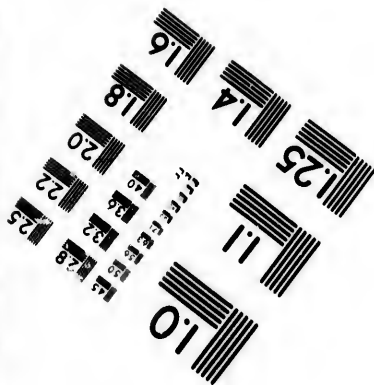
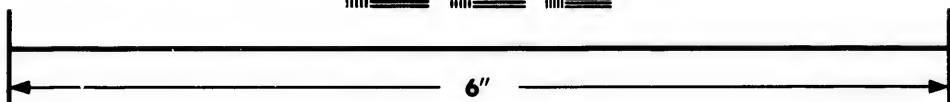
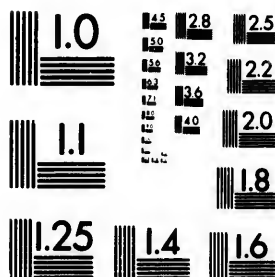


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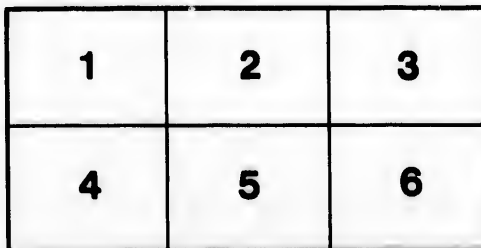
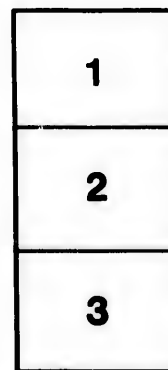
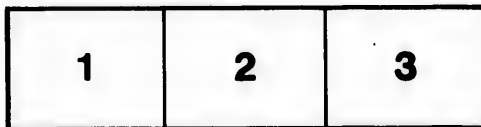
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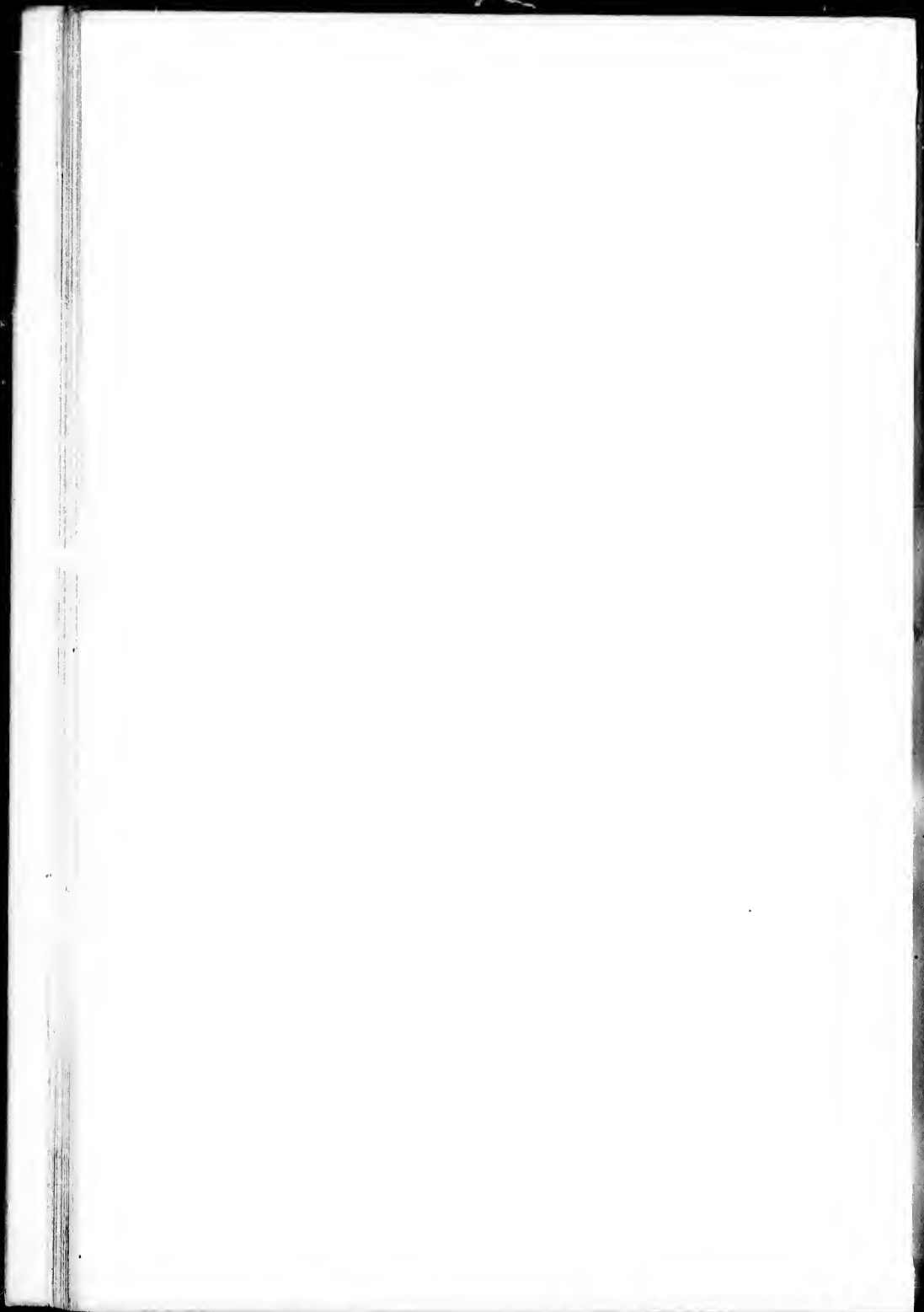
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AN ACT
RESPECTING THE
VOLUNTEER MILITIA.

27 Viet., Cap. 3.



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ANNO VICESIMO-SEPTIMO

VICTORIÆ REGINÆ.

CAP. III.

An Act respecting the Volunteer Militia Force.

[Assented to 15th October, 1863.]

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 mander in Chief of the Canadian Volunteer Militia Force. Commander in Chief.

2. The Commander in Chief may raise, organize, arm, He may raise uniform and equip a Volunteer Militia Force to serve within the a Volunteer Province for the defence of the same in case of need, and Force not ex- in aid of the civil power as hereinafter mentioned ; and such ceeding 35,000 force shall consist of not more than thirty-five thousand men, men. exclusive of Commissioned Officers ; and the Commander in Chief may call out the Volunteers or any part thereof for actual May call out service, whenever it is in his opinion advisable so to do, by Volunteers. reason of war, invasion or insurrection, or imminent danger of any of them ; Provided that the several Corps of Volunteers Present corps organized and gazetted prior to the passing of this Act, shall continued. be and continue as if organized and gazetted under this Act, and shall constitute part of the Volunteer Force before mentioned.

3. Every Officer shall, on receiving his commission, and Commissioned every Volunteer shall, on his enrolment in the Muster Roll of officers to take his Corps, or in either case as soon afterwards as may be, take oath. the oath following :

“ I, A. B., do sincerely promise and swear that I will be The oath. faithful and bear true allegiance to Her Majesty Queen Victoria, and that I will faithfully serve Her Majesty in Canada, for the defence of the same against all Her enemies and opposers whatsoever, according to the conditions of my service ;” and the name of the successor of Her Majesty Queen Victoria, for the time

Before whom
to be taken.

time being, shall be substituted as occasion may require, and the oath shall be administered by a Justice of the Peace of the County to which the Corps belongs or by an Officer of the Corps who has taken such oath.

Of what corps
Volunteers may
consist, &c.

4. The Volunteers may consist of Troops of Cavalry, Military Train, Field Batteries of Artillery, Garrison Batteries of Artillery, Companies of Engineers, and Battalions or Companies of Rifles and of Infantry, and Naval Companies, to be armed and equipped according to their respective services, and to be formed at such places and in such manner as may from time to time be ordered by the Commander in Chief; Provided that in Cities, no number of men shall be accepted or gazetted as Volunteer Militia, unless and until they are sufficient in number to be formed into a Battalion under the provisions of the seventh section of this Act.

Proviso: as
to cities.

Power to dis-
band Volun-
teers.

5. All Companies or Battalions of Volunteers 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.

Force of Volun-
teer companies
respectively,
Cavalry and
Infantry, &c.

6. Each Troop of Cavalry, Military Train, Garrison Battery of Artillery, Company of Engineers, or Rifles, or Infantry, shall consist, according to its respective service, of a Captain, a Lieutenant, a Cornet, Second Lieutenant or Ensign, three Serjeants, three Corporals, a Trumpeter or Bugler, and not exceeding forty-eight Privates, except in cases where the Commander in Chief may specially sanction a greater number of Privates not exceeding seventy-five:

Artillery.

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

Naval compa-
nies.

3. Each Naval Company shall consist of one Captain and such other officers and such number of seamen not exceeding seventy-five, as may be appointed by the Commander in Chief, and may be armed in such manner as the Commander in Chief directs, and may 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, and the Captain shall have power to appoint such Warrant and Petty Officers as may be authorized by the Commander in Chief.

7. The Commander in Chief may constitute any number of Companies of the Volunteers at any one locality, not being less than six or more than ten Companies of the same arm of the service, into a Battalion, and may assign or appoint thereto, a Lieutenant-Colonel, two Majors, one Adjutant, one Pay-Master, one Quarter-Master, one Surgeon and one Assistant Surgeon, and, may also, where no greater number than four Companies of the Volunteers are organized in any one locality, constitute the same into a Provisional Battalion and appoint thereto a Major and Adjutant, and the rank and authority of the several Officers hereinbefore mentioned, shall be the same as in the relative positions in Her Majesty's service;—And such Battalions shall be subject to the Queen's Regulations for the Army published by authority, in so far as the same are not inconsistent with the provisions of the Militia Laws of this Province, or with any General Order from time to time to be issued by the Commander in Chief; and any such Lieutenant-Colonel of a Battalion or Major of a Provisional Battalion shall have authority to appoint the usual number of Staff Sergeants for his Battalion; but in case, at any one locality there are no sufficient number of Garrison Batteries of Artillery, or of Companies of Rifles or of Infantry, as hereinbefore required to constitute a Battalion of such arm of the service, the Commander in Chief may attach, but for purposes of Battalion drill only, any one or more Companies of whatever arm of the service hereinbefore mentioned, to the senior Company of whatever other arm of the service in the locality, and the same shall be commanded on all Battalion parades, by the Officer of Volunteers belonging to any one of the Companies so attached, highest in rank then present, and in uniform.

Companies of Volunteers may be formed into Battalions.

Provisional Battalions.

Queen's regulations to apply, where not inconsistent with this Act, &c.

Staff Sergeants.

Different arms may be united for Battalion drill only.

Who to command.

8. Such of the several Corps of Volunteers heretofore or hereafter to be organized, as may, for that purpose, be named and specified in any General Order by the Commander in Chief, shall be supplied by the Province with uniform clothing of such one and similar colour, pattern and design, as may be ordered by the Commander in Chief, for each arm of the service designated in the fourth section of this Act; and if necessary, such uniform clothing may be replaced in every successive period of five years from the original issue; and the said uniform clothing shall be delivered to the Officer commanding the Corps, to be by him delivered to the non-commissioned officers and privates, on such conditions and upon such security as the Commander in Chief may direct; And the Commander in Chief may, from time to time, by General Order, make such rules or regulations in respect to the uniform clothing as he may think necessary or expedient; but nothing herein contained shall prevent the re-supplying of clothing within the period aforesaid in such special cases as may appear to the Commander in Chief to require it.

Uniforms for Volunteers to be supplied to the men by the Province.

How replaced.

How distributed.

Governor may make special regulations.

Proviso.

Arms to be furnished by the province ;

Where to be kept where no armouries.

Allowance for keeping.

Arms not to be removed except under regulations.

Officers and men to remain responsible for uniform and arms ;

Notwithstanding repeal of former Acts.

Repairing and renewing arms, &c.

Before whom and how enforced.

9. The several Corps of Volunteers shall be furnished by the Province with arms and accoutrements, whether the same be the property of the Province or the property of the Imperial Government ; and the same shall be kept in public armouries, wherever there are such ; and where there are no such public armouries, and until the same are provided, the Officer commanding each Corps shall himself actually keep the arms and accoutrements in a good and sufficient building, provided with suitable arm racks and provision for the care thereof, and shall be personally responsible for such arms and accoutrements ; and the Officer commanding any such Corps may, in the discretion of the Commander in Chief, be allowed annually, such sum for the care of such arms and accoutrements as may appear proper for the same ; and no Arm shall, nor shall any Accoutrements be taken or removed from any such public armoury or from the care of such commanding Officer, except under such regulations as may be made in respect to the same by any General Order of the Commander in Chief.

2. Nothing herein shall be construed to relieve the Officers or men of the Volunteers, of any liability in respect to the Uniform or Arms or Accoutrements thereof, delivered to the custody, care or possession of any of them,—or in any other respect,—under the Acts eighteenth Victoria, chapter seventy-seven, and nineteenth and twentieth Victoria, chapter forty-four, and the thirty-fifth chapter of the Consolidated Statutes of Canada and the Act twenty-fifth Victoria, chapter one,—but notwithstanding the repeal of the said Acts or any of them, any proceedings thereto relating may be brought within twelve months after the discovery of any breach of the provisions thereof.

10. The said arms and accoutrements shall be renewed and kept in repair at the cost of the Province, whenever such renewal or repair becomes necessary from wear in service or other cause than the fault or neglect of the person charged with the temporary possession thereof, in which last named case they shall be renewed or repaired by and at the cost of 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 before any two or more Justices of the Peace, and the Justices may make such order for payment of such sum as may be found to be due or to have been paid for such renewal or repair, not exceeding ten dollars, with costs, and in case of non payment of the same, together with the costs for the space of ten days after such order has been made, such Justices may issue their warrant of distress for the levying of such sum, together with the costs of conviction and of distress.

11. No Corps of Volunteers and no non-commissioned officer or private thereof, shall at any time appear in uniform or armed or accoutred, except when on duty or *bonâ fide* at parade or drill or at target practice, or at Reviews or on Field-days or inspections, or for receiving distinguished persons or rendering funeral honors to deceased comrades, or when required to act in aid of the civil power under due authority; nor shall the arms and accoutrements be taken out of this Province.

Volunteers to appear armed or in uniform on certain occasions only.

12. The uniform Clothing, Arms and Accoutrements of the officers, non-commissioned officers and men of Volunteer Corps, and the Horses used by them as such, shall be exempt from seizure in execution and from distress and assessment; nor shall any of such horses be disposed of by any officer or man without leave of the Officer commanding the Corps: and the clothing except that of Officers, whether issued from the Adjutant General's Office or the clothing of any corps or non-commissioned officer or man thereof, who may have heretofore purchased or by any means acquired the same other than from the Adjutant General's Office, and who have or has heretofore been paid or received any sum of money in lieu of or as compensation for clothing, shall be deemed to be the property of the Crown; and each non-commissioned officer or man who fails to keep in proper order the uniform entrusted to his care, or in his possession, or who may wear the same or any part thereof on any other occasion than when on duty or specially authorized or permitted so to do by his commanding officer, shall incur a penalty of five dollars for each offence, to be recovered as hereinafter mentioned.

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

Uniform to be the property of the Crown if furnished or paid for by the province.

Penalty for not keeping uniform in proper order.

13. Sufficient ammunition for exercise and target practice may be supplied to the Volunteers at the expense of the Province, in such manner as the Commander in Chief may direct; and the Commander in Chief may make such regulations in respect to the annual course of Target practice by Corps of Volunteers, and the mode of conducting the same and of registering the results thereof, as may appear to him expedient.

Ammunition for practice.

Regulations for Target practice.

14. The Volunteers shall be drilled and exercised, in such manner and at such times in each year, and for such periods and at such places, and either encamped or otherwise, and under such rules and regulations and subject to such returns or certificates of performance of drill as the Commander in Chief may from time to time order; but nothing herein contained shall be construed to prevent any Corps from being assembled or ordered out at any time by the officer commanding it, for parade or drill or target practice or exercise.

How Volunteers shall be drilled and exercised.

Drill grounds,
sheds and
ranges.

15. The Commander in Chief may cause to be provided, where expedient, drill grounds, drill sheds and ranges for target practice, to be subject to such inspection and regulations for the use thereof, as may by him be deemed necessary.

Appropriation
for prizes for
proficiency.

16. A sum of money, not exceeding two thousand dollars, per annum, may be appropriated to the purchase of prizes or for distribution in various sums to be competed for by corps of volunteers for proficiency in drill and discipline or target practice, at such times and places and under such regulations as the Commander in Chief may from time to time order.

Further al-
lowance to
Volunteer
Corps deemed
efficient.

Commander in
chief to esta-
blish conditions
of such al-
lowance.

2. The Commander in Chief may in each year order to be paid over to the Commanding Officer of each Volunteer Battalion, which may, by the Commander in Chief, upon such proof or evidence as he may think fit, be deemed efficient, a sum not less than fifty dollars and not exceeding four hundred dollars for the general uses and purposes of such Battalion; and the Commander in Chief may, from time to time, declare what is requisite to entitle a Volunteer Battalion to be deemed an efficient Volunteer Battalion, by any order or regulation defining for that purpose the frequency of the drills to be held by such Battalion, the average attendance of the men thereat, and the course of drill and instruction, and musketry and target practice to be gone through and performed by them, and the degree of proficiency in the drill and instruction to be attained by them; and also the state and condition required of the clothing, arms, accoutrements and equipment in the possession of, or of the other property of the Corps, and the manner in which the same efficiency shall be certified to the Commander in Chief; Provided that no greater aggregate sum shall be expended in any one year for the above mentioned purposes than the sum of five thousand dollars.

Proviso: total
amount limited.

Municipalities
may provide
fire proof ar-
mouries.

Power to levy
money for
providing
armouries.

17. For the safe keeping of the arms and accoutrements furnished to any Corps, the Corporation of the Municipality, within which the Head Quarters of such corps may be, may if they think fit, provide, at the expense of such Municipality, one or more good, safe and commodious Fire Proof Armouries, fitted with arm racks and other necessary and proper storage, and for the heating thereof; and for providing moneys for such purpose, or for or towards compensating, maintaining or promoting the efficiency of the volunteers within such municipality in each year; the several Municipalities throughout Upper Canada shall have all and every the powers conferred upon them in respect to the raising and levying the same as are provided by the two hundred and twenty-third and two hundred and twenty-fourth sections of the fifty-fourth chapter of the Consolidated Statutes for Upper Canada; and the several Municipalities in Lower Canada shall have all the powers conferred on them by the Lower Canada Consolidated Municipal Act and the Acts amending it, or by the Special Act or Acts incorporating and governing the

the Municipality (if any such there be) with regard to the raising of money for any purpose for which such Municipalities are by law empowered to raise the same.

18. The Volunteers 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 are required, the following rates of pay, that is to say: Officers, such pay as is the daily pay in Her Majesty's Service of officers of corresponding rank, with an additional sum to each mounted Officer of two dollars per day, and non-commissioned Officers and Privates the sum of one dollar each, per day with an additional sum of one dollar per day for each horse actually and necessarily used or employed on such occasion, 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 Officer Commanding the Corps, in his own name, and when received or recovered shall be paid over to the Officers and men entitled thereto.

Volunteers may be called out in aid of the civil power, and shall in such cases be paid and lodged by the Municipality.

19. It shall be the duty of the Officer commanding any Corps of Volunteers to call out the same, or such portion thereof as is 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 takes place, or by any two Magistrates therein, and to obey such instructions as may 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 Corps 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 shall act as such so long as they remain so called out.

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

To be special Constables.

20. The Officers, non-commissioned Officers and men of Corps of Volunteers, shall, while they continue such, be exempt from serving as Jurors and Constables;--And a certificate under the hand of the Officer commanding any such Corps shall be sufficient evidence of the service in his Corps of any officer, non-commissioned officer or man for the then current year, and of his exemption as aforesaid; And officers, non-commissioned officers and men of the Volunteers being in proper staff, or regimental uniform, dress or undress, and their horses, (but not when passing in any hired or private vehicle, unless when on duty or proceeding to or from the same) shall be exempt from the payment of any duty or toll on passing any turnpike or toll-gate, or any road, wharf or landing place, or bridge in this Province.

Volunteers exempt from serving as Jurors or Constables on certificate.

And from tolls in certain cases.

Term of engagement hereafter.

21. The term of engagement of a Volunteer shall after the passing of this Act not be less than five years, but any Volunteer may, except when called out for actual service, quit his Corps or Battalion on complying with the following conditions, namely :

Conditions on which a Volunteer may leave his Corps.

- (1.) Giving to the Commanding Officer of his Corps or Battalion six months' notice in writing, of his intention to quit the Corps or Battalion.
- (2.) Delivering up in good order, fair wear and tear only excepted, all uniform Clothing, Arms, Accoutrements and appointments, being the property of the Crown or of his Corps, issued to him.
- (3.) Paying all money due or becoming due by him under the Rules of his Corps or Battalion, either before or at the time or by reason of his quitting it, for any subscription or fine or on any other account ;

and thereupon he shall be struck out of the Muster Roll of the Corps by the Commanding Officer.

Commander in chief may make Regulations for certain purposes.

22. The Commander in Chief may from time to time make orders or regulations respecting any thing in this Act, done or authorized to be done or provided by Order or Regulation ; and also such Orders or Regulations as may seem fit (not being inconsistent with any of the provisions of this Act,) respecting the appointment and promotion of Officers and the assembling and proceedings of Courts of Enquiry to inquire into and report on any matter connected with the Government or Discipline of a Volunteer Corps or Battalion, or any non-commissioned officer or private thereof, and for the full execution of this Act, and the general government and discipline of the Volunteer Force, and he may alter or repeal any such Regulations, and may call for such Returns as may from time to time seem requisite.

Courts of Enquiry, &c.

Regulations may be altered, &c.

Discipline.

23. With respect to the discipline of Officers and Volunteers, the following provisions shall take effect and be in force while they are not called out for actual service.

Striking off Roll for disobedience of orders, neglect or misconduct.

1. The Commanding Officer of a Volunteer Corps may discharge from the Corps any Volunteer and strike him out of the Muster Roll, either for disobedience of orders by him while doing any Military duty with his Corps, or for neglect of duty or misconduct by him as a member of the Corps, or for other sufficient cause, the existence and sufficiency of such causes respectively to be judged of by the Commanding Officer ; the Volunteer so discharged shall nevertheless be liable to deliver up in good order, fair wear and tear only excepted, all arms, clothing and appointments being property of

Uniform, &c., to be given up.

of the Crown, or of his Corps, issued to him, and to pay all money due or becoming due by him, under the Rules of his Corps, either before or at the time or by reason of his discharge, for any subscription or fine, or on any other account; and shall in addition thereto be liable to any penalty imposed by law for his offence, but nothing herein shall prevent the Commander in Chief from signifying his pleasure in such manner and giving such directions with respect to any such case of discharge as to the Commander in Chief may appear just and proper.

Monies due to Corps to be paid.

Penalty, &c.

2. If any such officer as aforesaid or any Volunteer while under arms or on march or duty with the Corps or Battalion to which he belongs or any portion thereof, or while engaged in any Military Exercise or Drill with such Corps or Battalion, or any portion thereof, or while wearing the clothing or accoutrements of such Corps or Battalion, and going to and returning from any place of exercise or assembly of such Corps or Battalion, disobeys any lawful order of any officer under whose command he then is, or is guilty of misconduct, the officer then in command of the Corps or Battalion, or any superior officer under whose command the Corps or Battalion then is, may order the offender, if an Officer, into arrest, and if not an Officer, into the custody of any Volunteer or Volunteers belonging to the Corps or Battalion, but so that the offender be not kept in such arrest or custody longer than during the time of the Corps or Regiment or such portion thereof as aforesaid, then remaining under arms or on march or duty or assembled, or continuing engaged in any such Military Exercise or drill as aforesaid.

Arrest of offender during a certain time.

24. Any Corps of Volunteers may make, agree upon and enter into, such articles, rules and regulations for the discipline and good management of the same as they may think proper, to be sanctioned by the Officer Commanding such Corps and to be by him transmitted for the approval of the Commander in Chief; and any such articles, rules and regulations, in so far as they are not inconsistent with this Act, shall, when so approved, but not before, be enforced, and the penalties which may be thereby imposed shall, whenever they are incurred, be recoverable in the manner mentioned in any of the sections of *An Act respecting the Militia* incorporated with this Act, by the Officer designated for that purpose in such rules and regulations, to such uses as may be therein directed.

Volunteers may agree to articles, rules, &c.

Subject to approval and then binding.

25. The several Corps of Volunteers, and the clothing, arms, accoutrements and armouries, shall be subject to inspection, from time to time, by such Officer of Her Majesty's Service as may be appointed for that duty, by the Officer Commanding Her Majesty's Forces in this Province, with the sanction of the Commander in Chief; and shall also be subject to inspection, from time to time, by such Officer or Officers (not being under the rank of Field Officer) of Volunteers as shall

Inspection of Volunteer Corps, their arms, clothing &c., by proper Officers.

be

Officers to report on their state. that purpose, and who shall report fully to the Commander in Chief on the state and efficiency of each Corps, and of its clothing, arms and accoutrements, and of the armouries, and who shall be reimbursed by the Province, his or their actual travelling expenses, and paid for such service at a rate not exceeding four dollars per diem whilst so engaged.

Pay. **26.** The Volunteers when called out, by the Commander in Chief, may be marched to any part of the Province, or to any place without the Province but contiguous therewith, where the enemy is, and from which an attack on this Province is apprehended.

To what places Volunteers called out may be marched. **27.** The Volunteer Force and every Officer or man belonging to it, shall be subject to the Queen's regulations and orders for the army, and shall, from the time of being 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 or regulations shall not apply to the Volunteer Militia Force.

Volunteers called out to be subject to articles of war, &c. **28.** No Officer, non-commissioned Officer or private in the Volunteer Force, 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.

Exception. **29.** No Officer of Her Majesty's regular Army on full pay shall sit on any Volunteer Court Martial.

OFFICERS.

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

For what offences only Volunteers may be sentenced to death. Sentence must be first approved. **31.** Commissioned Officers of the Volunteer Force shall furnish their own uniform, arms and accoutrements.

Officers of regular Army on full pay not to sit, &c. **32.** Commissions held by Officers of Volunteers, existing immediately before the passing of this Act, shall remain in force, the same being nevertheless subject to be cancelled by the

the Commander in Chief;—Provided that no rank in the Volunteer Force shall be higher in time of peace than Lieutenant-Colonel, but Officers at the passing of this Act, holding the rank of Colonel in the Volunteer Force, shall retain the same.

No rank above
Lieut. Colonel,
in peace :
Exception.

33. The Commander in Chief may, whenever the Volunteer Force is called out, and the exigencies of the service so require, appoint Colonels in the same.

Colonels when
Volunteers are
called out.

31. All Corps of Volunteers, whenever on duty or parade, shall be commanded by the Officer of Volunteers highest in rank then present on duty and in uniform, who shall be responsible for the due maintenance of order and discipline among the Corps of Volunteers then present, but if the Militia or any part thereof be called out for actual service, all Corps of Volunteers and Militia on duty or parade shall be commanded by the officer of Her Majesty's Army or of the Volunteers or Militia highest in rank then present on duty and in uniform; and officers of Volunteers shall always and in all cases be reckoned senior to all Officers of 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 the Volunteer Force whenever hereafter appointed, (except the Adjutant General of the Militia), whatever be the dates of their respective Commissions.

Who shall
command
volunteers on
duty or parade ;
or militia called
out.

Volunteer Offi-
cers senior to
Militia of same
grade.

Colonels.

35. After the passing of this Act, no Officer shall be appointed to or promoted in the Volunteer Force except provisionally, until he shall have satisfactorily passed an examination before the Board hereinafter mentioned, and received a certificate thereof.

Examination of
officers hereaf-
ter appointed or
promoted.

36. A Commodore may be appointed to command the whole of the Naval Companies of the Province, and to rank as a Lieutenant-Colonel of the Canadian Militia; and Captains of Naval Companies shall rank as Majors, and First Lieutenants as Captains in the Canadian Militia.

Officers of
Naval com-
panies.

37. The Commander in Chief may, by General Order, from time to time, appoint a Board or Boards, to be constituted of three or more Officers of the Volunteers, of whom one shall be a Field Officer, and to be held at such place as is therein specified, to examine any such Officers of the Volunteers as may desire to have investigated their knowledge of and proficiency in drill and military duties generally; and upon any such examination, the said Board or Boards shall report the result thereof to the Commander in Chief and shall, after the approval thereof by him, deliver to any such Officer as may have satisfactorily passed such examination, a certificate thereof, which said certificate shall be recorded in a book to be kept for that purpose

Boards for exa-
mination of
Volunteer
officers.

Certificates
and record
thereof.

purpose in the Office of the Adjutant General of Militia, and the certificate thereafter delivered to the officer so examined; and the fact of such examination and certificate shall be notified in General Orders.

Staff officers of
Volunteers.

38. The Commander in Chief shall, whenever he may think requisite or necessary for the efficiency of the Volunteers, have full power to appoint Staff Officers of the Volunteers; and any such Staff Officers shall have such rank and authority as are held relatively in Her Majesty's Service, and their duties shall be the same for the Volunteers as prescribed for Her Majesty's Service by the Queen's Regulations and orders for the army.

Brigade
Majors:
duty and pay.

39. Each of the Brigade Majors heretofore appointed shall continue to act as such during pleasure in the several Regimental Divisions which formerly composed the Military District for which he was so appointed; and the Commander in Chief may when necessary from time to time appoint a Brigade Major, for one or more Regimental Divisions, and may from time to time regulate and prescribe his duties; and each Brigade Major shall be paid by the Province at a rate not exceeding six hundred dollars per annum, and his travelling expenses and half a dollar a day in lieu of forage for a Horse.

Drill and
musketry
instructors.

40. The Commander in Chief may, from time to time, appoint drill and musketry instructors, from Her Majesty's service or from the Volunteers, to be employed in drilling and instructing the officers, non-commissioned officers and men in the several Corps of Volunteers or drill associations; and each of such drill and musketry instructors, when so employed, shall be paid by the Province at a rate not exceeding one dollar and fifty cents per diem, and the cost of their transport; but no such drill or musketry instructors shall be appointed from the Volunteers, unless and until he has passed satisfactorily through an examination before the Board hereinbefore referred to and received a certificate thereof.

Pay.
Subject to ex-
amination.

Serjeant Major
of Field-Bat-
teries.

41. Each Serjeant-Major of a Volunteer Field-Battery of Artillery may, on account of the great responsibility attached to the Office, be paid by the Province, at the rate of two hundred dollars per annum.

Pay of volun-
teers when
called out for
active service.

42. Whenever the Volunteers 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 Volunteers, so called out for Active 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, non-commissioned officers and men of the relative and corresponding rank or grade, in Her Majesty's service.

43. The several clauses of *An Act respecting the Militia* relating to "Billeting and Cantoning Troops and Militia when on actual service, and furnishing carriages, horses, &c., for their transport and use"—"Offences and Penalties"—and "Miscellaneous Provisions" and not inconsistent with the provisions of this Act, shall be incorporated with this Act, and as if actually part hereof.

Certain provisions of the Militia Act to apply to Volunteers.

44. If any person designedly makes away with, sells, pawns, wrongfully destroys, wrongfully damages, or negligently loses, any property or thing issued to him or in his possession as a Volunteer,—or wrongfully refuses or wrongfully neglects to deliver up, on demand, any property or thing issued to him or in his possession as a Volunteer,—the value thereof shall be recoverable from him, with costs, as a penalty under this Act is recoverable; and he shall also for every such offence of designedly making away with, selling, pawning, or wrongfully destroying as aforesaid, be liable, on the prosecution of the Commanding Officer of the Corps or Battalion, to a penalty not exceeding twenty dollars, nor less than five dollars with or without imprisonment for any term not exceeding six months.

Punishment of Volunteers wrongfully destroying, &c., property in their possession as such.

45. If any person knowingly buys or takes in exchange from any volunteer or any person acting on his behalf,—or solicits or entices any volunteer to sell,—or knowingly assists or acts for any volunteer in selling,—or has in his possession or keeping, without satisfactorily accounting for,—any arms, clothing, or appointments being the property of the Crown or property of any Volunteer Corps or Battalion, or any public stores or ammunition issued for the use of any such Corps or Battalion he shall, on the first commission by him of any such offence, be liable to a penalty not exceeding fifty dollars, and shall, on a second and every other subsequent commission by him of any such offence, and on being convicted thereof in the like course of proceeding as that in which any such penalty is recoverable, be liable to a penalty not exceeding fifty dollars nor less than twenty-five dollars, with or without imprisonment for any term not exceeding six months, with or without hard labour.

Punishment of persons buying arms, clothing, &c., of Volunteers, or enticing or assisting them to sell the same, &c.

46. If any person wilfully commits any damage to any butt or target belonging to or lawfully used by any Volunteer Corps or Battalion, or without the leave of the Commanding officer of the Corps or Battalion, searches for bullets in, or otherwise disturbs the soil forming such butt or target, he shall for every such offence be liable, on the prosecution of the Commanding Officer, to a penalty not exceeding twenty dollars, with or without imprisonment for any term not exceeding six months.

Punishment for damaging targets or butts, &c.

Volunteer Corps or Battalions may hold property for certain purposes, under regulations.

47. The several Corps or Battalions may hold property for such purposes incident to their existence as the Commander in Chief may, by any General Warrant, enumerate and prescribe; and they may pass regulations relating thereto, subject to the approval of the Commander in Chief, which shall be binding on the several members thereof; and all grants shall be made to the Corps as a body, on the conditions that its effective members continue and remain effective in the proportion at least of three-fourths to those inscribed on the roll; and the Commander in Chief may prescribe on what terms or by what means and form such property may be held and transmitted.

In whom money and property for the use of Volunteers shall be vested, &c.

48. All money subscribed by or for the use of a Volunteer Corps or Battalion, and all effects belonging to any such Corps or Battalion, or lawfully used by it, not being the property of any individual officer or volunteer, and the exclusive right to sue for and recover current subscriptions, arrears of subscriptions, and other money due to the Corps or Battalion, and all lands, property or effects acquired by the Corps or Battalion shall vest in the Commanding Officer of the Corps or Battalion for the time being, and his successors in office, with power for him and his successors to sue, to make contracts and conveyances, and to do all other lawful things relating thereto; and any civil or criminal proceeding taken by virtue of the present section by the Commanding Officer of a Corps or Battalion, shall not be discontinued or abated by his death, resignation, or removal from office, but may be carried on by and in the name of his successor in office; and the property of all efficient Corps or Battalions, their Butts, and Ranges, and the Horses, Carriages, &c., actually used for the purposes of such Corps or Battalions, and all Armouries, Drill-sheds, Rifle Ranges, &c., however furnished, shall also be exempt from all Municipal and local rates and taxes.

Exemption of property from taxation.

Commander in Chief may make regulations as to shooting grounds, &c.

49. The Commander in Chief, with a view to the safety and convenience of the public, and of Volunteers, may make By-laws for the regulation of shooting on grounds purchased, acquired or used by any Volunteer Corps or Battalion under this Act, and for the prevention of intrusion thereon during the times of shooting; any such By-laws may impose a reasonable pecuniary penalty, not exceeding twenty dollars, for any breach thereof, so that the By-law be so framed as to admit of part only of the maximum penalty being ordered to be paid, such penalties to be recoverable and applicable as penalties imposed by this Act are recoverable and applicable.

And impose penalties for infractions.

(Extract from the Militia Act.)

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

69. 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 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.

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

Impressing carriages, &c., on emergency.

70. 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.

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

71. 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.

Lodging of Officers not to be paid for.

Allowance for men billeted.

Proper Officer to settle accounts of Officers and soldiers out of their pay, &c.

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

72. 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.

Complaint of
persons ag-
grieved, and
how redressed.

73. 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.

No Justice,
being an Offi-
cer to billet or
quarter troops.

74. 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.

Troops not to
be billeted
upon Nuns,
&c.

75. 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.

Justice may
require persons
to furnish car-
riages, &c., or
troops.

76. 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

May be im-
pressed on re-
fusal to furnish.

Limitation of
travel.

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.

How paid for.

77. 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 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.

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

Rate of pay for the same.

May be impressed on refusal to furnish.

As to Railway Companies.

OFFENCES AND PENALTIES.

78. 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 militiamen to be a misdemeanor.

Offender reduced to the ranks.

79. 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 fifty dollars.

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

- 80.** Any person making an Affidavit or Declaration required in and by this Act, and swearing or declaring falsely therein, shall be guilty of perjury.
- 81.** 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 one hundred dollars for each offence.
- 82.** 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 provisions of this Act, refusing to give such information or giving false information, shall forfeit and pay a penalty not exceeding twenty dollars 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 twenty dollars.
- 83.** Any person whomsoever refusing or neglecting to give any notice or information necessary under this Act, shall thereby incur a penalty of twenty dollars for each offence.
- 84.** 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 five dollars for each offence.
- 85.** 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 ten dollars 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.
- 86.** 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 ten dollars for each offence.
- 87.** 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

False swearing to be perjury.

Refusal to make rolls, &c.

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

Or any notice &c.

Neglecting to attend muster, or misbehaving thereat, &c.

Hindering Militia at drill.

Disobeying orders, &c.

Not keeping arms, &c., in proper order.

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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 five dollars for each such offence.

88. 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 thirty dollars for each offence.

Selling with-
out leave any
horse drilled
and approved
for any Troops
&c.

89. Any person who unlawfully disposes of or removes any clothing, arms, accoutrements or other articles belonging 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 of ten dollars for each offence;— But this shall not prevent such offender from being indicted and punished for any greater offence if the facts amount to such, instead of being 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 clothing, arms, accoutrements or articles with him.

Unlawfully
disposing of
arms, &c.

Not to prevent
indictment.

Arrest of of-
fender about
to leave the
Province.

90. 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 of twenty dollars for each offence.

Militia re-
fusing to turn
out in aid of
civil power.

91. 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 ten dollars for each offence.

Refusing to
receive Militia
billeted.

92. 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 ten dollars for each such offence.

Refusing to
furnish car-
riages, &c.,
when lawfully
required.

93. 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 four hundred dollars for each such offence.

Or any car,
engine, boat
or craft.

Contravening this Act, where no other penalty is provided.

94. Any person who, while the Militia is not called out for actual service, willfully 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 ten 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.

No Courts martial in such cases.

Penalties under this act how recoverable.

95. 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 ten dollars and before two Justices of the Peace if the amount exceeds that sum;—And any officer, non-commissioned officer or private of the Militia shall be a competent witness in any such case.

Witnesses.

Imprisonment in case of non-payment.

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

On whose complaint penalties may be sued for.

97. No prosecution against an Officer of Provincial Militia for any penalty under this Act shall be brought except on the complaint of the Adjutant or Deputy Adjutant General;—And no such prosecution against any non-commissioned officer or private of the Militia, shall be brought except on the complaint of the Commanding Officer or Adjutant of the Corps to which such non-commissioned officer or private belongs;—But the Adjutant or Deputy 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 or Deputy Adjutant General.

Evidence of authority to sue.

Limitation of time for such prosecutions.

98. 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 clothing, arms or accoutrements delivered to the Militia; and no prosecution against any person named in the seventy-ninth section of this Act or against any Municipal Officer for any penalty under this Act, shall be brought except upon an order to that effect by or from the Minister of Militia.

99.

99. The penalty when recovered shall forthwith be transmitted to the Adjutant General, who shall account for and pay it over to the Receiver General as part of the Consolidated Revenue Fund.

Application of penalties.

MISCELLANEOUS PROVISIONS.

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

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

101. 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.

General Orders how notified.

Evidence.

102. 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 place, in the Regimental Division.

Regimental or Battalion Orders, how notified.

103. 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.

Evidence of commissions, warrants, &c.

104. 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.

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

105. 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.

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

106.

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

106. 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.

If plaintiff be
non-suit, &c.

107. 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.

Payment of
moneys under
this Act.

108. 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.

Proviso.

Accounting to
Parliament.

109. 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.

Repeal of for-
mer Acts.

Exception.

110. 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.

27 Vict.

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