

One, in 1748, *To exempt Persons appearing at Musters from Arrests in Civil Cases*; which has been revived and continued by an Act that you have yourselves framed within these Eight Months. By the Supply Bill that was passed in *May 1756*, Draughts were directed to be made out of the Militia of this Province; and so lately as in the Month of *March* last, you inserted in a Bill which was then offered to the Upper House, a Clause to exempt certain Persons from serving in the Militia.

The Militia of this Province have been Mustered and Trained under the Act of 1715, ever since it was made, to this Time; Courts Martial have been held by the Officers agreeable to the Directions of this Act; Defaulters have been fined and compelled to pay; the Justices of the several County Courts have continued to nominate and appoint Press-masters annually in their respective Counties; and the Press-masters, when called upon, have regularly performed their Duty, as indeed they were obliged, under Pain of being prosecuted: Wherefore, then, would you endeavour to bring your Constituents into Trouble, by encouraging them to disobey the legal Orders of those who have a Right to command them? Or, Why will you, contrary to the Practice of your Predecessors, appear so anxious to render this Province Naked and Defenceless, at a Time when every Body, besides yourselves, will acknowledge, we are in imminent Danger; and when our most Gracious Sovereign, out of his paternal Care for us, has enjoined me to have the Militia of the Province carefully Trained and Disciplined, that they may be able and ready to defend themselves, and to annoy his Majesty's Enemies?

Supposing then that this Act of Assembly, which was made in 1715, *for the Ordering and Regulating the Militia of this Province, for the better Defence and Security thereof*, is in full Force and Virtue (and if any Thing could have been said to invalidate it, I am, as I have already hinted, apt to think you would not so studiously have avoided entering into a Dispute with me about it's Existence): It not only seems to give, but expressly does give Power to every Colonel, Lieutenant-Colonel, Major or Captain, to enlist the Inhabitants of this Province to be of the Militia, and to muster, exercise and train them, and it likewise subjects such Inhabitants to a Fine for Non-Appearance, or Refusal to be enlisted in the Militia or Train-Bands; but whence you would deduce, that the Inhabitants of this Province are to be only mustered *in*, and not liable to be marched *out of*, the Counties where they respectively reside, I cannot conceive, since the Act plainly and expressly declares, that the Officers shall muster, exercise, and train the Persons so enlisted, "in and at such Places, and at such certain Times as to *them* shall seem meet, and as the *Service*, *Safety* or *Defence* of this Province shall require, or as his Excellency the Governor of this Province, or Commander in Chief for the Time being, shall see Cause to Order."

After this Act has settled or regulated the Pay of the Officers and Soldiers of Militia, while in actual Service, it proceeds by another Clause, beginning with the Words, "and to the Intent that whensoever," &c. and by the following Enacting Clause, to vest, or it supposes the Governor and his Council already vested, with the sole Power of determining when it is necessary to raise Men for suppressing any foreign Invasion, domestic Insurrection or Rebellion, or War with any *Indians*; it consequently makes, or supposes, them the only Judges of what is to be deemed a foreign Invasion, domestic Insurrection, &c. and does not leave that to the Determination of every Individual, or any Number of Individuals of the Militia whatever. The Law then declares, that the Pay of such Officers and Men, as may be so raised and employed, and all the necessary Charges of such War, shall be discharged and defrayed by an equal Assessment upon the Taxables of this Province, or out of the Public Treasury of this Province, and no otherwise whatsoever.

By a subsequent Clause of this Act, beginning with the Words, "and be it further Enacted, by the Authority aforesaid, that if upon any foreign Invasion, any Person or Persons, or a Mode is prescribed, (as the Gentlemen of the Lower House observed to Governor *Ogle*, in an Address they presented to him the 4th of *June 1740*) "for the Punishment of any Men that shall not, after being duly warned, appear and serve in Arms, for the necessary Defence of this Province on such an Occasion;" *to wit*, they are first to be carried before a Justice of the Peace, and if the Justice shall think their Excuses insufficient, he is to commit them, and they are to remain in the Sheriff's Custody, until they find Surety to appear at the next Provincial Court, there to be proceeded against according to the due Course of Law, and if thereupon they shall be convicted of such obstinate Refusal, or Disobedience as aforesaid, they are to be fined and imprisoned according to the Directions of the Justices of the Provincial Court.

It was undoubtedly the Intention of the Legislature, by which the Act of 1715 was made, that every Part of the Militia, should be a Militia for the Defence of any and every Part of the Province, when called upon for that Purpose; there are several Expressions in the Law that imply as much; such are, "in and at such Places, &c. as the *Service*, *Safety*, or *Defence* of this Province shall require, or as his Excellency, &c. shall see Cause to order. Such Soldiers as shall, in the Time of War, adventure in the Service of the Country.

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