



MEMORANDUM

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NOTE

D Law/A

HISTORY OF DEFENCE LEGISLATION IN
CANADA AS IT APPLIED TO THE ARMY

1. The first military force organized in Canada was the Canadian Militia organized under the Militia Act.

- a. An Act Respecting the Militia and Defence of the Dominion of Canada - S.C. 1868 c.40

This Act also provided for a Department of Militia and Defence at Section 2:

"s.2. There shall be a Minister of Militia and Defence who shall be charged with and be responsible for the administration of Militia Affairs, including all matters involving expenditure, and of the fortifications, gunboats, ordnance, ammunition, arms, armories, stores, munitions and habiliments of war belonging to Canada:..."

2. Under Section 64 of the Act, members of the Active Militia and Officers and Men of the Militia, when called out, were made subject to the QR&O for the Army (United Kingdom), "the Rules and Articles of War and to the Act for punishing mutiny and desertion, and all other laws then applicable to Her Majesty's Troops in Canada, and not inconsistent with this Act;".

3. Provision was also made in Section 96 granting the Governor in Council power to "make regulations relating to anything necessary to be done for the carrying into effect of this Act, and may by such regulations impose fines not exceeding twenty dollars each and imprisonment in case of default of payment of any such fine."

4. On 25 May 1883 assent was given to "An Act consolidating and amending the several Acts relating to the Militia and Defence of the Dominion of Canada", S.C. 1883 c.11. These several Acts are listed as follows:

- a. An Act respecting the Militia and Defence of the Dominion of Canada; S.C. 1868 c.40.
- b. An Act to facilitate the signing of Militia Commissions; S.C. 1870 c.22.
- c. An Act to extend the Act respecting the Militia and Defence of the Dominion of Canada; S.C. 1871 c.17.

- d. An Act to amend "An Act respecting the Militia and Defence of the Dominion of Canada"; S.C. 1873 c.46.
- e. An Act to amend the Acts respecting the Militia and the Defence of the Dominion of Canada, and to extend the same to the Province of Prince Edward Island; S.C. 1874 c.35.
- f. An Act to amend the Dominion Militia and Defence Acts; S.C. 1875 c.8.
- g. An Act to make further provision for the payment of the Active Militia when called out in certain cases in aid of the Civil Power; S.C. 1877 c.40.
- h. An Act further to amend the Acts therein mentioned respecting the Militia and Defence of the Dominion of Canada; S.C. 1879 c.35.
- j. An Act further to amend the Acts therein mentioned respecting the Militia and Defence of the Dominion of Canada; S.C. 1880 c.2.
- k. An Act to amend the Acts respecting the Militia and Defence of the Dominion of Canada; S.C. 1882 c.10.

Under s.100, the short title of the Act was "The Consolidated Militia Act of 1883."

5. By virtue of Section 64 of the Consolidated Militia Act of 1883, the Active Militia and every officer and man of the Militia when called out were made subject to the QR&O for the Army (United Kingdom) and also were "subject to the Army Act passed by the Imperial Parliament, and all other laws then applicable to Her Majesty's troops in Canada, and not inconsistent with this Act;". It should be noted that, by virtue of the Imperial Statutes of the United Kingdom, 44 & 45 Vict., c.58, An Act to consolidate the Army Discipline and Regulations Act, 1879, and the subsequent Acts amending the same, was passed and titled "The Army Act of 1881".

6. Continuing then, and until 1951 when that part of the National Defence Act known as the Code of Service Discipline came into force, the Militia Act provided for the disciplinary code in force in the United Kingdom Army as embodied in the Army Act to be applied to the Canadian Militia and later the Canadian Army. The last Militia Act, R.S.C. 1927, c.132, contained such a provision at Section 69:

"s.69. The Army Act for the time being in force in Great Britain, the King's regulations, and all other laws applicable to His Majesty's troops in Canada and not inconsistent with this Act or the regulations made thereunder, shall have force and effect as if they had been enacted by the Parliament of Canada for the government of the Militia."

An amendment to Section 69 in 1947, S.C. 1947 c.21 modified that Section as follows:

"s.69. (1) The Governor in Council may from time to time make applicable to the Canadian Army for the government thereof any or all of the provisions of the Army Act and any or all of the rules, regulations or orders made pursuant thereto for the time being in force in the United Kingdom which are not inconsistent with the provisions of this Act and may modify or amend such provisions, rules, regulations or orders so as to adapt them to the circumstances of the Canadian Army. Those provisions of the Army Act and any rules, regulations or orders made thereunder so applied and any modifications thereof or amendments thereto made by the Governor in Council under this section shall have the same force and effect as if they had been enacted by the Parliament of Canada for the government of the Canadian Army."

7. Although provision was made under s.96 of the first Militia Act (para 3 above) granting the Governor in Council power to make Regulations for the Militia, the first such regulation that I can locate in consolidated format is the Provisional Edition of "The King's Regulations and Orders for The Militia of Canada 1904" published by the Government Printing Bureau in Ottawa in 1904. However, there were other regulations and orders issued to the Militia previous to this consolidation (The Militia Pension Act, S.C. 1901 c.17 cites "The Regulations and Orders for the Canadian Militia issued in 1898") and such regulations would, undoubtedly, be available at D Hist. Further consolidations of the King's Regulations for the Canadian Militia were published in 1910, 1926 and again in 1939. The 1939 edition known as KR(Can) was in effect until new regulations were made pursuant to the National Defence Act 1950 which came into force on 1 September 1951.

8. On 30 June 1950, the National Defence Act received Royal Assent, S.C. 1950 c.43, now R.S.C. 1970 c.N-4. Until such time as new Regulations and Orders were compiled, certain sections of the Act were not brought into force. The KRCN, KR(Army) and KR(Air) were approved by Orders in Council P.C. 1/2540 on 26 May 1951 and P.C. 3068 of 13 June 1951, and were brought into force on 1 September 1951 by Order in Council P.C. 4538 of 29 August 1951. Finally by proclamation on 15 February 1952 (Canada Gazette Vol 86, p. 604) those portions of the Militia Act not previously repealed were repealed.

9. In order to implement Government policy on the integration of the Navy, Army and Air Force in the 1960s, an amendment to the National Defence Act was enacted on 16 July 1964 (S.C. 1964-65 c.21) enabling the Governor in Council to appoint a single Chief of Defence Staff and subsequently the Canadian Forces Reorganization Regulations were promulgated, P.C. 1964-1139 of 23 July 1964 as amended by P.C. 1965-342 of 25 February 1965. New integrated service regulations followed to replace QRCN, QR(Army) and QR(Air) titled Queen's Regulations and Orders for the Canadian Forces and were published in November 1965 and brought into force on 1 January 1966, vide P.C. 1965-1849 of 18 October 1965.

10. On 8 May 1967 the Canadian Forces Reorganization Act (S.C. 1966-67 c.96) received Royal Assent and came into force by proclamation on 1 February 1968 (Canada Gazette Vol 102, p.70). This enactment amended various statutes, primarily the National Defence Act and such amendments are now embodied in that Act. The 1965 edition of QR&O was then revised and re-issued and became effective on the date that the Canadian Forces Reorganization Act came into force, i.e. 1 February 1968, vide P.C. 1967-2085 of 2 November 1967. The 1968 edition of the Queen's Regulations and Orders for the Canadian Forces are presently in force.

11. Other pertinent statutes that effected the government and members of the Militia and the Army through the years follows:

- The Royal Military College Act, S.C. 1874 c.36
- The Militia, North West Rebellion, Grants of Land Act, S.C. 1885 c.73
- The Militia Pension Act, S.C. 1901 c.17
- The Electoral Franchise Act, S.C. 1915 c.11
- The Military Service Act, S.C. 1917 c.19
- The Soldier Settlement Act, S.C. 1917 c.21
- The Military Voters Act, S.C. 1917 c.34
- The Minister of Overseas Military Forces Act, S.C. 1917 c.35
- The Department of Soldiers' Civil Re-establishment Act, S.C. 1918 c.42
- The Pension Act, S.C. 1919 c.43
- The Returned Soldier's Insurance Act, S.C. 1920 c.54
- The National Defence Act, S.C. 1922 c.34
- The Canteen Funds Act, S.C. 1925 c.34
- The War Veterans' Allowance Act, S.C. 1930 c.48
- The Veterans' Assistance Commission Act, S.C. 1936 c.47
- The National Resources Mobilization Act, S.C. 1940 c.13
- The Department of National War Services Act, S.C. 1940 c.22
- The Reinstatement in Civil Employment Act, S.C. 1942-43 c.31
- The Veterans' Land Act, S.C. 1942-43 c.33
- The War Time Elections Act, S.C. 1944-45 c.26
- The Veterans Insurance Act, S.C. 1944-45 c.49
- The War Service Grants Act, S.C. 1944-45 c.51
- The Veterans Rehabilitation Act, S.C. 1945 c.35
- The Allied Veterans Benefits Act, S.C. 1946 c.36
- The Veterans Business and Professional Loans Act, S.C. 1946 s.69

The Army Benevolent Fund Act, S.C. 1947 c.49

The Defence Services Pension Act, S.C. 1950 c.32

The Defence Services Pension Continuation Act, S.C. 1959
c.21 s.31

The Canadian Forces Superannuation Act, S.C. 1959 c.21

The Supplementary Retirement Benefits Act, S.C. 1969-70 c.33.



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