

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Wednesday the first day of July, 1761, and in the first year of His Majesty's Reign, and there continued by several prorogations until Wednesday the 17th day of March, 1762, in the second year of His Majesty's Reign.

2 George III – Chapter 7

An Act for the better regulating the Militia, on actual Service in Time of War.

Whereas in times of imminent danger, either by invasion or sudden attack made or threatened to be made by his Majesty's enemies on any of his subjects within this province, insomuch that his Excellency the Governor, Lieutenant-Governor, or commander in chief for the time being, shall, by virtue of the power granted him by his Majesty's commission, judge it expedient to order any part of the militia of this province to march from one county or part of the province to another, on necessary service; or to do duty by mounting guard: in such case it is requisite that due subordination should be observed, for preventing mutiny, desertion and contempt.

Be it enacted, by the lieutenant governor, council, and assembly, that if any officer, non-commissioned officer, or soldier of the militia, under arms for real service, on a march, or on guard, or that shall be ordered for any of the abovementioned duties, shall disobey orders, or neglect doing his duty, or shall shew any contemptuous behaviour towards his superior officer; if an officer, he shall on conviction thereof before a general court martial to be constituted and appointed as hereinafter directed, be cashiered by the sentence of such court martial; if a non-commissioned officer or soldier, he shall be confined by the commanding officer of such party or guard: and it shall be lawful for the commanding officer of the regiment, or of any party, or command, not under the degree of a captain, to order a regimental court martial to be forthwith held for the trial of such offender; the said court martial to consist of one captain and two subalterns at least, but where they can be had of one captain and four subalterns, who may give judgment by laying a fine on such offender in any sum not exceeding forty shillings, which fine so ordered by the court-martial, if he neglect or refuse to pay the said offender shall be corporally punished, by riding a wooden horse any time not exceeding half an hour, or be committed to the house of correction to be kept to hard labour there for any time not exceeding ten days.

Provided nevertheless, that no sentence of a regimental court martial shall be put into execution until approved of by the commanding officer of the regiment, or of the detachment where the crime may have been committed. And no officer, being the accuser, shall sit as a member.

And be it further enacted, that if any officer, non-commissioned officer, or soldier, of the militia, shall in the field, upon a march, or in quarters on actual service, desert the troop company or command to which he belongs, or shall disobey orders; if a commissioned officer, missioned officer, or soldier, he shall be sent to the next county or other jail as soon

as convenient, and it shall and may be lawful for his excellency the governor, lieutenant governor or commander in chief of the province, to order a general court martial, by a warrant under his hand and seal, for the trial of such offender as speedily as the service will admit; which court martial shall not consist of a less number than thirteen commissioned officers of the militia; and the president of such court martial shall not be under the degree of a field officer, and there shall be as many captains as conveniently can be had, the eldest subalterns to make up the number: And that such court-martial shall have power to administer an oath to any witness, in order to the examination or trial of the above offences that shall come before them.

And be it further enacted, that such general-court martial shall have power to punish with death, or otherwise by fine or imprisonment, the fine not exceeding twenty pounds, or imprisonment not more than six months.

Provided always, that in all trials by general-court martial, every officer, before any proceeding be had, shall take the following oath, and the judge advocate is hereby authorized to administer the same.

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.

And no sentence of death shall be given against any offender, by any such general court-martial, unless twelve officers present shall concur therein; and his excellency the governor, lieutenant-governor, or commander in chief, shall have power to appoint any one of His Majesty's justices of the peace for said province, or other fit person, to act as judge advocate at any such general court-martial.

And be it also enacted, that no sentence of such general court-martial shall be put in execution before the same be approved by his excellency the governor, lieutenant governor or commander in chief for the time being.

Provided always and be it enacted, that when any part of the militia shall be draughted to march from one part of the province or town to another on real service, all such draughts or detachments shall be made by ballot from each company, in exact proportion according to their numbers then fit for duty, which shall be on the oath of the captain, or commanding officer, to the best of his knowledge, if required; and each and every person so draughted shall go in his own proper person or find a good man in his room, and for his neglect or disobedience herein, he shall be confined by the commanding officer, and shall pay a fine of ten pounds, or remain in jail for three months, and another man shall be draughted as aforesaid to march in his place, who shall have half of the above fine.

And be it further enacted, that when any part of the militia shall be ordered to march from one part of the province or town to another not in the same county to which they belong, on real service, there shall be allowed and paid to the commissioned, non-commissioned

officers, drummers and private soldiers, for so long as they shall remain on such service, at and after the rates following, that is to say, to the commissioned officers at and after the same rate as officers of the like rank in his Majesty's troops; to the Serjeants after the rate of two shillings, corporals one shilling per Diem each, together with the like allowance of rations of provisions of all kinds as are distributed and allowed to the non-commissioned officers and soldiers in his Majesty's regular forces.

Provided always, that this act nor any thing herein contained shall take effect or be carried into execution at any time, but on occasion of actual invasion or sudden attack from an enemy, or imminent danger thereof, any thing herein contained to the contrary notwithstanding.

All fines and forfeitures to be incurred by this act, and not particularly appropriated shall be applied to such military uses as shall be thought necessary by the governor, lieutenant-governor, or commander in chief of this province for the time being.