank during pleasure, and any person who has been a non-commissioned officer in Her Majesty's service, shall not be bound to serve in the Militia in a lower grade than he held in Her Majesty's service, unless he had, at the time of leaving Her Majesty's service, been reduced from such grade. 15

Pay of Militia called out for active service.

48. Whenever the Militia or any part thereof shall be called out by reason of war, invasion, insurrection or imminent danger thereof, the officers, non-commissioned officers and men of the Militia, so called out for Actual Service, shall be paid at such rates of daily pay, and shall receive such allowances in every respect, as are paid and allowed to officers and men of the relative and corresponding rank or grade in Her Majesty's Service. 20 25

CORPS FOR GENERAL SERVICE.

Raising Regiments in time of war.

49. The Commander in Chief may, in the event of war, raise, in addition to the Militia, regiments of Militia by voluntary enlistment for General Service, during such war, and for a reasonable time after its termination; such regiments to be subject to all the provisions of this Act. 30

DRILL ASSOCIATIONS.

Certain associations may be organized but not clothed or paid.

50. The Commander in Chief may sanction the organization of associations for purposes of Drill and of independent Companies of Infantry composed of professors, masters or pupils of Universities, Schools or other public Institutions, or of persons engaged in or about the same, or of Militia Officers, or of men on the Militia Rolls, or of such other persons as he may see fit, but such Associations or Companies shall not be provided with any clothing or allowance therefor. 35

SCHOOL OF MILITARY INSTRUCTION.

School of Instruction may be established.

51. [For the purpose of enabling Officers of Militia or candidates for commissions or promotion in the Militia to 40

perfect themselves in a knowledge of their military duties, drill and discipline, and to aid the same in passing the examinations hereinbefore mentioned, the Commander in Chief may establish a School of Military Instruction in either section of the Province, and for that purpose may enter into arrangements with the Officer Commanding Her Majesty's Forces in British North America, for the best means of effecting the same in connection with any Regiment or Regiments of Her Majesty's Forces; and may make all necessary Rules and Regulations, and as to the terms upon which such instruction may be compensated for, and generally for the advancement of Military Education amongst the Officers and Candidates for Commissions as aforesaid.]

in either section of the province.

Commander in chief may make regulations.

52. [The Commander in Chief shall from time to time, and from among the applicants for such purpose, select such persons in each section of the Province as he may think fit for the purpose of attending such school of Military Instruction and if necessary remove the same; and shall by General Order prescribe the allowances to be paid to such persons during their stay at the same, and the period for which they shall undergo such instruction.]

May select the pupils and fix the allowance to be made to them.

53. [Every person who shall have entered upon the course of Military Instruction as hereinbefore provided, shall thereupon and thenceforth and for the period prescribed in such General Order and upon his signing a Roll of Entry for such instruction, be subject to the Queen's Rules and Regulations, the Mutiny Act and the Rules and Articles of War, and to such other Orders, Rules and Regulations, of whatever nature or kind to which Her Majesty's Troops are subject.]

Such pupils to be subject to articles of war, &c.

54. [In any appropriation of moneys for Militia purposes, there shall be set apart a sum not less than \$ _____ for the purposes of carrying into effect the provisions of the three preceding clauses, to be accounted for as hereinafter required.]

Appropriation for such school.

DEPARTMENT OF MILITIA AFFAIRS.

55. [There shall be a Minister of Militia, who shall be appointed from among the heads of the Public Departments, and who shall be charged with the administration of Militia Affairs, and of the ordnance, ammunition, arms, armouries and other stores and provisions and habiliments of war belonging to the Province.]

Minister of militia and his duties.

NON SERVICE MILITIA.

NON SERVICE ENROLMENT.

56. [The organisation existing at the time of the passing of this Act and known as the Sedentary Militia, shall be and

Non-Service militia,—what.

continue hereunder and known and designated as the Non Service Militia.]

Enrolment only required of Non-Service men in time of peace.

Annual muster.

Muster days.

Exception.

Commander in chief may dispense with muster.

Regimental and Battalion divisions.

Battalions and Regiments how formed.

Field and Staff Officers.

Company divisions, how formed.

Commissioned and non com-

57. In time of peace, no actual service or drill shall be required of the Non-Service Militia, but they shall be carefully enrolled from time to time;—And those of the first class and second class 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 may direct with respect to each company therein; the muster day being in Lower Canada, the twenty-ninth of June, or if that day fall on a Sunday, then the next day thereafter;—and in Upper Canada the Queen's Birthday, or if that day fall on a Sunday, then the day next thereafter;

2. Except that the Commander in Chief may, in his discretion, direct that the annual Muster day of Non Service Militia in each Regimental Division, be the twenty ninth day of June.

58. The Commander in Chief may, by any Militia General Order, dispense with the annual general muster of the Non Service Militia or any part thereof in either Section of the Province, 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.

59. The Commander in Chief may, from time to time, by any Militia General Order, divide the Regimental divisions into Battalion divisions, and may designate such divisions by such names or numbers as he sees fit, but until any such General Order, all Battalion divisions within each County, shall remain as heretofore and now established.

60. 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.

61. To each Battalion a Lieutenant Colonel, and such number of Majors and Regimental Staff Officers, may be appointed as may be deemed necessary.

62. Each Lieutenant Colonel shall from time to time, 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 Militia resident within each Company division shall form a Company of the Battalion.

63. All Officers at the time of the passing of this Act holding Commissions in any Battalion of Militia shall retain the

same during pleasure, and from time to time there may be appointed of Commissioned Officers, a Captain, a Lieutenant, and an Ensign; and of non-Commissioned Officers, three Sergeants and three Corporals. missioned officers.

5 **64.** The Commander in Chief may appoint to all Militia Surgeons, &c. Battalions, the proper number of Surgeons, Assistant Surgeons and Veterinary Surgeons.

65. The enrolment of the non service Militia 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 may be directed by the Adjutant General. Enrolment how made. Duty of officers as to the Roll.

66. Each man liable under this Act for non service enrolment in any Company, and not so enrolled, shall give in his name, age and place of residence, in writing, to the 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. Militia men bound to give in their names.

67. Each Officer commanding a Company of the non service 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 Adjutant General at Head Quarters;—And the Commander in Chief, may, whenever he deems it necessary, order that a corrected roll of every such Company of the Militia be made out; and it shall be the duty of every Officer commanding a Company, within ten days after such order has been received, to make out such corrected Roll and to cause a copy thereof to be transmitted as provided by the foregoing provisions of this section. Rolls of Companies to be made yearly. Returns of battalions. Corrected rolls may be required.

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

68. When the Troops of Her Majesty's Service or the Militia or any part thereof are on a march within this Province, and billeted as hereinafter 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 What shall be furnished by those on whom they are billeted.

Impressing
carriages, &c.,
on emergency.

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. 5

Justice of the
Peace to billet
on requisition
of Command-
ing Officer

69. When the said Troops of Her Majesty, or the Militia or any part thereof, 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. 10 15

Lodging of
Officers not to
be paid for.

70. No Officer shall be obliged to pay for his lodging where he is 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 ten cents, and for each cavalry soldier, whose horse shall be also provided with stabling and forage, a daily rate of twenty-five cents; 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 days, or before they quit their quarters if they do 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, beyond which credit is not to be granted. 20 25 30 35

Allowance for
men billeted.

Proper Officer
to settle ac-
counts of Of-
ficers and sol-
diers out of
their pay, &c.

Quartering
and billeting
troops, &c., in
cantonments.

71. When the safety of this Province requires 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 are cantoned, shall, upon receiving an order from the Officer commanding them, or on a requisition from the Officer commanding any such cantonment, 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 incommode the said inhabitants, and taking due care to accommodate the said Troops or Militia. 40 45

72. If any inhabitant considers 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 are cantoned, they may 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 see cause, and such other person or persons shall receive such Troops or Militia accordingly.

Complaint of persons aggrieved, and how redressed.

73. 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, or Soldier 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.

74. 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, &c.

75. When any Troops of Her Majesty or any Militia are so cantoned as aforesaid, any Justice of the Peace where such cantonment is made, upon receiving an 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,---shall issue his Warrant to such person or persons as are possessed of carriages, horses or oxen, within his jurisdiction, requiring him or them to furnish the same for the service aforesaid, and if any person, after receiving such Warrant, refuses to furnish the same, 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..

Justice may require persons to furnish carriages, &c., for troops.

May be impressed on refusal to furnish.

Limitation of travel.

76. In cases of emergency, when it is necessary to provide proper and speedy means for the conveyance by railway or by water of the Troops of Her Majesty or of the 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 are 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

How paid.

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

other craft, as are requisite for the conveyance of the said Troops or Militia, and their ammunition, stores, provisions and baggage,—shall issue his warrant to such person or persons as are 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 neglects or refuses, after receiving such warrant, to furnish such railway cars or engines or boats or other craft for that service, such railway cars or engines, boats or other craft may be impressed and taken for such service;—But nothing herein shall 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.

Rate of pay for the same.

May be impressed on refusal to furnish.

As to Railway Companies.

OFFENCES AND PENALTIES.

77. Any Officer or non-Commissioned Officer appointed or to be appointed to the 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 moneys belonging to any non-commissioned officer or private of any Corps, or moneys of any kind for Militia Services, shall be guilty of a misdemeanor, and shall be reduced to the ranks of the Militia.

Unlawfully retaining moneys belonging to militia-men to be a misdemeanor. Offender reduced to the ranks.

Sheriffs and other Officers refusing to perform their duties under this Act to be liable to a penalty.

78. Any Sheriff, Warden, Registrar, Assessor, Valuator, Clerk of a County Council in Upper Canada, Secretary-Treasurer of a County Council in Lower Canada, Clerk of the Peace, or Militia Officer designated by the Commander in Chief for making the Militia Rolls, refusing or neglecting to perform the duties hereinbefore required of him, shall be liable, on conviction, to a penalty not exceeding dollars.

False swearing to be perjury.

79. Any person making an Affidavit or Declaration required in and by this Act, and swearing or declaring falsely therein, shall be guilty of perjury.

Refusal to make rolls, &c.

80. Any person refusing or neglecting to make or transmit, as herein prescribed, any Militia 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 for each offence.

Punishment of persons refusing information to any assessor, &c., under this act.

81. Any person of whom information is required by any Assessor or Valuator or Militia Officer making any Militia Roll, in order to enable him to comply with the pro-

- visions of this Act, refusing to give such information or giving false information, shall forfeit and pay a penalty not exceeding for each item of information demanded of him and falsely stated, and the like sum for each individual name that may be refused, concealed or falsely stated, and every person refusing to give his own name and proper information, when applied to as aforesaid, or giving a false name or information, shall forfeit and pay a penalty not exceeding
10. **82.** Any person whomsoever refusing or neglecting to give any notice or information necessary under this Act, shall thereby incur a penalty of for each offence. Or any notice &c.
- 83.** Any officer, non-commissioned officer or man who neglects or refuses to attend any muster or inspection or parade at the place and hour appointed therefor, or who refuses or neglects to obey any lawful order at or concerning the same, shall thereby incur a penalty not exceeding for each offence. Neglecting to attend muster, or misbehaving thereat, &c.
- 20 **84.** Any person who interrupts or hinders any of the Militia at muster or inspection or parade, or trespasses on the bounds set out by the proper officer for the same, shall thereby incur a penalty not exceeding for each offence, and may be taken into custody and detained by any person by the order of the Commanding Officer, until such muster or inspection or parade be over for the day. Hindering Militia at drill.
- 25 **85.** Any officer, non-commissioned officer or man of the Militia disobeying any lawful order of his superior officer, or guilty of any insolent or disorderly behaviour towards such officer, shall thereby incur a penalty not exceeding for each offence. Disobeying orders, &c.
- 86.** Any officer, non-commissioned officer or man of the Militia who fails to keep any arms or accoutrements delivered or entrusted to him in proper order, or who appears at muster or inspection or 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 not exceeding for each such offence. Not keeping arms, &c., in proper order.
- 35 **87.** Any officer, non-commissioned officer or man of the Militia, who, without the consent of his Commanding Officer, sells or disposes of any horse which has been drilled for the purposes of the Militia, or which he has undertaken to furnish for such purposes, and which has been approved by the Commanding Officer, shall thereby incur a penalty not exceeding for each offence. Selling without leave any horse drilled and approved for any Troop, &c.
- 40 **88.** Any person who unlawfully disposes of or removes any clothing, arms, accoutrements or other articles belonging Unlawfully disposing of arms, &c.
- 45

to the Crown, or who 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 not exceeding _____ for each offence ;—

Not to prevent indictment.

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 ;—

Arrest of offender about to leave the Province.

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 clothing, arms, accoutrements or articles with him. 5 10

Militia refusing to turn out in aid of civil power

89. Any Officer, non-commissioned officer or private of Militia who, refuses or neglects to obey any lawful order of his superior officer or of any magistrate, shall thereby incur a penalty not exceeding _____ for each offence. 15

Refusing to receive Militia billeted.

90. Any inhabitant householder who refuses or neglects 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 not exceeding _____ for each offence. 20

Refusing to furnish carriages, &c., when lawfully required.

91. 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 neglects or refuses to furnish the same, shall thereby incur a penalty not exceeding _____ for each such offence. 25

Or any car, engine, boat or craft.

92. 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 neglects or refuses to furnish the same, shall thereby incur a penalty not exceeding _____ for each such offence. 30

Contravening this Act, where no other penalty is provided.

93. Any person who, while the Militia is not called out for actual service, wilfully contravenes any enactment of this Act or any regulation or order lawfully made or given under it, when no other penalty is imposed for such contravention, shall thereby incur a penalty not exceeding _____ dollars for each offence, but this shall not prevent his being indicted and punished for any greater offence if the facts amount to such ; and in such cases courts martial shall not be held. 35 40

No Courts martial in such cases.

Penalties under this act how recoverable.

94. All penalties incurred under this Act 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 _____ and before two Justices of the Peace if the amount exceeds that sum ;—And any officer, 45

non-commissioned officer or private of the Militia shall be a ^{Witnesses.} competent witness in any such case, although the penalty is applicable to the purposes of the Corps.

95. And in case of non payment of the penalty immediately ^{Imprisonment} 5 after conviction, it shall be lawful for the convicting Justice or Justices to commit the person so convicted and making default ^{in case of non-} in payment of such penalty and costs to the common Gaol of ^{payment.} the judicial district, territorial division or locality in and for which the said Justice or Justices is or are then acting, or 10 to some house of correction or lock-up house situate therein, for a period of not less than _____ days when the penalty does not exceed twenty dollars, and for a period of not less than _____ days nor more than _____ days when it exceeds the last mentioned sum.

96. No prosecution against an Officer of Provincial Militia ^{On whose com-} 15 for any penalty under this Act shall be brought except on the complaint of the Adjutant or Deputy Adjutant General ;--And ^{plaint penalties} no such prosecution against any non-commissioned officer or ^{may be sued for.} private of the Militia, shall be brought except on the complaint 20 of the Commanding Officer or Adjutant of the Corps to which such non-commissioned officer or private belongs ;--But the ^{Evidence of} Adjutant or Deputy Adjutant General may authorize any ^{authority to} officer of Militia to make such complaint in his name, ^{sue.} and the authority of any such officer alleging himself to 25 have been so authorized to make any complaint, shall not be controverted or called in question except by the Adjutant or Deputy Adjutant General.

97. No such prosecution shall be commenced after the ^{Limitation o.} expiration of six months from the commission of the offence ^{time for such} 30 charged, unless it be for unlawfully buying, selling or having ^{prosecutions.} in possession clothing, arms or accoutrements delivered to the Militia.

98. The penalty when recovered shall, be paid over to ^{Application of} the Adjutant General, who shall account for and pay it over ^{penalties.} 35 to the Receiver General as part of the Consolidated Revenue Fund.

MISCELLANEOUS PROVISIONS.

99. It shall not be necessary that any order or notice ^{Orders and} under this Act be in writing, unless it is herein required, that ^{notices need} it shall be so, provided it be communicated to the person who ^{not be in writ-} 40 is to obey or be bound by it in person, either directly by the ^{ing, if given in} officer or person making or giving it, or by some other by his ^{person.} order.

100. All General Orders of Militia, or other Militia Orders ^{General Orders} issued through or by the Adjutant General, shall be held to be ^{how notified.}

Evidence. 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.

Regiment or Battalion Orders, how notified.

101. All Orders made by the Officer Commanding a Corps shall be held to be sufficiently notified to all persons whom it may concern, by their insertion in some newspaper published in the locality, or, if there be none, then by posting a copy thereof on the door of the church or of some court-house, mill, or other most public places, in the Regimental Division. 5

Evidence of commissions, warrants &c.

102. 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. 15

Bonds entered into, in pursuance of this Act, to be valid.

103. 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. 20 25

Sums of money payable to the Crown under this Act, how recoverable.

104. 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 purposes of the Militia, shall be a debt due to the Crown, and may be recovered in any manner in which such debts may be recovered. 30

Protection of Officers, &c., in pursuance of this Act,—

105. 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 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. 35 40 45

106. 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.

107. 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 the Militia, to enable him to pay such expense, or in favour of the party directly entitled to the money; But 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.

108. 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.

109. The thirty-fifth chapter of the Consolidated Statutes of Canada and the Act twenty-fifth Victoria, chapter one, are hereby repealed ;—Except that all offences heretofore committed against the said Consolidated Statute, may be prosecuted and punished, under the same, which shall remain in force as to such offences.