

NEW ZEALAND.
ANNO VICESIMO SEXTO
VICTORIÆ REGINÆ.
No.

ANALYSIS:

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A BILL INTITULED

**An Act for the regulation of the
Militia.**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows :

Short Title.

I. The Short Title of this Act shall be "The Militia Act, 1862."

Repealing former Acts.

II. "The Militia Act 1858, and "The Militia Act Amendment Act 1860" and all regulations under the authority thereof are hereby repealed: But nothing herein shall be construed to relieve the officers or men of the Militia or Volunteer Forces from any liability in respect of the Arms and Accoutrements heretofore delivered to the custody care or possession of any of them or in any other respect under the said Acts provided that any proceedings relating thereto shall be had or commenced within twelve months from the passing of this Act.

Existing companies of Volunteers confirmed

III. All Volunteers serving under the regulations made by the Governor in Council on the 19th day of January 1862 shall be deemed and taken to have been enrolled under the provisions of this Act as Volunteer Militiamen and their service shall be deemed and taken to have commenced on the first day of February 1862 subject nevertheless to the following proviso that is to say: That any non-commissioned officer or private so enrolled who may claim his discharge on or before the thirty-first day of December 1862 shall be entitled thereto, and it shall be the duty of the officer commanding in the District to grant the same.

When Act to come into operation,

IV. This Act shall come into operation in any District on the Proclamation thereof by the Governor in the *Government Gazette* of the Colony.

Existing Commissions cancelled

V. All Commissions heretofore granted to Officers of Militia and Volunteers shall be cancelled and the Governor shall if he shall see fit grant to the former officers of both Corps new Commissions in the Militia of their former grade and bearing the dates of the first Commissions of the like grade respectively granted to them whether in the Militia or Volunteers.

Who Militiamen.

VI. The Militia shall consist of all the male inhabitants of New Zealand between the ages of eighteen and fifty-five years not hereinafter exempted who shall have resided in any Militia District for the period of two calendar months.

Designation of Force.

VII. The designation thereof shall be the *New Zealand Militia*.

Composition of Militia.

VIII. The *New Zealand Militia* shall consist of Volunteer Militia and Sedentary Militia.

Exemptions

IX. The following persons shall be and are hereby exempted from enrolment and actual service in every case:

The Judges of Supreme Court
Resident Magistrates

Justices of the Peace
 The Clergy and Ministers of all Religious denominations.
 The Professors in any College or University, and all
 Teachers in religious orders
 The Warden Keepers and Guards of the Common Gaols
 and Lunatic Asylums and the attendants on the
 sick in Public Hospitals
 The Members of the Executive Council
 The Members of the General Assembly
 The Clerks of the said Council and Assembly respec-
 tively
 All Civil Officers appointed to any Civil Office under the
 Great Seal
 All persons lawfully authorised to practice Physic or
 Surgery
 Postmasters and Mail Carriers
 Seafaring Men actually employed in their calling
 Masters of Public and Common Schools actually engaged
 in teaching
 Ferrymen
 One Miller for each run of stones in every Grist Mill
 Jailors Sheriffs and Constables
 All persons disabled by bodily infirmity certified by the
 Medical Officer of the company to which they would
 respectively belong.

Men exempt not disqualified

X. Provided that no exemption shall prevent any person from serving in the Militia should he desire it or from holding a Commission therein if he be not disabled by bodily infirmity.

Governor Commander-in-Chief.

XI. The Governor shall by virtue of his office be Commander-in-Chief of the Militia.

Commissions how granted and held.

XII. All Commissions of officers in the Militia shall be granted by the Governor and shall be held during pleasure.

Aliens not to be Officers.

XIII. No person shall be an officer of Militia unless he is one of Her Majesty's subjects by birth or naturalization nor if he is such subject by naturalization only unless he shall have taken the oath of allegiance.

Precedence of Officers.

XIV. Any body of Militia called out shall be commanded by the officer highest in rank then present or the senior of two or more officers of equal rank Officers of Her Majesty's Regular Army shall be senior to all Militia officers of the like rank whatever may be the dates of their respective Commissions and Colonels appointed by Commission signed by the Commander of Her Majesty's Regular Forces in New Zealand shall command Colonels of Militia whatever be the date of their respective Commissions But nothing herein contained shall be deemed to authorise the appointment of such Colonels.

XV. No officer of Her Majesty's Regular Forces whatever may be his rank shall as such have any authority over any officer non-commissioned officer or private of Militia who shall not be called out for actual service and no officer of Militia unless he shall be called out for actual service shall have any authority over any officer non-commissioned officer or private of Her Majesty's Regular Forces.

Appointment of Non Commissioned Officers.

XVI. All non-commissioned officers in the Militia shall be appointed by the officers commanding the battalion to which they belong on the recommendation of the Captain and shall hold their rank during the pleasure of the officer commanding the District.

Governor may constitute Districts.

XVII. The Governor in Council may from time to time constitute throughout the Colony or in any part thereof Militia Districts and may from time to time abolish or vary such Districts or any of them and may designate the Militia of any District by such names as he shall think fit.

Governor to divide Districts.

XVIII. The Governor may from time to time by any Militia General Order divide the Militia Districts respectively into regimental divisions and the regimental divisions into battalion divisions and may designate such divisions by such names or numbers as he shall see fit.

Governor to declare Head Quarters of Regiments and Battalions.

XIX. Whenever any Militia District shall be constituted under the provisions of this Act the Governor shall declare the places which shall be the head-quarters of regiments and battalions and no Militiaman shall be compelled to march to a greater distance than twenty miles from the head-quarters of the battalion to which he may belong.

Permanent Staff.

XX. In every Militia District constituted under this Act it shall be lawful for the Governor to appoint a permanent Staff consisting of not more than the following persons viz: one Adjutant, one Sergeant-Major, one Sergeant, one Corporal, and one Bugler or Drummer who shall be paid out of moneys to be appropriated by the General Assembly for that purpose after rates not exceeding the following:

Adjutant	10s. a day and forage
Sergeant-Major	5s. ditto
Sergeant	4s. ditto
Corporal	3s. 6d. ditto
Bugler or Drummer	3s. ditto

Drill Instructors.

XXI. If the permanent Staff shall be insufficient and in any district in which there shall be no permanent Staff temporary Drill Instructors may be appointed by the Governor and they shall be paid by the Colony at a rate not exceeding seven shillings per diem.

Arms and Accoutrements.

XXII. The arms and accoutrements of the officers and men of the several Companies shall be such as the Governor from time to time shall direct. Such arms and accoutrements shall be furnished to the non-commissioned officers and privates of the said Corps at the public expense but shall always remain Government property and the persons receiving them shall be accountable for them.

Repairs.

XXIII. The said arms and accoutrements shall be renewed and kept in repair at the cost of the Colony whenever such renewal or repair becomes necessary from wear in service or other cause than the fault or neglect of the person having charge thereof in which last named case they shall be renewed or repaired by such person or if renewed or repaired at the cost of the Colony the cost may be recovered from such person as a debt due by him to the Crown by any Commissioned officer of his Corps who may sue for the same.

Officers Arms.

XXIV. Commissioned officers of Militia shall furnish their own arms accoutrements and uniform according to the prescribed pattern.

Oath

XXV. Every Militiaman who shall be enrolled under the provisions of this Act shall when required by the officer commanding the Company to which he may belong take an oath in the form following :

I (A. B.) do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria and that I will faithfully serve in the Militia (or Volunteer Militia as the case may be) until I shall be lawfully discharged.

And it shall be the duty of the officer commanding the company to administer the said oath.

*Volunteer Militia Companies.**Composition of Volunteer Militia.*

XXVI. The Volunteer Militia may consist of batteries, troops and companies of Artillery Engineers and Infantry armed and found in manner herein provided which batteries troops and companies shall be subject to the controul and superintendence of the officer commanding in the District to which they belong.

Total number of men.

XXVII. Except as hereinafter provided the total of such Volunteer Militia in the Colony shall not exceed officers and men.

Others may serve without pay, &c.

XXVIII. Notwithstanding any limitation in the next preceding section of the number of Volunteer Militia the Commander-in-Chief may accept the services of any greater number : Provided that no greater of Volunteer Militia than that limited

by the said section shall receive pay or allowances under this Act unless they shall be on actual service.

Marine Companies may be formed,

XXIX. Volunteer Marine or Naval companies may be formed in the same manner as hereinafter provided for the Land Forces and may consist of such officers non-commissioned officers and privates as the Governor may direct.

Arming and Drilling of Marine Companies

XXX. The Marine companies shall be armed in such manner as the Governor shall direct and shall 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.

Uniform.

XXXI. The uniform of the several batteries troops and companies of Volunteer Militia shall be of such colour pattern and design as may be ordered by the Governor for each arm of the service respectively and each of such Corps shall conform in all particulars to the order of the Governor in such respect.

Times of Drill and Exercise

XXXII. The Volunteer Militia companies shall be drilled and exercised at such time in each year and at such places as the Commanding officer of the District may from time to time appoint but no Volunteer Militiaman shall be compelled to attend for training and exercise more than one hundred and sixty-eight hours nor on more than twenty-eight days in any one year.

Pay for Training.

XXXIII. Volunteer Militia officers non-commissioned officers and privates shall be entitled to receive pay for every day on which they may be trained or exercised at the rate of one shilling per diem and also a mileage at the rate of sixpence per mile for every mile of distance between the residences of such Volunteer Militia and the place of drill or training So that nevertheless no Volunteer Foot Militiaman shall receive more than *three* shillings per diem and no Volunteer Cavalry Militiaman more than *five* shillings per diem.

How to be disbursed.

XXXIV. Provided that the moneys to be paid for pay for each day on which the companies are so drilled shall be paid only upon the pay list and declaration thereto being duly furnished to the officer commanding the District as hereinafter required.

Pay List to be forwarded.

XXXV. It shall be the duty of every commanding officer of a corps to forward the pay-list of the said corps to the officer commanding the District having attached thereto a declaration that the several officers non-commissioned officers and privates in the said pay-list named for pay were actually and *bonâ fide* personally present at each day's drill and were actually drilled for the number of days and in manner by law required and were and continued severally on the roll of the said corps during the

Supply of Ammunition.

time specified and in addition thereto in cases of field batteries and cavalry that they were properly horsed and mounted and that the horses were actually and necessarily present and used for such drill.

Band Fund.

XXXVI. Whenever a Band shall be formed in any District it shall be lawful for the Governor to direct that an amount not exceeding _____ per man per annum shall be paid to the President thereof for the purposes of such Band so that nevertheless the gross amount to be paid to any one Band in any one year shall not exceed _____

XXXVII. Sufficient ammunition for practice at drill shall be supplied to the Volunteer Militia companies at the expense of the Colony in such manner as the Commander-in-Chief may direct.

Exemption of Volunteers from Jury List.

XXXVIII. The officers non-commissioned officers and men of Volunteer Militia corps shall while they continue such be exempt from serving as Jurors; and whenever they shall have served in one or more Volunteer or Volunteer Militia corps during a term of seven years such exemption shall continue after the expiration of the said term and a certificate under the hand of the Commanding officer of any such corps shall be sufficient evidence of the service in his corps of any officer non-commissioned officer or man for the current year.

After seven years service.

XXXIX. And when any man shall have served the full period of seven years either as a Volunteer or as a Volunteer Militiaman or in both capacities it shall be the duty of the Commanding Officer of the District to grant to him a certificate there-of countersigned by the Adjutant and such certificate shall be evidence of the fact.

Governor to declare number of companies in any district.

XL. It shall be lawful for the Governor from time to time by notice in the *Government Gazette* to declare the number of Volunteer Militia companies which may be formed in any Militia District constituted under the provisions of this Act.

How to be raised.

XLI. Whenever it shall be deemed desirable to raise Volunteer Militia companies in any Militia District the Governor shall select persons to raise and command such companies and in the event of any person so selected raising not less than fifty men for an Infantry company and for other companies such number as the Governor may appoint the Governor shall grant to him a Commission as Captain in the Militia if he shall not at the time hold such a Commission in the Militia.

Majority of Company to recommend Subalterns.

XLII. When any Volunteer Militia Company shall have been so formed it shall be lawful for a majority of such company to recommend persons to be appointed subalterns of such company.

How to be enrolled.

XLIII. Every person desirous to serve in a Volunteer Militia Company shall irrespectively of the district in which he may reside either personally or in writing give in his name to the captain or officer commanding the Volunteer Militia Company in which he may elect to serve.

Captain to keep Roll.

XLIV. And it shall be the duty of the captain or officer commanding any Volunteer Militia Company and under his orders of the other officers and non-commissioned officers to make and keep at all times a correct roll of the company.

Duration of Service and Discharge.

XLV. Every Volunteer Militiaman enrolled under this Act shall be enrolled for a period of not less than one year but it shall be lawful for the Commander-in-chief at any time to grant him a discharge and the senior officer of any district may grant a discharge to any Militiaman who may be leaving the said district.

Exemption Militia training.

XLVI. Every man who shall have served as a Volunteer under the Acts herein repealed or as a Volunteer Militiaman under this Act for a period of four years in all shall be at times thereafter exempt from attendance for training and exercise in the Militia unless the Militia be called out for actual service.

Governor may make Regulations.

XLVII. It shall be lawful for the Governor from time to time by publication thereof in the *Government Gazette* to make vary and abolish Regulations under which the service of Militiamen in any particular Volunteer company or companies shall be accepted in any Militia District and all such Regulations shall have the same force and effect as though they had been embodied in and formed part of this Act Provided always that no Volunteer Militiaman shall be subject to any Regulations not in force at the date of his enrollment or re-enrollment and also that no Regulations to be issued under the authority of this Act shall contravene any of the provisions herein contained.

Governor may disband Volunteers.

XLVIII. It shall be lawful for the Governor on the making or varying of any such Regulations and whenever he shall see fit to direct that any particular Volunteer company or companies shall be disbanded and the persons composing such company or companies shall unless they shall again enrol as Volunteer Militiamen become subject to the provisions of this Act as persons not enrolled in any Volunteer company.

Governor to declare head quarters of Volunteer Companies.

XLIX. Whenever the Governor shall authorise the enrollment of any Volunteer Militia company he shall declare the place which shall be the head quarters of such company and also to what battalion and regiment such company shall belong and such company shall save as herein provided be subject to the same discipline and liable to the same duty as the regiment or battalion of which it forms a part.

Limit to numbers in Companies.

L. No Volunteer Militia Battery Troop or Company shall consist of more than eighty non-commissioned officers and privates.

When Militia required for Actual Service Volunteers may be first taken.

LI. Whenever a part of the Militia of any district is required for actual service the Volunteer companies may be first taken.

Clothing to be supplied.
Clothing in certain cases to be paid for.

LII. Every Volunteer Militiaman who shall be enrolled under the provisions of this Act shall receive the following clothing namely one great coat one tunic one cap one pair of trowsers and two pairs of boots and a like quantity of clothing shall be supplied to him every two years during the period he shall serve as a Volunteer Militiaman and in the event of any Volunteer Militiaman obtaining his discharge before the expiration of any such two years he shall pay to the officer commanding an amount for the cost of his clothing proportioned to the unexpired term of such two years.

Sedentary Militia.

Classification of Sedentary Militia.

LIII. The Sedentary Militia shall be divided into the following classes:—

- 1st Class—Unmarried men and widowers without children between eighteen and forty-five years of age.
- 2nd Class—Married men and widowers with children between eighteen and forty-five years of age.
- 3rd Class—Men between forty-five and fifty-five years of age.

Formation and correction of Roll.

LIV. The enrolment of the Sedentary Militiamen shall be made in each company division by the Captain thereof, with the assistance of the officers and non-commissioned officers of the company and it shall be the duty of the Captain and under his orders of the other officers and non-commissioned officers of the company by actual enquiry at each house in the company division and by every other means in their power to make and keep at all times a correct Roll of the company and the non-commissioned officers employed on such duty shall receive such pay for the same as the Governor shall from time to time direct.

Persons liable to give in their names.

LV. Each man liable under this Act to be enrolled in any company and not so enrolled shall give in his name age and place of residence personally or in writing to the Captain or officer commanding such company within twenty days after he becomes so liable whether by the alteration of any district or division change of residence or otherwise howsoever.

Company Rolls and Returns.

LVI. The officer commanding any company of the Militia shall on such day as may be appointed by the Governor make

out a corrected Roll thereof and transmit a certified copy thereof to the officer commanding the battalion who within forty days after such day shall forward a correct return of the battalion under his command to the officer commanding the regimental division who shall forward the same to the officer commanding the Militia District and the said return shall then be transmitted to the Deputy Adjutant General.

Duties of Officers and others in correcting Rolls.

LVII. Each company Roll shall be corrected from time to time as changes which affect it occur and every householder and resident in the company division and every constable and other Municipal officer shall be at all times bound to give to the commanding officer or any officer or non-commissioned officer of the company such information as may be required to make such corrections and to answer all such questions as any of them may pertinently put to him for the purpose of obtaining such information and every Militiaman shall be bound to inform the officer commanding the company in writing of any change of residence or other circumstances affecting such Militiaman by which the Roll of the company is affected.

Settlement of differences.

LVIII. If any difference shall arise between the Enrolling officer and any man as to his liability to serve or as to the class to which he should belong it shall be competent for the officer to require him to make a declaration in the matter in dispute before a Magistrate.

Governor may call out Sedentary Militia for training.

LIX. It shall be lawful for the Governor by Proclamation in the *Government Gazette* from time to time to call out the Sedentary Militia in any District for the purpose of training and exercise and such Proclamation shall be a sufficient notice to all persons to whom it may relate.

Governor may make Regulations.

LX. It shall be lawful for the Governor from time to time to make Regulations respecting the training and exercise arms and accoutrements clothing and equipment pay rations and lodging of the Sedentary Militia or any part thereof and respecting all other matters connected therewith which may be required for promoting the efficiency thereof as a Military Force: Provided always that the Regulations so to be made shall not in anywise be repugnant to the provisions of this Act and also that no Sedentary Militiaman shall unless he be called out on actual service be liable to be trained or exercised more than seventy-two hours or on twelve days in any one year.

Calling out the Militia.

The Governor or his Deputy may call out the Militia.

LXI. The Governor or his Deputy appointed by warrant under his hand may by Proclamation in the *Government Gazette* call out the Militia or any part thereof in any District for actual service whenever it is in his opinion advisable so to do.

Militia to be subject to the Mutiny Act

LXII. The Militia or any part thereof called out for actual service shall be subject to the Articles of War and to the Act for

punishing Mutiny and Desertion and all other Laws then applicable to Her Majesty's Troops in the Colony in all cases not herein otherwise provided for and provided that no Militiaman shall be subject to any corporal punishment except death or imprisonment for any contravention of such laws.

None but Militia Officers to sit on Courts Martial.

LXIII. None but Militia officers shall sit on any Militia Court Martial.

How to be drafted.

LXIV. When a part only of the Sedentary Militia is required for actual service Volunteers from the First and Second Class Men shall be first taken then the remainder of the First Class Men then the remainder of the Second Class Men and then the Third Class Men and when a part only of any Class is required the men of such Class shall be drawn by lot under the superintendence of the officer commanding the District whose certificate that any man has been so drafted or volunteered or consented to serve as substitute for a drafted man shall be evidence of the fact.

Exemption penalty.

LXV. It shall be lawful for any person drafted for actual service to forthwith pay to the Commanding Officer of the District a penalty of Twenty Pounds and such person shall thereupon be exempt from service for one year from that time.

Substitutes.

LXVI. It shall also be lawful for any person drafted for actual service to produce an approved man to serve in his stead and the person so drafted shall be exempt from service for one year from that time unless the whole of the class to which the substitute belongs shall be taken for actual service before the expiration of the said period and such substitute by his consent to serve as such shall become liable in every respect as though he had been drafted.

Duration of service.

LXVII. The Militiamen so taken or drafted for actual service from the Sedentary Militia shall serve during one year unless sooner disbanded and may then be replaced by others to be taken as aforesaid and they shall not be liable to be again taken until all others in the same class have been taken.

Wounded and Killed Militiamen.

Pension for wounds.

LXVIII. Every officer of Militia and Militiaman who shall be so seriously wounded or otherwise injured, when on actual service as to afterwards impede his obtaining a livelihood shall be entitled to a pension so long as he shall be so disabled according to such regulations as the Governor in Council shall from time to time make in that behalf as nearly as the circumstances will admit in accordance with the Regulations in force in respect of the Queen's Regular Forces and of a similar amount.

Pension for families.

LXIX. In the event of any Militia officer being killed on service his family shall be entitled to such pension as they would

have been entitled to had he been an officer of the same rank in Her Majesty's Regular Service, and in the event of a non-commissioned officer or private being killed in service his family shall be entitled to such pension as they would have been entitled to had he been an Ensign in Her Majesty's Service.

Place for storing arms. Armament of the Sedentary Militia.

LXX. The arms and armaments for the Sedentary Militia shall when such Militia is not called out for actual service be kept in armouries and if there be in any district no building adapted to be used as such armoury the Governor may cause a proper building to be erected at a cost not exceeding for each such building or he may cause any public building or part thereof to be altered so as to adapt it for such armoury at a cost not exceeding one-half the said sum.

Permanent staff to act as storekeepers.

LXXI. The Adjutant of the District with the aid of the permanent staff shall subject to the direction and control of the officer commanding the district have charge of each such armoury and of the arms therein.

How arms may be issued.

LXXII. The arms in such armouries respectively shall be delivered out to the Sedentary Militia called into actual service in such way as the officer commanding the district shall appoint.

When arms may be in custody of militia men.

LXXIII. If there be any Militia District or Division in which from its position it is not deemed advisable to have the arms of the Sedentary Militia kept in an armoury such arms may be delivered out to the enrolled Militiamen in such district or division and each man shall give a receipt for those received by him.

Transport of Militia and Troops.

Demand and impressment of horses, &c.

LXXIV. When any Troops of Her Majesty or Militia are cantoned any Justice of the Peace where such cantonment is made upon receiving an order to that effect from the officer commanding the said Troops or Militia or a requisition in writing from the officer commanding that cantonment for such and so many carriages as may be requisite and necessary for the said Troops or Militia shall issue his warrant to such person or persons as are possessed of carriages horses or oxen within his jurisdiction requiring him or them to furnish the same for the service aforesaid and if any person after receiving such warrant refuses to furnish the same they may be impressed and taken for such service but no such carriage horse or ox 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.

Procedure for obtaining transport on emergency.

LXXV. In cases of emergency when it is necessary to provide proper and speedy means for the conveyance by railway or by water of the Troops of Her Majesty or of the Militia and also of their ammunition stores provisions and baggage any

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Justice of the Peace in the locality where such troops or Militia are either on a march or in cantonment upon receiving a requisition in writing from the officer commanding such Troops or Militia for such railway carriages and engines boats or other craft as are requisite for the conveyance of the said Troops or Militia and their ammunition stores provisions and baggage shall issue his warrant to such person or persons as are possessed of such railway carriages 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 carriages and engines boats or other craft and if any such person neglects or refuses after receiving such warrant to furnish such railway carriages or engines or boats or other craft for that service such railway carriages or engines boats or other craft may be impressed and taken for such service but nothing herein shall impair the effect of any Act obliging any railway company to convey such Troops Militia and other articles aforesaid in any manner or on any terms and conditions therein mentioned or to release any such company from any obligation or penalty thereby imposed.

Offences and Penalties.

Offences when not on actual service.

LXXVI. Every Commissioned officer non-commissioned officer or man who shall commit when not called out for actual service any one of the offences following shall on being convicted thereof pay a penalty not exceeding five pounds viz :

1. Who shall fail to appear at the time and place appointed for training and exercise.
2. Who while being trained and exercised shall refuse or neglect to obey any lawful order of his superior officer.
3. Who shall be guilty of any insolent or disorderly behaviour at any time towards his superior officer when the latter shall be in the execution of his duty.
4. Who shall fail to keep any arms or accoutrements entrusted to him in proper order.

Punishment and penalties of Act cumulative

LXXVII. Nothing contained in this Act shall destroy or affect any liability to any other penalty or punishment to which a person is or may be subject under any other law for the offence described.

Misappropriation of money

LXXVIII. Any officer or non-commissioned officer or Militia who obtains under false pretences or who retains or keeps in his own possession with intent to apply to his own use or benefit any of the pay or moneys belonging to any officer non-commissioned officer or private of any corps shall be guilty of a misdemeanour and shall be dismissed from the said Militia force.

False declaration, &c.

LXXIX. Any person making an affidavit or declaration required by this Act and swearing or declaring falsely therein shall be guilty of perjury.

Falsifying or omitting to make return.

LXXX. Any officer of Militia refusing or neglecting to make or transmit as herein prescribed any roll or return or copy thereof required by this Act or by any lawful authority or wilfully

making any false statement in any such roll return or copy shall thereby incur a penalty not exceeding twenty pounds for each offence.

Neglect in compiling or correcting roll.

LXXXI. Any officer or non-commissioned officer of Militia refusing or neglecting to assist his commanding officer in making any such roll or return or refusing or neglecting to obtain or to assist him in obtaining any information which he may require in order to make or correct any roll or return shall thereby incur a penalty not exceeding ten pounds for each offence.

Peace officer contravening Sec. 55.

LXXXII. Any constable or other municipal officer offending against the provision contained in Section XXXV shall be liable to a penalty not exceeding £5 for each offence.

Refusing information for roll.

LXXXIII. Any Militiaman or other person refusing or neglecting to give any notice or information necessary for making or correcting the roll of any company and which he is required by this Act to give to the Commanding officer of such company or to any officer or non-commissioned officer thereof demanding the same at any seasonable hour and place, shall thereby incur a penalty not exceeding Five Pounds for each offence.

Unlawful disposing or removal of arms.

LXXXIV. Any person who unlawfully disposes of or removes any arms accoutrements or other articles belonging to the Crown or who refuses to deliver up the same when lawfully required or has the same in his possession except for lawful purpose (the proof of which shall lie upon him) shall thereby incur a penalty not exceeding Twenty Pounds for each offence. But this shall not prevent such offender from being indicted and punished for any greater offence if the facts amount to such instead of being subjected to the penalty aforesaid. And any person charged with any act subjecting him to the penalty imposed by this section may be arrested by order of the Magistrate before whom the complaint is made upon affidavit showing that there is reason to believe that such person is about to leave the District carrying any such arms accoutrements or articles with him.

Recoveries of Penalties.

LXXXV. All penalties incurred under this Act or under any Regulations Orders or Articles of Engagement lawfully made or entered into under it shall be recoverable with costs on the evidence of one credible witness on complaint or information before two Justices of the Peace. And to the recovery of such penalties all the provisions of any law then in force relative to summary convictions and orders by Justices of the Peace shall apply in so far as may not be inconsistent with this Act. And any officer non-commissioned officer or private of any Volunteer Militia company shall be a competent witness in any such case although the penalty is applicable to the purposes of such company.

Mode of Prosecution.

LXXXVI. No prosecution against an officer of Militia for any penalty under this Act shall be brought except on the complaint of the Deputy Militia Secretary. And no such prosecution against any non-commissioned officer or private of the Sedentary Militia shall be brought except on the complaint of the Commanding officer or Adjutant of the battalion or Captain of the company to which such non-commissioned officer or

private belongs And no such prosecution against any private or non-commissioned officer of a Volunteer Militia company shall be brought except on complaint of the Captain or Commanding officer thereof But the Deputy Adjutant-General may generally or specially authorize any officer of Militia to make such complaint in his name and the authority of any such officer alleging himself to have been so authorized to make any complaint shall not be controverted or called in question except by the Deputy Adjutant-General.

Limit of time for prosecution.

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

Disposal of Penalties.

LXXXVIII. The penalty when recovered shall if the offender belongs to the Volunteer Militia be paid over to the officer commanding the company for the purposes thereof and shall be applied by him to such purposes and accounted for by him to the Deputy Adjutant-General And if the offender belong to the Sedentary Militia then the same shall be paid over to the Deputy Adjutant-General who shall account for and pay it over to the Colonial Treasurer for the public uses of the Colony as Ordinary Revenue.

Miscellaneous Provisions.

Contraventions of Act or Regulations.

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

Orders and Notices.

XC. 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 given or issued at a parade or 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.

General Orders.

XCI. All General Orders of Militia or other Militia Orders issued through or by the Deputy Adjutant-General shall be held to be sufficiently notified to all persons whom they may concern by their insertion in the *Government Gazette* or in a Newspaper published in the District.

Regimental and Battalion Orders.

XCII. All Orders made by the Commanding officer of a Militia district or regimental or battalion division shall be held to be sufficiently notified to all persons whom it may concern by their insertion in the *Government Gazette* of the Province in which such District or Division is situate or in a Newspaper circulating therein or by posting a copy thereof

on the door of the Church or of some Court-house mill or other public place in each company division.

Evidence of Commission, &c.

XCIII. The production of a commission or appointment warrant or order in writing purporting to be granted or made according to the provisions of this Act shall be *prima facie* evidence of such commission or appointment warrant or order without proving the signature or seal thereto or the authority of the person granting or making such commission appointment warrant or order.

Crown Debts.

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

Rules for Actions.

XCV. Every action and prosecution against any officer or person for any thing done in pursuance of this Act shall not be commenced after the end of three months from the doing of such act nor until one month's notice in writing of the action and of the cause thereof has been given to the defendant And in any such action the defendant may plead the general issue and give this Act and the special matter in evidence at the trial And no plaintiff shall recover in any such action if a tender of sufficient amends was made before the action was brought or if a sufficient sum of money has been paid into Court by the defendant after the action was brought.

Rules as to Costs.

XCVI. 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 therefore 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.

Expenses chargeable on ordinary Revenue

XCVII. All sums of money required to defray any expense authorised by this Act may be paid out of the Ordinary Revenue of the Colony upon warrant directed by the Governor to the Colonial Treasurer And such warrants may be made in favour of the Deputy Adjutant-General of Militia to enable him to pay such expense or in favour of the party directly entitled to the money but no sum of money shall be so paid until first appropriated by the General Assembly.

Account to be furnished to Assembly.

XCVIII. A detailed account of all moneys advanced or expended under this Act shall be laid before each house of

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the General Assembly within fifteen days after the then next session thereof.

Prosecutions under existing Acts.

XCIX. All offences heretofore committed against any Acts or Regulations relating to Militia now in force may be prosecuted and punished under such Acts which shall remain in force as to such offences notwithstanding the repeal of the said Acts and Regulations.

Interpretation.

C. In the construction of this Act unless there be something in the subject or context repugnant to such construction the word "Governor" shall mean Governor in Council the words "Officer Commanding" shall mean the Senior Militia Officer of in the District the word "District" shall mean Militia District the word "Corps" shall for the purposes of this Act include any Field Battery Troop of Cavalry Foot Company of Artillery or Company or any Battalion or Regiment and the word "Company" shall include Battery and Troop and the word "Militia" shall include all branches and arms of the Colonial Forces unless there is something in the context or the sentence in which the word is used which shows that it is there intended to have a limited signification and special reference to some particular part of the Colonial Forces.