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No. 268.

2nd Session, 7th Parliament, 26 Victoria, 1863.

BILL.

An Act respecting the Militia.

Received and read first time, Tuesday, 21st
April, 1863.

Second reading, Friday, 24th April, 1863.

Hon. Mr. Atty. Genl. MACDONALD.

G. Desbarats, Queen's Printer.

2nd Sept - 7th Oct, 1863

No. 268.]

BILL.

[1863.

An Act respecting the Militia.

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

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

2. The Canadian Militia shall be divided into two classes, Two classes of
that is to say : the Volunteers and the Enrolled Militia. Militia.

2. The Commander in Chief may call out the Volunteers Governor may
or Enrolled Militia or any part thereof for actual service, call out Militia.
10 whenever it is in his opinion advisable so to do, by reason of
war, invasion or insurrection, or imminent danger of any of
them ; but the Volunteers shall always be the first taken for
actual service, or imminent danger or emergency. Volunteers to
be first taken.

THE VOLUNTEERS.

3. The Volunteers may consist of Troops of Cavalry, Mili- Of what corps
15 tary Train, Field Batteries of Artillery, Garrison Batteries of Volunteers may
Artillery, Companies of Engineers, and Battalions or Compa- consist, &c.
nies of Rifles and of Infantry, and Naval Companies, to be
armed and equipped according to their respective services,
and to be formed at such places and in such manner as may
20 from time to time be ordered by the Commander in Chief.

4. All Companies or Battalions of Volunteers shall be Power to dis-
formed and may be disbanded by authority of the Commander band Volun-
in Chief, as may in his opinion best tend to further the pur- teers.
poses of this Act and the public good.

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

- Artillery.** 2. Each field Battery of Artillery shall consist of a Captain, two first Lieutenants, a Second Lieutenant, a Serjeant Major, three Serjeants, three Corporals, three Bombardiers, a Trumpeter, a Farrier, fifty-nine Gunners and Drivers, including Wheelers, Collarmaker and Shoeing-smith, forty-five horses, exclusive of Officers' horses, and of four spare horses when the Battery is called into actual service. 5
- Naval companies.** 3. Each Naval Company shall consist of one Captain and such other officers and such number of seamen not exceeding seventy-five as may be appointed by the Commander in chief, and may be armed in such manner as the Commander in Chief directs, and may be trained and drilled as well to the use of small arms, as in the management of gun-boats and vessels, and the working of great guns on board vessels, and the Captain shall have power to appoint such Warrant and Petty Officers as may be authorized by the Commander in Chief. 10 15
- Companies of Volunteers may be formed into Battalions.** 6. The Commander in Chief may constitute any number of Companies of the Volunteers at any one locality, not being less than six or more than ten Companies of the same arm of the service, into a Battalion, and may assign or appoint thereto, a Lieutenant-Colonel, one Major, one Adjutant, one Pay-Master, one Quarter-Master, one Surgeon and one Assistant Surgeon, and, may also, where no greater number than four Companies of the Volunteers are organised in any one locality, constitute the same into a Provisional Battalion and appoint thereto a Major and Adjutant, and the rank and authority of the several Officers hereinbefore mentioned, shall be the same as in the relative positions in Her Majesty's service;—And such Battalions shall be subject to the Queen's Regulations for the Army published by authority in so far as the same are not inconsistent with the provisions of the Militia Laws of this Province, or with any General Order from time to time to be issued by the Commander in Chief; and any such Lieutenant-Colonel of a Battalion or Major of a Provisional Battalion shall have authority to appoint the usual number of Staff Sergeants for his Battalion; but in case at any one locality there are no sufficient number of Garrison Batteries of Artillery, or of Companies of Rifles or of Infantry, as hereinbefore required to constitute a Battalion of such arm of the service, the Commander in Chief may attach, but for purposes of Battalion drill only, any one or more Companies of whatever arm of the service hereinbefore mentioned, to the senior Company of whatever other arm of the service in the locality, and the same shall be commanded on all Battalion parades, by the Officer of Volunteers highest in rank then present, and in uniform. 20 25 30 35 40 45
- Provisional Battalions.**
- Queen's regulations to apply, where not inconsistent with this Act, &c.**
- Staff Sergeants.**
- Different arms may be united for Battalion drill only.**
- Uniforms for Volunteers to** 7. Such of the several Corps of Volunteers heretofore or hereafter to be organized, as may, for that purpose, be named

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

be supplied to the men by the Province.

How replaced.

How distributed.

Governor may make special regulations
Proviso.

8. The several Corps of Volunteers shall be furnished by the Province with arms and accoutrements, whether the same be the property of the Province or the property of the Imperial Government ; and the same shall be kept in public armouries, wherever there are such ; and where there are no such public armouries, and until the same are provided, the Officer Commanding such Corps shall himself actually keep the arms and accoutrements in a good and sufficient building, provided with suitable arm racks and provision for the care thereof, and shall be personally responsible for such arms and accoutrements ; and the Officer Commanding any such Corps may, in the discretion of the Commander in Chief, be allowed annually, such sum for the care of such arms and accoutrements as may appear proper for the same ;

Arms to be furnished by the province ; where to be kept where no armouries.

Allowance for keeping.

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

Officers and men to remain responsible for them.

9. The said arms and accoutrements shall be renewed and kept in repair at the cost of the Province, whenever such renewal or repair becomes necessary from wear in service or other cause than the fault or neglect of the person charged with the temporary possession thereof, in which last named case they shall be renewed or repaired by and at the cost of such person, or, if renewed or repaired at the cost of the Province,

Repairing and renewing arms.

the cost may be recovered from such person as a debt due by him to the Crown.

Corps to appear armed on certain occasions only.

10. No Corps of Volunteers and no non-commissioned officer or private thereof, shall at any time appear armed or accoutred, except when on duty or *bonâ fide* at parade or drill or at target practice, or at Reviews or on Field-days or inspections, or for receiving distinguished persons or rendering funeral honors to deceased comrades, or when required to act in aid of the civil power under due authority; nor shall the arms and accoutrements be taken out of this Province. 5 10

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

11. The Clothing, Arms and Accoutrements of the officers, non-commissioned officers and men of Volunteer Corps, and the Horses used by them as such, shall be exempt from seizure in execution and from distress and assessment; nor shall any of such horses be disposed of by any officer or man without leave of the Officer commanding the Corps: and the clothing except that of Officers, shall be deemed to be the property of the Crown. 15

Ammunition for practice.

12. Sufficient ammunition for exercise and target practice may be supplied to the Volunteers at the expense of the Province, in such manner as the Commander in Chief may direct. 20

How Volunteers shall be drilled and exercised.

13. The Volunteers shall be drilled and exercised, in such manner and at such times in each year, and for such periods and at such places, and either encamped or otherwise, and subject to such returns or certificates of performance of drill as the Commander in Chief may from time to time order; but nothing herein contained shall be construed to prevent any Corps from being assembled or ordered out at any time by the officer commanding it for parade or drill or exercise. 25

Drill grounds, sheds and ranges.

14. The Commander in Chief may cause to be provided, where expedient, drill grounds, drill sheds and ranges for target practice, to be subject to such inspection and regulations for the use thereof, as may by him be deemed necessary. 30

Prizes for proficiency.

15. A sum of money, not exceeding dollars, per annum, may be appropriated to the purchase of prizes or for distribution in various sums to be competed for by corps of volunteers for proficiency in drill and discipline or target practice, at such times and places and under such regulations as the Commander in Chief may from time to time order. 35 40

Municipality to provide fire proof armouries.

16. For the safe keeping of the arms and accoutrements furnished to any Corps, the Corporation of the Municipality, within which the Head Quarters of such corps may be, may provide, at the expense of such Municipality, a good, safe and commodious Fire Proof Armoury, fitted with arm racks and other necessary and proper storage, and for the heating 40

thereof ; and for providing moneys for such purpose, the several Municipalities throughout Upper Canada shall have all and every the powers conferred upon them in respect to the raising and levying the same as are provided by the two hundred and 5 twenty-third and two hundred and twenty-fourth sections of the fifty-fourth chapter of the Consolidated Statutes for Upper Canada ; and the several Municipalities in Lower Canada shall have all the powers conferred on them by the Lower Canada, Consolidated Municipal Act and the Acts amending 10 it, or by the Special Act or Acts incorporating and governing the Municipality (if any such there be) with regard to the raising of money for any purpose for which such Municipalities are by law empowered to raise the same.

Power to levy money for providing amonrics.

17. The Volunteers shall be liable to be called out in aid 15 of the ordinary Civil Power in case of riot or other emergency requiring such services, and shall, when so employed, receive from the Municipality in which their services are required, the following rates of pay, that is to say : Officers, such pay as is the daily pay in Her Majesty's Service of officers of corres- 20 ponding rank, with an additional sum to each mounted Officer of *two dollars* per day, and non-commissioned Officers and Privates the sum of *one dollar* each, and shall be also provided with proper lodging by such Municipality ;—And the said 25 Municipality, may be recovered from it by the Officer Commanding the Corps, in his own name, and when received or recovered shall be paid over to the Officers and men entitled thereto.

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

18. It shall be the duty of the Officer commanding any 30 Corps of Volunteers to call out the same, or such portion thereof as is necessary, for the purpose of quelling any Riot, when thereunto required in writing by the Mayor, Warden or other Head of the Municipality in which such Riot takes place, or by any two Magistrates therein, and to obey such instructions 35 as may be lawfully given him by any Magistrate in regard to the mode of quelling such Riot ;—And every Officer, non-commissioned Officer and man of such Corps shall on every such occasion obey the orders of his Commanding Officer ;— And the Officers and men when so called out shall, without 40 any further or other appointment, and without taking any oath of office, be special constables and shall act as such so long as they remain so called out.

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

To be special Constables.

19. The Officers, non-commissioned Officers and men of Corps of Volunteers, shall, while they continue such, be exempt 45 from serving as Constables ;—And a certificate under the hand of the Officer Commanding any such Corps shall be sufficient evidence of the service in his Corps of any officer, non-commissioned officer or man for the then current year ; And officers, non-commissioned officers and men of the Volunteers

Volunteers exempt from serving as Constables on certificate.

being in proper staff, or regimental or militia uniform, dress or undress, and their horses, (but not when passing in any hired or private vehicle) shall be exempt from the payment of any duty or toll on passing any turnpike or toll-gate or any road or bridge in this Province. 5

Not to leave the Corps during term of service, unless discharged.

20. No non-Commissioned Officer or Private of any Volunteer Corps shall, in any case, leave the same during the term of his engagement to serve, unless discharged by authority of the Commander in Chief; and the term of engagement shall not be less than five years; And no application for such discharge shall be entertained unless two months previous notice shall have been given, in writing, to the Commanding Officer of the Corps; and all Corps of Volunteers lawfully organized under the Acts hereby repealed, shall continue to exist, subject to the provisions of this Act, and to the terms of their engagement respectively. 10 15

Notice of application for discharge.

Corps now formed to continue.

Volunteers may agree to articles, rules, &c.

21. Any Corps of Volunteers may make, agree upon and enter into, such articles, rules and regulations for the discipline and good management of the same as they may think proper, to be sanctioned by the Officer Commanding such Corps and to be by him transmitted for the approval of the Commander in Chief; and any such articles, rules and regulations, in so far as they are not inconsistent with this Act, shall, when so approved, but not before, be enforced, and the penalties which may be thereby imposed shall, whenever they are incurred, be recoverable in the manner hereinafter mentioned in section , by the Officer designated for that purpose in such rules and regulations, to such uses as may be therein directed. 20 25

Subject to approval and there binding.

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

22. The several Corps of Volunteers, and the clothing, arms, accoutrements and armouries, shall be subject to inspection, from time to time, by such Officer of Her Majesty's Service as may be appointed for that duty, by the Officer Commanding Her Majesty's Forces in this Province, with the sanction of the Commander in Chief; and shall also be subject to inspection, from time to time, by such Officer or Officers (not being under the rank of Field Officer) of Militia as shall be temporarily appointed by the Commander in Chief for that purpose, and who shall report fully to the Commander in Chief on the state and efficiency of each Corps, and of its clothing, arms and accoutrements, and of the armouries, and who shall be reimbursed by the Province, his or their actual travelling expenses, and paid for such service at a rate not exceeding *four dollars* per diem whilst so engaged. 30 35 40

Officers to report of their pay.

THE ENROLLED MILITIA.

Of whom to consist.

23. The Enrolled Militia shall consist of all the male inhabitants of the Province of the age of eighteen years or upwards and under sixty, not being Volunteers and not being exempted or disqualified by law. 45

EXEMPTIONS.

24. The following persons shall be exempt from enrolment Certain func-
as hereinafter mentioned, and from actual service at any time : tionaries &c.,
to be exempt.

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

5 The Judge of the Court of Vice-Admiralty ;

The Judges of the County Courts ;

The Clergy and Ministers of all Religious denominations ;

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

10 The Warden, Keepers and Guards of the Provincial Penitentiary ;

All persons disabled by bodily infirmity ;

All persons bearing Certificates from the Society of Quakers, Menonists and Tunkers, or any inhabitant of this Province, of Persons having
religious
scruples.

15 any Religious denomination, otherwise subject to Military duty in time of Peace, but who, from the doctrines of his Religion, is averse to bearing arms and refuses personal Military Service, shall be exempt therefrom ; but exemptions under this clause shall not prevent any person from serving, or, if an Officer holding

20 a Commission in the Canadian Militia, if he desires it and is not disabled by bodily infirmity ;—And no person shall have the benefit of such exemption, unless he has, at least one month before he claims such benefit, filed his claim thereto with his Exemption
must be
claimed.

25 *affidavit* made before some Magistrate (or affirmation in cases where persons are allowed to affirm) of the facts on which he rests his claim, with the Clerk of the Municipality within the limits whereof he resides ;—And whenever exemption is Burden of
proof. claimed, whether on the ground of age or otherwise, the burden of proof shall always be upon the claimant.

REGIMENTAL DIVISIONS.

30 **25.** All Military Districts heretofore and now existing, and all divisions thereof respectively, are hereby annulled and Present divi-
sions abolished. abolished ;—And each County in this Province shall constitute a Regimental Division and the Commander in Chief, by any General Order, may designate the Regiment in each of such

35 divisions by such name or number or both as he sees fit, (e. g. The first or [*name of County*] Regiment of Canadian Militia) and may, from time to time, connect one or more Counties as a Regimental Division, and vary or alter the same ; but for Each County
to be a Regi-
mental divi-
sions. the purposes of this Act the City of Quebec shall be held to As to Quebec,
Montreal and
Toronto.

be in the County of Quebec, and the City of Montreal to be in the County of Hochelaga, and the City of Toronto to be in the County of York.

ENROLMENT IN TIME OF PEACE.

Division into Service men and Reserve men.

26. The enrolled Militia 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. 5

ENROLMENT IN UPPER CANADA.

Mode of enrolling Militiamen. Rolls to be made by the Assessors.

27. The mode of enrolment of the enrolled Militia shall in Upper Canada be as follows, that is to say:—the Assessor or 10 Assessors for each Municipality in Upper Canada shall, annually, commencing with the year one thousand eight hundred and sixty-four, and at the same time when they are engaged in taking the Assessment of real and personal property in their respective Municipalities, include in their Assessment Roll, the 15 names and residences of all male persons in their respective Municipalities, between the ages of eighteen and sixty years; and they shall prepare two additional columns in such Assessment Roll, which shall be headed respectively “Service Militia Roll,”—and “Reserve Militia Roll,”—and they shall insert in 20 the “Service Militia Roll” the names of all male persons of eighteen years of age and upwards, but under forty-five years, and in the “Reserve Militia Roll,” the names of such persons as are forty-five years of age and upwards, but under sixty years; and the copy required by Law to be made of any such 25 Assessment Roll for transmission to the County Clerk, shall contain the additions herein specified; and in addition to any oath or certificate required under the present or any future Laws of this Province, to be taken or given by such Assessor or Assessors, in respect to the Assessment Roll, there shall also 30 be made and attached to the said Roll the following certificate signed by such Assessor or Assessors;

Form.

Copy transmitted to County Clerk to contain such Rolls and to be certified.

Certificate.

“ I do certify that I have truly and faithfully and to the best of my knowledge, information and belief, set down, in the above Militia Rolls, the names of all male persons within the 35 Municipality of (*as the case may be*), liable to be enrolled by the Militia Laws of this Province;” and such certificate shall be verified by him, or them, upon oath, before a Justice of the Peace.

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

28. The Clerk of the Council of each County or Union of 40 Counties in Upper Canada, shall, within fourteen days after the receipt by him of such Assessment Rolls, carefully compile from them the County Militia Rolls, shewing the names and residences of those on the “Service Roll” and “Reserve Roll”

and shall make and attach to the said Roll the following certificate to be signed by him,

“ I do certify that I have truly and faithfully copied from the
 “ Assessment Rolls of the several Municipalities in the County
 5 “ of the above Militia Rolls hereto appended.” Certificate.

And shall verify the same on oath before a Justice of the Peace ;
 and such County Militia Roll so certified shall be by the County
 Clerk forthwith delivered to the Clerk of the Peace to be filed
 away in his office for use as hereinafter mentioned ; and the
 10 Clerk of such County Council shall be paid for the same at the
 rate of for every one hundred persons on the said Rolls. By whom such
Rolls shall be
kept.

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

30. All tavern-keepers, keepers of boarding houses, persons
 having boarders in their families, and every master and mistress
 of any dwelling house, shall, upon the application of any As-
 sessor, give information of the names of all persons residing or
 25 lodging in such house, liable to be enrolled, and all other proper
 information concerning such persons as such Assessor may
 demand. Tavern keepers
&c., to give
the requisite
information to
assessors.

**ENROLMENT HERETOFORE MADE IN LOWER CANADA BY OFFICERS
 OF MILITIA TO BE HEREAFTER MADE BY MUNICIPAL OFFICERS.**

31. The mode of enrolment of the enrolled Militia shall in
 Lower Canada be as follows, that is to say :—the Assessor or
 30 Assessors, Valuator or Valuators for each Municipality in
 Lower Canada, in which a Valuation or Assessment Roll
 is made in each year, shall, annually, and the Assessors or
 Valuators in each Municipality in Lower Canada, in which
 such Roll is not made annually, shall in each year after the
 35 present in which such Roll is made, commencing with the
 year one thousand eight hundred and sixty-four, and at the
 same time when they are engaged in taking the Assessment
 or Valuation of real and personal property in their respective
 Municipalities, include in their Valuation or Assessment
 40 Roll, the names and residences of all male persons in their
 respective Municipalities, between the ages of eighteen and
 sixty years ; and they shall prepare two additional columns in
 such Valuation or Assessment Roll, which shall be headed
 respectively “ Service Militia Roll,”—and “ Reserve Militia Form.

Copy transmitted to Warden to contain such Rolls.

Roll,"—and they shall insert in the "Service Militia Roll" the names of all male persons of eighteen years of age and upwards, but under forty-five years, and in the "Reserve Militia Roll," the names of such person as are forty-five years of age and upwards, but under sixty years; and the copy required by Law to be made of any such Valuation or Assessment Roll for transmission to the Warden of the County, shall contain the additions herein specified; and in addition to any oath or certificate required under the present or any future Laws of this Province, to be taken or given by such Assessor or Assessors, Valuator or Valuators in respect to the Assessment or Valuation Roll, there shall also be made and attached to the said Roll the following certificate signed by such Assessor or Assessors, Valuator or Valuators; 5 10

Certificate.

" I do certify that I have truly and faithfully and to the best of my knowledge, information and belief, set down in the above Militia Rolls, the names of all male persons within the Municipality of (*as the case may be*), liable to be enrolled by the Militia Laws of this Province;" and such certificate shall be verified by him, or them, upon oath, before a Justice of the Peace. 15 20

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

32. As respects any City, Town, or Village Municipality in Lower Canada, the Assessment or Valuation Roll whereof is not by law required to be delivered to the County Warden, the assessors or valutors shall deliver a true copy, certified as aforesaid, of the Militia Rolls on any such Valuation or Assessment Roll, to the Warden of the County in which the Municipality lies, within *fourteen* days after they have completed such Roll. 25

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

33. In those Municipalities in Lower Canada in which the valuation or assessment is not made yearly, the assessors or valutors shall, between the day of and the day of in each year in which such Roll is not made, make out Militia Rolls for the Municipality, containing the particulars above mentioned, and shall certify the same as above directed and transmit them to the Warden of the County in which the Municipality is situated, before the day of in each such year; Provided always, that the Commander in Chief may, in any year, appoint any one or more officers of the Canadian Militia to make such Militia Rolls in any Parish, Township or other local Municipality in Lower Canada, and in respect of such Rolls the said assessors and valutors and each of them shall have the duties and the same powers for obtaining the requisite information, as they have with respect to the ordinary Valuation or Assessment Rolls and the Militia Rolls forming part thereof. 30 35 40 45

Proviso: Commander in Chief may

34. Provided always, that in all cases where the Commander in Chief shall find that a failure to make the Militia

Rolls for any Municipality has occurred, or sees reason to fear that such failure may occur, in any year, he may appoint one or more Officer or Officers of Militia, resident within such Municipality, to make the Militia Rolls therein for such year ;
 5 and such Officer or Officers shall then have, with respect to such Rolls, all the powers and perform all the duties, and be subject to all the liabilities, which the Assessors or Valuers for such Municipality would otherwise have had or have been subject to, with respect to the same.

cause the Militia Rolls to be made by Militia Officers in certain cases.

Powers in such case.

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

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

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

Certificate.

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

To be given to and kept by the Registrar.

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

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

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

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

PROVISIONS APPLYING TO THE WHOLE PROVINCE.

ORGANIZATION FOR ACTUAL SERVICE.

- 38.** The enrolled Militia appearing by the then last Militia Rolls as resident in each Regimental division shall form the Regiment of the Regimental division in which they reside ;—and each Regiment shall be composed in the following manner: The first and each succeeding Battalion of a Battalion of Service Men. 5
Regiment shall be composed of ten Companies, and shall embrace in the whole, exclusive of the proper complement of non-commissioned Officers, the number of seven hundred and fifty Service Men; and shall be taken as hereinafter provided, in the first place from the names on the Service Roll, 10
and when those names shall have been exhausted either be organization in Battalions or by reliefs for Battalions already in existence, then recourse shall be had to the names on thy Reserve Roll.
- 39.** To each Battalion of any such Regiment may be appointed at such time as the Commander in Chief may think fit a Lieutenant-Colonel, a Major and such number of Regimental Staff Officers as may be deemed necessary, and for every Company of seventy-five men may be appointed a Captain a Lieutenant, and an Ensign. 20
Officers of each Battalion.
- 40.** When the enrolled Militia or any Regiment or any Battalion thereof are or is called out in case of war, invasion or insurrection, or imminent danger thereof, those taken from the Regiment for actual service shall be firstly the Battalions composed of Service Men, and lastly the Battalions composed of Reserve Men. 25
Battalions of service men to be taken first for active service.
- 41.** When the Commander in Chief calls out the enrolled Militia, and the emergency is not such as to require that the whole of the Militia or of any class thereof, or the whole of any Regiment or of the Battalions thereof, be taken for actual service, he may from time to time direct the number of Battalions to be furnished from the enrolled Militia of the whole Province or of any Regimental Division thereof, over and above the Volunteers which shall always be the first taken for actual service. 35
When only part of the Militia is called out.
Volunteers to be first taken.
- 42.** For the purpose of organizing the Battalions hereinbefore mentioned, the Sheriff in Upper Canada, or the Registrar in Lower Canada, of the County forming such Regimental Division, shall, at some period, within *twenty-one days* after the completion and filing of the Militia Rolls for the County, summon the County Judge and Warden of the County in Upper Canada, or in Lower Canada, one or more Officers of the Enrolled Militia of the County to be designated to him by the Commander in Chief, to meet him at the Court 40
Proceedings for determining what service men shall form the first Battalion of a Regiment.

House at the County Town in Upper Canada,—or in Lower Canada at the Office of the said Registrar,—and shall also forthwith summon the Clerk of the Peace of the County in Upper Canada, to attend with the County Militia Rolls as

5 aforesaid,—for the purpose of balloting from the names appearing on the “Service Roll,” or the “Reserve Roll,” as the case may be, for the requisite number of men to form a Battalion or Battalions of the Regiment, as may be required by the Commander in Chief to be organized.

- 10 **43.** Each Battalion so organized shall be and continue so organized until the organization of a Battalion or Battalions in the same County in the year succeeding, when the same shall be deemed to be disbanded, and shall be succeeded in its organization by the Battalion to be formed by Ballot in such succeeding
- 15 year ; but in the event of the Provincial Militia being called out for actual service, any such Battalion, organized as aforesaid, shall serve for the period mentioned in the section of this Act.

Battalion so organized to remain for one year.

Proviso, if called out.

- 20 **44.** The Sheriff, County Judge and Warden of the said County, in Upper Canada, and the Registrar and Officer or Officers of Militia designated as aforesaid in Lower Canada, shall then proceed to select from the Service Roll, or Reserve Roll, as the case may be, the names of the requisite number of persons to form a Battalion of the Regiment of the said
- 25 Regimental Division, and the selection shall be conducted in the following manner, that is to say :—

Ballot for selecting the men to compose any Battalion.

The Ballot.

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

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

- and such names, so written, shall, by the direction and care of such Sheriff or Registrar, be put together in a box or urn to be by him provided for that purpose, and such box or urn shall
- 35 be shaken so as sufficiently to mix the names ;

2. The County Judge or Warden in Upper Canada, or the Registrar, or the Militia Officers designated as aforesaid, or one of them shall then draw out a sufficient number of names to complete the number of men called out by the Commander in
- 40 Chief, and each name as called out shall be transcribed by

Drawing the Ballots, and making up the Roll.

the Clerk of the Peace or the Registrar, on a Battalion Roll ; and he shall specify, opposite the name of each person, his place of residence as aforesaid, and such Battalion Roll shall be, signed by the said Sheriff, County Judge, Warden and Clerk of the Peace in Upper Canada, or any two of them, and by the Registrar and one at least of the Militia Officers designated as aforesaid in Lower Canada, and shall by the Sheriff or Registrar be delivered to the Deputy Assistant Adjutant General of the Regimental Division ; and the Clerk of Peace or the Registrar (as the case may be) shall, on the Service Roll or Reserve Roll (as the case may be,) insert the letter B opposite the name of each person so balloted.

Entry of the County Rolls.

Same provisions to apply to formation of any other Battalion.

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

Provision as to Unions of Counties.

46. In the case of a Union of Counties for Municipal and Judicial purposes, the same shall be treated as distinct for Militia purposes ; but the proceedings hereinbefore provided as to ballot in a County shall be applicable to each County of the United Counties, in which said County any portion of the Militia may be called out for actual service.

Men drafted must serve or find a substitute.

47. No man of any Regiment of enrolled Militia shall be exempt from actual service when called out, unless exempt by this Act or unless he forthwith provides an approved man of the same class, who may not have been called out and required, and who is willing to serve as a substitute.

Infirm persons exempted.

48. No man unfit from bodily infirmity to perform his duty, shall be taken for service.

Mode of notifying the men balloted when the Battalion is called out.

49. Whenever such may be deemed requisite and so ordered by the Commander in Chief, the Battalion or Battalions so organized as hereinbefore mentioned, shall, by the Officer appointed to command them, be warned by a notice to be served at the last known place of abode of each person so chosen for ballot as before provided, to attend forthwith at some place and shall be marched to such place as the Commander in Chief may appoint, and shall there be organized for service, in such manner as the Commander in Chief may direct, and shall be commanded by such Officers as from their qualification and fitness he thinks proper to appoint, such

Organization.

Officers.

Officers to be taken in preference from the Regimental Division so far as a sufficient number of persons duly examined and qualified can be found therein.

- 50.** The enrolled Militia or such Battalion or Battalions as shall from time to time be called out for actual service, shall serve during two years unless sooner disbanded, and may then be replaced by others to be called out in the order of the several classes and in the manner hereinbefore specified, and shall not be liable to be again called out until all others in the same class have been taken;—But Volunteers shall serve for the time for which they have engaged to serve; and no Volunteer shall leave the service, at any time when the Militia are called out, unless he is regularly discharged as hereinbefore provided or has served out the time for which he engaged.
- 51.** The Canadian Militia, so called out, may be marched to any part of the Province, or to any place without the Province but conterminous therewith, where the enemy is, and from which an attack on this Province is apprehended.
- 52.** The Canadian Militia, so called out, and every Officer or man belonging to it, shall, from the time he has been called out for actual service, be subject to the Rules and Articles of War and to the Act for punishing mutiny and desertion, and all other laws then applicable to Her Majesty's Troops in this Province, and not inconsistent with this Act; except that no man shall be subject to any corporal punishment except death or imprisonment for any contravention of such laws; and except also that the Commander in Chief may direct that any provisions of the said laws shall not apply to the Militia.
- 53.** No Officer, non-commissioned Officer or private in the Canadian Militia, shall be sentenced to death by any Court Martial except for mutiny, desertion to the enemy, or traitorously delivering up to the enemy any garrison, fortress, post or guard, or traitorous correspondence with the enemy;—And no sentence of any General Court Martial shall be carried into effect until approved by the Commander in Chief.
- 54.** No Officer of Her Majesty's regular Army on full pay shall sit on any Militia Court Martial.

Term of service of enrolled men.

And of Volunteers.

To what places may be marched.

Militia called out to be subject to articles of war.

Exception.

Exception.

For what offences only Militiamen may be sentenced to death.

Sentence must be first approved.

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

OFFICERS.

- 55.** All Commissions of Officers in the Canadian Militia shall be granted by the Commander in Chief and during pleasure; no person shall be an Officer of Militia unless he is one of Her Majesty's subjects by birth or naturalization.
- 56.** Commissioned Officers of the Canadian Militia shall furnish their own uniform, arms and accoutrements.

Commission, by whom granted.

Officers must be Her Majesty's subjects.

Officers arms and uniform &c.

Existing Com-
missions con-
tinued, until can-
celled, &c.

57. Commissions in the Canadian Militia, existing immediately before the passing of this Act, shall remain in force, the same being nevertheless subject to be cancelled by the Commander in Chief; and Commissions of officers other than of Volunteers shall be deemed to constitute such officers as belonging to the Regimental division in which they respectively reside; and all officers of the enrolled Militia to be hereafter appointed shall be designated in their commission as officers of the Regimental Division, unless specially appointed to Battalions;—But no person shall be bound to serve in the Canadian Militia in a lower grade than he has once held, unless he has resigned his commission or is reduced by sentence or order of some lawful Court or authority;—Provided that no rank in the Canadian Militia shall be higher in time of peace than Lieutenant-Colonel, any appointments heretofore made to the contrary notwithstanding.

No person
bound to serve
in a lower
grade than he
has held.

Proviso: no
rank above
Lieut. Colonel,
in peace.

Colonels when
militia is called
out.

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

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

59. All Corps of Volunteers, whenever on duty or parade shall be commanded by the Officer of Volunteers highest in rank then present on duty and in uniform, who shall be responsible for the due maintenance of order and discipline among the Corps of Volunteers then present, but if the Canadian Militia or any part thereof be called out for actual service, all Corps of Volunteers and enrolled Militia on duty or parade shall be commanded by the officer of Her Majesty's Army or of the Canadian Militia highest in rank then present on duty and in uniform; and officers of Volunteers shall always and in all cases be reckoned senior to all Officers of enrolled Militia of the same rank, whatever be the dates of their respective Commissions, and Officers of Her Majesty's Army shall always be reckoned senior to all Officers of the Canadian Militia of the same rank, whatever be the dates of their respective commissions;—And Colonels appointed by Commission signed by the Officer Commanding Her Majesty's Forces in Canada, shall command Colonels of Canadian Militia, whenever hereafter appointed, (except the *Adjutant General* of the Canadian Militia), whatever be the dates of their respective Commissions.

Volunteer Offi-
cers senior to
enrolled of same
grade.

Colonels.

Examination of
officers hereaf-
ter appointed or
promoted.

60. After the passing of this Act, no officer of the Canadian Militia shall be appointed or promoted until he shall have satisfactorily passed an examination before the Board hereinafter mentioned and received a certificate thereof.

Officers of
Naval com-
panies.

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

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

Board for examination of militia officers.

Certificates.

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

Staff officers of volunteers may be appointed.

Duties.

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

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

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

Pay of *Adjutant General*.

66. There shall be two *Assistant Adjutants General*, one for Upper and the other for Lower Canada; and each of the *Assistant Adjutants General* shall have the rank of Lieutenant Colonel in the Canadian Militia, and shall hold his Office during pleasure; and each of the said Officers shall be paid by the Province at the rate of *two thousand dollars*, per annum.

Adjutant General and *Assistants*.

Regimental
Assistant
Quarter Mas-
ters General.

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

Duties.

Deputy Assis-
tant Adjutants
General.

68. The Commander in Chief may appoint a Deputy Assistant Adjutant General of Canadian Militia, for one or more Regimental Divisions, and may from time to time regulate and prescribe his duties; and the said Deputy Assistant Adjutant General shall be paid by the Province at a rate not exceeding *six hundred dollars* per annum, and his travelling expenses and half a dollar a day in lieu of forage for a Horse. 15

Pay.

Drill and
musketry
instructors.

69. The Commander in Chief may, from time to time, appoint drill and musketry instructors, from Her Majesty's service or from the Canadian Militia to be employed in drilling and instructing the officers, non-commissioned officers and men in the several Corps of Volunteers or drill associations, and each of such drill and musketry instructors, when so employed, shall be paid by the Province at a rate not exceeding *one dollar and fifty cents* per diem, and the cost of their transport; but no such drill or musketry instructors shall be appointed from the Canadian Militia unless and until he has passed a full and satisfactory examination, before any Board of Examiners, to be named as aforesaid by the Commander in Chief. 20

Pay.

Subject to Ex-
amination.

Non-commis-
sioned officers.

70. All non-commissioned officers in the Provincial Militia shall be appointed by the officer commanding the Corps to which they belong,—and shall hold their rank during pleasure, and any person who has been a non-commissioned officer in Her Majesty's service, shall not be bound to serve in the Canadian Militia in a lower grade than he held in Her Majesty's service, unless he had, at the time of leaving Her Majesty's service, been reduced from such grade. 35

As to those
who have been
in H. M. ser-
vice.

Sergeant Major
of Field-Bat-
teries.

71. Each Sergeant Major of a Volunteer Field-Battery of Artillery may, on account of the great responsibility attached to the Office, be paid by the Province, at the rate of *two hundred dollars* per annum. 40

Pay of Militia
called out for
active service.

72. In time of Active Service in the field, and whenever the Canadian Militia or any part thereof shall be called out by reason of war, invasion, insurrection or imminent danger thereof, the officers, non-commissioned officers and men of the Canadian Militia, so called out for Active Service, shall be paid at such rates of daily pay, and shall receive such allowances in every respect, as are paid and allowed to officers and 45

men of the relative and corresponding rank or grade in Her Majesty's Service.

CORPS FOR GENERAL SERVICE.

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

Raising Regiments in time of war.

DRILL ASSOCIATIONS.

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

Certain associations may be organized but not clothed or paid.

DEPARTMENT OF MILITIA AFFAIRS.

- 75.** There shall be a Minister of Militia, who shall be appointed from among the heads of the Public Departments, and who shall be charged with the administration of Canadian Militia Affairs, and of the ordnance, ammunition, arms, armories and other stores and provisions and habiliments of war belonging to the Province.

Minister of Militia.
Duties.

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

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

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

Impressing carriages, &c., on emergency.

- 77.** When the said Troops of Her Majesty, or the Canadian Militia or any part thereof, or any Regiment, Battalion,

Justice of the Peace to billet;

on requisition
of Command-
ing Officer.

or Detachment of the same, are on a march as aforesaid, the officer or non-commissioned Officer commanding them shall require a Justice of the Peace to billet, and such Justice shall immediately thereupon so billet the said Troops or Canadian Militia as to facilitate their march, and in such 5
manner as may be most commodious to the inhabitants;--
And every inhabitant householder shall receive the Troops or Canadian Militia so billeted upon him, and furnish them with the lodging and articles mentioned in the next preceding section. 10

Lodging of
Officers not to
be paid for.

78. No Officer shall be obliged to pay for his lodging where he is regularly billeted; but each householder upon whom such soldiers are billeted shall receive from Government for each non-commissioned Officer, Drummer and Private of 15
Infantry, a daily rate of ten cents, and for each cavalry soldier, whose horse shall be also provided with stabling and forage, a daily rate of twenty-five cents; And every Officer or non-commissioned Officer to whom it belongs to receive, or who does actually receive the pay for any officers or soldiers, shall, every 20
four days, or before they quit their quarters if they do not remain so long as four days, settle the just demands of all householders, victuallers, or other persons upon whom such officers and soldiers are billeted, out of their pay and subsistence money, before any part of the said pay or subsistence money shall be distributed to them respectively, provided such 25
demands do not exceed in amount their pay and subsistence money for the time, beyond which credit is not to be granted.

Allowance for
men billeted.

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

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

79. When the safety of this Province requires that the said Troops of Her Majesty or Canadian Militia, or any Regiment, Battalion or Detachment of the same should be cantoned in any 30
part of this Province, any Justice of the Peace in the places where such Troops or Militia are cantoned, shall, upon receiving an order from the Officer commanding them, or on a requisition from the Officer commanding any such cantonment, quarter and billet the Officers, non-commissioned Officers, Drummers and 35
Privates of the said Troops or Canadian Militia, upon the several inhabitant householders, as near as may be to the place of cantonment, avoiding as much as possible to incommode the said inhabitants, and taking due care to accommodate the said Troops or Canadian Militia. 40

Complaint of
persons ag-
grieved, and
how redressed.

80. If any inhabitant considers himself aggrieved by having a greater number of the said Troops or Canadian Militia billeted upon him than he ought to bear in proportion to his neighbours, then on complaint being made to two or more Justices of the locality where such Troops or Canadian Militia are cantoned, 45
they may relieve such inhabitant, by ordering such and so many of the said Troops or Canadian Militia to be removed and quartered upon such other person or persons as they see cause,

and such other person or persons shall receive such Troops or Canadian Militia accordingly.

- 81.** No Justice of the Peace having any Military Office or Commission in the said Troops or Canadian Militia, shall directly or indirectly be concerned in the quartering or billeting of any Officer, non-commissioned Officer, or Soldier of the Regiment, Corps or Detachment under the immediate command of such Justice or Justices.
- 82.** Nothing in this Act contained shall be construed to authorize the quartering or billeting of any Troops or Canadian Militia either on a march or in cantonment, in any Convent or Nunnery of any Religious Order of Females, or to oblige any such Religious Order to receive such Troops or Provincial Militia, or to furnish them with lodging or house room.
- 83.** When any Troops of Her Majesty or any Canadian Militia are so cantoned as aforesaid, any Justice of the Peace where such cantonment is made, upon receiving an order to that effect from the Officer commanding the said Troops or Canadian Militia, or a requisition in writing from the Officer commanding that cantonment, for such and so many carriages as may be requisite and necessary for the said Troops or Canadian Militia,—shall issue his Warrant to such person or persons as are possessed of carriages, horses or oxen, within his jurisdiction, requiring him or them to furnish the same for the service aforesaid, and if any person, after receiving such Warrant, refuses to furnish the same, they may be impressed and taken for such service;—But no such carriage, horse or ox, or any carriage, horse or ox mentioned in the previous sections of this Act, shall be compelled to proceed more than thirty miles, unless in cases where other carriages, horses or oxen cannot immediately be had to replace them; and such carriages, horses or oxen shall be paid for at the usual rate of hire.
- 84.** In cases of emergency, when it is necessary to provide proper and speedy means for the conveyance by railway or by water of the Troops of Her Majesty or of the Canadian Militia, and also of their ammunition, stores, provisions and baggage,—any Justice of the Peace of and in the locality where such Troops or Canadian Militia are either on a march or in cantonment, upon receiving a requisition in writing from the Officer commanding such Troops or Canadian Militia, for such railway cars and engines, boats or other craft, as are requisite for the conveyance of the said Troops or Canadian Militia, and their ammunition, stores, provisions and baggage,—shall issue his warrant to such person or persons as are possessed of such railway cars and engines, boats or other craft within his jurisdiction, requiring him or them to furnish the same for that service, at and after the rate of payment to be allowed by the said Justice, not exceeding the usual rate of hire for such railway cars and engines, boats or

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

Troops not to be billeted upon Nuns, &c.

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

May be impressed on refusal to furnish.

Limitation of travel.

How paid.

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

Rate of pay for the same.

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

As to Railway
Companies.

other craft;—And if any such person neglects or refuses, after re-
ceiving such warrant, to furnish such railway cars or engines
or boats or other craft for that service, such railway cars or
engines, boats or other craft may be impressed and taken for
such service ;—But nothing herein shall impair the effect of any
Act obliging any Railway Company to convey such Troops,
Canadian Militia, and other articles aforesaid, in any manner
or on any terms and conditions therein mentioned, or to release
any such Company from any obligation or penalty thereby
imposed.

5
10

OFFENCES AND PENALTIES.

Unlawfully
retaining mo-
neys belong-
ing to militia-
men to be a
misdemeanor.

Offender to be
dismissed.

85. Any Officer or non-Commissioned Officer appointed or
to be appointed to the Canadian Militia, who obtains under
false pretences or who retains or keeps in his own possession,
with intent to apply to his own use or benefit, any moneys
belonging to any non-commissioned officer or private of any
Corps, or moneys of any kind for Militia Services, shall be guilty
of a misdemeanor, and shall be dismissed from the Canadian
Militia.

15

Assessors and
other Officers
refusing to per-
form their du-
ties under this
Act to be
liable to a
penalty.

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

25

False swear-
ing to be per-
jury.

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

Refusal to
make rolls, &c.

88. Any person refusing or neglecting to make or transmit,
as herein prescribed, any Militia roll or return, or copy
thereof, required by this Act or by any lawful authority, or
wilfully making any false statement in any such roll, return,
or copy, shall thereby incur a penalty of *forty dollars* for each
offence.

Penalty.

35

Punishment of
persons re-
fusing informa-
tion to any
assessor, &c.,
under this act.

89. Any person of whom information is required by any
Assessor or Valuator or Militia Officer making any Militia
Roll, in order to enable him to comply with the pro-
visions of this Act, refusing to give such information or
giving false information, shall forfeit and pay a penalty not
exceeding *Ten dollars* for each item of information demanded
of him and falsely stated, and the like sum for each indi-
vidual name that may be refused, concealed or falsely stated,
and every person refusing to give his own name and proper
information, when applied to as aforesaid, or giving a false

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name or information, shall forfeit and pay a penalty not exceeding *Ten dollars*.

90. Any person whomsoever refusing or neglecting to give any notice or information necessary under this Act, shall thereby incur a penalty of *ten dollars* for each offence. Or any notice &c.

91. Any officer, non-commissioned officer or man of the Volunteers who neglects or refuses to attend any drill or parade at the place and hour appointed therefor, or who refuses or neglects to obey any lawful order at or concerning such drill or parade, shall thereby incur a penalty not exceeding *twenty dollars* for each offence. Neglecting to attend muster, or misbehaving thereat, &c.

92. Any person who interrupts or hinders any of the Canadian Militia at Drill or parade, or trespasses on the bounds set out by the proper officer for such Drill or parade, shall thereby incur a penalty not exceeding *forty dollars* for each offence, and may be taken into custody and detained by any person by the order of the Commanding Officer, until such Drill or parade be over for the day. Hindering Militia at drill.

93. Any officer, non-commissioned officer or man of the Canadian Militia disobeying any lawful order of his superior officer, or guilty of any insolent or disorderly behaviour towards such officer, shall thereby incur a penalty not exceeding *fifty dollars* for each offence. Disobeying orders, &c.

94. Any officer, non-commissioned officer or man of the Canadian Militia who fails to keep any arms or accoutrements delivered or entrusted to him in proper order, or who appears at drill, parade, or on any other occasion, with his arms or accoutrements out of proper order, or unserviceable, or deficient in any respect, shall incur a penalty not exceeding *twenty dollars* for each such offence. Not keeping arms, &c., in proper order.

95. Any officer, non-commissioned officer or man of the Canadian Militia, who, without the consent of his Commanding Officer, sells or disposes of any horse which has been drilled for the purposes of the Canadian Militia, or which he has undertaken to furnish for such purposes, and which has been approved by the Commanding Officer, shall thereby incur a penalty not exceeding *twenty dollars* for each offence. Selling without leave any horse drilled and approved for any Troop, &c.

96. Any person who unlawfully disposes of or removes any clothing, arms, accoutrements or other articles belonging to the Crown, or who refuses to deliver up the same when lawfully required, or has the same in his possession, except for lawful cause, (the proof of which shall lie upon him) shall thereby incur a penalty not exceeding *fifty dollars* for each offence;—But this shall not prevent such offender from being indicted and punished for any greater offence if the facts Unlawfully disposing of arms, &c.
Not to prevent indictment.

Arrest of offender about to leave the Province.

amount to such, instead of being subjected to the penalty aforesaid ;—And any person charged with any act subjecting him to the penalty imposed by this section may be arrested by order of the Magistrate before whom the complaint is made, upon affidavit shewing that there is reason to believe that such person is about to leave the Province, carrying any such clothing, arms, accoutrements or articles with him. 5

Militia refusing to turn out in aid of civil power.

97. Any Officer, non-commissioned officer or private of Canadian Militia who, when lawfully called upon to act in aid of the civil power, refuses or neglects to go out or to obey any lawful order of his superior officer or of any magistrate, shall thereby incur a penalty not exceeding *fifty dollars* for each offence. 10

Refusing to receive Militia billeted.

98. Any inhabitant householder who refuses or neglects to receive any Troops or Canadian Militia billeted upon him or to furnish them with the lodging and articles which he is by this Act required to furnish, shall thereby incur a penalty not exceeding *twenty dollars* for each offence. 15

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

99. Any person lawfully required under this Act to furnish any carriage, horse or ox, for the conveyance or use of any Troops or Canadian Militia, who neglects or refuses to furnish the same, shall thereby incur a penalty not exceeding *twenty dollars* for each such offence. 20

Or any car, engine, boat or craft.

100. Any person lawfully required under this Act to furnish any railway car or engine, boat or other craft, for the conveyance or use of any Troops or Canadian Militia, who neglects or refuses to furnish the same, shall thereby incur a penalty not exceeding *fifty dollars* for each such offence. 25

Contravening this Act, where no other penalty is provided.

101. Any person who, while the Canadian Militia is not called out for actual service, wilfully contravenes any enactment of this Act or any regulation or order lawfully made or given under it, when no other penalty is imposed for such contravention, shall thereby incur a penalty not exceeding *dollars* for each offence, but this shall not prevent his being indicted and punished for any greater offence if the facts amount to such; and in such cases courts martial shall not be held. 30 35

No Courts martial in such cases.

Penalties imposed by this act or regulations &c., under it, how recoverable.

102. All penalties incurred under this Act or under any Articles, Rules and Regulations, Orders or Articles of Engagement lawfully made or entered into under it, shall be recoverable, with costs, on the evidence of one credible witness, on complaint or information before one Justice of the Peace if the amount do not exceed *twenty dollars*, and before two Justices of the Peace if the amount exceeds that sum ;—And any officer, non-commissioned officer or private of the Canadian Militia shall be a competent witness in any such case, although the penalty is applicable to the purposes of the Corps. 40

Witnesses.

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

Imprisonment in case of non-payment.

104. No prosecution against an Officer of Provincial Militia for any penalty under this Act shall be brought except on the complaint of the Adjutant or Assistant Adjutant General ;--And no such prosecution against any non-commissioned officer or private of the Canadian Militia, shall be brought except on the complaint of the Commanding Officer or Adjutant of the Corps to which such non-commissioned officer or private belongs ;--And no such prosecution against any private or non-commissioned officer of the Volunteers, shall be brought except on complaint of the Captain or Commanding Officer thereof ;--But the Adjutant or Assistant Adjutant General may authorize any officer of Canadian Militia to make such complaint in his name, and the authority of any such officer alleging himself to have been so authorized to make any complaint, shall not be controverted or called in question except by the Adjutant or Deputy Adjutant General.

On whose complaint penalties may be sued for.

Evidence of authority to sue.

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

Limitation of time for such prosecutions.

106. The penalty when recovered shall, if the offender belongs to the Volunteers, be paid over to the officer commanding the corps, for the purposes thereof, and shall be applied by him to such purposes and accounted for by him to the Adjutant General ; and if the offender belongs to the enrolled Militia, then the same shall be paid over to the Adjutant General, who shall account for and pay it over to the Receiver General for the public uses of the Province, and it shall make part of the Consolidated Revenue Fund.

Application of penalties.

MISCELLANEOUS PROVISIONS.

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

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

- General Orders how notified.** **108.** All General Orders of Militia, or other Militia Orders issued through or by the Adjutant General, shall be held to be sufficiently notified to all persons whom they may concern, by their insertion in the *Canada Gazette*,--And a copy of the said Gazette purporting to contain them shall be *prima facie* evidence of such orders. 5
- Evidence.**
- Regiment or Battalion Orders, how notified.** **109.** All Orders made by the Officer Commanding a Corps shall be held to be sufficiently notified to all persons whom it may concern, by their insertion in some newspaper published in the locality, or, if there be none, then by posting 10 a copy thereof on the door of the church or of some court-house, mill, or other most public places, in the Regimental Division.
- Evidence of commissions, warrants &c.** **110.** The production of a commission or appointment, warrant or order in writing, purporting to be granted or made 15 according to the provisions of this Act, shall be *prima facie* evidence of such commission or appointment, warrant or order, without proving the signature or seal thereto, or the authority of the person granting or making such commission, appointment, warrant or order. 20
- Bonds entered into, in pursuance of this Act, to be valid.** **111.** Every bond to the Crown entered into by any person under the authority of this Act, or according to any General Order or Regulations made under it, or for the purpose of securing the payment of any sum of money, or the performance of any duty or act hereby required or authorized, before any 25 Judge or Justice of the Peace, or officer therein authorized to take the same, shall be valid and may be estreated or enforced accordingly.
- Sums of money payable to the Crown under this Act, how recoverable.** **112.** Every sum of money which any person or corporation is under this Act liable to pay or repay to the Crown, or 30 which is equivalent to the damages done to any arms or other property of the Crown used for purposes of the Provincial Militia, shall be a debt due to the Crown, and may be recovered in any manner in which such debts may be recovered.
- Protection of Officers, &c., in pursuance of this Act,--** **113.** Every action and prosecution against any Officer or 35 person, for any thing done in pursuance of this Act, shall be laid and tried in Lower Canada in the district, and in Upper Canada in the county, where the act complained of was done, and shall not be commenced after the end of six months from the doing of such act, nor until one month's notice in 40 writing of the action and of the cause thereof has been given to the defendant;--And in any such action the defendant may plead the general issue and give this Act and the special matter in evidence at the trial;--And no plaintiff shall recover in any such action if a tender of sufficient amends was made 45 before the action was brought, or if a sufficient sum of money has been paid into Court by the defendant after the action was brought.
- Limitation of action.**
- Tender of amends.**

114. If a verdict passes for the defendant in any action referred to in the next preceding Section, or the plaintiff becomes non-suit or discontinues the action after issue joined, or if on demurrer or otherwise judgment is given against the plaintiff,—the defendant shall recover his full costs as between attorney and client, and shall have the same remedy therefor as any defendant hath in other cases ;—And though a verdict is given for the plaintiff, he shall not have costs against the defendant, unless the Judge before whom the trial has been had certifies his approbation of the action and the verdict therein.

If plaintiff be non-suit, &c.

No costs against defendant except with approval of Judge.

115. All sums of money required to defray any expense authorized by this Act, may be paid out of the Consolidated Revenue Fund of this Province, upon warrant directed by the Governor to the Receiver General ; and such warrants may be made in favour of the Adjutant-General of the Canadian Militia, to enable him to pay such expense, or in favour of the party directly entitled to the money ; But no sum of money shall be so paid out of the Consolidated Revenue Fund until first approved of by resolution of the Legislative Assembly in the annual estimates.

Payment of moneys under this Act.

Proviso.

116. A detailed account of all moneys advanced or expended under this Act shall be laid before each Branch of the Provincial Parliament within fifteen days after the opening of the then next session thereof.

Accounting to Parliament.

117. The Interpretation Act shall apply to all articles, rules and regulations lawfully made or entered into under this Act, as well as to this Act.

Interpretation.

118. For the purposes of this Act, the words " Canadian Militia " shall embrace and include the Volunteers and the enrolled Militia, and the word " Corps " shall include any Regiment or Battalion of the enrolled Militia, and any Battalion, Troop, Battery or Company of Volunteers hereinbefore mentioned.

Interpretation of certain words.

119. The thirty-fifth chapter of the Consolidated Statutes of Canada and the Act twenty-fifth Victoria, chapter one, are hereby repealed ;—Except that all offences heretofore committed against the said Consolidated Statute, may be prosecuted and punished, under the same, which shall remain in force as to such offences ; and that the several enactments in the said Consolidated Statute relative to the Sedentary Militia, shall remain of full force and effect in each County respectively until the completion of the first organization of a Battalion or Battalions of enrolled Militia under this Act, in such County.

Repealing clause.

Exception.