

hereafter to be granted to His Majesty's use for the purposes aforesaid, and if the said rates and duties hereby granted to the King's use shall at the expiration of this act amount to a greater sum than is necessary for equipping and maintaining the said ship-of-war, then and in such case the surplus of all such moneys shall be paid into the hands of the provincial treasurer to be applied towards sinking the sums of money heretofore granted to His Majesty's use.

Passed April 29, 1758. Referred for consideration by the King in Council, November 7, 1758, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXI, Section V, and the Acts of Assembly passed April 21, 1759, Chapter 440; March 14, 1761, Chapter 461; February 17, 1762, Chapter 476.

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### CHAPTER CCCCXXXIII.

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AN ACT FOR EXTENDING SEVERAL SECTIONS OF AN ACT OF PARLIAMENT, PASSED IN THE THIRTIETH YEAR OF THE PRESENT REIGN, ENTITLED "AN ACT FOR PUNISHING MUTINY AND DESERTION AND FOR THE BETTER PAYMENT OF THE ARMY AND THEIR QUARTERS."<sup>1</sup>

Whereas there is at this time and may be occasion during the continuance of this act for the marching and quartering the King's forces in several parts of this province, we pray that it may be enacted:

[Section I.] And be it 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 the counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That part of the twenty-fourth section of the act of Parliament passed in the thirtieth year of the present reign, entitled "An act for punishing mutiny and desertion and for the better payment of the army and their quarters," beginning

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<sup>1</sup> 8 Ruffhead.

at the wards, "That for and during the continuance of this act and no longer it shall and may be lawful for the constables," &c., to the end of the said section, and likewise the twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-fifth, forty-eighth, sixty-eighth and sixty-ninth sections of the said act of Parliament and every part thereof, shall be brought over and duly observed and put in execution in this province, and shall be of like force and effect during the continuance of this act as if the same were here repeated and enacted. And the constables and chief officers and magistrates of the city of Philadelphia and the other towns, villages and places and the justices of the peace within this province shall have like power and authority and perform like duties as in and by the hereinbefore-mentioned act of Parliament is required and enjoined.

[Section II.] Provided nevertheless, and it is hereby enacted by the authority aforesaid, That if any constable or officer or magistrate, civil or military, shall within the city of Philadelphia or the liberties thereof at any time during the continuance of this act quarter any soldier or soldiers in any house or houses hereby or by the before-mentioned act of Parliament extended to this province appointed for that purpose, against the consent of the owner or owners thereof, until all the rooms in the barracks lately built within the liberties of the said city shall be first taken up and completely filled with His Majesty's soldiers quartered therein, the party offending shall for every such offense forfeit to the party aggrieved the sum of thirty shillings upon complaint and proof thereof made to the next justice of the peace, to be levied by warrant of such justice by distress and sale of the offender's goods and chattels, rendering the overplus to the party after deducting reasonable charges attending the same.

But forasmuch as many of the inhabitants of this province are such who for conscience' sake cannot take an oath:

[Section III.] Be it further enacted by the authority aforesaid, That all matters, causes and offenses whatsoever to be inquired of, heard, tried and determined by virtue of this act shall and may be inquired of, heard, tried and determined by

judges, justices, inquests and witnesses qualifying themselves according to their conscientious persuasion respectively, either by an oath or affirmation, according to the laws of this province.

[Section IV.] And be it further enacted by the authority aforesaid, That this act shall continue in force for the term of one year from and after the publication thereof, and from thence to the end of the next sitting of assembly and no longer.<sup>1</sup>

Sundry sections of the act of Parliament, entitled "An act for punishing mutiny and desertion and for the better payment of the army and their quarters," made in the thirtieth year of his present Majesty's reign and extended to this province by the preceding act of assembly:

[Part of Section XXIV.] That for and during the continuance of this act and no longer it shall and may be lawful to and for the constables, tythingmen, headboroughs and other chief officers and magistrates of cities, towns and villages and other places within England; Wales and the town of Berwick-upon-Tweed, and in their default or absence for any one justice of the peace inhabiting in or near any such city, town, village or place and for no others, and such constables and other civil magistrates as aforesaid are hereby required to quarter and billet the officers and soldiers in His Majesty's service in inns, livery stables, alehouses, victualing-houses and all houses of persons selling brandy, strong waters, cider or metheglin by retail, to be drank in houses other than and except the house or houses of any distillers who keep houses or places of distilling brandy and strong waters, and the house of any shopkeeper, whose principal dealings shall be more in other goods and merchandises than in brandy and strong waters (so as such distillers and shopkeepers do not permit or suffer tippling in his or their houses) and in no other, and in no private houses whatsoever; nor shall any more billets at any time be ordered than there are effective soldiers present to be quartered; and if any constable, tythingman or such like officer or magistrate as aforesaid shall presume to quarter or billet any such officer or soldier in any such private house without the consent of the owner or occupier in such

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<sup>1</sup> Note.—Several sections of the Mutiny Act re-enacted by the Assembly are omitted in the original roll. They are here supplied from the printed Session Laws.

case such owner or occupier shall have his or their remedy at law against such magistrate or officer for the damage that such owner or occupier shall sustain thereby, and if any military officer shall take upon him to quarter soldiers otherwise than is limited and allowed by this act, or shall use or offer any menace or compulsion to or upon any mayors, constables or other civil officers before mentioned, tending to deter and discourage any of them from performing any part of their duty hereby required or appointed, such military officer shall for every such offense (being thereof convicted before any two or more of the next justices of the peace of the county by the oath of two credible witnesses) be deemed and taken to be *ipso facto* cashiered, and shall be utterly disabled to have or hold any military employment within this kingdom or in His Majesty's service, provided the said conviction be affirmed at the next quarter-sessions of the peace of the said county and a certificate thereof be transmitted to the judge advocate, who is hereby obliged to certify the same to the next court-martial. And in case any person shall find himself aggrieved, in that such constable, tythingman or headborough, chief officer or magistrate (such chief officer or magistrate not being a justice of the peace) has quartered or billeted in his house a greater number of soldiers than he ought to bear in proportion to his neighbors, and shall complain thereof to one or more justice or justices of the peace of the division, city or liberty where such soldiers are quartered, or in case such chief officer or magistrate shall be a justice of the peace, then, on complaint made to two or more justices of the peace of such division, city or liberty, such justices respectively shall have and have hereby power to relieve such person by ordering such and so many of the soldiers to be removed and quartered upon such other person or persons as they shall see cause, and such other person or persons shall be obliged to receive such soldiers accordingly.

[Section XXV.] Provided also, and be it further enacted, That no justice or justices of the peace having or executing any military office or commission in that part of Great Britain called England shall or may, during the continuance of this act, directly or indirectly be concerned in the quartering, billeting or appointing any quarters for any soldier or soldiers in

the regiment, troop or company under the immediate command or commands of such justice or justices, according to the disposition made for quartering of any soldier or soldiers by virtue of this act, but that all warrants, acts, matters or things executed or appointed by such justice or justices of the peace for or concerning the same shall be void, anything in this act contained to the contrary notwithstanding.

[Section XXVI.] Provided nevertheless, and it is hereby enacted, That the officers and soldiers so quartered and billeted as aforesaid shall be received and furnished with diet and small beer by the owners of the inns, livery stables, alehouses, victualing houses and other houses in which they are allowed to be quartered and billeted by this act, paying and allowing for the same the several rates hereinafter-mentioned, to be payable out of the subsistence money for diet and small beer.

[Section XXVII.] Provided always, That in case any innholder or other person on whom any non-commissioned officers or soldiers shall be quartered by virtue of this act (except on a march or employed in recruiting, and likewise except the recruits by them raised for the space of seven days at most for such non-commissioned officers and soldiers who are recruiting, and recruits by them raised) shall be desirous to furnish such non-commissioned officers or soldiers with candles, vinegar and salt, and with either small beer or cider, not exceeding five pints for each man *per diem*, gratis, and allow to such non-commissioned officers or soldiers the use of fire and the necessary utensils for dressing and eating their meat, and shall give notice of such his desire to the commanding officer and shall furnish and allow the same accordingly, then and in such case the non-commissioned officers and soldiers so quartered shall provide their own victuals, and the officer to whom it belongs to receive or that does actually receive the pay and subsistence of such non-commissioned officers and soldiers shall pay the several sums hereinafter-mentioned to be payable out of the subsistence money for diet and small beer to the non-commissioned officers and soldiers aforesaid, and not to the innholder or other person on whom such non-commissioned officers and soldiers are quartered, anything herein contained to the contrary notwithstanding.

[Section XXVIII.] Provided always, and be it enacted by the authority aforesaid, That if an officer shall take or cause to be taken or knowingly suffer to be taken any money of any person for excusing the quartering of officers or soldiers or any of them in any house allowed by this act, every such officer shall be cashiered and be incapable of serving in any military employment whatsoever.

[Section XXIX.] And whereas great inconveniencies have arisen and may arise in such places where horse or dragoons are or may be quartered by the billeting of the men and their horses at different houses and often at great distances from one another, contrary to the true intent and meaning of this act:

Be it therefore enacted by the authority aforesaid, That in all places where horse or dragoons shall be quartered or billeted in pursuance of this act for the future the men and their horses shall be billeted in one and the same houses (except in case of necessity), and that in no other case whatsoever there be less than one man billeted where there shall be one or two horses, nor less than two men where there shall be four horses, and so in proportion for a greater number; and in such case each man shall be billeted as near his horse as possible.

[Section XXX.] And whereas some doubts have arisen whether commanding officers of any regiment, troop or company may exchange any men or horses quartered in any town or place with another man or horse quartered in the same place for the benefit of the service:

Be it declared and enacted by the authority aforesaid, That such exchange as above-mentioned may be made by such commanding officers respectively, provided the number of men or horses do not exceed the number at that time billeted on such house or houses, and the constables, tythingmen, headboroughs and other chief officers and magistrates of the cities, towns and villages or other places where any regiment, troop or company shall be quartered are hereby required to billet such men and horses so exchanged accordingly.

[Section XXXV.] And that the quarters both of officers and soldiers in Great Britain may hereafter be duly paid and satisfied and his Majesty's duties of excise better answered:

Be it enacted by the authority aforesaid, That from and after

the said twenty-fourth day of March, one thousand seven hundred and fifty-seven, every officer to whom it belongs to receive or that does actually receive the pay or subsistence money, either for a whole regiment or particular troops and companies or otherwise, shall immediately upon each receipt of every particular sum which shall from time to time be paid, returned or come to his or their hands on account of pay or subsistence, give public notice thereof to all persons keeping inns or other places where officers or soldiers are quartered by virtue of this act, and shall also appoint the said innkeepers and others to repair to their quarters at such times as they shall appoint for the distribution and payment of the said pay or subsistence money to the officers or soldiers, which shall be within four days at the farthest after the receipt of the same as aforesaid. And the said innkeepers and others shall then and there acquaint such officer or officers with the accounts of debts (if any shall be) between them and the officers and soldiers so quartered in their respective houses, which accounts the said officer or officers are hereby required to accept of and immediately pay the same before any part of the said pay or subsistence be distributed either to the officers or soldiers. Provided the said accounts exceed not, for a commissioned officer of horse, being under the degree of a captain, for such officer's diet and small beer *per diem*, two shillings; nor for one commissioned officer of dragoons, being under the degree of a captain, for such officer's diet and small beer *per diem* one shilling; nor for one commissioned officer of foot under the degree of a captain, for such officer's diet and small beer *per diem* one shilling; and if such officer shall have a horse or horses, for each such horse or horses for their hay and straw *per diem* six pence; nor for one light horseman's diet and small beer *per diem* six pence, and hay and straw for his horse *per diem* six pence; nor for one dragoon's diet and small beer *per diem* six pence, and hay and straw for his horse *per diem* six pence; nor for one foot soldier's diet and small beer *per diem* four pence. And if any officer or officers as aforesaid shall not give notice as aforesaid, and shall not immediately upon producing such account stated satisfy, content and pay the same, upon complaint and oath made thereof by any two witnesses at the next

quarter-sessions for the county or city where such quarters were (which oath the justices of the peace at such sessions are hereby authorized and required to administer) the paymaster or paymasters of His Majesty's guards and garrisons and marines are hereby required and authorized (upon certificate of the said justices before whom such oath was made of the sum due upon such accounts and the persons to whom the same is owing) to pay and satisfy the said sums out of the arrears due to the said officer or officers upon penalty that such paymaster or paymasters shall forfeit their respective place or places of paymaster or paymasters and be discharged from holding the same for the future. And in case there shall be no arrears due to the said officer or officers, then the said paymaster or paymasters are hereby authorized and required to deduct the sums he or they shall pay, pursuant to the certificate of the said justices, out of the next pay or subsistence money of the regiment to which such officer or officers shall belong; and such officer or officers shall for such their offense, or for neglecting to give notice of the receipt of such pay or subsistence money as aforesaid, be deemed and taken and are hereby declared *ipso facto* cashiered. And where it shall happen that the subsistence money due to any officer or soldier shall by occasion of any accident not be paid to such officer or soldier, or such officer or soldier shall neglect to pay the same, so that quarters cannot be or are not paid as this act directs, and where any horse, foot or dragoons shall be upon their march so that no subsistence can then be remitted to them to make payment as this act directs or they shall neglect to pay the same, in every such case it is hereby further enacted that every such officer shall, before his or their departure out of his or their quarters, where such regiment, troop or company shall remain for any time whatsoever, make up the accounts as this act directs with every person with whom such regiment, troop or company shall have quartered and sign a certificate thereof, and give the said certificate so by him signed to the party to whom such money is due, with the name of such regiment, troop or company to which he or they shall belong, to the end the said certificate may be forthwith transmitted to the paymaster of His Majesty's guards and



garrisons or to the paymaster of the marines, who are hereby required immediately to make payment thereof to the person or persons to whom such money shall be due, to the end the same may be applied to such regiment, troop or company respectively, under pain as is before in this act directed for non-payment of quarters.

[Section XLVIII.] And be it enacted by the authority aforesaid, That if any officer, military or civil, by this act authorized to quarter soldiers in any houses hereby appointed for that purpose shall at any time during the continuance of this act quarter any of the wives, children, men or maid servants of any officer or soldier in any such houses against the consent of the owners, the party offending, if an officer of the army, shall, upon complaint and proof thereof made to the commander-in-chief of the army or judge advocate, be *ipso facto* cashiered; and if a constable, tythingman or other civil officer, he shall forfeit to the party aggrieved twenty shillings upon complaint and proof thereof made to the next justice of the peace, to be levied by warrant of such justice by distress and sale of his goods, rendering the overplus to the party after deducting reasonable charges in taking the same.

[Section LX.] Provided also, That if any officer, non-commissioned officer or soldier shall be accused of any capital crime or of any violence or offense against the person, estate or property of any of His Majesty's subjects which is punishable by the known laws of the land, the commanding officer or officers of every regiment, troop, company or party is and are hereby required to use his utmost endeavors to deliver over such accused person to the civil magistrate, and shall also be aiding and assisting to the officers of justice in the seizing and apprehending such offender in order to bring him to trial; and if any such commanding officer shall willfully neglect or refuse upon application made to him for that purpose to deliver over any such accused person to the civil magistrate or to be aiding and assisting to the officers of justice in the apprehending such offender, every such officer so offending and being thereof convicted before any two or more justices of the peace for the county where the fact is committed by the oath of two credible witnesses, shall

be deemed and taken to be *ipso facto* cashiered, and shall be utterly disabled to have or hold any civil or military office or employment within this kingdom or in His Majesty's service; provided the said conviction be affirmed at the next quarter-sessions of the peace for the said county and a certificate thereof be transmitted to the judge advocate, who is hereby obliged to certify the same to the next court-martial.

[Section LXVIII.] And be it further enacted by the authority aforesaid, That if any high constable, constable, bedel or other officer or person whatsoever who by virtue or color of this act shall quarter or billet or be employed in quartering or billeting any officers or soldiers, shall neglect or refuse for the space of two hours, to quarter or billet such officers or soldiers when thereunto required in such manner as is by this act directed, provided sufficient notice be given before the arrival of such troops, or shall receive, demand, contract or agree for any sum or sums of money or any reward whatsoever for or on account of excusing or in order to excuse any person or persons whatsoever from quartering or receiving into his or their house or houses any such officer or soldier, or in case any victualer or any other person liable by this act to have any officer or soldier billeted or quartered on him or her shall refuse to receive or victual any such officer or soldier so quartered or billeted upon him or her as aforesaid, or shall refuse to furnish or allow according to the directions of this act, the several things hereinbefore respectively directed to be furnished or allowed to non-commissioned officers and soldiers so quartered or billeted on him or her as aforesaid, or shall neglect or refuse to furnish good and sufficient hay and straw for each horse so quartered or billeted on him or her as aforesaid, at the rate hereinbefore-mentioned, and shall be thereof convicted before any one or more justice or justices of the peace of the county, city or liberty within which such offense shall be committed, either by his own confession or by the oath of one or more credible witness or witnesses (which oath the said justice or justices is and are hereby empowered to administer), every such high constable, constable, bedel or other officer or person so offending shall forfeit for every such offense the sum of five pounds or any sum of money not exceeding five pounds nor less than forty shillings (as the said

justice or justices before whom the matter shall be heard shall in his or their discretion think fit), to be levied by distress and sale of the goods of the person offending by warrant under the hand and seal or hands and seals of such justice or justices before whom such offender shall be convicted or of one or more of them, to be directed to any other constable within the county, city or liberty or to any of the overseers of the poor of the parish where the offender shall dwell, the said sum of five pounds, or the said sum not exceeding five pounds nor less than forty shillings, when levied to be paid to the overseers of the poor of the parish wherein the offense shall be committed or to some one of them for the use of the poor of the said parish.

[Section LXIX.] And for the better preventing abuses in quartering or billeting the soldiers in pursuance of this act:

Be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any one or more justice or justices of the peace within their respective counties, cities or liberties by warrant or order under his or their hand and seal or hands and seals, at any time or times during the continuance of this act to require and command any high constable, constable, bedel or other officer who shall quarter or billet any soldiers in pursuance of this act to give an account in writing unto the said justice or justices requiring the same of the number of officers and soldiers who shall be quartered or billeted by them, and also the names of the housekeepers or persons upon whom every such officer or soldier shall be quartered or billeted together with an account of the street or place where every such housekeeper dwells and of the signs (if any) belonging to their houses, to the end it may appear to the said justice or justices where such officers and soldiers are quartered or billeted, and that he or they may thereby be the better enabled to prevent or punish all abuses in the quartering or billeting of them.

Passed April 29, 1758. Referred for consideration by the King in Council, November 7, 1758, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXI, Section V, and the Act of Assembly passed April 21, 1759, Chapter 441.