

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S51001

SPONSOR: STEWART-COUSINS

TITLE OF BILL:

An act to amend the penal law, the general business law, the executive law, the civil practice law and rules and the state finance law, in relation to licensing and other provisions relating to firearms

PURPOSE:

The United States Supreme Court's decision in New York State Rifle & Pistol Association, Inc., v. Bruen, et al. struck down a 100-year law requiring applicants for conceal carry gun permits to show "proper cause". It deemed New York State's existing law unconstitutional because the law afforded too much discretion to the State and its licensing officers in determining "proper cause." As a result of this decision, the State must amend the State's laws on concealed carry permits and take other steps to address the consequences of the Supreme Court decision and the resulting increase in licenses and in the number of individuals who will likely purchase and carry weapons in New York State.

The proposed legislation changes the concealed carry permitting process and adds specific eligibility requirements, including the taking and passing of firearm training courses for permit applicants. It will enable the State to regulate and standardize training for license applicants. The legislation also identifies sensitive locations where it is prohibited to carry a concealed weapon and establishes that private property owners must expressly allow a person to possess a firearm, rifle, or shotgun on their property. Individuals who carry concealed weapons in sensitive locations or in contravention of the authority of an owner of private property will face criminal penalties. The State will have oversight over background checks for firearms, run regular checks on license holders for criminal convictions, and create a state-wide license and ammunition database. The legislation also strengthens and clarifies the law relating to the sale of body armor and the safe storage of firearms. The bill will take effect on September 1, 2022. An appeals board will be created for those applicants whose license is denied, which will take effect on April 1, 2023.

SUMMARY OF PROVISIONS:

Section 1 of this bill amends section 400.00 of the penal law: to define good moral character, provide new eligibility requirements, which include passing a firearms safety course; to create a new concealed carry license under 400.00 2(f) with additional disqualifying offenses and eligibility requirements; to create an appeals process for applicants who are denied, or licenses which are revoked; to require concealed carry 2(f) licenses to recertify and renew their license after three years; to provide that conduct that would result in a denial of a license would also operate as a ground for revocation of a license, and a material false statement would result in revocation of a license, issued to a licensee in writing.

Section 2 amends section 837 of the executive law, giving the Division of Criminal Justice Services (DCJS) the new duty and function of collaborating with the Division of State Police to certify instructors and create course and training standards for a firearms safety course and live-fire range training. DCJS will work with the State Police to create an appeals board.

Section 3 amends the executive law by adding a new section 235, giving the State Police the responsibility of collaborating with DCJS to promulgate the policies and procedures for firearms safety and training. It also requires the State Police to work with DCJS in creating an appeals board.

Section 4 amends the penal law by adding a new section 265.01-e, making a comprehensive list of all the sensitive places where the possession and carrying of firearms, rifles, or shotguns are prohibited. This section makes it a class E felony to possess a firearm, rifle, or shotgun in an enumerated prohibited sensitive place. It also specifies the people who are exempt from this prohibition.

Section 5 amends the penal law by adding a new section 265.01-d, making it a class E felony to possess a firearm, rifle, or shotgun on private property where a property owner has not given an indication or expressly allowed a person to possess. It also specifies the people who are exempt from this prohibition.

Section 6 amends penal law section 265.20 by allowing a person to possess a pistol or revolver while undergoing live-fire range training with a qualified instructor.

Section 7 amends penal law section 400.02 by requiring DCJS to conduct a monthly check of licensees' records for criminal conviction, criminal indictment, mental health, extreme risk protection orders, orders of protection, and other records. This section also creates a statewide license and records database for the sales of ammunition.

Section 8 amends penal law section 400.03, providing that people who sell firearms or ammunition shall keep records of their sales in way approved by State Police.

Section 9 amends penal law section 265.45, promulgating new safe storage laws for rifles, shotguns, and firearms in vehicles.

Section 10 adds a new section 400.30 to the penal law, to specify that the enactment of this bill and its application will not prevent local law to be more restrictive.

Section 11 amends penal law section 270.20, replacing the former defined term "body vest" with a new definition of the term "body armor," which includes any product that is a personal protective body covering intended to protect against gunfire, and would include hard body armor.

Section 12 amends penal law section 270.21, changing the term "body vest" to "body armor" and prohibiting the purchase of body armor by individuals not engaged or employed in an eligible profession.

Section 13 amends penal law section 270.22, changing the term "body vest" to "body armor" and prohibiting the sale of body armor to individuals not engaged or employed in an eligible profession.

Section 14 amends section 396-eee of general business law, changing the term "body vest" to "body armor," and prohibiting the sale of body armor

to individuals not engaged or employed in an eligible profession.

Section 15 amends section 144-a of the executive law, changing the term "body vest" to "body armor."

Section 16 amends the executive law to add a new section 228, authorizing State police to run national instant criminal background checks and serve as a State point of contact.

Section 17 amends section 898 of the general business law to require dealers to submit a request to State police before receiving a background check.

Section 18 amends section 896 of the general business law to require firearm dealers to submit a request to State police before any firearm sale or transfer.

Section 19 amends section 400.03 of the penal law, requiring dealers and sellers to go through the State police to conduct background checks.

Section 20 adds a new section 400.06, requiring dealers to contact State police to conduct a national instant criminal background check. Failure to comply is a class A misdemeanor.

Section 21 adds a new section 99-pp to the finance law to create a "background check fund". This fund will be used to cover the costs associated with performing background checks.

Section 22 amends section 265.00 of the penal law to redefine "duly authorized instructor" as including people certified by DCJS.

Section 23 amends section 400.00 of the penal law to require licensing officials to notify licensees regarding important information concerning their responsibilities as a license holder. Licensees must receive a notification regarding the requirements for the safe storage of their firearm, rifle, or shotgun.

Section 24 amends section 265.00, to modify the definition for a rifle and shotgun.

Section 25, the severability clause, provides that if any part of this Act be adjudged by any court of competent jurisdiction to be invalid, such judgment would not invalidate the remainder of the Act.

Section 26 provides that the bill takes effect on the first day of September next succeeding the date on which it shall have become a law.

EXISTING LAW:

1. PL § 400.00 establishes the requirements for licenses to carry, possess, repair, and dispose of firearms.
2. PL § 265 establish the penalties of unlawful possession of firearms and other dangerous weapons.
3. PL § 400.02 establishes the creation of a statewide license and record database.
4. PL § 400.03 requires every "commercial transfer" of ammunition, including sales by firearms dealers and other ammunition vendors, to be preceded by a background check through a statewide license and record database.

5. PL § 270.20 establishes the penalties for unlawful wearing of a body vest.
6. PL § 270.21 establishes the penalties for unlawful purchase of a body vest.
7. PL § 270.22 establishes the penalties for unlawful sale of a body vest.
8. Gen Bus. L § 896 establishes the regulations concerning the operation of a gun show.
9. Gen Bus. L § 898 establishes the requirements for the private sale or disposal of firearms, rifles and shotguns.
10. Gen Bus. L § 396-eee establishes the penalties for unlawful sale or delivery of body vests.
11. Executive law § 144-a establishing the criteria for eligible professions for the purchase, sale, and use of body vests.
12. Executive law § 837 establishes the functions, powers, and duties of the division.

JUSTIFICATION

Modifying NYS Conceal Carry Application Process and Criteria

The proposed legislation creates a new licensing procedure that satisfies the requirements set forth by the United States Supreme Court decision in *New York State Rifle & Pistol Association, Inc., v. Bruen, et al.* Notably, this replaces the "proper cause" requirements of New York's current conceal carry law, with a new set of requirements that protects individuals' Second Amendment rights as determined by the Supreme Court. Under this bill, applicants who successfully meet New York's conceal carry license applications requirements will receive their license. The bill furthers the State's compelling interest in preventing death and injury by firearms. It addresses who may lawfully possess a firearm, the requirements for purchasing guns and ammunition, and the restrictions that may be imposed on the possession or carrying of guns. It contains enhanced screening of conceal carry license applicants (including in-person interviews, reviews of social media and other information necessary to evaluate the application). The bill includes a robust appeals process to ensure the system is administered consistently and fairly across the State, including a new requirement for written notices to applicant licensees for all denials and revocations. It provides recurring monthly checks of licenses statewide to identify those who become prohibited from possessing firearms and expands secure storage to prevent thefts of guns from cars.

Point of Contact: State-run Background Checks for Firearms

Efficient, effective, and thorough background checks are a vital component of ensuring public safety and guaranteeing that individuals can purchase guns without unreasonable delay. Background checks undertaken by states are typically more thorough than those conducted by the Federal Bureau of Investigation ("FBI"), which lacks access to crucial state-owned and local-owned records and databases that provide a fuller, more accurate assessment of an applicant's background. This legislation makes the State responsible for the administration of background checks relating to gun purchases, establishing New York as a "Point of Contact" state. State background checks can integrate additional essential information into the licensing process, including outstanding felony warrants, mental health records, domestic violence restraining orders,

and more updated criminal and disposition records. Research and institutional data shows that the practice of conducting firearm purchaser background checks through state or local agencies, as opposed to through the FBI, is associated with reduced firearm death rates. Thirteen states use a state or local point of contact for all firearm transfers. Other states use a state or local point of contact for handgun background checks only, using the FBI for background checks on long gun transfers.

Body Armor

Under existing Penal Law section 270.20, a "body vest" is defined as a bullet-resistant soft body armor. This bill changes "body vest" to "body armor" in order to apply to a broader array of protective equipment that is bullet resistant. During the mass shooting in Buffalo, the shooter was wearing a steel-plated vest which would not have been captured under the existing body vest definition.

Ammunition Background Checks

In practice, in most states, individuals can purchase ammunition without any background check or other restriction, often over the Internet. Thirteen states restrict access to ammunition by most or all people who cannot possess firearms (although the eligibility criteria for firearm possession is stronger than for ammunition possession in 3 states). Ammunition background checks and other regulations on the sale and transfer of ammunition are important ways to keep the public safe.

LEGISLATIVE HISTORY:

This legislation is new law. It also modifies provisions of law concerning body armor, enacted by chapter 210 of the laws of 2022.

BUDGET IMPLICATIONS:

State agencies can begin to implement changes with existing resources.

EFFECTIVE DATE:

This bill shall take effect September 1, 2022, provided to allow DCJS additional time for implementation, some sections will go into effect April 1, 2023.

Print or type in black ink only

PPB-3 (REV. 02/07)

STATE OF NEW YORK

PISTOL/REVOLVER LICENSE APPLICATION

NYSID NUMBER: _____ COUNTY OF ISSUE: _____

LICENSE NUMBER: _____

DATE OF ISSUE: MONTH _____ DAY _____ YEAR _____ EXPIRATION DATE: MONTH _____ DAY _____ YEAR _____

LAST NAME: _____ FIRST NAME: _____ MI: _____ MONTH: _____ DAY: _____ YEAR: _____ SEX: _____

RESIDENCE ADDRESS: _____ CITY, VILLAGE, TOWN AND STATE IF OTHER THAN NEW YORK: _____ DATE OF BIRTH: _____ ZIP CODE: _____

HGT (INS): _____ WT (LBS): _____ EYES: _____ HAIR: _____ RACE: _____ SOCIAL SECURITY NUMBER: _____ PRESENT OCCUPATION: _____ CITIZEN OF U.S.A. YES NO

EMPLOYED BY: _____ NATURE OF BUSINESS: _____ BUSINESS ADDRESS: _____

I HEREBY APPLY FOR A PISTOL/REVOLVER LICENSE TO: (Check one only) CARRY CONCEALED * POSSESS ON PREMISES
 * POSSESS/CARRY DURING EMPLOYMENT (* Premise address or place of employment must be provided)

STREET ADDRESS OR OTHER LOCATION: _____ CITY, VILLAGE, TOWN: _____ ZIP CODE: _____

A LICENSE IS REQUIRED FOR THE FOLLOWING REASON: _____

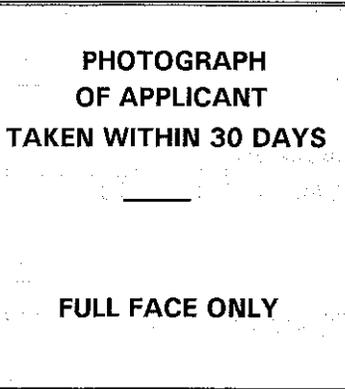
GIVE FOUR CHARACTER REFERENCES WHO BY THEIR SIGNATURE ATTEST TO YOUR GOOD MORAL CHARACTER

LAST, FIRST, MI	STREET ADDRESS	CITY, VILLAGE, TOWN	SIGNATURE

HAVE YOU EVER BEEN ARRESTED, SUMMONED, CHARGED OR INDICTED ANYWHERE FOR ANY OFFENSE, INCLUDING DWI (EXCEPT TRAFFIC INFRACTIONS)? YES NO IF YES, FURNISH THE FOLLOWING INFORMATION:

DATE	POLICE AGENCY	CHARGE	DISPOSITION - COURT AND DATE

- HAVE YOU EVER BEEN TERMINATED/DISCHARGED FROM ANY EMPLOYMENT OR THE ARMED FORCES FOR CAUSE? YES NO
- HAVE YOU EVER UNDERGONE TREATMENT FOR ALCOHOLISM OR DRUG USE? YES NO
- HAVE YOU EVER SUFFERED ANY MENTAL ILLNESS, OR BEEN CONFINED TO ANY HOSPITAL, PUBLIC OR PRIVATE INSTITUTION, FOR MENTAL ILLNESS? YES NO
- HAVE YOU EVER HAD A PISTOL LICENSE, DEALER'S LICENSE, GUNSMITH LICENSE, OR ANY APPLICATION FOR SUCH A LICENSE DISAPPROVED, OR HAD SUCH A LICENSE REVOKED OR CANCELLED? YES NO
- DO YOU HAVE ANY PHYSICAL CONDITION WHICH COULD INTERFERE WITH THE SAFE AND PROPER USE OF A HANDGUN? YES NO
- HAVE YOU EVER BEEN CHARGED, PETITIONED AGAINST, A RESPONDENT, OR OTHERWISE BEEN A SUBJECT OF A PROCEEDING IN FAMILY COURT? YES NO
- IF ANSWER TO ANY QUESTION IS YES, EXPLAIN HERE: _____



ANY OMISSION OF FACT OR ANY FALSE STATEMENT WILL BE SUFFICIENT CAUSE TO DENY THIS APPLICATION AND CONSTITUTES A CRIME PUNISHABLE BY FINE, IMPRISONMENT, OR BOTH.

I AM AWARE THAT THE FOLLOWING CONDITIONS AFFECT ANY LICENSE WHICH MAY BE ISSUED TO ME:

1. NO LICENSE ISSUED AS A RESULT OF THIS APPLICATION IS VALID IN THE CITY OF NEW YORK.
2. ANY LICENSE ISSUED AS A RESULT OF THIS APPLICATION WILL BE VALID ONLY FOR A PISTOL OR REVOLVER SPECIFICALLY DESCRIBED IN THE LICENSE PROPERLY ISSUED BY THE LICENSING OFFICER.
3. IF I PERMANENTLY CHANGE MY ADDRESS, NOTICE OF SUCH CHANGE AND MY NEW ADDRESS MUST BE FORWARDED TO THE SUPERINTENDENT OF THE STATE POLICE AND IN NASSAU COUNTY AND SUFFOLK COUNTY, TO THE LICENSING OFFICER OF THAT COUNTY, WITHIN 10 DAYS OF SUCH CHANGE.
4. ANY LICENSE ISSUED AS A RESULT OF THIS APPLICATION IS SUBJECT TO REVOCATION AT ANY TIME BY THE LICENSING OFFICER OR ANY JUDGE OR JUSTICE OF A COURT OF RECORD.

JURAT:
 SIGNED AND SWORN TO BEFORE ME

THIS _____ DAY OF _____, 20 _____

AT _____, NEW YORK

 SIGNATURE OF APPLICANT

 SIGNATURE OF OFFICER ADMINISTERING OATH

1. RIGHT THUMB	2. RIGHT FOREFINGER	3. RIGHT MIDDLE FINGER	4. RIGHT RING FINGER	5. RIGHT LITTLE FINGER
6. LEFT THUMB	7. LEFT FOREFINGER	8. LEFT MIDDLE FINGER	9. LEFT RING FINGER	10. LEFT LITTLE FINGER

PLAIN IMPRESSIONS TAKEN SIMULTANEOUSLY

LEFT FOUR FINGERS	THUMBS TAKEN TOGETHER	RIGHT FOUR FINGERS

IMPRESSIONS TAKEN BY: NAME RANK SHIELD DATE

APPLICANT'S SIGNATURE AND ADDRESS:

INVESTIGATION REPORT - ALL INFORMATION PROVIDED BY THIS APPLICANT HAS BEEN VERIFIED:

NAME RANK ORGANIZATION

SIGNATURE OF INVESTIGATING OFFICER

THIS APPLICATION IS APPROVED - DISAPPROVED (STRIKE OUT ONE)

THE FOLLOWING RESTRICTION(S) IS (ARE) APPLICABLE TO THIS LICENSE:

TITLE AND SIGNATURE OF LICENSING OFFICER

IF LICENSING OFFICER AUTHORIZES THE POSSESSION OF A PISTOL OR REVOLVER AT THE TIME OF ISSUE OF ORIGINAL LICENSE, FURNISH THE FOLLOWING INFORMATION:

MANUFACTURER	PISTOL OR REVOLVER	CALIBER	SERIAL NUMBER	MODEL	PROPERTY OF:

DUPLICATE OF THIS APPLICATION MUST BE FILED WITH THE SUPERINTENDENT OF STATE POLICE WITHIN 10 DAYS OF ISSUANCE AS REQUIRED BY PENAL LAW SECTION 400.00 SUBD. 5.

Massachusetts Laws, Statutes, etc.

THE LAWS AND LIBERTIES
OF MASSACHUSETTS

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With an Introduction by

MAX FARRAND

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THE
BOOK OF THE GENERAL
LAUUES AND LIBERTYES
CONCERNING THE INHABITANTS OF THE MASSACHUSETS
COLLECTED OUT OF THE RECORDS OF THE GENERAL COURT
FOR THE SEVERAL YEARS WHEREIN THEY WERE MADE
AND ESTABLISHED,

And now revised by the same Court and disposed into an Alphabetical order
and published by the same Authoritie in the General Court
held at Boston the fourteenth of the
first month *Anna*
1647.

*Who before their death possess the power, reflect the ordinance of God,
and they that resist receive to themselves damnation. Remains 13. 2.*



Printed according to order of the GENERAL COURT.
CAMBRIDGE.
1648.

And are to be sold at the shop of *Herculiah Vliet*
in Boston.

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TO OUR BELOVED BRETHREN AND NEIGHBOURS
the Inhabitants of the Massachusets, the Governour, Assistants
and Deputies assembled in the Generall Court of that
Jurisdiction with grace and peace in our
Lord Jesus Christ.

S O soon as God had set up Politicall Government among his people Israel hee gave them a body of lawes for judgement both in civil and criminal causes. These were breif and fundamental principles, yet withall so full and comprehensive as out of them clear deductions were to be drawne to all particular cases in future times.

For a Common-wealth without lawes is like a Ship without rigging and steeradge. Nor is it sufficient to have principles or fundamentalls, but these are to be drawn out into so many of their deductions as the time and condition of that people may have use of. And it is very unsafe & injurious to the body of the people to put them to learn their duty and libertie from generall rules, nor is it enough to have lawes except they be also just. Therefore among other priviledges which the Lord bestowed upon his peculiar people, these he calls them specially to consider of, that God was neerer to them and their lawes were more righteous then other nations. God was sayd to be amongst them or neer to them because of his Ordnaunces established by himselfe, and their lawes righteous because himselfe was their Law-giver: yet in the comparison are implied two things, first that other nations had something of Gods presence amongst them. Secondly that there was also somewhat of equitie in their lawes, for it pleased the Father (upon the Covenant of Redemption with his Son) to restore so much of his Image to lost man as whereby all nations are disposed to worship God, and to advance righteousness: which appears in that of the Apostle Rom. 1. 21. They knew God &c: and in the 2. 14. They did by nature the things contained in the law of God. But the nations corrupting his Ordinances (both of Religion, and Justice) God withdrew his presence from them proportionably whereby they were given up to abominable lusts Rom. 2. 21. Whereas if they had walcked according to that light & law of nature they might have been preserved from such moral evils and might have injoyed a common blessing in all their natural and civil Ordinances: now, if it might have been so with the nations who were so much strangers to the Covenant of Grace, what advantage have they who have interest in this Covenant, and may injoye the special presence of God in the puritie and native simplicitie of all his Ordinances by which he is so neer to his owne people. This hath been the small priviledge, and advantage to us in New-England that our Churches, and civil State have been planted, and growne up (like two twinnes) together like that of Israel in the wilderness by which wee were put in minde (and had opportunitie put into our hands) not only to gather our Churches, and set up the Ordinances of Christ Jesus in them according to the Apostolick patterne by such light as the Lord graciously afforded us: but also withall to frame our civil Politie, and lawes according to the rules of his most holy word whereby each do help and strengthen other (the Churches the civil Authoritie, and the civil Authoritie the Churches) and so both prosper the better without such emulation, and contention for priviledges or priority as have proved the misery (if not ruine) of both in some other places.

For this end about nine years since wee used the help of some of the Elders of our Churches to compose a modell of the Iudiciall lawes of Moses with such other cases as might be referred to them, with intent to make use of them in composing our lawes, but not to have them published as the lawes of this Jurisdiction: nor were they voted in Court. For that booke intitled The Liberties &c: published about seven years since (which containes also many lawes and orders both for civil & criminal causes, and is commonly (though without ground) reported to be our Fundamentalls that wee owne as established by Authoritie of this Court, and that after three years experience & generall approbation: and accordingly we have inserted them into this volume under the severall heads to which they belong yet not as fundamentalls, for divers of them have since been repealed, or altered, and more may justly be (at least) amended heerafter as further experience shall discover defects or inconveniences for Nihil simul natum et perfectum.

THE BOOK OF THE GENERAL LAQUES AND LIBERTYES CONCERNING &c:

FORASMUCH as the free fration of such Liberties, Immunities, priviledges as ha- mantie, civillite & christianitie call for as due to civite man in his place, & propo- tion, without impeachment & mansagement hath ever been, & ever will be the triangu- lity & stability of Churches & Common-wealths; & the denall or deprivall thereof the disturbance, if not ruine of both.

It is therefore ordered by this Court, & Authority thereof, That no mans life shall be taken away; no mans honour or good name shall be stayed; no mans person shall be arreſted, restrained, banished, diſmembered nor any wayes punished; no man shall be deprived of his wife or children; no mans goods or estate shall be taken away from him; nor any wayes indamaged under colour of law or countenance of Authority unless it be by the verue or equity of ſome expreſſe law of the Country warranting the ſame estab- liſhed by a General Court & ſufficiently published; or in caſe of the defect of a law in any particular caſe by the word of God. And in capital caſes, or in caſes concerning dif- membering or banishment according to that word to be judged by the General Court [1641]

Abilitie. All persons of the age of twenty one years, and of right understanding & memorie whether excommunicate, condemned or other, shall have full power and libertie to make their Wills & Testaments & other lawfull Alienations of their lands and estates. [1641] *See children.*

Actions. All Actions of debt, accounts, ſummes, and Actions of the caſe concerning debts and accounts ſhall henceforth be tryed where the Plaintiff pleaſeth; ſo it be in the jurisdic- tion of that Court where the Plaintiff, or Defendant dwelleth: unless by conſent un- der both their hands it appeare they would have the caſe tryed in any other Court. All other Actions ſhall be tryed within that jurisdiction where the caule of the Action doth arise. [1642]

1. It is ordered by this Court & Authority thereof, That every person impleading an- other in any court of Aſſiſants, or County court ſhall pay the ſum of ten ſhillings before his caſe be entered, unless the court ſee caule to admit any to ſue in forma pauperis. [1642]

2. It is ordered by the Authority aſſembled, That where the debt or damage recover- ed ſhall amount to ten pounds in every ſuch caſe to pay five ſhillings more, and where it ſhall amount to twenty pounds or upward there to pay ten ſhillings more then the ſaid ten ſhillings, which ſayd additions ſhall be put to the Judgement and Execution to be levied by the Marshall and accounted for to the Treasurer. [1647]

3. In all actions brought to any court the Plaintiff ſhall have liberty to withdraw his action or to be non ſuited before the Jurie have given in their verdict; in which caſe he ſhall alwayes pay full coſt and charges to the Defendants, and may afterward renew his ſute at another Court. [1641] *See Caſes. ſee Records.*

Age. It is ordered by this Court & the Authority thereof, that the age for paſſing away of lands, or ſuch kinde of hereditaments, or for giving of votes, verdicts or ſentences in any civil courts or cauſes, ſhall be twenty and one years: but in caſe of chuſing of Guardians, fourteen years. [1641 1647]

Ana-Baptiſts. Forasmuch as experience hath plentifully & often proved that ſince the ſayd miſſing of the Ana-baptiſts about a hundred years past they have been the Inceadaries of Common-wealths & the deſtroyers of persons in main matters of Religion, & the Troublers of Churches in moſt places where they have been, & that they who have held the baptizing of Infants ſilentiſſim, have usually held other errors or heresies together therewith (though as hereticks life to doe they have concealed the same untill they eſſied a fit advantage and opportunity to vent them by way of queshion or ſcruple) and ſuborned divers of this

The same might we say of this present Volume, we have not published it as a perfect body of law sufficient to carry on the Government established for future times, nor could it be expected that we should promiss such a thing. For if it be no disengagement to the wisdoms of that High Court of Parliament in England in four hundred years they could not so compile these laws, and regulate proceedings in Courts of Justice: but that they had still more work to do (being unſatisfied of Labors and Statutes) there can be no just cause to blame a poor Citizens nor their rules for a good, and well Government, that in eighteen years hath produced us more Brethren and Neighbours any caule, whether you look back upon our Native Country, or take your observation by other States, & Common wealths in Europe) to complain of such as you have employed in this service, for the time which hath been spent in making laws, and repealing and altering them so often, nor of the charge which the Country hath been put to for such occasions, the Civition gives you a satisfaction in the charge which the Country hath been put to for such occasions: Credit in Obedience.

Right Labors which were made successively in divers former years, we have reduced into several heads in an alphabetical method, thus so they might the more readily be found, & that the divers labors concerning one matter being placed together the scope and intent of the whole and of every of them might the more easily be apprehended: we must confess we have not been so exact in placing every law under its most proper title as we might, and have had many complaints for want of such a volume to satisfy your longing expectation, and forsook you might readily for the rule which you ought to walk by. And in this (we hope) we will find satisfaction, by the help of the references under the several heads, and the Table which we have not put them into this book, but they remain still in force, and are to be seen in the body of the Records of the Court, but all general laws not here inserted nor mentioned to be full of force are to be accounted repealed.

You have talked us from amongst the rest of our Brethren and given us power to make these laws: we must now tell upon you to see them executed: remembering that all is not promised should obey that you had no hand in calling us to this work, and therefore think yourself not bound to obedience &c. We answer that a subject, or implicit consent is of itself force in this caſe, as an expreſſe precedent power: for in putting your persons and estates into the protection and way of justice held forth and exercised within this jurisdiction, you are actually submit to this Government and to all the wholesome laws thereof, and so in the common regard in all nations and that upon this Maxim. Qui tenet communum tenet debet et vice versa. If any of you meet with some law that seems not to tend to your particular benefit, you must consider that laws are made with respect to the whole people, and not to each particular person: and obedience is them much yielded with respect to the common benefit, not as to private advantage, and as thou yielded obedience to the law for common good, but to thy duty: thus must we be content to bear some other law for thy good, though to thy damage.

That distinction which is put between the Labors of God and the labors of men, becomes a fence to many as it is misapplied in the ordering of their obedience to civil Authority, for when the Authority is of God and that in way of an Ordinance Rom. 13. 1. and when the administration of it is according to deductions, and rules gathered from the word of God, and good (according to those principles) but there is no humane law that tendeth to wound an Ordinance which all are to submit unto and that for conscience sake. Rom. 13. 5.

By order of the General Court.

INCREASE NOWELL SECR

fourth day of the first month and the last fourth day of the eight month, from year to year [1633 1634 1636 1638]

Ferries.

For setting all common ferries in a right course both for the Passengers and Owners, it is ordered by this Court and Authority thereof;

That whosoever hath a Ferry granted upon any passage shall have the sole liber- tie for transporting passengers from the place where such Ferrie is granted, to any o- ther ferrie-place where ferrie-boats use to land, and any ferrie-boat that shall land pas- sengers at any other Ferrie may not take passengers from thence if the ferrie-boat of the place be ready. Provided this order shall not prejudice the liberie of any that do use to passe in their own or neighbours canoes or boats to their ordinary labour or busines. Also Ferriemen are allowed to take double pay at such common Ferries after day light is done, and those that make not present pay, being required, shall give their names in writ- ting or a pawn to the Ferrieman, or else he may complain of such before a Magistrate to get satisfaction. And it is ordered that all the Magistrates and such as are, or from time to time shall be chosen to serve as Deputies of the General Court, with their need- ary attendants viz: a man and a horse at all times, during the time of their being Ma- gistrates or Deputies [and not their whole families] shall be passage-free over all Ferries. Provided where Ferries are appropriated to any, or rented out & to be out of the Coun- tries hands their passage shall be paid by the Countrey. And the Ferriemen of Char- ters are allowed for the passage of the Magistrates, Deputies, Grand and petty Juri- men, prisoners, Keepers and Marshals, by agreement with them six pounds per annum to be paid by the Treasurer.

And whereas men doe passe over the common Ferries in great danger of themselves, and the Ferriemen excuse themselves by the impertinencie of passengers and want of law to vi- sible them to keep due order touching passengers, it is hereby herby farther ordered;

That no person shall presse or enter into any ferrie-boat contrary to the will of the Ferrieman or of the most of the passengers first entered upon payn of ten shillings for every such attempt: and that everie Ferrieman that shall permit or allow any person to come into his boat against the will of any of the Magistrates or Deputies or any of the Elders shipped in such boat or the greater part of the passengers in the said boat, shall forfeit for everie person so admitted or received against such their will so declared the sum of twenty shillings. And it shall be in the power of any of the Ferriemen to keep out or put out of his boat any person that shall presse, enter into, or stay in any such ferrie-boat contrary to this Order. And it is further ordered that all persons shall be re- ceived into such ferrie-boats according to their coming, first or last, only all Publick persons or such as goe upon publick or urgent occasions, as Physicians, Chirurgions and Midwives and such other as are called to woemens labours, such shall be transported with the first. [1641 1644 1646 1647] See Collidge.

Fines.

Whereas divers persons indebted to the Countrey for publick Rates, & others for Fines who for avoiding payment sometime sell their houses and lands, and send away their goods to other Plantations, it is therefore ordered by the Authority of this Court

That the Treasurer shall grant Warrant to the Marshall to attach the bodies of such persons, & keep them till they make satisfaction; and all such persons as are to pay any fines if they have not lands or goods to be distrained shall have their bodies attach- ed to make satisfaction. Provided that any Court of Assitants or County Court may discharge any such person from imprisonment if they shall finde them indeed unable to make satisfaction. [1638]

Fyres.

It is ordered by this Court and the Authority thereof, that whosoever shall kindle any fyres in woods or grounds lying in common or inclosed, so as the same shall run into such corn grounds or inclosures; before the tenth of the first month or after the last of the second month, or on the last day of the week, or on the Lords day shall pay all damages and

Providence of Ferries.

Men may not in own or neighbours boats Double pay after day light is done, and those that make not present pay, being required, shall give their names in writing or a pawn to the Ferrieman, or else he may complain of such before a Magistrate to get satisfaction.

Pay by the Countrey for Magistrates, Deputies, Grand and petty Jurymen, prisoners, Keepers and Marshals, by agreement with them six pounds per annum to be paid by the Treasurer.

Fines.

Fines.

Men shall not be taken into a ferrie-boat contrary to the will of the Ferrieman or of the most of the passengers first entered upon payn of ten shillings for every such attempt.

Men may not be taken into a ferrie-boat contrary to this Order.

The court may discharge any such person from imprisonment if they shall finde them indeed unable to make satisfaction.

It is ordered by this Court and the Authority thereof, that whosoever shall kindle any fyres in woods or grounds lying in common or inclosed, so as the same shall run into such corn grounds or inclosures; before the tenth of the first month or after the last of the second month, or on the last day of the week, or on the Lords day shall pay all damages and

and half so much for a Fine, or if not able to pay then to be corporally punished by Warrants from one Magistrate or the next County Court as the offence shall deserve, not exceeding twenty stripes for one offence. Provided that any man may kindle fyre in his own ground at any time, so as no damage come thereby either to the Countrey or any particular person. And whosoever shall wittingly and willingly burn or destroy any frame, timber hewed, sawn or ryven, heaps of wood, charcoal, corn, hay, straw, hemp or flax he shall pay double damages.

Fyres-men.

UPON the petition of the Inhabitants of Marble-head this Court doth hereby declare that notwithstanding it hath been an allowed custom for foreign fishermen to make use of such Harbours and Grounds in this Countrey as have not been inhabited by English men, and to take timber and wood at their pleasure for all their occasions, yet in those parts which are now possessed and the lands disposed in propriety unto several towns and persons and that by his Majesties grant under the Great Seal of England,

It is not now lawful for any person either Fisherman or other, either Forreiner or of this Countrey to enter upon the lands so appropriated to any town or person, or to take any wood or timber in any such place without the licence of such town or Proprietor: and if any person shall trespass herein the Town or Proprietor in injured may take their remedie by Action at law, or may preserve their goods or other interest by opposing lawful force against such unjust violence. Provided that it shall be lawful for such Fishermen as shall be employed by any Inhabitants in this Jurisdiction in the severall seasons of the year to make use of any of our Harbours and such lands as are now adjoining, for the drying of their fish or other needfull occasions, as also to have such timber or fire-wood as they shall have necessary use of for their fishing seasons where it may be spared, so as they make due satisfaction for the same to such Town or Proprietor. [1646]

Forgerie.

IT is ordered by this Court and Authority thereof, That if any person shall forge any Deed or conveyance, Testament, Bond, Bill, Release, Acquittance, Letter of Attorney or any writing to pervert equitie and justice, he shall stand in the Pillory three severall Lecture dayes and render double damages to the partie wronged and also be disabled to give any evidence or verdict to any Court or Magistrate. [1646]

Fornication.

IT is ordered by this Court and Authority thereof, That if any man shall commit Fornication with any single woman, they shall be punished either by enjoying to Marriage, or fine, or corporall punishment, or all or any of these as the judges in the courts of Assitants shall appoint most agreeable to the word of God. And this Order to continue till the Court take further order. [1642]

Freemen, Non-Freemen.

WHEREAS there are within this Jurisdiction many members of Churches who to excuse themselves from all publick service in the Common-wealth will not come in, to be made Freemen, it is therefore ordered by this Court and the Authority thereof,

That all such members of Churches in the severall towns within this Jurisdiction shall not be exempted from such publick service as they are from time to time chosen to be by the Freemen of the severall towns; as Constables, Jurors, Select-men and Surveyors of high-ways. And if any such person shall refuse to serve in, or take upon him any such Office being legally chosen therunto, he shall pay for every such refusal such Fine as the town shall impose, not exceeding twenty shillings as Freemen are lyable to in such cases. [1647]

Forgerie, Strangers.

IT is ordered by this Court and Authority thereof, That if any people of other nations professing the true Christian Religion shall flee to us from the tyrannie or oppression of their persecutors, or from Famine, Wars, or the like necessitie and compulsarie

Gaming. General Court. Governour. Herfje. Hydes & Skins.

Barbours. compulfarie caufe, they fhall be entertained and fuccoured amongst us according to that power and prudence God fhall give us. [1641]

U PON complaint of great diforder by the ufe of the game called Shuffle-board, in houfes of common entertainment, whereby much precious time is fpent unfruitfully and much wof of wine and beer occafioned, it is therefore ordered and enabled by the Authoritie of this Court;

That no perfon fhall henceforth ufe the faid game of Shuffle-board in any fuch houfe, nor in any other houfe ufed as common for fuch purpofe, upon payn for every Keeper of fuch houfe to forfeit for every fuch offence twenty fhillings: and for every perfon playing at the faid game in any fuch houfe, to forfeit for every fuch offence five fhillings: Nor fhall any perfon at any time play or game for any monie, or many-worth upon penalty of forfeiting treble the value thereof: one half to the partie informing, the other half to the Treafurie. And any Magiftrate may hear and determine any offence againft this Law. [1646 1647]

I T is ordered, and by this Court declared that the Governour and Deputie Governour jointly consenting, or any three Affiftants concurring in confent fhall have power out of Court to receive a condemned malefactor till the next Court of Affiftants: or General Court. And that the General Court only fhall have power to pardon a condemned malefactor.

Also it is declared that the General Court hath libertie and Authoritie to fend forth any member of this Common-wealth, of what qualitie and condition or office whatfoever into foreign parts, about any publick Meffage or negotiation: notwithstanding any office or relation whatfoever. Provided the partie fent be acquainted with the affairs he goeth about, and be willing to undertake the fervice.

Nor fhall any General Court be diffolved or adjourned without the confent of the major part thereof. [1641] See Counfell, Courts.

I T is ordered, and by this Court declared that the Governour fhall have a casting vote whensoever an equivoque fhall fall out in the Court of Affiftants, or General Affembly: fo fhall the Prefident or Moderatour have in all civil Courts or Affembles [1641] See Gen: Court.

A LTHOUGH no humane power be Lord over the Faith & Confciencces of men, and becaufe fuch as bring in damnable herefes, tending to the fubverfion of the Chriftian Faith, and deftruction of the foules of men, ought duly to be reftreined from fuch notorious impiety, it is therefore ordered and decreed by this Court;

That if any Chriftian within this Jurisdiction fhall go about to fubvert and deftroy the chriftian Faith and Religion, by broaching or maintaining any damnable heretic; or denying the immortallitie of the Soule, or the refurrexion of the body, or any fin to be repented of in the Regenerate, or any evil done by the outward man to be accounted fin: or denying that Chrift gave himfelf a Ransom for our fins, or fhall affirm that wee are not juftified by his Death and Righteoufnes, but by the perfetion of our own works; or fhall deny the moratitie of the fourth commandment, or fhall endeavour to feducce others to any the hereties aforementioned, or fhall continuing obftinate therein after due means of conviction fhall be fentenceed to Banifhment. [1646]

W HERAS fome perfons more seeking their own private advantage then the good of the publick doe transport raw hydes & pelts, it is ordered and by this Court made, That henceforth no perfon fhall deliver aboard any fhip or other velfell, directly or indirectly any raw hyde, skin, pelt or leather unwrought with intent to have the fame

Barbours.

Shuffleboard

penalties

No gaming for money or part of treble value.

Who have power to the privie.

In paction.

Some free do fervice, then helde, then fervice, the fervice, the fervice.

Major part in Gen: Court diffolving a Court.

A casting vote in the Court, and Prefid: in Courts &

Bar: Governour.

Raw hides.

Raw hides.

Hydes & Skins. Hygh-ways. Idlenes.

same transported out of this Jurisdiction upon pain to forfeit the fame or the value thereof. And that no Maifter of any fhip or velfell fhall receive any raw hyde, skin, pelt, or leather unwrought directly or indirectly, aboard his fhip or velfell to be fo transported upon the like penalty. Provided that any perfon ftranger or other may transport any hydes or skins brought hither from beyond the fea by way of Merchandize, or the skins of Beaver, Moof, Bear and Otter. [1646]

Hygh-ways. To the end there may be convenient high-ways for Travellers, it is ordered by the Authoritie of this Court;

That all common high-ways fhall be fuch as may be moft eafie, and fafe for travellers: to which purpofe everie town (where any fuch high-way is made, or to be made) fhall appoint two or three men of the next town, whole Inhabitants have moft occafion thereof, chofen & appointed by their faid town, who fhall from time to time lay out all common high-ways where they may be moft convenient; notwithstanding any mans proprietie, (fo as it occafion not the pulling down of any mans houfe, or laying open any garden or orchard): who in common grounds or where the foyle is wet, myrie, or verie rockie fhall lay out fuch high-ways the wyder, viz: fix, eight, ten or more rods.

Provided that if any man be thereby damaged in his improved ground the town fhall make him reasonable fatisfaction by eftimation of thofe of the two towns that lay out the fame. And if fuch perfons deputed cannot agree in either cafe it fhall be referred to the County Court of that Shire; or to the Court of Affiftants who fhall have power to hear and determine the Cafe. And if any perfon finde himfelfe juftly grieved with any act or thing done by the perfons deputed aforefaid: he may appeal to the County Court aforefaid, or to the Court of Affiftants, but if he be found to complain without caufe he fhall furely pay all charges of the parties and Court during that Action and alfo be fined to the Countrie as the Court fhall adjudge. [1639]

I t is ordered and declared by this Court that the (elected Towns-men of everie town have power to lay out (by themfelves or others) particular and private ways concerning their own town only: fo as no damage be done to any man without due recompence to be given by the judgement of the faid Towns-men, and one or two chofen by the faid Towns-men and one or two chofen by the partie: and if any man fhall finde himfelfe juftly grieved he may appeal to the next County Court of that Shire who fhall doe juftice therein on both hands as in other cafes of appeals. [1642]

UPON information that divers high-ways are much annoyed and incumbered by gates and rayls erected upon them, it is ordered and enabled by the Authoritie of this Court;

That upon any information or complaint made either to the court of Affiftants, or any County Court or to any Magiftrate of any fuch gates or rayls erected, or to be erected upon any common high-way, the faime Court or Magiftrate fhall appoint a Committee of discreet and indifferent men to view fuch incumbrance, and to order the reftoration thereof. And if the parties whom it fhall concern fhall not fubmit to fuch orders, they fhall require them to appear at the next Court for that Shire: and alfo fhall certifie the incumbrance found and order by them made, under their hands unto the faid Court, or appear in perfon to proccute the caufe; where it fhall be heard and determined for the eafe and convenience of Travellers, with due refpect to the Proprietors cofe and damage, but no perfon fhall ftand charged with the repair of common high-ways through his own ground. [1647]

I T is ordered by this Court and Authoritie thereof, that no perfon, Houfholder or other fhall fpend his time idly or unprofitably under pain of fuch punishment as the Courte of Affiftants or County Court fhall think meet to inflict. And for this

Forfeit.

It when as it out.

Places emptied.

Recompence to Propriet.

Appeal.

Private ways in town.

One Shire to receive or set reftore.

Authoritie

Authoritie

Authoritie

Authoritie

Authoritie

Authoritie

Assents. Jesuits. Impos.

this end it is ordered that the Constable of every place shall use special care and diligence to take knowledge of offenders in this kinde, especially of common coasters, unprofitable fowlers and tobacco takers, and present the same unto the two next Assitants, who shall have power to hear and determin the cause, or transfer it to the next Court. [1633]

Jesuits.

THIS Court taking into consideration the great wars, combustions and dissentments which are this day in Europe: and that the same are ordered to be raised and promoted chiefly by the secret underminings, and solicitations of those of the Jesuitical Order, who have brought up and devoted to the religion and court of Rome; which hath occasioned disorder and enabled by Authority of this Court,

That no Jesuit, or spiritual or ecclesiastical person (as they are termed) ordained by the authority of the Pope, or Sea of Rome shall henceforth at any time repair to, or come within this Jurisdiction: And if any person shall give just cause of suspicion that he is one of such Societies or Order he shall be brought before some of the Magistrates, and if he cannot free himselfe of such suspicion he shall be committed to prison, or bound over to the next Court of Assitants, to be tried and proceeded with by Banishment or otherwise as the Court shall see cause: and if any person so banished shall be taken the second time within this Jurisdiction upon lawfull tryall and conviction he shall be put to death. Provided this Law shall not extend to any such Jesuit, spiritual or ecclesiastical person as shall be cast upon our shores, by ship-wrack or other accident, so as he continue no longer then till he may have opportunitie of passage for his departure: nor to any such as shall come in company with any Messenger either upon publick occasions, or any Merchant or Master of any ship, belonging to any place not in amitie with the State of England, or our selves, so as they depart again with the same Messenger, Master or Merchant, and behave themselves in-offensively during their aboard here. [1647]

Impos.

IT is ordered by Authority of this Court that *Warranco* upon *Concedial* lying within this Jurisdiction shall be, and be reputed as a part of the town of *Springfield* and lyable to all charges there, as other parts of the same town, until upon erecting some other Plantation near unto it it shall be thought fit by this Court to annex it to such new Plantation.

It is also ordered that the Trading-house at *Warranco* and all other Trading-houses erected or to be erected, maintained or used within this Jurisdiction, for trading with the Indians only or chiefly shall be contributarie to all publick and common charges, both in Town and Countrey, and every such person as shall inhabit or trade in any such Trading-house or near the same shall pay unto the publick Treasurie (by the hands of such as shall be assigned to receive the same) for every skin of Beaver, Otter, Bear or Moose two pence. And if such person so assigned shall have cause to suspect that any such Trader hath not given a true account of all such skins so traded, he shall inform one of the next Magistrates thereof, who shall send for such Trader and require him to deliver account upon his oath, which if he shall refuse to doe, he may commit him to prison or take *Bonds* with Suretie for his appearance at the next Court of Assitants to answer his contempt, and be proceeded with according to justice.

And it is farther ordered that all such skins so received, by way of trading, in or near any such Trading-house for which the said *Impos* of two pence a skin shall not be satisfied within one week after demand thereof shall be forfeited to the publick Treasurie, or the value thereof: to be levied by *Warrant* from any one Magistrate upon any skins or other Goods in such Trading-house. [1647]

2. For the better support of the Government of this Common-wealth and the maintenance of Fortifications for the protecting and safe-guarding of our Coasts and Harbours, for our selves and others that come to trade with us, it is ordered by this Court and the Authority thereof,

That every person, Merchant, Seaman, or other that shall bring wines into any of our Harbours, in any ships or vessels whatsoever (except they come directly from England as their first Port) before they land any of the said wines, more or lesse, shall first make entrie of as many Butts, Pipes, or other vessels, as they or any of them shall put on shore, by a note under their hands, delivered unto the Officer at his house (who is to receive the Customs) upon pain of forfeiture and confiscation of all such wines as are landed before such entrie made, wherefover found, the one halfe to the Countrey, the other halfe to the Officer: and the Merchants or Owners of such wines of any kinde, as soon as he lands them, shall deliver and pay unto the said Officer, what is due for Customs of them according to this Order, in wine according to the proportion of the goodnes of the parcel that is brought in, as the Officer and Owner can agree, to the contentment and satisfaction of the said Officer, or else the Owner and Officer to nominate a third man who shall put a small price between them, in point of valuation of the wines for Customs: but if they cannot agree, upon notice from the Officer unto the Treasurer for the time being, he shall determine the price thereof, and being so ordered the Officer and Merchant shall accept thereof.

And it is farther ordered that he that is the cheife Officer to receive such Customes shall have under him a Deputy or Deputies who shall be as Searchers or waytours in severall places to take up such wines, by the cheif Officers appointment, and to take notice of what is landed in any place that the Countrey be not defrauded, who shall have such due recompence as the cheif Officer in his discretion shall agree with them for, either by the Butt or Pipe or by the year. All wines to pay customs according to these rates following viz: for every Butt or pipe of *Fynall* wines or any other wines of those Western *Indies* five shillings. For every Pipe of *Madarie* wines six shillings eight pence. For every Butt or Pipe of *Sierriis* sack, *Malaga* or *Canaris* wines ten shillings. For *Muscadels*, *Malvages* and other wines from the *Straits* ten shillings. For *Bastards*, *Tents* & *Alligants* ten shillings: and proportionably for greater or lesser vessels of each kinde. For every Hoghead of French wines two shillings six pence, and proportionably for greater or lesser vessels.

And for better recovering of any such Customes of wines or forfeitures, for not entering according to this Order and for refusing of payment of such Customs to the satisfaction of the Officer, it is farther ordered,

That the said Officer hath hereby power and is required to goe into all Houses or Cellars where he knoweth or suspecteth any wine to be, and from time to time shall seize upon such wines as are not entered according to this Order: and also seize upon, and take possession of so much wines as to make payment of what Custom is due according to entries made, and is refused or neglected to be paid in due manner according to this Order. And all Constables and other Officers are hereby required to assist, and aid the Officer in the discharge of his duty, and helping to break open such Houses or Cellars, if the Owners of such wines shall refuse to open their doors or deliver their keys in a peaceable way. And any Smith, Carter, Owner of boat, Porter or other that shall be required by the Officer to put to their hand to help and assist in taking, loading & transporting such wines for the use of the Countrey, and shall refuse or neglect such service for due hire shall forfeit to the common Treasurie ten shillings for every such default, to be levied by the Constable by warrant from any one Magistrate. And all debts due unto the Countrey for custom of wines, where wines are not to be found, they are to be recovered by way of Action, according to a course of law as in other cases, and this Order to be in force to recover Customs from all those that have landed wine in this Jurisdiction already and not payd Custom.

Impress.

Impos.

Entrie of wine

in parts of forfeiture.

Custom when payd.

Customes Deputy.

Rate of wine

Customes power.

Com. Act to seal the Custom.

on penalty of 10 s.

Custom recovered by Note

Impress. Imprisonment. Indians.

Impress.

IT is ordered, and by this Court declared, that no man shall be compelled to any publick work, or service, unless the Prefire be grounded upon some act of the General Court; and have reasonable allowance therefor: nor shall any man be compelled in person to any office, work, wars, or other publick service that is necessarily and sufficiently exempted, by any natural or personal impediment: as by want of years, greatness of age, defect of minde, failing of senses, or impotencye of limbs. Nor shall any man be compelled to go out of this Jurisdiction upon any offensive wars, which this Common-wealth, or any of our friends or confederates shall voluntarily undertake; but only upon such vindictive and defensive wars, in our own behalf, or the behalf of our friends and confederates; as shall be enterprized by the counsell, and consent of a General Court, or by Authority derived from the same. Nor shall any mans cattle or goods of what kinde soever be pressed, or taken for any publick use or service: unless it be by *Warrants* grounded upon some act of the General Court: nor without such reasonable prizes and hire as the ordinarie rates of the Countrey doe afford. And if his cattle or goods shall perish, or suffer damage in such service, the Owner shall be sufficiently recompensed. [1641]

Imprisonment.

IT is ordered, and by this Court declared; that no mans person shall be restrained or imprisoned by any authority whatsoever before the Law hath sentenced him thereto: if he can put in sufficient security, *Bayle* or *Maintenance* for his appearance, and good behaviour in the mean time: unless it be in crimes Capital, and contempt in open Court, and in such cases where some expresse Act of Court doth allow it. [1641]

Indians.

IT is ordered by Authority of this Court; that no person whatsoever shall henceforth buy land of any Indian, without licence first had & obtained of the General Court: and if any shall offend herein, such land so bought shall be forfeited to the Countrey.

Nor shall any man within this Jurisdiction directly or indirectly amend, repair, or cause to be amended or repaired any gun, small or great, belonging to any Indian, nor shall endeavour the same. Nor shall sell or give to any Indian, directly or indirectly any such gun, or any gun-powder, shot or lead, or flint-mould, or any millitary weapons or armour; upon pain of ten pounds fine, at the least for everie such offence; and that the court of Assistants shall have power to increase the Fine; or to impose corporal punishment (where a Fine cannot be had) at their discretion.

It is also ordered by the Authority aforesaid that everie town shall have power to restrain all Indians from profaning the Lords day. [1633 1637 1641]

Whereas it appears in this Court that notwithstanding the former Lawes, made against selling of guns, powder and Ammunition to the Indians, they are yet supplied by indirect means, it is therefore ordered by this Court and Authoritie thereof;

That if any person after publication hereof, shall sell, give or barter any gun or habiting out of this Jurisdiction without licence of this Court, or unto any person intimate, or some two Magistrates, he shall forfeit for everie gun so sold, given or bartered ten pounds; and for everie pound of powder five pounds; and for everie pound of bullets, shot or lead fourty shillings: and so proportionably for any greater or lesser quantitie. [1642]

It is ordered by this Court and Authority thereof, that in all places, the English and such others as co-inhabit within our Jurisdiction shall keep their cattle free & doctory, their corn be destroyed, in any ground where they have right to plant: and if any of their corn be destroyed for want of fencing, or hearing; the town shall make satisfaction, and shall have power among themselves to lay the charge where the occasion of the damage did arise. Provided that the Indians shall make proof that the cattle of such a town, farm, or person did the damage. And for encouragement of

of the Indians toward the fencing in of their corn fields, such towns, farms or persons, whose cattle may annoy them that way, shall direct, assist and help them in selling of trees, fivings, and sharpening of rays, & holding of polls: allowing one English-man to three or more Indians. And shall also draw the fencing into place for them, and allow one man a day or two toward the setting up the same, and either lend or sell them tools to finish it. Provided that such Indians, to whom the Countrey, or any town hath given, or shall give ground to plant upon, or that shall purchase ground of the English shall fence such their corn fields or ground at their own charge as the English doe or should doe: and if any Indians refuse to fence their corn ground (being rendered help as aforesaid) in the presence and hearing of any Magistrate or selected Townsmen being met together they shall keep off all cattle or lose one half of their damages.

And it is also ordered that if any harm be done at any time by the Indians unto the English in their castle; the Governour or Deputie Governour with two of the Assistants or any three Magistrates or any County Court may order satisfaction according to law and justice. [1640 1648]

4. Considering that one end in planting these parts was to propagate the true Religion unto the Indians: and that divers of them are become subjects to the English and have engaged themselves to be willing and ready to understand the Lawe of God, it is therefore ordered and decreed,

That such necessary and wholesome Lawes, which are in force, and may be made from time to time, to reduce them to civilitie of life shall be once in the year (if the times be safe) made known to them, by such fit persons as the General Court shall nominate, having the help of some able Interpreter with them.

Considering also that interpretation of verses is appointed of God for propagating the Truth: and may therefore have a blessed success in the hearts of others in due season, it is therefore further ordered and decreed,

That two Ministers shall be chosen by the Elders of the Churches everie year at the Court of Election, and to be sent with the consent of their Churches (with whomsoever will freely offer themselves to accompany them in that service) to make known the heavenly counsell of God among the Indians in most familiar manner, by the help of some able Interpreter: as may be most available to bring them unto the knowledge of the truth, and their conversation to the Rules of Jesus Christ. And for that end that something be allowed them by the General Court, to give away freely unto those Indians whom they shall perceive most willing & ready to be instructed by them.

And it is further ordered and decreed by this Court; that no Indian shall at any time *pojure*, or performe outward worship to their false gods: or to the devil in any part of our Jurisdiction; whether they be such as shall dwell here, or shall come hither: and if any shall transgresse this Law, the *Peace* shall pay five pounds; the *Procureur* five pounds; and every other countenancing by his preference or otherwise being of age of discretion twenty shillings. [1646]

Indisements.
If any person shall be indicted of any capital crime (who is not then in *shewance*) & shall refuse to render his person to some Magistrate within one month after three Proclamations publickly made in the town where he usually abides, there being a month betwixt Proclamation and Proclamation, his lands and goods shall be seized to the use of the common Treasure; till he make his lawfull appearance. And such withholding of himselfe shall stand in stead of one witness to prove his crime, unless he can make it appear to the Court that he was necessarily hindered. [1646]

In-keepers, Tipping, Drunkennes.

RORASMUCH as there is a necessary use of houses of common entertainment in every Common-wealth, and of such as retail wine, beer and victuals: yet because there are in many abuses of that lawfull libertie, both by persons entertaining and persons entertained, there is also need of strict Lawes and Rules to regulate such an employment: It is therefore ordered by this Court and Authority thereof;

Indians, Indisements, In-keepers.

Indians hurt by their Indisements.

Means for their relief in a Beggar.

Means for their relief.

of the Indians toward the fencing in of their corn fields, such towns, farms or persons, whose cattle may annoy them that way, shall direct, assist and help them in selling of trees, fivings, and sharpening of rays, & holding of polls: allowing one English-man to three or more Indians. And shall also draw the fencing into place for them, and allow one man a day or two toward the setting up the same, and either lend or sell them tools to finish it. Provided that such Indians, to whom the Countrey, or any town hath given, or shall give ground to plant upon, or that shall purchase ground of the English shall fence such their corn fields or ground at their own charge as the English doe or should doe: and if any Indians refuse to fence their corn ground (being rendered help as aforesaid) in the presence and hearing of any Magistrate or selected Townsmen being met together they shall keep off all cattle or lose one half of their damages.

And it is also ordered that if any harm be done at any time by the Indians unto the English in their castle; the Governour or Deputie Governour with two of the Assistants or any three Magistrates or any County Court may order satisfaction according to law and justice. [1640 1648]

4. Considering that one end in planting these parts was to propagate the true Religion unto the Indians: and that divers of them are become subjects to the English and have engaged themselves to be willing and ready to understand the Lawe of God, it is therefore ordered and decreed,

That such necessary and wholesome Lawes, which are in force, and may be made from time to time, to reduce them to civilitie of life shall be once in the year (if the times be safe) made known to them, by such fit persons as the General Court shall nominate, having the help of some able Interpreter with them.

Considering also that interpretation of verses is appointed of God for propagating the Truth: and may therefore have a blessed success in the hearts of others in due season, it is therefore further ordered and decreed,

That two Ministers shall be chosen by the Elders of the Churches everie year at the Court of Election, and to be sent with the consent of their Churches (with whomsoever will freely offer themselves to accompany them in that service) to make known the heavenly counsell of God among the Indians in most familiar manner, by the help of some able Interpreter: as may be most available to bring them unto the knowledge of the truth, and their conversation to the Rules of Jesus Christ. And for that end that something be allowed them by the General Court, to give away freely unto those Indians whom they shall perceive most willing & ready to be instructed by them.

And it is further ordered and decreed by this Court; that no Indian shall at any time *pojure*, or performe outward worship to their false gods: or to the devil in any part of our Jurisdiction; whether they be such as shall dwell here, or shall come hither: and if any shall transgresse this Law, the *Peace* shall pay five pounds; the *Procureur* five pounds; and every other countenancing by his preference or otherwise being of age of discretion twenty shillings. [1646]

Indisements.

If any person shall be indicted of any capital crime (who is not then in *shewance*) & shall refuse to render his person to some Magistrate within one month after three Proclamations publickly made in the town where he usually abides, there being a month betwixt Proclamation and Proclamation, his lands and goods shall be seized to the use of the common Treasure; till he make his lawfull appearance. And such withholding of himselfe shall stand in stead of one witness to prove his crime, unless he can make it appear to the Court that he was necessarily hindered. [1646]

In-keepers, Tipping, Drunkenness.

That no person or persons shall at any time under any pretence or colour whatsoever undertake to be a common Victualler, Keeper of a Cooks shop, or house for common entertainment, Taverner, or publick seller of wine, ale, beer or strong-water (by retale), nor shall any sell wine privately in his house or out of doors by a leffe quantitie, or under a quarter cask: without approbation of the selected Townsmen and Licence of the Shire Court where they dwell: upon pain of forfeiture of five pounds for everie such offence, or imprisonment at pleasure of the Court, where satisfaction cannot be had.

And every person so licensed for common entertainment shall have some inoffensive Signe obvious for strangers direction, and such as have no such Signe after three months so licensed from time to time shall lose their licence: and others allowed in their stead. And any licensed person that selleth beer shall not sell any above two pence the ale-quart: upon penalty of three shillings four pence for everie such offence. And it is permitted to any that will to sell beer out of doors at a pennie the ale-quart and under.

Neither shall any such licensed person aforesaid suffer any to be drunken, or drink excessively six: above half a pinte of wine for one person at one time: or to continue tipping above the space of half an hour, or at unseasonable times, or after nine of the clock at night in, or about any of their houses on penalty of five shillings for everie such offence.

And everie person found drunken six: so that he be thereby bereaved or disabled in the use of his understanding, appearing in his speech or gesture in any the said houses or elsewhere shall forfeit ten shillings. And for excessive drinking three shillings four pence. And for continuing above half an hour tipping two shillings six pence. And for tipping at unseasonable times, or after nine a clock at night five shillings: for everie offence in these particulars being lawfully convicted thereof. And for want of payment such shall be imprisoned until they pay: or be set in the Stocks one hour or more (in some open place) as the weather will permit not exceeding three hours at one time.

Provided notwithstanding such licensed persons may entertain sea-faring men, or land travellers in the night-season, when they come first on shore, or from their journey for their necessarie refreshment, or when they prepare for their voyages or journeys the next day early: so there be no disorder among them; and also Strangers, Lodgers or other persons in an orderly way may continue in such houses of common entertainment during meal times, or upon lawfull business what time their occasions shall require.

Nor shall any Merchant, Cooper, Owner or Keeper of wines or other persons that have the government of them suffer any person to drink to excess, or drunkenes, in any their wine-Cellars, Ships, or other vessels or places where wines doe lye; on pain to forfeit for each person so doing ten shillings.

And if any person offend in drunkenness, excessive or long drinking the second time they shall pay double Fines. And if they fall into the same offence the third time they shall pay treble Fines. And if the parties be not able to pay the Fines then he that is found drunk shall be punished by whipping to the number of ten stripes: and he that offends in excessive or long drinking shall be put into the Stocks for three hours when the weather may not hazzard his life or limbs. And if they offend the fourth time they shall be imprisoned until they put in two sufficient Sureties for their good behaviour.

And it is farther ordered that if any person that keepeth, or hereafter shall keep a common house of entertainment, shall be lawfully convicted the third time for any offence against this Law: he shall (for the space of three years next ensuing the said conviction) be disabled to keep any such house of entertainment, or sell wine, beer or the like: unless the Court aforesaid shall see cause to continue them.

It is farther ordered that everie In-keeper, or Victualler shall provide for the entertainment

No common Victualler, Cook, or Keeper of a house without licence.

On pen. 5*l*.

Signe

No beer a brewer to be sold in any house or place of ale or beer if it is a quart

In-keepers for six

Penalty of six shillings for each offence

Stocks

Penalty

The law for the Court

Seeds offence double penalty, third offence Whipping

Stocks

Fourth offence

Victualler disabled a third time dissolved

In-keepers, Tipping, Drunkenness. Juries, Jurors.

of strangers houses six: one or more inclosures for Summer and hay and provender for Winter with convenient stable room and attendance under penalty of two shillings six pence for everie dayes default, and double damage to the partie thereby wronged (except it be by inevitable accident).

And it is farther ordered by the Authoritie aforesaid, that no Taverner or seller of wine by retale, licensed as aforesaid shall take above nine pounds profit by the Butt or Pipe of wine, (and proportionably for all other vessels) toward his wast in drawing and otherwise: out of which allowance everie such Taverner or Victualler shall pay fifty shillings by the Butt or Pipe and proportionably for all other vessels to the Countrey. For which he shall account with the Auditor general or his Deputie every six months and discharge the same. All which they may doe by selling six pence a quart in retale (which they shall no time exceed) more then it cost by the Butt, beside the benefit of their art and mystery which they know how to make use of. And everie Taverner or Victualler shall give a true account and notice unto the Auditor or his Deputie of everie vessel of wine he buies from time to time within three dayes; upon pain of forfeiting the same or the value thereof.

And all such as retale strong waters shall pay in like manner two pence upon everie quart to the use of the Countrey, who also shall give notice to the Auditor or his Deputie of everie cask and bottle or other quantitie they buy within three dayes upon pain of forfeiture as before.

Also it is ordered that in all places where week day Lectures are kept, all Taverners, Victuallers and Tablers that are within a mile of the Meeting-house, shall from time to time clear their houses of all persons able to goe to the Meeting, during the time of the exercise (except upon extraordinary cause, for the necessarie refreshing of strangers unexpectedly repairing to them) upon pain of five shillings for every such offence over and besides the penalties incurred by this Law for any other disorder.

It is also ordered that all offences against this Law may be heard and determined by any one Magistrate, who shall heereby have power by Warrant to send for parties, and witnesses, and to examine the said witnesses upon oath and the parties without oath, concerning any of these offences: and upon due conviction either by view of the said Magistrate, or affirmation of the Constable, and one sufficient witness with circumstances concurring, or two witnesses, or confession of the partie to levie the said severall fines, by Warrant to the Constable for that end, who shall be accountable to the Auditor for the same.

And if any person shall voluntarily confesse his offence against this Law in any the particulars thereof, his oath shall be taken in evidence and stand good against any other offending at the same time.

Lastly, it is ordered by the Authoritie aforesaid that all Constables may, and shall from time to time duly make search throughout the limits of their towns upon Lords dayes, and Lecture dayes, in times of Exercise; and also at all other times, so oft as they shall see cause for all offences and offenders against this Law in any the particulars thereof. And if upon due information, or complaint of any of their Inhabitants, or other credible persons whether Taverner, Victualler, Tabler or other: they shall refuse or neglect to make search as aforesaid, or shall not to their power perform all other things belonging to their place and Office of Constableship: then upon complaint and due proof before any one Magistrate within three months after such refusal or neglect; they shall be fined for everie such offence ten shillings, to be levied by the Marshall as in other cases by Warrant from such Magistrate before whom they are convicted, or Warrant from the Treasurer upon notice from such Magistrate. [1645 1646 1647] See Gaming, Licences.

Juries, Jurors. It is ordered by this Court and Authoritie therof, that the Constable of everie town upon Procces from the Recorder of each Court, shall give timely notice to the Freemen of their town, to choof to many able discreet men as the Procces shall direct which

Juries, Jurors, Justice, Lands free, Leather.

which men so chosen he shall warn to attend the Court whereto they are appointed, and shall make return of the *Protes* unto the Recorder aforesaid: which men so chosen shall be *impanelled* and *sworn* truly to try betwixt partie and partie, who shall find the matter of fact with the damages and costs according to their evidence, and the Judges shall declare the Sentence (or direct the Jurie to finde) according to the law. And if there be any matter of apparent equitie as upon the forfeiture of an Obligation, breach of covenant without damage, or the like, the Bench shall determine such matter of equitie.

2 Nor shall any tryall passe upon any for life or banishment but by a special Jurie so summoned for that purpose, or by the General Court.

3 It is also ordered by the Authoritie aforesaid that there shall be Grand-Juries summoned everie year unto the severall Courts, in each Jurisdiction: to inform the Court of persons misdemeanours that they shall know or hear to be committed by any person of Common-wealth within this Jurisdiction. And to doe any other service of the Common-wealth that according to law they shall be enjoyned to by the said Court: and in all cases wherein evidence is so obscure or defective that the Jurie cannot clearly and safely give a positive verdict, whether it be Grand, or Petty Jurie, it shall have libertie to give a *Non liguit* or a special verdict, in which last, that is, a special verdict, the judgement of the Cause shall be left unto the Bench. And all Jurors shall have libertie in matters of fact if they cannot finde the *main issue* yet to finde and present in their verdict so much as they can.

4 And if the Bench and Jurors shall so differ at any time about their verdict that either of them cannot proceed with peace of conscience, the Case shall be referred to the General Court who shall take the question from both and determine it.

5 And it is further ordered that whensoever any Jurie of tryalls, or Jurors are not clear in their judgements or consciences, concerning any Case wherein they are to give their verdict, they shall have libertie in open Court to advise with any man they shall thinke fit to resolve or direct them, before they give in their verdict. And no Except Grand-jurie men, who shall hold two Courts together at the least, and such others as shall be summoned to serve in case of life and death or banishment. [1643]

Justice.

It is ordered, and by this Court declared; that every person within this Jurisdiction, whether Inhabitant or other shall enjoy the same justice and law that in all cases proper to our cognifance without partialitie or delay. [1643]

Lands, Free lands.

It is ordered, and by this Court declared; that all our Lands and Heritages shall be free from all *Fines* and *Licences* upon alienations, and from all *Mortuis*, *Wardships*, *Livories*, *Primerfizes*, year, day and waile, *Escheats* and forfeitures, upon the death of Parents or Ancesters, be they natural, unnatural, casual or judicial and that for ever. [1643] See *Abillitie*, *Escheats*, *Strangers*.

Leather.

THIS Court taking into serious consideration the several deceits and abuses which in other places have been and are commonly practised by the Tanners, Curriers and workers of leather, as also the abuses and inconveniences which arise to the severall members of this Common-wealth, by leather not sufficiently tanned and wrought, which is occasioned by the negligence and unskillfulness of those severall trades-men which before, in, & after it is in the hands of the Tanner may be much bettered or impaired, for prevention wherof, it is ordered by this Court and the Authoritie thereof; That no person using or occupying the feat or mysterie of a Butcher, Currier, or shoe-maker

E J

Leather.

Shoe-maker by himselfe or any other, shall use or exercise the feat or mysterie of a Tanner on pain of forfeiture of six shillings eight pence for everie hyde or skin by him or them so tanned whilset he or they shall use or occupie any of the mysteries aforesaid.

Nor shall any Tanner during his using the said trade of tanning, use or occupie the feat or mysterie of either Butcher, Currier or Shoe-maker by himselfe or any other upon pain of the like forfeiture.

Nor shall any Butcher by himselfe or any other person gath or cut any hyde of ox, bull, steer, or cow in flensing thereof, or otherwise whereby the same shall be impaired or hurt, on pain of forfeiture for everie such gath or cut in any hyde or skin twelve pence.

Nor shall any person or persons henceforth bargain, buy, make any contract, or bespeak any rough hyde of ox, bull, steer or cow in the hair, but only such persons as have and doe use and exercise the art of tanning.

Nor shall any person or persons using, or which shall use the mysterie or facultie of tanning at any time or times hereafter, offer or put to sale any kinde of leather, which shall be insufficiently or not thoroughly tanned, or which shall not then have been after the tanning thereof well and thoroughly dried, upon pain of forfeiting in much of his or their said leather as by any Searcher or Scaler of leather lawfully appointed shall be found insufficiently tanned, or not thoroughly dried as aforesaid.

Nor shall any person or persons using or occupying the mysterie of tanning, let any their Feats in tan-hills or other places, where the woozes or leather put to tan in the same shall or may take any unkinde heats; nor shall put any leather into any hot or warm woozes whatsoever on pain of twenty pounds for everie such offence.

Nor shall any person or persons using or occupying the mysterie or facultie of currying, currie any kinde of leather, except it be well and thoroughly tanned; nor shall currie any hyde being not thoroughly dried after his wet season; in which wet season he shall not use any stale, urin, or any other deceitfull or substal mixture, thing, way or means to corrupt or hurt the same; nor shall currie any leather meet for utter sale leather with any other then good hard tallow, nor with any lesse of that then the leather will receive; nor shall currie any kinde of leather meet for upper leather and inner soles, but with good and sufficient stuffe, being fresh and not fat, and thoroughly liquored till it will receive no more; nor shall burn or scald any hyde or leather in the currying, but shall work the same sufficiently in all points and respects; on pain of forfeiture for everie such offence or act done contrary to the true meaning of this Order the full value of everie such hyde marred by his evil workmanship or handling, which shall be judged by two, or more sufficient and honest skillfull persons, Curriers or others, on their oath given to them for that end by any Assistant.

And everie town where need is or shall be, shall chooise one or two persons of the most honest and skillfull within their severall Townships, and present them unto the County Court, or one Magistrate who shall appoint and swear the said persons: by their discretion to make search and view within the Precincts of their limits as oft as they shall thinke good and need shall be, who shall have a Mark or Seal prepared by each town for that purpose, and the said Searchers or one of them shall keep the same, and therewith shall seal such leather as they shall finde sufficient in all points and no other.

And if the said Searchers, or any of them shall finde any leather sold, or offered to be sold, brought, or offered to be searched or sealed, which shall be tanned, wrought, converted or used contrary to the true intent and meaning of this Order, it shall be lawfull for the said Searchers, or any of them to seize all such leather, and to retain the same in their custodie, untill such time as it be tryed by such Tryers, and

E J

Butcher Currier, Shoemaker or Tanner

Tanner or Butcher, Currier or Shoemaker

Cow, hyde or skin

Rough hyde

well tanned & dried

Leather taking blunche

Curriers & others

Partialitie

Searchers

Mark

Seal

Seize

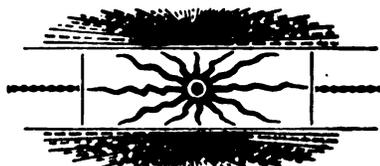
THE
Statutes at Large
OF
PENNSYLVANIA
FROM
1682 to 1801

COMPILED UNDER THE
AUTHORITY OF THE ACT OF MAY 19 1887 BY
JAMES T MITCHELL AND HENRY FLANDERS
COMMISSIONERS

VOLUME VI
1759 to 1765

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1763-64] *The Statutes at Large of Pennsylvania.*

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act; and the said orders so as aforesaid paid shall be sufficient to discharge the said trustees and provincial treasurer, their executors and administrators respectively, of and from so much as shall be respectively paid by them and specified in the said orders. And the commissioners last mentioned for their trouble in discharging the duties required of them by this act shall have and receive one per centum on the whole sum of the orders by them drawn and no more.

And the said trustees and treasurer shall have and receive for their trouble respectively in performing the duties enjoined and required of them by this act, the sum of ten shillings each for every hundred pounds and no more.

Passed October 22, 1763. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed March 5, 1725-26, Chapter 289; and the Acts of Assembly passed May 30, 1764, Chapter 513; September 22, 1764, Chapter 516.

As to Section V, see the Act of Assembly passed May 20, 1767, Chapter 559.

CHAPTER DVI.

AN ACT TO PROHIBIT THE SELLING OF GUNS, GUNPOWDER OR OTHER WARLIKE STORES TO THE INDIANS.

Whereas several tribes of Indians for some time past have perfidiously made incursions within the frontiers of this province and have perpetrated many cruel and barbarous murders on the inhabitants thereof, and it must be in the present circumstance of affairs of dangerous consequence to supply the said Indians with guns, gunpowder or other warlike stores.

For prevention whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice

and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the passing of this act if any person or persons whatsoever shall directly or indirectly give to, sell, barter or exchange with any Indian or Indians whatsoever any guns, gunpowder, shot, bullets, lead or other warlike stores without license from the commander in chief of the King's forces in those parts or from the governor or commander in chief of this province for the time being first had and obtained, every such person or persons so offending, being thereof legally convicted in any county court of quarter sessions within this province, shall forfeit and pay the sum of five hundred pounds, one moiety thereof to the informer and the other moiety to the governor or commander in chief of this province for the time being, and shall furthermore be whipped with thirty-nine lashes on his bare back, well laid on, and be committed to the common gaol of the county, there to remain twelve months without bail or mainprise.

[Section II.] And be it further enacted by the authority aforesaid, That this act shall continue in force for the term of twelve months and from thence to the end of the next session of assembly, and no longer.

Passed October 22, 1763. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII. Expired.

CHAPTER DVII.

AN ACT FOR REGULATING THE OFFICERS AND SOLDIERS IN THE PAY OF THIS PROVINCE.

Whereas many barbarous hostilities have lately been perfidiously committed by the Indians on the western and northern frontiers of this province and there is great reason to apprehend that a confederacy has been formed among several tribes of the said Indians to continue and extend their incursions, and

THE
Statutes at Large;
BEING
A COLLECTION
OF ALL THE
LAWS OF VIRGINIA,
FROM THE
FIRST SESSION OF THE LEGISLATURE,
IN THE YEAR 1619.

PUBLISHED PURSUANT TO AN ACT OF THE GENERAL ASSEMBLY OF VIRGINIA,
PASSED ON THE FIFTH DAY OF FEBRUARY ONE THOU-
SAND EIGHT HUNDRED AND EIGHT.

VOLUME I.

By WILLIAM WALLER HENING.

"The *Laws* of a country are necessarily connected with every thing belonging to the people of it; so that a thorough knowledge of *them*, and of their progress, would inform us of every thing that was most useful to be known about them; and one of the greatest imperfections of historians in general, is owing to their ignorance of law." *Priestley's Lect. on Hist. Vol. I. p. 149.*

MARCH, 1642-3—18th CHARLES 1st.

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letter R. and passe vnder the statute of incorrigible rogues. Provided notwithstanding that where any servants shall have just cause of complaint against their masters or mistrises by harsh or vnchristianlike vsage or otherways for want of diet, or convenient necessaries that then it shall be lawfull for any such servant or servants to repaire to the next comissioner to make his or their complaint, And if the said comissioner shall find by good and sufficient proofes, that the said servant's cause of complaint is just, The said comissioner is hereby required to give order for the warning of any such master or mistris before the comissioners in their seuerall county courts, where the matter in difference shall be decided as they in their discretions shall think fitt, And that care be had that no such servant or servants be misvsed by their masters or mistrises, where they shall find the cause of complaint to be just. Be it further also enacted that if any servant running away as aforesaid shall carrie either peice, powder and shott, And leave either all or any of them with the Indians, And being thereof lawfully convicted shall suffer death as in case of felony.

the cheek
with the let
ter R.

Proviso in
case of ill
usage of mas-
ter.

Felony to
carry pow-
der, &c. to
the Indians

ACT XXIII.

BE it also enacted and confirmed, that what person or persons soever shall sell or barter with any Indian or Indians for peece, powder and shott and being thereof lawfully convicted, shall forfeit his whole estate, the one halfe to the informer the other halfe to the vse of the county where such fact shall be committed, And if any person shall barter or trade with the Indians for any other comodities such person shall suffer imprisonment at the discretion of the Governour and Counsell, And whereas it is informed that divers persons do entertaine Indians to kill deare or other game, And do furnish the said Indians with peeces, powder and shott, by which great abuse, not onely the Indians (to the great indangering of the collony) are instructed in the vse of ovr arms, But have opportunity given them to store themselves as well with arms as powder and shott, Be it therefore enacted, That what person or persons soever within the collony, shall lend any Indian either peece, powder and shott, It shall be lawfull for any person meeting with any such Indian so furnished, to

Penalty for
selling arms
and ammuni-
tion to the
Indians, or
dealing with
them.

LAWS OF VIRGINIA,

take away either peece, powder or shott, so as such person taking away either peece, powder or shott do carrie the same to the comander of the county, and acquaint him therewith, which said comander is hereby authorized to give possession to the informer either of the peece, powder or shott so brought before him, And the said commander is further required, to make a strict inquiry and examination to find out such person that did lend or give such peece, powder or shott to the Indians, And in case the said commander or other commanders in examination shall find any person by just prooffe delinquent in the premises, he or they are to bind over the said party to answer the same, before the Governor and Counsell the ensuing quarter court, And in such case the party delinquent for his just offence shall forfeit two thousand pounds of tobacco, the one halfe whereof shall be and come to the King's majesty, the other halfe to the informer, And it is further enacted that such delinquent for his second offence shall forfeit his whole estate, one halfe to the King, the other halfe to the informer. And this act to be of force after publication hereof in each county.

 ACT XXIV.

Process
against debt-
ors lately ar-
rived from
England
suspended.

THE Governor and Counsell with the Burgesses of the Grand Assembly haveinge taken into serious consideration the estate of the collony and finding that many people have (through their ingagements in England) forsaken their native countrey and repaired hither with resolution to abide here, hopeing in time to gain some competency of subsistance by their labors, Yet neverth'les their creditors hearing of their abroad here in the collony, have prosecuted them with their actions to the ruine of the said debtors, And having duely weighed the causes and reasons induceing such debtors to leave their countrey and friends, And if such suits and pleas be thus early admitted before the countrey shall come to better maturity, It might hazard the deserting of a great part of the country, Therefore that the generall good be preferred before the particular ends of any person, *The Governor, Counsell and Burgesses do hereby enact and confirm*, that all process & suits of this nature be suspended vntil his majestie shall

THE
STATUTES AT LARGE

OF

SOUTH CAROLINA;

EDITED, UNDER AUTHORITY OF THE LEGISLATURE,

BY

THOMAS COOPER, M. D.—L. L. D.



VOLUME SECOND,

CONTAINING THE ACTS FROM 1682 TO 1716, INCLUSIVE.

ARRANGED CHRONOLOGICALLY.



COLUMBIA, S. C.

PRINTED BY A. S. JOHNSTON.

1837.

OF SOUTH CAROLINA.

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A. D. 1707.

No. 268.

AN ADDITIONAL ACT to a Continuing and Additional Act to an Additional Act for making and Mending Highways, and for the empowering the Governor for the time being to appoint Commissioners in the rooms of such as are dead or gone off or may die or go off, and to ascertain the Watch in Charlestown.

(Ratified July 19, 1707. Repealed by the Highway Act of Sept. 15, 1721. See last volume.)

AN ACT FOR REGULATING THE INDIAN TRADE AND MAKING IT SAFE TO THE PUBLICK. No. 269.

WHEREAS the greater number of those persons that trade among the Indians in amity with this Government, do generally lead loose, vicious lives, to the scandal of the Christian religion, and do likewise oppress the people among whom they live, by their unjust and illegal actions, which if not prevented may in time tend to the destruction of this Province;—
For the prevention whereof as much as may be, Preamble.

I. *Be it enacted* by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, That from and after the first day of October next ensuing the ratification of this Act, all and every person or tradesman (except such as are among the Chickasaws, who shall take out licences the first of March next) that shall live, trade or deal either directly or indirectly with any Indians whatsoever, (except those commonly called Cusabes, viz. Santees, Ittavans, Seaweas, Stoanoes, Kiawaws, Kussos, Edistoos, St. Helenas,) for any furs, slaves, skins, or for any other commodity whatsoever (provisions only excepted) shall first have a license under the hand and seal of the commissioners hereafter named, or any five of them; and every trader or tradesman or others, that shall take out such licence, shall pay unto the Publick Receiver for the time being, to be disposed of as hereafter is directed by this Act, the full sum of eight pounds currant money of this Province, and the licence so granted shall be and continue for the space of one year from the date thereof, and no longer. But in case any person or persons that desires such licence, shall make it appear to the satisfaction of the commissioners hereafter named, or any five of them that shall transact the business of this Act, that one year is too little time for their particular trade, that then the commissioners or any five of them shall have power to grant the licence or licences for longer time, not exceeding two years, paying proportionally for the longer time. Traders to take out a licence, and pay £8.

II. *Be it further enacted* by the authority aforesaid, That the commissioners hereafter named, or any five of them, shall have power to grant licences to the persons trading amongst the Indians, shall upon the granting every licence, bind the person that takes the said licence, with one or two sufficient sureties, in the penal sum of one hundred pounds currant money of this Province, the condition whereof shall be to perform and keep all and singular the instructions received under the hands and seals of the commissioners or any five of them nominated in this Act, and likewise to obey such orders as shall from time to time be given him by Bond with sureties to be given to Public Receiver in £100 currency.

A. D. 1707.

the agent hereafter appointed by this Act, provided they be just, and according to the true intent and meaning of this Act; and moreover shall not at any time hereafter directly or indirectly carry up or give, sell or any other ways dispose of to and amongst the Indians, any rum or other spiritts.

No spirituous liquors to be sold to Indians.

III. *And be it further enacted* by the authority aforesaid, That no person whatsoever shall sell any rum or other spiritts to any Indian, after the ratification of this Act, under the penalty aforesaid.

No ammunition to be disposed of to hostile Indians.

IV. *Be it further enacted* by the authority aforesaid, That if any person whatsoever shall after the ratification of this Act, sell, give, or any other way dispose of any arms or ammunition of war, to any Indians who are open enemies to this Province, shall be, and he or they are hereby declared to be guilty of felony, without benefit of the clergy, and shall be liable to the same punishments which felons by the laws of England and of this Province now are. And the bonds to be given as aforementioned shall be to the Publick Receiver for the time being, and the said bonds to be kept by the Secretary particularly appointed for transacting the business of this Act, and the said bonds to be put in suit by order of the commissioners hereafter named, or any five of them, in the name of the Publick Receiver for the time being, in any court of record in this province, and the forfeitures recovered by such suit shall be paid to the Publick Receiver, to be disposed of by the order of the Generall Assembly; but the said commissioners, who shall order the putting such bond in suit, are hereby impowered and required to reward such persons as shall inform them of the forfeiture of such bond, in any sum not exceeding two thirds nor less than one half.

Commissioners to frame general instructions.

V. *Be it further enacted* by the authority aforesaid, That the commissioners hereafter named, or any five of them, shall be impowered and are hereby required to frame general instructions to be given to all the traders who take out licences, and likewise particular instructions and orders, according to the diversity of time and place and other circumstances; which instructions and orders so given, such Indian trader or traders to whom the same is given, shall give due obedience to, upon the penalty of the forfeiture of his or their licence for tradeing, if the commissioners hereafter named or any five of them shall think fit.

Penalty for trading without licence.

VI. *And be it further enacted* by the authority aforesaid, That if any person whatsoever (except as before excepted) shall after the first day of October aforesaid, trade or deal, directly or indirectly, with any Indians except those before mentioned, for any furr, skins, slaves, or any other commodity whatsoever (provisions only excepted,) without first having obtained a licence from the commissioners hereafter named, or any five of them, or after such licence called in and declared void, as is above directed by this Act, for every such offence he shall forfeit the sum of one hundred pounds currant money of this Province, to be recovered and disposed of as is above directed.

VII. *Be it further enacted* by the authority aforesaid, That the agent hereafter named, and his successors, shall demand a view of each person's licence, yearly, who resides or comes to trade among the Indians, and upon any person's refusing to produce such licence, he is hereby impowered to seize and seal up such person's goods so trading, unless they give bond and security to produce a licence within two months; and if such person or persons have no effects to seize, the agent is hereby required to commit him or them to goal, unless they either depart or give sufficient securities to produce a licence in the time aforesaid.

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VIII. *Be it further enacted* by the authority aforesaid, That if ~~any person trading among the Indians, shall by his own confession or verdict of a jury in any court of session or gaol delivery, be convicted of~~ ^{A. D. 1707.} ~~selling any free Indian for a slave, at any time after the ratification of this Act, shall for every such offence forfeit and pay the sum of sixty pounds currant money of this Province, to be recovered and disposed as is before appointed in this Act, and for want of such payment, shall receive such corporall punishment as the judges of the general sessions and gaol delivery shall think fitt, not extending to life or limb; and upon conviction of such offender, the Indian slave or slaves so sold are hereby declared free, and the person or persons that bought such slave or slaves shall have his action of debt, or on the case, to recover the full value against such person as sold the same, his executors or administrators.~~ ^{Persons selling free Indian as a slave.}

IX. *And whereas* several gross abuses have at several times heretofore been committed by the Indian traders in extorting of skins, slaves, &c., from Indians, under the notion of presents for the Governours of this Province; to prevent which for the future, *Be it enacted* by the authority aforesaid, That if any person whatsoever, after the ratification of this act, shall threaten, perswade or any way overawe any Indian or Indians, to force them to give presents to the present or any other Governour of this Province, each person so offending shall, upon due proof thereof made to the commissioners aforesaid or any five of them, be lyable to pay the forfeiture of one hundred pounds currant money, to be recovered and disposed of after the method already mentioned in this act. ^{Penalty on obtaining goods by threats.}

X. *Be it enacted* by the authority aforesaid, That the Publick Receiver for the time being shall pay unto the present Governour and his successors the sum of one hundred pounds yearly, viz. twenty-five pounds every three months, the first three months to commence and begin from the day of the ratification of this act, and continue to be paid at the end of every three months afterwards, for ever, in place of and in lieu of all Indian presents whatsoever; and the Receiver for the time being shall, at the day of the ratification of this act, quit all claim to all Indian presents, of what kind or nature soever, for ever; except such as are already in the hands of some Indian trader or any other person or persons for the Governour. And all presents from the ratification of this act shall be the publick's, and shall be received by the agent, and the said agent and his lawful successors are hereby required and empowered to receive from the Indians all voluntary presents, which they are inclined to give to the Governour, after the ratification of this act, and remit the same to the Publick Receiver, for the use of the publick, to be sold by him for the benefit of the publick; and if the Governour for the time being shall receive and detain for his own use any presents in whole or in part after the ratification of this act, except as aforesaid, he shall be liable to pay the forfeiture of two hundred pounds for each present or part of present so detained, to be recovered as all other forfeitures are by this act. ^{Compensation in lieu of Indian presents.}

XI. And for the further preventing abuses committed amongst the Indians, and for the more easy administering of justice, *Be it enacted* by the authority aforesaid, That Thomas Nairne shall be authorized and appointed, and is hereby authorized and appointed the agent to reside among the Indians, subject to the Government of South Carolina; and the said agent shall enter upon his office upon the twentieth day of August next ensuing, and put the powers given him by this Act, or the orders sent to ^{Resident Indian Agent appointed.}

A. D. 1707.

him by the Commissioners hereafter named, or any five of them, in execution, and shall visit the principal towns among the Indians in amity with this Province, and enquire into their grievances, and shall endeavor by all prudent methods to redress the same.

To decide
disputes among
traders and
Indians.

XII. *And be it enacted* by the authority aforesaid, That Thomas Nairne, Esq., agent, or his lawful successors, shall have power, and are hereby impowered to decide and finally determine, upon hearing of evidences and both parties, all manner of differences among the traders themselves, or among traders and Indians, for any sum not exceeding tenn pounds, currant money of this Province, and that without any appeall whatsoever; and the decree of the said agent shall be allowed as a good barr against any suit or action that may afterwards be brought relating to the matter so decided in any Court of Record in this Province.

To amount of
£30 currency.

XIII. *Be it further enacted* by the authority aforesaid, That the agent before named shall have power, and is hereby impowered to hear and determine any difference among traders of any sum not exceeding thirty pounds, currant money of this Province; *Provided*, nevertheless, that if either of the parties be dissatisfied with the judgment given by the said agent, they may have liberty of appeal to the Commissioners aforesaid, who upon a summary hearing without jury, shall finally decide, alter or annull the judgment of the said agent, as they in equity and good conscience shall think fitt, without any appeal to any other judicature, for the sum aforesaid; *Provided*, nevertheless, that every person so appealing from the judgment of the agent aforesaid, shall before any hearing before the Commissioners, pay down the sum of five pounds to the Secretary hereafter named in this Act, which sum shall be forfeited to the use of the aforesaid Secretary, if the Commissioners fully confirme the decree of the agent, but otherwise to be wholly returned to the person who deposits the same; and the better to enable the said agent to find the truth in all matters in difference, he shall have power, and is hereby authorized and impowered to examine any white man upon his oath, whether for or against himselfe; and in case he or they so examined by the agent shall refuse to be sworn, or when sworn shall refuse to make answer to any question demanded of him by the said agent, that then and in such case the said agent may order such person to be taken into custody, and sent down and committed into the custody of the marshall in Charlestowne, and the marshall for the time being is hereby required and commanded to keep such person or persons safely confined in the prison till such time as he or they so committed shall enter into bond with one or more sureties to the publick Receiver, or the Receiver for the time being, conditioned that he will with convenient speed returne to the agent, and there answer truly upon oath, all such questions as shall be by him demanded about or touching the matter before him in difference. And for the effectual putting in execution all the warrants, orders and decrees of the said agent, it shall be lawful for the said agent, and he is hereby authorised and impowered to direct his orders or warrants to any of the white men inhabiting or being near the place where he then is, and the said person or persons to whom such warrant or order is directed, is hereby required and commanded to obey and execute the same, upon the penalty of ten pounds for every neglect, to be recovered and disposed of as hereafter is directed in this Act; and such person to whom such warrant or order is directed, in case he is not able himselfe to execute the same, shall have power to call any other white man to his aid or assistance, who is hereby required to aid and assist such person under the like penalty of the forfeiture of ten pounds for every neglect.

Appeal given.

He may
examine
witnesses on
oath and
commit until,
&c.

OF SOUTH CAROLINA.

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XIV. *And be it further enacted* by the authority aforesaid, That in case any Indian trader shall commit any misdemeanor for which he ought to be brought to tryall and punished by the known laws of this Province, that then and in such case the agent shall have power to send such person to Charlestowne to prison, there to be and remaine till he shall give bail, if the matter be bailable, or else to remaine till he be otherwise discharged by due course of law; and the said agent shall further have power, and is hereby authorized and impowered to order any of the Indians to be aiding and assisting to any white man, in order to bring down any white person or Indian ordered by the said agent to be sent to town, or otherwise to execute such warrants and orders as the said agent shall order and direct.

A. D. 1707.

Indian traders
guilty of
misdemeanors.

XV. *And be it further enacted* by the authority aforesaid, That beside the severall powers and authorities hereby given to the said agent, and he is hereby authorized and impowered, in all places where he shall come or reside, to perform, do and execute all and singular the powers and authorities that any Justice of the Peace of the quorum may lawfully do in any county in this Province, as fully and as amply to all intents and purposes as if he had by name been put in any of the commissions for the peace usually granted in this Province.

Agent may act
as Justice of
the Peace.

XVI. *And be it further enacted* by the authority aforesaid, That in case the said agent shall commit any person to prison pursuant to the powers given him by this Act, in case such person so committed to prison shall have no partner or trusty servant, or friend with whom is willing to intrust his goods and effects, that then the said agent shall have power, and is hereby authorized and impowered to appoint any person to take the care and charge of goods and effects of the person so committed to prison as aforesaid, and to be accountable to him for the same, and party so ordered by said agent to take the care and charge of the effects of any person, shall be obliged to performe the same, and in case of wilful neglect or refusal, is hereby made accountable for any damages thereby sustained, to the party so committed to prison and grieved, as if he had actually taken his goods into his charge and possession.

Agent may
take charge of
the goods of
persons
committed to
prison.

XVII. *And be it enacted* by the authority aforesaid, That the agent aforesaid, or his successors, shall not be in the English Settlement above two months in the whole year, and that not at one time, but at two or more times, all which put together shall not exceed two months, under the penalty of ten pounds a week for each week he shall be in the settlement, during the space of one year above the time aforesaid, which forfeitures shall be recovered and disposed of as all others are by this Act.

The Agent not
to be absent
from his station
more than two
months in a
year.

XVIII. *And be it further enacted* by the authority aforesaid, That upon complaint made to the agent by word or writing from any person living in the settlement, that any trader or person residing among the Indians is in their debt, it shall then be lawful, and in such case the said agent is required and impowered to demand sufficient securitys from the person so complained against, that he will go to the complainant and either pay him or deliver himself up to be arrested, in order to a tryal at law; but if such person refuse to give sufficient securitys as aforesaid, then the agent is required and impowered to commit such person to prison, which commitment shall stand good in law, to all intents and purposes as if it been made by the usual form and method of arrests.

Indian traders
being debtors.

XIX. *Be it further enacted* by the authority aforesaid, That if the aforesaid agent or his lawful successors can procure any person or persons residing among the Indians, or who may hereafter go amongst them, to undertake to make any new discovery and settle any new trade, such

Persons making
any discovery.

A. D. 1707. person shall be rewarded by the House of Commons for such discovery, in such sum as they shall think fit.

Agent to take an oath.

XX. *And be it further enacted* by the authority aforesaid, That before the said Thomas Nairne, or his lawful successors, shall enter upon his or their office as agent, he shall take the following oath :

I, A. B. do faithfully promise and swear, to execute and perform all the powers and authorities given me by the Act for regulating the Indian trade, ratified the nineteenth day of July, 1707, and follow and obey all such orders and instructions as I shall receive from the said Commissioners, or any five of them, or cease to act as agent; and during the time of my acting as agent, I will neither directly nor indirectly trade with any Indian or Indians, or any other person whatsoever, in the way of Indian trade, except for provisions or other things absolutely necessary to enable me to perform the duty enjoined me by this Act, during the time of my agency; and that I will neither take any presents, fee, bribe or reward whatsoever, either from Indians or traders, or any person whatsoever, directly or indirectly, contrary to the true intent and meaning of this Act, but shall according to the best of my knowledge, do equal and impartial justice to all persons in all cases that shall come before me to be decided : So help me God. Which oath shall be taken before the Commissioners hereafter named, or any five of them, who are hereby impowered and required to administer the same. And in case the said Thomas Nairne, agent, or his successors, shall presume to enter upon the said office of agent before the taking of the aforesaid oath, that he or they so offending, shall forfeit and pay the sum of five hundred pounds, to be recovered and disposed of as all other fines are before appointed by this Act.

Penalty on persons refusing to interpret.

XXI. *And be it further enacted*, That the above named agent and his sucesors shall have power, and he is hereby impowered to send for such persons as he shall think proper, and swear them to interpret rightly the discourses which he shall have occasion to make unto the said Indians ; and if any person so sent for shall refuse to come, or being come shall refuse to be sworn as aforesaid, or being sworn, shall not rightly, fully and faithfully interpret, according to the best of his skill and ability, for every such offence, forfeit the sum of twenty pounds, by judgment of the Commissioners hereafter named, or any five of them, who are hereby required to order the same to be paid to the publick Receiver for the use of the publick, and to be disposed of after the method above mentioned.

Bond to be given by the Indian Agent.

XXII. *Be it further enacted*, That the agent shall be bound himselfe in the sum of two hundred pounds, and two sufficient securities in the sum of two hundred pounds each, to execute and perform all the powers and authorities given him by this Act, which bond shall be taken in the name of the publick Receiver for the benefit of the publick, and the Commissioners before named shall take the said bonds at the same time that they administer the oath aforesaid.

Salary £250 per annum.

XXIII. *Be it further enacted* by the authority aforesaid, That the said agent shall be allowed the sum of two hundred and fifty pounds yearly, as a salary in lieu of all dues whatsoever, for executing his office as agent, and the publick Receiver is hereby required to pay the same accordingly, at the end of every three months in the year, which time is to commence from the twentieth day of August next ensuing the date hereof, when the said agent is hereby obliged to set out on his progress among the Indians, and shall continue agent until removed by a vote of the House of Commons, who shall from time to time put out, call to an account, and put in place the aforesaid and all succeeding agents, according to their discretion forever.

OF SOUTH CAROLINA.

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XXIV. *And be it enacted* by the authority aforesaid, That Ralph Izard, Esq., Mr. James Cochram, Mr. Robert Fenwick, Colonel George Logan, Mr. Lewis Pasquereau, Mr. Richard Beresford, Mr. John Ash, Mr. John Abraham Motte, and Major John Fenwick, or any five of them, be and are hereby nominated and appointed the Commissioners mentioned in this Act, and they, or any five of them, shall meet at the times particularly appointed by this Act, or upon publick summons, as hereafter is directed, *Provided*, that the number that meets be not less than five, shall have power, and they are hereby authorized to grant licenses to the Indian traders, and to do all other things which are appointed to the commissioners in this Act to do, and shall cease to be such when and as often as they shall be thereunto required by a vote of the house of commons. And in case of the death or absence of any of the said commissioners, the major part of them remaining shall make choice of so many other persons in their place as shall still make up the number nine, and the persons so chosen shall continue till the end of the next sessions of the Generall Assembly of this Province, who shall then confirm or choose so many persons as shall make up the number nine, which persons so confirmed or chosen by a vote of the house of commons, shall be and are hereby declared to be the commissioners for this Act, as fully and amply, to all intents and purposes, as if they were by name inserted in the body of this Act, and shall so continue till removed by a vote of the house of commons.

A. D. 1707.

Commissioners appointed.

XXV. *And be it further enacted* by the authority aforesaid, That the said Ralph Izard, James Cochram, Robert Fenwick, Col. George Logan, Lewis Pasquereau, Richard Beresford, John Ash, John Abraham Motte, Major John Fenwick, or any other person or persons that shall hereafter be made a commissioner or commissioners according to this Act, shall, before his or their taking upon them the execution of all or any of the severall powers given him or them by this Act, make oath before any one Justice of the Peace of this Province, who is hereby impowered and required to administer such oath, that he or they will faithfully execute and perform the severall powers given him or them by this Act, to the best of his or their skill or knowledge, without favour or affection; and that he or they is not nor will, dureing his or their being a commissioner or commissioners as aforesaid, be any way, directly or indirectly, concerned in the Indian trade. And if any person shall act as commissioner before taking such oath as aforesaid, he shall forfeit the sum of one hundred pounds, to be recovered and disposed of as hereafter is directed by this Act.

Commissioners to be sworn.

XXVI. *And be it further enacted* by the authority aforesaid, That the first Tuesday in August and February shall be and is hereby declared to be fixed and certain times for the meeting of the said commissioners, at some convenient place in Charlestown, or in case of sickness or any other accident attending the said town, at such other convenient place as any five of the said commissioners shall appoint at any time five days before the times of their meeting, who shall constantly sit three days successively or more at every one of the said half yearly meetings, for the dispatch of the business of this Act; and shall also meet oftener at any time in the year, if upon any extraordinary occasion they shall be required by summons signed by the president whom the commissioners shall choose, after five days notice before the day for their meeting, and appointing a convenient place at Charlestown, or in case of sickness as aforesaid, in any other convenient place.

Meeting of the Commissioners

XXVII. *And be it further enacted* by the authority aforesaid, That the publick Receiver for the time being shall pay and is hereby required and

RECORDS
OF
MASSACHUSETTS.
VOL. I.
1628—1641.

RECORDS
OF
THE GOVERNOR AND COMPANY
OF THE
MASSACHUSETTS BAY
IN
NEW ENGLAND.

PRINTED BY ORDER OF THE LEGISLATURE.

EDITED BY
NATHANIEL B. SHURTLEFF, M.D.,
MEMBER OF THE MASSACHUSETTS HISTORICAL SOCIETY, FELLOW OF THE AMERICAN
ACADEMY OF ARTS AND SCIENCES, AND MEMBER OF THE
AMERICAN ANTIQUARIAN SOCIETY.

VOL. I.
1628—1641.



BOSTON:
FROM THE PRESS OF WILLIAM WHITE,
PRINTER TO THE COMMONWEALTH.
1853.

And the said persons appointed to set out the said plantation are directed so to set out the same as there may bee 1500 acres of medowe allowed to it, if it bee there to bee had wth any conveniency, for the vse of the towne./

1637.

20 November.

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Those that are to veiwe the newe plantation of Watertowne are desired to veiwe the place w^{ch} M^r Spencer desireth, & if it bee convenient, to certify the Courte./

M^r Burslin, Goo: Robert Martin, & S^rgent Anthony Eames were appointed to measure three miles southward from the southermost part of the bay, & to run the east line vnto the sea./

Comittee to measure 3 miles southward, &c.

Cap^t Turner, Goo: Rich^d Right, M^r Conant, & Goo: Woodberry are appointed to certify w^{ch} bee the bounds between Salem & Saugust, w^{ch} they formerly did agree vpon./

Saugust is called Liñ./

Lynn.

It is ordered, that every man shall, wthin three dayes, give notice to the eunstable of the towne of any strayes taken vp, & for every dayes neglect, to forfeit three shillings four pence./

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Law as to strayes.

Whereas the opinions & revelations of M^r Wheeleright & M^{rs} Hutchinson have seduced & led into dangerous errors many of the people heare in Newe England, insomuch as there is iust cause of suspition that they, as others in Germany, in former times, may, vpon some revelation, make some suddaine irruption vpon those that differ from them in iudgment, for p^rvention whereof it is ordered, that all those whose names are vnderwritten shall (vpon warning given or left at their dwelling houses) before the 30th day of this month of November, deliver in at M^r Canes house, at Boston, all such guns, pistols, swords, powder, shot, & match as they shalbee owners of, or have in their custody, vpon paine of ten pound for ev^{ry} default to bee made therof; w^{ch} armes are to bee kept by M^r Cane till this Court shall take further order therein. Also, it is ordered, vpon like penulty of x^l, that no man who is to render his armes by this order shall buy or borrow any guns, swords, pistols, powder, shot, or match, vntill this Court shall take further order therein./

354-

Disarming of ye opinionists, &c.

*The Names of Boston Men to bee disarmed.

[*208.]

Cap ^t John Vnderhill,	John Sanfoard,	John Biggs,
M ^r Thomas Oliver,	Rich ^d Cooke,	Rich ^d Gridley,
William Hutchinson,	Rich ^d Fairbanke,	Edward Bates,
Willi: Aspinwall,	Thom: Marshall,	Willi: Dinely,
Samuell Cole,	Oliver Mellows,	Willi: Litherland,
Willi: Dyre,	Samuell Wilbore,	Mathewe Jyans,
Edw ^d Rainsfoard,	John Oliver,	Henry Elkins,
John Button,	Hugh Gunnison,	Zache: Bosworth,

<p>1637. 21 November.</p>	<p>Robt Rice, Willi: Townsend, Robt Hull, Willi: Pell, Richd Hutchinson, James Johnson, Thom: Savage, John Davy, George Burden, John Odlin, Gama: Wayte, Edw^d Hutchinson,</p>	<p>Willi: Wilson, Isaack Grosse, Richd Carder, Robt Hardinge, Richd Wayte, John Porter, Jacob Elliott, James Penniman, Thom: Wardell, Willi: Wardell, Thom: Matson, Willi: Baulston,</p>	<p>John Compton, Mr ^ Parker, Willi: Freeborn, Henry Bull, John Walker, Willi: Salter, Edw^d Bendall, Thom: Wheeler, Mr Clarke, Mr John Coggeshall.</p> <hr style="width: 10%; margin-left: auto; margin-right: 0;"/> <p style="text-align: right;">58</p>
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59 disarmed in Boston.

The like order is taken for other townes, changing the names of those who shall deliver their armes, & keepe them./

Salem men disarmed, 5.

The names of Salem men to bee disarmed: Mr ^ Scrugs, Mr Alfoot, Mr Comins, Goo: Robert Moulton, Goo: King; to deliv^r their arms to Leiff Damfort./

Newbery men disarmed, 3.

The names of Neweberry men to bee disarmed are, Mr Du^mer, Mr Eason, Mr Spencer; to bee delivered to the cunstable of the towne./

Roxbury men disarmed, 5.

The names of Roxberry men to bee disarmed are, Mr Edward Denison, Richd Morris, Richd Bulgar, & Willi: Denison, Phillp Sherman; to bee delivered to Goo: Johnson./

Ipswich men disarmed, 2.

The names of Ipswich men to bee disarmed are, Mr Foster & Samu: Sherman, w^{ch} are to deliv^r their armes to Mr Bartholomewe./

Charls Towne, 2.

The names of Charlstowne men to bee disarmed are, Mr George Bunker & James Browne, who are to deliver their armes to Goo: Thomas Line./

2 magis^{ts} taking mens acknowl-
 edg^{ts} of y^{or}
 evill in sub-
 scribing.

It was ordered, that if any that are to bee disarmed acknowledg their sinn in subscribing the seditious libell, or do not iustify it, but acknowledg it evill to two magistrates, they shalbee thereby freed from delivering in their armes according to the former order./

355-
 2 magis^{ts} power
 to dismisse
 from tray.

Two magistrates have power given them to excuse & exempt wholly from trainings any w^{ch} they shall thinke meete./

Leif How to
 trajue y^e com-
 pany at Lynne,
 & c.

Any that are excused from trainings are to pay for the vse of the com- pany as two magistrates shall thinke meete./

Roxbury en-
 joynd to send
 Mr Hutchin-
 son.

Leiff Howe, being enjoyned to traine the company at Linn, is pmited to have the fines, wth all ould arrerages of fines behind there./

[*209.]
 356-
 Order to prevent
 contempts of
 Court.

The towne of Roxberry is required to take order for the safe eustody of Mr^s Hutchinson; & if any charge arise, to bee defrayed by her husband./

*This Courte, being sensible of the great disorders growing in this comon welth through the contempts w^{ch} have of late bene put vpon the civill author-

STATUTES
OF
THE REALM.

PRINTED BY COMMAND
OF HIS MAJESTY
KING GEORGE THE THIRD.

IN PURSUANCE OF AN ADDRESS OF
THE HOUSE OF COMMONS
OF GREAT BRITAIN.

W. G. & Co., Stationers

From Original Records and Authentic Manuscripts.

VOLUME THE FIFTH.

MDCCXCIX

CHAPTER III.

AN ACT for ordering the Forces in the severall Counties of this Kingdom

*Rot. Parl. 14 C. II.
p. 1. nu. 3.*

Recital that the Government of the Militia, &c. is in the King, and that Parliament cannot pretend to the same.

The King may issue Commissions of Lieutenancy.

Power of Lieutenants to arm Troops;

to appoint and give Commissions to Officers;

and to present Names of Deputy Lieutenants. The King may displace such Officers.

Lieutenants and Deputy Lieutenants may train, &c. Troops.

II.
Lieutenants, &c. may charge Persons with Horsemen, Foot Soldiers, &c.

What Estate shall render Persons liable to be charged.

III.
Persons chargeable to find a Horseman, &c. not chargeable for the same Estate for a Foot Soldier.

Lieutenants, &c. may joine Persons chargeable.

FORASMUCH as within all His Majesties Realmes and Dominions the sole and supreme Power Government Command and Disposition of the Militia and of all Forces by Sea and Land and of all Forts and places of Strength is and by the Laws of England ever was the undoubted Right of His Majesty and His Royall Predecessors Kings and Quenes of England and that both or either of the Houses of Parliament cannot nor ought to pretend to the same nor can nor lawfully may raise or levy any War offensive or defensive against His Majesty His Heires or lawfull Successors and yet the contrary thereof hath of late yeares bene practised almost to the ruine and destruction of this Kingdome and during the late usurped Governments many evil and rebellious principles have bene instilled into the minds of the people of this Kingdome which may breake forth unless prevented to the disturbance of the peace and quiet thereof Bee it therefore declared and enacted by the Kings most Excellent Majesty by and with the Advice and Consent of the Lords Spiritual and Temporal and Commons in Parliament assembled and by the Authority of the same That the Kings most Excellent Majestie His Heires and Successors shall and may from time to time as occasion shall require issue forth severall Commissions of Lieutenancy to such persons as His Majesty His Heires and Successors shall thinke fit to be His Majesties Lieutenants for the severall & respective Counties Cities and places of England & Dominion of Wales and Town of Berwick upon Tweed which Lieutenants shall have full power and authority to call together all such persons at such times and to arm and array them in such manner as is hereafter expressed and declared and to form them into Companies Troops and Regiments and in case of Insurrection Rebellion or Invasion them to lead conduct and employ or cause to be [lead'] conducted and employed as well within the said severall Counties Cities and places for which they shall be commissioned respectively as alsoe into any other the Counties and places aforesaid for suppressing of all such Insurrections and Rebellions and repelling of Invasions as may happen to bee according as they shall from time to time receive directions from His Majesty His Heires and Successors and that the said respective Lieutenants shall have full power and authority from time to time [to constitute appointe and give Commissions to such persons as they shall thinke fit to be Colonels Majors Captaines and other Commission Officers of the said persons so to be armed arrayed and'] weaponed and to present to His Majestie His Heires and Successors the names of such person and persons as they shall thinke fit to be Deputy Lieutenants and upon His Majesties approbation of them shall give them Deputations accordingly Alwaies understood that His Majesty His Heires and Successors have power and authority to direct and order otherwise and accordingly att His and their pleasure may appoint and commissionate or displace such Officers Any thing in this Act to the contrary notwithstanding And that the said Lieutenants respectively and in their absence out of the Precincts and Limits of their respective Lieutenancies or otherwise by their directions the said Deputy Lieutenants during their said respective Deputations or any two or more of them shall have power from time to time to train exercise and put in readines and alsoe to lead and conduct the persons so to be armed arrayed and weaponed by the directions and to the intents and purposes as is hereafter expressed and declared

AND for the providing Horse and Armes and Furniture thereunto belonging for the arming and weaponing the persons aforesaid and alsoe for the defraying and paying the necessary charges thereunto belonging in manner as hereafter followeth Be it further Enacted That the said respective Lieutenants within the severall Counties Cities and places for which they are nominated respectively and their Deputies or the maior part of such Lieutenants and Deputy Lieutenants then present or in the absence of the Lieutenant or Lieutenants the maior part of the Deputy Lieutenants then present which maior part shall bee three att the least have hereby full Power and Authority to charge any person with Horse Horsman and Armes or with Foot Souldier and Armes in the same County Shire City Burrough or Towne Corporate where his her or their Estates lie having respect unto and not exceeding the limitations and proportions hereafter mentioned (that is to say) No person shall be charged with finding a Horse Horseman and Armes unless such person or persons have a Revenue of Five hundred pounds by the yeare in possession or have an Estate of Six thousand pounds in goods or money besides the furniture of his or their houses and so proportionably for a greater Estate in lands in possession or goods as the respective Lieutenants and their Deputies as aforesaid in their discretions shall see cause and thinke reasonable And they are not to charge any person with finding a Foot Souldier and Armes that hath not a yearely Revenue of Fifty pounds in possession or a personal Estate of Six hundred pounds in goods or moneys (other then the stocke upon the ground) and after the aforesaid rate proportionably for a greater or lesser Revenue or Estate Nor shall they charge any person with the finding both of Horse and Foot in the same County.

PROVIDED That no person chargeable by this Act to finde [a'] Horse and Horseman with Armes or to be contributory towards finding an Horse and Horseman with Armes shall for the same Estate be chargeable towards finding a Foot Souldier with Armes or contributory thereunto And it shall be lawfull to and for the respective Lieutenants and Deputies or any three or more of them as aforesaid to impose the finding and providing of Horse Horseman and Armes as aforesaid by joyning two or three or more persons together in the charge as to their judgement shall appeare most conducible to the service of this Kingdome

A.D.1662.

14^o CAR. II. c. 3.

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PROVIDED That no person that hath not One hundred pounds per annu in possession in Lands Tenements or Hereditaments Leasehold or Copihold or Twelve hundred pounds personal Estate shall be compellable to contribute in finding any Horse and Horseman with Armes And the said respective Lieutenants and Deputies or any three or more of them shall have power to heare Complaints and examine Witnesses upon Oath (which Oath they have hereby power to administer) and [to'] give redresse according to the merits of the cause in matters relating to the execution of this Act

BE it further Enacted That the said Lieutenants and Deputies or any three or more of them in their severall Counties and places respectively shall require and direct all persons so charged as aforesaid with Horse Horsemen and Armes to allow Two shillings by the day to the Troopers that serve with their Horse and Armes for the maintenance of the Man and Horse and Twelve pence a day for the Foot Souldiers (if they serve not in their owne persons) for so many dayes as they shall be absent from their Dwellings and Callings by occasion of Muster or Exercise.

AND for furnishing Ammunition and other Necessaries the said respective Lieutenants and Deputies or any three or more of them shall have power to lay fitting Rates upon the respective Counties and Places not exceeding in the whole in any one yeare the proportion of a fourth part of One Moneths Assessment in each County after the Rate of Seventy thousand pounds by the Moneth now or late charged by an Act intituled An Act for the raising of Seventy thousand pounds for the further Supply of His Majesty which Moneys are to be assessed collected and paid by such psons and according to such Directions as shall be given from time to time by the said respective Lieutenants & Deputies or any three or more of them under the like penalties and by the like wayes & meanes as are prescribed in the said Act for the Seventy thousand pounds by the Moneth And in case of Invasions Insurrections or Rebellions whereby occasion shall be to draw out such Souldiers into actual Service the persons so charged as aforesaid shall provide each their Souldier respectively with pay in hand not exceeding one moneths pay as shall be in that behalfe directed by the said respective Lieutenants and in their absence as aforesaid or otherwise by their directions by their Deputies or any two or more of them for repayment of which said Moneys and for satisfaction of the Officers for their pay during such time not exceeding one moneth as aforesaid as they shall be with their Souldiers in such said actual service It is hereby declared That provision shall be made for the same by His Majesty His Heires and Successors out of His or Their Publique Treasury or Revenue Nevertheles it is hereby further Provided and Enacted That in case a moneths pay shall be provided and advanced as aforesaid that no person who shall have advanced his proportion thereof shall be charged with any other like moneths payment untill he or they shall have bene reimbursed the said Moneths pay & so from time to time the Moneths pay by him or them last before provided and advanced as aforesaid

AND be it Enacted that the said Lieutenants and their Deputies or the Cheife Officers upon the place in the respective Counties and places as aforesaid may charge Carts Wagons Wayns and Horses for the carrying of Powder Match Bullet and other Materials allowing six pence a Mile outward only to every such Cart Wagon or Wayn with five Horses or six Oxen and so proportionably And for every Horse employed out of Wagon or Cart for the uses aforesaid one penny so taken upon the Marching of any Regiment Company or Troope upon occasion of Invasion Insurrection or Rebellion And that the said Lieutenants or Deputies or the Cheife Officers upon the place shall and may imprison Mutineers and such Souldiers as doe not their Duties as Souldiers at the day of their Musters and Training and shall and may inflict for punishment for every such Offence any pecuniary Multe not exceeding five shillings or the penalty of Imprisonment without Bail or Mainprise not exceeding twenty dayes

AND be it further Enacted if any person or persons so to be assessed or charged by the said Lieutenants and Deputies or any three or more of them respectively shall refuse or neglect by a reasonable time to be appointed to provide and furnish such sufficient Horse and Horseman Horses and Horsemen Armes and other Furniture or to pay such sum or sums of Money towards the providing and furnishing as aforesaid That then it shall and may be lawfull to and for the respective Lieutenants & Deputies or any three or more of them for every such Offence from time to time to inflict a penalty upon such persons not exceeding twenty pounds And alsoe by Warrant under their or any three or more of their hands and Seales to levy such sum or sums of money or the value of such Horse or Horses Armes and Furniture and such penalty inflicted by Distresse and sale of the goods of the person or persons so neglecting or refusing rendring the overplus to the party soe distrained all necessary charge in levying thereof being first deducted And it is declared that the same be employed to the same uses in default whereof the same was imposed

AND be it further Enacted That if any person or persons so to be armed arrayed and weaponed shall detaine or imbezil his Horse Armes or Furniture wherewith he ought to serve or is intrusted that it shall and may be lawfull to and for the said respective Lieutenants and in their absence as aforesaid or otherwise by their directions to and for their Deputies or any two or more of them to imprison such person and persons till he or they have made satisfaction for the Horse Armes or other furniture so by him detained or imbezelled And alsoe that if any person so to be armed horsed or weaponed as aforesaid shall not appeare and serve compleatly furnished with Horse and Armes and other Furniture wherewith he is intrusted at the beat of Drum sound of Trumpet or other Summons that then and soe often it shall and may be lawfull to and for the said respective Lieutenants and in their absence as aforesaid or

IV.
Persons not having
£100 per Annum
real, or £1,000 of
personal Estate,
not liable to find
Horsemen.
Lieutenants, &c.
may heare
Complaints.

V.
Lieutenants, &c.
may direct Persons
charged to make
Allowance to
Troopers, &c.
on Exercise.

VI.
Lieutenants may
lay Rates for
Ammunition.

12 Car. II. c. 29.

How and by
whom such Moneys
assessed and paid.

In case of Invasion,
such Persons to
provide Soldiers
with pay in hand.

Provision for
Repayment
thereof, &c.
Proviso where
Month's Pay
advanced.

VII.
Lieutenants may
charge Carts, &c.
for Carriage of
Powder, &c. and
make an Allowance;

may imprison
Mutineers;

and may fine or
imprison Soldiers
not doing
their Duty.

VIII.
Persons charged
by Lieutenants,
refusing to provide
Horsemen, &c. or
to pay, &c.

Lieutenants may
inflict a Penalty,
and levy such
by Distress.

IX.
Persons armed
embezzling, &c.
Horse, Arms, &c.
Lieutenants
may imprison.
Persons not
appearing to serve,

Lieutenants, &c. may imprison, or inflict a Penalty.

Persons assessed not delivering in Horse, &c.

Lieutenant, &c. may inflict a Penalty, to be levied by Distresse.

X.
Power to Lieutenant, &c. to examine upon Oath.

XI.
Lieutenants to appoint Treasurers, Clerks, &c.

who are to account every Six Months.

Accounts to be certified to the Privy Council.

XII.
Deputy Lieutenants to obey Lieutenants.

XIII.
Lieutenants or Deputy Lieutenants may by Warrant employ Persons to search and seize Arms.

Hours at which Search may be made.

If Search resisted, Force may be used.

Proviso for Peers.

Arms seized may be restored.

XIV.
Constables, &c. to be aiding Lieutenants, &c. in execution of A.C.
Persons who have executed Commissions of Lieutenancy indemnified.

XV.
Lieutenants to send Notice of Charge to Persons charged in Counties, &c. where they do not reside, or their Tenants, &c.

otherwise by their directions to and for their Deputies or any two or more of them if the default be in the person or persons so intrusted to imprison such person or persons for the space of five dayes without Baile or Mainprize or to inflict the penalty if a Horseman not exceeding twenty shillings and if a Foot man not exceeding ten shillings to be paid downe without delay or forbearance And if any person or persons so assessed or charged as aforesaid shall refuse or neglect to send in or deliver his Horse Armes or other Furniture upon such summons or other notice as aforesaid That then and so often it shall and may be lawfull to and for the said respective Lieutenants & their Deputies or any three or more of them to inflict a penalty not exceeding five pounds to be levied by Distresse and sale of the Goods of such person or persons so refusing as aforesaid rendering the overplus to the party distrained necessary Charges for levying being first deducted

AND for the better Discovery of the ability of the persons so to be assessed and charged and (') all Misdemeanors tending to the hinderance of the service aforesaid the said respective Lieutenants and their Deputies or any three or more of them are hereby enabled to examine upon Oath such person or persons as they shall judge necessary or convenient or shall be produced by the party charged or accused other then the persons themselves [see '] to be assessed and accused

AND for the better and more speedy execution of the pmisses bee it further enacted That the said respective Lieutenants shall bee and are hereby required to appoint one or more Treasurer or Treasurers Clerke or Clerkes for receiving & paying such moneys as shall be levied by vertue hereof of all which Receipts and Disbursements thereof the said Treasurer Clerke and Clerkes are every six Monethes to give their Accompts in writing and upon Oath to the said Lieutenants and their Deputies or any three or more of them which Oath they have hereby power to administer And the said Accompt soe to be taken shall be forthwith certified to the Lords of His Majesties most Honorable Privy Council and a Duplicate thereof shall be certified to the Justices of [the '] Peace at the next Generall Quarter Sessions

AND be it further enacted That the Deputy Lieutenants shall observe and obey such Orders and Directions as they shall from time to time receive from the respective Lieutenants for the putting in execution the Powers given by this Act.

AND for the better securing the Peace of the Kingdome be it further enacted and ordained and the respective Lieutenants or any two or more of their Deputies are hereby enabled & authorized from time to time by Warrant under their Hands and Seales to employ such Person or Persons as they shall thinke fitt (of which a Commissioned Officer and the Constable or his Deputy or the Tythingman or in the absence of the Constable and his Deputy and Tythingman some other Person bearing Office within the Parish where the Search shall be shall be two) to search for and seize all Armes in the custody or possession of any person or persons whom the said Lieutenants or any two or more of their Deputies shall judge dangerous to the Peace of the Kingdome and to secure such Armes for the service aforesaid and thereof from time to time to give Accounts to the said respective Lieutenants and in their absence as aforesaid or otherwise by their directions to their Deputies or any two or more of them. [Provided that no such Search be made in any house or houses between Sun setting and Sun rising other then in Cities and their Suburbs and Townes Corporate Market Townes and houses within the bills of Mortality where it shall and may be lawfull to search in the night time by Warrant as aforesaid if the Warrant shall so direct and in case of resistance to enter by force And that no dwelling house of any Peere of this Realme be searched by vertue of this Act but by immediate Warrant from His Majesty under His Sign Manual or in the presence of the Lieutenant or one of the Deputy Lieutenants of the same County or Riding And that in all places and houses whatsoever where search is to be made as aforesaid it shall and may be lawfull in case of resistance to enter by force And that the Armes so seized may bee restored to the Owners againe if the said Lieutenants or in their absence as aforesaid their Deputies or any two or more of them shall so thinke fitt. ']

AND be it Enacted that all high Constables petty Constables and other Officers and Ministers within the said Counties Cities Parishes and places aforesaid be and are hereby required to be aiding and assisting to the said respective Lieutenants and their Deputies or any of them in execution of the premisses. And that all and every person and persons who shall act or do any thing in execution thereof shall be hereby saved harmeles and indemnified And also that all and every person and persons who have heretofore acted or done any thing in execution of any Commission or Commissions of Lieutenancy issued by the Kings Majesty that now is or by colour of them or any of them [or touching or concerning the same or any of them '] or relating thereunto since the seventh day of May One thousand six hundred sixty and one until the twentieth day of May One thousand six hundred sixty and two shall be and are hereby saved harmeles and indemnified in that behalfe

AND be it further enacted and ordained That where any person or persons shall be charged by vertue of this Act [to find '] a Horse & Horseman Horses and Horsemen and Armes or Foot souldier and Armes in such County City or place where he or they do not reside or inhabit That then and in such cases the respective Lieutenants and Deputies or any three or more of them shall send Notice of every such charge if such person have any land in his owne occupacōn to such person as he doth employ as his servant in managing the same And in case all his Lands or other Estate be demised and to farne let then to one or two of the most sufficient Tenant or Tenants who shall have the same in their occupation who are hereby required forthwith with all

¹ of O.

² interlined on the Roll.

³ O. omits.

⁴ annexed to the Original Act in a separate Schedule.

convenient speed to convey the same to their Master or Landlord respectively And within such time as shall be appointed in that behalfe bring an Accompt of their Master or Landlords answer to the respective Lieutenants and Deputies or any three or more of them and upon neglect or refusal of the Landlord to provide such Horse and Horseman Horses & Horsemen and Armes or Foot Souldier and Armes as is duly charged upon him [according to the Rates mentioned in this Act for the yearely Rent reserved upon every demise or other grant and not otherwise¹] within the time limited for that purpose that then the said Tenant or Tenants shall provide and do as the Landlord in that behalfe ought to have done And if the said Tenant or Tenants shall refuse or neglect to provide such Horse and Horseman Horses and Horsemen and Armes or Foot Souldier and Armes as are charged upon his or their Landlords within the time limited that then and upon every such default it shall and may be lawfull to and for the said respective Lieutenants and in their absence as aforesaid or otherwise by their directions to and for their Deputies or any two or more of them by Warrant under their hands and Seales to levy all such penalties as are appointed by this Act by distresse and sale of the offenders goods rendring the overplus to the party distrained

AND it is hereby ordained and enacted that it shall and may be lawfull to and for the said Tenant or Tenants to defalke out of such Rent as shall be next due to his or their Landlord all such Money as the said Tenant or Tenants shall necessarily lay out or expend in providing such Horse and Horseman Horses and Horsemen and Armes or Foot Souldier and Armes as are charged upon his or their Landlord or shall pay or be leavyed upon him or them by distresse for any default in manner as aforesaid Any condition reservation Covenant or Contract for the payment of his or their Rent to the contrary in any wise notwithstanding And for soe doing the said Tenant or Tenants shall be indemnified by Authority of this Act unless the Landlord or Landlords shall make it appear within two Monethes after such levying such penalties before the respective Lieutenants and in their absence as aforesaid or otherwise by their directions before their Deputies or any two or more of them that the default and penalty was occasioned by the wilfull neglect of the said Tenant or Tenants.

PROVIDED also that no person being a Peer of this Realme shall be capable of acting or serving as Lieutenant or Deputy Lieutenant by vertue of this Act unless he or they shall first before six [of the²] Lords of His Majesties Privy Council for the time being or such other persons as shall be authorized by His Majesty to administer the same take the Oaths of Allegiance and Supremacy and alsoe this Oath following I. A. B doe declare and beleive that it is not lawfull upon any pretence whatsoever to take Armes against the King And that I doe abhor that traitorous Position that Armes may be taken by His Authority against His Person or against those that are Commissioned by Him in pursuance of such military Commissions So helpe me God Which Oathes they have hereby power to administer

AND that no person being under the degree of a Peer of this Realm shall be capable of acting as Lieutenant Deputy Lieutenant Officer or Souldier by vertue of this Act unless he or they shall first take the Oathes of Allegiance and Supremacy and this Oath following I A. B. doe declare and beleive that it is not lawfull upon any pretence whatsoever to take Armes against the King And that I doe abhor that traitorous Position that Armes may be taken by His Authority against His Person or against those that are commissioned by Him in pursuance of such military Commissions. So helpe me God. Which Oathes any one Justice of Peace of the respective Counties and places aforesaid is enabled to administer to such respective Lieutenant as is not a Peer of this Realm and the said Lieutenant or any one Justice of Peace of the respective Counties and places aforesaid is enabled to administer to the respective Deputy Lieutenants not being Peers and the said respective Lieutenants and in their absence as aforesaid or otherwise by their directions when they are not absent their Deputies or any two of them shall and are hereby enabled to administer the said Oaths to the said Officers and Souldiers.

AND to the end there may be some convenient time to put in Execution the Powers of this Act and preparing an Establishment according to the same be it hereby enacted That the Trained Bands and Forces now actually raised and in being shall so continue in each respective City and County of England and Wales untill the five and twentieth [day³] of March One thousand six hundred sixty and three and no longer unless an Establishment according to this Act be no sooner had Any thing in this present Act to the contrary in any wise notwithstanding.

AND it is hereby declared and enacted That the ordinary times for training exercising and mustering the Forces to be raised by vertue of this Act shall be these following (that is to say) the General Muster and Exercise of Regiments not above once a Yeare the training and exercising of single Companies not above foure times a Yeare unless speciall Directions be given by His Majestie or His Privy Council And that such single Companies and Troops shall not at any one time be continued in Exercise above the space of two dayes And that at a Generall Muster and Exercise of Regiments no Officer or Souldier shall be constrained to stay for above foure dayes together from their respective habitacions And that att every such Muster and Exercise every Musqueteer shall bring with him halfe a pound of Powder [at the charge of such person or persons as provide the said Foote Souldier and Armes and every Horseman is to bring with him a quarter of a pound of Powder att the charge of such person or persons as provide the said Horse Horseman and Armes⁴] And the Armes offensive and defensive with the Furniture for Horse are to be as followeth The defensive Arms a Back Breast and Pott and the Breast and Pott to be Pistoll prooffe The offensive Armes a Sword and a Case of Pistolls the Barrells whereof are not

Tenants or Servants receiving such Notice to convey the same to Landlord, &c. and bring answer to Lieutenants; if Landlords neglect to provide, Tenants to do so; if Tenants refuse, Lieutenants, &c. may levy Penalties.

XVI.
Tenants may deduct Rate paid by them and charged on Landlord out of Rent.

Tenants indemnified.

XVII.
Peers not to act as Lieutenants or Deputy Lieutenants without taking Oaths, &c. which Six Lords of the Council may administer.

XVIII.
The like Provision as to Persons under Degree of a Peer.

Justice of Peace may administer such Oaths; and Lieutenants, &c. to Officers and Soldiers.

XIX.
Trained Bands, &c. now raised to continue till 25th March 1663.

XX.
Times for Training, Exercise, &c.

Single Companies how long to be continued in Exercise.

Ammunition to be brought to Muster.

Arms offensive and defensive described.

¹ annexed to the Original Act in a separate Schedule.

² interlined on the Roll.

³ O. omits.

to be under fourteen Inches in length The furniture for the Horse to be a great Sadle or Padd with Burrs and Strapps to affix the Houlsters unto a Bit and Bridle with a Pectorell & Crupper For the Foot a Musqueteer is to have a Musquett the Barrell whereof is not to be under three Foot in length and the Gage of the Bore to be for twelve Bullets to the pound A Coller of Bandleers with a Sword Provided that all Muster Masters shall for the present admitt and allow of any Musquetts already made which will beare a Bullett of fourteen to the pound But no Musquetts which henceforth shall be made are to be allowed of but such as are of the gage for twelve Bullets to the pound A Pike man is to be armed with a Pike made of Ash not under sixteene foote in length (the Head and Foote included) with a Back Breast Head peice and Sword Provided that all Muster Masters shall for the present admitt and allow of any Pikes already made that are not under fifteen foot in length but no Pikes which shall be hereafter made are to be allowed of that are under sixteene foot in length

XXI.
Proviso respecting
Militia of the
Island of Purbeck.

PROVIDED also and be it enacted by the Authority aforesaid That the Militia of the Island of Purbeck shall remaine separate from the County of Dorset as heretofore hath beene used And that His Majesties Lieutenant of the said Island and his Deputies or any three or more of them for the time being shall have power for the levying arraying mustering and conducting of such number of Foot for the defence of the said Island in such manner and by such wayes and means as heretofore hath beene used And alsoe to use and execute within the said Island all and every the Powers which by the true Intent of this Act any of His Majesties Lieutenants or his or threire Deputies or any of them might in any respective County use or execute

XXII.
In case of apparent
Danger, the King
may raise the Sum
of £70,000 in one
Year, and so for
Three Yeares, to
be levied by
Lieutenants, &c.

PROVIDED nevertheless and be it Enacted by the Authority aforesaid That in case of apparent danger to the present Government it shall and may be lawfull for His Majesty att any time or times that the same shall see happen during the space of three yeares from the five and twentieth day of June in the Yeare One thousand six hundred sixty and twoe to raise such sum or sums of money for the defraying of the whole or such part of the Militia aforesaid as His Majesty shall find himselfe obliged to imploy in order to the quiet and security of this Nation the said sūm not exceeding Seventy thousand pounds in one whole yeare And the same to be raised by His Majesties Lieutenants or in their absence as aforesaid by threire Deputies in their respective Counties according to the rules & directions in an Act in this Parliament for the raising of Eighteen moneths Assessment after the rate of Seaventy thousand pounds per mensem as alsoe to continue the space of three yeares from the aforesaid five and twentieth day of June and no longer Any thing in this Act or any other to the contrary notwithstanding

13 Car. II. Stat. 2.
c. 3.

XXIII.
Constables, &c.
to be reimbursed
Moneys paid by
them for Armes, &c.
by Persons refusing
to pay Rate.
Persons refusing
to reimburse
Constables, &c.
Distresse.

BE it alsoe enacted That all Constables Tithingmen or other Officer or Officers who since the Foure and twentieth of June One thousand six hundred and sixty have paid or disbursed or before the settlement of the Militia to be established by vertue of this Act shall pay or disburse any moneys for buying of Armes or defraying of Charges of Souldiers sett or to be sett upon threire respective Parishes shall be reimbursed the same by those who have refused to pay their proportions thereof And in case hee or they shall refuse to pay the same then to be levied by distresse and sale of Goods rendring the Overplus to the Owner or Owners by Warrant under the Hand and Seale of the Lieutenant or Lieutenants or in his or threire absence or otherwise by threire direction when they are not absent of any two of threire Deputies directed to the respective Constables Tything men or other Officer or Officers aforesaid of threire respective Parishes

XXIV.
Persons charged
not compellable
to serve personally,
but may find a
Substitute.

Substitute required
to serve.

Persons serving to
give in at the next
Muster their Names
and Places of
Abode.

Persons listed
deserting ;
being exchanged ;
quitting Service
without Leave.

Penalty £20.

Distress or
Imprisonment.

PROVIDED alwaies and it is hereby further enacted and declared That no person charged with the finding of Horse or Foote or with contributing thereunto as aforesaid shall be compellable to serve in his or threire proper person but may according to such proportion as they are or shall respectively be charged by this Act find one or more fitt or sufficient man or men qualified according to this Act to be approved by his or threire Captain respectively subjectt nevertheless to be altered upon appeal to the Lieutenant or in his absence as aforesaid to his Deputy Lieutenant or any two of them as there shall be cause And that every such person or persons so found and provided shall and hereby are required to serve as Souldier and Souldiers in such manner and under such penalties as are before appointed in this Act And that every person or persons who shall serve in his or threire owne persons (who are alsoe to be approved of as aforesaid) or such person or persons as shall be accepted in his or threire stead shall att the next Muster of such Troope or Company in which he or they are to serve give in his or threire Christian and Surnames and places of abode unto such person as the Lieutenant or in his absence as aforesaid or by his direction when he is not absent any two Deputy Lieutenants shall appoint to the end the same may be listed And that from thenceforth such person so listed shall not be exchanged or desert the said service or be discharged thereof but by the leave and order of the Lieutenant or two Deputy Lieutenants or his Captaine upon reasonable cause (subjectt nevertheless upon appeals to be determined as aforesaid) first obtained in writing under his or threire hands and seales under pain that such person departing from the said service without leave as aforesaid shall forfeit the sūm of Twenty pounds to be levied upon his Goods and Chattells in such manner as is by this Act appointed for the levying of other penalties And for [non'] payment or want of distresse then every such person to be committed to the Cōmon Goal of the County for any time not exceeding three monthes without bail or mainprize Any thing in this Act to the contrary (*) notwithstanding

XXV.
Proviso for Tinnars
of Devon and
Cornwall.

PROVIDED alwaies and be it Enacted That nothing in this Act contained shall extend to put any new charge of Armes upon the Tinnars in the Counties of Devon and Cornwall other then the Tax mentioned in the former Proviso But that the Lord Warden of the Stanaries for the time being in pursuance of His Majesties Commission in that behalfe and such as he shall commissionate and authorize under him according to the Rules and

* none O.

* in any wise O.

Directions before mentioned in this Act shall and may have and use [the like Powers and array assess arm muster and exercise the said Tinnors within the said Counties and either of them as hath been heretofore used and according to the ancient Priviledges and Customes of the said Stanaries observing the Rules and Proportions appointed by this Act'] Any thing in this Act to the contrary notwithstanding

PROVIDED alwaies and bee it enacted by the Authority aforesaid That His Majesties Lieutenants that are or shall be commissioned for the Militia of the City of London may and shall continue to list and levy the Trained Bands & Auxiliaries of the said City as to number and quality of the persons in such manner as was used in forming the present Forces now raised by His Majesties Commission And in regard of the extraordinary duties which the Forces of the said City that now are and formerly were raised in order to His Majesties happy Restauration [having'] of late and may againe be put to for the safety of His Majesties Person and for suppressing or preventing of Insurrections that it shall and may be lawfull for his Majesties Lieutenant^e of the said City by Warrant from His Majestie to impose and levy yearely in the same so much money as they shall find needfull for defraying the Arreares of those first raised for His Majesties happy Restauration and the Arreares and necessary charge of those that now are and shall be raised with the Ammunition and other incident expences of their Militia in such manner as the present Assessment is now levied and not exceeding in any one yeare the proportion of One moneths Tax which the said City now payes towards the Tax of Seaventy thousand pounds by the Moneth and shall be acceptable for the same as by this Act is ordained Any thing in this Act to the contrary of this Proviso in any wise notwithstanding

XXVI.
Power to
Lieutenants to
list and levy the
Trained Bands
for London;

and to impose Rate
for Pay, &c.

PROVIDED alwaies That no Officer or Souldier of the Militia or Trained Bands belonging to any City Borough or Towne Corporate being a County of it selfe or to any other Corporation or Port Towne who have used and accustomed to bee mustered only within their owne Precinct^e shall be compellable to appeare [out'] of the Precinct^e or Liberties of the same City Borough Towne Corporate or Port Towne at any Muster or Exercise only and every of the said Cities Boroughs Towns Corporate and Port Towns are hereby chargeable to find their usuall number of Souldiers unlessse the respective Lieutenants find cause to lessen the same Any thing in this Act to the contrary notwithstanding

XXVII.
Officers or Soldiers
of Trained Bands
not compellable to
appeare at Muster,
&c. out of their
City or Towne.

PROVIDED That this Act or any thing herein contained shall not extend to avoid any Covenant or Agreement which hath bene or shall be made betweene any Landlord and Tenant concerning the finding Horses or Armes or the bearing or paying of any [Taxes Rates or other charges by any Tenant either by generall or speciall Covenants but that the said Taxes Rates or other Charges shall be borne and paid by all respective Tenants according to the said Covenant^e and Agreement^e Any thing in this Act to the contrary thereof in any wise notwithstanding']

XXVIII.
Proviso for
Agreements
between Landlords
and Tenants
concerning Rates,
&c.

PROVIDED That this Act or any thing therein contained shall not extend to make any alteration in the Isle of Wight as to the Militia in that place either to raise Horse or Foote within the said Isleland in any other manner then hath bene formerly and is now used & practised there

XXIX.
Proviso for Militia
of Isle of Wight.

PROVIDED alsoe and be it enacted That whereas the Militia of the Tower Division in the County of Middlesex comonly knowne by the name of the Tower Hamlets are and alwaies have bene under the comand of His Majesties Constable or Lieutenant of the Tower for the Service and Preservation of that His Royall Fort that it shall and may be lawfull for His Majesties Constable or Lieutenant of the Tower for the time being to continue to levy the Trained Bands of the said Division or Hamlets of the Tower in such manner and form as to the number and quality of persons as was observed in forming the present Forces thereof Any thing in this Act to the contrary notwithstanding

XXX.
Proviso for Tower
Hamlets.

PROVIDED that neither this Act nor any matter or thing therein contained shall be deemed construed or taken to extend to the giving or declaring of any power for the transporting of any the Subjects of this Realme or any way compelling them to march out of this Kingdome otherwise then by the Lawes of England ought to be done

XXXI.
Proviso as to
marching the
Subject out of
the Kingdom.

PROVIDED alwaies and be it enacted by the Authority aforesaid That no Peer of this Realme shall be charged with Horse Horsemen and Armes or Foote Souldiers and Armes otherwise or in any other manner then is herein after expressed (that is to say) that His Majestie His Heires and Successors shall and may from time to time issue out Commissions under the Great Seale of England to so many Peeres (not fewer then twelve) as His Majestie His Heires and Successors shall thinke fitt who or any five or more [of'] them shall have power from time to time to assess all and every or any the Peers of this Realme according to the limitations and proportions in this Act appointed for the finding of Horse Horsemen and Armes or Foot Souldiers and Armes and for other the purposes in this Act mentioned (except the Monthly Taxes which are to be levied as is before prescribed in this Act) and shall have power to put in execucon all and every the Powers and Authorities of this Act as well for laying Assessments as imposing of Penalties (Imprisonment of the person of any Peere of this Realm only excepted) which Assessment or Charge so made together with such penalties as shall be soe imposed (Imprisonment as aforesaid only excepted) shall be from time to time respectively certified to the respective Lieutenants of each County to the intent that the said Charge may be borne and the penalties (not before excepted) levied according

XXXII.
In what manner
Peers are to be
charged.

Monthly Taxes
excepted.

Imprisonment of
Peers excepted.

¹ annexed to the Original Act in a separate Schedule.

² have O.

³ interlined on the Roll.

Peers making
Default;

Distress and
Proceeding
thereon.

to the intent of this Act And that in case there shall be any default in performance of any thing to be done or paid by any Peer by vertue of this Act that then it shall be lawfull for the respective Lieutenants & Deputy Lieutenants or any three of them to cause Distresses to be taken for the same in any of the lands of such Defaulter within their said Counties or Limits respectively And in case satisfaction shall not be given within the space of one weeke after such Distresse taken then such Distresses to be sold for the performance of the said Service and the charge incident thereunto and the Overplus (if any be) to be restored to the Owner And if a Tenant of any Peere of this Realme shall be distrained for such default as aforesaid the Tenant soe distrained is hereby enabled to deducē the sūm levied out of his next Rent.

CHAPTER IV.

*Rot. Parl. 14 C. II.
p. 1. m. 4.*

AN ACT for the Uniformity of Publique Prayers and Administration of Sacraments & other Rites & Ceremonies and for establishing the Form of making ordaining and consecrating Bishops Preists and Deacons in the Church of England.

Recital that in the
First Year of Queene
Eliz. there was one
uniform Order of
Church Service
compiled;
and enjoined
to be used by
Eliz. c. 2.

WHEREAS in the first year of the late Queene Elizabeth there was one uniforme Order of Cōmon Service and Prayer and of the Administration of Sacraments Rites and Ceremonies in the Church of England (agreeable to the Word of God and usage of the Primitive Church) compiled by the Reverend Bishoppes and Clergy set forth in one Booke entituled The Booke of Cōmon Prayer and Administration of Sacraments and other Rites and Ceremonies in the Church of England and enjoined to be used by Act of Parliament holden in the said First year of the said late Queene entituled An Act for the Uniformity of Cōmon Prayer and Service in the Church and Administration of the Sacraments very comfortable to all good people desirous to live in Christian conversation and most profitable to the Estate of this Realme upon the which the Mercy Favour and Blessing of Almighty God is in no wise so readily and plentifully poured as by Cōmon Prayers due using of the Sacraments and often preaching of the Gospell with Devotion of the Hearers And yet this notwithstanding a great number of people in divers parts of this Realm following their owne sensualitie and liveing without knowledge and due feare of God do willfully and schismatically abstaine and refuse to come to their Parish Churches and other Publique places where Cōmon Prayer Administration of the Sacraments and preaching of the Word of God is used upon the Sundayes and other dayes ordained & appointed to be kept and observed as Holy dayes And whereas by the great and scandalous neglect of Ministers in using the said Order or Liturgy so set forth and enjoined as aforesaid great mischeifs & inconveniencies during the times of the late unhappy troubles have arisen and grown and many people have beene led into Factions and Schismes to the great decay and scandall of the Reformed Religion of the Church of England and to the hazard of many souls [For prevention whereof in time to come for setting the Peace of the Church and for allaying the present distempers which the indisposiōn of the time hath contracted The Kings Majestie according to His Declaration of the Five and twentieth of October One thousand six hundred and sixty granted His Cōmission under the great Seale of England to severall Bishops and other Divines to [re']view the Booke of Cōmon Prayer and to prepare such Alterations and Additions as they thought fit to offer And afterwards the Convocations of both the Provinces of Canterbury and Yorke being by His Majesty called and assembled and now sitting His Majesty hath bene pleased to authorize and require the Presidents of the said Convocations and other the Bishoppes and Clergy of the same to reweil the said Booke of Cōmon Prayer and the Booke of the Forme and manner of the making and consecrating of Bishops Preists and Deacons And that after mature consideraōn they should make such Additions and Alterations in the said Bookes respectively as to them should seeme meet and convenient and should exhibit and present the same to His Majesty in writing for his further allowance or confirmation since which time upon full and mature deliberation they the said President¹ Bishops and Clergy of both Provinces have accordingly reviewed the said Bookes and have made some Alterations which they thinke fit to be inserted to the same and some additional Prayers to the said Booke of Cōmon Prayer to be used upon proper and emergent occasions And have exhibited and presented the same unto His Majesty in writing in one Booke entituled The Booke of Cōmon Prayer and Administration of the Sacraments and other Rites and Ceremonies of the Church according to the use of the Church of England together with the Psalter or Psalmes of David pointed as they are to be sung or said in Churches and [the'] forme and manner of making ordaining and consecrating of Bishoppes Preists and Deacons All which His Majesty havinge duly considered hath fully approved and allowed the same and recommended to this present Parliament that the said Bookes of Cōmon Prayer and of the forme of Ordination and Consecration of Bishops Preists and Deacons with the Alterations and Additions which have bene soe made and presented to his Majesty by the said Convocations be the Booke which shall be appointed to be used by all that officiate in all Cathedrall and Collegiate Churches and Chappells and in all Chappells of Colledges and Halls in both the Universities and the Colledges of Eaton and Winchester and in all Parish Churches and Chappells within the Kingdome of England Dominion of Wales and Towne of Berwick upon Tweed and by all that make or consecrate Bishops Preists or Deacons in any of the said places under such Sanctions and Penalties as the Houses of Parliament shall thinke fit.] Now in regard that nothing conduceth more to the setting of the Peace of this Nation (which is desired of all good men) nor to the honour of our Religion and the propagation thereof then an universall agreement in the Publique Worshipping of Almighty God and to the intent that every person within this Realme may certainly

that many Persons
nevertheless refuse
to come to their
Parish Church;

that by the Neglect
of Ministers many
Persons have been
led into Schism;

that His Majesty,
according to His
Declaration of
25th Oct. 1660,
had granted a
Commission to
reweil the Book
of Common Prayer,
and that the
Convocations were
assembled for that
Purpose;

that they had
presented to His
Majesty a Book
of Common Prayer,
which he had
allowed and
recommended to
Parliament that
the same should
be used in all
Churches, &c.;

that an universall
Agreement in public
Worship conduceth
to settling the Peace
of the Nation;

¹ interlined on the Roll.

² annexed to the Original Act in a separate Schedule.

Acad. Marischal. Aberdeen — 2 M. 1. 28.

THE
STATUTES
OF
THE REALM.

PRINTED BY COMMAND
OF HIS MAJESTY
KING GEORGE THE THIRD.

IN PURSUANCE OF AN ADDRESS OF
THE HOUSE OF COMMONS
OF GREAT BRITAIN.

From Original Records and Authentic Manuscripts.

VOLUME THE SIXTH.

MDCCXCIX.

CHAPTER XIV.

AN ACT for preventing Doubts and Questions concerning the Collecting the Publique Revenue.

*Rot. Parl. pt. 5.
nu. 11.*

FOR the preventing all Disputes and Questions concerning the collecting levying and answering of the Publique Revenue due and payable in the Raignes of the late Kings Charles the Second and James the Second whilst the better settling of the same is under the Consideration of this present Parylament Bee it enacted by the King and Queenes most excellent Majestyes by and with the advice and consent of the Lords Spirituall and Temporall and Commons in Parliament assembled and by authoritie of the same That the Subsidie of Tonnage and Poundage and other Summes of Money payable upon Merchandize Exported and Imported and the severall Impositions Duties and Charges upon Liquors Manufactures and other things and all and singular the Revenue and Revenues whatsoever except the Duties arising by Fire-hearths and Stoves other then such as are or shall be incurred at or before the five and twentyeth day of March one thousand six hundred eighty nine given granted and payable to or lawfully enjoyed by the said late Kings or either of them which remained and had continuance on the fifth day of November last and all Arreares of the same shall be raised levyed collected answered and paid to their Majestyes untill the twenty fifth day of December which shall be in the yeare of our Lord one thousand six hundred eighty nine in the same manner and forme according to such Rates and Orders and by such Rules Meanes and Wayes and under such Penalties and Forfeitures as are mentioned expressed and appointed in the Statutes made in the Raignes of the said late Kings or either of them concerning the same respectively and as by Law the same might or ought to have bene dureing the said Raignes And that all and singular Acts of Parliament made dureing the Reigns of either of the said late Kings for the granting settling raising levying collecting answering and paying the same or for preventing Frauds or Concealments or regulateing Abuses therein or for the better ordering or recovering the same and all Powers Provisions Penalties Articles Clauses and Things contained in the said Acts or any of them be and are hereby continued and confirmed and shall stand and be in force and be applyed practiced executed and putt in use for the raising levying collecting paying and answering the said Subsidie Summes of Money Impositions Duties and Revenues to their Majestyes according to the tenour and intent of this present Act And alsoe that an Order of the Commons in Parliament assembled made in pursuance of the Rules and Orders annexed to the Act of Parliament made in the twelfth yeare of the Raigne of the [said'] late King Charles the Second Entituled A Subsidie granted to the King of Tonnage and Poundage and other Summes of Money payable upon Merchandize Exported and Imported for settling of Officers Fees dated the seventeenth day of May one thousand six hundred sixty two and signed by Sir Edward Turner then Speaker shall be of full force and effect untill the said five and twentyeth day of December one thousand six hundred eighty nine as if the same were particularly and at large recited in this Act

All the Revenue payable to the Two late Kings shall be paid to their present Majesties till December next.

All Acts concerning the Revenue in force.

Orders about Fees continued.

Stat. 12 Car. II. c. 4.

AND bee it further enacted by the authoritie aforesaid That all and every person and persons that have received or collected the said Subsidie Summs of Money Impositions Duties or any other publique Revenue or any part or parcel thereof since the said fifth day of November shall and are hereby indempnified against all persons from whome he or they levyed received or collected the same to be answerable neverthesse to their Majestyes for what he or they have soe received or collected

II.
Persons who have received Subsidie indempnified, but answerable to their Majesties.

AND bee it farther enacted by the authoritie aforesaid That all Seizures and Distresses made or to be made by any Officer or Officers of the Customs or Excise or any person or persons thereunto lawfully authorized and all Forfeitures and Penalties for any Offence against any Law concerning the Customs or Excise or relating to the Transportation of Woole or Importation or Exportation of Prohibited Goods incurred since the eleventh day of December and before the thirteenth day of February one thousand six hundred eighty eight shall be prosecuted and sued and all Recoveries Judgments and Proceedings thereupon shall and may be had and prosecuted as well by any Informer suing and prosecuting for the Kings and Queens Majestyes and himselfe as by their Majestyes Attourney Generall for their Majestyes in the same manner and forme as if such Seizures Distresses and Offences had bene made and committed after the said thirteenth day of February.

III.
Seizures and Forfeitures betwixt December and February valid.

CHAPTER XV.

AN ACT for the better securing the Government by disarming Papists and reputed Papists.

*Rot. Parl. pt. 5.
nu. 12.*

FOR the better securing of the Government against Papists and reputed Papists bee it enacted by the King and Queenes most excellent Majestyes by and with the advice and consent of the Lords Spirituall and Temporall and Commons in this present Parylament assembled and by authoritie of the same That it shall and may be lawfull for any two or more Justices of the Peace who shall know or suspect any person to be a Papist or shall be informed that any person is or is suspected to be a Papist to tender and they are hereby authorized and required forthwith to tender to such person soe knowne or suspected to be a Papist the Declaration sett downe and expressed in an Act of Parylament made in the thirtyeth yeare of the Raigne of the late King Charles the Second Intituled An Act for the more effectuall Preservinge the Kings Person and Government by disabling Papists from sitting in either

Two Justices of Peace may tender Declaration of 30 Car. II. to Papist, &c.

30 Car. II. st. 2.

House of Parlyament to be by him made repeate and subscribed And if such person soe required shall refuse to make repeate and subscribe the said Declaration or shall not make repeate and subscribe the said Declaration or shall refuse or forbear to appeare before the said Justices for the making repeating and subscribing the said Declaration upon notice to him given or left at his usuall place of abode by any person authorized in that behalfe by Warrant under the Hands and Seales of the said two Justices such person from thenceforth shall be taken to be and is hereby declared to be lyable and subjeçt to all and every the Penalties Forfeitures and Disabilities hereafter in this Act mentioned

Such Persons refusing,
Penalty.

II.
Justices of Peace to certify Subscribers and Refusers to the Sessions.

AND bee it hereby further enacted That the said Justices of the Peace shall certifie the Name Sirname and usuall place of abode of every person who being required shall refuse or neglect to make repeate and subscribe the said Declaration or to appeare before them for the making repeating and subscribing the said Declaration As alsoe of every person who shall make repeate and subscribe the said Declaration at the next Generall Quarter Sessions to be holden for the Shire Rideing Division or Liberty for which they shall be Justices of the Peace to be there recorded by the Clerke of the Peace or Towne-Clerke and kept amongst the Records of the said Sessions

III.
Refuser to keep no Arms.

Two Justices of Peace may seize Arms.

AND for the better secureing their Majestyes Persons and Government Bee it further enacted and declared That noe Papist or reputed Papist soe refuseing or making default as aforesaid shall or may have or keepe in his House or elsewhere or in the Possession of any other person to his use or at his disposition any Arms Weapons Gunpowder or Ammunition (other then such necessary Weapons as shall be allowed to him by Order of the Justices of the Peace at their Generall Quarter Sessions for the defence of his House or person) And that any two or more Justices of the Peace from time to time by Warrant under their Hands and Seales may authorize and empower any person or persons in the day time with the assistance of the Constable or his Deputy or the Tythingman or Headburrough where the Search shall be (who are hereby required to be aiding and assisting herein) to search for all Arms Weapons Gunpowder or Ammunition which shall be in the House Custodie or Possession of any such Papist or reputed Papist and seize the same for the use of their Majestyes and their Successors which said Justices of the Peace shall from time to time at the next Generall Quarter Sessions to be held for the County Rideing Division or Liberty where such Seizure shall be made deliver the said Arms Weapons Gunpowder and Ammunition in open Court for the use aforesaid

IV.
Refuser not discover or hindering the Search for his Arms.

Imprisonment.

Penalty.

AND bee it further enacted That every Papist or reputed Papist who shall not within the space of ten dayes after such refusall or making default as aforesaid discover and deliver or cause to be delivered to some of their Majestyes Justices of the Peace all Arms Weapons Gunpowder or Ammunition whatsoever which he shall have in his House or elsewhere or which shall be in the possession of any person to his use or at his disposition or shall hinder or disturbe any person or persons authorized by Warrant under the Hands and Seales of any two Justices of the peace to search for and seize the same that every such person soe offending contrary to the Statute in this behalfe made shall be committed to the Common Gaole of the County or Place where he shall committ such Offence by Warrant under the Hands and Seals of any two Justices of the Peace there to remaine without Baile or Mainprize for the space of three months and shall alsoe forfeite and lose the said Arms and pay treble the value of them to the use of their Majestyes and their Successors to be appraized by the Justices of the Peace at the next generall Quarter Sessions to be held for the said County Rideing or Division to their Majesties and their Successors

V.
Concealing Arms.

Imprisonment.

Penalty.

AND bee it further enacted That every person who shall conceale or be privy or aiding or assisting to the concealing or who knowing thereof shall not discover or declare to some of their Majesties Justices of the Peace the Arms Weapons Gunpowder or Ammunition of any person soe refuseing or making default as aforesaid or shall hinder or disturbe any person or persons authorized as aforesaid in searching for taking and seizing the same shall be committed to the Common Gaole of the County or place where he shall committ such Offence by Warrant under the Hands and Seals of any two Justices of the Peace there to remaine without Baile or Mainprize for the space of three Months and shall alsoe forfeit and lose treble the value of the said Arms to their Majestyes and their Successors

VI.
Persons discovering Arms.

Reward.

Refusers taking the Declaration, Penalty discharged.

AND bee it further enacted That if any person or persons shall discover any concealed Arms Weapons Ammunition or Gunpowder belonging to any refuseing or making default as aforesaid soe as the same may be seized as aforesaid for the use of their Majestyes and their Successors the Justices of the Peace upon delivery of the same at the generall Quarter Sessions as aforesaid shall have power and they are hereby required as a Reward for such a discovery by Order of Sessions to allow to him or them a Summe of Money amounting to the full value of the Arms Weapons Ammunition or Gunpowder soe discovered the said Summe to be assessed by the Judgment of the said Justices at their said Sessions and to be levied by distresse and sale of the Goods of the person offending against this Act rendring the Overplus which shall arise by such sale above the said summe soe allowed and above the necessary Charges of taking such distresse to the Owner Provided alwayes That if any person who shall have refused or made default as aforesaid shall desire to submit and conforme and for that purpose shall present himselfe before the Justices of Peace at the Generall Quarter Sessions to be holden for the County Rideing Division or Liberty where his refuseall or making default as aforesaid shall be certifiyd as aforesaid and shall there in open Court make repeate and subscribe the said Declaration contained in the said Act made in the said thirtieth yeare of the Raigne of the said late King Charles the Second and take the severall Oathes contained in an Act made in this present Parlyament intituled An Act for Removeing and Preventing all Questions and Disputes concerning the assembling and sitting of this present Parlyament He shall from thenceforth be discharged of and from all disabilities and forfeitures which he might or should be lyable to for the future by reason of his refusall or default as aforesaid

A.D.1688.

1^o GUL. & MAR. c. 15—17.

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AND bee it further enacted That noe Papist or reputed Papist soe refusing or makeing default as aforesaid at any time after the fifteenth day of May in the yeare of our Lord one thousand six hundred eighty nine shall or may have or keepe in his owne possession or in the possession of any other person to his use or at his disposition any Horse or Horses which shall be above the value of five pounds to be sold and that any two or more Justices of the Peace from time to time by Warrant under their Hands and Seals may and shall authorize any person or persons with the assistance of the Constable or his Deputie or the Tythingman or Headburrough when the Search shall be (who are hereby required to be aiding and assisting herein) to search for and seize for the use of their Majesties and their Successors all such Horses which Horses are hereby declared to be forfeited to their Majesties and their Successors

VII.
Papists Horses
above #5 Value
forfeited.

AND bee it further enacted That if any person shall conceale or be aiding or assisting in the concealing any such Horse or Horses belonging to any Papist or reputed soe refusing or makeing default as aforesaid there to remaine without Baile or Mainprise by the space of three months and shall alsoe forfeit and lose to their Majestyes and their Successors treble the value of such Horse or Horses which value is to be setled as aforesaid.

VIII.
Concealing
Papists Horses.
Penalty.

CHAPTER XVI.

AN ACT that the Simoniackall Promotion of one Person may not prejudice another.

Rot. Parl. pt. 5.
nu. 13.

WHEREAS it hath often happened that persons Simoniack or Simoniackly promoted to Benefices or Ecclesiasticall Liveings have enjoyed the benefit of such Liveings many yeares and some times all their Life-time by reason of the secret carriage of such Simoniackall dealing and after the death of such Simoniack person another person innocent of such Crime and worthy of such Preferment being presented or promoted by another Patron innocent alsoe of that Simoniackall Contract have bene troubled and removed upon pretence of Lapse (or otherwise) to the prejudice of the innocent Patron in Reversion and of his Clerke whereby the Guilty goe away with profit of his Crime and the innocent succeeding Patron and his Clerke are punished contrary to all reason and good Conscience For prevention whereof Bee it enacted by the King and Queens most excellent Majesties by and with the advice and consent of the Lords Spirituall and Temporall and Cōmons in this present Parliament assembled and by the authoritie of the same That after the death of the person soe Simoniackly promoted the Offence or Contract of Simony shall neither by way of Title in Pleading or in Evidence to a Jury or otherwise hereafter be alledged or pleaded to the prejudice of any other Patron innocent of Simony or of his Clerke by him presented or promoted upon pretence of Lapse to the Crowne Metropolitan or otherwise unlesse the person Simoniack or Simoniackly presented or his Patron was convicted of such Offence at the Common Law or some Ecclesiasticall Court, in the Life time of the person Simoniack or Simoniackly promoted or presented any Law or Statute to the contrary notwithstanding

Simoniackall Contract
where it shall not
prejudice.

[AND bee it alsoe provided enacted and declared by the authoritie aforesaid That noe Lease or Leases really and bona fide made or hereafter to be made by any such person as aforesaid Simoniack or Simoniackly promoted to any Deanry Prebend or Parsonage or other Ecclesiasticall Benefice or Dignity for good and valuable consideration to any Tennant or person not being privy unto or having notice of such Simony shall be impeached or avoided for or by reason of such Simony but shall be good and effectuell in Law the said Simony notwithstanding.]

II.
Lease made bona
fide by Simoniack,
good.

CHAPTER XVII.

AN ACT for rectifying a Mistake in a certaine Act of this present Parliament For the amoveing Papists from the Cities of London and Westminster.

Rot. Parl. pt. 5.
nu. 14.

WHEREAS in an Act of this present Parliament intituled An Act for the amoveing Papists and reputed Papists from the Cities of London and Westminster and ten miles distance from the same the County of Sussex is by mistake in the said Act inserted for the County of Essex Bee it enacted by the King and Queens most excellent Majesties with the advice and consent of the Lords Spirituall and Temporall and Commons in this present Parliament assembled and by the authoritie of the same That all and every the Powers and Authorities by the said recited Act given to the Justices of the Peace for the County of Sussex be and are hereby declared and enacted to extend to the County of Essex and the Justices of Peace of the said County of Essex and Limitts thereof.

Sussex changed
into Essex.

¹ annexed to the Original Act in a separate Schedule.

THE

Statutes at Large;

BEING

A COLLECTION

OF ALL THE

LAWS OF VIRGINIA,

FROM THE

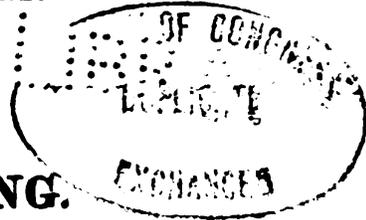
FIRST SESSION OF THE LEGISLATURE,

IN THE YEAR 1619.

BLISHED PURSUANT TO AN ACT OF THE GENERAL ASSEMBLY
OF VIRGINIA, PASSED ON THE FIFTH DAY OF FEBRUARY,
ONE THOUSAND EIGHT HUNDRED AND EIGHT.

VOLUME VII.

By WILLIAM WALLER HENING.



“The *Laws* of a country are necessarily connected with every thing be-
longing to the people of it; so that a thorough knowledge of *them*, and
of their progress would inform us of every thing that was most use-
ful to be known about them; and one of the greatest imperfections
of historians in general, is owing to their ignorance of law.”

PRIESTLEY'S LECT. ON HIST. Vol. I. pa. 149

RICHMOND.

PRINTED FOR THE EDITOR.
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.....
1820.

MARCH 1756—29th GEORGE II.

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paid to the said treasurer hereby appointed, out of all and every the sum and sums of money by him received and accounted for, to the General Assembly, as aforesaid: And that there shall be also allowed to the said treasurer, for auditing and settling the accounts of inspectors of tobacco, during the continuance of the laws in that behalf made, the sum of one hundred and fifty pounds per annum, for his trouble and service therein.

IV. *Provided always*, That the said treasurer before he enters upon his office, shall give such sufficient security as shall be approved of by the governor, or commander in chief of this colony, in the sum of fifty thousand pounds, for the due answering and paying all the money, by him from time to time to be received, as aforesaid. To give bond and security.

V. And to the end a treasurer may not be wanting in case of the death, resignation, or disability of the treasurer hereby appointed; *Be it further enacted*, Where the treasurer dies. That in either of these cases it shall and may be lawful for the governor, or commander in chief of this colony, with the advice of the council, for the time being, to appoint some other fit and able person to be treasurer of the duties, to hold the said office with all powers, authorities, salaries, and profits, aforesaid, until the end of the next session of Assembly, which treasurer, so appointed, shall, before he enters upon his office, give the like security, as is herein before directed.

CHAP. IV.

An Act for disarming Papists, and reputed Papists, refusing to take the oaths to the government.

I. WHEREAS it is dangerous at this time to permit Papists to be armed, *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That it shall, and may be lawful, Preamble.

LAWS OF VIRGINIA,

Where Pa-
pists refuse
to take the
oaths, when
tendered.

for any two or more justices of the peace, who shall know, or suspect any person to be a Papist, or shall be informed that any person is, or is suspected to be a Papist, to tender, and they are hereby authorised and required to tender to such person so known, or suspected to be a Papist, the oaths appointed by act of parliament to be taken instead of the oaths of allegiance and supremacy; and if such person, so required, shall refuse to take the said oaths, and subscribe the test, or shall refuse, or forbear to appear before the said justices for the taking the said oaths, and subscribing the said test, upon notice to him given, or left at his usual place of abode, by any person authorised in that behalf, by warrant under the hands and seals of the said two justices, such person from thenceforth shall be taken to be, and is hereby declared to be liable and subject to all and every the penalties, forfeitures, and disabilities hereafter in this act mentioned.

Duty of jus-
tices.

II. *And be it further enacted*, That the said justices of the peace shall certify the name, surname, and usual place of abode of every person, who being required, shall refuse, or neglect to take the said oaths, and subscribe the said test, or to appear before them for the taking the said oaths, and subscribing the said test, as also of every person, who shall take the said oaths, and subscribe the said test at the next court to be holden for the county for which they shall be justices of the peace, to be there recorded by the clerk of the said court, and kept among the records of the said court.

No Papists
to keep
arms, &c.

III. *And for the better securing the lives and properties of his majesty's faithful subjects, Be it further enacted and declared*, That no Papist, or reputed Papist so refusing, or making default as aforesaid, shall, or may have, or keep in his house or elsewhere, or in the possession of any other person to his use, or at his disposition, any arms, weapons, gunpowder or ammunition, (other than such necessary weapons as shall be allowed to him, by order of the justices of the peace at their court, for the defence of his house or person) and that any two or more justices of the peace, from time to time, by warrant under their hands and seals, may authorise and empower any person or persons in the day-time, with the assistance of the constables where the search shall be (who is hereby required to be aiding and assisting herein) to search for all arms, weapons, gunpowder or ammunition, which shall be

MARCH 1756—29th GEORGE II.

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in the house, custody, or possession of any such Papist, or reputed Papist, and seize the same for the use of his majesty and his successors; which said justices of the peace shall from time to time, at the next court to be held for the county, where such seizure shall be made, deliver the said arms, weapons, gunpowder and ammunition, in open court, for the use aforesaid.

IV. *And be it further enacted,* That every Papist, or reputed Papist, who shall not, within the space of ten days after such refusal, or making default as aforesaid, discover and deliver, or cause to be delivered to some of his majesty's justices of the peace, all arms, weapons, gunpowder or ammunition, which he shall have in his house or elsewhere, or which shall be in the possession of any person to his use, or at his disposition, or shall hinder or disturb any person or persons, authorised by warrant under the hands and seals of any two justices of the peace to search for, and seize the same; that every such person so offending contrary to the act of Assembly in this behalf made, shall be committed to the goal of the county where he shall commit such offence, by warrant under the hands and seals of any two justices of the peace, there to remain without bail or mainprize for the space of three months, and shall also forfeit and lose the said arms, and pay treble the value of them to the use of his majesty and his successors, to be appraised by the justices of the peace at the next court to be held for the said county.

V. *And be it further enacted,* That every person who shall conceal, or be privy, or aiding or assisting to the concealing; or who knowing thereof, shall not discover, or declare to some of his majesty's justices of the peace, the arms, weapons, gunpowder or ammunition of any person so refusing, or making default as aforesaid, or shall hinder or disturb any person or persons authorised as aforesaid in searching for, taking and seizing the same, shall be committed to the goal of the county where he shall commit such offence, by warrant under the hands and seals of any two justices of the peace, there to remain, without bail or mainprize; for the space of three months, and shall also forfeit and pay treble the value of the said arms to his majesty and his successors.

VI. *And be it further enacted,* That if any person or persons shall discover any concealed arms, weapons,

Penalties on them.

All persons to discover papists keeping arms, &c.

Their reward for

LAWS OF VIRGINIA,

ammunition or gunpowder belonging to any refusing or making default, as aforesaid, so as the same may be seized as aforesaid, for the use of his majesty and his successors; the justices of the peace upon delivery of the same at the county court, as aforesaid, shall have power, and they are hereby required, as a reward for such a discovery, by order of court, to allow him or them a sum of money amounting to the value of the arms, weapons, ammunition, or gunpowder, so discovered, the said sum to be assessed by the judgment of the said justices, at their said court, and to be levied by distress and sale of the goods of the person offending against this act, rendering the overplus which shall arise by such sale, above the said sum, so allowed, and above the necessary charges of taking such distress, to the owner.

Where the party desires to conform.

VII. *Provided always,* That if any person who shall have refused or made default, as aforesaid, shall desire to submit and conform, and for that purpose shall present himself before the justices of peace, at the court to be held for the county where his refusal or making default, as aforesaid, shall be certified as aforesaid, and shall there in open court take the said oaths, and subscribe the said test, he shall from thenceforth be discharged of and from all disabilities and forfeitures, which he might or should be liable to for the future, by reason of his refusal or default, as aforesaid.

No Papist to keep any horse above the value of 5*l.* to be sold.

VIII. *And be it further enacted,* That no Papist, or reputed Papist, refusing or making default, as aforesaid, at any time after the first day of July, in the year of our Lord, one thousand seven hundred and fifty-six, shall or may, have or keep, in his own possession, or in the possession of any other person to his use, or at his disposition, any horse or horses, which shall be above the value of five pounds, to be sold, and that any two or more justices of the peace, from time to time, by warrant under their hands and seals, may and shall authorize any person, or persons, with the assistance of the constable where the search shall be (who is hereby required to be aiding and assisting herein) to search for, and seize for the use of his majesty and his successors all such horses, which horses are hereby declared to be forfeited to his majesty and his successors.

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IX. *And be it further enacted,* That if any person shall conceal, or be aiding or assisting in the concealing any such horse, or horses, belonging to any Papist, or reputed Papist, so refusing or making default, as aforesaid, after the said first day of July, such person shall be committed to prison, by such warrant, as aforesaid, there to remain without bail or mainprize, by the space of three months, and shall also forfeit and pay to his majesty and his successors, treble the value of such horse or horses, which value is to be settled as aforesaid.

Penalty on persons concealing such horses.

CHAP. V.

An Act to enable certain persons to contract for the transportation of the neutral French to Great-Britain.

I. WHEREAS a large number of people called neutral French, have lately been sent into this colony, from Nova Scotia, and it is apprehended their continuance here will greatly endanger the peace and safety of the colony: *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That Peyton Randolph, esquire, Richard Bland, John Chiswell, Benjamin Waller, James Power, Archibald Cary, Robert Carter Nicholas, Dudley Digges, and Bernard Moore, gentlemen, or any five of them, be, and they are hereby empowered and required to contract with any person, or persons, willing to transport the said neutral French to Great-Britain, and to agree on such prices, terms, and conditions, as they, or any five of them, shall judge reasonable for that purpose.

Neutral French to be transported to Great-Britain.

II. *And be it further enacted, by the authority aforesaid,* That the treasurer of this colony be, and he is hereby empowered and required, by warrant from the governor or commander in chief, to pay and discharge all such sums of money, as the said Peyton Randolph, Richard Bland, John Chiswell, Benjamin Waller,

In the Sixteenth Year of the Reign of GEORGE the Third, KING, &c. 1776.

Numbering Inhabitants.

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and he hereby is appointed a Committee to take and return an Account of the Number of the like Inhabitants of the County of *Hampshire*. And that Mr. *Simon Fry*, Major *Ichabod Goodwin*, and *William Bradbury*, be and hereby are appointed a Committee to take and return an Account of the Number of the like Inhabitants in the County of *York*. And that Messieurs *David Barker*, *George Freeman*, *John Nash*, *Isaac Parsons*, and *Phineas Frost*, be, and hereby are appointed a Committee to take and return an Account of the Number of the like Inhabitants in the County of *Cumberland*. And that *Ezekiel Pettis*, Esq; Col. *William Jones*, Mr. *James Minot*, Col. *Jonathan Buck*, and Col. *Alexander Campbell*, be, and hereby are appointed a Committee to take and return an Account of the Number of the like Inhabitants in the County of *Lincoln*: And the Members of each of the said Committees, shall and hereby are impow-
ered to act severally in the said Business, and each one of them shall take and return the Number of all such Inhabitants as dwell on such particular and several Districts or Divisions of Land in the said Counties of *Berkshire*, *Hampshire*, *York*, *Cumberland*, and *Lincoln*, as shall be agreed on and determined by the said Committees respectively.

And be it Enacted, That the Parent, Master or Mistress of any Family, the Number whereof is by this Act to be taken by such Committee, who shall refuse to give a just and true Account of the Number of his or her Family, shall forfeit and pay the like Sum as the like Use, and be recovered in the like Manner, as before in this Act is provided, to be forfeited by, and recovered of the Heads of Families dwelling in Towns who shall refuse to give a true Account of the Number of his or her Family, to the Selectmen of the Town to which they belong.

And be it further Enacted, That each and every one of the Selectmen, and the Committee aforesaid, shall, before they enter upon the Service aforesaid, take the Oath or Affirmation herein after prescribed, before some Justice of the Peace for the County, or the Town Clerk of the Town to which such Selectmen or Committee shall respectively belong, who are hereby respectively impowered to administer the same.

And be it further enacted, That the Oath or Affirmation to be administered to each of the said Selectmen and Committees, shall be *mutatis mutandis*, in the Form following, viz.

TO U A. B. do solemnly Swear, that you will faithfully and truly execute and perform the Duty and Service required of you, by one Act or Law of this Colony, intitled, An Act for the carrying into Execution a Resolve of the American Congress, for ascertaining the Number of Inhabitants in this Colony.

So help you G O D.

C H A P. VII.

An Act for the executing in the Colony of the *Massachusetts-Bay*, in *New-England*, one Resolve of the *American Congress*, dated *March 14, 1776*, recommending the disarming such Persons as are notoriously disaffected to the Cause of *America*, or who refuse to associate to defend by Arms the *United American Colonies*, against the hostile Attempts of the *British Fleets and Armies*, and for the restraining and punishing Persons who are inimical to the Rights and Liberties of the said *United Colonies*, and for directing the Proceedings therein.

WHEREAS on the fourteenth of March One Thousand seven Hundred and Seventy-six, a certain Resolve was made and passed by the American Congress,

Preamble.

Congress,

1776. *In the Year of Our LORD, One Thousand seven Hundred and Seventy-six.*

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Test.

Congress, of the following Tenor, viz. "Resolved, That it be recommended to the several Assemblies, Conventions and Councils, or Committees of Safety of the United Colonies, immediately to cause all Persons to be disarmed within their respective Colonies, who are notoriously disaffected to the Cause of America, or who have not associated and refuse to associate by Arms these United Colonies, against the hostile Attempts of the British Fleets and Armies; and to apply the Arms taken from such Persons in each respective Colony, in the first Place, to the arming of the Continental Troops raised in said Colony; in the next, to the arming such Troops as are raised by the Colony for it's own Defence, and the Residua to be applied to the arming the Associators; that their Arms when taken, be appraised by indifferent Persons, and such as are applied to the arming Continental Troops, be paid for by Congress; and the Residue by the respective Assemblies, Conventions or Councils, or Committees of Safety":

All Persons who refuse the Test to be disarmed.

Be it therefore enacted by the Council, and House of Representatives in General Court assembled, and by the Authority of the same, That every Male Person above sixteen Years of Age, resident in any Town or Place in this Colony, who shall neglect or refuse to subscribe a printed or written Declaration of the Form and Tenor herein after prescribed, upon being required thereto by the Committee of Correspondence, Inspection and Safety, for the Town or Place in which he dwells, or any one of them, shall be disarmed, and have taken from him in Manner hereafter directed, all such Arms, Ammunition and Warlike Implements, as by the strictest Search can be found in his Possession or belonging to him; which Declaration shall be in the Form and Words following, viz.

The Form of the Test.

We the Subscribers do each of us severally for ourselves profess, testify and declare, before God and the World, that we verily believe that the War, Resistance and Opposition in which the United American Colonies are now engaged against the Fleets and Armies of Great-Britain, is on the Part of the said Colonies just and necessary: And we do hereby severally promise, covenant and engage to and with every Person of this Colony, who has or shall subscribe his Declaration, or another of the same Tenor and Words, that we will not during the said War, directly or indirectly, in any Ways aid, abet or assist any of the Naval or Land Forces of the King of Great-Britain, or any employed by him, or supply them with any Kind of Provisions, Military or Naval Stores, or hold any Correspondence with, or communicate any Intelligence to any of the Officers, Soldiers or Mariners belonging to the said Army or Navy, or enlist, or procure any others to enlist into the Land or Sea Service of Great-Britain, or take up or bear Arms against this or either of the United Colonies, or undertake to pilot any of the Vessels belonging to the said Navy, or in any other Way aid or assist them; but on the contrary, according to our best Power and Abilities, will defend by Arms the United American Colonies, and every Part thereof, against every hostile Attempt of the Fleets and Armies in the Service of Great-Britain, or any of them, according to the Requirements and Directions of the Laws of this Colony, that now are or may hereafter be provided for the Regulation of the Militia thereof.

Mode of proceeding to gain a Delinquent's.

And be it further enacted by the Authority aforesaid, That the Committee of Correspondence, Inspection and Safety in each and ever, Town and Place in this Colony, or some one Member of such Committee, shall without Delay tender the said Declaration to every Male Person in their respective Town and Places above the Age of sixteen Years, requiring them severally to subscribe the same with his Name or Sign in his or their Presence; and if any one shall refuse or neglect so to do for the Space of twenty-four Hours after such Tender is made, the said Committee, or some one of them, shall forthwith give Information of such Refusal or Neglect, to some Justice of the Peace for the County in which such Delinquent dwells: And the Justice to whom such Information is given, shall forthwith make his Warrant, directed to the Sheriff of the same County.

In the Year of Our LORD, One Thousand seven Hundred and Seventy six. 1776.

Test.

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County, or his Deputy, or one of the Constables of the Town in which such supposed Delinquent hath his usual Place of Abode, or any indifferent Person, by Name requiring him forthwith to take the Body of such Delinquent, and him bring before the said Justice to answer to such Information, and to shew Cause, if any he hath, why he should not be disarmed, and have taken from him all his Arms, Ammunition and Warlike Implements; and in Case it shall be made to appear to the said Justice, that the said Information is true, and he should not shew any sufficient Cause why he should not forthwith be disarmed, &c. then the said Justice shall make his Warrant, directed to some proper Person, requiring him, without Delay, to disarm the said Delinquent, and take from him all his Arms, Ammunition and warlike Implements; and in case such Delinquent shall refuse to resign and give up all his Arms, Ammunition and warlike Implements, the Person to whom the said Warrant is directed, shall have Power, after demanding Admission to enter the Dwelling House, or any other Place belonging to the Delinquent, where he may have Reason to suspect such Arms are concealed, and make strict and diligent Search for the Articles aforesaid: And in case he shall find any of the said Articles, he shall take them, and immediately carry and deliver them to the Justice who made the said Warrant, which Justice is hereby required to receive them, and to appoint some indifferent and judicious Person or Persons to appraise the same; and the said Justice shall keep a true Account of all such Arms, Ammunition and Accoutrements, the Person or Persons they were taken from, and the Sum or Sums they were appraised at, and shall return a true Account thereof into the Secretary's Office as soon as may be, and shall keep the said Arms, &c. safely to be disposed of and paid for as the General Court shall order. And if the Person to whom the Warrant is directed, shall meet with Resistance, or shall have Reason to apprehend that he shall meet with Resistance in the Execution of the said Warrant, then he shall give Information thereof to the Justice of the Peace who issued the said Warrant, who if he shall judge it needful for carrying such Warrant into Execution, shall go in Person to some Military Officer in the same County, and require him immediately to raise such a Number of the Militia as the said Justice shall judge necessary, and the said Justice shall proceed in Person with the said Militia, and the Person to whom the said Warrant is directed, and in the most prudent Way he can, cause the Delinquent to be disarmed, and all the Articles aforesaid to be taken from him, and appraised and retained in Manner as is above directed.

And in case it shall be made to appear to any Justice of the Peace, that there is Reason to suppose that any of the Arms, Ammunition or warlike Implements, belonging to any Person who shall refuse or delay as aforesaid to subscribe the said Declaration, are concealed in any Dwelling-House or other Place, not belonging to such Delinquent, such Justice shall have Power, and is hereby directed to make his Warrant to some proper Person, requiring him to make diligent Search in such suspected Place or Places, to be particularly described or mentioned in such Warrant for the Articles aforesaid; and in Case they shall be found, such Proceedings shall be thereupon had touching the same, as is above prescribed, when they are in the actual Possession of the Delinquent aforesaid; and in case of Resistance or Opposition made to the Execution of such Warrant, the like Proceedings shall thereupon be had as are above directed, when Resistance is made to the searching for or taking such Articles, when in the actual Possession of such Delinquent.

And all Officers and Soldiers of the Militia, are hereby directed to obey and observe such Direction as shall be given by such Justice of the Peace in the Premises.

And every Person who shall refuse or neglect to subscribe the said Declaration, having had the same tendered to him as aforesaid, in case he holds any Office Civil or Military in this Colony, shall be deemed and adjudged *ipso facto* disqualified to exercise any such Office; and if a Town Officer, the Town he belongs to shall, and they hereby are empowered and required to proceed to make Choice

Who are disqualified from holding any Office in the Colony.

of

1776. *In the Year of Our LORD, One Thousand seven Hundred and Seventy-six*

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Test.

of some fit Person to serve in such Office in his Room: And in case he does not at present hold any such Office, he shall be deemed totally disqualified to be chosen or appointed, or to hold any such Office, till some further Order of the General Assembly. And in case any such Person so refusing or neglecting, shall be chosen or appointed to any Office Civil or Military, all Acts and Doings of such Person in the Execution of any such Office, shall be deemed and held to be null and void, and of none Effect. And no Person so refusing or neglecting, shall be permitted to give his Vote in the Choice of any Person to serve as Representative in the General Court or Assembly, or in the Choice of any Military, Town or County Officer, until he shall be restored by Order of the General Court, to the Privileges of a good and free Member of this Community. And no settled Minister or Grammar School-Master, who shall refuse or neglect to sign said Declaration, shall be intitled by the Laws of this Colony, to demand or recover any Salary or Reward for any Time or Service spent or performed in their respective Offices, from and after such Refusal or Neglect, until they shall subscribe such Declaration: And if any of the Governors of *Harvard College*, shall refuse to sign the Declaration aforesaid, they shall be thereby disqualified to receive any Salaries or Grants of the General Assembly, for Services done after their Refusal as aforesaid.

And be it further enacted by the Authority aforesaid, That if any Person or Persons resident in this Colony, shall during the War aforesaid, directly or indirectly supply the Army or Navy of the King of *Great-Britain*, or any employed by him, with Provisions, Military or Naval Stores, or shall give any Intelligence to the Officers, Soldiers or Mariners belonging to said Army or Navy, or shall enlist, or procure any other Person or Persons to enlist into the Service of the said Army or Navy, or shall take up or bear Arms against this or any other of the United Colonies, or shall undertake to pilot any of the Vessels belonging to the said Navy, or in any other Way shall aid or assist the said Army or Navy, every Person so offending, and being thereof duly convicted before the Superiour Court of Judicature, &c. shall forfeit all his Estate, which shall be accordingly seized and entered upon by the Order of said Court, for the Use of this Colony: And such Person shall be further punished by Imprisonment, in any of the Goals in this Colony at the Discretion of the said Court, for a Term not exceeding three Years. And every Person so convicted, shall be totally disqualified to hold or exercise any Office Civil or Military, and shall not be permitted to give his Vote for any Representative to serve in the General Court or Assembly, or in any Town Meeting for the Choice of any Town or County Officer, or for any Military Officer, until he shall be restored by Order of the General Court, to the Privileges of a good and free Member of this Community.

And be it further enacted, That on Complaint being made by the Selectmen or Committee of Correspondence, Inspection and Safety, or by any Sheriff, Deputy-Sheriff, Constable, Grandjurymen or Tythingmen, in any County in this Colony, to any Justice of the Peace for the same County, against any Person or Persons dwelling or residing in such Town or County, that he or they are inimical to the Liberties of this Colony, and the other United Colonies in *America*, the said Justice is hereby impowered to issue his Warrant to the Sheriff of the County, his Deputy, or to the Constables of the Town wherein such Person or Persons dwell, requiring him to apprehend and bring before him such Person or Persons to be examined; and if on Examination it shall appear to the said Justice that he or they are inimical and dangerous to the Liberties of this Colony, and the other United Colonies in *America*, the said Justice shall require such Person or Persons to find Sureties for the Peace and good Behaviour, as also for his Appearance at the next Court of General Sessions of the Peace, or Superiour Court of Judicature, &c. to be holden in said County at his Discretion, and for want of sufficient Sureties, shall commit him to the common Goal in the said County, there to be held until the next Sitting of one of the said Courts, as the said Justice in his said Warrant shall order, and until he be discharged

And from voting for a Representative, or any Military, Town or County Officer.

And from receiving any Salaries or Grants.

Persons who shall supply the Army or Navy, &c.

Shall forfeit their Estates and be imprisoned.

Not exceeding three years

and be disfranchised.

Mode of proceeding against Persons inimical to the Liberties of the United Colonies.

In the Year of Our LORD, One Thousand seven Hundred and Seventy six. 1776.

Left.

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charged by such Court, or otherwise by Order of Law. And in case such Person or Persons shall before either of the said Courts be found by the Jury upon Trial to be inimical or dangerous to the Liberties of this Colony, or the other United Colonies, the Court shall order that he be immediately disarmed and shall make their Warrant directed to some proper Officer, requiring him to seize and take all the Arms, Ammunition and warlike Implements belonging to such Criminal, and commit the same to the Clerk of the Court, who shall proceed with such Arms in the same Manner as a Justice of the Peace before in this Act is directed to do with the Arms taken from any Person for Refusal or Neglect to subscribe the Declaration in this Act prescribed; and shall require him to find sufficient Sureties for the Peace and good Behaviour, for any longer Time at their Discretion; and on Default thereof, shall commit him to the common Goal of the County, until he comply with such Order, and shall order the Person so convicted, to pay the Cost of Prosecution, and to be committed until he pay the same. And every Person so convicted, shall be totally disqualified to hold any Office, Civil or Military, or to give his Vote for any Representative to serve in the General Court or Assembly, or for any Military Town or County Officer, until such Person or Persons shall be restored by the General Court to the Privileges of a good and free Member of this Community.

And whereas it may have happened, that some Towns and unincorporated Plantations in this Colony, may be destitute of a Committee of Correspondence, Inspection and Safety by Reason of their not having seasonably received the Resolves of this Court directing thereto, or from some other Cause: Therefore,

Be it further enacted by the Authority aforesaid That in all such Towns and Places as did not at their annual Meeting in March last, agreeable to the Resolves of this Court, choose such Committee, the Committee of Correspondence, Inspection or Safety in every such Town and Place last chosen before the annual Meeting in March last, are hereby directed and empowered to continue acting in such Capacity, and shall perform the Business required in this Act of a Committee of Correspondence, Inspection and Safety, until a new Committee shall be chosen in their respective Towns and Places; and where no such Committees have heretofore been chosen, the Selectmen shall perform the same. And all such Towns and Places are directed and empowered to call Meetings and choose such Committee as soon as may be.

Provided nevertheless, and be it further enacted, That nothing in this Act shall be construed to extend to the disarming, disqualifying, or any way punishing any of the Denomination of Christians called *Quakers*, for not signing the aforesaid Declaration, in case upon being required to sign the following Declaration, and having the same tendered to him, shall not refuse or neglect to subscribe it, *viz.*

*We the Subscribers do solemnly promise and engage, that we will not aid, assist or abet the Land or Naval Forces, of Great-Britain, in the War now carrying on against the United Colonies of America, nor supply them with any Kind of Provisions, Naval or Warlike Stores, nor hold any Correspondence with or communicate any Intelligence to any of the Officers, Soldiers or Mariners of said Army or Navy. And the Committees are required in like Manner to tender the last preceding Declaration to each of the said Denomination of Christians called *Quakers*, and require them to sign the same, if any such there are in their respective Towns or Places.*

And be it further enacted by the Authority aforesaid, That no Person who hath voluntarily left his Town or usual Place of Abode, and fled to the British Fleet or Army, while stationed in Boston or elsewhere, or willingly supplied said Fleet or Army with Provisions or Stores of any Kind since the Nineteenth of April One Thousand seven Hundred and Seventy-five, communicated any Intelligence to, or held any criminal Correspondence with any of the Officers, Soldiers or Mariners of said Fleet or Army, or that hath voluntarily entered into, or signed any Association to join or assist said Army or Navy, or in any way voluntarily

In all such Towns and Places as did not at their annual Meeting in March last, agreeable to the Resolves of this Court, choose such Committee, the Committee of Correspondence, Inspection or Safety in every such Town and Place last chosen before the annual Meeting in March last, are hereby directed and empowered to continue acting in such Capacity, and shall perform the Business required in this Act of a Committee of Correspondence, Inspection and Safety, until a new Committee shall be chosen in their respective Towns and Places; and where no such Committees have heretofore been chosen, the Selectmen shall perform the same. And all such Towns and Places are directed and empowered to call Meetings and choose such Committee as soon as may be.

Nothing in this Act shall be construed to extend to the disarming, disqualifying, or any way punishing any of the Denomination of Christians called *Quakers*, for not signing the aforesaid Declaration, in case upon being required to sign the following Declaration, and having the same tendered to him, shall not refuse or neglect to subscribe it, *viz.*

Certain Persons not permitted to sign the Declaration.

1776. *In the Year of Our LORD, One Thousand seven Hundred and Seventy-six.*

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Fees.

And disquali-
fied to hold
any Office, &
from voting
for a Repre-
sentative, or
for any Town
County or Mi-
litary Officer.

luntarily aided, assisted or abetted the same shall be permitted to sign either of the Declarations aforesaid, and shall be totally disqualified to hold or exercise in this Colony any Office Civil or Military, or to give his Vote for any Representative to serve in the General Court of this Colony, or for any Town, County or Military Officer, and shall have taken from him all his Arms, Ammunition and Warlike Implements, in the same Manner; and the like Proceedings shall be thereon had, as is herein before directed for disarming those who refuse or neglect to sign said Declaration. And nothing in this Act shall be construed to entitle any Persons who may have been heretofore disarmed by any of the Committees of Correspondence, Inspection or Safety, in any Town or Place in this Colony, to receive their Arms again, but by the Order of such Committee, or the General Court.

C H A P. VIII.

An Act for the repealing one Law of this Colony, made and passed in the fourth Year of the Reign of *William and Mary*, King and Queen, intituled, *An Act for regulating Fees, and for regulating the Fees and Allowances of the several Officers and Persons within this Colony herein after mentioned.*

Preamble. **W**HEREAS the Fees and Allowances stated in the said Act of *William and Mary*, are in divers Instances very disproportionate to the Services whereto they are annexed:

Fees esta-
blished, viz.

Be it therefore enacted by the Council, and House of Representatives, in General Court assembled, and by the Authority of the same, That the said Act of *William and Mary*, intituled, *An Act for regulating Fees*, be and hereby is repealed; and that every Part and Paragraph thereof, be hereafter held and taken to be altogether null and void, and of no Effect whatsoever: And that the Fees and Allowances to the several Officers and Persons within this Colony, for the Services herein after specified, shall be as followeth, viz.

Fees to Justices of the Peace, and for Services in Matters cognizable by them singly.

Justices of
the Peace.

For every Writ of Attachment, or Original Summons, in the Form that is or shall be prescribed by the Law of his Colony, *three Pence.*

For the Declaration, *one Shilling.*

For the Summons upon a Capias or Attachment, *three Pence.*

For the Declaration in the Summons, *four Pence.*

Subpena for one or more Witnesses in Civil Causes, *four Pence.*

Entering an Action or Complaint in Civil Causes, *nine Pence.*

For Trial of an Issue, *two Shillings.*

Writ of Execution, *one Shilling.*

Filing Papers, each *one Penny.*

Taxing a Bill of Costs, *three Pence.*

Entering Judgment in Civil or Criminal Causes, *one Shilling.*

Copy of every Evidence, Original Papers or Records, at the Rate of *seven Pence* per Page, accounting twenty-eight Lines to a Page, and eight Words in a Line.

A Recognizance or Bond of Appeal, including Principal and Sureties, *eight Pence.*

Taking

L A W S

ENACTED IN THE FIRST SITTING

OF THE FIRST

GENERAL ASSEMBLY

OF THE

COMMONWEALTH

OF

P E N N S Y L V A N I A,

Which began at *Philadelphia*, November 28, 1776, and
was continued by adjournments to *March 21*, 1777.

CHAPTER I.

An ACT to enable a smaller number of the members of assembly than a quorum to collect the absent members, and issue writs for filling vacancies occasioned by neglect or refusal.

1777.
The first Year of the Commonwealth.

SECTION I.

WHEREAS it is found necessary to empower a less number than two thirds of the representatives of the freemen of this state, in assembly met, to collect the absent members, in order that the public business may not be delayed ;

Preamble.

SECT. 2. *Be it therefore enacted, and it is hereby enacted, by the representatives of the freemen of the commonwealth of Pennsylvania, in general assembly met, and by the authority of the same, That from and after the publication of this act,*

If a quorum do not meet in six days, speaker may send for absent members.

A

THOMAS WHARTON, Jun. Esq. President. 61

current in all payments by all persons, as well in their private as in their politic or corporate capacity :

SECT. 2. *Be it enacted by the representatives of the free-men of the commonwealth of Pennsylvania in general assembly met, and by the authority of the same,* That all the bills of credit declared to be legal tender by the said first recited act, and also the bills of credit emitted, and to be emitted, by virtue of the said last recited act, shall be legal tender, not only to those persons and creditors therein mentioned, but also to all bodies politic and corporate ; which said bodies shall be deemed and taken to be subject, in all respects, to all the fines and forfeitures in the said acts mentioned, which the persons or creditors therein named are or ought to be subject to, for any offence committed against the above recited acts, as fully and effectually, to all intents and purposes, as if the said bodies politic or corporate had been expressly named in the said act.

1777.

The first Year of the Commonwealth.

All bills of credit issued by the "100,000 act" to be legal tender to bodies politic, &c.

JOHN BAYARD, SPEAKER.

Enacted into a law the 13th Day of June, 1777. }
 JOHN MORRIS, junior, clerk of the general assembly. }

CHAPTER XXI.

An ACT, obliging the male white inhabitants of this state to give assurances of allegiance to the same, and for other purposes therein mentioned.

SECTION I. **W**HEREAS by the separation of Preamble. the thirteen united states from the government of the crown and parliament of Great Britain (who, by their acts of oppression and cruelty, as set forth in the declaration of independence by congress, bearing date the fourth day of July, 1776, had rendered such separation, on the part of the said states, absolutely necessary for their own happiness, and the happiness of succeeding generations) the good people of the state of Pennsylvania are become free and independent of the said crown and parliament.

SECT. 2. *And whereas* from sordid and mercenary motives, or other causes inconsistent with the happiness of the inhabitants to take the oath, &c. of

THOMAS WHARTON, Jun. Esq. President,

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And the form of the said certificate shall be as followeth, viz.

“ I do hereby certify, that both volun-
 “ tarily taken and subscribed the oath or affirmation of
 “ allegiance and fidelity, as directed by an act of general
 “ assembly of Pennsylvania, passed the thirteenth day of
 “ June, A. D. 1777. Witness my hand and seal, the
 “ day of A. D. (L.S.)

1777.

The first Year of the Commonwealth.

The certificate.

SECT. 3. *And be it further enacted by the authority aforesaid,* That the justice or justices of the peace, before whom such oath or affirmation shall be subscribed, shall keep fair registers of the names and surnames of the persons so sworn or affirmed, and the time when, and shall, on or before the first day of October in every year, transmit in writing, under his or their hands and seals, to the office of recorder of deeds for the said city or county, a true list of the names and surnames of those who, within the same year, have so sworn or affirmed before them respectively; and the said justice or justices shall have and receive therefor, and for the said certificate, the sum of one shilling, and no more, for every person so sworn or affirmed; and the said justice or justices shall lay their accounts before the county commissioners, or any two of them, from time to time, to be examined and allowed; and the said commissioners shall draw orders on the county treasurers for such sums as shall be so allowed, which orders the said treasurers are hereby authorized and required to pay out of the state taxes; and the recorders of deeds, in the city and several counties of this state, are hereby enjoined to record the said lists, in books to be prepared for that purpose, and shall be paid for the same, in the same manner as the justices, at the rate of five shillings for every hundred names.

Justices to keep registers of the names and transmit copies to the recorder of deeds, who is to record them.

SECT. 4. *And be it further enacted by the authority aforesaid,* That every person above the age aforesaid refusing or neglecting to take and subscribe the said oath or affirmation, shall during the time of such neglect or refusal, be incapable of holding any office or place of trust in this state, serving on juries, suing for any debts, electing or being elected, buying, selling or transferring any lands, tenements or hereditaments, and shall be disarmed by the lieutenant or sublieutenants of the city or counties respectively.

Incapacities and penalties on those who neglect or refuse to swear or affirm.

SECT. 5. *And whereas* there is a danger of having the seeds

Nonjurors travelling,

1777.

The first Year
of the Com-
monwealth.

to be taken
up, and the
oath, &c.
tendered, to
be commit-
ted on re-
fusal.

feeds of discord and disaffection greatly spread by persons, whose politic principles are not known, removing or travelling from one part of the state, to another, and it is well known that this state is already become (and likely to be more so) an asylum for refugees flying from the just resentment of their fellow citizens in other states: For remedy whereof, *Be it enacted by the authority aforesaid,* That every person above the age aforesaid, who shall travel, out of the county or city in which he usually resides, without the certificate aforesaid, may be suspected to be a spy, and to hold principles inimical to the united states, and shall be taken before one of the justices nearest to the place where he shall be apprehended, who shall tender to him the said oath or affirmation; and upon his refusal to take and subscribe the said oath or affirmation, the said justice shall commit him to the common goal of the city or county, there to remain without bail or mainprize until he shall take and subscribe the said oath or affirmation, or produce a certificate that he hath already done so.

Travellers
from other
states to
take the
oath, &c.

SECT. 6. *And be it further enacted by the authority aforesaid,* That all persons coming from any of the other united states into this state are hereby required to apply to one of the nearest justices after he enters this state, and take and subscribe the said oath or affirmation, upon the penalty of being dealt with as in the case of persons travelling or removing out of the city or county in which they usually reside, unless he can produce a certificate that he hath taken an oath or affirmation of the like nature in the state from whence he came.

Except de-
legates, &c.

SECT. 7. *Provided always nevertheless,* That delegates in congress, prisoners of war, officer and soldiers in the continental army, merchants and mariners trading in the ports of this state, from foreign powers in amity with the united states, and not becoming resident, are declared not to be within the intent and meaning of this act.

Forgers or
counter-
feiters of
certificates
to be fined
fifty pounds
or whipped.

SECT. 8. *And be it further enacted,* That if any person shall forge such certificate, as by this act is to be made out and given by any one of the justices of the peace of this state; or shall cause or procure others to forge or counterfeit the name and seal of the justice of the peace to such certificate, or shall, by erasing or otherwise taking out, or covering or passing over, a man's name that was wrote in a true and genuine certificate, alter the same so as to serve
his

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his own or any other man's purposes; or shall produce and make use of any such certificate, knowing it to be forged or altered; every such person and persons so offending, and being thereof legally convicted before any court of general quarter sessions of the peace of the city or county where such offence shall be committed, shall be fined the sum of fifty pounds, and be committed to jail, until he pays the fine and costs of prosecution: And if he shall not, within the space of thirty days, satisfy the judgment of the court, he shall be whipped with any number of lashes not exceeding thirty nine, on his bare back, well laid on.

1777.

The first Year
of the Common-
wealth.

JOHN BAYARD, SPEAKER.

Enacted into a law the 13th Day of June, 1777. }
JOHN MORRIS, junior, clerk of the general assembly. }

CHAPTER XXII.

*A supplement to the act, intituled, "An Act for amend-
ing the several acts for electing members of
assembly."*

SECTION I. **W**HEREAS by one of the said acts, Preamble.
intituled, "*An Act to ascertain the
number of members of assembly, and to regulate the
elections,*" passed in the year of our Lord one
thousand seven hundred and five, it is enacted, "That
the sheriff, or some other of the persons appointed
judges of the election of members of assembly,
shall open the paper of an illiterate elector contain-
ing the names of those persons for whom he votes,
read the same names, and ask such elector whether
these are the persons for whom he votes."

SECT. 2. *And whereas* it is highly dangerous to the
freedom of elections in this commonwealth that the
sheriffs and other persons appointed judges of elections,
should continue to be invested with the power of
searching and discovering for whom any elector shall
vote to represent him: *Be it therefore enacted, and
it is hereby enacted by the representatives of the freemen
of the commonwealth of Pennsylvania in general assembly
met, and by the authority of the same,* That from and
after the passing of this act, no sheriff, coroner, in-

No sheriff
or judge of
election to
open and
read any
ticket.

R

pector,

1777.

L A W S of M A R Y L A N D.

C H A P. XX.

An ACT for the better security of the government.

Preamble.

WHEREAS, in every free state, allegiance and protection are reciprocal, and no man is entitled to the benefit of the one, who refuses to yield the other; and as every inhabitant of this state enjoys the protection and benefit of the government and laws thereof, and it is reasonable that every person should give testimony of his attachment and fidelity to this state, and the present government thereof, as now established,

Every free male person to take the oath of fidelity, &c.

II. *Be it enacted, by the general assembly of Maryland,* That every free male person within this state, above eighteen years of age, unless a quaker, menonist or dunker, shall, on or before the first day of March next, take, repeat and subscribe, the oath of fidelity and support to this state, contained in the act, entitled, An act to punish certain crimes and misdemeanors, and to prevent the growth of toryism; and every free male quaker, menonist or dunker, within this state, above eighteen years of age, shall, on or before the first day of March next, solemnly, sincerely and truly declare and affirm, in the words of the said oath, and thereto subscribe his name.

Before some magistrate;

III. *And be it enacted,* That the said oath and affirmation shall be taken within the time aforesaid, before some magistrate of the county or city where the person who takes such oath or affirmation resides.

Who is to keep two books, &c.

IV. *And be it enacted,* That every magistrate aforesaid, shall keep two paper books, one for all persons who shall take the oath aforesaid, and the other for all persons who shall take the affirmation aforesaid, prefixing to one of the said books the oath aforesaid, and to the other the affirmation aforesaid. And all persons required by this act to take the said oath, or affirmation, shall, after taking the same, subscribe his name thereto, in such book as contains the oath, if such person takes the said oath, or in such book as contains the affirmation, if such person takes the said affirmation; and if such person cannot write his name, he shall enter his mark, and the magistrate shall thereto set his name.

Magistrates to make out copies of their books, &c.

V. *And,* for the ascertaining such as shall neglect to take the said oath, or affirmation, and that there may be a record evidence of such neglect, *Be it enacted,* That every magistrate aforesaid shall make out fair copies of his said books, with all convenient dispatch, after the aforesaid first day of March, and the same transmit to the governor and council of this state, and shall deliver the original books to his next county court which shall happen after the said first day of March next, there to be recorded.

And to attend one day in every week, &c.

VI. *And be it enacted,* That every magistrate of the county shall, and he is hereby enjoined and required, to attend one day in every week, until the said first day of March next, at the most convenient places in his neighbourhood, with his books aforesaid, for the purpose of administering the oath, or affirmation, aforesaid, and for the purpose of having the same subscribed to, in manner and form aforesaid; and the said justices shall give public notice, by advertisement, of such places and days of meeting as aforesaid.

Constables to make out a list of inhabitants, &c.

VII. *And be it enacted,* That every constable of every hundred shall, before the first day of March next, make out a fair alphabetical list of all the free male inhabitants, residents in his hundred, and not out of the state, or hereafter not exempted from taking the said oath, or affirmation, who shall be of the age of eighteen years, on or before the aforesaid first day of March, and a copy of the said list, with all convenient dispatch, transmit to the governor and council, and the original list shall deliver to the next county court of his county which shall happen after the aforesaid first day of March next, there to be recorded.

Allowance to magistrates, &c.

VIII. *And be it enacted,* That every magistrate shall be allowed in the county levy, the same *per diem* allowance, for every day he shall attend, in pursuance of

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of this act, to take the oath or affirmation aforesaid, as is allowed the justices for their attendance in the county court; and the several county courts are hereby empowered and directed to make the several constables in their counties such allowance for their trouble in making and returning their lists aforesaid, in their next county levy, as to them shall appear reasonable.

C H A P.
XX.

IX. **And be it enacted,** That if any magistrate shall neglect to keep such books, or shall neglect to make copies and transmit them to the governor and council, or shall neglect to deliver the original books, as respectively required by this act, he shall forfeit and pay the sum of five hundred pounds current money; and every constable who shall neglect to make out the list, or neglect to transmit the copy of such list, or shall neglect to return the original list, as respectively required by this act, shall forfeit and pay the sum of two hundred pounds current money.

Penalty on
neglect of du-
ty.

X. **And be it enacted,** That every person, required by this act to take the oath or affirmation aforesaid, and whose name or mark shall not appear on one of the magistrates books aforesaid, in manner and form prescribed as aforesaid, shall, for and during the life of such person, in all public and county assessments, pay a tax treble the tax which by such public or county assessments, shall be imposed upon every hundred pounds worth of real or personal property within this state, and so *pro rata*; which said tax shall be paid, collected and levied, as the said public and county taxes are respectively paid, collected and levied.

Persons neg-
lecting to take
the oath to
pay treble
taxes, &c.

XI. **And be it enacted,** That the worth in real and personal property, of every such person chargeable as aforesaid with the said treble tax, shall be deemed and taken for and during the continuance of the said treble tax, of such amount as shall be ascertained on the final assessment and valuation of all property within this state, which shall be made on or before the first day of March next.

How the
worth of their
property is to
be ascertain-
ed.

XII. **Provided nevertheless,** If such worth shall, on any future public assessment, be augmented, the treble tax shall be rated on that worth so augmented.

Proviso.

XIII. **And be it enacted,** That the said treble tax, rateable according to the amount of such worth as aforesaid, shall be and is hereby imposed as a charge and burthen on all such real and personal estate of such person, chargeable with the said treble tax, as such person was possessed of at the time of the valuation of his property by the assessors, under the act, entitled, An act to assess and impose an equal tax on all property within this state.

Treble tax to
be imposed as
a charge, &c.

XIV. **Provided nevertheless, and be it enacted,** That no such property shall be chargeable with the said treble tax which has been *bonâ fide* disposed of after such valuation aforesaid, and before the making of this act, and that no such property *bonâ fide* disposed of, after the making of this act, shall be subject to a distress for the said treble tax, before default of payment of the said tax by the person chargeable with the same, or default of property in his possession whereby the said tax may be levied.

Proviso.

XV. **And,** whereas persons chargeable with the said treble tax may have property in different counties in this state: And whereas it is necessary that the commissioners should be informed of all persons so chargeable, **Be it enacted,** That the governor and the council shall annually, before the first day of May, cause a list to be made out of all free male persons, of the age of eighteen years, whose names or marks, by comparing the constables lists aforesaid with the magistrates books aforesaid, shall not appear in any of the magistrates books aforesaid, and of all persons any otherwise ascertained to be chargeable with the said treble tax; and the said list shall annually, before the first day of May, cause to be delivered to the commissioners of every county in this state, who shall, on receipt thereof, communicate the same to the collectors respectively; and the said collectors are hereby respectively enjoined to levy and collect the said treble tax, on, of and from, all such persons, according to the value of such persons property in their respective counties.

Governor and
council to
cause a list to
be made, &c.

1777:

L A W S of M A R Y L A N D.

C H A P.
XX.
Persons
chargeable
with treble
tax disabled
from com-
mencing suit,
&c.

XVI. **And be it enacted,** That every person chargeable with the treble tax as aforesaid, shall be disabled from commencing or prosecuting any suit in any court of this state, for the recovery of any debt or damages, for any money or tobacco due or owing to him in his own right, or from exercising and practising the trade of merchandise, unless, previous to such suit or merchandising, he shall take the oath or affirmation as aforesaid; and in case of neglect thereof, the court before whom such suit shall be brought shall, *ex officio*, enter judgment of nonsuit; and if any such person shall exercise and practise the trade of merchandise, without previously taking the oath or affirmation as aforesaid, he shall, for every such offence, forfeit and pay five pounds for every hundred pounds of property such person shall be deemed worth on the public assessment of all property within this state.

And practi-
fing the law,
&c.

XVII. **And be it enacted,** That every person, chargeable with the treble tax aforesaid, shall be for ever disabled and rendered incapable to practise the law, physic or surgery, or the art of an apothecary, or to preach or teach the gospel, or to teach in public or private schools, or to hold or exercise, within this state, any office of profit or trust, civil or military, or to vote at any election of electors of senators, or of delegates to the house of delegates; and if any such person shall offend against this act, in any of the particulars above specified, he shall, for every such offence, forfeit and pay five pounds for every hundred pounds of property he shall be deemed worth on the public assessment of all property within this state.

Provido.

XVIII. **Provided nevertheless; and be it enacted,** That if any person, required by this act to take the oath or affirmation aforesaid, and whose name or mark shall not be found subscribed as aforesaid, shall make it appear to the governor and council, within six weeks after the first day of March next, or to the county court of the county where such person resides, which shall first happen after the said first day of March next, that such person is not a person offending against this act, and, if of the age of eighteen years, at the time of such application to the governor and council, or county court, as aforesaid, shall take the said oath or affirmation (as the case may be), such person shall not be subject to the said treble tax and disabilities aforesaid; and, on acquittal by the said governor and council, or by the said county court, such person shall obtain a certificate thereof, and be entitled to have his name enrolled in one of the magistrates books as aforesaid; and if such person has been set down on the list chargeable with the treble tax and transmitted to the commissioners, the said commissioners are hereby enjoined, on such persons producing the certificate aforesaid, to correct the said list, and give notice thereof to the collector.

Persons not
having signed
the association
and fled, &c.
liable to tre-
ble tax, &c.

XIX. **And be it enacted,** That all persons, not having signed the association, who have fled from this state since the fourteenth day of August, seventeen hundred and seventy-five, to avoid taking an active part in the defence thereof, and have crossed the seas, and who shall not return on or before the first day of September, seventeen hundred and seventy-nine, and take the oath or affirmation as aforesaid, within one month after their return to this state, shall be liable to the treble tax, and to the disabilities imposed by this act.

Provido.

XX. **Provided nevertheless,** That nothing in this act contained shall extend, or be construed to extend, to any persons who, having fled from this state as aforesaid, shall, at any time since their flight, have taken an active part against the same, or against the United States, by adhering to the British army or navy.

Justices to in-
quire after
persons who
have fled, &c.

XXI. **And,** for the better ascertaining what persons have fled from this state as aforesaid, **Be it enacted,** That the justices of the several county courts shall annually, at their respective August courts, make diligent inquiry after every person who has fled from his county as aforesaid, or who, returning after the first day of March next, shall neglect to take the oath or affirmation aforesaid, within the time limited as aforesaid, and the said justices shall enter his name on the minutes of the proceedings of their court at their then sitting, and, from the said minutes, shall

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shall make a fair and alphabetical list of the names of all such persons as aforesaid, and transmit the same to the governor and council. C H A P.
XX.

XXII. **And**, whereas many of the male subjects of this state, above the age of eighteen years; are out of this state on some lawful purposes in some of the neighbouring states, or in parts beyond the seas, **Be it enacted**, That no such person shall be affected by any matter or thing contained in this act, unless such person, for three months after his return, shall wilfully neglect to take the said oath, or affirmation, (as the case may be) before the governor and council, or some magistrate of the county or city where he resides. Persons absent
on lawful bu-
siness not af-
fected by this
act. &c.

XXIII. **And**, in order to discover whether the persons aforesaid, absent from this state on or before the first day of March next, and returning after that day, have taken the oath or affirmation aforesaid, within the time limited as aforesaid, **Be it enacted**, That the justices of the several county courts shall annually, at their respective August courts, make diligent inquiry after all such persons returning as aforesaid; and omitting to take the oath or affirmation aforesaid within the time limited as aforesaid, and shall enter their names on the minutes of the proceedings of their court, and fair and alphabetical lists make thereof; and transmit them to the governor and council. Justices to
make inquiry
after persons
returning, &c.

XXIV. **And**, whereas all persons in the regular service of this state, or of the United States, or of any of them, have already given, by such service, sufficient proof of their attachment to the freedom and independence thereof, **Be it enacted**, That no general, field, commissioned, warrant, or staff officer, or other officer; nor any soldier or person in the regular service of this state, or the United States, or any of them, shall be affected by any matter or thing herein contained. Officers, &c.
not affected
by this act.

XXV. **And**, to prevent this state from becoming an asylum for the distressed fugitives from other states, **Be it enacted**, That the governor and council, or any magistrate of the county, on their or his own knowledge, or on information, that any male person above the age of eighteen years, belonging to any of the United States, has taken shelter in this state, shall immediately cause such person to be apprehended and examined, and if such person cannot, upon such examination, produce a certificate of his having taken the oath or affirmation prescribed by his state, or if such person has not taken the oath, or affirmation, (as the case may be) which has been prescribed by this state, and refuses to take the said oath or affirmation, and shall also refuse to take the following oath, or affirmation if a quaker, menonist or dunker, viz. "I, A. B. do swear, or solemnly affirm, (if a quaker, menonist or dunker,) that I do not hold myself bound to yield any allegiance or obedience to the king of Great-Britain, his heirs or successors, and that I will be true and faithful to the United States of America, and will, to the utmost of my power, support, maintain and defend, the freedom and independence thereof," the governor and council, or the said magistrate, may commit such person to the public gaol, or the governor and council may remand such person back to his own state, and in such manner as they may adjudge the most expedient; and if such person hath property in this state, he shall be subject to the treble tax aforesaid, in manner and form prescribed as aforesaid; and such person shall also be subject to all the disabilities imposed by this act; and upon every commitment of such person by any magistrate as aforesaid; the said magistrate shall immediately give notice thereof to the said governor and council. Persons taking
shelter in this
state to be ap-
prehended,
&c.

XXVI. IT being represented to this general assembly, that many persons who gave bonds to the presidents of the late conventions, councils of safety, and to the committees of observation, for their good behaviour and fidelity to this state, have been guilty of breaches, **Be it enacted**, That all bonds, taken in the name of any president of convention, council of safety, or in the name or names of any other person or persons, for the use of this state, be transmitted as soon as possible to the clerk of the county where the principal and the security reside, or if the principal has departed this state, to the clerk of the county where the security may reside, and thereupon *scire facias* shall immediately issue in the name of this state against Bonds to be
transmitted to
the clerk, &c.

1777.

L A W S of M A R Y L A N D.

C H A P.
XX.

against the obligors in the bonds, alleging a breach of every part of the condition, and requiring the defendants to shew cause why judgment and execution should not be had for the penalty, and the defendant appearing shall plead the general issue of performance, and trial shall be had the first court, unless for special reasons the court shall grant one imparlance, and if two *nibils* shall be returned, judgment of execution shall be rendered.

Fine on persons going on board the enemy's vessels, &c.

XXVII. **And be it enacted,** That if any subject or inhabitant of this state shall go on board any vessel of war or transport belonging to the enemy, or to their camp, or to any city, town, port or place, within any of the United States, in their possession, without permission in writing from the governor and the council of this state, and if any subject or inhabitant of this state shall receive any protection for himself or property from the enemy, or any one under their authority, such person, on conviction thereof in the general or any county court of this state, shall be fined by the court not exceeding the rate of ten pounds for every hundred pounds of property belonging to such person within this state; and if any person convicted of any of the offences aforesaid, shall not have property within this state valued and rated agreeable to the late assessment act at more than two hundred pounds, the court may fine such person at the rate aforesaid, and also adjudge him to be imprisoned for any term not exceeding one year, or to be whipped not exceeding thirty-nine lashes, or both, in their discretion.

Persons indicted for treason, and not to be found, to be outlawed, &c.

XXVIII. WHEREAS persons guilty of high treason may, by being out of the reach of a legal process in the common course of proceeding, evade a trial and the punishment of their crimes, **Be it enacted,** That on indictment found by the grand jury of the general court against any person for treason, the court shall immediately order *capias* to apprehend such person, directed to the sheriff of the county in which such person lived or resided, and on return by the said sheriff of the flight of such person from this state, or that he is not to be found in the county, the general court shall cause such person to be proclaimed, and solemnly called and required, in full and open court, to appear and answer to the indictment against him, and on default thereof, entered on their record, the said court shall issue a writ to the sheriff who returned the *capias*, to cause such person to be proclaimed, and solemnly called and required, at two several courts to be held for his county, in full and open court, to surrender himself to his custody, to answer to the indictment found against him; and the said sheriff shall make his return of such proclamation and default to the general court, who shall record such return and default, and thereupon proceed to adjudge such person to be outlawed, and such judgment of outlawry shall amount in law to a conviction and attainder of the person of the treason charged in the indictment, in the same manner as if the person so indicted had been found guilty thereof by a petit jury, and such person shall thereupon forfeit to the use of this state all the estate which he had at the time when the indictment shall allege his commission of the treason.

Persons not to be tried for treason unless indicted within three years, &c.

XXIX. **And be it enacted,** That no person shall be tried for any treason or misprision of treason against this state, unless the indictment be found within three years after the offence committed; and it is declared, that no person shall be convicted by a petit jury of either of the said crimes, unless by the oath of two lawful witnesses to prove each separate and distinct fact charged in the indictment as treason or misprision of treason, except the prisoner willingly, and without force or violence, confess the same in open court.

Persons who have taken the oath not obliged again to take it.

XXX. **And be it enacted,** That no person who hath already taken the said oath, or made the said declaration, shall be obliged to take or make the same, agreeable to the directions of this act, any thing herein contained to the contrary notwithstanding.

C H A P. XXI.

A supplementary ACT to the act, entitled, An act to regulate the militia.

This act has been always continued with the principal act, and with that it has expired.

C H A P.

228 2, 1777. *XI. And be it further enacted by the authority aforesaid, That if any person shall hereafter vote at any election, who by law shall not be entitled to vote at such election, he shall forfeit and pay the sum of five pounds lawful money of this state; to be recovered with costs, by action of debt in any court of record having cognizance thereof, one half to the justices of the county wherein such election shall be had, to be applied towards lessening the county tax, and the other half to him or them who shall sue for the same; and where any suit shall be brought against any person for voting as aforesaid, without having a right to such vote, the Onus Probandi shall lie upon the defendant.*

Pen. on persons voting who are not qualified. Vol. 2, 193.

Pen. on candidates giving rewards, &c.

XII. And be it enacted by the authority aforesaid, That if any person shall at any time before or after any election, either directly or indirectly, give any money, gift, gratuity, or reward, to any elector or electors, or to any county or town, in order to be elected, or to procure any other person to be elected as a member of the general assembly, every person so offending shall forfeit and pay five hundred pounds, lawful money of this state; to be recovered by action of debt, in any court of record having cognizance thereof, with costs, and shall be incapacitated to serve as a member during the continuance of that general assembly, for which such election shall be made as aforesaid.

Delegates, &c. not to sit in Assembly.

XIII. And be it further declared and enacted by the authority aforesaid, That the delegates from this state in the congress of the United States, and officers of the courts of admiralty and courts of equity, shall be, and are hereby declared to be incapable of being elected as members to serve in the general assembly, or to enjoy seats therein; and any member of the general assembly who shall accept any such office, shall thereby vacate his seat therein.

XIV. Repealed, Vol. 2, 177.

No sheriff, coroner to take the poll Vol. 2, 142.

XV. And be it further enacted by the authority aforesaid, That if at any time it shall happen that there shall be no sheriff in any county qualified according to law, the coroner or coroners in such county is, and are hereby empowered to hold the election for such county; and such sheriff or coroner, within ten days after every election, shall, at the request of any person elected to serve in the general assembly, or other person in his behalf, cause fair copies of the lists of votes, and the number of ticket ballots for each candidate, to be made out and delivered to the person requesting the same, or to his order, which lists and numbers shall be signed by the returning officer; and if any officer shall refuse so to do, or to make elections in any other manner than by this act is directed, or shall neglect or refuse to make returns of the elections by him to be made or taken, the officer so offending shall forfeit and pay five hundred pounds, lawful money of this state; to be recovered by action of debt, in any court of record having cognizance thereof, with costs, one half to the governor for the time being, for the use of the state, and the other half to such person as shall sue for the same.

XVI. Repealed, Vol. 2, '8.

CHAP. 5.

Provided for by subsequent acts.

An act for directing the method of appointing jurors in all causes, civil and criminal.

CHAP. 6.

1, 1777, 6. 1780, 13.

Persons owing allegiance.

An act to amend an act for declaring what crimes and practices against the state shall be treason, and what shall be misprison of treason, and providing punishments adequate to crimes of both classes, and for preventing the dangers which may arise from persons disaffected to the state.

BE it enacted by the General Assembly of the state of North-Carolina and it is hereby enacted by the authority of the same, That all and every person and persons (prisoners of war excepted) now inhabiting or residing within the limits of the state of North-Carolina, or who shall voluntarily come into the same hereafter to inhabit or reside, do owe and shall pay allegiance to the state of North-Carolina.

When deemed high-treason.

II. And be it further enacted by the authority aforesaid, That if any person or persons belonging to or residing within this state, and under the protection of its laws shall take a commission or commissions from the king of Great-Britain, or any under his authority, or other the enemies of this state, or the United States of America, or shall levy war against this state, or the government thereof, or knowingly and wilfully shall aid or assist any enemies at open war against this state, or the United States of America, by joining their armies, or by instigating, or procuring or persuading others to enlist for that purpose, or by furnishing such enemies with arms, ammunition, provision, or any other article for their aid or comfort, or shall form, or be in any wise concerned in forming, any combination, plot or conspiracy, for betraying this state, or the United States of America, into the hands or power of any foreign enemy, or shall give any intelligence to the enemies of this state for that purpose, every person so offending, and being thereof legally convicted by the evidence of two sufficient witnesses, or standing mute, or peremptorily challenging more than

Trial.

thirty five jurors, in any court of oyer and terminer, or other court that shall and may be established for the trial of such offences, shall be adjudged guilty of high treason, and shall suffer death without the benefit of clergy, and his or her estate shall be forfeited to the state. *Provided*, That the judge or judges of the court wherein such conviction may be, shall and may order and appropriate so much of the traitor's estate as to him or them may appear sufficient for the support of his or her family.

2,1777. 229
Punishment.

III. *And be it further enacted by the authority aforesaid*, That if any person or persons within this state shall attempt to convey intelligence to the enemies of this state, or of the United States, or shall publicly and deliberately speak or write against the public defence, or shall maliciously and advisedly endeavour to excite the people to resist the government of this state, or persuade them to return to a dependence on the crown of Great-Britain, or shall knowingly spread false and dispiriting news, or maliciously and advisedly terrify and discourage the people from enlisting into the service of this state, or the United States, or shall stir up or excite tumults, disorders, or insurrections in the state, or dispose the people to favour the enemy, or oppose, or endeavour to prevent the measures carrying on in support of the freedom and independence of the said United States, every such person or persons, being thereof legally convicted by the evidence of two or more creditable witnesses, or other sufficient testimony, shall be adjudged guilty of misprision of treason, and shall suffer imprisonment during the war, and forfeit to the state one half of his, her or their lands, tenements, goods and chattels.

What misprision of treason.

Trial.

Punishment.

IV. *And be it further enacted by the authority aforesaid*, That all offences by this act declared misprision of treason, shall be cognizable before any justice of the peace of the county where the offence was committed, or where the offender can be found; and every justice of the peace within this state, on complaint to him made on the oath or affirmation of one or more creditable person or persons, shall cause such offender to come before him, and enter into a recognizance, with one or more sufficient surety or sureties, to be and appear at the next superior court of the district wherein the offence was committed, and abide the judgment of the said court, and in the mean time to be of the peace and good behaviour to all people within the state; and for want of such surety or sureties, the said justice shall and may commit such offender either to the gaol of the county or district where the offence was committed, and appoint a guard for the safe conveying him to such gaol; and all persons charged on oath or affirmation with any crime or crimes by this act declared to be treason against the state, shall be dealt with, and proceeded against, in like manner as the law directs in respect of other capital crimes.

Where cognizable.

Proceeding on complaint.

V. And whereas the safety of the state, and the present critical situation of affairs, make it necessary that all persons who owe or acknowledge allegiance or obedience to the King of Great-Britain should be removed out of the state: *Be it enacted by the authority aforesaid*, That all the late officers of the King of Great-Britain, and all persons (Quakers excepted) being subjects of this state, and now living therein, or who shall hereafter come to live therein, who have traded immediately to Great-Britain or Ireland within ten years last past, in their own right, or acted as factors, storekeepers, or agents, here or in any of the United States of America or Ireland, shall take the following oath of abjuration or allegiance, or depart out of the state, viz.

Persons to take

the oath of allegiance.

“ I WILL bear faithful and true allegiance to the state of North-Carolina; and will truly endeavour to support, maintain, and defend the independent government thereof, against George the third, king of Great-Britain, and his successors, and the attempts of any other person, prince, power, state or potentate, who by secret arts, treasons, conspiracies or by open force, shall attempt to subvert the same, and will in every respect conduct myself as a peaceful orderly subject; and that I will disclose and make known to the governor, some member of the council of state, or some justice of the superior courts or of the peace all treasons, conspiracies, and attempts, committed or intended against the state, which shall come to my knowledge.

And that all persons being Quakers, Moravians, Menonists, and Dunkards, and under the circumstances above mentioned, shall make the following affirmation, or depart the state:

“ I A. B. do solemnly and sincerely declare and affirm, that I will bear true fidelity to the independent state of North-Carolina, and to the powers, and authorities which are or may be established for the good government thereof; and I do renounce any fidelity to the present king of Great-Britain, his heirs and successors; and that I will disclose and make known to the governor, some member of the council of state, judge of the superior court, or justice of the peace, all treasons, conspiracies, or attempts, committed or intended against the same, which shall come to my knowledge.”

Quakers affirmation.

2302,1777. And the said oath or affirmation shall be taken and subscribed in open court, in the county where the person or persons taking the same shall or do usually reside.

Justices may
issue citations.

VI. *And be it further enacted by the authority aforesaid,* That the county courts in each and every county, and every justice of the peace in each respective county, shall have full power to issue citations against persons coming within the above description, as officers, merchants, traders, factors, storekeepers, or agents, and to demand surety on recognizance if necessary, and to require their attendance at the next ensuing court to be held for the county: and if any person so cited (due proof being made thereof) shall fail or neglect to attend, or attending shall refuse to take the said oath or affirmation, (as the case may be) then the said court shall and may have full power and authority to order such person to depart out of this state to Europe or the West-Indies, within sixty days, and may take bond and security, in the name of the governor, for the benefit of the state, for faithful compliance with such order; and if any person so ordered shall fail or neglect to depart within the limited time, such bond shall be forfeited to the state, without good and sufficient reasons shewn to, and approved of by the governor and council; and the justices, or any of them, in the county wherein the person so failing or neglecting to depart shall be found, shall and may cause him to be apprehended and brought before the court of the county where the order was made; and the said court shall in such case send the person so offending as speedily as may be out of the state, either to Europe or the West-Indies, at the cost and charges of such offender, and to this end shall and may direct the clerk of the court to issue an order or orders to any sheriff in the state to seize and sell so much of the goods and chattels, lands and tenements, of such person within his bailiwick, as may be judged necessary by said court to defray such costs and charges, together with the costs and charges of apprehending and confining such person until he shall be sent out of the state; and the sheriff to whom such order of court shall be directed, is hereby required to obey the same, and to execute proper conveyances; and to return the money arising by any sale made by virtue of such order, after deducting his fees and commissions as in other cases, to the next county court of the county from whence such order issued, under the penalty of five hundred pounds, current money; to be recovered by action of debt, in any court having cognizance thereof, one half for the use of the state, the other half to the person that shall sue for the same; and if any surplus shall remain after paying all costs and charges for apprehending, confining, and sending such person out of the state, then the county court shall cause such surplus to be paid the owner. *Provided nevertheless,* That all and every such person and persons shall have liberty to sell and dispose of his or their estates, and after satisfying all just demands, to export the amount in produce (provisions and naval-stores excepted) and may also nominate and appoint an attorney or attorneys to sell and dispose of his or their estates, for his or their use and benefit; but in case any real estate belonging to any such person shall remain unsold for more than three months next after the owner thereof hath departed this state, the same shall be forfeited to and for the use of the public.

Pen. on persons
returning.

VII. *And be it further enacted,* That if any person so departing, or sent off from this state, shall return to the same, then such persons shall be adjudged guilty of treason against the state, and shall and may be proceeded against in like manner as is herein directed in cases of treason.

VIII. And whereas among other things it was enacted in an act, entitled "An act for declaring what crimes and practices against the state shall be treason, and what shall be misprision of treason, and providing punishments adequate to crimes of both classes, and for preventing the dangers which may arise from persons disaffected to the state," that each and every justice in each respective county may cite any person or persons to appear before the county court where such person or persons usually reside, and take the aforesaid oath or affirmation; and in case of non-attendance or refusal, the said court shall and may have full power to compel such person or persons to leave the state, under the same regulations herein mentioned in other cases. And as some scruples have arisen with respect to the manner by law required for the service of such citations, and as by many it has been held that a service upon the person of him intended to be cited was necessary, before his attendance in court could be legally compelled, as many suspected persons by continual absence from their place of abode, or frequently removing from thence, have rendered the service of such personal citations difficult, and in some cases impracticable, whereby they evade the intentions of the said act, and cannot be obliged to take the said oath prescribed, nor be made subject to the penalties ordained for neglecting or refusing the same: and whereas there is great reason to believe that there are divers persons whose intentions are inimical to the state, who would in case of invasion by our enemies, or the expectation of immediate support of them, carry such intentions into practice, but who artfully in their open demeanor and deportment betray no such design, whereby from not incurring particular suspi-

on, they have escaped being cited; and as it becomes the duty of every member of society to give proper assurance of fidelity to the government from which he enjoys protection, and by their refusal so to do, the voice of reason and justice, confirmed by the practice of all nations, proclaim that they should no longer enjoy the privileges of freemen of the said state; and as the penalties ordained by the said act have been in a great measure evaded by the difficulty or impossibility of procuring vessels to transport all such recusants beyond sea, or from their being unable to pay the expence of the voyage, by which means such persons still remain within this state, without suffering the penalties they have justly deserved; *Be it further enacted by the authority aforesaid,* That the county court of each respective county which shall sit after the last day of February, shall divide the county into several districts, in each of which shall reside one or more justices of the peace, which said justices within their respective districts are hereby enjoined and required to administer such oath of allegiance or affirmation, as the case may be, to all free male persons above sixteen years of age (persons *non compos mentis*, prisoners of war, only excepted) and such justice or justices in their respective districts so allotted to him or them, shall immediately after the sitting of the said court, in different parts of the said county, one of which shall be the court-house of the same, and also upon the church, if any there be, post and publish a notice in writing of the places and times when and where he or they will attend within their respective districts to administer such oath or affirmation; and all such persons who are inhabitants of the said districts respectively (and it is declared that a residence of one week shall in this instance constitute any person an inhabitant, seafaring persons and foreign traders excepted) being above the age of sixteen years, and of sound mind, shall at such time attend upon such justice of the peace, and take the oath or affirmation required, as the case may be, and subscribe the same in a book which such justice or justices shall keep for that purpose, or in case of such juror or affirmant not being able to write, the justice shall write such juror or affirmant's name, which book or list shall at the next succeeding court be returned to the said court, together with the names of those within his or their respective district refusing or neglecting the same; and if any person (such only as are by this act excepted) shall fail to attend, or attending at such time and place as he shall have been warned by such public notice, shall refuse to take the oath, or make such affirmation, as the case may be, except excused by sickness or unavoidable necessity, or other sufficient reason, to be adjudged of by the next county court, the party offering such excuse proffering at the same time to take such oath or affirmation, as the case may be, which in this case such county court are directed to administer, such person or persons so offering, shall be ordered by the said county court next after such failure or neglect, to take the said oath, or quit the state, and depart to the West-Indies or Europe in sixty days; and if he or they shall fail so to do, and shall at the expiration of such term be found within this state, then the county court shall and may, at their discretion, either exercise the same power and authority with respect to such person or persons, in order to compel his or their departure out of this state, as is herein before provided, with regard to the late officers of the King of Great-Britain, and persons who have traded to Great-Britain or Ireland within ten years last past, or been concerned for, or employed by persons trading thereto, within the time aforesaid, or permit him to remain within the state.

IX. *And be it further enacted by the authority aforesaid,* That all persons failing or refusing to take the oath of allegiance, and permitted by the county courts, as immediately aforesaid, to remain in the state, shall be adjudged incapable and disabled in law to have, occupy or enjoy, any office, appointment, licence, or election of trust or profit, civil or military, within this state, and shall not be capable of being elected to, or aiding by their votes to elect another to be a member of assembly, and shall not by themselves, or by deputy, attorney or trustee, execute any such office, trust or appointment, and shall be disabled to prosecute any suit at law or equity, or to be guardians, executors or administrators, or capable of any legacy, or deed of gift of lands, and shall be disabled from taking any lands by descent or purchase, or conveying lands to others for any term longer than for one year, and shall not keep guns or other arms within his or their house, but the same may be seized by a written order of a justice of the county in which he or they reside; and after the expiration of the said sixty days, he or they shall not be permitted to depart this state without permission first had and obtained from the governor and council; and in case of being suffered to depart, shall give bond and sufficient security, if such shall be required, not to be aiding to the enemies of this state during his or their absence; and in case of their departure without such permission had, he or they shall forfeit all their goods and chattels, lands and tenements, to the use of the state. *Provided nevertheless,* That all and every person who has already taken the oath, or made the affirmation prescribed, before any authority competent by law to receive the same, upon his producing a certificate of the same to

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County divided into districts, and oath to be administered.

Proceedings against persons liable to take the oath, who neglect or refuse.

Disabilities of persons suffered to remain.

Provido.

MAY 1777—1st OF COMMONWEALTH.

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CHAP. III.

An act to oblige the free male inhabitants of this state above a certain age to give assurance of Allegiance to the same, and for other purposes.

WHEREAS allegiance and protection are reciprocal, and those who will not bear the former are not entitled to the benefits of the latter, Therefore *Be it enacted by the General Assembly*, that all free born male inhabitants of this state, above the age of sixteen years, except imported servants during the time of their service, shall, on or before the tenth day of October next, take and subscribe the following oath or affirmation before some one of the justices of the peace of the county, city, or borough, where they shall respectively inhabit; and the said justice shall give a certificate thereof to every such person, and the said oath or affirmation shall be as followeth, viz. 'I do swear or affirm, that I renounce and refuse all allegiance to George the third, king of Great Britain, his heirs and successours, and that I will be faithful and bear true allegiance to the commonwealth of Virginia, as a free and independent state, and that I will not, at any time, do, or cause to be done, any matter or thing that will be prejudicial or injurious to the freedom and independence thereof, as declared by congress; and also, that I will discover and make known to some one justice of the peace for the said state, all treasons or traitorous conspiracies which I now or hereafter shall know to be formed against this or any of the United States of America.' And the form of the said certificate shall be as follows, to wit: 'I do hereby certify, that _____ hath taken and subscribed the oath or affirmation of allegiance and fidelity, as directed by an act of general assembly intituled *An act to oblige the free male inhabitants of this state above a certain age to give assurance of allegiance to the same, and for other purposes.* Witness my hand and seal, this _____ day of _____

All free born males, above 16 years old, to take the oath of allegiance.

Form of the oath.

A. B.'

And be it farther enacted, That the justice of the peace before whom such oath or affirmation shall be subscribed shall keep fair registers of the names of the

Justices to keep registers; and transmit re-

turns to
clerks of
courts,

names of the persons so sworn or affirmed, and the time when; and shall, on or before the first day of January in every year, transmit, in writing, under his hand and seal, to the clerk of the court of the county, city, or borough, a true list of the names of those who, within the same year, have so sworn or affirmed before them respectively.

Persons ap-
pointed to
tender oath.

And be it farther enacted, by the authority aforesaid, That within one month after the passing of this act, or at the next succeeding court, the court of every county in this commonwealth shall appoint some of their members to make a tour of the county, and tender the oath or affirmation aforesaid to every free born male person above the age of sixteen years, except as before excepted; and that in the certificate directed to be returned, of those who take the oath or affirmation, shall be mentioned the names of such as refuse. And the justices tendering such oath or affirmation are hereby directed to deliver a list of the names of such recusants to the county lieutenant, or chief commanding officer of the militia, who is hereby authorised and directed forthwith to cause such recusants to be disarmed.

Those refus-
ing to be no-
ted.

Recusants to
be reported
to county
lieutenant,
who is forth-
with to dis-
arm them.

Person dis-
armed com-
pelled to at-
tend musters
but exempted
from fines
for not ap-
pearing
armed.

Incapacities
of those re-
fusing to
take the oath
of allegi-
ance.

Provided, That the person so disarmed shall, nevertheless, be obliged to attend musters, but shall be exempted from the fines imposed for appearing at such musters without arms, accoutrements, and ammunition.

And be it farther enacted, That every person above the age before mentioned, except as before excepted, refusing or neglecting to take and subscribe the oath or affirmation aforesaid, shall, during the time of such neglect or refusal, be incapable of holding any office in this state, serving on juries, suing for any debts, electing or being elected, or buying lands, tenements, or hereditaments.

Oath to be
taken by
those com-
ing from any
of the Uni-
ted States.

And be it farther enacted, That all persons coming from any of the other United States into this state are hereby required to apply to one of the nearest justices after he enters this state, and take or subscribe an oath or affirmation, renouncing all allegiance to the king of Great Britain, and promising that he will not do any thing prejudicial to the independence of the United States of America, as declared by the general congress; and upon neglecting so to do, he shall be liable to be taken before a justice, who shall tender him the said oath or affirmation, and upon his refusal to take and subscribe the same, the said justice shall, and is here-

Conse-
quence of
neglect.

by required, to commit him to the jail of the county, city, or borough, there to remain without bail or main-prize, until he shall take and subscribe the said oath or affirmation, or give bond and security immediately to depart this commonwealth, which bond shall be payable to the governour, for the time being, for the use of the commonwealth.

Provided nevertheless, That prisoners of war, regular officers and soldiers in the pay of the continent or of this state, merchants and mariners trading in the ports of this state from foreign powers in amity with the United States, and not become resident, are declared not to be within the intent and meaning of this act.

Who not within the meaning of this act.

And be it farther enacted, That this act shall be publicly read by the sheriff of every county in this commonwealth at the door of the courthouse of his county, on some court day, on or before the first day of September next, and also by every minister of the gospel, or reader, immediately after divine service, at every church or meeting-house where they officiate, on some Sunday within the said time. And every sheriff, minister, or reader, failing so to do, shall forfeit and pay the sum of ten pounds, to be recovered, with costs, by the informer, before the court of the county where the offence shall be committed.

How this act to be published.

CHAP. IV.

An act for establishing a Loan office for the purpose of borrowing money for the use of the United States, and appointing a Commissioner for superintending the same.

[Chan. Rev. p. 50.]

I. WHEREAS the general congress, on the third day of October last, did resolve that five millions of continental dollars should be immediately borrowed for the use of the United States of America, for the re-payment of which money lent, at the end of three years, with the interest annually, at the place where the same is

United States, loan office established.

JOURNAL OF THE COMMITTEE OF SAFETY.

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" IN COMMITTEE OF SAFETY,
" *New-York, March 27th, 1776.* }

" WHEREAS the Continental Congress, on the 14th inst. did recommend to the several Assemblies, Conventions and Councils or Committees of Safety of the United Colonies, immediately to cause all persons to be disarmed within their respective Colonies, who are notoriously disaffected to the cause of America, or who have not associated and refuse to associate to defend by arms these United Colonies against the hostile attempts of the British fleets and armies, and to apply the arms taken from such persons in each respective Colony, in the first place, to the arming the Continental troops raised in said Colony; in the next, to the arming such troops as are raised by the Colony for its own defence, and the residue to be applied to the arming the associators. That the arms when taken, be appraised by indifferent persons, and such as are applied to the arming Continental troops be paid for by Congress, and the residue by the respective Assemblies, Conventions, or Councils or Committees of Safety: ' AND WHEREAS the necessity of having the Continental troops and other inhabitants of these Colonies who are disposed and willing to defend the rights of their country immediately armed, renders it highly expedient that the said resolution should be carried into immediate execution. Therefore,

" Resolved, That it be recommended to the committees of the several cities, counties, manors, townships, precincts and districts in this Colony, forthwith to cause to be disarmed, all persons within their respective districts who are known to be disaffected to the cause of America, and also all such persons as shall refuse to sign the following association, to wit :

" ' We, the subscribers, inhabitants of _____ in the county of _____ and Colony of New-York, do voluntarily and solemnly engage and associate, under all the ties held sacred amongst mankind, at the risk of our lives and fortunes, to defend by arms the United American Colonies against the hostile attempts of the British fleets and armies, until the present unhappy controversy between the two countries shall be settled.'

" And that it be recommended to the said committees to use all possible prudence and moderation in carrying said resolve into execution; and that in such districts where the committees find it absolutely necessary to call in an armed force, they are hereby empowered to order any part of the minute men or common militia of their districts to their assistance, that they and the field officers of the forces shall judge necessary.

" And that the arms so taken be appraised by indifferent persons, appointed by said committees, and that an account be made of their number, the persons they belong to, and their appraised value, and that each one be marked with the initial letters of the person's name from whom they were taken; and that the arms, together with the account of them, be delivered to the chairman of the committee of the district in which they were so taken, or to such person or persons as shall be appointed by the said committee for that purpose, he or they giving a receipt for the same; which accounts from the several districts are to be forthwith transmitted to the chairman of, and to be laid before, the county committee, who are hereby directed to transmit an account of the number of arms so taken, and how many of them are fit for immediate service, to the Committee of Safety, or Provincial Congress of this Colony, that they may be enabled to make further order therein; and in those counties where there are skillful artificers for the purpose that the said committees do cause the said arms to be fitted up with bayonets, steel rammers and other necessary repairs, without delay, at the public expense; and where there are no such artificers, the committees are to send said arms to the Committee of Safety, or Provincial Congress, as soon as collected."

Ordered, That a copy of these resolutions be transmitted to the chairman of the committee of each county in the

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Colony, who is hereby directed to furnish the chairmen of the committees of the several towns, precincts and districts in the county, with copies thereof, without delay.

DIE JOVIS, 9 HO. A. M.

March 28th, 1776.

The Committee met pursuant to adjournment.

PRESENT—William Paulding, Esqr. *Chairman pro tempore.*

Colo. McDougall, Mr. Prince—*For New-York.*

Mr. Cuyper—*Orange.*

Mr. Adrian Bancker—*Richmond.*

Mr. Paulding—*Westchester.*

Colo. Wm. Williams—*Cumberland.*

Mr. Tredwell—*Suffolk.*

Colo. Morris Graham—*Dutches.*

Mr. Leffertse—*Kings.*

Ordered, That the barrack master be, and he is hereby authorized, to supply all the troops which are already or shall hereafter arrive, as also those that may be ordered to Kings county, with the necessary barrack furniture and utensils, as far as those which he has already provided and in store will enable him to supply them with.

Ordered, That the barrack master assist Colo. Brewer in providing proper stores for storing provisions and other necessaries for the use of the Continental troops in this city, and that the barrack master be authorized to demand the keys of such stores as he thinks best calculated to answer the purpose; and further, that he be authorized to enter and take possession of all such stores and deliver them to the care of Colo. Brewer, or his order.

A letter from General Thompsson was read and filed, and is in the words following, to wit :

" GENTLEMEN :—Please to give Mr. Hugh Huges, commissary of military stores, an order for 10,000 flints, and two tons of lead, on the person who is entrusted by you with those articles, and you will much oblige

" Yr. very hble. servant,

" WM. THOMPSON, *Brigr. Genl.*

" *New-York, March 26, 1776.*

" To the Honble. Committee of Safety."

Ordered, That Mr. Richard Norwood, Commissary, deliver to Mr. Hugh Hughes 10,000 flints, and two tons of lead, and that Mr. Norwood take Mr. Hughes' receipt for the same, on Continental account, as being ordered by the Continental general for Continental troops.

John Van Ness, Esqr. colonel of the first minute regiment of Dutchess county, being deceased, whereby the command of that regiment has devolved on Cornelius Humphrey, Esqr. lieutenant-colonel of that regiment; and Mr. Humphrey being now here in actual service with the said regiment, or a part thereof, and recommended as well qualified to be colonel of the said regiment;

Ordered, That Cornelius Humphrey be appointed colonel of the said regiment of minute men in the place of John Van Ness, Esqr. deceased, and that a commission issue to him accordingly.

Mr. Thomas Lefoy, who served as a lieutenant in Capt. Wynkoop's company in the last campaign, being unprovided for, and the first lieutenantcy of Capt. Ambrose Horton's company being yet vacant,

Ordered, That a warrant issue to the said Thomas Lefoy, to be first lieutenant in Captain Horton's company, and the same was issued accordingly.

4 ho. P. M. March 28th, 1776.

The Committee met pursuant to adjournment.

PRESENT—Mr. Wm. Paulding, *Chairman.*

Mr. Cuyper—*Orange.*

Mr. Moore—*Tryon.*

Mr. Everson, Colo. Morris Graham—*For Dutches.*

States, and for appropriating the same, took effect: *And provided also*, That such allowance shall not exceed the annual amount of seventy thousand dollars, until the same shall be further ascertained by law. not to exceed \$70,000.

SEC. 17. *And be it further enacted*, That the act, intituled "An act repealing after the last day of June next, the duties heretofore laid upon distilled spirits imported from abroad and laying others in their stead, and also upon spirits distilled within the United States, and for appropriating the same," shall extend to and be in full force for the collection of the several duties herein before mentioned and for the recovery and distribution of the penalties and forfeitures herein contained and generally for the execution of this act, as fully and effectually as if every regulation, restriction, penalty, provision, clause, matter, and thing therein contained were inserted in and re-enacted by this present act, subject only to the alterations hereby made.

APPROVED, May 8, 1792.

Certain act in force for collection of the duties, &c. herein.

1791, ch. 15.

STATUTE I.

CHAP XXXIII.—*An Act more effectually to provide for the National Defence by establishing an Uniform Militia throughout the United States.*(a)

May 8, 1792.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled* That each and every free able-bodied white male citizen of the respective states, resident therein, who is or shall be of the age of eighteen years, and under the age of forty-five years (except as is herein after excepted) shall severally and respectively be enrolled in the militia by the captain or commanding officer of the company, within whose bounds such citizen shall reside, and that within twelve months after the passing of this act. And it shall at all times hereafter be the duty of every such captain or commanding officer of a company to enrol every such citizen, as aforesaid, and also those who shall, from time to time, arrive at the age of eighteen years, or being of the age of eighteen years and under the age of forty-five years (except as before excepted) shall come to reside within his bounds; and shall without delay notify such citizen of the said enrolment, by a proper non-commissioned officer of the company, by whom such notice may be proved. That every citizen so enrolled and notified, shall, within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch with a box therein to contain not less than twenty-four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball: or with a good rifle, knapsack, shot-pouch and powder-horn, twenty balls suited to the bore of his rifle and a quarter of a pound of powder; and shall appear, so armed, accoutred and provided, when called out to exercise, or into service, except, that when called out on company days to exercise only, he may appear without a knapsack. That the commissioned officers shall severally be armed with a sword or hanger and esponton, and that from and after five years from the passing of this act, all muskets for

Militia how and by whom to be enrolled.

How to be armed and accoutred.

1803, ch. 15.

(a) The acts for the establishment of an uniform system for the government of the militia, are: An act more effectually to provide for the national defence by establishing an uniform militia throughout the United States, May 8, 1792, chap. 33; an act providing arms for the militia throughout the United States, July 6, 1798, chap. 65; an act in addition to an act entitled, "An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States," March 2, 1803, chap. 15; an act more effectually to provide for the organizing of the militia of the District of Columbia, March 3, 1803, chap. 20; an act establishing rules and articles for the government of the armies of the United States, April 10, 1806, chap. 20; an act in addition to the act entitled, "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and to repeal the act now in force for those purposes," April 18, 1814, chap. 82; an act concerning field officers of the militia, April 20, 1816, chap. 64; an act to establish an uniform mode of discipline and field exercise for the militia of the United States, May 12, 1820, chap. 97; an act to reduce and fix the military peace establishment of the United States, March 2, 1821, chap. 13, sec. 14.

balls of the eighteenth-part of a pound. And every citizen so enrolled, and providing himself with the arms, ammunition and accoutrements required as aforesaid, shall hold the same exempted from all suits, distresses, executions or sales, for debt or for the payment of taxes.

Executive officers, &c. exempted.

SEC. 2. *And be it further enacted*, That the Vice President of the United States; the officers judicial and executive of the government of the United States; the members of both Houses of Congress, and their respective officers; all custom-house officers with their clerks; all post-officers, and stage drivers, who are employed in the care and conveyance of the mail of the post-office of the United States; all ferrymen employed at any ferry on the post road; all inspectors of exports; all pilots; all mariners actually employed in the sea service of any citizen or merchant within the United States; and all persons who now are or may hereafter be exempted by the laws of the respective states, shall be, and are hereby exempted from militia duty, notwithstanding their being above the age of eighteen, and under the age of forty-five years.

1810, ch. 37, sec. 33.

Militia how to be arranged, and

SEC. 3. *And be it further enacted*, That within one year after the passing of this act, the militia of the respective states shall be arranged into divisions, brigades, regiments, battalions and companies, as the legislature of each state shall direct; and each division, brigade and regiment, shall be numbered at the formation thereof; and a record made of such numbers in the adjutant-general's office in the state; and when in the field, or in service in the state, each division, brigade and regiment shall respectively take rank according to their numbers, reckoning the first or lowest number highest in rank. That if the same be convenient, each brigade shall consist of four regiments; each regiment of two battalions; each battalion of five companies; each company of sixty-four privates. That the said militia shall be officered by the respective states, as follows: To each division, one major-general and two aids-de-camp, with the rank of major; to each brigade, one brigadier-general, with one brigade inspector, to serve also as brigade-major, with the rank of a major; to each regiment, one lieutenant-colonel commandant; and to each battalion one major; to each company one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and one fifer or bugler. That there shall be a regimental staff, to consist of one adjutant and one quartermaster, to rank as lieutenants; one paymaster; one surgeon, and one surgeon's mate; one sergeant-major; one drum-major, and one fife-major.

by whom officered.

1803, ch. 15, sec. 3.

Each battalion to have one company of grenadiers, &c. and one company of artillery.

Officers how to be armed.

Troops of horse how officered, &c.

Artillery and horse of whom to be formed;

SEC. 4. *And be it further enacted*, That out of the militia enrolled, as is herein directed, there shall be formed for each battalion at least one company of grenadiers, light infantry or riflemen; and that to each division there shall be at least one company of artillery, and one troop of horse: there shall be to each company of artillery, one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer, and one fifer. The officers to be armed with a sword or hanger, a fusée, bayonet and belt, with a cartridge-box to contain twelve cartridges; and each private or matross shall furnish himself with all the equipments of a private in the infantry, until proper ordnance and field artillery is provided. There shall be to each troop of horse, one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, and one trumpeter. The commissioned officers to furnish themselves with good horses of at least fourteen hands and an half high, and to be armed with a sword and pair of pistols, the holsters of which to be covered with bearskin-caps. Each dragoon to furnish himself with a serviceable horse, at least fourteen hands and an half high, a good saddle, bridle, mailpillion and valise, holsters, and a breast-plate and crupper, a pair of boots and spurs, a pair of pistols, a sabre, and a cartouch-box, to contain twelve cartridges for pistols. That each company of artillery and troop of horse shall be formed of volunteers from the brigade, at the

discretion of the commander-in-chief of the state, not exceeding one company of each to a regiment, nor more in number than one eleventh part of the infantry, and shall be uniformly clothed in regimentals, to be furnished at their own expense; the colour and fashion to be determined by the brigadier commanding the brigade to which they belong.

SEC. 5. *And be it further enacted,* That each battalion and regiment shall be provided with the state and regimental colours by the field officers, and each company with a drum and fife, or bugle-horn, by the commissioned officers of the company, in such manner as the legislature of the respective states shall direct.

SEC. 6. *And be it further enacted,* That there shall be an adjutant-general appointed in each state, whose duty it shall be to distribute all orders from the commander-in-chief of the state to the several corps; to attend all public reviews when the commander-in-chief of the state shall review the militia, or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the system of military discipline established by this act; to furnish blank forms of different returns that may be required, and to explain the principles on which they should be made; to receive from the several officers of the different corps throughout the state, returns of the militia under their command, reporting the actual situation of their arms, accoutrements, and ammunition, their delinquencies, and every other thing which relates to the general advancement of good order and discipline: all which the several officers of the divisions, brigades, regiments, and battalions, are hereby required to make in the usual manner, so that the said adjutant-general may be duly furnished therewith: from all which returns he shall make proper abstracts, and lay the same annually before the commander-in-chief of the state.

SEC. 7. *And be it further enacted,* That the rules of discipline, approved and established by Congress in their resolution of the twenty-ninth of March, one thousand seven hundred and seventy-nine, shall be the rules of discipline to be observed by the militia throughout the United States, except such deviations from the said rules as may be rendered necessary by the requisitions of this act, or by some other unavoidable circumstances. It shall be the duty of the commanding officer at every muster, whether by battalion, regiment, or single company, to cause the militia to be exercised and trained agreeably to the said rules of discipline.

SEC. 8. *And be it further enacted,* That all commissioned officers shall take rank according to the date of their commissions; and when two of the same grade bear an equal date, then their rank to be determined by lot, to be drawn by them before the commanding officer of the brigade, regiment, battalion, company, or detachment.

SEC. 9. *And be it further enacted,* That if any person, whether officer or soldier, belonging to the militia of any state, and called out into the service of the United States, be wounded or disabled while in actual service, he shall be taken care of and provided for at the public expense.

SEC. 10. *And be it further enacted,* That it shall be the duty of the brigade-inspector to attend the regimental and battalion meetings of the militia composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition, and accoutrements; superintend their exercise and manœuvres, and introduce the system of military discipline before described throughout the brigade, agreeable to law, and such orders as they shall from time to time receive from the commander-in-chief of the state; to make returns to the adjutant-general of the state, at least once in every year, of the militia of the brigade to which he belongs, reporting therein the actual situation of the arms, accoutrements, and ammunition of the several corps, and every other thing which, in his judgment, may relate to their government and the

to be uniformly clad at their own expense.

1803, ch. 15.

What colors &c. and by whom to be furnished.

Adjutant-general in each state, his duty.

1803, ch. 15.

Rules of discipline.

Officers how to take rank.

Provision in case of wounds, &c.

Brigade inspector's duty.

1803, ch. 15.

general advancement of good order and military discipline; and the adjutant-general shall make a return of all the militia of the state to the commander-in-chief of the said state, and a duplicate of the same to the President of the United States.

Artillery &c.
now existing,

And whereas sundry corps of artillery, cavalry, and infantry now exist in several of the said states, which by the laws, customs, or usages thereof have not been incorporated with, or subject to the general regulations of the militia:

to retain their
privileges.

SEC. II. *Be it further enacted*, That such corps retain their accustomed privileges, subject, nevertheless, to all other duties required by this act, in like manner with the other militia.

APPROVED; May 8, 1792.

STATUTE I.

May 8, 1792.

CHAP. XXXIV.—*An Act relative to the compensations to certain officers employed in the collection of the duties of impost and tonnage.*

[Obsolete.]
Additional
specific allow-
ance from 1st of
July next to cer-
tain surveyors
and collectors.
1790, ch. 35.
sec. 53.
Act of March
2, 1799, ch. 23.

SECTION I. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the last day of June next, in addition to the fees and emoluments which may accrue to the officers employed in the collection of the duties of impost and tonnage, by the provisions already made, they shall severally have and be entitled to the respective allowances following, to wit: The surveyors of Newburyport, Salem, St. Mary's and Wilmington, in North Carolina, the yearly sum of one hundred dollars each; the surveyors of Beverly, North Kingston, East Greenwich, Warren, Bristol, Pawcatuck river, Providence, Patuxet, New Haven, Lewellensburg, Alexandria, Beaufort, Hertford, Winton, Bennet's creek, Plymouth, Windsor, Skewarkey, Murfreesborough, Nixonton, Indiantown, Currituck inlet, Pasquotank river bridge, and Newbiggen creek, the yearly sum of eighty dollars each; the surveyor of Portsmouth, the yearly sum of sixty dollars; the surveyors of Ipswich, Portland, Newport, Stonington, Middleton, Bermuda hundred, Petersburg, Richmond, and Savannah, the yearly sum of fifty dollars each; the surveyors of Gloucester, New London, and Swansborough, the yearly sum of thirty dollars each; the surveyors of Hudson, Little Egg Harbour, Suffolk, Smithfield, Urbanna, and Fredericksburg, the yearly sum of twenty dollars each; the collector of the district of Wilmington, in North Carolina, the yearly sum of one hundred and fifty dollars; the collectors of the districts of Portsmouth, Gloucester, Albany, Annapolis, Vienna, Nottingham, Yorktown, Dumfries, and Louisville, the yearly sum of one hundred dollars each; the collector of the district of Fairfield, the yearly sum of eighty dollars; the collectors of the districts of Marblehead, Plymouth, Barnstable, Nantucket, New Bedford, Dighton, York, Biddeford, and Pepperelborough, Bath, Wiscasset, Machias, Newport, New Haven, Perth Amboy, Great Egg Harbour, Wilmington, in Delaware, Chester, Cedar Point, Georgetown, Hampton, South Quay, Washington, Plank Bridge, and Georgetown, in South Carolina, the yearly sum of fifty dollars each; the naval officer of the district of Portsmouth, the yearly sum of one hundred dollars; the naval officers of the districts of Newburyport, Newport, Providence, Wilmington, in North Carolina, and Savannah, the yearly sum of fifty dollars each; the collector of the district of Salem and Beverly, one fourth of one per centum on the amount of all monies by him received on account of the said duties; and to the collectors of the districts of Portsmouth, Newburyport, Gloucester, Marblehead, Plymouth, Nantucket, Edgartown, New Bedford, Dighton, York, Biddeford, and Pepperelborough, Portland, Bath, Wiscasset, Penobscot, Frenchman's bay, Machias, Newport, Providence, New Haven, Fairfield, Perth Amboy, Burlington, Great Egg Harbour, Wilmington, in Delaware, Oxford, Vienna, Snowhill, Annapo-

In the Sixteenth Year of the Reign of GEORGE the Third, KING, &c. 1776.

Militia.

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ACTS AND LAWS,

Passed by the Great and General Court or Assembly of the Colony of the Massachusetts-Bay in New-England: Begun at the City of Boston, in the County of Middlesex, on Wednesday the Nineteenth Day of July, Anno Domini, 1775. And from thence continued by Adjournments to Wednesday the Twenty-ninth Day of November following, and then met.

CHAP. I.

An Act for forming and regulating the Militia within the Colony of the Massachusetts-Bay, in New-England, and for repealing all the Laws heretofore made for that Purpose.

WHEREAS it is not only the Interest, but the Duty of all Nations to defend their Lives, Liberties and Properties in that Land, which the Supreme Ruler of the Universe has bestowed on them, against the unlawful Attacks and Depredations of all Enemies whatever; especially those who are moved by a Spirit of Avarice or Despotism:

And whereas the Honorable American Congress have recommended to the United Colonies to put the Militia into a proper State for the Defence of America:

And whereas the Laws now in Force, respecting the Regulation of the Militia, have been found insufficient for the Purposes aforesaid:

1. It is therefore enacted by the Council, and House of Representatives in General Court assembled, and by the Authority of the same, That the several Laws, and the several Paragraphs and Clauses of all and every the Laws of this Colony, enforcing, or any Ways relating to the Regulation of the Militia, be, and hereby are repealed, and declared null and void.

And be it further enacted by the Authority aforesaid, That that Part of the Militia of this Colony, commonly called the Training-Band, shall be constituted of all the able-bodied Male Persons therein, from sixteen Years old to fifty, excepting Members of the American Congress, Members of the Council, and of the House of Representatives for the Time being, the Secretary of the Colony, all Civil Officers that have been, or shall be appointed by the General Court, or either Branch of it, Officers and Students of Harvard-College, Ministers of the Gospel, Elders and Deacons of Churches, Church-Wardens, Grammar School-Masters, Masters of Arts, the Denomination of Christians called Quakers, Select-Men for the Time being, those who have by Commission under any Governmen or Congress, or by Election in Pursuance of the Vote of any Congress of the Continent, or of this, or any other Colony, held the Post of a Subaltern, or higher Officer, Persons while actually employed as Masters of Vessels of more than thirty Tons Burthen, other than Fishing Vessels, and Vessels coasting in this Colony, and to and from this Colony to the other New-England Governments, Constables, and Deputy-Sheriffs, Negroes, Indians and Mulattoes, and shall be under the Command of such Officers as shall be chosen, empowered and commissioned over them, as is by this Act provided; and the Select-Men, or the major Part of them of each Town, shall be, and hereby are empowered by

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Writing

1776. In the Sixteenth Year of the ~~Reign~~ of GEORGE the Third, KING, &c.

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Militia.

Writing under their Hands, to excuse from Time to Time such Physicians, Surgeons, Ferry-men and Millers in their respective Towns, from common and ordinary Trainings, as they shall judge it necessary to excuse: And the Council aforesaid shall from Time to Time, as may appear to them necessary, divide the Militia of each County into Regiments, and alter and divide such Regiments from Time to Time, as they shall judge expedient, after having taken the Opinion, during any Session of the General Court, of such Members of the House as belong to the County where the Division or Alteration is to be made, and as shall be present at the Time of such Consultation.

The Council to divide the Militia from Time to Time

Three Major-Generals to be chosen by Ballot of either House.

Their Power.

To be under the command of the Council.

One Brigadier General to be chosen in each County, in the same Manner.

His Power.

Col. Lt. Col. & two Majors to be chosen in the same Manner.

2. And be it further enacted by the Authority aforesaid, That there shall be chosen by Ballot from Time to Time, as may be necessary, by either the Council, or House of Representatives of this Colony, with a Negative always resting in either House of Assembly, Three Major-Generals, to rank and command as first, second and third, over the whole Militia thereof; which Major-Generals when so chosen and concurred, shall be commissioned to said Office by the major Part of the Council aforesaid, and the Rank of each of said Generals shall be expressed in his Commission, and said first Major-General, and each of the other Major-Generals shall at all Times have Power in the Absence of their Superior (and not having Orders to the contrary) to draw forth the said Militia, or any Part of them, as the said Generals, or the first in Rank of them present shall judge expedient and necessary for the immediate Defence of this, or any of the United Colonies of America: And the Officers and Soldiers of said Militia, shall pay entire Obedience to their Commands accordingly, under the Penalties hereafter provided in this Act. *Provided always*, That the said Generals and all other Officers of said Militia, shall at all Times be under the Command of the major Part of the Council, and shall in drawing forth, or retaining in Service the said Militia, or any Part of them, be subject to such Orders and Instructions, as they may receive from the said major Part of the Council; unless when the said Militia, or any Part of them, shall be without the Limits of this Colony, they should receive Orders from the House of Representatives for the Time being, to return; and whenever the said Militia, or any Part of them, shall be without the Limits of this Colony, the said House of Representatives shall have full Power and Authority to give Orders for their Return; to which Orders the said Militia, and all the Officers thereof, are hereby required to yield strict Obedience, any Orders to the contrary notwithstanding.

3. And be it further enacted by the Authority aforesaid, That the Council or House of Representatives, shall from Time to Time as may be necessary, by Ballot, choose one good and able Brigadier in each County in this Colony, where there shall be more than one Regiment (and where there is but one Regiment in a County, the Council shall join such Regiment to the Militia of any other County as they shall see fit) and such Persons so chosen and concurred, shall be commissioned by the major Part of the Council, in which Commission the Rank of each Brigadier shall be expressed: And the said Brigadiers shall have the same Command over their respective Brigades, as the first Major-General has over the Militia of the whole Colony; and when two or more of said Brigades, or any Number of said Militia shall be together embodied upon any Alarm, the first Officer in Rank who shall be present, shall have the chief Command of the whole.

4. And be it further enacted by the Authority aforesaid, That there shall be chosen, appointed and commissioned, (as is provided and directed by, this Act for the Choice and Appointment of General Officers) over such Regiment in this Colony, one Colonel, one Lieutenant-Colonel, and two Majors; And the said Field Officers so appointed and commissioned, or the major Part of them, shall forthwith divide and set off the respective Regiments into Companies, as they shall judge expedient, to consist as near as conveniently can be, of sixty-eight Privates, exclusive of those of the Alarm List, and to determine the Rank of each and every Company. *Provided nevertheless*, That no Soldier shall be obliged,

In the Sixteenth Year of the Reign of GEORGE the Third, KING, &c. 1776.

Militia.

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obliged, without his Consent, to join a Company belonging to any Town in which he has not his usual Place of Abode, unless where there shall not be Privates enough to make a Company of thirty Soldiers, including Officers; in which Case, as also where there are any Persons belonging to a Place not incorporated, they shall be joined to such Company as the Field Officers of the Regiments within which they are, shall see fit. And the Inhabitants of every Town now in, or that shall be in the Continental Army, shall be deemed to belong to, and be a Part of the Companies in their respective Towns, and excused from Duty in the Militia, whilst they continue Part of the Army aforesaid; and each Company, when so formed and set off, shall, together with those of the Alarm List, within the Limits of the same, by Ballot, in the Presence of one of their Field Officers, who shall cause them to be duly notified for that Purpose, and shall preside as Moderator, choose one Captain, and two Lieutenants; which Choice shall immediately be certified to the Secretary by said Field-Officers; and the major Part of the Council thereupon, unless some material Objection against such Choice for any corrupt Practice or Irregularity, shall be made at or before the Time of receiving said Certificates, shall commissionate such Persons pursuant to their Election. And all the said Officers, when so commissioned by the Council, shall in the Absence of their Superiors, have the same Power in ordering, directing and marching their Regiments and Companies, as the first Major-General has over the whole of said Militia: And the Colonel, or commanding Officer of each Regiment, shall as soon as the Captains in his Regiment are commissioned, give them respectively under his Hand in Writing, the Limits of their respective Companies, their alarm Posts, and the Manner of mustering their Companies on all Occasions.

5. *And be it further enacted by the Authority aforesaid,* That the Field-Officers of each and every Regiment, or the major Part of them, shall recommend to the General Court a good able and skilful Person for Adjutant of their Regiment; and if either House shall by Ballot, elect such Person for that Office, then the major Part of the said Council, shall, when concurr'd, commissionate him thereto. And in all Cases determinable by Field-Officers of the several Regiments, where there shall be the four Field-Officers of any particular Regiment present; and they shall be equally divided in their Opinions respecting such Matter—the Determination shall be according to the Opinion of the first Colonel.

6. *And be it further Enacted,* That each Company, including the Alarm List, shall be called together by their Captain, or commanding Officer, as soon as may be, for the Purpose of choosing one Clerk, four Sergeants, four Corporals, one Drummer, and one Fifer; and when it shall appear to the Commission Officers of any Company, that either of said Non-commissioned Officers shall neglect his Duty, they may remove and dismiss him from his Office, and call upon their Company, including the Alarm List, to choose another in the Room of such Delinquent; and if the said Company, being called together for that Purpose, shall at any Time neglect, or refuse immediately to proceed to the Choice of one, or more Non-commissioned Officer or Officers, so ordered to be chosen—the Commission Officers of such Company, or the major Part of them, shall by Warrant under their Hands in Writing, appoint said Non-commissioned Officer or Officers, which the said Company shall have refused to choose as aforesaid.

7. *And be it further enacted by the Authority aforesaid,* That each and every Officer, and private Soldier of said Militia, not under the Controul of Parents, Masters, or Guardians, and being of sufficient Ability therefor, in the Judgment of the Select Men of the Town wherein he has his usual Place of Abode, shall equip himself, and be constantly provided with a good Fire-Arm, with a Steel or Iron Ramrod, and a Spring to retain the same, a Worm, Priming Wire, and Brush, and a Bayonet fitted to his Gun, a Scabbard and Belt therefor, and a Cutting Sword, or a Tomahawk or Hatchet, a Pouch containing a Cartridge Box, that will hold fifteen Rounds of Cartridges at least, a Hundred Buck Shot, a Jack-Knife and

Persons in the Cont'l Army to be considered as belonging to the Militia.

Each Company to choose their own Capt and two Lieut's, who are to be commissioned by the major Part of the Council.

An Adjutant to be recommended by the Field Officers of each Regiment, & chosen by Ballot of either House, & commissioned by the major Part of the Council.

Non-commission'd Officers to be chosen by the Company.

Articles of Equipments.

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Tow for Wadding, six Flints, one Pound of Powder, forty Leaden-Balls fitted to his Gun, a Knapfack and Blanket, a Canteen or Wooden Bottle sufficient to hold one Quart. And all Parents, Masters and Guardians, shall furnish and equip those of the Militia which are under their Care and Command, with the Arms, Equipments, and Accoutrements aforesaid; And where the Selectmen of any Town shall adjudge any Person belonging to the Militia of their Town unable to equip, and arm himself as aforesaid, such Selectmen shall in Writing under their Hands certify the same to the Captain or commanding Officer in whose Company such Person may be, and shall at the Expence of such Town provide for, furnish, arm and equip such Person with such Arms and Equipments; which Arms so provided by such Selectmen, shall be the Property of the Town at whose Expence they shall be provided; and if any Non-commissioned Officer or Soldier, shall embezzle or destroy the same, he shall be punished at the Discretion of the Justice, or Court before whom he may be convicted thereof, by paying double the Value of the Arms or Accoutrements so wilfully destroyed or embezzled; and on Default thereof, to be publicly whipped not exceeding twenty Stripes: And the Selectmen of each and every Town shall provide at the Expence of the Colony, and deposit and keep in some safe Place for the Use of the Militia upon an Alarm— one sixteenth Part so many Spades, or Iron Shovels with Handles, and fitted for Service, as there are Rateable Polls in their Town; one half as many narrow Axes as Spades and Iron Shovels, and as many Pick-Axes, as narrow Axes, all fitted for Service, and at the Cost and Charge of their respective Towns; one Drum, and one Fife for each Company therein. And the Freeholders and Inhabitants of each and every Town in this Colony, qualified by Law to vote in Town-Meetings, are hereby impowered at a Meeting regularly warned for that Purpose, to raise Money by Tax on the Polls and Estates of the Inhabitants of their Towns, to defray all Charges arising on said Towns in Consequence of this Act.

Poor Persons to be equipt at the Expence of their Town.

Penalties for Embezzlement of such Equipments.

Penalty for Commission Officers neglecting to equip themselves.

A Return of all the Equipments to be made every Six Months.

Each Brigadier to review his Brigade twice a Year.

Each Company to be mustered 8 Times a Year.

8. And be it further enacted by the Authority aforesaid, That each and every Commission Officer of said Militia, who shall not within one Month next after receiving his Commission, provide for, arm and equip himself with such Arms and Accoutrements, as is by this Act directed, shall by Order of a Court Martial appointed, as by this Act is provided, be removed from his Office. And every commissioned Officer, who shall be deposed from his Office in the Militia for Neglect of Duty, or other Misdemeanor, as by this Act is provided, shall receive no Benefit from any Commission, which he shall be thus incapacitated to execute to exempt him from Military Duty.

9. And be it further enacted, That the Clerk of each and every Company of said Militia, shall once every six Months after the Time of his Choice or Appointment, take an exact List of his Company, and of each Man's Equipments respectively, and present the same to the Captain or commanding Officer thereof; a Copy whereof the Captain or commanding Officer of said Company, shall immediately deliver to the Colonel or commanding Officer of the Regiment he belongs to; and the Colonel shall, without Delay, return the Number therein contained to the Brigadier, and the Brigadier shall as soon as may be, return the same to the first Major-General, and he shall forthwith return the same to the Council.

10. And be it further enacted by the Authority aforesaid, That every Brigadier shall review each Regiment of his Brigade twice a Year, and oftner if the Council shall order it, and on Default thereof, shall be liable to be removed from his Office: And when the Captain or commanding Officer of any Company of such Militia shall choose to call his Company together, or shall be ordered by his superior Officer to do it, to examine their Arms, or instruct them in the Exercises, which from Time to Time shall by the General Court be ordered for them, he shall notify and warn them of the Time and Place of Meeting, in such Manner as his Colonel shall appoint therefor; and each and every Company shall be mustered eight Times a Year at least, including their Regimental-Musters.

11. And

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11. *And be it further enacted*, That if the commanding Officer of any Regiment, shall neglect to call his Regiment together at such Time and Place, and in such Manner as his Brigadier shall order, and be thereof convicted before a Court Martial appointed, as is in this Act provided, he shall be liable to be removed from his Office; and if any Captain or Subaltern, shall prove disobedient on a Training or Mustering-Day, or shall not draw out the Company he commands, being ordered by his superior Officer thereto, he shall be liable to be removed from his Office by a Court Martial appointed, as by this Act is provided: And when any Commission Officer shall be removed from his Office as aforesaid, he shall be held incapable of holding any Military Office in said Militia, for the Space of three Years next after sentence declared against him; and when any Captain or Subaltern shall be removed from his Office as aforesaid, the commanding Officer of the Company wherein such incapacitated Person used last to command, shall call the Company together, including the Alarm List, and direct them in the Presence of one of the Field Officers of the Regiment, who shall preside as Moderator, to choose some other Person in his Room, and the Person so chosen, on his Choice being certified, as is in this Act provided for the Choice of Captains and Subalterns, shall by the Council be commissioned accordingly. And if the said Company at any Time shall neglect or refuse to choose one or more Commission Officer or Officers for the same, after being called together for that Purpose, as is directed by this Act, the Field Officers, or the major Part of them, shall recommend to the Council such Person or Persons within the Limits of said Company, as they shall think most capable of the said Office. And the Council shall commissionate them in the same Manner as if they had been chosen by the Company; and if any Non-commissioned Officer or private Soldier, being duly notified of the Time and Place appointed for the Company to which he belongs, to meet on a Training or Muster-Day, shall unnecessarily neglect to appear with such of the aforesaid Arms, Accoutrements and Equipments, as he shall be possessed of, being ordered by his Officer to bring the same, shall pay a Fine not exceeding the Sum of *twenty Shillings*, nor less than *five Shillings*, or if he shall be Disobedient, or Disorderly on a Training, or Muster Day, he shall pay a Fine not exceeding the Sum of *twenty*, nor less than *one Shilling*; and all Fines and Forfeitures of Money, arising by Breach of this Act for Disobedience or Failure of Appearance on a Training Day, shall be recovered by Complaint before a Justice of the Peace, by the Clerk of the Company to which the Delinquent belongs, an Appeal being allowed to either Party, to the Inferior Court of Common Pleas, as in other Acts: And if on such Complaint, Judgment shall be given in Favor of such Clerk, he shall have his legal Cost allowed him. *Provided nevertheless*, That when any Non-commissioned Officer or Soldier, shall neglect to appear as aforesaid on a Training or Muster Day, and shall within fifteen Days next after such Training or Muster, make his Application to the Officers of said Company, or the major Part of them, and pay such Fine as they shall order, not exceeding *twenty*, nor less than *five Shillings*, or shall obtain their Excuse, and present a Certificate of the same under their Hands to the Clerk, it shall be a Bar to any further Action or Complaint against him for such Offence.

12. *And be it further enacted by the Authority aforesaid*, That the said Militia, as well Officers, as private Soldiers, when drawn out, or ordered to be drawn out on an Alarm for the immediate Defence of this, or any other of the United Colonies of America, shall from Time to Time be under such Laws or Articles of War and Regulations, as shall be provided by the General Court.

13. *And be it further enacted*, That the Major-Generals and Brigadiers of said Militia, shall be amenable to, and triable before the Council of the Colony, for all Crimes and Misdemeanors in their Office, and for Treachery, Cowardice, Fraud, or Neglect of Duty, and lawless Exercise of Power, shall be liable to be removed from their Offices respectively. And if any Field Officer shall be

Penalty for Colonels neglecting to call their Regiments together.

Penalty for non-commissioned Officers and Soldiers neglecting to appear equipped.

The mode of recovering Fines & Forfeitures arising by breach of this Act.

The Militia to be under such Laws as shall be provided by the General Court.

All the Generals to be amenable to and triable before the Council for all Crimes & Misdemeanors in their Office.

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Field Officers to be tried for Breach of Duty before a Court Martial of Field Officers.	guilty of any Misdemeanor, or Breach of Duty in Violation of this Act; the Brigadier, to whose Brigade he belongs, shall appoint a Court Martial, consisting of a Majority of the Field Officers of the same Brigade, to try him: And when any Captain, Adjutant or Subaltern, shall be guilty of Breach of Duty, or Misdemeanors against this Act, the Colonel, or commanding Officer of the Regiment he belongs to, shall order a Court Martial, to consist of a Majority of the commissioned Officers of the same Regiment, who live nearest to the Delinquent, to try him; which Court Martial shall respectively have full Power, for
Captains and Subalterns by a Court Martial of commissioned Officers.	Treachery, Cowardice, Fraud, Failure of Duty, or wanton Exercise of Power, to remove from his Office such Commission Officer or Officers.
Penalty for Bribery.	13. <i>And whereas Bribery and Corruption has been the Destruction of many great and opulent Nations, and therefore every Species thereof should be discountenanced by a virtuous and patriotic People: And whereas on treating the Election of Officers has a manifest Tendency to injure a free People, and does on Training Days, in a great Measure, subvert the Design of calling the Militia together:</i> <i>It is therefore enacted by the Authority aforesaid, That if any Officer, on any Training or other Muster Days, shall give, or provide any Treat of Victuals or Drink, for the Company he commands, directly or indirectly, he shall be liable to be removed from his Office, by a Court Martial, as by this Act is provided for other Offences.</i>
Penalty for firing Guns unnecessarily on Training Days.	15. <i>And be it further enacted, That no Soldier, or Non commissioned Officer, shall unnecessarily discharge or fire his Gun on a Training or Muster Day, without the express Order or Licence of his Superior Officer, under such Penalty, as is herein provided for Disobedience, or disorderly Behaviour on such Days.</i>
Commanding Officer to affirm the Sentence of Courts Martial.	16. <i>Be it further enacted, That no Sentence of any Court Martial shall be put in Execution, without being affirmed by the Officer who shall have appointed the same.</i>
Who constitute the Alarm List.	17. <i>And whereas by the first Section of this Act, certain Orders of Men are exempt from common and ordinary Trainings: And whereas the present Situation of this Colony calls loudly for the Aid of all its Inhabitants; and many of those Persons who are by said Section so exempted, and others not included in that Part of the Militia, called the Training Band, are able and willing to fight in Defence of their Country:</i> <i>It is therefore enacted by the Authority aforesaid, That all the Male Persons from sixteen Years of Age to sixty-five, not included in that Part of the Militia called the Training Band, and exempted by the first Section of this Act, from common and ordinary Training, shall constitute an Alarm List in the Colony; excepting Members of the Council, of the House of Representatives, and American Congress, for the Time being, the Secretary of the Colony, Ministers of the Gospel, the Denomination of Christians called Quakers, Selectmen for the Time being, and Negroes, Indians and Molatoes; and if of sufficient Ability, in the Judgment of the Selectmen of the Town, where they have their usual Place of Abode, shall respectively provide for, and equip themselves with such Arms and Accoutrements, as by this Act is directed for those of the Training Band, in the Militia aforesaid; and shall, in case of an Alarm, be under the Command of such Officers of the Militia, as by this Act is directed. Provided, that no Person above sixty Years of Age, nor such Millers and Ferry-men, as the Selectmen of their Town shall judge necessary to excuse therefrom, shall be compelled to march out of the Town wherein they have their usual Place of Abode.</i>
Persons exempted.	<i>Provided also, and it is enacted by the Authority aforesaid, That all such Persons belonging to the Alarm List, who are by this Act liable, in case of an Alarm, to be called to march, and serve without the Limits of the Town where they have their usual Abode, shall not be obliged to march, or serve in the Ranks with such as belong to the Training Band List; but, if Necessity shall require,</i>
The Alarm List to serve in Time of Action in a separate Corps.	

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require, shall march, and serve in a separate Body and Corps by themselves, under the immediate Command of some Field Officer or Officers; and shall not be subject to the Command of any Officer or Officers, inferior to a Field Officer; nor shall the Judges, Justices and Sheriffs, in actual Commission, who shall have taken the Oath required by Law to qualify them for the Execution of their respective Offices, be subject or liable to be called out of the Towns, where they shall have their usual Abode, by any Officer inferior to the Colonel of a Regiment to which they belong: And the Clerk of each Company shall, when he takes a List of the Training Band, take an exact List of the Persons belonging to the Alarm List in his Company, and shall present the same to his Captain, with that of the Training Band; and the Captains, and all Officers, shall make the same Return of them, as of the rest of the Militia. And an Alarm may be made by firing three Guns one after another, or by firing a Beacon, the Drums beating an Alarm, all Persons being called upon to arm: Upon which all the trained Soldiers, and others capable to bear Arms, who are then resident in any Town, shall forthwith appear compleat, with their Arms and Ammunition, at the usual Place of Rendezvous, or where the chief Officer shall appoint; there to attend such Command as shall be given for the common Defence, agreeable to this Act.

18. *And be it further enacted*, That the Captain, or commanding Officer of every Company in this Colony, shall once every six Months, on one of the Days that he shall muster those of his Company belonging to the Training Band, call those of the Alarm List, within the Limits of the same together, within the Town where they are Inhabitants, and examine their Arms and Accoutrements; and if any such Person, belonging to the Alarm List, shall unnecessarily neglect to appear, after being duly warned, with his Arms and Accoutrements, he shall be liable to pay the same Fine, as is provided against those of the Training Band, in like Cases offending: And all Fines and Forfeitures, arising by Breach of this Act, against any of the said Alarm List, shall be recovered in the same Manner, as is provided for recovering the same against those of the Training Band, in like Case offending: And all those Persons in the Alarm List, shall be as capable of being elected to any Office in the said Militia, as if they were in the Training Band. And no Person belonging to, or being a Part of the established Forces of the United American Colonies, or of this Colony, shall, during the Time of his Engagement in the Services aforesaid, be elected to, or hold any Office in the Militia of this Colony.

19. *And be it further enacted by the Authority aforesaid*, That there shall be appointed by the General Assembly, a Deputy-Commissary for every Brigade; a Certificate of which Appointment, shall be sent them by the Secretary; and they shall be duly sworn to a faithful Discharge of the said Office: Which Deputies shall be accountable to, and obey the Commands in Matters respecting their Office, of the Commissary of this Colony. And when the Militia of any Town in the Colony, or a Part thereof, shall be drawn forth for the immediate Defence of this, or any of the United Colonies aforesaid, each Officer and Soldier shall provide for himself, at least three Days Allowance of Provisions: and the Selectmen of such Town shall immediately cause Carriages to attend them with further necessary Provisions, and Utensils to cook the same, and shall continue sending to the Commissary, or his Deputy, sufficient Supplies for the Part of the Militia, from their respective Towns aforesaid, until Certificates shall be given by the Commissary, or his Deputy, in the County from which said Militia goes, that the same can be otherwise supplied: And the Selectmen are directed to cause their Accounts of the Provision aforesaid, that shall be supplied by them, or such of the Utensils as shall be lost or damaged, together with the Charges of Transportation, to be laid before the General Court for Allowance, and to produce Receipts from the Commissary, or his Deputies, for such a Part thereof as shall be delivered to them respectively.

Not to be subject to the Command of any Officers, inferior to a Field Officer.

Alarm List to be mustered twice a Year.

Penalty for neglecting to appear.

No Person belonging to the Army of the United Colonies, to be capable of holding any Office in the Militia.

A Deputy-Commissary to be appointed for every Brigade.

His Duty.

20. *And*

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20. *And be it further enacted,* That there shall be a Stock of Powder and Ammunition in each Town provided, and constantly kept; which shall be one Barrel of good Gunpowder, containing one Hundred Pounds, three Hundred Weight of Leaden Balls of different Sizes, and Buck Shot, and three Hundred Flints for every sixty Soldiers of the Training Band, and the same Proportion for any greater or lesser Number; and the Selectmen of every Town in this Colony, shall procure and provide such Stock of Ammunition, as soon as may be; and the Selectmen of each Town shall be, and hereby are, impowered to raise Money by Tax, on the Polls and Estates of their Town, for the Purposes aforesaid, by the same Rule as other Town Charges are assessed; and shall by Warrant under their Hands, commit the same to the Constable or Constables of their Town, who are hereby impowered and directed to collect the same, in the same Manner as is provided for the Collector of other Taxes, and shall be held to pay the same to the Town Treasurer, as other Taxes, and shall be liable, in Case of Default, to have the same levied of them by an Execution from the said Treasurer, as in other Cases of a delinquent Constable is provided: And the said Treasurer is hereby impowered to award the same.

21. *And be it further enacted,* That there be Military Watches appointed, and kept in every Town, at such Time, and in such Places, and in such Numbers, and under such Regulations, as the Commission Officers of such Town shall appoint, or as they may receive Orders from the chief Officer of their Regiment; and that all Persons within the Training Band, or Alarm List, under sixty Years of Age, shall by themselves, or some meet Person in their Stead, to the Acceptance of the Commander of the Watch, attend the same, on Penalty of *five Shillings* for each Defect, there having been due Warning given. And the Commission Officers, or the major Part of them of any Town, are hereby ordered and directed, to proportion the Burthen of such Watches, equally on those in the Training Band, and Alarm List, excepting such as are more than sixty Years of Age as aforesaid, under the Penalty of being dealt with in the Manner provided by this Act against those who shall be guilty of Fraud, or the lawless Exercise of Power.

22. *And be it further enacted,* That each and every Fine and Forfeiture arising by Breach of this Act, when recovered, shall be paid to the Treasurer of the Town in which the Person offending has his usual Place of Abode, to be by the Selectmen of such Town appropriated to the Use of purchasing Guns and Accoutrements, for those who are unable to purchase the same for themselves; and for purchasing Drums and Fifes, and to be drawn out by the Selectmen of each Town from Time to Time, as there shall be Occasion.

23. *And be it further enacted by the Authority aforesaid,* That each Brigadier of this Colony, shall keep constantly provided, at the Expence of the same, two good Field Pieces, that shall carry a Shot of not more than six, nor less than two Pounds Weight, mounted on good and substantial travelling Carriages; together with Harnesses, Rammers, Ladles, Sponges, Powder-Horns, and other necessary Accoutrements for the same; and shall also keep constantly provided at the Expence of the Colony, for each Field Piece as aforesaid, forty Rounds of Iron Shot, forty Cases of Iron or Leaden Ball, and eighty Rounds of Powder, with Cartridges for the same; and shall likewise cause a Company of Matrosses to be enlisted in his Brigade, for each Field Piece: Which Companies shall consist of thirty-six Men each, including Officers, and be chosen from two separate Regiments, and one Town in each Regiment, as the Brigadier shall direct; and shall respectively choose Captains, and other proper Officers, and be subject to the Field Officers of their respective Regiments, and to the same Laws and Regulations, as are provided in this Act, for the other Companies of the Train-Band; any Thing in this Act notwithstanding.

C H A P.

Continuance. 22. AND IT IS HEREBY FURTHER ENACTED, That this Act shall continue in Force to the End of the next Sitting of the Legislature, and no longer.

Passed at Trenton, April 4, 1778.

C H A P. XXI.

An ACT for granting a Bounty upon Wool, Flax and Hemp, raised and sold within the State of New-Jersey.

Preamble. WHEREAS increasing the Quantity of Wool, Flax and Hemp in this State, may be of singular Advantage to the Inhabitants thereof.

Bounty. Sect. 1. BE IT ENACTED by the Council and General Assembly of this State, and it is hereby Enacted by the Authority of the same, That from and after the Publication of this Act, any Person raising and selling, within this State, either Wool, Flax or Hemp, shall be entitled to receive from the Publick, as a Bounty on the same, the Sum of One Shilling per Pound for good merchantable Sheeps Wool; Nine-pence per Pound for good clean well dressed Flax; and Four-pence per Pound for like Hemp, so raised and sold by any Person residing within this State, to any Inhabitant of the same; which Bounty shall be paid to any Person who shall raise and sell any of the aforesaid Articles, over and above the Quantity sufficient for his or her Family's Use, upon his or her producing a Receipt for the same from the Purchaser, specifying the Seller's Name, the exact Weight of the Article sold, with the Time and Place of Sale; the Truth of which Receipt shall be attested on Oath or Affirmation, before any Justice of the Peace of the County in which he resides; and being exhibited to the Treasurer of the State, he is hereby authorized and directed to pay all such Sums of Money as shall be expressed in all Receipts so taken, attested and exhibited; and the same shall be his sufficient Voucher for the Payment of so much out of the State Treasury.

Continuance. 2. AND BE IT FURTHER ENACTED by the Authority aforesaid, That this Act shall continue and be in Force for two Years after the Publication hereof, and from thence to the End of the next Sitting of General Assembly, and no longer.

Passed at Princeton, April 14, 1778.

C H A P. XXII.

An ACT for the Regulating, Training and Arraying of the Militia.

Preamble. WHEREAS a well ordered and well disciplined Militia is at all Times necessary to the Safety and Preservation of the State, and more especially when the Invasion and Hostilities of a powerful Fleet and Army

 WILLIAM LIVINGSTON, Esquire, Governor.

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Army call for every vigorous Means of Defence: AND WHEREAS the Laws now in Force for the Regulation and Government of the Militia are in many Respects ineffectual, and, from their Number and Diversity, difficult to be comprehended and executed ;

Sec't. 1. BE IT THEREFORE ENACTED *by the Council and General Assembly of this State, and it is hereby Enacted by the Authority of the same,* That from and after the Publication hereof, the Militia of this State shall be divided into two Brigades, as follows, *to wit,* The Militia of the Counties of *Middlesex, Somerset, Essex, Bergen, Morris and Suffex,* shall form one Brigade. And the Militia of the Counties of *Hunterdon, Burlington, Monmouth, Gloucester, Salem, Cumberland and Cape-May,* shall form the other Brigade.

Militia to be divided into two Brigades.

2. AND BE IT ENACTED, That each Brigade shall be commanded by a Brigadier or Colonel-Commandant, who shall be empowered to appoint a Major of Brigade.

By whom commanded,

3. AND BE IT ENACTED, That each Regiment or Battalion shall be officered with a Colonel, a Lieutenant-Colonel and a Major ; and also with an Adjutant, a Quarter-Master, and, when Circumstances will admit, a Chaplain and a Surgeon ; which regimental Staff-Officers shall be appointed by the Field-Officers, or a Majority of them ; PROVIDED ALWAYS, That where two Majors have been heretofore appointed and commissioned in any Regiment or Battalion, both shall be continued ; but Vacancies happening in the Office of second Major, shall not henceforward be supplied.

And how officered.

4. AND BE IT ENACTED, That each Company of the Militia shall be officered with a Captain, a Lieutenant and an Ensign, and also provided with any Number not exceeding four Serjeants and four Corporals, to be elected by the Companies respectively ; and the Commission Officers of each Company shall appoint for the same a Drummer and a Fifer : PROVIDED ALWAYS, That where two Lieutenants have been heretofore appointed and commissioned in any Company, both shall be continued ; but Vacancies happening in the Office of second Lieutenant, shall not henceforward be supplied.

Companies, how officered.

5. AND BE IT ENACTED *by the Authority aforesaid,* That the said General, Field and other Commission Officers and Staff-Officers respectively, shall be commissioned by the Governor or Commander in Chief for the Time being, upon due Certification of their Election or Appointment from those who elect or appoint them respectively, or by their Order ; and the Non-commission Officers of Companies shall act under Warrants or Certificates from the Captains or commanding Officers of the Companies to which they severally belong.

Officers, by whom commissioned, &c.

6. AND BE IT ENACTED *by the Authority aforesaid,* That each and every Officer, duly elected and commissioned, shall, within two Weeks after receiving his Commission, repair to some Justice of the Peace, or other Person duly authorized by *Dedimus Potestatem* to administer the Oaths of Abjuration and Allegiance, as prescribed in an Act, intitled, *An Act for the Security of the Government of New-Jersey,* passed the nineteenth Day of *September,* One Thousand Seven Hundred and Seventy-

And to take the Oaths.

Penalty for
Neglect.

fix, and there take and subscribe the said Oaths in due Form, a Certificate of which such Justice, or other Person authorized as aforesaid, shall give to the Officer taking the Oaths, who shall transmit it to the Clerk of the Peace of the County, to be entered in a Roll kept for that Purpose. And if any Officer shall neglect to apply and take and subscribe the said Oaths within the Term above limited, he shall, for such Default, forfeit and pay the Sum of *Six Pounds*, to be recovered before any Justice of the Peace of the County wherein such Officer may reside, by any Person who shall sue for the same, one Moiety to the Prosecutor, and the other to the Justice, to be by him paid to the Collector of the County, for the Use of the State; and shall moreover be disqualified and rendered incapable of executing his Office; and his Place shall be supplied by a new Election.

Vacancies of
Commission
Officers, how
filled up.

7. AND BE IT ENACTED, That in every Case where a Vacancy or Vacancies shall happen, by Death, Resignation or otherwise, of any Commission Officer or Officers of any Company, the Captain or commanding Officer of such Company shall, within thirty Days thereafter, call a Meeting of the same; and the Officers and Privates who shall meet at the Time and Place appointed, shall nominate a Clerk to manage the Election, and certify the same when made; and shall, by Plurality of Voices, elect such Officer or Officers as may be wanting. And if the Captain or commanding Officer shall neglect or refuse to give Orders for assembling the Company as aforesaid, he shall forfeit for such Offence *Six Pounds*, to be recovered and applied as aforesaid. And if the Company, on due Notice given, shall neglect to assemble and elect as aforesaid, the Field-Officers of the Regiment or Battalion, or a Majority of them, shall appoint the Officer or Officers necessary to supply the Vacancy or Vacancies in the same, or annex the said Company to any adjacent Company or Companies in the Regiment or Battalion, as they may think proper: PROVIDED ALWAYS, That where no Commission Officer shall remain in any Company, the nearest Field-Officer of the Regiment or Battalion shall give the Orders for assembling the Company as aforesaid.

Proviso.

Vacancies of
Non-commission
Officers, how
supplied.

8. AND BE IT ENACTED, That all Vacancies happening in the Non-commission Officers of any Company, shall be supplied as often as necessary by such Company, when assembled for Training; and if the Company refuse to elect such Non-commission Officers, they shall be appointed by the Commission Officers of the Company, or any two of them; and if any Person shall refuse to serve as a Serjeant, Corporal, Drummer or Fifer, when duly elected or appointed for that Effect, he shall be fined the Sum of *Three Pounds*, to be recovered and applied as aforesaid: PROVIDED ALWAYS, and it is hereby Enacted, That no Person shall be fined more than once in the Space of a Year for refusing to serve in any Office to which he may be elected or appointed.

Lists of effective
Men to be kept,
&c. and who not to be
enrolled.

9. AND BE IT ENACTED by the Authority aforesaid, That the Captain or commanding Officer of each Company shall keep a true and perfect List or Roll of all effective Men between the Ages of sixteen and fifty Years residing within the Bounds of such Company: PROVIDED ALWAYS, That the Delegates representing this State in the Congress of the United States, the Members of the Legislative-Council and General Assembly, the Judges and Justices of the Supreme and Inferior Courts, the Judge of the Court of Admiralty, the Attorney-General, the Secre-

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tary, the Treasurer, the Clerks of the Council and General Assembly, the Clerks of the Courts of Record, the Governor's private Secretary, Ministers of the Gospel of every Denomination, the Presidents, Professors and Tutors of Colleges, Sheriffs and Coroners, one Constable for each Township, to be selected by the Court of Quarter-Sessions of the County, two Ferry-men for each publick Ferry on the *Delaware*, below the Falls at *Trenton*, and one for every other publick Ferry in this State, and Slaves, shall not be borne upon any such Lift or Roll, or be liable to military Duty.

10. AND BE IT ENACTED, That the Captain or commanding Officer of each Company shall make Return of the Commission and Non-commission Officers and Privates of his Company, and of the State of their Arms, Accoutrements and Ammunition, in the Months of *March* and *October* every Year, to the Colonel or commanding Officer of the Regiment or Battalion to which such Company may belong, under Penalty of *Three Pounds* for each Default; and the Colonel or commanding Officer of each Regiment or Battalion shall make Return of his Regiment or Battalion, and of the State of their Arms, Accoutrements and Ammunition, in the Months of *April* and *November* every Year, to the Brigadier or Colonel-Commandant of the Brigade to which such Regiment or Battalion may belong, under Penalty of *Six Pounds* for each Default; and the Brigadier or Colonel-Commandant of each Brigade shall make Return of his Brigade in the Months of *May* and *December* every Year, to the Commander in Chief of the State, under Penalty of *Ten Pounds* for each Default; which several Penalties shall be recovered from the Officer whose Duty it is to make the Return, by a Justice of the Peace of the County where the Offender may reside, at the Instance of the Officer to whom the Return is in any Case directed to be made, and paid to the Collector of the County where recovered, for the Use of the State.

Returns to be made.

11. AND BE IT ENACTED, That every Person enrolled shall constantly keep himself furnished with a good Musket, well fitted with a Bayonet, Steel Ramrod and Worm, a Cartridge-box, twenty-three Rounds of Cartridges sized to his Musket, a Priming-wire, Brush and twelve Flints, a Knapfack and Canteen, under the Forfeiture of *Six Shillings* for the Want of a Musket, and *One Shilling* for the Want of any of the other Articles whenever called out to Training or Service, to be recovered and applied as herein after is directed: PROVIDED ALWAYS, That if any Person be furnished as aforesaid, with a good Rifle Gun, the Apparatus necessary for the same, and a Tomahawk, it shall be accepted in Lieu of a Musket and the Bayonet, and other Articles belonging thereto.

How to be equipped.

Proviso.

12. AND BE IT ENACTED, That each Person enrolled shall also keep at his Place of Abode one Pound of good merchantable Gun-Powder and three Pounds of Ball, sized to his Musket or Rifle; and for Want of either, shall forfeit the Sum of *Three Shillings*, to be recovered and applied as herein after is directed: PROVIDED ALWAYS, *and it is hereby Enacted*, That if any Person enrolled shall, by a Majority of the Commission Officers of the Company to which he may belong, be deemed and adjudged unable to purchase the Arms, Accoutrements and Ammunition above specified, he shall be exempted from Forfeiture for any Deficiency therein, until he can procure them, or they are provided for him.

And provided.

Proviso.

Examination
of Arms, &c.

13. AND BE IT FURTHER ENACTED, That the Captain or commanding Officer of each Company shall, once in every four Months, order a Serjeant to call at the Place of Abode of each Person enrolled as aforesaid, for the Purpose of examining the State of his Arms, Accoutrements and Ammunition; of which the said Serjeant shall make exact Report to the Officer issuing the Orders; and if any Captain or commanding Officer of any Company shall neglect his Duty in this Respect, he shall forfeit and pay the Sum of *Six Pounds* for each Offence, to be recovered and applied as herein after is directed; and if any Serjeant shall neglect his Duty in this Respect, he shall forfeit and pay for each Offence the Sum of *Forty Shillings*, to be recovered and applied as herein after is directed.

Penalty for
Neglect.

Time of Meeting,
and Fines
for Omission.

14. AND BE IT ENACTED by the Authority aforesaid, That each Company shall assemble, properly armed and accoutred, not later than one o'Clock in the Afternoon of the first *Monday* in the Months of *April, May, June, September, October, November* and *December* every Year, at such Place as the Captain or commanding Officer of the Company shall appoint, and there spend the Remainder of the Day in Training and Exercise; and that the Penalty, in case of Absence, shall be as follows: On a Captain, *Thirty Shillings*; on a Lieutenant or Ensign, *Twenty Shillings*; on a Non-commission Officer or Private any Sum not under *Seven Shillings and Six-pence*, nor above *Fifteen Shillings*, and in due Proportion for attending later than the Hour above limited.

Two Field-
Days in a
Year.

Penalty for
Absence.

Proviso.

15. AND BE IT ENACTED, That each Regiment or Battalion shall assemble, properly armed and accoutred, twice in the Year, at such Times and Place or Places as the Field-Officers, or a Majority of them, shall direct for the Purpose of Training and Exercise; and that the Penalty, in case of Absence, shall be as follows: On a Colonel, *Five Pounds*; on a Lieutenant-Colonel, *Four Pounds*; on a Major, *Three Pounds*; on a Captain or any Staff-Officer, *Forty Shillings*; on a Lieutenant or Ensign, *Thirty Shillings*; on a Non-commission Officer or Private, any Sum not less than *Ten Shillings*, nor more than *Twenty Shillings*, and in due Proportion for attending later than the Hour specified in the Order for meeting: PROVIDED ALWAYS, That if the local Situation of the Companies composing any Regiment or Battalion be such as may render it inconvenient to assemble the Whole at the same Time and Place, it shall and may be lawful for the Field-Officers, or a Majority of them, to assemble such Regiment or Battalion by Parts, at different Times and in different Places, each Part being assembled twice in a Year.

Misbehaviour
on Duty, Pe-
nalty there-
for.

16. AND BE IT ENACTED, That if any Field or other Commission Officer or Staff-Officer, at any regimental Review or monthly Training, or on any other Occasion when the Regiment, Battalion or Company to which he may belong, or in which he holds Command, is paraded in Arms, shall misbehave or demean himself in an unofficer-like Manner, he shall, for such Offence, be cashiered or punished by Fine, at the Discretion of a General or Regimental Court-Martial, as the Case may require, in any Sum not exceeding *Ten Pounds*; and if any Non-commission Officer or Private shall, on any Occasion of parading the Company to which he belongs, appear with his Arms and Accoutrements in an unfit Condition, or be found drunk, or shall disobey Orders, or use any reproachful or abusive Language to his Officers, or any of them, or shall quarrel him-

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self, or promote any Quarrel among his Fellow-Soldiers, he shall be punished by Fine in any Sum not under *Four Shillings*, nor exceeding *Fifteen Shillings*, or be difarmed and put under Guard by Order of the commanding Officer present, until the Company is dismissed.

17. AND BE IT FURTHER ENACTED, That if the Colonel or commanding Officer of any Regiment or Battalion shall, on any Occasion when it may be necessary, neglect or refuse to give Orders for assembling his Regiment or Battalion at the Direction of the Brigadier or Colonel-Commandant of the Brigade, he shall be cashiered or punished by Fine at the Discretion of a General Court-Martial, not exceeding *Fifty Pounds*, to be recovered and applied as herein after is directed; and if the Captain or commanding Officer of any Company shall, on any Occasion where it may be necessary, neglect or refuse to give Orders for assembling his Company at the Direction of the Colonel or commanding Officer of the Regiment or Battalion to which such Company may belong, he shall be cashiered or punished by Fine at the Discretion of a Regimental Court-Martial, not exceeding *Fifteen Pounds*, to be recovered and applied as herein after is directed; and if any Serjeant or Corporal shall neglect or refuse to warn the Company to which he may belong, on any Occasion when it may be necessary, agreeably to the Orders of the Captain or commanding Officer thereof, he shall be subject to a Fine of any Sum not exceeding *Three Pounds*, to be recovered and applied as herein after is directed.

Penalty on Officers neglecting to assemble the Militia.

18. AND BE IT ENACTED, That the Captain or commanding Officer of each Company shall at all Times keep a true List of his Company, divided into eight Parts or Classes, as nearly equal as possible, and reckoned from one to eight numerically; a Copy of which he shall transmit to the Colonel or commanding Officer of the Regiment or Battalion on every Occasion of making a Return of the Company as aforesaid, under Penalty of the like Fine or Forfeiture for Non-Performance: PROVIDED ALWAYS, That the Artillery Companies shall be excepted from this Regulation.

Lists to be kept, &c.

Proviso.

19. AND BE IT ENACTED by the Authority aforesaid, That it shall and may be lawful for the Governor or Commander in Chief for the Time being, with the Consent of the Legislature, when fitting, and during their Recess, with the Advice and Consent of the Privy Council, on Requisition of the Congress of the United States, or upon Application of the Commander in Chief of the Army of the United States, or of any General Officer commanding a Division or Detachment thereof, or of the executive Power of any of the adjoining States, or on other similar Emergency, to order into actual Service in any of the said adjoining States, such and so many Classes of the Militia as may be necessary, not exceeding four at any one Time, to be drawn alike from the several Companies of such Regiments or Battalions as are to furnish the Detachment, and officered accordingly. And in case any Difficulty arise in officering such Detachment, the Brigadier or Colonel-Commandant of each Brigade shall determine the Tour of Duty of the Regimental Officers; the Colonel or commanding Officer of each Regiment or Battalion shall determine the Tour of Duty of the Commission Officers of the Companies; and that the Captain or commanding Officer of each Com-

Who empowered to call out the Militia,

And determine the Tour of Duty.

pany shall determine the Tour of Duty of the Non-commission Officers of his Company.

Four Classes may be kept out by Reliefs.

20. AND BE IT ENACTED, That it shall and may be lawful for the Governor or Commander in Chief for the Time being, with the Advice and Consent of the Privy Council, to call out, station and continue by Reliefs, as a Defence to the State within the same, such and so many Classes as may at any Time be necessary, not exceeding four, to be arrayed and officered as aforesaid.

The Whole may be called in case of sudden Invasion.

21. AND BE IT FURTHER ENACTED, That it shall and may be lawful for the Governor or Commander in Chief for the Time being, in case of sudden Invasion, Infurrection, Sedition or Alarm, to call out and array the whole of the Militia, or such and so many entire Regiments or Battalions, situated near to the Place where the Force is required, as he may think necessary to repel the Invasion, and restore the Peace of the State.

When Officers may act without Orders.

22. AND BE IT ENACTED, That it shall and may be lawful for the Captain or commanding Officer of any Company, and he is hereby required and commanded to assemble his Company in every such Case, and oppose the Invaders or Insurgents, without waiting for Orders from the Colonel or commanding Officer of the Regiment or Battalion to which such Company may belong; and for the Colonel or commanding Officer of each Regiment or Battalion to assemble his Regiment or Battalion for the same Purpose, without waiting for Orders from his superior Officer: PROVIDED ALWAYS, That every Officer so acting without Orders, shall make Report of his Proceedings in due Form, as soon as possible.

Proviso.

Term of Service.

23. AND BE IT ENACTED, That when not more than half the Militia is called out and embodied, no Detachment shall be continued in Service more than one Month at the same Time.

Officers, &c. refusing to serve in their Tour, how punished.

24. AND BE IT ENACTED, That if any Field or other Commission Officer or Staff-Officer shall neglect or refuse to serve in his proper Tour, when a Part only of the Militia is called, or to march immediately with his Regiment, Battalion or Company when the Whole are called, he shall, for each Default, be tried by a General or Regimental Court-Martial, as the Case may require; and if convicted, shall be cashiered and rendered incapable of holding any military Office for the Space of one Year, or shall be punished by Fine, not under *Ten Pounds*, nor above *Fifty Pounds*; and if any Non-commission Officer or Private shall neglect or refuse to serve in his Tour, or within the Space of one Day after Notice given find a sufficient Substitute to serve in his Stead, to be approved by the Captain or commanding Officer of the Company, or shall neglect or refuse to render personal Service when the Whole of the Militia are called, he shall, for each Default, be fined not less than *Five Pounds*, nor above *Fifty Pounds*.

Fines, by whom assessed.

25. AND BE IT ENACTED by the Authority aforesaid, That all Fines and Forfeitures herein before declared and imposed, for the Assessment, Recovery or Application of which no special Provision is made, shall be assessed by the military Officers, and recovered and applied in Manner herein

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herein after directed ; and all military Officers impowered to assess Fines and Forfeitures, are also impowered to judge of and admit reasonable Excuses in Discharge of the Whole or a Part thereof, always having strict Regard to the Rank, Condition and Estate of the Offender or Delinquent, and the Circumstances of the Offence.

26. AND BE IT ENACTED *by the Authority aforesaid*, That the Colonel or commanding Officer of each Regiment or Battalion shall hear and decide upon the Reasons assigned by any other Field-Officer thereof for military Default punishable by Fine ; provided such Reasons be offered within ten Days ; and the Field-Officers of each Regiment or Battalion, or a Majority of them, shall meet at some convenient Time, not exceeding fifteen Days after any regimental Training or Review, or after any Call of the Whole or a Part of such Regiment or Battalion into actual Service, if it may be necessary ; of the Time and Place of which Meeting Notice shall be conveyed by Direction of the Colonel or commanding Officer to all concerned ; and shall then and there hear and decide upon the Excuses of the Captains or commanding Officers of Companies and Staff-Officers. And the Captain or commanding Officer of each Company shall hear and determine upon the Reasons offered by any Subaltern Officer thereof, for military Default punishable by Fine ; provided such Reasons be offered within ten Days ; and the Commission Officers of each Company, or a Majority of them, shall meet at some convenient Time, not exceeding fifteen Days after any Training of the Company, or any Call of a Part or the Whole thereof into actual Service ; of the Time and Place of which Meeting due and seasonable Notice shall be given by Advertisement, ten Days before such Meeting, or otherwise, as the Captain or commanding Officer may think best, and shall then and there hear and decide upon the Excuses of the Non-commission Officers and Privates.

Excuses, who
to decide
upon them.

27. AND BE IT ENACTED, That the Colonel or commanding Officer of each Regiment or Battalion shall, within twenty Days after any Training, or Call of the Whole or a Part thereof into Service, make out or cause to be made out a List for the District of each Company of such Field-Officers, Captains, or commanding Officers of Companies, and Staff-Officers, residing within the Bounds thereof, as have incurred any Fine or Forfeiture, and remain liable to the Payment thereof, and for the Recovery of which no special Provision is herein made, with the Fine or Forfeiture annexed to each Name, which he shall transmit to some Justice of the Peace also residing within the Bounds of such Company, or to some Justice of the same County nearest thereto ; who, on Receipt thereof, shall issue his Warrant to the nearest Constable of the County, for the levying of the said Fines and Forfeitures, with Costs ; which, when recovered, shall be paid to the Collector of the County, for the Use of the State.

Lists of Officers
incurring
Fines, &c. to
be made, &c.

28. AND BE IT FURTHER ENACTED, That the Captain or commanding Officer of each Company shall, within twenty Days after any Training of such Company, or Regimental Review, or after any Call of the Whole or a Part thereof into Service, make out or cause to be made out a List of the Subalterns, Non-commission Officers and Privates, from whom any Fines are due and payable, for the Recovery of which no special Provision is herein made, with the Fines or Forfeitures annexed

Subalterns
and Privates.

annexed to the Names respectively, which he shall transmit to some Justice of the Peace residing within the Bounds of the Company, or to some Justice of the County who may be nearest thereto; who, upon Receipt thereof, shall proceed as in the last foregoing Section is directed: *PROVIDED ALWAYS, and it is hereby Enacted,* That if, by Reason of a general Call of the Militia, or a large Proportion thereof in any Part of the State, all the Field-Officers of any Regiment or Battalion, or so many of them, or all the Commission Officers of any Company, or so many of them, shall be absent that the Duties required in the four preceding Sections cannot be performed within the Times limited, the same shall be performed as soon thereafter as Circumstances will allow.

Proviso.

Fines of Officers, by whom recovered.

29. AND BE IT ENACTED; That the Fines and Forfeitures of the Colonel or commanding Officer of any Regiment or Battalion shall be demanded and recovered by any Justice of the Peace of the County in which he may reside, at the Instance of the Officer next in Command, or any other commissioned Officer, and paid to the Collector of such County, for the Use of the State.

Minors, &c.

30. AND BE IT ENACTED, That the Fines and Forfeitures of Minors living with their Parents, or others having the proper Care and Charge of them, and those of Apprentices and Servants, shall be paid by their respective Parents, Masters, Mistresses, or such as have the Care and Charge of them, or levied on their Goods and Chattels.

No Distress to be levied on Arms, &c.

31. AND IT IS HEREBY FURTHER ENACTED, That no Distress shall be levied on the Arms, Accoutrements or Ammunition of any Non-commission Officer or Private, unless he shall be possessed of more than are necessary for his own Use and Equipment. And in every Cafe where no Goods, other than Arms, Accoutrements and Ammunition can be found, or not sufficient whereon to levy Execution, the Offender shall be committed to Gaol till the Fine and Costs are fully paid.

Court of Appeal,

32. AND BE IT ENACTED, That on the Day of each regimental Training or Review, the Colonel or commanding Officer of each Regiment or Battalion shall nominate two Justices of the Peace residing within the Bounds of such Regiment or Battalion, who, together with any one of the Field-Officers of the same, shall constitute a Court for hearing and determining upon Appeals of such Persons as may think themselves aggrieved by any Fines imposed as aforesaid, to continue till the next regimental Training; and shall also fix the Times of their Meeting, which shall be set up in Writing, or declared to the Regiment or Battalion: And the said Court, or any two of them, shall have Power to moderate or remit any Fine or Forfeiture, for just and equitable Reasons; and a Certificate from them, or any two of them, shall entitle the Appellant to receive from the Collector of the County the Sum so remitted: *PROVIDED ALWAYS,* That no Appeal be allowed unless the Money be first paid, and the Appeal prosecuted at the next Meeting of the said Court.

Their Power.

Age disputed.

33. AND BE IT ENACTED, That in all Cafes of Doubt respecting the Age of any Person enrolled or intended to be enrolled in the Militia, the Party questioned shall prove his Age, to the Satisfaction of the Officers of the Company within the Bounds of which he may reside, or a Majority of them.

34. AND

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34. AND BE IT ENACTED, That every Person enrolled as herein before is directed, intending to remove from the Company to which he may belong, into the Bounds of another within the State, shall, previous to such Removal, apply to the Captain or commanding Officer of the Company from which he is about to remove, who shall give him a Discharge and Certificate, specifying the Time when and how long he was last in Service, which he shall produce to the Captain or commanding Officer of the Company into the Bounds of which he shall so remove, within ten Days after such his Removal, and enrol himself accordingly; and if any Person shall neglect to apply for such Discharge and Certificate, or to produce it and enrol himself as aforesaid, he shall be subject to a Fine of *Five Pounds*, to be recovered before any Justice of the Peace of the County, by any Person who will sue, one Moiety to the Prosecutor, and the other to the Justice, to be by him paid to the Collector of the County, for the Use of the State; and every Person who may be enrolled agreeably to the Description of this Act, removing from any of the neighbouring States into this State, shall, within ten Days after his coming within the Bounds of the Company into which he shall so remove, be enrolled by the Captain or commanding Officer thereof.

Persons removing, to have Certificates.

35. AND, that Detachments of the Militia may on all Occasions be well armed, accoutred and provided; BE IT ENACTED, That the Commission Officers of each Company, or any of them, be, and they hereby are empowered and directed to take by Impressment from such of their Company as have Arms, Accoutrements and Ammunition, and are not at the Time called into Service, a Number and Quantity sufficient to equip and furnish such as are so called, and are destitute thereof, giving Receipts for, and taking Appraisements of the same; and if any Person entrusted with any such Arms, Accoutrements and Ammunition shall, by wilful Neglect or Misuse, lose, endamage or expend the same, the Value thereof shall be recovered from him by the Officer who impressed them, or other Officer of the Company, before any Justice of the Peace of the County, and paid to the Owner; but if the Person entrusted with such Arms, Accoutrements or Ammunition be not of Ability to make Payment, or if the said Arms, Accoutrements or Ammunition be lost, damaged or expended in Action, or by unavoidable Accident, they shall be paid for or made good by the State: PROVIDED ALWAYS, That in order to ascertain that any such Arms, Accoutrements or Ammunition were lost, damaged or expended in Action or by unavoidable Accident, a Certificate, signed by the commanding Officer of the Company or Party in which the Person served when they were so lost, damaged or expended, and setting forth the Fact, shall be produced.

Detachments of Militia, Mode of equipping them.

Provide.

36. AND BE IT ENACTED, That the Colonel or commanding Officer of each Regiment or Battalion shall be, and he hereby is empowered to employ from Time to Time, when necessary, Workmen to repair and clean, and to take the Charge and Care of all publick Arms in the Regiment or Battalion, and to draw on the County Collector for the necessary Expence.

Workmen may be employed to repair Arms.

37. AND BE IT ENACTED, That the Colonel or commanding Officer of each Regiment or Battalion, and the Captain or commanding Officer of any Company be, and each of them hereby is empowered to administer

Oaths may be administered.

administer an Oath or Affirmation, on any necessary Occasion in the Execution of this Act.

Process, when
not to be
served.

38. AND BE IT ENACTED, That no civil Process shall be served on any Non-commission Officer or Private at any regimental Review or Training of any Company, or while going or returning from the Place of such Review or Training.

Ferriage.

39. AND BE IT ENACTED, That no Officer or Private shall, on the Way to or from the Place of regimental Review or Training of any Company, be obliged to pay more than one third the usual Rate of Ferriage, or be charged any Toll for passing over Toll-Bridges; and if any Ferryman or Keeper of a Toll-Bridge shall presume to refuse a Passage, or to make Demand contrary to the Direction of this Act, he shall, for each Offence, forfeit and pay the Sum of *Three Pounds*, to be recovered by any Person who will sue for the same, one Moiety to the Prosecutor, and the other to the Justice, to be by him paid to the Collector of the County, for the Use of the State.

Militia, how
governed.

40. AND BE IT FURTHER ENACTED, That the Militia of this State, when in actual Service, shall be subject to the Rules and Articles of War established for the Government of the regular Troops of the United States: PROVIDED ALWAYS, That the Militia shall be tried by Courts Martial composed of their own Officers only: AND PROVIDED ALSO, That the Pains and Penalties inflicted by any Court-Martial shall not extend to the taking of Life or Limb, or to any corporal Punishment, unless in the Cases following, *that is to say*, Any Officer or Private who shall hold a treacherous Correspondence with, or give Intelligence to the Enemy, or who shall desert to the Enemy, or who shall misbehave before the Enemy, or shamefully abandon any Post, or who shall speak Words inducing others to offend in any of these Instances, shall, on due Conviction, suffer Death, or such other Punishment as a General or Regimental Court-Martial shall direct.

Pay and Ra-
tions.

41. AND BE IT ENACTED, That the Militia, while in actual Service, shall be entitled to the same Pay and Rations as the regular Forces of the United States.

Bounty.

42. AND WHEREAS the Militia, when called into Service, are not entitled to any Bounty, Arms or Cloathing, at the publick Expence, and therefore their Reward is not equal to that of the regular Troops; BE IT THEREFORE ENACTED, That when the Militia, or any Detachment thereof, are called out on Duty, each Non-commission Officer and Private shall receive *Thirty Shillings* by the Month as a Bounty, over and above the stated Pay, to be drawn from the Treasury by the Paymasters of the Militia from Time to Time appointed; and the Officers whose Duty it may be, are hereby required to make out separate Pay-Rolls of the said Bounty.

Adjutants,
their Ranks
&c.

43. AND WHEREAS the Adjutants of the several Regiments of Militia in this State have heretofore held a higher Rank than those in the regular Forces of the United States, which Arrangement may, on many Occasions, if continued, be productive of Difficulty and Inconvenience; BE IT ENACTED, That the Adjutants of each Regiment or Battalion shall

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shall henceforward hold the Rank of a Lieutenant, and be entitled to the Pay and Rations of a Captain.

44. AND BE IT ENACTED *by the Authority aforesaid*, That the Troops of Horse Militia already formed agreeably to Law in several Parts of this State, shall be completed and kept up, and that no Troop shall be formed in Addition, except by Act of the Legislature: PROVIDED ALWAYS, That the Officers of any Troop of Horse, who shall not within three Months from the Publication hereof complete the same, shall forfeit their Commissions, and such Troop shall accordingly be disbanded.

Troops of Horse to be kept up;

45. AND BE IT ENACTED, That the Establishment of each Troop of Horse shall be a Captain, a Lieutenant, a Cornet, four Serjeants, a Trumpeter and twenty-nine Privates; and that the Officers shall hold the same Rank respectively with the Officers of the Foot Militia having like Command.

Establishment thereof;

46. AND BE IT ENACTED, That each Non-commission Officer and Private of every Troop of Horse shall at all Times keep himself provided with a good Horse, a Saddle properly furnished with Cloth, Breast-plate and Pad, a double reined Bridle, a Carbine, and Belt with a running Swivel, a Pair of Pistols and Holsters, a Cartridge-box, with twelve Rounds of Cartridges sized for his Carbine and Pistols, a Sword and Belt, Boots and Spurs, a Cloak which will cover all the Arms and Accoutrements, with such other Articles of Armour and Furniture, made in like Form and manner as are usual and accustomed in the Equipment of Cavalry; and shall also keep at his Place of Abode one Pound of good merchantable Gun-powder and three Pounds of Ball, sized to his Carbine and Pistols, under the Penalty of forfeiting *Six Pounds* for the Want of a Horse, *Thirty Shillings* for the Want of a Saddle and Bridle, *Twenty Shillings* for the Want of a Carbine or Pistols, and *Five Shillings* for the Want of any other necessary Article, whenever called out to Training or Service.

And how to be equipped;

47. AND BE IT ENACTED, That each Troop of Horse shall be under the Command and Direction of the Colonel or commanding Officer of the Regiment or Battalion within the Bounds of which the Captain or commanding Officer of such Troop may reside, and shall assemble for Training and Exercise, and in case of Alarm or other Exigency, with such Regiment or Battalion, and in all other Respects, except as is before specified and declared, shall be under the same Regulations with the Companies of Foot Militia.

By whom commanded.

48. AND BE IT ENACTED, That each Horseman, when in actual Service, shall be allowed *Two Shillings and Six-pence* by the Day, as a Compensation for the Use of his Horse.

Compensation for Horses.

49. AND BE IT FURTHER ENACTED, That no Minor, Apprentice or Servant shall be allowed to enter himself into any Troop of Horse or Company of Artillery, without the Consent of those under whose Government, Care or Direction such Minor, Apprentice or Servant may be; and generally, no Person who is not able to provide himself with the Furniture and Equipment of a Horseman, shall be allowed to enter himself into any such Troop.

Apprentices not suffered to enter, unless, &c.

50. AND

Companies of
Artillery to
be kept up,

50. AND BE IT ENACTED *by the Authority aforesaid*, That the Companies of Artillery already formed agreeably to Law, in several Parts of the State, shall be completed and kept up; and their Establishment of Officers and Privates, and also their Equipment, shall be conformable to the Establishment and Equipment of Artillery Companies in the regular Forces of the United States; and the Officers shall hold the same Rank respectively with the Officers of the other Militia having like Command; and moreover the Fines and Forfeitures inflicted on the Officers and Privates for any Default, shall be similar to those inflicted on the regimented Militia.

By whom
commanded.

51. AND BE IT FURTHER ENACTED, That each Company of Artillery shall be under the Command and Direction of the Colonel or commanding Officer of the Regiment or Battalion within the Bounds of which the Captain or commanding Officer may reside, and shall assemble with the same, as is herein before provided, with respect to the Troops of Horse, and in all other respects, except as is herein before excepted and declared, shall be under the same Regulations with the Companies of the other Militia, as far as Circumstances will admit.

Justices re-
ceiving Fines,
to keep Ac-
counts, &c.

52. AND BE IT ENACTED *by the Authority aforesaid*, That every Justice of the Peace within this State, who shall receive any Fines or Forfeitures as aforesaid, shall keep an exact Account of the same, and shall, once in four Months at least, pay to the Collector of the County the Sums of Money so by him received, deducting as a Compensation for his Trouble *Six-pence* in the *Pound*; and any Justice of the Peace who shall neglect to keep such Account and make such Payment, or who shall neglect or refuse to do any Duty, Matter or Thing enjoined on him by this Act, shall, for each Offence, be liable to a Fine of *Twenty Pounds*, to be recovered by the Collector of the County, to and for the Use of the State, in any Court having Cognizance thereof, and shall also on every Default of Payment be subject to an Action of Debt at the Suit of the said Collector, on Behalf of the State, for Recovery of the Sum detained, with Costs.

County Col-
lector to
keep Ac-
counts, &c.

53. AND BE IT FURTHER ENACTED, That the Collector of each County shall keep a true and fair Account of all Monies by him received in Virtue of this Act, and, after Payment, of all Sums remitted on Appeal as aforesaid, and deducting *Three-pence* in the *Pound* for his Trouble, shall pay the Balance remaining in his Hands into the Treasury, on or before the first Day of *November*, yearly and every Year. And if the Collector of any County shall neglect to keep such Account and make such Payment, he shall be liable to a Fine of *Fifty Pounds*, to be recovered by the Treasurer, in any Court of Record, to and for the Use of the State, and shall moreover be subject to an Action of Debt at the Suit of the Treasurer, on Behalf of the State, for Recovery of the Sum detained, with Costs.

Justice's and
Constable's
Fees.

54. AND BE IT ENACTED, That a Justice of the Peace shall be entitled to *One Shilling* for each Warrant of Distress granted for any Purpose of this Act, and a Constable shall be entitled to *Five Shillings* for Execution thereof; which Fees shall be levied with the respective Fines and Forfeitures.

55. AND

WILLIAM LIVINGSTON, Esquire, Governor.

55

55. AND WHEREAS in some Townships, Precincts and Wards of this State, Constables may not have been regularly chosen, or having been chosen, may refuse to act, by which Means the Execution of this Law may be impeded and avoided; BE IT THEREFORE ENACTED, That where there is no Constable, or the Constable or Constables may refuse to act, it shall and may be lawful to and for any Justice of the Peace to direct his Warrant to any Non-commission Officer or Private of the Militia, who is hereby empowered and enjoined to execute the Office of a Constable for any Purpose of this Act; and the said Non-commission Officer or Private shall receive the like Fees, and be subject to the like Fines and Forfeitures for Refusal or Neglect of Duty, as a Constable in the like Case might and ought to receive and be subject to.

Constable refusing to act, &c. who to supply his Place.

56. AND WHEREAS Justice and Equity requires, that those who are exempted from actual Service in the Militia, should by pecuniary Means contribute in a full Proportion to render the Burden of the publick Service equal, and to provide for the Support and Defence of the State; BE IT FURTHER ENACTED, That upon and out of the Estates Real and Personal of those who are exempted from actual Service as aforesaid, on Account of Age, Inability of Body, Office or otherwise, there shall yearly and every Year, during the Continuance of this Act, be levied and collected, over and above all other Taxes, *Six-pence* in the Pound Value, with the like Sum on Certainties as was levied and collected in the Year wherein *Twelve Thousand Five Hundred Pounds* was raised, agreeably to and under the same Penalties as are expressed in an Act, intitled, *An Act to settle the Quotas of the several Counties in this Colony for the levying Taxes*, passed the sixth Day of *December*, One Thousand Seven Hundred and Sixty-nine: PROVIDED ALWAYS, That every Person exempted as aforesaid, who shall at his own Expence fit out and keep properly equipped and accoutred, as directed by this Act, two Sons, Apprentices or Servants, such Sons being under Age, and living in his Service, shall on that Account be released from this Tax; and every Person who shall so fit out and keep equipped and accoutred one Son, Apprentice or Servant, such Son being under Age, and living in his Service, shall be subject to the Payment of Half such Tax only.

Exempts to pay a Tax.

57. AND BE IT ENACTED by the Authority aforesaid, That the Monies passing into the Treasury by Virtue of the Directions of this Act, shall be appropriated as a Fund for the Benefit and Relief of such Officers and Privates of the Militia of this State as are wounded and disabled, and of the Widows and Children of such as fell in Battle, or otherwise lost their Lives in the Service of the State, and to such other Purposes as the Legislature may direct.

Appropriation of certain Monies.

58. AND WHEREAS several Persons have for necessary Purposes from Time to Time been exempted from Enrolment, military Duty, or the Tax levied on Exempts as aforesaid, by particular Acts of the Legislature; BE IT ENACTED by the Authority aforesaid, That the Persons so exempted shall continue to enjoy the Immunities granted to them respectively; as far and as long as the said Acts may extend and continue the same, any Thing in this Act contained to the contrary notwithstanding.

Exemption continued.

59. AND BE IT FURTHER ENACTED, That no Person, not being a Subject of this State, or of any of the United States, who already has de-

Deferters, &c. not to be enrolled.

ferted or hereafter may desert from the Enemy in the Course of the present War, shall be enrolled in any Company of Militia of this State.

Act, &c. repealed.

60. AND IT IS HEREBY FURTHER ENACTED AND DECLARED, That the Act, intituled, *An Act for the better regulating of the Militia*, passed the fifteenth Day of *March*, One Thousand Seven Hundred and Seventy-seven, and the three several Acts supplementary thereto, be, and they hereby are repealed and made void.

Passed at Princeton, April 14, 1778.

C H A P. XXIII.

An ACT to raise a Fund by Taxation for discharging the Debts and defraying the necessary Expences of the State of New-Jersey.

Preamble.

WHEREAS Provision ought to be immediately made for supporting the Government of this State, and for discharging the Debts and necessary Expences thereof; the most proper and equitable Means of effecting which will be by a Tax on the Inhabitants: AND WHEREAS by the late Ravages and Devastations committed by the Enemy in the State, and their present Vicinity to many Parts of it, divers of the Counties are so depopulated and impoverished, that the Quotas formerly settled for each are disproportionate, and therefore laying a definite Rate on the *Pound* Value of Estates, and a fixed or limited Sum on fundry Articles usually called Certainties, is the best Mode at this Time of levying the said Tax ;

Taxes, on whom and what levied.

Sect. I. BE IT THEREFORE ENACTED by the Council and General Assembly of this State, and it is hereby Enacted by the Authority of the same, That the said Tax shall be assessed, levied and raised on the several Inhabitants of this State, their Lands and Tenements, Goods and Chattels, in Manner following, that is to say,

All Householders, the Tax of whose rateable Estate, exclusive of Certainties, does not amount to *Twenty Shillings*, shall be rated at the Discretion of the respective Assessors and chosen Freeholders, not under *Five Shillings* nor above *Five Pounds*.

All Merchants, Traders and Shopkeepers shall, for their Stores and Shops, exclusive of other Estate, be rated at the Discretion of the respective Assessors and chosen Freeholders, not under *Ten Shillings* nor above *Twenty Pounds*.

Every Ferry shall be rated at the Discretion of the respective Assessors and chosen Freeholders, not above *Ten Pounds*.

Every single Man, whether he lives with his Parents or otherwise, who keeps a Horse, Mare or Gelding, shall be rated at the Discretion of the respective Assessors, not under *Twenty-five Shillings* nor above *Fifty Shillings*.

Every single Man, whether he lives with his Parents or otherwise, who does not keep a Horse, Mare or Gelding, shall be rated at the Discretion of the respective Assessors, not under *Fifteen Shillings* nor above *Thirty Shillings* :

AT A

GENERAL ASSEMBLY

BEGUN AND HELD

At the Public Buildings in the City of Patrick Henry, esq Governor.
 Richmond, on Monday the seventeenth day of October in the year of our Lord one thousand seven hundred and eighty-five, and in the tenth year of the commonwealth.*



CHAP. I.

An act to amend and reduce into one act, the several laws for regulating and disciplining the militia, and guarding against invasions and insurrections.

I. WHEREAS the defence and safety of the Preamble. commonwealth depend upon having its citizens properly armed and taught the knowledge of military duty, and the different laws heretofore enacted being found inadequate to such purposes, and in order that the same may be formed into one plain and regular system;

* From the adoption of the constitution, until the present session, there had never been less than two sessions of the General Assembly, in each year, sometimes more, according to the exigencies of the government. By an act of May 1784, chap. XX. (See Vol 11, p. 387) the meeting of the General assembly was fixed for the third Monday in October, annually — Ever since that period, the sessions have been annual, except, in a few instances, when the assembly has been convened, for special purposes, under the tenth article of the constitution.

LAWS OF VIRGINIA,

Officers displaced by a former act restored.

Vacancies how supplied

Militia men & exempts described.

Companies how to be formed.

Militia how to be officered.

Officers' oath.

II. *Be it enacted by the General Assembly,* That the officers of the militia who were displaced and removed from office, by virtue of an act "For amending the several laws for regulating and disciplining the militia, and guarding against invasions and insurrections," are hereby reinstated, and shall take precedency of rank agreeable to the dates of the commissions they severally held prior to the passing of the said act; and vacancies supplied by appointment of the governor, with the advice of the privy council, or recommendation from the respective county courts.

III. *And be it further enacted,* That all free male persons between the ages of eighteen and fifty years, except the members of the council of state, members of the American congress, judges of the superior courts, speakers of the two houses of assembly, treasurer, attorney-general, auditors and their clerks, solicitor-general and his clerks, clerks of the council of state, and treasury, register of the land-office, his deputy and clerks, custom-house officers, all inspectors of tobacco, all professors, and tutors at the University of William and Mary, and other public seminaries of learning, all ministers of the Gospel, licensed to preach according to the rules of their sect, who shall have previously taken before the court of their county, an oath of fidelity to the commonwealth, post-masters, keepers of the public gaol and public hospital, millers, persons concerned at iron or lead works, or persons solely employed in repairing or manufacturing fire-arms, all of whom are exempted from the obligations of this act, shall be inrolled or formed into companies, of three serjeants, three corporals, a drummer and fifer, and not less than forty, nor more than sixty-five, rank and file; and these companies shall again be formed into regiments of not more than one thousand, nor less than five hundred men, if there be so many in the county. Each company shall be commanded by a captain, lieutenant, and an ensign; each regiment by a colonel, lieutenant-colonel, and major; and the whole by a county-lieutenant. These officers shall be resident within their county; and before they enter on the execution of their respective offices, shall take the following oath: "I

do swear that I will be faithful and true to the commonwealth of Virginia, of which I profess myself to be a citizen; and that I will faithfully and justly execute the

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office of a _____, in the militia of the county of _____, according to the best of my skill and judgment. So help me God." There shall be a private muster of every company once in two months, except December and January, at such convenient time and place as the captain or next commanding officer shall appoint; a muster of each regiment on some day in the month of March or April, in every year, to be appointed by the commanding officer thereof, at a convenient place near the centre of the regiment; and a general muster of the whole on some day in the month of October or November, in every year, to be appointed by the county-lieutenant, or commanding officer, at a convenient place near the centre of the county: For the times and places of the said musters, the county-lieutenant or commanding officer for the time being, shall give notice to the commanding officers of regiments; for the general muster, the commanding officers of regiments shall give notice to the commanding officers of their respective companies of such general muster and of his regimental muster; and the commanding officers of companies shall give notice of the general, regimental, and private musters, to every person of their respective companies, and to that end the commanding officers of companies shall have power to order so many of their serjeants as they shall think fit, to give such notice, which may be done by personal summons by the said commanding officer, or serjeant so ordered, or by either of them, leaving notice in writing at the usual place of abode of the person to be summoned: The notices to be given by the commanding officer of the county, and commanding officers of regiments, shall be in writing, delivered in person, or left at the usual place of abode of each person, to be notified either by such commanding officers themselves, or by such officer or officers of their respective commands as they may think fit to order; the said notices shall be given by the commanding officer of the county, to the commanding officers of regiments at least thirty days; by the commanding officers of regiments at least fifteen days; and by the commanding officers of companies at least five days, before such general, regimental, or private musters (as the case may be) shall be appointed to be had. Any officer ordered as aforesaid to give such notices, failing therein, shall for every offence for-

Private muster.

Regimental muster.

General muster.

Notices of musters how and when to be given.

Penalties on failure to give notice.

LAWS OF VIRGINIA,

Equipments
of officers &
soldiers.

Exception as
to those be-
yond the Blue
Ridge.

Poor privates
how to be
armed.

Penalty on
him for sell-
ing, &c. his
arms.

feit and pay five pounds; and every serjeant so failing shall forfeit and pay one pound for every such failure; to be recovered as other fines hereafter to be established. Every officer and soldier shall appear at his respective muster-field on the day appointed, by eleven o'clock in the forenoon, armed, equipped, and accoutred, as follows: The county-lieutenants, colonels, lieutenant-colonels, and majors, with a sword, the captains, lieutenants and ensigns, with a sword and esponton, every non-commissioned officer and private with a good, clean musket carrying an ounce ball, and three feet eight inches long in the barrel, with a good bayonet and iron ramrod well fitted thereto, a cartridge box properly made, to contain and secure twenty cartridges fitted to his musket, a good knapsack and canteen, and moreover, each non-commissioned officer and private shall have at every muster one pound of good powder, and four pounds of lead, including twenty blind cartridges; and each serjeant shall have a pair of moulds fit to cast balls for their respective companies, to be purchased by the commanding officer out of the monies arising on delinquencies. *Provided*, That the militia of the counties westward of the Blue Ridge, and the counties below adjoining thereto, shall not be obliged to be armed with muskets, but may have good rifles with proper accoutrements, in lieu thereof. And every of the said officers, non-commissioned officers, and privates, shall constantly keep the aforesaid arms, accoutrements, and ammunition, ready to be produced whenever called for by his commanding officer. If any private shall make it appear to the satisfaction of the court hereafter to be appointed for trying delinquencies under this act that he is so poor that he cannot purchase the arms herein required, such court shall cause them to be purchased out of the money arising from delinquents. The arms so purchased, shall by the commanding officer of the county, be delivered to the captain of the company to which such poor private may belong, who shall deliver such arms to the private, but they shall continue the property of the county; and if any private shall sell or conceal the same, the seller, concealer, and purchaser, shall each forfeit and pay four pounds, to be recovered by the commanding officer in any court of record, on ten days notice. And on the death, disability, or exemption of such poor pri-

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vate, or his removal out of the county, such arms shall be delivered to the commanding officer of the company, who shall make report thereof to the next court to be held, as aforesaid, and deliver the same to such other poor private, as they shall direct. And if any poor private shall remove out of the county, and carry such arms with him, he shall incur the same penalty as if he had sold them. And if any person concerned in selling, purchasing, concealing or removing such arms, shall be prosecuted for the penalty, and upon conviction, shall fail to make instant payment, or give security to pay the same in such time as the court shall deem reasonable, he shall suffer such punishment as the court before whom the recovery shall be made may think fit. And the lieutenant or commanding officer for the time being, of any county, may recover any arms so sold, concealed, or removed, by action or petition, in detinue or trover, with costs. And to the end that such arms may be known, the commanding officer shall cause to be stamped or engraved on them, the name of the county, together with the number of the regiment to which they may belong. At every muster, each captain or commanding officer of a company, shall call his roll, examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof at the next regimental or general muster, to the colonel or commanding officer of his regiment, including those which may occur on that day. Every colonel or commanding officer of a regiment, shall in like manner call his roll, examine and note down all delinquencies in his regiment, and make return thereof, together with those reported from commanding officers of companies, to the county lieutenant or commanding officer, within ten days after every general and regimental muster, who shall lay the whole, together with the delinquencies occurring to him on the like examination, before the court hereafter appointed to take cognizance of and determine on them; provided that the commanding officer of a county, or of a regiment, shall not be obliged to extend their roll calls, or individual examinations, beyond the officers, unless they observe some apparent necessity therefor. And to each of the said returns shall be annexed the following certificate, to wit: "I ——— do certify that the returns hereunto annexed, contain all delinquencies which have occurred

Duty of officers at musters.

LAWS OF VIRGINIA,

in the militia of my county, the _____ regiment, or _____ company of _____ regiment (as the case may be) since the last return, having examined the same as the law directs;" and to the county and regimental return shall be added "And that the reports which accompany them are all which have been made by the commanding officers of regiments or companies (as the case may be.") Every captain or commanding officer of a company shall, within ten days after every regimental and general muster, make up and report to the commanding officer of his regiment, a return of his company, including all arms, ammunition, and accoutrements, by this act directed, distinguishing effective and good, from non-effective and bad, noting therein such as have died, removed, been exempted, or added, and all persons within the bounds of his company not on his roll, who ought to be inrolled. The commanding officer of each regiment shall, within fifteen days after every general muster, make the like return to the commanding officer of the county, who shall, within forty days thereafter, make the like return of the whole of his militia to the governor. Each captain or commanding officer of a company, shall, within ten days after receiving his commission and qualifying, as aforesaid, inroll all persons within his district, directed by this act to be inrolled, and shall appoint to his company, three serjeants, three corporals, a drummer and fifer, to be approved by the commanding officer of his regiment, and all vacancies which may thereafter happen, shall be filled up by appointments in like manner. In all cases of death, absence, or resignation of any county-lieutenant, colonel, or captain, the next officer in rank in his respective command shall be considered as the commanding officer during the vacancy, and liable to perform the duties required by this act, and for neglect therein, shall incur the penalties annexed thereto. And whereas, it will be of great utility and advantage in establishing a well disciplined militia, to annex to each regiment a light company to be formed of young men, from eighteen to twenty-five years old, whose activity and domestic circumstances will admit of a frequency of training, and strictness of discipline, not practicable for the militia in general, and returning to the main body, on their arrival at the latter period, will be constantly giv-

Duty of captains as to returns.

Of the commanding officer of a regiment.

Of a county.

Captains duty as to enrollments.

As to appointments.

Next officers duty on vacancy.

Establishment of a light company.

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ing thereto a military pride and experience, from which the best of consequences will result:

IV. *Be it therefore enacted*, That the governor, with the advice of council, shall issue commissions for a captain, lieutenant, and ensign to each regiment, in the same manner as is herein directed in this act; and the said companies shall be distinguished by the following words, "*Light Company of*—*Regiment of*—*Militia*," filling up the blanks with the number of the regiment and name of the county. Every person belonging to the said light companies, shall wear while on duty, such caps and uniforms as the executive shall direct, to be purchased by the commanding officer of the county, out of the monies arising on delinquents. The captain thereof shall, after qualifying as is directed for other officers, proceed to enlist by voluntary enlistments, in his company, a sufficient number of young men, as before described, and shall have a private muster twice in every three months. And as the men of such light company shall from time to time arrive at the age of twenty-five years, the captain shall make report thereof to the county-lieutenant, who shall order them to be enrolled in the company whose districts they may respectively live in; and deficiencies shall be supplied by new enlistments. And the said companies shall in all respects be subject to the same regulations and orders as the rest of the militia.

V. *And be it further enacted*, That the plan of major-general Baron Steuben, established in congress by their act bearing date the twenty ninth day of March, one thousand seven hundred and seventy-nine, for forming and disciplining the troops of the United States, shall be the guide for the militia of this commonwealth. It shall be the duty of every commander of a county, regiment, and company, at every of their respective musters, to cause the militia to be exercised and trained agreeable to the said plan, under pain of being arrested and tried for breach of their duty; and for this purpose, the said officers are hereby authorized to order the most expert and fit officer in their respective companies, to perform that duty. And to the end, that a general knowledge thereof may be diffused, the executive is hereby authorized and required, to have a sufficient number of copies of the said plan printed and bound in boards, to afford to every commissioned offi-

Steuben's discipline adopted.

Captains duty in training.

Steuben to be delivered to each commissioned officer

LAWS OF VIRGINIA,

cer of the militia, one, and to deliver them to the commanders of counties, to be by them distributed; and upon the death, resignation, or removal of any officer, the plan delivered him shall revert to the public; and the commanding officer for the time being, shall deliver the same to a new appointed officer who may not have received one; and for defraying the expence of so doing, shall draw on the contingent fund.

Time for procuring arms.

Officer when to be arrested.

Non-commissioned officer and soldier how to be punished.

By-stander how to be punished.

Colours, &c. how to be procured.

Executive empowered to call forth the militia.

When.

VI. *And be it further enacted,* That two years after the commencement of this act, shall be allowed for providing the arms and accoutrements herein directed; but in the mean time, the militia shall appear at musters with, and keep by them, the best arms and accoutrements they can get. Any officer who shall be guilty of disobedience, or other misbehaviour when on duty, or shall at any time be guilty of any conduct unbecoming the character of an officer, shall be put under an arrest by his commanding officer, and tried as hereafter shall be directed. If any non-commissioned officer or soldier shall behave himself disobediently or mutinously when on duty, on, or before any court or board directed by this act to be held, the commanding officer, court, or board, may either confine him for the day, or cause him to be bound neck and heels for any time not exceeding five minutes. If any bystander shall interrupt, molest, or insult any officer or soldier while on duty at any muster, or shall be guilty of the like conduct before any court or board, as aforesaid, the commanding officer, or such court or board may cause him to be confined for the day. The lieutenant or commanding officer of a county, shall cause to be purchased, out of the money arising from the fines, for every regiment in his county, the usual sets of colours, with such devices thereon as the executive shall direct; also a drum and fife for each company; and on the colours and drum shall be marked, the name of the county, with the number of the regiment and company to which they belong.

And whereas it is necessary that adequate powers be vested in the executive for calling forth the militia and resources of the state, in cases of invasion or insurrection, or upon any probable prospect of such invasion or insurrection:

VII. *Be it further enacted,* That the governor with the advice of the council, be authorized and empowered,

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on any such invasion or insurrection, or probable prospect thereof, to call forth such a number of militia and, from such counties, as they may deem proper. And for the accommodation, equipment, and support of the forces, so at any time to be called forth, the governor, with the advice aforesaid, may appoint such quarter-masters, commissaries, and other staff, as to them shall seem proper, and to fix their pay and allowances, and shall also take such measures for procuring, transporting, and issuing all stores which may be necessary, as to them shall seem best. Orders for the militia to be called forth, as aforesaid, shall be sent to the county lieutenant or commanding officer, with a notification of the place or places of rendezvous, who shall immediately take measures for detaching the same, with the necessary number and ranks of officers by detail and rotation of duty. If such detachment shall amount to one-third of a regiment, he shall send one field officer with it; if two-thirds of a regiment, two field officers; and if more than two-thirds, three field officers. The county lieutenant or commanding officer shall cause to be procured by impressment or otherwise, for each company, a waggon, team, and driver, six axes, and six camp-kettles or pots of convenient size, all which shall be delivered to the commanding officer of the company, who shall be accountable for returning the same when his tour is over: and the articles aforesaid shall be returned to the owners, who shall be allowed for the use of the same whatever may be adjudged by the court hereinafter appointed for enquiring into delinquencies. And to the end, that if any article impressed, be lost, the owner may be paid for the same, the county lieutenant or commanding officer shall cause all property by him impressed by virtue of this act, to be valued by two or more disinterested freeholders, on oath, before the same shall be sent away: and upon proof being made to the said court of any article being lost, the valuation thereof shall be allowed, without any allowance for the use, and the said allowance shall be certified to the auditors of public accounts. The said court shall make enquiry into the cause of such loss, and if it shall appear that the said loss was occasioned by the misconduct or inattention of any officer, the county lieutenant or commanding officer is hereby authorized to prosecute a suit against such of-

To appoint staff.

How to call forth.

County-lieutenant's duty in sending officers.

In impressments.

Hire to be paid for impressed articles.

Lost articles how to be paid for.

LAWS OF VIRGINIA,

Executive when to appoint field officers.

When to appoint a brigadier.

County lieutenant's duty on invasion & insurrection.

Militia in actual service, how to be governed.

Pay and rations of militia.

ficer for the recovery of damages for the use of the commonwealth. If it shall appear to the executive, upon calling forth the militia, as aforesaid, that the necessary number and ranks of officers will not attend the detachments for regimenting and officering them at the places of rendezvous, the governor, with advice of the council, is hereby authorized to appoint such field officers as may be necessary, from the counties called upon, as they may think proper, to join the forces so raised; and the senior officer shall arrange and command the whole, and appoint the usual regimental staff. And if a general officer, or officers, shall, in the opinion of the executive, be necessary, either on account of the number of troops or importance of the service, the governor, with advice of the council, shall appoint and commission, one or more brigadiers general, for the then existing occasion, who are hereby authorized to appoint, each, an aid-de-camp, brigade major, and brigade quarter-master. If a sudden invasion shall be made into any county in this commonwealth, or in case of an insurrection in any county, the county lieutenant is hereby authorized and required to order out the whole, or such part of his militia as he may think necessary, and in such manner as he may think best for repelling or suppressing such invasion or insurrection; and shall call on the lieutenants or commanding officers of the adjacent counties, for such aid as he may think necessary, who shall forthwith in like manner furnish the same. And for assembling the militia required upon such occasions, or by orders of the executive, the same measures shall be taken to summon them, as is directed in the case of musters. Whenever any militia shall be called forth into actual service, as aforesaid, they shall be governed by the articles of war which were last in force in the continental army during the last war; and courts-martial shall be held as are therein directed; but to the cashiering of any officer, or capital punishment of any person, the approbation of the executive shall be necessary. And whenever any militia shall be in actual service, they shall be allowed pay and rations, as follows, to commence from the time of rendezvousing in their counties, and to end, on being discharged, to wit: A brigadier general, one hundred dollars per month, and twelve rations of provisions and five rations of forage for himself and family, per day; an aid-

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de-camp, thirty dollars per month; a colonel, seventy five dollars per-month, and six rations of provisions and two rations of forage, per day; a brigade major, thirty dollars per month, four rations of provisions and two rations of forage, per day; a brigade quartermaster, thirty dollars per month, and three rations of provisions and one ration of forage per day; a lieutenant colonel, sixty dollars per month, and five rations of provisions and two rations of forage per day; a major, fifty dollars per month, and four rations of provisions and two rations of forage, per day; a captain, forty dollars per month, and three rations of provisions, per day; a lieutenant, twenty-seven dollars and two-thirds per month, and two rations of provisions, per day; an ensign, twenty dollars per month, and two rations of provisions, per day; a surgeon, sixty dollars per month, and three rations of provisions and two rations of forage, per day; a quarter-master, twenty dollars per month, and two rations of provisions and one ration of forage, per day; a pay-master, forty dollars per month, and two rations of provisions and one ration of forage, per day; an adjutant, twenty-four dollars per month, and two rations of provisions and one ration of forage, per day; a quarter-master serjeant, eight dollars per month, and one ration per day; a serjeant, eight dollars per month, and one ration per day; a corporal, seven dollars per month, and one ration per day; a private, five dollars and one half dollar per month, and one ration per day. And should any of the staff be of the line, the allowances herein given shall include what they may receive in the line. A ration of provisions shall consist of one pound of fresh beef or pork, or three quarters of a pound of salt pork, one pound of wheat bread or flour, or one pound and a quarter of corn meal, one gill of rum, when to be had, and one quart of salt, one quart of vinegar, two pounds of soap, and one pound of candles, to every hundred rations; but in case salt meat be issued, the salt to be withheld; and a ration of forage, of ten quarts of corn or oats, and fourteen pounds of hay or fodder. And moreover, every militia-man, upon his discharge from actual service, shall be entitled to and receive one day's pay for each twenty miles such place of discharge shall be distant from his place of abode. And should the executive at any time find it expedient to retain the

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whole or any part of the rations of provisions or forage herein allowed to officers, and to allow a composition in money, they are hereby empowered to do so.

Patrollers.

VIII. *And be it further enacted,* That the commanding officer of the militia in every county, shall from time to time, as he shall deem it necessary, appoint an officer, and so many men of the militia as to him shall appear necessary, not exceeding four, once in every month, or oftener, if thereto required by such officer, to patrol and visit all negro quarters and other places suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons, as aforesaid, unlawfully assembled, or any others strolling about from one plantation to another, without a pass from his or her master, mistress, or owner, and carry them before the next justice of the peace, who, if he shall see cause, is to order every such slave, servant, stroller, or other disorderly person, as aforesaid, to receive any number of lashes, not exceeding twenty, on his or her back; and in case one company of patrollers shall not be sufficient, to order more companies for the same service. And after every patrol, the officer of each party shall return to the captain of the company to which he belongs, a report in writing upon oath (which oath such captain is hereby empowered to administer) of the names of those of his party who were upon duty, and of the proceedings in such patrol; and such captain shall once in every month deliver such patrol-returns to the commanding officer of the militia, by whom they shall be certified and delivered to the next court-martial; and if they shall adjudge the patrollers to have performed their duty according to law, the chief officers shall certify the same to the county court, who are thereupon empowered and required to levy twenty pounds of tobacco, or three shillings for every twelve hours each of them shall so patrol. And every commanding officer failing to appoint patrollers according to the directions of this act, shall forfeit and pay ten pounds; and every person appointed to patrol, failing to do his duty, shall forfeit and pay twenty shillings for every such failure; which fines shall be laid, collected, accounted for, and appropriated, as is herein directed, for laying, accounting for, and appropriating the several fines and penalties by this act directed. And whereas it is necessary that cer-

Courts for
patrolling officers

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of offences, as they are to be viewed in a military light, as well as for enquiring into delinquencies and assessing fines thereon.

IX. *Be it therefore enacted*, That the governor, with the advice of council, shall have power to arrest the county-lieutenant, or commanding officer of a county, and all other officers, for any misconduct whatever, and upon trial and conviction, may censure or cashier them. Governors power over county lieutenant.

All officers under the county-lieutenant, or commanding officer of a county, may also be arrested by such commanding officer, and reported to the governor for trial, or at the option of such commanding officer, a general court-martial, to consist of thirteen officers, may, by his order, be held in the county for trial of such as shall be under the rank of a field-officer. County-lieutenants power over officers. The president of the said court shall be a field-officer, and six at least of the members shall be captains; and where Courts martial how to be constituted there is not a sufficient number of officers in any county to constitute a court, where the arrest is made, the commanding officer of such county may call upon as many officers from the adjacent counties as will be sufficient to make up a court, and such court may, on conviction, censure or cashier any officer so tried, and their sentence shall be final; saving to such officer an appeal to the executive if he shall think proper, in which case the commanding officer shall furnish him with a copy of the proceedings of the said court. Any non-commissioned officer or soldier offending, shall be tried by a like general court-martial, and may, on conviction, be censured or fined, at the discretion of the court. For obtaining the necessary evidence for the trials aforesaid, the governor, or commanding officer of the county (as the case may be) shall issue his summons, and any person so summoned, failing to attend, shall forfeit and pay, upon a summons from the governor, ten pounds, and upon a summons of the commander of a county, five pounds; to be reported by the commanding officer amongst other delinquencies, to the court aforesaid.

X. *And be it further enacted*, That the commander of a county shall, on some day in the months of May and November (his general muster being over) summon all his field-officers and captains, a majority of whom, one being a field-officer, shall form a court of enquiry and assessment of fines. Court of enquiry and assessment of fines, how to be constituted. The said court shall take the following oath, to be administered by any one

LAWS OF VIRGINIA,

of the field-officers to the other members, and afterwards by any one of them to him, to wit: "I — do swear that I will truly and faithfully enquire into all delinquencies which appear on the returns to be laid before me; and will assess the fines thereon as shall seem just, without favour, partiality, or affection. So help me God."— The county lieutenant shall then lay before the said court, all the delinquencies as directed by this act, whereupon they shall proceed to hear and determine on them. All fines to be assessed by virtue of this act, shall be collected by the sheriff of the county, upon a list thereof certified by the commanding officer, and delivered to the sheriff on or before the first day of January, in every year, who shall account for the same to the county-lieutenant or his successor, in the manner directed, and be allowed the same commission as for other public monies, on or before the first day of November in the same year, and on failure, the commanding officer, or his successor, shall, on ten days previous notice, obtain judgment for the same in the county court, with costs. And should any person so charged with fines, fail to make payment on or before the first day of May, in any year, the sheriff is hereby authorized to make distress and sale therefor, in the same manner as is directed in the collection of the taxes.— The commanding officer of every county shall, on or before the thirty-first day of December, in every year, render to the executive an account upon oath, of all monies which have come into his hands by virtue of his office, and of his disbursements; and if there shall remain any money in his hands, the same shall be paid into the treasury, in aid of the contingent fund. And for enforcing obedience to this act,

XI. Be it enacted, That the following forfeitures and penalties shall be incurred for delinquencies, viz. By the county-lieutenant or commanding officer of a county, for failing to take any oath, to summon any court or board, to attend any court or board, to transmit any recommendation of an officer or officers to the governor, to deliver any commission or commissions, to appoint a general muster, to attend such muster armed as required, to report delinquencies, to make a general return of his militia to the governor, as is directed by this act, shall for each and every such offence or neglect, forfeit and pay twenty pounds; failing to send into actual service any militia called for by the

Fines, how to be collected;

how to be accounted for.

When distrained for.

When accounted for with the executive.

Forfeitures and delinquencies. County lieutenant.

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governor, or to turn out his militia upon an invasion or insurrection of his county, fifty pounds: By a colonel, for failing to take any oath, to attend any court or board, to appoint a regimental muster, or give notice of any general muster, to examine his regiment, to report delinquencies, or to make any return, as directed by this act, he shall forfeit and pay for each and every offence or neglect, ten pounds; failing to call forth from his regiment, with due dispatch, any detachment of men and officers, armed and equipped, as shall from time to time be required by the commanding officer on any call from the governor, invasion of, or insurrection in his county, or requisition of any neighbouring county, twenty-five pounds: Lieutenant-colonel or major, for failing to take any oath, to attend any court or board, to attend any muster armed as is herein directed, they shall respectively for each and every such offence or neglect, forfeit and pay eight pounds; failing to repair to their rendezvous when summoned upon any call of the governor, invasion of, or insurrection in the county, or requisition of the commander of a neighbouring county, they shall each forfeit and pay sixteen pounds: By a captain, for failing to take an oath, to attend any court, to inroll his company, to appoint private musters, to give notice of a general or regimental muster, to attend any muster armed, to call his roll, examine his company, and report delinquencies, to make any return, as directed by this act, he shall forfeit and pay for each and every such offence and neglect, six pounds; failing to call forth such officers and men, as the commanding officer from time to time shall order from his company, upon any call from the governor, invasion of, or insurrection in the county, or requisition from an adjacent county, or failing on any such occasion to repair to the place of rendezvous, he shall forfeit and pay twelve pounds: By a subaltern officer, for failing to take any oath, to attend any court or muster, armed as directed, for each of the said offences he shall forfeit and pay three pounds; failing to repair to the place of rendezvous, armed as required, when ordered upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay six pounds: And moreover, the said officers for any of the said offences, shall be liable to be arrested and

Colonel.

Captain.

Subaltern.

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- Non commis-
ed officers
and soldiers.** tried for the same as military offenders: By a non-commissioned officer or soldier, for failing to attend at any muster with the arms, ammunition and equipments, as directed by this act, he shall forfeit and pay ten shillings; failing to repair to his rendezvous when ordered upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay two pounds.
- Arms ex-
empted from
execution;
& men when
from arrest.** All arms, ammunition, and equipments, of the militia, shall be exempted from executions and distresses at all times, and their persons from arrests in civil cases, while going to, continuing at, or returning from musters, and while in actual service. Each court or board, by this act directed to be held, are empowered to appoint a clerk and provost-martial; such clerk shall keep a fair record of their proceedings, and together with the said provost-martial, receive such allowance, to be paid out of the fines arising from delinquencies, as the said court or board shall think reasonable. No arms or accoutrements, which may hereafter be lost in service, shall be paid for by the public, unless the loser shall be killed, wounded, or otherwise incapacitated in the opinion of a court-martial, from preserving his arms. The militia of the city of Williamsburg and borough of Norfolk, shall have their officers appointed and be under the same rules and regulations as the different counties.
- Officers of
court.**
- Lost arms,
when to be
paid for.**
- Williams-
burg and
Norfolk.**
- Resignation
of officers.** XII. *And be it further enacted,* That the county-lieutenant or commanding officer of each county, is hereby empowered to receive the commission of any captain, or other inferior officer in his county, who may think proper to resign, and shall notify such resignation to the next succeeding court, in order that such vacancies may be then supplied: *Provided,* That nothing herein contained shall be construed or taken to deprive the people called quakers or menonists, of any privilege granted them by any former law. *Provided also,* That the governor, with advice of the council, is hereby empowered to suspend the operation of this act in the counties on the western waters, so long as they may think proper.
- Quakers and
menonists.**
- Power to
suspend.**
- Repealing
clause.** XIII. All and every act and acts heretofore made for regulating and disciplining the militia, and guarding against invasions and insurrections, shall be, and the same are hereby repealed.

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per cent. on the whole sum which shall come into their hands by virtue of such appointment, before each dividend made, over and above all necessary disbursements in the premises.

XXVIII. *And be it further enacted by the authority aforesaid,* That any judge or judges, mayor or recorder, who have issued any warrant or warrants, in pursuance and by virtue of any act or acts against absent, absconding or concealed debtors, may proceed thereon by virtue of this act; and that trustees appointed by any of the said acts, may exercise all the powers given by this act to such trustees, and shall be subject to such rules, orders and regulations, as in and by this act are appointed.

XXIX. *And be it further enacted by the authority aforesaid,* That if any person or persons shall be sued for any matter or thing done in pursuance or by virtue of this act, it shall and may be lawful for him, her or them, to plead the general issue, and give the special matter in evidence; and also that this act shall be beneficially construed for the creditors in all courts of record within this state.

XXX. *And whereas, by the first section of the act, entitled, † An act to amend an act, entitled, An act for relief against absconding and absent debtors, and to extend the remedy of the act, entitled, An act for granting a more effectual relief in cases of certain trespasses, and for other purposes therein mentioned, passed May the 4th, 1784, remedy was given to creditors against debtors, designated in the said first section of the said act, with authority to proceed against such debtors in manner as nearly as may be, as is prescribed and directed in and by an act, entitled, An act for relief against absconding and absent debtors, passed 8d day of April, 1775. And whereas the act last mentioned is expired by its own limitation; Be it therefore enacted by the authority aforesaid,* That all proceedings hereafter to be had against such debtors as are particularly described in and by the aforesaid first section of the act first aforesaid, shall, as nearly as may be, be in the manner prescribed and directed in and by this act.

C H A P. XXV.

Amended,
10th sess. ch. 92.

An ACT to regulate the Militia.

Passed 4th April, 1786.

I. **B**E it enacted by the people of the state of New-York, represented in senate, and assembly, and it is hereby enacted by the authority of the same, That every able-bodied male person, being a citizen of this state, or of any of the United States, and residing in this state (except such persons as are herein after excepted) and who are of the age of sixteen, and under the age of forty-five years, shall, by the captain or commanding officer of the beat in which such citizens shall reside, within four months after the passing of this act, be enrolled in the company of such beat. That every captain or commanding officer of a company, shall also enrol every citizen as aforesaid, who shall, from time to time, arrive at the age of sixteen years, or come to reside within his beat, and without delay notify such enrolment to such citizen so enrolled, by some non-commissioned officer of the company, who shall be a competent witness to prove such notice. That all disputes which may happen with respect to the age or ability of any person to bear arms, shall be determined by the captain or commanding officer of the company, with a right of appeal by the person who may conceive himself aggrieved, or by any other person be

Citizens of 16 and under 45 years of age, to be enrolled by the captain of the beat.

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longing to the company, to the colonel or commanding officer of the regi-
 ment. That every citizen so enrolled and notified, shall,
 within three months thereafter, provide himself, at his own
 expence, with a good musket or firelock, a sufficient bayonet and belt, a
 pouch, with a box therein to contain not less than twenty-four cartridges
 suited to the bore of his musket or firelock, each cartridge containing a pro-
 per quantity of powder and ball, two spare flints, a blanket and knapsack ;
 and shall appear so armed, accoutered and provided, when called out to
 exercise or duty, as herein after directed, except that when called out to ex-
 ercise only, he may appear without blanket or knapsack. That the com-
 missioned officers shall be respectively armed with a sword or hanger, and an
 espartoon. That the commander in chief for the time being shall, by gene-
 ral orders, arrange the whole militia into commands, as nearly equal as con-
 veniently may be, of brigades, regiments and companies, and may, from
 time to time, alter such arrangements as he shall think proper ; and that to
 each brigade of infantry there shall be one company of artillery, and one
 troop of horse. That each regiment of infantry shall consist of two batta-
 lions, each battalion to be composed of four companies, and each company of

- | | |
|-----------------|-----------------|
| One captain, | Four corporals, |
| One lieutenant, | One drummer, |
| One ensign, | One fifer, |
| Four serjeants, | |

And not less than sixty-five privates, as nearly as local cir-
 cumstances will admit. The serjeants, corporals, drum-
 mers and fifers to be, from time to time, appointed by the
 captain or commanding officers of the several companies.
Serjeants, corporals,
 drummers and fifers,
 to be appointed by the
 captain.

And if any non-commissioned officer so to be appointed, shall refuse to
 accept the office to which he shall be appointed, he shall forfeit the sum
 of forty shillings, to be adjudged, levied and disposed of as is herein af-
 ter directed, with respect to fines for neglecting or refusing to appear to
 exercise. That each regiment shall be commanded by three field officers,
 viz. One lieutenant-colonel commandant, and two majors ; and that to
 each regiment there shall be a regimental staff, to consist of

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|---------------------|---------------------------|
| One adjutant, | } To rank as lieutenants. |
| One Quarter-master, | |
| And one pay-master, | |
| One surgeon, and | |
| One surgeon's mate. | |

And that to each regiment there shall be two light-infantry companies,
 composed of such active young men as shall voluntarily engage in such in-
 fantry companies, and who shall form on the flanks of the regiment, and be
 clothed in such uniform as is herein after directed. That four regiments
 thus constituted, shall form a brigade, to be commanded by a brigadier-
 general, who may nominate his own brigade-major, which brigade-major
 shall rank as captain.

That each troop of horse shall consist of

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|-------------------------|--------------------|
| One captain, | Four corporals, |
| One captain-lieutenant, | One saddler, |
| One lieutenant, | One farrier, |
| One cornet, | One trumpeter, and |
| Four serjeants, | Forty horsemen, |

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Each trooper to furnish himself with a serviceable horse, at least fourteen hands high, a good saddle, bridle, housings, holsters, breast-plate and crupper, a pair of boots and spurs, a pair of pistols, a sabre, a cartouch-box to contain twelve cartridges for his pistols; and that the commissioned officers shall be armed with a sword and pair of pistols, the holsters of which to be covered with bearskin caps.

That each company of artillery shall consist of

One captain,	Six gunners,
One captain-lieutenant,	Six bombardiers,
Three lieutenants,	One Drummer,
Six serjeants,	One fifer, and
Six corporals,	Thirty-two matrosses.

Each commissioned officer shall be armed with a sword or hanger, a fusée, bayonet and belt, and cartridge box, to contain twelve cartridges, and each artillery shall furnish himself, at his own expence, with all the equipments, of a private in the infantry, until proper ordinance and field artillery can be provided by the state; the drum and fife to be provided by the commissioned officers of the company.

Artillery company, and troops of horse, to be formed of volunteers.

That each company of artillery and troop of horse shall be formed of volunteers from the district of the brigade, within which they reside, and shall be uniformly clothed in regimentals, to be furnished at their own expence, the colour and fashion of which to be determined by the brigadier commanding the brigade. That on every enlistment of a volunteer into the horse, artillery or light-infantry, the captains of such troops or companies respectively, shall immediately certify the same to the captain of the beat from which such volunteer shall enlist. That each regiment shall be provided with state and regimental colours, at the expence of the field officers, and each company with a drum and fife, at the expence of its commissioned officers. That all the militia of the state shall rendezvous four times in every year, for the purpose of training, disciplining and improving in martial exercises, twice by companies within their beats, once by regiments, and once by

Militia to rendezvous four times in a year.

† Altered, 10th sess. ch. 92. sec. 2.

‡ brigades; the time and place of rendezvous for the companies to be appointed by the colonel or commanding officer of the regiment, and arranged on different days, that the field and staff officers may have an opportunity of attending the several companies exercised in detail, in order to introduce uniformity in the manœuvres and discipline of the regiment. That each commanding officer of a regiment shall appoint a regimental parade at some convenient place, as nearly central as may be, within the district of his regiment; and each brigadier-general shall appoint a brigade parade at some convenient place within the district of his brigade, as nearly central as may be; at which brigade parade such brigade shall rendezvous on such days as the commander in chief shall appoint by general orders; and which days shall be so arranged, that the adjutant-general may be enabled to visit and review them at their respective brigade parades. That there shall be an adjutant-general of the militia, whose duty shall be to distribute all orders from the commander in chief to the several corps, and once in every year review the brigades; to attend the respective brigades on their respective parades; and the regiment of infantry, and companies of artillery and cavalry, during the time of their being under arms, pursuant to this act; and shall inspect their arms, ammunition, accoutrements and clothing; superintend their exercises and manœuvres, and introduce a system of military discipline throughout the state, agreeable to such orders as he shall

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from time to time, receive from the commander in chief; to furnish blank forms of different returns that may be required, and explain the principles on which they shall be made; that within three weeks after he shall have finished his annual review, he shall deliver to the commander in chief, a return of all the militia of the state, reporting the actual situation of the arms, accoutrements and ammunition of the several corps, their delinquencies, and every other thing which in his judgment may relate to their police, and the general advancement of good order and military discipline; that he shall have the rank of lieutenant-colonel, and shall be allowed, as a full compensation for all the services he is required to perform by this act, at and after the rate of two hundred and fifty pounds for every year. That to every brigade there shall be an inspector, to rank as major, whose duty it shall be to attend the regimental parades, and shall then and there inspect their arms, ammunition, accoutrements and clothing; superintend their exercises and manœuvres, and introduce a proper system of military discipline throughout his brigade, agreeable to such orders as he may, from time to time, receive from the

Light-infantry companies, at the annual review, to be formed into a regiment.

Altered, 1804, ch. 92, sec. 7.

adjutant-general. That at the annual brigade rendezvous, the light-infantry companies of the regiments composing the brigades, shall be formed into a regiment, to be commanded by such field officers as the commanding officer of the brigade shall appoint for that service. That when so embodied, they shall continue together at least four days, and perform such manœuvres and evolutions, under the direction of the adjutant-general, as he shall assign them. That the artillery company and troop of horse belonging to each brigade, shall, during such service, be attached to and remain with the regiment of light-infantry, and be subject to the orders of the commanding officer thereof. That every regimental commissioned officer shall report his acceptance of his appointment, within ten days from his receiving notice thereof, to the commanding officer of the regiment, who shall, in like manner, within ten days, make return thereof to his brigadier. The commissioned officers of cavalry and artillery shall also notify the acceptance of their appointments, within ten days after they have received notice, to their captains, and the captains shall make similar returns to their brigadiers within ten days. That a general court-martial shall consist of thirteen commissioned officers, who shall appoint their own judge-advocate; which judge-advocate shall tender to each member, and each member is hereby enjoined to take the following oath:

YOU do swear, That you will, well and truly try and determine, according to evidence, the matter now depending between the people of the state of New-York, and the prisoner or prisoners to be tried; and you do further swear, That you will not divulge the sentence of the court, until the same shall be approved of, pursuant to this act; neither will you, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof by a court of justice, in a due course of law. So help you God.

And the president is hereby authorized to tender to the judge-advocate, who is hereby enjoined to take the following oath:

YOU do swear, That you will not, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof as a

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Witness, by a court of justice, in a due course of law; and that you will not divulge the sentence of this court, until the same shall be approved, pursuant to this act. So help you God.

That every commissioned officer who shall be convicted by a general court-martial, of having refused or neglected to perform any of the duties of his office, shall be punished according to the nature and degree of his offence, at the discretion of the said court, either by fine or removal from his office. Provided, No fine shall exceed ten pounds for the first offence, or fifty pounds for any subsequent offence; which fine shall be levied and collected by warrant under the hand and seal of the commanding officer of the brigade, directed to any serjeant of the regiment to which such officer, on whom such fine is imposed, may belong, in like manner as the fines herein after mentioned to be recovered of non-commissioned officers and privates, for neglect or refusal of duty. That the commanding officer of a brigade may order courts-martial for the trial of offences within his brigade; the members of which shall be warned for that duty by the brigade-major, who is to keep a roster for that purpose. That the proceedings and sentence of every court-martial, by which any officer shall be removed from office, shall be in writing, signed by the president thereof; and that all proceedings and sentences shall, by the president, be delivered to the commanding officer of the brigade, to be by him transmitted to the commander in chief, who shall approve or disapprove of the same in orders; and that all other proceedings and sentences of brigade courts-martial, shall be delivered by the president thereof to the commanding officer of the brigade, who shall approve or disapprove of the same in orders. That a court-martial for the trial of general officers, shall be ordered by the commander in chief, and composed of general and field officers, who shall be warned to that duty by the adjutant-general, from a roster to be by him kept for that purpose. That the proceedings and sentences of such courts shall be transmitted by the presidents thereof, to the commander in chief, who shall confirm or disapprove of the same in general orders. Provided, That no sentence of a court-martial on a general officer, shall go farther than removal from office. That all sentences of courts-martial, by which any officer shall be removed, and which shall be approved by the commander in chief, shall, by him, from time to time, be laid before the council of appointment, to the end that the person administering the government of this state for the time being, by and with their advice and consent, may appoint others instead of the officers so removed from office. That every non-commissioned officer or private, who shall neglect to appear when warned in pursuance of this act, without sufficient excuse, shall, for every day he neglects to appear at the brigade rendezvous, forfeit the sum of twenty shillings, and shall, for every day he neglects to appear at the regimental or company parades, forfeit the sum of eight shillings; and if he shall not be armed and equipped according to the directions of this act, when so appearing, without sufficient excuse, he shall, for every deficiency, forfeit the sum of one shilling; and appearing without a musket, the sum of four shillings. That the commissions to be granted to officers of the militia, shall be numbered; and the officers of the same grade shall take $\frac{1}{2}$ rank according to the numbers marked on their respective commissions; and when officers of different corps shall meet on duty, the rank of officers of the like grade shall be determined by

Commissioned officers when convicted how to be punished.

Courts-martial for the trial of general officers, how to be ordered and conducted.

Commissions to be numbered, and officers to take rank according to such numbers. $\frac{1}{2}$ Altered, 10th Feb. ch. 92. sec. 3.

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ballot, by the commanding officer of the whole then present. That one brigade, regiment, or company of foot (except the light-infantry companies herein before mentioned) shall not be considered as older, or having rank or preference of the other ;

but each brigade, regiment, or company, shall be polled in the line, or on command, as the commanding officer shall think proper. That all fines arising from offences in a company only, shall be adjudged of, and imposed by the commissioned officers of the said company, or the major part of them ; and all fines to arise from offences on calling out the regiment or brigade, with respect to the non-commissioned officers and privates, shall be adjudged and inflicted by the major part of the field officers of the regiment, and shall be levied, with costs, not exceeding three shillings, by warrant from the colonel or commanding officer of the regiment, or captain, or commanding officer of the company, as the case may be, directed to one or more serjeants, by distress and sale of the goods and chattels of the offenders respectively. And in case any such defaulter shall be under age, and live with his father or mother, or shall be then an apprentice or servant, the master or mistress, or father or mother, as the case may be, shall be liable to pay the said fine, with costs ; and in default of payment, the said serjeant shall levy the same upon the goods and chattels of such father or mother, or master or mistress ; such

To be paid into the treasury of this state. Altered, 10th sess. ch. 92, sec. 7.

City of New-York to raise one regiment of artillery.

finer, when recovered, to be paid by the serjeant or serjeants, to the officer granting such warrant, whose duty it shall be to account for, and pay the same to the commanding officer of the brigade ; and such commanding officer shall pay the same into the treasury of this state. That the city and county of New-York shall raise one regiment of artillery, to consist of as many companies as the commander in chief shall judge necessary, not to exceed four ; which companies shall consist of the same number of officers, non-commissioned officers, and matrosses, as the artillery companies herein before mentioned. That such regiment of artillery shall have three field officers, shall be armed and accoutred in the same manner as the other artillery companies mentioned in this act, until further provision is made therein by law, and shall be called out to exercise, by orders from the commander in chief, at least six times in every year, and be subject to the same fines and penalties as are inflicted by this act for the neglect or refusal to do duty, or being deficient in any arms or equipments.

Commander in chief, in case of invasion, may order out the militia, &c.

II. *And be it further enacted by the authority aforesaid,* That the commander in chief for the time being, may, in case of invasion or other emergency, when he shall judge it necessary, order out any proportion of the militia of the state, to march to any part thereof, and continue as long as he may think necessary ; and likewise may, in consequence of an application from the executive of any of the United States, on an invasion, or an apprehension of an invasion of such state, at his discretion, order any number of the militia, not exceeding one third part thereof, to such state. Provided, That they be not compelled to continue on duty out of this state more than forty days at any one time : That while in actual service, in consequence of being so called out, they shall receive the same pay and rations, and be subject to the same rules and regulations, as the troops of the United States of America.

Certain characters exempted from militia duty.

III. *And be it further enacted by the authority aforesaid,* That the lieutenant-governor, members and officers of congress, and their servants not citizens of this state, mem-

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bers of senate and assembly, the clerks of senate and assembly, the chancellor, chief justice and other justices of the supreme court, judge of the court of probates, and all other judicial officers, secretary, treasurer, attorney-general and auditor of this state, surveyor-general, registers of courts, sheriffs, coroners and gaolers, two ferrymen employed to each boat, and the surrogates in the several counties, all ministers or preachers of the gospel, physicians and surgeons, except in their respective professions and callings, the professors, tutors and students of Columbia college, post-officers, and stage-drivers who are employed in conveying the mails of the post-office of the United States, all school-masters engaged for six months, the actual attendant of every grist-mill, and the fire-men of the cities of New-York and Albany, and of the township of Brooklyn, and twenty fire-men, to be from time to time appointed by the majority of the magistrates of the county of Albany, residing in the township of Schenectady, notwithstanding their being above sixteen and under forty-five years of age, shall be, and hereby are exempted from training or doing duty in the militia.

IV. *And be it further enacted by the authority aforesaid,*
Quakers, instead of duty, to pay 40s. per annum. That all persons, being of the people called Quakers, who would otherwise be subject to military duty, by virtue of this act, and who shall refuse personal military service, shall be exempted therefrom, on paying annually the sum of forty shillings each for such exemption; such sum to be assessed on each of them respectively by the assessors, and collected by the collectors of the districts wherein they respectively reside, with the contingent charges of the county, and paid to the county treasurer, who shall pay the same into the treasury of this state, to be applied towards the support of government; and it is hereby made the duty of every captain of infantry, within three months after he shall have received his commission, and yearly and every year thereafter, on the first Monday of June in every year, to make a list of the names of all and every person and persons within his beat, who being of the people called Quakers, shall neglect or refuse personally to perform military service, and deliver such list, in the city of New-York, to the clerk of the said city, and in each of the other counties of this state, to the supervisor of the town, precinct or district where such person or persons so neglecting or refusing to perform military service, shall respectively reside. And the clerk of the said city of New-York shall forthwith, after receiving such lists, deliver the same to the mayor, aldermen and commonalty of the said city, in common council convened. And the mayor, recorder and aldermen of the city of New-York, or any three of them, in the said city, and the supervisors, or major part of them, of each of the other counties of this state, respectively, shall, at their first meeting after the delivery of such lists, cause tax-lists to be made out, according to such lists so delivered, with warrants thereon, under their hands and seals, directed to the collector of the ward, town, precinct or district in which such persons named in such lists, respectively reside, for levying the sum of forty shillings, of the goods and chattels of each of the persons named in the same lists. And the said collectors are hereby respectively authorized and required to demand and receive of each of the persons named in such tax-list, the said sum of forty shillings; and in default of payment, such collector shall levy the said sum of forty shillings, by distress and sale of the goods and chattels of the person so neglecting or refusing to pay the same; and in case any person named in such tax-list shall be under age, and live with his father or mother,

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shall be then an apprentice or servant, the master or mistress, or father or mother as the case may be, shall be liable to pay the said sum of forty shillings, for such person so under age; and in default of payment, the collector shall levy the same by distress, and the sale of the goods and chattels of such father or mother, master or mistress; and the said respective collectors shall respectively pay the said monies to the city or county treasurer, deducting their fees for collecting, on or before the first Monday in January in every year; and the county treasurers shall respectively pay the same to the treasurer of this state, deducting his fees for receiving the same, on or before the first Monday in March in every year. And the collectors and county treasurers shall have the like fees for collecting and receiving the said monies, as they are respectively entitled to for collecting and receiving the monies raised for defraying the necessary and contingent charges of the said city or counties.

[The 5th section of this act is repealed, 10th sess. ch. 92. Sec. 4. and the 6th, 7th and 8th sections are thereby become obsolete.]

IX. *And be it further enacted by the authority aforesaid,* That the commander in chief shall, from time to time, arrange the militia in two divisions, as nearly equal as circumstances in his opinion will admit of.

X. And whereas from the great extent of the counties of Washington and Montgomery, some of the inhabitants would be subject to great expence and difficulty, if they were obliged to attend at regimental and brigade parades; *Be it therefore enacted by the authority aforesaid,* That it shall and may be lawful for the respective commanding officers of the militia in each of the said counties, to exempt such persons from attending regimental and brigade parades, as shall live at a greater distance than thirty miles from such parades aforesaid.

XI. And whereas, from the insular situation of the county of Richmond, it will be attended with much inconvenience and expence, if the militia thereof should be compelled, for the purpose of improving in military discipline, to attach themselves to the militia of any other county: Therefore, *Be it further enacted by the authority aforesaid,* That the militia of the said county of Richmond, shall be formed into one regiment, to consist of as many companies as the commander in chief shall judge necessary; which regiment shall meet four times in the year, in the manner, and during the periods which the other militia of this state are directed to meet; but such regiment shall be inspected in the said county, by such inspector of the militia of the city and county of New-York, as the commander in chief shall direct, and shall be attached to, and considered as part of the militia of the city and county of New-York, and be subject to the immediate command of the senior brigadier of the said city and county, as part of his brigade.

XII. *And be it further enacted by the authority aforesaid,* That if a sufficient number of volunteers shall not offer themselves to compose the infantry companies of any regiment, it shall and may be lawful, from time to time, when a deficiency in the compliment of any such company shall arise, to and for the field officers of the regiment to cause a list to be made, of all the young men enrolled in the district of such regiment, above the age of sixteen, and under the age of twenty-six years, and who shall not already have enlisted in the said infantry companies, and shall, by lot, determine which of

the said young men shall be compelled to attach themselves to the said companies of infantry.

XIII. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any major-general, or commanding officer of a brigade, or commanding officer of a regiment, when, and as often as any invasion may happen, to order out the militia under their respective commands, for the defence of this state, giving notice of such invasion and every circumstance attending the same, as early as possible, to their immediate commanding officer, by whom such information shall be transmitted, with the utmost expedition, to the commander in chief. And that in cases of insurrections, the commanding officer of the regiment within the limits of which any such insurrection may happen, shall immediately assemble his regiment under arms, and having transmitted information thereof to the commanding officer of the brigade, and to the commander in chief, shall proceed to take such measures to suppress such insurrection, as to any three of the judges or justices of the county in which such insurrection shall happen, shall appear most proper and effectual. And if any person be wounded or disabled while in actual service, in opposing any invasion or insurrection, or in suppressing the same, he shall be taken care of, and provided for at the public expence, without having any regard to the rank such person may hold.

XIV. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the person administering the government of the state for the time being, by and with the advice and consent of the council of appointment, to appoint a commissary of military stores, who shall be allowed at and after the rate of forty pounds per annum; and such commissary shall have the charge and keeping of ordinance and military stores of the state, subject to such orders and instructions in the execution of his duty, as he shall receive from the commander in chief.

XV. And be it further enacted by the authority aforesaid, That every non-commissioned officer and private, who shall neglect or refuse to obey the orders of his superior officer while under arms, shall forfeit twenty shillings for every such offence; and if any such non-commissioned officer or private enrolled to serve in either of the companies of artillery, cavalry or infantry, shall refuse or neglect to perform such military duty or exercise as he shall be required to perform, or shall depart from his colours or guard without the permission of his superior officer as aforesaid, he shall forfeit the sum of twenty shillings; and for the non-payment thereof, the offender shall be committed, by warrant from the captain or commanding officer of the troop or company then present, to which such offender doth belong, to the next gaol, there to be confined until the fines as aforesaid, together with the gaoler's fees, are paid; and the respective sheriffs of the respective cities and counties of the state, are hereby empowered and required to receive the body or bodies of such offender or offenders, as shall be brought to them by virtue of a warrant or warrants under the hand and seal of such officer as aforesaid, and him or them to keep in safe custody, until such fines as are mentioned in such warrant, together with the gaoler's fees as aforesaid, shall be paid; and the sheriffs and gaolers respectively shall be allowed the same fees as are allowed in other cases. Provided, That in case of a military guard, where a captain doth not command in person, a warrant granted by an inferior officer, who

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shall have the command of such guard, shall be of the same authority against all offenders, as if such warrant had been issued by such captain.

XVI. *And be it further enacted by the authority aforesaid,* That the military uniform of this state shall be as follows; That is to say,

General officers; Dark blue coats with buff facings, linings, collars and cuffs, and yellow buttons, with buff under-clothes.

Regimental officers of infantry; Dark blue coats with white linings, facings, collars and cuffs, and white buttons, with white under-clothes.

Non-commissioned officers and privates of infantry; Dark blue coats with white linings, collars and cuffs, and white under-clothes.

Staff officers; Dark blue coats with buff collars and linings, and yellow buttons.

Provided, That none of the non-commissioned officers and privates of the regiments of militia, except those composing the light-infantry companies directed to be formed by this act, shall be obliged to appear in uniform, in manner aforesaid.

XVII. *And be it further enacted by the authority aforesaid,* That all persons who have heretofore been commissioned officers in the line of the army of the United States, shall be, and hereby are exempted from serving in the militia of this state; any thing in this act to the contrary hereof notwithstanding. Provided nevertheless, That if any such officer,

being above the age of sixteen, and not more than forty-five years, shall be commissioned in the militia to a rank equal to that which he held in the said army, and shall refuse to accept such commission, such officer so refusing, shall be liable to serve in the militia.

XVIII. *And be it further enacted by the authority aforesaid,* That the commander in chief shall, as soon as may be after the passing of this act, take such measures as to him shall seem proper, to obtain the age, rank and residence of all officers who heretofore have served in the militia of this state, and the number of men between the age of sixteen and forty-five, directed to be enrolled by this act; and all executive officers within this state are hereby strictly enjoined and required to carry into execution such directions relative to the premises, as the commander in chief may, from time to time, give and enjoin.

XIX. *And it be further enacted by the authority aforesaid,* That all other laws of this state for regulating the militia thereof, shall be, and hereby are repealed. Provided always, That the act, entitled, An act to regulate the militia, passed the 4th of April, 1782, shall continue to be in full force and effect in the different counties of this state, until the militia of such counties shall be arranged and officered agreeable to the directions of this law, and no longer.

C H A P. XXVII.

An ACT for the Relief of Creditors against Heirs, Devisees, Executors and Administrators, and for proving Wills respecting real Estates.
Passed 4th April, 1786.

BE it enacted by the people of the state of New-York, represented in senate and assembly, and it is hereby enacted by the authority of the same, That

for the sums so lent, and shall pay to the said Peter T. Curtenius, and the said person to be appointed a commissary to provide necessaries, severally, the monies so be taken on loan, in like manner as is herein before directed, with respect to the monies arising from the sales of forfeited estates. That the treasurer shall upon the warrant of the person administering the government of this State, advance as cash to the said Peter T. Curtenius and the person to be appointed commissary as aforesaid, severally, of the said certificates to such amount as shall be specified in each warrant, with blanks as to the date. That it shall be lawful for the said Peter T. Curtenius, and the said person so to be appointed commissary as aforesaid, to give the said certificates in payment for any goods wares and merchandizes which they may respectively purchase, and to fill up the blanks in the said certificates, with the day when they shall be respectively given in payment.

Advances
to persons
named.

And be it further enacted by the authority aforesaid, That if any person shall forge or counterfeit any such loan office certificate, or shall sell, negotiate or assign over, or tender for, or in payment at the treasury, any such forged or counterfeit certificate, knowing the same to be forged or counterfeit, the person so offending shall upon conviction suffer the like pains and penalties as in cases of felony without benefit of clergy.

Penalty
for count-
erfeiting,
etc.

CHAP. 55.

AN ACT for regulating the militia of the State of New York.

PASSED the 11th of March, 1780.

WHEREAS the wisdom and experience of ages point out a well regulated militia as the only secure means for defending a State against external invasions, and internal commotions and insurrections. Preamble.

And whereas this, and the other United States of America, are now invaded by foreign enemies, and the safety of this State may be endangered by intestine commotions and insurrections.

And whereas it is therefore become the duty of the legislature of this State, to put the militia thereof, on such an establishment as will most effectually encourage a martial spirit among the people, provide for the internal and external security of the State, and enable it most vigorously to co-operate with the other United States, in a cause no less noble and exalted, than the defence of the common rights and liberties of America against hostile tyranny and oppression.

I. *Be it therefore enacted by the People of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same,* That every able bodied male person, (deserters from the enemy, not subjects of any of the United States, Indians and slaves excepted) residing within this State, from sixteen years of age to fifty, (except such persons as are herein after excepted) shall immediately after the passing this act, unless he shall heretofore have been enrolled, be, by the captain, or in his absence, the next commanding officer, of the beat, wherein he shall reside, enrolled in the company of such beat. That every captain, or commanding officer of a company, shall also enroll every person, or persons, who shall from time to time arrive at the age of sixteen years, or come to reside or sojourn within his beat, and without delay, notify such enrollment to each person so enrolled, by some inferior officer of the company; who, on oath, shall be a competent witness to prove

Persons to
be en-
rolled.

Disputes,
how to be
decided.

such notice. That if any dispute shall arise with respect to the age, or ability to bear arms, of any person, it shall be determined by the captain or commanding officer of the company with right of appeal, to any person who may conceive himself aggrieved, to the colonel, or commanding officer of the regiment, whose determination in the case shall be final.

Equip-
ments.

That every person so enrolled, and notified, shall within twenty days thereafter, furnish and provide himself, at his own expence, with a good musket or firelock, fit for service, a sufficient bayonet (unless he shall be provided with a good rifle) with a good belt, a pouch or cartouch box, containing not less than sixteen cartridges, suited to the bore of the musket or firelock, each cartridge containing a proper quantity of powder and ball, or in lieu of such pouch or cartouch box and cartridges, with a quantity of powder and ball respectively, disposed of in a powder horn and shot bag, and wadding equivalent to such cartridges, and two spare flints, a blanket and a knapsack, and shall appear so armed, accoutred and provided, when called out to exercise, or luty, as herein after directed, except that when called out to exercise only, he may appear without blanket or knapsack; and if any such person shall appear to the captain or commanding officer of the company, to be too indigent to arm accoutre and provide himself in manner aforesaid, he shall be furnished with arms and accoutrements, out of the monies to arise from the fines from time to time to accrue in the regiment to which he shall belong, and in case of deficiency thereof, out of the public magazines or stores of this State, by order of the person administering the government of this State for the time being.

Militia to
be ar-
ranged in
brigades,
etc.

II. That the commander in chief, for the time being, shall, by general orders, arrange the militia of this State into brigades regiments and companies, and, by and with the advice and consent of the council of appointment, appoint such and so many brigadiers general, and other officers, as he shall think most conducive to the public service; copies of such general orders to be filed in the office of the clerk of the county where the regiment, or company shall be.

Brigade
major.

III. That each brigadier general, shall have one brigade major of his own choice, to rank as major in the militia, and receive pay on the certificate of his brigadier.

Officers.

IV. That each regiment shall have and be commanded by one lieutenant colonel, (except where a colonel has heretofore been appointed) and one major, (unless in cases where it shall be thought necessary to appoint two majors). That each company shall be officered with one captain, one first lieutenant, one second lieutenant, and one ensign, as commissioned officers, and by four sergeants, four corporals, one drummer and one fifer; and the staff of each regiment shall be, one adjutant, and one quartermaster, who shall respectively rank as first lieutenants; and the sergeants, corporals drummers and fifers, shall be appointed by the captains, or other commanding officers of the several companies; and if any person so to be appointed, shall refuse to accept the office to which he shall be appointed, he shall forfeit the sum of forty pounds, to be adjudged, levied, and disposed of, in manner as is herein after directed, with respect to fines for neglecting or refusing to appear to train and exercise, as is herein after mentioned.

Colors

V. That each regiment shall be provided with a standard or colours, at the expence of the field officers; and each company with a drum and fife, at the expence of the commissioned officers thereof.

Troops of
horse.

VI. That there may be a troop of horse in each brigade, and a company of grenadiers in each regiment of foot, which may conveniently furnish the same. That the said troops of horse, and companies of

grenadiers, shall respectively be formed and composed of volunteers, in the respective brigades and regiments, residing at such convenient distances from each other, that they may with ease and dispatch be called out for training, discipline, or other service. Provided, that no troop of horse shall be established without the consent of the brigadier; and that no grenadier company shall be established in any regiment, without the consent of all the field officers; and that no troop of horse, or grenadier company, shall exceed fifty men, officers included; and that no person shall hereafter enlist in any troop of horse, or grenadier company, without the consent of the commanding officer of the regiment in which he shall reside.

VII. That on every such enlistment of a volunteer; the captain of the troop of horse, or company of grenadiers, do immediately certify to the captain of the beat, from which such volunteer shall enlist, the enlistment of the said volunteer. Enlistments to be certified.

VIII. That each trooper shall be equipped and provided with a good servicable horse, at least fourteen hands high, a good saddle, housing, holsters, breast plate and crupper, a case of good pistols, a good, horse-man's, sword, a pair of boots and spurs, and a carbine well fixed with a good belt swivel and bucket, and a cartridge box to contain twelve cartridges at least; and that each grenadier, shall be equipped and provided with a grenadier's cap, a good musket and bayonet, a broad sword, a belt and a pouch or cartridge box; and so equipped and provided, the troopers and grenadiers, shall, respectively, be called out under the direction of their respective officers, as is hereby required, with respect to the rest of the militia. Equipments of troopers.

IX. That each colonel or commanding officer of a regiment, shall, in the first or second week in April, and in the first or second week in November, in every year, call out his regiment to his regimental parade, which shall be the place in the district of the regiment the most convenient for that purpose; and having paraded the same, shall require from the captain or commanding officer of every beat, in the regiment, a return thereof, expressing the exempts and the absentees, and the causes of the respective exemptions and absences; cause the said regiment, except the exempts, thus paraded to be called by the company rolls, and the arms ammunition and accoutrements of each man to be examined, and the defaulters to be noted; and shall cause them to be sufficiently exercised, trained and disciplined, for their instruction and improvement; and shall within two weeks thereafter, make or cause a true regimental return (excepting therein by name the exempts or absentees) to be made to the commander in chief, for the time being; until a brigadier general be appointed to the brigade to which the regiment shall belong. That the captain, or commanding officer of each company, shall and may call out his company to such place, within his beat, as shall be most convenient for that purpose, at least four times in every year, and shall cause them when so called out, to be well and sufficiently exercised trained and disciplined for their instruction and improvement. Regimental parades.

X. That every commissioned officer of the militia, in this State, who shall omit or neglect to perform any of the duties, by this act enjoined on him, of enrolling training or disciplining in and to the use of arms, the militia of this State, or making perfect returns of the militia, or not calling out to actual service the militia, or any part thereof, when necessary, and shall, if under the rank of a brigadier, be thereof convicted by a brigade court martial from the brigade to which he shall belong, consisting of at least thirteen members, (which court martial the brigadier is hereby authorized and required to appoint, and direct to sit) and the sen- Officers neglecting to perform duties imposed by this act to be court martialled.

tence thereon be confirmed in manner herein after mentioned, be, *ipso facto*, removed from his office, and reduced to do duty in the ranks as a foot soldier; any exemption from duty to the contrary in any wise notwithstanding.

Meeting of
general
and field
officers to
review sen-
tences.

XI. That the brigadier general, and the field officers of each brigade, shall, on the second Tuesday in January and the second Tuesday in June yearly and every year, meet together, at such town or place within the brigade as the brigadier general shall appoint; to which meeting all sentences of courts martial in such brigade, not before confirmed or disallowed, shall be brought, and shall by the said brigadier general, or next commanding officer, and field officers, or the majority of them, be respectively confirmed or disallowed; upon determining all which the brigadier, or next commanding officer, shall sit as president; and shall immediately thereafter, particularly, report, under his hand, to the commander in chief all such sentences as shall be so confirmed; and all brigadiers general, for offences, not particularly provided for in this act, shall be tried by a general court martial, to be appointed by the commander in chief, and if on conviction, the sentence thereof be confirmed by such commander in chief, that upon such brigadier general shall be removed from his office. That all sentences of courts martial so confirmed shall be, by the commander in chief from time to time, laid before the council of appointment, to the end, that they may appoint others instead of the officers so found guilty.

Cashiered
and re-
signed
officers to
do duty as
foot sol-
diers.

XII. That every commissioned officer of the militia of this State who shall be cashiered, or who shall resign his commission, unless with the consent of the council of appointment, shall be obliged to do the duty of and in every respect be put on a footing with a private soldier, any thing contained in this act, to the contrary thereof notwithstanding.

Foot
soldiers,
penalty for
not ap-
pearing.

XIII. That every foot soldier of the said militia who shall neglect to appear when called out, without sufficient excuse, shall for every such offence forfeit the sum of eight pounds; and if he shall appear wanting any of his arms, ammunition or accoutrements, prescribed for him by this act, without sufficient excuse, he shall, for every deficiency, forfeit the sum of three pounds; and if any non-commissioned officer or private in any troop of horse shall be charged with either of the said offences, and shall not have sufficient excuse, he shall forfeit for the offence of not appearing the sum of sixteen pounds, and for every other of the said offences the sum of six pounds.

Fines, &c.

XIV. That all fines to arise from offences, in a company only, shall be adjudged of and inflicted by the commissioned officers of such company, and shall be levied with costs by warrant under the hand and seal of the captain or commanding officer, directed to one or more of the sergeants of the said company, by distress and sale of the goods and chattels of the offender, and paid by the sergeant or sergeants to the said captain or commanding officer of the company; And that all fines to arise from the like offences upon the calling out of the regiment, shall be adjudged of and inflicted by the field officers of the regiment, or the major part of them and shall be levied with costs by warrant, under the hand and seal of the colonel or commanding officer of the regiment, directed to one or more of the sergeants of the said regiment, by distress and sale of the goods and chattels of the offenders respectively, and by him or them paid to the said colonel or commanding officer; all which fines shall by him be paid over to the quarter master of the said regiment, to be by him laid out under the direction of the field officers of the said regiment for arming accoutring and furnishing with ammunition the privates thereof in manner aforesaid. And where in any case

no goods or chattels shall be found, then on such warrants, to be issued in either of the cases above mentioned, the serjeant or serjeants shall take the body of the offender and him convey to the common goal of the county, there to be kept in safe custody, until he pay the said fine and costs. And the goaler is hereby required and commanded to receive such offender, with the warrant, and him safely to keep until he shall have paid his said fine and costs, which goaler after receiving the same, on demand by such serjeant or serjeants, pay the same to him or them, and thereupon such fine shall be disposed of in manner herein before directed for the disposal of fines.

XIV. That all officers in the militia shall take rank according to the dates of their commissions. Provided that where officers now hold the same offices in the militia which they held under the late government before the revolution or under the convention before the organization of the present government and have since taken out new commissions for the same office such officers shall take rank from the dates of their former, and not from the dates of their last commissions, any thing herein contained notwithstanding.

XV. That from all returns to be made by the colonels or commanding officers of regiments, respectively, to the respective brigadiers general, brigade returns shall without delay be made to the commander in chief.

XVI. That one brigade, regiment, or company of foot (except grenadiers who shall form on the right of the regiment) shall not be considered as older than, or having rank or preference of, the other, but each brigade, regiment or company shall be posted and disposed of in the line on command, as the commanding officer on the spot, shall on every occasion or emergency think proper.

XVII. That on every emergency of a sudden invasion by the enemy, or insurrection, within this State, the commanding officer of any brigade, regiment, or company, as the cases may require, shall immediately draw out the militia under his command and with them oppose the enemy or the insurgents, and that all brigades, regiments, troops and companies, shall from time to time be subject to general, brigade, regimental, and company, orders, as is usual according to the course and practice of war for suddenly taking the field for the purpose aforesaid. And all such orders, by any officer under the rank of commander in chief, shall be reported in writing by express, to the commander in chief for the time being, and also to the colonel or commanding officer of the regiment, if given by one under his command, and if given by the colonel or commanding officer of the regiment, shall be reported to the brigadier general, and if given by the brigadier general to the commander in chief, all which reports shall be acted upon by the respective persons to whom the same shall respectively be made as the emergency may require, and by such persons respectively be reported, with their respective doings thereon, to their next superior officer, and so on in succession till they reach the commander in chief.

XVIII. That every person in the militia, whether officer or private, when called out into actual service, either to act separately or in conjunction with the troops of the United States of America, shall from the time of his receiving due notice thereof from his commanding officer, until he be properly discharged from that service, if and as long as he shall perform the same, and untill properly discharged or dismissed, be allowed pay, subsistence and rations, according to the Continental establishment, and on every neglect or refusal to march, after such notice as aforesaid, shall be dealt with as a deserter, or having marched out, on

such notice, and before his proper discharge or dismissal, shall commit any offence, or shall, before such discharge or dismissal, desert from the corps to which he shall belong, or from his post, shall for every such offence be subject to the rules and articles of war, established by the congress of the United States of America, for the better government of the troops in the service of the said United States; which shall be put in execution against the offender by the militia orders and authority, in like manner as the same are put in execution in the army of the said United States against offenders therein, by proper orders and authority thereof; and that in all such cases the governor or commander in chief for the time being, and all militia officers subordinate to him, shall and may enjoy and exercise all the powers by the said rules and articles of war, given to the commander in chief of the army of the United States and the several officers subordinate to him in the said army; and that upon notice left at the usual place of abode of any offender, containing the charge against him, and the time and place when and where the court martial will be held for his trial, and due proof made to such court of the service of such notice, it shall be lawful for such court to proceed to the trial of such offender in like manner as if he had appeared, and plead not guilty to the charge.

In case of
fines of-
fender
may be
sentenced
to serve in
army.

XIX. That in every case where a fine shall be imposed by a court martial, in consequence of this act it shall and may be lawful for such court martial to direct the offender (in case of the non payment of such fine) to serve in, and do duty with, any one of the regiments of the army of the United States of America raised by the direction and under the authority of this State, as a private soldier thereof, for and during such time as the court martial shall adjudge, not exceeding six months.

Power to
order out
enrolled
militia, etc.

XX. That the commander in chief for the time being shall have power and authority, from time to time in his discretion, to order out the whole or any part of the associated exempts and enrolled militia of this State into actual service, not only for the defence of this State, but to give assistance to any other of the United States, or to reinforce the army of the United States or any part thereof, and that the associated exempts shall be called out, in rotation, so as to do their equal proportion of duty with the enrolled militia, as nearly as may be, in the discretion of the commander in chief, or brigadier general within whose command the said associated exempts do reside, and to cause each of them to march out of this State for either of the said purposes. Provided always that none of the enrolled militia of this State or associated exempts shall be compelled to do duty out of the same for a greater space of time than forty days at any one time; and provided also that not more than one third part of the militia and associated exempts of this State shall, on any occasion or emergency, be required or ordered to march out of this State, any thing herein contained to the contrary thereof in any wise notwithstanding.

Courts
martial,
etc.

XXI. That for the several purposes aforesaid general, brigade and regimental, courts martial and courts of inquiry shall from time to time, as cases may require, be instituted and formed, and general brigade and regimental orders from time to time given, upon the plan directed by the aforesaid rules and articles of war, and by the officers in rank respectively in the militia equal with those respectively authorized for the purpose by the said articles of war, in respect whereof the governor or commander in chief and all militia officers respectively shall be considered as on the same footing as the general and commander in chief of, and as the officers in their respective ranks belonging to, the army of the said United States; Provided always that no commissioned military

officer, except when questioned upon the aforesaid rules and articles of war, shall be sentenced or adjudged to any other punishment than to be broke and rendered incapable of any military office whatsoever within this State; and provided also that it shall and may be lawful for a court martial, whenever they shall conceive it proper, to fix and determine a fine for which any person, adjudged to receive corporal punishment, may commute such punishment; and if the said fine shall be paid, within the time by the court martial for that purpose limited, the said person shall be accordingly acquitted of such corporal punishment. That all such fines shall be paid into the hands of the eldest militia officer, from this State, on the spot, and shall by him be paid into the hands of the officer commanding such regiment, for the purpose of providing a sufficient quantity of arms and ammunition for the use of the said regiment, and that the overplus be paid by the said commanding officer into the treasury of the State.

XXII. That a roll of the privates of each company shall be made, and divided, by the captain or commanding officer of the company, into eight classes, as nearly equal in number to each other as conveniently may be, and a serjeant or a corporal shall be allotted on the roll, by the captain or commanding officer, to each class; which said eight classes, in each company, shall on detachments or drafts, in pursuance of this act, perform their tour of duty in numerical order; and to ascertain which class shall take the first and which the second tour of duty on detachment, and so on to the eighth class, eight slips of paper, numbered respectively from one to eight inclusively, shall be so rolled up, or otherwise closed as to conceal the number, and being put into a hat, box, or vessel, and well shook together in the same, the serjeant or corporal of each class shall, in the order to be directed by the captain or commanding officer, in behalf of his class, take out one of the ballots; and the number drawn by the serjeants and corporals, respectively, shall determine their respective tours of duty of the several classes; The class which draws number one to have the first tour of duty, and so on in numerical order throughout all the eight classes, determining their respective tours of duty; and in the same numerical order shall the eight classes continue their rotation without any new balloting, untill the numbers respectively contained in each class shall, by the events of war or other accidents, become very unequal, when there shall be a new balloting as above directed.

XXIII. That when and as often as the classes shall be thus fixed, each captain or commanding officer of each company shall form a roll consisting of the eight classes and containing the names of the men in each class, with the names of the serjeant and corporal respectively prefixed to each class, and numbered according to the order of balloting, which he shall keep for his own use, guidance, and direction, and shall notify each serjeant, corporal, or private, to what class he shall belong, and shall return a copy thereof, with the list of his commissioned officers prefixed thereto, without delay, to the colonel or commanding officer of the regiment, who shall enter all such, and every other company return, in a book to be kept by him for the purpose.

XXIV. That the colonel or next commanding officer of the regiment shall, on receipt of all the classed returns of the companies in his regiment, convene together all the commissioned officers in his regiment, and proceed in like manner to fix by ballot the respective tours of duty of all commissioned officers under the rank and degree of a field officer, from and including number one to and including such number as shall be equal to the number of companies in the regiment; which balloting

Privates
of each
company
to be
divided
into
classes.

Roll of
classes.

Tours of
duty of
commis-
sioned
officers.

shall be made separately and severally in the four several lines of office, and be entered by the colonel or commanding officer in his said book, as also the quota of each detachment both as to officers and privates, in order thereby, from time to time, to ascertain the rotation of the service of both, which shall ever be determined by such quotas respectively.

Majors,
etc., to
decide
tours by
lot.

XXV. That if there be two majors belonging to a regiment they shall decide by lot which of them shall take the first tour of duty, and the order or tour of duty thereby established shall ever after govern.

XXVI. That to establish the rotation of duty, on detachments, among the several field officers in the regiments composing a brigade, the colonels, lieutenant colonels, and majors, shall without delay meet together and decide the same by several and separate lots in numerical order as aforesaid, in the several lines of office, which being done, a roll thereof shall immediately be made and subscribed by them all, and returned to the brigadier general of the brigade

Brigadier
general to
be ap-
pointed to
command.
Substi-
tutes.

XXVII. That to a brigadier general's command of detachments the commander in chief shall appoint such brigadier general as shall in his judgment appear most proper for advancement of the service.

In case of
sickness,
etc., next
on roll to
perform
tour of
duty.

XXVIII. That every private shall be allowed to substitute, on detachments, an able bodied private in his stead, who shall nevertheless take his own tour of duty in the order wherein it shall have been fixed as aforesaid. That in case, by sickness or unavoidable accident an officer or private shall be prevented from taking his tour of duty on any detachment, the next to him on the respective rolls of detachment, without regard to classes with respect to privates, shall fill his place, and the person so prevented shall in return take the proper next tour of duty on detachment of him so filling his place; and all classings as aforesaid shall go on in rotation in the several numerical orders above mentioned as long and as often as the public service shall require the same. Provided always that the commander in chief shall and may, from time to time, in his discretion, order out on detachment as great a part of any brigade, regiment, troop of horse, or associated exempts, or the whole militia into actual service, and also that the like discretionary power may, on sudden emergencies, and without waiting for the order of his superior officer, be exercised by the commanding officer of any brigade, regiment, troop of horse, or company, respectively, over each brigade, regiment, troop of horse, or company, giving notice thereof, in writing, without delay together with all things relating thereto as well to his commanding officer as to the commander in chief for the time being.

Exempt
persons.

XXIX. That all persons, under the age of sixty years, who have held civil or military commissions, and are not or shall not be re-appointed to their respective proper ranks of office; and all other persons, between the age of fifty and sixty years, who have associated and elected their officers, or shall hereafter associate themselves, shall be exempted from serving as part of the enrolled militia. That all such persons, who have not yet associated, shall form themselves into voluntary associated regiments, or companies, according to their number in each respective county, and recommend their own officers, and that all such associated regiments, or companies, shall make returns thereof respectively to the commander in chief for the time being, without delay, who with the advice of the council of appointment shall issue commissions to them accordingly in default of which returns, they shall respectively do duty in the ranks with the militia, of the beat within which they shall respectively reside, until they shall respectively associate as aforesaid. That the substance of such associations shall be, that the associators will sev-

erally on all occasions, obey the orders of their respective commanding officers, and will in cases of invasion or incursions of the enemy, or insurrections, march to repel the enemy or suppress such insurrections, in like manner as the enrolled militia are compelled to do, so that they shall not, when called out in detachments, be annexed to any other regiment, or company, or be under the immediate command of any other than their own officers, but be deemed and considered as a separate and distinct corps, and that when such associated exempts shall be called into actual service they shall be subject to the orders and command of any and every officer of superior rank to such officer of associated exempts.

XXX. That every person, an inhabitant of this State, subject by this act to military duty in the militia, who shall remove out of the limits of the regiment or corps in which he shall be commissioned, associated, or enrolled, and sojourn, or be within the limits of any other regiment, or corps, shall be subject to drafts, and be obliged to do duty in the regiment, or corps, within the limits of which he shall so happen to be, unless he shall give a satisfactory account to the commanding officer of the said regiment, or company, that he has not absconded from the corps to which he belongs in order to avoid being drafted or performing other military duty.

In case of removal when liable to draft.

XXXI. That the lieutenant governor, members of the senate and assembly, and their several clerks, and all judicial officers, the secretary of this State and two of his deputies, the treasurer, the auditor general, and the attorney general of this State, the clerks and register of courts and the county clerks, and sheriffs and their respective deputies not exceeding one, and the coroners not commissioned in the militia, all county treasurers and all ministers of the gospel, and all physicians and surgeons except in their several and respective professions, and callings, all public school masters actually engaged for twelve months, all collectors, all ferry men licenced by the governor or commander in chief for the time being, all post masters, and post riders shall notwithstanding their being respectively able bodied, above sixteen and under sixty years of age, and all such persons in the service or employ of the United States, or of this State, or engaged or employed in any manufacture or business, so that it would be for the good of the public that they should be exempted, who shall procure special exemptions from the commander in chief of the militia of this State for the time being, under his hand, shall respectively be exempted from training and doing duty in the militia, but shall nevertheless be armed accoutred and provided as above mentioned.

Officers, etc., exempt from training.

XXXII. That all those male persons, between the ages of sixteen and sixty years, who are or shall be of the people called Quakers, upon producing a certificate from one of their quarterly meetings that he or they is or are of the society called Quakers, shall be exempted from all military service whatsoever, to which they would respectively be subject by this act, were they not respectively of the people called Quakers: And for such exemption, shall yearly and every year, severally pay the sum of eighty pounds, in lieu of all military service whatsoever, required by this act, except services on detachments and calling out the militia for actual service by virtue of this act in which cases each of them shall annually pay the sum of one hundred and sixty pounds. And for the purpose of levying the said annual sums, the captain or commanding officer of every beat, shall annually return to the respective supervisors of the ward, town, manor, precinct or district, wherein he shall reside, a list of such Quakers as aforesaid, residing

Quakers exempt but liable to tax.

within his beat; and the respective supervisors of the county, at either of their meetings, shall make out a separate tax list thereon, with a warrant to be issued by them to the collectors respectively for levying the same, of the form, as near as may be agreeable to the form of the warrants to collect the taxes for defraying the contingent expences of the county, and in default of goods and chattles of any Quaker, whereon to levy the said sum or sums, the warrant for levying the same shall authorize the collector to commit him to the gaol of the county, and the keeper of the said gaol, is hereby required to receive and detain him in safe and close custody, until the said sum or sums shall be paid to the said collector, and the said collector; shall respectively pay the monies they shall so from time to time collect, into the county treasury, from whence they shall be paid by the several county treasurers into the treasury of this State.

Act not to affect persons who have furnished substitutes

XXXIII. That this act, or any thing in the same contained, shall not in cases of drafts or detachments of the militia, affect any person, who has furnished a sufficient able bodied man for service in one of the five Continental battalions raised under the direction of this State, pursuant to law, unless the time of such service shall have expired.

Notice, what deemed sufficient.

XXXIV. That in all cases where notice is required by this act, verbal notice to the party himself, or left at his usual place of abode, with a person of the years of discretion, by any commissioned or non commissioned officer of the company, shall be deemed a legal and sufficient notice.

Whereas the militia officers are frequently put to great expence in attending general and regimental courts martial, and courts of enquiry.

Expenses of officers attending courts-martial to be paid out of fines, etc.

XXXV. *Be it therefore enacted by the authority aforesaid,* That the same shall respectively be ascertained from time to time, by the president of such courts respectively, and be paid from time to time, out of the fines arising from each regiment, or corps of exempts, and which are by this act required to be paid, to the commanding officer of the regiment, to be by him applied as aforesaid, and such certificates shall respectively be delivered, from time to time, by the respective officers entitled to receive the several fines imposed by this act, to the commanding officer of the regiment, together with the remaining balance of such fines, that every such officer so receiving such fines respectively, as by this act are made payable as aforesaid, shall, from time to time, as the same shall accrue and be received, account for and pay the same to the said commanding officer, in manner aforesaid, at the expiration of every three months, to commence thirty days after the passing of this act. That the respective colonels or commanding officers of regiments shall account under oath for the expenditures and application of the said fines, at, and to, the meeting of field officers by this act, directed to convene in January and June in every year, and that the balance be paid into the treasury of the State.

Officers to be reimbursed moneys expended.

XXXVI. *And whereas* the commanding officers of brigades and regiments are frequently on extraordinary emergencies, obliged to disburse of their own monies for paying expences, for reimbursement thereof, the treasurer of this State shall, and is hereby required, from time to time, to repay the same out of any monies in the treasury, Provided that the accounts thereof respectively shall be first sworn to before a justice of the peace of any county within this State.

Ammunition to be furnished.

XXXVII. *Be it further enacted by the authority aforesaid,* That the commissioner of military stores, of this State, shall on application of any or either of the colonels or commanding officers of regiments of the militia of this State, by a draft in writing on the said commissioner, in favor of the quarter master of the regiment, with a warrant endorsed

from the person administering the government of this State for the time being, furnish such quarter master, or quarter masters, with such quantities either of loose ammunition, or made up in cartridges, for the said regiment or regiments, as shall be directed by the said warrant, the said quarter master or quarter masters paying for the same, the first cost thereof, and the expence of making up the same, which monies the said commissioner shall from time to time lay out again, in the purchase of ammunition.

XXXVIII. *And be it further enacted by the authority aforesaid,* That if any person be wounded or disabled upon assisting in repelling any invasion or an incursion of the enemy, or suppressing an insurrection, or any other legal military service, he shall be subsisted and provided for at the expence of the State, during such disability, except such persons whose cases are already provided for by the several acts of the congress of the United States of America, making provision for persons that may become disabled while in the service of the United States. That each person who hath been, or shall hereafter be so wounded or disabled, and whose cases shall not be provided for as aforesaid, shall be entitled to such partial or permanent allowance, as shall be adjudged by the field officers of the regiment (not exceeding the allowances granted by the acts of congress aforesaid) and which adjudication, being confirmed by the commander in chief for the time being, he shall thereupon issue duplicate warrants under the privy seal of the State, upon the treasury for the payment of the sum or sums so to be adjudged to the person so wounded or disabled; and the treasurer upon being served with one of the said duplicates, shall out of any monies which may then be in the treasury, pay to the several persons in whose favor such warrants shall be issued, the sum or sums to be specified, and in such manner as shall be directed by the said warrants respectively.

Wounded persons to be subsisted, etc.

XXXIX. *And be it further enacted by the authority aforesaid,* That the act now in force, entitled, "An act for regulating the militia of the State of New York," passed on the third day of April one thousand seven hundred and seventy eight, the act entitled "An act, to amend an act, entitled An act, for regulating the militia of the State of New York" passed the thirtieth day of June one thousand seven and seventy eight, and the act, entitled "An act, farther to amend an act, entitled An act, for regulating the militia of the State of New York, and other purposes therein mentioned," passed the ninth day of October, one thousand seven hundred and seventy nine, shall be, and are hereby respectively continued in full force, until the third day of April next, any thing contained in in this act notwithstanding.

Acts continued in force.

And whereas the proceedings of sundry courts martial, are not fully compleated, as also many delinquents not yet tried.

XL. *Be it therefore further enacted by the authority aforesaid,* That regimental courts martial shall and may take cognizance of, try and determine, all such offenders as have been guilty of any offences against the before mentioned acts: Provided, that no sentence of such court shall extend to corporal punishment of every kind whatsoever except imprisonment, and provided also, that no such court shall proceed to any such trial, but by and with the consent of the commander in chief, or a general officer of this State.

Offenders against may be tried.

XLI. That proceedings or trials at courts martial, may be carried on at any time or times, the seventh article of the fourteenth section of the said articles of war, whereby such proceedings or trials are prohibited from being carried on, except between the hours of eight in the morning, and three in the afternoon, to the contrary notwithstanding.

Proceedings of courts when may be carried on.

Articles of
war to be
read.

XLII. That the commanding officers of the several companies, shall cause the said articles of war, to be read and published at least twice in every year, at the head of their respective companies.

XLIII. *And be it further enacted by the authority aforesaid,* That this act shall continue and be in force from the third day of April next, until the first day of March, one thousand seven hundred and eighty two, and no longer.

CHAP. 56.

AN ACT for the more speedy trial of felonies without benefit of clergy for subjecting the accessaries to such felonies, to a like punishment, with the principals, and for the trials of such accessaries, although the principals may not be convicted.

PASSED the 11th of March, 1780.

Preamble. WHEREAS murders, burglaries, thefts and robberies have been of late so frequently committed within the State, that the public peace and safety require the most speedy and effectual mode of punishing, and preventing the same in future.

Commissions for
courts
named to
be made
out.

Be it therefore enacted by the People of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That commissions of oyer and terminer and general gaol delivery, shall, as soon as conveniently may be, after the passing of this act, be made out, if the same are not already made out, for the counties of Albany, Ulster, Westchester, Dutchess, Orange, Tryon and Charlotte respectively, to continue and be in force respectively, for one year from the respective dates thereof, which commissions shall be lodged with the clerk of the courts of oyer and terminer and general gaol delivery.

Precepts
to be
issued for
summoning grand
juries, etc.

And be it further enacted by the authority aforesaid, That whenever and as often as any person or persons, shall be apprehended and in actual custody, charged with any of the offences aforesaid, heretofore committed or that may hereafter be committed, it shall and may be lawfull, and it is hereby declared to be the duty of each and every of the judges of the supreme court of judicature of this State, on report being made to him or them in writing by the several sherifs of the said counties, that any person or persons for the offences aforesaid are in actual custody, immediately to issue a precept in his or their name or names and under his or their hand or hands and seal or seals and as near as may be agreeable to the form of precept issued by the justices of the courts of oyer and terminer and general gaol delivery in this State, to such sheriff, for summoning a grand and petit jury for, and proclaiming, a court of oyer and terminer and general gaol delivery, at such time and place in the said county as the said judge or judges shall appoint, which precept is hereby declared to be good legall and effectual to all intents and purposes whatsoever, although there may not be fifteen days between the test and return thereof, and such sheriff is hereby required and commanded immediately to proceed to the execution thereof without any delay, And that all summonses, services, notices and other duties commanded by the said precept to be done and performed by the said sheriff are hereby declared to be legally and well and effectually done and performed, if done and performed on or before the day preceding the day appointed for the holding the said

CHAP. 26.

AN ACT for the relief of John L. Hardenbergh.

PASSED the 30th of March, 1782.

- Preamble.** WHEREAS the certificates given by the auditors appointed to liquidate and settle the accounts of the troops of this State in the service of the United States to the said John L. Hardenbergh for the depreciation of his pay while in the said service, are alledged to be lost or destroyed
- Be it therefore enacted by the People of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same,* That it shall and may be lawfull for the said auditors or any two of them, to grant to the said John L. Hardenbergh other certificates for the depreciation of his pay while he served in the regiments of this State in the service of the United States, amounting to the value of the certificates formerly given to him at the time they were made, and bearing interest on that amount; on the said John L. Hardenbergh with two sufficient freeholders as his sureties having first sealed and delivered in the presence of three witnesses, of which at least one of the said auditors to be one, a joint and several bond to the treasurer of this State in treble the amount of the said certificate, with condition, that the said John L. Hardenbergh his heirs executors or administrators shall and will save harmless and keep indemnified the people of the State of New York from any costs charge claim payment or demand, or the location of any lands tenements or real estate, for by reason or on account of the said certificates which are alledged to be lost or destroyed.
- And be it further enacted by the authority aforesaid* That the said auditors who may subscribe the certificates to be given to the said John L. Hardenbergh in pursuance of this act, shall before they deliver the said certificates last mentioned to the said John L. Hardenbergh, or to any other person for his use, make such memorandum as they shall think proper on the margin remaining in the book from whence the certificates alledged to be lost were indented and taken out, and also on the margin from whence the certificates to be given in pursuance of this act shall be taken out, purporting that the last mentioned certificates are given in lieu of those alledged to be lost or destroyed; and shall also indorse on each certificate to be given in pursuance of this act, a memorandum, that the same is or are given in lieu of those alledged to be lost or destroyed, specifying in such memorandum the number and amount in value of the certificates alledged to be lost or destroyed.

Auditors to grant other certificates to John L. Hardenbergh.

Bond to be given.

Condition.

Entry to be made on margin remaining in book.

CHAP. 27.

AN ACT to regulate the militia.

PASSED the 4th of April, 1782.

- Preamble.** WHEREAS it is necessary to put the militia on such an establishment as will most effectually encourage a martial spirit among the people, provide for the internal and external security of the State and enable it most vigorously to co-operate with the other United States in a cause no less noble and exalted than the defence of the common rights and liberties of America against hostile tyranny and oppression.

I. Be it therefore enacted by the People of the State of New York Persons to be enrolled
represented in Senate and Assembly and it is hereby enacted by the authority
of the same That every able bodied male person (Indians and slaves
 excepted) residing within this State from sixteen years of age to fifty
 (except such persons as are hereinafter excepted) shall immediately
 after the passing of this act, unless he shall have been heretofore en-
 rolled by the captain or in his absence the next commanding officer of
 the beat wherein he shall reside, be enrolled in the company of such
 beat. That every captain or commanding officer of a company shall
 also enroll every person who shall from time to time arrive at the age
 of sixteen years or come to reside or sojourn within his beat and with-
 out delay notify such enrollment to each person so enrolled by some in-
 ferior officer of the company who on oath shall be a competent witness
 to prove such notice. That if any dispute shall arise with respect to the
 age or ability to bear arms of any person, it shall be determined by the
 colonel or commanding officer of the regiment whose determination in
 the case shall be final. That every person so enrolled and notified shall
 within twenty days thereafter furnish and provide himself at his own
 expence with a good musket or firelock fit for service, a sufficient bayo-
 net (unless he shall be provided with a good rifle) with a good belt or
 pouch or cartouch box containing not less than sixteen cartridges suited
 to the bore of the musket or firelock, each cartridge containing a proper
 quantity of powder and ball or in lieu of such pouch cartouch box or
 cartridges, with a quantity of powder and ball respectively disposed of
 in a powder horn and shot bag, and wadding sufficient for the same and
 two spare flints, a blanket and knapsack; and shall appear so armed, ac-
 coutred and provided, when called out to exercise, or duty, as herein after
 directed; except that when called out to exercise only, he may appear
 without blanket or knapsack; and if any such person shall appear to the
 captain or commanding officer of the company to be too indigent to
 arm, accouter and provide himself in manner aforesaid, he shall be fur-
 nished with arms and accoutrements out of the monies to arise from such
 fines as shall from time to time accrue in the regiment to which he shall
 belong, and in case of deficiency thereof, out of the public magazines or
 stores of this State, by order of the person so administering the govern-
 ment of this State for the time being.

II. That the commander in chief for the time being shall by general
 orders arrange the militia of this State into brigades, regiments, and com-
 panies, and by and with the advice and consent of the council of ap-
 pointment, appoint such and so many brigadiers general and other
 officers as he shall think most conducive to the public service; copies
 of such general orders to be filed in the office of the clerk of the county
 where the regiment, or company shall be.

III. That each brigadier general shall have one brigade major of his
 own choice, to rank as major in the militia and receive pay on the certi-
 ficate of his brigadier for the time he shall be in service.

IV. That in case of the death, resignation or other inability to serve
 of any colonel now commanding a regiment, no colonel shall thereafter
 be appointed thereto, but that such regiment and all others not now
 commanded by a colonel shall henceforth be commanded by a lieuten-
 ant colonel.—That each regiment shall have one major (unless in cases
 where it shall be thought necessary to appoint two majors — That each
 company shall be officered with one captain, one first lieutenant, one
 second lieutenant and one ensign, as commissioned officers (That in
 case of the death, resignation or other inability to serve of any second
 lieutenant it shall be in the discretion of the governor by and with the

Commanding officer to determine disputes. Person enrolled to provide himself with equipments etc., and appear with same when called out.

Commander in chief to arrange militia into brigades, etc.

Brigade major.

Commandants of regiments.

Company officers.

Regimental staff. advice and consent of the council of appointment to appoint another or not) and by four serjeants, four corporals one drummer and one fifer— And the staff of each regiment shall be, one adjutant and one quarter master who shall respectively rank as first lieutenants, and the serjeants, corporals, drummers and fifers, shall be appointed from time to time by the captains or other commanding officers of the several companies; and if any non commissioned officer so to be appointed shall refuse to accept the office to which he shall be appointed he shall forfeit the sum of forty shillings, to be adjudged levied and disposed of, in manner as is herein after directed with respect to fines for neglecting or refusing to appear to train and exercise as is herein after mentioned.

Colors, drum and fife.

V. That each regiment shall be provided with a standard of colours at the expence of the field officers, and each company with a drum and fife at the expence of the commissioned officers thereof—

Troops of horse and grenadiers.

VI. That there may be a troop of horse in each brigade and two troops of horse in the county of Westchester and a company of grenadiers in each regiment of foot which may conveniently furnish the same—

Of whom to be composed.

That the said troops of horse and companies of grenadiers shall respectively, be formed and composed of volunteers in the respective brigades and regiments residing at such convenient distances from each other that they may with ease and dispatch be called out for training, discipline or other service. Provided that no troop of horse shall be established without the consent of the brigadier or commanding officer of the brigade; and that no grenadier company shall be established in any regiment without the consent of all the field officers; and that no troop of horse or grenadier company shall exceed fifty men officers included; and that no person shall hereafter enlist in any troop of horse or grenadier company without the consent of the commanding officer of the regiment in which he shall reside.—

Proviso as to consent of brigadier, etc.

Enlistments to be certified.

VII. That on every such enlistment of a volunteer the captain of a troop of horse or company of grenadiers do immediately certify to the captain of the beat from which such volunteer shall enlist, the enlistment of the said volunteer.—

Equipment of troopers and grenadiers.

VIII. That each trooper shall be equipped and provided with a good serviceable horse at least fourteen hands high, a good saddle, housing, holsters, breast plate and crupper, a case of good pistols, a good horsemans sword, a pair of boots and spurs, and a carbine well fixed with a good belt, swivel and bucket, and a cartridge box to contain twelve cartridges at least; and that each grenadier shall be equipped and provided with a grenadier's cap, a good musket and bayonet, a broad sword, a belt and pouch or cartridge box, and so equipped and provided the troopers and grenadiers shall respectively be called out under the direction of their respective officers as is hereby required with respect to the rest of the militia.

To be called out.

Regimental parades.

IX. That each colonel or commanding officer of a regiment shall in the months of May and October in every year, call out his regiment to his regimental parade, (which shall be the place in the district of the regiment the most convenient for that purpose,) and having paraded the same, shall require from the captain or commanding officer of every beat in the regiment a return thereof, expressing the exempts and the absentees, and the causes of the respective exemptions and absences; cause the said regiment, except the exempts then paraded, to be called by the company rolls; and the arms, ammunition and accoutrements of each man to be examined, and the defaulters to be noted, and shall cause them to be sufficiently exercised, trained and disciplined; and shall within two weeks there after make or cause to be made a true regimental

return (excepting therein by name the exempts or absentees) to the brigadier general or commanding officer of the brigade — That the captain or commanding officer of each company shall and may call out his company to such place within his beat as shall be most convenient for that purpose at least four times in every year, and shall cause them when so called out to be well and sufficiently exercised, trained and disciplined.

Company
parades.

X. That every commissioned officer of the militia in this State who shall omit or neglect to perform any of the duties by this act enjoined on him, of enrolling training or disciplining in and to the use of arms the militia of this State, or of making perfect returns of the militia, or of not calling out to actual service the militia or any part thereof when necessary, and shall, if under the rank of a brigadier be thereof convicted by a brigade court martial from the brigade to which he shall belong, consisting of at least thirteen members (which court martial the brigadier is hereby authorized and required to appoint and direct to sit) and the sentence thereon be confirmed by the brigadier general or the officer commanding the said brigade with the right of appeal to the commander in chief to whom the proceedings shall be immediately reported. Be *ipso facto* removed from his office and reduced to do duty in the ranks as a foot soldier; any exemption from duty to the contrary in any wise notwithstanding. And all brigadiers general, for offences, not particularly provided for in this act, shall be tried by a general court martial to be appointed by the commander in chief; and if on conviction the sentence thereof be confirmed by the commander in chief, that there upon such brigadier general shall be removed from his office.—That all sentences of courts-martial so confirmed shall be by the commander in chief from time to time, laid before the council of appointment, to the end, that the person administering the government of this State for the time being by and with their advice and consent may appoint others instead of the officers so found guilty.

Officers
neglecting
to perform
duty to be
tried by
court
martial,
etc.

Sentence
to be laid
before
council of
appoint-
ment.

XI. That every commissioned officer of the militia of this State, who shall be cashiered, or who shall resign his commission, not being superseded in rank in the company to which he belongs, or being a major, or captain, not being superseded in the regiment to which he belongs, or commanding a regiment not being superseded in the brigade to which he belongs or unless his resignation shall be accepted by the governor by and with the consent of the council of appointment, shall be obliged to do the duty of, and in every respect, be put on a footing with a private soldier, any thing contained in this act, to the contrary thereof notwithstanding.

Officers
cashiered,
etc., to do
duty as
private
soldiers.

XII. That every non commissioned officer or private of the said militia who shall neglect to appear when called out to train or parade as herein before mentioned, without sufficient excuse, shall for every such offence forfeit the sum of ten shillings; and if he shall appear wanting any of his arms, ammunition, or accoutrements prescribed for him by this act, without sufficient excuse, he shall for every deficiency forfeit the sum of two shillings—and if any non commissioned officer or private in any troop of horse, or company of grenadiers, shall be charged with either of the said offences and shall not have sufficient excuse, he shall forfeit for the offence of not appearing the sum of twenty shillings—and for every other of the said offences the sum of four shillings.—

Non-com-
missioned
officers,
and pri-
vates to
forfeit
sum
named in
case of
neglect,
etc.

XIII. That all fines to arise from offences in a company only when called out to train or parade shall be adjudged of, and inflicted by the commissioned officers of such company, or the major part thereof, and shall be levied with costs, by warrant under the hand and seal of the

Fines, how
inflicted
and levied.

captain or commanding officer, directed to one or more of the serjeants of the company, by distress and sale of the goods and chattles of the offender and paid by the serjeant or serjeants to the said commanding officer of the company; and that all fines to arise from the like offences, upon the calling out of the regiment, shall be adjudged of and inflicted by the field officers of the regiment, or the major part of them, and shall be levied with costs, by warrant under the hand and seal of the commanding officer of the regiment, directed to one or more of the serjeants of the said regiment, by distress and sale of the goods and chattles of the offenders respectively, and by him or them paid to the said commanding officer; all which fines shall by the commanding officer of the regiment, or of the companies, be paid over to the quarter master of the said regiment, to be by him laid out under the direction of the field officers of the regiment, or the major part thereof, for arming, accoutring and furnishing with ammunition, the privates thereof, in manner aforesaid; and where, in any case, no goods or chattels shall be found, then on such warrants to be issued in either of the cases above mentioned, the serjeant or serjeants shall take the body of the offender and him convey to the common gaol of the county; and if there shall not be a common gaol in the county then to the common gaol in an adjoining county there to be kept in safe and close custody, until he pay the fine with costs, and the gaoler of such gaol is hereby required and commanded to receive such offender with the warrant and him safely keep until he shall have paid his said fine and costs, or shall be discharged by the commanding officer of the regiment to which he doth belong, which gaoler shall after receiving the said fine and costs, on demand by such serjeant or serjeants pay the same to him or them; and thereupon such fine shall be disposed of in manner herein before directed for the disposal of fines.

Fines, how to be adjudged of and collected.

XIV. That all officers in the militia shall take rank according to the dates of their commissions, provided that where any officer now holds the same office in the militia which he held under the late government before the revolution, or under the convention before the present government, and since hath received a new commission for the same office, such officer shall take rank from the date of his former, and not from the date of his last commission, any thing herein contained to the contrary notwithstanding.

Official rank.

XV. That from all returns to be made by the commanding officers of regiments respectively to the respective brigadiers general, or commanding officers of the brigade; brigade returns shall without delay be made to the commander in chief, that the commanding officers of regiments not formed into brigades shall without delay make returns to the commander in chief.

Returns to be made to the commander in chief.

XVI. That one brigade, regiment, or, company of foot (except grenadiers who shall form on the right of the regiment) shall not be considered as older, or having rank or preference of the other; but each brigade, regiment or company shall be posted and disposed of in the line, on command as the commanding officer on the spot, shall on every occasion or emergency think proper. —

Brigades, etc., how to rank and be posted in line.

XVII. That on every emergency of a sudden actual or threatened invasion by the enemy, or any insurrection, the commanding officer of any brigade, regiment or company, as the case may require, shall immediately draw out the militia under his command, and with them march to any place, whether within or without the State, to oppose the enemy, or to quell insurrections within the State; and that all brigades, regiments, troops and companies, shall from time to time be subject to gene-

Militia to be drawn out in cases of emergency

ral, brigade, regimental and company orders, as is usual according to the course and practice of war, for suddenly taking the field for the purpose aforesaid — And all such orders by any officer under the rank of commander in chief, shall be reported in writing by express to the commanding officer of the regiment, if given by one under his command, and if given by the commanding officer of the regiment shall be reported to the brigadier general; and if given by the brigadier general, to the commander in chief; all which reports shall be acted upon by the respective persons to whom the same shall respectively be made, as the emergency may require, and by such persons respectively, be reported with their respective proceedings thereon to their next superior officer; and so on in succession till they reach the commander in chief.

Orders to be reported by express to commanding officer.

XVIII. That every person in the militia whether officer or private, when called out into actual service, either to act seperately or in conjunction with the troops of the United States of America, shall from the time of his marching out into the said service until he be properly discharged therefrom, be allowed pay and rations according to the Continental establishment; and having marched out in such service, and before his proper discharge or dismissal shall commit any offence or shall before such discharge or dismissal desert from the corps to which he shall belong, or from his post, shall for every such offence be subject to the rules and articles of war, established by the congress of the United States of America, for the better government of the troops in the service of the said United States, which shall be put in execution against the offender by the militia orders and authority, in like manner as the same are put in execution in the army of the said United States against offenders therein, by proper orders and authority thereof; and that in all such cases the governor or commander in chief for the time being, and all militia officers, subordinate to him, shall and may enjoy and exercise all the powers by the said rules and articles of war given to the commander in chief of the army of the United States, and the several officers subordinate to him in the said army — And that upon notice left at the usual place of abode of any offender containing the charge against him and the time and place when and where the court martial will be held for his tryal, and due proof made to such court of the service of such notice, it shall be lawful for such court to proceed to the tryal of such offender, in like manner as if he had appeared and plead not guilty to the charge.—

Pay and rations.

Deserters subject to rules and articles of war.

Upon notice left at residence and proof of service court may try offender.

XIX. That in every case where a fine shall be imposed by a court martial in consequence of the last preceeding clause, it shall and may be lawful for such court martial to direct the offender (in case of the non payment of such fine) to serve in and do duty with any one of the regiments of the army of the United States of America raised by the direction and under the authority of this State, as a private soldier thereof, for and during such time as the court martial shall adjudge not exceeding six months.—

In case of non-payment of fines offenders may be directed to serve as privates

XX. That the commander in chief for the time being shall have power and authority from time to time in his discretion, to order out the whole, or any part of the associated exempts and enrolled militia of this State into actual service, not only for the defence of this State, but to give assistance to any other of the United States, or to reinforce the army of the United States or any part thereof, and to cause each of them to march out of this State for either of the said purposes, and that the associated exempts shall be called out in rotation so as to do their equal proportion of duty with the enrolled militia, as nearly as

Commander in chief may order out militia, etc.

may be in the discretion of the commander in chief or brigadier general within whose command the associated exempts do reside;

Term of
service,
etc.

Provided always, that none of the enrolled militia of this State or associated exempts, shall be compelled to do duty out of the same for a greater space of time than forty days at any one time. And provided also that not more than one third part of the militia and associated exempts of this State shall on any occasion or emergency be required or ordered to march out of this State, any thing herein contained to the contrary hereof in any wise notwithstanding.—

Militia
may be
called out
to aid sher-
iff in exe-
cuting pro-
cess.

XXI. That whenever any sheriff his deputy or any other ministerial officer in any of the counties of this State shall receive any legal process commanding him or them to apprehend any person or persons therein charged with any crime or offence against the laws of this State, and such sheriff his deputy or other ministerial officer shall have been forcibly resisted or shall have good grounds to suspect that by force and arms he will be obstructed or resisted in the execution of such process by the said offender or offenders, and his or their aiders and abettors, such sheriff his deputy or other ministerial officer shall represent the circumstances of such resistance or the reason of such his apprehension to the brigadier general or other commanding officer of the militia of the county in which such process is to be served; and if it shall appear to the said brigadier or other commanding officer that there are just grounds for such suspicion, that then and in every such case it shall be lawful for the said brigadier general or other commanding officer to order out such detachment of militia as to him shall appear necessary to aid the said sheriff, his deputy or other ministerial officer to execute such process and which said detachment shall act under the directions and orders of such sheriff, his deputy or other ministerial officer. That such brigadier or other commanding officer shall from time to time report to the commander in chief such application and orders he shall issue in consequence thereof.

Military
courts.

XXII. That for the several purposes aforesaid general, brigade and regimental courts martial, and courts of inquiry shall from time to time as cases may require, be instituted and formed, and general, brigade and regimental orders from time to time given, upon the plan directed by the aforesaid rules and articles of war, and by the officers in rank respectively in the militia equal with those respectively authorized for the purpose by the said articles of war; in respect whereof the governor or commander in chief and all militia officers respectively shall be considered as on the same footing as the general and commander in chief of, and as the officers in their respective ranks belonging to, the army of the said United States.—

Punish-
ment.

Provided always that no commissioned military officer, except when questioned upon the aforesaid rules and articles of war, shall be sentenced or adjudged to any other punishment than to be cashiered and rendered incapable of any military office whatsoever within this State.

Fine in
commuta-
tion of cor-
poral
punish-
ment.

And provided also that it shall and may be lawful for a court martial whenever they shall conceive it proper to fix and determine a fine for which any person adjudged to receive corporal punishment may commute such punishment; and if the same fine shall be paid within the time by the court martial for that purpose limited—the said person shall be accordingly acquitted of such corporal punishment. That all such fines shall be paid into the hands of the president of the said court martial, and shall by him be paid into the hands of the quarter master of the regiment to which the offenders do belong, for the purpose of providing a sufficient quantity of arms and ammunition for the use of the said

regiment agreeable to the directions in the fourteenth clause of this act; and that the overplus be paid by the said quarter master into the treasury of this State.

XXIII. That a roll of the privates of each company shall be made and divided by the commanding officer of the company into eight classes as nearly equal in number to each other as conveniently may be, and a serjeant or corporal shall be allotted on the roll by the commanding officer to each class, which said eight classes in each company shall on detachments, or drafts in pursuance of this act, perform their tour of duty in numerical order; and to ascertain which class shall take the first and which the second tour of duty on detachment, and so on to the eighth class, eight slips of paper numbered respectively from one to eight inclusively shall be so rolled up, or otherwise closed, as to conceal the number, and being put into a hatt and well shook together in the same, the serjeant or corporal of each class shall, in the order to be directed by the commanding officer in behalf of his class, take out one of the ballots, and the number drawn by the serjeants and corporals respectively, shall determine the respective tours of duty of the several classes—The class which draws number one, to have the first tour of duty, and so determining their respective tours of duty in a numerical order throughout all the eight classes, and in the same numerical order shall the eight classes continue their rotation without any new balloting, until the numbers respectively contained in each class shall by the events of war, other accidents become very unequal, when there shall be a new balloting as above directed. That where a company increases by the accession of men from any other parts, or by persons residing within the beat and arriving to the age of sixteen years, the commanding officer of the company shall therewith compleat any classes which may have become deficient; and if a residue remains shall distribute such residue as equally amongst the classes as circumstances will permit—

XXIV. That when and as often as the classes shall be thus fixed, each commanding officer of each company shall form a roll consisting of the eight classes, and containing the names of the men in each class with the names of the serjeant and corporal respectively prefixed to each class, and numbered according to the order of balloting, which he shall keep for his own use guidance and direction, and shall notify each serjeant, corporal and private, to what class he shall belong; and shall return a copy thereof with the list of his commissioned officers prefixed thereto, without delay, to the colonel or commanding officer of the regiment who shall enter all such and every other company return, in a book to be kept by him for the purpose.—

XXV. That the commanding officer of each regiment shall on receipt of all the classed returns of the companies in the regiment, convene together all the commissioned officers in the regiment, and proceed in like manner, to fix by ballot, the respective tours of duty, of all commissioned officers under the rank and degree of a field officer, from and including number one, to and including such number as shall be equal to the number of companies in the regiment, which balloting shall be made separately and severally in the four several lines of office, and be entered by the commanding officer in his said book; as also the quota of each detachment, both as to officers and privates, in order thereby, from time to time to ascertain the rotation of the service of both, which shall ever be determined by such quotas respectively.

XXVI. That if there be two majors belonging to a regiment, they shall decide by lot, which of them shall take the first tour of duty, and the order or tour of duty thereby established shall ever after govern.

Rotation of
duty on de-
tachments
among
field offi-
cers.

XXVII. That to establish the rotation of duty on detachments among the several field officers in the regiments composing a brigade, the colonels, lieutenant colonels and majors, shall without delay meet together and decide the same by several and separate lots in numerical order as aforesaid. in the several lines of office, which being done, a roll thereof shall be made and subscribed by them all, and returned to the brigadier general of the brigade — The colonels, lieutenant colonels and majors of the regiments not brigaded shall meet and decide the rotation of duty on detachments, the same as the colonels, lieutenant colonels and majors of the brigades are by this act directed.

Brigadier
general.

XXVIII. That to a brigadier general's command of detachments, the commander in chief shall appoint such brigadier general as shall in his judgment appear most proper for the advancement of the service.

Substitute
may be em-
ployed.

XXIX. That every private shall be allowed to substitute on detachments an able bodied private in his stead who shall nevertheless take his own tour of duty in the order wherein it shall have been fixed as aforesaid—That in case of sickness or by unavoidable accident any officer or private shall be prevented from taking his tour of duty on any detachment, the next to him on the respective rolls of detachments without regard to classes with respect to privates, shall fill his place, and the person so prevented shall in return take the proper next tour of duty on detachment of him so filling his place ; and all classing as aforesaid shall go on in rotation, in the several numerical orders above mentioned, as long and as often as the public service shall require the same.

Tours of
duty in
case of ill-
ness, etc.

Discre-
tionary
power to
order out
troops.

Provided always, that the commander in chief shall and may from time to time in his discretion order out on detachment as great a part or the whole of any brigade, regiment, troop of horse or associated exempts as he may think proper or the whole militia into actual service: And also that the like discretionary power may on sudden emergencies and without waiting the order of his superior officer be exercised by the commanding officer of any brigade, regiment, troop of horse or company respectively, over each brigade, regiment, troop of horse, or company, giving notice thereof in writing without delay, together with all things relating thereto, as well to his commanding officer as to the commander in chief for the time being.—

Governor
on requisition
of
commander
in
chief of U.
S. army,
may de-
tach troops
for offens-
ive opera-
tions.

XXX. That if the commander in chief of the army of the United States should in the prosecution of the war be under the necessity of calling on this State for an aid of militia for offensive operations within this State, it shall and may be lawful for his excellency the governor or the person administering the government of this State for the time being on every such requisition to detach from the regiments of militia of this State or from such of them as he shall judge proper such and so many officers noncommissioned officers and privates as he shall from time to time deem consistent with the interest and safety of the State, to continue in service for such time as he shall judge proper not exceeding the term of three months from the time they shall arrive at the place of actual service and the same to relieve as occasion may require.

Exempts
from ser-
vice in en-
rolled
militia.

XXXI. That all persons under the age of sixty who have held civil or military commissions, and are not or shall not be re-appointed to their respective proper ranks of office, and all other persons between the age of fifty and sixty years who have associated and elected their officers, or shall hereafter associate themselves, shall be exempted from serving as part of the enrolled militia — That all persons who have not yet associated, shall form themselves into voluntary associated regiments or companies according to their number in each respective county and

Voluntary
associa-
tions to be
formed,
etc.

recommend their own officers, and that all such associated regiments or companies shall make returns thereof respectively to the commander in chief for the time being without delay, who with the advice and consent of the council of appointment shall issue commissions to them accordingly, in default of which returns they shall respectively do duty in the ranks with the militia of the beat within which they shall respectively reside, until they shall respectively associate as aforesaid — That the substance of such associations shall be, that the associators will severally on all occasions obey the orders of their respective commanding officers, and all others authorized to give them orders by this act, and will in cases of such invasion or incursions of the enemy or insurrections march to repel the enemy or suppress such insurrections in like manner as the enrolled militia are compelled to do; so that they shall not when called out in detachments be annexed to any other regiment or company, or be under the immediate command of any other than their own officers, except as herein after excepted, but be deemed and considered as a separate and distinct corps; and that when such associated exempts shall be called into actual service, they shall be subject to the orders and command of any and every officer of superior rank to such officer of associated exempts.—

Associa-
tions to
obey or-
ders, etc.

XXXII. That every person an inhabitant of this State subject by this act to military duty in the militia who shall remove out of the limits of the regiment or corps in which he shall be commissioned, associated or enrolled, or sojourn or be within the limits of any other regiment or corps, shall be subject to drafts, and be obliged to do duty in the regiment or corps within the limits of which he shall so happen to be.

Persons
subject to
draft.

XXXIII. That the lieutenant governor, members of the senate and assembly, the clerks of the senate and assembly, all judicial officers, the secretary of this State, and one of his deputies, the attorney general of this State, the treasurer of this State, the auditor of this State, the clerks of courts of law, the county clerks the clerk of the court of probates all ministers of the gospel, all post masters and post riders, all sheriffs, and one gaoler to every gaol, notwithstanding their being respectively able bodied above sixteen and under sixty years, and all such persons who shall procure special exemptions from the commander in chief of this State for the time being, shall respectively be exempted from training and doing duty in the militia, but shall nevertheless be armed accoutred and provided as by this act is directed — That it shall and may be lawfull to and for the commanding officer of every regiment to grant exemptions in writing to such physicians, surgeons, school masters, millers and ferrymen, as he shall in his judgment deem it would be more prejudicial to the common weal to take out with the militia, than to permit them to remain at home; provided no such exemption shall from time to time be given for a longer term than thirty days from the date of the permit.—

Persons
exempt
from train-
ing, etc.

XXXIV. That each male person between the ages of sixteen and sixty years who is or shall be of the people called Quakers, upon producing a certificate from one of their quarterly meetings that he is of the society called Quakers, shall be exempted from all personal military service whatsoever to which he would be subject by this act was he not of the people called Quakers; and for such exemption shall yearly and every year pay the sum of ten pounds in lieu of all military service whatsoever required by this act — And for the purpose of levying the said annual sum, the commanding officer of every beat shall annually in the month of May return to the respective supervisors of the ward, town, manor, precinct or district, wherein he shall reside a list of such Quakers as aforesaid, residing within his beat; and the respective supervisors of

Quakers
exempt.

Yearly tax.

How levied
and collec-
ted.

the county at either of their meetings shall make out a separate tax list thereon (a copy whereof they shall cause to be delivered to the treasurer of the county) with a warrant to be issued by them to the collectors respectively, for levying the same, of the form as near as may be, agreeable to the form of the warrants to collect the taxes for defraying the contingent expences of the county; and in default of goods and chattles of any Quaker, whereon to levy the said sum, the warrant for levying the same shall authorize the collector to commit him to the gaol of the county, and if there shall not be a gaol in the county then to the gaol in an adjoining county — and the keeper of such gaol is hereby required to receive and detain him in safe custody until the said sum shall be paid to the said collector; and the said collectors shall respectively pay the monies they shall so from time to time collect into the county treasury, from whence they shall be paid by the several county treasurers into the treasury of this State, for which collection the collector shall be allowed the like poundage as for collecting the contingent charges of the county.

Act not to affect persons who have furnished substitutes.

XXXV. That this act or any thing in the same contained shall not in cases of drafts or detachments of the militia affect any person who has furnished heretofore, a sufficient able bodied man for service in one of the regiments raised under the direction of this State, unless the time of such service shall have expired.—

Verbal notice sufficient.

XXXVI. That in all cases where notice is required by this act, verbal notice to the party himself or left at his usual place of abode with a person of the years of discretion by any commissioned officer or non-commissioned officer of the company, shall be deemed a legal and sufficient notice.—

Compensation of officers attending courts martial.

XXXVII. *And be it enacted by the authority aforesaid,* That the officers attending general or regimental courts martial by virtue of this act shall for every day they shall respectively serve on the said courts be paid the sum of six shillings, (which said sum of six shillings per day, shall be in full of all pay and subsistence for such service,) out of the fines to be imposed by the said courts, to be ascertained by the respective presidents of the said courts — That the fines imposed by the said courts shall be recovered by warrant, under the hand of the commanding officer of the regiment, directed to any serjeant or serjeants of the regiment by distress and sale of the goods and chattles of the offender, and for want thereof the offender shall be committed to the gaol of the county, and if there shall not be a common gaol in the county then to the gaol in an adjoining county; and the keeper of such gaol is hereby required to receive and detain him in safe and close custody until the said fine shall be paid, or until the time of his confinement expires agreeable to the said warrant — That out of the said fines when recovered the commanding officer of the regiment shall pay the said officers of his said regiment attending on the said courts, and the overplus money of the said fines shall by the said commanding officer be paid into the treasury of this State.—

Fines, how recovered.

Officers to be paid from moneys received from fines.

Reimbursement of moneys paid out by officers.

XXXVIII. *And whereas* the commanding officers of brigades and regiments are frequently on extraordinary emergencies obliged to disburse of their own monies for paying expresses; for reimbursement whereof, the treasurer of this State, shall and is hereby required from time to time to repay the same out of any monies in the treasury not by law otherwise particularly appropriated provided that the accounts thereof respectively shall be first sworn to before a justice of the peace of any county within this State.—

XXXIX. *And be it further enacted by the authority aforesaid,* That the commissioner of military stores of this State, shall on application of any commanding officer of a regiment of the militia of this State, by draft in writing on the said commissioner, in favor of the quarter master of the regiment with a warrant endorsed by the person administering the government of this State for the time being, furnish him with such quantities, either of loose ammunition or made up in cartridges as shall be directed by such warrant; the said quarter master paying for the same the first cost thereof and the expence of making up the same; which monies the said commissioner shall from time to time lay out in the purchase of ammunition.—

Ammunition to be furnished on requisition.

XI. *And be it further enacted by the authority aforesaid,* That if any person be wounded or disabled, upon assisting in repelling any invasion or incursion of the enemy, or suppressing an insurrection, or in any other legal military service, he shall be subsisted and provided for at the expence of the State, during such disability, except such persons whose cases are already provided for by the several acts of Congress of the United States of America, making provision for persons that may become disabled while in the service of the United States. That each person who hath been or shall hereafter be so wounded or disabled, and whose cases shall not be provided for as aforesaid, shall be entitled to such partial or permanent allowance, as shall be adjudged by the field officers of the regiment (not exceeding the allowances granted by the acts of congress aforesaid) and which adjudication, being confirmed by the commander in chief for the time being, he shall thereupon issue duplicate warrants under the privy seal of this State, upon the treasury, for the payment of the sum or sums so to be adjudged to the person so wounded or disabled, and the treasurer upon being served with one of the said duplicates; shall out of any monies which may then be in the treasury, pay to the several persons in whose favor such warrants shall be issued the sum or sums therein respectively specified, and in such manner as shall be directed by the said warrants respectively.

Wounded persons to be subsisted, etc.

XLI. *And be it further enacted by the authority aforesaid,* That proceedings or trials at courts martial directed by this law, may be carried on at any time or times, the seventh article of the fourteenth section of the said articles of war, whereby such proceedings or trials are prohibited from being carried on, except between the hours of eight in the morning and three in the afternoon, to the contrary notwithstanding.—

Proceedings of court martials. When carried on.

XLII. That the commanding officers of the several companies, shall cause the said articles of war to be read and published at least twice in every year, at the head of their respective companies.—

Articles of war to be read.

And whereas in many instances the militia of this State have been necessitated for the want of provisions in the public stores to subsist themselves at their own expence when ordered out to repel the enemy,

And whereas it may become necessary for the militia in future to furnish themselves with provisions on similar occasions.—

XLIII. *Be it therefore enacted by the authority aforesaid,* That the commanding officers of companies which shall so have furnished themselves and their companies, or shall hereafter furnish themselves and their companies with provisions at their own expence, shall from time to time return to the commanding officer of the regiment or corps, duplicate subsistence rolls containing the names of the several persons of their respective companies who have, or hereafter shall furnish themselves with provisions at their own expence and the number of days for which each person shall have so furnished himself, and which duplicate subsistence rolls, the said commanding officers of companies shall respect-

Officers furnishing themselves or their companies with subsistence to make and return subsistence rolls, etc.

ively subscribe, and swear to the same before the said commanding officer, who is hereby authorized to administer an oath for the purpose, and such commanding officer of the regiment shall thereupon make an abstract of the subsistence rolls of the respective companies of such regiment, and return duplicates of the same, together with one of such subsistence rolls to the auditor, who is hereby required to audit such abstracts, and to make a reasonable allowance for such provisions furnished as aforesaid, and to return one of the said abstracts audited as aforesaid to the said commanding officer of the regiment; and to charge the amount of such abstracts to the account of the United States.—

Only one ration per day allowed. Proviso as to notifying associate exempts.

Provided always, that no person shall be allowed more than one ration per day in such subsistence rolls.

And whereas the dispersed situation of the places of residence of the associate exempts renders the mode at present used for notifying them to march in cases of invasions or insurrections extremely inconvenient, and in a great measure defeats the objects for which they were embodied.

Notice how given.

XLIV. *Be it therefore enacted by the authority aforesaid,* That it shall and may be lawful to and for the commanding officers of the regiments of enrolled militia, when and as often as their whole regiments shall be ordered out for duty, to notify the senior officers of such associated exempts residing within the limits of their regiments respectively, to order the commissioned officers of such exempts as may reside therein, to appear at the time and places appointed for the rendezvous of such regiments respectively, and that it shall and may be lawful, to and for any commissioned or non-commissioned officer of such regiments or company of enrolled militia as shall be ordered out to oppose the enemy or insurgents, to notify and warn the non-commissioned officers and privates of such corps of exempts residing within their respective limits or beats to march to such place, and at such time as the enrolled militia of such regiment or company are ordered to march—That until such time as such associated exempts shall be joined by an officer of the corps in which they are associated, they shall march do duty with, be annexed to, and be subject to the immediate command of the officer, commanding such regiment or company of enrolled militia within the limits or beat of which they respectively reside, and that the said officers, non-commissioned officers and privates of such associated exempts shall be subject to the same pains and penalties for neglecting or refusing to march after being notified as aforesaid, as the enrolled militia are subject to by this act, for neglecting or refusing to march.—

To do duty with and be subject to orders of commanding officers of regiments until joined by an officer of the corps.

Proviso as to expense of conviction of delinquents.

And whereas the conviction of delinquents for refusing to rendezvous and march when duly notified and ordered, hath heretofore been attended with much expence and delay; and proper encouragement hath not been given to such as have evinced their zeal and alacrity to rendezvous and march to repel an enemy, or subdue insurgents;

Proceedings in case persons enrolled in the militia refuse to rendezvous and march when duly notified to do so.

XLV. *Be it therefore enacted by the authority aforesaid,* That every person enrolled in the militia of this State, who shall refuse or neglect to rendezvous and march with the regiment or detachment thereof when duly notified so to do; and every person belonging to the associated exempts who shall refuse or neglect to rendezvous and march when duly notified so to do, when the whole regiment in the limits whereof he resides is ordered to march, such delinquent shall be dealt with in the manner following viz^t. The commanding officer of every company in the enrolled militia shall and is he hereby strictly enjoined and required, within six days next after the return of the regiment or any detachment thereof from a tour of duty, to make and transmit to

the commanding officer of the regiment a return, containing the names of every person who had rendezvoused and marched out at the time and place directed by the order, and also of all such persons, if any, who did not rendezvous at the said time and place, including the names of the associate exempts residing within the limits or beat of the company, if the order was for the whole regiment and associate exempts to march; and shall also therewith transmit the names of the officers and non-commissioned officers by whom each delinquent was notified to march, if such notice was given, the day on which they were ordered to rendezvous, and the day when discharged from the service for which the regiment, company or detachment was ordered out, and shall certify such return to be true and impartial according to the best of his knowledge and belief — That the commanding officer of every shall and he is hereby required and strictly enjoined, within twenty days next after the return of the regiment or detachment from every such duty in the field, by regimental orders to appoint a day not less than five nor more than ten from the date of the order, for as many times three officers to convene (at a place within the limits of the regiment, to be specified in such order) as there are tens in the number of delinquents returned to him; which officers shall be named by the said commanding officer of the regiment, and be composed of officers from the enrolled militia and from the associate exempts, if there are such officers of associate exempts within the limits of the regiment; and in case there are not more than nine delinquents, then the commanding officer shall appoint one court martial to consist of not more than five commissioned officers nor less than three; and being more than nine and less than twenty, he shall then appoint two such courts martial, at which time and place the adjutant of the regiment shall attend, and the name of each officer convened being written on a piece of paper, the whole shall be put into a hat, and the adjutant shall in the presence of the officers draw them out, and enter them on a sheet of paper in the order in which they shall be drawn — That the three first drawn shall compose one court martial, three next shall compose another court martial, and so on by threes to the number convened.

Provided always if there shall be more than seventy delinquents returned, there shall be as many officers ordered to convene as will constitute seven such courts martial, and the limits of the regiment shall be divided in manner aforesaid into as many parts as there shall be courts formed out of the officers which shall actually convene. That where within the limits of any regiment there are not a sufficient number of officers to constitute so many courts as by this proviso are required, as many officers shall be ordered to convene as will constitute the greatest number of such courts the regiment is capable of, and the limits of the regiment shall accordingly be divided into parts equal to the number of such courts — That the senior officer of each three shall be president of the court, that the presidents shall then divide the limits of the regiment into districts by limits or beats of companies, in each of which a court martial shall convene for the trial of all the delinquents therein, and shall determine by ballot in what district each court martial shall sit — That the president of each court shall then immediately in writing signify to the adjutant of the regiment in what district the court of which he is president is to convene, and on what day, provided such day shall not be less than five days after, and exclusive of the day on which such notice is given — That the adjutant shall thereupon transmit such notice to the commanding officer of each company in such district, who is hereby required, to order notice to be given to every delinquent by him returned, and to every officer and non-commissioned officer by whom

Proviso as to number of delinquents and of courts martial.

President of court to notify adjutant, etc.

any delinquent was notified to rendezvous and march as aforesaid, to attend the court martial in the district to which it belongs, to take trial or give evidence—And all persons returned as delinquents, who may by sickness or necessary absence out of the district be prevented from attending, may send a person to state his case to the court martial, which court shall try every person returned as delinquent, whether such person attends or not—That when the officers are so convened as aforesaid, and before they separate, the adjutant, shall and he is hereby authorized and empowered to administer the following oath, to each of the officers composing a court martial.

Officers of court to take oath.

Form of.

You do solemnly and sincerely swear, that you will well and truly try and true presentment make according to evidence whether any of the persons triable by the court of which you are (president or member) are delinquent or not. If you find any not delinquent because not duly notified, you shall so say: If you find any not delinquent by reason of sickness, or such other reasonable cause or impediment as you shall deem good and sufficient, you shall so say. If you find any not delinquent because the person or persons charged with delinquency did actually rendezvous and march and did not desert, you shall so say: If you find that any person or persons being duly notified did not rendezvous or rendezvousing did refuse or neglect to march, you shall so say: If you find that any person did not rendezvous and march at the time and place appointed, and was sick, or had other reasonable cause or impediment as aforesaid for not rendezvousing and marching, being duly notified, you shall enquire how long such sickness, reasonable cause or impediment existed, and whether such person did afterwards march, and when, and whether he deserted or not, and shall so say.—So help you God.

Power to send for witnesses; sentences, etc.

That every such court may send for such witnesses as they may deem necessary on any trial—That the president of each court shall subscribe the sentence or sentences given by such court—That the president shall transmit a duplicate of the sentence or sentences so subscribed as aforesaid, to the commanding officer of the regiment within five days next after all the delinquents shall be tried, and the sentences given—That every person convicted by the said courts martial or any of them, of not rendezvousing being duly notified, or if rendezvousing, of neglecting, or refusing to march, or of not marching after any sickness, reasonable cause or other impediment (which might have prevented his rendezvousing and marching as by the order he was to have done) had subsided, or of having deserted after having marched, not having before been punished for the same desertion; each and every such person (not a deserter) shall be fined in the sum of forty shillings for every day of the first three days, and the sum of eight shillings for every day after, and which shall have intervened from the third day after the day on which the regiment or detachment was ordered to rendezvous, to the day on which the same was discharged, and for so many days more as would have intervened between the day of discharge and return to their respective limits or beats, computing at the rate of twenty miles for every day, from the place where discharged to the residence of the commanding officer of the regiment; or if the offender shall have deserted, the like fines to be imposed from the time of such desertion; all which fines shall be levied by

Fine.

How levied and collected.

distress and sale of the offenders goods and chattles by warrants under the hand of the commanding officer of the regiment, directed to one of the serjeants of the company or beat to which such offender does belong, or in which such offender resides, together with the costs and charges of such distress as is usual in civil actions on warrants by a justice of

the peace, and for want of such goods and chattles the offender and offenders shall be committed to the common gaol of the county; and if there shall not be a common gaol in the county, then to the gaol in an adjoining county, and the keeper of such gaol is hereby required to receive such offender or offenders, and him or them to keep in close gaol agreeable to such warrant, there to remain as many days as there are shillings in the fine imposed on him, unless he shall sooner discharge said fine.—That every officer and non-commissioned officer who shall neglect or refuse the duties enjoined him by this clause, shall be tried by a brigade court martial, and being convicted shall and may be cashiered and fined, or cashiered only, or fined only in the discretion of the court-martial.

Officers
may be
cashiered.

XLVI. That it shall and may be lawfull to and for the commanding officer of the regiment to pay out of any monies arising by the fines to be inflicted by virtue of this clause, to each of the officers serving on the courts martial and to the adjutant at the rate of six shillings per day, for every day such officers and adjutant have been *bona fide* employed in discharge of the duty required of them by this clause.— That every witness attending any court martial to be instituted by virtue of this act, or who shall be sent for by such court as necessary to convict an offender, shall be allowed at the rate of three shillings per day if such witness should reside more than one mile from the place where such court shall be convened for every day's attendance, untill dismissed by the court, and the certificates of the presidents of any such court's martial, shall be sufficient vouchers to the commanding officer of the regiment to pay the witnesses, which he is hereby required to do out of the fines arising by virtue of this act.— That the residue of such fines arising from delinquency for not rendezvousing and marching when ordered by detachment, shall by the commanding officers of regiments, and the commanding officers of companies be divided amongst the enrolled non-commissioned officers and privates of such detachment who did actually march, and according to the time they respectively served on such detachment, and be paid by the said commanding officer of the regiment to the commanding officer of the company who shall pay the same to the persons entitled thereto; and that the residue of such fines arising from delinquencies for not rendezvousing and marching when the whole regiment and the associate exempts are called out, shall be divided and paid in like manner amongst the non-commissioned officers and privates of the regiment and of the associate exempts within the limits thereof, who did actually march, and in proportion to the times they respectively served on such duty — That in case of the death, sickness or absence of the adjutant the duty enjoined him by this clause shall and may be executed by any person thereunto appointed in writing, signed by the commanding officer of the regiment; and in case of the death, sickness or other inability of the president or members of any of the said courts, the commanding officer of the regiment shall appoint a substitute out of the other commissioned officers of the regiment.—

Officers
serving on
courts to
be paid out
of fines.

Witnesses'
fees.

Residue of
fines to be
divided
among
men who
actually
march.

Duties of
adjutant,
by whom
executed
in case of
illness,
etc.

And whereas many persons in the enrolled militia of this State have heretofore neglected or refused to march when called out on detachment, or with the regiments to which they respectively belong and have not been tried for the same, on account whereof great uneasiness prevails

XLVII. *Be it further enacted by the authority aforesaid,* That all persons who have since the eleventh day of March one thousand seven hundred and eighty, neglected or refused to march having been duly notified, and who have not been tried for such offence, shall and may be

Persons
neglecting
to march
to be tried,
etc.

reported to the commanding officers of the regiments respectively within this State, and be tried by a court, or courts martial, to be instituted agreeable to the manner directed in the next preceeding clause of this act, and shall be punished or fined, and the fines recovered in like manner as they were punishable and finable, and the fines recoverable by "An act for regulating the militia of this State of New-York," passed March eleventh one thousand seven hundred and eighty, as if the same was now in full force; and the commanding officer of every regiment, and the commanding officer of every company and corps of associate exempts are hereby strictly enjoined and required to do what by the said clause they are enjoined to do to bring such delinquents to trial and punishment as though such delinquents had offended after the passing of this act. That the residue of all such fines, after the president and members of the court martial, the adjutant and witnesses shall have been paid, as by the next preceeding clause of this act is directed, shall be disposed of as in and by the said act passed the eleventh day of March one thousand seven hundred and eighty is directed.

Trials to
be com-
pleted.

XLVIII. *And be it further enacted by the authority aforesaid* That all and every court martial within this State instituted for the trial of offenders, and which has actually began to try an offender, shall and may complete such trial and carry the same into effect as far as it is incumbent on the said court to do, and the commander in chief and the brigadiers general shall and may proceed to carry into execution the sentence of any court martial if approved, in as ample and full a manner as if the said act passed the eleventh day of March one thousand seven hundred and eighty, was in full force. That in case of distresses for levying any fine imposed by this act, the arms ammunition and accoutrements of the convicted delinquent shall not be taken, any thing in this act to the contrary notwithstanding.

When act
to take
effect.

XLIX. *And be it further enacted by the authority aforesaid* That this act shall not take effect until the first day of June next and that the said act entitled "An act for regulating the militia of the State of New York," passed the eleventh day of March one thousand seven hundred and eighty be and is hereby revived and shall be in full force until the said first day of June next, and no longer.

CHAP. 28.

AN ACT to liquidate the depreciation of the pay of the officers of the military hospital and medical department, and of the officers and privates of the levies and militia of this State made prisoners by the enemy.

PASSED the 6th of April, 1782.

Preamble. WHEREAS congress did by their act of the thirteenth day of June one thousand seven hundred and eighty one recommend to the several States in the words following, to wit.

Resolution
of con-
gress re-
cited. Resolved That it be and it is hereby recommended to the several States to which the officers of the hospital and medical department now in service respectively belong or of which they were inhabitants to settle the accounts of the said officers for depreciation on the principles established by a resolution of congress of the tenth of April, one thousand seven hundred and eighty and to make provision for