

ing to such town or district as are of that perswasion, and in such manner and proportion as they are liable to pay to other taxes.

And be it further enacted,

[SECT. 8.] That every military officer, who shall neglect his duty by this act enjo[y][t]ned, shall forfeit and pay the sum of ten pounds; one moiety thereof to be for the use of the province, and the other moiety to him or them who shall inform and sue for the same in any court proper to try the same.

Provided,—

[SECT. 9.] That nothing herein contained shall be construed to extend to the inhabitants of Nantucket[t], who are to attend and observe the rules and directions in the law of this province relating to the inhabitants of that island, made in the twenty-ninth year of his present majesty's reign.

[SECT. 10.] This act to continue and be in force for the term of three years from and after the thirtieth day of December instant, and until the end of the then next session of the general court, and no longer. [*Passed and published December 31.*]

Penalty on military officers for neglect, &c.

Proviso with respect to the inhabitants of Nantucket. 1755-56, chap. 32.

Continuance of this act.

CHAPTER 18.

AN ACT IN ADDITION TO THE SEVERAL ACTS OF THIS PROVINCE FOR REGULATING THE MILITIA.

WHEREAS it is found necessary that further provision be made for arming and disciplining the militia,—

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

[SECT. 1.] That the captain or chief officer of each military foot company shall instruct and employ his company in military exercises six days in a year for two years from the first day of March next; viz., on the second and third Mondays in April, the first Monday in May, the first Tuesday in June, the last Monday in October, and the Tuesday following the same Monday; and on each of said days he shall make a strict enquiry into the state of the arms and ammunition of his company, on penalty of five pounds for each day he shall be negligent in his duty; that every person from the age of sixteen to sixty, not exempted by law, shall appear with arms and ammunition according to law, and attend his duty each of the aforesaid days, on penalty of nine shillings for not appearing and attending his duty; and for not appearing with arms and ammunition, shall be subject to the same penalties as, by law, already provided for not being furnished with arms and ammunition: and that the captain or chief officer of each troop or military company of horse, shall exercise his company four days in each year; viz., the second and third Mondays in April, the last Monday in October, and the Tuesday next following the same Monday; and on each of said days shall make strict inquiry into the state of his company, how each man is armed, equipped and provided with ammunition, on penalty of five pounds for each day such captain or chief officer shall be guilty of neglect in his duty in this respect: and every trooper or person belonging to the troop of guards, or to any troop or company of horse, shall, upon each of the same days, appear compleat in arms and ammunition, and equipped according to law, and attend his duty, on penalty of ten shillings each day for not appearing and attending his duty; and for not appearing armed, equipped and furnished according to law, shall be subject to the same

Preamble.

1693-4, chap. 3.
1738-39, chap 5.
1742-43, chap. 16.

Each foot company, when to be exercised.

Arms, &c., to be inquired into.

Penalty for neglect.

Persons liable to be exercised.

Penalty for non-appearance.

Each troop, when to be exercised.

Troopers' arms, to be inquired into.

Penalty for neglect.

Penalty for trooper's non-appearance.

Penalty for not being armed, &c.

Clerks to take a list, &c.

Time to deliver list to the captain or chief officer, on penalty.

Captain to be under oath for excusing persons.

The clerk, on oath, to prosecute delinquents. Penalty for neglect.

Offences committed by officers to be determined as provided by the act of King William and Queen Mary, &c.

1693-4, chap. 3.

Persons, except troopers, how to be furnished with arms, &c.

Persons on the alarm list to have their arms, &c., viewed.

Penalty for neglect, or refusing regimental musters.

Persons in the frontiers to carry arms, &c.

penalties as, by law, is already provided for not being duly armed, equipped and furnished as the law directs: that the clerk of each military company, on oath, on each training-day, unless unavoidably prevented, shall take a list of the troop and company, and against each man's name note his appearance or non-appearance, and how he is provided with arms and ammunition, and shall in two days deliver the same to the chief officer of the troop or company, on penalty of five pounds: that the captain or chief officer, before he excuses any person for any neglect of duty, shall be under oath not to excuse any not excused by law, either through favour, affection, reward received, or hope of reward: that the captain or chief officer shall enter on the said list the persons' names by him excused, and the reasons for which they are excused, and in six days return the same list to the clerk, on penalty of five pounds: that the clerk, on oath, in thirty days, shall prosecute each delinquent, non-commission officer and soldier, who shall not have been so excused by the captain or chief officer, on the penalty of twenty shillings for each neglect.

Be it further enacted,

[SECT. 2.] That all offences committed against any clause of this act by any officer or officers, where a forfeiture is given, shall be enquired into, tryed and determined by the chief officers of the regiment, and levied by warrant, under the hand of the chief officer, in the way and manner as is provided by the act of King William and Queen Mary for regulating the militia; and the colonel or chief officer of any regiment shall, as soon as may be after the knowledge of such offences, call a meeting of the chief officers of the regiment, and issue his process against any such offender, which shall be served fourteen days before the meeting of the officers for the trial. And the clerk of each troop or military foot company, or prosecutor, is required and enjoined to give information of all such offences committed by any officers, to the colonel or chief officer of his regiment.

And be it further enacted,

[SECT. 3.] That every person, except troopers, who is by law obliged to be furnished with arms and ammunition, shall be provided with a powder-horn or horns, with one pound of powder in the same, on penalty of two shillings, and with forty bullets fit for his gun, on the like penalty for each neglect; that any soldier, born on the training-lists in the several regiments, shall be excused from any penalty for not being furnished with swords, in case they provide themselves and appear with good hatchets.

And be it further enacted,

[SECT. 4.] That every person borne on the alarm list, and not on the train band, shall, on the first Monday in May, and the last training day in the year, annually, between three and five of the clock in the afternoon, and while the trained bands shall be under arms, carry or send his arms and ammunition into the field to be viewed; and in case any person shall neglect or refuse to carry or send his arms and ammunition into the field as aforesaid, unless unavoidably prevented, he shall be liable to the same penalty for each day's neglect, as if he had not such arms and ammunition.

And be it further enacted,

[SECT. 5.] That every person, that shall neglect or refuse to attend a review, or regimental muster, shall pay the sum of fifteen shillings; and that every person in the frontiers of this province, liable to bear arms, when ordered by the chief officer of the regiment, shall carry his arms and ammunition with him to the place of publick worship, and to his labour in the field, on pain of forfeiting six shillings for each neglect.

Be it further enacted,

[SECT. 6.] That one half of the non-commission officers and private soldiers, liable to train, shall be furnished with a good bayonet, with a steel blade, not less than fifteen inches long, fitted to his gun, with a scabbard for the same, for which bayonet and scabbard there shall be paid out of the publick treasury not exceeding seven shillings, and that the captain or chief officer of each foot company shall take effectual care that they be so provided; and an account thereof shall be presented by said officer to the governour and council for allowance and payment, for which bayonet and scabbard each non-commission officer and soldier so provided shall be accountable to this government, unless under the age of twenty-one years, and for such as are minors, their parents, guardians or masters, respectively, shall be so accountable; and each non-commission officer and soldier, drummers excepted, shall, upon every training-day muster, review or alarm, after they are provided with bayonets as aforesaid, appear with the same, on penalty of two shillings for each neglect.

Non-commission officers and soldiers to be provided with bayonets, and in what manner, &c.

Penalty for not appearing with bayonets, &c.

And be it further enacted,

[SECT. 7.] That the captain or chief officer of each foot company, as soon as may be after the commencement of this act, and before the tenth day of March next, is hereby enjoined to call his company together under arms, and, after enquiring into the state of them, is hereby impowered and directed to choose from among said arms such as he shall judge most suitable to be provided with bayonets, to the amount of one half the whole number; and the respective soldier or soldiers to whom such selected arms belong, shall observe and obey such directions and orders respecting their being provided with bayonets, as he or they shall receive from the captain or chief officer of the company, on penalty of twenty shillings for non-observance of, or disobedience to, such directions and orders as he or they shall receive for the purposes aforesaid.

Every foot company to be under arms, &c., before the tenth day of March, &c.

Penalty for non-observance of the orders of the captain, &c.

And be it further enacted,

[SECT. 8.] That the penalty for any person not appearing and attending orders upon an alarm, unless unavoidably prevented, shall be the sum of ten pounds, or six months' imprisonment; and if any person shall be guilty of mutiny or desertion, and be thereof convicted, he shall either be punished with death, without benefit of clergy, or suffer some other grievous punishment, as shall be adjudged necessary by the court before whom he shall be tried, according to the nature and aggravation of his offence.

Penalty for non-appearance on alarm.

Penalty for mutiny or desertion.

And whereas, by an act of this province, made in the twelfth year of the reign of his late majesty King William the Third, intituled "An Act for putting the militia of this province into a readiness for a defence of the same", it is enacted, "That all persons commissioned by the captain-general or commander-in-chief of this province for the time being, to bear office in any military company or troop within the same, be and hereby are impowered and authorized, by virtue of such commission, when and as occasion shall require in the cases, and to the intents and purposes abovesaid, to arm, array and weapon the company or troop respectively under their command, or part of them, and by force of arms to encounter, repel, pursue, kill and destroy any that shall appear in hostile manner to attempt or enterprize the destruction, invasion, detriment or annoyance of any of his majesty's subjects, forts, garrisons, towns or plantations within this province; and that such officer or officers so taking to arms, shall forthwith dispatch notice to his or their superiour officer of his or their motion, and the occasion thereof, and observe such commands and orders as he or they shall from time to time receive from him;" and also, "That the colonel or chief offi-

1699-1700, chap. 17, §§ 1 and 2.

Recital of an act made in the twelfth year of King William the Third, for putting the militia of the province into a readiness for a defence of the same.

cer of each regiment be and hereby is impowered and authorized, as occasion shall require, in any of the cases, and to the intents before mentioned, from time to time to assemble in martial array, and put into warlike posture the whole militia of the regiment under his command, or such part of them as he shall think needful, upon any alarm, invasion or notice of the appearance of an enemy by sea or land; and the regiment, companies or troops so armed, arrayed and put into warlike posture, or part of them, to lead, conduct and employ, or to appoint some other fit person, by writing under his hand, to lead, conduct and employ them, as well within the regiment and county whereto they belong, as into any other adjacent county or place within this province, for the assisting, succouring and relieving any of his majesty's subjects, forts, garrisons, towns or places that shall be assaulted by an enemy, or in danger thereof, and with such party, companies or troops, by force of arms, to encounter, repel, pursue, kill and destroy such enemy, or any of them, by all fitting ways, enterprizes and means whatsoever; and the colonel or chief officer of such regiment so taking to arms, or sending forth any party of men, shall forthwith post away the intelligence and occasion thereof unto the captain-general or the commander-in-chief for the time being, and shall attend and observe such directions and orders as he shall receive from him; and in case it happen the colonel or chief officer of any regiment be out of the limits or precincts of the regiment for which he is or shall be commissioned at the time of any invasion, attack or appearance of an enemy, or alarm given from any of the neighbouring towns or regiments, the next commission officer then within the regiment shall have, use and exercise the same powers and authorities hereinbefore granted until the return of the colonel or other superiour officer; and such officer so acting shall post away the intelligence thereof, with the occasion for the same, as aforesaid, unto the captain-general, or the commander-in-chief for the time being, and shall attend and observe such directions and orders as he shall receive from the captain-general or commander-in-chief therein." But no penalty is therein provided to oblige officers and private men to obey such orders as shall be given pursuant to the true intent of the same act,—

Be it therefore enacted,

Penalty for any officer or private man refusing or neglecting to obey the orders of his superior officer.

[SECT. 9.] That if any officer or private man in the militia shall refuse or wilfully neglect to obey such order of his superiour officer as shall be given pursuant to the true intent of the same act, he shall forfeit and pay the sum of ten pounds, or, in default thereof, suffer six months' imprisonment.

And be it further enacted,

Forfeitures arising by this act to be recovered agreeable to the acts for regulating the militia, fourth and fifth of King William and Queen Mary, unless specially provided for, &c. 1693-94, chap. 3, § 27.

[SECT. 10.] That all forfeitures, arising by virtue of this act or any breach thereof, shall be recovered in the way and manner as is provided by the act for regulating the militia of this province, made and passed in the fourth and fifth year of King William and Queen Mary, where in this act it is not otherwise specially provided, and shall be disposed of, one quarter part thereof to the prosecutor, and the remainder by him to be paid into the town, district, precinct or parish treasury where the said company or the major part thereof or captain of the troop belongs, to be drawn out again by the captain or chief officer of the troop or company whence such forfeiture arose, so far as shall be necessary for procuring or repairing drums, trumpets, colours and halberts, paying drummers, trumpeters, and for procuring soldiers for his majesty's service, and improved for the benefit of such troop or company respectively, when and so often as any man or men shall be demanded of said troop or company for said service, and for no other uses or purposes whatsoever. And the clerks of the military companies are hereby

Clerks to pay

required to pay over all such forfeitures as they shall receive to the treasurers as before mentioned respectively, at or before the first day of March, annually, and such treasurers are hereby impowered and required to demand, sue for, recover and receive the same.

And be it further enacted,

[SECT. 11.] That this act shall be read at the anniversary meeting of the inhabitants of each town and district through the province, in the month of March, annually; and also, that the chief officer of each company cause the same to be read before his company on the second Monday in April, each year, during the continuance thereof.

And be it further enacted,

[SECT. 12.] That the captain of the troop of guards, and of every independant company, shall, upon their oath, on or before the first Monday of April next, and annually, transmit into the secretary's office a list of every person borne on their respective rolls, and who by them are excused from mustering on days of muster, and the reasons of their excuse, on penalty of forfeiting and paying for each neglect five pounds.

[SECT. 13.] And every captain or chief officer in this act mentioned, on or before the first Monday of April next, is hereby enjoined to make solemn oath that he will faithfully discharge the trust by this act reposed in him and the duties hereby enjoined him, according to the best of his skill and understanding, on penalty of forfeiting and paying five pounds.

[SECT. 14.] This act to be and continue in force for the space of two years from the first day of March next, and no longer. [*Passed January 25; published January 26, 1758.*]

forfeitures to town treasurers, &c.

This act to be read at the anniversary meeting of each town, &c.

Captains of the troop of guards, &c., to transmit lists of their companies to secretary's office.

Each captain, &c., to make oath.

Limitation.

CHAPTER 19.

AN ACT FOR GRANTING UNTO HIS MAJESTY AN EXCISE UPON SPIRITS DISTILLED AND WINE, AND UPON LIMES, LEMMONS AND ORANGES.

WE, his majesty's most loyal and dutiful subjects, the representatives of the province of the Massachusetts Bay, in general court assembled, being desirous to lessen the present debt of the province, have cheerfully and unanimously granted, and do hereby give and grant unto his most excellent majesty, for the end and use above mentioned, and for no other use, an excise upon all rum and other spirits distilled, and upon all wines whatsoever, and upon lemmons, limes and oranges, to be raised, levied, collected and paid in manner and form following:—

And be it accordingly enacted by the Governour, Council and House of Representatives,

[SECT. 1.] That from and after the twenty-fifth day of March, one thousand seven hundred and fifty-eight, and until the twenty-sixth day of March, one thousand seven hundred and fifty-nine, every person already licenced, or that shall be hereafter licenced, to retail rum or other spirits distilled, or wine, shall pay the duties following:—

For every gallon of rum and spirits distilled, eightpence.

For every gallon of wine of every sort, twelpence.

For every hundred of lemmons or oranges, eight shillings.

For every hundred of limes, three shillings.

—And so proportionable for any other quantity or number.

And be it further enacted,

[SECT. 2.] That every retailer of rum, wine or spirits distilled, taverner, inholder and common victualler, shall, on the twenty-

Time of this act's continuance.

Accounts to be taken.