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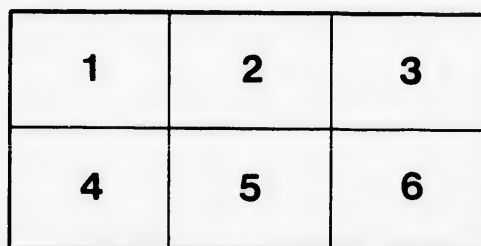
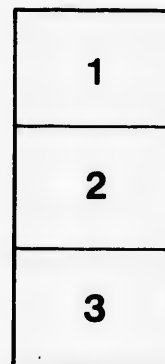
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ANNO VICESIMO-SECUNDO

## VICTORIÆ REGINÆ.

### CAP. XVIII.

An Act to amend and make permanent the Laws relating to the Militia of this Province.

[Assented to 4th May, 1859.]

**W**HEREAS it is expedient to amend and make permanent an Act passed in the eighteenth year of Her Majesty's reign, intituled, *An Act to regulate the Militia of this Province and to repeal the Acts now in force for that purpose*, and also, an Act passed in the nineteenth and twentieth years of Her Majesty's reign, intituled, *An Act to amend the Militia Law*: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. The Act passed in the eighteenth year of Her Majesty's reign, intituled, *An Act to regulate the Militia of this Province and to repeal the Acts now in force for that purpose*, and the Act passed in the nineteenth and twentieth years of Her Majesty's reign, and intituled, *An Act to amend the Militia Law*, as hereinafter amended, are hereby made permanent.

Preamble.

18 V. c. 77.

19, 20 V. c. 44.

The said Acts made permanent as hereby amended.

2. The fifth section of the first recited Act is hereby repealed, and the following section is substituted therefor, and shall be read as part of the said Act:—"The Sedentary Militiamen shall be divided into two Classes, to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."

New section substituted for 18 V. c. 77, s. 5.

#### ACTIVE OR VOLUNTEER MILITIA.

3. From and after the thirty-first day of December, in the year one thousand eight hundred and fifty-nine, the Companies of Foot Artillery and Rifle Companies of Class A, shall together not 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 of Companies of Foot Artillery shall from time to time form portion of the said number of fifty hereinbefore mentioned, not exceeding five as aforesaid.

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

4.

New section substituted for 32 of 18 V. c. 77, as to drilling and exercising.

Proviso.

Pay List and affidavit.

New section substituted for sect. 29, of 18 V. c. 77, as to keeping of arms.

Corps to appear armed on certain occasions only.

New section substituted for sect. 34 of 18 V. c. 77.

Payment of Active Militia.

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

4. The thirty-second section of the first recited Act is hereby repealed and the following section is substituted therefor:—"The Volunteer Militia Companies shall be drilled and exercised at such time in each year and at such places as the Commander in Chief may from time to time appoint; the Volunteer Field Batteries being so drilled and exercised during 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; Provided that, inclusive of the pay for the year one thousand eight hundred and fifty-nine, and annually hereafter, the moneys to be paid for pay for each day on which Companies shall be 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."

5. The twenty-ninth section of the first recited Act is hereby repealed, and in lieu thereof, the following section shall be taken and read as part of the said Act:—"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 their said Corps respectively, and shall himself actually keep the same, and may be allowed annually a sum not exceeding five pounds for so doing and for taking care of the arms and accoutrements."

6. No Corps of Active Militia and no non-commissioned officer or private thereof, shall at any time appear armed or accoutred except when *bonâ 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.

7. The thirty-fourth section of the Act first above recited is hereby repealed, and in lieu thereof, the following section shall be taken and read as part thereof:

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

"For the year one thousand eight hundred and fifty-nine, the non-commissioned officers and men of Class A, shall be paid for each day's actual and *bonâ 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.

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"For each and every other year, other than the year one thousand eight hundred and fifty-nine, the non-commissioned officers and men of such Corps of Class A or of such portions thereof only as are hereinafter mentioned, shall for each day's actual and *bonâ fide* drill, be paid the sum of one dollar,—and in so far only as regards the horses to be used in such 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; and which Corps or portions thereof respectively so entitled to be paid are as follows:

"*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 heretofore constituted and now existing under the first recited Act; Artillery Corps.

"*Cavalry.*—Thirty non-commissioned officers and men of each of the five Troops of Cavalry senior in priority of Gazette under the first recited 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; Cavalry Corps.

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

"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 lesser proportion than the sum of one dollar to each man, so that the surplus of men *bonâ 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; 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 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 *bonâ 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

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

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

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



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."

Volunteers exempt from serving as Jurors or Constables.

Evidence of service.

As to notice of intention to leave any Corps.

Inspection of Volunteer Corps.

Proviso: as to Rank of Inspecting Officer.

Offices of Inspecting Officer and Deputy Adjutant General may be amalgamated: salary in such case.

Uniformity of uniform in all Volunteer Corps required.

8. 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 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.

9. The period of time required by the forty-first section of the first above recited Act to be given of intention to leave any Volunteer Corps, shall be two months in lieu of one month as prescribed by the said section.

10. 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; 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.

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

12. The uniform of the several Field Batteries,—of the several Troops of Cavalry,—and of the several Rifle Companies—continued under this Act, or hereafter to be organized, shall be of such one and similar colour, pattern and design as may be ordered by the Commander in Chief, at any time after the passing of this Act; 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,—

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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; provided that the several Corps at present in existence or to be continued in existence under this Act, may continue to wear their present clothing until the same shall require 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.

**13.** From and after the thirtieth day of June next, the forty-eighth and forty-ninth sections of the first above recited Act are hereby repealed; but the Commander in Chief may from time to time appoint so many Assistant Adjutants General, with such duties as he may think proper or expedient, but no pay or allowances shall be made to them in respect of such appointment.

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

#### GENERAL PROVISIONS.

**14.** No Adjutant General of Militia shall be appointed except in case of war or any emergency, such 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 any 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 such vacancy 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.

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

**15.** 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.

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

**16.** 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

Appointment of Staff Officers and their rank.

the efficiency of the Militia service, and all such appointments as have been heretofore 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.

Unlawfully retaining moneys belonging to militiamen to be a misdemeanor.

**17.** Any Officer or Commissioned Officer of Militia of this Province, heretofore appointed or who may hereafter be appointed to the Active Force, or to the Sedentary Militia, and who may obtain under false pretences or who may retain or keep 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.

Annual Muster day in Upper Canada, may be on the 29th June.

**18.** Notwithstanding any thing contained in the sixth section of the Act first above cited, it shall be lawful for the Commander in Chief, at his discretion, but on the application of the Commandant of any Military District in Upper Canada, to direct that the annual Muster day may, in such District, be on the twenty-ninth day of June.

False swearing to be perjury.

**19.** Any person making an Affidavit or Declaration required in and by this Act, and who shall swear or declare falsely therein, shall be guilty of perjury.

#### INTERPRETATION.

Interpretation clause.

**20.** 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.

Inconsistent enactments repealed.

Proviso: as to liabilities incurred before this Act.

**21.** All parts of the said Acts made permanent by this Act and inconsistent herewith, are hereby repealed: Provided always, That nothing herein shall be construed to relieve the Officers or men of the said 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 such parts of the said Acts as may be hereby repealed, but that any proceedings thereto relating shall be brought within twelve months after the discovery of any breach of the provisions thereof.

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