

PENNSYLVANIA'S REVOLUTIONARY MILITIA  
LAW: THE STATUTE THAT TRANSFORMED  
THE STATE

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For nearly a hundred years inhabitants of the proprietary owned by William Penn and his descendants argued among themselves over who would take up arms and defend the land. This impasse ended on March 17, 1777, when legislators of the newly proclaimed Commonwealth of Pennsylvania enacted a law that compelled all men between the ages of eighteen and fifty-three to enroll in the militia, attend stipulated exercise days, and muster for active duty, or pay a fine for each and every neglect of duty.<sup>1</sup> To enforce this statute the House installed a lieutenant and five sub-lieutenants in each of eleven counties and the city of Philadelphia. The rise of seventy-two unheralded men to serve the state as high-ranking civil officials brought an end to a system of patronage that had long been the exclusive domain of the well-born and prosperous. Briefly put, in March 1777 the Revolution in Pennsylvania “got legs.”<sup>2</sup>

Lieutenants had many responsibilities, the most important of which was the collection and disbursement of proceeds from fines paid by persons whose religious principles, opposition to the Revolution, or simple refusal to endure the hardships of

soldiering led them to disobey the militia law. In the period 1777–1783, income from militia fines surpassed £6,000,000. Half of this money provided Pennsylvania with one-sixth of its revenues in those revolutionary years.<sup>3</sup> Lieutenants spent the balance for goods and services provided to the militia by thousands of inhabitants, many of whom earned cash for the first time.

The militia law also gave thousands of newly commissioned and noncommissioned officers an opportunity to lead their fellow countrymen.<sup>4</sup> By the end of 1777 lieutenants enrolled 40,000 inhabitants in the militia, organized them in classes, companies, and battalions, all the while supervising the election of officers. From colonels to corporals, men elected and appointed by their peers learned the art of delegating responsibility and exercising authority. As a result, a new cadre of leaders entered public service, won posts in local and state government, and changed the thrust of Pennsylvania politics forever.

Money and authority. The torrent of new and unencumbered cash awakened an appetite for financial gain on the part of many inhabitants who had never enjoyed it.<sup>5</sup> Many of the state's inhabitants began to imagine a different and better life, and many of them began to achieve it.

The £6,000,000 in militia fines collected from some 50,000 delinquent militiamen documents a downward redistribution of wealth that not only buttressed the idea of revolution but also ignited seams of rebellion throughout the state. More than any battlefield victory, more than any patriotic manifesto or political promise, this massive reallocation of cash and a rash of new leaders contributed as much to the rise of democracy in Pennsylvania as the policies of the revolutionary government. Indeed, the reach and ambition of the militia law transformed the state. There is no evidence that lawmakers planned it that way, but neither can it be ruled out. After all, a revolution was underway.

The First General Assembly of the Commonwealth of Pennsylvania convened in Philadelphia on November 28, 1776. Even as members gathered on the second floor of the State House to present their credentials and elect officers—the Continental Congress occupied the ground floor—the British army marched on Philadelphia. Despite the desperate need for fighting men, many of the state's voluntary militias, known as associators, quit the front line. Pennsylvania had encouraged volunteer militia associations since 1747, when Spanish privateers threatened commerce on the Delaware River during King George's War. Volunteers also defended a Quaker colony that refused to mobilize troops during the French and Indian War and Pontiac's Rebellion.

In the wake of the Coercive (known in the colonies as the Intolerable) Acts passed by Parliament in 1774, volunteer companies began organizing throughout Pennsylvania to prepare for the impending crisis. These men refused to risk their lives while nonassociators remained at home. “*All shall go, or none will go,*” they vowed.<sup>6</sup>

To reverse this tide of discontent, legislators immediately resolved to collect the one-time tax (as opposed to a fine) of £3.10 levied by the provincial assembly on nonassociators, and to enact a militia law that put the defense of the state on a just and equal footing. The House appointed two committees to convert these resolutions into bills, but then, unable to muster a quorum because some members took leave to command militia battalions, the Assembly adjourned on December 14.

Inspired by General George Washington’s victory at the Battle of Trenton, the Assembly reconvened in Philadelphia on January 13, 1777. Legislators first enacted a law to ensure collection of the £3.10 tax.<sup>7</sup> They then turned their attention to the militia bill, which became law on March 17, 1777.

Pennsylvania’s militia law drew on laws enacted in colonial America and in England. However, unlike its precursors, the Pennsylvania law empowered county lieutenants to collect and disburse cash paid for fines, a strategic move that thrust lieutenants into the center of the transformation of Pennsylvania. Thus, the renegades who won in the charged fall elections of 1776 took over the State House and promptly bet *their* state on *their* militia law—and *their* lieutenants.

When angry associators shouted, “All or none,” legislators promised the volunteers that the revolutionary government would compel all men to defend the land. However, the prospect of a prolonged debate on the state’s cornerstone legislation forced lawmakers to break this promise and permit militia summoned to active duty to provide a substitute.

Implementation of Pennsylvania’s militia law began with more than 300 local constables. Lieutenants directed these officers of the law to return to them, under oath, the names of every white male in their jurisdiction between the ages of eighteen and fifty-three capable of bearing arms, and to make new lists annually. As a result, from 1777 to 1783 the total number of men enrolled by constables for possible militia duty reached 300,000, and probably the same men appeared on these lists year after year. Similarly, of the 300,000 enrollees, 50,000 paid a fine, of which an estimated 10 to 15 percent paid more than one fine.<sup>8</sup>

All men enrolled in the militia were obliged to perform two months active duty, or find and pay a substitute. However, if any man failed to send a substitute, the law authorized lieutenants to hire one and charge the cost to the delinquent. Well and good; but when the president mobilized thousands of militia in the spring of 1777 to prepare for a threatened British invasion, half of the men called to active duty refused to march and had to be replaced with substitutes. Militia not yet called for active duty eagerly hired out as substitutes, even though this deed did not release them from their obligation to muster when their own class was called up. But—and here is the rub—men who failed to appear for active duty also failed to pay in advance for their stand-ins. As a result, the state was forced to pay the substitutes. The law of supply and demand quickly drove the price of a substitute for two months active duty from \$20 to \$100. (Continental army soldiers drew about \$6 a month.) Because income from fines in the early stages of the war was insufficient to offset the heavy outflow of cash for substitutes, the balance in the state treasury in June 1776 plunged to £8,500.<sup>9</sup>

When the British army captured Philadelphia, the state's lawmakers fled to Lancaster where, by an act of the legislature, the administration of state government was temporarily assigned to a Council of Safety. Within days of its investment, the council issued two ordinances. The first punished traitors; the second ordered delinquents to reimburse the state for money advanced on their behalf to substitutes. In addition, the second ordinance stipulated that the account of any person who failed to pay money owed to the state (for a substitute and/or failure to attend militia exercises) would be turned over to a collector chosen by the lieutenant and given authority to levy the sum due by the seizure and sale of the person's goods and chattels, and, when necessary, to call in the militia for support.<sup>10</sup>

Taking a long view of history, "An Ordinance for the more effectual levying the Monies advanced for Substitutes in the Militia . . ." should be framed. With the probity of the militia law on the line, the council spelled out for all citizens its reason for issuing this "pay or else" decree. "Some people in this [commonwealth] entertained a notion that these advances to substitutes would never be levied," said the council. "This weakened the earlier classes of militia; and substitutes, in great numbers, became necessary. These dreamers have since been awaked out of their dream by an active execution of the capital article of the militia law."<sup>11</sup> Thus, the council not only sharpened the teeth of the militia law but also hammered home the revolutionary government's unwavering commitment to fines paid on the spot in cash as a means

of securing obedience to this law. As it turned out, in the period 1777–1783 fines paid by delinquents for nonperformance of active duty amounted to 75 percent of the £6,000,000 in militia fines.

The accounts of the county lieutenants document not only the names of 50,000 delinquents—a number that includes repeat offenders—and the fines paid by each of them, but also goods and services provided to the militia, the price paid for each item or service, and often the name of the provider. Persons who served the militia received payment for each day worked. In addition to lieutenants and clerks, those paid by the day with money collected from fines included militia officers, militia on guard duty, substitutes, quartermasters, adjutants, sergeant majors, drum majors, drummers, fifers, trumpeters (for troops of light horse), couriers (warning militia to march and express messages), recruiters (for Pennsylvania regiments of the Continental army), almoners, magistrates (for services at courts of appeal), and physicians (for examining appellants for exemption). Services purchased for a negotiated fee included victualing, and the use of teams and wagons, boats, and ferries. Collectors of unpaid fines received a standard commission of 5 percent of the cash recovered and/or the market value of seized property. Wounded soldiers, former prisoners of war, and widows of soldiers killed in battle received compensation in amounts determined by the courts. Many persons put cash in their pockets by selling, renting, collecting, hauling, mending, and cleaning thousands of blankets, purchased singly and by the hundreds. (The number of blanket entries in the accounts exceeds all other items.) Others profited from the sale of meat, salt, bread, whiskey, shoes, stockings, stationery, ink, and quills.

When demand for war materiel outstripped the ability of entrenched monopolies to deliver it, unheralded men stepped up to claim their piece of a business never before open to them. The scope of the state's new "military industrial" enterprise is suggested by the following entry in the accounts of the lieutenant of the city of Philadelphia.

Paid sundry persons for 332 muskets, 278 bayonets, 532 cartridge boxes, 1530 bayonet belts, 2479 bayonet scabbards, 100 wooden bayonet tips, 44 sides and 178½ lb. harness leather for making bayonet scabbards, belts, and slings, 14 lb. shoe thread, and 18 lb. flax and hemp, with spinning for same, one wood horse for the saddlery, 19½ lb. tent ropes, cutlass, 1 pair horse pistols, 1193 gun slings, 51½ doz. brushes and wires, 18 rifle guns, 5 powder horns, 1 pouch,

15 knapsacks, 5 canteens, 2 halberds (axe-like blade and steel spike mounted on end of long staff), 48 hammers, 1 crowbar and 1 side of leather delivered for artillery, repair of ordinance store house, collecting, hauling, inspecting, repairing and storage of arms, lading and unlading when the enemy approached the city in 1777, and for hauling ordinance per accounts and receipts—£9,500.<sup>12</sup>

But the business of “military stores”—as auditors classed these expenditures—extended well beyond the city of Philadelphia. In Bucks County, lieutenants paid sundry persons £185 for 38 muskets, 1 bayonet, 1 rifle gun, 1 cartouch boxes, 1 pouch, and the repair of cartridge boxes, and £155 for collecting, hauling, and repairing arms and axes. In Chester County one family earned £340 for producing 31 yards of gunnysack and converting it into knapsacks. In Cumberland County sundry persons received £1,080 for 40 muskets, 21 bayonets, 1 belt, 1 canteens, and 31 rifle guns. Up and down the back-country, Pennsylvania’s inhabitants earned cash by selling flints, gunpowder, scabbards and other military goods and services to county lieutenants.

Categories like those above are useful in organizing quantities of diverse information. But categories are one-dimensional, whereas actual ledger entries—of which there are thousands—provide a tantalizing hint of people in action, people on the move: John Sheek (Philadelphia) sold one blanket for £1.15. Mrs. Herron (Philadelphia County), widow of John Herron, who died of wounds received in battle, received £26.5 by order of Orphan’s Court. David Carson (Chester County) pocketed £112 for two bushels of salt. Benjamin Morgan (Berks County) earned £336 for 336 days service as the county lieutenant’s clerk. John Gregory (Northampton County) took in £4 for guarding disaffected persons. George Reinolt (Lancaster County) received £3.15 for making three handcuffs. George Sharp (Cumberland County) earned £3.7.6 for apprehending three deserters, while Brian Noth sold a bag for £0.7.6. Across the Susquehanna River in York County George Stauffer pocketed £89 for renting his team and hauling baggage. Farther west, Adam Young (Bedford County) received £16.17.6 for 135 pounds of bacon. And on the frontier, Peter Gabriel (Northumberland County) garnered £33.15 for baking three hundredweight of biscuits for a secret expedition against the Indians, while Thomas Campbell (Westmoreland County) earned £25 for riding express to Philadelphia. Few of those who provided goods and services to the militia earned large sums of money. But for the first time many men and women earned a little cash. And it was this

steady ripple of new and unencumbered cash that drove the transformation of Pennsylvania.

The militia law required county lieutenants to account every six months to the Assembly for money received and expended. To facilitate the collection and documentation of the required information, lawmakers ordered lieutenants and the captains of each militia company to employ a clerk.<sup>13</sup> However, because it was extremely difficult to produce the desired accounts in the field—a ship's manifest, familiar to many legislators, was, by comparison, child's play—nearly all of the lieutenants failed to comply with the letter of the law.<sup>14</sup> Nonetheless, lieutenants managed to forward cash from militia fines in excess of expenses to county treasurers, who delivered it to the state treasurer.

This process was more complicated than it appears. Company captains collected the cash paid for fines and sent it on to sub-lieutenants, who forwarded it to the county lieutenant.

At each step the officer in charge deducted militia expenses from the cash before personally carrying the balance up the line or forwarding it through trusted friends—a favored means of transporting money from point to point in the eighteenth century. From beginning to end, the process of collecting fines, deducting expenses, and forwarding cash invited petty theft and robbery. Still, audited accounts submitted by lieutenants reveal that these unheralded men collected some £6,000,000 cash in fines during the war years, paid out half of this sum for costs related to raising the militia, and forwarded the balance to the state treasurer.

Meanwhile, the state also contended with prothonotaries, clerks of quarter-session court, collectors of excise, and even the secretary of the Supreme Executive Council who failed to submit timely and accurate accounts of their activities. In fact, in the early years the true fiscal status of the state was unknowable. Finally, in 1782, the House resolved to end the government's systemic accounting crisis and created the office of comptroller-general (hereafter: controller), and warned all state officials that no account tendered by *any* department would be deemed settled until it was "audited, liquidated, and closed by the controller."<sup>15</sup>

To lead the new department lawmakers chose twenty-five-year-old John Nicholson, a state auditor who had traveled the hinterland to settle the accounts of men who served in the Pennsylvania Line of the Continental Army.<sup>16</sup> Aware that most lieutenants and the clerks who served them lacked schooling in the formalities of accounting, Nicholson ordered county lieutenants to

bring their papers to Philadelphia and promised that his auditors would help them prepare their accounts. The strategy worked. County lieutenants and other officials hurried to settle their accounts with the state.

But settling old scores with the public proved a bit more difficult. Petitions that cited irregularities in the assessment and collection of fines reached the Assembly.<sup>17</sup> John Nicholson stepped in and suggested to lawmakers that he print “copies of the list of fines received by the lieutenants and sub-lieutenants, for the use of the counties, which will detect (supposing any unfair returns should be made) the persons making them, and will be a perfect check on all accounts furnished by [the lieutenants].”<sup>18</sup> Lawmakers seized the opportunity to clear the air with constituents and directed Nicholson to “immediately and hereafter once every year to print for the use of each [of 60] battalion districts copies of the fines received from delinquents for the inspection of the inhabitants of the different battalion districts, to be read by the captains at the head of their companies, and then posted in the most public places within their districts.” Because the list of names and fines consumed two-thirds of the pages in the lieutenants’ accounts, Nicholson—doubtless with the blessing of the House—published the accounts in full. Thus, the printed accounts of the county lieutenants are found in 54 pamphlets and books comprising more than 1,500 pages that present gross income, operating expenses, and the names of delinquents and the fine paid by each of them displayed in 141 audited accounts submitted by 112 county lieutenants, of which 29 served more than one tour of duty and thereby submitted more than one account.<sup>19</sup> As a result, information of intense interest to the public—who paid what and who got the cash—was placed within reach of every inhabitant in the state!<sup>20</sup>

The Constitution of 1776 sets forth the right of citizens to participate in the work of their government by declaring that doors must remain open for all citizens when the House is in session, and that bills must be printed for the consideration of the people before final passage.<sup>21</sup> The House later expanded this mandate by authorizing the publication of vital state papers, including a report on the state of the public accounts (1779), the acts of the General Assembly (1781), journals of the House of Representatives (1782), and the accounts of the state treasury from the Revolution to the first of October 1782 (1784).<sup>22</sup> But the publication and distribution of the lieutenants’ accounts, yet another consequences of the militia act, carried transparency in government to a degree undreamed of by the men who wrote Pennsylvania’s constitution.



The militia bill arrived on the floor of the House on February 12, 1777. Members debated the measure on the greater part of thirteen ensuing days until March 11, when the speaker declared cloture and ordered the bill printed. A week later, on March 17, 1777, the most important legislation enacted by the state's revolutionary government became law.

Money and authority. From 1777 to 1783 county lieutenants collected £6,000,000 in militia fines, half of which went to mobilize, train, and maintain the militia. Thousands of inhabitants eagerly provided the militia with goods and services. Pennsylvania became a kind of bustling grand bazaar. And when the multitude spent "militia money" to improve their lives and the lives of those close to them, the economic bounce that only cash provides also inspired other inhabitants to move up. Indeed, the militia law transformed Pennsylvania by triggering an upward movement of people who provided the human collateral for a rising state.

## NOTES

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1. James T. Mitchell and Henry Flanders, comps., *The Statutes at Large of Pennsylvania from 1682 to 1809* (hereafter *Statutes*) (Harrisburg, PA, 1896–1915), "An Act to Regulate the Militia of the Commonwealth of Pennsylvania, 9:75–93. This law follows the general design of British militia statutes. Danby Pickering, ed., *The Statutes at Large from the 30th to the 33rd Year of King George II* (Cambridge: Printed by Joseph Benthham for Charles Bathhurst, London, 1766), "An Act for the Better Ordering of Militia," 57 Geo.II.c.xxv, 1757, 129–59.
2. Unless otherwise noted, "lieutenants" means all county lieutenants and sub-lieutenants.
3. In eighteenth-century Pennsylvania, books of account were kept in pounds—£.s.p. As a result, clerks converted *transaction* currencies to the Pennsylvania pound, the major currency of the Revolution, the value of which was rated at 2.6 Spanish silver dollars, or the equivalent in other currencies. Therefore, as the value of *transaction* currencies—i.e., the continental dollar, state money, and specie—inflated, the amount of inflated currency required to purchase one Pennsylvania pound increased. Militia clerks recorded fines in the following currencies: £3,156,00 continental currency, £5,741 state currency, £37,217 specie. With state money and specie converted at 1 to 75 continental currency—the exchange rate set by the Supreme Executive Council on January 2, 1781—the total of fines collected is equivalent to £6,377,850 in continental money. (Accounts for Berks and Philadelphia counties for the period 1780–1783 are missing.) Lemuel Molinsky calculates that militia fines forwarded to the state treasurer—about £3,000,000—amounted to one-sixth of state revenue for the period under study. Lemuel David Molinsky, "Pennsylvania's Legislative Efforts to Finance the War for Independence: A Study of the Continuity of Colonial Finance, 1775–83" (PhD diss., Temple University, 1975), 76.

## PENNSYLVANIA'S REVOLUTIONARY MILITIA LAW

4. By the end of 1777 Pennsylvania's lieutenants organized militiamen in 72 battalions, with 288 elected field officers, and 576 companies, each with 4 elected commissioned officers and appointed noncommissioned officers. For this mobilization see [www.portal.state.pa.us/portal/server.pt/community/revolutionary\\_war\\_militia\\_overview/4125](http://www.portal.state.pa.us/portal/server.pt/community/revolutionary_war_militia_overview/4125); [www.portal.state.pa.us/portal/server.pt/community/revolutionary-war/1852](http://www.portal.state.pa.us/portal/server.pt/community/revolutionary-war/1852).
5. William Graham Sumner, *The Financier and the Finances of the American Revolution* (New York, 1891; rpt., B. Franklin, 1970), 2:172.
6. William Atlee (Chairman of the Lancaster Committee) to President Wharton, January 13, 1777, *Pennsylvania Archives*, 119 vols. (hereafter *Pa. Arch.*) (Philadelphia and Harrisburg, 1852–1933), 2nd ser., 13:537. “Col. Henry Hill to . . ., Roxborough, 6th December, 1776.” *Pa. Arch.*, 1st ser., 5:94.
7. Through 1781, collectors commissioned under this law recovered £25,000 in taxes. “A Brief View of the Accounts of the Treasury of Pennsylvania, 1775–1781,” *Pa. Arch.*, 3rd ser., 5:1–237. That collectors pursued men to recover such a small sum speaks to the important and relentless business of collecting all kinds of taxes and fines in eighteenth-century Pennsylvania.
8. *The Accounts of the County Lieutenants* are found in *Pa. Arch.*, 3rd ser., 5, 6, 7, and in Charles Evans, *Early American Imprints, Series I* (hereafter Evans), electronic resource. Search: “County Lieutenants.” Many volumes of these accounts are found at the Library Company of Philadelphia.
9. D. Rittenhouse to Timothy Matlack, June 10, 1777, *Pa. Arch.*, 1st ser., 5:357.
10. “An Ordinance for the more effectual levying the Monies advanced for Substitutes for the Militia, and fines due the Publick, for disobedience to the Militia Law,” *Colonial Records of Pennsylvania*, 16 vols. (hereafter *Col. Records*) (Philadelphia and Harrisburg, 1851–53), 11:332–33.
11. “Hints and Instructions concerning the Collecting and Levying of the money paid to substitutes in the Militia of Pennsylvania,” Evans, 15518. The author of this broadside is not identified, but the thundering prose points to George Bryan, vice president of the council.
12. *State of the Accounts of the lieutenant and sub-lieutenants of the city of Philadelphia and Liberties . . .*, 17–18. Evans, 18707.
13. Pennsylvania Historical and Museum Commission, Division of Archives and Manuscripts, Records of the Comptroller-General (Record Group 4), “Revolutionary War Associators, Line, Militia, and Navy Accounts, and Miscellaneous Records Relating to Military Service, 1775–1809,” microfilm, rolls #142–207. These sixty-five films contain approximately 75,000 images of paper generated by militia company clerks, which provided the raw data submitted by lieutenants to state auditors, who assembled the accounts and then presented them for review by Controller John Nicholson.
14. Two accounts submitted on time by lieutenants are found in the “Report of the Committee of the Assembly, on the state of the Public Accounts, 1777 and 1778.” These accounts, which simply provide a running daily tabulation of cash in and cash out, were unacceptable to the Assembly's committee of accounts.
15. “An Act for Methodizing the Department of Accounts of this Commonwealth and for the more Effectual Settlement of the Same.” *Statutes*, 10:448–57, April 13, 1782.
16. *Col. Records*, 12:546.
17. For example, see Adam Hubley to Pres. Moore, December 1, 1781; John Gloninger to V.P. Potter, October 24, 1782, *Pa. Arch.*, 9:456–57, 654–55.

18. *Minutes of the First Session of the Seventh General Assembly of the Commonwealth of Pennsylvania*, November 26, 1782, 755–56. Evans, 17663.
19. The number of county lieutenants who served from 1777 to 1783 exceeds 112, but an accurate number, which is probably closer to 130, includes men who accepted a commission and served briefly, died, or moved.
20. Nicholson also published the accounts of the collectors of excise tax.
21. Constitution of 1777, *Statutes*, 9: Appendix XXXIV, chap. 1, secs. 13 and 15
22. “Report of the Committee of the Assembly, on the State of Public Accounts, 1777 and 1778.” Evans, 16449. “The acts of the General Assembly of the Commonwealth of Pennsylvania, carefully compared with the originals. And an appendix containing laws now in force, passed between the 30th day of September 1775, and the Revolution. Together with the Declaration of Independence; the Constitution of the State of Pennsylvania; and the articles of Confederation of the United States of America.” Evans, 44029. “Journal of the House of Representatives of the Commonwealth of Pennsylvania. Beginning the twenty-eighth day of November, 1776, and ending the second day of October, 1781. With the proceedings of the several committees and conventions, before and at the commencement of the American Revolution.” Evans, 17658. “State of the accounts of the Treasury of Pennsylvania, from the time of the commencement of the Revolution to the first of October, 1781; extracted from the books of the comptroller general. . . . Also, the accounts of the state treasurer, continued from the said first of October, 1781, to the first of October, 1782; likewise, the accounts for the several counties for their taxes to October, 1782. . . . Together with the state of the outstanding debts, due by the counties for their deficiencies in payment of taxes.” Evans, 18679.