

ARMY (MILITIA BALLOT.)

RETURN to an Address of the Honourable The House of Commons, dated 26th July 1875:—for, "COPY of a MEMORANDUM, prepared for the War Office in December 1870, being the previous History and Objections against that Form of MILITARY CONSCRIPTION known as BALLOT for the MILITIA, together with the various APPENDICES thereto."

War Office, 29 July, 1875.

GATHORNE HARDY.

MEMORANDUM.

The Secretary of State, desiring information supplementary to what has been elsewhere printed* on the subject of "Military Conscription" and "Suggestions" upon the "Reorganisation of the Auxiliary Forces," the following memorandum is submitted for his consideration:—

PART I.—MILITARY CONSCRIPTION.

1. In dealing with the subject, it is necessary to bear in mind two fundamental principles of constitutional law:

The first, that the Crown has an inherent right to the service of all men to defend the realm, under which prerogative seafaring persons can be lawfully impressed to man the fleets (as the first line), and other able-bodied men (with few exceptions) to defend the coast or shores (as the second line of defence), the Army not being (originally) a constitutional force.

The second principle—viz: that every free man has an absolute right to abide in his own home, so that no authority save that of Parliament can send him out of the kingdom (even to Ireland or the Channel Island), against his will.

Further, it must be borne in mind that, as the first principle (on which the militia system rests) may be so exercised, by a conscription for the Army, as to violate the second, Parliament has very jealously watched the exercise of the prerogative.

2. It will therefore be necessary to pursue the inquiry by dividing the military forces into:

(a.) The Regular Army, the offensive force, which can, and

(b.) The Militia, or defensive force, which cannot be sent upon foreign service; tracing very briefly the history of conscription, so far as it has hitherto been used in England, for recruiting either force, and then submitting for consideration the question, whether it is expedient again to resort to conscription, with or without substitution, to recruit either the offensive or defensive forces of the Crown as these are at present constituted.

3. (a.) With regard to conscription for the Regular Army, there is little to be written, for it is, perhaps, needless to remark that formerly one of the great oppressions which the people suffered from was impressment for military service abroad; but from the reign of Queen Anne down to the year 1780, conscription was resorted to, with the sanction of Parliament, against the criminal and vagrant classes to supply recruits to the Regular Army for war service abroad, and that during the Peninsular War, without Parliamentary sanction, criminals were pardoned by the Crown upon condition of their entering and serving abroad with the Army.

4. (b.) Before this conscription for the Army had been abandoned, ballot was introduced into the militia system with very doubtful advantage. In 1757, when the militia law was amended, the power of raising men for three years' service by conscription was given to the Crown; but this mea-

sure, though readily passed by Parliament, received no favour from the country, and failed in producing conscripts. Early in the ensuing Session a Bill to explain and enforce the former Act was brought and lingered in Parliament from the 9th December to the 20th June. The country gentlemen did not readily come forward, and advertised meetings were held to obtain their voluntary offers of service as commissioned officers.

5. To relieve individuals from the pressure of the ballot, parishes were permitted to provide volunteers or (in other words) substitutes, or to fine in 10*l.* out of the local rates; but notwithstanding this relief, only "some progress" in certain counties, and "little progress" in others, was made in establishing the militia. So that in April 1758 another Bill to enforce the execution of the law became necessary.

6. This militia scheme met with no favour in the country. The people rose against the conscription, and their hostility proceeded to such an extremity in the north of England that, at the York Spring Assizes for 1758, four persons obstructing the Militia Acts, were convicted and some of them executed for high treason.

7. It was under these unfavourable auspices that the first proclamation for "embodied" service was issued and communicated to Parliament by the Crown in May 1759; another enabling Act (setting forth that the speedy carrying into execution the militia law was most essentially necessary to the peace and security of the kingdom) being passed in December following.

8. The ultimate result as to the number of men raised is shown by the returns: The quota fixed by the Act was 32,100 men, but of these, in July 1759, only 17,436 were raised (6,280 being in embodied service), and in December 1760, only 24,093, Lord Barrington (who prepared the Parliamentary estimate) having recorded that they were almost all substitutes, and that any success attributed to the scheme was due to the fact that such officers as joined were "men of the first nobility and gentry, full of spirit and fond of the thing—their rank and authority having great weight with the common men."

9. Such, then, was the initiation of militia ballot or conscription, and it will be sufficient to trace its subsequent history from 1802 till 1810, when, in the midst of the Peninsular War, the Ministers of the Crown (with the sanction of Parliament) put a stop to its operations, except to recruit the local militia. The subject will be best explained by tracing the ballot, with reference, first to the General Militia Act of 1802, and then to the subsequent measures passed successively for recruiting the offensive and defensive forces by the administrations of:

(c) Mr. Addington, in 1803.

(d) Mr. Pitt, in 1804-5

(e) Lord Grenville, 1806-7.

(f) Lord Castlereagh, in 1808-14.

10. The General Militia Act (42 Geo. 3, c. 90) was passed to raise by ballot a militia force of 49,963 men between the ages of 18 and 45 years, a statutory quota being fixed on each county, and apportioned upon districts. The Act permitted men to volunteer for the service at a 6*l.* bounty (paid by the parish), but a balloted man had either to serve, or to find a substitute, or to pay a penalty of 10*l.*, receiving half the price of a substitute from the parish rates if he possessed less than 500*l.* Failing the production of men, the district was fined 10*l.* for each man deficient on the quota.

11. The duration of service was, for a balloted man, five years; but for a volunteer or substitute, five years, or such further time,

as the force should be embodied. The area of embodied service was England, which service the militia could only be required to give upon the occurrence, or imminent danger, of invasion or of rebellion, the Crown summoning Parliament forthwith, should it not be sitting. The men could not be raised by beat of drum, nor could they pass from the Militia to the Army.

12. All the subsequent measures of the several administrations were based upon the machinery which this General Militia Act had introduced for making the population available for service, and, upon their default, the districts responsible in pecuniary amercements.

13. (c.) The measures of Mr. Addington's Administration were those introduced, 1st, to meet invasion; and, 2nd, to create an Army of Reserve.

14. The first Act (43 Geo 3, c. 55), called the Defence Act, secured returns, through the lords lieutenant, of all men between 15 and 60 capable or willing to serve the Crown. Officers were to be appointed by the lords lieutenant, or, on default, by the Crown, to train persons willing to be trained to the use of arms. This Act was not, therefore, one of conscription.

15. The second Act (43 Geo. 3, c. 96), amending the last, and called the "Levy en Masse" Act, provided for returns being made to the Crown, through the lords lieutenant, of all men between 17 and 55 capable of military service, or of acting as special constables, the returns being divided into four classes. All (save exempted persons) were liable to give personal service, the persons in Class 4 as special constables. The officers were to be appointed by the lords lieutenant, and the training was to take place at home until actual invasion or the appearance of an enemy in force on the coast, when the force, or such part of it as the Crown should see fit, was to be embodied and merged into the regular or militia forces serving in Great Britain. This was an Act of conscription for home defence.

16. The only escape from this and the militia ballot was service in the volunteer force, which had been raised under the authority of Statutes passed in the previous war. Of this escape a vast number of persons liable to conscription availed themselves, and hence the fear of conscription was the origin of that large volunteer army which was afterwards consolidated under the Act of 1804 (Geo. 3, c. 51).

17. The Army of Reserve Act, 1803 (43 Geo. 3, c. 82) was an attempt to raise men by ballot for defensive service only, which, however, had to be given in the Army and not in the Militia. It purported to establish an army of reserve, and, by conscription, to raise an army force of 34,000 men from counties on a fixed quota. The persons liable to serve were the same in age and status as the militia, but the standard of height was reduced to 5 ft. 2 in. A balloted man might provide a substitute; but if he made default in this, or in appearing to serve, a fine of 20*l.* was levied on him, and the like sum upon the district for each man deficient in the quota.

18. The term of this service was, for a balloted man, five years only; but for a substitute or volunteer five years, and six months after a definitive peace with France. The area of service was the United Kingdom and the Channel Islands, "but not elsewhere." The men were allowed to volunteer for general service in the Army, but counties were not bound to supply the vacancies so caused. The service differed little from that of the militia, but the command and organisation of the force was directly under the Crown,

* I have given references rather than repetition, as I understood such to be Mr. Cardwell's desire.