



Mutiny Act 1690^{X1}

1690 CHAPTER 6 2 Will and Mar Sess 2

An Act for Punishing Officers and Soldiers who shall mutiny or desert their Majestyes Service and for punishing false Musters.

Editorial Information

X1 Abbreviated title derived from *Chronological Table of the Statutes: Covering the Period from 1235 to the End of 1971* (London: Her Majesty's Stationery Office. 1972)

Standing Army, without Consent of Parliament, against Law.

Reasons for passing this Act.; Exciting or joining in mutiny; punishment. Soldier enlisting in other Regiments without Discharge from his own; Punishment.

Whereas the Raising or Keeping a Standing Army within this Kingdome in time of Peace unlesse it be with Consent of Parlyament is against Law And whereas it is Judged Necessary by Their Majestyes and this present Parlyament That dureing this time of Warr severall of the Forces which are now on Foot should be Continued and others Raised for the Safety of the Kingdome for the Common Defence of the Protestant Religion and for the Intire Reduceing of Ireland and for the Carrying on the Warr against France And whereas noe Man may be Forejudged of Life or Limb or Subjected to any kinde of Punishment by Martiall Law or in any other manner then by the Judgment of his Peeres and according to the knowne and Established Laws of this Realme Yet nevertheless it. being requisite for the retaining such Forces as are or shall be Raised dureing this Exigence of Affaires in their Duty That an Exact Discipline be observed and that Soldiers who shall Mutiny or Stirr up Sedition or shall Desert Their Majesties Service be brought to a more Exemplary and speedy Punishment then the usuall Forms of the Law will allow Bee it therefore Enacted by the King and Queens most Excellent Majestyes by and with the Advice and Consent of the Lords Spirituall and Temporall and Commons in this present Parlyament Assembled and by the Authoritie of the same That from and after the Twentyeth day of December in the Yeare of our Lord One thousand six hundred and ninety every Person being in Their Majestyes Service in the Army and being Mustered and in Pay as an Officer or Soldier who shall at any time before the Twentyeth day of December in the Yeare of our Lord One thousand six hundred ninety one Excite Cause or Joyne in any Mutiny or Sedition in the Army or shall Desert Their Majesties Service in the Army shall suffer Death or such other Punishment as by a Court Martiall shall be Inflicted Or being a Soldier actually listed in any Regiment Troope

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or Company shall list himselfe into any other Regiment Troope or Company without a Discharge produced in Writeing from the Captaine or [^{x2}the] Officer Commanding the Troope or Company in which he last Served as a Listed Souldier shall suffer Death or such other Punishment as by a Court Martiall shall be Inflicted

Editorial Information

X2 interlined on the Roll.

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II. Their Majesties or General of the Army may grant Commission for Courts-Martial.

And it is hereby further Enacted and Declared That Their Majestyes or the Generall of Their Army for the time being may by vertue of this Act have full Power and Authority to grant Commissions to any Lieutenant Generall or other Officers not under the degree of a Field Officer or Commander in Chiefe of a Garrison from time to time to Call and Assemble Court Martialls for punishing such Offences as aforesaid

III. Number of Officers to constitute Courts-Martial.; President not to be under Degree of Field Officer.

And it is hereby further Enacted and Declared That noe Court Martiall which shall have Power to Inflict any Punishment by vertue of this Act for the Offences aforesaid shall consist of fewer then Thirteene whereof none to be under the degree of a Commission Officer And the President of such Court Martiall not to be under the degree of a Field Officer or the then Commander in Chiefe of the Garrison where the Offender shall be tryed

IV. How Field Officer tried.

Court-Martial may administer Oath.

Provided alwayes That noe Field-Officer shall be tryed by any Officer under the degree of a Captaine And that such Court Martiall shall have Power and Authority to administer an Oath to any Witnesse in order to the Examination or Tryall of the Offences aforesaid

V. Proviso for Ordinary Process.

Provided alwayes That nothing in this Act contained shall Extend or be Construed to Exempt any Officer or Soldier whatsoever from the ordinary Processe of Law

VI. Proviso for Militia.

Provided alwayes That this Act or any thing therein contained shall not extend or be any wayes construed to extend to concerne any the Militia Forces of this Kingdome

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VII. Continuance of Act.

Provided alsoe That this Act shall continue and be in force untill the said Twentieth day of December in the Yeare of our Lord One thousand six hundred ninety one and noe longer

VIII. On all Trials for Life or Death, Officers present to take Oath.

Provided alwayes and bee it Enacted That in all Tryalls of Offenders by Courts Martiall to be held by vertue of this Act where the Offence may be punished by Death every Officer present at such Tryall before any Proceeding be had thereupon shall take an Oath upon the Evangelists before the Court And the next Justice of the Peace Judge Advocate or his Deputie or one of them are hereby Authorized to Administer the same in these words (That is to say)

Form of Oath.

You shall well and truely Try and Determine [^{x2}according to your Evidence] the Matter now before you betweene our Sovereigne Lord and Lady the King and Queens Majestyes and the Prisoner to be Tried Soe helpe you God.

Number of Officers to be present on Trial at which Sentence of Death pronounced.; Hours of such Proceedings.

And noe Sentence of Death shall be given against any Offender in such case by any Court Martiall unlesse Nine of Thirteene Officers present shall concurr therein And if there be a greater number of Officers present then the Judgement shall passe by the Concurrence of the greater part of then soe Sworne which major part shall not be lesse then Nine and not otherwise And noe Proceedings Tryall or Sentence of Death shall be had or given against any Offender but betweene the Hours of Eight in the Morning and One in the Afternoone

Editorial Information

X2 interlined on the Roll.

IX. Making, &c. false Certificate to excuse Absence from Muster;

Penalty.

And for the preventing of Fraud and Deceit in Mustering of Soldiers Bee it further enacted by the Authority aforesaid That if any Person shall make or give or procure to be made or given any false or untrue Certificate whereby to Excuse any Soldiers for their Absence from any Muster or other Service which they ought to attend or performe upon a pretence of Sicknes or other Cause That then every such Person soe makinge giveing or procureing such Certificate shall forfeit for every such Offence the Summe of Fifty pounds and shall beforthwith Cashiered and Displaced from such his Office and shall be thereby utterly Disabled to have or hold any Military Office or Employment within this Kingdome or in their Majesties Service

X. Officer making untrue Muster;

Punishment.

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And bee it [^{X3}further] Enacted by the Authoritie aforesaid That every Officer that shall make any false or untrue Muster of Man or Horse and every Commissary Muster Master and other Officer that shall allow or Signe the Muster Roll wherein such false Muster is contained or any Duplicate thereof upon Proofoe thereof upon Oath made by two Witnesses before a Court Martiall to be thereupon called (which is hereby Authorized and Required to administer such Oath) shall for such their Offence be forthwith Cashiered and Displaced from such their Office and shall be thereby utterly Disabled to have or hold any Civill or Military Office or Employment within this Kingdome or in Their Majestyes Service and shall likewise forfeit the Summe of Fifty pounds

Editorial Information

X3 interlined on the Roll.

XL. Commissary or Muster Master to give Notice to Mayor, &c. of Muster, who is to be present;

Penalty.

And bee it further Enacted by the Authoritie aforesaid That every Commissary or Muster-Master upon any Muster to be made had or taken by him or them shall by a convenient time before such Muster made give Notice to the Mayor or other Chiefe Magistrate or Officer of the Place where the Soldiers soe to be Mustered shall be Quartered who are hereby Required to be present at every such Muster and give his utmost Assistance for the discovering any False or Untrue Muster there made or offered to be made And that every such Commissary or Muster Master makeing or takeing such Muster that shall neglect to give such Notice as aforesaid or shall refuse to take the Aide and Assistance of such Mayor Cheife Magistrate or Officer where the Soldiers soe to be Mustered shall be Quartered shall forfeit the Summe of Fifty pounds and be discharged from his Office And noe Muster Roll shall be allowed unlesse the same be Signed by such Mayor or other Chiefe Magistrate or Officer respectively.

XII. Persons falsely mustered, or offering so to be;

Punishment.; Lending Horse not belonging to Troop for Muster; Penalty.

And alsoe Bee it further Enacted by the Authority aforesaid That if any person shall be falsly mustered or offer himselfe falsly and deceitfully to be mustered every such Person upon Proofoe thereof made upon Oath by two Witnesses before the next Justice of Peace of the Country where such Muster shall be made and every such Person soe falsly mustered or offering to be falsly mustered upon Certificate thereof in Writeing under the Hand of the Co[m]missary of the Musters or Chiefe Magistrate as aforesaid made to such Justice of the Peace the said Justice is thereupon and is hereby authorized and required to committ such Offender to the House of Correction there to remaine for the space of Ten dayes and to have his Eare cutt off by the Gaoler or Keeper of such House of Correction And if any Person shall wittingly or willingly lend or furnish a Horse to be mustered which shall not truely belong to the Trooper or Troope soe mustered the said Horse soe falsly mustered shall be forfeited to the Informer if the same doth belong to the Person lending or furnishing the said Horse or otherwise the Person lending or furnishing the said Horse shall forfeit the Summe of Twenty pounds upon Oath made by two Witnesses before the next Justice of the Peace.

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XIII. The said Penalty paid out of Arrear of Pay; if no Arrear due, Goods of Officer seized; if no Goods, Imprisonment.

Informer, if a Soldier, may be discharged.

And bee it alsoe further Enacted by the Authority aforesaid That the said Forfeiture shall be to such Person or Persons that shall Informe immediately to be paid out of the Arrears of such Officers Pay as shall knowingly soe offend upon Conviction before the Court Martiall by Order of the said Court to the Paymaster if such Officer soe offending shall have any Arreare and if there shall be noe Arreare the Court Martiall shall immediately give Order to Seize the Goods of such Officer soe offending and Sell them for payment of such Forfeiture to the Informer rendering the Overplus to the Owner [^{X4}And if such Officer soe offending shall have noe Goods That then he shall be sent to the Common Gaole there to remaine without Baile or Maineprize for the space of Six Months] And the said Court Martiall is hereby obliged to Discharge such Informer if a Soldier from any further Service if he shall demand the same

Editorial Information

X4 annexed to the Original Act in a separate Schedule.

XIV. Paymaster, &c. withholding Pay;

Penalty.; Informer, if a Soldier, may be discharged.

And bee it further Enacted That if any Paymaster Agent or Clerke of any Regiment Troope or Company shall wilfully detaine or withhold by the space of One Month the Pay of any Officer or Soldier (Cloathes and all other just Allowances being deducted) after such Pay shall be by him or them recieved or if any Officer haveing received their Souldiers Pay shall refuse to pay each respective Co[m]mon Soldier their respective Pay when it shall become due That upon prooffe thereof before a Court Martiall as aforesaid every such Paymaster Agent Clerke and Officer soe offending shall be Discharged from his employment and shall forfeit to the Informer upon Conviction before the said Court Martiall One hundred pounds to be raised as aforesaid [^{X4}and shall be thereby utterly disabled to have or hold any Civill or Military Office or Employment within this Kingdome or in Their Majestyes Service] And the Informer if a Soldier if he demand it shall be and is hereby Discharged of any further Service Any thing in this Act contained to the contrary notwithstanding

Editorial Information

X4 annexed to the Original Act in a separate Schedule.

XV. Commanding Officer of Troop, &c. to bring in Certificate of Sick, &c.

False Certificate; Penalty.

And it is hereby Enacted and Declared That the Commanding Officer of every Troope or Company at the time of Muster shall bring in a Certificate Signed of the Names of such Persons as are Sicke or have Leave to be absent upon Furlows and of such Persons as are Dead and Deserted since the last Muster with the Dayes of their Deaths or Desertions And if such Certificate shall prove false upon Conviction thereof before

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a Court Martiall the Officer Signing such Certificate shall suffer such Penalties and in such manner as is Declared and Inflicted by this Act upon those that make false Musters.

XVI. Mustering Servants or Persons by wrong Names;

Penalty.

And it is hereby further Enacted That if any Officer shall Muster any Person that is a Servant or receives Wages from any Officer or that shall attend any Officer as a Servant in the absence of the said Officer from his Quarters or shall muster any Person by a wrong Name knowingly upon Conviction thereof before a Court Martiall the said Officer or Commissary shall suffer such Penalties and in such manner as is Inflicted and Declared by this Act upon those that shall make false Musters.

XVII. Recital of Petition of Right.

Reasons for passing this Act.; Constables, &c. may quarter Soldiers in Inns, &c.; but not in private Houses.; Actions at Law in such Case. Military Officers deterring Mayors, &c. from performing their Duty,; cashiered.

And whereas by the Petition of Right in the Third Yeare of King Charles the First it is Enacted and Declared That the People of this Land are not by the Laws to be burthened with the Sojourning of Souldiers against their Wills And by a Clause in one Act of Parlyament made in the One and thirtyeth Yeare of the Raigne of King Charles the Second For Granting a Supply to His Majestie of Two hundred and six thousand foure hundred and sixty two pounds seventeene shillings and three pence for Paying and Disbanding the Forces It is Declared and Enacted That noe Officer Military or Civill nor any other Person whatsoever shall from thenceforth presume to Place Quarter or Billet any Souldier or Souldiers upon any Subject or Inhabitant of this Realme of any Degree Quality or Profession whatsoever without his Consent and that it shall and may be lawfull for any such Subject and Inhabitant to refuse to Sojourne or Quarter any Souldier or Souldiers notwithstanding any Command Order Warrant or Billeting whatsoever But forasmuch as at this present time there is a Rebellion in Ireland and a Warr against France whereby there is occasion for the Marching of many Regiments Troops and Companies in severall Parts of this Kingdome towards the Sea Coasts and otherwise Bee it further Enacted by the Authoritie aforesaid That for and dureing the continuance of this Act and noe longer it shall and may be lawfull for the Constables Tythingmen Headburroughs and other Chiefe Officers and Magistrates of Cities Townes and Villages and other Places in the Kingdome of England Dominion of Wales and Towne of Berwicke upon Tweede and for noe others to Quarter and Billet the Officers and Soldiers in Their Majesties Service in Inns Livery Stables Alehouses Victuallingshouses and all Houses selling Brandy Strong Waters Cyder or Metheglin by Retaile to be Drunke in their Houses and noe other and in noe Private Houses whatsoever Nor shall any more Billets at any time be Ordered then 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 Private House without the Consent of the Owner or Occupier in such 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 sustaine thereby And if any Military Officer shall take upon him to Quarter Soldiers otherwise then is limited and allowed by this Act or shall use or offer any Menace or Compulsion to or upon any Maiors Constable or other Civill Officer before mentioned tending

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to deterr or discourage any of them from performing any part of their Duty hereby required or appointed such Military Officer shall for every such Offence being thereof Convicted before any two or more Justices of the Peace next adjoyning by the Oath of two credible the Witnesses and the said Justices Certificate thereof to the Judge Advocate who is hereby obliged to certify the same to the next Court Martiall upon such Certificate be deemed and taken to be ipso facto cashiered

XVIII. Officers, &c. Quartered to pay reasonable Prices, to be set at Quarter Sessions.

Provided neverthelesse and it is hereby Enacted That the Officers and Soldiers soe Quartered and Billeted as aforesaid shall pay such reasonable Prices as shall be appointed from time to time by the Justices of the Peace in their Quarter Sessions of each County City or Division or Place within their respective Jurisdictions And the Justices of the Peace aforesaid are hereby Impowered and Required to Sett and Appoint in their Quarter Sessions aforesaid such reasonable Rates for all necessary Provisions for such Officers and Soldiers for one or more Nights in their Marching through their Cityes Townes Villages and other Places and for the first Night onely in such Places as shall be appointed for their Residence or Quarters

XIX. Officers, &c. taking Money to excuse Quartering; Punishment.

Provided alwayes and bee it Enacted That if any Officer or Soldier shall take any Money of any Person for Excuseing the Quartering of Officers or Soldiers or any of them in any House allowed by this Act every such Officer or Soldier shall be Cashiered and made incapable of Serving in any Military Employment whatsoever

XX. Paymasters, &c. not to take Fees, or make Deductions other than usual.

And bee it further Enacted by the Authoritie aforesaid That from and after the One and Thirtyeth day of December One thousand six hundred and ninety noe Pay Master of the Army Secretary of Warr Commissary or Muster Master or their Under Officers shall receive any Fees or make any Deductions whatsoever out of the Pay of any Officer or Soldier in Their Majestyes Army or from their Agents which shall grow due from and after the said One and thirtieth day of December other then the usuall Deductions for Cloathing and the Twelve pence in the Pound to be disposed as Their Majestyes shall thinke fitt and the One Dayes Pay in the Yeare for the Use of the Royall Hospitall at Chelsey

XXI. Act to be publicly read.

And bee it further Enacted That this Act shall be Read at the Head of every respective Regiment Troope or Company at every respective Muster by the Com[m]issary or Muster Master before such Muster shall be made that noe Soldier may p[re]tend ignorance

XXII. Officers receiving Pay or Subsistence Money for a Regiment to give Notice thereof to Innkeepers, &c.

Innkeepers to attend and inform such Officers of Accounts and Debts owing to them by Soldiers, &c; Proviso respecting the Extent of such Accounts.; Such Officers not giving Notice.; Paymaster upon Certificate to pay such Debts out of Arrears of Pay due

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to such Officer; Penalty.; If no Arrears, then out of next Pay or Subsistence Money.; Officer not giving Notice cashiered.

And that the Quarters both of Officers and Soldiers may hereafter be duly Paid and Satisfied and Their Majesties Dutyes of Excise the better answered Bee it Enacted by the Authority aforesaid That from and after the Twentieth day of December which shall be in the Yeare of our Lord One thousand six hundred and ninety every Officer or Officers to whome it belongs to receive or that does actually receive the Pay or Subsistence Money either for a whole Regiment or particular Troops or Companies or otherwise shall immediately upon each Receipt of every particular Summe which shall from time to time be Paid Returned or Come to his or their Hands on account of Pay or Subsistence give publicke Notice thereof to all Persons keeping Inns or other Places where Officers and Soldiers are quartered by vertue of this Act and shall alsoe appoint the said Inn keepers and others to repaire 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 and Soldiers which shall be within Foure dayes at farthest after the receipt of the same as aforesaid And the said In keepers and others shall then and there acquaint such Officer or Officers with the Accompts or Debts (if any shall be) betweene them and the Officers and Souldiers soe quartered in their respective Houses Which Accompts the said Officer or Officers are hereby required to accept of and im[m]ediately pay the same before any part of the said Pay or Subsistence be distributed either to the Officers or Soldiers Provided the said Accompts exceede not for a Commission Officer of Horse being under the degree of a Captaine for such Officers Dyet and Small Beere and Hay and Straw for his Horse per Die[e] Two shillings Nor for one Commission Officer of Dragoons being under the degree of a Captaine for such Officers Dyet and Small Beere and Hay and Straw for his Horse per Diem One shilling six pence Nor for one Commission Officer of Foote under the degree of a Captaine for such Officers Diet and Small Beere per Die[e] One shilling And if such Officer shall have Horse or Horses for each such Horse or Horses per Die[e] Six pence Nor for one Light Horsemans Dyet and Small Beere and Hay and Straw for his Horse per Die[e]; [^{X5}One Shilling Nor for one Dragoons Diet and Small Beere and Hay and Straw for his Horse per Die[e]] Nine pence Nor for one Foote Soldiers Diet and Small Beere per Die[e]; Foure pence And if any Officer or Officers as aforesaid shall not give Notice as aforesaid and shall not immediately upon the produceing such Accompts stated Satisfie Content and Pay the same upon Complaint and Oath thereof made by any Two Credible 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 Required and Authorized to Administer) the Pay Master or Pay Masters of Their Majestyes Forces are hereby Required and Authorized upon Certificate of the said Justices (before whome such Oath was made) of the Summes due upon such Accompts and the Persons to whome the same is owing to Satisfie and Pay the said Summes out of the Arreares due to the said Officer or Officers [^{X6}upon Penaltie that such Paymaster or Paymasters shall forfeit and lose their respective Place or Places as Pay-Master or Pay Masters and be disabled from holding the same for the future] And in case there shall be noe Arreare due to the said Officer or Officers Then the said Paymaster or Paymasters are hereby Required and Authorized to deduct the Sum[m]s 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 Offence 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

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- X5** interlined on the Roll.
X6 annexed to the Original Act in a separate Schedule.

XXIII. If Subsistence not paid to Officers or Soldiers, or cannot be remitted, Certificate transmitted to Paymaster who is immediately to make Payment thereof.

Penalty.

And where it shall happen that the Subsistence due to any Officer or Soldier shall by reason of any Accident not be Paid to such Officer or Soldier or such Officer or Soldier shall neglect to Pay the same soe that the Quarters cannot be or are not paid as this Act Directs And where any Horse Foote or Dragoons shall be upon their March soe that noe Subsistence can at present be remitted unto them to make Payment as this Act Directs or they shall neglect to Pay the same In every such Case it is hereby^{x7} Enacted That every such Officer shall before his or their Departure out of his or their Quarters where such Regiment Troope or Company shall remaine for any time whatsoever make up the Accompt as this Act Directs with every Person with whome such Regiment Troope or Company hath Quartered before he leave that Quarter and give the said Certificate by him Signed to the Partie to whome such Money is due with the Name of such Regiment Troope or Company to which he or they shall belong to the end the said Certificate may be forthwith transmitted to the PayMaster or Paymasters of His Majestyes Army who is or are hereby Required immediately to make Payment thereof to the Person or Persons to whome such Money shall be due to the end the same may be applied to such Regiment Troope or Company respectively under Paine as is before in this Act directed for Nonpayment of Quarters

Editorial Information

- X7** Variant reading of the text noted in *The Statutes of the Realm* as follows: further *O*. [*O*. refers to a collection in the library of Trinity College, Cambridge]

XXIV. Muster in Westminster and Southwark to be in Presence of Justices.

Penalty.

And bee it further Enacted That noe Commissary shall muster any Forces within the City of Westminster and Burrough of Southwarke and Liberties thereof but in the presence of Two Justices of the Peace not being Officers in the Army under the forementioned Penalty

XXV. Act how far extended to Jersey and Guernsey.

[^{x6}And bee it further Enacted by the Authority aforesaid That this Act shall be Construed to extend to the Islands of Jersey and Guernsey as to the Clauses therein for Mustering and Paying and the Penalties thereunto belonging.]

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