Pennsylvania's Revolutionary Militia

The first session of the Pennsylvania House of Representatives is contemporaneous with the act providing for the organization of the Commonwealth's first really compulsory militia. These two events were by no means unrelated, the result of fortuitous chance. Indeed the Militia Act was intended in part as a belated answer to the loud and insistent clamor long since set up by the Associators that those who had not banded together with them in defence of their liberties be compelled to assume a fair share of the burden.

The crux of the situation lay in the fact that the Revolutionary Association organized on the morrow of Lexington and Concord had been voluntary in origin.1 It was not long, however, before the Associators began insisting that inasmuch as the struggle was common to all and of benefit to the entire province those who did not associate should at least be obliged to contribute part of their property in support of the cause.2 The Provincial General Assembly unable to resist the demands of the Associators acquiesced to the extent of adopting a resolution recognizing the Association and making contribution to it compulsory, the compulsion taking the form of a nominal tax, £2–10.3 Moreover, should a non-associator thereafter become affiliated with the Association he with his fellow members received an allowance of 1/6 for each drill attended. No sooner was this resolution adopted than protest began anew, the tax was too

---

1 The Military Association was already in existence in York County prior to February 14, 1775. Pennsylvania Journal and the Weekly Advertiser, February 22, 1775. The Philadelphia City Military Association does not seem to have been organized until late April, 1775, while that of Bedford County was not organized until May 9, 1775. Ibid., May 3, June 14, 1775.

2 Pennsylvania Archives (Harrisburg, 1931–1935), Ser. 8, VIII, 7259–60, Memorial from the Officers of the Military Association for the City and Liberties of Philadelphia. Ibid., 7261–2, Memorial from the Committee of Safety.

small to serve its purpose. Many wealthy members of the community, of whom there were many among the non-associators, were all too willing to pay the tax rather than bear arms. After all a tax of 2/6 per drill meant little to a man of property. On the other hand not a few Quakers and Mennonites joined to oppose not only the Association but any tax levied in lieu thereof. The Assembly again heeded the protests of the aroused Associators and boosted the tax to £3-10 at the same time raising the allowance to three shillings per drill. But the increase did not quiet the Associators and their protests continued unabated. A second resolution was adopted in the spring of '76.

In the autumn of the same year when the Constitutional Convention was in session the delegates attempted to meet the situation by enacting an ordinance imposing a much more drastic tax upon those who had not yet become Associators. To begin with every non-associator between the ages of sixteen and fifty was rendered subject to a twenty shilling tax for each month that he remained out of the Association. In addition a non-associator twenty-one years of age and over was required to pay "at the rate of four shillings in the pound on the annual value of his estate as rated under the late laws of this state for the raising the provincial taxes." But less than a fortnight after this drastic ordinance was adopted it was challenged by the fast expiring Provincial Assembly on the ground that "... the Convention have derived no Authority from the good People of Pennsylvania to levy Taxes and dispose of their Property and therefore; that the late Ordinance ... is illegal, and the said Sums ought not to be paid." Moreover, although an elaborate mechanism for the collection of the taxes levied upon non-associators had been set up by the resolutions of the Provincial Assembly, an administr-
tive breakdown hindered the collection of these taxes. At this point the Associators themselves challenged the authority of the Provincial Assembly to interfere in their affairs.\(^9\)

Two attempts had already been made to give the voluntary defenders of their country what they wanted but the Associators were far from satisfied. Actual compulsion had come to nought because of the breakdown of the tax collecting agencies, the Provincial Assembly had challenged the authority of the Constitutional Convention to give the Associators help and in turn had been challenged by the Associators.

Such was the situation when the House of Representatives convened for its first session. The House quickly set to work and as soon as it was organized unanimously resolved that it would “take immediate measures to make effectual the provisions of the late house of Assembly, respecting the collection of fines imposed by that house on all non-associators.” At the same time the House resolved that it would enact a “new Militia Law” as soon as possible.\(^10\)

Considering the heavy fines imposed by the abortive ordinance of the Constitutional Convention and remembering that the country was now at war, one would expect that the newly enacted fine would at least equal if not exceed the one in question. As a matter of fact the House re-established the £3-10 fine imposed by the second resolution of the Assembly and levied it upon the same age group.\(^11\)

Similarly the new statute went so far as to exempt all groups of individuals previously exempted and added schoolmasters actually employed as such to the list of exempts. The new statute did set some precedents, however, one involving apprentices who were willing to associate but whose masters were of contrary mind. Should a master fail to permit his apprentice to associate or should he prevent him from attending parade the master was subjected to fine. On the other hand should the fault be that of the apprentice it was he who was

\(^9\) Ibid., 7545, Protest of the Board of Officers of the Five Battalions of the City and Liberties of Philadelphia. Ibid., 7546-48, Protest of the Committee of Privates of the Military Association belonging to the City and Liberties of Philadelphia.


\(^11\) Statutes at Large, Chapter DCCXLII, “An Act Directing the Mode of Collecting the Fines Imposed on Persons who did not meet and exercise in order to learn the Art Military according to the Resolves of the late Assembly of Pennsylvania.”
obliged to pay the fine—provided he possessed sufficient property. The other precedent involved the responsibility of parents for fines incurred by minor sons in their employ.

The same administrative breakdowns which clogged the enforcement of the provincial resolutions at first threatened the newly enacted legislation. The House, however, took drastic steps to compel officers charged with the enforcement of the act to comply with its terms.\textsuperscript{12}

Having ascertained the basis as well as the nature of the compulsion conditioning colonial militia service, we must next direct our attention to the militia acts and amendments thereto passed during the Revolutionary period. The newly organized militia was immediately thrown open to all white males between the ages of eighteen and fifty-three capable of bearing arms.\textsuperscript{13} This in spite of the recommendation on the part of the Continental Congress that the various states recruit their forces from among capable males between the ages of sixteen and sixty.\textsuperscript{14} Even so, the Commonwealth did raise the upper age limit three years above the maximum (fifty years) previously set in the several resolutions and ordinances already discussed. Although it would seem that youths between the ages of sixteen and eighteen were no longer acceptable for militia service such was not the case. The newly enacted Militia Act was quickly amended to enable sons “not subject to the Militia Law” and “of sufficient ability of body” to serve in lieu of their fathers, thus enabling any youth capable of performing the necessary manoeuvres to serve in the militia.\textsuperscript{15}

Exemption from militia service granted in the first Act was very limited and restricted solely to “Delegates in Congress, Members of the Executive Council, Judges of the Supreme Court, Masters and faculties of Colleges, Ministers of the Gospel (or Clergy) of every

\textsuperscript{12} Statutes at Large, Chapter DCCLVIII, “A Supplement to the Act Entitled ‘An Act Directing the Mode of Collecting Fines. . . .’ ”


\textsuperscript{15} Statutes at Large, Chapter DCCLXXXI.
denomination and servants purchased bona fide and for a valuable consideration." The list of exemptees was increased from time to time so that by 1780 it was more than doubled. The legislative tendency was to restrict the number exempted and to confine exemption solely to such officers as were necessary for the continued operation of the government as well as to a few skilled workers in selected war industries. There is no evidence to prove that what was not accomplished by direct legislation was accomplished by indirection. In this connection the following may be of interest. On at least one occasion, even after the new House of Representatives convened but before the Militia Act became law, the Council of Safety acting upon the recommendation of the Continental Congress detained from marching certain Philadelphia printers then printing Continental Loan Office certificates. In doing this the Council merely continued a practice it had previously followed. Similarly even when the Council failed to sanction a detainer it might furlough a militiaman already in the service.

More Quakers and Mennonites dwelt in Pennsylvania than in any other state. Many orthodox adherents of these sects, as has already been observed, were opposed not only to actual militia service but refused to share the burden of defence take what form it might. The Continental Congress magnanimously took cognizance of individual religious belief and advised that religious scruples be respected. Yet when the Militia Act was made law, the statute absolutely ignored the existence of Quakers and Mennonites. Nor were members of these sects specifically mentioned, either directly or indirectly, in any subsequent alteration or amendment of the original

---

16 Statutes at Large, Chapter CMII, Exemptions granted to "delegates in Congress, members of the Supreme Executive Council, members of the General Assembly, judges of the Supreme Court, Attorney General for the state, judges of the Admiralty, treasurer of the state, sheriffs, gaolers, keepers of workhouses, professors and teachers in the university, postmasters and postriders belonging to the general postoffice, menial servants of ambassadors or ministers and consuls from foreign courts and delegates in Congress from other states registered with the secretary of the Supreme Executive Council of this state and servants purchased bona fide and for a valuable consideration." This Act also exempted mariners and seamen actually employed as such. See Ibid., Chapter DCCLXXXII, "An Act for the better supply of the Armies of the United States of America," Exemption was also granted tailors and shoemakers working on government contracts.


18 Pennsylvania Archives, Ser. 8, VIII, 7327-30, 7349-50.

Militia Act. Since these sectarians enjoyed no special exemptions on account of their religion by virtue of the Militia Act, they were obliged to seek what relief they could under the terms of the general provisions of the Act. These provisions will be noted shortly.

The Pennsylvania Militia was organized on a county-wide basis, each existing county being placed under the immediate supervision of a county lieutenant and one or more sub-lieutenants. There were two for Philadelphia, however, one lieutenant for the City of Philadelphia, its districts and Liberties, and another for the remainder of the County of Philadelphia. County lieutenants and sub-lieutenants, who for militia purposes were the equivalent of the English lords lieutenant, held such rank and title as the President in Council saw fit to confer upon them and received their commissions directly from that officer. County militia organizations ranked in seniority in order of their creation, the City of Philadelphia taking precedence over the County and Philadelphia County over all other counties subsequently erected. In the same way, individual militia officers holding commissions of equal rank and date based their own seniority upon that of the particular county in which they dwelt and served.

Other things being equal a Philadelphia City colonel outranked a Philadelphia County colonel who in turn outranked a Chester County colonel and so on down the line.

Acting under the immediate supervision of the county lieutenant and his subordinates the local constable or some other person selected by the lieutenant was obliged to enumerate all white males within the prescribed age limits not subject to exemption. With a complete roster of these at hand the lieutenant or his subordinates would proceed to divide the entire county into militia districts containing not less than 440 nor more than 680 militiamen each. Militia districts were again broken down into eight equal parts denominated classes on the basis of the greatest convenience of the component members.

---

20 Under the original Militia Act no county was allowed more than five sub-lieutenants. This was later changed to give each county as many sub-lieutenants as it had battalions, the City of Philadelphia being restricted to two.

21 The House of Representatives originally nominated the sub-lieutenants.

22 Once the militia was formally organized this duty was assigned to the captain of the local company.

23 Statutes at Large, Chapter CMII. The revised Act raised the maximum strength of a militia district to a thousand men.
All officers, both field and line, were elected by their own subordinates within their districts. Colonels, lieutenant-colonels and majors were required to be resident freeholders within the district, while captains, lieutenants, ensigns and court martial men were to be elected from among "such persons as are entitled to vote for members to serve in the General Assembly." By the time the revised Militia Act of 1780 became law colonels were no longer elected and the office of court martial man had passed into oblivion. The qualification then necessary to be elected either a line or field officer was that the candidate had "taken the oath of allegiance and abjuration agreeable to the laws of this state."  

When needed for actual service the militia was called out on the basis of the classes, the first class being called out first, the eighth last and finally the first again in rotation, no county being obliged to furnish proportionately more men or to serve any longer than any other county. Each class was expected to put in not more than two months service and it was not until the Revolution was nearly over that it was possible to summon the entire militia at once without regard to classes.  

A militiaman, other than an officer, actually called out on tour of duty, did not have to appear in person. He could send an approved substitute who might be his son, his apprentice or even a servant whose time had been purchased for a valuable consideration and who was otherwise exempt in his own right. Should the militiaman himself be unable to find an approved substitute he could still avoid service by paying "such sum or sums . . . together with the reasonable expenses for procuring the same [substitute]." The revised Act of 1780 still permitted an individual to avoid personal

24 The office of court martial man was a relic from the days of the voluntary Association.  
25 Statutes at Large, Chapter CML, "An Act to make more effectual provision for the defense of this State." The authority to call out the entire militia at once did not become effective until September 28, 1781.  
26 Although servants purchased for a valuable consideration were exempt from militia service many succeeded in enlisting in the various Pennsylvania regiments raised for the Continental service. Statutes at Large, Chapter DCCLXXXV, "An Act for making compensation to those whose servants and apprentices have been enlisted," was intended to compensate those who had sustained loss as the result of the unauthorized enlistment of their servants and apprentices. In one particular instance a master induced his servant to enlist and then sought compensation from the Commonwealth (Journals of the House of Representatives, 154). Another master sought exemption from all militia service on the ground that two of his servants had enlisted in the Continental service (Ibid.).
service provided he was willing to pay a fine, computed on the basis of the value of a days' labor, for each day he absented himself from the service. If the defaulter also possessed an estate he was obliged to pay an additional levy of fifteen shillings in every hundred pounds on all his rateable property and occupation.

Unfortunate, if not pitiful indeed, was the case of the militiaman who had gone to the expense and bother of hiring a substitute only to have had him called into service on his own account while away on duty. When this happened the substitute's employer was forced to march in his stead, failing which he was required to pay the regular statutory fine. A deserter incurred the same fine he would have incurred had he not turned out. This could be avoided, however, should the county lieutenant send him back to his class in order to have him complete his tour of duty. Prior to the passage of the Militia Act of 1780 a deserter incurred a fine equal to two months’ pay, if he were a private or non-commissioned officer. A commissioned officer risked being cashiered.

The use of substitutes though deprecated by all, particularly those not in a position to hire them, furnished a convenient "out" for some Quakers. When ordered into service an orthodox Quaker might conveniently neglect to appear or fail to find a satisfactory substitute when so ordered. Having satisfied his conscience thus it was then the county lieutenant's task to find a suitable substitute for the delinquent at the latter's expense. After 1780, however, Quakers were obliged to find their own substitutes. When the Supreme Executive Council took it upon itself to advance public funds in order to enable county lieutenants to hire suitable substitutes in place of delinquents, the Council quickly learned that it was far easier to pay out such funds than it was to collect them from the delinquent parties.
The employment of an approved substitute on tour of duty was no excuse for failure to attend regular company drills. Unless an absentee had a good excuse, failure to attend drill in person on regular drill day subjected the offender to a ten shilling fine if an officer and to a five shilling fine if a non-commissioned officer or private soldier. Should the absence have occurred on a field day or battalion drill day the prescribed fines were automatically increased by one half. By 1780 currency had depreciated to such an extent that fines levied for failure to respond to tour of duty or to appear for drill were no longer calculated in terms of money but rather on the basis of what one or more days’ common labor was worth. At first the value of day labor was determined at the Quarter Sessions of the Peace. Discrepancies arising from county to county, the task was quickly assigned to the General Assembly which body undertook to evaluate a day’s work in terms of gold and silver.

Time and again militiamen failed to turn out when ordered. Harvest time, spring plowing to replace a lost crop, or a recent return from a prior tour of duty were frequently offered as excuses for non-compliance with orders. Militiamen even removed from place to place for the sole purpose of escaping the prescribed tour of duty. In some respects the county lieutenants themselves were as remiss as their men when it came to obeying orders, with the result that the Archives contain numerous admonitions to the lieutenants to obey instructions, particularly in regard to the collection of delinquent militia fines. Where county lieutenants conscientiously performed their duty and distrainted the property of delinquent militiamen the delinquents’ neighbors would often hesitate to purchase such property at the ensuing sheriff’s sale. As a result property so auctioned

29 Statutes at Large, Chapter DCCLX, Section III, exempts substitutes for others away on tour of duty from attending drills.
30 These fines had previously been increased from time to time, seemingly in inverse ratio to the depreciated currency. Statutes at Large, Chapters DCCLXXXI, DCCCXLI, DCCCLXV.
31 Ibid., Chapter CMXVI, Section I, recites the inequalities necessitating the amendment.
32 Pennsylvania Archives, Ser. 1, VII, 403, Richard McCalester to President Reed, May 14, 1779. Ibid., 679-680, Bartrem Galbraith to President Reed, September 4, 1779.
33 Statutes at Large, Chapter DCCCLXXI, Section X, “And whereas many militia men by removing from one battalion or company to another, find means to escape their tour of duty . . .”
would fetch a ridiculously low price in relation to its actual value.\(^{34}\)

The Associators constant demand was for a sharing of the burden of defence on the part of non-associators. Yet when the burden was more or less equalized many militiamen either evaded or failed to perform their prescribed tour of duty while still others availed themselves of the opportunity of appearing by proxy. How can this paradox be explained? The Association was most active and most vocal prior to June, 1776. Although its primary purpose was military defence, the Association was secondarily an active political organ.\(^{35}\)

At the height of its greatest activity many in Pennsylvania had not yet declared themselves. This was true of many well affected to the Revolutionary cause as well as being true of many of the wealthy who were of the contrary opinion. What the Association evidently sought was not so much a sharing of the burden as a showing of hands.

The Declaration of Independence and more significantly the adoption of the Commonwealth's first Constitution forced the issue. Men had to declare themselves one way or the other. Thus when the House of Representatives met to consider a militia law the problem had already been resolved. This would account for the adoption of the moderate £3-10 fine previously enacted by the Provincial Assembly rather than of the harsh fines imposed by the Constitutional Convention. Consequently this apparent leniency of the House in the matter of fines does not seem to have evoked even one protest. Where the Provincial Assembly's *Votes and Proceedings* are crammed full of complaints from various groups of Associators, the House *Journal* does not contain a single objection to the legislation it enacted. It is of course possible that protest was made to the House and not entered in its *Journal* but this is doubtful since protests and petitions regarding other matters are regularly spread upon its minutes.

The issue resolved, the "outs" had replaced the "ins." The matter was no longer one of practical politics, rather one of everyday business. Associators, no less than others, farmers and merchants alike,

\(^{34}\) *Pennsylvania Archives*, Ser. 1, IX, 418, Adam Hubley to President Reed, September 22, 1781, "... people being in general prejudiced against buying goods seized by virtue of the Militia Law..."  

\(^{35}\) *Pennsylvania Journal and the Weekly Advertiser*, June 12, and 19, 1776.
those well disposed to the new state government as well as those opposed to it, were all affected by compulsory tour of duty. Many really could not afford to serve much less to hire substitutes. Others believed it cheaper to hire a substitute than to appear in person. Both facts may help to account for the apparent indifference of many Associators. When county lieutenants or their subordinates failed to collect delinquent militia fines they may have reflected the wishes of their neighbors, This is borne out by the hesitancy of neighbors to bid on each others distrained property.

It required more than the opportunity for an equal sharing of the burden to make militia service really effective. It took compulsion to fill the ranks of the new militia, a compulsion directed not only against the individual obliged to serve but also against the officers charged with the enforcement of the Act itself. But even compulsion failed of its purpose, if an equal burden upon all was that purpose, for too many, far too many were represented by proxy.

Woodside, Long Island

Arthur J. Alexander

36 Pennsylvania Archives, Ser. 1, VII, 679-80, Bartrem Galbraith to President Reed, September 4, 1779, “. . . the People . . . have suffered so much in the year 1777 who were absent at that season say, it is better for them to sell double the property that would pay the fine of one hundred pounds, than to march and be under the necessity of purchasing grain at these extravagant prices.”

37 Pennsylvania Archives, Ser. 5, VI, 23-4. Only twenty-one of Captain Thomas Askey's forty-four Cumberland County militiamen served in person in 1777. Ten substitutes were hired directly by individual militiamen while thirteen others were employed by the county lieutenant. The corporal, the ensign as well as twenty-four of Captain Daniel Good's thirty-two Northampton County militiamen were substitutes in 1782. Ibid., VIII, 75-7.