

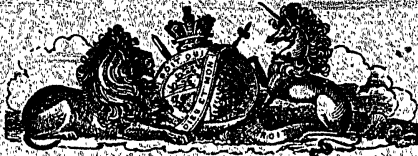
CONSOLIDATED STATUTES

RESPECTING

THE MILITIA.

APPROVED BY PROCLAMATION OF HIS EXCELLENCY THE GOVERNOR GENERAL.

22 Vict. Cap. 35.



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1859.



ANNO VICESIMO-SECUNDO

VICTORIÆ REGINÆ.

CAP. XXXV.

An Act respecting the Militia.

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

- 1. The Governor shall, by virtue of his Office, be Commander in Chief of the Provincial Militia. 18 V. c. 77 s. 2. Governor to be Commander in Chief of Militia.
- 2. The Provincial Militia shall be divided into two classes, Sedentary and Active. *Ibid*, s. 3. Two classes of Militia.

SEDENTARY MILITIA.

- 3. The Sedentary Militia shall consist of all the male inhabitants of the Province of the age of eighteen years or upwards and under sixty, not exempted or disqualified by law. *Ibid*, s. 4. Of whom to be composed.
- 4. The Sedentary Militiamen shall be divided into two classes, to be called respectively Service Men and Reserve Men: the Service Men shall be those of eighteen years of age and upwards, but under forty-five years,—and the Reserve Men shall be those of forty-five years of age and upwards, but under sixty years. 22 V. (1859) c. 18, s. 2. Divided into service men and reserve men.

5. In time of peace, no actual service or drill shall be required of the Sedentary Militia, but they shall be carefully enrolled from time to time;—And the Service Men not exempted from muster, shall also assemble for muster annually, at such place and hour, in such manner and for such purposes, as the Commanding Officer of each battalion 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; 18 V. c. 77 s. 6, and 19, 20 V. c. 44, s. 5. In time of peace, Sedentary Militia to be enrolled. Service men to be mustered annually, and where.

2. Except that the Commander in Chief may, in his discretion, but on the application of the Commandant of any Military District in Upper Canada, direct that the annual Muster day, in such District, be the twenty-ninth day of June. 22 V. (1859) c. 18, s. 18. Annual Muster day in Upper Canada may be on the 29th June.

Governor may dispense with annual muster and again require it.

6. The Commander in Chief may, by any Militia General Order, dispense with the annual general muster of the Sedentary Militia 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. 19, 20 V. c. 44, s. 3.

Exemptions from enrolment and service in any case.

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

The Judges of the Superior Courts of Law or Equity in Upper and Lower Canada;

The Judge of the Court of Vice-Admiralty;

The Judges of the County Courts;

The Clergy and Ministers of all Religious denominations;

The Professors in any College or University, and all teachers in religious orders;

The Warden, Keepers and Guards of the Provincial Penitentiary.

Exemptions 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;

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;

All persons lawfully authorized to practise 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;

Postmasters and Mail Carriers;

Seafaring Men actually employed in their calling;

Masters

Masters of Public and Common Schools actually engaged in teaching ;

Ferry-men ;

One Miller for each run of stones in every Grist Mill ;

Keepers of public Toll-Gates ;

Lock Masters and Labourers employed in attending to Locks and Bridges on Public Canals ;

The Engine Drivers, Conductors and Switchmen connected with the several Railways actually in use in this Province ;

Members of Fire Companies and of Hook and Ladder Companies ;—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* ;

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

Students attending Seminaries, Colleges, Schools and Academies, who have been attending such at least six months previous to the time at which they claim such exemption ;

All persons disabled by bodily infirmity ;

3. All persons bearing Certificates from the Society of Quakers, Mennonists, 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 ;

4. But such exemption shall not prevent any person from serving or holding a Commission in the Militia, if he desires it and is not disabled by bodily infirmity ;—And 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) of the facts on which he rests his claim, with the Commanding Officer of the Company within the limits whereof he resides ;—And whenever exemption is claimed, whether on the ground of age or otherwise, the burden of proof shall always be upon the claimant. 18 V. c. 77, s. 7, 12 V. c. 36, and 4, 5 V. c. 43.

Exceptions,

Exemption must be claimed.

Service men divided into two classes.

8. With a view to actual service in case of war, invasion or insurrection, the Service men shall be divided into two classes, to be called respectively, first class Service men and second class Service men; the first class to consist of unmarried men and widowers without children, and the second class of married men and widowers with children. 18 V. c. 77, s. 8.

Order in which they shall be taken for actual service.

9. When the Sedentary Militia are called out in case of war, invasion or insurrection, those first taken for actual service shall be volunteers from the Service men, then the first class Service men, then the second class Service men, and lastly the Reserve men. *Ibid*, s. 9.

Commander in Chief to divide U. C. & L. C. into military districts and may alter the same.

10. The Commander in Chief may from time to time, by any Militia General Order, divide Upper and Lower Canada respectively, into such number of Military Districts as he deems expedient, and to be designated as he sees fit;—and may from time to time by any Militia General Order, alter such division of the Province into Military Districts, and increase or diminish the number thereof. *Ibid*, s. 10, and 19, 20 V. c. 44, s. 1.

Regimental and battalion divisions.

11. The Commander in Chief may from time to time, by any Militia General Order, divide the Military Districts respectively into Regimental divisions, and the Regimental divisions into Battalion divisions, and may designate such divisions by such names or numbers as he sees fit. 18 V. c. 77, s. 11.

What men shall form the regiments and battalions.

12. The Militiamen resident in each Battalion division shall form a Battalion of the Regiment of the Regimental division in which it lies;—and all the Battalions in any Regimental division shall form the Regiment thereof. *Ibid*, s. 12.

Officers of regiments and battalions.

13. To each Military District a Colonel shall be appointed who shall command the Militia in such District, and to each Battalion a Lieutenant Colonel, and such number of Majors and Regimental Staff Officers as may be deemed necessary. *Ibid*, s. 13.

Company divisions to be formed.

14. Each Lieutenant Colonel may, by any order made with the approval of the Colonel of the Military District, 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 Militiamen resident within each Company division shall form a Company of the Battalion. *Ibid*, s. 14.

Existing divisions to remain until altered.

15. All Militia divisions existing before the passing of the Act 18, V. c. 77, shall remain in force until altered as aforesaid, and such of them as are allowed to remain unaltered shall be held to have been made by the proper authority under this Act, and for the purposes thereof. *Ibid*, s. 15.

16. To each Company of Militia there shall be appointed of Commissioned Officers, a Captain, a Lieutenant, and an Ensign; and of non-Commissioned Officers, three Serjeants and three Corporals. *Ibid*, s. 16.

Officers and non-commissioned officers of companies.

17. The Commander in Chief may appoint to all Militia Regiments, Companies or Corps, the proper number of Surgeons, Assistant Surgeons and Veterinary Surgeons. 19, 20 V. c. 44, s. 4.

Surgeons, &c., may be appointed to militia.

18. The enrolment of the Sedentary Militiamen shall be made in each Company division by the Captain thereof, with the assistance of the Officers and non-commissioned Officers of the Company;—And it shall be the duty of the Captain, and, under his orders, of the other Officers and non-commissioned Officers of the Company, by actual enquiry at each house in the Company division, and by every other means in their power, to make and keep at all times a correct Roll of the Company in such form as may be directed by the Adjutant General. 18 V. c. 77, s. 17.

Enrolment, how to be made by officers.

19. Each man liable under this Act to be enrolled in any Company, and not so enrolled, shall give in his name, age and place of residence, in writing, to the Captain or Officer commanding such Company, within twenty days after he becomes so liable, whether by the alteration of any Militia division, change of residence, or otherwise howsoever. *Ibid*, s. 18.

Militiamen bound to give in their names.

20. The Officer commanding a Sedentary Company of the Militia shall, within twenty days after the annual muster day for such Company, make out a corrected Roll thereof, and transmit a certified copy thereof to the Officer commanding the Battalion, who, within forty days after such muster, shall forward a correct Return of the Battalion under his command to the Assistant Adjutant General of the Military District, to be laid before the Colonel commanding the same; and the said Return shall then be transmitted by the Assistant Adjutant General, under the orders of the said Colonel, to the Adjutant General at Head Quarters. *Ibid*, s. 19.

Rolls of companies to be made annually; also, returns of battalions.

21. Each Company Roll shall be corrected from time to time as changes occur which affect it;—And every householder and resident in the Company division, and every Assessor, Town Clerk, or other Municipal Officer, shall be at all times bound to give to the Commanding Officer or any Officer or non-commissioned Officer of the Company, such information as may be required to make such corrections, and to answer all such questions as any of them may pertinently put to him for the purpose of obtaining such information;—And every Militiaman shall be bound to inform the Officer commanding the Company, in writing, of any change of residence or other circumstances

Company rolls to be corrected from time to time.

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

And of militiamen.

circumstances

circumstances affecting such Militiaman, by which the Roll of any Company is affected, whether such Militiaman comes into or leaves the Company division for which the Roll is made. *Ibid.*, s. 20.

ACTIVE OR VOLUNTEER MILITIA COMPANIES.

Volunteer companies to be formed; of what to consist.

22. The Active Militia of the Province in time of peace, shall consist of Volunteer Troops of Cavalry, Field Batteries, Foot Companies of Artillery, and Companies of Infantry armed as Riflemen, to be formed at places to be designated by the Commander in Chief;

Total limited.

2. Except as hereinafter provided, the total of such Volunteer Corps shall not exceed five thousand Officers and Men;

Number of Companies of Foot Artillery and Rifles, limited after end of 1859.

3. The whole number of Troops of Cavalry, in Class A hereinafter mentioned, shall not at any time exceed sixteen, and the whole number of Field Batteries of Artillery, in the said Class A, shall not exceed seven; and from and after the thirty-first day of December, 1859, the Companies of Foot Artillery and Rifle Companies in Class A, shall not together exceed fifty in number, of which there shall not be a greater number of Companies of Foot Artillery than five; and it shall be in the discretion of the Commander in Chief to determine what number (not exceeding five as aforesaid,) of Companies of Foot Artillery shall from time to time form portion of the said number of fifty;

4. But until the day last aforesaid, there may be in Class A not exceeding five Companies of Artillery, and not exceeding fifty Companies of Riflemen; 18 V. c. 77, ss. 19; 21-20 V. c. 44, s. 2,—22 V. (1859) c. 18, s. 3.

Unpaid volunteer corps may be formed.

23. Notwithstanding any limitation in the next preceding section of the number of Volunteer Companies or Corps, or of the number of men therein, the Commander in Chief may accept the services of any greater number of Volunteers, and may form them into Companies or Corps,—provided that no greater number of Volunteer Companies, Corps or men than that limited by the said section, shall receive pay or allowances except on actual service in time of war or insurrection;

Unpaid volunteer may become paid corps, as vacancies occur.

2. And the Volunteer Companies and Corps receiving pay shall be known as Class A, and those receiving no pay as Class B; And whenever the number of Companies or Corps or men in Class A falls short of that limited by the said section, the deficiency may be supplied by removing the proper number from Class B into Class A; But in all respects, except as to pay and allowances, the provisions of this Act shall apply in like manner to the Volunteer Companies, Corps and men in both Classes. 19, 20 V. c. 44, s. 2.

Proviso

24. Each Volunteer Troop of Cavalry, Company of Foot Artillery, or Company of Riflemen, shall consist of a Captain, a Lieutenant, a Cornet, Second Lieutenant or Ensign, three Sergeants, three Corporals, a Trumpeter or Bugler, and not exceeding forty-three Privates, except in Companies of Riflemen wherein the number of Privates may be any number from forty-three to seventy-five ;

Force of volunteer companies respectively.

2. And each field Battery of Artillery shall consist of a Captain, two first Lieutenants, a Second Lieutenant, a Serjeant Major, three Serjeants, three Corporals, three Bombardiers, a Trumpeter, a Farrier, fifty-nine Gunners and Drivers, including Wheelers, Collarmaker and Shoemsmith, fifty-six horses, exclusive of Officers' horses, and of four spare horses when the Battery is called into actual service. 18 V. c. 77, s. 22.

The same.

25. The Commander in Chief shall have full power to appoint Staff Officers of the Active Militia with such rank as he shall from time to time think requisite or necessary for the efficiency of the Militia service, and all such appointments as have been made by him are hereby confirmed; and any such Staff Officers shall have such rank and authority in the Militia as are held relatively in Her Majesty's service, and their duties shall be the same for the Militia as prescribed for the Army by the Queen's Regulations aforesaid. 22 V. (1859) c. 18, s. 16.

Appointment of Staff Officers and their rank.

26. The Commander in Chief shall have full power to constitute any number of Rifle Companies of the Active Militia at any one locality or within any one district, not being less than six or more than ten Companies, into a Regiment or Battalion, and to assign or appoint thereto by commission, a Lieutenant-Colonel, two Majors, one Adjutant, one Pay-Master, one Quarter-Master, one Surgeon and one Assistant Surgeon whose rank and authority therein shall be the same as in the relative positions in Her Majesty's service;—And such Regiment or Battalion shall be subject, in so far as the same are not inconsistent with the provisions of the Militia Laws of this Province, to the Queen's Regulations for the Army published by authority; and any such Lieutenant-Colonel shall have authority to appoint Staff Sergeants for any Battalion. 22 V. (1859) c. 18, s. 15.

Any number of Rifle Corps in any locality may be constituted into a Regiment or Battalion, &c.

27. A Volunteer Marine Company may be formed at each of the following places.—Kingston, Cobourg, Toronto, Hamilton, Port Stanley, Dunnville and Oakville, each Company to consist of a Captain, a Lieutenant, and fifty men; and a Commodore of Provincial Marine may be appointed to command the whole and to rank as a Lieutenant-Colonel of Militia;—Captains in the Provincial Marine shall rank as Majors in the Militia, and Lieutenants as Captains in the same. 18 V. c. 77, s. 23.

Volunteer marine companies may be formed at certain places.

28. The said Marine Companies shall be armed in such manner as the Commander in Chief directs, and shall be trained

How to be armed and drilled.

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. 18 V. c. 77, s. 24.

Volunteer
company of
engineers.

29. In each Militia District there may be formed a Volunteer Company of Engineers, to consist of a Captain, a Lieutenant, a Second Lieutenant, and such number of men not exceeding seventy-five, as the Governor may direct;—but such Companies shall not be subject to drill or to service in time of peace. *Ibid.*, s. 25.

On what au-
thority com-
panies may be
formed and
disbanded.

30. All Volunteer Companies shall be formed and may be disbanded by authority of the Commander in Chief, as may in his opinion best tend to further the purposes of this Act and the public good. *Ibid.*, s. 26.

Uniforms of
Volunteers
Corps.

31. The uniform of the several Field Batteries,—of the several Troops of Cavalry,—and of the several Rifle Companies—continued under this Act, or organized after the fourth day of May, 1859, shall be of such one and similar colour, pattern and design, as may be ordered by the Commander in Chief;

Further condi-
tion.

2. Provided that but one, and that a similar colour, pattern and design, shall be approved for each of them respectively,—the Field Batteries,—Troops of Cavalry,—Rifle Companies,—and Companies of Foot Artillery; and each of such Corps shall conform in all particulars to the order of the Commander in Chief in such respect; but the several Corps in existence on the said day and to be continued in existence under this Act, may continue to wear their then clothing until the same requires to be replaced, and it shall be the duty of the Superior Officer of the said Corps respectively, to see that the same are, upon any such replacing of clothing, uniformed according to the order of the Commander in Chief in such respect. 22 V. (1859) c. 18, s. 12.

Arms &c., of
volunteer com-
panies.

To be furnished
by the province
except to offi-
cers.

Security may
be taken for
safe keeping,
&c.

32. The arms and accoutrements of the Officers and men of the several Volunteer Companies, shall be such as the Commander in Chief from time to time directs, but of the best and most serviceable kind, without unnecessary ornament;—Such arms and accoutrements shall be furnished to the non-commissioned officers and privates of the said Volunteer Corps at the expense of the Province, but shall always remain Provincial property, and the parties receiving them shall be accountable for them;—And the Commander in Chief may direct such security as he thinks proper to be taken for the safe keeping in good order of such Arms and Accoutrements, and the re-delivery thereof to such Officer as may be appointed to receive them, whenever the Commander in Chief for any purpose directs such re-delivery. 18 V. c. 77, s. 27.

33. 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 having charge thereof, in which last named case they shall be renewed or repaired by such person, or, if renewed or repaired at the cost of the Province, the cost may be recovered from such person as a debt due by him to the Crown. *Ibid*, s. 28.

Repairing of arms, &c.

34. The arms and accoutrements of non-commissioned officers and men of the Active Militia shall be kept in public armouries wherever there are such; and where there are no such public armouries then the Captain of each Volunteer Corps shall be personally responsible for the arms and accoutrements of the non-commissioned Officers and Men of his Corps, and shall himself actually keep the same, and may be allowed annually a sum not exceeding twenty dollars for so doing and for taking care of the arms and accoutrements; 22 V. (1859) c. 18, s. 5.

By whom and where arms, &c., shall be kept.

2. Nothing herein shall be construed to relieve the Officers or men of the Volunteer or Active Force, of any liability in respect to the Arms and Accoutrements thereof, delivered to the custody, care or possession of any of them,—or in any other respect,—under the Acts 18 V. c. 77 and 19, 20 V. c. 44,—but any proceedings thereto relating shall be brought within twelve months after the discovery of any breach of the provisions thereof. 22 V. (1859) c. 18, s. 21.

Proviso: as to liabilities incurred before this Act.

35. No Corps of Active Militia and no non-commissioned officer or private thereof, shall at any time appear armed or accoutred, except when *bynd fide* at drill whether paid or unpaid, 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. 22 V. (1859) c. 18, s. 6.

Corps to appear armed on certain occasions only.

36. Commissioned officers of the said Companies shall furnish their own arms and accoutrements. 18 V. c. 77, s. 30.

Officers' arms.

37. The Arms and Accoutrements of the officers and men of such Volunteer Companies, and the Horses used by them as such, shall be exempt from seizure in execution and from distress and assessment; nor shall any such horse be disposed of by any officer or man without leave of the Officer commanding the Company. *Ibid*, s. 31.

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

38. The Volunteer Militia Companies shall be drilled and exercised at such time in each year and at such places as the Commander in Chief may from time to time appoint; the

How volunteer companies shall be drilled and exercised.

Volunteer

Volunteer Field Batteries being so drilled and exercised during twelve days in each year, of which at least six days shall be consecutive, and the other Volunteer Corps once in each year during six consecutive days (Sundays not reckoned in either case,) and the Companies under drill being encamped during the whole or any part of the period for drill, if the Commander in Chief sees fit;

Pay List and affidavit:

2. Provided that, inclusive of the pay for the year 1859, and annually thereafter, the moneys to be paid for pay for each day on which Companies are so drilled, shall be paid only in the month of December in each year, and upon the Pay List and affidavit thereto being duly furnished to the Adjutant General as hereinafter required. 22 V. (1859) c. 18, s. 4.

Adjutant Genl. to draw up code of instructions.

39. The Adjutant General or the Deputy Adjutants General shall draw up, under the direction of the Commander in Chief, a code of instruction, drill and exercise for the said Volunteer Companies, based on that in use in Her Majesty's Regular Army, and each Commissioned Officer of a Volunteer Company shall be furnished with a copy, and shall be governed by the said code in drilling and exercising the corps to which he belongs. 18 V. c. 77, s. 33.

Payment of Active Militia.

40. The Active Militia Force shall be paid by the Province, the sums and in the manner following:—

Pay for Men and horses in class A when at Drill, for 1859.

1. For the year 1859, the non-commissioned officers and men of Class A, shall be paid for each day's actual and *bona fide* drill the sum of one dollar, and for each horse actually and necessarily present and used for such drill, and belonging to or used by such non-commissioned officers or men, the further sum of one dollar per diem;

A certain number only to be paid after 1859, and at what rate.

2. For each and every year, other than the year 1859, the non-commissioned officers and men of such Corps of Class A, and of such portions thereof only as are hereinafter mentioned, shall for each day's actual and *bona fide* drill, be paid the sum of one dollar,—and in so far only as regards the horses to be used in the Field Batteries, for each horse actually and necessarily present and used for such drill and belonging to or used by the non-commissioned officers and men of the said Field Batteries, the further sum of one dollar per diem;

3. And the said Corps or portions thereof respectively so entitled to be paid are as follows:

Artillery Corps.

Field Batteries.—The non-commissioned officers and men, not exceeding seventy in number, and the horses,—not exceeding thirty-six in number,—of each of the seven Field Batteries constituted under the Act 18 V. c. 77, before the fourth day of May, 1859, and existing on the said day;

Cavalry.—

Cavalry.—Thirty non-commissioned officers and men of Cavalry Corps, each of the five Troops of Cavalry senior in priority of Gazette under the said Act in Upper Canada, and thirty non-commissioned officers and men of each of the five Troops of Cavalry senior in priority of Gazette as aforesaid in Lower Canada ;

Infantry.—Thirty non-commissioned officers and men of each Infantry Corps Rifle Company, and of each Foot Company of Artillery ;

4. But it shall be within the option of the Commanding Officer of any such Corps of Cavalry, Infantry or Foot Artillery, in pursuance of any contract previously made with the non-commissioned officers and men of the Corps under his command, to distribute the total amount of pay to which such thirty men would be entitled for their drill as hereinbefore mentioned, in a less proportion than the sum of one dollar to each man, so that the surplus of men *bona fide* enrolled and acting in such Corps, to a number not exceeding twenty additional men, may receive a proportion of such pay, it being the intent hereof that no man under any such contract shall receive less than the sum of sixty cents per diem during the drill as aforesaid ;

Commanding Officer may divide the pay among a greater number on certain conditions.

5. And it shall be the duty of every Commanding Officer of a Corps, or, in case of his absence during the annual drill, of the officer next in command and personally present, during the month of November in each year, to forward the pay-list of the said Corps to the Adjutant General or Deputy Adjutant General of Militia, having attached thereto an affidavit sworn before any Justice of the Peace, that the several non-commissioned officers and privates in the said pay-list named for pay, were actually and *bona fide* personally present at each day's drill, and were actually drilled for the number of days and in manner by law required, and were and continued severally on the roll of the said corps from the month of January in such year, and performed duty therewith when required during such year, and in addition thereto in cases of Field Batteries, that each horse in the said pay-list charged for pay was actually and necessarily present and used for such drill. 22 V. (1859) c. 18, s. 7.

Pay List, with affidavit attached, to be transmitted to Adjutant General.

41. Nothing herein contained shall be construed to prevent any such Company from assembling or being ordered out by the Officer commanding it for drill or exercise, without receiving any pay therefor from the Province, according to any articles of engagement or regulations of such Company, previously approved by the Commander in Chief ;—And any such articles, in so far as they are not inconsistent with this Act, shall be enforced, and the penalties which may be thereby imposed shall, whenever they are incurred, be recoverable in the manner hereinafter mentioned, by the person or officer designated for that purpose in such articles, to such uses as may be therein directed. 18 V. c. 77, s. 35.

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

Ammunition for practice.

42. Sufficient ammunition for practice at drill shall be supplied to the Volunteer Companies at the expense of the Province, in such manner as the Commander in Chief may direct. 18 V. c. 77, s. 36.

Pay of Serjeant-Major of artillery companies, &c.

43. Each Serjeant-Major of a Volunteer Field Battery of Artillery shall, on account of the great responsibility attached to the office, be paid by the Province at the rate of two hundred dollars per annum ;—And competent persons shall be appointed by the Commander in Chief to drill the other Volunteer Companies, and shall be paid by the Province one dollar and fifty cents per diem, when so employed. *Ibid*, s. 37.

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

44. The said Volunteer Companies shall be liable to be called out in aid of the ordinary Civil Power in case of riot or other emergency requiring such services, and shall when so employed receive from the Municipality in which their services are required, the rates of pay above mentioned, and a further sum of fifty cents per man per diem for additional expenses, and shall be also provided with proper lodging by such Municipality ;—And the said sums, and the value of such lodging if not furnished by the Municipality, may be recovered from it by the Captain of the Company, in his own name, and when received or recovered shall be paid over to the Officers and men entitled thereto. *Ibid*, s. 38.

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

45. It shall be the duty of the Captain or Officer commanding any such Volunteer Company to call out the same, or such portion thereof as 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 Company shall on every such occasion obey the orders of his Commanding Officer ;—And the Officers and men when so called out shall, without any further or other appointment, and without taking any oath of office, be Special Constables, and shall act as such so long as they remain so called out. *Ibid*, s. 39.

To be sworn in as special constables.

Volunteers exempt from serving as Jurors or Constables.

Evidence of service.

46. The Officers, non-commissioned Officers and men of Volunteer Corps, shall, while they continue such, be exempt from serving as Jurors or Constables ; And whenever they have served as such in one or more Volunteer Corps during a term of seven years, such exemption shall continue after the expiration of the said term ;—And a certificate under the hand of the commanding officer of any such Corps shall be sufficient evidence of the service in his Corps of any officer, non-commissioned officer or man for the then current year. 22 V. (1859) c. 18, s. 8.

47. No non-Commissioned Officer or Man of any Volunteer Company, shall, in any case, unless legally discharged, leave the same without giving at least two month's notice in writing to the Commanding Officer thereof of his intention so to do;— Nor shall he, at any time, leave the same contrary to the engagement contained in any articles of engagement he has signed; and the term of engagement shall not be less than five years. 18 V. c. 77, ss. 41, 66, and 22^gV. (1859) c. 18, s. 9.

Notice to be given before leaving any volunteer company.

Term of engagement.

48. The several Volunteer Corps shall be subject to inspection from time to time by such person or persons as shall be temporarily appointed by the Commander in Chief for such inspection, and who shall report fully to the Governor on the state of such Corps and their arms and accoutrements and the general efficiency of such force, and shall be reimbursed his or their actual travelling expenses by the Province, and paid therefor at a rate not exceeding four dollars per diem whilst so engaged;

Inspection of Volunteer Corps.

2. Provided that such person or persons, to be appointed from time to time for such inspection, shall be an officer or officers (not being under the rank of Field Officer) of Her Majesty's service, and actually serving in this Province, or in case the services of an officer or officers as aforesaid cannot be obtained, then such other person not being under the rank of Field Officer of Militia of this Province, who shall in like manner be reimbursed his actual travelling expenses and paid such remuneration. 22 V. (1859) c. 18, s. 10.

Proviso: as to Rank of Inspecting officer.

GENERAL PROVISIONS.

49. All Commissions of Officers in the Provincial Militia shall be granted by the Commander in Chief and during pleasure. 18 V. c. 77, s. 43.

Commissions, by whom granted.

50. All non-Commissioned Officers in the Provincial Militia, shall be appointed by the Officer commanding the Battalion to which they belong;—except in Volunteer Companies where they shall be appointed by the Captain thereof;—and shall in either case hold their rank during pleasure. *Ibid*, s. 44.

Non-commissioned officers.

51. No person shall be an Officer of Militia unless he is one of Her Majesty's subjects by birth or naturalization, nor if he is such subject by naturalization only, unless he has taken the oath of allegiance. *Ibid*, s. 45, and 19, 20 V. c. 44, s. 6.

Officers must be Her Majesty's subjects.

52. Commissions in the Provincial Militia and appointments of non-Commissioned Officers, existing immediately before the passing of the Act, 18 V. c. 77, shall remain in force, such Commissions being subject to be cancelled by the Commander in Chief, and such appointments by the Officer Commanding the Battalion;—But no person shall be bound to serve

Existing commissions, to remain until cancelled.

No person bound to serve

in a lower grade than he has held.

in the Provincial Militia in a lower grade than he has once held, unless he has resigned his commission or is reduced by sentence or order of some lawful Court or authority;—Nor shall any person who has been a non-Commissioned Officer in Her Majesty's Army, be bound to serve in the Militia in a lower grade than he held in the Army, unless he had been reduced as aforesaid. 18 V. c. 77, s. 46.

Battalions embodied in 1837, 1838, 1846 & 1847.

53. The next preceding section applies to and includes the Battalions embodied in the years one thousand eight hundred and thirty-seven, one thousand eight hundred and thirty-eight, one thousand eight hundred and forty-six, and one thousand eight hundred and forty-seven, in the Cities of Quebec and Montreal, and the said battalions are still lawfully embodied, and Commissions in them are valid under the said section: and the said Battalions are subject to all the provisions of this Act as Sedentary Militia, and may be called out as such by the Commander in Chief. 19, 20 V. c. 44, s. 7.

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

54. No Adjutant General of Militia shall be appointed except in case of war or any such emergency as may, in the opinion of the Governor General, render it necessary or expedient that such office should be filled; and in case of war or such emergency as aforesaid, no person shall be appointed to the said office who is not, to the satisfaction of the Commander in Chief, a person educated to the military profession and thoroughly competent to discharge the duties of the said office of Adjutant General; And the duties of the office of Adjutant General during the vacancy of the office shall be performed by the Deputy Adjutants General for Upper and Lower Canada respectively, under orders from time to time of the Commander in Chief, or by such person as may be appointed by the Commander in Chief on any occasion, for the special and temporary discharge of any such duties. 22 V. (1859) c. 18, s. 14.

Pay of Adjutant General.

55. The Adjutant General, when appointed as aforesaid, shall act as such for the whole Province, and shall have the rank of Colonel in the Provincial Militia, and shall be paid by the Province, at the rate of three thousand dollars per annum while discharging the duties of his office. 18 V. c. 77, s. 47, and 22 V. (1859) c. 18, s. 14.

Adjutant General and Deputies.

Rank.

Pay.

56. There shall be two Deputy Adjutants General, one for Upper and the other for Lower Canada; and each of the Deputy Adjutants General shall have the rank of Lieutenant Colonel in the Provincial Militia, and he shall hold his Office during pleasure; and each of the Deputy Adjutants General shall be paid by the Province at the rate of two thousand dollars, per annum. 18 V. c. 77, s. 47.

Offices of Inspecting Officer.

57. The Commander in Chief may in his discretion amalgamate the offices of Deputy Adjutant General and Inspecting Field

Field Officer of Militia in Upper or Lower Canada, in which case the salary of the officer performing such amalgamated offices, and who shall be known as Deputy Adjutant General and Inspector of Militia, shall not exceed the sum of two thousand dollars per annum. 22 V. (1859) c. 18, s. 11.

cer and Deputy Adjutant General may be amalgamated: salary in such case.

58. The Commander in Chief may from time to time appoint so many Assistant Adjutant General, with such duties as he thinks proper or expedient, but no pay or allowances shall be made to them in respect of such appointment. 22 V. (1859) c. 18, s. 13.

Any number of Assistant Adjutants General may be appointed—but without pay.

59. There shall be in and for each Military District an Assistant Quarter Master General, whose duty it shall be to make himself thoroughly acquainted with the roads and communications and other matters appertaining to the topography of his District, and to furnish such information on the subject as may be required by the Commander in Chief, in which duty the Officers of the Volunteer Engineer Corps shall assist him with the local information they acquire. 18 V. c. 77, s. 50.

Asst. Quarter Master General.

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

Militia offences, how punishable, in time of peace, without Courts Martial.

CALLING OUT THE MILITIA.

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

Commander in chief may call out militia in certain cases.

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

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

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

Militiamen bound to obey.

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

Volunteer companies be included.

And so when the whole militia is called out.

65. When the whole Militia of the Province are called out, all the Volunteer Companies shall be included and shall immediately obey the orders they receive. *Ibid*, s. 56.

Sedentary militiamen to attend with their arms.

66. Each Sedentary Militiaman called out for actual service shall attend at such time and place as may be directed by the Officer commanding him; with any arms and accoutrements he has received from the Province, and with such provisions as such officer may direct. *Ibid*, s. 57.

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

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

How such number shall be taken.

68. The number of men to be so furnished shall in the first instance be taken from the first class service men in the several company divisions in that part of the Province to which the order applies, and in proportion as nearly as may be to the number of such men in each;—Volunteers shall be first taken from each company, but if the number of Volunteers be not sufficient, then such further number as may be required shall be drawn by lot under the superintendence of the Commanding Officer of the company, whose certificate that any man has been so drafted, or volunteered, or consented to serve as substitute for a drafted man, shall be evidence of the fact. *Ibid*, s. 59.

Drafting men.

Militiamen drafted must serve—and a substitute—or pay the fine.

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

Infirm persons exempted.

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

In what case second class service men may be taken.

71. If a greater number of men are required, than the whole number of first class service men, then the requisite number shall be taken from the second class service men, in like manner. *Ibid*, s. 62.

72. The Sedentary Militiamen so taken or drafted for actual service, shall by such Officers as may be detailed for that purpose by the Lieutenant-Colonel of the Battalion from which they are taken, be marched to such place as the Commander in Chief may appoint, and shall there be embodied into Companies and Battalions, in such manner as the Commander in Chief may direct, and being so embodied shall be commanded by such Officers as from their qualification and fitness he thinks proper to appoint. *Ibid*, s. 63.

How men so taken shall be embodied and commanded

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

Volunteer companies may be embodied.

74. The Militiamen so taken or drafted for actual service from the Sedentary Militia, shall serve during one year unless sooner disbanded, and may then be replaced by others taken as aforesaid, and shall not be liable to be again taken until all others in the same class have been taken;—But the men in Volunteer Militia Companies shall serve for the time for which they have engaged to serve, which time shall not be less than five years, subject however to be determined on one month's notice as hereinbefore mentioned; Provided that no Volunteer shall leave the service, either with or without notice, at any time when the Militia are called out, unless he is regularly discharged or has served out the time for which he engaged. *Ibid*, s. 65.

Term of service.

Proviso.

75. The Militia so called out 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. *Ibid*, s. 66.

To what places may be marched.

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

Militia called out to be subject to articles of war.

77. Any body of Militia so called out shall be commanded by the Officer highest in rank then present, or the senior of two or more Officers of equal rank;—Officers of Her Majesty's Regular Army shall always be reckoned senior to all Militia Officers of the same rank, whatever be the dates of the respective commissions;—And Colonels appointed by Commission signed

Rank and command of officers as regards militia.

by the Commander of Her Majesty's Regular Forces in Canada, shall command Colonels of Militia, whatever be the date of their respective Commissions. *Ibid*, s. 68.

For what offences only Militiaman may be sentenced to death.

Sentence must be first approved.

78. No Militia Officer or Militiaman shall be sentenced to death by any Court Martial except for mutiny, desertion to the enemy, or traitorously delivering up to the enemy any garrison, fortress, post or guard, or traitorous correspondence with the enemy;—And no sentence of any General Court Martial shall be carried into effect until approved by the Commander in Chief. *Ibid*, s. 69.

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

79. No Officer of Her Majesty's regular Army on full pay shall sit on any Militia Court Martial. *Ibid*, s. 70.

ARMAMENT OF THE SEDENTARY MILITIA.

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

80. The arms and armaments for the Sedentary Militia shall, when such Militia is not called out for actual service, be kept in Armouries at the following places: Quebec, Three-Rivers, Riviere-du-Loup (below), Sorel, St. John's, Montreal, the City of Ottawa, Prescott, Kingston, Peterborough, Toronto, Guelph, Hamilton, London and Chatham. *Ibid*, s. 71.

Buildings for Armouries.

81. If there be at any such place no building adapted to be used as such Armoury, the Commander in Chief may cause a proper building to be erected, at a cost not exceeding three thousand dollars for each such building; or he may cause any public building or part thereof to be altered so as to adapt it for such Armoury at a cost not exceeding one half the said sum. *Ibid*, s. 72.

Care of such Armouries.

82. The Commander in Chief may employ a proper person to have charge of each such Armoury and of the arms therein, and may cause such person to be paid at a rate not exceeding three hundred dollars per annum. *Ibid*, s. 73.

Arms, how delivered to Sedentary Militia.

83. The arms in such Armouries respectively, shall be delivered out to the Sedentary Militia called into actual Service, in such way as the Commander in Chief shall appoint. *Ibid*, s. 74.

May be kept by Militiamen in certain cases.

84. If there be any Militia division in which, from its position, it is not deemed advisable to have the arms of the Sedentary Militia kept in an Armoury, such arms may be delivered out to the enrolled service men of the first class or of the first and second classes in such division, as the Commander in Chief may order,—each man giving a receipt for those received by him and security for their safe keeping and delivery to any Officer authorized to demand them. *Ibid*, s. 75.

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

85. When Her Majesty's Regular Forces or the Militia are on a march within this Province, and billeted as herein-after mentioned, every householder therein shall, when required, furnish them with house-room, fire and utensils for cooking, and candles;—And in cases of emergency, by actual invasion or otherwise, the Officer commanding the Regiment, Battalion or Detachment of Troops, or Militia, may direct and empower any Officer or non-commissioned Officer of the same, or other person, after having first obtained a warrant for such purpose from a Justice of the Peace, to impress and take such horses, carriages or oxen as the service may require, the use of which shall be thereafter paid for at the usual rate of hire for such horses, carriages or oxen. *Ibid*, s. 76.

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

Impressing carriages, &c., on emergency.

86. When the said Troops of Her Majesty, or the Militia, or any Regiment, Battalion, or Detachment of the same, are on a march as aforesaid, the officer or non-commissioned Officer commanding them shall require a Justice of the Peace to billet, and such Justice shall immediately thereupon so billet the said Troops or Militia as to facilitate their march, and in such manner as may be most commodious to the inhabitants;—And every inhabitant householder shall receive the Troops or Militia so billeted upon him, and furnish them with the lodging and articles mentioned in the next preceding section. *Ibid*, s. 77.

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

87. 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. *Ibid*, s. 78.

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.

88. 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

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

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. *Ibid*, s. 79.

Complaint of persons aggrieved, and how redressed.

89. 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. *Ibid*, s. 80.

No Justice, being an officer, to billet or quarter troops.

90. 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. *Ibid*, s. 81.

Troops not to be billeted upon Nuns, &c.

91. 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. *Ibid*, s. 82.

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

92. 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 three miles, unless in cases where other carriages, horses or oxen cannot immediately be had

May be impressed on refusal to furnish.

Limitation of travel.

had to replace them; and such carriages, horses or oxen shall be paid for at the usual rate of hire. *Ibid*, s. 83.

93. 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. *Ibid*, s. 84.

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.

94. Any Officer or Commissioned Officer of Militia of this Province, appointed or to be appointed to the Active Force, or to the Sedentary Militia, who obtains under false pretences or who retains or keeps in his own possession, with intent to apply to his own use or benefit, any of the pay or moneys belonging to any non-commissioned officer or private of any Corps, shall be guilty of a misdemeanor, and shall be dismissed from the said Militia Force. 22 V. (1859) c. 18, s. 17.

Unlawfully retaining moneys belonging to militiamen to be a misdemeanor.

Offender to be dismissed.

95. Any person making an Affidavit or Declaration required in and by this Act, and swearing or declaring falsely therein, shall be guilty of perjury. 22 V. (1859) c. 18, s. 19.

False swearing to be perjury.

96. Any officer of Militia refusing or neglecting to make or transmit, as herein prescribed, any roll or return, or copy thereof, required by this Act or by any lawful authority, or wilfully making any false statement in any such roll, return, or copy, shall thereby incur a penalty of forty dollars for each offence. 18 V. c. 77, s. 85.

Refusal to make rolls, &c.

Penalty.

Refusing to assist in making rolls, &c.

97. Any officer or non-commissioned officer of Militia refusing or neglecting to assist his Commanding Officer in making any such roll or return, or refusing or neglecting to obtain or to assist him in obtaining any information which he may require in order to make or correct any roll or return, shall thereby incur a penalty of twenty dollars for each offence. *Ibid.*, s. 86.

Refusing to give information for making roll, &c.

98. Any Militiaman or other person refusing or neglecting to give any notice or information necessary for making or correcting the Roll of any Company, and which he is required by this Act to give to the Commanding Officer of such Company or to any officer or non-commissioned officer thereof demanding the same at any reasonable hour and place, shall thereby incur a penalty of ten dollars for each offence. *Ibid.*, s. 87.

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

99. Any Militia officer or man, not exempt from attending muster, who neglects or refuses to attend the same at the place and hour appointed therefor, or who refuses or neglects to obey any lawful order at or concerning such muster, shall thereby incur a penalty of not more than five dollars for each offence. *Ibid.*, s. 88.

Hindering Militia at drill.

100. Any person who interrupts or hinders any Militia at Drill, or trespasses on the bounds set out by the proper officer for such Drill, shall thereby incur a penalty of five dollars for each offence, and may be taken into custody and detained by any person by the order of the Commanding Officer, until such Drill be over for the day. *Ibid.*, s. 89.

Disobeying orders, &c.

101. Any officer, non-commissioned officer or militiaman disobeying any lawful order of his superior officer, or guilty of any insolent or disorderly behaviour towards such officer, shall thereby incur a penalty of five dollars for each offence. *Ibid.*, s. 90.

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

102. Any officer, non-commissioned officer or militiaman who fails to keep any arms or accoutrements delivered or entrusted to him in proper order, or who appears at drill, parade, or on any other occasion, with his arms or accoutrements out of proper order, or unserviceable, or deficient in any respect, shall incur a penalty of four dollars for each such offence. *Ibid.*, s. 91.

Selling without leave any horse drilled and approved for any Troop, &c.

103. Any officer, non-commissioned officer or man of any Volunteer Company of Cavalry or Field Artillery, who, without the consent of the Commanding Officer of such Company, sells or disposes of any horse which has been drilled for the purposes of such Company, or which he has undertaken to furnish for such purposes, and which has been approved by the Commanding Officer of the Company, shall thereby incur a penalty of twenty dollars for each offence. *Ibid.*, s. 92.

104. Any person who unlawfully disposes of or removes any 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 twenty dollars for each offence;—But this shall not prevent such offender from being indicted and punished for any greater offence if the facts amount to such, instead of being subjected to the penalty aforesaid;—And any person charged with any act subjecting him to the penalty imposed by this section may be arrested by order of the Magistrate before whom the complaint is made, upon affidavit shewing that there is reason to believe that such person is about to leave the Province, carrying any such arms, accoutrements or articles with him. *Ibid*, s. 93.

Unlawfully disposing of arms, &c.

Not to prevent indictment.

Arrest of offender about to leave the Province.

105. Any officer or man of a Volunteer Militia Company who, when such Company is lawfully called upon to act in aid of the civil power, refuses or neglects to go out with such Company, or to obey any lawful order of his superior officer or of any magistrate, shall thereby incur a penalty of twenty dollars for each offence. *Ibid*, s. 94.

Volunteers refusing to turn out in aid of civil power.

106. 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 of eight dollars for each offence. *Ibid*, s. 95.

Refusing to receive Militia billeted.

107. 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 of eight dollars for each such offence. *Ibid*, s. 96.

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

108. 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 of twenty dollars for each such offence. *Ibid*, s. 97.

Of any car, engine, boat or craft.

109. Any person who wilfully contravenes any enactment of this Act when no other penalty is imposed for such contravention, shall thereby incur a penalty of twenty dollars for each offence, but this shall not prevent his being indicted and punished for any greater offence if the facts amount to such. *Ibid*, s. 98.

Contravening this Act where no other penalty is provided.

110. All penalties incurred under this Act or under any Regulations, Orders or Articles of Engagement lawfully made or entered into under it, shall be recoverable, with costs, on the evidence of one credible witness, on complaint or information before one Justice of the Peace if the amount do not exceed

Recovery of penalties.

Summary proceedings; Acts to apply.

Militia Officers &c., may be witnesses.

On whose complaint penalties may be sued for.

Evidence of authority to sue.

Limitation of time for such prosecutions.

Application of penalties.

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

exceed twenty dollars, and before two Justices of the Peace if the amount exceeds that sum;—And to the recovery of such penalties all the provisions of any law then in force relative to the performance of the duties of Justices of the Peace out of sessions, with respect to summary convictions and orders, shall apply in so far as may not be inconsistent with this Act;—And any officer, non-commissioned officer or private of any Volunteer Militia Company shall be a competent witness in any such case, although the penalty is applicable to the purposes of such Company. *Ibid.*, s. 99.

111. No prosecution against an Officer of Militia for any penalty under this Act shall be brought except on the complaint of the Adjutant General;—And no such prosecution against any non-commissioned officer or private of the Sedentary Militia, shall be brought except on the complaint of the Commanding Officer or Adjutant of the Battalion or Captain of the Company to which such non-commissioned officer or private belongs;—And no such prosecution against any private or non-commissioned officer of a Volunteer Company, shall be brought except on complaint of the Captain or Commanding Officer thereof;—But the Adjutant General may authorize any officer of Militia to make such complaint in his name, and the authority of any such officer alleging himself to have been so authorized to make any complaint, shall not be controverted or called in question except by the Adjutant General. *Ibid.*, s. 100.

112. No such prosecution shall be commenced after the expiration of six months from the commission of the offence charged, unless it be for unlawfully buying, selling or having in possession arms or accoutrements delivered to the Militia. *Ibid.*, s. 101.

113. The penalty when recovered shall, if the offender belongs to the Active or Volunteer Militia, be paid over to the officer commanding the company, for the purposes thereof, and shall be applied by him to such purposes and accounted for by him to the Adjutant General; and if the offender belongs to the Sedentary Militia, then the same shall be paid over to the Assistant Adjutant General, who shall account for and pay it over to the Receiver General for the public uses of the Province, and it shall make part of the Consolidated Revenue Fund. *Ibid.*, s. 102.

MISCELLANEOUS PROVISIONS.

114. 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. *Ibid.*, s. 103.

115. 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. *Ibid*, s. 104.

General Orders,
how notified.

Evidence.

116. All Orders made by the Commanding Officer of a Militia, Regimental or Battalion division, shall be held to be sufficiently notified to all persons whom it may concern, by their insertion in some newspaper published in such division, or, if there be none, then in some neighbouring division, and by posting a copy thereof on the door of the church or of some court-house, mill, or other public place, in each Company division in such Regimental or Battalion division. *Ibid*, s. 105.

Regimental or
Battalion Or-
ders, how no-
tified.

117. 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. *Ibid*, s. 106.

Evidence of
commissions,
warrants &c.

118. 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. *Ibid*, s. 107.

Bonds entered
into, in pur-
suance of this
Act, to be
valid.

119. Every sum of money which any person or corporation is under this Act liable to pay or repay to the Crown, or which is equivalent to the damages done to any arms or other property of the Crown used for Militia purposes, shall be a debt due to the Crown, and may be recovered in any manner in which such debts may be recovered. *Ibid*, s. 108.

Sums of mo-
ney payable to
the Crown
under this Act,
how recover-
able.

120. 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

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

Limitation of
action.

Tender of
amends.

before

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. *Ibid*, s. 109.

If plaintiff be-
non-suit, &c.

121. 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. *Ibid*, s. 110.

No costs
against de-
fendant except
with approval
of Judge.

Payment of
moneys under
this Act.

122. All sums of money required to defray any expense authorized by this Act, may be paid out of the Consolidated Revenue Fund of this Province, upon warrant directed by the Governor to the Receiver General; and such warrants may be made in favour of the Adjutant General of Militia, to enable him to pay such expense, or in favour of the party directly entitled to the money; 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. *Ibid*, s. 111.

Proviso.

Accounting to
Parliament.

123. 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. *Ibid*, s. 112.

Interpretation.

124. The Interpretation Act shall apply to all regulations, orders and articles of engagement lawfully made or entered into under this Act. *Ibid*, s. 114.

Interpretation
clause.

125. The word "Corps" shall, for the purposes of this Act, include any Field Battery, Troop of Cavalry, Foot Company of Artillery or Rifle Company, or any Battalion or Regiment. 22 V. (1859) c. 18, s. 20.

Things done
under Acts
repealed.

126. The Acts 9 V. c. 28,—13, 14 V. c. 11,—4, 5 V. c. 2,—12 V. c. 88 and 12 V. c. 89—having been repealed by the Act 18 V. c. 77,—all Acts and Laws repealed by the said Acts or any of them shall nevertheless remain repealed ;—And all offences committed against them or any or them before the said Act 18 V. c. 77 came into force, shall be prosecuted and punished, under the said Acts and Laws, which shall remain in force as to such offences. 18 V. c. 77, s. 1.