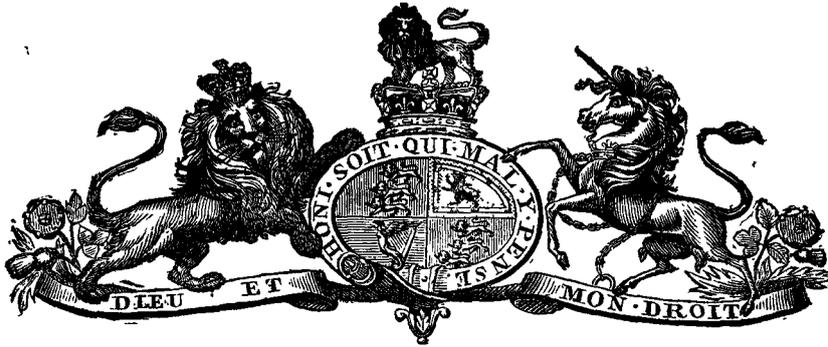


NEW ZEALAND.



TRICESIMO TERTIO ET TRICESIMO QUARTO

VICTORIÆ REGINÆ.

No. LXXXVII.

ANALYSIS.

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| <p>Title.
Preamble.
1. Short Title.
2. Interpretation.
3. Repeal of Acts. Saving existing liabilities and commissions.
4. Officers to be British subjects.
5. Governor to be Commander-in-Chief.
6. Who liable to serve.
7. Exemptions.
8. Further exemptions.
9. Proof of exemption.
10. Except by consent.
11. Classification of Militia.
12. Governor to appoint Officers.
13. Districts to be constituted.
14. Officers Commanding to be appointed.
15. Districts may be divided into battalion divisions.
16. Formation of battalions.
17. Officer to be appointed to each battalion.
18. Company divisions.
19. Medical Officers how appointed.
20. Officers holding appointments under previous Act to be placed on Unattached List unless previously posted to battalions &c.
21. Officers leaving their districts.
22. Commissions expire in certain cases.
23. Rolls how made and kept.
24. Person liable to serve to give in his name within twenty days.
25. Persons desirous of changing their district how treated.
26. Arms &c. to be returned.
27. In case of dispute as to service declaration to be made before a Magistrate.
28. Officers of companies to make returns and when.
29. Officers of battalions to make return.
30. Information to be given to enrolling Officer by all persons required so to do.</p> | <p>31. Governor to call out Militia.
32. Oath.</p> <p style="text-align: center;">OFFENCES AND PENALTIES.</p> <p>33. Penalties for offences committed by any person.
34. Penalties for offences by Militiamen.
35. Offences relating to tolls.
36. Losing and spoiling arms &c.
37. Selling and pawning arms &c.
38. Offences punishable by fine imposed by Officer Commanding. Proviso.
39. Fines.</p> <p style="text-align: center;">MILITIA ON ACTUAL SERVICE.</p> <p>40. Governor to call out Militia for actual service.
41. Order of drafting for actual service.
42. Substitutes.
43. Time for actual service.
44. Mutiny Act to apply to Militia on actual service.
45. Courts-Martial.</p> <p style="text-align: center;">MISCELLANEOUS.</p> <p>46. Rank.
47. Governor may make Regulations.
48. Proof of Proclamations &c.
49. Notice of battalion orders.
50. Arms of Militia exempt from seizure.
51. Exemptions from tolls &c.
52. Orders how to be given.
53. Recovery of fines and penalties.
54. Summary conviction not to be quashed for want of form.
55. Limitations of actions against officers.
56. Costs.
57. Interests of miners protected while absent on Militia duty.
58. When Act to come into operation.
Schedule.</p> |
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AN ACT to consolidate and amend the Law relating to the Militia in New Zealand. Title.

[12th September 1870.]

WHEREAS it is expedient to amend and consolidate the Laws relating to the Militia in the Colony Preamble.
BE IT THEREFORE ENACTED by the General Assembly of

Militia.

New Zealand in Parliament assembled and by the authority of the same as follows—

- Short Title.** 1. The Short Title of this Act shall be “The Militia Act 1870.”
- Interpretation.** 2. In the interpretation of this Act and of any regulation made under its authority unless there be something in the subject or context repugnant to such construction or inconsistent therewith the words and phrases following shall have the meanings hereby respectively assigned to them that is to say the word “District” shall mean a district constituted by or under this Act the word “Militiaman” shall signify a non-commissioned officer or private in the New Zealand Militia constituted under this Act and the phrase “Officer Commanding” shall mean such officer as may be appointed by the Governor to command the district or in his absence the senior Militia Officer serving in such District.
- Repeal of Acts.** 3. “The Militia Act 1858” “The Militia Act Amendment Act 1860” and “The Militia Acts Amendment Act 1862” and “The Militia Act 1865” and all Regulations under the authority thereof respectively are hereby repealed Provided that nothing herein contained shall be construed to relieve the officers or men of the Militia as constituted under any of the above-named Acts from any fines penalties or liabilities incurred thereunder or under any such Regulations as aforesaid but the same may be inflicted and recovered thereunder as if this Act had not been passed Provided also that all Commissions of Officers of Militia and all appointments of non-commissioned officers heretofore made shall be deemed to have been made under the authority of this Act but so nevertheless that the seniority of the several persons appointed before the coming into operation of this Act shall remain and subsist as it would have done if this Act had not been passed.
- Saving existing liabilities and commissions.**
- Officers to be British subjects.** 4. 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 a subject by naturalization unless he shall have taken the Oath of Allegiance.
- Governor to be Commander-in-Chief.** 5. The Governor shall be the Commander-in-Chief of the Militia and all other Colonial Forces and shall have the power of convening General Courts-Martial and of confirming the sentences thereof and of issuing his Warrant to convene General and District Courts-Martial and shall have all the powers and may exercise and discharge all the duties and obligations appertaining to the office of Commander-in-Chief respecting the Militia or any part thereof when called out for actual service or for training.
- Who liable to serve.** 6. The Militia shall consist of all the male inhabitants of New Zealand between the ages of seventeen and fifty-five not hereinafter exempted who shall have resided in the Colony for the period of six calendar months.
- Exemptions.** 7. The following persons shall be exempt from training and actual service in the New Zealand Militia—
 The Judges of the Supreme Court
 The Members of the Executive Council of the Colony
 The Members of the General Assembly
 The Officers of the General Assembly
 The Superintendents of Provinces
 Secretaries and Under Secretaries of the Colonial Government
 The Judges of the Native Lands Court or Compensation Court
 Civil Commissioners

Militia.

- The Chairman of the County Council of Westland
 Resident Magistrates
 The Clergy and Ministers of all religious denominations who shall for the time being be Officiating Ministers within the meaning of "The Marriage Act 1858" and the Acts amending the same
 The Professors in any College or University
 The Members of Provincial Councils during Session
 The Members of the County Council of Westland during Session
 All Sheriffs and Constables
 All Wardens and other Officers of a proclaimed Gold Field
 Duly registered Medical Men in practice
 Telegraph Clerks
 The Wardens Keepers Warders and Guards of every Public Gaol and Lunatic Asylum and the Attendants on the Sick in every Public Hospital
 Postmasters Mail Carriers and Government Ferrymen
 All Officers Clerks or other persons acting in the management or collection of the Customs Revenue
 Masters of Public and Common Schools actually engaged in teaching
 Seafaring Men (other than Watermen and Boatmen) actually engaged in their calling
 All Volunteers enrolled under any Volunteer Act for the time being in force within the Colony
 All persons afflicted with lunacy deafness blindness or with any other disease or infirmity that may render them unfit for service such disease or infirmity being duly certified by a medical man appointed by the Governor and paid by the Government for that purpose Each such certificate shall state the nature of the disease or infirmity under which the claimant is labouring and distinguish whether it incapacitates him for actual service and training and exercise or for actual service only
 No Officer who has voluntarily retired from Her Majesty's Military or Naval Service shall be required to serve in the Militia in a lower rank than that which he held in such service.

8. The Aboriginal Inhabitants of New Zealand and every person descended from an Aboriginal Native and living as a member of a Native tribe or community shall also be exempt from training and service in the New Zealand Militia Provided always that the Governor in Council by Proclamation in the *New Zealand Gazette* may suspend the exemption of any persons mentioned in this section who shall be resident in any district in such Proclamation mentioned in which case no person of such class in such district shall be entitled to exemption by reason only of this section until such Proclamation shall be revoked by the Governor in Council. Further exemptions.

9. Whenever exemption is claimed whether on the ground of age period of residence or otherwise and whenever any person alleges that he ought to be placed in a class different from that in which he is placed the burden of proof shall always rest on the person claiming exemption or so alleging. Proof of exemption.

10. Provided always that such exemption shall not prevent any person who is not disabled by bodily or mental disease or infirmity from serving or holding a commission in the Militia by his own consent. Except by consent.

Militia.

Classification of
Militia.

- 11.** The Militia shall be divided into the following classes viz.—
 1st Class.—Men between seventeen and thirty years of age
 2nd Class.—Men between thirty and forty years of age
 3rd Class.—Men between forty and fifty-five years of age

Governor to appoint
Officers.

12. The Governor may in the name and on behalf of Her Majesty from time to time by Commission under the Public Seal of the Colony appoint Officers to the Militia and may confer brevet rank on any such Officer in the manner customary in Her Majesty's regular army and may by notice in the *New Zealand Gazette* attach or cause to be attached such Officers or any of them to the Militia Staff or to any regiment battalion or other division thereof as he may think fit and may from time to time cancel or revoke such commissions and annul or vary such appointments Provided always that it shall not be competent for the Governor to confer a commission in the New Zealand Militia on any person until he can produce a certificate of qualification from the Officer Commanding the district in which he resides.

Districts to be
constituted.
Schedule.

13. The North Island of New Zealand shall be divided into the several districts as set forth in the Schedule hereto which shall be designated by the names in the said Schedule respectively given to them therein and the Governor in Council may from time to time constitute districts throughout the Middle Island and Stewart's Island or in any part of them comprising not more than one thousand six hundred square miles within each and may vary and abolish any districts so constituted by the Governor in Council and constitute new districts in lieu thereof and may give to the Militia of any such district such name as he may think fit and from time to time alter such name and give a new name thereto and the Militia of each district constituted by or under this Act shall be called by the name if any given to the district by this Act or by the Governor as the case may be Provided that all districts constituted under Acts repealed by this Act in the Middle Island or Stewart's Island shall be deemed to have been constituted under this Act by the Governor in Council.

Officers Commanding
to be appointed.

14. An Officer shall be appointed to command and periodically inspect the Militia and Volunteer Force of the Colony and be generally responsible to the Government for the efficiency thereof and to each district an Officer shall be appointed of such rank as the Governor may deem fit who shall command the Militia in such district and the Governor may also appoint for any such district a paid permanent Staff.

Districts may be
divided into battalion
divisions.

15. The Governor may from time to time by any Militia General Order divide such district into battalion or independent company divisions and may designate such divisions by such name and number as he may think fit.

Formation of
battalions.

16. The Militia resident in each battalion division shall form a battalion of the regiment of the divided district.

Officer to be
appointed to each
battalion.

17. To each battalion there shall be appointed a Field Officer to command an Adjutant and such other number of Regimental Staff as may be necessary.

Company divisions.

18. Each Officer Commanding a battalion shall from time to time divide his battalion division into company divisions and the whole of the Militia resident within each company division not being an independent company division shall form a company or companies of the battalion and to each company there may be appointed a Captain a Lieutenant and an Ensign Provided always that any Militiaman in any such company division may with the sanction of the Officer Commanding his battalion on the recommendation of the Officer Commanding his company join a company in any other company division in the same battalion division.

Militia.

- 19.** The Governor may appoint to all Militia battalions the proper number of Surgeons and Assistant-Surgeons. Medical Officers how appointed.
- 20.** All Militia Officers who shall not at the time this Act comes into force have been posted to a battalion or company of the Militia District in which they reside shall be placed on the Unattached List. Officers holding appointments under previous Act to be placed on Unattached List unless previously posted to battalion &c. Officers leaving their districts.
- 21.** Any Officer quitting one Militia District and proceeding to reside in another shall not thereby forfeit his commission but shall be placed on the Unattached List of New Zealand Militia unless required to serve in the district to which he has removed.
- 22.** If an Officer remains for five years on the Unattached List or if an Officer is absent from the Colony for twelve months without leave from the Governor or for twelve months after the period if any for which he shall have obtained leave the commission of such Officer shall in such case lapse and be void Provided always that it shall be lawful for the Governor in special cases to retain permanently on the Unattached List any such Officers. Commissions expire in certain cases.
- 23.** The enrolment of the Militia shall be made in each company division by the Adjutant of the battalion or other officer appointed by him or Officer Commanding an independent company as the case may be who by actual inquiry at each house in the company division if necessary or by any other means in his power shall obtain and keep at all times a correct roll of the company in such form as may be directed by the Officer Commanding the district and copies of the said rolls shall in the month of January in each year be posted in conspicuous places within the said company divisions. Rolls how made and kept.
- 24.** Each man liable under this Act for enrolment in any company battalion or regiment and not so enrolled shall within twenty days after the posting of the said rolls give in his name age and place of residence either personally or in writing to the Adjutant of the battalion or Officer Commanding the independent company as the case may be And no person liable to be enrolled shall be relieved from training and exercise or from actual service by omission from or erroneous entry of his name in such roll. Person liable to serve to give in his name within twenty days.
- 25.** Any man liable to serve or actually serving who may remove without the limits of the district in which he resides shall within twenty days thereafter give in his name age and place of residence to the Adjutant of the battalion division or Officer Commanding the independent company division as the case may be into which he shall have removed for the purpose of being enrolled therein. Persons desirous of changing their district how treated.
- 26.** Any Militiaman having any arms clothes accoutrements or ammunition intrusted to him shall deliver up the same in good order to the Officer Commanding his company or any person authorized by him without demand on his ceasing to belong to any company by reason of change of class residence or otherwise. Arms &c. to be returned.
- 27.** If any difference shall arise between any Adjutant or Officer Commanding 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 Adjutant or Officer Commanding to require him to make a declaration as to the matter in dispute in the form prescribed by "The Justices of the Peace Act 1866" before a Justice of the Peace. In case of dispute as to service declaration to be made before a Magistrate.
- 28.** Each Officer Commanding a company of Militia shall between the first and fifteenth of February in each year make out a correct roll of his company showing the names ages residences and classes of the Militiamen therein and shall transmit the same before the end of the same month to the Officer Commanding the battalion to which he belongs. Officers of companies to make returns and when.
- 29.** Each Officer Commanding an independent company or bat- Officers of battalions to make return.

Militia.

talion shall before the thirty-first day of March in each year prepare and forward a correct nominal return of the independent company or battalion under his command to the Officer Commanding the district to which it belongs.

Information to be given to enrolling Officer by all persons required so to do.

30. Every master or mistress of any dwelling-house whether a tavern boarding-house lodging-house or private house shall upon the application of any Militia Officer acting as an enrolling officer give all such information as to the names ages qualifications and liability to serve in the Militia of all persons residing or lodging in such house as such Officer may demand and such master or mistress shall be able to give.

Governor to call out Militia.

31. The Governor shall cause the whole of the Militia or such part thereof as he may think proper to be trained as a military force and for this purpose shall by Proclamation in the *Government Gazette* cause notice of fourteen days to be given of the times and places for the first muster And such notice shall be published in some local newspaper circulating in the Province in which the district is situate or be posted in some conspicuous place within the district The particular times and places for subsequent meetings shall be fixed in every Militia District by the Officer Commanding in such district Provided that it shall be lawful for every Officer in command at any first muster or subsequent meeting by order on parade and without further notice to give notice of and appoint other times and places for such meetings Such notice as aforesaid shall be deemed sufficient notice to every Militiaman of the time and place of every meeting Provided always that no Militiaman shall be compelled to attend for training and exercise more than one hundred and sixty-eight hours in any one year and provided also that any Militiaman called out at the time of the passing of this Act shall be deemed to have been called out under this Act.

Oath.

32. Every Militiaman who shall appear at the time and place appointed for training and exercise or for active service shall when required by the Officer Commanding or by some other Commissioned Officer on his behalf take an oath in the following form—

Oath.

“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 until I shall be lawfully discharged.”

Provided that any person objecting from conscientious scruples to take an oath may make a solemn affirmation to the same effect as the oath.

OFFENCES AND PENALTIES.

Penalties for offences committed by any person.

33. Every person whether liable to serve in the Militia or not who is guilty of any of the offences following that is to say—

- (1.) Wilfully refusing or neglecting to give information or knowingly giving false information as to the name age qualifications and liability to serve in the Militia of any person residing or lodging in the house whereof the offender is master or mistress and every wilful neglect to answer a question and every false statement knowingly made shall be deemed a distinct offence.
- (2.) Interrupting or obstructing any Militia at muster inspection or parade
- (3.) Going or remaining upon any place where any Militia are exercising or are at muster inspection or parade after being warned by any Officer of Militia not to go thereon or to depart therefrom

Militia.

shall incur a penalty not exceeding one pound and every person guilty of any such offence as is mentioned in the last two subdivisions of this section may be arrested by the order of the senior Officer of Militia present and kept in custody until the exercising muster inspection or parade is over for the day and then either taken in custody before a Justice of the Peace or discharged from custody as the senior Officer present at the conclusion of the parade muster or inspection shall think fit.

34. Every person liable to serve or actually serving in the Militia who is guilty of any of the offences following that is to say— Penalties for offences
by Militiamen.

- (1.) Failing to send or give in writing a statement of his name age and place of residence to the Adjutant of the battalion or Officer Commanding the independent division within the time mentioned in the twenty-fourth section of this Act or in the twenty-fifth section of this Act
- (2.) Refusing to take the oath of allegiance
- (3.) Neglecting or refusing to attend any muster inspection or parade at the place and hour appointed therefor
- (4.) Absenting himself without leave from any muster inspection or parade during any part of the time appointed therefor
- (5.) Refusing or neglecting to obey any lawful order of his superior Officer while at any muster inspection or parade
- (6.) Being insolent towards his superior Officer while in the execution of his duty as such Officer
- (7.) Behaving in a disorderly manner or in a manner contrary to good discipline while attending any muster inspection or parade
- (8.) Being in a state of intoxication at any muster inspection or parade
- (9.) Failing to keep in proper order any arms accoutrements or ammunition intrusted to him

shall incur a penalty not exceeding one pound for each offence. Provided that any person who shall have paid the penalty for or been convicted of the offence mentioned in the subdivision one of this section who shall after such payment or conviction fail to send or give the statement therein mentioned shall incur a further penalty not exceeding one shilling for every day on which such failure shall continue.

35. Every person whether liable to serve in the Militia or not who shall be guilty of any of the offences following that is to say— Offences relating to
tolls.

- (1.) Knowingly taking any duty or toll in respect of any person horse or other beast cart waggon carriage or gun exempt from duty or toll under this Act
- (2.) Making any false representation respecting himself or any other person or respecting any horse or other beast cart waggon carriage or respecting any arms baggage or gun with intent in any of the said cases to evade or to enable any other person to evade the payment of any duty or toll through the operation of this Act and whether the payment of any duty or toll is thereby evaded or not

shall incur a penalty not exceeding five pounds.

36. Every person who shall lose or waste or spoil through neglect or lend to any other person or take or send out of the district in which he resides or neglect or refuse to return in good order to the Officer Commanding his company or to any person authorized by the Officer Commanding the district to receive the same any arms clothes accoutrements or ammunition intrusted or issued to him as a Militia- Losing and spoiling
arms &c.

Militia.

man shall incur a penalty not exceeding five pounds in addition to the value of the arms clothes accoutrements or ammunition lost wasted spoiled or detained or the amount of the damage done thereto as the case may be.

Selling and pawning
arms &c.

37. Every person who shall sell pawn give in exchange or give away any arms accoutrements clothes or ammunition intrusted to him as a Militiaman and every person who shall knowingly buy receive or take in pawn or exchange or by way of gift or who having bought received or taken in pawn or exchange or by way of gift shall knowingly conceal or make away with any such arms accoutrements clothes or ammunition shall be guilty of a misdemeanour and being convicted thereof shall be liable at the discretion of the Court to be imprisoned for any term not exceeding two years.

Offences punishable
by fine imposed by
Officer Commanding.

38. Whenever any person serving in the Militia shall be deemed by the Officer Commanding the regiment independent company or battalion in which such person is enrolled or serving guilty of any of the offences following that is to say—

Neglecting or refusing to attend any muster inspection or parade

Absenting himself without leave from any muster inspection or parade during any part of the time appointed therefor

Refusing or neglecting to obey any lawful order of his superior Officer while at any muster inspection or parade

Being insolent towards his superior Officer while in the execution of his duty as such Officer

Behaving in a disorderly manner or in a manner contrary to good discipline while attending any muster inspection or parade

Failing to keep in proper order any arms accoutrements or ammunition intrusted to him

Being in a state of intoxication at any muster inspection or parade

such Officer may by writing under his hand order that such person shall pay such fine not exceeding one pound for each offence as such Officer may think fit and if such person shall within seven days after service of a copy of such order upon him either personally or by leaving the same at his last known abode pay such fine to the Adjutant of the battalion or Officer Commanding the independent company to which he belongs he shall be relieved from all liability under this Act to any penalty for the offence in respect whereof the order was given. Provided always that it shall not be necessary in any proceeding for the recovery of a penalty under this Act to prove that any such order has been made nor shall the making of such order take away or suspend the jurisdiction of any Court to try the offence but every such proceeding shall be had in the same manner as if the offence had been one in respect whereof no power to inflict a fine had been given by this section of this Act unless the defendant shall prove that he has paid the fine imposed within the said period of seven days. Provided also that in the absence of the Officer Commanding the regiment independent company or battalion the senior Officer on parade not being under the rank of Captain shall exercise the powers contained in this clause.

Proviso.

Fines.

39. All fines paid under the preceding section shall be paid to the Officer Commanding the battalion, or independent company to which the offender belongs and shall be accounted for dealt with and be applied towards the encouragement of target practice in such battalion or independent company in such manner as shall be prescribed by regulations to be made from time to time by the Governor.

Militia.

MILITIA ON ACTUAL SERVICE.

40. It shall be lawful for the Governor or such person as he shall from time to time by warrant under his hand appoint as his deputy for that purpose to direct the Officer Commanding the Militia of any district with all convenient speed to draw out for actual service such Militia Force or such part or number thereof as the Governor or such deputy shall judge necessary and in such manner as shall to him seem best and to lead the said forces into any part of the district in which such Militia shall have been raised and such Militia shall continue on actual service until the Governor shall by Proclamation release such Militia from actual service Provided always that no Militia Officer or Militiaman in any regiment shall be carried or ordered to go beyond the boundaries of the district for which such regiment or independent company is raised except only such as shall volunteer for service out of the same Immediately on such direction being given to the Officer Commanding any district if such direction be to draw out the whole regiment every man liable to serve therein shall be deemed to be on actual service whether he has had notice thereof or not and shall not leave such district without the sanction of the Officer Commanding the district.

Governor to call out
Militia for actual
service

41. When a part only of the Militia are required for actual service such men as may volunteer for service with the approval of the senior Officer there present shall be first taken and every man so volunteering shall immediately be deemed to be on actual service and if the number so volunteering shall be insufficient the whole of the First Class shall be taken before any are taken from the Second Class and the whole of the Second Class before any of the Third Provided that where a part only of one class are required the Officer in command shall draw the requisite number or the number required beyond those volunteering as aforesaid by lot taken in public and his certificate of the drafting of any Militiaman shall be sufficient evidence thereof.

Order of drafting for
actual service.

42. Any Militiaman drafted for actual service who shall produce as a substitute a man approved by the Officer Commanding and the Medical Officer in charge shall upon the swearing in of such substitute be exempt from service for the term of one year unless the whole of the class to which such substitute belongs shall be taken or drafted for actual service before the expiration of such term and every such substitute shall when sworn in be deemed to have been drafted for actual service.

Substitutes.

43. The ordinary time of actual service for a Militiaman shall be one year and no Militiaman shall be required to serve for a further period until all the men of his class shall have served for a like period unless he shall volunteer for a longer period or unless the whole of his class shall be called out for actual service Provided that whenever any part of a class which has already served for one period or more shall be required to serve for a second or any further period those shall be taken first who have served the shortest time and among those who have served the same time the drafting shall be determined if necessary by lot in manner aforesaid.

Time for actual
service.

44. During the time that any part of the Militia shall be on actual service all things contained in any Act of the Imperial Parliament which shall then be in force in New Zealand 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 apply to and the powers thereby created shall be exercised by such part of the Militia in all cases not otherwise provided for in this Act or in any Regulations that may from time to time be issued

Mutiny Act to apply
to Militia on actual
service.

Militia.

under its authority Provided that no Militiaman shall be liable to any corporal punishment except death or imprisonment for any offence against any such Act of Parliament or Articles Provided also that no such Act or Articles of War shall be deemed to be in force in New Zealand until a Proclamation shall have been published in the *New Zealand Gazette* stating that the Governor has received a copy thereof.

Courts-Martial.

45. None but Officers holding commissions in the Militia the Volunteer Force or in the Armed Constabulary shall sit on any Militia Court-Martial.

MISCELLANEOUS.

Rank.

46. Officers of the Militia shall rank with Officers of like rank in the Volunteer and Armed Constabulary Force according to the dates of their commissions Provided always that Officers of the Militia Force shall have precedence over Officers of the Volunteer and Armed Constabulary Force when holding commissions of the same rank and date.

Governor may make Regulations.

47. The Governor in Council may from time to time make alter and revoke Regulations respecting the enrolment discipline training exercise arms accoutrements clothing equipment conveyance pay rations and lodging of the Militia or any part thereof and generally for the more effectual carrying out of this Act and may appoint any penalty not exceeding five pounds for any offence therein specified or for any breach of such Regulations recoverable in the same manner as if such offence or breach were one of the offences mentioned in the thirty-fourth section of this Act Provided always that the Regulations so to be made shall not be in any way repugnant to the provisions of this Act.

Proof of Proclamations &c.

48. All Proclamations Orders in Council Warrants and General Orders relating to the Militia shall be held to be sufficiently notified to all persons whom they may concern by their insertion in the *New Zealand Gazette* and the production of a paper purporting to be a copy of the said *Gazette* and purporting to contain any such Proclamation Order in Council Warrant or General Order shall be conclusive evidence of the making publication and contents thereof and of the date of such *Gazette*.

Notice of battalion orders.

49. All orders made by the Officer Commanding a battalion or Officer Commanding an independent company shall be held to be sufficiently notified to all persons whom they may concern by their insertion in some newspaper circulating in the district where the persons to be thereby affected reside or by posting copies thereof in the most public places within the district or by being publicly read on parade.

Arms of Militia exempt from seizure.

50. The arms and accoutrements of every Officer of the Militia and of every Militiaman and the horses kept or used by any of the same for the discharge of their duties as such Officers or Militiamen shall be exempt from seizure in execution and from distress and assessment.

Exemption from tolls &c.

51. Any duty or toll leviable at any pier wharf quay landing-place bridge or ferry or at any turnpike-gate or bar or at any other gate or bar on a public road shall not be demanded or taken for—

- (1.) Any Officer of the Militia or any Militiaman being on march or duty or going to or returning from the place appointed for and on the day for exercise inspection review or other public duty and being armed or in uniform
- (2.) Any horse when ridden or used by any Officer or Militiaman as aforesaid on march or duty or going or returning as aforesaid

Militia.

- (3.) Any cart waggon or carriage public or private employed only in carrying or conveying any Officer or Militiaman as aforesaid being on march or duty or going or returning as aforesaid and being armed or in uniform with or without any conductor or driver of such cart waggon or carriage or domestic servant of such Officer or Militiaman
- (4.) Any cart waggon or carriage public or private employed only in carrying or conveying or returning empty from carrying or conveying having been employed only in carrying or conveying any arms or baggage of any Officer or Militiaman as aforesaid being on march or duty or going to or returning from the place appointed for exercise inspection review or other public duty or any military stores belonging to or for the use of or any gun belonging to or used by the Militia
- (5.) Any horse or other beast drawing any such cart waggon or carriage as aforesaid.

52. All orders by the Governor or by any Officer authorized to be given by this Act or given in execution of this Act shall be valid and effectual if verbally given on parade or issued in any other manner customary in Her Majesty's Military Service unless in cases where this Act specially requires any such order to be in writing and the production of an order in writing purporting to be made according to the provisions of this Act shall be *prima facie* evidence of such order without proving the signature thereto or the authority of the person making such order. Orders how to be given.

53. All fines and penalties imposed under this Act or any Regulations made hereunder except such as are imposed by the Officer Commanding under section thirty-eight may be recovered in a summary way before any Justice of the Peace in the manner provided by "The Justice of the Peace Act 1866" and any Act amending the same so far as it relates to summary convictions Provided that nothing in this section contained shall be deemed to affect the jurisdiction given to Courts-Martial under this Act. Recovery of fines and penalties.

54. A summary conviction or adjudication under this Act or under Regulations issued under authority of it or an adjudication made on appeal therefrom shall not be quashed for want of form or be removed by *certiorari* and a warrant of commitment on any such conviction shall not be held void by reason of any defect therein if it is therein alleged that the person therein named has been convicted and there is a good conviction to sustain the same. Summary conviction not to be quashed for want of form.

55. No action against any Officer or person for anything done in pursuance of this Act shall 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 if in the Supreme Court the defendant may plead the general issue or general denial and give this Act and the special matter in evidence at the trial or if the action be in any Court of inferior jurisdiction the defendant may use such mode of defence as would under the rules or practice of such inferior Court compel the plaintiff to prove all the facts upon which his claim is founded and give this Act and the special matter in evidence at the trial or hearing 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. Limitations of actions against Officers.

56. If a verdict passes for the defendant in any action referred to in the next preceding section or the plaintiff becomes nonsuit or dis- Costs.

Militia.

continues 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 in the Court wherein the action is brought 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 if the action is in the Supreme Court certifies his approbation of the action and the verdict therein or if the action be in any Court of inferior jurisdiction then if judgment is given for the plaintiff the Court shall by such judgment determine whether any costs shall be recovered by the plaintiff and shall ascertain the amount of such costs if any.

57. In the event of miners or holders of miners' rights being called out for Militia duty their claims and interests in claims or water-rights shall be protected during their absence.

58. This Act shall come into operation on the first day of November one thousand eight hundred and seventy in such districts as the Governor may from time to time specify and appoint by Proclamation in the *New Zealand Gazette* or by such other notification as he may think fit.

Interests of miners protected while absent on Militia duty.

When Act to come into operation.

SCHEDULE.

Schedule.

Section 13.

MILITIA DISTRICTS, NORTH ISLAND.

Mongonui District.

Bounded on the South by the Harbour of Whangaroa and by the Pupuke River to its source, thence by a straight line to the summit of Maungataniwha; on the South-west by a straight line from Maungataniwha to the source of the Herekine River, and by that river to the sea; and on all other sides by the sea.

Bay of Islands District.

Bounded on the North-west by the Whangaroa Harbour, and by the Kaio River from its mouth to its source; on the West by a straight line from the source of the Kaio River to the western shore of the Omapere Lake, and thence by a straight line to the source of the Mangakahia River, and by that river to its junction with the Wairua River; on the South by the Wairua River and by the Whananaki River to the sea; and on the North-east by the sea.

Hokianga District.

Bounded on the North by the Mongonui District; on the East by the Bay of Islands District; on the South by a straight line from the confluence of the Wairua and Mangakahia Rivers to the Maunganui Bluff; and on the South-west by the sea.

Kaipara District.

Bounded on the North by the Hokianga District; on the East by the Wairoa River to the confluence of the Monganui River, and by the Monganui River to the north-western angle of the Mangawhai District; thence on the South-east by the Mangawhai District to the head of the Arapawa Inlet, and by the shore of Kaipara Estuary; on the South by the Kaipara Estuary; and on the South-west by the sea.

Mangawhai District.

Bounded on the North by the Ruakaka River from its mouth to its source, and thence westward by a straight line to Monganui River of Kaipara, thence by a straight line to the northern head of the Arapawa Inlet; thence on the West by the Kaipara waters to the Hoteo River; and on the South by the Hoteo River to its source, thence by a straight line to the summit of Tamahua, and by the watershed from Tamahua to the Whakatauhenua Stream, and by that stream to the sea; and on the East by the sea.

Whangarei District.

Bounded on the South by the Mangawhai District from the Monganui River to the mouth of the Ruakaka River; on the East by the sea; on the North by the Bay of Islands District; and on the West by the Kaipara District.

*Militia.**Auckland District.*

Bounded on the North by the Waitemata Harbour and the Gulf of the Thames; on the East by the Wairoa Creek to the northern boundary of the Hunua purchase; on the South by the northern boundary of the Hunua purchase to the Kirikiri Confiscated Block, and by the eastern and northern boundaries of that block to the Village of Papakura, and by the Papakura Creek to Manukau Harbour; on the South-west by Manukau Harbour; and on the West by the Whau Portage and Creek, including the Islands of Pakihi, Ponui, Puketua, Tarataroa, Waiheki, Motu Ihi, Brown's Island, Motu Tapu, Rangitoto, Rakino, Wood's Island, and Week's Island.

Wairoa District.

Bounded on the North by the southern boundary of the Auckland District and by the Wairoa Creek; on the North-east and East by the Gulf of the Thames; on the South by the Whangamarino River and the Maramarua Stream, and by a straight line extending from the source of the Maramarua Stream through the Hot Springs near Pukorokoro to the Gulf of the Thames; and on the West by the Waikato, and by a line one mile westward of the Great South Road to the Pahurehure Creek and by that creek and Manukau Harbour to the Papakura Creek, and by the Papakura Creek to the Village of Papakura.

Waiuku District.

Bounded on the North by the Manukau Harbour; on the East by the Wairoa District; on the South by the Waikato River; and on the West by the sea: including the Islands in Pahurehure Creek and in the Waikato River adjacent.

Whangape District.

Bounded on the North by the Waikato River; on the East by the Waikato River; on the South by the Awa-o-te-Atua Stream and by a straight line from the source of that stream due west to the sea; and on the West by the sea.

Rangiriri District.

Bounded on the North by the Wairoa District and by the Gulf of the Thames; on the East by the Piako River to the Waitoa River, to a point due east from the Mangawharo Portage; on the South by a straight line running west from the point last described to the Mangawharo Portage, and by that portage and the Mangawharo Stream to the Waikato River; and on the West by the Waikato River: including the Islands in the Waikato River along such western boundary.

Hamilton District.

Bounded on the North by the Rangiriri District from the Awa-o-te-Atua Stream to the Waitoa River, and thence by a straight line to the confluence of the Ohinemuri and Waihou River; on the East by the Waihou River to a point being the production eastward of the southern boundary line of the Tamahere Native Reserve; on the West by the summit of the Hakarimata Range from the Awa-o-te-Atua Creek to the source of Karakariki Stream; on the South by the Karakariki Stream to the Waipa River, and thence by a straight line to the south-western angle of the Tamahere Native Reserve; and on the South-east by the south-eastern boundary line of the Tamahere Reserve, and by a production of such line to the Waihou River.

Raglan District.

Bounded on the North by the Whangape District; on the East by the Hamilton District, the Hakarimata Range, and northern spur of the Pirongia to the summit of Pirongia; on the South by a straight line from the summit of Pirongia to the southern shore of Aotea Harbour, and by that harbour to the sea; and on the West by the sea.

Alexandra District.

Bounded on the North and West by the Raglan District, from the sea to Karakariki Creek; on the North by the Hamilton District, from the source of the Karakariki Creek to the Hamilton and Ohaupo Road; on the East by the Hamilton and Ohaupo Road to Ohaupo, thence by the Te Awamutu Road to Te Awamutu, thence by the Puniu Road through Orakau to the Puniu River, and thence by a straight line to the source of the Waipa River; on the South by the Waipa River, from its source to the confluence of the Waitomo River, by the Waitomo River to its source, and thence by a straight line to Haerehaere, and on the West by the sea, and by the shores of Kawhia Harbour and Aotea Harbour to the point first described: including the Harapi Military Settlement.

Cambridge District.

Bounded on the North by the Hamilton District from the Hamilton and Ohaupo road to the Waihou River; on the East by the Waihou River to the Whakaparu River, and by the Whakaparu River to its source; on the South by a straight line from the source of the Whakaparu River to the source of the Waipa River; and on the West by the Alexandra District.

Thames District.

Bounded on the West by the Rangiriri District; on the North-west by the Gulf of the Thames, from the mouth of the Piako River to the Tararu Stream; on the North by

Militia.

the Tararu Stream from its mouth to its source, and from thence by a straight line running due east to the sea; on the East by the sea; and on the South by the Hamilton District, from the Waitoa River to the Waihou River, by the Ohinemuri River from its confluence with the Waihou River to the source of its eastern branch, and from such source by a straight line running due east to the sea.

Coromandel District.

Bounded on the South by the Thames District, and on all other sides by the sea: including the Great Barrier Island, the Mercury Islands, the Islands of Whanganui, Rangipuki, and the Islands lying off Coromandel Harbour.

North Shore District.

Bounded on the South-east by Manukau Harbour, by the Whau Portage and Creek, and by the Waitemata Harbour; on the East by the Gulf of the Thames to Cape Rodney; on the North by the Tamahua Range from Whakatawhenua to the source of the Hoteo River, by that river to the Kaipara Estuary; on the West by the Kaipara Estuary, and by the sea from Kaipara entrance to Manukau entrance: including the Islands of Kawau, Tiritirimatangi, Motuwahora, Motureka, and Motuketa.

Tauranga District.

Bounded on the North by the Thames District; on the North-east by the sea; on the East by the Kaituna River, from its mouth to its source; on the South by the shore of Lake Rotoiti, by the path from Lake Rotoiti to Lake Rotorua, by Lake Rotorua, and by a straight line from the western shore of Lake Rotorua to the confluence of the Whakaparu and Waihou Rivers; and on the West by the Waihou River: including the Islands in Tauranga Harbour.

Matata District.

Bounded on the North by the sea; on the East by the Whakatane River, from its mouth to its source; on the South by a straight line from the source of the Whakatane River to the confluence of the Harakeke and Rangitaiki Rivers, by the Harakeke River to Lake Rerewhakaiti, by the path leading from Lake Rerewhakaiti to Lake Tarawhera, by Lake Tarawhera to the path leading to Lake Rotorua, by that path and by Lake Rotorua; and on the West by Lake Rotorua and the Tauranga District to the sea.

Opotiki District.

Bounded on the North by the sea; on the North-east by the Maraenui River, from the sea to the source; thence on the East by a straight line running south for twenty-seven miles; thence on the South by a straight line to the source of the Whakatane River; and on the West by the Whakatane River to the sea.

White Cliffs District.

Bounded on the North by the Mokau River, from the sea up to Mokauiti; on the East by a straight line from Mokauiti to the source of the Urenui River.

New Plymouth District.

Bounded on the North by the Urenui River, from the sea to its source; on the West by the sea; on the South by the Hangatahua or Stoney River from the sea to its source, and by a straight line from such source to the summit of Mount Egmont, and from the summit of Mount Egmont by a straight line to the intersection of the Manganui branch of the Waitara River with the road from Waitara behind Mount Egmont towards Waingongoro; and on the East by a straight line from the last described intersection to the source of the Urenui River.

Cape Egmont District.

Bounded on the North by the New Plymouth District; on the West by the sea; on the South-east by the Waingongoro River, from its mouth to its source; and thence on the East by a straight line to the intersection of the Waitara and Waingongoro road at the back of Mount Egmont with the Manganui branch of the River Waitara.

Patea District.

Bounded on the North-west by the Cape Egmont District; on the South-west by the sea; on the South-east by the Waitotara River, from the sea to the source; and thence on the North-east by a straight line to the source of the Waingongoro River.

Whanganui District.

Bounded on the North-west by the Waitotara River from the sea to the source; on the South-west by the sea; on the South by the Turakina River, from its mouth to its source; thence on the North-east by a straight line to Pipiriki; and on the North by a straight line from Pipiriki to the source of the Waitotara River.

Rangitikei District.

Bounded on the North by the Turakina River from the sea to the northern angle of the Rangitikei purchase, thence by the north-eastern boundary of the Rangitikei purchase to the Rangitikei River, thence by the northern boundary of the Rangitikei-

Militia.

Manawatu purchase to the Oroua River; on the East by the eastern boundary of the Rangitikei-Manawatu purchase to the Manawatu Gorge, by a straight line thence to the summit of Kauhanga, and by the summit of the Tararua Range to a point on the range due east from the source of the Horowhenua Stream, thence by a straight line to such source, and by the Horowhenua Stream and Lagoon to the sea; on the West by the sea.

Otaki District.

Bounded on the North by the Rangitikei District; on the West by the sea; on the South by the Wainui Stream from the sea to its source, and by a straight line from such source to the spot where the Wellington and Greytown road crosses the Rimutaka Range; on the East by a straight line from the point last described to the Arawharu summit, and by the summit of the Tararua Range to the south-eastern angle of the Rangitikei District: including the Island of Kapiti.

Wellington District.

Bounded on the North by the Wainui Stream from its mouth to its source, and thence by a straight line to the point where the Wellington and Greytown road crosses the summit of the Rimutaka Range; thence on the East by the summit of the Rimutaka Range to the sea at Turakerai Point; on the South by Cook's Strait and Port Nicholson; and on the West by Cook's Strait: including the Islands of Port Nicholson and Mana.

Greytown District.

Bounded on the North by the Kaiwhata River from the sea to the source, and thence by a straight line to the confluence of the Waiohine River with the Ruamahanga, thence by the Waiohine Stream to its source, and thence in a straight line to the Arawharu summit of the Tararua Range; on the West by a straight line from the Arawharu summit to the point where the Wellington and Greytown road crosses the Rimutaka, and thence by the summit of the Rimutaka road to the sea at Turakirae; and on the South and East by the sea.

Masterton District.

Bounded on the East by the sea; on the South by the Greytown District; on the West by the Otaki and Rangitikei Districts to the Manawatu River; and on the North by the southern boundary of the Province of Hawke's Bay.

East Coast (Native) District.

Bounded on the North by the sea; on the North-west by the Kawa Kawa River to its source, and by a straight line thence to the summit of Hikurangi; thence on the West by a straight line to the source of the Turanganui River; on the South by a line due east and west from the Mahia Peninsula by the Turanganui River and by Poverty Bay; and on the East by the sea.

Wairoa (Hawke's Bay) District.

Bounded on the South and East by the sea; on the North by the East Coast (Native) District, Poverty Bay, and the Turanganui River from its mouth to its source, thence by a line running westerly to Te Ariki on the Wairoa River; thence on the North-west by a straight line to the north-west angle of the boundary of the Province of Hawke's Bay; thence on the South-west by a straight line to the nearest point of the Waikare River, and by the Waikare River to the sea.

North Napier District.

Bounded on the North-east by the Wairoa District; on the East by the sea to Waimarama; on the South by a straight line from Waimarama to Pakepake Bridge, and thence by a straight line to the nearest point of the Ngaruroro River, and by the Ngaruroro River to its source; and on the North-west by the boundary line of the Province of Hawke's Bay.

South Napier District.

Bounded on the North by the North Napier District; on the East by the sea; on the South by the southern boundary line of the Province of Hawke's Bay; and on the West by the western boundary line of the Province of Hawke's Bay.

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