

upon any or either of the acts of assembly of this province heretofore enacted for granting money to the King's use.

Passed May 30, 1764. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed March 5, 1725-26; and (the two acts of) September 20, 1766, Chapters 542 and 547; March 21, 1772, Chapter 661; January 22, 1774, Chapter 692.

CHAPTER DXIV.

AN ACT FOR REGULATING THE OFFICERS AND SOLDIERS IN THE PAY OF THIS PROVINCE AND FOR CONTINUING AN ACT, ENTITLED "AN ACT FOR REGULATING THE HIRE OF CARRIAGES TO BE EMPLOYED IN HIS MAJESTY'S SERVICE." ¹

Whereas many barbarous hostilities have lately been perfidiously committed by the Indians on the western and northern frontiers of this province, and it is judged necessary that a body of forces should be taken into the pay of this province, to be employed in His Majesty's service and in protecting the frontier inhabitants of the said province. And whereas no man can be forejudged of life or limb or subjected in time of peace to any kind of punishment within this province by martial law or in any other manner than by the judgment of his peers and according to the known and established laws of this province, yet nevertheless it being requisite for the retaining such forces in their duty that an exact discipline be observed and that offenders be brought to a more exemplary and speedy punishment than the usual forms of the law will allow.

[Section I.] Be it therefore enacted by the Honorable John Penn, 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 the

¹ Passed July 8, 1763, Chapter 500.

said Province in General Assembly met, and by the authority of the same, That from and after the publication of this act, if any person who is or shall be hereafter during the continuance of this act mustered or in the pay of this province as an officer, or who is or shall be hereafter during the continuance of this act listed, voluntarily entered or in the pay of this province as a soldier, shall, at any time during such continuance of this act, begin, excite, cause or join in any mutiny or sedition in the company, troop or regiment [whereto he doth belong or in any other company, troop or regiment] in His Majesty's service, or shall not use his utmost endeavors to suppress the same, or coming to the knowledge of any mutiny or intended mutiny shall not without delay give information thereof to his commanding officer, or shall desert His Majesty's service, or being a soldier actually listed in any regiment, troop or company shall list himself in any other regiment, troop or company without a discharge produced in writing from the colonel or, in his absence, the field officer commanding in chief the regiment, troop or company in which he last served as a listed soldier, or shall be found sleeping upon his post or shall leave it before relieved, or if any officer or soldier of the said forces shall hold correspondence with any of the said Indians who have been concerned in the hostilities lately committed or that shall hereafter be committed within this province or with any person who has assisted or shall hereafter assist the said Indians in committing such hostilities, or give them advice or intelligence, either by letters, messages, signs or tokens in any manner or way whatsoever, or shall treat with such Indians or persons or enter into any condition with them without His Majesty's license or license of the general, lieutenant-general or chief commander, or shall strike or use any violence against his superior officer being in the execution of his office, or shall disobey any lawful command of his superior officer; all and every person and persons so offending in any of the matters before mentioned shall suffer death or such other punishment as by a court-martial shall be inflicted.

[Section II.] And be it further enacted by the authority aforesaid, That the governor or commander in chief of this province

for the time being may from time to time grant a commission under the great seal to any officers not under the degree of a field officer for the holding a general court-martial within this province, in which courts-martial all the offenses in this act specified shall be tried and proceeded against in such manner as [in] this act [is] hereafter directed.

[Section III.] And be it also further enacted, That it shall and may be lawful to and for such courts-martial by their sentence or judgment to inflict corporal punishment not extending to life or limb on any soldier for immoralities, misbehavior or neglect of duty.

[Section IV.] And it is hereby further enacted and declared, That no general court-martial which shall have power to sit by virtue of this act shall consist of a less number than thirteen, whereof none to be under the degree of a commission officer, and the president of such general court-martial shall neither be the commander in chief or governor of the garrison where the offender shall be tried nor under the degree of a field officer unless where a field officer cannot be had, in which case the officer next in seniority to the commander, not being under the degree of a captain, shall preside at such court-martial, and that such court-martial shall have power and authority and are hereby required to administer an oath to every witness in order to the examination or trial of any of the offenses that shall come before them.

Provided always, That in all trials of offenders by general courts-martial to be held by virtue of this act, every officer present at such trial, before any proceedings be had thereupon, shall take the following oaths upon the Holy Evangelists before the court and judge advocate, or the person officiating as such (who are hereby authorized to administer the same), in these words, That is to say:

“You shall well and truly try and determine, according to your evidence in the matter now before you, between our sovereign Lord the King’s Majesty and the prisoner to be tried. So help you God.”

“I, A. B., do swear that I will duly administer justice according to an act of the general assembly of this province, now in force, entitled ‘An act for regulating the officers and soldiers

in the pay of this province and for continuing an act, entitled 'An act for regulating the hire of carriages to be employed in His Majesty's service,' without partiality, favor or affection, and if any doubt shall arise which is not explained by the said act, according to my conscience, the best of my understanding and the custom of war in the like cases. And I further swear that I will not divulge the sentence of the court until it shall be approved by His Majesty, the general or commander in chief of this province, neither will I, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial unless required to give evidence thereof as a witness by a court of justice in a due course of law. So help me God."

And so soon as the said oaths shall have been administered to the respective members, the president of the court is hereby required and authorized to administer to the judge advocate or the person officiating as such an oath in the following words:

"I, A. B., do swear that I will not upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial unless required to give evidence thereof as a witness [by a court of justice] in a due course of law. So help me God."

And no sentence of death shall be given against any offender in such case by any general court-martial unless nine officers present shall concur therein; and if there be more officers [present] than thirteen, then the judgment shall pass by the concurrence of two-thirds of the officers present. And no proceeding or trial shall be had upon any offense but between the hours of eight of the clock in the morning and three in the afternoon, except in cases which require an immediate example.

Provided always, That the party tried by any such court-martial shall be entitled to a copy of the sentence and proceedings of the said court upon demand thereof made by himself or any other person or persons in his behalf (he or they paying reasonably for the same) at any time not sooner than three months after such sentence.

Provided also, That every person presiding at any trial whereupon sentence of death shall be given against any officer or soldier by virtue of this act shall transmit, as soon as conveniently may be, to the governor or commander in chief of this province

for the time being a fair transcript of the proceedings and sentence of such court-martial, under the hands and seals of the officers who composed the said court; and that the execution of the sentence so given shall be suspended until the pleasure of the governor or commander in chief of this province for the time being be known and his warrant for the same under the great seal shall be received.

[Section V.] Provided always, and be it further declared and enacted, That no officer or soldier, being acquitted or convicted of any offense, be liable to be tried a second time by the same or any other court-martial for the same offense unless in the case of an appeal from a regimental to a general court-martial, and that no sentence given by any court-martial and signed by the president thereof be liable to be revised more than once.

Provided always, That nothing in this act contained shall extend or be construed to exempt any officer or soldier whatsoever from being proceeded against by the ordinary course of law.

[Section VI.] And be it further enacted by the authority aforesaid, That this act shall be and continue in force until the thirtieth day of May, one thousand seven hundred and sixty-five.

[Section VII.] And be it further enacted by the authority aforesaid, That an act, entitled "An act for regulating the hire of carriages to be employed in His Majesty's service,"¹ now near expiring, be and the same is hereby continued and to remain in force until the thirtieth day of May next and from thence to the end of the next session of assembly and no longer.

Passed May 30, 1764. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII.

As to Sections I-VI, see the Act of Assembly passed March 17, 1777, Chapter 750.

As to Section VII, see the Act of Assembly passed January 2, 1778, Chapter 780.

¹ Passed July 8, 1763, Chapter 500.