

shall consist of fewer than eleven, whereof none to be under the degree of a commission-officer, and the president of such court-martial not to be under the degree of a field-officer, or the then commander-in-chief of the forces under pay, where the offender is to be tried; and that such court-martial shall have power and authority to summon evidences, and to administer an oath to any witness, in order to the examination or trial of the offences aforesaid.

And be it further enacted,

Method of the
court's proceed-
ings.

[SECT. 4.] That in all trials of offenders by courts-martial, to be held by virtue of this act, where the offence may be punished by death, every officer present at such trial, before any proceeding be had thereupon, shall take an oath before the court, and a justice of the peace, if any such be there present; otherwise the president of such court, being first sworn by two of the other members thereof, shall administer the oath unto the others; and the president of such court, and any two other members thereof, are hereby respectively authorized to administer the same in these words; that is to say,—

You shall well and truly try and determine, according to your evidence, the matter now before you, between our sovereign lord the king, and the prisoner to be tried. So help you God.

[SECT. 5.] And no sentence of death shall be given against any offender in such case by any court-martial, unless nine of the eleven officers present shall concur therein; and if there be a greater number of officers present, then the judgment shall pass by the concurrence of the greater part of them so sworn, provided such major part shall not be less than nine; nor shall any sentence of death pass'd by courts-martial, by virtue of this act, upon any offender, be put in execution, until report be made of the whole matter, by the president of such court, unto the captain-general or commander-in-chief of this province, for the time being, in order to receive his directions therein; and the prisoner shall be kept in safe custody in the mean time, and the provost-marshal shall have a warrant, signed by the president of the court, to cause execution to be done according to sentence, before the same be executed.

Provided always,—

Proviso.

[SECT. 6.] That nothing in this act contained shall extend, or be construed, to exempt any officer or soldier whatsoever from the ordinary process of law.

Limitation.

[SECT. 7.] This act to continue and be in force for the space of two years from the publication thereof, in case the war with France continue so long, or otherwise to the end of the said war, and no longer. [*Passed August 18; published August 30.*]

CHAPTER 12.

AN ACT IN FURTHER ADDITION TO AND EXPLANATION OF THE ACT FOR THE MORE SPEEDY FINISHING OF THE LAND-BANK OR MANUFACTORY SCHEME.

Preamble,
1743-44, chap. 17.

WHEREAS in and by an act passed in the seventeenth year of his present majesty's reign, intituled "An Act for the more speedy finishing of the Land-bank or Manufactory Scheme," it is provided that the commissioners therein named should make a report of their proceedings, in the execution of their trust, to this court at their present session, for their approbation and allowance or disallowance thereof, either in

whole or in part, and that any of the late directors and partners of the late Land-bank or Manufactory Company who should think himself aggrieved by the proceedings of the said commissioners, might file his appeal from their determination to the court, in the secretary's office, at any time before the present session thereof; *and whereas* the affairs of the said late company have been since found to be so circumstanced that an assessment on all the late directors and partners for their respective proportions of the whole of the charge and loss that has arisen on said scheme and trade could not be made before the present session of this court; but the said commissioners have, during the present session thereof, assessed such of the delinquent partners in said scheme as have paid no part of what is due from them to the said late company, nor have otherwise redeemed any part of the bills which they borrowed and received of the said late company in divers sums of money, consisting of the principal sums by the said delinquent partners respectively received from the said late company in Land-bank or Manufactory bills, and the interest due thereon, together with the further sums of six pounds on every hundred of the original sum drawn out of the said late company's stock, or borrowed out of the same by such of the said assessed partners as were concerned in trade, and three pounds on the hundred as the proportion of the other assessed partners, and *pro rata* for any greater or less sum; and have made a report of their said proceedings to this court, which report is dated sixteenth of August, one thousand seven hundred and forty-four; *but inasmuch* as the parties so assessed have had no opportunity, in case they should think themselves aggrieved by the said proceedings, of filing their appeal from the aforesaid determination of the said commissioners to this court, at their present session, as in and by the before, in part, recited act it is provided they should have liberty to do,—

Be it therefore enacted by the Governour, Council and House of Representatives,

[SECT. 1.] That the said partners of the said late Manufactory Company, who have been assessed by the said commissioners in manner aforesaid, and every of them, shall have liberty, in case they or any of them shall think themselves aggrieved by the beforementioned determination and assessment, to appeal from the same to this court at their next session, provided they shall file such appeal or appeals in the secretary's office on or before the seventh day of September next ensuing; and such appeals, and the matters arising thereon, shall be wholly governed, tried and determined by the rules prescribed touching appeals by the said, in part, recited act. And the aforesaid proceedings of the said commissioners, and every part thereof, are hereby declared to be allowed and approved of by this court against such of the partners assessed as aforesaid, who shall not file their appeals from the same as aforesaid within the term herein before limited for that purpose; and such of the said partners shall be chargeable to pay to the said commissioners the respective sum or sums assessed upon them; and on neglect of payment thereof, the said commissioners may, in their own names, raise, sue for, and recover the same in such manner as in and by the said former act is provided.

Provided nevertheless,

[SECT. 2.] That the said commissioners shall give notice to the late partners of the late Manufactory Company by them assessed as aforesaid, of the several beforemention'd assessments, by causing a list or schedule of the same, together with a copy of this act, to be inserted in the four weekly prints, called, the "Boston Weekly Postboy," the "Boston Evening Post," the "Boston Gazette, or Weekly Journal," and the

Appeal allowed to the partners of the Land-bank to the general court, from the commissioners' determination.

Commissioners to give notice of their assessments in the Boston newspapers.

“Boston Weekly News-Letter,” which shall be next published after the publication of this act.

Preamble.

And whereas the affairs of the said late company are under such circumstances that the same cannot be adjusted and finished in an equitable manner by one single assessment, but divers assessments by the said commissioners on the late directors and partners of the said late company, and divers reports of their proceedings to this court, are requisite for that purpose,—

Be it further enacted,

Commissioners to make divers assessments if they judge fit.

[SECT. 3.] That the said commissioners, or any two of them, shall and may, from time to time, until the affairs of the said late company be wholly settled and finished, as often as there shall be occasion, make such assessments on any of the said late directors and partners as they shall judge necessary for finishing the said Land-bank or Manufactory Scheme in the most equitable manner, pursuant to the directions of the said, in part, recited act; and upon every such assessment's being made, the said commissioners shall give the parties thereby assessed, notice thereof, by causing lists or schedules of such assessments to be inserted in the beforemention'd weekly prints, which shall be next published after the making the said assessment; and that any of the said late directors or partners, who shall think himself aggrieved by any such determination and assessment, to be made by the said commissioners, may, at any time within fourteen days next after, notice thereof being published in the four beforemention'd weekly prints, file his appeal from the same to this court, in the secretary's office; and all such appeals, and the matters arising thereon, shall be wholly governed, tried and determined by the rules prescribed touching appeals by the said, in part, recited act.

Appeal to be allowed from them.

And be it further enacted,

Assessment to be lodged in the commissioners' chamber.

[SECT. 4.] That every further assessment made by the said commissioners, shall remain in the chamber of the court-house in Boston, wherein the said commissioners usually meet for the execution of their trust, until the expiration of the said fourteen days hereinbefore limited for the filing of appeals, ready for the inspection of such of the parties therein assessed as shall desire the same, and copies thereof, attested by the clerk of the said commissioners, shall be delivered to them upon their request, and at their proper charge; and that the said commissioners shall make report of their proceedings in every such assessment, to this court, as soon afterwards as may be, for their approbation and allowance or disallowance thereof, in whole or in part; and each and every of the said late directors and partners shall be chargeable to pay to the said commissioners the sum or sums in which he or they shall be from time to time assessed by the said commissioners, with the approbation of this court; and on neglect of payment thereof, the said commissioners may, in their own names, raise, sue for, and recover the same in such manner as by the said former act is provided.

Directors and partners chargeable to pay the sums assessed.

Commissioners empowered to sue.

And be it further enacted,

Copies of assessments to be delivered out of the secretary's office.

[SECT. 5.] That attested copies of the assessment hereinbefore mentioned to be already made by the said commissioners, shall be delivered out of the secretary's office to any of the parties therein assessed, upon their request, and at their proper charge.

Preamble.

And whereas in and by the before-mentioned act, the said commissioners are obliged to sit three days in a week for the dispatch of the affairs of said scheme, until the same shall be finished; *and whereas* their attendance for so great a part of the week may not be necessary after they shall have made their next assessment, and reported the same,—

Be it therefore enacted,

[SECT. 6.] That the said commissioners shall not be obliged, after they shall have presented their next assessment on the aforesaid Manufactory Company to this court, for their allowance, to sit more than one day in a week, unless when they shall judge that the affairs of said company shall require more frequent attendance. [*Passed August 18.*

Commissioners
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week.