

Militia.

ANNO OCTAVO

VICTORIÆ REGINÆ.

SESSION V. No. I.

MILITIA.

AN ORDINANCE for raising a Militia within the Colony. [25th March, 1845.]

Preamble.

WHEREAS it is expedient that the European population of New Zealand should be trained to the use of arms, so as to form an effective military force for the defence of the lives and property of Her Majesty's subjects within the Colony :

BE IT THEREFORE ENACTED by the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

Power to Governor to call together Militia.

1. It shall be lawful for His Excellency the Governor to call together arm and array as a Militia such persons as are hereinafter mentioned, and cause them to be trained and exercised accordingly, at such times and places as shall seem meet, for any number of days not exceeding twenty-eight days in any one year.

And appoint officers.

2. It shall also be lawful for His Excellency the Governor to appoint a proper number of officers to train discipline and command the persons to be so armed and arrayed, according to the regulations to be from time to time made in that behalf, and also to appoint one proper person, who shall have served in some of the Queen's Regular Forces, to be Adjutant to such regiment or body of Militia which may be raised in any settlement within the Colony, who shall be paid any sum not exceeding eight shillings per diem.

And to regulate the formation of the Militia.

3. It shall also be lawful for His Excellency the Governor to cause the Militia to be formed and regulated in such manner as to His Excellency shall seem meet, in regard to the number of regiments battalions or other bodies, and the number of men of which each respectively shall consist.

And to erect and constitute Courts-martial.

4. It shall also be lawful for His Excellency the Governor to erect and constitute Courts-martial, as well as to grant his commission or warrant to the Officer Commanding for the time being any body of such Militia, such officer not being below the degree of a field-officer, to convene Courts-martial as occasion may require for the trial of offences committed by the forces under his command, whether the same shall have been committed before or after such officer shall have taken upon himself such command.

And to make regulations for training, &c.

5. It shall also be lawful for His Excellency the Governor from time to time to make such regulations respecting the training and exercise arms and accoutrements clothing and equipment of such Militia, and respecting all other matters connected therewith as may be required for promoting the efficiency of such Militia as a military force :

Provided

Militia.

Provided always that the regulations so to be made shall not in any wise be repugnant to the provisions of this Ordinance.

6. In all cases of actual invasion or upon imminent danger thereof, and in all cases of rebellion or insurrection, or upon any imminent danger to the safety of any settlement, it shall be lawful for His Excellency the Governor or other the principal civil authority there present, in any settlement in which a Militia shall have been raised, to direct the Officer Commanding the Militia of such settlement with all convenient speed to draw out such Militia force, or such part thereof as the Governor or such civil authority shall judge necessary, and in such manner as shall be best adapted to the circumstances of the danger, and to lead the said forces into any part of the district in which such Militia shall have been raised: Provided always that neither the whole nor any part of the Militia to be raised in any settlement within the Colony shall on any account be carried or ordered to go beyond the distance of twenty-five miles from the Police Office of the district in which such Militia shall be raised.

And to call Militia into actual service.

7. Every man except as hereinafter excepted between the ages of eighteen years and sixty years, being a British subject and not an aboriginal native, who shall reside within the Colony, shall be liable to serve in such Militia: Provided that the Judges of the Supreme Court, all Members of the Legislative Council, all Clergymen Priests Ministers of Religion and Catechists, shall be exempt from serving in any such Militia.

Who liable to serve as Militiamen.

8. The Police Magistrate of every district or county which shall contain a European population of one thousand souls or upwards shall, as soon as conveniently may be after the passing of this Ordinance, and in the month of March in every succeeding year, call a special meeting of the Justices of the Peace residing within twenty-five miles of the Police Office, for the purpose of forming a Militia List. The Justices at such meeting (any two being a quorum) shall prepare a list in alphabetical order of all men residing within such limits as aforesaid who shall be liable under the provisions of this Ordinance to serve as Militiamen, setting forth the Christian and surname of each at full length, together with his place of abode calling or business. The Police Magistrate shall forthwith cause copies thereof to be affixed on the principal door of the Police Office, and in such other conspicuous places throughout the district as to him shall seem meet, and to such list and copies thereof shall subjoin a notice that all objections thereto will be heard and determined by such Justices at any time within ten days after the date of such notice.

Magistrates to form Militia List.

9. Such Justices shall have power, after hearing such objections, to strike out of the said list the names of all persons who shall not be liable to serve as Militiamen, and also of such as are afflicted by lunacy or unsoundness of mind, or deafness blindness lameness or by any other disorder that may render them unfit for active service in any such Militia, and also from time to time to add such names as may have been accidentally or improperly omitted.

Justices to correct list.

10. A copy of the list so corrected by the said Justices shall be transmitted by them forthwith to the principal civil authority of the county or district.

Copy of list to be sent to principal civil authority of the settlement.

11. Notice of the times and places to be from time to time fixed by His Excellency the Governor for training and exercise shall be posted at the door of the Police Office and other conspicuous places within the district fourteen clear days at least before the time to be so appointed as aforesaid, which shall be deemed sufficient notice to every Militiaman, and all such Militiamen shall duly attend accordingly.

Notice of time and place of training to be given.

12. Every

Militia.

Penalty for not appearing.

12. Every Militiaman (not labouring under any infirmity incapacitating him) who shall not appear at the time and place appointed for his being exercised (notice having been given as by this Ordinance required,) shall forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way.

Penalty for not attending.

13. Every Militiaman who, having joined the regiment or body to which he belongs, shall desert or absent himself during the time of any such exercise, shall forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way.

Notice to be given to Militiamen when called into actual service.

14. When the whole or any part of such Militia shall be ordered out into actual service as aforesaid, the person to whom such order shall be directed shall forthwith cause notice in writing to be given to the several Militiamen, or left at their usual places of abode, to attend at the time and place mentioned in such order.

Penalty for not joining.

15. If any Militiaman so directed to be drawn out (not labouring under any infirmity incapacitating him to serve as a Militiaman) shall not appear and march in pursuance of such direction, every such Militiaman shall be liable to be apprehended and punished as a deserter according to the provisions of any Act then in force for punishing mutiny and desertion, and for the better payment of the Army and their quarters, and of the Articles of War made in pursuance of the same.

Penalty for concealing Militiamen.

16. If any person knowingly shall harbour or conceal any such Militiaman when directed so to be drawn out, he shall for every such offence forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way.

Oath to be taken.

17. Every Militiaman who shall appear at the time and place appointed for exercise, shall take an oath or make a solemn affirmation in the form following, namely:—

I, A.B., do sincerely promise and swear [*or do solemnly and sincerely declare*] that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, and that I will faithfully serve in the Militia in any part of this district until I shall be lawfully discharged,

and shall thereupon be enrolled. The aforesaid oath or affirmation shall be taken or made in the presence of the Senior Officer of Militia then present, who is hereby authorized to administer the same: Provided that if any Militiaman shall refuse to take such oath or to make such affirmation, he shall forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way.

Penalty for selling or receiving arms &c.

18. If any Militiaman shall sell pawn or lose any of his arms clothes accoutrements or ammunition, or neglect or refuse to return the same in good order to his Captain or to the person appointed to receive the same, or if any person shall knowingly and wilfully buy take in exchange conceal or otherwise receive any Militia arms clothes accoutrements or ammunition whatever delivered for the Militia, every such offender shall forfeit and pay for every such offence any sum not exceeding ten pounds, to be recovered in a summary way.

Militia to be subject to Articles of War, &c.

19. During the time at which any such Militia shall be assembled for the purpose of being trained and exercised or for actual service, all things contained in any Act of Parliament which shall then be in force for punishing mutiny and desertion and for the better payment of the Army and their quarters, and in the Articles of War made in pursuance of such Act, shall be in force with respect to such Militia, and to all the officers, non-commissioned officers, drummers, and privates of the same, in all cases whatsoever, but so that no punishment shall extend to life or limb.

Appropriation.

20. It shall be lawful for any Officer Commanding and present with any detachment or division of Militia called out to exercise or on actual service, not being under the rank of Captain, to order when he shall think it necessary a regimental Court-martial to be held for the trial of any offence committed by any sergeant, corporal, drummer or private, under and during his command; and if a sufficient number of officers shall not be present to constitute such Court-martial, it shall be lawful for the Commanding Officer of the regiment to which any such detachment or division shall belong, upon application made to him by the Officer Commanding such detachment or division for that purpose, to order a sufficient number of officers of proper rank to attend for the purpose of assisting at such Court-martial, who shall forthwith attend the same and assist as members thereof.

Regimental Courts-martial.

21. The sentence of every such Court-martial shall in every case be submitted to the Commandant of the regiment to which such detachment or division shall belong, (or in his absence from the district to the Senior Field Officer of the same,) for his approval thereof, who shall cause such sentence to be put in execution mitigated or remitted as he shall in his discretion think best for the service.

Sentence to be submitted to Commandant.
