

Wm. W. Moore

A C T S
OF THE
GENERAL ASSEMBLY
OF
HIS MAJESTY'S PROVINCE
OF
NEW-BRUNSWICK.

PASSED IN THE YEAR 1808.



SAINT JOHN:
PRINTED BY JACOB S. MOTT, PRINTER TO THE KING'S MOST
EXCELLENT MAJESTY, AT THE SIGN OF THE BIBLE AND
CROWN, PRINCE WILLIAM-STREET.—1808.

Rec. Aug. 14., 1906



ANNO REGNI
GEORGI III.
BRITANNIARUM REGIS,
QUADRAGESIMO OCTAVO.

AT the GENERAL ASSEMBLY of the Province of NEW-BRUNSWICK, begun and holden at FREDERICTON, on the *Ninth* Day of FEBRUARY, *Anno Domini*, 1803, in the Forty-third Year of the Reign of our said Sovereign Lord GEORGE the THIRD, by the Grace of GOD, of the United Kingdom of Great-Britain and Ireland, KING, Defender of the Faith, &c. and from thence continued by several Prorogations, to TUESDAY the *Fifth* Day of JULY, 1808; being the Fourth Session of the Fourth General Assembly convened in the said Province.



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L A W S

OF THE

PROVINCE OF NEW-BRUNSWICK.

CAP. I.

An ACT for the greater security of this Province by the better regulating the Militia thereof: Passed the 30th of July, 1808:

Expire
X

WHEREAS a well regulated Militia in this Province will at all times; tend not only to the security and defence thereof, but to the honor and service of His MAJESTY: And Whereas in times of imminent danger either by invasion or sudden attack made or threatened to be made by His MAJESTY'S enemies on any of His MAJESTY'S subjects within this Province; it may become expedient and necessary that the Militia of the several and respective Counties or a part thereof, should be drawn out and embodied; and ordered into actual service, in which case it will become requisite that due subordination should be observed: And Whereas the Law now in force is inadequate to these important purposes.

I. *Be it enacted by the President, Council and Assembly, That* an Act made and passed in the Forty-fifth Year of His MAJESTY'S Reign, intituled "An Act for the better regulating the Militia in this Province;" and an Act intituled "An Act in addition to an Act intituled an Act for the better regulating the Militia in this Province" be, and the same are, hereby repealed, saving nevertheless the right of recovery of such fines and penalties as may have been incurred by the said Act intituled "An Act for the better regulating the Militia in this Province."

II. *And be it further enacted, That* from and after the passing of this Act, every male white inhabitant or resident within this Province from sixteen to sixty years of age shall be enrolled in some one of the Regimented Companies of foot in the district where he dwells or resides, the extent of which district shall be determined by the Colonel or Commanding Officer of the Militia of the County, and all Captains or Commanding Officers of Companies in the several Towns or Parishes within the Province, are hereby required to take due care to enroll in a book or register to be kept by them respectively for that purpose, all male white inhabitants from sixteen to sixty years of age, and that once in every year, and oftener if thereunto required each Captain or Commanding Officer of the Company shall give to his Colonel or in his absence to the next Commanding Officer of the Regiment fair written rolls of their respective Companies and Regiments, whose duty it shall be to report the same to the Captain General or Commander in Chief for the time being.

All male white Inhabitants to be enrolled in the district where they reside.
Extent of districts to be determined by Colonels.
Captains to enroll all white Inhabitants.
Capts. to give Rolls of their Companies once a year to the Colonel,
who is to report to the Commander in Chief.

Militia to be formed into Regiments by Counties.

Companies to consist of not more than one Captain, one Lieutenant, one Ensign, three Serjeants, and sixty rank and file, except Flank and Artillery Companies heretofore established.

Officers of Companies to appoint Serjeants, &c.

Penalty on non-Commissioned Officers refusing to serve.

Regiments to be called out by Companies twice in every year,

times and places to be appointed by the Colonel,

of which ten days previous notice to be given in writing by the Captains, and posted up by a non-Commissioned Officer.

Companies not to go more than twelve miles from their usual rendezvous.

Adjutants to be appointed to the Militia to attend each Company, Detachment or Regiment when called out, to inspect their arms, &c. and superintend their exercise.

Allowances to Adjutants 7s 6d p. diem,

days to be certified by the Colonel,

not to exceed the following rates per annum.

III. *And be it further enacted*, That the Militia shall be formed into Regiments by Counties, and that no Regimented or Artillery Company shall consist of more than one Captain, one Lieutenant, one Ensign, three Serjeants and sixty rank and file, except such Flank and Artillery Companies as have heretofore been established, which may have two Lieutenants, and that the Captain and Commissioned Officers of each Company shall be and they are hereby fully empowered to nominate and appoint proper persons to serve as Serjeants, Corporals, Drummers and Fifers in their respective Companies and with the consent of the Commanding Officer to displace them and appoint others in their room as they shall see occasion. And if any non-commissioned officer so to be appointed shall refuse to accept the office to which he shall be appointed, or after having been appointed shall refuse or neglect to perform such duties as appertain to his office, he shall for such refusal or neglect forfeit and pay the sum of *two pounds* to be adjudged, levied and disposed of as other fines and penalties are directed by this Act.

IV. *And be it further enacted*, That from and after the passing of this Act, every Regiment shall be called out and rendezvous by Companies twice in every year for the purpose of training, disciplining and improving in martial exercises, the times and places of rendezvous to be appointed by the Colonel or Commanding Officer of the Regiment, and arranged on different days or in such manner that the Field and Staff Officers may have an opportunity of attending the several Companies in order to introduce uniformity in the manœuvres and discipline of the Regiment, of all which several and respective days of rendezvous and training previous notice shall be given in writing by the Captains or Officers commanding Companies at least ten days, which notice shall be posted up by a non-commissioned Officer at three of the most public and conspicuous places within the Parish or district where such Company may reside, which notification shall be deemed a lawful and sufficient warning.—*Provided always*, that no Company shall be obliged to go more than twelve miles from the usual rendezvous of such Company.

V. *And be it further enacted*, That there shall be an Adjutant appointed to each Regiment in the Province, whose duty it shall be to attend at the places of rendezvous of each Company, Detachment or Regiment, when called out as aforesaid, then and there to inspect their arms, ammunition and accoutrements, superintend their exercise and manœuvres, and introduce such a system of Military discipline as shall be established by the PRESIDENT or Commander in Chief for the time being, and do and perform such other duties and services suitable for an Adjutant as the Colonel or Commanding Officer of the Regiment shall from time to time order and direct, and that every such Adjutant shall be allowed as a full compensation for all the services he is required to perform by this Act, the sum of *seven shillings and six-pence* by the day for every day he shall be actually employed as such, the number of days to be certified by the Colonel or Commanding Officer of the Regiment. *Provided*, that the sum allowed to the Adjutant of the Militia in the County

County of *Northumberland* shall not exceed the sum of *twenty pounds* in any one year; the Adjutant of the County of *Westmorland* shall not exceed the sum of *sixteen pounds* in any one year; the Adjutant of the City of *Saint John* shall not exceed the sum of *ten pounds* in any one year; the Adjutant of the County of *Charlotte* shall not exceed the sum of *twenty pounds* in any one year; the Adjutant of the County of *Kings* shall not exceed the sum of *twelve pounds* in any one year; the Adjutant of the County of *Queens* shall not exceed the sum of *ten pounds* in any one year; the Adjutant of the County of *Sunbury* shall not exceed the sum of *ten pounds* in any one year; and the Adjutant of the County of *York* shall not exceed the sum of *twenty pounds* in any one year.

VI. *And be it further enacted*, That every person enrolled as aforesaid, shall at all times when called out, under, and by virtue of this Act, appear with such arms, accoutrements and ammunition as have been, or may hereafter be issued to him by Government, or with arms, accoutrements and ammunition of his own equally sufficient in complete order, and for not appearing with such arms, accoutrements and ammunition as aforesaid, shall for each and every neglect forfeit and pay the sum of *ten shillings*, to be levied by distress and sale of the offenders goods; by the Captain's or Commanding Officers Warrant, directed to a Serjeant or Corporal of the Company to which such offender belongs, who are respectively empowered to serve and execute the same, rendering the overplus, if any, after deducting the costs and charges of such distress and sale to the offender; and if no such effects shall be found, whereon to levy the said fine, such offender shall be sentenced to hard labour or imprisonment for not more than six nor less than three days; all which fines shall be applied to defray the contingent expenses of the Regiment to which such offender may respectively belong: And every Commissioned Officer when called out as aforesaid, shall appear with a Sword, and for not so appearing shall forfeit and pay for each and every neglect the sum of *forty shillings*, to be recovered by Warrant under the hand and seal of the Commanding Officer.

And whereas, arms and accoutrements have been issued from His MAJESTY'S Stores for the use of the Militia in several parts of this Province; and it is necessary to provide for the security of those arms and accoutrements or such as may hereafter be issued.

VII. *Be it further enacted*, That such arms so issued or which may be hereafter issued, shall be branded distinctly on the broad part of the Butt with the letter M and the name of the County to the Militia of which they are issued (such Brand to be provided by the Commanding Officer of the Regiment) and all Captains or other Officers commanding Companies shall be and they are hereby made responsible (except in case of unavoidable accident) for the safe keeping, and return if called for, of such arms and accoutrements as were issued to the men in their respective Companies, or may hereafter be so issued; and such Captains or Officers commanding Companies, are hereby empowered

person to whom they have been issued give Bond for their safe keeping and return.

powered and required to take into their possession all such arms and accoutrements, except where the person to whom they have been or shall be issued, shall give Bond with sufficient surety to our Sovereign Lord the KING in the penalty of *five pounds* conditioned for the safe keeping and return of the said arms and accoutrements; which Bonds so given shall be lodged with the Clerks of the Peace in the respective Counties; who are hereby required to receive and file the same in their respective Offices;

Bonds to be lodged with the Clerks of the Peace.

Person giving Bond may keep the arms while he continues in the Company,

which person so giving Bond as aforesaid, shall be intitled to keep possession of such arms and accoutrements while he continues in the same Company; and in case of the removal of any such person from such Company, his arms and accoutrements shall be returned to the Captain or other Officer commanding the said Company, who shall give a receipt for the same to the person so delivering the said arms: And if any person having

on leaving the Company to deliver the arms to the Captain, &c. who shall give him a receipt.

Arms, &c. lent by Government, being sold, disposed of, or conveyed away, offender to forfeit 10l.

such arms or accoutrements in his possession shall vend, pledge or exchange the same, or any part thereof (without leave of the Officer commanding the Company to which such person belongs) or shall convey or cause the same or any part thereof to be conveyed out of the Province, or shall convey or cause the same to be conveyed on board any Boat, Ship or Vessel with intent to have the same carried out of the Province, or if the Master of such Boat, Ship or Vessel shall wilfully receive into his Boat, Ship or Vessel any such arms or accoutrements so intended to be conveyed out of the Province, or if any person shall purchase the said arms, every person so offending shall for each and every offence forfeit and pay the sum of *ten pounds* :

Arms, &c. called for to be delivered into the King's Stores, deficiencies to be paid for out of the Province Treasury.

And in case the said arms and accoutrements shall at any time be called for to be delivered into His MAJESTY'S Stores, all deficiencies shall be paid for out of the Treasury of the Province, excepting such arms and accoutrements as shall have been lost on actual service against an enemy.

Persons furnished with arms by Government not to use them for any other purpose than that for which they were supplied, under penalty of 10s.

VIII. *And be it further enacted*, That no person who has been or may hereafter be furnished with arms, accoutrements or ammunition by Government, shall use the same for any other purpose than that for which they have been supplied, under a penalty of *ten shillings* for each and every offence, which fines shall be recovered upon conviction before any one Justice of the Peace

Fines to be recovered before a Justice of Peace, and levied by Warrant of distress,

upon the oath of one or more credible witness or witnesses, and levied by Warrant of distress and sale of the offenders goods, rendering the overplus, if any, after deducting the costs and charges of such distress and sale to the offender, one half of

penalties applied half to the prosecutor, residue for repairing arms, &c.

which penalties shall be paid to the person who shall prosecute for the same, and the other half be applied to the purpose of defraying the expences incurred in repairing such arms and accoutrements, and making good any deficiency which from unavoidable accident may have happened to such arms and accoutrements;

overplus, if any, as other fines, for want of effects to levy the fine of 10l. offender to be imprisoned not more than six nor less than three months, and in lieu of the last fine of 10s. as many days.

the overplus, if any, to be appropriated as other fines incurred by the provisions of this Act, and for want of effects whereon to levy the said fine of *ten pounds*, such offender shall be imprisoned not exceeding six nor less than three months, and in lieu of the said last mentioned fine of *ten shillings*, not more than six nor less than three days,

IX. *And be it further enacted*, That every person enrolled as aforesaid, who shall refuse or neglect to appear agreeably to the provisions of this Act; when called upon, shall forfeit the sum of *ten shillings*, or appearing under arms, shall refuse or neglect to perform such Military duty as shall be required of him, or shall on the day of muster or training depart from the Company, when under arms, without leave from the Commanding Officer, shall forfeit and pay for each and every offence, the sum of *twenty shillings*. *Provided always*; that the Members of His MAJESTY's Council, Members of the Assembly; Justices of the Peace, High Sheriffs, Coroners, Licensed Clergymen, all persons exercising Commissions Civil or Military under His MAJESTY, Officers on Half-Pay, supernumerary Militia Officers now in Commission, the Surveyor General, and the Treasurer of the Province, Officers of His MAJESTY's Customs, Revenue and Naval Officers, gentlemen of the Learned professions, and one Miller to each Grist Mill, and one Ferryman to each established Ferry, shall be free and exempted from being enrolled in the Militia in manner herein mentioned; and all the said fines imposed by this Section shall be paid into the hands of the Colonel or Commanding Officer to defray the contingent expences of the Regiment.

Persons not appearing to forfeit 10s.

or appearing and refusing to do duty to forfeit 20s.

Persons exempted from being enrolled.

Fines applied to defray Regimental contingencies.

X. *Provided always, and be it further enacted*, That every person professing himself to be of the people called Quakers, and producing to the Captain or Commanding Officer of the Company in whose district he resides, a certificate signed by two or more principal people of that profession; that such person has been deemed and allowed to be one of the people called Quakers, for the space of one whole year or more; before the date of such certificate; such person so producing such certificate shall be, and hereby is exempted from the ordinary duties of training and mustering; unless upon an actual invasion or imminent danger thereof, as herein after mentioned.

Quakers exempted from training on producing certificate.

XI. *And be it further enacted*, That in case of any actual invasion or imminent danger thereof by the enemy, in any County where the Commander in Chief cannot be immediately consulted, the Commanding Officer of the Militia in such County shall have power, if he in his discretion, shall think it absolutely necessary or expedient, to call out the Militia in such County, or any part thereof into real service, and also the whole or a proportion of those described as exempts in the ninth Section of this Act (licensed Clergymen, Millers and Ferryman excepted) which exempts shall appear armed and accoutred as is required of persons serving in the Militia, excepting Physicians and Surgeons who may appear without arms, and in case of any such actual invasion or imminent danger thereof in any Town, Parish or district, in any County where the Colonel or Commanding Officer of such County cannot be immediately consulted, the Officer Commanding the Militia in such Town, Parish or district shall have power, if he in his discretion shall think it absolutely necessary or expedient to call out the Militia under his command, and also the exempts as aforesaid or any part thereof into real service: And such Officer last mentioned shall

In case of invasion, Commanding Officers of Counties may call out Militia,

and the exempts who are to be armed.

Where Colonel cannot be consulted, Officer commanding a district may call out the Militia,

and report to the Colonel, who is to send an express to the Commander in Chief. forthwith report his proceedings and the reasons and grounds thereof to the Colonel or Commanding Officer of the Militia of the County, who is hereby required in case he shall call out or continue in real service any part of the Militia under his command, forthwith to dispatch an express to the Captain General or Commander in Chief for the time being, notifying the danger and the strength and motions of the enemy, and the said Colonel or Commanding Officer is hereby empowered to impress Boats, Men and Horses as the service may require.

Col. may impress boats, men & horses.

Commander in Chief may in case of invasion call out the Militia of the several Counties.

XII. *And be it further enacted,* That the Captain-General or Commander in Chief shall be, and he is hereby authorised and empowered in case of any actual invasion or imminent danger thereof as aforesaid, to call out the Militia of the several Counties or any part thereof into real service, as he in his discretion shall think fit, and the exempts as aforesaid.

Militia may be ordered to march from one County to another.

XIII. *And be it further enacted,* That the Militia or any part thereof, and the exempts as aforesaid, so called out into real service, by virtue of the provisions of this Act, shall and may be ordered to march from one County or part of the Province to another, on any necessary service occasioned by such actual invasion or imminent danger thereof.

Non-Commissioned Officer or Private misbehaving at any muster, the Officer Commanding the Company may confine him and impose a fine not exceeding 10s.

XIV. *And be it further enacted,* That if any non-Commissioned Officer, or private of any Company of Militia in this Province, shall be guilty of drunkenness, contemptuous behaviour, disobedience of orders, or shall otherwise misbehave himself at any muster or training, while under arms, it shall and may be lawful in any such case for the Officer Commanding the Company to order such person or persons so offending to be confined under a Guard during the time of such muster or training, and also to impose a fine on such offender or offenders not exceeding the sum of *ten shillings* to be recovered and applied as other fines and forfeitures are directed to be recovered and applied in the sixth Section of this Act.

Fine how recovered and applied.

Any person wilfully interrupting any detachment at exercise to be confined and pay a fine of 20s.

XV. *And be it further enacted,* That if any person shall wilfully interrupt any Company, Detachment or Regiment of Militia at exercise or muster, or any duty prescribed by this Act, it shall and may be lawful for the Officer commanding such Company, Detachment or Regiment to confine such person during the time of such exercise or muster (if necessary) to prevent the continuance of such insult or wilful interruption; and the person so offending shall forfeit and pay the sum of *twenty shillings* for each and every offence, to be recovered on conviction before any one Justice of the Peace.

to be recovered before a Justice of the Peace.

Captains or Subalterns misbehaving at a muster, to be tried by a Regimental Court Martial,

XVI. *And be it further enacted,* That whenever hereafter any general muster or training shall be ordered in pursuance of this Act, and any Captain or Subaltern Officer of any Regiment or Detachment shall be guilty of disobedience of orders or contemptuous or improper behaviour during such muster or training, it shall and may be lawful for the Colonel or Commanding Officer of such Regiment to order a Court Martial forthwith on such

such Officer so misbehaving, which Court shall consist of two Captains and three Subalterns belonging to the same Regiment, and in case such charge is proved, it shall be their duty to report their proceedings to the Colonel or Commanding Officer of such Regiment, and if the sentence of such Court Martial shall be approved of by the Commander in Chief of the Militia of this Province, such Officer so found guilty shall be dismissed.

and (if sentence approved by the Commander in Chief,) to be dismissed.

XVII. *And be it further enacted*, That it shall and may be lawful for the Colonel or Officer Commanding any Battalion of Militia in this Province, to appoint a Serjeant-Major, Quarter-Master-Serjeant and Clerk for such Battalion, who are hereby made liable to be tried by a Regimental Court Martial for disobedience of orders or contemptuous and improper behaviour, which said Court Martial shall be constituted as herein before-mentioned, and shall have power to punish by fine and imprisonment, such fine not to exceed *forty shillings* or imprisonment ten days. *Provided always, and be it further enacted*, that no sentence of any such Court Martial shall be put in execution until approved by the Commanding Officer of such Regiment or Detachment, and the Serjeant-Major, Quarter-Master-Serjeant and Clerk, so appointed shall be exempted from all balloting for actual service.

Col. &c. may appoint Serj. Major, Qrt. Master-Serjeant and Clerk, who are liable to be tried by a Regimental Court Martial for disobedience of orders, &c. and are exempted from balloting.

XVIII. *And be it further enacted*, That the Militia of this Province as herein after described, that is so say, persons from the age of *eighteen to fifty* years, those exempted by the ninth Section of this Act excepted, shall be drilled by Companies in their respective districts, or, where that cannot conveniently be done, by half Companies twelve days in each and every year, that is to say, six days commencing the last Monday in the month of *June*, and six days commencing the last Monday in the month of *October* in each year; over and above the number of days directed by the fourth Section of this Act; and such Companies or half Companies shall be drilled under the direction of a Commissioned Officer by such persons as the Commander in Chief shall appoint for that purpose.

Persons between 18 and 50 years of age (exempts excepted) to be drilled by Companies in their respective districts or by half Companies twelve days in each year, six days in June, and six in October, over and above the number of days directed in the fourth Section.

XIX. *And be it further enacted*, That such non-Commissioned Officers and other fit persons as the Commander in Chief shall in his discretion think proper to employ (and under such regulations and directions as he shall think fit) for the purpose of drilling the Commissioned, non-Commissioned Officers and privates in the several and respective Regiments, Battalions and Companies of Militia in this Province, at the several and respective times, when such Regiments, Battalions and Companies shall be called out for training and exercise, under and by virtue of this Act, shall be intitled to and receive *two shillings* per day during the time they shall be so employed, and at the same rate for every fifteen miles travelling in going to and returning from such service, to be paid out of the Treasury of this Province.

Persons employed to drill the Militia to be paid 2s. per day during the time they are employed, and at the same rate for every fifteen miles going and returning.

XX. *And be it further enacted*, That all persons of the age last above-mentioned, that is to say from *eighteen to fifty* years, shall assemble by Regiments or Detachments in each County

Persons from 18 to 50 years of age to assemble by Regiments or detachments one

day, or three days successively if so ordered by the Commander in Chief, who is to fix the times and places,

when called out more than one day, to be paid for the additional days.

Persons neglecting to attend or refusing to do duty, subject to the penalties mentioned in the sixth Section.

No person to go more than twenty miles from his place of residence.

Commander in Chief when he deems the Militia of any Regiment sufficiently disciplined may lessen the duties required by this Act.

Militia ordered for actual service,

a draught to be by ballot of all persons between 18 and 50 years of age.

Exempts between 18 and 50 years of age to be formed into a Company under the direction of the Colonel, except licensed Clergymen, Millers and Ferrymen,

and liable to be drafted.

Each person drafted to go himself or find a good man in his room under penalty of 10l.

or three months imprisonment.

one day in the year, or three days successively if the Commander in Chief shall so order and direct, for the purpose of training and disciplining as aforesaid, the time and place of which general training shall be as the Commander in Chief shall direct and appoint; in order that an opportunity may be afforded to the inspecting Field Officer to attend the same, and whenever the Commander in Chief shall deem it necessary to exercise or review any Regiment or Detachment as aforesaid more than one day in any one year as aforesaid, the Officers; non-Commissioned Officers; Drummers, Fifers and Privates, shall be entitled to receive the like pay and allowances for each day more than one as aforesaid as is herein after provided for the Militia when on actual service, and every person neglecting to attend, or refusing to perform his duty at such district or general training, or who shall not appear with his arms, accoutrements and ammunition as herein before directed shall be subject to the same fines and penalties as are imposed for neglect of duty on training days; regulated in the sixth Section of this Act: *Provided always,* that no person shall be obliged to go more than twenty miles from his place of residence to attend any such general training: *And provided also,* that the Commander in Chief (whenever he may deem the Militia of any Regiment to be well and sufficiently trained and disciplined) may, and he is hereby authorised by Proclamation, or order directed to the Commanding Officer of any such Regiment, to dispense with or lessen so much and such parts of the duties required by this Act as to him may seem meet.

XXI. *And be it further enacted,* That whenever the Captain-General or Commander in Chief, shall direct any part of the Militia or the exempts as aforesaid, of any or either of the Counties to be called out as aforesaid into real service, a Draught by ballot shall be made from each Company in exact proportion according to the number then fit for duty, which shall be on the oath of the Captain or Commanding Officer of such Company to the best of his knowledge if required, of all persons from the age of *eighteen to fifty* years, and on such occasions all the persons within the County in which any part of the Militia shall be called out as aforesaid, between *eighteen and fifty* years of age, who are herein before declared to be exempted from being enrolled in the Militia, in manner herein before mentioned, except licensed Clergymen, one Miller and one Ferryman to each Grist Mill and established Ferry, who shall not have joined or formed themselves into any Company as aforesaid, shall be formed into a Company, under the direction of the Colonel or Commanding Officer of the Militia in such County, and shall be liable to the same Draught by ballot as any other Company in such County, in proportion to their numbers then fit for duty as aforesaid, and each and every person so drafted, shall go in his own proper person or find a good and sufficient man in his room, and for his neglect or disobedience herein, he shall be subjected to a fine of *ten pounds*, which if he neglect or refuse to pay, he shall be committed to Gaol by Warrant from the Commanding Officer, where he shall remain three months or until

until he pays the said fine, and another man shall be drafted as ^{In case of refusal another man to be drafted who shall have half the fine if he goes or be subject to the same penalty for refusal.} aforesaid to march in his place, who shall have half of the said fine, if he shall not refuse or neglect to go or find a good and sufficient man in his room as aforesaid, but if he shall so neglect or refuse, then he shall be subject to the like fine; and a further draught shall be made of another man who shall have half of the fine last mentioned; if he shall not neglect or refuse to go or find a good and sufficient man as aforesaid; and so as often as such case shall happen. *Provided always*, that in case any part of the Militia or exempts as aforesaid in any County shall be called out more than once, no person who has been once drafted as aforesaid, shall be again drafted until all the others belonging to the same Company shall have been drafted. *Provided always*, that nothing in this Act shall be construed to extend to oblige the Firemen appointed by the Corporation of the City of *Saint John* to the two Engines in that City, or Firemen that may be appointed to any Engine that may be hereafter established in any other Town in this Province, not exceeding fifteen men to each Engine; to do duty beyond the limits of the said City or Town respectively. *Provided always*, that no persons commonly called Quakers; and duly certified as such by their Society, being drafted, shall be liable to the foregoing fine, but in such case such Quaker being drafted as aforesaid and refusing to serve or procure a substitute as aforesaid; it shall and may be lawful for the Captain or Officer Commanding the Company to which such Quaker belongs, to procure and hire a substitute for such Quaker, and such Quaker shall be liable to pay the expence of such hiring, to be recovered before any two of His MAJESTY'S Justices of the Peace; and provided the same shall not exceed *ten pounds*: *Provided also*, that those who have already served in the Embodied Militia, and those to be hereafter drafted shall not be liable to be again drafted until all the others belonging to the same Company shall have been drafted.

XXII. *And be it further enacted*, That whenever the PRESIDENT or Commander in Chief for the time being, shall in consequence of any actual invasion or imminent danger thereof, as aforesaid, think it expedient to order a proportion of the Militia of any County to march out of such County on real service, volunteers who offer themselves for such service, being able of body in the opinion of the Field Officers of the Regiment to which such volunteer or volunteers shall belong, shall be accepted therefor, and being so accepted, shall be subject to all the provisions of this Act as though they had been drafted by ballot.

XXIII. *And be it further enacted*, That whenever the whole or any part of the Militia shall be ordered to march from one part of the Province to another on real service as aforesaid or shall be called out as aforesaid to do actual duty on real service within any Town or County in this Province, there shall be allowed and paid to the Commissioned, and non-Commissioned Officers, Drummers and Private men for so long a time as they remain on such service at and after the rates following, that is to say, to the Commissioned Officers after the same rate as Officers of the like rank in His MAJESTY'S troops; to every Serjeant *two*

with allowances of all kinds, subject to deductions. every Private *one shilling and six pence* per day together with the like allowances of all kinds, as are distributed and allowed to His MAJESTY'S regular forces, and subject to the like deductions therefor, and also one days pay for every days travel to and from the place of rendezvous computing fifteen miles for each days travel.

XXIV. *And be it further enacted,* That when in consequence of the order of the PRESIDENT or Commander in Chief, or in the cases herein before mentioned of the Colonel or Officer commanding the Militia of any County: The Militia or any part thereof shall be called into real service, every Officer or person enrolled in the Militia so called into actual service is hereby bound and required to yield obedience to all lawful commands of his superior Officers, for mounting guards, erecting works, and other military services for repelling, resisting or guarding against the attacks of the enemy, under the penalty of incurring the forfeitures appointed by this Act for disobedience of orders.

XXV. *And be it further enacted,* That if any Officer non-Commissioned Officer or Private of the Militia or exempts as aforesaid under arms for real service on a march, or on guard or that shall be ordered for any of the duties or services herein before mentioned, shall disobey orders or neglect doing his duty or shall shew any contemptuous behaviour towards his superior Officer, if an Officer he shall on conviction thereof before a general Court Martial to be constituted and appointed as herein after directed, be cashiered by the sentence of such Court Martial, if a non-Commissioned Officer or Private, he shall be confined by the Commanding Officer of the party or guard, and it shall be lawful for the Commanding Officer of the Regiment or of any party or command not under the degree of a Captain, to order a Regimental Court Martial to be forthwith held for the trial of such offender, the said Court Martial to consist of three Commissioned Officers at least, but where they can be had of five; who may give judgment by laying a fine on such offender in any sum not exceeding *forty shillings*, which fine so ordered by the Court Martial if he neglect or refuse to pay, shall be either stopped out of the pay of such offender or recovered by warrant of distress and sale of his goods and chattels under the hand and seal of the Commanding Officer of such Regiment or party, and for want thereof to be imprisoned or subject to hard labour not exceeding *ten days*. *Provided always nevertheless,* that no sentence of a Regimental Court Martial shall be put in execution, until approved of by the Officer ordering such Court Martial, and no Officer being the accuser shall be a member.

XXVI. *And be it further enacted,* That if any Officer, non-Commissioned Officer or Soldier, shall in the field upon a march, or in quarters on actual service, begin, excite, or join any mutiny, or knowing of such mutiny, begun or intended, shall not give information thereof to his Commanding or other superior Officer,

Officer, or shall not when thereunto ordered, use his utmost endeavours to suppress such mutiny, or shall desert the Company or command to which he belongs, or shall disobey orders; if a commissioned officer he shall be put under arrest by any superior officer, if a non-commissioned officer or soldier, he shall be committed to the next County or other gaol as soon as convenient by order in writing under the hand of the Officer commanding the Regiment, Company, or Detachment, to which such person so offending shall belong, and it shall and may be lawful, for the Governor, Lieutenant-Governor, President or Commander in Chief of the Province for the time being, to order a general Court Martial, by warrant under his hand and seal, for the trial of such offender as speedily as the service will admit; which Court Martial shall not consist of a less number than thirteen Commissioned Officers of the Militia, and the President of such Court Martial shall not be under the rank of a Field Officer, and there shall be as many Captains as conveniently can be had; the eldest Subalterns to make up the number, and that such Court Martial shall have power to administer an oath to any witness in order to the examination or trial of any of the above offences that shall come before them, and shall also have power to punish with death or by fine and imprisonment, in proportion to the enormity of the offence, the fine not to exceed *fifty pounds* nor imprisonment six months. *Provided always*, that no sentence of any general Court Martial shall extend to death unless for desertion to the enemy, for mutiny and sedition, for traitorous correspondence with, or traitorously delivering up to the enemy any garrison, fortress, post or guard, nor shall any man serving in the Militia, be subject to be whipped, or otherwise corporally punished in any case whatsoever except by imprisonment, nor shall the sentence of any general Court Martial be carried into execution until it has been approved of by the Governor, Lieutenant-Governor, President or Commander in Chief for the time being.

XXVII. *And be it further enacted*, That in all trials by general Courts Martial, the President and every Member thereof before any proceedings be had, shall take the following oath, and the Judge Advocate is hereby authorised to administer the same, to wit: I (A B) do swear that I will duly administer justice, according to the Laws of this Province now in force for the better regulating the Militia without partiality, favor or affection; and I do further swear that I will not divulge the sentence of this Court until it shall be approved by the Commander in Chief of this Province, neither will I on any account whatsoever, disclose or discover the vote or opinion of any particular Member of the Court Martial, unless required to give evidence thereof as a witness by a Court of Justice in a due course of Law, so help me God. And no sentence of death shall be given by any such General Court Martial, unless twelve Officers present shall concur therein, and the Governor, Lieutenant-Governor, President or Commander in Chief, shall have power to appoint any fit person to act as Judge Advocate at any such General Court Martial, who shall be allowed for his services *ten shillings* per diem during the time he shall be actually employed in such service, which Judge Advocate so appointed shall previous to

any

if an Officer to be put under arrest, if a non-Commissioned Officer or Soldier to be committed to gaol and tried by a General Court Martial,

to be appointed by warrant under the hand and seal of the Commander in Chief

to consist of not less than thirteen Officers, the President to be a Field Officer.

Court may administer oaths, and may punish with death or by fine not exceeding 50l. or imprisonment not exceeding six months.

No sentence to extend to death but for mutiny and sedition, desertion to the enemy, traitorous correspondence with or traitorously giving up to the enemy any post, &c.

Men serving in the Militia exempted from corporal punishment except imprisonment, no such sentence to be executed until approved by the Commander in Chief.

President and Members of the Court to be sworn.

Oath of Member.

No sentence of death shall be passed unless twelve Officers present shall concur.

Commander in Chief to appoint a Judge Advocate, to be allowed ten shillings per day, and to be sworn.

Oath of the Judge
Advocate.

any proceedings had on the trial of any prisoner, take the following oath, to be administered by the President of the Court Martial, to wit: I (A B) do swear that I will not upon any account at any time whatsoever, disclose or discover the vote or opinion of any particular Member of the Court Martial, unless required to give evidence thereof as a witness by a Court of Justice in a due course of Law, so help me God.

No person to be put
to death until a War-
rant is issued under
the hand and seal of
the Commander in
Chief, directing the
time and place.

XXVIII. *And be it further enacted,* That no person shall be put to death under the sentence of a General Court Martial, until a Warrant under the hand and seal of the Governor, Lieutenant-Governor, President or Commander in Chief, shall issue for the execution of such sentence, which Warrant shall direct the time and place, when and where the person sentenced to death shall be executed, and all sentences of death shall be executed by either shooting or hanging the offender as the same may be directed and ordered in the said Warrant, which Warrant shall be a sufficient justification to the Officer or Officers to whom the same shall be directed, and to all those lawfully employed under them in executing such sentence. *Provided always,* that previous to any persons being put to death pursuant to the sentence of a General Court Martial, such sentence and the Warrant for the execution thereof shall be publicly read in the hearing of the bye-standers at the time and place appointed for such execution.

Death to be either
by shooting or hang-
ing.

Warrant to be a jus-
tification to the per-
sons executing it.

to be publicly read
at the time and place
of execution.

No Officer under the
rank of Captain to
try a Field Officer.

XXIX. *And be it further enacted,* That no Officer under the rank of Captain shall sit upon a Court Martial for the trial of any Field Officer.

Exempts (Justices of
the Peace, persons
above fifty and Ferry-
men excepted) to pay
to the Clerk of the
Regiment, ten days
after enrollment, the
sum of 20s. and an-
nually thereafter 10s.
to be recovered be-
fore a Justice of the
Peace by the Quar-
ter-Master, to form
a fund for keeping
in order arms, &c.
and for purchasing
Powder, an account
of the expenditure to
be laid before the
Officers at their ge-
neral meeting.

XXX. *And be it further enacted,* That all persons exempted by the regulations of this Act, Justices of the Peace, persons above the age of fifty years, and one Ferryman to each established Ferry excepted, shall pay to the Clerk of the Regiment ten days after their enrollment, the sum of *twenty shillings*, and annually thereafter on or before the last day of *March, ten shillings*, to the recovered before any one of His MAJESTY'S Justices of the Peace by the Quarter-Master of the Regiment, the said sums to form a fund for keeping in order the arms and accoutrements in the custody of the Officer commanding such Regiment, and for the purchase of Powder, to be fired on days of muster or rejoicing, and other incidental charges of such Regiment, an account of the expenditure of which, shall be laid before the Officers of the Battalion at their general meeting.

Fines not particular-
ly appropriated to be
paid to Commanding
Officers of Regi-
ments to defray con-
tingencies,

XXXI. *And be it further enacted,* That all fines not herein before particularly appropriated shall be paid to the respective Commanding Officers of Regiments for the purpose of defraying the contingent expences of such Regiments, and that it shall be the duty of the Commanding Officer of the Regiment to see that the fines and forfeitures to be collected by this Act, be laid out for the purposes herein provided for, and that such Commander of every Regiment, render an account to the Commander in Chief every six months of the application of such fines, and what may be remaining in his hands, that the same may be paid into the Province Treasury, if the Commander in Chief shall so direct.

such Officers to ac-
count to the Com-
mander in Chief e-
very six months.

XXXII.

XXXII. *And be it further enacted*, That in all cases where it shall be found necessary, on account of any actual invasion or imminent danger thereof as aforesaid, to call into real service any part of the Militia in any County, it shall and may be lawful for the Colonel or Commanding Officer of the Militia in such County, to cause all the free male Blacks or people of Colour, between sixteen and sixty years of age, to be formed into Companies as nearly as may be of the same strength with the Regimented Companies in the County, and to appoint non-Commissioned Officers thereto, from which Company or Companies shall be drafted by ballot as aforesaid, a proportion exactly according to their numbers then fit for duty, and that the persons so drafted shall serve as Pioneers with the Militia so called out, and shall be entitled to the like pay.

In case of invasion, the free Blacks to be formed into Companies and drafted to serve as Pioneers to the Militia, and entitled to the like pay.

XXXIII. *And be it further enacted*, That if any person be wounded or disabled upon any invasion or attack of the enemy he shall be taken care of and provided for at the expence of the Province during the time of such disability.

Wounded and disabled persons provided for.

XXXIV. *And be it further enacted*, That this Act shall continue and be in force for two Years and no longer.

Limitation.

CAP. II.

An ACT for making Procefs in Courts of Equity effectual against Persons who reside out of this Province and cannot be served therewith. Passed the 30th July, 1808.

WHEREAS sometimes persons have withdrawn themselves out of the limits of this Province, and thereby rendered it impracticable to serve them with Process for their appearance in the Court of Chancery of this Province; for remedy of the inconveniences thence ensuing.

Preamble.

I. *Be it enacted by the President, Council and Assembly*, That if in any suit which hath been or hereafter shall be commenced in the said Court of Chancery, any defendant or defendants against whom any Subpœna or other Process shall issue, shall not cause his, her or their appearance to be entered upon such Process within such time and in such manner as according to the rules of the Court the same ought to have been entered in case such Process had been duly served, and an affidavit or affidavits shall be made to the satisfaction of the said Court that such defendant or defendants is or are out of the limits of this Province, or that upon inquiry at his, her or their usual place of abode he, she or they could not be found so as to be served with such Process, and that there is full ground to believe that such defendant or defendants is or are gone out of this Province, or otherwise abscond to avoid being served with the Process of the said Court, or that such defendant or defendants departed from this Province after the cause of action upon which such suit

Defendant not appearing to Subpœna or other process, and affidavit made that such defendant is out of the Province or cannot be found,

D

hath

hath been or shall be commenced, accrued, and have or hath not resided within this Province for the term of twelve months next preceeding the commencement of such suit; or that the

or that the Heirs, Executors or Administrators of persons dying within or absenting themselves from the Province, reside without the limits thereof.

The Court may make an order for defendant's appearance,

which shall be published in the Royal Gazette,

and also posted up in the Parish where the defendant last dwelt.

If defendant do not appear, the Court may order the plaintiff's bill to be taken *pro confesso*, & make such decree thereon as shall be thought just, and issue process to compel performance,

and may order the plaintiff's demand to be paid upon security given to abide such order, touching restitution as the Court shall make upon the defendant's appearing and paying costs.

If no security given, the estate and effects of defendant to remain under the direction of the Court.

Heirs, Executors or Administrators of any person dying in this Province, or of any person who shall have so absented him or herself from this Province, in cases in which such Heirs, Executors or Administrators may be made defendant or defendants in such suit, reside without the limits of this Province, then and

in such case the said Court may make an order directing and appointing such defendant or defendants to appear at a certain day therein to be named, and a copy of such order shall within fourteen days after such order made be inserted in the Royal Gazette, published by the King's Printer in this Province, and shall continue to be inserted in the same Gazette for the space of three months thence next ensuing; and also a copy of such order shall within the time aforesaid of fourteen days be

posted in some public place in the Town or Parish in which such defendant or defendants last dwelt within this Province; and if such defendant or defendants do not appear within the time limited by such order or within such further time as the

Court shall appoint, then on proof made of such publication of such order as aforesaid, the Court being satisfied of the truth thereof, may order the plaintiff's Bill to be taken *pro confesso*, and make such decree thereon as shall be thought just, and may

thereupon issue Process to compel the performance of such decree either by an immediate sequestration of the real and personal estate and effects of the party so absenting, if any such can be found, or such part thereof as may be sufficient to satisfy the demands of the plaintiff or plaintiffs in such suit, or by causing possession of the estate or effects demanded by the Bill to be delivered to the plaintiff or plaintiffs, or otherwise as the

nature of the case shall require; and the said Court may likewise order such plaintiff or plaintiffs to be paid and satisfied his, her or their demands out of the estate or effects so sequestered according to the true intent and meaning of such decree, such

plaintiff or plaintiffs first giving sufficient security in such sum as the Court shall think proper, to abide such order touching the restitution of such estate or effects as the Court shall think proper to make concerning the same upon the defendant or defendants appearance to defend such suit and paying such costs

to the plaintiff or plaintiffs as the Court shall order; but in case the plaintiff or plaintiffs shall refuse or neglect to give such security as aforesaid, then the said Court shall order the estate or effects so sequestered or whereof possession shall be decreed to

be delivered to remain under the direction of the Court, either by appointing a receiver thereof or otherwise as to such Court shall seem meet, until the appearance of the defendant or defendants to defend such suit, and his, her or their paying such costs to the plaintiff or plaintiffs as the said Court shall think reasonable, or until such order shall be made therein as the Court shall think just.

Persons absent or absconding against whom any decree is

II. *Provided always*, That if any decree shall be made in pursuance of this Act against any person or persons being out of this

this Province or absconding in manner aforesaid at the time such decree is pronounced, and such person or persons shall within three years after the making of such decree return or become publicly visible, then and in such case he, she or they shall be served with a copy of such decree within a reasonable time after his, her or their return or public appearance shall be known to the plaintiff or plaintiffs; and in case any defendant against whom such decree shall be made shall, within three years after the making of such decree, happen to die before his or her return into this Province or appearing openly as aforesaid, or before his or her being served with a copy of such decree, then his or her Heir, if such defendant shall have any real estate sequestered or whereof possession shall have been delivered to the plaintiff or plaintiffs, and such Heir may be found; or if such Heir shall be a feme covert, infant, or non compos mentis, the husband, guardian or committee of such Heir respectively, or if the personal estate of such defendant be sequestered or possession thereof delivered to the plaintiff or plaintiffs, then his or her Executor or Administrator (if any such there be) may and shall be served with a copy of such decree within a reasonable time after it shall be known to the plaintiff or plaintiffs that the defendant is dead, and who is his or her Heir, Executor or Administrator, or where he; she or they respectively may be served therewith:

III. *Provided always*, That if any person or persons so served with a copy of such decree, shall not within six months after such service appear and petition to have the said cause reheard, such decree so made as aforesaid shall stand absolutely confirmed against the person and persons so served with a copy thereof, his her or their respective Heirs, Executors and Administrators, and all persons claiming or to claim by, from or under him, her or them or any of them by virtue of any Act done or to be done subsequent to the commencement of such suit.

IV. *Provided nevertheless*, That if any person so served with a copy of such decree, shall within six months after such service, or if any person not being so served shall within three years next after the making of such decree appear in Court and petition to be heard with respect to the matter of such decree, and shall pay down or give security for payment of such costs as the Court shall think reasonable in that behalf, the person or persons so petitioning his, her or their respective Representatives, or any person or persons claiming under him, her or them respectively by virtue of any Act done before the commencement of the suit, may be admitted to answer the Bill exhibited, and issue may be joined, and witnesses on both sides examined, and such other proceedings, decree and execution may be had thereon as there might have been in case the same party had originally appeared and the proceedings had then been newly begun, or as if no former decree or proceedings had been in the same cause.

V. *Provided nevertheless, and be it further enacted*, That if any person or persons against whom such decree shall be made, his,

of costs, the decree confirmed and the Court may make such further order as shall be just.

his, her or their Heirs, Executors or Administrators shall not within three years next after the making of such decree appear and petition to have the cause reheard, and pay down or give security for payment of such costs as the Court shall think reasonable in that behalf, such decree made as aforesaid shall stand absolutely confirmed against the person and persons against whom such decree shall be made, his, her and their Heirs, Executors and Administrators, and against all persons claiming or to claim by, from or under him, her or them or any of them by virtue of any Act done or to be done subsequent to the commencement of such suit; and at the end of such three years it shall and may be lawful for the Court to make such further order as shall be just and reasonable according to the circumstances of the case.

CAP. III.

An ACT to alter and amend an Act, intituled "An Act for regulating Marriage and Divorce, and for preventing and punishing Incest, Adultery and Fornication." Passed the 30th of July, 1808.

Preamble.

WHEREAS in and by an Act made and passed in the thirty first Year of His MAJESTY'S Reign, intituled "An Act for regulating Marriage and Divorce, and for preventing and punishing Incest, Adultery and Fornication," it is enacted that the fixed and stated Terms of holding the Court of Governor and Council for the purposes and causes therein mentioned, shall be, and commence on the first Tuesday in February, and the third Tuesday in July in each and every year: And whereas it is expedient to alter the commencement of one of the said Terms.

I. Be it therefore enacted, by the President, Council and Assembly, That from and after the first day of January next, the fixed and stated Terms of holding the said Court of Governor and Council for the purposes and causes in the said herein before recited Act mentioned, shall be, and commence on the first Tuesday in February, and the first Tuesday in July in each and every year, any thing in the said herein before recited Act to the contrary thereof in any wise notwithstanding.

Every thing in former Act not hereby altered, to continue in force.

II. And be it further enacted, That every clause, matter, and thing in the said herein before recited Act contained, not hereby altered, shall be and remain in full force, any thing herein before contained to the contrary thereof in any wise notwithstanding.

CAP. IV.

CAP. IV.

An ACT to make more effectual provision for repairing the Aboideau or Bridge across the Marsh Creek in the City and County of Saint John.---
Passed the 30th of July, 1808.

Repeated

WHEREAS the Aboideau or Bridge across the Marsh Creek in the City and County of *Saint John*, upon the *Westmorland* Road, so called, was originally built in part at the public expence of the Province, the residue of the expence of the building thereof being defrayed by the proprietors of the Marsh Lands from which the tide was shut out by the said Bridge: *And whereas* the said Bridge is of great public utility, and it is expedient that effectual means should be provided for the repairing of the same from time to time so that the same may not go to ruin.

Preamble.

I. *Be it enacted by the President, Council and Assembly, That* whenever the said Bridge or Aboideau shall stand in need of being repaired for the preservation and security thereof, it shall and may be lawful for the said proprietors of the said Marsh Lands or of the greater part thereof, and they are hereby authorised and required to make a representation to the Justices of the Court of General Sessions of the Peace in the said County of *Saint John*, setting forth the necessity of such repairs, and the said Justices in the said Court or the greater part of them then and there assembled, are hereby authorised and required upon any such application so to be made to them forthwith to appoint three or more commissioners not being proprietors of such Marsh Lands, as they in their discretion shall think fit, to inspect and examine the state and condition of the said Bridge, and make report thereon without delay to the said Court, and at the same time to report to the said Court the sum which in the opinion of the said commissioners or of the greater part of them, may be necessary for repairing the said Aboideau and Bridge, and if upon such report, the proprietors of the said Marsh Lands or any of them, shall give security with two good sureties in a Bond to be entered into to the Treasurer of the said County in a penalty equal to the sum so to be reported by the said commissioners, with condition to pay into the hands of the said Treasurer, one equal third part (the whole into three equal parts to be divided) of the said sum so to be reported by the said commissioners, and the proprietor or proprietors of any Mill or Mills already erected or hereafter to be erected at and adjoining or contiguous to the said Bridge, shall give similar security for the payment of one other equal third part of such sum to be reported as aforesaid, and if there shall be no Mill or Mills at and adjoining or contiguous to the said Bridge, if then and in such case the said proprietors of the said Marsh Lands or any of them shall give similar security for the payment of one equal moiety or half part of the sum so to be reported as aforesaid, then and in either of the cases before mentioned upon security to be given as aforesaid for the payment of two third parts or of one

Proprietors of the Marsh to represent the necessity of repairing the Bridge to the Justices in Sessions, who are to appoint Commissioners to examine and report.

and upon security given by the proprietors of the Marsh, and by the proprietor of any Mill that may be erected at the said Bridge, for payment of one half or two thirds, as the case may be, of the expence, the residue to be raised by Assessment upon the County.

moiety of the said sum so to be reported as aforesaid, as the case may be, into the hands of the said County Treasurer for the purpose of making such repairs as aforesaid, it shall and may be lawful for the said Justices in the said Court or the greater part of them then and there assembled, and they are hereby authorised and required to make an assessment of the other third part or moiety of such sum so to be reported as aforesaid, as the case may be upon the several Towns and Parishes in the said County, to be assessed, levied, collected and paid in such manner and under the same regulations, restrictions, penalties and forfeitures as any other County charges can or may by Law be rated, assessed, levied, collected and paid.

II. *Provided always, and be it further enacted,* That if the proprietor or proprietors of any Mill or Mills already erected, or hereafter to be erected, at and adjoining or contiguous to the said Bridge, shall upon such report as aforesaid refuse or neglect within the space of ten days next after such report as aforesaid made to give security as herein before mentioned for the payment of one equal third part as herein before mentioned of such sum to be reported as aforesaid, then and in such case it shall and may be lawful for the said commissioners and the said proprietors of the said Marsh Lands or any of them, and they and each of them are hereby authorised and required forthwith to take down and remove or cause to be taken down or removed any sluice-gate or gates or other work or works erected for the purpose of admitting or stopping in the water for the convenience, use and accommodation of such Mill or Mills and instead thereof to make or cause to be made and put and permanently fixed in the said Aboideau or Bridge, there to remain until another assessment shall become necessary for the repairing of the said Aboideau or Bridge such Clappers as are usual in such cases to prevent the influx of the tide within or above the said Bridge or Aboideau, and it shall not be lawful again to make use of or employ such Mill or Mills until another assessment shall become necessary as aforesaid, and so as often as such case shall happen,

If the proprietor of the Mill refuses or neglects to give security for payment of one third of the expence of repairing the Bridge, the Sluce Gates to be removed and Clappers fixed in their place, and the Mill not to be used until another Assessment shall become necessary;

and the proprietors of the Marsh Lands giving security for payment of one moiety of the expence, the other moiety to be raised by an Assessment upon the County.

The expence of taking down Sluce Gates &c. to be added to the sum reported for repairs and raised in like manner.

Any proprietor of Marsh Lands giving

and thereupon and in such case the said proprietors of the said Marsh Lands or any of them, shall give similar security as aforesaid for the payment of one equal moiety or half part of the said sum so to be reported as aforesaid, and upon such security being given for the payment of such moiety it shall and may be lawful for the said Justices in the said Court or the greater part of them as aforesaid, to make an assessment of the other moiety of such sum so to be reported as aforesaid, upon the several Towns and Parishes in the said County in the same manner as is herein before in that behalf mentioned and provided in case there shall be no Mill or Mills at or adjoining or contiguous to the said Bridge: *Provided always,* that the expence of taking down and removing such sluice-gates or other works, and of making, putting in and fixing such Clappers as aforesaid, shall be added to the said sum so to be reported as aforesaid, and be paid and assessed in the same manner and in the same proportions as such sum so to be reported as aforesaid, is hereby directed to be paid and assessed. *Provided also,* that any proprietor or proprietors of the said Marsh Lands who shall in any

any of the cases before mentioned give the security required by this Act shall be entitled to have and receive from any other proprietor or proprietors of such Marsh Lands; not joining in such security a rateable proportion of the sum to be paid in pursuance and by virtue of such security and of this Act, according to the number of acres of such Marsh Lands owned by each proprietor respectively, and shall and may recover such proportion in an action upon the case for money laid out and expended to be brought for that purpose against any such other proprietor or proprietors not joining in such security.

III. *And be it further enacted*, That the said Justices in the said Court or the greater part of them, then and there assembled, shall appoint one or more fit person or persons as Trustees to be joined with an equal number of fit persons to be appointed as Trustees by the said proprietors, so giving security as aforesaid for the payment of one moiety or two third parts of the said expence as aforesaid, as the case may be, which persons so to be appointed Trustees by the said Justices and the said proprietors or the greater part of them, are hereby authorised and empowered to covenant, contract and agree for the well and sufficient repairing of the said Aboideau and Bridge in such manner as they the said Trustees or the greater part of them shall think most effectual for the security and preservation of the said Bridge.

IV. *Provided always, and be it further enacted*, That the said Aboideau and Bridge, and the passage across the same shall not be at any time obstructed or incumbered by any logs, timber, plank, boards, or other materials, but that the same shall remain free and open as a common public highway, and that any such incumbrances shall be considered and may be proceeded against as nuisances in any streets, highways or roads in this Province.

V. *And be it further enacted*, That the said Justices as soon as conveniently may be after the passing of this Act, or at any time hereafter when by any extraordinary casualty immediate repairs of the said Aboideau and Bridge shall be necessary for the preservation and security thereof, shall and may upon due application in that behalf made assemble in a Special Session for that purpose to be held and proceed in the manner herein before directed, to provide for such repairs of the said Aboideau and Bridge as may be now or at any such time hereafter respectively necessary for the security and preservation thereof, and that such proceedings shall be good, valid and effectual to all intents and purposes as if such proceedings were had or to be had at their general Sessions in the manner herein before mentioned.

CAP. V.

An ACT to continue an Act intituled "An Act for raising a Revenue in this Province." Passed the 30th of July, 1808.

Continued to
April 1810.

BE it enacted by the President, Council and Assembly, That an Act passed in the Forty-seventh Year of His MAJESTY'S Reign intituled "An Act for raising a Revenue in this Province," be and the same is hereby continued to the first day of April, in the Year of our Lord, One Thousand Eight Hundred and Ten.



CAP. VI.

An ACT to appropriate the Public Revenue. Passed the 30th of July, 1808.

BE it enacted by the President, Council and Assembly, That there be allowed and paid out of the Treasury of this Province, unto the several persons hereafter mentioned, to wit:

To the Speaker.

To the *Speaker* of the House of Assembly the sum of *fifty pounds*.

Members of the Assembly.

To the *Members* of the House of Assembly for defraying the expences of their attendance during the present Session, and for travelling charges (reckoning twenty miles for each days travel) to be certified by the Speaker, *ten shillings* per day.

Chaplains.

To the *Chaplain* of the Council in General Assembly the sum of *twenty pounds*.

To the *Chaplain* of the House of Assembly the sum of *twenty pounds*.

Clerk of the Council

To the *Clerk* of the Council in General Assembly the sum of *fifty pounds*, and *ten shillings* per day during the present Session.

Clerk of the Assembly.

To the *Clerk* of the House of Assembly the sum of *fifty pounds*, and *ten shillings* per day during the present Session.

Serjeants at Arms.

To the *Serjeant* at Arms attending the Council *ten shillings* per day during the present Session.

To the *Serjeant* at Arms attending the House of Assembly *ten shillings* per day during the present Session.

Door-Keepers and Messengers.

To the *Door-keepers* and *Messengers* attending the Council and Assembly *five shillings* per day each, during the present Session.

Clerk of the Assembly for Stationary, &c.

To the *Clerk* of the Assembly for stationary and other expences of the present Session the sum of *thirty one pounds fifteen shillings* and *seven pence*.

Treasurer of the Province.

To the *Treasurer* of the Province for his services, from the first day of March, *one thousand eight hundred and seven*, to the first day of March, *one thousand eight hundred and eight*, the sum of *one hundred and eighty pounds*, and the further sum of *twenty pounds* for extra services in issuing Promissary Notes since the last Session.

Tide Surveyor.

To the *Tide Surveyor* in the City of *Saint John*, from the first day of March, *one thousand eight hundred and seven*, to the first day of March, *one thousand eight hundred and eight*, for his services and expences in performing the same, the sum of *forty pounds*.

To

To *William* and *Thomas Knox*, Esquires, for their services as Province Agents. joint agents for the Province, for the year ending the first of March, one thousand eight hundred and eight; the sum of *one hundred pounds*.

To His Honor the *President* or Commander in Chief, for defraying the contingent expences of this Province a sum not exceeding *one hundred pounds* for the year one thousand eight hundred and nine. And a further sum of *one hundred and fifty pounds* for the purpose of defraying the expence of drilling the different Regiments of Militia, and also a further sum not exceeding *fifty pounds* to defray the expense of conveying arms to the different Regiments of Militia. To the President for contingencies. For drilling the Militia, and conveying arms.

To the *President* and *Directors* of the Grammar School in the City of *Saint John*, for purchasing the lot on which the School house now stands, and for paying all the debts heretofore incurred in erecting the same, the sum of *one hundred and seventy pounds*, and the further sum of *one hundred pounds* for the salary of the Master of the same for the year one thousand eight hundred and nine. Grammar School in Saint John.

To the *Governor* and *Trustees* of the College in *Fredericton* to be applied by them towards the tuition of the Pupils of said College, the sum of *one hundred pounds* for the year one thousand eight hundred and nine. Fredericton College

To the *Justices* of the different Counties in the Province, the sum of *three hundred and seventy five pounds* for County Schools (agreeably to a Law of this Province) for the year one thousand eight hundred and nine. County Schools.

To the *Justices* of the County of *King's*, the sum of *fifty pounds* towards defraying the expence of building a Court house and Gaol in *King's County*. King's County Gaol

To the *Adjutants* of the Militia in the different Counties in the Province for the half year ending the thirty-first day of December, one thousand eight hundred and eight, the sum of *fifty-nine pounds*, and a further sum not exceeding *one hundred and eighteen pounds*, agreeably to a Law of the Province for the year one thousand eight hundred and nine. Adjutants of the Militia.

To His Honor the *President* or Commander in Chief for the time being, the sum of *one hundred pounds*, for rewarding such persons as shall apprehend deserters from His MAJESTY'S service, according to a Law of this Province. For apprehending Deserters.

To *Samuel Duffy*, the sum of *ten pounds* per annum, commencing the twenty-fifth of June, one thousand eight hundred and seven, and continuing to the twenty fifth of June, one thousand eight hundred and nine, as an additional salary for keeping the Light House on *Partridge Island*. Samuel Duffy for keeping the Light House.

To such persons as His Honor the *President* or Commander in Chief for the time being, may appoint a sum not exceeding *seventy pounds*, for the purpose of aiding in establishing for the year one thousand eight hundred and nine, by a sufficient Packet the communication between *Saint John* and *Saint Andrews*, under such regulations as His Honor the President shall think fit to direct. St. Andrews Packet.

The sum of *twenty three pounds eight shillings and nine pence*, to defray the balance due for the Right Honorable Lord *Sheffield's* picture. Lord Sheffield's Picture.

- Joseph Lutwidge. To the Overseers of the Poor of the Parish of *Saint John*, the sum of *twenty pounds* per annum, to be paid quarterly for the benefit of *Joseph Lutwidge*, on account of his disability to support himself in consequence of injury sustained in marching to join the embodied Militia the last winter.
- Wm. Pagan, & Co. To *William Pagan*, Esquire, and Company, the sum of *eighty nine pounds fourteen shillings and six pence*, being the drawback on a certain quantity of Rum, &c. laden on board the Schooner *Tight-Match* from on board the Ship *Mermaid*, and not landed within this Province.
- To the Commander in Chief for opening Roads. To the *Commander in Chief* of this Province, a sum not exceeding *one hundred pounds*, for the purpose of facilitating a military communication by opening or repairing roads.
- Phæbe M' Monagle. To *Phæbe Macmonagle*, widow of *Hugh Macmonagle*, the sum of *fifty pounds*.
- Robert Carlisle. To *Robert Carlisle*, the sum of *twenty pounds*, as an encouragement for settling on the Portage between the *Kennebeckacis* and *Peticodiac* rivers.
- For repairing the Light-House. To the *Commissioners* for the Light House, to repair the same, the sum of *one hundred pounds*.
- To Jacob S. Mott for Printing. To *Jacob S. Mott*, the sum of *eighteen pounds twelve shillings*, being the balance of his account for sundry services performed since the last Session of the General Assembly, and also the sum of *six pounds seven shillings and six pence*, being the balance of his account for printing the Journals of the House of Assembly during the last Session, and the further sum of *thirty pounds* for printing two hundred copies of the Journals of the present Session.
- Ryan and Durant for Printing. To *Ryan and Durant*, the sum of *eighty one pounds nine shillings and six pence*, being the balance of their account for sundry services, as printers since the last Session of the General Assembly.

II. And be it further enacted, That the following sums be granted to His MAJESTY to defray Militia contingent expences of the last winter.

- Ward Chipman Judge Advocate. To *Ward Chipman*, Esquire, for his services as Judge Advocate on sundry Courts Martial, the sum of *eight pounds*.
- William Hazen Pay-Master. To *William Hazen*, Esquire, Paymaster, for extra services, the sum of *twenty pounds*.
- Adjutant General. To the *Adjutant General* for stationary, the sum of *two pounds*.
- William Scovil Pay-Master. To *William Scovil*, Esquire, Paymaster at *Saint John* for extra services, the sum of *twenty pounds*.
- Wm. Fayerweather. To *William Fayerweather*, for horse hire, going express from *Saint John* to *Fredericton*, *two pounds*
- Lt. Col. Wetmore. To Lieutenant-Colonel *Wetmore*, for payment of two suits of clothes for Drummer and Fifer of the *Saint John* Militia, *eight pounds ten shillings and six pence*.
- Jesse Tabor. To *Jesse Tabor*, for nursing and conveying *Joseph Lutwidge* to *Saint John*, *five pounds fifteen shillings*.
- Jacob S. Mott for Printing Blanks. To *Jacob S. Mott*, for printing blanks, the sum of *twenty eight pounds ten shillings*.
- Surgeon Paddock. To *Surgeon Paddock* for Hospital nurses wages, *four pounds*.
- Master of the Saint Andrews Packet. To the *Master* of the *Saint Andrews* Packet, for freight of *one thousand pounds specie* to *St. Andrews*, *two pounds ten shillings*.
- For drilling the Militia Drums. To the *Commanding Officer* of the detachment of the New-Brunswick

Brunswick Regiment stationed at *Saint John* the last winter, for drilling the Militia drums, to be paid to the drum boys of that Regiment, the sum of *one pound ten shillings*.

To Colonel *Hugh M'Kay* for extra services, the sum of *twenty pounds*, also for sundry contingent charges the sum of *fifty pounds eighteen shillings*, and the further sum of *sixty nine pounds twelve shillings and two pence*, for building a Military boat.

To the *Adjutant of Charlotte County Militia* for extra services, the sum of *twenty pounds sixteen shillings and six pence*.

III. *And be it further enacted*, That all the before mentioned several sums of money shall be paid by the Treasurer, by Warrant of His Honor the *President* or *Commander in Chief* for the time being, by and with the advice of His MAJESTY'S Council out of the monies now in the Treasury, or as payments may be made at the same.



XLVII. GEO. III.—CAP. XVI.

An ACT to prevent illicit and clandestine Trade; and for imposing a Duty upon Articles illegally imported or brought into this Province, to be levied and paid after the condemnation and sale thereof. Passed the 5th of March, 1807:

Continued
to 1815
by J. 509. 3
cap. 10.
Made perpetual
by 54. Geo. 3. c. 1.

WHEREAS the practice of carrying on illicit and clandestine Trade contrary to the provisions of divers Acts of Parliament in that behalf made, is not only highly detrimental to the public interests, but is injurious and ruinous to the fair Trader. And it is expedient so far as may be practicable to encourage the Officers of the Public Revenue in this Province, to be vigilant in detecting such practices and carrying the Laws of Trade into execution.

Preamble.

AND WHEREAS the imposing of a Duty upon all Articles clandestinely imported into this Province, to be levied and paid after the condemnation and sale thereof, for the use of this Province and for the support of the Government thereof, would be attended with the most beneficial consequences.

I. *Be it enacted by the President, Council and Assembly*, That from and after the operation of this Act, if any prohibited goods whatsoever shall be imported or brought into this Province, contrary to the true intent and meaning of any Act or Acts of Parliament in such cases made and provided; it shall and may be lawful for the Treasurer of the Province or his Deputies in the several and respective Counties and places for which such Deputies shall be appointed to seize all such prohibited goods, and to prosecute the same to condemnation and forfeiture in the Supreme Court, or in the Court of Vice-Admiralty in this Province, and that all such prohibited goods so seized and prosecuted shall upon the condemnation and sale thereof, be divided, paid and applied as follows, that is to say, after deducting the charges

Prohibited goods imported may be seized by the Province Treasurer and prosecuted and upon condemnation, one third to be paid to the Collector of the Customs, one third to the Commander in Chief of the Province, one third to the seizing Officer.

charges of prosecution from the gross produce thereof, one third part of the net produce shall be paid into the hands of the Collector of His MAJESTY'S Customs for the port of *Saint John*, for the use of His MAJESTY, his Heirs and Successors, one third part to the Governor or Commander in Chief of this Province, and the other third part to the Treasurer or his Deputy, who shall seize in form, and sue for the same.

II. *And be it further enacted*, That there be and hereby is granted to the KING'S Most Excellent MAJESTY, his Heirs and Successors for the use of this Province, and for the support of the Government thereof, a Duty of *ten per cent.* on the gross amount of all Articles whatsoever so seized, condemned and sold under and by virtue of this Act.

A duty of 10 per cent. on all articles condemned and sold under this Act.

Purchasers to report amount to the Treasurer under oath,

And that the purchaser or purchasers of any such Articles at the Sales thereof, pursuant to such condemnation, shall within twenty-four hours after the same purchases shall be made, and before any part of such articles shall be vended or consumed, make report to the Treasurer or his Deputy at the place where such articles shall be sold, in writing and under Oath before the said Treasurer or his Deputy as aforesaid, which Oath the said Treasurer and his Deputies respectively are hereby authorised and required to administer, of the articles so purchased as aforesaid, and the Duties aforesaid arising thereon shall at the same time be paid or secured to be paid in the same manner and under the same regulations, as are made and prescribed respecting the Duties imposed by an Act made and passed in this Session, intituled "An Act for raising a Revenue in this Province."

and pay or give security for the duty,

And in case of refusal and neglect so to make report and entry of such articles so purchased, the same are hereby declared forfeited and shall and may be searched for, seized, condemned, sold and applied in the same manner as is prescribed in and by the third Section of the said herein before recited Act. And if such articles or any part thereof cannot be found, then the purchasers thereof shall forfeit and pay the sum of *one hundred pounds*, to be recovered and applied in the same manner and to the same uses as is provided in and by the same third Section of the said herein before recited Act.

otherwise articles may be seized and sold,

and if not to be found the purchaser to forfeit 100l.

III. *And be it further enacted*, That it shall and may be lawful for the said Treasurer or his Deputies respectively, at all times to enter on Board any ship or vessel arriving in this Province, and to examine and search throughout the same for prohibited articles, and there to seize and from thence to carry away all such prohibited articles; and being authorised by Writ of Assistance under the Seal of His MAJESTY'S Supreme Court, or of the Inferior Court of Common Pleas of the County in which the prohibited articles shall be found, which Writ the proper Officers of the said Courts are hereby authorised and required to issue upon the allowance or *fiat* of one of the Justices of the said Courts, to be filed together with the Affidavit upon which the same is grounded, to take the High Sheriff in person or his Deputy, or any Coroner of the County, and in the day time to enter and go into any House, Store, Ware-house or Out-house,

Lawful for the Treasurer or his Deputies to search vessels and seize prohibited articles,

and with a Writ of assistance,

to enter any House,

house, and in case of resistance to break open doors, and open and examine Casks, Chests or other Packages, and there to seize and from thence to carry away any prohibited articles whatsoever which shall have been landed from any Ship, Vessel or Boat, or otherways imported contrary to the provisions and the true intent and meaning of any Act or Acts of Parliament in that behalf made.

Store, &c. and in case of resistance to break open packages, &c. and seize prohibited articles landed from any ship or boat.

IV. *And be it further enacted*, That if any prohibited goods shall be seized by virtue and in pursuance of this Act, and any dispute shall arise whether the same have been lawfully imported, then and in such case the proof thereof shall lie upon the owner or claimant of such goods, and not upon the Treasurer or his Deputy who shall seize or stop the same, any Law, usage or custom to the contrary notwithstanding.

In case of dispute, proof shall lie upon the claimant or owner of the goods.

V. *And be it further enacted*, That this act shall be and continue in force until the first day of April, which shall be in the Year of our Lord, One Thousand Eight Hundred and Ten, and no longer.

Limitation of this Act.

VI. *And be it further enacted*, That this Act shall not be in force, before His MAJESTY'S Royal approbation shall be had thereon.

Not to be in force till approved by His Majesty.

This Act was “ confirmed, finally enacted and ratified by an Order of His MAJESTY in Council, dated the 26th day of August, 1807.”

