

all judges, justices, and other persons whatsoever, without specially pleading the same.

## CAP. XXXI.

An act for opening and making a new road from the east end of New Street in the parish of Saint John Southwark, to and through the several places therein mentioned; and for keeping the said road in repair for the future.

*Certain tolls granted for 21 years.*

## CAP. XXXII.

An act for enlarging the term and powers granted by an act passed in the eighteenth year of the reign of his present Majesty, for repairing the high road leading from Borough Bridge in the county of York, through Northallerton in the same county, to Croft Bridge on the river Tees; and from thence through Darlington in the county of Durham, to the city of Durham; and for making the same more effectual.

*The act 18 Geo. 2. c. 8. continued for 21 years.*

## CAP. XXXIII.

*An act for amending, explaining, and reducing into one act of parliament, the laws relating to the government of his Majesty's ships, vessels, and forces by sea.*

**W**HEREAS the several laws relating to the sea service, made at different times, and on different occasions, have been found by experience not to be so full, so clear, so expedient, or consistent with each other, as they ought to be; for amending and explaining the said laws, and for reducing them into one uniform act of parliament; be it enacted by the King's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That from and after the twenty fifth day of December, one thousand seven hundred and forty nine, an act passed in the thirteenth year of the reign of King Charles the Second, intituled, *An act for establishing articles and orders for the regulating and better government of his Majesty's navies, ships of war, and forces by sea*; and also so much of an act passed in the second year of the reign of King William and Queen Mary, intituled, *An act concerning the commissioners of the admiralty*; as directs the form of an oath to be taken by every officer present, upon all trials of offenders by courts-martial, to be held by virtue of any commission to be granted by the lord high admiral, or the commissioners for executing the office of lord high admiral; and also so much of an act passed in the sixth year of the reign of King George the First, intituled, *An act for making perpetual so much of an act made in the tenth year of the reign of Queen Anne, for the reviving and continuing several acts of parliament therein mentioned, as relates to the building and repairing county gaols*; and also an act of the eleventh and twelfth years of the reign of King William the Third, for the more effectual suppression of piracy; and for making more effectual the act of the thirteenth year of the reign of King Charles the Second, intituled, *An act for establishing articles and orders for the regulating and better government*

13 Car. 2. ft. 1. c. 9.

2 W. & M. ft. 2. c. 2. ft. 4.

6 Geo. 1. c. 19.



- vernment of his Majesty's navies, ships of war, and forces by sea; as relates to the trial and punishment of persons who shall commit any of the crimes or offences mentioned in the said articles upon the shore, in any foreign part or parts; and also so much of an act passed in the eighth year of the reign of King
- 8 Geo. 1. c. 24. *George the First, intituled, An act for the more effectual suppressing of piracy; as directs the punishment to be inflicted by a court-martial upon any captain, commander, or other officer of any his Majesty's ships or vessels of war, who shall receive on board, or permit to be received on board, any goods or merchandizes whatsoever, in order to trade or merchandize with the same (except the goods and merchandizes therein excepted) and also an act passed in the eighteenth year of the reign of his present Ma-*
- 18 Geo. 2. c. 35. *jefty, intituled, An act for the regulating and better government of his Majesty's navies, ships of war, and forces by sea; and for regulating the proceedings upon courts-martial in the sea service; and also an act passed in the twenty first year of the reign of his present*
- 21 Geo. 2. c. 11. *Majefty, intituled, An act for further regulating the proceedings upon courts-martial in the sea service; and for extending the discipline of the navy to the crews of his Majesty's ships wrecked, lost, or taken; and for continuing to them their wages upon certain conditions, shall be, and the same are hereby repealed to all intents and pur-*
- repealed. *poses whatsoever.*

II. And for the regulating and better government of his Majesty's navies, ships of war, and forces by sea, whereon, under the good providence of God, the wealth, safety, and strength of this kingdom chiefly depend; be it enacted by the King's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That from and after the twenty fifth day of *December*, one thousand seven hundred and forty nine, the articles and orders herein after following, as well in time of peace as in time of war, shall be duly observed and put in execution, in manner herein after mentioned.

Publick wor-  
ship to be per-  
formed. 1. *All commanders, captains, and officers, in or belonging to any of his Majesty's ships or vessels of war, shall cause the publick worship of Almighty God, according to the liturgy of the church of England established by law, to be solemnly, orderly, and reverently performed in their respective ships; and shall take care that prayers and preaching, by the chaplains in holy orders of the respective ships, be performed diligently; and that the Lord's day be observed according to law.*

Penalty of pre-  
fane swearing,  
&c. 2. *All flag officers, and all persons in or belonging to his Majesty's ships or vessels of war, being guilty of profane oaths, cursings, execrations, drunkenness, uncleanness, or other scandalous actions, in derogation of God's honour, and corruption of good manners, shall incur such punishment as a court-martial shall think fit to impose, and as the nature and degree of their offence shall deserve.*



3. If any officer, mariner, soldier, or other person of the fleet, shall give, hold, or entertain intelligence to or with any enemy or rebel, without leave from the King's majesty, or the lord high admiral, or the commissioners for executing the office of lord high admiral, commander in chief, or his commanding officer, every such person so offending, and being thereof convicted by the sentence of a court-martial, shall be punished with death. Penalty of holding illegal correspondence with an enemy;

4. If any letter or message from any enemy or rebel, be conveyed to any officer, mariner, or soldier, or other in the fleet, and the said officer, mariner, soldier, or other as aforesaid, shall not, within twelve hours, having opportunity so to do, acquaint his superior officer, or the officer commanding in chief, with it; or if any superior officer being acquainted therewith, shall not in convenient time reveal the same to the commander in chief of the Squadron, every such person so offending, and being convicted thereof by the sentence of the court-martial, shall be punished with death, or such other punishment as the nature and degree of the offence shall deserve, and the court-martial shall impose. of not acquainting the superior officer with any message from an enemy;

5. All spies, and all persons whatsoever, who shall come, or be found, in the nature of spies, to bring or deliver any seducing letters or messages from any enemy or rebel, or endeavour to corrupt any captain, officer, mariner, or other in the fleet, to betray his trust, being convicted of any such offence by the sentence of the court-martial, shall be punished with death, or such other punishment, as the nature and degree of the offence shall deserve, and the court-martial shall impose. of spies, and of delivering seducing letters, &c.

6. No person in the fleet shall relieve an enemy or rebel with money, victuals, powder, shot, arms, ammunition, or any other supplies whatsoever, directly or indirectly, upon pain of death, or such other punishment as the court-martial shall think fit to impose, and as the nature and degree of the crime shall deserve. of relieving an enemy;

7. All the papers, charter parties, bills of lading, passports, and other writings whatsoever, that shall be taken, seized, or found aboard any ship or ships which shall be surprized or taken as prize, shall be duly preserved, and the very originals shall by the commanding officer of the ship which shall take such prize, be sent intirely, and without fraud, to the court of admiralty, or such other court of commissioners, as shall be authorized to determine whether such prize be lawful capture, there to be viewed, made use of, and proceeded upon according to law, upon pain that every person offending herein, shall forfeit and lose his share of the capture, and shall suffer such further punishment, as the nature and degree of his offence shall be found to deserve, and the court-martial shall impose. of not sending all papers found aboard prize ships;

8. No person in or belonging to the fleet shall take out of any prize, or ship seized for prize, any money, plate, or goods, unless it shall be necessary for the better securing thereof, or for the necessary use and service of any of his Majesty's ships or vessels of war, before the same be adjudged lawful prize in some admiralty court; but the full and entire account of the whole, without imbezzelement, shall be brought in, and judgement passed intirely upon the whole without fraud, upon pain that every person offending herein shall forfeit and lose his share of the capture, and suffer such further punishment as shall be imposed by a court-martial, or such court of admiralty, according to the nature and degree of the offence. of taking effects out of any prize before condemned;



of stripping,  
or ill using  
persons taken  
on board a  
prize;

9. If any ship or vessel shall be taken as prize, none of the officers, mariners, or other persons on board her, shall be stripped of their cloaths, or in any sort pillaged, beaten, or evil-intreated, upon pain that the person or persons so offending, shall be liable to such punishment as a court-martial shall think fit to inflict.

of not prepar-  
ing for fight,  
and encourag-  
ing the men  
in time of  
action;

10. Every flag officer, captain, and commander in the fleet, who, upon signal or order of fight, or sight of any ship or ships which it may be his duty to engage, or who, upon likelihood of engagement, shall not make the necessary preparations for fight, and shall not in his own person, and according to his place, encourage the inferior officers and men to fight courageously, shall suffer death, or such other punishment, as from the nature and degree of the offence a court-martial shall deem him to deserve; and if any person in the fleet shall treacherously or cowardly yield or cry for quarter, every person so offending, and being convicted thereof by the sentence of a court-martial, shall suffer death.

of disobeying  
orders in time  
of action, &c.

11. Every person in the fleet, who shall not duly observe the orders of the admiral, flag officer, commander of any squadron or division, or other his superior officer, for assailing, joining battle with, or making defence against any fleet, squadron, or ship, or shall not obey the orders of his superior officer as aforesaid in time of action, to the best of his power, or shall not use all possible endeavours to put the same effectually in execution, every such person so offending, and being convicted thereof by the sentence of the court-martial, shall suffer death, or such other punishment, as from the nature and degree of the offence a court-martial shall deem him to deserve.

of cowardice  
or neglect of  
duty in time  
of action;

12. Every person in the fleet, who through cowardice, negligence, or disaffection, shall in time of action withdraw or keep back, or not come into the fight or engagement, or shall not do his utmost to take or destroy every ship which it shall be his duty to engage, and to assist and relieve all and every of his Majesty's ships, or those of his allies, which it shall be his duty to assist and relieve, every such person so offending, and being convicted thereof by the sentence of a court-martial, shall suffer death.

of not pursu-  
ing the enemy,  
and of not as-  
sisting a  
friend;

13. Every person in the fleet, who through cowardice, negligence, or disaffection, shall forbear to pursue the chase of any enemy, pirate, or rebel, beaten or flying; or shall not relieve or assist a known friend in view to the utmost of his power; being convicted of any such offence by the sentence of a court-martial, shall suffer death.

of delaying or  
discouraging  
the service, on  
account of  
wages, &c.

14. If when action, or any service shall be commanded, any person in the fleet shall presume to delay or discourage the said action or service, upon pretence of arrears of wages, or upon any pretence whatsoever, every person so offending, being convicted thereof by the sentence of the court-martial, shall suffer death, or such other punishment, as from the nature and degree of the offence a court-martial shall deem him to deserve.

of deserting,  
or running  
away with  
ship or stores;

15. Every person in or belonging to the fleet, who shall desert to the enemy, pirate, or rebel, or run away with any of his Majesty's ships or vessels of war, or any ordnance, ammunition stores, or provision belonging thereto, to the weakening of the service, or yield up the same cowardly or treacherously



treacherously to the enemy, pirate, or rebel, being convicted of any such offence by the sentence of the court-martial, shall suffer death.

16. Every person in or belonging to the fleet, who shall desert or intice of deserting others so to do, shall suffer death, or such other punishment as the circumstances of the offence shall deserve, and a court-martial shall judge fit: others; and if any commanding officer of any of his Majesty's ships or vessels of war shall receive or entertain a deserter from any other of his Majesty's ships or vessels, after discovering him to be such deserter, and shall not with all convenient speed give notice to the captain of the ship or vessel to which such deserter belongs; or if the said ships or vessels are at any considerable distance from each other, to the secretary of the admiralty, or to the commander in chief; every person so offending, and being convicted thereof by the sentence of the court-martial, shall be cashiered.

17. The officers and seamen of all ships appointed for convoy and guard of merchant ships, or of any other, shall diligently attend upon that charge, care of ships without delay, according to their instructions in that behalf; and who so under convoy; ever shall be faulty therein, and shall not faithfully perform their duty, and defend the ships and goods in their convoy, without either diverting to other parts or occasions, or refusing or neglecting to fight in their defence, if they be assailed, or running away cowardly, and submitting the ships in their convoy to peril and hazard; or shall demand or exact any money or other reward from any merchant or master for convoying of any ships or vessels intrusted to their care, or shall misuse the masters or mariners thereof; shall be condemned to make reparation of the damage to the merchants, owners, and others, as the court of admiralty shall adjudge, and also be punished criminally according to the quality of their offences, be it by pains of death, or other punishment, according as shall be adjudged fit by the court martial.

18. If any captain, commander, or other officer of any of his Majesty's ships or vessels, shall receive on board, or permit to be received on board such ship or vessel, any goods or merchandizes whatsoever, other than for the sole use of the ship or vessel, except gold, silver, or jewels, and except the goods and merchandizes belonging to any merchant, or other ship or vessel which may be shipwrecked, or in imminent danger of being shipwrecked, either on the high seas, or in any port, creek, or harbour, in order to the preserving them for their proper owners, and except such goods or merchandizes as he shall at any time be ordered to take or receive on board by order of the lord high admiral of Great Britain, or the commissioners for executing the office of lord high admiral for the time being; every person so offending, being convicted thereof by the sentence of the court-martial, shall be cashiered, and be for ever afterwards rendered incapable to serve in any place or office in the naval service of his Majesty, his heirs and successors.

19. If any person in or belonging to the fleet shall make or endeavour to make any mutinous assembly upon any pretence whatsoever, every person offending herein, and being convicted thereof by the sentence of the court-martial, shall suffer death: and if any person in or belonging to the fleet shall utter any words of sedition or mutiny, he shall suffer death, or such other punishment as a court-martial shall deem him to deserve: and if any officer, mariner, or soldier in or belonging to the fleet, shall behave himself



*himſelf with contempt to his ſuperior officer, ſuch ſuperior officer, being in the execution of his office, he ſhall be puniſhed according to the nature of his offence by the judgment of a court-martial.*

of concealing  
mutinous  
practice,

or words;

20. *If any perſon in the fleet ſhall conceal any traiterous or mutinous practice or deſign, being convicted thereof by the ſentence of a court-martial, he ſhall ſuffer death, or ſuch other puniſhment as a court-martial ſhall think fit; and if any perſon, in or belonging to the fleet, ſhall conceal any traiterous or mutinous words ſpoken by any, to the prejudice of his Maſteſty or government, or any words, practice, or deſign, tending to the hindrance of the ſervice, and ſhall not forthwith reveal the ſame to the commanding officer, or being preſent at any mutiny or ſedition, ſhall not uſe his utmoſt endeavours to ſuppreſs the ſame, he ſhall be puniſhed as a court-martial ſhall think he deſerves.*

of endeavour-  
ing to ſtir up  
diſturbance,  
on account of  
unwholeſome-  
neſs of victual,  
&c.

21. *If any perſon in the fleet ſhall find cauſe of complaint of the unwholeſomeſs of the victual, or upon other juſt ground, he ſhall quietly make the ſame known to his ſuperior, or captain, or commander in chief, as the occaſion may deſerve, that ſuch preſent remedy may be had as the matter may require; and the ſaid ſuperior, captain, or commander in chief, ſhall, as far as he is able, cauſe the ſame to be preſently remedied; and no perſon in the fleet, upon any ſuch or other pretence, ſhall attempt to ſtir up any diſturbance, upon pain of ſuch puniſhment, as a court-martial ſhall think fit to inflict, according to the degree of the offence.*

of ſtriking,  
&c a ſuperior  
officer,

or diſobeying  
his lawful  
commands;

22. *If any officer, mariner, ſoldier, or other perſon in the fleet, ſhall ſtrike any of his ſuperior officers, or draw, or offer to draw, or lift up any weapon againſt him, being in the execution of his office, on any pretence whatſoever, every ſuch perſon being convicted of any ſuch offence, by the ſentence of a court-martial, ſhall ſuffer death; and if any officer, mariner, ſoldier, or other perſon in the fleet, ſhall preſume to quarrel with any of his ſuperior officers, being in the execution of his office, or ſhall diſobey any lawful command of any of his ſuperior officers; every ſuch perſon being convicted of any ſuch offence, by the ſentence of a court-martial, ſhall ſuffer death, or ſuch other puniſhment, as ſhall, according to the nature and degree of his offence, be inflicted upon him by the ſentence of a court-martial.*

of quarrelling  
&c or uſing  
reproachful  
ſpeech;

23. *If any perſon in the fleet ſhall quarrel or fight with any other perſon in the fleet, or uſe reproachful or provoking ſpeeches or geſtures, tending to make any quarrel or diſturbance, he ſhall, upon being convicted thereof, ſuffer ſuch puniſhment as the offence ſhall deſerve, and a court-martial ſhall impoſe.*

of waſting  
ſtores, &c.

24. *There ſhall be no waſteful expence of any powder, ſhot, ammunition, or other ſtores in the fleet, nor any embezzlement thereof, but the ſtores and proviſions ſhall be carefully preſerved, upon pain of ſuch puniſhment to be inflicted upon the offenders, abettors, buyers, and receivers (being perſons ſubject to naval diſcipline) as ſhall be by a court-martial found juſt in that behalf.*

of burning  
any magazine  
or veſſel, &c.

25. *Every perſon in the fleet, who ſhall unlawfully burn or ſet fire to any magazine or ſtore of powder, or ſhip, boat, ketch, boy, or veſſel, or tackle or furniture thereunto belonging, not then appertaining to an enemy, pirate,*



or rebel, being convicted of any ſuch offence, by the ſentence of a court-martial, ſhall ſuffer death. not belonging to an enemy;

26. Care ſhall be taken in the conducting and ſteering of any of his Ma- of neglect in jeſty's ſhips, that through wilfulneſs, negligence, or other defaults, no ſhip be conducting ſtranded, or run upon any rocks or ſands, or ſplit or hazarded, upon pain, and ſteering; that ſuch as ſhall be found guilty therein, be puniſhed by death, or ſuch other puniſhment, as the offence by a court-martial ſhall be judged to deſerve.

27. No perſon in or belonging to the fleet ſhall ſleep upon his watch, or of ſleeping on negligently perform the duty impoſed on him, or forſake his ſtation, upon pain watch, &c. of death, or ſuch other puniſhment as a court-martial ſhall think fit to impoſe, and as the circumſtances of the caſe ſhall require.

28. All murders committed by any perſon in the fleet, ſhall be puniſhed of murder, with death by the ſentence of a court-martial.

29. If any perſon in the fleet ſhall commit the unnatural and deteſtable buggery, fin of buggery or ſodomy with man or beaſt, he ſhall be puniſhed with death by the ſentence of a court-martial.

30. All robbery committed by any perſon in the fleet, ſhall be puniſhed with robbery, death, or otherwiſe, as a court-martial, upon conſideration of circumſtances, ſhall find meet.

31. Every officer or other perſon in the fleet, who ſhall knowingly make falſe muſters, or ſign a falſe muſter or muſter-book, or who ſhall command, counſel, or procure the making or ſigning thereof, or who ſhall aid or abet any other perſon in the making or ſigning thereof, ſhall, upon proof of any ſuch offence being made before a court-martial, be caſhiered, and rendered incapable of further employment in his Maſteſty's naval ſervice.

32. No provoſt-martial belonging to the fleet ſhall reſuſe to apprehend not apprehending pri- any criminal, whom he ſhall be authorized by legal warrant to apprehend, ſoners and or to receive or keep any priſoner committed to his charge, or wilfully ſuffer permitting ef- him to eſcape, being once in his cuſtody, or diſmiſs him without lawful order, capes; upon pain of ſuch puniſhment as a court-martial ſhall deem him to deſerve; and all captains, officers, and others in the fleet, ſhall do their endeavour to detect, apprehend, and bring to puniſhment all offenders, and ſhall aſſiſt the officers appointed for that purpoſe therein, upon pain of being proceeded againſt, and puniſhed by a court-martial, according to the nature and degree of the offence.

33. If any flag officer, captain, or commander, or lieutenant belonging ſcandalous, to the fleet, ſhall be convicted before a court-martial of behaving in a ſcan- oppreſſive, or dalous, infamous, cruel, oppreſſive, or fraudulent manner, unbecoming fraudulent be- the character of an officer, he ſhall be diſmiſſed from his Maſteſty's ſervice. officers;

34. Every perſon being in actual ſervice and full pay, and part of the mutiny, de- ſertion, or crew in or belonging to any of his Maſteſty's ſhips or veſſels of war, who diſobedience ſhall be guilty of mutiny, deſertion, or diſobedience to any lawful com- on ſhore; mand, in any part of his Maſteſty's dominions on ſhore, when in actual ſer- vice relative to the fleet, ſhall be liable to be tried by a court-martial, and ſuffer



*suffer the like punishment for every such offence, as if the same had been committed at sea on board any of his Majesty's ships or vessels of war.*

committing on shore any of the crimes punishable by these articles.

35. If any person who shall be in the actual service and full pay of his Majesty's ships and vessels of war, shall commit upon the shore, in any place or places out of his Majesty's dominions, any of the crimes punishable by these articles and orders, the person so offending shall be liable to be tried and punished for the same, in like manner, to all intents and purposes, as if the said crimes had been committed at sea, on board any of his Majesty's ships or vessels of war.

Other crimes not capital, &c. to be punished according to the custom of the navy. No imprisonment to be longer than two years. Court martial not to try any offences,

36. All other crimes not capital committed by any person or persons in the fleet, which are not mentioned in this act, or for which no punishment is hereby directed to be inflicted, shall be punished according to the laws and customs in such cases used at sea.

III. Provided always, That no person convicted of any offence shall, by the sentence of any court-martial to be held by virtue of this act, be adjudged to be imprisoned for a longer term than the space of two years.

except those specified in the 5, 34, 35, articles, which shall not be committed within the jurisdiction of the admiralty.

IV. Provided also, That nothing in this act contained shall extend, or be construed to extend, to empower any court-martial to be constituted by virtue of this act, to proceed to the punishment or trial of any of the offences specified in the several articles contained in this act, or of any offence whatsoever (other than the offences specified in the fifth, thirty fourth, and thirty fifth of the foregoing articles and orders) which shall not be committed upon the main sea, or in great rivers only, beneath the bridges of the said rivers nigh to the sea, or in any haven, river, or creek within the jurisdiction of the admiralty, and which shall not be committed by such persons as at the time of the offence committed shall be in actual service and full pay in the fleet or ships of war of his Majesty, his heirs or successors, such persons only excepted, and for such offences only, as are described in the fifth of the foregoing articles and orders.

No soldier on board any transport to be tried by a naval court-martial.

V. Provided also, That nothing in this act contained shall extend, or be construed to extend, to empower any court-martial to be constituted by virtue of this act, to proceed to the punishment or trial of any land officer or soldier on board any transport ship, for any of the offences specified in the several articles contained in this act.

The admiralty empowered to grant commissions for holding courts-martial,

VI. And it is hereby further enacted, That from and after the twenty fifth day of *December*, one thousand seven hundred and forty nine, the lord high admiral of *Great Britain* or the commissioners for executing the office of lord high admiral of *Great Britain* for the time being, shall have full power and authority to grant commissions to any officer commanding in chief any fleet or squadron of ships of war, to call and assemble courts-martial, consisting of commanders and captains; and that in case any officer commanding in chief any fleet or squadron of ships of war, (who shall be authorized by the lord high admiral,

commander in chief, dying, &c. the next



ral, or the commissioners for executing the office of lord high in command  
admiral for the time being, to call and assemble courts-martial to hold  
in foreign parts) shall happen to die, or be recalled, or removed courts-mar-  
ed from his command, then the officer upon whom the com- tial.  
mand of the said fleet or squadron shall devolve, and so, from  
time to time, the officer who shall have the command of the  
fleet or squadron, shall have the same power to call and assemble  
courts-martial, as the first commander in chief of the said fleet  
or squadron was invested with.

VII. Provided always, and it is hereby enacted and declared, Officer next in  
That no commander in chief of any fleet or squadron of his command  
Majesty's ships, or detachment thereof, consisting of more than where there  
five ships, shall preside at any court-martial in foreign parts, but are 5 ships, to  
that the officer next in command to such officer commanding preside at  
in chief, shall hold such court-martial, and preside thereat; any courts-mar-  
law, custom, or usage to the contrary notwithstanding. tial in foreign  
parts.

VIII. And it is hereby further enacted, That from and after Commanders  
the twenty fifth day of *December*, one thousand seven hundred in chief to  
and forty nine, in case any commander in chief in any fleet or empower the  
squadron of his Majesty's ships or vessels of war in foreign parts, commanders  
shall detach any part of such fleet or squadron, every commander of a squadron  
in chief shall, and he is hereby authorized and required, by on separate  
writing under his hand, to empower the chief commander of the service to  
squadron or detachment so ordered on such separate service (and hold courts-  
in case of his death or removal, the officer to whom the com- martial.  
mand of such separate squadron or detachment shall belong) to  
hold courts-martial, during the time of such separate service, or  
until the commander of the said detachment for the time being  
shall return to his commander in chief, or shall come under the  
command of any other his superior officer, or return to *Great*  
*Britain* or *Ireland*.

IX. Provided always, and it is hereby further enacted, That If five or more  
if any five or more of his Majesty's ships or vessels of war, shall ships meet in  
happen to meet together in foreign parts, then and in such case, foreign parts  
it shall be lawful for the senior officer of the said ships or vessels the senior of-  
to hold courts martial, and preside thereat, from time to time, ficer to hold  
as there shall be occasion, during so long time as the said ships courts-martial  
or vessels of war, or any five or more of them, shall continue  
together.

X. Provided nevertheless, and be it also enacted, That where Where the  
any material objection occurs, which may render it improper third officer  
for the person who is next in command to the senior officer or in command  
commander in chief of any fleet or squadron of his Majesty's to preside.  
ships of war in foreign parts to hold courts-martial, or preside  
thereat, in such case it shall be lawful for the lord high admiral,  
or commissioners for executing the office of lord high admiral  
for the time being, as also the commander in chief of any such  
fleet or squadron of his Majesty's ships in foreign parts, respec-  
tively to appoint the third officer in command to preside at, or  
hold such court-martial.

XI. And it is hereby further enacted, That from and after  
the



The admiral-  
ty impowered  
to appoint of-  
ficers in the  
ports of Great  
Britain, &c.  
to hold courts-  
martial.

the twenty fifth day of *December*, one thousand seven hundred and forty nine, it shall be lawful for the lord high admiral of *Great Britain*, or the commissioners for executing the office of lord high admiral for the time being, and they are hereby respectively authorized, from time to time, as there shall be occasion, to direct any flag officer, or captain of any of his Majesty's ships of war, who shall be in any port of *Great Britain* or *Ireland*, to hold courts-martial in any such port, provided such flag officer or captain be the first, second, or third in command of such port, as shall be found most expedient, and for the good of his Majesty's service; and such flag officer or captain, so directed to hold courts-martial, shall preside at such court-martial; any thing herein contained to the contrary notwithstanding.

Court-martial  
not to consist  
of more than  
23, nor less  
than 5 officers.

XII. And it is hereby further enacted, That from and after the twenty fifth day of *December*, one thousand seven hundred and forty nine, no court-martial, to be held or appointed by virtue of this present act, shall consist of more than thirteen, or of less than five persons, to be composed of such flag officers, captains, or commanders then and there present, as are next in seniority to the officer who presides at the court-martial.

The officer  
not to direct  
the particular  
number.

XIII. Provided always, and be it enacted by the authority aforesaid, That nothing herein contained shall extend, or be construed to extend, to authorize or impower the lord high admiral, or the commissioners for executing the office of lord high admiral, or any officer impowered to order or hold courts-martial, to direct or ascertain the particular number of persons of which any court-martial, to be held or appointed by virtue of this present act, shall consist.

Where there  
are 3 post  
captains, the  
president to  
call in com-  
manders un-  
der that rank.

XIV. Provided always, and it is hereby enacted and declared, That in case any court-martial shall, by virtue of this act, be appointed to be held at any place where there are not less than three, nor yet so many as five officers of the degree and denomination of a post captain, or of a superior rank to be found, then it shall be lawful for the officer, at the place appointed for holding such court-martial, who is to preside at the same, to call to his assistance as many of the commanders of his Majesty's vessels, under the rank and degree of a post captain, as, together with the post captains then and there present, will make up the number of five, to hold such court-martial.

Penalty if a  
member of the  
court go on  
shore, after  
trial is begun.

XV. And it is hereby further enacted, That from and after the twenty fifth day of *December*, one thousand seven hundred and forty nine, no member of any court-martial, after the trial is begun, shall go on shore till sentence be given, but remain on board the ship in which the court shall first assemble, except in case of sickness, to be judged of by the court, upon pain of being cashiered from his Majesty's service; nor shall the proceedings of the said court be delayed by the absence of any of its members, provided a sufficient number doth remain to compose the said court, which shall and is hereby required to sit from day to day (*Sunday* always excepted) until the sentence be given.

Proceedings  
not to be de-  
layed.

XVI. And



XVI. And it is hereby further enacted, That from and after the twenty fifth day of *December*, one thousand seven hundred and forty nine, upon all trials of offenders by any court-martial, all the officers present who are to constitute the said court-martial, shall, before they proceed to such trial, take such oath as is herein after-mentioned, upon the holy evangelists, before the court; which oath the judge advocate, or his deputy, or the person appointed to officiate as such, is hereby authorized and required to administer in the words following (that is to say)

Officers composing a court-martial to be sworn.

**I** A. B. do swear, That I will duly administer justice, according to the articles and orders established by an act passed in the twenty second year of the reign of his majesty King George the Second, for amending, explaining, and reducing into one act of parliament, the laws relating to the government of his Majesty's ships, vessels, and forces by sea, without partiality, favour, or affection; and if any case shall arise, which is not particularly mentioned in the said articles and orders, I will duly administer justice according to my conscience, the best of my understanding, and the custom of the navy in the like cases; and I do further swear, That I will not upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required by act of parliament.

The oath.

So help me God.

And so soon as the said oath shall have been administered to the respective members, the president of the court is hereby authorized and required to administer to the judge advocate, or the person officiating as such, an oath in the following words:

Judge advocate to be sworn.

**I** A. B. do swear, That I will not upon any account at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required by act of parliament.

So help me God.

XVII. And it is hereby further enacted, That from and after the twenty fifth day of *December*, one thousand seven hundred and forty nine, in case any person in the fleet, being called upon to give evidence at any court-martial, shall refuse to give his evidence upon oath, or shall prevaricate in his evidence, or behave with contempt to the court, it shall and may be lawful for such court-martial to punish every such offender by imprisonment, at the discretion of the court, such imprisonment not to continue longer than three months, in case of such refusal or prevarication, nor longer than one month in the case of such contempt; and that all and every person and persons who shall commit any wilful perjury, in any evidence or examination upon oath at any such court-martial, or who shall corruptly procure or suborn any person to commit such wilful perjury, shall and

Penalty of refusing to give evidence, or prevaricating, and of contempt to the court;

of perjury, or subornation.



5 Eliz. c. 9.

2 Geo. 2. c. 25.

The offence  
only to be set  
forth in in-  
formation, &c.

Report to be  
made to the  
admiralty,  
&c. before  
sentence of  
death, except  
in cases of  
mutiny.

and may be prosecuted in his Majesty's court of *King's Bench*, by indictment or information; and every issue joined in any such indictment or information shall be tried by good and lawful men of the county of *Middlesex*, or such other county as the said court of *King's Bench* shall direct; and all and every person and persons, being lawfully convicted upon any such indictment or information shall be punished with such pains and penalties, as are inflicted for the like offences respectively by two acts of parliament, the one made in the fifth year of the reign of Queen *Elizabeth*, intituled, *An act for punishment of such persons as shall procure or commit any wilful perjury*; and the other made in the second year of the reign of his present Majesty, intituled, *An act for the more effectual preventing and further punishment of forgery, perjury, and subornation of perjury; and to make it felony to steal bonds, notes, or other securities for payment of money.*

XVIII. And be it further enacted by the authority aforesaid, That in every information or indictment to be prosecuted by virtue of this act for any such offence, it shall be sufficient to set forth the offence charged upon the defendant, without setting forth the commission or authority for holding the court-martial, and without setting forth the particular matter tried or to be tried, or directed or intended to be tried before such court.

XIX. And it is hereby further enacted, That from and after the twenty fifth day of *December*, one thousand seven hundred and forty nine, no sentence of death given by any court-martial held within the narrow seas (except in cases of mutiny) shall be put in execution till after the report of the proceedings of the said court shall have been made to the lord high admiral, or the commissioners for executing the office of lord high admiral, and his or their directions shall have been given therein; and if the said court shall have been held beyond the narrow seas, then such sentence of death shall not be carried into execution but by order of the commander of the fleet or squadron wherein sentence was passed; and in cases where sentence of death shall be passed in any squadron, detached from any other fleet or squadron upon a separate service, then such sentence of death (except in cases of mutiny) shall not be put in execution, but by order of the commander of the fleet or squadron from which such detachment shall have been made, or of the lord high admiral, or commissioners for executing the office of lord high admiral; and in cases where sentence of death shall be passed in any court-martial held by the senior officer of five or more of his Majesty's ships, which shall happen to meet together in foreign parts pursuant to the power herein before given, then such sentence of death (except in cases of mutiny) shall not be carried into execution but by order of the lord high admiral, or commissioners for executing the office of lord high admiral.

XX. And be it further enacted and declared, That from and after the twenty fifth day of *December*, one thousand seven hun-



hundred and forty nine, the judge advocate of any fleet for the time being, or his deputy, shall have full power and authority, and is hereby required to administer an oath to any witnesses at any trial by court-martial; and in the absence of the judge advocate and his deputy, the court-martial shall have full power and authority to appoint any person to execute the office of judge advocate.

Judge advocate to administer oath to witnesses.

XXI. And be it further enacted by the authority aforesaid, That from and after the twenty fifth day of *December*, one thousand seven hundred and forty nine, all the powers given by the several articles and orders established by this act, shall remain and be in full force with respect to the crews of such of his Majesty's ships as shall be wrecked, or be otherwise lost or destroyed; and all the command, power, and authority given to the officers of the said ship or ships, shall remain and be in full force as effectually as if such ship or ships to which they did belong were not so wrecked, lost, or destroyed, until they shall be regularly discharged from his Majesty's further service, or removed into some other of his Majesty's ships of war, or until a court-martial shall be held, pursuant to the custom of the navy in such cases, to enquire into the causes of the loss of the said ship or ships: and if upon such enquiry it shall appear by the sentence of the court-martial that all, or any of the officers or seamen of the said ship or ships did their utmost to preserve, get off, or recover the said ship or ships, and since the loss thereof have behaved themselves obediently to their superior officers, according to the discipline of the navy and the said articles and orders herein before established, then all the pay and wages of the said officers and seamen, or of such of them as shall have done their duty as aforesaid, shall continue and go on, and be paid to the time of their discharge or death; or if they shall be then alive, to the time of the holding of such court-martial, or removal into some other of his Majesty's ships of war, and every such officer and seaman of any of his Majesty's ships of war, who after the wreck or loss of his ship, shall act contrary to the discipline of the navy, and the several articles and orders herein before established, or any of them, shall be sentenced by the said court-martial, and punished as if the ship to which he did belong was not so wrecked, lost, or destroyed.

Articles to be in force with respect to crews of ships lost or destroyed.

The pay of such ships reserved.

XXII. And be it further enacted, That from and after the said twenty fifth day of *December*, one thousand seven hundred and forty nine, all the pay and wages of such officers and seamen of any of his Majesty's ships as are taken by the enemy, and upon enquiry at a court-martial shall appear by the sentence of the said court to have done their utmost to defend the said ship or ships, and since the taking thereof, to have behaved themselves obediently to their superior officers, according to the discipline of the navy, and the said articles and orders herein before established, shall continue and go on, and be paid, from the time of their being so taken, to the time of the holding of such court-martial, or until they shall be regularly discharged from his Majesty's service, or removed into some other of his

The pay of the officers and men taken by the enemy, who have behaved well, reserved.



Majesty's ships of war, or (if they shall die in captivity, or not live to the time of the holding of such court-martial) to the time of their death, in such manner, and not otherwise, as if the said ship or ships to which they did belong respectively, was not, or were not so taken.

No person not flying from justice, to be tried, unless complaint in writing be made to the admiralty, &c.

or a court be ordered within three years, or within one year after the return of the ship or offender.

XXIII. Provided always, and be it further enacted, That no person or persons not flying from justice, shall be tried or punished by any court-martial for any offence to be committed against this act, unless the complaint of such offence be made in writing to the lord high admiral, or to the commissioners for executing the office of lord high admiral for the time being, or any commander in chief of his Majesty's squadrons or ships empowered to hold courts-martial, or unless a court-martial to try such offender shall be ordered by the said lord high admiral, or the said commissioners, or the said commander in chief, either within three years after such offence shall be committed, or within one year after the return of the ship, or of the squadron, to which such offender shall belong, into any of the ports of *Great Britain or Ireland*; or within one year after the return of such offender into *Great Britain or Ireland*.

Penalty on officers receiving on board goods.

XXIV. *And whereas by the said act, intituled, An act for the more effectual suppressing of piracy; it is amongst other things enacted in the following words, That the said captain, commander, or other officer of the said ship or vessel of war, and all and every the owners and proprietors of such goods and merchandizes, put on board such ship or vessel of war as aforesaid, shall lose, forfeit, and pay the value of all and every such goods and merchandizes so put on board as aforesaid; one moiety of such full value to such person or persons as shall make the first discovery, and give information of or concerning the said offence; the other moiety of such full value, to and for the use of Greenwich Hospital; all which forfeitures shall and may be sued for and recovered in the high court of admiralty: now for making the said in part recited act more useful and effectual, be it enacted by the authority aforesaid, That from and after the twenty fifth day of December, one thousand seven hundred and forty nine, if any captain, commander, or other officer of any of his Majesty's ships or vessels, shall receive on board, or permit, or suffer to be received on board such ship or vessel, any goods or merchandizes, contrary to the true intent and meaning of the eighteenth article in this act before-mentioned and hereby enacted, every such captain, commander, or other officer shall, for every such offence, over and above any punishment inflicted by this act, forfeit and pay the value of all and every such goods and merchandizes so received or permitted, or suffered to be received on board as aforesaid, or the sum of five hundred pounds of lawful money of *Great Britain*, at the election of the informer, or person who shall sue for the same, so that no more than one of these penalties or forfeitures shall be sued for and recovered by virtue of this and the said in part recited act, or either of them, against the same person, for one and the same offence; one moiety of which penalties or forfeitures*



tures shall be forfeited and paid to the person who shall inform or sue for the same, and the other moiety thereof, to and for the use of the royal hospital at *Greenwich*; which forfeiture shall be sued for, and recovered by action of debt, bill, plaint, or information, in any of his Majesty's courts of record at *Westminster*, or in the high court of admiralty, at the election of the informer, or person who shall sue for the same; and the court shall award such costs to the parties, as shall be just; and in all cases where judgement or sentence shall be given against any such offender, the court where such judgement or sentence shall be given, shall, with all convenient speed, certify the same to the lord high admiral, or to the commissioners for executing the said office.

Application of the forfeiture.

Method of recovery.

The court to certify to the admiralty the judgement.

XXV. Provided always, That nothing in this act contained, shall extend, or be construed to extend to take away from the lord high admiral of *Great Britain*, or the commissioners for executing the office of lord high admiral of *Great Britain*, or any vice admiral, or any judge or judges of the admiralty, or his or their deputy or deputies, or any other officers or ministers of the admiralty, or any others having or claiming any admiral power jurisdiction, or authority within this realm, or any other the King's dominions, or from any person or court whatsoever, any power, right, jurisdiction, pre-eminence, or authority, which he or they, or any of them, lawfully hath, have, or had, or ought to have and enjoy, before the making of this act, so as the same person shall not be punished twice for the same offence.

Limitation of the powers of this act.

XXVI. Provided nevertheless, and be it enacted, That the repeal of the said before recited statutes, or any part thereof, or any thing herein contained, shall not extend, or be deemed to extend to discharge or avoid, or prevent any prosecution or suit commenced, or at any time hereafter to be commenced against any person or persons, for any offence committed on or before the said twenty fifth day of *December*, one thousand seven hundred and forty nine, or to be committed against the said statutes, or any part or parts thereof, but that all persons who have been or shall, before the said twenty fifth day of *December*, be guilty of any such offence, shall and may be prosecuted, sued, condemned, and punished for the same, as well after as before the said twenty fifth day of *December*, as if the said statutes had not been repealed.

Repeal of the recited statutes not to avoid prosecutions for offences committed on or before 25 Dec. 1749.

#### CAP. XXXIV.

An act for enlarging the term and powers granted by an act made in the third year of the reign of his present Majesty, intituled, *An act for making a new road, and for repairing and amending the ancient road between the towns of Wisbech and March, in the isle of Ely and county of Cambridge.*

*The act 3 Geo 2. c. 24. continued for 21 years.*

#### CAP. XXXV.

An act for repairing and widening the road leading from the town of Kingston upon Thames, in the county of Surry, to a place called Sheet-bridge,