

THE

Statutes at Large

OF

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PENNSYLVANIA

FROM

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WM STANLEY RAY

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## 2.

AN ACT FOR FORMING AND REGULATING THE MILITIA OF THE PROVINCE OF PENNSYLVANIA; WHICH PASSED THE HOUSE OF ASSEMBLY AT THEIR SESSION IN MARCH, 1757, TOGETHER WITH THE AMENDMENTS PROPOSED BY THE GOVERNOR. <sup>1</sup>

Whereas in this time of actual war with the French King and his subjects and his savage Indian Allies, it is absolutely necessary for the service of our most Gracious Sovereign, the defense and security of this Colony, and the preservation of the rights and privileges of its inhabitants, that the province be put into a proper posture of defense and the inhabitants thereof duly regulated, well armed and expertly disciplined in the military art, whereby they may be enabled under the favor and assistance of divine providence to defend their lives and fortunes against the hostile invasions of His Majesty's perfidious enemies, to quell and suppress any intestine commotions, rebellions or insurrections that may happen therein, and to preserve those invaluable rights and privileges which they are entitled to under the present constitution and form of government.

Be it therefore enacted by the Honorable William Denny, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of said province in General Assembly met, and by the authority of the same, That the sheriff of each and every county of this province by himself or his deputy shall and he is hereby empowered and required under the penalty of fifty pounds, within fifteen days after the publication of this act to issue his precept to the constable of every township, borough or ward in his county, ordering and directing him within three days after the receipt of such precept to give notice by public advertisements to the freeholders of the township, borough or ward wherein he resides, to meet together on a certain day not less than three nor more than five days after such public notice given, at some convenient

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<sup>1</sup> The parts of the Bill rejected by the Governor are printed in italic characters and the proposed amendments and additions distinguished by inverted commas in the opposite column.

place by him to be appointed and named in said advertisements, and then and there betwixt the hours of ten in the morning and four in the afternoon, by tickets in writing, make choice of one discreet and reputable freeholder, of the same township, borough or ward, to be an assistant to him the said constable in performing the duties required by this act; who, together with the said assistant, shall take down in writing the names and surnames of every male person residing in the said township, boroughs or wards (servants and apprentices excepted) above the age of seventeen and under fifty-five years, noting against every name to what religious society each person belongs, especially such as are papists or reputed papists; which said lists the said constables and their assistants respectively, shall, under the penalty of ten pounds make out and return to the sheriff of the said county who issued the precept to him directed, within five days after the said assistant is chosen as aforesaid, and shall, upon oath or affirmation declare the same to be a just and true account to the best of their knowledge; which said oath or affirmation the said sheriff is hereby authorized and enjoined to administer.

And the sheriff of every county within this province, by himself or his deputy, with such reputable freeholders as he shall call to his assistance, shall and he is hereby enjoined and required under the penalty of fifty pounds, within three days after the said lists shall come to his hands as aforesaid, to divide his county into districts or divisions, allotting so many adjacent townships, boroughs and wards together, as they shall by the help of said lists judge will furnish a company of male persons capable of bearing arms, consisting of not less than sixty nor exceeding an hundred men, exclusive “As are hereinafter exempt- of such persons as are noted in the ed from the military duties of said lists to belong to or frequent this act.”

*those religious societies or congregations whose tenets and principles are against bearing arms, and* “And the sheriff shall, within all papists and reputed papists, fifteen days after such division whereupon the said sheriff by himself made, return a duplicate thereof or his deputies shall immedi- of under his hand and seal and

ately send his order or precept to the hands and seals of the said the constable and assistants of freeholders, to the governor and every such district or division so commander-in-chief of this province for the time being, whereupon it shall and may be lawful for the said governor and commander-in-chief to nominate, appoint, and commissionate a captain, lieutenant and ensign in each and every of the said districts and divisions, who shall before they enter into the execution of their respective offices take the oaths appointed to be taken in and by an act passed in the first year of his late Majesty King George, entitled *An act for the further security of His Majesty's person and government, and the succession of the crown in the heirs of the late Princess Sophia, being Protestants, and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret abettors;* and shall also make, repeat and subscribe the declaration in the said act mentioned, and

And the said assistants or constables of each district shall then and there attend, and be the judges of the said election, receive the votes, appoint clerks, if occasion be and proceed to elect by majority of votes, in the way of ballot, a captain, lieutenant and ensign and shall on the close of the said election certify the same, under their hands and seals, to the governor or commander-in-chief for the time being for his approbation; which officers so chosen if approved and commissioned by him, shall be the captain, lieutenant and ensign of that district and division according to their commissions. Provided always that no papist or reputed papist shall be allowed or admitted to give his vote for or be chosen an officer of the militia within any of the districts within this province, and that no person or persons whatsoever shall be chosen, certified or commissioned as captain of fied, or”

“Be appointed or commissioned.”

*Delete the words “chosen, certified, or”*

a company, unless he be possessed of a freehold worth one hundred and fifty pounds or be otherwise worth, within the province, the sum of three hundred pounds; nor as a lieutenant unless he be possessed of a freehold worth one hundred pounds, or be otherwise worth, within the province, the sum of two hundred pounds; nor as an ensign unless he be possessed of a freehold worth fifty pounds or be otherwise worth, within the province, the sum of one hundred pounds lawful money of this province, clear of all incumbrances, nor shall any person or persons within the several counties of this province, who shall have or keep any public inn, tavern, alehouse, tippling-house, dram-shop, victualling-house or public house of entertainment be *chosen, certified or* commissioned as any *Dele the words "chosen, certified, or"* of the officers aforesaid or as *fied, or"* colonel, lieutenant-colonel, or major of any regiment within this province; but every such person in the said several counties are hereby declared to be disabled from holding or exercising any such offices during such their business or employment.

And be it enacted by the authority aforesaid, That every captain within this province who shall be commissioned by virtue of this act, shall within three days after receipt of his said commission, repair to the sheriff of his county and receive and take from him the list or lists returned by the constable or constables of the township or townships, boroughs or wards of his district or division and from thence forthwith make out a muster-roll of all the male persons in the said district from seventeen to fifty-five years of age *such persons noted in the said lists whose tenets and religious principles are against bearing arms,* after exempted from the military and all papists and reputed tary duties of this act." papists only excepted.

And be it enacted by the authority aforesaid, That in case of any dispute concerning the age of any person the same shall be determined before any magistrate of the county in which such dispute shall arise, by the oath or affirmation of the person whose age is in question, or any other legal proof or credible witness.

And be it enacted, That every of the persons so as aforesaid enrolled, *not conscientiously scrupling the use of arms*, shall be "Except such as are herein-after exempted." sufficiently armed with one good musket, fuzee or other firelock well fixed, a cutlass, bayonet or tomahawk, a cartouch box, filled with twelve or more cartridges of powder, twelve or more sizeable bullets, and three good flints, and shall appear and attend in their proper persons with the accoutrements, arms and ammunition aforesaid in good order, on the first Mondays in the months of June, August, November and March, at the place appointed by their respective captains or superior officers, for mustering their respective companies: And on the second Monday in October at the place to be appointed by the colonel for the mustering of the regiment, in order to be taught and disciplined in the military exercise and shall continue under arms any time not exceeding six hours on each of the days aforesaid, and that every such person so attending, whilst at muster and on duty, shall execute and perform all their proper services and obey the just and reasonable commands and orders of their respective officers, under the penalty of any sum not exceeding five shillings nor less than one shilling.

And be it enacted by the authority aforesaid, That every person so enrolled *that does not belong to such societies as conscientiously scruple the bearing of arms*, that shall not appear at the times and places aforesaid, "Except such as are herein-after excepted." completely armed and accoutred as aforesaid, to the satisfaction of his superior officer, who is hereby declared to be judge thereof, shall forfeit and pay on demand the sum of four shillings for every such offense, to be paid to the clerk of the troop or company to which he belongs, except in cases of sickness or imprisonment. And that the fines and forfeitures of every young man above seventeen and under twenty-one years of age, living with their parents incurred by virtue of this act, shall be paid by their parents and recovered in manner hereinafter-directed.

“And be it further enacted,  
That every person so as afore-  
said enrolled shall, at all times  
during the continuance of this act, keep by him in his dwelling  
house, the arms and accoutrements aforesaid in good order and  
fit for immediate service, in case of any sudden invasion, insur-  
rection or rebellion, under the like penalty of four shillings for  
every such neglect or offense.”

And be it further enacted by the authority aforesaid, That if the captain, lieutenant and ensign or any two of them, shall adjudge any person or persons enrolled as aforesaid, and appearing on the days of muster hereinbefore-appointed, to be incapable of providing and furnishing him or themselves with the arms, ammunition and accoutrements required by this act, every such person so appearing shall be exempt from the fines and forfeitures imposed by virtue of this act until such arms, ammunition and accoutrements shall be provided for and delivered to him.

And that if the commissioners of any county shall adjudge any such person or persons, who are exempted from attending on or performing the military duties enjoined by this act, incapable of paying the sum of twenty shillings hereby ordered and directed to be paid by him or them, the said commissioners are hereby enjoined and required to acquit and discharge every such person or persons from the same.

And be it enacted by the authority aforesaid, That the captain, lieutenant and ensign of every troop or company of the several counties within this province shall, and they are hereby empowered and required to choose a clerk, *sergeant and corporal* for the said company, which said clerk shall give his attendance with his sword by his side on every of the muster days aforesaid, call over the roll of the company and take notice of the persons who are absent on each of the said muster days and return upon oath a true list of the absentees forthwith to his said captain: And shall also before the troop or company shall proceed to their exercise, read

“Four sergeants, four corpor-  
als and two drummers.”

distinctly and with an audible voice at the head of the troop or company, the clauses of this act relative to the duty of private men while under arms on the days of training, or in actual service in time of any invasion.

And the said clerks, sergeants and corporals so appointed, shall at the times aforesaid also discharge and perform all the duties that respectively appertain to their offices, and shall strictly obey the legal and reasonable commands of their superior officers, under the penalty of any sum not exceeding ten shillings nor less than five shillings.

And be it enacted by the authority aforesaid, That the captain or commanding officer of every troop or company shall deliver to the colonel or commanding officer of the regiment to which he belongs, hereinafter-

directed to *be chosen and appointed*, in two days after re-

*Dele the words "chosen and."*

quired so to do, a true and complete roll or list of all persons belonging to his troop or company, under the penalty of five pounds, and every such colonel or commanding officer shall forthwith, after the receipt of such roll or list, deliver or send the same (keeping a copy thereof) to the governor or commander-in-chief for the time being, under the penalty of twenty pounds.

And be it enacted by the authority aforesaid, That all and every the officers and private men being commissioned and enrolled as aforesaid in the militia of this province, shall within six days after they are so commissioned and enrolled, be formed and divided into regiments in such manner as the governor or commander-in-chief for the time being shall order, direct and appoint:

*And the said officers within ten days after they shall be so as afore-*

*said formed into regiments, shall meet at such time and place as they*

*or a majority of them shall ap-*

*point, within the limits of the sev-*

*eral districts out of which the regi-*  
*ments are formed, and by majority*  
*of votes, by way of ballot, proceed*  
*to choose their field-officers, viz. a*

“And it shall be lawful for the governor and commander-in-chief of this province to nominate, appoint and commissionate a colonel, lieutenant-colonel and major, who before they enter on the execution of their said offices, shall take the oaths



*colonel, lieutenant-colonel and major for their several regiments, and by a certificate under the hands and seals of such majority, certify the names of the persons so chosen*

*and repeat and subscribe the declaration appointed by the before-mentioned statute of King George the first, and”*  
*to the governor or commander-in-chief for the time being; which officers so chosen, if approved and commissioned by the governor or commander-in-chief shall be the colonel, lieutenant-colonel and major of that regiment, according to their commissions. Provided always, That every colonel so chosen shall be possessed of a real estate in this province worth five hundred pounds; the lieutenant-colonel be possessed of a real estate worth four hundred pounds, and the major be possessed of a real estate worth three hundred pounds, or double the value in personal estate and not otherwise.*

And be it enacted by the authority aforesaid, That if any number of men, not less than thirty nor exceeding sixty, including officers, belonging to any of the regiments within this province, shall desire to form themselves into a troop of horse, it shall and may be lawful for such persons by and with the assent of the colonel of the regiment to form themselves into a troop, and give a list of their names to the colonel, *and by majority of votes by way of ballot, in the presence of the said colonel, to proceed to choose a captain, lieutenant and coronet [sic]; and the said colonel shall forthwith make return of the same under his hand and seal to the governor or commander-in-chief for the time being; which officers so chosen if approved of and commissioned by the governor or commander-in-chief for the time being, shall be the captain, lieutenant and coronet [sic] of that troop, according to their commissions: And when the commanding officers of the said troop are ready and*

“Who shall forthwith return the same under his hand and seal, to the governor or commander-in-chief of this province for the time being; and it shall be lawful for the said governor or commander-in-chief, to appoint and commissionate a captain, lieutenant and cornet to the said troop, who shall take the oaths and repeat and subscribe the declaration aforesaid, and”

“Cor net.”

shall exercise the said troop and not before, the said persons so enrolled in the said troop, shall be and are exempted from their service in the foot companies.

“And the said officers and private men of the said troops shall afterwards, during the continuance of this act, meet and exercise on the days and times before appointed, under the like penalties as are hereinbefore imposed on the officers and private men of the said companies of foot.”

And be it enacted by the authority aforesaid, That every trooper, while he shall be on duty, shall be provided with a good serviceable horse not less than fourteen hands high, with a good bridle, saddle, holsters, housing, breast-plate and crupper, a case of good pistols, a good sword or hanger, twelve charges of powder, twelve sizeable bullets, a pair of boots with suitable spurs, and a carbine well fixed with a good belt, swivel and bucket.

And be it further enacted by the authority aforesaid, That the colonel or other commanding officer for the time being of each respective regiment, who shall fail to draw out, muster and exercise the same together once in every year, shall forfeit for every such offense the sum of twenty pounds; and every captain of a troop or company who shall fail to appear as directed by this act or appearing, fail or neglect to exercise the troop or company under his command, every such captain so offending shall for every such offense or neglect, forfeit and pay the sum of ten pounds and every lieutenant, coronet [*sic*] or ensign who shall “Cornet.” not appear, or appearing shall not perform his duty, shall forfeit and pay the sum of five pounds.

*And be it further enacted by the authority aforesaid, That if the governor or commander-in-chief shall not grant his commis-*

“And in case any of the officers so as aforesaid to be ap-

sion to any of the officers that shall be chosen and certified to him, according to the directions of this act, within three days after he shall receive such certificate, or if any such officer being commissioned, shall die, be rendered incapable or promoted to a superior office in the militia, in every such case two other persons shall be elected and certified in the room and stead of such person to whom such commission shall be refused or omitted to be granted, or in the room of such person dying, being rendered incapable or promoted to a superior office as aforesaid, and presented to the governor or commander-in-chief for the time being, in the same manner as is directed by this act for the election and certifying to him the person in the first instance, whose place is intended to be supplied; one of which said two persons so chosen and certified, the governor or commander-in-chief for the time being shall commissionate, and the person so commissioned shall be the officer, according to his commission. And if the governor or commander-in-chief for the time being shall not commissionate any of the officers last aforesaid so chosen and certified within three days after the receipt of such certificate, the highest in votes or first name in such certificate, if equal in votes, shall be the officer as aforesaid as fully to all intents and purposes as if he had been duly commissioned according to the directions of this act. And if any person that shall be chosen and certified to the governor or commander-in-chief for the time being shall refuse to accept of a commission, agreeable to his election, it shall and may be lawful for the governor or commander-in-chief for the time being, in his stead to commissionate any such person within that district as he shall think proper, provided he be qualified as is in such cases by this act ordered and directed.

And be it enacted by the authority aforesaid, That if any number of men in or near the city of Philadelphia, not less than sixty, nor exceeding one hundred men to a company including officers, shall desire to form themselves into one or more artillery com-

pany or companies, not exceeding three companies, for managing the artillery belonging to the province, and the battery or fort, near the said city, provided nothing herein-contained shall be construed to affect, alter, change or take away the right and title of the private owners of the soil on which the said battery or fort is erected; it shall and may be lawful for such persons by and with the assent of the governor or commander-in-chief for the time being, to form themselves into an artillery company or companies as aforesaid, give a list or lists of their names to their colonel, *and by a majority of votes by way of ballot, in the presence of the said colonel to proceed to choose a captain, first and second lieutenant, for each company: And the said colonel shall forthwith make return of the same under his hand and seal, to the governor or commander-in-chief for the time being, which officer so chosen, if approved of and commissioned by him, shall be the captain, first and second lieutenant of that company, according to their commissions:* And the officers and private men of such artillery company shall attend, with the arms, ammunition and accoutrements aforesaid, on the artillery exercise on the days and times hereinbefore-mentioned and appointed for the mustering and training of the militia, and have a clerk to perform the same duties as are herein-directed.

“Which he shall forthwith transmit to the governor and commander-in-chief for the time being, whereupon it shall and may be lawful for the said governor or commander-in-chief, to appoint and commissionate a captain and first and second lieutenant for each company, who shall take the oaths and make, repeat and subscribe the declaration aforesaid, and”

“Under the like penalties as are hereinbefore imposed on the officers and private men of the foot companies and troops of horse, for their neglect in meeting and exercising on the days aforesaid.”

And for the more effectual defense and protection of the inhabitants of this province against actual invasions, rebellions and insurrections:

Be it enacted by the authority aforesaid, That in case of any actual invasion, rebellion or insurrection by such a number of men as may endanger the general safety of the province, all officers of the militia shall have full power and authority in their respective stations and divisions, and they are hereby enjoined, directed and commanded to raise forthwith the militia under their command, and to dispatch immediate intelligence to their commanding officers, *informing them in what manner they intend to act or proceed:* *Dele the words "informing them in what manner they intend to act or proceed."* And the commanding officers of such regiments shall forthwith dispatch an express to the governor or commander-in-chief for the time being, with a full account thereof, *and in what manner he or they intend to act or proceed:* *Dele the words "and in what manner he or they intend to act or proceed."* And the officers aforesaid shall, in the meantime, keep the militia under their command under arms. And the commanding officer of every regiment within this province, with the consent and approbation of the governor or commander-in-chief for the time being, hath hereby full power and authority in time of actual invasion, insurrection or rebellion to draw together the militia under his command, and march them to such places within this province as he shall judge most convenient for opposing the enemy, or quelling or suppressing any rebellion or insurrection; and to such place or places within this province as he shall be commanded or directed by the governor or commander-in-chief for the time being. And every field-officer who shall willfully neglect or refuse to perform his duty herein-required in the time of actual invasion, rebellion or insurrection, shall forfeit the sum of one hundred pounds, current lawful money.\* And every captain or other commissioned-officer, for his neglect or refusal to perform his duty at such time as aforesaid, shall forfeit fifty pounds

\*Add "And be thenceforth cashiered, and rendered incapable of holding or enjoying any

like money. And every non-civil or military office in this commissioned-officer and private soldier of the militia, for his neglect or refusal to perform his duty at such times as aforesaid, shall forfeit ten pounds like money.

And be it further enacted by the authority aforesaid, That every person belonging to the militia of this province, upon notice of such invasion, insurrection or rebellion, in any manner whatsoever, shall immediately repair with his proper arms, ammunition and accoutrements hereinbefore-mentioned and directed to be provided by him, to his colors or parade, under the penalty of ten pounds; which parade shall be the habitation of the captain or commanding officer unless he shall otherwise direct and appoint.

*And whereas in time of actual service in the time of such invasion as aforesaid, rebellion or insurrection it is necessary that the private men be held to a more strict discipline than at other times might be expedient,*

Be it therefore enacted by the authority aforesaid, *That if any officer or private man of the militia of this province in time of actual service in the time of invasion, insurrection or rebellion shall wittingly or willingly excite, cause or join in any mutiny or sedition in any regiment, troop, company, party, guard or detachment of the militia, or shall leave his post or station without the orders of his proper officer, every field-officer shall forfeit and pay the sum of one hundred pounds; and every captain and other commissioned-officer the sum of fifty pounds; and*

“And be it further enacted by the authority aforesaid, That in time of actual invasion, insurrection or rebellion all such of the said officers and militia as shall be drawn out and embodied for the suppression of such invasion, insurrection or rebellion shall have and receive, from the time of their being so drawn out and embodied, till they shall return again to their respective districts or places of abode, the same pay as the officers and private men which shall then be employed in the province service shall receive or be entitled to, and no other; and the said officers and private militia-men shall be, during such time as aforesaid and are hereby subjected and made liable to all such articles of war,

*every non-commissioned-officer and private man, the sum of ten pounds current money for every such offense:* And if any person or persons shall wittingly hold any correspondence with any rebel or enemy, or give any rebel or enemy advice or intelligence by letter, message, sign or tokens in any manner whatsoever, every such person so offending, being legally convicted thereof, shall suffer death without benefit of clergy.

And if any person whatsoever in the time of actual invasion, insurrection or rebellion aforesaid, shall strike or use any violence to his superior officer or refuse or willfully neglect to obey his reasonable orders, such person so offending shall forfeit and pay any sum not exceeding five pounds, like money.

And whereas there are in this province a great number of persons of different religious persuasions, who conscientiously scruple to bear arms, and yet in time of invasion and danger could freely perform sundry services equally necessary and advantageous to the public, Therefore be it provided and enacted by the authority aforesaid, That all quakers, menonists, moravians and others, conscientiously scrupulous of bearing arms who shall appear on any alarm with the militia, though without arms, and be ready to obey the commands of the officers in the following particulars: (That is to say) in extinguishing fires in any city or township, whether kindled by the enemy from without, or by

rules and regulations, punishments and trials, as shall then by act of general assembly of this province be in force for the discipline and good government of the provincial forces of this province; but when they shall return again to their respective districts or places of abode, they shall be under the same orders and directions only as they were before they were drawn out and embodied as aforesaid.—And be it enacted

by the authority aforesaid, That if any commissioned-officer or private militia-man shall be maimed or disabled in actual service he shall be taken care of and provided for during such disability at the public expense of the province.”

“Dele this paragraph.”

“Such who shall appear in the manner hereinafter directed, to be”

traitorous inhabitants within; in suppressing insurrections of slaves, or other evil minded persons during an attack; in carrying off and taking care of the wounded; in conveying intelligence as expresses or messengers; in carrying refreshments to such as are on duty, and in conveying away to such places of safety as the commanding officer shall appoint, the women and children, aged, infirm and wounded, with the effects that are in danger of falling into the hands of the enemy: Such persons so appearing on any alarm and performing the services aforesaid when required, shall, and they are hereby declared to be free and exempt from the penalties by this act inflicted on persons refusing to appear under arms on such occasions.

And whereas upon certain emergencies in time of such general invasion, insurrection or rebellion it may be necessary to keep military watch and ward:

Be it therefore enacted by the authority aforesaid, That in such time of danger it shall and may be lawful for the governor or commander-in-chief for the time being, to order and direct a military watch to be kept in such place or places within this province as he shall appoint. And the colonel or next commanding officer in each respective county where such watch shall be appointed to be kept, to whom such directions shall be given, shall issue out his orders to the several captains under his command to appoint so many men to appear with their arms, ammunition and accoutrements aforesaid, at such times and places as such colonel and commanding officer shall appoint; which watch so appointed shall from time to time be relieved by men equally drafted from the several regiments and companies of the said counties, as they were first enrolled by the constable and his assistant: And every person or persons who shall be warned by his commanding officer, or by order under his hand, upon such service, shall serve on such watch or find a sufficient and well-armed man in his room, under the penalty of ten shillings for every such neglect or refusal. And if any person shall leave or desert the said watch until he is relieved by some other person appointed by the commanding officer to watch in his room, he shall forfeit the sum of *forty shillings*: Provided always, That no person or per-

"Five pounds."



sons whatsoever shall be obliged to continue longer on the said watch than twenty-four hours at one time, anything in this act contained to the contrary notwithstanding.

And be it further enacted by the authority aforesaid, That every centry upon ward or watch who shall challenge any person or persons three times audibly and distinctly, and the persons or persons so challenged shall refuse to answer or give an account of him or themselves, may lawfully fire upon such person or persons so challenged, without being impeached or prosecuted for the same, any law, usage or custom to the contrary notwithstanding. And the officer of such watch upon the approach of any enemy, shall make such signals and give alarms as he shall be directed by the officer appointing him: And every officer and soldier upon hearing such alarms, or seeing such signals, shall immediately repair to their colors or parade, and obey such orders as shall in such case be given by his superior officer, for calling together the company, troop or regiment to which he belongs and for marching the same to any place or places against the enemy, or to suppress any invasion, insurrection or rebellion that may happen within this province.

Provided nevertheless, That the descent or incursion of any small skulking party or parties of Indians and French, such as the frontier counties have been heretofore infested with, shall not be deemed, construed or taken to be such time of general and actual invasion as shall subject the whole militia of the province to the fines, penalties and forfeitures herein-imposed on their defaults, neglects or offenses in time of a general and actual invasion, rebellion and insurrection; nor shall extend to give the captain-general any power or authority to raise the militia of the province or draw them out of their proper counties. Provided always nevertheless, That it shall and may be lawful and the commanding officers of each and every regiment, troop or company within the counties of Cumberland, York, Lancaster, Berks and Northampton are hereby enjoined and commanded in case of any such descent or incursion as aforesaid upon, or into their respective counties to raise the militia under their command or so much thereof as they shall think necessary and to march them forthwith to such place or places as they

shall judge most convenient and necessary for repelling, pursuing, killing and destroying the said enemies.

And that the commanding officers of each of the regiments in the respective counties last aforesaid, in case of real emergencies happening in their said respective counties shall and are hereby empowered and required as before-directed to appoint such military watch to be kept in the town, borough, township or place he shall think necessary, sending immediate notice thereof to the governor or commander-in-chief for the time being, to the end the same may be continued or not as he shall think expedient. And every defaulter or person who shall neglect to attend on such watch, being duly warned, or not yield obedience to his superior officer or refuse or neglect to do his duty, shall be liable to the same penalties as in case the said watch was established by order of the commander-in-chief as aforesaid.

And whereas many of the arms and military accoutrements which have been purchased at the public expense and delivered to the inhabitants of this province are dispersed among the people or converted to private use: To the end therefore that the said arms and military accoutrements may be recovered and disposed of in such manner as to render them of public service:

Be it enacted by the authority aforesaid, That the captain of every troop or company shall, within ten days after the receipt of his commission, fix up advertisements at the most public places within his district, commanding every person to whom such arms or military accoutrements have been delivered or in whose custody, possession or power they may or shall happen to be, to produce and deliver the same on the first muster-day for the public use: And in case of neglect or refusal to produce and deliver the arms and military accoutrements as aforesaid, then the said captain shall issue his warrants to his several sergeants or corporals commanding them to ask for, demand and receive of all and every such person and persons, all such arms or military accoutrements belonging to the province as aforesaid; which said warrant the said sergeants or corporals are hereby required and enjoined on receipt thereof, faithfully and carefully to execute to the best of their skill and knowledge and if any such person or persons having any arms or military

accoutrements belonging to the province after demand made of them as aforesaid, shall willfully neglect or refuse to deliver the same, then it shall and may be lawful for the captain of any troop or company or other superior officer, as often as he or they shall be informed or suspect that any of the arms or military accoutrements belonging to the public shall be in the custody, possession or power of, or concealed by, any such person or persons of whom the same have been demanded as aforesaid, he shall issue his warrant to his sergeant or corporal to seize and take such arms and military accoutrements and bring them together with such person before the next justice of the peace; and if it shall appear on a due and legal trial and examination that the same do belong to the public, they shall remain seized, and the said person shall pay the sum of forty shillings current money for each firelock so as aforesaid belonging to the public; in which trial and examination the proof of the property shall lie on the person in whose possession the same shall be. And if any captain shall omit or neglect to set up such advertisements or issue such warrants as aforesaid, he shall forfeit the sum of ten pounds; and every sergeant or corporal neglecting or refusing to perform the duties required of him or them by this act, shall for every such offense forfeit and pay the sum of twenty shillings, to be recovered by the clerk of the company as is herein-directed.

And be it further enacted by the authority aforesaid, That every captain by or to whom such arms or military accoutrements shall be delivered or received, shall give receipts for the same and forthwith deliver them to such person or persons under his command as he shall judge incapable of purchasing or providing the same, taking a receipt for the said arms and military accoutrements, with a promise therein-contained to return the said arms and military accoutrements in good order, unavoidable accidents only excepted, whenever demanded; of all which the said captains shall keep a true and just account to be laid before the colonel of the regiment to which he belongs, as often as thereunto required by the said colonel, who shall forthwith make report thereof to the governor or commander-in-chief for the time being.

And be it enacted by the authority aforesaid, That all arms, military accoutrements, gunpowder and ammunition of what kind soever, any papist or reputed papist within this province hath or shall have in his house or houses or elsewhere one month after the publication of this act, shall be taken from such papist or reputed papist by warrant under the hands and seals of any two justices of the peace, who are hereby empowered and required to issue a warrant for search as often as they shall receive information or have good cause to suspect the concealment of arms and ammunition in the houses of any papist or reputed papist; and the said arms, military accoutrements, gunpowder and ammunition so taken shall be delivered to the colonel of the regiment within whose district the said arms are found, by him to be safely kept for the public use. And if any such papist or reputed papist, shall have any arms, military accoutrements, gunpowder or ammunition after the time so as aforesaid limited, the same being so seized shall be forfeited: And if any such papist or reputed papist shall attempt to conceal such arms, military accoutrements, gunpowder and ammunition as aforesaid, or refuse to declare and manifest the same to the said justices of the peace or to any other person authorized by warrant to search for, seize and take the same, every such person so offending shall be imprisoned by warrant from the said justices for the space of three months, without bail or mainprize.

And whereas all papists and reputed papists are hereby exempted from attending and performing the military duties enjoined by this act on the days and times appointed for the same, and nevertheless will partake of and enjoy the benefit, advantage and protection thereof:

Be it therefore enacted by the authority aforesaid, That every male papist and reputed papist between the age of seventeen and fifty-five years, within the several districts or divisions so to be made by the sheriff of each county within this province, shall and they are hereby enjoined and required to pay, on demand to the captain of the company of the district in which he resides, the sum of twenty shillings to be recovered of him in case of his neglect or refusal, in the same manner as the fines and forfeitures of the persons enrolled in the militia are hereby di-

rected to be recovered, and applied to the same purposes as the said fines and forfeitures are directed by this act to be applied; and that the parents of every such male reputed papist, above seventeen years of age and under twenty-one, shall pay the said sum of twenty shillings for every such minor under the age last aforesaid.

And be it enacted by the authority aforesaid, That no innholder or any other person whatsoever shall presume to sell any strong liquor to any of the persons attending on military service on such times as they are directed to appear in arms, at the place of mustering or training or within two miles thereof, until after they shall be dismissed for that day, under the penalty of forty shillings to be recovered before any justice of the peace in a summary way, as debts under forty shillings are directed by law to be recovered; one-half to the person who shall sue for the same and the other half to be paid into the provincial treasury for the support of government. Provided always, that nothing herein-contained shall be construed to extend to any licensed tavern or ordinary-keeper, who shall vend or sell any strong liquors in his or her house, it not being to any person of the militia or for the use of such persons.

And be it enacted by the authority aforesaid, That all fines, penalties and forfeitures incurred by virtue of this act by any person whatsoever, that do not exceed five pounds, shall be paid on demand by the person or persons from whom due, to the clerk of the company to which he or they belong. And if any person or persons shall neglect or refuse to pay such fines, forfeitures and penalties the same shall be sued for and recovered by warrant or summons, to be issued by the captain of the district in which such person or persons shall reside, under his hand and seal directed to the clerk, sergeant or corporal of the company of the said district: And the said captain having heard and determined the matter in a summary way, the said fines, penalties and forfeitures shall be levied by distress and sale of the offenders goods and chattels, and in case no such goods and chattels are to be found, by imprisonment of the body. And the said fines, forfeitures and penalties when received by the clerk of each respective company, shall by him be paid to the captain

of his company, retaining ten *per centum* for his trouble in collecting, levying and receiving the same and no more; and by the said captain be applied towards purchasing arms and ammunition for such as are not capable of providing the same, and drums and colors for his said company.

And be it further enacted by the authority aforesaid, That all fines, forfeitures and penalties incurred by virtue of this act, by any person or persons whatsoever, that do exceed the sum of five pounds for breach or neglect of his or their duty, shall be paid on demand to the colonel of the regiment to which such person doth belong, to be recovered in case of neglect or refusal to pay the same,\* by action of debt,

bill, plaint or information in \**Add*, "With full costs of any court of record within this suit,"

province, wherein no essoin,

protection or wager of law, nor more than one imparlance shall be allowed, one-half part thereof to the said colonel or such person who shall sue for the same and the other half-part thereof to be paid *into the provincial treasury*

*"To the present provincial for the support of government: commissioners to be disposed*

And that all fines, penalties of by them towards the purchasing a public magazine of

act on the colonel for refusal or arms for the province service,

neglect of his duty, shall be paid or such other uses as the said

by him to the provincial *treas-* commissioners by and with the

*urer for the time being* and in case approbation and consent of the

of his neglect or refusal, to be governor and commander-in-

recovered † by any person or chief of this province, shall

persons who will sue for the think proper to appoint and di-

same, in manner and form last rect."

aforesaid; one-half thereof to "Commissioners aforesaid;"

the prosecutor and the other- †*Add*, "With full costs of

half to be paid *into the provincial* suit,"

*treasury for the support of govern-* "To the aforesaid provincial

*ment.* commissioners for the uses and

purposes last above-mention-

ed."

And be it further enacted by the authority aforesaid, That if any captain of the militia within this province shall refuse or

neglect to issue his warrant, or otherwise prosecute with effect, for the several fines, penalties and forfeitures hereby made recoverable before or by him, he shall forfeit and pay for every such offense the sum of twenty pounds current money.

And be it enacted by the authority aforesaid, That every captain of the militia within this province, shall yearly account *with the treasurer of his county for the time being* for all such

fines, forfeitures and penalties by him recovered or received by virtue of this act, and pay the surplusage, if any, to *him, and that the said county treasurer shall keep fair and regular accounts of*

*all sums that shall be so paid to him, and by whom, in a book to be kept for that purpose; and shall also annually account with the provincial treasurer who shall render an account thereof to the assembly of this province.* “The said provincial commissioners,” “Them; who shall keep an account of the said money by them received and to what uses applied; and annually render an account thereof to the assembly of this province.”

Provided always, That no clerk, collector or other officer hereby empowered to serve process or to make distresses, shall do the same in an exorbitant and unreasonable manner, under the penalty of five pounds; but shall, as near as may be, take and levy on such or so much goods and chattels of the offender as shall be sufficient to pay the debt and costs, if such goods and chattels there are to be found; and that the same shall be done in the presence of one reputable freeholder at least: And after sale thereof, the said clerk or other officer, shall pay the said debt and forfeiture to the officer before whom the same was recovered, and return the overplus, if any, to the owner thereof after deducting the reasonable and necessary charges that may arise by virtue of this act on such sale:

Provided always, That no such distress be made on any arms, military accoutrements or ammunition, ordered to be provided by persons enlisted under this act.

And forasmuch as the Parliament of Great Britain has thought fit to exempt the Church or congregation called Unitas

Fratrum or United Brethren, from bearing arms or personally serving in any military capacity, upon their paying a reasonable equivalent or compensation for such service; and there are divers *other* religious societies of "Others of different" Christians in this province, whose conscientious persuasions are against bearing arms, who are nevertheless willing and desirous to promote the public peace and safety.

Therefore be it enacted by the authority aforesaid, That the captain of the company of each district or division, in every county of this province, shall within six months after he receives his commission, cause his clerk to make out a fair duplicate, or true copy of the return made by the constable and his assistant of each township of his district, which was delivered him by the sheriff, marking thereon every person's name that is on his muster-roll and also distinguishing those who belong to such religious societies whose conscientious principles are against bearing arms; which said duplicate or copy of constables returns, after so marked and distinguished, the said captain shall deliver or cause to be delivered\*, to the commissioners of his county, chosen by virtue of the act for raising county rates and levies. And the said commissioners of each county of this province, within twenty days after the receipt of the duplicates aforesaid, shall meet together and cause their clerks to

"To the end therefore, that no person or persons within this province who are really principled against all war, and are conscientiously scrupulous of bearing arms, may be obliged to act contrary to such their religious principles.

Be it enacted by the authority aforesaid, That every person who shall personally appear in the open court of quarter-sessions to be held for the county in which he resides, next after the publication of this act, and shall there declare to what religious society he does belong; and further declare that he is really and religiously principled against all war, and conscientiously scrupulous of bearing arms, shall be and is hereby exempted from all the personal services required and enjoined by this act (except in time of actual invasion, insurrection and rebellion as aforesaid) and the clerk of the said court is hereby directed and required to enroll the names of



*make out fair duplicates of the* such persons and transmit a  
*names and surnames of all and* duplicate thereof under his  
*every person and persons in each* hand and seal within one week,  
*district or division, marked and* to the governor and command-  
*distinguished as aforesaid to be* er-in-chief of this province for  
*long to such religious societies,* the time being, and send an-  
*whose principles are against bear-* other duplicate to each of the  
*ing arms.* And the said com- captains of the said county,  
missioners of the respective and”

counties are hereby authorized \*Add, “Another duplicate  
and commanded, under the pen- thereof.”

alty of one hundred pounds cur- Dele from the word “Levies  
rent money, to charge every to the word And.”

such person the sum of twenty †Add, Meet together within  
shillings on the said duplicate, twenty days after the receipt of  
and appoint collectors for re- such duplicate, and”

ceiving the same; and cause  
their clerks to deliver to the  
said collectors fair duplicates  
of the names of the persons so  
charged, with a warrant annex-  
ed thereto, under the hands and

seals of two or more of the said commissioners, requiring the said  
collectors forthwith to collect and receive the several sums in  
the said duplicates respectively mentioned. And if any person  
or persons so charged by virtue of this act, shall refuse or neglect  
to pay the same on demand, the said collector or collectors by  
virtue of their said warrant, shall call to their assistance, if oc-  
casion be, any constable of his county and levy the said sum, so  
charged, on the goods and chattels of the person so refusing,  
and make sale thereof, rendering the overplus, if any be, to the  
owners in the same manner as collectors are empowered and di-  
rected by the said act for raising county rates and levies.

And be it enacted by the authority aforesaid, That the said  
sum of twenty shillings, that shall be so charged to any young  
man under the age of twenty-one and above seventeen  
years, who *belongs to any of*  
*the societies aforesaid,* and shall

reside with his parent, shall be "Shall make the declaration paid and recovered as aforesaid in manner aforesaid," of and from his said parent.

And be it enacted by the authority aforesaid, That the said collectors respectively shall, within three months after they receive the said duplicates and warrants as aforesaid, and they are hereby directed and required to collect, receive and pay to the respective county treasurers the several sums they and each of them ought to collect and receive by virtue of this act, retaining in their hands six-pence per pound for collecting the same. And the several county treasurers shall pay the same into the hands

of the provincial treasurer "Commissioners, who shall *who shall keep an account thereof* lay out and dispose of the same *distinct and separate from his* to such uses and good purposes *other accounts, to be applied and* as they or a majority of them, *laid out by the committee for In-* by and with the consent and *dian Affairs, to the uses and pur-* approbation of the governor *poses mentioned and specified in* and commander-in-chief of this *an act, entitled "An act for pre-* province, for the time being, *venting abuses in the Indian Trade,* shall judge proper to direct and *for supplying the Indians, friends* appoint."

*and allies of Great Britain, with goods at more easy rates and for restoring and confirming the peace and friendship heretofore subsisting between this province and the Indians inhabiting the frontiers of the said province." And the said provincial treasurer shall have one*

*per centum, and the county treasurer\* one per centum* respectively for their trouble in receiving and paying the same. And the commissioners of the respective counties shall be allowed the same fees as are allowed them for the like services by the said act for raising county rates and levies: And their clerks, for drawing the said duplicates and sending them out to the collectors, so much as the commissioners shall think fit to allow.

And be it enacted by the authority aforesaid, That nothing

in this act contained shall be construed to subject the gentlemen of the governor's council or of the general assembly, not holding any military office or any minister of the gospel or preacher of any denomination of religion \*Add "Or any judges, justices, whatsoever,\* to appear on the justices of the peace, lawyers, pro-days and times appointed by thonotaries, registers, sheriffs, this act for training and mus- physicians or the collectors of terying the militia of this pro- His Majesty's customs or the vince or to do the duties at such keeper of any gaol in this pro-times hereby enjoined and re- vince." quired.

"But shall, on a general alarm or time of actual invasion, insurrection or rebellion, be subjected to all the duties by this act required of others on such occasions."

And be it enacted by the authority aforesaid, That no officer or soldier ordered and directed by this act to appear and muster as aforesaid, or that shall be appointed to watch, shall be liable to be taken or arrested by any officer in any civil action or process whatsoever, on the day whereon such person is directed to appear or watch, or in any reasonable time either in going to, continuing at, or returning home from the place or places appointed to muster or watch at; but every such arrest is hereby declared to be *ipso facto* void and without authority; and all officers are hereby enjoined and required to take notice thereof and govern themselves accordingly, any law, usage or custom to the contrary notwithstanding.

And be it enacted by the authority aforesaid, That if any suit or action shall be brought against any person whatsoever for doing the duty required of him by this act, he may plead the general issue and give this act in evidence, which is hereby declared to be a public act; and all courts, judges and justices are hereby required to take notice of it accordingly: And if the plaintiff discontinue his action, be nonsuited, or a judgment pass against him on a verdict or demurrer the defendant shall recover treble costs.

And be it further enacted by the authority aforesaid, That