

that portion thereof to which the offender belongs, is not called out for actual service, shall be punishable by penalties to be imposed by one or more Justices of the Peace, and in a summary manner as hereinafter provided, and in such cases Courts Martial shall not be held.

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

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

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

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

56. When the whole Militia of the Province are called out, all the Volunteer Companies shall be included.

57. Each Sedentary Militiaman, and men of Class B and C of the Active Militia, called out for actual service, shall attend at such time and place as may be directed by the officer commanding him, with any arms and accoutrements he has received from the Province, and with such provisions as such officer may direct.

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

59. The number of men to be so furnished shall, in the first instance, be taken from Class B of the Active Militiamen in the several Company Divisions in that part of the Province to which the order applies, and in proportion as nearly as may be to the number of such men in each. Volunteers shall be first taken from each Company, but if the number of volunteers be not sufficient, then such further number as may be required shall be drawn by lot under the superintendence of the commanding officer of the Company, whose certificate that any man has so been drafted, or volunteered, or consented to serve as substitute for a drafted man, shall be evidence of the fact.

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

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

62. If a greater number of men are required than the whole

number of men in Class B of the Active Militia, then the requisite number shall be taken from Class C of the Active Militiamen, in like manner; if a greater number be still required than the whole number of Class C, then the requisite number shall be taken from the Sedentary Militia in like manner.

63. The said Militiamen so respectively taken or drafted for actual service, shall, by such officers as may be detailed for that purpose, by the Lieutenant Colonel of the Battalion from which they are taken, be marched to such place within the Province as the Commander in Chief may appoint, and shall there be embodied into Companies and Battalions, in such manner as the Commander in Chief may direct, and being so embodied, shall be commanded by such officers as from their qualifications and fitness he thinks proper to appoint.

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

65. The Militiamen so taken or drafted for actual service from Class B and C of the Active Militia, shall serve during one year, unless sooner disbanded, and may then be replaced by others taken as aforesaid, and shall not be liable to be again taken until all others of the same class be taken. But the men in Volunteer Militia Companies shall serve for the time for which they have engaged to serve, which time shall not be less than two years, subject however to be determined on two months notice as hereinbefore mentioned; provided that no volunteer shall leave the service, either with or without notice, at any time when the Militia are called out, unless he is regularly discharged or has served out the time for which he engaged.

66. The Militia so called out may be marched to any part of the Province, or to any place without the Province but continuous therewith, where the enemy is, and from which an attack on this Province is apprehended.

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

68. Any body of Militia so called out shall be commanded by the officer highest in rank then present, or the senior of two or more officers of equal rank; Officers of Her Majesty's Regular Army shall always be reckoned senior to all Militia Officers of the same rank, whatever be the dates of their respective Commissions.

69. The arms and accoutrements for the Militia (except those in actual use by Volunteers) shall, when such Militia is not called out for actual service, be kept in Armories at Saint John and Fredericton, and at such other places as the Governor in Council may from time to time direct.

70. The arms in such Armories respectively shall be delivered out to the Militia when called into actual service, in such way as the Commander in Chief shall appoint.