UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK 	v
IVAN ANTONYUK, COREY JOHNSON, ALFRED	

TERRILLE, JOSEPH MANN, LESLIE LEMAN, and LAWRENCE SLOANE,

Plaintiffs,

-against-

Case No. 22 Civ. 986 (GTS) (CFH)

KATHLEEN HOCHUL, in her official capacity as Governor of the State of New York, KEVIN P. BRUEN, in his official capacity as Superintendent of the New York State Police, Judge MATTHEW J. DORAN, in his official capacity as Licensing-official of Onondaga County, WILLIAM FITZPATRICK, in his official capacity as Onondaga County District Attorney, EUGENE CONWAY, in his official capacity as Sheriff of Onondaga County, JOSEPH CECILE, in his official capacity as Chief of Police of Syracuse, P. DAVID SOARES, in his official capacity as District Attorney of Albany county, GREGORY OAKES, in his official capacity as District Attorney of Oswego County, DON HILTON, in his official capacity as Sheriff of Oswego County, and JOSEPH STANZIONE, in his official capacity as District Attorney of Greene County

DECLARATION OF JAMES M. THOMPSON

I	Defendants.	
	·>	

James M. Thompson hereby declares as follows, pursuant to 28 U.S.C. § 1746:

1. I am a member of the Bar of the State of New York and am admitted to practice in this District. I serve as Special Counsel for Second Amendment Litigation in the office of Letitia James, the Attorney General of the State of New York. With my co-counsel Michael McCartin and Alexandria Twinem, I represent Defendants Kathy Hochul, in her official capacity as Governor of New York, Kevin P. Bruen, in his official capacity as Superintendent of the New York State Police, and Matthew Doran, in his official capacity as Judge of the Onondaga County

Court and Licensing Official for Onondaga County (collectively, the "State Defendants"), in this action.

- 2. I submit this Declaration in support of the State Defendants' opposition to the Plaintiffs' motion for a preliminary injunction, ECF No. 6, for the limited purpose of putting before the Court certain documents referenced in the accompanying memorandum of law.
- 3. Unless otherwise stated, the facts and circumstances set forth in this declaration are based upon my own personal knowledge, review of documents and information in the legal file relating to this action, research on online databases, and conversations with experts.
- 4. Attached as Exhibit 1 is an excerpt of the Laws and Liberties of Massachusetts, 1648, including certain orders of the Massachusetts General Court.
- 5. Attached as Exhibit 2 is an excerpt from the Statutes at Large of Pennsylvania

 From 1682 to 1801, containing a 1763 act prohibiting the selling of guns to Native Americans.
- 6. Attached as Exhibit 3 is an excerpt from 1 William Waller Hening, The Statutes at Large: Being a Collection of All the Laws of Virginia From the First Session of the Legislature, in the Year 1619, containing a 1642 act prohibiting the selling of guns to Native Americans.
- 7. Attached as Exhibit 4 is an excerpt from 7 William Waller Hening, The Statutes at Large: Being a Collection of All the Laws of Virginia From the First Session of the Legislature, in the Year 1619 (Richmond: Franklin Press, 1809), containing a 1756 "Act for Disarming Papists, And Reputed Papists, Refusing To Take The Oaths To The Government."
- 8. Attached as Exhibit 5 is an excerpt from the Records of Massachusetts, volume 1 (Nathaniel B. Shurtleff ed. 1853), containing a 1637 order disarming certain named followers of a dissident preacher "insomuch as there is just cause of suspition that they . . . may, upon some

revelation, make some suddaine irruption upon those that differ from them in judgment."

- 9. Attached as Exhibit 6 is an excerpt from the Statutes of the Realm, volume 5 (1819), containing the Militia Act of 1662, which authorized royal officials to "search for and seize all arms in the custody or possession of any person or persons whom the said Lieutenant or two or more of their deputies shall judge dangerous to the peace of the Kingdom."
- 10. Attached as Exhibit 7 is an excerpt from the 1775-76 edition of the Massachusetts

 Acts & Laws, containing "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 Person who are inimical to the

 Rights and Liberties of the said United Colonies, and for directing the Proceedings therein."
- 11. Attached as Exhibit 8 is an excerpt from the 1776-77 edition of the Laws Enacted in the First Sitting of the First General Assembly of the Commonwealth of Pennsylvania, including "An ACT, obliging the male white inhabitants of this state to give assurances of allegiance to the same," including a provision that persons refusing or neglecting to take the oath "shall be disarmed by the lieutenant or sublicutenants of the city or counties respectively."
- 12. Attached as Exhibit 9 is an excerpt from the 1777 Maryland Session Laws, including "An ACT for the better security of the government."
- 13. Attached as Exhibit 10 is an excerpt from the 1777 North Carolina Session Laws, including "An Act to Amend An Act for Declaring What Crimes and Practices Against the State Shall Be Treason, . . . and for Preventing the Dangers Which May Arise From Persons Disaffected to the State."

- 14. Attached as Exhibit 11 is an excerpt from 9 William Waller Hening, The Statutes at Large: Being a Collection of All the Laws of Virginia From the First Session of the Legislature, in the Year 1619 (Richmond: Franklin Press, 1809), containing a 1777 "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."
- 15. Attached as Exhibit 12 is an excerpt from the Journals of the Provincial Congress, Provincial Convention, Committee of Safety, and Council of Safety of the State of New York (1842), containing a March 27, 1776 order that "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."
- 16. Attached as Exhibit 13 is an excerpt from Thomas Greenleaf, Laws of the State of New York, Comprising the Constitution, and the Acts of the Legislature, since the Revolution, from the First to the Fifteenth Session, Inclusive (1792), containing an April 4, 1786 "Act to regulate the Militia."
- 17. Attached as Exhibit 14 is an excerpt from the 1780 Session Laws of New York, containing a March 11, 1780 "Act for regulating the militia of the State of New York."
- 18. Attached as Exhibit 15 is an excerpt from the 1782 Session Laws of New York, containing an April 4, 1782 "Act to regulate the militia."
- 19. Attached as Exhibit 16 is an excerpt from the 1806 Session Laws of New Jersey, containing a March 11, 1806 "Act for establishing and conducting the military force of New-Jersey."
 - 20. Attached as Exhibit 17 is an excerpt from the 1822 Session Laws of Pennsylvania,

containing an April 2, 1822 "Act for the Regulation of the Militia of this Commonwealth."

- 21. Attached as Exhibit 18 is a copy of the federal "Act to punish the carrying or selling of deadly or dangerous weapons within the District of Columbia, and for other purposes," Public Law 52-159, 27 Stat. 116.
- 22. Attached as Exhibit 19 is an excerpt from the Ordinances of the Mayor, Aldermen and Commonalty of the City of New York, In Force January 1, 1881 (Elliot F. Shepard & Ebenezer B. Shafer, eds.), including Article 27, concerning the "Carrying of Pistols."
- 23. Attached as Exhibit 20 is an excerpt from the Proceedings of the Board of

 Aldermen of the City of New York, detailing the January 7, 1878 enactment of the ordinance in

 Exhibit 27.
- 24. Attached as Exhibit 21 is an excerpt from John Carpenter's Liber Albus: The White Book of the City Of London, showing medieval requirements "that no one, of whatever condition he be, go armed in the said city or in the suburbs . . ."
- 25. Attached as Exhibit 22 is an excerpt from 1 William Hawkins, A Treatise of the Pleas of the Crown (1716), discussing the limitations on the license to carry weapons in England.
- 26. Attached as <u>Exhibit 23</u> is an excerpt from the 1880 Session Laws of Ohio, containing "An act to define and suppress tramps."
- 27. Attached as Exhibit 24 is an excerpt from the 1879 Session Laws of Tennessee, containing "An Act to amend the Criminal Laws of this State upon the subject of carrying concealed weapons, and amend Section 4759 of the Code."
- 28. Attached as <u>Exhibit 25</u> is an excerpt from the 1876 Session Laws of Wyoming, containing "An Act to Prevent the Carrying of Fire Arms and Other Deadly Weapons."
 - 29. Attached as Exhibit 26 is an excerpt from the 1881 Session Laws of Arkansas,

containing "An Act to Preserve the Public Peace and Prevent Crime."

- 30. Attached as Exhibit 27 is an excerpt from the 1871 Session Laws of Texas, containing "An Act to Regulate the Keeping and Bearing of Deadly Weapons."
- 31. Attached as Exhibit 28 is a copy of an October 4, 1880 ordinance enacting a system for pistol permits for "proper and law abiding person[s]" in the City of Brooklyn, as reprinted in the October 26, 1880 edition of the Brooklyn Daily Eagle.
- 32. Attached as Exhibit 29 is an excerpt from the 1891 Session Laws of New York, revising the charter of the city of Buffalo to provide for pistol permitting upon "the discretion of the superintendent."
- 33. Attached as Exhibit 30 is a copy of a July 18, 1892 ordinance enacting a system of pistol permits for "proper and law abiding person[s]" in the city of Elmira, as reprinted in the July 28, 1892 edition of the Elmira Gazette.
- 34. Attached as Exhibit 31 is a copy of an 1892 ordinance of the City of Syracuse permitting the chief of police to issue one-year permits "in proper cases," as reprinted in the 1894 edition of the Charter and Ordinances of the City of Syracuse, N.Y..
- 35. Attached as Exhibit 32 is a copy of a 1905 ordinance of the City of Troy, enacting a system of pistol permits for "proper and lawabiding person[s]," as reprinted in the 1905 edition of the Municipal Ordinances of the City of Troy.
- 36. Attached as Exhibit 33 is a copy of Penal Ordinance No. 35 of the City of Lockport, as reprinted in the August, 1913 edition of the Revised Charter and Ordinances of the City of Lockport.
- 37. Attached as Exhibit 34 is a copy of a 1905 "ordinance regulating the carrying of loaded firearms in the City of Albany," establishing a system of pistol permits issued by the

Commissioner of Public safety "if satisfied that the applicant is a proper and law-abiding person," as reprinted in the 1910 edition of the Municipal Code of the City of Albany, N.Y..

- 38. Attached as Exhibit 35 is an excerpt from the 1780 Session Laws of New York, containing a March 11, 1780 "Act for regulating the militia of the State of New York."
- 39. Attached as Exhibit 36 is a statute of the City of Omaha, banning the carrying of concealed weapons by anyone except for "well known and worthy citizens, or persons of good repute," but only if "going to or from their place of places of business," as reprinted in the 1881 edition of the Compiled Ordinances of the City of Omaha.
- 40. Attached as Exhibit 37 is a copy of the first federal Militia Act, Public Law 2-33, 1 Stat. 271.
- 41. Attached as Exhibit 38 is an excerpt from the 1806 Session Laws of New Jersey, containing a March 11, 1806 "Act for establishing and conducting the military force of New-Jersey."
- 42. Attached as Exhibit 39 is an excerpt from 12 William Waller Hening, The

 Statutes at Large: Being a Collection of All the Laws of Virginia From the First Session of the

 Legislature, in the Year 1619 (Richmond: Franklin Press, 1809), containing an October 17, 1785

 "Act to amend and reduce into one act, the several laws for regulating and disciplining the militia, and guarding against invasions and insurrections."
- 43. Attached as Exhibit 40 is a copy of the Texas House of Representatives

 Investigative Committee on the Robb Elementary Shooting's Interim Report 2022, obtained from the website of the Texas House of Representatives.
- 44. Attached as Exhibit 41 is an excerpt from the 1870 Session Laws of Texas, containing "An Act Regulating the Right to Keep and Bear Arms."

- 45. Attached as Exhibit 42 is an excerpt from the 1869-70 Session Laws of Tennessee, containing "An Act to Amend the Criminal laws of the State."
- 46. Attached as Exhibit 43 is an excerpt from the 1870 Session Laws of Georgia, containing "An Act to preserve the peace and harmony of the people of this State, and for other purposes."
- 47. Attached as <u>Exhibit 44</u> is an excerpt from the 1883 Session Laws of Missouri, containing an act concerning "Concealed Weapons."
- 48. Attached as Exhibit 45 is an 1889 Idaho Law on "Persons Other than Officers Carrying Certain Weapons," as reprinted in the 1901 edition of the Penal Code of the State of Idaho.
- 49. Attached as Exhibit 46 is an excerpt from the 1889 Session Laws of Arizona, containing "An Act Defining and Punishing Certain Offenses Against the Public Peace."
- 50. Attached as Exhibit 47 is an excerpt from the 1890 Statutes of Oklahoma, containing articles on "Concealed Weapons."
 - 51. Attached as Exhibit 48 is an excerpt of the 1776 Delaware Constitution.
- 52. Attached as Exhibit 49 is an excerpt from the 1787 Session Laws of New York, containing "An Act concerning the rights of the citizens of this State."
- 53. Attached as Exhibit 50 is an excerpt from the 1873 Session Laws of Pennsylvania, containing "An Act to prevent the carrying of deadly weapons within the city of Harrisburg."
- 54. Attached as Exhibit 51 is an excerpt from the 1877 Session Laws of Virginia, containing a statute prohibiting "carrying dangerous weapons at a place of worship or on Sunday."
 - 55. Attached as Exhibit 52 is an excerpt from the 1878 Session Laws of Mississippi,

containing "An Act to prevent the carrying of concealed weapons, and for other purposes."

- 56. Attached as <u>Exhibit 53</u> is an excerpt from the 1837 Massachusetts General Laws, containing "An Act Concerning The Militia."
- 57. Attached as Exhibit 54 is an excerpt from the 1837 Public Laws of the State of Maine, concerning the militia.
- 58. Attached as Exhibit 55 is an excerpt from the 1843 Public Laws of Rhode Island, containing "An Act To Regulate The Militia."
- 59. Attached as Exhibit 56 is an excerpt from the 1786 Session Laws of Virginia, containing "An Act forbidding and punishing Affrays."
- 60. Attached as <u>Exhibit 57</u> is an excerpt from the <u>Fourth Annual Report of the Board</u> of <u>Commissioners of the Central Park</u>, dated January 1861.
- 61. Attached as Exhibit 58 is an excerpt from the First Annual Report of the Commissioners of Fairmont Park, dated 1869.
- 62. Attached as Exhibit 59 is an excerpt from the 1888 Annual Reports of the City
 Officers and City Boards of the City of Saint Paul, dated 1889.
- 63. Attached as Exhibit 60 is an excerpt from the 1895 Local Acts of the Legislature of the State of Michigan, containing an act concerning "the charter of the city of Detroit, and relating to parks, boulevards, and other public ground in said city . . ."
- 64. Attached as <u>Exhibit 61</u> is an excerpt from the 1867 Session Laws of Kansas, containing "An Act to prevent the carrying of Deadly Weapons."
- 65. Attached as Exhibit 62 is an 1872 statute preventing intoxicated persons from being armed, as reprinted in the 1889 Annotated Statutes of Wisconsin.
 - 66. Attached as Exhibit 63 is an excerpt from 3 The Statutes at Large of Pennsylvania

from 1682 to 1801 (James T. Mitchell, et al., eds.), containing an August 26, 1721 "Act to prevent the killing of deer out of season, and against carrying of guns or hunting by persons not qualified."

- 67. Attached as Exhibit 64 is an excerpt from the 1715 Session Laws of Maryland, containing an April, 1715 "Act for the speedy trial of criminals, and ascertaining their punishment in the county courts when prosecuted there, and for payment of fees due from criminal persons."
- 68. Attached as Exhibit 65 is an excerpt from the Laws of New-York From The Year 1691, to 1773 inclusive (Hugh Gaine, ed. 1774), containing an act establishing a "[p]enalty for entering with Fire-Arms into any inclosed land within this City or its Liberties."
- 69. Attached as Exhibit 66 is an excerpt from the 1741 Session Laws of New Jersey, containing an "Act to prevent the Killing of Deer out of Season, and against Carrying of Guns and Hunting by Persons not Qualified," dated 1722.
- 70. Attached as Exhibit 67 is an excerpt from the 1771 Session Laws of New Jersey, containing a December 21, 1771 "Act for the Preservation of Deer and other Game, and to prevent trespassing with Guns."
- 71. Attached as Exhibit 68 is an excerpt from the 1865 Session Laws of Louisiana (Extra Session), containing "An Act To prevent the carrying of fire-arms on premises or plantations of any citizen, without the consent of the owner."
- 72. Attached as Exhibit 69 is an excerpt from George Paschal, ed., 4 Digest of the Laws of Texas Containing the Laws in Force, and the Repealed Laws on Which Rights Rest, from 1754 to 1875, containing a November 6, 1866 "Act to Prohibit the Carrying of Firearms on Premises or Plantations of any Citizen Without the Consent of the Owner."

- 73. Attached as Exhibit 70 is an excerpt from the 1893 Session Laws of Oregon, containing a February 20, 1893 Act "To Prevent a Person from Trespassing upon any Enclosed Premises or Lands not His Own Being Armed with a Gun, Pistol, or other Firearm, and to Prevent Shooting upon or from the Public Highway."
- 74. Attached as <u>Exhibit 71</u> is an excerpt from <u>The Laws of Maryland</u> (Virgil Maxcy, ed. 1811), containing a 1728 "Act to encourage the destroying of wolves, crows and squirrels."
- 75. Attached as Exhibit 72 is an excerpt from the 1875 Session Laws of Tennessee, containing "An Act for the preservation of game and birds."
- 76. Attached as Exhibit 73 is an 1871 Illinois law on "Hunting on Inclosures of Others."
- 77. Attached as Exhibit 74 is an ordinance stating that "[a]ll persons are forbidden to carry firearms . . . within any one of the public parks" in the City of Chicago, taken from an The Municipal Code of Chicago (Egbert Jamieson and Francis Adams, eds, 1881).
- 78. Attached as Exhibit 75 is an ordinance forbidding anyone to "[c]arry or discharge firearms" in Liberty Park, taken from an 1888 edition of The Revised Ordinances of Salt Lake City.
- 79. Attached as Exhibit 76 is an ordinance forbidding anyone "[t]o carry firearms" within Tower Grove Park in St. Louis, taken from David H. MacAdam, Tower Grove Park of the City of St. Louis (1883).
- 80. Attached as Exhibit 77 is a Pittsburgh ordinance stating that "[n]o person shall be allowed to carry firearms . . . within the limits of the parks or within one hundred yards thereof," taken from W.W. Thomson, ed., A Digest of the Acts of Assembly Relating to, and the General Ordinances of the City of Pittsburgh From 1804 to Jan 1, 1897 (2d ed 1897).

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81. Attached as Exhibit 78 is an excerpt from the 1778 Session Laws of New Jersey,

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

82. Attached as Exhibit 79 is an excerpt from the 1775-76 edition of the

Massachusetts Acts & Laws, containing "An Act for the 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."

83. I declare under penalty of perjury that to the best of my knowledge the foregoing

is true and correct.

Dated: New York, NY

October 13, 2022

James M. Thompson

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THE LAWS AND LIBERTIES OF MASSACHUSETTS

REPRINTED FROM THE COPY OF THE 1648 EDITION IN
THE HENRY E. HUNTINGTON LIBRARY

With an Introduction by

MAX FARRAND

CAMBRIDGE:
HARVARD UNIVERSITY PRESS

COFFRIGHT, 1929
BY HENRY E. HUNTINGTON LIBRARY AND ART GALLERY

PRINTED AT THE HARVARD UNIVERSITY FRESS, CAMERIDOF, MASSACHUSETTS, U. S. A.

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LAUUES AND LIBERTYES

CONCERNING THE INHABITANTS OF THE MASSACHUSETS
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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 WHERIN THEY WERE MADE

AND ESTABLISHED,

And now revifed by the fame Court and disposed into an Alphabetical order and published by the fame Authoritic in the General Court held at Boston the fourteenth of the first month Anno 1647.

Who follower therefore refifteth the power, refifteth the ordinance of God, and they that refif receive to themselves damnation. Romanes 13.2.



CAMBRIDGE.

Printed according to order of the GENERAL COURT.

1648.

And are to be folde at the shop of Hezekiah Usher in Boston.

TO OUR BELOVED BRETHREN AND NEIGHBOURS the Inhabitants of the Maffachusets, the Governour, Assistants and Deputies assembled in the Generall Court of that

Jurisdiction wish grace and peace in our Lord Jesus Christ.

S O foon as God had fet up Politicall Government among his people Ifrael 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 fayd to be amongst them or neer to them because of his Ordnances established by himselfe, and their lawes righteous because himselfe was their Law-giver: yet in the comparison are implyed two things, first that other nations had somthing of Gods presence amongst them. Secondly that there was also somwhat of equitie in their lawes, for it pleased the Father (upon the Covenant of Redemption with his Son) to restore somuch of his Image to lost man as whereby all nations are disposed to worship God, and to advance righteousnes: 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 conteined in the law of God. But the nations corrupting his Ordinances (both of Religion, and Justice) God withdrewhis presence from them proportionably whereby they were given up to abominable lusts Rom. 2. 21. Wheras if they had walked according to that light & lavo of nature they might have been preferved from such moral evils and might have injoyed a common bleffing in all their natural and civil Ordinances: now, if it might have been fo with the nations who were so much strangers to the Covenant of Grace, what advantage bave 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 no fmall priviledge, and advantage to us in New-England that our Churches, and civil State have been planted, and growne up (like two twoinnes) together like that of Ifrael in the wildernes 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 fuch 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 fo both prosper the better without such amulation, and contention for priviledges or priority as have proved the mifery (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 book intitled The Liberties &c: published about seven years since (which conteines 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 sundamentalls, for diversof them have since been repealed, or altered, and more may justly be (at least) amended heerafter as surther experience shall discover desease or inconveniences for Nihil simul natum et persectum.

The fame must be fay of this prefent Volume, we have not published it as a perfect body of land to short the fact of the same and the s sufficient to carry on the Government established for future times, nor could it be expected that we should examine the Government established for future times, nor could it be expected that we found promise fuch a thing. For if it be no disparagement to the nisedom of that Hist Court of Parliament in Eveland h.m. Court of Printinger in England that in four hundred years they could not fo compile that lakes, and results to the following the state of the state lares, and regulate proceedings in Courts of justice Ge but that they had fill into rook to be found in the fame kinds almos coloring in Courts of justice Ge but that they had fill into rook to the fame kinds almos coloring in Courts of justice Ge but that they had fill into rook to the fame kinds almos coloring to the fame kind of the same kinds almost every Parliament: there can be no sufficient to blame a poor Colonial being unfamilies of the same kinds and the same to be sufficient unfamilies of the same sufficient uniform su (being unfamilied of Lawyers and Statesment: there can be no just earlie to blame a poor nor butter rules for a mod. Lawyers and Statesmen) that in eighteen years hath produced we may have you (can nor better rules for a good, and fetled Government then this Book halds for the nor have you (call Bretheren and No. 14. Bretheren and Neighbours any cause, whether you look holds for the norman state County, lake your alternation and said of said and said of sai take your objectation by other States, if Common wealths in Europe) to complaint of faith a you have implaint in 11. After States, if Common wealths in Europe) to complaint of faith at you have imployed in this ferrice; for the time which hath been fpent in making lanet, and repealing and alterino the making lanet, and repealing and altering them for often, nor of the charge which that been spent in making in those occasions, the Cristian for often, nor of the charge which the Country hath been painted the charge which the Cristian states are the charge which the Country hath been painted. ing or a ditering them fo often, nor of the charge which the Country hath been parties addition; the Civilian gives you a fatisfactorie reafon of fuch continual alternated addition; the Civilian of the your analysis of the continual alternated

additions Ge: Crefcit in Orbe dolus .

The Lamb which were made fuces fively in divers former years, we have reduced and der feweraltheads in an alphabeticall method, thus so they might the mover easily be found, that the divers lawes conversion and intent of the that the direct labes concerning one matter being placed together the frope and itself which which and of every of them matter being placed together the frope and that if direct we have and of every of them me. which and awers lawes concerning one matter being placed together the fcope and intention whole and of every of them might the more easily be apprehended: we milk confess which who we have a straight the more easily be apprehended: one seem of every of them might the more engly be apprehended: We might confige in one been for each in placing every law under its most proper fulle as the might, and would been: the reason was our hallowind. heen: the reason was our halfy indemented its most proper title as we might, and wound teem: the reason was our halfy indemous to satisfie your longing expectation, and fright complaints for many of the k. complaints for man of fach a volume to be published in print: Therein (upon every occupant) you might readily see the release to be published in print: Therein (upon every occupant) you might readily fee the rule which you ought to make by. And in this (we hope) you find faiting on the rule which you ought to make by. And in this (we hope) you will find faiting out to walk by. from a facility fee the rule which you ought to malke by. And in this (we hope) you finde fait fallion, by the help of the references under the feverall heads, and the Table which is the week added in the end. For this, the references under the feverall heads, and the Table which is the same of the fall in the end. have added in the end. For fuch labers and orders as are not of generall concernment we have not put the end. For fuch laws and orders at are not of generall concernment we have not put them into this book, but they remain full in force, and are to be feen in the book of the Records of the Cours, but all venerals fill in force, and are to be feen in the book of force. on partners into this books, but they remain fill in force, and are to be feen in the books, are to be accounted reseals. Surerall lates not heer inferted nor mentioned to be fail of fort

the fe dates: we must now easily upon you to fee them executed; remembring that olded must terb. The execution of the latest you to fee them executed; remembring that olded must remember in a mon-free must be a second or the latest remembring that olded must be the latest remembers and the second of the latest remembers and the latest remembers are the latest remembers and the latest remembers are the latest remembers and the latest remembers and the latest remembers and the latest remembers are the latest remembers and the latest remembers and the latest remembers are the latest remembers and the latest remembers serb, The execution of the law is the life of the law. If one feet of you viz: non-fertill fould object that you had no kend to Readd object that you had no hand in calling ut to this trorte, and therfore think your fact of the law. If one fort of you wise non-trine bound to obstience Ge. We said in calling ut to this trorte, and therfore tied life for the control of the fort of the bound to obedience Ge. We can be er that a full equent, or implicit conjent is of like forething the following the following the state of the forething to the following t this cofe, as an expelle precedent power, for in putting your perform in of life in leading and way of lubitance haste power. for in putting your perform and entare in the leading and way of lubitance haste in the form putting your perform and entare in the leading and way of lubitance haste. tellion and way of Juhijance held forth and exercised within this Jurisdiction, and ellasts into Juhijance held forth and exercised within this Jurisdiction, and we have Juhimit to this Geternment and is all nations and that unan still the wholeform latest three, and for the common state in all nations and that unan still the wholeform latest three, and for the common state in all nations and that unan still the wholeform latest three, and for it the common states to common states that the common states to common states that the common states to common states to common states the commo

If any of you meet with common Qui fentite common in the common of the c If any of you meet with Jone lab that feemes not to tend to your particular benefit, of a confider that lawes are made and that feemes not to tend to your particular benefit, of a confider that lawes are made. my any of you meet buth fome that had feemes not to tend to your particular benipment and confider that lates are made with respect to the whole people, and not to each particular and obedience to them man to the whole people, and not to each particular to the whole people, and not to each particular to the whole people, and not to each particular to the whole people. perform and obedience to them must be yelled with respect to the whole people, and not to each parties private advantage, and as thou will, yelled with respect to the common welfart, with advantage, and as thou will, ryen and oordiente to them must be yilled with respect to the common welfart, not private advantage, and as thou yilled with respect to the common welfart, not advantage is another must also wilded obedience to the later for common good, but to the dwall is not the wilder of the later for common good, the own deadless. advantage, and at thou yeilded obedience to the law for common good, but to by thus might be content to bear for one other law for thy good, though to it out doubt thus might be content to bear for the good though to de Carlo.

thus must be content to bear converted now for thy good, though to his owner, must be content to bear converted burden and so fulfill the Law of Christ.

That distinction which is a converted with the converted of the converted That distinction which is pur between the Law of Chris.

That distinction which is pur between the Law of Gold and the laws of men, here mare to many as it is millianally the Law of Gold and the laws of men, hallowing, of nare to many at it is might between the Latter of faithful the Latter of methodic for the latter of methodic for the latter of and an endularitie is of God and that in way of an Ordinance Rom. 13. 1. and war of the eter light of nature in civil national deductions, and rules gathered from the word of God on too the order light of nature in civil national and rules gathered from the word of God of the control of the the circle ight of notice in circle and in the sy of an Ordinance Rom. 13. The circle ight of notice in circle intitions, and rules gathered from the word of Gad, good (acrosting to those principles). The circle is the symptotic in the circle is the circle in the circle is the circle in the circle in the circle in the circle is the circle in the circle in the circle in the circle is the circle in the circle in the circle in the circle is the circle in the circ Eod (according to these principles) but the same is mediately a law of God, and that it made an Ordinance which all are so to but the same is mediately a law of God, and that in mediately a law of God, and that in the same is mediately a law of God, and that in the same is mediately a law of God, and that in the same is mediately a law of God. an Ordinance which all are to fulmit unto and that for confeience fake. Rom. 13.5.

By order of the Generall Court. JNCREASE NOWEL SECR

Abilitie. Allions. Age. Ana-Baptifts.

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

F ORASMUCH as the free fruition of fuch Liberties, Immunities, priviledges as humanitie, civilitie & christianity call for as due to everie man in his place, & proportion, without impeachmet & infringement hath ever been, & ever will be the tranquillity & flability of Churches & Comon-trealths; & the deniall or depritall therof the diflurbance, if not ruine of both:

It is therfore ordered by this Court, & Authority therof, That no mans life shall be taken away; no mans honour or good name shall be stayned; no mans person shall be arrefted, reftrained, bannished, difmembred nor any wayes punished; no man shall be deprived of his wife or children; no mans goods or estate shal be taken away from him; nor any wayes indamaged under colour of Law or countenance of Authoritie unles it be by the vertue or equity of some expresse law of the Country warranting the same established 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 dismebring or banishmet according to that word to be judged by the General Court [1641

All perfors of the age of twenty one years, and of right understanding & memorie & consensus whether excomunicate, condemned or other, shall have full power and libertic to make their Wills & Testaments & other lawfull Alienations of their lands and estates. [1641]

fee children. All Actions of debt, accounts, flaunder, and Actions of the cafe concerning debts and accounts fluil henceforth be tryed where the Plantiffe pleafeth; fo it be in the jurisdiction of that Court where the Plantiffe, or Defendant dwelleth: unles by confent under both their hands it appeare they would have the case tryed in any other Court, All other Actions shal be tryed within that jurisdiction where the cause of the Action doth

nrife. [1642] 2 It is ordered by this Court & Authoritie therof, That every person impleading another in any court of Affiltants, or County court that pay the fum of ten thillings before his case be entred, vales the court see cause to admit any to fue in forma pauperis. [1642] Fees 10 ft.

J It is ordered by the Authority aforefayd, That where the debt or damage recovered shall amount to ten pounds in every such case to pay sive shillings more, and where it shall amount to twenty pounds or upward there to pay ten shillings more then the first 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] 4 In all actions brought to any court the Plantiffe shall have liberty to withdraw his action or to be non-futed before the Jurie have given in their verdict; in which cafe he that a support of the Jurie have given in their verdict; in which cafe he that a support of the person of the lute at another Court. [1641] fee Caufes. fee Records.

It is ordered by this Court & the Authoritie therof, that the age for passing away of lands, or fuch kinde of hereditaments, or for giving of votes, verilicts or fentences in any civil courts or causes, shall be twenty and one years: but in case of chusing of Pull age and Guardions, fourteen years. [1641 1647]

Ana-Baptifts.

Forasmuch at experience hath plentifully deften proved that fince the first arising of the Ana-baptills about a hundred years past they have been the Incendiaries of Common-wealths Gthe Infellors of persons in main matters of Religio, Gthe Troublers of Churches in most places where they have been, & that they who have held the baptizing of Infants ülanful, have usually held other errors or herefees together therwith (though as hereticks use to doe they have concealed the same untill they espited a fit advantage and opportunity to cent them by way of question or seruple) and wheras divers of

For felling all common ferries in a right course both for the Passengers and Owners, it is ordered by this Court and authoritie theref;

That who oever hath a Ferry graunted upon any passage shall have the fole liber-

Privileigt of

Men may paff in nwn or neighbours heat Dumb'e par a the night their pay. Magner: and Dep: passage

payd by the

there & other 6 h, per aft:

Ferriman's

es they come esc: publick perions &c:

tie for transporting passengers from the place where such Ferrie is graunted, to any other ferrie-place where ferrie-boats use to land, and any ferrie-boat that shall land pasfengers at any other Ferrie may not take paffengers from thence if the ferrie-boat of the place be ready. Provided this order shall not prejudice the libertie of any that do use to passe in their own or neighbours cannooes or boats to their ordinary labour or busines. Also Ferrimen 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 writing or a pawn to the Ferriman, or elfe he may complain of fuch before a Magistrate to get fatisfaction . 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 necesfary attendants riz: a man and a horse at all times, during the time of their being Magistrates or Deputies (and not their whole families) shall be passage-free over all Ferries. Provided where Ferries are appropriated to any, or rented out & so be out of the Countries hands their passage shall be paid by the Countrie. And the Ferrimen of Charls-Riter are allowed for the passage of the Magistrates, Deputies, Grand and petty Juricmen prisoners; Keepers and Marshals, by agreement with them fix pounds per annum. to be paid by the Treasurer.

And wheras men doe passe over the common Ferries in great danger oftentimes , and the Ferrimen excuse themselves by the importanitie of passengers and want of law to inable them to keep due order touching paffengers , its therfore heerby farther ordered;

That no person shall presse or enter into any ferrie-boat contrary to the will of the Ferriman or of the most of the passengers first entred upon payn of ten shillings for every fuch attempt; and that everie Ferriman that shall permit and 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 faid boat, shall forfeit for everie person so admitted or received against such their will so declared the fum of twentie shillings. And it shall be in the power of any of the Ferrimen 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 farther ordered that all persons shall be received into fuch ferrie-boats according to their comming, first or last, only all Publick perfons or fuch as goe upon publick or urgent occasions, as Phistians, Chirurgeons and Midwives and fuch other as are called to woemens labours, such shall be transported with the first. [1641 1644 1646 1647] See Colledge.

Wheras divers persons indebted to the Countrie for publick Rates, & others for Fines who for avoiding payment fomtime fell their houses and lands, and fend away their goods to other Plantations, it is therfore ordered by the authoritie of this Court,

where no eh; is full perfor attached. That the Treasurer shall graunt Warrant to the Marshall to attach the bodyes of fuch persons & keep them til they make satisfaction; and all such persons as are to pay any fines if they have not lands or goods to be diffreined shall have their bodyes attached to make their bodyes attached. ed to make fatisfaction. Provided that any Court of Affiftants or County Court may discharge any such person from imprisonment if they shall finde them indeed unable to make fatisfaction. [1638]

In what cales he | kindles fire that pay all damages

It is ordered by this Court and the Authoritie therof, that who foever shall kindle any fyres in woods or grounds lying in common or inclosed, so as the same shall run into fuch corn grounds or inclofures; before the tenth of the first month or after the last of the fecond month, or on the last day of the week, or on the Lords day shall pay all damages

Fyre, Fift, Fifter-men, Forgerie, Fornication, Freemen &c: Fugitives, Strangers,

and half fo much for a Fine, or if not able to pay then to be corporally punished by Warrant from one Magistrate or the next County Court as the offence shall deferve, corporally not exceeding twenty ftripes for one offence. Provided that any man may kindle fyre transferd in his own ground at any time, fo as no damage come therby either to the Country or any particular person. And whosoever shall wittingly and willingly burn or destroy will there are under, any frame, timber hewed, fawn or ryven, heaps of wood, charcoal, corn, hay, ftraw, constitutional hemp or flax he shall pay double damages.

Fifb. Fifber-men.

prietor. [16,6]

PON the petition of the Inhabitants of Matble-head this Court doth heerby declare that howfoever it hath been an allowed cullom for forreign fiftermen to make Forn Figure tife of fuch Harbours and Grounds in this Countrie as have not been inhabited by English for timber be men, and to take timber and wood at their pleasure for all their occasions , yet in these parts which are now postessed and the lands disposed in proprietie unto severall towns and persons

and that by his Acajettyes grount under the Great Seal of England,

It is not now lawfull for any person either Fisherman or other, either Forreiner retailored or of this Countrie to enter upon the lands fo appropriated to any town or person, or to take any wood or timber in any fuch place without the licence of fuch town or Proprietor: and if any person shall trespalle heerin the Town or Proprietor so injured may take their remedie by Action at law, or may preferve their goods or other interrest by opposing lawfull force against such unjust violence. Provided that it shall be lawfull table for our for such Fishermen as shall be imployed by any Inhabitants in this Jurisdiction in the feverall feafons of the year to make ufeof any of our Harbours and fuch lands as are neer adjoyning, 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 feasons where it may be spared , so as they make due satisfaction for the same to such Town or Pro-

Forgerie. T is ordered by this Court and Authoritie therof, That if any person shall sorge any Deed or conveyance, Testament, Bond, Bill, Releaf, Acquittance, Letter of Attourny 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

Fornication.

distabled to give any evidence or verdict to any Court or Magistrate. [1646]

T is ordered by this Court and Authoritie therof, That if any man fiell commit Pornication with any fingle woman, they shall be punished either by enjoyning to Marriage, or Pine, or corporall punishment, or all or any of these as the Judges in the courts of Affiftants shall appoint most agreeable to the word of God. And this Order to continue till the Court take further order. [1642]

W HERAS there are within this Jurisdiction many members of Churches who to exempt themselves from all publick service in the Common wealth will not come in, to be made Freemen , is is therfore ordered by this Court and the Authoritie therof,

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

Fugitives , Strangers. T is ordered by this Court and Authoritie therof, That if any people of other nations professing the true Chiftian Religion shall flee to us from the tyranie or oppression of their persecutors, or from Famine, Wars, or the like necessaries and

Hydes & Skins. Hygh-mayes. Idlenes.

25

Harboured

compulsarie cause, they shall be entertained and succoured amongst us according to that power and prudence God shall give us. [1641]

PON complaint of great discreter by the use of the game called Shuffle-board, in houses of common entertainment, wherby much pretious time is fpent unfruitfully and much wast of wine and beer occasioned, it is therfore ordered and enacled by the Authoritie of this Court;

Shuffeboard penalties

That no perfon shall henceforth use the faid game of Shuffle-board in any such house, nor in any other house used as common for such purpose, upon payn for every Keener of fush house used as common for such purpose, upon payn for every Keeper of fuch house to forseit for every such offence twenty shillings: and for every person playing at the faid game in any such house, to forseit for everie such offence five No gaming fhillings: Nor shall any person at any time play or game for any monie, or mony worth upon the play or game for any monie, or mony pen: of treble worth upon penalty of forfeiting treble the value therof: one half to the partie informing, the other half to the Treasurie. And any Magistrate may hear and determin any offence against this Law. [1646 1647]

Who have power to Heto pardon.

Generall Court. T is ordered, and by this Court declared that the Governour and Deputie Governour land Deputie Governour and D nour joyatly confenting, or any three Affiltants concurring in confent thall have power out of Court to reprive a condemned malefactor till the next Court of Affifiants:
or Generall Court or Generall Court. And that the General Court only shall have power to pardon a condemned malefactor.

None free fet acteres the Major part in Gent Court diffolio es aljourn

Alfo it is declared that the General Court hath libertie and Authoritie to fend forth any member of this Common.wealth, of what qualitie and Authoritie to tenu ever into forcein the common.wealth, of what qualitie and condition or office what/othere into forein parts, about any publick Message or negociation: notwithstanding any office or relation when the state of the state o any office or relation whatfoever. Provided the partie fo fent be acquainted with the affairs he goeth about. affairs he goeth about, and be willing to undertake the fervice .

Nor shall any General Court be dissolved or adjourned without the consent of major part thereof the bed dissolved or adjourned without the consent of the major part therof. [1641] See Gounfell, Courts.

A caffing vote in the Govern and Prefid: in Courts &

T is ordered, and by this Court declared that the Governour shall have a cashing vote when some and the court declared that the Governour shall have a general vote whenfoever an equipote flial fall out in the Court of Allifants, or general folials the Profit Affemblie: for hall the Prefident or Moderatour have in all civil Courts or Affemblies [1641] See Gen: Court

A LTHOUGH no humane power be Lord over the Faith & Consciences of men, and because such as bring in dominate not believe or professe against their Consciences; yet because such as bring in dominate mem to believe or professe against their Consciences. because luck a bring in damnable herofes, tending to the subscription of the Christian Faith, and defruition of the Christian Faith, and defruition of the land to the subscription of the Christian Faith. and definition of the foules of men, ought duly to be referented from fuch notorious im-piety, it is thereor and an account of the country of the contribution of the foundation in-

piety, it is therfore ordered and decreed by this Court;

That if any Christian within this Jurisdiction shall go about to subvert and de-y the christian Faith and D. L. ... ftroy the christian Faith and Religion, by broaching or mainteining any dammable herefic; as denving the and Religion, by broaching or mainteining any dammable herefic; as denying the immortalitie of the Soul, or the refurrection of the body, or any fin to be referred of in the body. any fin to be referred of in the Regenerate, or any evil done by the outward man be accounted fin: be accounted of in the Regenerate, or any evil done by the outward manifers that affirm that wee are not infifed to that Chrift gave himfelf a Ranforn for our first, or that wee are not infifed to the christian that we have not infifed to the christian to the c affirm that wee are not justified by his Death and Righteoufnes, but by the perfection of our own works; or shall do not be the perfection. of our own works; or shall deny the moralitie of the fourth commandement, or shall deay the moralitie of the fourth commandement, or shall deay the moralitie of the fourth commandement, or the fourth commandement. indexvour to feduce others to any the herifies aforementioned, everie such person continuing obstinate therin after tinuing oblinate therin after due means of coaviction shall be sentenced to Banishment. [1646]

Balliment.

W HERAS some persons more seeking their own private advantage then the good to the publick doe transferred. Court traffer the publick doe transport rate hydes & pelts, it is ordered and by this Court enalth, at henceforth no perform and hydes & pelts, it is ordered and by this Court enalth, at henceforth no perform to all directions. That henceforth no person shall deliver aboard any ship or other vessel, it is ordered and by this Court on indirectly any raw hole. . . . to have the ly or indirectly any raw hyde, skin, pelt or leather unwrought with intent to have the fame transported out of this Jurisdiction upon pain to forfeit the same or the value therof . And that no Mafter of any fhip or veifel shall receive any raw hyde , skin, rosten. pelt, or leather unwrought directly or indirectly, aboard his ship or vessel to be so transported upon the like penalty. Provided that any person stranger or other may transport any hydrs or skins brought hither from beyond the seas by way of Merchandize, or the skins of Beaver, Moof, Bear and Otter. [1646]

Hygh-Trayes.

TO the end there may be convenient high-wayes for Travellers, it is ordered by the Authoritic of this Court:

That all common high-wayes shall be such as may be most easie, and safe for travellers : to which purpose everie town (where any such high way is made, or to be made) shall appoint two or three men of the next town, whose Inhabitants have most and and out. occasion thereof, chosen & appointed by their faid town, who shall from time to time lay out all common high-wayes where they may be most convenient; notwithstanding places as any mans proprietie, (fo as it occasion not the pulling down of any mans house, or laying open any garden or orchard): who in common grounds or where the foyle is wet, myrie, or verie rockie shall lay out such high-wayes the wyder, viz: fix, eight, ten or

more rods. Provided that if any man be therby damaged in his improved ground the town Recompense hall make him reasonable satisfaction by estimation of those of the two towns that layd out the fame . And if fuch persons deputed cannot agree in either case it shall be referred to the County Court of that Shire; or to the Court of Affiftants who shall have Power to hear and determin the Cafe. And if any person finde himselfe justly grieved ed with any act or thing done by the persons deputed aforesaid : he may appeal to the Arrest County Court aforefaid, or to the Court of Affiftants, but if he be found to complain without caufe he shall surely pay all charges of the parties and Court during that Action

and also be fined to the Countrie as the Court shall adjudge. [1639]

2 It is ordered and declared by this Court that the felected Towns men of everie town have power to lay out (by themselves or others) particular and private wayes private and 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 chosen by the faid Towns-men and one or two chosen by the partie: and if any man shall finde himselfe justly greived he may appeal to the next County Court of that Shire who shall doe justice therin on both hands as in other cases of appeals. [1642]

3 UPON information that divers high-trayes are much annoyed and incumbred by gates and rayls crelled upon them, it is ordered and enacted by the Authorities of this O.

That upon any information or complaint made either to the court of Affiliants, or any county Court or to any Magnitrate of any fuch gates or rayls ereded, or to construct or to any Magnitrate of any fuch gates or rayls ereded, or to construct or to any Magnitrate of any fuch gates of rayls ereded or to construct a large fund. creded upon any common high-way, the fame Court or Magiltrate fhall appoint a secreted Committee of different and indifferent men to view such incumbrance, and to order the reformation theref. And if the parties whom it shall concern shall not submit to such needs. And if the parties whom it shall concern shall not submit to fligh orders, they shall require them to appear at the next Court for that Shire; and also shall require them to appear at the next Court for that Shire; and alforhall certifie the incumbrance found and order by them made, under their hands.

And the conference of the incumbrance found and order by them made, under their hands. unto the faid Court, or appear in person to prosecute the cause; where it shall be heard and determine the faid Court, or appear in person to prosecute the cause; which due respect to the and determined for the case and convenience of Travellers, with due respect to the Proprietors coft and damage, but no person shall fland charged with the repair of com-mon hist. mon high-wayes through his own ground. [1647]

T is ordered by this Court and Authoritie therof, that no person, Housholder or other days of such marillaness other fhall (pend his time idlely or unprofitably under pain of fuch punishment as the Court of Affifants or County Court fhall think meet to inflict. And for this

Raw hides.

Condulta cur

this end it is ordered that the Constable of everie place shall use special care and dill gence to take knowledge of offenders in this kinde, efpecially of common coafters, unprofitable fowlers and tobacco takers, and prefent the fame unto the two next Affiltants, who shall have power to hear and determin the cause, or transfer it to the

IIIS Court taking into confideration the great wars, combustions and distinct which are this day in Europe: and that the fame are observed to be rayed and for mented chiefly by the fecret underminings, and folicitations of thofe of the Tejuticall Order, men brought up and devoted to the religion and court of Rome; which hath occoponed diters States to expell them their territories; for prevention wheref among our felves, Itil ordered and an Only of them their territories; ordered and enatled by Authoritie of this Court,

That no Jefuit, or fpiritual or ecclefiastical person [as they are termed] ordained by the authoritie of the Pope, or Sea of Rome shall henceforth at any time repair to, or come within this Jurisdiction: And if any person shall be used further that any time the is one of such Societies. And if any person shall give just cause of such sales as he is one of fuch Societie or Order he shall be brought before some of the Magnifrates, and if he capper from him full. and if he cannot free himfelfe of fuch furpicion he shall be committed to prison, or bound over to the next Court of Affidants, to be tryed and proceeded with by Banishment or otherwise as the Court of Affidants, to be tryed and proceeded with by Banishment or otherwise as the Court of Manager and the state of the court of the state of ment or otherwise as the Court shall see cause: and if any person so banished shall be taken the second since the court shall see cause: and if any person so banished shall be taken the fecond time within this Jurisdiction upon lawful tryall and conviction to that the put to death. shall be put to death. Provided this Law shall not extend to any such Jesus, that all or ecclessistal references the state of the state tual or excledificall person as shall be cast upon our shoars, by ship-wrack or other accident. So as he consumed that the cast upon our shoars, by ship-wrack or other accident. cident, for as he continue no longer then till he may have opportunitie of pallage for his departure: nor to any find an his departure; nor to any fuch as shall come in company with any Messenger hither upo publick occasions. upo publick occasions, or any Merchant or Master of any ship belonging to any place not in cmnitie with the second of the second not in emnitive with the State of England, or our felves, so as they depart again with the fame Messenger. Mader or Masses for as they depart again with the fame Messenger. Mader or Masses for the Messenger of fame Mellinger, Mafter or Merchant, and behave themselves in-offensively during their about heer.

Warringes,

within this Jurisdiction shall be, and be reputed as a part of the town of Springland lyable to all charges. fuld and lyable to all charges there, as other parts of the fame rown, until upon creding fome other Plantaine, as other parts of the fame rown, until upon creding fome other Plantaine, as other parts of the fame rown, until upon creding fome other Plantaine. ing forme other Plantation neer unto it it shall be thought fit by this Court to annex it to fuch new Plantation fuch new Plantation .

Two pence a

Frefeit.

It is also accord that the Trading-house at Worronsco and all other Trading housested or to be exact. fes erected or to be erected, mainteined or used within this Jurisdiction, for trading with the Indians only or chiad. with the Indian only or chiefly final be contributarie to all publick and common char-ges, both in Town and Common charges. ges, both in Town and Countrie, and everie fuch person as shall inhabit or trade in any such Trading-house or neet the fund everie such person as shall inhabit or trade in any such Trading-house or neet the fund. Juch Trading, house or neer the fame shall payunto the publick Treasurie (by the hands of such as shall be assured to the fame shall payunto the publick Treasurie (by the hands of such as shall be assured to the shall be a of such as shall be affigued to receive the same) for everieskin of Beaver, Otter, Bear or Moose two pence. And if such any Moofe two pence. And if such person so assigned shall have cause to suggest that any such Trader hath not reven a half information. fuch Trader hath not given a true account of all fuch skins fo traded, he shall inform one of the next Mazistrates there. one of the next mor given a true account of all fuch skins fo traded , he shau unit of the next magifirates therof, who shall send for such Trader and require him to deliver account upon his action, who shall send for such Trader and require him to deliver account upon his oath, which if he shall fend for such Trader and require him to prison or take Bondwith Sunty (with his he shall refuse to doe, he may commit him to prison or take Bondwith Sunty (with his he shall refuse to doe, he may commit him to prison or take Bondwith Sunty (with his heart storage). prifon or take Bond with Suretie for his appearance at the next Court of Affiltants to an fwer his contempt, and he present the next Court of Affiltants to an and he present the next Court of Affiltants to an another the next Court of Affil

fwer his contempt, and be proceeded with according to juffice. And it is farther ordered that all fuch skins fo received, by way of trading, in, iter any fuch Trading, for fact any fuch trading for fact any f or neer any fuch Trading-house for which the faid Impos of two pence a skin shall not be satisfied within one work after be fattified within one week after demand therof shall be forfeited to the publick Treasurie, or the value therof. Treasurie, or the value therof; to be levied by Warrant from any one Magistrate upon any skins or other poodupon any skins or other goods in such Trading-house. [1647]

2 For the better support of the Government of this Common-wealth and the maintainance of Fortifications for the protedling and fafe-guarding of our Coasts and Harbours, for our felces and others that come to trade with us, it is ordered by this Court and the Authoritie therof .

Imposts.

That every person, Merchant, Seaman, or other that shall bring wines into any our Harbours, in any ships or vessels whatsoever (except they come directly from Eng. land as their first Port) before they land any of the faid wines, more or leife, shall first make entrie of as many Buts, Pipes, or other veilels, as they or any of them shall put on hore, by a note under their hands, delivered unto the Officer at his house (who is to receive the Customs) upon pain of forfeiture and confifcation of all fuch wines as are landed before fuch entrie made, wherefoever found, the one halfe to the Countrie, the other

halfe to the Officer: and the Merchants or Owners of fuch wines of any kinde, as foon as he lands them, shall deliver and pay unto the faid Officer, what is due for Custom of them about 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 fatisfaction of the faid Officer, or elfe the Owner and Officer to nominate a third man who shall put a finall price between them, in point of valuation of the wines for Cuftoms; but if they cannot agree, upon notice from the Officer unto the Treasurer for the

time being, he shall determin the price therof, and being so ordered the Officer and

Merchant shall accept therof And it is farther ordered that he that is the cheife Officer to receive such Customers shall become have under him a Deputie or Deputies who shall be as Searchers or waytors in severall Places to take up fuch wines, by the cheif Officers appointment, and to take notice of what is landed in any place that the Country be not defrauded, who shall have such the recompence as the cheif Officer in his diferetion 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 tie: for every Butt or pipe of Fyall wines or any other wines of those Western If lands five hillings. For everie Pipe of Madarie wines fix shillings eight pence. For everie Butt or Pipe of Sherris fack, Malego or Canarie wines ten fhillings. For Mufcodels, Malmfies and other wines from the Streights ten shillings. For Bastards, Tents &

Alligants ten fhillings: and proportionably for greater or leffer veffels of each kinde. For everie Hoghead of French wines two fillings fix pence, and proportionably for greater or leffer veffels . And for better recovering of any fuch Customs of wines or forfeitures, for not enter-

ing according to this Order and for refuging of payment of fuch Customs to the fatisfaction of the Officer , it is farther ordered,

That the faid Officer hath heerby power and is required to goe into all Houses or Calbanese are when the faid Officer hath heerby power and is required to goe into all Houses or Calbanese. Cellars where he knoweth or suspecteth any wine to be, and from time to time shall feir upon fuch wines as are not entred according to this Order: and alfo feiz upon, and

take pollellion of fo much wines as to make payment of what Cultom is due according to the to entries made, and is refused or neglected to be paid in due manner according to this Order Order . And all Constables and other Officers are hereby required to affith and add Good the Cofficers. the Officer in the discharge of his duty, and helping to break open such Houses or Cellars, if the Owners of fuch wines shall refuse to open their doors or deliver their keys in a Peacable 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 affile in taking, loading & trans-due his each wines for the use of the Country, and shall retuse or neglect check default, to be on penalty of levied hot. And all debts due unto levied by the Conftable by marrant from any one Magistrate. And all debts due unto the Course of the

the Countrie for custom of wines, where wines are not to be found, they are to be recovered by we found the found of wines. vered by way of Action, according to a coarfe of law as in other cafes, and this Order wree by Act to be in for to be in force to recover Customs from all those that have landed wine in this Jurisdiction

on already and not payd Custom.

Impreffes.

2 For

Indians, Inditements, In-keepers.

29

Unity by Gen Court upti slor Pref free, Sur

from futrion Unitation.

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Returpests

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J It is ordered by this Court and Authoritie therof, that in all places, the English and such others as combating with and such others as co-inhabit within our Jurisdiction shall keep their cattle fro destroying the Indians corn ing the Indians corn, in any ground where they have right to plant; and if any of their corn be destroyed for the corn be destroyed for the corn be destroyed for their corn be destroyed for the corn be destroyed for their corn be destroyed for the corn be destroye their corn be definoyed for want of fencing, or hearding; the town shall make satisfaction, and shall have remark to fencing, or hearding; the town shall make satisfaction, and shall have remark to occafaction, and stall have power among themselves to lay the charge where the occa-tion of the damage did not the total that the charge where the occafion of the damage did arife. Provided that the Indians shall make proof that the cattle of such a town, farm, or perfon did the damage. And for encouragement

Improfice. T is ordered, and by this Court declared, that no man shall be compelled to any publick work, or fervice, unlesse the Presse be grounded upon some act of the General Court; and have reasonable allowance therfore; nor shall any man be compelled in person to any office, work, wars, or other publick service that is necessarily and

fufficiently exempted, by any natural or personal impediment; as by want of years, greatnes of age, defect of minde, failing of fenfes, or impotencye of lims. Nor flall any man be compelled to go out of this Jurisdiction upon any offensive wars, which this Common-wealth, or any of our freinds or confederates shall voluntarily undertake but only upo fuch vindictive and defensive wars, in our own behalf, or the behalf of our freinds and confederates; as shall be enterprized by the counsell, and confent of a General Court, or by Authoritie derived from the fame. Nor shall any mans cattle of goods of what kinde foever be preffed, or taken for any publick use or service; unless it

be by Warrant grounded upon some act of the General Court : nor without such fact. forable prizes and hire as the ordinarie rates of the Countrie doe afford . And if his cattle or goods shall perish, or suffer damage in such service, the Owner shall be sufficiently ently recompenced. [1641]

Imprifonment. T is ordered, and by this Court declared; that no mans person shall be referenced bird or imprisoned by any authoritie whatfoever before the Law hath fentenced him therto: if he can put in sufficient securitie, Hayle or Mainprize for his appearance, and good behaviour in the mean time: unles it be in crimes Capital, and contempt in open

Court, and in such cases where some expresse of Court doth allow it. [1641]

T is ordered by Authoritie of this Court; that no person what soever shall hence forth buy land of any Indian, without licence first had & obtained of the General Court: and if any shall offend heerin, such land so bought shall be forfeited to the

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 indeavour the same. Nor shall sell or give to any Indian, directly or indirectly anyluch our control of the same. rectly anyfuch gun, or any gun-powder, flot or lead, or flot-mould, or any militaric weapons or armony, or any gun-powder, flot or lead, or flot-mould, or any militaric weapons or armour; upon pays of ten pounds fine, at the leaft for everif such offence, and that the court of Affia... and that the court of Affiliants shall have power to increase the Fine; or to impose cor-porall punishment submers.

porall punishment (where a Fine cannot be had) at their diferetion It is also ordered by the Authoritie aforesaid that everie town shall have power to rein all Indians from the Authoritie aforesaid that everie town shall have power to

refrein all Indians from profaning the Lords day. [1633 1637 1641] 2 Wheras is appeareth to this Court that notwithflanding the former Laws, made a sinffelling of rom

gainsfelling of funs, powder and downstion to the Indians, they are yet supplyed by in-direct means. It is therefore and downstion to the Indians, they are yet supplyed by indirect means, it is therfore ordered by this Court and Authoritie thereof That if any person after publication heerof, shall fell, give or barter any gun of s, powder, bullets that a publication heerof, shall fell, give or barter merson in

guns, powder, bullets, that or lead to any Indian whatforeer, or unto any perion in habiting out of this lumits, the or lead to any Indian whatforeer, or unto any perion in habiting out of this lumits. habiting out of this Jurisdiction without licence of this Coart, or the court of Alli-taats, or forme two Maniferson without licence of this Coart, or the court of Allitants, or forme two Magistrates, he shall forfeit for everie gun so fold, given or bar-tered ten poundar and for the shall forfeit for everie gun so fold, given pound tered ten pounds; and for everie pound of powder five pounds; and for everie pound of bullets, floot or lead for an annual pound of powder five pounds; and for everie pound of bullets, floot or lead for everie pound of powder five pounds; and for everie pound of bullets, floot or lead for the pounds. of bullets, floot or lead fourty fitlings: and for proportionably for any greater or lefter quantitie. [\$642]

of the Indians toward the fencing in of their corn fields, fuch towns, farms or persons, whose cattle may annoy them that way , shall direct, affict and help them in felling of they as Fertrees, ryving, and sharpening of rayls, & holing of posts: 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 fetting up the fame, and either lend or fell them tools to finish it . Provided that such Indians, to whom the Countrie, or any town hath given, or shall give ground to plant upon, or that shall purchase ground of the English shall sence such their corn fields or ground at their own charge as the English doe or should doe; and if any Indians refuse to sence their corn ground (being rendred help as aforefaid) in the prefence and hearing of any Magistrate or felected 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 eattle; the Governour or Deputie Governour with two of the Assistants Indiana bartor any three Magistrates or any County Court may order satisfaction according to law sandson

and juffice . [1640 1648]

Confidering 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 ingaged themselves to be willing and ready to understand the Law of God , it is therfore ordered and decreed,

That fuch necessary and wholfom Laws, 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 fafe) made known to them, by fuch fit perfons as the General Court shall nominate , having the help of fome able Interpreter with them .

Confidering alfo that interpretation of tongues is appointed of God for propagating the Trush: and may therfore have a bloffed successe in the hearts of others in due scason, it is

therfore farther 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 fent with the confent of their Churches (with whomfoever will freely offer themfelves to accompany them in that fervice) to make known the beautiful freely offer themfelves to accompany them in that fervice) to make known as Reigen the heavenly counfell of God among the Indians in most familiar manner, by the help of fome able Interpreter; as may be most available to bring them unto the knowledge of the truth, and their convertation to the Rules of Jefus Christ. And for that end that formthing 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 farther ordered and decreed by this Court; that no Indian shall at any Assart dain time powars, or performe outward worthing to their falle gods; or to the devil in any Pare of our Jurisdiction; whether they be such as shall dwell heer, or shall come hither; and if any shall transgresse this Law, the Palmaner shall pay five pounds; the Procurer five pounds; and every other countenancing by his prefence or otherwise being of age of diferetion twenty (hillings . [1646]

F any person shall be indicted of any capital crime (who is not then in durance) & shall refuse to render his person to some Magustrate within one month after three Proclaimations publickly made in the town where he usually abides, there being a month betwirt Proclaimation and Proclaimation, his lands and goods shall be feized to the to the use of the common Treasurie, till he make his lawfull appearance. And such withdrawing of himfelfe shall stand in stead of one wittness to prove his crime, unles he can make it appear to the Court that he was necessarily hindred. [1646]

In-keepert, Tippling, Drunkener. RORASMUCH as there is a necessary use of houses of common entertainment in every Common recalls, and of fuch as retail wine, beer and viduals; yet because there are so many abuses of that langfull libertie, both by persons entertaining and persons enter-lained tained, there is also need of first Laws and Rules to regulate such an employment: It is therfore ordered by this Court and Authoritie therof;

Voltateler, Cook Vintari he: without Lornor

That no person or persons shall at any time under any pretence or colour whatfoever undertake to be a common Victualier. Keeper of a Cooks shop, or house for common entertainment, Taverner, or publick feller of wine, ale, beer or strongwater (by re-tale), nor shall any fell wine privatly in his house or out of doors by a leffe quantitie, or under a quarter cask : without approbation of the felected Townsmen and Licence of the Shire Court where they dwell: upon pain of forfeiture of five pounds for everie fuch offence, or imprisonment at pleasure of the Court, where satis-

faction cannot be had. Siene

And every person so licenced for common entertainment shall have some inoffenfive Signe obvious for strangers direction, and fuch as have no such Signe after three months fo licenced from time to time shall lose their licence; and others allowed in No beer above their flead . And any licenced person that felleth beer shall not fell any above twopence the ale-quart; upon penaltie of three shillings four pence for everie such offence. And it is permitted to any that will to fell beer out of doors at a pennie the ale-quart out of doors of 1 d. a quart and under .

In-holders

Neither shall any such licenced person aforesaid suffer any to be drunken, or drink excellively riz: above half a pinte of wine for one person at one time; or to continue tippling 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 penaltie of five shillings for everie fuch offence

Penalty of dribbnes to fa

And everie person found drunken viz: so that he be therby bereaved or disabled in the use of his understanding, appearing in his speech or gesture in any the faid hous es or elsewhere shall forfeit ten shillings. And for excessive drinking three shillings four pence. And for continuing above half an hour tippling two shillings fix pence. And for tippling at unfeafonable times, or after nine a clock at night five stillings: for everie offence in these particulars being lawfully convict therof . And for want of payment such shall be imprisoned untill 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

Smeka Previla

Provided notwithstanding such licenced persons may entertain sea-faring men, or land travellers in the night-feafon, when they come first on shore, or from their journy for their necessarie refreshment, or when they prepare for their voyage or journie the nie the next day early; fo there be no diforder 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 busines what time their occasions shall

The laws fur-

Whipping,

flocks.

Nor shall any Merchant, Cooper, Owner or Keeper of wines or other persons that have the government of them fuffer any person to drink to excesse, or drunkenes, in any their wine-Cellars, Ships, or other vessels or places where wines doe lye; on pain

to forfeit for each perfon fo doing ten shillings . Seeld offered double penal. Third offen:

And if any person offend in drankenes, 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 not state the shall be that is thall 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 excellive or long drinking shall be put into the stocks for three hours when the weather may not hazzard his life or lims. And if they offend the fourth time Fourth of the they shall be imprisoned untill they put in two sufficient Sureties for their good

And it is farther ordered that if any person that keepeth, or heerafter shall keep a common house of entertainmen, shall be lawfully convicted the third time for any offence against his. offence against this Law: he shall (for the space of three years next enturing the faid Conviction) be disabled to keep any such house of entertainment, or fell wine, beer or the like; unles the Court aforefaid shall fee cause to continue them.

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

entertainment

of strangers horses viz: one or more inclosures for Summer and hay and provender for Winter with convenient stable room and attendance under penaltie of two shillings fix Provide for pence for everie dayes default, and double damage to the partie therby wronged (except it be by inevitable accident.

And it is farther ordered by the Authoritie aforefaid, that no Taverner or feller of Visines. wine by retale, licenced as aforefaid shall take above nine pounds profit by the Butt or Pipe of wine, (and proportionably for all other veffels) toward his wast in drawing and otherwife: out of which allowance everie such Taverner or Vintner shall pay fifty pay 10 fa.] shillings by the Butt or Pipe and proportionably for all other veilels to the Countrie. Countries. For which he shall account with the Auditor general or his Deputie every fix 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 mysterie which they know how to make use of . And everie Taverner or Vintner shall give a true account and notice unto the Auditor or his Deputie of everie vessell of wine he buies from time to time within three dayes; upon pain of for-

feiting the fame or the value therof . And all fuch as retale frong waters shall pay in like manner two pence upon everic Two prints a quart to the use of the Country, who also shall give notice to the Auditor or his Deputie of everie cafe and bottle or other quantitie they buy within three dayes upon payn

of forfeiture as before .

Alfo 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 Cant houses time to time clear their houses of all persons able to goe to the Meeting, during the learner time time of the exercise (except upon extraordinary cause, for the necessarie refreshing of strangers vexpectedly repairing to them) upo 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 Magifrate, who shall heerby have power by Warrant to fend for parties, Ore Magifrate to and witneffes, and to examin the faid witneffes upon oath and the parties without outh, concerning any of these offences: and upon due conviction either by view of the faid Magistrate, or affirmation of the Constable, and one sufficient witnes with circumftances concurring, or two witnesses, or confession of the partie to levie the faid Fines levies. feverall 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 persons the particulars therof, his oath shall be taken in evidence and stand good against any other offending at the same time.

Laftly, it is ordered by the Authoritie aforefaid that all Conftables may, and shall from time to time duly make fearch throughout the limits of their towns upon Lords Candi fearth dayes, and Lecture dayes, in times of Exercise; and also at all other times, so oft as they shall fee cause for all offences and offenders against this Law in any the pariculars therof . And if upon due information, or complaint of any of their Inhabitants, or other eredible persons whether Taverner, Utetuailer, 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 Marthal 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.

Iuries , Iurors. T is ordered by this Court and Authoritie therof, that the Conftable of everie town upon Proces from the Recorder of each Court, shall give timely notice to the Freemen of their town, to choof fo many able discreet men as the Proces shall direct

Leather.

Juries for Ventire ascording to fa

which men so chosen he shall warn to attend the Court whereto they are appointed, and shall make return of the Proces unto the Recorder aforesaid: which men to cho fen shall be impannelled and sworn truly to try betwirt partie and partie, who shall finde the matter of fact with the damages and colls 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 determin such matter

Equitie and law in the lame cafe Tryall for life

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

Juries for may be for

3 It is also ordered by the Authoritic aforesaid that thereshall be Grand-Juries surmoned everie year unto the feveral Courts, in each Jurisdiction; to inform the Court of any middemeanours that they shall know or hear to be committed by any person of the persons whatsoever within this Jurisdiction. And to doe any other service of the Common-wealth that according to law they shall be injoyed to by the faid Courts and in all cases what according to law they shall be injoyed to by the faid clearly and in all Cafes wherin evidence is fo obscure or desective that the Jurie cannot clearly and fafely give a refusive time to the same that the form of the same that the form of the same that the form of the same time. Peditive word. Non-liquet and fafely give a politive verdict, whether it be Grand, or Petry Jurie, it fluil have libertie to give a Novike verdict, whether it be Grand, or Petry Jurie, it fluil have libertic to give a Non liquet or a special verdict, in which last, that is, a special verdict the independent of the Control o the judgement of the Caufe shall be left unto the Bench. And all Jurors shall have libertie in matters of the Caufe shall be left unto the Bench. And all Jurors shall have mysent in Partial venta hbertie in matters of fact if they cannot finde the main ifue yet to finde and prefent in their verdic for much a. their verdict fo much as they can.

D.Ser. twist

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

furie in their unce a year

5 And it is farther ordered that whenfoever any Jurie of tryalls, or Jurots are not clear in their judosman. clear in their judgements or conferences, concerning any Cafe wherin they are to give their verdict, they that have been supported by the concerning any Cafe wherin they have they that their verdid, i, they shall have libertic, in open Court to advise with any man they shall think fit to refolve on the open freethink fit to refolve or direct them, before they give in their verdict. And no Free-man shall be compelled to them, before they give in their verdict. And no Freeman final becompelled to ferve upon Juries above one ordinary Court in a year; except Grand-jurie mon and further than the company of the control of the con cepe Grand-jurie men, who shall hold two Courts together at the least, and such others as shall be surmout at the least, and such others as fall be furnmoned to ferve in case of life and death or bannishment. [1634]

Furreiners libertie.

T is ordered, and by this Court declared; that every person within this Juris-diction, whether Inhabitation and law that diction, whether Inhabitant or other shall enjoy the same justice and law that meral for this Jurisdiction which is general for this Jurisdiction which wee conflitute and execute one towards another, in all cases proper to cour committee wee conflitute and execute one towards another. in all cases proper to our cognisance without partialitie or delay. [1641]

T is ordered, and by this Court declared; that all our Lands and Heritages shall be free from all Fines and I is be free from all Fines and Licences upon alienations, and from all Hariots, Ward-Licences, Primerleising, Advances upon alienations, and from all Hariots, Ward-upon the Bips, Liveries, Primerfeizins, year, day and wast, Efchears and for mall Hariots," the death of Parents or Ancesters, but and that for death of Parents or Ancesters, be they natural, unnatural, casual or judicial and that for ever. [1641] See Abiline. Fig. 1. ever. [1641] See Abilisie, Efcheats, Strangers.

HIS Court taking into ferious confideration the feveral deceits and abuses which in the places have been and furtiers and other places have been and are commonly practiced by the Tanners, Curriers and cres of leather, as also the above workers of leather, at also the above and inconveniences which acrue to the several members of this Common wealth half, and inconveniences which acrue to the several members of this Common wealth half, and inconveniences which acrue to the several members of this Common wealth half, and inconveniences which acrue to the several members of this common wealth half, and inconveniences which acrue to the several members of the several m bers of this Common health, by leather not sufficiently tanned and wrought, which is 6-coftoned by the negligence and many litter, not sufficiently tanned and wrought, which is 6-to the negligence and many litter, in 6 cofound by the negligence and unstillfulnes of those feverall trades mentwhich before, in & after it is in the hands of the Transfer of those feverall trades mentwhich before, in the few it is in the hands of the Transfer of those feverall trades mentwhich before it is in the hands of the Transfer of the fewer of th ofter it is in the hands of the Tanner may be much bettered or impaired, for preven-tion where, it is ordered by the Tanner may be much bettered or impaired, for prevention where, it is ordered by this Court and the Authoritie thereo;

That no person using or occupying the feat or mysterie of a Butcher, Currier, of shoe-maker Shoe-maker by himselse or any other, shall use or exercise the feat or mysterie of a Tanner on pain of forfeiture of fixfiillings eight pence for everie hyde or skin by or Shoren him or them to tanned whileft he or they shall use or occupie any of the mysteries aforefaid .

Nor shall any Tanner during his using the faid trade of tanning, use or occupie the feat or myfterie of either Butcher , Currier or Shoo-maker by himfelf or any other upon pain of the like forfeiture . Nor shall any Butcher by himself or any other person gash or cut any hyde of

ox, bull, fleer, or cow in fleaing therof, or otherwise wherby the same shall be character impaired or hurt, on pain of forfeiture for everie fuch gath or cut in any hyde or skin twelve pence . Nor finall any person or persons henceforth bargain, buy, make any contract,

or befpeak any rough hyde of ox, bull, fleer or cow in the hair, but only fuch persons Raugh hyde 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 heerafter, offer or put to fale any kinde of leather, which shall be insufficiently or not throughly tanned, or which shall not then have been after the tanning therof well and throughly dryed, upon pain of forfeiting for much of his or their faid leather as by any Searcher or Sealer of leather lawfully ap-Pointed shall be found insufficiently tanned, or not throughly dryed as aforefaid. Nor shall any person or persons using or occupying the mysterie of tanning, Leaber tal-

let any their Fats in tan-hills or other places, where the woozes or leather put to hard tan in the fame shall or may take any unkinde heats; nor shall put any leather into France and hor any hot or warm woozes whatfoever on pain of twenty pounds for everic fuch

Nor shall any person or persons using or occupying the mysteric or facultie of currying, currie any kinde of leather, except it be well and throughly tanned; nor fall learning that the currying curries any kinde of leather, except it be well and throughly tanned; nor which wet half "is, currie any kinde of leather, except it be well and the wet featon; in which we then the well and the well an feafon he shall not use any stale, urin, or any other deceitfull or subtil mixture, thing, way or means to corrupt or hurt the fame : nor shall currie any leather meet for utter fole leather with any other then good hard tallow, nor with any leffe of that then the leather will receive: nor shall currie any kinde of leather meet for upper eather and inner foles, but with good and fufficient fluffe, being fresh and not falt, and throughly liquored till it will receive no more: nor fhall burn or feald 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 O... his evil workmanship or 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 skilfull persons, compare skilfull persons. Perfons, Curriers or others, on their oath given to them for that end by any Affiftan.

Affiftant . And everie town where need is,or shall be, shall choose one or two persons he most be. of the most honest and skilfull within their feveral Townships, and present them unto the County Court, or one Magistrate who shall appoint and swars from the faid persons by their airs. by their difference on Magistrate who shall appoint and swear the law as a oft as their difference on their difference on their difference on their difference of their limits as oft as they foul as on to make search and view within the Precincts of their limits as oft as they foul their difference of their limits as oft as their difference of their limits as often as their difference of their limits as the difference of the difference of their limits as the d as they shall think good and need shall be, who shall have a Mark or Seal prepared by each. the fame, and therewith final feal fuch leather as they final finde fufficient in all points wish.

and no other And if the faid Searchers, or any of them fluil finde any leather fold, or offered which fluil be tanned. to bend if the faid Searchers, or any of them fluid fines any reach which fluid be tanned, brought, or offered to be fearched or fealed, which fluid be tanned, brought. brought, converted or used contrary to the true intent and meaning of this Order, it shall be it shall be it shall be it shall be it. it flad be lawfull for the faid Searchers, or any of them to feir all fuch leather and to retain. and to retain the fame in their custodie, until fuch time as it be tryed by such Tryers, and

THE

Statutes at Narge

OF

PENNSYLVANIA

FROM

1682 to 1801

COMPILED UNDER THE
AUTHORITY OF THE ACT OF MAY 19 1887 BY

JAMES T MITCHELL AND HENRY FLANDERS

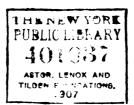
COMMISSIONERS

VOLUME VI 1759 to 1765

WM STANLEY RAY STATE PRINTER OF PENNSYLVANIA 1899

1.1









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1763-64] The Statutes at Large of Pennsylvania.

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



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The Statutes at Large of Pennsylvania. [1763-64

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

Statures at Large;

BEING

A COLLECTION

OF ALL THE

LAWS OF VIRGINIA,

FROM THE

FIRST SESSION OF THE LEGISLATURE,

IN THE YEAR 1619.

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 at historians in general, is owing to their ignorance of law."

Priestley's Lect. on Hist. Val. 1, pc. 149.

MARCH, 1642-3-18th CHARLES 1st.

letter R. and passe vnder the statute of incorrigible the cheek rogues, Provided notwithstanding that where any ser- with the let vants shall have just cause of complaint against their masters or mistrises by harsh or vnchristianlike vsage Proviso in or otherways for want of diet, or convenient necessa- case of ill ryes that then it shall be lawfull for any such servant usage of mas or servants to repaire to the next comissioner to make his or their complaint, And if the said commissioner 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 senerall 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 missed 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 Felony to away as aforesaid shall carrie either peice, powder and der, &c. to shott, And leave either all or any of them with the In- the Indians dians, And being thereof lawfully convicted shall suffer death as in case of fielony.

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ACT XXIII.

BE it also enacted and confirmed, that what person Penalty for or persons soever shall sell or barter with any In- selling arms dian or Indians for peece, powder and shott and being and ammunition to the thereof lawfully convicted, shall forfeit his whole estate, Indians, or the one halfe to the informer the other halfe to the vse dealing with of the county where such ffact 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 dofurnish 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

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 proofe 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 debtors lately arrived 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 aboud 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

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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 MUNDRED AND EIGHT.

VOLUME VII.

By WILLIAM WALLER HENING.

CHONANCES

"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."

PRISTLEY'S LECT. ON HIST. Vol., L. pa. 149

RICHMOND.

PRINTED FOR THE EDITOR.
AT THE FRANKLIN PRESS.—MARKET BRIDGE.

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 thereiu.

IV. Provided always, That the said treasurer be-Togivebond fore he enters upon his office, shall give such sufficient and security. 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.

V. And to the end a treasurer may not be wanting Where the in case of the death, resignation, or disability of the treasurer treasurer hereby appointed; Be it further enacted, 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.

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

I. WHEREAS it is dangerous at this time to per-Preamble, mit Papists to be armed, Be it enacted, by the Lieuten-ant-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,

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LAWS OF VIRGINIA,

Where Papists refuse to take the oaths, when tendered.

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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,

tices.

Duty of jus- II. And be it further enacted, That the said justices of the peace shall certify the name, sirname, 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 o keep rms, &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 impower 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 IL.

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 ammnnition, in open court, for the use aforesaid.

IV. And be it further enacted, That every Papist, or Penalties on reputed Papist, who shall not, within the space of ten them. 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 All persons who shall conceal, or be privy, or aiding or assisting to discover to the concealing; or who knowing thereof, shall not ing arms, &c. 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 Their repersons shall discover any concealed arms, weapons, ward for

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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 judgement 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

VII. Provided always, That if any person who party desires 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.

keep any horse above the value of 51. to be sold.

VIII. And be it further enacted, That no Papist, or No Papist to 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 scals, 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 succes-

MARCH 1756—29th GEORGE II.

1X. And be it further enacted, That if any person Penalty on shall conceal, or be aiding or assisting in the conceal- persons coning any such horse, or herses, belonging to any Pa-horses. pist, 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.

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, Neutral from Nova Scotia, and it is apprehended their contin- French to be uance here will greatly endanger the peace and safety transported of the colony: Be it therefore enacted, by the Lieutenant- to Great-Bri-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 impowered 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.

11. And be it further enacted, by the authority aforesaid. That the treasurer of this colony be, and he is hereby impowered 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,

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.

THE MASSACHUSETTS BAY IN NEW ENGLAND.

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 alowed to it, if it bee there to bee had wth any conveniency, for the vse of the towne./

1637. 20 November.

Those that are to veiwe the newe plantation of Watertowne are desired to veiwe the place weh Mr Spencer desireth, & if it bee convenient, to certify the Courte./

Burshin, Goo: Robert Martin, & Srgent Anthony Eames were Comittee to M^{r} appointed to measure three miles southward from the southermost part of the measure 3 miles southbay, & to run the east line vnto the sea./

ward, &c.

Capt Turner, Goo: Richrd Right, Mr Conant, & Goo: Woodberry are appointed to certify weh bee the bounds between Salem & Saugust, weh they formerly did agree vpon./

Saugust is called Lin./

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 Law as to strayes. forfet three shillings four pence./

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Whereas the opinions & revelations of Mr Wheeleright & Mrs Hutchinson have seduced & led into dangerous errors many of the people heare in Disarming of Newe England, insomuch as there is just cause of suspition that they, as others &c. in Germany, in former times, may, vpon some revelation, make some suddaine irruption vpon those that differ from them in judgment, for Ovention 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 Mr 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 evry default to bee made therof; weh armes are to bee kept by Mr Cane till this Court shall take further order therein. Also, it is ordered, upon like penulty of x^t, 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./

*The Names of Boston Men to bee disarmed.

[*208.]

Capt John Vnderhill,	John Sanfoard,	John Biggs,
Mr Thomas Oliver,	Rich ^r d Cooke,	Rich ^r d Gridley,
William Hutchinson,	Rich ^r 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,

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THE RECORDS OF THE COLONY OF

Willi: Wilson, John Compton, 1637. Rob^rt Rice, Mr , Parker, Willi: Townsend, Isaack Grosse, 2) November. Richard Carder, Willi: Freeborn, Rob^rt Hull, Rob^rt Hardinge, Henry Bull, Willi: Pell, John Walker, Rich^rd Hutchinson, Rich^rd Wayte, Willi: Salter, John Porter, James Johnson, Edwd Bendall, Thom: Savage, Jacob Eliott, John Davy, James Penniman, Thom: Wheeler, Thom: Wardell, Mr Clarke, George Burden, Mr John Coggeshall. John Odlin, Willi: Wardell, Gama: Wayte, Thom: Matson, 59 disarmed in Edw^d Hutchinson, Willi: Baulston, 58

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

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

The names of Neweberry men to bee disarmed are, Mr Dumer, Mr Eason, Newbery men disarmed, 3. Mr Spencer; to bee delivered to the cunstable of the towne./

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

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

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

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

> Two magistrates have power given them to excuse & exempt wholly from trainings any weh they shall thinke meete./

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

> Leif't Howe, being enjoyned to traine the company at Linn, is pmited to have the fines, wth all ould arrerages of fines behind there./

> The towne of Roxberry is required to take order for the safe eustody of Mrs 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 weh have of late bene put upon the civill author-

Boston.

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armd, 5.

Roxbury men disarmd, 5.

Ipswich men disarmd, 2.

Charls Towne, 2 magist taking mens acknowl-

edgate of year enill in subscribing. 355-2 magists power to dismisse from trav. Left How to trajne ye company at Lynne, &č.

Roxbury enjoynd to send Mª Hutchin-60n,

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

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.

I to Lat. British to

from Original Records and Authentic Manuscripts.

VOLUME THE FIFTH.

MDCCCXIX

CHAPTER III.

Ret. Parl. 14 C. II. p. 1. nu. 3. AN ACT for ordering the Forces in the several Counties of this Kingdom

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.

FORASMUCH as within all His Majesties Realmes and Dominions the sole and supreame 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 Queenes of England and that both or either of the Houses of Parliament cannot nor ought to Prend 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 beene practised almost to the ruine and destruction of this Kingdome and during the late usurped Governments many evil and rebellious principles have beene 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 Leiutenants for the severall & respective Counties Cities and places of England & Dominion of Wales and Town of Berwick upon Tweed which Leiutenants shall have full power and authority to call togeather 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 imploy or cause to be [lead 1] conducted and imployed as well within the said severall Counties Cities and places for which they shall be commissionated 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 Leiutenants shall have full power and authority from time to time [to constitute appointe and give Commissions to such persons as they shall thinke fitt to be Colonels Majors Captaines and other Commission Officers of the said persons so to be armed arrayed and] weaponed and to psent to His Majestie His Heires and Successors the names of such person and persons as they shall thinke fitt to be Deputy Leiutenants and upon His Majesties approbación of them shall give them Deputacions accordingly Alwaies understood that His Majesty His Heires and Successors have power and authority to direct and order otherwise and accordingly att His and theire pleasure may appoint and commissionate or displace such Officers Any thing in this A& to the contrary notwithstanding And that the said Leiutenants respectively and in theire absence out of the Precincts and Limits of theire respective Leiutenancies or otherwise by theire directions the said Deputy Leiutenant? during theire 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 Leiutenants within the severall Counties Cities and places for which they are nominated respectively and theire Deputies or the major part of such Leiutenants and Deputy Leiutenant? then present or in the absence of the Leiutenant or Leiutenants the major part of the Deputy Leiutenants then psent which major 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 theire 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 theire houses and so proportionably for a greater Estate in lands in possession or goods as the respective Lieutenants and theire Deputies as aforesaid in theire 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.

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

Lieutenants, &c. may join Persons chargeable. 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 Leiutenants 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 togeather in the charge as to their judgement shall appeare most conducible to the service of this Kingdome

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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 Copinold or Twelve hundred pounds personal Estate shall be compellable to contribute in finding any Horse and Horseman with Armes And the said respective Leintenants 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

Bg it further Enacted That the said Leiutenants and Deputies or any three or more of them in theire several 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 theire 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 theire Dwellings and Callings by occasion of Muster or Exercise.

And for furnishing Ammunition and other Necessaries the said respective Leiutenants 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 Seaventy thousand pounds by the Moneth now or late charged by an Act intituled An Act for the raising 12 Car. IL c. 29. 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 Leiutenants & 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 In case of Invasions or Rebellions whereby occasion shall be to draw out such Souldiers into actuall Service the persons so charged as aforesaid shall provide each theire Souldier respectively with pay in hand not exceeding one moneths pay as shall be in that behalfe directed by the said respective Leiutenants and in theire absence as aforesaid or otherwise by theire directions by theire Deputies or any two or more of them for repayment of which said Moneys and for satisfaccon of the Officers for theire pay during such time not exceeding one moneth as aforesaid as they shall be with theire 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 Theire 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 beene 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 Leiutenants and theire Deputies or the Cheife Officers upon the place in the Lieutenants may charge Carts Wagons Wayns and Horses for the carrying of the carrying of for Carriage of Carriage of 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 and Wayn with five Horses or six Oxen and so proporconably And for every Horse imployed out of Wagon or Cart for the uses aforesaid one penny so taken upon the Martching of any Regiment Company or Troope upon occasion of Invasion Insurrection or Rebellion And that the said Leiutenants or Deputies or the Cheife Officers upon the place shall and may imprison Mutineers and such Souldiers as doe not theire Duties as Souldiers at the day of theire Musters and Training and shall and may inflict for punishment for every such Offence any pecuniary Mulct 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 Leiutenants 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 to pay, &c. lawfull to and for the respective Leiutenants & Deputies or any three or more of them for every such Offence from Lieutenants may time to time to inflict a penalty upon such persons not exceeding twenty pounds. And alsoe by Warrant under their and leor any three or more of theire 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 imployed to the same uses in default whereof the same was imposed

And he it further Enacted That if any person or persons so to be armed arrayed and weaponed shall detaine or Persons arm and be it further enacted that it any person or persons and for the said respective Leiutenants and in theire absence as aforesaid or otherwise by theire directions to and for theire Deputies or any two or more of them to imprison such person and persons till he or they have made satisfaction may imprison for the Horse Armes or other furniture so by him detained or imbezelled And alsoe that if any person so to be Persons not armed horsed or weaponed as aforesaid shall not appeare and serve compleatly furnished with Horse and Armes and appearing to serve, 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 Leiutenants and in theire absence as aforesaid or

£100 per Amer may hear

Lieutemants, &c. may direct Per charged to make Allowance to Troopers, &c.

VI. lay Rates for

such Persons to provide Soldiers

Provision for

make an Allowance

may imprison Mutineers:

and may fine or imprison Soldiers not doing their Duty.

by Lieutenan

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

Persons assessed not delivering in Horse, Lieutenant, &c. may inflict a Penalty, to be levied by Distress.

otherwise by theire directions to and for theire 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 Leiutenants & theire 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 rendring the overplus to the party distrained necessary Charges for levying being first deducted

x. Power to Lieutenants, &c. to examine upon Outh.

AND for the better Discovery of the ability of the persons so to bee assessed and charged and (') all Misdemeanors tending to the hinderance of the service aforesaid the said respective Leiutenants and theire 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 [soe'] to bee assessed and accused

XI. Lieutenants to appoint Trea Clerks, &c.

every Six Months,

Accounts to be certified to the Privy Council.

AND for the better and more speedy execution of the pmisses bee it further enacted That the said respective Leiutenants shall bee and are hereby required to appoint one or more Treasurer or Treasurers Clerke or Clerkes for receiving & paying such moneyes 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 theire Accompts in writing and upon Oath to the said Leiutenants and theire 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 Councell and a Duplicate thereof shall be certified to the Justices of [the] Peace att the next Generall Quarter Sessions

XII.

Deputy Lieutenants
to obey Lieutenants.

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

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&. Persons who have executed Commissions of Lieutenancy indemnified.

AND for the better securing the Peace of the Kingdome be it further enacted and ordained and the respective Leiutenants or any twoe or more of theire Deputies are hereby enabled & authorized from time to time by Warrant under theire 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 Leiutenants or any two or more of theire 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 Leiutenants and in theire absence as aforesaid or otherwise by theire directions to theire 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 theire 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 Leiutenant or one of the Deputy Leiutenants 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 seised may bee restored to the Owners againe if the said Leiutenants or in theire absence as aforesaid theire Deputies or any two or more of them shall so thinke fitt. 1]

AND be it Enacted that all high Constables petry 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 Leiutenants and theire 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 alsoe that all and every person and persons who have heretofore acted or done any thing in execution of any Commission or Commissions of Leiutenancy 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 seaventh 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

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

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 Leiotenants 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 occupación to such person as he doth imploy as his servant in managing the same And in case all his Lands or other Estate be demised and to farme let then to one or two of the most sufficient Tenant or Tenants who shall have the same in theire occupation who are hereby required forthwith with all

A.D.1662.

14° CAR. II. c. 3.

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convenient speed to convey the same to theire Master or Landlord respectively And within such time as shall bee Tenants or Servants appointed in that behalfe bring an Accompt of theire Master or Landlords answer to the respective Leiutenants and Deputies or any three or more of them and upon neglect or refusall of the Landlord to provide such Horse the sax and Horseman Horses & Horsemen and Armes or Foot Souldier and Armes as is duly charged upon him Taccording to the Rates mentioned in this A& for the yearely Rent reserved upon every demise or other grant and not otherwise'] 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 theire Landlords within the time limitted that then and upon every such default it shall and may be lawfull to und for the said respective Leiutenants and in theire absence as aforesaid or otherwise by theire directions to and for theire Deputies or any two or more of them by Warrant under theire 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

bring answer to

AND it is hereby ordained and enacted that it shall and may be lawfull to and for the said Tenant or Tenants 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 theire Landlord all such Money as the said Tenant or Tenants shall necessarily lay out or expend in providing such Horse and Horseman Horses and Horseman and Landlord out of Landlord out of Armes or Foot Souldier and Armes as are charged upon his or theire Landlord or shall pay or be leavyed upon Rent. him or them by distresse for any default in manner as aforesaid Any condition reservation Covenant or Contract for the payment of his or theire Rent to the contrary in any wise notwithstanding And for soc docing the said Tenant Tenants or Tenants shall be indempnified by Authority of this Act unlesse the Landlord or Landlords shall make it appears within two Monethes after such levying such penalties before the respective Leiutenants and in theire absence as aforesaid or otherwise by theire directions before theire 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 Leiutenant or Deputy Leiutenant by vertue of this Act unless he or they shall first before six [of the '] Lords of His Majesties at Lieutenants

Privy Council for the time being or such other persons as shall be authorized by His Majesty to administer the

Lieutenants 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 Ouths kee traiterous Position that Armes may be taken by His Authority against His Person or against those that are Council may Commissioned by Him in pursuance of such military Commissioned by Him in the military Co Commissioned by Him in pursuance of such military Commissions So helpe me God Which Oathes they have hereby power to administer

without takir Six Lords of the

And that no person being under under the degree of a Peer of this Realm shall be capable of acting as Leiutenant Deputy Leiutenant Officer or Souldier by vertue of this A& unlesse 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 Degree of a Peer. upon any pretence whatsoever to take Armes against the King And that I doe abhor that traiterous 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 help me God. Which Oathes any one Justice of Peace of the Justice of Peace respective Counties and places aforesaid is enabled to administer to such respective Leiutenant as is not a Peer of such Oaths; this Realm and the said Leiutenant or any one Justice of Peace of the respective Counties and places aforesaid is and Lieutenant enabled to administer to the respective Deputy Leiutenants not being Peers and the said respective Leiutenants and Soldiers. in theire absence as aforesaid or otherwise by theire directions when they are not absent theire 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 Atl and preparing XIX.

Trained Bands, &c. an Establishment according to the same be it hereby enacted That the Trained Bands and Forces now actually now raised to raised and in being shall so continue in each respective City and County of England and Wales untill the five and twentieth [day] of March One thousand six hundred sixty and three and no longer unlesse 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 exerciseing 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 exerciseing of single Companies not above foure times a Yeare unlesse speciall Directions be given by His Majestie or His Privy Council And that such single Companies and Single Companies Troopes shall not att any one time be continued in Exercise above the space of two dayes And that att a Generall Muster and Exercise of Regiments no Officer or Souldier shall be constrained to stay for above foure dayes Exercise. togeather from theire respective habitacons 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 Armes'] And the Armes offensive and defensive Arms offensive with the Furniture for Horse are to be as followeth The defensive Arms a Back Breast and Pott and the Breast and described. and Pott to be Pistoll prooffe The offensive Armes a Sword and a Case of Pistolls the Barrells whereof are not

A.D.1662

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 Bitt and Bridle with a Pectorell & Crupper For the Poot 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 Bulletts to the pound A Coller of Bandeleers with a Sword Provided that all Muster Masters shall for the Poent 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 Bulletts 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

XX1. 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 Dorsett as heretofore hath beene used And that His Majesties Leiutenant 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 meanes 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 Leiutenants or his or theire 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 to for
Three Years, to
be levied by
Lieutenants, &c.

Lieutenants, &c.

73 Car. II. Stat. 2. c. 3.

XXIII.
Constables, &cto be reimbursed
Monies paid by
them for Arms, &c.
by Persons refusing
to pay Rate.
Persons refusing
to reimburse
Constables, &c.

Distress.

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

Substitute requires

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

XXV. Proviso for Tinners of Devon and Coruwall. Provided neverthelesse 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 sûm not exceeding Seventy thousand pounds in one whole yeare And the same to be raised by His Majesties Leiutenants or in theire absence as aforesaid by theire Deputies in theire 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

BE it also 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 theire respective Parishes shall be reimbursed the same by those who have refused to pay theire proportions thereof And in case hee or they shall refuse to pay the same then to be levyed by distresse and sale of Goods rendring the Overplus to the Owner or Owners by Warrant under the Hand and Seale of the Leiutenant or Leiutenants or in his or theire absence or otherwise by theire direction when they are not absent of any two of theire Deputies directed to the respective Constables Tything men or other Officer or Officers aforesaid of theire respective Parishes

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 theire 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 theire Captain respectively subject neverthelesse to be altered upon appeal to the Leiutenant or in his absence as aforesaid to his Deputy Leintenant? 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 their owne persons (who are alsoe to be approved of as aforesaid) or such person or persons as shall be accepted in his or theire stead shall att the next Muster of such Troope or Company in which he or they are to serve give in his or theire Christian and Sirnames and places of abode unto such person as the Leiutenant or in his absence as aforesaid or by his direction when he is not absent any two Deputy Leiutenants 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 Leiutenant or two Deputy Leiutenants or his Captaine upon reasonable cause (subject neverthelesse upon appeale to be determined as aforesaid) first obtained in writing under his or theire hands and seales under pain that such person departing from the said service without leave as aforesaid shall forfeit the sum of Twenty pounds to be levyed upon his Goods and Chartells 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 comitted to the Comon Goal of the County for any time not exceeding three monthes without bail or mainprize Any thing in this Act to the contrary (') notwithstanding

PROVIDED alwaies and be it Enacted That nothing in this Act contained shall extend to put any new charge of Armes upon the Finners in the Counties of Devon and Cornwall other then the Tax menconed 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

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Directions before menconed in this Act shall and may have and use [the like Powers and array assess arm muster and exercise the said Tinners within the said Counties and either of them as bath 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 Leiutenants that are or shall be commissionated 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 psent 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 [haveing] 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 Leiutenant? 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 theire Militia in such manner as the Psent 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 accomptable for the same as by this A& is ordained. Any thing in this A& to the contrary of this Proviso in any wise notwithstanding

XXVI. list and levy the for London;

and to impose Rate

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 Town who have used and accustomed to bee mustered only within theire owne pcincte shall be compellable to appeare [out] of the not compellable to Precinctly or Liberties of the same City Borough Towne Corporate or Port Towne att any Muster or Exercise only and every of the said Cities Boroughs Towns Corporate and Port Towns are hereby chargeable to find theire usuall number of Souldiers unlesse the respective Leiutenants find cause to lessen the same Any thing in this Act to the contrary notwithstanding

XXVII. Officers or Soldier of Trained Bands

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

Provise for

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 of Isle of Wight. then hath beene formerly and is now used & practised there

Provided also 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 Hamletts are and alwaies have beene under the comand of His Hamlets Majesties Constable or Leiutenant of the Tower for the Service and Preservation of that His Royal! Fort that it shall and may be lawfull for His Majesties Constable or Leiutenant 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 A& to the contrary notwithstanding

Provided that neither this Act nor any matter or thing therein contained shall be deemed construed or taken to extend to the giveing or declareing 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. 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 menconed (except the Monthly Taxes which are to be leavied as is before pscribed in this Act) and shall have power to put in execution all and every the Powers and Authorities of this Act as well for excepted laying Assessments as imposing of Penalties (Imprisonment of the person of any Peere of this Realm only excepted) Imprisonment of which Assessment or Charge so made togeather with such penalties as shall be see imposed (Imprisonment as aforesaid only excepted) shall be from time to time respectively certified to the respective Leiutenants 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.

annexed to the Original Act in a separate Schedule.

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14° CAR. II. c. 3, 4.

A.D.1662

Peers making Default:

Distress and Proceeding thereon. to the intent of this A&t 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 A&t that then it shall be lawfull for the respective Leiutenants & Deputy Leiutenant or any three of them to cause Distresses to be taken for the same in any of the lands of such Defaulter within theire said Counties or Limit? respectively And in case satisfaction shall not be given within the space of one weeke after such Distresses 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 deduct the sum levied out of his next Rent.

CHAPTER IV.

Rest. Parl. 14.C. II. An Act for the Uniformity of Publique Prayers and Administración 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 Quren Elia: there was one uniform Order of Church Service compiled; and enjoined to be used by I Elia. c. z.

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 review 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 be had allowed and recommended to Parliament that the same should be used in all Churcher, &c.;

that an universal Agreementinpublic Worship conduceth to settling the Peace of the Nation;

WHEREAS in the first yeare of the late Queene Elizabeth there was one uniforme Order of Comon 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 Bishopps and Clergy set forth in one Booke entituled The Booke of Comon Prayer and Administration of Sacraments and other Rites and Ceremonies in the Church of England and enjoyned to be used by Act of Parliament holden in the said First yeare of the said late Queene entituled An Act for the Uniformity of Comon 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 Comon Prayers due useing 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 theire owne sensualitie and liveing without knowledge and due feare of God do willfully and schismatically abstaine and refuse to come to theire Parish Churches and other Publique places where Comon Prayer Administracon 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 enjoyned 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 setling the Peace of the Church and for allaying the present distempers which the indisposicion 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 Comission under the great Seale of England to severall Bishops and other Divines to [re']view the Booke of Comon Prayer and to prepare such Alterations and Additions as they thought fitt 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 Majestic hath beene pleased to authorize and require the Presidents of the said Convocations and other the Bishopps and Clergy of the same to reveiw the said Booke of Comon Prayer and the Booke of the Forme and manner of the making and consecrating of Bishops Preists and Deacons And that after mature consideracon 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 President Bishops and Clergy of both Provinces have accordingly reviewed the said Bookes and have made some Alterations which they thinke fitt to be inserted to the same and some additionall Prayers to the said Booke of Cômon Prayer to be used upon proper and emergent occasions And have exhibited and presented the same unto His Majestie in writing in one Booke entituled The Booke of Comon Prayer and Administration of the Sacraments and other Rites and Ceremonies of the Church according to the use of the Church of England togeather 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 Bishopps Preists and Deacons All which His Majesty haveing duly considered hath fully approved and allowed the same and recomended to this Seent Parliament that the said Bookes of Comon Prayer and of the forme of Ordination and Consecration of Bishops Preists and Deacons with the Alterations and Additions which have beene soe made and period 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 fitt.'] Now in regard that nothing conduceth more to the setling 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 Worshipp of Almighty God and to the intent that every person within this Realme may certainely

interlined on the Roll.

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 Hampsbire. And that Mr. Simon Fry, Major Ichahod 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 Phinekas Frost, be, and hereby are appointed a Committee to take and return an Account of the Number of the Ilke 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 impowreturn the Number of all such Inhabitants as dwell on such particular and seve-Pork, Cumberland, and Lincoln, as shall be agreed on and determined by the said

Committees respectively.

And be if Enacted, That the Parent, Master or Mistress of any Family, the Penalty for And be if Enacted, That the Parent, Master or Mistress of any Family, the Penalty for And be if Enacted, That the Parent, Master or Mistress of any Family, the Penalty for And be if Enacted. Number whereof is by the Act to be taken by such Committee, who shall refuse heads of Fa10 give a just and true int of the Number of his or her Family, shall forfeir milies resuand pay the like Suns, the like Use, and be recovered in the like Manner, as a just account
before in this Act is provided to be serviced by and recovered of the Heads of before in this Act is provided, to be forfeited by, and recovered of the Heads of of the Num-Families dwelling in Towns who shall refuse to give a true Account of the Num- bers in their bar of his or her Family, to the Selectmen of the Town to which they belong. Families.

And he it furth Enacted, That each and every one of the Selectmen, Selectmen to and the Committees aforefaid, take the Oath or Affirmation herein after prescribed, before some to be mader. Inflice of the Peace for the County on the Transcribed, before some to be mader.

Justice of the Peace for the County, or the Town Celrk of the Town Oath. to which such Selectmen or Committee shall respectively belong, who

are hereby respectively impowered to administer the same, And be it further enasted, That the Oath or Affirmation to be administered to each of the said Selection and Commissees, shall be mutatis mutandis, in the Form following, viz.

YOUA. B. do folemnly Swear, that you will faithfully and truly execute form of the and perform the Duty and Service required of you, by one All or Law of this Oath. Colony, institled, An All for the carrying into Execution a Resolve of the American Congress, for ascertaining the Number of Inhabitants in this So help you GOD.

CHAP. 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 testraining and punishing Persons who are inimical to the Rights and Liberties of the faid United Colonies, and for directing the Proceedings therein.

THERE AS on the fourteenth of March One I housand seven Hundred and Seventy-fin, a cersain Resolve was made and passed by the American Pecamble. Test.

Congress, of the following Tenor, viz. " Resolved, That it be recommended to " the several Assemblies, Conventions and Councils, or Committees of Safesy " of the United Colonies, immediately to cause all Persons to be disarmed " within their respective Colonies, who are notoriously disassected to the Cause " of America, or who have not affociated and refuse to affociate 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 re-" spective 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 indiffe-" rent 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"

Ali Perfons who refute the 'est to be difarmed.

the Tell.

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Be is therefore enacted by the Council, and House of Representatives in General Court affembled, and by the Authority of the fame, That every Male Pare fon above fixteen Years of Age, refident 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 disaffer, and have taken from him in Manner hereafter directed, all fuch Arms, Ammunitica 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 follow-

ing, viz.

We the Subscribers do each of us severally for ourselves, profess, testify and The Form of declare, before God and the World, that we ve ily believe that the War, Resistent ance 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 fail 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 this Declaration, or another of the same Tenor and Words, that we will not during the faid IF ar, directly or indirectly, in any Ways aid, abet or affift any of the Naval or Land Forces of the King of Great-Britain, or any employed by him, on 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 inlist, or procure any others to inlist 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 piles any of the Vessels belonging to the said New, 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

Mede of procreding a quents.

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

County.

1776.

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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 indisterent Perfon, by Name requiring him forthwith to take the Body of fuch Delinquent, and him bring before the faid Juttice to answer to such Information, and to show 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 faid Justice, that the faid 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 faid Warrant, which Justice is hereby required to receive them, and to appoint some indifferent and judicious Person or Persons to appoint the same; and the said Justice shall keep a true Account of all such Arms; Ammunition and Accountements, the Person or Person fons 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 direfled, shall neet with Resistance, or shall have Reason to apprehend that he shall meet with Resissance 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 san, 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 abovesaid to subscribe the faid Declaration, are concealed in any Dwelling-House or other Place, not be-longing 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 Resistant ance 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 Militis, are hereby directed to obey and observe such Direction as shall be given by such Justice of the Peace in the

Premiles.

And every Person who shall refuse or neglect to subscribe the said Declaration, Who are dis-And every Person who shall retule or neglect to supperson the issue personation, having had the same tendered to him as aforesaid, in case he holds say Office from holding Civil or Military in this Colony, shall be deemed and adjudged ip/o facto disqua- any Office in lified to exercise any such Office; and if a Town Officer, the Town he belongs the Colony. to shall, and they hereby are impowered and required to proceed to make Choice

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of some fit Person to serve in such Office in his Room: And in case he does not at present hold any such Offices, 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 Ass and Doings of fuch 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 neglect-And from vo. ing, shall be permitted to give his Voto in the Choice of any Person to serve as ting for a Re. Representative in the General Court or Assembly, or in the Choice of any Miprefentative. litary, Town or County Officer, until he shall be restored by Order of the Georgian and Milisters. Town hers! Court, to the Privileges of a good and free Member of this Community. or County of And no fettled Minister or Grammar School-Master, who shall refuse or neglect to fign faid Declaration, shall be intitled by the Laws of this Colony, to demand or recover any Salary or Reward for any Pime or Service spent or performed in their respective Offices, from and after such Resulator Negles, until they shall subscribe such Declaration: And if any of the Governors of Harvard College, shall resuse 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 from receiving any Salaries or Grants.

ficer.

Mavy, &c.

and be impri-

and be dif-franchised.

Mode of proceeding a-gainst Per tons inimical to the Liber

Parsons who And be it surther enasted by the Authority asoressis. That if any Person or the strong or Person resident in this Colony, shall during the War aforesaid, directly or indicate Army or rectly 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 faid Army or Navy, or shall inlift, or procure any other Person or Persons to inlift 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 Shall forfeit Court of Judicature, &c. shall forfeit all his Estate, which shall be accordingly their Estates and be impri
And sieh Person shall be further unusthed by Imprisonment in any of the 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 expose three lifted 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 Assense bly, or in any Town Meeting for the Choice of any Town or County Officer, or for any Military Officer, until he shall be reffered 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 Sherist, Deputy-Sherist, Constable, Grandjurymen on Tythingmen, in any County in this Colony, to any Justice of the Peace for the same County, against any Person or Rerions dwelling or residing in such Town or County, that he or they are ini-Usited Colomical to the Liberties of this Colony, and the other United Colonies in America, the faid Justice is hereby impowered to iffue his Warrant to the Sheriff of the County, his Deputy, or to the Constables of the Town wherein such Perfon 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 faid 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 faid County at his Differetion, and for want of sufficient Sereties, 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 dif-

charged by fuch court, or otherwife by Order of Law. And in cole tuch Perfon or Persons shall before either of the faid Courts be found by the Jury upon Trial to be inimical or dangerous to the Liberties of this Colony, or the otner United Colonies, the Court shall order that he be immediately distanced and shall make their Warrant directed to some proper Officer, requiring him to soize and take all the Arms, Ammunition and warlike Implements belonging to fach Criminal, and commit the same to the Clerk of the Court, who shall proceed with fuch 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 Negreci to subscribe the Declaration in this Act prescribed; and shall require him to find sufficient Sureries for the Peace and good Behaviour, for any longer Time at their Difference; and on Default thereof, shall commit him to the common Goal of the County, until he comply with fuch Order, and shall order the Person to convicted, to pay the Coll of Profecution, and to be committed until he pay the fame. And every Person is convicted, shall be totally disqualified to hold any Office, Civil or Military, or to give his Voto for any Representative to serve in the General Court or Assembly, or for any Military Town or County Officer, until fuch Person or Persons shall be restored by the General Court to the Pile vileges of a good and free Member of this Community.

And whereas it may have happened, that some Towns and unincorporated Plane tations 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 Course. Therefore,

Be it surther enaded by the Authority aforesaid. That in all such Towns in all such and Places as did not at their annual Meeting in March last, agreeable to the flower as ill Resolves of this Court, choose such Committee, the Committee of Correspondence, Inspection or Safety in every such Town and Place tast chosen before Correspondence, Inspection or Safety in every such town and Place tast chosen before Correspondence in March last two beauty discount and impossing all to and the annual Meeting in Murch latt, are hereby directed and impowered to con- 1 co &c. in tinue afting in fuch Capacity, and shall perform the Butiness required in this Mand bat. Act of a Committee of Correspondence, Inspection and Safety, until a new Com. the Committee natitee shall be chosen in their respective Towns and Places; and where no such testering the Committees have heretofore been chosen, the Selectmen shall portorm the same, powered toath And all fuch Towns and Places are directed and impowered to call Meetings with a cere and choose such Committee as soon as may be.

Provided nevertheless, and be it further enacted. That nothing in this A& or fen. shall be construed to extend to the disarming, disqualitying, or any way punishe Carters tot in any of the Denomination of Christians called Quakers, for not signing the consecution aforesaid Declaration, in case upon being required to sign the following Declaration in case upon being required to sign the following Declaration in ration, and having the same tendered to him, shall not refuse or neglect to labs Case, &c.,

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

And he it further enasted by the Authority aforefuld, That no Person who certain Preboth voluntarily left his Town or usual Place of Abode, and fled to the British cans not per-Pleet or Army, while thationed in Boston or elsewhere, or willingly supplied mit ed to fige and Fleet or Army with Provisions or Stores of any Kind fince the Wineteenth he Useland of April One Thousand seven Hundred and Seventy-live, communicated any tion. Intelligence to, or held any criminal Correspondence with any of the Officers, of there or Mariners of faid Fleer or Army, or that hath voluntarily entered into. er lighted any Affectation to join or affift faid Army or Navy, or in any way voduntarily

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

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Fees.

luntarily aided, effilted or abetted the same shall be permitted to sign either of And disquare the Declarations aforesaid, and shall be totally disqualified to hold or exercise in this Colony and Office Civil or Military, or to give his Vive for any Pencalers any Office, & this Colony any Office Civil or Military, or to give his Vote for any Represent from voting tative to ferve in the General Court of this Colony, or for any Town, County for a Repre or Military Officer, and shall have taken from him all his Arms, Ammunition fentative, or and Warlike Implements, in the same Manner; and the like Proceedings shall for any Town be thereon had, as is herein before directed for differning those who refuse or County or Military of the same first than a street or and pathing in this A.B. College or County or Military of the same first than a street or and pathing in this A.B. College or County or Military or Mi litary Officer, neglect to fign faid 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,

CHAP. 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, intitled, An Let for regulating Fees, and for regulating the Fees and Allowances of the several Officers and Persons within this Colony herein after mentioned.

Preemble.

HERE AS the Fees and Allowances stated in the said Act of Williams and Mary, are in diners. Inflammation 100 and Mary, are in divers Instances very disproportionate to the Services whereto they are annexed:

Be it therefore enacted by the Council, and House of Representatives, in Gebisch, viz. neral Court assembled, and by the Authority of the same, That the said Act of William and Mary, intitled, An Act for regulating Fees be and hereby is repealed; and that every Part and Paragraph thereof, be hereaster held and taken to be altogether null and void; and of no Effect whatfoever: And that the Fees and Allowances to the feveral 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 fingly.

Juffices of the Perce.

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, Entring an Action or Complaint in Civil Causes, nine Pence.

For Trial of an Issue, swo Shillings.

Writ of Execution, one Shilling.

Filing Papers, each one Penny.

Taxing a Bill of Cost, three Pence.

Entring Judgment in Civil or Criminal Causes, one Shilling.

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

& Recognizance or Bond of Appeal, including Principal and Sureties, eight Pance.

Taking

ENACTED IN THE FIRST SITTING

O F THE FIRST

ASSEMBLY GENERAL

THE

COMMONWEALTH

O F

PENNSYLVANIA

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 af-Sembly than a quorum to collect the absent members, and issue writs for filling vacancies occasioned by neglect or refusal.

SECTION 1.

HEREAS it is found ne- Preamble. cessary to impower 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;

SECT. 2. Be it therefore enacted, and it is hereby enacted, If a quorum by the representatives of the freemen of the commonwealth of do not meet Pennsylvania, in general assembly met, and by the authority of speaker the same, That from and after the publication of this act, may fend for absent

if members.

THOMAS WHARTON, Jun. Esq. President.

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 freemen of the commonwealth of Pennsylvania in general assembly met, and by the authority of the same, That all the bills of All bills of credit declared to be legal tender by the faid first recited credit issuact, and also the bills of credit emitted, and to be emitted, by virtue of the faid last recited act, shall be legal to be legal tender, not only to those persons and creditors therein bodies pomentioned, but also to all bodies politic and corporate; litie, &c. which faid bodies shall be deemed and taken to be subject, in all respects, to all the fines and forseitures 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.

JOHN BAYARD, SPEAKER.

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

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. TATHEREAS 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 fet 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 faid crown and parliament.

SECT. 2. And whereas from fordid and merce-Inhabitants nary motives, or other causes inconsistent with the hap- to take the

piness oath, &c. of

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The firft Year

of the Commonsvealth.

HIS EXCELLENCY

The first Year of the Commonwealth.

allegiance before the first of July.

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pinels of a free and independent people, fundry perfons have or may yet be induced to withhold their fervice and allegiance from the commonwealth of Pennfylvania as a free and independent state, as declared by congress: And whereas fundry other persons, in their feveral capacities, have, at the risk of their lives and the hazard of their fortunes, or both, rendered great and eminent services in defence and support of the said independence, and may yet continue to do the same; and as both those forts of persons remain at this time mixed, and in some measure undistinguished from each other, the difaffected deriving undeferved fervice from the faithful and well affected: And whereas allegiance and protection are reciprocal; and those who will not hear the former, are not nor ought to be entitled to the benefits of the latter: Therefore, Be it enacted by the representatives of the freemen of the commonwealth of Pennsylvania, in general affembly met, and by the authority of the same, That all male white inhabitants of this state, (except of the counties of Bedford, Northumberland and Westmoreland) above the age of eighteen years, shall, on or before the first day of July next, take and subscribe the following oath or affirmation before some one of the justices of the peace of the city or county where they shall respectively inhabit; and the inhabitants of the faid counties of Bedford, Northumberland and. Westmoreland, above the said age, shall, on or before the first day of August next, take and subscribe the said oath or affirmation, before some one of the justices of the said three counties last mentioned, in which 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.

The oath.

"I do swear, or affirm, that I renounce and refuse all allegiance to George the third, king of Great Britain, his heirs and successors; and that I will be faithful and bear true allegiance to the commonwealth of Penn"sylvania 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 dectared by congress; and also that I will discover and make known, to some one justice of peace of the said state, all treasons, or traitorous conspiracies, which I now know or hereafter shall know to be formed against this or any of the united states of America."

THOMAS WHARTON, Jun. Esq. President,

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

" I do bereby certify, that hath volun-" tarily taken and subscribed the oath or affirmation of The certi-" allegiance and fidelity, as directed by an act of general ficate. " assembly of Pennsylvania, passed the thirteenth day of

"June, A. D. 1777. Witness my hand and seal, the A. D. day of

SECT. 3. And be it further enacted by the authority Justices to aforefaid, That the justice or justices of the peace, before keep regiswhom such oath or affirmation shall be subscribed, ters of the shall keep fair registers of the names and surnames transmitted of the persons so sworn or affirmed, and the time pies to the when, and shall, on or before the first day of Octo-recorder of deeds, who ber in every year, transmit in writing, under his or their is to record hands and feals, to the office of recorder of deeds for the them. faid city or county, a true lift of the names and furnames 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 faid commissioners shall draw orders on the county treasurers for fuch fums as shall be so allowed, which orders the said treasurers are hereby authorised 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 faid lifts, 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.

SECT. 4. And be it further enacted by the authority Incapacities aforefaid, That every person above the age aforesaid refusing and penalor neglecting to take and subscribe the said oath or who neaffirmation, thall during the time of fuch neglect or glect or rerefulal, be incapable of holding any office or place of fuse to swear or aftrust in this state, serving on juries, suing for any debts, firm. electing or being elected, buying, felling or transferring any lands, tenements or hereditaments, and shall be difarmed by the lieutenant or sublicutenants of the city or counties respectively.

SECT. 5. And whereas there is a danger of having the Nonjurors feeds travelling,

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The first Year of the Commonwealth. oath, &c.

fufal.

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 taken to be more so) an asylum for refugees slying from the just up, and the resentment of their fellow citizens in other states: For tendered, to remedy whereof, Be it enacted by the authority aforefaid, be commit- That every person above the age aforesaid, who shall ted on re- travel, out of the county or city in which he usually relides, without the certificate aforesaid, may be sufpected to be a fpy, 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 faid oath or affirmation, the said justice shall commit him to the common goal of the city or county, there to remain without bail or mainprise 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-

SECT. 7. Provided always nevertheless, That delegates legates, &c. 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 refident, are declared not to be within the intent and meaning of this act.

Forgers or counterfeiters 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 feal of the justice of the peace to such certificate, or shall, by erasing or otherwise taking out, or covering or pasting over, a man's name that was wrote in a true and genuine certificate, alter the same so as to serve

THOMAS WHARTON, Jun. Esq. President.

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 perfons so offending, and being thereof legally convicted before any court of general quarter fessions 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.

The firl Year of the Comm monwealth.

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JOHN BAYARD, SPEAKER.

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

CHAPTER XXII.

A supplement to the act, intitled, "An Act for amending the several acts for electing members of " affembly."

TTTHEREAS by one of the said acts, Preamble. SECTION I. intitled, "An Act to ascertain the "number of members of affembly, and to regulate the " elections," passed in the year of our Lord one thousand seven hundred and sive, it is enacted, "That "the sheriff, or some other of the persons appointed "judges of the election of members of affembly, " 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."

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SECT. 2. And whereas it is highly dangerous to the No theriff freedom of elections in this commonwealth that the or judge of sheriffs and other persons appointed judges of elections open and should continue to be invested with the power of read any fearching and discovering for whom any elector shall ticket. vote to represent him: Be it therefore enacted, and it is hereby enacted by the reprefentatives 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-

spector,

1777.

MARYLAND. LAWS of

C H A P.

An ACT for the better fecurity of the government.

Preamble.

HEREAS, 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 sidelity 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 affembly 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 faid oath, and thereto subscribe his name.

Before fome magistrate;

III. And he 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 perfon who takes such oath or affirmation resides.

Who is to keep two books, &c.

IV. And he 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 perfons 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 faid oath, or affirmation, shall, after taking the same, fubscribe his name thereto, in such book as contains the oath, if such person takes the faid oath, or in such book as contains the affirmation, if such person takes the faid affirmation; and if such person cannot write his name, he shall enter his mark, and the magistrate shall thereto set his name.

pies of their books, &c.

V. and, for the ascertaining such as shall neglect to take the said oath, or affir-Magistrates to mation, 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,

VI. And he 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 aforefaid; and the faid justices shall give public notice, by advertisement, of such places and days of meeting as aforefaid.

Constables to make out a tants, &c.

VII. And he it enamed, That every constable of every hundred shall, before make out a list of inhabi. the first day of March next, make out a fair alphabetical list of all the free male inhabitants, refidents in his hundred, and not out of the state, or hereaster 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 faid lift, 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.

magidrates,

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

THOMAS JOHNSON, Efq; Governor.

1777

of this act, to take the oath or affirmation aforesaid, as is allowed the justices for CHAP. 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.

IX. And he it enacted, That if any magistrate shall neglect to keep such books, Penalty on or shall neglect to make copies and transmit them to the governor and council, or neglect of dushall 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 fuch lift, or shall neglect to return the original lift, as respectively required by this act, shall forfeit and pay the sum of two hundred pounds current money.

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

XI. And be it enacted, That the worth in real and personal property, of every How the fuch person chargeable as aforesaid with the said treble tax, shall be deemed and property is to taken for and during the continuance of the said treble tax, of such amount as be ascertainshall be afcertained on the final affessment and valuation of all property with-ed. in this state, which shall be made on or before the first day of March next.

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

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

XIV. Provided nevertheless, and be it enacted. That no such property shall Proviso. be chargeable with the faid treble tax which has been bona fide disposed of after fuch valuation aforesaid, and before the making of this act, and that no such property bond 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 faid tax may be levied.

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 enasted, That Governor and the governor and the council shall annually, before the first day of May, cause a council to cause a list to lift to be made out of all free male persons, of the age of eighteen years, whose be made, &c. 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 faid lift 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 fuch persons, according to the value of such persons property in their respective counties.

XVI. And

LAWS of MARYLAND.

CHAP. XX. Perfons chargeable with treble tax disabled

1777:

XVI. And he it enacted, That every person chargeable with the treble tax as aforesaid, shall be disabled from commencing or profecuting 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 exercifing and practifing the trade of merchandise, unless, previous to fuch suit or merchandising, he shall take the mencing suit, 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 nonssuit; 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 perfon shall be deemed worth on the public assessment of all property within this 11 to 12 to 1 to 12 to 1 state. describe a accommendation of the contraction of the

And practifing the law, Sic.

XVII. and he 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 truft, 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 fuch offence, forfeit and pay five pounds for every hundred pounds of property he shall be deemed worth on the public affesiment of all property within this

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Proviso.

XVIII. Provided nevertheless; and be it enacted, That if any person, require ed by this act to take the oath or affirmation aforefaid, and whose name or mark shall not be found subscribed as aforesaid, shall make it appear to the governor and council, within fix 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 faid 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 fuch persons producing the certificate aforesaid, to correct the said list, and give notice thereof to the collector.

Persons not having figned liable to treble tax, &c.

XIX. And he it enacted, That all persons, not having signed the affociation, having lighted the affociation who have fled from this state since the fourteenth day of August, seventeen hundred and fled, &c. 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.

Proviso.

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 aforefaid, 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.

XXI. And, for the better ascertaining what persons have fled from this state as Justices to in- aforesaid, Be it enacted, That the justices of the several county courts shall anpersons who nually, at their respective August courts, make diligent inquiry after every person have fled, &v. who has fled from his county as aforefaid, or who, returning after the first day of March next, shall neglect to take the oath or affirmation aforefaid, 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 fitting, and, from the faid minutes,

THOMAS FOHNSON, Elg; Governor.

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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.

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 Persons absent shall be affected by any matter or thing contained in this act, unless such person, on lawful bu-finess not affor three months after his return, shall wilfully neglect to take the said oath, or sected by this affirmation, (as the case may be) before the governor and council, or some ma- act. &c. gistrate of the county or city where he resides.

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 bath or affirmation aforesaid, within the time limited as aforesaid, Be it enacted, That the justices of the several county courts shall annually, at Justices to their respective August courts, make diligent inquiry after all such persons return after persons ing as aforesaid, and omitting to take the oath or affirmation aforesaid within the returning, &c. time limited as aforesaid, and shall enter their names on the minutes of the proceedings of their court, and fair and alphabetical lifts make thereof, and transmit them to the governor and council: C LOCK CAR PERS

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 enafted, That Officers, &c. no general, field, commissioned, warrant, or staff officer, or other officer, nor by this act. 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.

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XXV. and, to prevent this state from becoming an asylum for the disaffected fugitives from other states, Be it enacted, That the governor and coun-feeler in this cil, or any magistrate of the county, on their or his own knowledge, or on infor- state to be apmation, that any male person above the age of eighteen years, belonging to any prehended, of the United States, has taken shelter in this state, shall immediately cause such &c. 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 faid 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, menonilt or dunker,) that I no not hold myself bound to " yield any allegiance or obedience to the king of Great-Britain, his heirs or fucceffors, 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 free-dom 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 aforefaid, and fuch 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.

XXVI. IT being represented to this general assembly, that many persons who gave bonds to the prefidents of the late conventions, councils of fafety, and to the committees of observation, for their good behaviour and fidelity to this state, have been guilty of breaches, Be it enafted. That all bonds, taken in the name of any Bonds to be president of convention, council of safety, or in the name or names of any other transmitted to the clerk, &c. 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 refide, and thereupon scire facias shall immediately issue in the name of this state

LAWS of MARYLAND.

C H A P. against the obligors in the bonds, alleging a breach of every part of the con-XX. dition, 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 permy's veffels,

1777.

XXVII. And he it enafted, That if any subject or inhabitant of this state shall fons going 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, fuch 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 afferiment 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 fuch 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 iffue a writ to the sheriff who returned the capias, to cause such person to be proclaimed, and folemnly called and required, at two several courts to be held for his county, in full and open court, to furrender himself to his custody, to answer to the indictment found against him; and the said sheriff shall make his return of fuch 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 fuch 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 thall 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

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

Persons who have taken the oath not to take it.

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

H A P.

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.

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XI. And be it further enacted by the authority aforefaid, 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 Pen. on pursons five pounds lawful money of this state; to be recovered with costs, by action of debt in any court of revoting who are cord having cognizance thereof, one half to the justices of the county wherein such election shall be not qualified. Vol. 2, 193. had, to be applied towards lesening the county tax, and the other half to him or them who shall sue for the fame; and where any fuit shall be brought against any person for voting as aforesaid, without having a right to fuch vote, the Onus Probandi shall lie upon the defendant.

Pen, on candidates giving rewards, &c,

XII. And be it enacted by the authority aforefaid, 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 sive 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. sembly:

XIII. And be it further declared and enosted by the authority aforefaid, 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 ferve in the general affembly, or to enjoy feats therein; and any member of the general affembly who that accept any fuch office, shall thereby vacate his feat therein.

XIV. Repealed, Vol. 2, 177.

No sheriff, core-Vel. 2. 142.

XV. And be it further enacted by the authority aforefaid, 'That if at any time it shall happen that there ner to take the 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 fuch county; and fuch theriff 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 perfon requesting the same, or to his order, which lists and numbers shall be signed by the returning officer; and if any officer shall resuse so to o, 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 fo 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 fuch person as shall sue for the same.

XVI. Repealed, Vol. 2, '18,

CHAP. 5. An act for directing the method of appointing jurors in all caules, civil and criminal, Provided for by subsequent acts.

CHAP. 6. 1, 1777, 6. 1780, 13.

An all to amend an all for declaring what crimes and practices againft the flate fhall be treafen, and what shall be misprission of treason, and providing punishments adequate to crimes of both classes, and for preventing the dangers which may wrife from persons dijoffested to the state.

Persons owing allegiance.

E it enacted by the General Affembly of the flute of North-Carolina and it is hereby enacted by the authority of the fame, That all and every person and persons (prisoners of war excepted) now inhabiting or refiding within the limits of the state of North-Carolina, or who shall voluntarily come into the same hereafter to inhabit or refide, 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 aforefaid, 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 affift any enemies at open war against this state, or the United States of America, by joining their armies, or by inlifting, or procuring or perfuading others to inlift for that purpose, or by furnishing such enemies with arms, ammunition, provition, or any other article for their aid or comfort, or shall form, or be in any wife 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 fufficient witnefles, or ftanding mute, or peremptorily challenging more than

Trial,

thirty five jurors, in any court of oyer and terminer, or other court that thall and may be established for 2,1777. 229 the trial of fuch offences, shall be adjudged guilty of high treason, and shall suffer death without the benefit of clergy, and his or her estate shall be forseited to the state. Provided, That the judge or judges of the Punishment. 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 fufficient for the support of his or her family.

III. And be it further enacted by the authority aforefaid, That if any person or persons within this state shall What misprisiattempt to convey intelligence to the enemies of this state, or of the United states, or shall publicly and on of treason. deliberately speak or write against the public defence, or shall maliciously and advisedly endeavour to excite the people to refift 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 tunults, diforders, or infurrections in the flate, or dispose the people to favour the enemy, or oppole, or endeavour to prevent the measures carrying on in support of the freedom and independence of the faid United States, every fuch person or persons, being thereof legally convicted by the evidence of two Trialor more creditable witneffes, or other fufficient 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, Punishment.

tenements, goods and chattels.

IV. And be it further enacted by the authority aforefaid, That all offences by this act declared misprission Where cognize 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 fulficient furety or fureties, to be complaint. and appear at the next superior court of the district wherein the offence was committed, and abide the judgment of the faid 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 fafe conveying him to fuch gaol; and all perfons 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.

V. And whereas the fafety of the state, and the present critical situation of affairs, make it necessary Persons to take 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 the oath of alle-Great-Britain, and all persons (Quakers excepted) being subjects of this state, and now living therein, or giance. 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

WILL bear faithful and true allegiance to the state of North-Carolina; and will truly endeavour to fupport, maintain, and defend the independent government thereof, against George the third king " of Great-Britain, and his fuccessors, and the attempts of any other person, prince, power, state or potentate, who by fecret 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:

🖪 A. B. do folemnly and fincerely declare and affirm, that I will bear true fidelity to the independent Qual ers affire ¶ "Rate of North-Carolina, and to the powers, and authorities which are or may be established for the mation. " good government thereof; and I do renounce any fidelity to the present king of Great-Britain, his heirs "and fucceffors; 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, com-" mitted or intended against the same, which shall come to my knowledge."

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230 2,1777. And the faid 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

VI. And be it further enacted by the authority aforefaid, That the county courts in each and every county, and every justice of the peace in each respective county, shall have full power to iffue citations against perfons coming within the above description, as officers, merchants, traders, factors, storekeepers, or agents, and to demand furety 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 assirmation, (as the case may be) then the faid 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 fixty 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 neglest 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 faid 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 iffue 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 fuch person within his bailiwick, as may be judged necessary by faid court to defray fuch 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 fame, and to execute proper conveyances; and to return the mcney 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 fending 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 fuch person and persons shall have liberty to sell and dispose of his or their estates, and after fatisfying all just demands, to export the amount in produce (provisions and naval-stores excepted) and may also nominate and appoint an attorney or attornies 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 unfold 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 pro-

ceeded 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 misprisson 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 aforefaid oath or affirmation; and in case of non-attendance or refusal, the said court shall and may have full power to compel fuch person or persons to leave the state, under the same regu'ations herein mentioned in other cases. And as some scruples have arisen with respect to the manner by law required for the service of fuch 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 at sence from their place of abode, or frequently removing from thence, have rendered the service of such personal citations dissicult, and in some cases impracticable, whereby they evade the intentions of the faid act, and cannot be obliged to take the faid oath prescribed, nor be made subject to the penalties ordained for neglecting or refufing the fame: 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 fuch defign, whereby from not incurring particular fuspicion, they have escaped being cited; and as it becomes the duty of every member of society to give proper 2,1777. 231 affurance of fidelity to the government from which he enjoys protection, and by their refufal fo 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 faid 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 County divided the authority aforefaid, That the county court of each respective county which shall sit after the last day of into discusses. February, thall divide the county into feveral diffricts, in each of which shall reside one or more justices of and onth to be the peace, which faid justices within their respective districts are hereby enjoined and required to administered. ter fuch oath of allegiance or affirmation, as the cafe may be, to all free male persons above fixteen years of age (persons non compos mentis, prisoners of war, only excepted) and such justice or justices in their refpective districts so allotted to him or them, shall immediately after the sitting of the said court, in different parts of the faid 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 or assimption; and all such persons who are inhabitants of the faid diffricts respectively (and it is declared that a residence of one week shall in this inftance conflitute any person an inhabitant, seafaring persons and foreign traders excepted) being above the age of fixteen years, and of found mind, shall at fuch time attend upon such justice of the peace, and take the oath or affirmation required, as the cale may be, and fubscribe the same in a book which fuch justice or justices shall keep for that purpose, or in case of such juror or assirmant 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 faid 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 gainst persons fickness or unavoidable necessity, or other sufficient reason, to be adjudged of by the next county court, hable to take the party offering fuch excuse proffering at the same time to take such oath or assirmation, as the case may the cash, who be, which in this case such county court are directed to administer, such person or persons so offering, neglect or reshall be ordered by the faid 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 fixty 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 perfons who have traded to Great-Britain or Ireland within tea 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 jurther enacted by the authority aforefaid, That all perfons failing or refuling to take the oath Disabilities of of allegiance, and permitted by the county courts, as immediately aforefaid, to remain in the state, shall persons suffered be adjudged incapable and disabled in law to have, occupy or enjoy, any office, appointment licenses. 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 affembly, and shall not by themselves, or by deputy, attorney or truftee, execute any fuch office, truft or appointment, and shall be disabled to profecute any fuit 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 refide; and after the expiration of the faid fixty 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 ne- Proviso.

vertheleft, 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

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 recipro- All free born cal, and those who will not bear the former are not en- males, above titled to the benefits of the latter, Therefore Be it en- 16 years old, acted by the General Assembly, that all free born male to take the oath of alleinhabitants of this state, above the age of sixteen years, giance. 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 traiterous 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 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

Form of the

And be it farther enacted, That the justice of the keep regispeace before whom such oath or affirmation shall be ters; and subscribed shall keep fair registers of the names of the transmit re-Vol. ix

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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.

pointed to

And be it farther enacted, by the authority aforesaid, Persons ap- That within one mouth after the passing of this act, or tender oath. 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 Those refus- 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 men-Recusants to tioned the names of such as refuse. And the justices be reported tendering such oath or affirmation are hereby directed to deliver a list of the names of such recusants to the who is forth. county lieutenant, or chief commanding officer of the militia, who is hereby authorised and directed forthwith to cause such recusants to be disarmed.

ing to be noted.

to county lieutenant, with to disarm them.

Person dised from fines for not appearing armed. Incapacities of those refusing to take the oath of allegiance.

taken by those comof the United States.

Consequence of neglect.

Provided, That the person so disarmed shall, neverarmed com- theless, be obliged to attend musters, but shall be expelled to at-empted from the fines imposed for appearing at such but exempt- musters without arms, accourrements, 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.

And be it farther enacted, That all persons coming Oath to be from any of the other United States into this state are hereby required to apply to one of the nearest justices ing from any 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-

MAY 1777—1st of COMMONWEALTH.

by required, to commit him to the jail of the county, city, or borough, there to remain without bail or mainprize, 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 within the meaning of ports of this state from foreign powers in amity with the this act. United States, and not become resident, are declared not to be within the intent and meaning of this act.

And be it farther enacted, 'That this act shall be publickly read by the sheriff of every county in this com- How this act monwealth at the door of the courthouse of his county, to be pubon some court day, on or before the first day of Sep-lished. tember 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.

CHAP. IV.

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

I. WHEREAS the general congress, on the third day of October last, did resolve that five millions of con-States, loan tinental dollars should be immediately borrowed for the office estause 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

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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 unty 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

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 lieutenancy 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 Dutchess.

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per cent. on the whole fum 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 aforefuld, 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 as pointed 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 aforefuld, 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 gd 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 hereafier 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, Toth Lelli ch. 92. An ACT to regulate the Militia.

Patied 4th April, 1786. I. BE it enacted by the people of the flate of New-York, repreferted in fenate, and affembly, and it is hereby enacted by the authority of the fame, That Citizens of 16 and every able-bodied male person, being a citizen of this slate, mader 46 years of or of any of the United States, and reliding in this flate (exps; the captain of the cept fuch persons as are herein after excepted) and who are best. of the age of fixteen, 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 sour months after the passing of this act, be enrolled in the company of fuch beat. That every captain or commanding officer of a company, shall also enrol every citizen as asorciaid, who shall, from time to time, arrive at the age of fixteen years, or come to relide within his beat, and without delay notify fuch enrolment to fuch citizen to enrolled, by tome non-commissioned officer of the company, who shall be a competent witness to prove fuch 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-

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longing to the company, to the colonel or commanding officer of the regi-Militia how to be ment. That every citizen so enrolled and notified, shall, armed and accounted within three months thereafter, provide himself, at his own expence, with a good mulket or firelock, a fufficient bayonet and belt, a pouch, with a box therein to contain not less than twenty-four cartridges fuited to the bore of his musket or firelock, each cartridge containing a proper quantity of powder and ball, two spare slints, a blanket and knapsack: and shall appear so armed, accountered and provided, when called out to exercise or duty, as herein after directed, except that when called out to excreise only, he may appear without blanket or knapsack. That the commillioned officers shall be respectively armed with a sword or hanger, and an espontoon. That the commander in chief for the time being stiall, by general orders, arrange the whole militia into commands, as nearly equal as conveniently may be, of brigades, regiments and companies, and may, from time to time, after such arrangements as he shall think proper; and that toeach brigade of infantry there shall be one company of artillery, and one troop of horse. That each regiment of infantry shall confill of two battalions, each battalion to be composed of four companies, and each company of

Four corporals, One captain, One licutenant. One drummer, One entign, One fifer. Four ferjeants,

Serjeants, corporals, And not less than fixty-five privates, as nearly as local cir-drummers and filter, cumflances will admit. The ferjeants, corporals, drum-to be appointed by the exprain.

mers and filers to be, from time to time, appointed by the captain or commanding officers of the feveral companies.

And if any non-commissioned officer so to be appointed, shall resuse 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 aster directed, with respect to fines for neglecting or resuling to appear to That each regiment shall be commanded by three field officers, exercife. viz. One lieutenant-colonel commandant, and two majors; and that to each regiment there shall be a regimental staff, to consist of

> One adjutant, One Quarter-master, > To rank as licutenants. And one pay-master, One furgeon, and One furgeon'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 infantry companies, and who shall form on the flanks of the regiment, and be clothed in fuch uniform as is herein after directed. That four regiments thus conflituted, shall form a brigade, to be commanded by a brigadiergeneral, who may nominate his own brigade-major, which brigade-major Diall rank as captain.

That each troop of horse shall consist of

One captain, Four corporals, One captain-lieutenant, One faddler, One lieutenant, One farrier, One cornet, One trumpeter, and Four ferjeams, Forty horsemen,

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Each trooper to furnish himself with a serviceable horse, at least sourcen lands high, a good faddle, bridle, houfing, holfters, 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 pillols; and that the commissioned officers shall be armed with a tword and pair of pillols, the holflers of which to be covered with bearfkin caps.

That each company of artillery shall consist of

One captain, Six gunners, One captain-lieutenant, Six bombardiers, Three lieutenants. One Drummer. One fifer, and Six ferieants. Thirty-two matroffes. Six corporals,

Each commissioned officer shall be armed with a fword or hanger, a fuse, bayonet and belt, and cartridge box, to contain twelve cartridges, and each artillerift 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

Artillery company, officers of the company. That each company of artillery and troops of horse shall be formed of volunteers from the lanteers. be uniformly clothed in regimentals, to be furnished at their

own expense, the colour and fashion of which to be determined by the brigadier commanding the brigade. That on every enlithment 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 inlist. That each regiment shall be provided with flate and regimental colours, at the expence of the field officers, and each company with a drum and fife, at the expence of its commissioned

Militia to rendez- officers. That all the militia of the flate shall rendezvous yous sour times in a 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 ‡ brigades; the time and place of rendezvous for the com-

‡ Altered, soth feff, ch.92.fec.2. panies to be appointed by the colonel or commanding officer of the regiment, and arranged on different days, that the field and flaff officers may have an opportunity of attending the feveral 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 diffrict of his regiment; and each brigadier-general shall appoint a brigade parade at fome convenient place within the diffrict of his brigade, as nearly central as may be; at which brigade parade fuch brigade shall rendezvous on fuch 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 feveral 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, purfuant to this act; and shall inspect their arms, ammunition, accoutrements and clothing; fuperintend 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 feveral 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 fervices he is required to perform by this act, at and after the rate of two hundred and fify 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; fuperintend their exercises and manœuvres, and introduce a proper fyshem of military discipline throughout his brigade, agreeable to such orders as he may, from time to time, receive from the Light-infantry companies of the regiments composing the brigades, shall be formed into a regiment, to be companied to be composited, chi.92, sec.2, manded by such field officers as the commanding officer of the believed stall property for the formed in the first of the believed stall property for the formed in the formed in the brigades. 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 fhall affign 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 caprains, and the captains shall make similar returns to their brigadiers within ten General court-mar- days. That a general court-martial shall consist of thirteen commissioned officers, who shall appoint their own judgeadvocate; which judge-advocate shall tender to each member, and each member is hereby enjoined to take the following oath:

OU do fwear, That you will, well and truly try and determine, according to evidence, the matter now depending between the people of the flate of New-York, and the prifoner or prifoners to be tried; and you do further fwear. That you will not divulge the fentence of the court, until the fame 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 prefident is hereby authorifed 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 Committioned officers
when convicted how by a general court-martial, of having refused or neglected
to be punished.

That every committioned officer who mail be convicted
to be punished. 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 exteed 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 feal of the commanding officer of the brigade, directed to any ferjeant of the regiment to which fuch 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 rotler for that purpose, That the proceedings and fentence of every court-martial, by which any officer shall be removed from office, shall be in writing, signed by the pressdentthereof; 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 fame in orders; and that all other proceedings and fentences of brigade courts-martial, shall be delivered by the president thereof to the command-

ing officer of the brigade, who shall approve or disapprove of the same in Courts-martial for orders. That a court-martial for the trial of general officers, how to be ordered, posed of general and teld officers, who shall be warned to that duty by the adjutant-general, from a rofler to be by him kept for that That the proceedings and tentences of fuch courts shall be transmitted by the prefidents 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 That all fentences of courts-martial, by which any officer shall from office. 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 perion adminishing the government of this state for the time being, by and with their advice and confent, may appoint others inflead of the officers to removed from office. That every non-commissioned officer or private, who shall neglect to appear when warned in pursuance of this act, without fufficient excuse, shall, for every day he neglects to appear at the brigade rendezvous, forfeit the fum of twenty skillings, and skull, for every day he neglects to appear at the regimental or company parades, for cit the fum 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, forfeir the tum of one shilling; and appearing

Commissions to be mumbered, and officers millions to be granted to officers of the militia, shall be state rank according to fach numbers. numbered; and the officers of the same grade shall take taltered, tothsfellctt.92. Rec.3. † 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

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ballot, by the commanding officer of the whole then present. That one No brigade, regi. brigade, regiment, or company of foor (except the light-inment or company, en- fantry companies herein before mentioned) shall not be confidered as older, or having rank or preference of the other; but each brigade, regiment, or company, shall be posled in the line, or on command, as the commanding officer shall think proper. That all fines arifing from offences in a company only, shall be adjudged of, and imposed by the committioned officers of the faid 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-committioned officers and privates, shall be adjudged and inflicted by the major part of the field officers of the regiment, and shall be levied, with cofts, 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 diffreis and tale of the goods and chattels of the offenders respectively. And in case any such defaulter shall be under age, and live with his sather 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 coils; and in default of payment, the faid ferjeant shall levy the same upon the goods and chattles of fuch father or mother, or maller or mittres; fuch To be paid into the fines, when recovered, to be paid by the ferjeant or ferjeants, treating of this flate. to the officer granting fuch warrant, whose duty it shall be 10th fellich, 22, fec. 7. to account for, and pay the fame to the commanding officer of the brigade; and fuch commanding officer shall pay City of New-York the fame into the treasury of this state. That the city and county of New-York shall raise one regiment of artillery, to of artillery. contill of as many companies as the commander in chief shall judge necessary, not to exceed four; which companies thall consist of the fame number of officers, non-commissioned officers, and matroffes, as the artillery companies herein before mentioned. That fuch regiment of artillery shall have three field officers, shall be armed and accounted 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

men 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 fix times in every year, and be subject to the same sines and penalties as are inflicted by this act for the neglect or refusal to do duty, or being deficient in any arms or equipments.

II. And be it further enasted by the authority aforesaid, in case of invaling. That the commander in chief for the time being, may, in many order out the microscopic case of invaling.

it necessary, order out any proponion 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 thard part thereof, to such thate. 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.

Gertain characters That the lieutenant-governor, members and officers of congress, and their fervants not chizens of this flate, mem-

GEORGE CLINTON, Esq. Governor.

Bers of fenate and affembly, the clerks of fenate and affembly, the chancellor, chief justice and other julices of the supreme court, judge of the court of probates, and all other judicial officers, fecretary, treasurer, attorney-general and auditor of this state, surveyor-general, registers of courts sheriffs, coroners and gaolers, two ferrymen employed to each boat, and e furrogates in the feveral counties, all ministers or preachers of the gospyl, physicians and furgeons, except in their respective prosessions and callings, the professors, tutors and students of Columbia college, post-officers, and stagedrivers who are employed in conveying the mails of the post-office of the United States, all school-masters engaged for fix months, the actual attendant of every grift-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 magiltrates of the county of Albany, reliding in the township of Schenectady, notwithstanding their being above fixteen and under forty-five years of age, shall be, and hereby are exempted from training or doing duty in the militia.

Quakers, inflessi of That all persons, being of the people called Quakers, who duty, to pay 405 per would otherwise be subject to military duty, by virtue of this act, and who shall resuse personal military service, shall be

exempted therefrom, on paying annually the fum of forty shillings each for fuch exemption; fuch fum to be affelled on each of them respectively by the 'affestors, and collected by the collectors of the districts wherein they respectively refide, 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 thereaster, 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 persorm military service, and deliver such list, in the city of New-York, to the clerk of the faid 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 resuling to persorm military service, shall respectively reside. And the clerk of the said city of New-York shall forthwith, after receiving fuch lifts, deliver the fame to the mayor, aldermen and commonalty of the faid city, in common council convened. And the mayor, recorder and aldermen of the city of New-York, or any three of them. in the faid city, and the supervisors, or major part of them, of each of the other counties of this flate, respectively, shall, at their first meeting after the delivery of fuch lifts, cause tax-lifts to be made out, according to fuch lifts so delivered, with warrants thereon, under their hands and feals, directed to the collector of the ward, town, precinct or district in which such persons named in fuch lifts, 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 faid collectors are hereby respectively authorised 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 faid furn of forty shillings, by distress and sale of the goods and chattels of the person so neglecting or resuling to pay the same; and in case any person hamed in fuch tax-lift 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 said respective collectors shall respectively pay the said monies to the city or county treasurer, deducting their sees 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 sees 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 sees for collecting and receiving the said monies, as they are respectively entitled to for collecting and receiving the monies raised for desiraying the necessary and contingent charges of the said city or counties.

... [The 5th Action of this act is repealed, toth fell. ch. 92. Ic. 4. and the 6th, 7th and 8th fections are thereby become obfolete.]

IX. And be it further enalied by the authority aforefaid, 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.

Those persons in Washington and Montgomery, some of the inhabitants gonery who live above somilers from the regimental and brise were obliged to attend at regimental and brise gode parades; gode parades, excused from attending.

Be it therefore enacted by the authority aforefaid. 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 infular fituation 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, Militia in Richmond. See it firether emasted by the authority aforefaid, That the tobe torned into one 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 shate are directed to meet; but such regiment shall be inspected in And consistered as the said county, by such inspector of the militia of the city and county of New-York, as the commander in chief shall New-York.

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 afarefaid, That if a fufficient 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 in-listed in the said infantry companies, and shall, by lot, determine which of

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the faid young men shall be compelled to attach themselves to the said com-

panles of infantry.

XIII. And be it further enacted by the authority aforefuit, Mode of ordering out That it shall and may be lawful to and for any major gene-the militia in three ral, or commanding officer of a brigade, or commanding officer of a regiment, when, and as often as any invation may happen, to order out the militia under their respective commands, for the desence of this flate, giving notice of fuch invalion and every circumflance attending the fame, as early as possible, to their immediate commanding officer, by whom fuch information shall be transmitted, with the utmost expedition, to the Officers duty in cases commander in chief. And that in cases of innurrections, the of infurrections. 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 fuch measures to suppress such inturrection, as to any three of the judges or juffices of the county in which such infurrection shall happen, Personadicabled in shall appear most proper and effectual. And if any person

oppeding any invalou be wounded or ditabled while in actual fervice, in opposing provided for at the any invalou or insurrection, or in suppressing the same, he public expense.

That he taken care of and provided for at the public expense. shall be taken care of, and provided for at the public expence, without having any regard to the rank fuch person may hold,

XIV. And be it further enacted by the authority aforefaid, That it shall. and may be lawful for the person administring the government of the slate. for the time being, by and with the advice and confent of the council of appointment, to appoint a commissary of military slores, who shall be allowed at and after the rate of forty pounds per annum; and fuch commiliary shall have the charge and keeping of ordinance and military stores of theflate, subject to such orders and initractions in the execution of his duty, as he shall receive from the commander in chief.

XV. And be it further enalical by the authority aforefaid, Penalty on non- That every non-commissioned officer and private, who shall commissioned officer

and privates for neg-neglect or refuse to obey the orders of his superior officer lecting or refusing to while under arms, shall forseit twenty shillings for every obey orders. fuch offence; and if any fuch non-committioned officer or private enrolled to ferve 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 small forseit the fiun 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 prefent, to which fuch offender doth belong, to the next gaol, there to be confined until the fines as aforefaid, together with the gaoler's ices, are paid; and the respective sherits of the respective cities and counties. of the flate, are hereby empowered and required to receive the body or bodies of fuch offender or offenders, as shall be brought to them by virtue of a warrant or warrants under the hand and feal of fuch officer as aforefaid, and him or them to keep in fafe cullody, until fuch fines as are mentioned in fuch warrant, together with the gaoler's fees as aforefaid, shall be paid; and the theriffs and gaolers respectively shall be allowed the farm sees 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 fuch guard, shall be of the same authority against all offenders, as if fuch warrant had been issued by such captain.

XVI. And be it further enacted by the authority aforefaid, That the military

uniform of this flate 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 aforefuld, Former continental That all persons who have heretolore been commissioned officers exempted from ferving in the millofficers in the line of the army of the United States, shall be,

See tothest.ch.92. and hereby are exempted from serving in the militia of this ithief.ch.95.fec.31. state; any thing in this act to the contrary hereof notwith-standing. Provided nevertheless, That if any such officer, being above the age of fixteen, 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 resuling, shall be liable to serve in the militia.

XVIII. And be it further enacted by the authority aforefaid, 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 ferved in the militia of this state, and the number of men between the age of fixteen and forty-five, directed to be enrolled by this act; and all executive officers within this flate 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 aforefaid, Former militia seas 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.

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XXVII. H A P.

An ACT for the Relief of Creditors against Heirs, Devisces, Executors and Administrators, and for proving Wills respecting real Estates. Passed 4th April, 1786.

BE it enasted by the people of the flate of New-York, represented in senate and assembly, and it is hereby enasted by the authority of the same, That

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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 for-feited estates. That the treasurer shall upon the warrant of the person Advances administring the government of this State, advance as cash to the said to personal named. 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.

And be it further enacted by the authority aforesaid, That if any person penalty shall forge or counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit and the same counterfeit and the same certificate and the same certi negotiate or assign over, or tender for, or in payment at the treasury, etc. 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.

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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 regu- Preamble. lated militia as the only secure means for defending a State against external invasions, and internal commotions and insurrections.

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, repre- Persons to sented in Senate and Assembly, and it is hereby enacted by the authority of be enthe 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

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Disputes, how to be decided.

Equipments.

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. 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, accounted 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 accourrements, 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 administring the government of this State for the time being.

Militia to be arranged 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 najor 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

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grenadiers, shall respectively be formed and composed of voluntiers, 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 lifty men, officers included; and that no person shall hereafter inlist 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 voluntier; the captain of the Enlisttroop of horse, or company of grenadiers, do immediately certify to the be certicaptain of the beat, from which such voluntier shall inlist, the inlistment fled. of the said voluntier.

VIII. That each trooper shall be equipped and provided with a good Equipservicable horse, at least fourteen hands high, a good saddle, housing, ments or troopers. holsters, breast plate and crupper, a case of good pistols, a good, horseman'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.

IX. That each colonel or commanding officer of a regiment, shall, in Regimentthe first or second week in April, and in the first or second week in al parades. 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 accourrements 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.

X. That every commissioned officer of the militia, in this State, who officers shall omit or neglect to perform any of the duties, by this act enjoined on the perform him, of enrolling training or disciplining in and to the use of arms, the duties have the performance of the per militia of this State, or making perfect returns of the militia, or not call- this act to ing out to actual service the militia, or any part thereof, when necessary, be court martialed. 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-

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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

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XI. That the brigadier general, and the field officers of each brigade. shall, on the second Tuesday in January and the second Tuesday in officers to June yearly and every year, meet together, at such town or place within tences. 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 diers.

XII. That every commissioned officer of the militia of this State who officers to consent of the council of appointment, shall be obliged to do the duty foot soloof and in every respect be put on a footier with shall be cashiered, or who shall resign his commission, unless with the thing contained in this act, to the contrary thereof notwithstanding.

Foot soldiers pearing.

XIII. That every foot soldier of the said militia who shall neglect to penalty for 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 accourtements, 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, etc.

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 serjeants 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

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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 Rank. 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 command- Returns. ing officers of regiments, respectively, to the respective brigadiers general, brigade returns shall without delay be made to the commander in

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XVI. That one brigade, regiment, or company of foot (except How comgrenadiers 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 posted, each brigade, regiment or company shall be posted and disposed of in etc. 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, Militia to or insurrection, within this State, the commanding officer of any brigade, be called regiment, or company, as the cases may require, shall immedeately draw cases of out the militia under his command and with them oppose the enemy or emergency. 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, officers when called out into actual service, either to act separately or in con- and prijunction with the troops of the United States of America, shall from the called into time of his receiving due notice thereof from his commanding officer, actual service subuntil he be properly discharged from that service, if and as long as he ject to shall perform the same, and untill properly discharged or dismissed, be articles of allowed pay, subsistence and rations, according to the Continental estab- war. lishment, 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 dismission, shall commit any offence, or shall, before such discharge or dismission, 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 offender 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

XX. That the commander in chief for the time being shall have power and authority, from time to time in his discretion, to militia, etc. whole or any part of the associated exempts and enrolled militia 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.

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

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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 limitted, 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, Privates and divided, by the captain or commanding officer of the company, into of each eight classes, as nearly equal in number to each other as conveniently to be may be, and a serjeant or a corporal shall be allotted on the roll, by the divided captain or commanding officer, to each class; which said eight classes, in classes. 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 s'ips 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 ballotting, 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 ballotting as above directed.

XXIII. That when and as often as the classes shall be thus fixed, Roll of each captain or commanding officer of each company shall form a roll classes. 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 ballotting, 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 com-

pany return, in a book to be kept by him for the purpose.

XXIV. That the colonel or next commanding officer of the regiment Tours of shall, on receipt of all the classed returns of the companies in his regiduty of ment, convene together all the commissioned officers in his regiment, stoned and proceed in like manner to fix by ballot the respective tours of duty officers. 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 ballotting

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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 appointed to command. Substitutes.

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 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. the substance of such associations shall be, that the associators will sev-

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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 seperate 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 In case of act to military duty in the militia, who shall remove out of the limits of removal the regiment or corps in which he shall be commissioned, associated, or liable to enrolled, and sojourn, or be within the limits of any other regiment, or draft. 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 belong's in order to avoid being drafted or performing other

military duty.

XXXI. That the lieutenant governor, members of the senate and omeers, assembly, and their several clerks, and all judicial officers, the secretary etc., exof this State and two of his deputies, the treasurer, the auditor general, training. 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. XXXII. That all those male persons, between the ages of sixteen and Quakers sixty years, who are or shall be of the people called Quakers, upon pro-but liable ducing a certificate from one of their quarterly meetings that he or they to tax 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

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within his beat; and the respective supervisors of the county, at either of their meetings, shall make out a seperate 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 per have furnished

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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 substitutes 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 etc.

XXXV. Be it therefore enacted by the authority aforesaid, That the same shall respectively be ascertained from time to time, by the presicourts-martial to dent of such courts respectively, and be paid from time to time, out of be paid out the fines arising from each regiment, or corps of exempts, and which are of times.

The this act required to be paid to the commanding officer of the regiment. 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 ballance 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 expresses, 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 repectively 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

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from the person administring 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 Wounded any person be wounded or disabled upon assisting in repelling any invasion or an incursion of the enemy, or suppressing an insurrection, or any subsisted, other legal military service, he shall be subsisted and provided for at etc. the expence of the State, during such disability, exept 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.

XXXIX. And be it further enacted by the authority aforesaid, That the Acts conact now in force, entitled, "An act for regulating the militia of the State of force. 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.

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 regi- Offenders mental courts martial shall and may take cognizance of, try and deter- may be mine, all such offenders as have been guilty of any offences against the tried. 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

XLI. That proceedings or trials at courts martial, may be carried on Proceedat any time or times, the seventh article of the fourteenth section of logs of the said articles of the said artic the said articles of war, whereby such proceedings or trials are pro-when may hibited from being carried on, except between the hours of eight in the on. morning, and three in the afternoon, to the contrary notwithstanding.

officer of this State.

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CHAP. 56.

Articles of war to be

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.

Commiscourts named to be made

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 over 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 over and terminer and general gaol delivery.

Precepts summon-

And be it further enacted by the authority aforesaid, That whenever to be issued for and as often as any person or persons, shall be apprehended and in actual custody, charged with any of the offences aforesaid, heretofore juries, etc. 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 agreable to the form of precept issued by the justices of the courts of over 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 over and terminer and general goal 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 sherif 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

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LAWS OF NEW YORK.

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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

Auditors to grant other cer-tificates o John L. Hardenbergh.

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.

Bond to be 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

Condition. 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 de-

stroyed.

Entry to be And be it further enacted by the authority aforesaid That the said made on margin re. auditors who may subscribe the certificates to be given to the said John maining in L. Hardenbergh in pursuance of this act, shall before they deliver the book. 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.

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.

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I. Be it therefore enacted by the People of the State of New York Persons to represented in Senate and Assembly and it is hereby enacted by the authority be enrolled 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 enrolled 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 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 such notice. That if any dispute shall arise with respect to the Commandage or ability to bear arms of any person, it shall be determined by the ingomeer colonel or commanding officer of the regiment whose determination in mine disthe case shall be final. That every person so enrolled and notified shall putes. within twenty days thereafter furnish and provide himself at his own enrolled to expence with a good musket or firelock fit for service, a sufficient bayo-provide net (unless he shall be provided with a good rifle) with a good belt or withequippouch or cartouch box containing not less than sixteen catridges suited ments etc., and appear to the bore of the musket or firelock, each cartridge containing a proper with same when quantity of powder and ball or in lieu of such pouch cartouch box or when cartridges with a quantity of powder and ball or in lieu of such pouch cartouch box or when cartridges with a quantity of powder and ball or in lieu of such pouch cartouch box or when cartridges with a quantity of powder and ball or in lieu of such pouch cartouch box or when cartridges with a quantity of powder and ball or in lieu of such pouch cartouch box or when cartridges with a quantity of powder and ball or in lieu of such pouch cartouch box or when cartridges with a quantity of powder and ball or in lieu of such pouch cartouch box or when cartridges with a quantity of powder and ball or in lieu of such pouch cartouch box or when cartridges with a quantity of powder and ball or in lieu of such pouch cartouch box or when cartridges with a quantity of powder and ball or in lieu of such pouch cartouch box or when cartridges with a quantity of powder and ball or in lieu of such powder and ball or in lieu of 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, accoutred 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 furnished with arms and accourrements 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 government of this State for the time being.

.II. That the commander in chief for the time being shall by general com orders arange the militia of this State into brigades, regiments, and companies, and by and with the advice and consent of the council of ap-arrange pointment, appoint such and so many brigadiers general and other militia into officers as he shall think most conducive to the public service; copies brigades, of such general orders to be filed in the office of the clerk of the county etc. where the regiment, or company shall be.

III. That each brigadier general shall have one brigade major of his Brigade own choice, to rank as major in the militia and receive pay on the certi-major. 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 Commandof any colonel now commanding a regiment, no colonel shall thereafter ants of be appointed thereto, but that such regiment and all others not now commanded by a colonel shall henceforth be commanded by a lieutenant colonel.—That each regiment shall have one major (unless in cases where it shall be thought necessary to appoint two majors — That each Company company shall be officered with one captain, one first lieutenant, one officers 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

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Regimental

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 repectively 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 lines 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 grenadi-

Of whom

posed.

Proviso as to consent

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— 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 inlist in any troop of horse or grenadier company without the consent of the commanding officer of the regiment in which he shall reside.-

Enlistments to be certifled.

Equipment of troopers grena-diers.

To be called out.

Regimental parades.

VII. That on every such inlistment 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 inlist, the inlistment of the said volunteer.-

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 pistels, 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 equiped 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.

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

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return (excepting therein by name the exempts or absentees) to the brigadier general or commanding officer of the brigade — That the cap- Company tain or commanding officer of each company shall and may call out his parades. 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.

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X. That every commissioned officer of the militia in this State who officers shall omit or neglect to perform any of the duties by this act enjoined to perform on him, of enrolling training or disciplining in and to the use of arms duty to be the militia of this State, or of making perfect returns of the militia, or tried by of not calling out to actual service the militia or any part thereof when martial, 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 sentence sentences of courts-martial so confirmed shall be by the commander in to be laid before chief from time to time, laid before the council of appointment, to the council or end, that the person administring the government of this State for the ment. time being by and with their advice and consent may appoint others instead of the officers so found guilty.

XI. That every commissioned officer of the militia of this State, who omcors shall be cashiered, or who shall resign his commission, not being super- cashiered, etc., to do seded in rank in the company to which he belongs, or being a major, or duty as captain, not being superseded in the regiment to which he belongs, or soldiers. 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.

XII. That every non commissioned officer or private of the said mili-Non-com-tia who shall neglect to appear when called out to train or parade as officers, herein before mentioned, without sufficient excuse, shall for every such and pri-vates to offence forfeit the sum of ten shillings; and if he shall appear wanting forfeit any of his arms, ammunition, or, accoutrements prescribed for him by sum named in this act, without sufficient excuse, he shall for every deficiency forfeit case the sum of two shillings—and if any non commissioned officer or private etc. 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.

XIII. That all fines to arise from offences in a company only when Pines, how called out to train or parade shall be adjudged of, and inflicted by the inflicted and levied. 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

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lected.

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, Fines, how and shall be levied with costs, by warrant under the hand and seal of to be ad-judged of the commanding officer of the regiment, directed to one or more of the and col-serjeants of the said regiment, by distress and sale of the goods and serjeants 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 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.

Official rank.

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.

Returns to be made to chief.

XV. That from all returns to be made by the commanding officers of regiments respectively to the respective brigadiers general, or commandmander in ing 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.

Brigades, etc., how be posted in line.

XVI That one brigade, regiment, or, company of foot (except grenaeto, how torank and diers 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. ---

Militia to of emergency

XVII. That on every emergency of a sudden actual or threatened out in cases 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-

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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 Orders to commander in chief, shall be reported in writing by express to the com-by express manding officer of the regiment, if given by one under his command, to con and if given by the commanding officer of the regiment shall be reported officer. 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.

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XVIII. That every person in the militia whether officer or private, Pay and 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 dismission shall commit any offence or shall before such discharge or dismission desert from the corps to which he shall belong, or from his post, shall for every such offence be subject to Deserters the rules and articles of war, established by the congress of the United rules and States of America, for the better government of the troops in the service articles of the said United States, which shall be not in execution articles of war. 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 Upon usual place of abode of any offender containing the charge against him at restand the time and place when and where the court martial will be held dence and proof of for his tryal, and due proof made to such court of the service of such service notice, it shall be lawful for such court to proceed to the tryal of such court may offender, in like manner as if he had appeared and plead not guilty to offender. the charge.-

XIX. That in every case where a fine shall be imposed by a court mar- In case of tial in consequence of the last preceeding clause, it shall and may be law-non-payful for such court martial to direct the offender (in case of the non fines payment of such fine) to serve in and do duty with any one of the may regiments of the army of the United States of America raised by the bedirected direction and under the authority of this State, as a private soldier privates thereof, for and during such time as the court martial shall adjudge not exceeding six months.

XX. That the commander in chief for the time being shall have Compower and authority from time to time in his discretion, to order out chief may the whole, or any part of the associated exempts and enrolled mili-order out the whole, or any part of the associated exempts and enrolled mili-order o tia of this State into actual service, not only for the defence of this etc. 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

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Term of sorvice,

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may be in the discretion of the commander in chief or brigadier general within whose command the associated exempts do reside;

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

XXI. That whenever any sherif his deputy or any other ministerial may be called out officer in any of the counties of this State shall receive any legal process to ald sher-commanding him or them to apprehend any person or persons therein in nexe-charged with any prime or offence against the laws of this State and cuting pro- charged with any crime or offence against the laws of this State, and such sherif 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 sherif 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 sherif, his deputy or other ministerial officer to execute such process and which said detachment shall act under the directions and orders of such sherif, 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-

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 corporal 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 acquited 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

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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 privates to and divided by the commanding officer of the company into eight classes be divided into as nearly equal in number to each other as conveniently may be, and a classes, serjeant or corporal shall be alloted on the roll by the commanding etc. 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 Tours of duty, and so determining their respective tours of duty in a numerical duty. 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, Roll of each commanding officer of each company shall form a roll consisting of classes, etc. 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 ballotting, 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 Tours of of all the classed returns of the companies in the regiment, convene to-duty of commisgether all the coma issioned officers in the regiment, and proceed in like stoned offimanner, to fix by ballot, the respective tours of duty, of all commissioned cers. 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 seperately 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 detatchment, 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 Majors to shall decide by lot, which of them shall take the first tour of duty, and decide by lot, which of them shall take the first tour of duty, and decide by the order or tour of duty thereby established shall ever after govern.

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Rotation of duty on decers.

XXVII. That to establish the rotation of duty on detachments among tachments 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 seperate 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 ceneral.

XXVIII. That to a brigadier generals 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 employed.

Tours of duty in

ness, etc.

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 atoresaid—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 men-

tioned, as long and as often as the public service shall require the same.

Discretionary 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 S. army, may defor offenstions.

XXX. That if the commander in chief of the army of the United on regulal- States should in the prosecution of the war be under the necessity of command- calling on this State for an aid of militia for offensive operations within er in chief of U, this State, it shall and may be lawful for his excellency the governor or the person administring the government of this State for the time betach troops ing 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 re-

Exempts from ser-vice in enmilitia.

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 Voluntary serving as part of the enrolled militia — That all persons who have not associated, shall form themselves into voluntary associated regiments or companies according to their number in each respective county and ...

etc.

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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 Associate substance of such associations shall be, that the associators will seven be obey or erally on all occasions obey the orders of their respective commanding ders, etc. 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 seperate 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.—

XXXII. That every person an inhabitant of this State subject by this Persons act tomilitary duty in the militia who shall remove out of the limits of subject to draft. 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.

XXXIII. That the lieutenant governor, members of the senate and Persons assembly, the clerks of the senate and assembly, all judicial officers, the exempt from trainsecretary of this State, and one of his deputies, the attorney general of ing, etc. 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 sherifs, 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.—

XXXIV. That each male person between the ages of sixteen and Quakers sixty years who is or shall be of the people called Quakers, upon pro-exempt. ducing 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 Yearly tax. 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 Howlevied annual sum, the commanding officer of every beat shall annually in the and collecmonth 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

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the county at either of their meetings shall make out a seperate 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 perhave fur-nished 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, verbai 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 noncommissioned officer of the company, shall be deemed a legal and sufficient notice.-

Compensa tion 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 respec-Fines, how tive presidents of the said courts—That the fines imposed by the said recovered. 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 moneys re- of his said regiment attending on the said courts, and the overplus money from fines, of the said fines shall by the said commanding officer be paid into the

Officers to be paid from

treasury of this State.-XXXVIII. And wheras 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.-

Reimbursoment of moneys paid out by officers.

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XXXIX. And be it further enacted by the authority aforesaid, That the Ammunicommissioner of military stores of this State, shall on application of any furnished commanding officer of a regiment of the militia of this State, by draft in on requisiwriting on the said commissioner, in favor of the quarter master of the regiment with a warrant endorsed by the person administring 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 expense of making up the same; which monies the said commissioner shall from time to time lay out in the purchase of ammunition.-

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XL. And be it further enacted by the authority aforesaid, That if any wounded person be wounded or disabled, upon assisting in repelling any invasion persons to or incursion of the enemy, or suppressing an insurrection, or in any ed, etc. 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.

XLI. And be it further enacted by the authority aforesaid, That pro- Proceedceedings or trials at courts martial directed by this law, may be carried to court on at any time or times, the seventh article of the fourteenth section martials. of the said articles of war, whereby such proceedings or trials are pro- when carhibited from being carried on, except between the hours of eight in the morning and three in the afternoon, to the contrary notwithstanding.-

XLII. That the commanding officers of the several companies, shall Articles of cause the said articles of war to be read and published at least twice in war to be every year, at the head of their respective companies.

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 expense 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 omeers commanding officers of companies which shall so have furnished them-themselves selves and their companies, or shall hereafter furnish themselves and their or their companies with provisions at their own expence, shall from time to time with subreturn to the commanding officer of the regiment or corps, duplicate sistence to subsistence rolls containing the names of the several persons of their return respective companies who have, or hereafter shall furnish themselves subsistence with provisions at their own expense and the number of days for which 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-

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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 allowed. 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 to notifying associate exempts renders the mode at present used for notifying them associate to march in cases of invesions as investors are investors as investo to march in cases of invasions or insurrections extremely inconvenient. and in a great measure defeats the objects for which they were embodied.

XLIV. Be it therefore enacted by the authority aforesaid, That it shall

Notice how given.

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 To do duty 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 orders of command- annexed to, and be subject to the immediate command of the officer, ing officers commanding such regiment or company of enrolled militia within the ments until Joined by an officer of the correct of 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.

with and be sub-ject to orders of corps.

And whereas the conviction of delinquents for refusing to rendezvous of conviction of de-with much expense and delay; and proper encouragement bath not been 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;

Proviso as linguents.

XLV. Be it therefore enacted by the authority aforesaid, That every person enrolled in the militia of this State, who shall refuse or neglect case person enrolled in the militia of this State, who shall refuse or neglect some en-to rendezvous and march with the regiment or detachment thereof the militia when duly notified so to do; and every person belonging to the associrefuse to rendezvous ated exempts who shall refuse or neglect to rendezvous and march 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'. 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

Proceed-ings in when duly notified to

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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 then 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 hatt, 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 Proviso as returned, there shall be as many officers ordered to convene as will con- of delin-stitute seven such courts martial, and the limits of the regiment shall be quents and of courts. divided in manner aforesaid into as many parts as there shall be courts martial. 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 President signify to the adjutant of the regiment in what district the court of of court to notify which he is president is to convene, and on what day, provided such day adjutant, shall not be less than five days after, and exclusive of the day on which etc. 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

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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 seperate, the adjutant, shall and he is hereby authorized and empowered to administer the following oath, to each of the officers composing a court martial,

Form of.

Officers of court to

take oath.

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

That every such court may send for such witnesses as they may deem witnesses; necessary on any trial—That the president of each court shall subscribe sentences, 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 im-How levied posed from the time of such desertion; all which fines shall be levied by 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

Fine.

FIFTH SESSION.

CHAP. 27.

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 agreable 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 Officers neglect or refuse the duties enjoined him by this clause, shall be tried by cashlered. 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-

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XLVI. That it shall and may be lawfull to and for the commanding Officers officer of the regiment to pay out of any monies arising by the fines to courts to be inflicted by virtue of this clause, to each of the officers serving on be 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 Witnesses' every witness attending any court martial to be instituted by virtue of fees. 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 certicates 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 Residue of arising from delinquency for not rendezvousing and marching when fines to be ordered by detachment, shall by the commanding officers of regiments, among men who and the commanding officers of companies be divided amongst the en actually rolled non-commissioned officers and privates of such detachment who did march. 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 of 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

of fines.

times they respectively served on such duty — That in case of the death, Dutles of sickness or absence of the adjutant the duty enjoined him by this clause by whom shall and may be executed by any person thereunto appointed in writ-executed ing, signed by the commanding officer of the regiment; and in case of illness, the death, sickness or other inability of the president or members of any 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

of the said courts, the commanding officer of the regiment shall appoint a substitute out of the other commissioned officers of the regiment.—

the limits thereof, who did actually march, and in proportion to the

XLVII. Be it further enacted by the authority aforesaid, That all per-persons sons who have since the eleventh day of March one thousand seven neglecting to march hundred and eighty, neglected or refused to march having been duly to be tried, notified, and who have not been tried for such offence, shall and may be etc.

[CHAP, 28.

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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 completed. 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 aed 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 hunderd and eighty one recommend to the several States in the words following, to wit.

Resolution of congress recited.

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

ACTS

OF THE

THIRTIETH

GENERAL ASSEMBLY

OF THE

STATE OF NEW-JERSEY.

SECOND SITTING

CHAP. CLXXXV.

An act to erect and set off a new township from the townships of Hanover and Morris, in the county of Morris.

SEC. 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 all the district of the above townships of Hanover and Bounds. Morris, included within the following limits, viz. beginning at a pin oak tree, standing on the bank of Passaic river, on lands of Robert Moore's, near the corner of Moses Stiles, about half a mile above Col. Cook's bridge, and running thence, south eighty nine degrees west, to a cherry tree in the northwest corner of the garden, late the property of Dr. Bern Budd, deceased; thence in a direct line to the cross roads by Daniel Crane's on Loantica hill; from thence south, eighteen degrees west, forty-seven chains and fifty links to a stake and heap of stones on the brow of the hill back of Zophar Freeman's house, from thence south, five de336

fifty years, from the passing of this act, repay the proprietors of said road, the amount of the sums expended thereon, with twelve per centum per annum in addition thereto, deducting the neat amount of toll received, and in that case the said road shall become the property of the state of New-Jersey, and be under the control of the legislature thereof, any thing in this act contained to the contrary notwithstanding.

A. Passed at Trenton, February 24, 1806.

CHAP. CLXXXVII.

An act for establishing and conducting the military force of New-Jersey.

SEC. 1. BE IT ENACTED by the council and general assembly of this state, and it is hereby

ted 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) shall severally and respectively be enrolled in the

militia by the captain or commanding officer of the company within whose bounds such citizen shall re-

Who shall enacted by the authority of the same, That every free able bodied white male inhabitant of this state, who and is, or shall be of the age of eighteen years, and under the age of forty-five years, (except ministers of the gospel, 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 who fitall 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 Uni-

be enroll-

side, Provided always, That in cases of doubt respecting the age of any person enrolled, or intended to be enrolled, the party questioned shall prove his age to the satisfaction of the officers of the company within whose bounds he may reside, or a majority of them.

Sec. 2. And be it enacted, That the militia in the several counties of this state, except Cape-May, shall form each a brigade, to be colled after their ty to form The militia in the county of a brigade &c respective counties. Cape-May, shall be annexed and belong to the Cum-arranged in berland brigade; the Burlington, Gloucester, Salem four divisand Cumberland brigades, shall compose the first division; the Bergen, Essex and Morris brigades. shall compose the second division; the Somerset, Middlesex and Monmouth brigades, shall compose. the third division; the Hunterdon and Sussex brigades, shall compose the fourth division; and the several regiments, independent battalions, battalions, squadrons and companies of infantry, light infantry, grenadiers, artillery and cavalry, shall continue as at present arranged; subject nevertheless to such alterations and arrangements of the regiments, battal- New comions, squadrons and companies as their present talions and numbers, or future increase or diminution may in regiments, the judgment of the board of general and field offi- may be orcers of the several brigades, to which they respect ganized by ively belong, from time to time render necessary or of general expedient, by forming such company or companies, and field and attaching them to such battalions and regiments officers. as are already organized or may be formed and organized in their several brigades, as the said board of general and field officers shall order and directfor the interest and convenience of the militia of the brigade, and the general and field officers who are constituted a board for divers purposes mentioned in this act, shall meet as soon as they can be convened, to make as well as the necessary arrangements contemplated in this section, as for other duties by this act enjoined on the said board for the improvement and conducting of the militia.

Sec. 3. And be it enacted, That the present officers of the militia of this state, shall continue and:

Officers of divitions, brigades, regiments, battalions, companies continued.

exercise the several ranks and commissions which they now respectively hold. Vacancies by death, removal, resignation or otherwise, shall be filled up, so that the militia shall be officered as follows: to: each division there shall be one major-general and two aids-de-camp, with the rank of a major; to each brigade one brigadier-general, with one brigade-inspector, to serve also as brigade-major, with the rank of major, one brigade or senior surgeon, one brigade-judge-advocate, one brigade-paymäster and one brigade-quartermaster; one adjutunt-general, with the rank of brigadier-general; to each regiment, one lieutenant-colonel-commandant; and to each battalion and squadron, one major; to each company of infantry, light-infantry and gronadiers, one captain, one lieutenant and one ensign, one clerk, four serjennts, four corporals, one drummer, one fifer or bugler, and not more than sixtyfour, nor less than forty private individuals, or asnear as may be, having regards to their local situation; to each troop of horse, there shall be one captain, two lieutenants and one cornet, one clerk, four serjeants, four corporals, one saddler, one farrier and one trumpeter, and not more than fortyeight nor less than thirty-two troopers; to each company of artillery, there shall be one captain and two lieutenants, one clerk, four serjeants, four corporals, six gunners, six bombardiers, one drummer, one fifer, and not more than thirty-two nor less than twenty matrosses. There shall be a regimentalstaff, to consist of one adjutant and one quarter-master, to rank as lieutenants, one paymaster to each battalion, one surgeon and one surgeon's-mate, one

serjeant-major, one drum-major and one fife-major.

All 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 shall be determined by lot, to be drawn by them before the commanding officer of the division, brigade, regi-

Artillery

Cavalrya

Staff how appointed and commillioned.

ment, battalion, company or detachment. The regimental-staff except the paymasters shall be appointed by the field-officers. The brigade and regimental-staff shall be commissioned by the commander in chief, on certificates of their appointment, under the hands and seals of the officers making the same: And further, There shall be one adjutant and one quarter-master to each squadron If a clerk of cavalry and each independent battalion; the non- is not electcommissioned officers and music to be appointed by ed, captain the captain and subalterns; the clerk to be elected to appoint. by the company, and in case of omission to elect, or in case of refusal to act, sickness or absence, the captain or commanding officer of the company shall appoint a suitable person, who shall undertake to perform the duties enjoined by this act.

SEC. 4. And be it enacted, That each and every officer commissioned, or who may hereafter be appointed and commissioned in the manner aforesaid, fined, and shall, previous to their entering on the execution of hereafter their respective offices, give assurance of fidelity to take oath and attachment to the government of this state, by eral or field taking and subscribing the following oath before officer.

some general orifield officer of the brigade:

do sincerely profess and swear (or affirm as the case may be) that I will and do bear true faith and allegiance to the government established in this state, under the authority of the people; and will with integrity execute the office of of the miditia of New-Jersey according to the best of my abilities: so help me God.

And a certificate thereof shall be made upon the back of every commission by the general or field officer, before whom the said oath or affirmation shall have been taken and subscribed.

SEC. 3. And be it enacted, That the commanding officer of every regiment and independent battalion To meet for and squadron, shall call a meeting of the commis-improvesioned officers of their respective regiments, inde-ment. pendent battalions and squadrons at such times and

-places as he shall appoint for improvement in military exercise which shall be at least twice and not exceeding four times in every year.

SEC. 6. And be it enacted, That the militia of. Mititia to this state shall rendezvous three times in every year train oncein for the purpose of training, disciplining and imbattalions proving in martial exercise, once by companies and regi- within their respective bounds, once by battalions within the bounds thereof, and once by regiments, independent battalions and squadrons for

Time and appointed: and notice given by advertifements,

exercise, inspection and review: that the brigadier general or commanding officer of each brigade, shall appoint the regimental parades, at such time and place as he may think proper, as nearly central place to be as may be within each of the respective regiments and independent battalions: that the time and place of the rendezvous for the battalions and companies, shall be appointed by the colonel or commanding officer of the regiment, independent battalion, or squadron 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: the brigade inspector shall give twenty days notice of the regimental muster and inspection by advertisements in five of the most public places within the limits of every regiment and independent battalion: the adjutants of the several regiments and independent battalions shall advertise and give at least ten days notice of the battalion and company meetings, by advertisements set up in at least two places within the bounds of each company. Sec. 7. And be it enacted, That every troop of

tached to

horse or company of cavalry and artillery, shall be artillery at- considered as being attached to the regiment or independent battalion, within the bounds of which the regiments a major part of the company was raised, and shall assemble for inspection at such time and place and in such manner as the brigadier-general or commanding officer of the brigade shall order and di-It shall be the duty of the clerks of the companies of cavalry and artillery to make a return of

all delinquents in their respective companies, in the same manner as the clerks of infantry companies are by law directed.

Sec. 8. And be it enacted, That the fines for Fines on ofnon-attendance on days of exercise shall be as fol- privates for lows: on a brigadier-general and on a field-officer, non-attendthe sum of ten dollars per day; on every other ance and for commissioned officer six dollars per day, and on want of every non-commissioned officer and private one dollar per day; and the same fines shall be respectively paid by every officer, non-commissioned officer and private, who shall leave the parade or absent himself from his regiment, battalion, squadron, troop or company, without leave of the commanding officer, before the said regiment, battalion, squadron, troop or company shall be discharged; and if any militia man shall appear on parade without a musket or firelock, or if any trooper shall appear without his sword or pistols, he shall forfeit and pay fifty cents, and for want of other accoutrements, shall forfeit and pay six cents for each and every article so deficient: Provided, That no militia man shall be liable to such fines, who, in the opinion of the battalion court of appeals created by this act may be deemed unable to procure arms or accoutrements or either of them.

SEC. 9. And be it enacted, That in order to ascertain those persons, who, by their absence on days System of of exercise, or for deficiency in arms or equipments, collection shall be liable to the fines and forfeitures of this act, of fines. the clerk of the troop or company shall on every such day, in the presence of the captain or commanding officer of the troop or company, and by his order, one hour after the time appointed for the meeting of the troop, company, independent battalion, bat-talion, squadron or regiment, and also after the ex-call the roll ercise is over, and before the men are discharged, on days of call over the roll of the troop or company, noting exercise & those who are absent; and also those who are deficient for want of arms or equipments and of each oath. and every article so deficient, and within ten days after every meeting of the company, the said clerk

shall make return thereof to the brigade-judge-advocate, who or some justice of the peace, shall ad minister to him the following oath:

clerk of the company commanded by in the brigade of the militia in the town of do swear (or affirm) that this enrollment contains a return of the names of the said company between the ages of eighteen and forty-five years made to the best of my information, knowledge and belief; and those persons whose names are noted absent, did not parade with and answer at the roll calls of the company on the and that the deficiencies in arms and equipments are truly marked opposite the name of every delinquent; so help me God.

And which said return the brigade-judge-advocate shall lay before the court of appeals as evidence of the fines incurred by delinquents.

Sec. 10. And be it enacted. That if the clerk of For neglect any company shall neglect or refuse to perform the to be fined. duties required by this act, he shall be fined at the discretion of the court of appeals in any sum not exceeding one hundred dollars, to be recovered by the battalion-paymaster, who shall prosecute for and pay the same to the brigade-paymaster.

Court of appeals formed of representatives of companies of infantry, artillery and cavalry, at their first meeting in every year, shall elect by ballot, and in case of neglect of such election the commandant of the company shall appoint some discreet enrolled to hear exprise who bears arms and exercises with the comcustor of the company at the court of appeals; which shall be composed of the said representatives of the several companies in the respective battalions, and who or at least three of them are hereby vested with full power and authorized.

rity to hear and decide upon the excuses of all persons returned as delinquents by the respective

clerks of the companies within the bounds of their battalions for non-attendance at roll call, and for deficiency of arms and equipments and to assess and ascertain the fines incurred by the officers, clerks, non-commissioned officers and privates of the several companies within the bounds of the battalion, and also to allow the compensation which shall be made to the company clerks for the performance of made to the company clerks for the performance of the duties prescribed in this act; the members of tion of said court shall each receive one dollar and fifty clerk, &c. cents per day for their attendance at the said court of appeals to be paid by the battalion-paymaster on the certificate of the brigade-judge-advocate or person who shall officiate as such at the court of appeals. The captain or commanding officer of every company shall give to the private elected or appointed to represent said company in the court of appeals, a certificate of his election or appointment/given under his hand and seal'; and on his producing such certificate, the brigade-judge-advocate shall administer to him the oath prescribed in the thirteenth section of this act. And if any of the members of the said court of appeal shall neglect or refuse to attend at the time and place as advertised by the brigadejudge-advocate for holding such court of appeals, they shall forfeit and pay the sum of ten dollars, to be sued for and recovered with costs of suit before any justice of the peace of the county where such offender resides, by the battalion-paymaster, and when recovered, to be by him paid to the brigadepaymaster: Provided, That such offender may appeal to the board of general and field officers established by this act, who, on a reasonable excuse given may remit such fine.

SEC. 12. And be it enacted, That the board of gen- Time and eral and field officers of the several brigades shall ap- place of point the days and place of the meeting of the said meeting apseveral courts of appeal as nearly central to each bat-general and talionasmay be, and within thirty days after the annu- field offial review and inspection of the several regiments and cers. independent battalions, and in such manner as the brigade-judge-advocate may attend the respective

battalion courts of appeal; and the brigade-judgeadvocate shall give notice of the meeting of said battalion courts of appeal to the several clerks of companies within the brigade, and in case of the death, sickness, removal or refusal to act, of any of the company clerks, to the captain or commanding officer of the company, who shall thereupon immediately appoint a suitable person to do the duty of company clerk; and which said company clerks court of , shall thereupon give at least ten days notice by setting up in three of the most public places in the bounds of the company, and advertisement which shall as near as circumstances will admit, be in the following form to wit:

appeals

Notice is given to and have been returned for non-attendance on days of at the militia roll call of captain company, in the township of : and notice is also given to and returned for deficiencies in military equipments, that the battalion court of appeals will meet at ten o'clock on the ... day of at the house to liear and decide upon the excuses. if any they have, for non performance of military duty and for deficiencies in military equipments for which they are severally liable to be fined according to the directions of the militia law of this state.

Form of notice to delinquents.

> Glerk of said company. · Sec. 13. And be it enacted, That the members of every court of appeals shall assemble at the time and place so advertised, and before proceeding to

day of

Dated at

Court of 'eppicale:

> do swear (or affirm) that I will perform the duties of a member, of this battalion court of appeals, according to the true intent and meaning of the militia law of this state, according to the best of my skill and understanding without favour, affection or partiality: so help me God.

business shall take the following oath or affirmation:

Oath.

Which shall be administered by the brigadejudge advocate or, in case of his non attendance by the person who shall be appointed by the said battalion court of appeals to officiate in his room, and the person so appointed shall take the following oath or affirmation to be administered by any member of the said court:

do swear (or affirm) that I will perform the duties of judge advocate of this Judge-adbattalion court of appeals according to the vocate. best of my skill and understanding; so help me God:

The said battalion court of appeals shall consist of at least three representatives of companies and shall appoint one of their members to preside; they shall have power to administer oaths to witnesses, The and to hear and decide upon the application of the persons advertised as delinquents and they are hereby required and enjoined to attend to every just complaint of excuse, whether of age or arising from persons being unable to procure arms or equipments, from inability of body or insanity of mind.

Sec. 14. And be it enacted, That in order, that due respect and decorum may be observed, the said battalion court of appeals, shall have power and To preserve authority and they are hereby authorized to fine any order may person not exceeding ten dollars, who shall misbe- fine. have, insult or disturb the said court in the exercise of their duty to be collected and paid to the battalion paymaster by prosecution before a justice of the peace, who shall issue execution against the offender upon a certificate of the judge advocate.

SEc. 15. And be it enacted, That the said brigade No/tentiojudge advocate and whoever shall officiate in that ran to recapacity shall keep a record of the proceedings of verse their the several battalion courts of appeal, from whose proceeddecision, no appeal shall be had, nor any certiorari allowed to reverse their proceedings. Each brigade judge advocate shall deliver over to his successor the records and all the proceedings of the battalion courts of appeal in the brigade.

master, who is to giva

Sec. 16. And be it enacted, That all fines and forfeitures which shall be incurred and assessed by the said court of appeals on persons made liable by Fines to be this act, shall be returned and paid into the hands talion pays of the paymaster of the battalion from which such fines and forfeitures may be due. That the brigade judge-advocate (or person who shall have officiated in that capacity) shall within ten days after every battalion court of appeals, transmit a certified copy of the names of the persons fined by the said battalion court of appeals, with the amount of fines, to the brigade paymaster, who shall charge the battalion with the amount thereof; and also a fair certified copy to the battalion paymaster, who shall immediately upon the reception thereof, set up an advertisment in at least one of the most public places within the bounds of each company of the battaion, as follows:

notice to pay in twenty days.

Notice is hereby given, that the court of appeals battalion, commanded by Majorof the , have decided that fines have been incurred agreeably to law for neglect of militia duty and equipments by the several persons and of the several sums opposite the respective Dolls. Cts. names following, to wit:

> A. B. c. D.

And if the said sums shall not be paid to the subscriber, paymaster of the said battalion, in twenty days from the date hereof, execution will be issued against those persons who shall neglect to make payment conformably to the militia law of New-Jersey.

day of Dated the Paymaster of said battalion.

SEC. 17. And be it enacted, That the battalion paymaster shall, on the list of delinquents returned If not paid the paragraph of the paid the names of those persons who shall discharge their fines, write to iffue and " paid and discharged;" and immediately after the returned to expiration of the said twenty days, the said battalion paymaster shall deliver the said return list of delin-

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fruents, of fines assessed by the said battalion court battalion of appeals, to a justice of the peace, who is required paymalle forthwith to issue execution against the persons in thirty if named in the said return list, (opposite whose names no goods shall not be written as aforesaid " paid and dischar- to commit ged,") for the sums annexed to their respective delinnames, with costs, as in cases of taxation, directed quents to to one of the constables residing within the bounds of the battalion, and if there be no constable within such bounds, then to any constable of the county; who is required to levy the same of the goods and chattels of the respective delinquents, and to pay the several sums contained in the said execution within thirty days to the said battalion paymaster, to whom the said delinquents belong: and for want of goods and chattels, to take the bodies of the delinguents, and commit to the gaol of the county, there to be kept until the fines and costs shall be Provided nevertheless, that the board of general and field officers of the brigade, or any three of How rethem, the commanding officer of the regiment, bat-leafed. talion or squadron to which he belongs being one, upon being satisfied by the oath or affirmation of the delinquent committed to gaol, or otherwise, that the delinquent so committed, is unable to pay, may grant a supersedeas to release and discharge such poor person from confinement. The form of the execution shall as near as may be, be as follows: County.

THE STATE OF NEW-JERSEY,

one of the Constables of said county of Whereas the persons named in the schedule or execution. list hereto annexed, have by the court of appeals of their proper battalion, been duly sentenced for delinquency in military duty and equipments, to pay the fines to their names respectively subjoined. You are therefore commanded forthwith, of their several goods and chattels respectively within said county, to levy by distress and sale thereof, the fines set opposite their respective names with costs, and to

hay the same to paymaster of battalion, and for want of goods and chattels, you are commanded to take the bodies of the persons so deficient and commit them to the common gaol of said county, and the keeper thereof is hereby commanded to receive and safely keep the persons who shall be so committed, until they shall pay the same, or until discharged by order of the board of general and field officers, or otherwise by due course of law: and you are to make return of this execution, with your doings therein, unto the said battalion paymaster, within thirty days next coming, for which this shall be your sufficient warrant. Hereof fail not. Given under my hand and seal the day of the year of our Lord eighteen hundred and Fustice of the $\it Peace.$

Battalion paymaster to keep ' record, and accounts to be fettled by the board.

Sec. 18. And be it enacted, That the battalion paymasters shall keep journals of all their proceedings, in the execution of the duties enjoined on them as battalion paymasters. They shall record in a book to be kept for that purpose, the amount of fines by them received, of whom and in what manner received, whether by voluntary payment or of the constables, of the fines not collected or recovered and the reason thereof, of monies paid, to whom and on whose order and for what purpose, and shall lay the same, with their vouchers and receipts, before the board of general and field officers, or a committee of said board for inspection and settlement.

SEC. 19. And be it enucted, That the general and field officers of their respective brigades, shall appoint one reputable freeholder within their brigade, to act Paymafters as brigade paymaster to the same, and that the major or commanding officer of each battalion of infantry within this state, in conjunction with the captains of the several companies of their respective battalions and of the captains of artillery and cavalry, within the bounds of their respective battalions, shall appoint one reputable freeholder within the battalion,

how appointed:

to act as battalion paymaster to the same, for the collection and payment of fines; which said brigade and battalion paymasters, before entering upon the duties of their office, shall severally give bond to give with sufficient sureties, to be approved of, that of the bond, brigade paymaster by the commandant of the brigade, and the bond of the battalion paymaster by the commandant of the regiment or independent battalion, the brigade paymaster in the sum of one thousand dollars, the battalion paymaster in the sum of two hundred dollars, payable to the state of New-Jersey, with condition for the faithful performance of the duties of their respective offices, and shall repair to the clerk of the county in which they reside, and subscribe and take the following oath or affirm- and take ation:

I

appointed paymaster of the brigade (or battalion as the case may be) of militia, do swear (or affirm) that I will to the utmost of my knowledge and ability, honestly and faithfully perform the duties of the office of paymaster of the said (or battalion) and that I will not on any pretence or occasion, apply any money, which shall come to my hands as paymaster thereof, to any private use or purpose: so help me God. before and

Which oath (or affirmation) the said clerk shall to be filed administer and endorse on the said bond and file the with the same in his office to be prosecuted whenever the clerk. board of general and field officers shall direct. The said clerk shall give a certificate of the said bond and oath (or affirmation) having been taken and filed under the seal of the county, on the back of their warrants of appointment, which shall be taken and received as evidence of the authority of the said paymasters.

Sec. 20. And be it enacted, That the brigade paymester shall receive and file all vouchers and Brigade returns, and keep proper and distinct accounts of paymatter's the monies arising from the fines and forfeitures in duty; the several regiments and battalions in the brigade

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to account which shall be paid and returned to him, and also to the board shall receive and file all returns, orders, vouchers of general and receipts, for all monies he may receive and pay cers, & pay out, conformably to the directions of this law, and balance to submit his books of accounts, returns, orders, treasurer; vouchers and receipts, to the inspection and examination of the said general and field officers of the brigade who are hereby constituted a board, vested with full power and authority to examine, adjust and settle as well the accounts, of the said brigade-paymaster, as of the several battalion-paymasters in the brigade; and ascertain and declare the balance unappropriated in his hands, and which the said brigade-paymaster shall pay forward to the treasurer of this state. The said balance to be certified to the treasurer by the brigade judge-advocate, who shall be ex-officio, clerk of the said board, and with which sum so certified, the said treasurer shall charge the several brigades; and in case of malpractice, embezzlement or default, the said board of general and field officers, are required to displace difplaced

for malpractice & profecuted.

Battalion to account nor, &c.

money remaining in his hands belonging to the brigade, in any court where the same may be cognizable, with costs of suit; and in case of mal-practice pay-masters embezzlement or neglect of duty of the battalion inlikeman- paymasters, the said board of general and field officers, are required to displace such battalion paymaster, and the brigade paymaster for the time being shall in like manner prosecute the said battalion paymasters, their executors or administrators, as well for the monies had, received, and collected as for such fines as they shall have incurred for neglect of duty.

the said brigade-paymaster and appoint another in

his room, which successor in office, is hereby au-

thorized and empowered in the name of the state of New-Jersey, to prosecute the defaulter, his executors or administrators for any sum or sums of

SEC. 21. And be it enacted, That the board of general and field officers of the several brigades shall make such allowance and compensation to the brig-

ade paymaster, brigade judge-advocate and those compensawho shall act in the capacity of judge-advocate, and tion to pay to the battalion paymasters, and to the teachers of masters music, and for music of their respective brigades, as cate and they may deem just and reasonable, to be paid out music. of the fines of delinquents, by the brigade paymaster. And in case there shall be no money arising from such fines in the hands of the brigade paymaster, the said board of general and field officers shall draw their order on the treasurer of the state for any such deficiencies, and the said treasurer is hereby authorized to pay such orders out of any money which may have been paid by the brigade paymasters into the treasury: Provided nevertheless, that the whole allowances to be made by the board of general and field officers in one brigade, for the term of one year, shall not exceed one hundred dollars for each regiment in the same.

Sec. 22. And be it enacted, That the commander in chief and major-generals of this state, or any three Commandof them, the commander in chief always to be one, er in chief shall compose a board of general officers, whose du- and major ty it shall be to lay before the legislature every year compose a at their annual meeting, the particular objects for board; which they conceive military appropriations are, or in the course of the ensuing year may become necessary; and the sum appropriated by law shall be subject to the orders of said board to be applied by them as the law may direct. The adjutant-general shall be secretary of said board of general officers, and their duty. shall keep a journal of all their proceedings and orders, subject to the inspection and examination of the Legislature on the first Tuesday of November in every year.

Sec. 23. And be it enacted, That the commander Quarter in chief be and is empowered to appoint a suitable mafter genperson to the office of quarter-master-general, who eral; shall perform the duties incident to that department, and shall receive compensation therefor upon exhibiting his accounts properly certified and allowed by the board of general officers: He shall have the

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tis rank of lieutenant-colonel, and be commissioned accordingly.

Overplus of delinquents money.

Sec. 24. And be it enacted, That if any money shall remain in the hands of any constable, after making sale of the property of a delinquent, and paying the fines and costs of such delinquent, such money shall be paid by the said constable to the said delinquent; but if he shall refuse to receive the same, then the constable shall pay the said money to the paymaster of the battalion to which such delinquent belongs, to and for the use of such delinquent.

Fines of minors & apprentines. Sec. 25. And be it enacted, That the fines and forfeitures imposed by this act on minors living with their parents, and others having the proper care or charge of them, and those of apprentices, shall be paid by their respective parents, guardians, masters or mistresses, or levied of their respective goods and chattels.

SEC. 26. And be it enacted, That every person li-Whodeem- able by this act to do military duty, shall be deemed and adjudged to have notice of his being enrolled in the company of militia within the bounds of which he shall reside.

Sec. 27. And be it enacted, That it shall be the duty of the adjutant-general to distribute all orders from the commander in chief of the state to the several corner to attend at public regions if required

Duty of ad- eral corps; to attend at public reviews, if required, jutant gen- when the commander in chief of the state shall reeral. view the militia or any part thereof; to obey all
orders from him relative to carrying into execution

orders from him relative to carrying into execution and perfecting he system of military discipline established by this act; to furnish blank forms of different returns that may be directed by the commander in chief, and to explain the principles on which they shall be made; to demand and 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, accourrements and ammunition, their delinquencies and every other thing which relates to the general advancement of good order and disci-

pline; all which the several officers of the divisions. brigades, regiments and battalions; are hereby required to make in the manner herein directed, that the said adjutant-general may be duly furnished therewith previous to the annual meeting of the legislature; from all which returns he shall make proper abstracts and lay the same with a report of the general state of the militia magazines and military stores, and also of such improvements as he may think necessarry to advance the discipline and benefit of the militia before the commander in chief of the state, who is required to lay the same before the legislature. And the adjutant-general shall also annually make a return of all the militia of the state. to the president of the United States. And it shall be the further and especial duty of the said adjutant-general to give information against and prosecute in behalf of the state, all brigadier generals who shall fail or neglect to review the several regiments and independent battalions in their respective brigades, agreeably to the directions of this act. He shall keep a book in which shall be recorded all orders, returns, names of commissioned officers throughout the state, and every proceeding relative to the details of the military force ordered by the commander in chief, upon requisitions of the president or congress of the United States, and in cases of invasion or other emergency. All certificates of Certificate election of officers shall be transmitted to him to be of election entered of record, before commissioned by the com- of officers to be transmander in chief. He shall deliver over to his succes- mitted to sor all books and returns belonging to the office of ad-him. jutant-general. He shall be secretary to the board of general officers. The expense of blank returns and the postage of letters in his official capacity shall be settled and allowed by the board of general officers, and which with an annual salary of fifty dollars, shall be paid by the treasurer of the state, on a warrant of said board, certifying he has performed. the services required of him as adjutant general.

SEC. 28. And be it enacted, That it shall be the Duty of brigade in- duty of the brigade inspector, to attend the regimental and independent battalion meetings of the militia composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition and accourrements, to make returns annually to the adjutant general of the state, of the militia of the brigade to which he belongs, reporting therein particularly the name of the reviewing officer, of the actual situation of the arms, accourrement, and ammunition of the several corps. and every other thing which in his judgment, may relate to their government and the general advancement of good order and military discipline. said brigade inspector shall be entitled to receive thirty dollars, annually for his services; and for refusing or neglecting the duties enjoined by this law, he shall be subject to the penalty of fifty dollars, to be recovered by the treasurer of the state, who shall also withhold his said salary of thirty dollars, until he shall have produced the acknowledgement of the adact in hi jutant-general that he has received said return. In case of the absence of the brigade inspector, the commanding efficer, present at the inspection, shall

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ral,

SEC. 29. And be it enacted, That every captain, Election of lieutenant or ensign and cornet, who shall from time officers by to time, be chosen by the several companies or troops warrant shall report his acceptance of the office, within ten from brig-days after having received notice thereof, to the etal to the major or commanding officer of the battalion; and major, who in case such reportis not made as aforesaid, the said and fend to office shall be deemed as vacant. And the resignathe adjurant tion of every captain, lieutenant, ensign and cornet, shall be delivered to the brigadier general or commanding officer of the brigade in which the said company or troop is formed; and where vacancies missions to shall happen in any company or troop, by the death, the brigaremoval, or resignation of a captain, lieutenant, ensign or cornet, it shall be lawful for the commanding officer of the brigade, by warrant under his hand

appoint some person to perform the duties thereof.

and seal, directed to the major or commanding officer of the battalion or squadron to which such company or troop belongs, to hold an election within the limits of such company or troop, to supply the vacancy occasioned by the non acceptance, resignation, removal, death, or otherwise, of any such officer; and thereupon the said major or commanding officer of the said battalion or squadron shall give ten days notice, by advertisement in three of the most public places within the limits of such company, of an election to supply the place of the officer or officers of the company or troop which may be vacant; and the said company or troop, or such of them as may attend, shall proceed by plurality of votes, to choose such officer or officers residing within the bounds of the said company or troop; and the said major or commanding officer of the said battalion or squadron, shall certify, under his hand and seal, annexed to or endorsed on the warrant aforesaid, the name and rank of each officer so chosen or elected, addressed to the commander in chief of the state, and shall transmit the same to the adjutant general, who after entering the names and rank of the persons so elected in the books of his office, shall lay the same before the commander in chief to be commissioned, and thereupon the adjutant-general shall transmit all commissions to the brigadier-general, or officer who issued the warrant of election. The sum of two dollars shall be paid by the battalion paymasters to the commandant of the battalion for advertising and holding every elec-No candidate or any other person shall give any spirituous liquors or treat to any officers or privates, on any day of election of officers, under the penalty of twenty dollars, to be prosecuted for and recovered by the battalion paymaster, and by him paid to the brigade-paymaster.

Sec. 30. And be it enacted, That if any commis- Removal sioned officer shall remove out of the bounds of his of officers proper division, brigade, regiment, battalion, squadiron troop or company, or shall be absent therefrom,

more than six months, his office shall be thereby vacated.

Officers 7 mult uniform in three months.

Sec. 31. And be it enacted. That the uniform to be worn by the several officers of the militia of this state, shall be conformable to the general orders printed and attached to this law; and it shall be the duty of every officer within three months after receiving his commission, to appear upon all training days, in full and complete uniform, agreeably to general orders, and also either with a sword, hanger or espontagon: and if any officer shall come upon parade for exercise, not being so equipped, he shall incur the same fine as is directed by this act for non-appearance, and also shall not be suffered to do duty on that day.

Mulic to be instructed.

Sec. 32. And be it enacted, That one drum and one fife-major and one trumpeter, may be employed by the board of general and field officers of each brigade to instruct and exercise the drummers, fifers and trumpeters of each company or troop in the necessary military music, at such times and under such regulations as the said board may direct, not exceeding twelve days in the year, and shall for such services be paid the sum of two dollars per day each; and the said drummers, fifers and trumpeters shall each be paid seventy-five cents per day for the time they shall attend to such instruction.

Father excufed if fon

Sec. 33. And be it enacted, That if any youth of the age of twelve years and not exceeding the learns mu- age of eighteen years, shall, with the consent and approbation of his parents, attach himself to any company of militia for the purpose of learning to beat the drum, play on the fife or blow the trumpet, provided the number shall not exceed one person for the drum and one for the fife in each company, and one for the trumpet in each troop of horse, every such person or persons shall be put under the instructions of the drum or fife-major, or trumpeter as the case may be, whose duty it shall be to teach such person or persons to perform field duty, tothe satisfaction of the commanding officer of the bri-

gade; and the father of every youth who shall have been instructed as aforesaid, shall be excused from every kind of military duty, so long as his son shall continue to perform the duties of a drummer, fifer or trumpeter in any militia company or troop, and be under the age of eighteen years.

Sec. 34. And be it enacted, That it shall and may be lawful for the captains or commanding officers of the Artillery, several companies of cavalry, artillery, light infantry cavalry and and grenadiers, to enroll in their respective companies light infrom the several companies composing the regiment fantry enor battalion to which they may belong, such men as may they unifrom time to time be necessary to complete their res- form. pective companies; and a certificate-from the said captain or commanding officer, shall exonerate the bearer from serving or paying any fine thereafter imposed on him by the officers of the company to which he formerly belonged, any law, usage or custom to the contrary notwithstanding: Provided always, That it shall not be lawful for the captain or commanding officer of the cavalry, artillery or other uniform company, to grant a certificate to any person prior to his appearing in uniform agreeably to law.

SEC. 35. And be it enacted, That no officer or pri-Toll free vate shall on the way to or from the place of any re-days. view, regimental or company training to which he shall belong, pay more than one third of the usual rate of ferriage, or be charged any toll for passing any toll-bridge or turnpike gate; and if any ferryman or keeper of any toll-bridge or turnpike-gate, shall refuse a passage, or make a demand contrary to the directions of this act, he shall for each offence forfeit and pay the sum of eight dollars, to be recovered by any person who will sue for the same, one half to the prosecutor and the other half to the paymaster, for the use of the battalion where such demand or refusal is made, any law, usage or custom to the contrary notwithstanding.

SEC. 36. And be it enacted, That no commission- Free from ed officer, non-commissioned officer or private shall arreft. be arrested on any civil process on any day appoint-

ed by law for exercise or training nor shall any arms or accoutrements of a militia-man be levied on or sold by virtue of any execution.

May plead this act.

Sec. 37. And be it enacted, That if any suit shall be brought or commenced against any person, for any thing done in pursuance of this act, the venue shall be laid in the county where the cause of action arose; and the defendant in such action may plead the general issue, and give this act and the special matter in evidence. Sec. 38. And be it enacted, That the commander

Militia when or-

in chief of this state, for the time being, may, in case deredout, of invasion or other emergency, when he shall judge it necessary, order out any proportion of the militia of this state, to march to any part thereof, and continue as long as he may think it necessary, not exceeding two months.

Sec. 39. And be it enacted, That when a part of

the militia shall be called into actual service, it shall

into actual fervice.

be the duty of the captain or commanding officer to divide his troop or company into as many classes as there shall be men required of him, and by lot, enlistment or draft, to detach one man from each class: and such draft or detachment shall be officered with such officer or officers, and of such grades as shall be proper, agreeably to military discipline; the tour of duty of which commissioned officers, shall be determined by a roaster to be kept by the adjutant for that purpose: And further, That no non-commis-

sioned officer or private shall, (after the making of the first draft) be liable to perform actual service,

until it shall become his proper tour agreeably to a roaster of the company, to be kept by the commanding officer of the same; and that no draft or detachment shall be continued in service, more than two

tour by roafter;

drafts

relieved in two months.

months at any one time, and if necessary, they shall be relieved by a detachment to be made in the manner aforesaid; which relief shall arrive at least two days before the expiration of the term of the detachment to be relieved; but nothing herein contained shall prevent the commander in chief from

calling into service the whole or any part of the militia, when the exigencies of the state, shall in his opinion require it: And further, That the pay of the militia in actual service, shall commence two days Pay and before marching, and that they shall receive pay and rations at the rate of fifteen miles per day, on their return home; and in requisitions by the President Requisior Congress of the United States, the like mode tions. shall be pursued in drafting and turning out the quota of this state.

SEC. 40. And be it enacted, That it shall and may Sublitutes. be lawful for any person called to do a tour of duty, to find a substitute, who if approved of by the captain or commanding officer of the company, may serve in the place of such person.

Sec. 41. And be it enacted, That when any draft or drafts of the militia shall be called to perform Drafts to be any tour of duty, the majors of the battalions shall noticed cause each and every person so called, to be notified of such call, by a written or printed notice being delivered to him personally, or left at his house or usual place of abode, by some officer or other suitable person employed for that purpose by the com-to attend, manding officer of the said company, at least three days before the time of assembling said militia, un-procuse less the commander in chief, on a sudden exigency, subflitutes, - shall think proper to order any part of the militia into immediate and actual service, and then the notice mentioning such special order, shall be given for immediate attendance; and any person refusing or neglecting to perform such tour of duty, or to procure a substitute, shall pay a fine not exceeding or fined. fifty dollars, for every such neglect or refusal; which fines as aforesaid shall be paid to the captain or commanding officer of the company to which such delinquent belongs, and be by him appropriated, under the direction of the commandant of the battalion to which the said company belongs, for the purpose of hiring substitutes to supply the place of the delinquents belonging to the said company; and in case of a surplusage of money arising from such fines, it shall

be paid to the paymaster of the battalion. every non-commissioned officer, whilst engaged in warning the company to which he belongs, under the orders of the commanding officer of the company, shall receive one dollar per day, for the time he may be necessarily engaged in such duty.

Horfes appraised.

Sec. 42. And be it enacted, That the brigade-inspector shall call to his assistance two reputable freeholders, above forty-five years of age, who shall appraise on oath or affirmation, the horse of each person serving as a light-horse-man, immediately before the time of going into actual service, and describe the age, size, colour and marks of the said horse, and enter the same in a book kept for that purpose; and in case such horse shall be killed or be taken by the enemy, the owner of such horse or his lawful representative, shall be paid the full value of said horse according to the said appraisement, by an order to be drawn on the certificate of the inspector, by the brigadier-general or commanding officer of the brigade, on the treasurer of this state, provided such claim be made in one year after the loss so sustained.

Rations for detachments.

Sec. 43. And be it enacted, That the quartermaster who shall furnish rations or ammunition for detachments of militia which may be ordered into the service of this state, shall lay his account therefor, accompanied with the receipts of the officer commanding such detachment, that such ammunition and rations have been furnished, before the commanding officer of the regiment or independent battalion, for his approbation; and if he shall approve and sign the same, the governor, if he also approve thereof, snall issue his warrant on the treasurer, to be paid out of any money in the treasury not otherwise appropriated.

Carrying

Sec. 44. And be it enacted, That the commandorders paid ing officer of divisions, brigades, regiments and battalions; the adjutant-general, brigade-inspector and adjutants, shall be entitled to a person to carry their orders, when the necessity of the case shall require

it; for which a reasonable compensation shall be allowed by the board of general officers.

· Sec. 45. And be it enacted, That the commander in chief shall appoint general courts martial for the Courts trial of all officers above the rank of field officers; howapthat the major-generals each in his own division, pointed. shall appoint general courts martial for the trial of all field officers; that the brigadier-generals, each in his own brigade, shall appoint general courtsmartial for the trial of captains and all commissioned officers under that rank; and that the commandants of regiments and independent battallons, shall institute regimental courts-martial within their respective regiments and independent battalions, as often as it shall be found necessary; and that it shall be the duty of every officer who shall appoint a court-martial as aforesaid, to approve or disapprove of the sentence or sentences of such courtsmartial by them appointed, or to mitigate the punishment or pardon the person convicted.

Sec. 46. And be it enacted, That my officer to be Officer w. tried by a court-martial, shall have fifteen days no- telled to tice of the time and place appointed for trial, and a have 15 copy of the charges exhibited against him, and shall days notice be put under arrest, so far as to be supported from be put under arrest, so far as to be suspended from the exercise of his office; and in case any officer for the trial of whom a court-martial shall be appointed, shall neglect to appear and make defence, the court shall be authorized to proceed in his absence, and if found guilty of the charges shall be sentenced ac-

Sec. 47. And be it enacted, That all persons shall Winneffer be holden bound to appear and give evidence before fame penalany court martial, or court of appeals, on oath or ties as by affirmation to be administered by said courts, that law. the evidence they shall give in the cause in hearing shall be the truth, the whole truth, and nothing but the truth, under the same penalties as are by law provided for witnesses in other cases, when thereto summoned by the brigade judge-advocate, or by any justice of the peace, who is hereby authorized

cordingly.

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and enjoined, when called upon, to summon such witnesses in the county to which he shall belong, and for which no fee shall be required.

Members of the court,

Sec. 48. And be it enacted, That every regimental court-martial, shall be composed of five members, all commissioned officers, the president whereof shall not be under the rank of a captain; that general courts-martial shall consist of thirteen commissioned officers, not under the rank of a captain; the senior officer shall be president, not less than two thirds of the members must agree in every sentence for inflicting any punishment, otherwise the person charged shall be acquitted. That before the trial of any cause, the judge advocate shall administer to the president and each of the members the following oath or affirmation, to wit:

their oath,

You do swear (or affirm) that you will well and truly try and determine according to evidence the cause now before you between the state of New-Jersey, and the person (if more than one persons) to be tried; and you further swear that you will not divulge the sentence of this court-martial until it shall be approved or disapproved of, and that you will not on any account, at any time whatever, discover the vote or opinion of any member of the court, unless required to give evidence thereof as a witness, by a court of justice, in a due course of law: so help you God.

And the president shall administer to the judgeadvocate the following oath or affirmation to wit:

ou do swear (or affirm) that you will not on any account, at any time whatever, divulge the vote or opinion of any particular member of this court-martial, unless required to give evidence thereof as a witness, by a court of justice, in a due course of law, and that you will not disclose the sentence of this court martial, until it shall have been approved or disapproved of, by the officer who appointed the same: so help you God.

of judge

Sec. 49. And be it enacted, That if any commis- Fines for sioned officer, at any review, or on any other occa-milbehasion, when paraded in arms or on duty, shall mis-vior of the behave 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 courtmartial, as the case may require, in any sum not exceeding fifty dollars; and if any non-commissioned officer or private, shall, on any occasion, of pa-. rading the company to which he belongs, appear drunk, or shall disobey orders, or use any reproachful or abusive language to his officers or any of them, or shall quarrel himself, or promote any quarrel among his fellow soldiers, he shall be disarmed and put under guard, by order of the commanding officer present, until the company is dismissed, and shall be fined at the discretion of a regimental court martial, in any sum not exceeding eight dollars.

Sec. 50. And be it enacted, That if the com- Neglett of manding officer of any regiment, battalion or squad-duty. ron, shall neglect or refuse to give orders for assembling his regiment, battalion or squadron, at the time appointed by the commandant of the brigade to which he belongs, or in case of an invasion of the city or county to which such regiment, battalion or squadron belongs, he shall be cashiered and punished by fine not exceeding one hundred dollars, at the discretion of a general court-martial; and if a commissioned officer of any company or troop, shall on any occasion, neglect or refuse to give orders for assembling the company to which he belongs, or any part thereof, at the direction of the commanding ofcer of the regiment battalion or squadron, to which such company or troop belongs, he shall be cashiered or punshed by fine not exceeding one hundred dollars, at the discretion of a regimental court-martial; and a non-commissioned officer offending in such case shall be fined at the discretion of a regimental court martial, in any sum not exceeding thirty dollars.

Sec. 51. And be it enacted, That if any captain or commanding officer of a company or troop, shall

Refuting to refuse or neglect to make out a list of the persons noticed to perform any tour of duty," and send or lift. convey the same to the commanding officer of the regiment battalion or squadron, to which such company or troop may belong, for such neglect or refusal he shall be cashiered or fined at the discretion of a regimental court-martial, in any sum not exceeding one hundred dollars.

Descrtion.

Sec. 52. And be it enacted, That if any militia man shall desert while he is on a tour of duty, he shall be fined in any sum not exceeding one hundred dollars for every such offence, or may be imprisoned for any term not exceeding two months, at the discretion of a court martial; and if a noncommissioned officer he shall also be degraded and placed in the ranks.

No loaded h ought on Parages.

Sec. 53. And be it enacted, That it shall not be Fun to be lawful for any non-commissioned officer or private to come on parade with a loaded or charged musket, gun, rifle, fusce or pistol, nor to discharge any fire arms within one mile of the place of parade, on any day that they shall be ordered out for improvement or inspection, without an order or permission of a commissioned officer; and if any such non-commissioned officer or private shall so load or charge, or fire or discharge any fire arm, without such order or permission, he shall forfeit one dollar for every offence; and the clerk of the company is hereby directed to read this section immediately after calling the roll of the company, and the commissioned officers are hereby enjoined to cause the names of those persons who shall offend, to be re-

Clerk te read this fection.

Military

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discipline

Sec. 54. And be it enacted, That the militia of this state shall be considered to be under military discipline from the rising until the setting of the sun of from thing the same day, that they shall be ordered out for imof the fun, provement or inspection, and that no officer, noncommissioned officer or private belonging to the same, during the time aforesaid shall be subject to be arrested on any civil process. 🚉

turned to the regimental court-martial.

Sec. 55. And be it enacted, That the militia on Three the days of exercise, may be detained under arms, hours unon duty in the field, any time not exceeding six der arms, hours, provided they are not kept above three hours under arms at any one time, without allowing them a proper time to refresh themselves.

SEC. 56. And be it enacted, That any person who shall bring any kind of spirituous liquors to the place Liquors of exercise, or within one mile thereof, for the folicited purpose of retailing shall forfeit such liquors, for the use of the poor, belonging to the city or township where such exercise is had; and the commanding officer of the regiment, battalion or company, is charged with the execution of this article.

SEC. 57. And be it enacted, That the rules of Baron Steuben's exerdiscipline approved and established by congress, in cife, their resolution of the twenty-ninth day of March, one thousand seven hundred and seventy-nine, shall be the rules of discipline to be observed by the militia throughout this state, except such deviations from said rules, as may be rendered necessary by the requisitions of the acts of congress, or some other unavoidable circumstances. It shall be the duty of the commanding officer, at every training, whether by regiment battalion or single company, to cause the militia to be exercised and trained, agreeably to the said rules of discipline; and the instructions had down by the Baron Steuben and annexed to the said rules of discipline pointing out the respective duties of the officers, non-commissioned officers and privates, 'are recommended and enjoined upon the militia of this state, as particularly and fully as if the said instructions were repeated in this act at length.

Sec. 58. And be it enacted, That every officer who shall attend on courts-martial, shall be entitled Members to receive from the paymaster of the battalion in of courts which the offender resides, the sum of one dol-two dollars. Iar and fifty cents each, for every day they shall respectively attend; and all persons attending before Witneffes said courts, or either of them, as witnesses, shall be fifty cents.

entitled to receive from the said paymaster, fifty cents, each, per day, provided that no more than two witnesses on the part of the state, and two witnesses on the part of the offender, shall be entitled to pay: all which sums shall be paid by the said paymaster on certificates signed by the judge-advocate of the court martial.

Bye-Randers fined for snisbehavior,

Sec. 59. And be it enacted, That if any bye-stander shall interrupt, molest or insult, by abusive words or behavior, any officer or soldier, while on duty at any training or muster, he shall be immediately put under guard, and kept, at the discretion of the commandant of the regiment, battalion, squadron, company or corps, until the setting of the sun of the same day, on which such offence shall be committed, or if any bye-stander shall be guilty of any like conduct before a court-martial, he shall be fined in any sum not exceeding twenty dollars, with cost of prosecution, to be recovered before any justice of the peace, by the battalion paymaster, who shall sue for and pay the same to the brigade paymaster.

Fines collected by battalion paymaster.

SEC. 60. And be it enacted, That all fines imposed at any court-martial, sha'l be certified and returned by the judge-advocate to the brigade paymaster, and also to the paymaster of the battalion in which the person on whom such fine shall be imposed may belong, to be by the said battalion paymaster collected in like manner as fines assessed by the court of appeals are to be recovered and paid to the paymaster of the brigade.

General orders to be published with this laws

Sec. 61. And be it enacted, That two thousand copies of this act, together with the general orders of governor Paterson, of the twenty-ninth day of January, seventer hundred and ninety-two; of governor Hewell, on the tenth day of June, and of gen. Doughty, on the sixth day of July, seventeen hundred and ninety-three, and of governor Bloomlield, on the twelfth day of March, eighteen hundred and four, respecting the uniform and dress, of the militia of this state, and also the laws of the United States, which provide for the national de-

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fence, shall be printed and distributed under the direction of the commander in chief, by the adjutant general, to the several officers of the militia; and it shall be the duty of any officer, having such copy or copies on his going out of office, to deliver, or, in case of death, his executors or administrators shall deliver under the penalty of five dollars, to the successor in office, who shall prosecute for the same of the person so going out of office or dying, the aforesaid copy or copies.

Sec. 62. And be it enacted, That the act entitled Repeal of "An act for the regulation of the militia of New-former Jersey," passed the thirteenth day of June, seventeen hundred and ninety-nine, and the supplement thereto, passed the first day of March, eighteen hundred and four, shall be and the same are hereby repealed, and made null and void: Provided always, That nothing herein contained shall be construed so as to revive any former law or laws, which in and by the said recited acts is or are repealed and made void, or to prevent the recovery of any fines or forseitures, incurred under the same, or any of them.

A. Passed at Trenton March 11, 1806.

CHAP. CLXXXVIII.

An act to incorporate the Newark and Mount-Pleasant Turnpike Company.

SEC. 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 Joseph Commois-T. Baldwin, Nathaniel Beach, Isaac Pierson, Hi-Boners to ram Smith and Joseph Jackson, be authorized to receive subscriptions for erecting a turnpike read,

GENERAL

LAWS OF PENNSYLVANIA,

FROM THE YEAR 1700, TO APRIL 22, 1846,

CHRONOLOGICALLY ARRANGED:

WITH

NOTES AND REFERENCES

TO ALL THE DECISIONS

OF THE

SUPREME COURT OF PENNSYLVANIA

GIVING CONSTRUCTION TO SAID LAWS:

AND A COPIOUS INDEX.

COMPILED BY

JAMES DUNLOP,

OF PITTSBURGH.

PHILADELPHIA:

T. & J. W. JOHNSON, LAW BOOKSELLERS,

No. 197 CHESNUT STREET.

1847.

Case 1:22-cv-00986-GTS-CFH Document 49-17 Filed 10/13/22 Page 2 of 36

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1822. son or persons so offending, shall for each and every such offence, forfeit and pay the sum of five dollars, which may be sued for and recovered in the same manner as debts of a like amount are by law recoverable, for the use of the poor of the city, district or township, in which the fine shall have been incurred: Provided, That the provisions of the third and fourth sections of this act shall not be so construed as to extend to such dry measures as shall be used by the proprietor thereof, only upon his or her farm or plantation. Passed 2d April, 1822.-7 Sm. L. p. 571.

CHAPTER CCLXXIV.

AN ACT FOR THE REGULATION OF THE MILITIA OF THIS COMMONWEALTH.

I. The commonwealth of Pennsylvania shall be divided and organized into military divisions, as follows, to wit:

Eighth Division-counties of Northumberland, Union, Columbia, Luzerne,

First Division—city and county of Philadelphia.

Second Division—counties of Bucks and Montgomery. Third Division—counties of Chester and Delaware.

Fourth Division-county of Lancaster.

Fifth Division-counties of York and Adams.

Sixth Division—counties of Dauphin, Lebanon, Berks and Schuylkill. Seventh Division—counties of Northampton, Pike, and Lehigh.

Susquehanna and Wayne. Ninth Division—counties of Lycoming, Potter, M'Kean, Bradford and

Tioga. Tenth Division—counties of Misslin, Centre, Huntingdon and Clearfield.

Eleventh Division—counties of Cumberland, Perry and Franklin. Twelfth Division—counties of Bedford, Somerset and Cambria.

Thirtcenth Division—counties of Westmoreland and Fayette.

Fourteenth Division—counties of Washington and Greene.

Fifteenth Division—counties of Allegheny, Armstrong, Indiana, and Jef-

ferson. Sixteenth Division-counties of Beaver, Butler, Mercer, Crawford, Erie,

Venango and Warren. Of two bri-II. Each division shall consist of two brigades, as at present organized; but when, in the opinion of the major general and the brigadier generals, of any division it may be deemed useful and necessary to form a third brigade,

within the bounds of such division, they are hereby authorized to do so, making the said brigades as nearly equal in strength as circumstances will Each brigade of the

now belonging.

gades as

organized.

16 divi-

sions.

III. Each brigade shall consist of the number of regiments now belonging to the same; but when, in the opinion of the brigadier general and the number of colonels of the regiments of any brigade, it may be deemed useful and neregiments cessary to form an additional regiment or regiments within the bounds of such brigade, they are hereby authorized to do so: Provided however, That no brigade shall contain less than two thousand one hundred men, nor con-

sist of less than three nor more than five regiments, and they shall be as Each regi- equal in point of strength as circumstances will permit. And each regiment ment of two shall consist of two battalions, also as nearly equally divided in strength as battalions, conveniently may be; and each battalion shall have the same number of Old regicompanies if practicable. The regiments of militia in this commonwealth ments to retain their shall retain their present numbers, and every new regiment formed shall be numbers. numbered by the adjutant general. And the said regiments and battalions shall take rank according to the number of the same, reckoning the lowest

in number to be the highest in rank. But the adjutant general shall be Adjutant general to authorized once in every seven years, to make any other general arrangemake arment in the number of the regiments; and if any such arrangement is made rangeby him, he is hereby required to give notice of the same to the several briments.

(1) Company officers may be now appointed by the 30 March, 1824, § 1.

IV. Each regiment shall consist of the number of companies now attached Each regito the same; but when, in the opinion of a majority of the field officers of ment to any regiment, it may be deemed useful and necessary to create an additional consist of the number company or companies within the bounds of such regiment, they are hereby of comauthorized to do so: *Provided however*, That the number of companies in panies now each regiment shall not be less than eight, nor more than twelve, nor the attached number of non-commissioned officers and privates in each company less than seventy, nor more than one hundred and fifty.

V. Whenever the major general and brigadier generals of any division Major generals be of opinion that a better organization of the brigades and regiments neral, &c. of said division may be made, by attaching one part of a brigade to another, to make they are hereby authorized to make such arrangement; of which they shall range, notify the brigade inspectors, who shall give notice to the commanding offi-ments, &c. cers of the regiments affected thereby.

VI. Whenever the brigadier general may be of opinion that a better or-New arganization of the regiments or companies his brigade may be made, by range-attaching one part of a regiment to another, he is hereby authorized to ments, make such arrangement, with the assent of the commanding officer of said regiments; of which notice shall be given to the brigade inspector and to the captains of the companies to be affected thereby.

VII. Whenever a majority of the field officers of any regiment may be Field officofficient of opinion that a better organization of the companies of said regiment may cers may be made, by transferring part of one company to another, they are hereby re-organize companies, authorized to make such arrangement; of which the majors of the battalions to which any such company may belong, shall give notice to the captain or commanding officer thereof; and shall also give notice thereof to the proper brigade inspector, stating particularly the alterations so made.

VIII. Every free able bodied white male person who has resided within Who to be this commonwealth for one month, and is between the ages of eighteen enrolled. and forty-five, except those hereinafter enumerated, shall be enrolled in the militia of this commonwealth, the vice president of the United States, the Who to be judicial and executive officers of the United States, members of congress, exempted. custom house officers, stage drivers employed conveying the mail of the United States, ferrymen employed on any post road while in the actual performance of that duty, post masters, inspectors of exports, pilots and mariners actually employed in the sea service, and ministers of religion, teachers in universities, academies and schools while so employed, and who have been so employed for at least one year before, members of the board of health, directors and controllers of the public schools of the first school district in this commonwealth, judges of the supreme and district courts, and courts of common pleas, the mayors and recorders of cities, and the menial servants of foreign ambassadors, ministers and consuls, sheriffs, jailers and keepers of workhouses shall be exempted from militia duty. And every person within the ages before mentioned shall be considered an able bodied man, unless he shall produce to the commanding officer of the proper regiment, a certificate from two practising surgeons or physicians residing within the bounds of the regiment, under oath or affirmation, that, in their opinion he is unable and unfit to perform military duty by reason of infirmity or disability, or shall produce such a certificate from the surgeon of the regiment, who shall take one general oath or affirmation to perform his duty with fidelity; and unless the commanding officer of the said regiment is further satisfied that any such person is not an able bodied man within the spirit and meaning of this act.

IX. The captain or commanding officer of every company of militia, enrol.

1822.

shall between the first day of April and the first Monday of May, in the 1822. year eighteen hundred and twenty-two, and in every subsequent year enrol or cause to be enrolled every person subject to militia duty within the bounds of his company, by having entered the name, age, and place of resi-

How age and residence to be determin-

dence of every such person in a book to be procured for that purpose, and if any doubt shall exist about his age or place of residence, the age shall be entered at twenty one years, and the place of residence shall be considered as being in the district, township or ward, and within the bounds of the company in which he is believed to reside, which shall be conclusive until he satisfies the captain or commanding officer of his proper age and place of residence; and if it is found that he ought to be enrolled in any other company, he shall only be released from performing duty in the company in which he is first enrolled, by producing a certificate that he is actually enrolled in such other company. And the captain or commanding officer Persons are shall enrol, or cause to be enrolled, from time to time, every person arriving

riving with- within the bounds of his company, or arriving to the age of eighteen years, in tho and liable to perform militia duty, and shall enter his name, age and place bounds of any comof residence in manner aforesaid: Provided however, That no actual mempany to be ber of a duly organized volunteer corps shall be enrolled in manner aforeenrolled. said, if at the time thereof he is uniformed and equipped as a volunteer, which fact he must show if required, by a certificate from the commanding officer of his troop or company.

Penalty, a X. If any person liable to perform militia duty, shall make a false reprefalse representation of his name, age, or place of residence to the person authorized or conceal- to enrol him, or shall wilfully conceal or refuse to give the same, or if any ment of head of a family shall conceal the name of any person subject to militia names. duty, residing, boarding or lodging in the family, or occupying any part of the dwelling house, or make a false representation thereof, every person so offending shall forfeit and pay the sum of ten dollars, to be recovered before any alderman or justice of the peace, as debts of equal amount are by law recoverable by any person who shall sue for the same.

Enrollment XI. The captain or commanding officer of every militia company, shall of compaon or before the day of regimental or battalion training in each and every nies to be year, deliver, or cause to be delivered to the proper brigade inspector, a copy delivery inspector.

annually to of the roll of the militia of his company under oath or affirmation; and the brigade the adjutant of the said regiment shall, on or before the said regimental or battalion training in every year, deliver or cause to be delivered to the proper brigade inspector, a roll of all the field, staff and company officers in of the field, his regiment; and each of the said officers failing to furnish the said rolls, and deliver the same as directed by this section, shall forfeit and pay the

staff and company officers.

sum of thirty dollars, XII. The adjutant general of the militia of this commonwealth now in Present adjutant gecommission, shall hold his office for the term of three years from the third neral to continue in day of August last, if he so long behaves himself well, and faithfully peroffice for 3 forms the duties of his office; but, whenever in the opinion of the governor years, &c. the said adjutant general fails and neglects faithfully to perform the duties May be of his office, the governor shall remove him from office; and as often as a removed. vacancy happens by such a removal, or by death, resignation, expiration of Vacancy.

Salary.

Dutics.

the term of office or otherwise, the governor shall appoint and commission another person in manner aforesaid; and the said adjutant general shall receive for his services the annual salary of three hundred dollars, to be paid out of the state treasury; and the said adjutant general shall receive and distribute all orders from the governor or commander-in-chief of the militia to the several officers of the said militia; whenever required, he shall furnish to the brigade inspectors one complete set of all forms and returns connected with a proper discharge of their duties, and of the duties of the several officers of the brigade to whom they shall be distributed by the said brigade inspector: for which forms and returns he shall be paid out of the state treasury upon the settlement of his accounts by the proper officers; and shall also be paid for all postage on letters or packages from or to him on

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subjects connected with military duty; he shall give explanations and information on all matters connected with military duty to the major generals, brigadier generals and brigade inspectors, whenever required by them; he shall receive and file all returns made to him of the militia agreeably to law, and shall annually make a detailed report thereof to the governor, to be submitted to the legislature; and shall also transmit a duplicate thereof to the president of the United States, and shall instruct the proper officers in the form in which these returns shall be made to him; and shall also in the report to the governor particularly designate the number of militia in each brigade and regiment, and the number and kind of volunteer corps attached to the same respectively; he shall also procure or cause to be procured, any arms, military stores, clothing, accourrements and camp equipage, and shall distribute the same to the proper officers when legally required. The adju-To give tant general shall, before he enters on his duties, give bond with one or more bond. sufficient sureties to be approved of by the governor, which bond shall be taken in the name and for the use of the commonwealth of Pennsylvania, (and filed in the office of the secretary of state,) in the sum of one thousand dollars, conditioned for the true and faithful performance of his duties, and the safe delivery to his successor of all books and papers belonging to his office; and in case of the death of the adjutant general, his executors or administrators shall, under the penalty of one thousand dollars, safely deliver all books and papers belonging to the office of the said adjutant general, to any person appointed by the governor to receive the same; which penalty shall be recovered in the name and for the use of the commonwealth of Pennsylvania.

XIII. The divisions, brigades, regiments and companies of militia shall How the be officered as follows:

To each division one major general and two aids-de-camp, to be appointed be officerby him with the rank of major; and one division inspector and one division quarter master, to be appointed by a majority of the general officers of the said division.

To each brigade, one brigadier general, one aid-de-camp, one brigade major, and one brigade quarter master, to be appointed by him with the rank of captains, and one brigade inspector.

To each regiment one colonel, one lieutenant colonel and two majors; one surgeon and two surgeon's mates; one adjutant and one quarter master, with the rank of first lieutenants; one sergeant major, one quarter master sergeant, one drum major, and one fife major. The said commissioned and non-commissioned staff officers to be appointed by the commanding officer of the regiment.

To each company one captain, one first lieutenant, one second lieutenant, five sergeants, six corporals, two musicians, and the number of privates directed by the fourth section of this act.

XIV. On the first Monday of June, one thousand eight hundred and Brigadier twenty-eight, and on the first Monday of June in every seventh year there-general and after, an election shall be held within the several battalion bounds of the field offi-militia of this commonwealth, in the manner and for the several officers elected. hereinafter mentioned. The brigade inspector of each brigade then in commission, shall advertise and give notice in the most public manner, by printed or written advertisements, and by publication in two newspapers in the city or county, if such papers are published therein, to all persons subject to militia duty within the bounds of every such battalion of the brigade, that an election will be held on the said day, between the hours of ten in the forenoon and six in the afternoon, except within the city and liberties of Philadelphia, where the election shall be kept open until nine o'clock, at such place within the bounds of the said battalion as near the centre as may be, as shall be designated in such notice, for the election of one brigadier general for the brigade, of one colonel and lieutenant colonel for each regiment of said brigade, and one major for each battalion of said regiments.

And the said brigade inspectors shall order and direct the major of every Elections.

militia to

battalion, or if he neglects or refuses, or in case there is no such officer, he shall appoint one respectable citizen residing within the limits of the said battalion to superintend and conduct the said election; and the said major

or citizen appointed as aforesaid, shall attend at the time and place fixed on for the election, and shall prior to the opening thereof select another respectable citizen, who with himself shall act as judges of said election; and they shall take to their assistance two clerks; and the persons so appointed to act as judges and clerks shall be sworn or affirmed by any alderman or justice of the peace, or if there is no alderman or justice of the peace present, then by any commissioned officer, to conduct the said election fairly and impartially, and make a correct and true return thereof. And

Who to vote.

every militia man belonging to the said battalion, or any member of a volunteer corps residing within the bounds of the same, may vote by ballot at such election in the manner now practised at the general elections: Provided however, That no volunteer of any troop or company which actually belongs to a battalion or regiment of volunteers, shall vote for field or company officers of a militia regiment, but may vote for brigade inspector or brigadier general of the brigade. And if the said judges shall deem it necessary, they may administer oaths or affirmations to voters and others,

and examine them about their right to vote, and shall decide thereon; and

when the said election shall have been closed and the votes counted, the said judges shall make out duplicate returns of the same, to be signed by them as well as the clerks, particularly stating in the said returns the number of votes in words at length given for each person for the office before

Returns.

mentioned, of brigadier general, brigade inspector, colonel, lieutenant colonel and major separately and distinctly; and the superintendent of such election, after sealing up the said returns in the presence of the other judge, shall take charge of the same, and shall within ten days after the said election, deliver, or cause to be delivered, the said returns to the proper brigade inspector then in commission. And the said superintendent shall receive two dollars, and the said judge and clerks one dollar each for their services Penalty for performing the duties required of them. And if any such superintendfalse reent, judge or clerk shall act fraudulently in conducting said election, or turns. shall wilfully make a false return thereof, he shall, on conviction thereof before the court of quarter sessions of the county in which he resides, forfeit and pay any sum not less than fifty nor more than one hundred dollars, to be paid to the proper brigade inspector.

How and XV. The brigade inspector after having received the returns of the elecby whom tions held in manner aforesaid, and before he opens the same, shall call to the returns his assistance two respectable citizens residing within the bounds of the to be received, &c. brigade, one of whom shall be an alderman or justice of the peace, and after swearing or affirming the said citizens truly to examine and cast up said returns, and make a fair and correct report thereof, the same oath or affirmation shall be administered by the said alderman or justice of the peace to the brigade inspector, and they shall then open the returns of the said elections and cast up the same, and shall make out one general return of the election of brigadier general, one other return of the election of brigade inspector, one other return of the election of each colonel and lieutenant colonel, and one other return of the election of each major; and having certified and signed the same, the said brigade inspector shall forthwith transmit the same to the secretary of the commonwealth. And the said brigade inspector shall immediately cause a written certificate and notice be notified to be given to each of the said persons of his election. And the returns of

elected to

Penalty false re-

interested who may wish to examine the same; and if the said brigade inspector, and either of the citizens aforesaid called by him to his assistance, shall be guilty of fraud in casting up the returns of the battalion elections aforesaid, or shall wilfully sign a false return thereof, or if the said brigade inspector shall wilfully suppress any of the said returns, upon con-

the battalion elections received by the brigade inspector shall be filed and preserved in his office, and shall be subject to the inspection of any person

1822.

viction thereof before the court of quarter sessions of the county in which they severally reside, they shall forfeit and pay any sum not less than one hundred nor more than five hundred dollars for the use of the brigade; and the said brigade inspector shall further be deprived of his office: *Provided*, That each of the persons called to the assistance of the brigade inspector shall receive one dollar for his services, to be paid by the said brigade inspector.

XVI. The proper brigade inspector shall notify the brigadier general, Major geand the field officers of the several regiments and battalions of militia and neral, how volunteers of the brigade, elected according to this act, to meet on the first whom to be Monday of July then next ensuing, and on the first Monday in July in every elected. seventh year thereafter, at a place as near the centre of the brigade as possible to be fixed by him, to elect a major general for the division. And the said brigade inspector shall attend at the time and place so fixed on, and together with the brigadier general or other senior officer present, shall superintend and conduct the said election. And the said officers of the brigade being assembled, shall ballot for a major general, and after counting the votes, duplicate returns of the said election shall be made out and signed by the said brigade inspector and brigadier general or other senior officer, stating particularly the number of votes given for each person for major general in words at length. And the said brigade inspector shall file one of the said returns in his office, and the brigade inspectors of the Returns, other brigade or brigades of the division shall, within ten days after the election, call upon the brigade inspector of the first brigade of the said division, and they shall examine and cast up their respective returns, and make out a division return, stating the election of the person having the highest number of votes for the office of major general, which being certified and signed by the said brigade inspectors, shall immediately be transmitted to the secretary of the commonwealth; and one of the said brigade inspectors shall also notify in writing the person so elected; but if no one should have a majority of the votes given, or if any person elected a major general as aforesaid shall refuse to accept, or whenever a vacancy shall Vacancies. happen by death, resignation or otherwise, of which immediate notice shall be given to the adjutant general of the commonwealth, by the proper brigade inspectors, the said adjutant general shall direct the brigade inspectors of the division to hold a new election on a day to be named by him, which election shall be held and conducted, and returns thereof made in all respects as is directed by the preceding part of this section. And when, in consequence of no one having a majority of votes, a second election shall have been held for major general in manner aforesaid, and it should again happen that no one has a majority of the votes given, then the governor shall appoint and commission one of those highest in vote.

XVII. Before any commission shall issue to a brigade inspector, he shall Brigade ingive bond with sufficient sureties, to be approved of by two of the judges spectors to of the court of common pleas of the county in which he resides, in the security sum of five thousand dollars, taken in the name of the commonwealth of Pennsylvania, conditioned for the faithful performance of his duties as brigade inspector, which bond shall be filed in the office for recording of deeds of the county, and a copy thereof sent to the secretary of the commonwealth. And whenever a vacancy shall happen, by death, resignation or removal of any brigade inspector, the brigadier general or senior officer of the brigade, shall cause an election to be held to supply such vacancy, vacancies, on a convenient day to be named by him, which election shall be held and conducted in all respects similar to the mode prescribed by the fourteenth and fifteenth sections of this act, the said brigadier general or senior officer acting in licu of the brigade inspector, and who shall be paid the necessary expenses for advertising said election, and two dollars for attending the same.

XVIII. If any brigadier general, colonel, lieutenant colonel, or major, Vacancios elected, shall refuse to accept; or whenever, and as often as a vacancy shall in the officecur by the resignation, removal, death or otherwise, of any such officer, gadiers go a new election shall be immediately ordered by the proper brigade inspector, negal and

	field offi- cer.	vided and directe
	Returns.	except that in the
	returns.	in two city or cour
		inspector to call to
		tions of majors, no
		of the return of ar

the commonwealth. XIX. On the third Monday of August, on Cousand eight hundred and

When and pany oflicers to be elected.

where com- twenty-eight, and on the same day in every seventh year thereafter, an election shall be held within the bounds of every company of militia in this

commonwealth, for company officers for the same; and the major of every

tions to be

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Captain to

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Who may

Returns.

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ing officer

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tween the hours of ten o'clock in the forenoon and six in the afternoon, at such place within the bounds of every said company, as near the centre as may be, as shall be designated in such notice, for the election of one captain, one first lieutenant, and one second lieutenant. And the said major, or lieutenant colonel, shall appoint one respectable citizen to superintend

battalion, or in case there is no major, the lieutenant colonel of the regiment shall give at least ten days' public notice, by written or printed advertisements, and by publication in one or more newspapers, if he thinks it necessary, to the persons subject to militia duty within the bounds of every company of the battalion, that an election will be held on said day be-

his aid two citizens to examine the returns of the elecor to be sworn or affirmed; but he shall transmit a copy ny election of major, received by him, to the secretary of

and conduct each of said elections, who shall attend at the time and place

fixed on for the same; and shall prior to the opening thereof, select one other person, who, with himself, shall act as judges; and they shall appoint one other person to act as clerk thereof; but if any person appointed by the major, or licutenant colonel as aforesaid, shall fail to attend, then, and in that case, the enrolled militia present at such election, may and shall appoint two citizens as judges, and one citizen as clerk, and the said judges and clerk shall be sworn or affirmed by any alderman or justice of the peace, or by any commissioned officer, to conduct the said election fairly and impartially, and to make correct and true returns thereof; and

the captain or commanding officer of every company of militia within the

bounds of which any such election is held, is hereby required, under the

penalty of fifty dollars, to furnish the said judges on or before the opening

of the election, a correct list of the militia belonging to his company. And

every militia man (volunteers excepted), within the bounds of every said

company, shall and may vote at such elections in the manner practised at the general elections. And the said judges may, if necessary, examine persons offering to vote upon their right to do so, under oath or affirmation, and shall decide thereon. And when the said elections shall have closed,

duplicate returns thereof shall be made out, and signed by the said judges and clerks respectively, stating the number of votes given for each person for the offices aforesaid, separately and distinctly; and also stating in the said returns the number of militia within the bounds of the company; and one of the said judges shall take charge of the said returns, and within five days thereafter deliver, or cause the same to be delivered to the aforesaid major or lieutenant colonel, who shall immediately transmit one of each of said returns to the brigade inspector, who shall file the same in his office; and the said brigade inspector shall make out one general return for each regiment, of the officers elected in the several companies thereof, in every case where it appears at least one third of the militia of the company voted for officers; which returns he shall certify and sign, and send

If one third immediately to the secretary of the commonwealth. But when, by any or the en-

not vote for company officers, the brigade inspector shall notify the colonel

or commanding officer of the regiment thereof, who shall appoint the pro-

per officers for every said company; but he may if he thinks proper, appoint

all or any of the persons voted for. And he shall also appoint the proper

nty newspapers: nor shall it be necessary for the brigade

elections of majors, it shall not be necessary to advertise

d by the fourteenth and fifteenth sections of this act,

1822. at a time to be fixed on by him, which shall be held, conducted, and res thereof made in all respects, and under the like penalties as is pro-

officers for every company where no election shall be held; and in case 1822. any person shall be elected who shall refuse or decline to accept, or shall may anfail to perform the duties of his office, the commanding officer of the regi-point. ment is hereby authorized and directed to appoint proper officers in the Where no place of every such person thus declining to accept, or failing to perform election to his duty. But the said commanding officer may, if he thinks proper, in be held. any of the cases above mentioned, order new elections to be held; and he shall make out duplicate returns of all appointments made by him, and And may shall deliver or cause the same to be delivered to the brigade inspector order new without delay; one of which returns he shall file in his office, and the elections held. other transmit to the secretary of the commonwealth. And as often as a vacancy occurs of a commissioned officer in any company, such vacancy vacancies. shall be filled by a new election or appointment in manner aforesaid, only that the superintendent appointed for each election, shall hold and conduct the same himself, without selecting another person to act with him as a judge thereof; and shall have the like powers, and do and perform every act and thing required to be done by the two judges in the preceding part of this section. Provided however, That the company officers shall reside Provise as within the bounds of their company, unless proper persons cannot, in the to the resiopinion of the commander of the regiment, be found therein, to accept of dence of such appointments, in which case they may be taken from the bounds of the officers. other companies. And the judges and clerks of the aforesaid elections Compensa. shall be entitled to one dollar each for their services, and be subject to tion to the like penalties as are directed and prescribed by the fourteenth section judges and of this act. And the said brigade inspector shall also be subject to the clerks. same penalties for misconduct, as are prescribed by the fifteenth section of this act.

The field officers or a majority of them, the commandant being one, How comshall and may number the companies, and arrange them to the battalions panies are of the regiment, giving notice thereof to the proper brigade inspector, to be numbered, &c. And all field and company officers of militia shall take rank according to the number of their respective regiments, battalions, or companies, reckoning the lowest in number to be highest in rank, when their commissions are of the same date. And the commanding officer of every company, How to is authorized to appoint the proper non-commissioned officers for the same. rank. XX. When elections, held under this act, are contested, the following contested proceedings shall be had; when at least four of the officers, who voted at elections. any election for major general, shall complain to the adjutant general of Of Major the commonwealth, that illegal votes were taken, or that the same was general. otherwise unlawfully held and conducted, it shall be the duty of the said adjutant general, to select at least three officers, who do not belong to the division in which the election was held, one of whom shall not be under the rank of a general officer, and the others not under the rank of colonel. If the election of a brigadier general, or brigade inspector shall be con-Brigadier tested, by at least one hundred of the volunteers or militia who voted at general or any such election, application may be made by them, to the major general, inspector, or the next senior officer in rank in the division, if there is no major general, who shall direct and notify two other officers of said division, not belonging to the brigade in which the election was held, who shall not be under the rank of lieutenant colonel. If the election of any field officer Field offishall be contested, by at least fifty of those who voted at such election, cers. application may be made by them to the brigadier general, or if there should be no brigadier general, then the next senior officer in rank, in the brigade, not belonging to the regiment in which the election was held, who shall direct and notify two other officers not under rank of the field officers, and not belonging to the said regiment, which officers shall compose boards for the trial of the contested elections in the cases before mentioned, for which they were selected and appointed; and may belong to the volunteers or militia, or either thereof, at the discretion of the authority making

1822.Company officers.

And if the election of an officer of any company of militia. or of independent volunteers, shall be contested by at least twenty of thos? who voted at any such election, application may be made by them, to the colonel or commanding officer of the regiment to which said militia company belongs, or said volunteer company is attached, who, with two other field officers of said regiment to be notified by him, shall compose a board for the trial of said election. And if the election of an officer of any company of volunteers belonging to a battalion or regiment, shall be contested by at least twenty of the volunteers who voted at any such ejection, application may be made by them to the commanding officer of their proper battalion, or regiment, who, with the other field officers of the battalion or regiment, if any there are, not, however, exceeding two besides himself, to be notified by him, shall be a board for the trial of such election. the senior officer of any such board, shall fix on a convenient time and

place for determining the said contested election, with power to adjourn if

necessary; and shall direct not less than ten days notice to be given to at

least one of the complainants, and to the other parties concerned, and may

Time and place for determin. ing, &c.

Duties of the board,

issue process, to compel the attendance of necessary witnesses, who shall be paid by the party who requires them to be summoned. And the said board shall proceed to hear the allegations and proofs offered; and they, or a majority of them, shall either confirm or set aside any such election, as the justice of the case may require, and shall immediately make report thereof to the proper authority. But the said board, in deciding upon any contested election, shall reject and deduct all illegal votes given to any candidate, and if there is not other sufficient cause of complaint, shall confirm the election in favor of the person having the highest number of lawful votes given. But if the election shall be set aside, then any commission which may have issued in consequence of the same, shall be void, and the office declared vacant, and a new election shall be held in the manner prescribed in other cases by this act. XXI. All officers of volunteers or militia, elected or appointed in pursu-

Term of commissions to be until the 3d of August, 1828.

ance of the act for the regulation of the militia, passed the second day of April, one thousand eight hundred and twenty-one, or that may hereafter be elected or appointed, prior to the next septennial elections, shall hold their commissions until the third day of August, one thousand eight hundred and twenty-eight; and all officers elected or appointed at the next, and all subsequent septennial elections and appointments, shall hold their commissions until the third of August, in every seventh year thereafter, if they so long behave themselves well, and perform the duties required by law; except, however, the staff officers appointed by the major generals and brigadier generals, and of the regiments and battalions of volunteers and militia, who shall hold their commissions for the periods before mentioned, unless sooner removed by the general officers, or by the commanding officers of the said regiments or battalions respectively. But the

appointment and commission of every staff officer, of a major or brigadier general, shall become void, whenever the person making such appointment

date and take effect from the day of election or appointment of every such But every officer elected or appointed in pursuance of this act,

Except for staff offi-COTS.

shall cease to be an officer himself, from any cause whatever. And when-When com- ever the secretary of the commonwealth shall have received the returns of missions to any elections or appointments, made in pursuance of this act, commissions issuo. shall immediately be issued to the said officers respectively, to be sent to the proper brigade inspector, unless he shall have received notice that the election of any such officer is contested, in which case the commission shall be withheld until the contest is decided, and then shall only issue to the officer lawfully elected. And all commissions for officers elected or appointed at the next, and all subsequent septennial elections or appoint-When to ments, shall bear date and take effect from the third of August. take effect. commissions for officers elected or appointed at any other time, shall bear

shall have all the rights and authorities of an officer, from the time of 1822. receiving notice of his election or appointment, (when his election is not At what contested) although not commissioned, except the brigade inspector, who time offishall have no authority until regularly commissioned. No officer shall be cere to expermitted to resign, until he shall have accounted and settled for all money, duties, arms and property of the commonwealth, which may have come into his hands. Nor shall any person be a commissioned officer who is not a citi- No person zen of the United States. And the commission of every such officer shall to be combe null and void, unless he is actually resident within the bounds of his missioned proper command. And whenever it happens, from any cause whatever, zen. that he is not so resident, his office is hereby declared vacant: excepting, officers to however, the case of company officers, who may reside without the bounds reside of their company, agreeably to the nineteenth section of this act: And within the bounds of provided, That within the first division of militia, the officers may reside in their comany part of their respective brigades.

XXII. The militia of this commonwealth shall be paraded and trained When and in companies and battalions, as follows, viz: In companies on the first where com-Monday of May in every year: and the battalion parades and trainings, battalion shall commence on the second Monday in May, in every year; and shall trainings, continue in such order as the brigade inspector shall direct, on every day of the week, except Sunday, until all the battalions of the brigade shall have paraded: of which trainings one month's notice shall be given by the brigade inspector, in as public a manner as possible, by printed advertisements or otherwise, as he may deem best. The place for the company trainings shall be fixed by the commanding officer thereof, and of which he shall give at least ten days public notice, by printed advertisements or otherwise. And the place for battalion trainings, shall be fixed by the commanding officer of the regiment, with the approbation of the major of the battalion. And the commanding officer of the regiment shall give at least fifteen days public notice of the place of said battalion trainings, by Public no. printed advertisements or otherwise. And the colonel of the regiment tice to be shall attend, and command the training of one battalion of the regiment; given, and the lieutenant colonel shall attend and command the training of the Who to other battalion of the said regiment, to be determined by said colonel: but command in case of the absence of those officers, the command shall devolve upon the trainings of the the next senior officer. And at every regimental and battalion training, battalions, the commanding officer shall cause the roll of the field and staff officers to Roll of be called, and the absentees noted, and a return thereof made to the pro-field and per court of appeal for the first battalion: Provided however, That the staff officers to be militia shall parade and train in regiment instead of battalion, when the called, &c. commanding officer may require it, of which he shall give notice to the brigade inspector, before he is directed to advertise in manner aforesaid. And the said commanding officer shall give the same notice of the place of regimental training, that is required in the case of battalion training: And provided, That each of the brigade inspectors within the bounds of the first division, shall publish the said notice required of him by this section, three times in two of the daily newspapers printed in the city of Philadelphia, and shall describe therein the bounds of his brigade, and of each regiment therein, together with the names of their respective commanding officers: And provided also, That no enrolled militia man, under the age of twenty-one years, shall be required to parade or train, or shall be fined for not having so paraded or trained.

XXIII. Every commissioned and staff officer, and every non-commis-Penalty for sioned officer and private, enrolled in the militia, and between the ages not attendof twenty-one and forty-five years, who, without a lawful excuse, shall ing, neglect or refuse to attend, on any day of parade and training, herein before appointed, (without good and sufficient arms) shall be fined as follows, to wit: Every field officer, five dollars; every staff officer, and captain of a company, three dollars; every subaltern officer, two dollars; and every

non-commissioned officer and private, one dollar; and every such officer. 1822. non-commissioned officer and private, shall pay the same fine if he leaves Leaving the ranks and parade on any day of training, without the leave of his comthe ranks and parade, manding officer, before the regiment, battalion, or company is dismissed:

Provided however, That if the officers of the company shall be of opinion that any militia man could not procure arms, he shall not be fined for appearing without them; and all officers, who shall appear on parade, without being in uniform, shall be subject to the same fines, as if they had not attended, and they shall be returned as absentees, in the cases before mentioned.

Roll to be called.

XXIV. It shall be the duty of every captain, or commanding officer, on the days of training aforesaid, to call the roll of his company, or cause the same to be called, and note down those who are absent at any time during the hours of parade, as often as he shall think most proper, to ascertain the Absentees, absentees. And the said captain or commanding officer, shall make out a return of all such absentees, who are required to parade, under oath or affirmation, with the amount of fine incurred, set opposite each name; and shall deliver the said return to the proper court of appeal, on the day of

3 officers to be a court of appeal.

XXV. The colonel or commanding officer of each regiment, shall, on or before the day of regimental or battalion training, in every year, appoint three commissioned officers for each battalion of his regiment, to compose a court of appeal for the said battalion for the current year, and shall fix on the place where the said officers shall assemble; and shall give public notice of such appointment, and of the time and place of meeting, fifteen days at least before each meeting, by printed advertisements or otherwise. When to

their meeting, under the penalty of lifty dollars.

To be on

meet.

they enter on their duties, be sworn or affirmed, justly and impartially to oath. decide on all cases that may come before them, and shall continue to sit as long as business absolutely requires it. The senior officer shall be pre-Vacancies, sident of the said court, and if a vacancy should happen, the colonel or

Persons fined may appeal.

commanding officer shall immediately appoint another officer to fill such vacancy, and give him notice thereof. And all officers and enrolled militia men of the proper battalion, who shall have neglected to attend on any day of training, may appear in person or by agent before the said court, to assign their excuse for such non-attendance, and the said court shall and When fines may examine all persons under oath or affirmation; and if it shall be satis-

And the said officers, so appointed as a court of appeal for the battalion, shall meet on the second Monday of June, in said year, and shall, before

may be re-factorily proved or shown, that any officer or militia man was prevented mitted. from attending, by reason of being a juror, arbitrator or witness, before any court or other legal tribunal, or of illness, or unavoidable cause which rendered his attendance impracticable on any day for which he is fined for non-attendance, the said court or a majority thereof, shall remit the fine or fines incurred. But no remission shall be made, or redress given at any other time or by any other authority, or in any other manner, than is before mentioned. And as soon as the said court of appeals shall have decided to be made. upon all cases before them, they shall make out two lists of the officers and

enrolled militia of each company, returned by the captain or commanding officer thereof, as are fined for non-attendance on any day of training, and whose fines were not remitted by the said court of appeal; which lists shall be signed by the president of the said court, with a certificate attached thereto, that the officers of the said court of appeal had been sworn or affirmed according to law. They shall also mark on the return of each captain, furnished to the said court, opposite to the name of each individual, the remission of any fine; which return, so marked, shall also be signed by the president of the said court. And the said court of appeal shall also make out two lists of all field and staff officers returned to them,

⁽¹⁾ This is not to affect the right of exoneration by the field officers under the 26 \$. See 30 March, 1824, \$ 4.

as fined for non-attendance, and whose fines are not remitted by the said 1822. court, signed and certified as aforesaid. And the president of the said To be decourt of appeal, within ten days after the sitting of the said court, shall, livered to under the penalty of fifty dollars, deliver or cause to be delivered to the brigade inproper brigade inspector, one of each of the lists aforesaid, of the fines spector. not remitted, and also the company returns, marked as before directed, and shall transmit the other lists of the said delinquents, to the auditor-general of the commonwealth, who shall charge the amount of the fines not remitted by the said court, to the proper brigade inspector, and file the said lists in his office.

XXVI. The brigade inspector shall, as soon as conveniently may be His duties after receiving from the presidents of the several courts of appeal in his after rebrigade, the returns of fines not remitted by the said courts, issue warrants same. under his hand and seal, for all the fines not remitted, to wit: One warrant for all fines not remitted of field and staff officers; and one other warrant for all fines not remitted in each and every company, and which shall be in the following form:

"The commonwealth of Pennsylvania to A. B. greeting:

"Whereas the persons named in the schedule or list hitherto annexed, have incurred the fine or fines set opposite to their respective names, for non-attendance and neglect of duty on the day or days of training appointed by law, for the militia of this commonwealth, and which have not been remitted by the court of appeal of the proper battalion. This warrant therefore authorizes and requires you to demand and collect of each and every person named in the said list or schedule the sum set opposite to his name. And in case of neglect or refusal to pay the same, you are to levy and collect the same, with costs, of the goods and chattels of each and every such person by distress and sale thereof, returning the overplus, if any, to the owner. Witness my hand and seal this hundred and

Brigade Inspector. $\left\{ \underbrace{\widetilde{L}.\ S.}_{L} \right\}$

Division of Pennsylvania Militia." Brigade, And the said brigade inspector shall deliver, or cause to be delivered, each of the said warrants to a constable, who is hereby required to execute the same, or to some other fit person, at his discretion, from whom he shall require security, if he thinks it necessary. And any person to whom any such warrant is delivered, shall, under the penalty of twenty dollars, call on each and every person named in the list or schedule to the said warrant, if within the bounds of the brigade, within twenty days after he has received Payment to the same, and demand payment of the fine or fines due. And in case any bedemandsuch fine or fines is not paid within ten days after demand, he shall proceed to levy and collect the same according to the command of the warrant, with costs; and in the levy and sale of the delinquent's property, he shall proceed in the same manner that constables are, or shall be, by law required to proceed under executions; and the said collector shall have the same proceedfees as are allowed to constables for similar services; and for want of suffi-ings to cient goods and chattels to pay the fine or fines against him, every such de-compel linquent shall be committed by the proper collector to the custody of the sheriff or jailer of the proper county, to be held and detained until he pays the said fine or fines, or is discharged agreeably to the insolvent laws of the commonwealth, and a copy of the warrant certified by the said collector, shall be sufficient authority to the sheriff or jailer, to receive and hold such delinquent in custody, and which he is hereby required to do until legally discharged. And the constable, or other person to whom any warrant shall Constables, be delivered, shall, withir, forty days after he has received the same, pay to &c. to pay the brigade inspector the amount of fines contained in the schedule to said over fines.

warrant, unless the said brigade inspector shall allow him further time to

1822.

collect the same; but if the said person after the expiration of the forty days, shall fail, on the demand of the said brigade inspector, to pay the amount of the said fines to him, he shall forfeit and pay double the amount thereof, to be recovered by the said brigade inspector in the name of the commonwealth of Pennsylvania, as debts of equal amount are by law reco-And if the said constable or other person, shall report to the bri-

Proceedcannot be collected.

ings if fines gade inspector, which he is hereby required to do within the said forty days, that it is impracticable to collect some of the fines contained in the said schedule, each of the persons to whom any warrant is delivered, shall make such report. The brigade inspector shall order the field officers of the regiment to be assembled, and persons having warrants shall appear before the said field officers, or a majority of them, who are authorized to act at the time and place to be fixed on by the brigade inspector, of which they shall have notice. And the said field officers having been first sworn or affirmed, they, or a majority of them, shall determine whether it was and is impracticable to collect any such fines or not. And if they find any of the fines contained in the warrants could not have been, nor cannot be collected, they shall make out two lists thereof and deliver the same to the brigade inspector, signed by the senior officer present; and the said field officers, when so assembled, or a majority of them, are hereby further authorized to exonerate any person or persons against whom warrants have issued, from any fine or fines against them which ought not to be levied and collected payment of agreeably to this act, and lists thereof shall be made out and delivered to lines in cer- the brigade inspector in manner aforesaid; and the brigade inspector shall, after having received said lists, exonerate any person having a warrant or

Field officers may exonerate nersons from the

warrants from the amount of any fine or fines contained in the schedule to the same, which by the lists aforesaid, it appears cannot be collected. Bail of con. the bail required by law to be given by constables, shall be answerable for the amount of any military fines and forfeitures which may come into the hands of said constable, in the same manner as they are liable in all other cases, on the default of the constable. And the persons appointed to col-Compensa- lect the fines as aforesaid, shall receive for their services, any sum not extion to con: ceeding ten per cent, on the amount collected by them. And each field officer shall receive one dollar per day while employed in the performance of the duties required by this section.

stables liable for fines col. lected. field officers.

XXVII. [Repealed by 30 March, 1824, § 9.]

Proceedglecting to elect, or failure to perform duties required. Duty of brigade inspector.

XXVIII. If it shall happen that the proper officers shall not be elected ings on ne-in any regiment or battalion of militia, or in any company or companies thereof, or who being elected shall fail to perform the duties required, in causing the militia to be enrolled and trained, and returns made according to law, it shall be the duty of the brigade inspector of the proper brigade, as soon after the first Monday in June in every year, as conveniently may be, to employ one or more proper persons to enrol all and every person residing within the bounds of every such regiment or battalion, or of any such company or companies thereof, and liable to perform duty in the militia, who shall proceed in the same manner, and have the like authorities as are given to captains or commanding officers of militia companies by the ninth Of the per-section of this act; and every person so employed to enrol as aforesaid, shall make a return of the persons enrolled within the bounds assigned to him by the brigade inspector; and he shall be sworn or affirmed that the enrollment so made, contains a correct list of all persons liable to perform duty in the militia within the bounds so assigned to him, as far as he could ascertain the same; which outh or affirmation may be administered by any alderman or justice of the peace, or the said brigade inspector: and which return of enrollment shall be conclusive evidence that the persons therein named are liable to perform militia duty; and each and every person so

enrolled between the ages of twenty-one and forty-five, shall pay the sum

son employed to enrol, &c.

⁽¹⁾ If the officers are not elected, or fail to perform the duty, the brigade inspector appoints some one. 17 S. & R. 148.

of two dollars; and it shall be the duty of the proper brigade inspector as soon as he has received any of, or all of the enrolments aforesaid, to transmit copies thereof to the auditor-general, and to issue one or more warrants, as he may think necessary for the collection of the said sum of two dollars from each of said persons; which warrants shall be in the form fol lowing, to wit.

"The Commonwealth of Pennsylvania to A. B. greeting:

"Whereas the persons named in the schedule or list hereto annexed, Warrant. have each become liable to pay the sum of two dollars, according to the militia law of this commonwealth, this warrant, therefore, authorizes and requires you to demand and collect of each and every such person the sum of two dollars. And in case of neglect or refusal to pay the same, you are to levy and collect the same with costs, of the goods and chattels of each and every such person by distress and sale thereof, returning the overplus if any, to the owner. Witness my hand and seal this eighteen hundred and

Brigade Inspector, Division of {L.S.} Brigade Pennsylvania Militia."

And the brigade inspector shall deliver the said warrant or warrants to a Duties of constable or other fit person, who shall execute the same, and from whom constable, he shall require security, if he thinks it necessary; and the said constable Offield or other person, as well as the field officers of the regiment, shall perform officers. the same duties, have the same authority, be subject to the like penalties, and proceed in all respects, as is directed and provided by the twenty-sixth section of this act, for the collection of fines for non-attendance on days of But in case there should not be at least three field officers of powers of the brigade the regiment, then the brigade inspector is hereby required to order the inspector. proper number of field officers from any other regiment, who shall perform all the duties required by the said twenty-sixth section. And the said brigade inspectors shall have the same powers and authority, and perform the same duties as are required by said section, and shall account for any money received by virtue of this section, in the same manner as is provided for in other cases. And the said brigade inspectors shall pay to the persons employed by them to enrol as aforesaid, as well as to the constables or other persons authorized to collect as aforesaid, such compensation as shall be reasonable and just.

XXIX. The compensation for services performed by direction of this Compensaact, except for serving as members of courts martial, and which is not tion to officers, to herein otherwise provided for, shall be as follows:

To each commanding officer of a militia company. Taking the annual enrolment, each person lawfully enrolled, three cents. Furnishing copy of roll to brigade inspector, one dollar. Giving notice of annual training, fifty cents.

Making return of absentees, one dollar.

Furnishing copy of company roll to judges of election, fifty cents.

To each major or lieutenant colonel of militia. Advertising company elections, and appointing superintendants therefor, lieutenant colonel. each company, fifty cents.

To each commanding officer of a regiment of militia. Advertising the regimental or battalion trainings, one dollar. To each officer sitting to try contested elections per day, one dollar. To each member of a court of appeal for the militia, every day necessarily Member of and actually employed, one dollar.

To each president of a court of appeal, making return to brigade inspec-appeal. tor, fifty cents.

To each field officer assembled to exonorate fines per day, one dollar.

Command. ing officer

1822.

of a company.

Major or

Command. ing officer of a regiment. court of

Oath, &c. to be administered without

1822.

not otherwise provided for, may be administered by any judge, alderman or justice of the peace, or any commissioned officer, who shall perform such service without any fee therefor. XXXI. Troops and companies of volunteers, except within the bounds Volunteers of the first brigade, first division, shall be organized as follows: There

XXX. All oaths or affirmations required to be taken by this act, and

organized, shall be in each troop of cavalry one captain, one first lieutenant, one Number of second lieutenant, one coronet, one quarter master sergeant, four sergeants, officers and four corporals, one trumpeter, one saddler, one farrier, one blacksmith, and each troop not less than thirty privates.

There shall be in each company of artillery one captain, one first lieuof cavalry. tenant, one second lieutenant, one quarter master sergeant, four sergeants, of artillery four corporals, two musicians, and not less than thirty-five artificers and privates.

Infantry.

There shall be in each company of infantry one captain, one first lieutenant, one second lieutenant, four sergeants, four corporals, two musicians, and not less than forty-five privates.

Riflemen.

There shall be in each company of riflemen, one captain, one first lieutenant, one second lieutenant, four sergeants, four corporals, one bugler, and not less than forty privates.

Provided however, That volunteer troops and companies now organized may have the number of officers at present authorized: but whenever a vacancy shall occur, said troops and companies shall only have the number of officers above authorized: And provided further, That there shall not be more than four companies of artillery in any division of militia, except in the first division.

When troop or company is within the bounds of different brigades, how attached.

And when the members of any such troop or company, are within the bounds of different brigades, such troop or company shall be attached to, and belong to the brigade in which a majority of the members reside; and the said troop or company shall be inspected, and under the order of the proper officers of the said brigade, in the same manner as if all the members had resided therein.

XXXII. The officers of volunteer corps, shall be elected by the mem-Electors of bers thereof; and whenever a vacancy happens by the death, resignation or volunteers, removal of any officer of a volunteer corps, his place shall be supplied by a new election, to be ordered by the brigade inspector, to be held and con-Vacancies, ducted in the same manner as elections to supply vacancies of captains in

And whenever the number of volunteers required by this act the militia. Brigade in for any troop or company, shall have uniformed and equipped themselves according to law, upon notice thereof, given to the brigade inspector, he shall, on a day and at a place to be fixed on by him, of which the members companies, of the said troop or company shall be notified, proceed to inspect the said troop or company, and if he finds the same to contain the number of men

To hold elections.

turned, and certified.

Non-commissioned officers.

Members of volunteer corps

required, who are properly uniformed and equipped, he shall on the said day of inspection, direct an election to be held for the officers thereof; which election he shall superintend and conduct in person, and shall make out and sign duplicate returns of the same, one of which said returns he ducted, re-shall file in his office, and the other transmit to the secretary of the commonwealth, together with a certificate of the fact, that the said troop or company has the number of men required, properly uniformed, and equip-

ped; and the non-commissioned officers of every troop and company of volunteers, shall be appointed according to the by-laws of the same; and it shall not be lawful for any member of any troop or company of volunteers, to withdraw from, or leave the same, without the consent of a majority of the commissioned officers thereof first obtained, nor without first not to with- delivering up in good order any arms or accoutrements which he may have draw with- received; and whenever a volunteer shall have leave to withdraw from his out consent troop or company, the captain or commanding officer shall furnish him

with a certificate or discharge if required, and shall also give notice thereof

to the commanding officer of the militia company, in which the said volunteer may reside, or if there is no such company officer, then to the commanding officer of the proper battalion or regiment.

XXXIII. Any volunteer troops or companies, except within the bounds Formation of the first brigade of the first division, may be formed into battalions or of battaregiments, in the following manner although not of the same descriptions regiments of troops or force.

of volun-

to form a

to be elect-

Battalions

Any number of troops or companies not less than three, to compose a teers. battalion, and have one major, one adjutant, one quarter master, and one Number of assistant surgeon.

Any number not less than five to compose a battalion, and have one battalion, lieutenant colonel, one major, one adjutant, one quarter master and one and officers

Any number not less than six to compose a battalion, and have one lieutenant colonel, two majors, one adjutant, one quarter master, one surgeon and one assistant surgeon.

And any number not less than eight, to compose a regiment, and have What numone colonel, one lieutenant colonel, two majors, one adjutant, one quarter ber to compose a regimaster, one surgeon and two assisting surgeons.

And troops of cavalry may be organized as follows:

Any number not less than three to compose a battalion, to have the same and regiofficers as is before provided for the same number of companies.

Any number not less than four to compose a battalion, and have one how form-

lieutenant colonel, one major, one adjutant, one quarter master and one ed, and surgeon.

Any number not less than five to compose a battalion, and to have one elected. lieutenant colonel, two majors, one ajdutant, one quarter master, one surgeon and one assistant surgeon.

Any number not less than six to compose a regiment, and have the same officers as is before provided for a regiment.

And each regiment and independent shall have one sergeant major, one quarter master sergeant, and two principal musicians.

And the members of any said battalion or regiment, shall elect the field Field offiofficers, and the commanding officer thereof shall appoint the commis-cers by sioned and non-commissioned staff officers for the same, and supply vacan-elected, cies as often as they occur.

And whenever any number of troops or companies have agreed to as-appointed. sociate in manner aforesaid, upon notice being given to the proper brigade Election inspector, or in case the said troops and companies are in different brigades, for field then to the brigade inspector in whose brigade the election is proposed to officers. be held; who shall order the said troops and companies to meet in some central place, and on a day to be fixed by him, of which fifteen days public notice shall be given by him. And at the same time and place, the members of the said troops and companies shall proceed to the election of the field officers authorized by this act. And the said election shall be held How conand conducted by the said brigade inspector in person, in the same manner ducted. that the battalion elections are directed to be held, and duplicate returns thereof made out and signed, one of which shall be filed in his office and the other transmitted to the secretary of the commonwealth. And as often as a vacancy occurs by the death, resignation or otherwise of any such Vacancies. field officer, an election shall be held to supply the vacancy, which shall be conducted and returned in all respects, as is directed and prescribed by this act, in the case of militia battalion elections, only, that instead of the major of the militia battalion, the brigade inspector shall appoint one of Who to suthe officers of the said volunteer regiment or battalion, who shall alone and perintend without the aid of a judge therein provided for, superintend and conduct said clection and make return thereof: Provided, That unless required to be held sooner, the said election shall be held on one of the days fixed on for the

meeting of the said battalion or regiment of volunteers. And no troop or

1822. company shall be permitted to withdraw from the battalion or regiment of volunteers to which the same is attached, without the consent of a majority Troop or of the field officers thereof. company not to with-And each regiment of volunteers shall be entitled to a pair of colours, draw. and each battalion of volunteers to a battalion colour, to be properly and Regiments and battalion of volunteers entitled to colours.

appropriately marked, to be procured and purchased by the proper brigade inspector, at the expense of the state. And the commanding officer of every such regiment or independent battalion, may once in every year, order all the commissioned officers thereof, to meet at a time and place to be fixed on by him, for the purpose of drill. And every officer failing to attend, shall be subject to a fine of three dollars, to be collected by virtue of a warrant from the adjutant, in the same manner as other fines are collected under this act. XXXIV. Within the bounds of the first brigade of the first division.

regiments of volunteers shall be formed of troops and companies of the same description of arms in the manner following, that is to say: Each regiment of cavalry, artillery, infantry, and riflemen shall have one division to colonel, one lieutepant colonel, two majors, one adjutant, one quarter-masbe formed. ter, one pay-master, one surgeon, two surgeons' mates, one sergeant major, Officers of

a regiment, one quarter-master sergeant, and two principal musicians. Each regiment of cavalry, shall consist of at least six troops, each troop shall consist of one captain, one first lieutenant, one second lieutenant, one coronet, one quarter master sergeant, four sergeants, four corporals, one musician, one saddler, one farrier, and at least thirty privates.

Each regiment of artillery shall consist of at least six companies, each company shall consist of one captain, one first lieutenant, two second lieutenants, one third lieutenant, one quarter master sergeant, four sergeants, four corporals, two musicians, and at least sixty-four privates. The commanding officer of the regiment, to designate one of the second lieutenants of each company, as conductor of artillery for said company. But if there to be form-shall not be a sufficient number of companies to form the said regiment, then any number of companies not less than three nor more than five, may be formed into a battalion, and have one lieutenant colonel, one major, one

adjutant, one quarter master, one pay-master, one surgeon, one sergeantmajor, and two principal musicians. Each regiment of infantry and riflemen, shall consist of at least eight

companies, each company shall consist of one captain, one first lieutenant, one second lieutenant, one third lieutenant, four sergeants, four corporals, two musicians, and at least sixty-four privates.

And the said field officers shall be elected in the same manner, and at the same time, as is provided for the field officers of other volunteer regi-And the said commissioned and non-commissioned staff officers, shall be appointed by the commanding officers of the said regiments or battalion of artillery.

XXXV. Every regiment and independent battalion of volunteers, shall meet once in every year, if required by the proper brigade inspector, for inspection, at a time and place to be fixed on by the commanding officer of said regiment or battalion, and as much oftener for training, as shall be battalion of determined on by the companies or troops composing the same, and at such to meet for times and places as the said companies and troops may agree and fix on. inspection. And the members of the said troops and companies, shall be subject to To be sub- the like fines for non-attendance, as in the case of company or troop trainject to fines ings, and to be collected in the same manner; for the use of the said troops or companies respectively.

> And every regiment, buttalion, troop, and company of volunteers, shall have power to make all necessary by-laws, rules and regulations, not inconsistent with the constitution and laws of this state, or of the United States, to promote the interest, good order, and dicipline of the same, and for fixing on, and giving notice of the times and places for parades and trainings

to drill. How regiments of volunteers in 1st brigade, 1st

Commissioned offi-

cers may

be ordered

A regiment of cavalry to consist of aix troops, Of artillery, six com-

panies.

Battalions

Regiments of infantry and rifle. men to consist of 8 companies. Field officers how elected.

whom appointed. Regiments and independent

Staff, by

tendance. May make by-laws.

Volunteer corps shall be ranked in the following order, to wit: First, 1822. cavalry; second, artillery; third, infantry; and fourth, riflemen. And all Rank of troops and companies of the same description of force, shall take rank volunteer according to their priority of organization. All officers of the same grade, corps. without regard to the corps to which they belong, shall take rank accord-How rank ing to the dates of their commissions respectively. And whenever officers to be deternance commissions of the same date, their rank shall be established by lot, mined. in the presence of the commanding officer; but officers of the volunteers of the same grade with officers of the militia, and when their commissions are of the same date, shall take rank of such officers of the militia, but not otherwise, Provided, That all officers, who at any election or appointment, shall be elected or appointed to offices of the same grade, shall rank according to the dates of their preceding commissions.

XXXVI. The captain or commanding officer of every volunteer troop Roll of vo. or company shall, on or before the third Monday in May, in every year, de-lunteer liver or cause to be delivered to the proper brigade inspector, a complete delivered roll of his troop or company, under oath or affirmation, and if the same is annually to attached to any battalion or regiment of volunteers, the fact thereof shall brigade inbe stated, and the said captain or commanding officer of any last men-spector. tioned troop or company, shall also furnish to the adjutant thereof, on or before the said third Monday of May, in every year, a roll of the same, And the adjutant of every volunteer battalion or regiment, shall, on or be-To be furfore the said third Monday in May, in every year, deliver, or cause to be nished with delivered to the proper brigade inspector, or where the troops or companies a roll of field and belong to the different brigades, to the brigade inspector of the brigade in staff offiwhich the election for field officers was originally held, a roll of the field cers. and staff officers thereof. And each of the officers failing to perform the Penalty for duty required by this section, shall forfeit and pay the sum of twenty dol-neglect. lars; and the said officers shall have the like compensation as is given to officers of militia for similar services.

XXXVII. The several volunteer troops and companies in this common-volunteer wealth, shall meet at least three times in every year for training, one of troops and which days shall be at the time and place, when the said troop or company to meet is to be inspected by the brigade inspectors, and the other days of training, three times at such time and place as shall be determined on by a majority of the mem- a year for bers of the said troops or companies, of which public notice shall be training. given, by the captain or commanding officer thereof, at least ten days before any such meeting. But all volunteer troops or companies, not belong when to ing to any regiment or battalion of volunteers shall be attached by the attach to brigade inspector to the most convenient regiment of militia, and shall regiments. parade and train with the said regiment, or such battalion thereof as shall be directed by the commanding officer at the annual trainings, provided for by this act, and shall be under the orders of the commanding officer of the same, which day of training shall be accounted one of the three days required by this section. All volunteer troops or companies belonging to any regiment or battalion of volunteers, shall not be obliged to parade or train with the militia. And the officers, non-commissioned officers, musi-subject to cians and privates of said troops or companies, shall incur the like fines like fines. for non-attendance, on said days of training, as is directed to be paid by the militia of this commonwealth. And the members of the said troops May meet and companies, or a majority of them, shall at their first meeting in every on other year, determine whether they will meet on any other days than those re-days than quired by law, and how often, and when, and where. And the said offi-quired by cers, non-commissioned officers, musicians and privates, shall incur such law. fines for non-attendance on any of the said days, as may be determined on by the by-laws of the troop or company, not being less than half the amount of fines for non-attendance on the days of training required by law.

XXXVIII. On every day of parade and training, directed and authorized Rolls to be by this act, for volunteer troops and companies, the rolls of the said troops called.

1822.

and companies shall be called under the direction of the captain or commanding officer thereof, by the first or other sergeant, and all absentees noted, and lists thereof kept, to be presented to the officers of the said troops and companies, when acting as a court of appeal, as hereinafter directed. And all members of said troops or companies who shall leave the ranks during the hours of parade without permission, or shall not be properly uniformed and equipped, shall be considered and marked as absentees, and incur the like fines. And the said sergeant shall, on or before the first Monday in November, in each and every year, make out a complete list of all absentees, on any of the appointed days of training, for the pre-

curred for leaving ranks.

Fines in-

sentees to be deliver-Notice of its sitting.

ceding year, stating particularly, the days on which said member was marked List of ab. as an absentee, and being sworn or affirmed to the said list, shall deliver the same to the said officers acting as a court of appeal on the said first Moned to court day of November in every year. And the captain or the commanding offiof appeal. cer shall give public notice to the members of his troop or company, of the place where the said officers will sit as a court of appeal; and on the day, and at the place aforesaid, the officers of every troop and company shall be assembled and compose a court of appeal for their respective troops and companies, and shall take the same oath or affirmation, and they or a majority of them, have the same authority, proceed in the same manner, and remit fines for the same cause as is directed, given and prescribed in the case of battalion courts of appeal for the militia. But no fines shall be remitted, or redress given by any other authority, at any other time or in any other manner. And as soon as the said courts shall have decided upon all cases before them, they shall make out lists of the members of the said May remit troops, or companies, whose fines were not remitted, stating opposite the name of each member, the amount of fines not remitted: to be signed by

fines in certain cases. A list of fines not remitted to

be certifi-

cd.

that they had been sworn or affirmed according to law, and shall deliver the same to the captain or commanding officer of the said troop or company. And the said captain or commanding officer shall, within ten days thereafter issue a warrant under his hand and seal in the following form: "The commonwealth of Pennsylvania to A. B. greeting: "Whereas the persons named in the list or schedule hereto annexed,

the officers composing the said court, with a certificate attached thereto,

warrants.

have incurred the amount of fines set opposite to their respective names us members of the volunteer corps of (designating it by its proper title), as absentees on the days appointed for training, which have not been remitted Form of the by the proper court of appeal. This warrant therefore authorizes and requires you to demand and collect of each and every person named in the said list or schedule, the sum set opposite to his name. And in case of neglect or refusal to pay the same, you are to levy and collect the same with costs, of the goods and chattels of each and every such person by distress and sale thereof, returning the overplus if any, to the owner. Witness my hand and seal this day of eighteen hundred and

Captain." {L. S. }

for commanding officer of the volunteer corps, naming it.]

And the said captain or commanding officer shall immediately deliver the said warrant to a constable or other fit person to be executed, and who To be dee is hereby required, under the penalty of twenty dollars, to be recovered by livered to a the said captain for the use of the company, to execute the same, who shall perform the same duties, have the same authority and compensation, be subject to the like penalties, and proceed in all respects, as is provided and His duties, directed by the twenty-sixth section of this act, only, that the said captain or commanding officer, shall be in the place and situation of the brigade

inspector mentioned in the said section, and shall have all the rights and

powers therein given to the said brigade inspector; as well in proceeding 1822.against the said constable or other fit person in recovering the amount of fines collected by him as otherwise: Provided however, That every troon and company of volunteers may authorize courts of appeal to be held by any of its members, and at such time and times as may be fixed on by the by-laws thereof, and the fine and fines for non-attendance and neglect of duty, may be collected as often as shall be determined on by the said bylaws; and which courts of appeal shall be conducted, and the fines collected under the provisions of this section; and all fines collected from the members of any volunteer troop or company, shall be for the use of the said troop or company. And the captain or commanding officer of any troop of cavalry or company of artillery, when he has received from the collector any such fines, shall pay the same to the quarter master sergeant thereof. And the captains or commanding officers of any companies of infantry or rifle-Appropriamen, upon the receipt of any such fines, shall pay the same to the junior tion of lieutenant or other person appointed by the company, to be appropriated fines. and applied by them in defraying the necessary expenses of the said troops and companies under the direction of a majority of the commissioned officers thereof, and they shall render an account thereof to the said officers, under the penalty of fifty dollars at the first meeting of the troop or company in every year.

XXXIX. It shall be lawful for any member of a volunteer corps, to be Members at the same time an officer of the militia, with the consent of his company; of volunteer shall the commission of any officer of a volunteer corps, be vacated by teer corps his election or appointment as a field or staff officer, of a battalion or registeers of the ment of volunteers; but he may continue to hold the same if requested by militia.

the company.

XL. The uniform and equipments for the militia officers of this com-vacated, monwealth, shall be the same as that prescribed for the officers of the &c. United States army; and it shall be the duty of the adjutant general to Uniform obtain a description thereof, and furnish each brigade inspector with a suf-and equipficient number of copies for himself, and each major and brigadier general, ments. and each field officer and captain of volunteers and militia, the expense thereof to whereof shall be paid out of the state treasury. But the governor is hereby be furnish. authorized to alter the dress for the company officers, so as to render the ed by adjusame less expensive, if he shall deem it proper and advisable; and which ral. uniform so prescribed by him, shall be established for that class of officers, Governor and descriptions thereof furnished to the brigade inspectors immediately, may alter. for the use of said officers; the expense of furnishing which to be paid in manner aforesaid. And every officer shall be armed and equipped at his officers to own expense; and if any officer shall fail to uniform and equip himself be uniwithin six months after his election or appointment, if he accepted of the formed and equipped office, he shall be liable to a fine of twenty dollars, to be recovered by the at their brigade inspector; and every officer so elected or appointed more than six own exmonths, shall appear on every day of parade uniformed and equipped as pense. aforesaid.

XLI. Volunteer troops and companies may uniform and equip in such How volunitary manner as they may think proper, conforming as nearly as may be lunteer to the same kind of force in the army of the United States; Provided troops and however, That companies having a uniform dress, and acting as infantry, are to be may be supplied with muskets and bayonets, cartridge boxes and belts, if uniformed there be sufficient, after supplying the companies properly uniformed and equipped, upon sufficient security being given therefor, in the manner hereinafter directed; but such company shall not be entitled to the sum allowed by the forty-sixth section, nor shall the members thereof be entitled to the exemption provided for in the forty-seventh section of this act.

XLII. Every artillery and infantry volunteer company, uniformed and Volunteer equipped, and the officers thereof commissioned agreeably to this act, shall corps entible entitled to the following arms, viz. To every such artillery company, the arms.

proper number of muskets and bayonets, cartridge boxes and belts, and if 1822. required, and they can be supplied out of the arsenals, twelve pikes. Artillery. together with one piece of artillery of the proper calibre, with all the apparatus and equipments complete. And the governor is hereby authorized to cause to be issued to the first lawfully organized artillery company properly uniformed, in each brigade who have a field piece, the proper number of swords and belts in lieu of muskets, for the non-commissioned officers, mu-

sicians and privates thereof, upon the order of the proper brigade inspector. Infantry. And to every such infantry company, the proper number of muskets and bayonets, cartridge boxes and belts for the non-commissioned officers and privates of the same. And the proper brigade inspector shall make a requi-How to be drawn for. sition upon the adjutant general for the arms aforesaid, who shall give him an order therefor to the keeper of the nearest or most convenient arsenal; and the said brigade inspector shall thereupon draw the said arms and de-Expense

liver the same to the company aforesaid, and the expense thereof shall be how paid. defrayed out of the state treasury, to be paid to the said brigade inspector upon the settlement of his accounts.

XLIII. Before any arms and accoutrements are delivered to any volunteer Security to begiven for company, sufficient security shall be given for the return and delivery of the retuin in same in good order and condition, upon the dissolution of the company or good order of arms, whenever lawfully required. And all volunteer companies that have already received ...ms or accourrements shall give the like security; on failure whereof, it shall be the duty of the brigade inspector, and he is hereby required to take possession of the said arms, to be disposed of in the manner hereinafter directed; and it shall be the duty of every commanding officer of a company, to take duplicate receipts from the non-commissioned officers and privates of his company for the arms delivered to them respectively, one of which receipts shall be given to the brigade inspector to be filed in his office.

XLIV. It shall be the duty of every brigade inspector, and he is hereby. required to collect or cause to be collected from time to time, all military arms and other military property of this commonwealth, in the hands or possession of any person or persons not entitled by law to hold the same, for which he shall receive a reasonable compensation; and to furnish a list of the said arms and property when required by the adjutant general, as of all arms and public property in the possession of any volunteer company, who have not given the security required by this act, or are not lawfully Duty of ad. entitled to the same; and the said adjutant general may order all such arms and public property to be conveyed at the expense of the state to the nearest arsenal; and the said adjutant general is hereby required to make such regulations relative to the amount and kind of security to be given for arms and accourrements delivered to volunteer companies, as well as all such other regulations for the disposition, security, and preservation of the arms and military property of this commonwealth, as he may from time to time find necessary and proper to promote the public interest, and which the several brigade inspectors are hereby required to obey and carry into

besides being amenable to a court martial for neglect of duty, XLV. Every volunteer who may have received public arms and accoutrements, shall keep the same in good order and repair at his own expense. And if any volunteer shall loan his arms to any person whatever, except to a volunteer to parade or drill, or shall knowingly suffer any other person to use the same, except for drill or training, he shall be subject to a penalty of Penalty for five dollars. And if any volunteer shall sell or dispose of his arms, or shall quit his company by removal out of the neighbourhood or otherwise, without delivering up the same in good order to his commanding officer, he shall forfeit and pay the sum of fifteen dollars, to be recovered by the said commanding officer, as debts of equal amount are recoverable; and for want of sufficient property to pay the same, he shall be committed to the

effect under the penalty prescribed in the fifty-second section of this act,

Duty of brigade inspector to collect arms, &c. and to furnish a list thereof to adjutant general.

&c.

jutant general.

Volunteers to keep their arms in good order at their own expense. loaning or selling them in certain cases.

jail of the county for fifteen days. And if upon the death of any volunteer, 1822. his heirs, executors, or administrators, or any of them, shall neglect or re-Arms to be fuse to deliver up to the commanding officer of the troop or company to delivered which he belonged, any arms, accourrements, or instruments of music, which up in cerhe may have received, they shall forfeit and pay the aforesaid sum, to be under penrecovered from any one of them, in the manner aforementioned. And it alty, shall be the duty of the proper brigade inspector, to pay the expense neces- Brigade insary, for the repairs of any field piece, and the apparatus, and equipments spector to thereof, in the possession of any volunteer artillery company, or of any pairs of drums or other instruments of music authorized to be freelighted by drums or other instruments of music, authorized to be furnished by law, to field the volunteers or militia.

XLVI. [Repealed by 10 April, 1826, § 9.]

XLVII. Every person who shall have been uniformed and equipped Volunteers agreeably to this act, and faithfully served as a member of any organized having volunteer corps, for seven successive years, since the first of January eigh-years from teen hundred and eighteen, and shall produce a certificate of such service, 1st of Jan. from the captain or commanding officer of the corps in which he has so as 1818, to be exempt. served, he shall for ever thereafter be exempted from militia duty, except in time of an invasion, insurrection, or actual war: Provided, The persons exempt from duty in pursuance of this section, shall be enrolled in the same manner as if they were not exempt: Provided however, That if the fact of such service shall be disputed, the certificates aforesaid shall be sworn or affirmed to by the officer giving the same, or proof of such service made in some other satisfactory manner. And it shall be the duty of the captain Officers or commanding officer of every troop or company of volunteers, to pro-commandcure an orderly book, in which he shall cause to be entered the name and teers to place of residence of every member thereof, and the time (being properly procure uniformed and equipped) he may have joined the troop or company; and books, &c. on every day of parade or training, when the roll is called, a record shall be kept in said book, of both those present and those absent; and if any volun- What a teer shall not have attended on at least three-fourths of the days of parade service for or training of his troop or company, for seven successive years, unless absent 7 successive years. for some of the causes which would authorize him to be excused agreeably to this act, he shall not be considered as having faithfully served agreeably to the preceding part of this section.

XLVIII. Every person who shall have been properly uniformed and Officers, equipped, and have faithfully served as a commissioned officer for seven &c. serving 7 years, to successive years, in the volunteers or militia of this commonwealth, since be exempt, the first day of January, eighteen hundred and eighteen, shall for ever thereafter be exempted from military duty, except in time of an invasion, insurrection, or actual war.

XLIX. Each brigade inspector heretofore elected, or who may hereafter Brigade inbe elected in pursuance of this act, shall take an oath or affirmation, to per- spector to be on oath. form his duties with fidelity, and transmit a certificate thereof to the adjutant general, and shall execute all orders relative to duty, received by him from the adjutant general. He shall attend each regimental or battalion parade, and shall annually inspect the said regiments and battalions; and His duties. shall also, once in every year, inspect each volunteer troop of cavalry, and company of artillery, infantry, and riflemen, within the bounds of the brigade. But when any such troop of cavalry, or company of artillery, infantry or riflemen, shall be part of a regiment or battalion of volunteers, he may inspect the said troops and companies separately, or in battalion or tegiment, as he may think proper. And the said brigade inspector shall direct To appoint places of the time and place, when and where any such troop, company, battalion, or inspection. regiment, shall assemble to be inspected as aforesaid; and shall give at least To furnish twenty days public notice thereof. He shall annually furnish to the adjutant annually general, a detailed statement of the militia and volunteers within his brigade, statements at such time and in such manuar at the miliat such time and in such manner, as the said adjutant general shall direct. tia. He shall keep a record of all alterations in the bounds of the brigade, regi- Keep a

1822. record of the alterations of brigades, &c. To furnish to major and brigadier generals. Transmit To be an. awerable tary articles, &c. and make return of arms, sue for and col. lect fines, &c. Purchase colours, drums, &c. Pay expenses, &c. Account Annually to settle their accounts.

Books, &c. surv. to be delivered to their successors. On failure to settle accounts,

&c. bond

of death, books, &c. to be delivered.

Compensation.

ments or battalions, or of the formation of any new one, and shall give information thereof to the adjutant general, and shall generally furnish him with information upon all subjects connected with military duty in his brigade, whenever required to do so; and shall also furnish like statements to the major general of the division, and brigadier general of the brigade, once in every year when required. The brigade inspectors shall transmit all restatements turns of elections and appointments of officers under this act, as soon as practicable, to the secretary of the commonwealth, and shall distribute to the proper officers, all commissions received by them. They shall take charge of, and be answerable for all military articles which may be delivered to them. They shall make an annual return to the adjutant general, of all returns,&c. arms and other military property in their possession, and of the condition of the same, and of the arms and other military property, distributed in the for all mili- brigade, in such form and manner as shall be directed by him. The said brigade inspectors shall sue for, and collect in the name of the commonwealth all fines, forfeitures, and other sums, for which no mode of collection is prescribed by this act, and recover the same as debts of equal amount are by law recoverable. They shall procure and purchase all the necessary colours, drums, fifes, trumpets and bugles. They shall pay all expenses and sums of money directed to be paid in their several brigades, to the persons entitled by law to receive the same. They shall keep an accurate account of all monies received and expended by them. They shall account for all fines not remitted by the proper courts of appeal, or imposed by courts martial, and directed to be collected by them, and shall only be released from their accountability for any such fines, by producing a certificate of a board for moneys, of field officers, to be signed by the president thereof, that it was impracticable to collect the same. They shall annually, in the month of January, settle with the auditor general, who is hereby required to settle and adjust their accounts, and shall pay into the state treasury, any surplus arising from fines and forfeitures, which may remain after payment of the sums and expenses, directed to be paid by them by this act, in their several brigades, first deducting five per cent, on the amount so to be paid into the state trea-And on the removal or resignation of any brigade inspector, all the books, youchers, papers, and public property, which may be in his possession, shall be delivered to his successor. And if any brigade inspector as aforesaid, shall fail to settle his accounts annually, with the auditor general, during the time prescribed, or shall neglect or fail to pay into the state trea-

ral, or the state treasurer, as the case may be, shall, and it is hereby made their duty respectively, to cause the bond given by the said brigade inspector and his sureties, lodged in the recorder's office of the county, to be sued out and recovered for the use of the commonwealth, as well as in all other cases of neglect of duty; but any such suit may be stayed, upon the said brigade inspector's performing the duties above required of him. In the case the death of any brigade inspector, all the books, vouchers, papers, and public property, which he had in his possession, shall be delivered over to his successor, by the executors or administrators of such deceased brigade inspector, under the penalty of one thousand dollars, to be recovered from them, or either of them, by the said successor, in the name of the commonwealth, as debts of like amount are recoverable. And each brigade inspector shall annually receive as a full compensation for his services, including blanks and stationary, seventy-five dollars per regiment for the three first regiments, and fifty dollars per regiment for every additional regiment of militia and volunteers of his brigade, and for volunteer battalions in proportion, to be paid out of the state treasury.

sury, the balance due upon such settlement, upon demand made by the state

treasurer, and of which settlement the auditor general shall furnish the state

successor, the books, vouchers, papers, and public property, in his possession, on notice given to the auditor general thereof, the said auditor gene-

to be sued treasurer with an account, or shall neglect or refuse to deliver over to his

L. It shall be the duty of each brigade inspector, at the time when he 1822. is annually required to settle his accounts, to exhibit to the auditor-general, Brigado ina statement of the expenses incurred in his brigade, for the preceding year; spector to which statement the said auditor-general is required to examine and adjust, furnish a making the allowances intended by the law; and if, upon the settlement of of expenses the accounts of the said brigade inspector, it shall be found that the fines to auditor and forfeitures have been insufficient to pay the said expenses so adjusted general. and allowed, then the said auditor general shall draw his warrant on the Who to state treasurer, for the amount of such deficiency, which the brigade inspec-draw his tor shall immediately thereafter pay to the officers or persons entitled to re-warrant in case of deceive the same: Provided however, That the sums allowed to volunteer ficiency. corps, by the forty-sixth section of this act, shall form no part of the expenses to be drawn from the state treasury in manner aforesaid.

LI. If any brigade inspector shall neglect or fail to make the returns to Brigade in. the adjutant-general, or perform any other duty according to this act, it spector neshall be the duty of the said adjutant-general to give notice thereof to the gleeting to state treasurer, when the compensation of the said brigade inspector shall duty not to be forfeited from the time of such notice, until he performs his duty accord-receive ing to law; and he shall only be entitled to the same for the residue of the tion. year; and the said brigade inspectors shall also be amenable to courts Amenable martial for neglect of duty, in the same manner as all other offences.

LII. The discipline of the volunteers and militia of this commonwealth, martial. shall be the same as that prescribed for the army of the United States; and Discipline. it shall be the duty of the adjutant general, to select the best abridged sys- &c. to be tem for the instruction and discipline of cavalry, artillery, infantry and selected by riflemen, making such alterations as may be deemed necessary for the use adjutant of the militia and volunteers of this commonwealth, and shall submit the general. same to the governor, and if approved of by him, a sufficient number of Approved copies to furnish each general and brigade inspector with a copy thereof, governor. and each field officer and captain of a company, with a copy of the system applicable to his particular corps, shall be procured at the expense of the Who shall state, and transmitted to the several brigade inspectors, to be delivered to receive the said officers respectively, who shall receipt for and deliver the same to copies. their successors in office, under the penalty of ten dollars, to be recovered by the person suing for the same.

LIII. On each of the days of training authorized and required by law, Music to be the commanding officer of every troop of cavalry, may employ one trum-procured peter; the commanding officer of every rifle company, one bugler; and the and paid. commanding officer of every company of artillery, infantry and of militia, one drummer and one fifer, who shall be severally entitled to receive the sum of one dollar per day, for each of said days of training, to be paid by the proper brigade inspector, upon the certificate of the commanding officer of the troop or company.

LIV. If any youth of the age of twelve years and not exceeding the Persons to age of twenty one years, shall, with the consent and approbation of his music. parents or guardians, attach himself to any company of volunteers or militia for the purpose of learning to beat the drum, play on the fife, blow the bugle or trumpet, provided the number shall not exceed one person for the drum and one for the fife, or one for the bugle in each company, and one for the trumpet in each troop of horse. Every such person or persons shall be put under the instruction of the dram and life major, the bugler or trumpeter as the case may be, whose duty it shall be to teach such person or persons, in the best manner in his power. And as soon as such person or persons shall be able to perform field duty to the satisfaction of the com-When paid manding officer of the regiment, or of the volunteer troop or company, to forwhich he is attached, he shall draw his warrant in favour of the drum or fife major, the bugler or trampeter, who may have taught such person or

persons as aforesaid, for the sum of ten dollars for every person so taught, to be paid by the proper brigade inspector; and the person so taught shall be furnished with a suit of uniform, to be paid for out of the funds of the The father brigade; and the father of every youth who shall have been instructed as aforesaid, shall be exempted and excused from training in the militia, so youth in-structed, to long as his son being a minor, shall continue to perform the duties of a be exempt. drummer, fifer, bugler or trumpeter in any militia or volunteer company.

LV. The following articles, rules and regulations, shall be those by regulation. which the militia of this commonwealth shall be governed, including volun-

Officers may be tried by courts martial.

ART. I. All officers now in commission, or who may be elected or appointed under this act, shall be subject to be tried and punished by a court martial, in the manner herein mentioned; and general courts martial, or courts of inquiry may be composed of officers of either volunteers or militia, at the discretion of the officers ordering the same.

Punishment of commissioned officers.

ART. II. If any field, or other commissioned, or staff officer, when the regiment, battalion, troop or company to which he may belong, or in which he holds a command, shall be paraded, shall misbehave or demean himself in a manner unbecoming an officer, or shall on any such occasion neglect or refuse to obey the orders of his superior officer; he shall for every such offence be cashiered or punished by fine, at the discretion of a general court martial, as the case may require in any sum not exceeding fifty dol-And if any non-commissioned officer or private, shall on any parade of the troop or company to which he belongs, appear with his arms and accourrements in an unfit condition, or be intoxicated, or shall disobey orders, or shall use any reproachful or abusive language to any of his officers, or shall quarrel, or promote any quarrel among his fellow soldiers, he shall be disarmed and put under guard by order of the commanding officer present, until the troop or company is dismissed, and shall be fined at the discretion of a regimental court martial, in any sum not exceeding twenty dollars, nor less than five.

Non-commissioned officer or private.

ART. III. If any general officer, field officer or brigade inspector, shall neglect or refuse to assemble his command when required to do so by the cers for ne. competent authority, or at any time or times authorized and required by law, or if any such officer shall neglect or refuse to perform any duty when directed by the proper authority, or which is required by this act, he shall be cashiered and punished by a fine not exceeding one hundred dollars, or either of them, at the discretion of a general court martial. And if any company officer shall neglect or refuse to assemble his command when required by law, or the competent authority, or if any such officer, or any staff officer of a general officer, or of any regiment or battalion, shall neglect or refuse to perform any duty when directed by the proper authority, or which is required by this act, he shall be cashiered and punished by a fine of thirty dollars, or either of them, at the discretion of the court martial; and any such court martial is further authorized to declare any officer cashiered, incapable of holding a commission in the militia or volunteers, for any term not exceeding seven years.

ment of field offiglecting to assemble their commands.

Punish-

General courts martial.

ART. IV. Every general court martial for the trial of offences against this act, and not assembled to try delinquents, for neglecting to perform tours of duty, shall consist of not less than five nor more than nine members, and of such rank as the case may require, and shall choose a president who shall be the senior officer, and not under the rank of a field Regimental officer. And every regimental court martial shall consist of three members, and shall choose a president who shall be the senior officer, and not under the rank of captain; and every court martial shall appoint a commissioned officer or other fit person to officiate as judge advocate. But no member of said courts shall be entitled to any pay or compensation, but the reason-

able expenses incurred by the sitting of the said courts shall be paid by the

Expenses of courts

tial.

martial.

proper brigade inspector.

ART. V. In every court martial two-thirds of the members must agree in 1822. every sentence, or the person charged be acquitted.

Two-thirds Anr. VI. The members of such courts martial shall take an oath or necessary affirmation, which the president is required to administer to them, that they to conwill decide and give judgment with impartiality; and one of the members Members so sworn or affirmed, shall swear or affirm the president in like manner; and wit. and the president of the said court shall require all witnesses to be sworn nesses to or affirmed that the evidence they shall give shall be the truth, the whole be on oath. truth, and nothing but the truth; to be administered by him or the judge advocate.

ART. VII. Every court martial shall have power and authority to issue Courts marcompulsory process against any persons, who shall neglect or refuse to tial to issue attend to give evidence in any case therein depending after being duly sory prosummoned; which precept, as well for summoning as for enforcing obe-cess. dience thereto, shall be signed by the president of the said court, and

executed by a proper person, to be appointed by him.

ART. VIII. No officer or other person charged with any offence, shall Persons arbe suffered to do duty in the brigade, regiment, battalion, troop or company no duty. to which he shall belong, until he shall have had his trial by a court martial: and every person shall be tried as soon as a court martial can be conveniently assembled; and every officer under arrest shall be furnished by To be furthe adjutant general, brigade inspector, adjutant or other person, as the nished with case may require, with a copy of the charge or charges exhibited against the him, at least ten days before his trial, that he may have an opportunity to charges, prepare for his defence.

 $oldsymbol{\Lambda}$ RT. $oldsymbol{\mathrm{IX}}$. If any officer, non-commissioned officer or private shall think Redress for himself injured by his superior or commanding officer, and shall, on due grievances. application made to him, be refused redress, he may complain to the brigadier general, who may, if he thinks it proper, direct the brigade inspector to summon a general court martial that justice may be done.

ART. X. No penalty shall be inflicted by a court martial for any offence Punishcommitted by an officer, non-commissioned officer, or private, whilst acting ment. merely under the jurisdiction of this state, and not for neglect or refusal to perform a tour of military duty in actual service, other than cashiering rendering incapable of holding a commission, for any term not exceeding seven years, and fining, or either of them. And all fines imposed by any such offences, shall be collected and paid into the hands of the proper brigade inspector.

ART. XI. All persons charged with any offence, who may be tried and Persons to acquitted by a court martial, shall be notified thereof and immediately dis-receive nocharged from arrest.

ART. XII. General courts martial may be ordered in the following man-Manner of ner, to wit: For the trial of a major general, by the governor of the com-ordering monwealth; for the trial of a brigadier general, by the major general of general the division; and for the trial of any colonel, brigade inspector, or other commissioned officer of the brigade, by the proper brigadier general. But in all cases where charges are preferred against an officer, the officer authorized to order a general court martial, may, if he thinks proper, direct a court of inquiry to examine and report the facts and circumstances; and if upon such report, the said officer shall deem a court martial necessary he shall order the same; and every court of inquiry shall consist of three Courts of members to be selected by the officer ordering the said court, who shall be inquiry. sworn or affirmed diligently to inquire into, and truly report the facts and circumstances of the case referred to them; and courts of inquiry may, in like manner, be ordered by the proper officer, upon the request of any commissioned officer, and the junior officer shall act as recorder of every such court of inquiry.

quittal of.

Regimental courts martial may be ordered by the colonel or commanding of regiofficer of any regiment of volunteers or militia, or by the commanding mental

1822. officer of any battalion of volunteers, not part of a regiment; and the courts mar- officers authorised to order courts martial, or courts of inquiry, may refuse to order the same if they think the complaint or circumstances of such a tial, nature as not to require it.

Sentence The sentence of every court martial must be approved of by the officer to be apordering the same, before it is carried into effect; and every said officer proved of by the pro- may disapprove of any such sentence, or, if having approved of the same. per officer. may remit the whole or any part thereof, and pardon the offender.

Proceed-

ings of the proved by the proper officer, the proceedings of such court, shall be transtransmitted mitted to the proper brigade inspector, who shall thereupon issue a warrant to brigade under his hand and seal, for any fine or fines imposed by the said court martial, to be levied and collected in the same manner as is prescribed and directed for fines for non-attendance on days of training. But if the said court martial was for the trial of a brigade inspector, then the brigadier general shall issue his warrant to any person he may appoint for the amount of the fine imposed, to be levied and collected in manner aforesaid. ART. XIV. The militia and volunteers of this state, while in the actual

ART. XIII. As soon as the sentence of any court martial shall be ap-

Militia. when subject to U. S. rules.

rules and regulations as the army of the United States. LVI. Every officer or other person, who shall fail or neglect to perform Penalty for

neglect of duty.

any duty enjoined and required by this act, and for which no penalty is fixed, shall forfeit and pay the sum of twenty dollars, to be recovered by the proper brigade inspector, as directed in other cases. LVII. It shall be unlawful for any person or persons, within half a mile

service of the state or of the United States, shall be subject to the same

Penalty for selling liquor on prescribed limits.

of the limits, prescribed by any commanding officer, for the parade of his days of pa. regiment, battalion, or company of volunteers or militia, to set up or have rade within any booth, or stand, to dispose of any kind of liquor, or to dispose of the same by gift, sale, or in any manner whatever, without the consent of such commanding officer, except at stores or licensed inns. And if any person shall so set up or have any booth, or stand as aforesaid, the commanding officer is hereby authorized to cause the same to be prostrated and re-And every person offending against the provisions of this section, shall further forfeit and pay the sum of twenty dollars, to any person who will sue for the same. LVIII. The commanding officer of any regiment, battalion, or company,

Commanding officer to fix limite.

when his command is on parade or duty, is hereby authorized to fix certain limits to his place of parade, not to include any public highway, within which no spectator or by-stander shall enter without permission from the said commanding officer: and if any person shall intrude therein, or if any spectator or by-stander shall abuse, molest, strike, or otherwise ill treat any officer, non-commissioned officer, or private, when on parade, or in the performance of military duty, every person so offending, may be put under guard for any time not exceeding six hours, and shall moreover forfeit and pay the sum of ten dollars, to be recovered by any commissioned officer who will sue for the same, as debts of like amount are by law reco-

Penalty for intruding within.

Punishment for concealing or fraudu-

perty.

verable. LIX. If any person or persons shall have knowingly sold, bought, taken, exchanged, concealed, or otherwise frandulently or unlawfully received, held, or detained, or shall unlawfully hold, or detain, or shall refuse to deleatly with-liver up to the proper brigade inspector, any arms, accoutrements, colours, public pro. drums, or other military property of this commonwealth, on any account or pretence whatsoever; the person so offending shall forfeit and pay for every such offence, treble the value of such property, to be recovered by the said brigade inspector in the name of the commonwealth of Pennsylvania, before any alderman or justice of the peace, of the proper city or county; and the amount so recovered shall be levied and collected of the

⁽¹⁾ For cases under this section. 2 S. & R. 75; 3 id. 169, n., 176, 590; 5 Whart. 1; 5 Am. Law Jour. 536; 4 S. & R. 83.

1822.

offender's goods and chattels, by distress and sale thereof, in the usual manner; but for want of sufficient goods and chattels, the offender shall be committed to the jail of the county, there to remain at the expense of the said county, for any term not exceeding one month, at the discretion of the alderman or justice, unless the amount recovered, with the costs, shall be sooner paid.

LX. When any doubts shall exist, as to the true construction of any part The act to of this act, on a military subject, it shall be the duty of the adjutant general, be conto take to his assistance two general officers, and they or a majority of them, adjutant shall decide thereon; and which decision shall be conclusive as to the congeneral struction of the said act, and shall be recorded by the adjutant general in and 2 geabook to be kept by him for that purpose; and a copy thereof certified cers. by the adjutant general, shall always be legal evidence of the same.

LXI. As soon as any portion of the militia of this commonwealth shall Proceed. be required for the service of this state, or of the United States, and upon ings when notice thereof by the adjutant general to any brigade inspector, the said quired for brigade inspector shall immediately order the major and captains, or com-service of manding officers of companies, of every battalion of militia, to assemble the U.S. at a time and place to be fixed on by him, within the bounds of every such battalion, for the purpose of having the enrolled militia in the said companies, justly and fairly classed; and shall further order the said captains, or commanding officers of companies to produce full and complete rolls of all Rolls to be the persons subject to militia duty, in their said companies, to be sworn or made out. affirmed to by them respectively: And the colonel of the regiment shall attend the meeting aforesaid for the first battalion; and the lieutenant colonel the meeting aforesaid, for the second battalion; and the said officers being so assembled, with the rolls aforesaid, the men composing said companies, shall be divided into ten parts, and the name of each and every Companies person enrolled in said companies, shall be written on a small slip of paper, to be diviand carefully rolled up; and then shall be deposited by companies, begin-ded into 10 ning with the first company, in a box to be procured for that purpose, and parts. the senior officer then present, shall draw from the said box, the names Formation therein contained; and a person to be appointed by the senior officers pre-of classes, sent shall take down the names as drawn out; and the persons first drawn, making one tenth of the said company, shall form the first class. And the persons next drawn, making one tenth of said company, shall compose the second class; and so on in the same manner, until all the names in the said box shall be drawn and classed. And as soon as the said drawing for all the companies, in manner aforesaid, shall be completed, two lists of the Two lists said companies, thus classed, shall be made out to be signed by the proper of classes commanding officer of the company and countersigned by the senior officer out, &c. of the regiment present; one of which lists of each company, shall be delivered to the proper brigade inspector, by the said senior officer, as soon after as possible; and the other list shall be kept by the commanding officer Officers of the company. And the officers engaged in drawing and taking down the classing to names as aforesaid shall be first severally sworn or affirmed to perform the be on oath. duty required of them, with fairness, impartiality, and fidelity. And the men of the several companies shall be liable to perform tours of duty in the How men order in which they are classed, beginning with the first class, and proceed-liable to ing in numerical order; but no class shall be called on to perform any second tours of tour of duty, until every other class in the company shall have first per-duty. formed a tour of duty; nor shall any militia-man or volunteer, who performed a tour of duty by himself or substitute, or paid an equivalent therefor, during the late war, be compelled to perform any tour of duty, until all who have not served in the late war, shall have performed a tour of duty, or paid an equivalent therefor. And if any officer shall fail promptly to obey Penalty for the order of the brigade inspector, requiring his attendance, or in producing disobedithe rolls of his company, as aforesaid, he shall forfeit and pay the sum of enco of three hundred dollars. And if any officer shall have acted unfairly, and fraudulent

1822. conduct in classing. jutant general, brigade inother officers.

fraudulently in classing the militia as aforesaid, he shall forfeit and pay the sum of one hundred dollars, to be recovered by the party aggrieved as debts of equal amount are or shall be by law recoverable; and his commis-Duty of ad. sion shall be vacated. And it shall be the duty of the adjutant general, under the direction of the governor, to prescribe the manner in which commissioned officers shall be selected and assigned to any portion of the spector and militia, to be called into service, to be announced in general orders, paying due regard to the rank of such officers, and which the several brigade inspectors, and all other officers shall execute, observe and be governed by, under the penalties before mentioned. And each of the said officers shall be entitled to one dollar per day, for his services in classing the militia as aforesaid.

When the governor may call the militia into service.

LXII. The militia of this commonwealth may be called into actual service by the governor thereof, in case of a rebellion, or of an actual or threatened invasion of this or any neighbouring state; but no part thereof shall be detained in service, at any one time, longer than three months, under the mere requisitions of the governor, without the direction or assent of the president of the United States.

Detachments for

Whenever any part of the militia of this commonwealth shall be required the service for public service, by the president of the United States, if no particular of the U.S. description of troops shall have been required, the governor shall detach the number of men demanded in such proportions of the several description of troops, as he may think proper.

Of vacancies. Of detaching of vo-

lunteers.

The commanding officer of any detachment, when called into actual service, shall have the power of supplying all vacancies which may occur in his detachment, and the persons nominated by him shall be commissioned by the governor. Troops of cavalry and companies of artillery, infantry and riflemen, shall be detached at the discretion of the commander-in-chief. If either or any of them shall be necessary as a part of the force required for public service, those companies nearest the rendezvous, that may be specified, shall in each instance, be the first detached; but no company shall be called to perform a second tour, until every other company, in its proper brigade, shall have performed its tour of service, unless in the opinion of the commander-in-chief, the urgency of any particular case may

Time, manner, etc. of marching militia.

require it. The time, manner, and regulations necessary for marching militia called into actual service, to the place of general rendezvous, unless defined in this act, shall be prescribed and published in general orders, by the commander-in-chief of the militia of this state.

Duty of the adjutant general on a call by the U. Š.

When the president of the United States shall have made a requisition of a part of the militia of this state, for public service, the adjutant general shall take the most prompt and efficacious measure, for detaching and supplying with all necessary arms, equipments, ammunition and provisions, the number of men required, and for having them marched to the place or places of rendezvous. The general of division, or of brigade, to whom orders may be issued, shall take immediate measures, for having the number of militia required, called out and inspected by the proper brigade inspector: Provided, That volunteer troops and companies, shall be the first detached, and may be kept in service any time not exceeding six

Of major and brigadier general,

Of brigade inspector in **similar** calls.

Of captain or commanding officers.

Whenever any portion of the militia of this state, shall have been ordered into actual service, under a requisition from the president of the United States, or otherwise, the proper brigade inspector shall notify the commissioned officers, whose tour of duty it may be to serve in the detachment required, and all captains, or commanding officers of companies of the militia, within the bounds of such draft, whether required to serve in the detachment or otherwise, shall furnish to the proper brigade inspector, on or before the day appointed for inspection, an authenticated roll of the non-commissioned officers, musicians and privates, selected or drafted out

of his company, and it shall be the duty of the said captains, or commanding officers of companies to cause a written or printed notice to be served upon or left at the usual place of residence of each and every officer, noncommissioned officer, musician, and private, liable to serve, requiring every such person to attend at a time and place, to be in the said notice specified, and every such notice shall be served at least three days prior to the day fixed for marching to the place of rendezvous, unless upon any sudden emergency, when the said notice shall require immediate attendance for service. The form of the notice for non-commissioned officers and privates, shall be as follows:

"Take notice that you are hereby required personally, or by a sufficient Form of substitute, to appear properly armed and equipped for service, at to march when required. Given under my hand, &c.

A. B. captain or commanding officer."

The governor shall select such general officer or officers as the nature of General ofeach case shall require, to proceed to the place of rendezvous, and take the ficers to be command of the troops called into actual service. The officer who shall by the be selected for the chief command, shall immediately proceed to organize governor. the detachment; whenever any detachment of the militia shall have been Brigade incalled into actual service, it shall be the duty of the proper brigade inspec- spector to tors, to organize within their respective brigades, the militia detached there-organize. from, in such a manner as that the requisite number of company officers for the militia detached, shall march therewith to the place of general rendezvous.

The pay, rations and forage of the officers, non-commissioned officers Pay and and privates of the volunteers and militia called into the service of the rations. United States or of this state, shall commence two days prior to their marching to the place or places of rendezvous, and each of the said officers, non-commissioned officers and privates, shall receive pay, ratious and forage at the rate of sixteen miles per day, on their return home. For the service of the horse of each officer and member of a troop of cavalry, there shall be paid to the owner thereof, twenty-five cents per day; and for the service of each horse used by a company of artillery, there shall be paid twenty-five cents per day.

The governor of this commonwealth may, if he shall think proper, direct Volunteers the cavalry, artillery, infantry or riflemen who may be called into actual may be service, to be formed into battalions or regiments.

battalions Whenever any portion of the militia shall be ordered into actual service, and regiit shall be the duty of the governor, through the adjutant general, to notify ments. the brigade inspector, from whose brigade any such detachment may be When calls required, whether the call of militia so made, is by order or requisition the adjufrom the general government, or by the authority of the governor of this tant genestate, and also the time of service for which the said detachment may be ral to give

When any part of the militia shall have been called into actual service, inspector. the officer who may have the command of the detachment, about to march Paymaster to the place of rendezvous, shall nominate to the proper brigade inspector, and quarter one of his staff or subaltern officers to act as paymaster, and also a subal-master. tern to act as quarter master for the detachment, until it shall have arrived at the place of rendezvous, (if the detachment consist of but one company, a sergeant thereof shall act as quarter master) to whom, if he shall approve the choice, the brigade inspector shall advance such sum or sums as may be necessary for the pay and subsistence of the troops upon their march, taking duplicate receipts therefor from the pay master or quarter master, which shall also be endorsed by the commanding officer of the detachment. The officer so appointed pay master, or quarter master, shall keep exact To keep accounts of the mode of expenditure, and when he shall have arrived at the accounts. place of rendezvous, shall transmit a statement thereof to the proper brigade

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inspector, charging two and one half per centum for the services thus rendered; and if any balance shall remain in his hands, he shall pay it over to such person, or in such manner as the proper brigade inspector shall have instructed him.

be nominated by him, shall appraise the horse of each officer, who is enti-

tled by the rules of war to keep a horse; and the horse of each member of

a troop of cavalry, and each horse belonging to the artillery, immediately

The brigade inspector, and two reputable and disinterested citizens to

by whom horses to be appraised.

How and

If killed, &c. in service the

be paid.

before every time of going into actual service, and enter such appraisement in a book; and in case such horse shall be killed or die in actual service, or be taken by the enemy, otherwise than by neglect of the owner: owner shall on his producing to the officers of the department of accounts, a certificate of the loss of said horse, signed by the commanding officer of the detachment to which he belonged whilst in actual service, together with a certificate of the valuation so as aforesaid directed to be made; he shall thereupon be paid the full amount of such appraisement, by an order to be drawn in the usual manner on the state treasurer, out of any money not otherwise appropriated.

Pay and rations.

LXIII. The officers, non-commissioned officers and privates, when called into actual service, either on a requisition from the president of the United States, or under the orders of the governor of this state, shall receive the like pay and rations, and other emoluments as are or shall be allowed and granted by the said United States, to the officers, non-commissioned officers and privates of the regular army at the time they shall be in service, and the non-commissioned officers and privates shall be armed and equipped at the expense of the state, during said service.

Period of service for which to receive clothing.

Whenever the militia of this state shall be called into actual service for the term of three months or more, they shall severally receive one uniform coat, one pair of overalls, and one pair of shoes. When called for the term of one year, they shall severally receive a full suit of uniform, consisting of one cap or hat, one stock and clasp, one vest, one uniform coat, two shirts, one pair of woolen overalls, one pair of linen overalls, one pair of stockings, one pair of socks, one frock, and one pair of shoes; which articles of clothing shall be distributed by orders of the adjutant general when the several corps shall have arrived at their respective places of rendezvous. That in all cases of emergency where money may be wanted to organize,

The goverfor money, &c.

nor to draw furnish or supply the militia of this commonwealth, who may be called into actual service, the governor is hereby authorized to draw his warrant on the state treasurer for the sum or sums of money, and to dispose of it in such manner as the exigency of the case may require. LXIV. It shall and may be lawful for any person called to perform a

Of substi-

tutes.

tour of duty to find a sufficient substitute, such substitute being approved of by the captain or commanding officer of the company in which he shall have offered to serve: Provided always, That if any substitute shall be called in his own turn, into actual service before the term expires, which he was to serve for his employer, then the person procuring such substitute shall march, or find a sufficient person to march in his said substitute's

turn, or be liable to pay his fine for neglect; which fine is to be recovered as other fines for neglect of serving are by this act recoverable; and sons who are not subject to the militia law, may be admitted as substitutes for their fathers if approved of by the commanding officer of the company in which they shall be offered to serve. LXV. If any commissioned officer of the militia, shall have neglected for officers or refused to serve when called into actual service, in pursuance of any order or requisition of the president of the United States, he shall be liable

Penalties neglecting,

to the penalties defined in the act of congress of the United States, passed on the twenty-eighth day of February, one thousand seven hundred and ninety-five, that is to say, each and every officer having so offended, shall forfeit a sum not exceeding one year's pay nor less than one month's pay, to be determined and adjudged by a court martial, and shall moreover be liable to be cashiered by sentence of a court martial, and to be incapacitated from holding a commission in the militia for a term not exceeding twelve months, at the discretion of the said court, or shall be liable to any penalty prescribed by the acts of the congress of the United States now in force, or that hereafter may be passed for the government of the militia thereof.

Each and every non-commissioned officer, musician and private of the Non-commilitia, who shall have neglected or refused to serve, when called into ac-missioned tual service in pursuance of an order or requisition of the president of the privates. United States, shall be liable to the penalties defined in said acts of con-

gress, or any acts that may be hereafter passed.

Within one month after the expiration of the time for which any de-When and tachment of the militia shall have been called into the service of the United by whom States, or after such detachment shall have been discharged by the proper courts marauthority, the proper brigade inspector shall summon a general court mar-tial to be tial for the trial of such person or persons belonging to the detachment summoned. called out, who shall have refused or neglected to march therewith, or to furnish a sufficient substitute, of which delinquents, the proper brigade inspector shall furnish to the said court martial an accurate list. And as To whom soon as the said court martial shall have decided in each of the cases which lists of deshall have been submitted to their consideration, the president thereof shall fined to be furnish to the proper brigade inspector, and also to the accountant depart-furnished. ment, a list of the delinquents fined, in order that the further proceedings directed to be had thereon, by the laws of this state or of the United States, may be completed.

LXVI. Each and every commissioned officer, who shall have neglected Penalty reto perform his tour of duty, when called into the service of this state, by fusing to the governor thereof, shall pay a fine of thirty dollars for each and every military month which he was called on to serve, and every private and non-com-duty on missioned officer who shall so neglect, shall pay the sum of sixteen dollars, call of the for every month which he shall have been called on to serve: and it shall governor. be the duty of the proper brigade inspector, immediately after the marching of any detachment, in the service of the state, to order a court martial, Courts to consist of not less than five commissioned officers of the brigade, one of martial may be whom shall be a field officer, to meet at a time and place to be fixed on by ordered. the said brigade inspector; and of which public notice shall be given. And the court martial being assembled, shall be sworn or affirmed, to hear Members and determine all cases that may be submitted to them with justice and to be on impartiality and according to law: And the said court shall be organized oath. as courts martial in the United States' service. And the said brigade in- How organized. spector shall furnish to the said court a list of all persons who neglected to Duty of briperform their tour of duty in the state service, according to law. And the gade insaid court martial shall decide upon all cases brought before it, and having spector. so decided the said court shall make out two lists of all such delinquents whose fines were not remitted, to be signed by the president of the said court, with a certificate, that the members of the said court were sworn and affirmed according to law: One of which lists shall be transmitted to List of dethe auditor-general, and the other delivered to the said brigade inspector: linquents and the said brigade inspector shall, thereupon, issue one or more war-out, &c. rants, under his hand and seal for the collection of the said fines, to a Proceedconstable or other fit person, which fines shall be collected and recovered, ings for and all proceedings had on the said warrant or warrants in the same man-collecting ner in all respects as is prescribed and directed in the case of fines for nonattendance on days of training. But if any person or persons against whom any such warrant shall issue as aforesaid, shall not have sufficient goods and chattels to pay and satisfy the amount of the fine incurred; every such person for want of the same, shall be committed to the jail of

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the proper county, for the term of twenty days for every month he was called on to serve in the militia, unless the said fines and costs are sooner Additional paid, there to be supported by the said county. And every commissioned officer, who shall neglect or refuse to perform his tour of duty, when called inent where into the service of this state, shall, in addition to the fine prescribed by officers rehase to per. this section, be cashiered and rendered incapable of holding a commission for any term not exceeding seven years, at the discretion of the court marform, &c. And each member of the court martial, and the judge advocate, shall

Pay of.

said court.

Pay-masters to be appointed by the gevernor.

LXVII. Whenever the militia of this commonwealth shall be ordered into the service of the state, it shall be the duty of the governor to appoint one or more pay masters, who shall, before he enters upon the duties of his appointment, give bonds to the governor with sufficient surcties in such amount as the governor shall think proper and necessary, conditioned for the faithful disposition of all money placed in his hands, and for the true performance of his duty. And every said paymaster shall receive from the state treasury, upon warrants to be drawn by the governor, such sums as will be necessary to pay the militia in the service of the state; and he shall attend at the camp of the said militia, before they are discharged, if prac-

be entitled to one dollar per day, for every day necessarily employed on

Du ics. To be furnished with complete rolls, &c.

ticable to pay them. And it shall be the duty of the several commanding officers of regiments, battalions, detachments, or companies in service, to furnish the pay-master with complete rolls, duly certified, of all officers, non-commissioned officers, musicians, and privates, stating the time they have respectively served, and for which they are entitled to pay, in order to make payment to them; and the said rolls shall be countersigned by the commanding officer. LXVIII. If any male person shall attempt to persuade any non-com-

l'enalty on persons who shall &c.

How recovered.

missioned officer or private, when called into actual service, to desert, or persuade to shall attempt in any manner whatever, to dissuade or hinder any officer, desertion, non-commissioned officer or private, from marching with his proper detachment, when called into actual service; every person so offending, shall forfeit and pay the sum of one hundred dollars, to be sued for in the name of the commonwealth of Pennsylvania; to be recovered as debts of equal amount are by law recoverable by the proper brigade inspector, to be accounted for by him, in the settlement of his accounts. But for want of sufficient property to pay the same, such offender shall be committed to the

jail of the proper county, there to remain for the term of thirty days, unless

the said sum, with costs, shall be sooner paid.

No judge, &c. to indecisions.

LXIX. No certiorari or other writ, shall in any case issue from any court of law in this commonwealth, to remove any proceedings that shall terfere with be had in any court of appeal, or court martial, held under, and by virtue of the laws of this commonwealth, or under and by virtue of any law of the United States; and no court of law of this commonwealth or alderman or justice of the peace within the same, shall in any case hear or determine, or in any matter, take cognizance of appeals that may be offered or attempted from any sentence or decree, passed or made by any such court of appeal, or court martial; any law, usage or practice, or any construction of any clause of this act to the contrary in any wise notwithstanding. And if any justice of the peace, alderman, or judge of any of the courts of this commonwealth, shall issue, or cause to be issued, any writ or process, with a view to, or shall re-hear, examine, or obstruct the decision of any court of appeal, or court martial; any and every such justice of the peace, alderman, or judge, so having offended, shall be deemed, and held to be guilty of a misdemeanor in office; Provided, That nothing herein contained shall impair or affect the provisions of an act for the better securing per-

sonal liberty and preventing wrongful imprisonments, passed the eighteenth

of February, one thousand seven hundred and eighty-five.

Penalty.

All suits that may be brought against any person or persons, for any thing done in pursuance of this act, shall be commenced and tried in the How, &c. county where the cause of action shall have arisen, and not elsewhere; and suits to be the defendant or defendants, may plead the general issue, and give this act, tried. and the special matter in evidence; and if the jury shall find for the defendant or defendants, or if the plaintiff or plaintiffs shall be non-suited, or shall discontinue his or their action or actions, after the defendant or defendants shall have appeared, or if upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants, shall have treble costs, and shall have the like remedy for the same, as any defendant or defendants hath or have in other cases, to recover costs by law, and the proceedings of courts of appeal and courts martial, shall, in no case what-proceedever, be set aside or declared void by any judge or court of law, on the ings not to ground of informality, in such proceedings; and every judge who shall be set aside for infordeclare any such proceedings void, on the grounds before mentioned, shall mality. be deemed guilty of a misdemeanor in office: Provided, Such courts of appeal, or courts martial, shall be constituted under the authority of the United States, or of this state. And it shall be the duty of the prosecuting attorney of the commonwealth, in the county in which any suit may be brought against an officer, for any thing done in pursuance of this act, to appear to, and defend the said suit on behalf of the commonwealth.

LXX. No civil process shall be served upon any officer, non-commis-officers, sioned officer or private, when going to, whilst attending at, or when re-&c. when turning from any parade, for disciplining any part of the volunteers or exempt from pro-

militia.

No execution or other process shall issue against any officer, non-com-execution. missioned officer, or private of the militia, when called into actual service, under a requisition from the president of the United States, or in pursuance of the orders of the governor of this commonwealth: nor shall any such process issue against him, until thirty days after he shall have returned from duty, to his usual place of residence, or until forty days after he shall have been discharged; and the court, alderman, or justice of the peace, from which or from whom any such process shall have issued, shall quash the same, as soon as the fact of any such person being ordered on public duty, shall have been proven, and all the costs which shall have accrued in commencing or conducting any such process, shall be paid by the person or persons, who shall have applied for the said execution or other process.

The uniform, arms, and accoutrements of every volunteer or any person enrolled in the militia of this commonwealth, and the horse furniture of every person entitled to use a horse in the militia or volunteers of this state, shall be exempt from all suits, distress, executions, or sales for debt, or for the payment of taxes.

LXXI. If any person subject to be enrolled as is provided for in the Exempt. ninth section of this act, shall, on or before the first day of April, in any year, pay to the county treasurer for the use of the commonwealth, the sum of two dollars, and produce a receipt therefor, to the captain or commanding officer of the company to which he belongs, on or before the day of company training, but not otherwise, such captain or commanding officer, shall set down in his roll, such person as exempt from military duty for one year, from said first day of April, and shall in his return to the proper court of appeal, designate such person as exempt from duty, and said court of appeal shall return each exempt as such to the brigade inspector; who shall transmit the same to the auditor general: Provided, That nothing in this act contained, shall exempt such person from being enrolled as a militia man, or from being called into actual service in time of war, as others who are not exempted as herein provided: Provided also, That the

⁽¹⁾ The costs are to be trebled, and not counted according to the English rule. 2 Rawle, 201.

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person so exempted shall not be entitled to vote at any election for military officers during the time he shall be so exempted. And said receipt shall be in the following form, to wit: " has paid me two dollars for the use of the commonwealth, and is exempt from military duty for one year, Treasurer

county." And the treasurer of the county, shall account to account for the monies received in pursuance of this section, at the same time, in the same manner, and under the same penalty as he shall account for monies received from tavern licenses, and shall be entitled to the same commission.

Brigade inspector to take charge of the state arsenols. compensa-

receipt.

commonwealth, established within their respective brigades; and the brigade inspectors who shall have charge of the arsenals at Philadelphia. Harrisburg, and Meadville, shall each receive the sum of one hundred dol-Additional lars, in addition to their other compensation allowed by this act, and their duties shall be the same as that directed to be performed by the fourth section of the act, entitled "An act to provide for the erection of two arsenals," so much of the said act as provides for the appointment and

LXXII. It shall be the duty of the brigade inspectors to take charge of

the state arsenals or depot of arms and military stores, the property of this

Repeal.

tion.

Duty of the adjutant general to visit the arsenals.

compensation of state armourers, being repealed. LXXIII. It shall be the duty of the adjutant general, as soon after the passage of this act, as conveniently may be, and as much oftener as he may deem it advisable, to visit the arsenals of this commonwealth, and examine and inspect the arms and public property therein deposited; and he shall establish such regulations for the preservation and safe keeping of the same, as he may find necessary and proper; and which the brigade inspectors

report to ture. Compensa. tion.

To make

having the same in charge, are hereby required to strictly observe and attend the logisla- to, under the same penalty as in other cases for neglect of duty; and the said adjutant general in his annual report to the legislature shall return the state and condition of the said arms and public property, and shall make such other representations as he may deem necessary for the information of the legislature. And the said adjutant general shall receive as a compensation, in addition to his annual salary for his services and expenses in performing the duty herein required for the ensuing year, two hundred and fifty dollars, to be paid out of the state treasury. LXXIV., LXXV., LXXVI., LXXVII., LXXVIII. [Are temporary, ex-

cept the part of the 75th section which is retained.]

Adjutant general to designate received States.

LXXV. And it shall be the duty of the adjutant general, under the direction of the governor, to designate and receive such kind of arms from the the kind of United States, as shall be deemed necessary and proper for the military serarms to be vice of the commonwealth, and cause the same to be deposited in the from the U. most convenient arsenals, to be disposed of agreeably to the provisions of this act.

Officers to deliver to their successors, records,

LXXIX. All officers of the volunteers or militia elected or appointed under any former law, or who may hereafter be elected or appointed, or in case of their death, their executors and administrators are hereby required under the penalty of one hundred dollars, to deliver over to the successors of such officers, all books, records, documents and papers in anywise appertaining to their said offices; which penalty shall be recovered for the use and in the name of the commonwealth of Pennsylvania, by any person who may sue for the same: Provided, however, That the provisions and penalties contained in the twelfth and fiftieth sections of this act, relative to adjutant general and brigade inspectors, shall not be altered, affected or impaired hereby.

LXXX. [Obsolete.]

LXXXI, and LXXXII. [Repeal former laws.] Passed 2d April, 1822.—7 Sm. L. p. 607.

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to House of Represen-tatives and printed.

submitting plan and estimate for its improvement; and the Chief of Engineers shall submit to the Secretary of War the reports of the local and division engineers, with his views thereon and his opinion of the public necessity or convenience to be subserved by the proposed improvement; Reports to be sent and all such reports of preliminary examinations with such recommendations as he may see proper to make, shall be transmitted by the Secretary of War to the House of Representatives, and are hereby ordered to be printed when so made.

Appropriation for examinations, etc.

Sec. 8. For preliminary examinations, contingencies, expenses connected with inspection of bridges, the service of notice required in such cases, the examination of bridge sites and reports thereon, and for incidental repairs for which there is no special appropriation for rivers and harbors, one hundred and twenty-five thousand dollars: Provided, That no preliminary examination, survey, project, or estimate for new works other than those designated in this act shall be made: And provided further, That after the regular or formal report on any examination, survey, project, or work under way or proposed is submitted, no supplemental or additional report or estimate, for the same fiscal year, shall be made unless ordered by a resolution of Con-The Government shall not be deemed to have entered upon any project for the improvement of any water way or harbor mentioned in No project authorized until appropriathis act until funds for the commencement of the proposed work shall have been actually appropriated by law.

No survey, etc., unless provided for.

Provisos.

tion made.

Approved, July 13, 1892.

No supplemental reports, etc., to be made.

July 13, 1892.

CHAP. 159.—An Act to punish the carrying or selling of deadly or dangerous weapons within the District of Columbia, and for other purposes.

District of Colum-Carrying concealed weapons forbidden.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be lawful for any person or persons within the District of Columbia, to have concealed about their person any deadly or dangerous weapons, such as daggers, air-guns, pistols, bowie-knives, dirk knives or dirks, blackjacks, razors, razor blades, sword canes, slung shot, brass or other metal knuckles.

Openly carrying eanons with unlawweapons with unlaw ful intent forbidden.

SEC. 2. That it shall not be lawful for any person or persons within the District of Columbia to carry openly any such weapons as hereinbefore described with intent to unlawfully use the same, and any person or persons violating either of these sections shall be deemed guilty of first a misdemeanor, and upon conviction thereof shall, for the first offense,

forfeit and pay a fine or penalty of not less than fifty dollars nor more than five hundred dollars, of which one half shall be paid to any one giving information leading to such conviction, or be imprisoned in the

Militia Company, police officers, officers guarding prisoners, officials of the United States or the District of Columbia engaged in the execution of the laws for the protection of persons or property, when any of such

Punishment.

Provisos.

offense

jail of the District of Columbia not exceeding six months, or both such fine and imprisonment, in the discretion of the court: Provided, That Exceptions. the officers, non-commissioned officers, and privates of the United States Army, Navy, or Marine Corps, or of any regularly organized

Lawful use of weap-

ons

Permits.

persons are on duty, shall not be liable for carrying necessary arms for use in performance of their duty: Provided, further, that nothing contained in the first or second sections of this act shall be so construed as to prevent any person from keeping or carrying about his place of business, dwelling house, or premises any such dangerous or deadly weapons, or from carrying the same from place of purchase to his dwelling house or place of business or from his dwelling house or place of business to any place where repairing is done, to have the same re-

paired, and back again: Provided further, That nothing contained in the first or second sections of this act shall be so construed as to apply

to any person who shall have been granted a written permit to carry such weapon or weapons by any judge of the police court of the District

of Columbia, and authority is hereby given to any such judge to grant such permit for a period of not more than one month at any one time. upon satisfactory proof to him of the necessity for the granting thereof; and further, upon the filing with such judge of a bond, with sureties to be approved by said judge, by the applicant for such permit, conditioned to the United States in such penal sum as said judge shall require for the keeping of the peace, save in the case of necessary selfdefense by such applicant during the continuance of said permit, which bond shall be put in suit by the United States for its benefit upon any breach of such condition.

Sec. 3. That for the second violation of the provisions of either of Panioffense the preceding sections the person or persons offending shall be proceeded against by indictment in the supreme court of the District of Columbia, and upon conviction thereof shall be imprisoned in the peni-

tentiary for not more than three years.

SEC. 4. That all such weapons as hereinbefore described which may Disposition of weap-be taken from any person offending against any of the provisions of ers. this act shall, upon conviction of such person, be disposed of as may be ordered by the judge trying the case, and the record shall show any and all such orders relating thereto as a part of the judgment in the case.

SEC. 5. That any person or persons who shall, within the District of Punishment for sale of weapons to minors. Columbia, sell, barter, hire, lend or give to any ininor under the age of twenty-one years any such weapon as hereinbefore described shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, pay a fine or penalty of not less than twenty dollars nor more than one hundred dollars, or be imprisoned in the jail of the District of Columbia not more than three months. No person shall engage in or conduct Special license for dealers in weapons. the business of selling, bartering, hiring, lending, or giving any weapon or weapons of the kind hereinbefore named without having previously obtained from the Commissioners of the District of Columbia a special license authorizing the conduct of such business by such person, and the said Commissioners are hereby authorized to grant such license, without fee therefor, upon the filing with them by the applicant therefor of a bond with sureties to be by them approved, conditioned in such penal sum as they shall fix to the United States for the compliance by said applicant with all the provisions of this section; and upon any breach or breaches of said condition said bond shall be put in suit by said United States for its benefit, and said Commissioners may revoke said license. Any person engaging in said business without having previously obtained said special license shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not less than one hundred dollars nor more than five hundred dollars, of which one half shall be paid to the informer, if any, whose information shall lead to the conviction of the person paying said fine. All persons whose business it is to sell barter, hire, lend or give any such weapon or weapons shall be and they hereby, are, required to keep a written register of the name and residence of every purchaser, barterer, hirer, borrower, or donee of any such weapon or weapons, which register shall be subject to the inspection of the major and superintendent of Metropolitan Police of the District of Columbia, and further to make a weekly report, under oath to said major and superintendent of all such sales, barterings, hirings, lendings or gifts. And one half of every fine imposed under this section shall be paid to the informer, if any, whose information shall have led to the conviction of the person paying said fine. Any police officer failing to arrest any person guilty in his sight or presence and knowledge of any violation of any section of this act shall be fined not less than fifty nor more than five hundred dollars

SEC 6. That all acts or parts of acts inconsistent with the provisions

of this act be, and the same hereby are, repealed.

Approved, July 13, 1892,

Penalty for dealing without license.

Register of sales, etc.

Half of fine to informer.

Penalty for failure to arrest by officers.

FIFTY-SECOND CONGRESS. SESS. I. CH. 160, 1892.

July 13 1892.

CHAP. 160.—An act authorizing The Aransas Harbor Terminal Railway Company to construct a bridge across the Corpus Christi Channel, known as the Morris and Cummings Ship Channel, in Aransas County, Texas.

Aransas Harbor and Terminal Railway Company may bridge Corpus Christi Channel Tev

Railway bridge.

Draw

Praniene Opening draw.

Lights, etc.

Unobstructed navi-

Litigation.

affected

Use by other companies.

Terms.

Secretary of War to approve plans, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That The Aransas Harbor Terminal Railway Company, a corporation chartered under the laws of the State of Texas, is hereby authorized and empowered to erect, construct, maintain, and operate a bridge over and across the Corpus Christi Channel, known as the Morris and Cummings Ship Channel, in Aransas County, Texas. Said bridge shall be constructed to provide for the passage of railway trains on and over a double or single track as said Aransas Harbor Terminal Railway Company may elect.

SEC. 2. That said bridge shall be constructed with a draw or turn of sufficient capacity to afford free passage to such vessels and boats as navigate said channel: Provided, That said bridge shall be opened promptly upon reasonable signal for the passage of boats and other water craft, except when trains are passing over the draw or turn; but in no case shall unnecessary delay occur in opening the draw or turn after the passage of trains or at any other time; and the said Aransas Harbor Terminal Railway Company shall maintain at its own expense. from sunset to sunrise, such lights or other signals on said bridge as the United States Light-House Board shall prescribe. And no bridge shall be erected and maintained under the authority of this act which shall at any time substantially or materially obstruct the free navigation of said channel; and if any bridge erected under such authority shall, in the opinion of the Secretary of War, obstruct such navigation, he is hereby authorized to cause such change or alteration of such bridge to be made as will effectually obviate such obstruction, and all such alterations shall be made and all such obstructions be removed at the expense of the owner of said bridge. And in case of any obstruction, or alleged obstruction, to the navigation of said channel, caused, or alleged to be caused, by said bridge, the case may be brought in the circuit court of the United States in which any portion of said obstruc-Existing laws not tion or bridge may be located: Provided further, That nothing in this act shall be so construed as to repeal or modify any of the provisions of law now existing in reference to the protection of navigation of rivers, or to exempt this bridge from the operations of the same. railroad companies desiring the use of any bridge constructed under this act shall have and be entitled to equal rights and privileges relative to the passage of railway trains or cars over the same and over the approaches thereto upon payment of a reasonable compensation for such use; and in case the owner or owners of said bridge, and the several railroad companies, or any one of them desiring such use, shall fail to agree upon the sum or sums to be paid, and upon rules and conditions to which each shall conform in using said bridge, all matters at issue between them shall be decided by the Secretary of War upon a hearing of the allegations and proofs of the parties.

SEC. 3. That any bridge authorized to be constructed under this act shall be located and built under and subject to such regulations for the security of said channel as the Secretary of War shall prescribe; and to secure that object, the said corporation shall, at least two months previous to the commencement of the construction of said bridge, submit to the Secretary of War, for his examination and approval, a design and drawing of the bridge and a map of the location, giving such information as may be necessary to enable the Secretary of War to judge of the proper location of said bridge, and shall furnish such information as may be required for a full and satisfactory understanding of the subject; and until such plan and location of the bridge are approved by the Secretary of War, the bridge shall not be built; and should any change be made in the plan of said bridge during the progress of construction or after completion such change shall be subject to the approval of the Secretary of War.

Changes.

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ORDINANCES

OF THE

Mayor, Aldermen and Commonalty

OF THE

CITY OF NEW YORK,

IN FORCE JANUARY 1, 1881;

REVISED B

ELLIOTT F. SHEPARD AND EBENEZER B. SHAFER,

COMMISSIONERS APPOINTED FOR THAT PURPOSE.

ADOPTED BY THE COMMON COUNCIL AND PUBLISHED BY THEIR AUTHORITY.

NEW YORK:

MARTIN B. BROWN, PRINTER AND STATIONER,

Nos. 49 AND 51 PARK PLACE.

1881.

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Original from CETON UNIVERSITY Surplus.

SEC. 260. The surplus money, if any, arising from any such sale, after deducting the amount of the loan, the interest then due on the same, and the expenses of the advertisement and sale, shall be paid over by the pawnbroker, loanbroker, or keeper of a loan office, to the person who would be entitled to redeem the pledge in case no such sale had taken place.

Regulations Sec. 261. No pawnbroker, loanbroker or keeper of a loan office shall make any loan on the separate or divided part or parts of any one article or thing, and which article or thing shall have been offered entire or collectively to him or her by way of pawn or pledge.

вы. Sec. 262. No pawnbroker, loanbroker, or keeper of a loan office, shall, under any pretense whatever, purchase or buy any second-hand furniture, metals or clothes, or any other article or thing whatever, offered to him or her as a pawn or pledge.

Penalties.

SEC. 263. Every pawnbroker, loanbroker, or keeper of a loan office, who shall violate or neglect or refuse to comply with any or either of the provisions of sections of this article shall, for every such offense, forfeit and pay the sum of one hundred dollars.

ARTICLE XXVII.

Carrying of Pistols.

Concealed weapons. SEC. 264. Every person, except judges of the federal, state and city courts, and officers of the general, state and municipal governments, authorized by law to make arrests, and persons to whom permits shall have been issued, as hereinafter provided, who shall have in his

possession within the city of New York a pistol of any description concealed on his person, or not carried openly, shall be deemed guilty of a misdemeanor, and shall be punished, on conviction, by a fine not exceeding ten dollars, or, in default of payment of such fine, by imprisonment not exceeding ten days.

SEC. 265. Any person, except as provided in this Permits to article, who has occasion to carry a pistol for his protection, may apply to the officer in command at the station-house of the precinct where he resides, and such officer, if satisfied that the applicant is a proper and law-abiding person, shall give said person a recommendation to the superintendent of police, or the inspector in command at the central office in the absence of the superintendent, who shall issue a permit to the said person, allowing him to carry a pistol of any description. Any non-resident who does business in the city of New York, and has occasion to carry a pistol while in said city, must make application for permission to do so to the officer in command of the station-house of the police precinct in which he so does business, in the same manner as is required by residents of said city, and shall be subject to the same conditions and restrictions.

SEC. 266. If, at the time of the arrest, a pistol of any complaint for carryin description shall be found concealed on the person of, concealed weapons. or not carried openly by any one arrested, the officer making the arrest shall state such fact to the police magistrate before whom the prisoner is brought, and shall make a separate complaint against such prisoner for violation of the provisions of this article.

MISCELLANEOUS ORDINANCES.

Revocation of permission to carry pistols.

SEC. 267. The commissioners of police of the police department of the city of New York are hereby authorized and empowered, for reasons appearing to be satisfactory to them, by a vote of a majority of a quorum of said commissioners on ayes and noes, to annul or revoke any permission given under this article. All persons to whom such permission shall be given are hereby declared to be individually responsible for their own acts, or the consequences that may arise from the use of pistols carried under the permission to be obtained as provided in this article.

ARTICLE XXVIII.

Snow-ploughs and Sweeping-machines by Railroad Companies and others in the City of New York.

Sec. 268. It shall not be lawful for any or either of

Snowploughs.

the street or horse-car railroads or stage companies, proprietors or corporations, within the limits of the city of New York, or their officers, agents or servants, to cause or allow any snow-plough, sweeping-machine or other similar instrument to pass over the tracks or lines occupied or used by them within the said limits, unless by the express permission in that behalf to be granted to them by the mayor.

Sweepingmachines.

Sec. 269. Any of the said companies, proprietors or corporations who shall violate the provisions of the above section, shall be punished by a fine not exceeding one hundred dollars for each offense, and the officers, agents or servants of such companies, proprietors

or corporations who shall violate the said provisions

Fines.

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BOARD OF ALDERMEN

OF THE

CITY OF NEW YORK.

From January 7 to March 26, 1878.

VOL. CXLIX.



New York :

MARTIN B. BROWN, PRINTER AND STATIONER 201, 203 & 205 WILLIAM STREET.

1878.

January 7.

By Alderman Morris-

AN ORDINANCE

TO REGULATE THE CARRYING OF PISTOLS IN THE CITY OF NEW YORK.

Whereus, In a large portion of the arrest made by the police for disorderly conduct or intoxication, the persons so arrested are found to have on them at the time a pistol of some kind, and as the records of the criminal courts will show that in the largest portion of the arrests for murder or felonious assault the criminal claims he was drunk; and was, therefore, unfit to carry any weapon of any kind, particularly as the majority of those arrested are twenty-five years of age, and as such persons are always ready and willing to insult respectable citizens, and draw a pistol on any and every occasion, while the better and law-abiding class try to obey the laws and protect themselves with nothing but nature's weapons; therefore, be it ordained by the Mayor, Aldermen, and Commonalty of the City of New York, in Common Council convened, as follows:

Section 1. Every person, except Judges of the Federal, State, and Municipal governments, authorized by law to make arrests, and persons to whom permits shall have been issued, as hereinafter provided, who shall have in his possession, within the City of New York, a pistol of any description, concealed on his person, or not carried openly,

January 7.]

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shall be deemed guilty of a misdemeanor, and shall be punished, on conviction, by a fine not exceeding ten dollars, or in default of payment of such fine, by imprisonment not exceeding ten days.

Sec. 2. Any person, except as provided in section 1 of the ordinance, who has occasion to carry a pistol for his protection, may apply to the officer in command at the Station-house of the Precinct where he resides, and such officer, if satisfied that the applicant is a proper and law-abiding person, shall give said person a recommendation to the Superintendent of Police, or the inspector in command at the Central Office in the absence of the Superintendent, who shall issue a permit to the said person allowing him to carry a pistol of any description.

SEC. 3. If, at the time of the arrest, a pistol of any description shall be found concealed on the person of, or not carried openly by, any one arrested for disorderly conduct or intoxication, the officer making the arrest shall state such fact to the Police Magistrate before whom the prisoner is brought, and shall make a separate complaint against such prisoner for violation of this ordinance.

Sec. 4. This ordinance shall take effect immediately.

Which was referred to the Committee on Law Department, when appointed.

[February 12.

Page 4 of :

(G. O. 43.)

The Committee on Law Department, to whom was referred the accompanying communication from Counsel to the Corporation, with an ordinance to regulate the carrying of pistols in the City of New York, respectfully

REPORT:

That the ordinance so submitted by the Counsel to the Corporation was considered and amended by your Honorable Body at a meeting held on the 23d of October, 1877, and before reference to your Committee.

As your Honorable Body did not indicate what other amendments, if any, were necessary or desirable, or give your Committee any instruction, and as the ordinance was originally prepared by the law officer of the city, it is fair to presume that it is perfect.

As to the necessity for the passage of the ordinance there can be no question. The reckless use of fire-arms by the dangerous classes in this city is proverbial, and this measure of repression seems to be necessary. Your Committee therefore respectfully recommends the adoption of the ordinance.

AN ORDINANCE

REGULATE THE CARRYING OF PISTOLS IN THE CITY OF NEW YORK.

Whereas, In a large portion of the arrests made by the police for disorderly conduct or intoxication, the persons

February 12.]

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so arrested are found to have on them at the time a pistol of some kind, and as the records of the criminal courts will show that in the largest portion of the arrests for murder or felonious assault the criminal claims he was drunk, and was, therefore, unfit to carry any weapon of any kind, particularly as the majority of those arrested are twenty-five years of age, and as such persons are always ready and willing to insult respectable citizens, and draw a pistol on any and every occasion, while the better and law-abiding class try to obey the laws and protect themselves with nothing but nature's weapons; therefore be it ordained by the Mayor, Alderman, and Commonalty of the City of New York, in Common Council convened, as follows:

Section 1. Every person, except judges of the Federal, State, and municipal governments, authorized by law to make arrests, and persons to whom permits shall have been issued, as hereinafter provided, who shall have in his possession within the City of New York a pistol of any description, concealed on his person, or not carried openly, shall be deemed guilty of a misdemeanor, and shall be punished, on conviction, by a fine not exceeding ten dollars, or, in default of payment of such fine, by imprisonment not exceeding ten days.

Sec. 2. Any person, except as provided in section 1 of the ordinance, who has occasion to carry a pistol for his protection, may apply to the officer in command at the station-house of the precinct where he resides, and such

officer, if satisfied that the applicant is a proper and lawabiding person, shall give said person a recommendation to the Superintendent of Police, or the inspector in command at the Central Office in the absence of the Superintendent, who shall issue a permit to the said person, allowing him to carry a pistol of any description.

Sec. 3. If, at the time of the arrest, a pistol of any description shall be found concealed on the person of, or not carried openly by, any one arrested for disorderly conduct or intoxication, the officer making the arrest shall state such fact to the police magistrate before whom the prisoner is brought, and shall make a separate complaint against such prisoner for violation of this ordinance.

SEC. 4. This ordinance shall effect immediately.

J. C. WAEHNER, Committee GEO. HALL, J. C. PINCKNEY, Law Department.

Which was laid over.

The Committee on Salaries and Offices, to whom were referred at different times resolutions in favor of appointing sundry persons as Commissioners of Deeds, respectfully

REPORT

For your adoption the following resolution:

Resolved, That the following-named persons be and they are hereby appointed Commissioners of Deeds in and

agr

February 19.

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The President put the question whether the Board would agree with said resolution.

Which was decided in the affirmative, on a division, viz.:

Affirmative—The President, Aldermen Biglin, Carroll, Ehrhart, Gedney, Guntzer, Hall, Jacobus, Keenan, Kiernan, Lewis, Morris, Perley, Phillips, Pinckney, Slevin, and Waehner—17.

Alderman Morris called up

G. O. 43,

being a preample and ordinance, as follows:

Whereas, In a large portion of the arrests made by the police for disorderly conduct or intoxication, the persons so arrested are found to have on them at the time a pistol of some kind, and as the records of the criminal courts, will show that in the largest portion of the arrests for murder or felonious assault the criminal claims he was drunk, and was, therefore unfit to carry any weapon of any kind, particularly as the majority of those arrested are twenty-five years of age, and as such persons are always ready and willing to insult respectable citizens, and draw a pistol on any and every occasion, while the better and law-abiding class try to obey the laws and protect themselves with nothing but nature's weapons; therefore be it ordained by the Mayor, Aldermen, and Commonalty of

[February 19.

the City of New York, in Common Council convened, as follows:

Section 1. Every person, except judges of the Federal, State, and municipal governments, authorized by law to make arrests, and persons to whom permits shall have been issued, as hereinafter provided, who shall have in his possession within the City of New York a pistol of any description, concealed on his person, or not carried openly, shall be deemed guilty of a misdemeanor, and shall be punished, on conviction, by a fine not exceeding ten dollars, or, in default of payment of such fine, by imprisonment not exceeding ten days.

- Sec. 2. Any person, except as provided in section 1 of the ordinance, who has occasion to carry a pistol for his protection, may apply to the officer in command at the station-house of the precinct where he resides, and such officer, if satisfied that the applicant is a proper and lawabiding person, shall give said person a recommendation to the Superintendent of Police, or the inspector in command at the Central Office in the absence of the Superintendent, who shall issue a permit to the said person allowing him to carry a pistol of any description.
- SEC. 3. If, at the time of the arrest, a pistol of any description shall be found concealed on the person of, or not carried openly by, any one arrested for disorderly conduct or intoxication, the officer making the arrest shall

February 19,]

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state such fact to the police magistrate before whom the prisoner is brought, and shall make a separate complaint against such prisoner for violation of this ordinance.

SEC. 4. This ordinance shall take effect immediately.

The President put the question whether the Board would agree with said ordinance.

Which was decided in the affirmative, on a division, viz.:

Affirmative—The President, Aldermen Biglin, Carroll, Ehrhart, Gedney, Hall, Jacobus, Keenan, Kiernan, Lewis, Morris, Perley, Phillips, Pinckney, Slevin, and Waehner—16.

MOTIONS AND RESOLUTIONS AGAIN RESUMED.

Alderman Pinckney moved that the Board do now adjourn.

The President put the question whether the Board would agree with said motion.

Which was decided in the affirmative.

And the President announced that the Board stood adjourned until Tuesday, February 26, 1878, at 2 o'clock P. M.

FRANCIS J. TWOMEY,

Olork.

March 12.

612

MOTIONS AND RESOLUTIONS RESUMED.

By Alderman Morris—

AN ORDINANCE

TO AMEND AN ORDINANCE ENTITLED "AN ORDINANCE TO REGULATE THE CARRYING OF PISTOLS IN THE CITY OF NEW YORK," PASSED FEBRUARY 28, 1878.

The Mayor, Aldermen, and Commonalty of the City of New York, do ordain as follows:

Section 1. Section 2 of the above-entitled ordinance is hereby amended by adding thereto at the end thereof the following: "Any non-resident who does business in the City of New York, and has occasion to carry a pistol while in said city, must make application for permission to do so to the officer in command of the station-house of the police precinct in which he so does business, in the same manner as is required by residents of said city, and shall be subject to the same conditions and restrictions."

- Sec. 2. Section 3 of the above-entitled ordinance is hereby amended by striking therefrom the words "for disorderly conduct or intoxication."
- Sec. 3. Section 4 of said ordinance shall read as follows:
- § 4. The Commissioners of Police of the Police Department of the City of New York are hereby author-

[March 12.

ized and empowered, for reasons appearing to be satisfactory to them, by a vote of a majority of a quorum of said Commissioners on ayes and noes, to annul or revoke any permission given under this ordinance. All persons to whom such permission shall be given are hereby declared to be individually responsible for their own acts, or the consequences that may arise from the use of pistols carried under the permission to be obtained as provided in this ordinance.

Sec. 4. Section 4 of said ordinance shall be numbered section 5, so that said ordinance when so amended shall read as follows:

AN ORDINANCE

TO REGULATE THE CARRYING OF PISTOLS IN THE CITY OF NEW YORK.

Whereas, In a large portion of the arrests made by the police for disorderly conduct or intoxication, the persons so arrested are found to have on them at the time a pistol of some kind, and as the records of the criminal courts will show that in the largest portion of the arrests for murder or felonious assault the criminal claims he was drunk, and was, therefore, unfit to carry any weapon of any kind, particularly as the majority of those arrested are twenty-five years of age, and as such persons are always ready and willing to insult respectable citizens, and draw a pistol on any and every occasion, while the better and

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law-abiding class try to obey the laws and protect themselves with nothing but nature's weapons; therefore be it ordained by the Mayor, Aldermen, and Commonalty of the City of New York, in Common Council convened, as follows:

Section 1. Every person, except judges of the Federal, State and city courts, and officers of the general, State, and municipal governments, authorized by law to make arrests, and persons to whom permits shall have been issued, as hereinafter provided, who shall have in his possession within the City of New York a pistol of any description, concealed on his person, or not carried openly, shall be deemed guilty of a misdemeanor, and shall be punished, on conviction, by a fine not exceeding ten dollars, or, in default of payment of such fine, by imprisonment not exceeding ten days.

Sec. 2. Any person, except as provided in section 1 of the ordinance, who has occasion to carry a pistol for his protection, may apply to the officer in command at the station-house of the precinct where he resides, and such officer, if satisfied that the applicant is a proper and lawabiding person, shall give said person a recommendation to the Superintendent of Police, or the inspector in command at the Central Office in the absence of the Superintendent, who shall issue a permit to the said person allowing him to carry a pistol of any description.

March 12.

resident who does business in the City of New York, and has occasion to carry a pistol while in said city, must make application for permission to do so to the officer in command of the station-house of the police precinct in which he so does business, in the same manner as is required by residents of said city, and shall be subject to the same conditions and restrictions.

SEC. 3. If, at the time of the arrest, a pistol of any description shall be found concealed on the person of, or not carried openly by, any one arrested, the officer making the arrest shall state such fact to the police magistrate before whom the prisoner is brought, and shall make a separate complaint against such prisoner for violation of this ordinance.

SEC. 4. The Commissioners of Police of the Police Department of the City of New York are hereby authorized and empowered, for reasons appearing to be satisfactory to them, by a vote of a majority of a quorum of said Commissioners on ayes and noes, to annul or revoke any permission given under this ordinance. All persons to whom such permission shall be given are hereby declared to be individually responsible for their own acts, or the consequences that may arise from the use of pistols carried under the permission to be obtained as provided in this ordinance.

SEC. 5. This ordinance shall take effect immediately.

March 12.

616

The President put the question whether the Board would agree with said ordinance.

Which was decided in the affirmative, on a division, viz.:

Affirmative — The President, Aldermen Biglin, Carroll, Ehrhart, Foster, Gedney, Guntzer, Hall, Jacobus, Kiernan, Lewis, Morris, Perley, Phillips, Pinckney, Sauer, and Slevin-17.

By Alderman Pinckney—

Resolved, That gas-mains be laid, lamp-posts erected, and street-lamps lighted in Depot place, between Sedgwick avenue and the railroad depot at Highbridge station, under the direction of the Commissioner of Public Works.

Which was referred to the Committee on Public Works.

By Alderman Gedney—

Resolved, That the sidewalks on the south side of Fiftyninth street, between Madison and Fifth avenues, and on the north side of Fifty-eighth street, between Madison and Fifth avenues, be flagged full width, where not already done, under the direction of the Commissioner of Public Works; and that the accompanying ordinance therefor be adopted.

Which was referred to the Committee on Public Works.

An	Ordinance—

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Giltspur chambers Newy at Freet

LIBER ALBUS:

THE WHITE BOOK.

Case 1:22-cv-00986-GTS-CFH Document 49-21 Filed 10/13/22 Page 2 of 4

LONDON:

BEED AND PARDON, PRINTERS,

PATERNOSTER ROW.

Case 1:22 ov 20990-075-CFH Document 49-21 Filed 10/13/22 Page 3 of 4

LIBER ALBUS:

THE WHITE BOOK

OF

The City of London.

COMPILED A.D. 1419, BY

JOHN CARPENTER, Common Clerk.

RICHARD WHITINGTON, Mayor.

Translated from the Original Latin and Anglo-Borman,

 $\mathbf{B}\mathbf{Y}$

HENRY THOMAS RILEY, M.A.,

CLARE HALL, CAMBRIDGE;
OF THE INNER TEMPLE, BARRISTER-AT-LAW.

London :

RICHARD GRIFFIN AND COMPANY, STATIONERS' HALL COURT.

MDCCCLXI.

That no one go armed.

Item, that no one, of whatever condition he be, go armed in the said city or in the suburbs, or carry arms, by day or by night, except the vadlets of the great lords of the land, carrying the swords of their masters in their presence, and the serjeants-at-arms of his lordship the King, of my lady the Queen, the ¹Prince, and the other children of his lordship the King, and the officers of the City, and such persons as shall come in their company in aid of them, at their command, for saving and maintaining the said peace; under the penalty aforesaid, and the loss of their arms and armour.

Of Hostclers.

Item, that every hosteler and herbergeour cause warning to be given unto his guests that they leave their arms in their hostels where they shall be harboured; and if they shall not do so, and any one shall be found carrying arms contrary to the said proclamation, through default of warning by his host, such host is to be punished by imprisonment and by fine, at the discretion of the Mayor and Aldermen.

Of the power of arresting Felons and Misdoers.

Item, that every man of standing in the said city, Alderman and commoner, who is of good repute, have power, in the absence of the officers, to arrest felons and misdoers, and to bring them unto the houses of the Sheriffs, that so due punishment may be inflicted upon such misdoers.

That no one draw sword or knife.

Item, the better to keep the said peace, and that each person may fear the more to break the said peace, it is ordained that no person draw sword, or knife, or other arm; [and in such case], provided he do not strike, he is to pay unto the City half a mark, or remain in the prison of Newgate fifteen days. And if he draw blood of any one, he is to pay unto the City twenty shillings, or remain in prison forty days.

¹ Edward the Black Prince, son of Edward III.

A

TREATISE

OF THE

PLEAS

OF THE

CROWN:

OR A

System of the Principal Matters relating to that Subject, digested under their proper Heads.

BOOK I.

By WILLIAM HAWKINS, of the Inner-Temple, Efq.

In the SAVOT,

Printed by Eliz. Putt, (Executrix of J. Putt, Assignee of Edward Sayer, Esq.) for J. Malthoe in the Middle-Temple-Cloysters; and J. Malthoe, jun. against the Royal-Exchange in Cornhill. 1716.

Of Affrays. 134

Book I.

40 Ed.3.40 a. 42 Ed. 3. 7. 2. 45 Ed 3. 24. b. 25. a. 22 Ast. 60. 2 R. A. 545. Pl. 1, 2, 3, 4, 5, 6, 7, 8 22 Aff. Pl.11.

1 Keb. 921. one's Fist at him, or by any other such like Act done in an angry threatening Manner; and from hence it clearly follows, That one charged with an Assault and Battery, may be found guilty of the former, and yet acquitted of the later. But notwithstanding the many ancient Opinions to the contrary, it feems agreed at this Day, that no Words whatsoever can amount to an Assault.

Pult. 3. Lamb. 126. 6 Mod. 149,

Sect. 2. As to the second Point, viz. What shall be said to be a Battery, It seems that any Injury whatsoever, be it never so small, being actually done to the Person of a Man, in an angry, or revengeful, or rude, or insolent, Manner, as by Spitting in his Face, or any Way touching him in Anger, or violently justling him out of the Way, are Batteries in the Eye of the Law: But it is said to be no Battery to lay one's Hand gently on another whom an Officer has a Warrant to arrest. and to tell the Officer that this is the Man he wants.

2 R. A. 546. Pl 1, 2.

Sect. 3. As to the third Point, viz. In what Cases an Assault and Battery may be justified, this is so fully fet forth already in the Chapter of Surety of the Peace, that there seems to be no need of any farther Consideration thereof in this Place; and therefore I shall only add, That where a Man in his own Desence beats another who first assaults him, &c. he may take an Advantage thereof upon an Indictment, as well as upon an 6 Mod. 172. Action; but with this Difference, that in the first Case he may give it in Evidence upon the Plea of Not guilty, and in the later he must plead it specially.

Sedt. 4. As to the fourth Point, viz. How unlawful Assaults and Batteries are punished, there is no doubt but that the Wrong doer is Subject, both to an Action at the Suit of the Party, wherein he shall render Damages, &c. and also to an Indictment at the Suit of the King, wherein he shall be fined according to the Heinousnels of the Offence.

CHAP. LXIII.

Of Affrays.

N treating of Affrays, I shall consider,

r. What shall be said to be an Affray.

2. How far it may be suppressed by a private Person.

3. How far by a Constable.

4. How far by a Justice of Peace.

5. In what Manner the several Kinds of Affrays may be punished.

3 Inst. 158. Dalt. ca. 8.

Scot. 1. As to the first Point, it is said, That the word Affray is derived from the French word Effraier, to terrify, and that in a legal Sense it is taken for a publick Offence, to the Terror of the People, from whence it seems clearly to follow, That there may be an Assault which will not amount to an Affray; as where it happens in a private Place, out of the hearing or seeing of any, except the Parties concerned; in which Case it cannot be said to be to the Terror of the People; and for

Lamb. 125, 126.

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this Cause such a private Assault seems not to be inquirable in a Court- 4H.6. 10. a.

Non- and Affrays corresply are as being common Nusconces.

8 Ed. 4. 5. b. Leet, as all Affrays certainly are, as being common Nusances.

Sect. 2. Also it is said, That no quarrellome or threatening Words H.P.C. 135. whatsoever shall amount to an Affray; and that no one can justify lay- 23 E 4.45.b. ing his Hands on those who shall barely quarrel with angry Words, Lamb Conwithout coming to blows; yet it seemeth, That the Constable may, at stable 14. the Request of the Party threatened, carry the Person who threatens to beat him before a Justice of Peace, in Order to find Sureties.

Sect. 3. Also it is certain, That it is a very high Offence to challenge Poph. 158 another, either by Word or Letter, to fight a Duel, or to be the Messen- 3 knst. 158.

3 knst. 158.

3 knst. 158. ger of such a Challenge, or even barely to endeavour to provoke ano- 1 Keb. 694. ther to send a Challenge, or to fight, as by dispersing Letters to that Hob. 120, purpole, full of Reflections, and infinuating a Defire to fight, &c.

Sect. 4. But granting that no bare Words, in the Judgment of Law, carry in them so much Terror as to amount to an Affray; yet it seems certain, That in some Cases there may be an Affray where there is no actual Violence; as where a Man arms himself with dangerous and un- Lamb. 126. usual Weapons, in such a Manner as will naturally cause a Terror to the 3 Inst. 160. People, which is faid to have been always an Offence at Common Law, 76 D. and is strictly prohibited by many Statutes: For by 2 Ed. 3. 3. it is en- 2 Rol. Ab. 78. acted, That no Man, great nor small, of what Condition soever he be, except H P. C. 137. the King's Servants, in his Presence, and his Ministers in executing of the King's Precepts, or of their Office, and such as be in their Company assisting them, and also upon a Cry made for Arms to keep the Peace, and the same in such Places where such Acts happen, be so hardy to come before the King's Justices, or other of the King's Ministers doing their Office, with Force and Arms, nor bring no Force in Affray of Peace, nor to go nor ride armed by Night nor by Day, in Fairs, Markets, nor in the Presence of the Justices or other Ministers, nor in no part elsewhere, upon pain to forfeit their Armour to the King, and their Bodies to prison, at the King's Pleasure. And that the King's Justices in their Presence, Sheriffs, and other Ministers in their Bailiwicks Lords of Franch ses, and their Bailiffs in the same, and Mayors and Bailiffs of Cities and Boroughs, within the same Cities and Boroughs, and Borough-holders, Constables and Wardens of the Peace within their Wards, shall have Power to execute this Act: And that the Justices assigned, at their coming down into the Country, shall have Power to enquire how such Officers and Lords have exercised their Offices in this Case, and to tunish them whom they find, that have not done that which pertained to their Office; and this Statute is farther enforced by 7 Rich. 2. 13. and 20 Rich. 2. 1.

And in the Exposition of it, the following Points have been holden:

Sett. 5. I. That any Justice of Peace, or other Person, who is im- F. N. B. 249. powered to execute this Statute, may proceed thereon, either ex Officio, or by Force of a Writ out of Chancery formed upon the Statute, and 3 Inst. 161.

Dol. ch. 22. that if he find any Person in Arms contrary to the Form of the Statute, he Lamb. 168, may seize the Arms, and commit the Offender to Prison; and that he &c. ought also to make a Record of his whole Proceeding, and certify the same into the Chancery, where he proceeds by Force of the said Writ, or into the Exchequer, where he proceeds ex Officio.

Sect. 6. II. That where a Justice of Peace, &c. proceeds upon the Cro. El. 294. said Writ, he may not only imprison those whom he shall find offending too. against the Statute in his own View, but also those who shall be found by an Inquest taken before him, to have offended in such Manner in his

Absence; and I do not see why he may not do the same where he proceeds ex Officio; for seeing the said Writ hath no other Foundation but

2 Rol.Ab. 78.

Dalif. 23.

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the said Statute, and is the most authentick Explication thereof, it seemeth that the Rules therein prescribed, should be the best Direction for all Proceedings upon that Statute.

Cro El. 294.

Sect. 7. III. That the Under-Sheriff may execute the said Writ, being directed to the Sheriff, if it name him only by the Name of his Office, and not by his proper Name, and do not expresly command him to act in his proper Person.

24 Ed. 33.2.b. 21 H. 7. 39.3. 3 lnft. 161, 162. Con. 2. Rol. 3 Inft. 162.

That a Man cannot excuse the wearing such Armour in Pub-Se&. 8. lick, by alledging that such a one threatened him, and that he wears it for the Sasety of his Person from his Assault; but it hath been resolved, That no one shall incur the Penalty of the said Statute for assembling his 2rH 7. 39.4. Neighbours and Friends in his own House, against those who threaten to do him any Violence therein, because a Man's House is as his Castle.

Sect. 9. V. That no wearing of Arms is within the meaning of this 3 Mod. 117, Statute, unless it be accompanied with such Circumstances as are apt to ² Bulft. 33° terrify the People; from whence it seems clearly to follow, That Persons of Quality are in no Danger of Offending against this Statute by wearing common Weapons, or having their usual Number of Attendants with them, for their Ornament or Defence, in such Places, and upon such Occasions, in which it is the common Faihion to make use of them, without causing the least Suspicion of an Intention to commit any Act of Vio-And from the same Ground it also lence or Disturbance of the Peace. follows, That Persons armed with privy Coats of Mail to the Intent to defend themselves against their Adversaries, are not within the Meaning of this Statute, because they do nothing in terrorem Populi.

Crom. 64. a.

Sect. 10. VI. That no Person is within the Intention of the said Statute, who arms himself to suppress Rioters, Rebels, or Enemies, and endeavours to suppress or result such Disturbers of the Peace or Quiet of the Realm; for Persons who so arm themselves, seem to be exempted out of the general Words of the said Statute, by that Part of the Exception in the beginning thereof, which seems to allow all Persons to arm themselves upon a Cry made for Arms to keep the Peace, in such Places where such

Acts happen.

Poph. 121, 122.

Lamb 131. 3 Inst. 158. H. P. C. 131. 2 Inft. 52. 22 E. 4 44.b. Dalt. cap. 8. Lamb 131.

Sect. 11. As to the second Point, viz. How far an Affray may be suppressed by a private Person, it seems agreed, That any one who sees others fighting, may lawfully part them, and also stay them till the Heat be over, and then deliver them to the Constable, who may imprison them till they find Surety for the Peace; also it is said, That any private Person may stop those whom he shall see coming to join either Party; and from hence ir feems clearly to follow, That if a Man receive a Hurt from either Party in thus endeavouring to preserve the Peace, he shall have his Remedy by an Action against him; also upon the same Ground it seems equally reasonable, That if he unavoidably happen to hurt either Party, in thus doing what the Law both allows and commends, he may well justify it, inalmuch as he is no Way in Fault; and the Damage done to the other, was occasioned by a laudable Intention to do him a Kindness.

3 Inst. 138. Con Lamb. Dalt. cap. 8.

However it seems clear, That if either Party be dangeroully wounded in such an Affray, and a Stander-by, endeavouring to arrest the other, be not able to take him without hurting, or even wounding him, yet he is no Way liable to be punished for the same, inasmuch as he is bound under Pain of Fine and Imprisonment, to arrest such an Of-H.P.C. 135. die or carry him before a Justice of Peace, by whom he either is to be die, or carry him before a Justice of Peace, by whom he either is to be bailed or committed, erc.

Lamb 131: Dalt, cap. 8. 3 Inst. 158. Bro. Faux Imprison-10 H. 7. 20. 2 Inst. 52.

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Sect. 13. As to the third Point, viz. How far an Affray may be suppressed by a Constable; it seems agreed, That a Constable is not only impower'd, as all private Persons are, to part an Affray which happens in 3 Inst. 158. his Presence, but is also bound at his Peril to use his best Endeavours to this Purpose, and not only to do his utmost himself, but also to demand the Assistance of others, which if they refuse to give him, they are pu- Dale. cap. 8. nishable with Fine and Imprisonment.

H. P. C. 135. Lamb. 132, 3 H. 7. 10.b.

Sect. 14. And it is said, That if a Constable see Persons either actually engaged in an Affray, as by Striking, or offering to strike, or drawing Lamb 132, their Weapons, &c. or upon the very Point of entering upon an Affray, 133. as where one shall threaten to kill, wound, or beat another, he may either carry the Offender before a Justice of Peace, to the End that such H.P.C. 136. Justice may compel him to find Sureties for the Peace, &c. or he may Dalt. cap 1,8. imprison him of his own Authority for a reasonable Time, till the Heat Bro. Surety, shall be over, and also afterwards detain him till he find such Surety by Moore 284. Obligation: But it seems, That he has no Power to imprison such an Pl. 436. Offender in any other manner, or for any other Purpose; for he cannot 3 H. 4.9.2.

justify the committing an Affrayer to Gaol till he shall be punished for his 10 Ed. 4.18. Offence: And it is said, That he ought not to lay Hands on those, who 5 H. 7.6. a. barely contend with hot Words, without any Threats of personal Hurt, and that all which he can do in such a Case, is to command them under Pain of Imprisonment to avoid Fighting. *

But he is so far intrusted with a Power over all actual Af- 5 H. 7. 6. a. Sect. 15. frays, that though he himself is a Sufferer by them, and therefore liable IRol. Re. 238. to be objected against, as likely to be partial in his own Cause, yet he 2 Bulst. 329. may suppress them; and therefore, if an Assault be made upon him, he may not only defend himself, but also imprison the Offender, in the same manner as if he were no way a Party.

Sett. 16. And if an Affray be in a House, the Constable may break 7 Ed. 3.12.b. open the Doors to preserve the Peace; and if the Affrayers fly to a House, Dalt. cap. 8, and he follow with fresh Suit, he may break open the Doors to take Lamb 133, them.

13 Ed. 4. 9.a.

Sect. 17. But it is said, That a Constable hath no Power to arrest a H.P. C. 135. Man for an Affray done out of his own View, without a Warrant from a Cro. El. 375. Justice of Peace, unless a Felony were done or likely to be done; for it H.P.C. 136. is the proper Business of a Constable to preserve the Peace, not to punish H.P.C. 92. the Breach of it; nor does it follow from his having Power to compel those to find Sureties who break the Peace in his Presence, that he has the same Power over those who break it in his Absence, inasmuch as in such Case it is most proper to be done by those who may examine the whole Circumstances of the Matter upon Oath, which a Constable cannot do; yet it is said, That he may carry those before a Justice of Peace, who Lamb, 131. were arrested by such as were present at an Affray, and delivered by Dalt. cap. 8. them into his Hands.

As to the fourth Point, viz. In what manner an Affray may be suppressed by a Justice of Peace; there is no doubt, but that he may and must do all such Things to that Purpose, which a private Man or H.P.C. 136. Constable, are either enabled, or required by the Law to do: But it is Dalt. cap. 8. faid, That he cannot without a Warrant authorize the Arrest of any Perfon for an Affray out of his View; yet it seems clear, that in such Case he 6. 12, 33. may make his Warrant to bring the Offender before him, in order to 14 H. 8. 7. Moore 468. compel him to find Sureties for the Peace.

Pl. 551.

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See 38 Ed. 3. 6. b. 7. a. 22 Ass. 56. 5 Mod. 84.

H. P. C. 36. Dalt. cap. 8. Poph. 153.

Also it seems, That a Justice of Peace has a greater Power Sett. 19. over one who hath dangerously wounded another in an Affray, than either a private Person or a Constable; for there does not seem to be any good Authority, that these have any Power at all to take Sureties of such an Offender: but it seems certain, That a Justice of Peace has a discretionary Power either to commit him or to bail him, till the Year and Day be past; but it is said, that he ought to be very cautious how he takes Bail, if the Wound be dangerous; for that if the Party die, and the Offender appear not, he is in Danger of being severely fined, if he shall appear upon the whole Circumstances of the Case to have been too favourable.

Sett. 20. As to the fifth Point, viz. In what manner the leveral kinds of Affrays are to be punished, it sufficiently appears from the foregoing Part of this Chapter, how such Affrays as are accompanied with Force and Arms, are to be dealt with upon the Statute of Northampton; and therefore I shall only examine in this Place, what Penalties other Affrays are liable unto, as to which it is to be observed, That all Affrays in general are punishable by Fine and Imprisonment, the Measure of which is to be regulated by the Discretion of the Judges according to the Circumstances of the Case, which very much vary the Nature of this Crime, and in some Cases make it so inconsiderable as scarce to deserve to be taken Notice of; and in others, make it an Offence of a very heinous Nature, as in the following Instances:

1, In Respect of the dangerous Tendency thereof.

2. In Respect of the Persons against whom it is committed.

3. In Respect of the Place wherein it happens.

Sect. 21. And first, An Affray may receive an Aggravation from the dangerous Tendency thereof, as where Persons cooly and deliberately engage in a Duel, which cannot but be attended with the apparent Danger of Murder, and is not only an open Defiance of the Law, but carries with it a direct Contempt of the Justice of the Nation, as putting Men under a Necessity of righting themselves; upon which Considerations, Persons convicted of barely sending a Challenge, have been adjudged to pay a Fine of one hundred Pounds, and to be imprisoned for one Month withour Bail, and also to make a publick Acknowledgment

of their Offence, and to be bound to their good Behaviour. Sect. 22. Secondly, An Affray may receive another Aggravation from

the Persons against whom it is committed; as where the Officers of Justice are violently disturbed in the due Execution of their Office, as by the Rescous of a Person legally arrested, or the bare Attempt to make such a Rescous; for all the Ministers of the Law are under its more immediate Protection.

12 Co. 101. 1 Keb. 290, 491. 1 Mod. 186.

Poph. 153.

3 Inst. 158.

r Sid'. 186.

1 Keb. 694.

Moore 563,

Pl. 763.

Sect. 23. Thirdly, An Affray may receive a farther Aggravation from the Place wherein it is committed, and upon this Respect all Astrays in the King's Courts are so severely punished, as hath been shewn already in Chapter 21, and upon the same Account also, all Affrays in a Church or Church yard, have been always esteemed very heinous Offences, as being great Indignities to the Divine Majesty, to whose Worship and Service such Places are immediately dedicated. And upon this Consideration, all irreverent Behaviour in these Places hath been esteemed so criminal by the Makers of our Laws, that they have not only severely punished such Disturbances in them which are punishable where-ever they happen, as all actual Affrays, &c. but also such, which if they happen elsewhere,

are

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are not punishable at all; as bare quarrelsome Words, and even such which would be commendable if done in another Place; as Arrests by Vertue of legal Proceis: But for the better Understanding hereof, I shall consider the several Statutes made for this Purpose.

Sect. 24. And first, It is enacted by 5 and 6 Ed. 6. 4. That if any Person what soever, shall by Words only quarrel, chide, or brawl, in any Church or Church-yard, that then it shall be lawful unto the Ordinary of the Place where the same Offence shall be done, and proved by two lawful Witnesses, to suspend every Person so offending; that is to say, if he be a Layman, ab ingressu Ecclesiæ, and if he be a Clerk, from the Ministration of his Office, for so long I ime as the same Ordinary shall by his Discretion think meet and convenient, according to the Fault.

Sect. 25. And it is farther enacted by the said Statute, That if any Person shall smite or lay any violent Hands upon any other, either in any Church or Church yard; that then, iplo Facto, every Person so offending shall be deemed excommunicate, and be excluded from the Fellowship and Company of Christ's Con-

gregation.

Sect. 26. And it is also farther enacted by the said Statute, That if any Person shall maliciously strike any Person with any Weapon in any Church or Church-yard, or shall draw any Weapon in any Church or Church-yard, to the Intent to strike another with the same Weapon; that then every Person so offending, and thereof being convicted by Verdict of twelve Men, or by his own Confession, or by two lawful Witnesses, before the Justices of Assize, Justices of Oyer and Terminer, or Justices of Peace in their Sessions, by Force of this Att, shall be adjudged by the same Justices before whom such Person shall be convicted, to have one of his Ears cut off, &c. and besides that every such Person to be, and stand ipso Facto excommunicated, as aforesaid.

And in the Exposition hereof it hath been holden:

Sect. 27. I. That notwithstanding the Words of the Statute be expressed, That he who smites another in the Church, &c. shall, ipso Facto, be deemed excommunicate; yet there ought either to be a precedent Conviction at Law, which must be transmitted to the Ordinary, or else Dyer 175. the Excommunication must be declared in the Spiritual Court spon a pro-Pl. 48.

per Proof of the Offence there; for it is implied in every Penal Law, Vent. 146. that no one shall incur the Penalty thereof, till he be found guilty upon Lit. 149. a lawful Trial; also it must be intended in the Construction of this Sta-Hett. 86. tute, That the Excommunication ought to appear judicially, for otherwise there could be no Absolution.

Cro. El. 919.

Sect. 27. II. That he who strikes another in a Church, &c. can no Cro. Ja. 367.

way excuse himself, by shewing that the other assaulted him.

III. That Church wardens, or perhaps private Persons, 1 Saund. 13, Sect. 28. who whip Boys for playing in the Church, or pull off the Hats of those 14. who obstinately resulte to take them off themselves, or gently lay their 3 Keb. 124. Hands on those who disturb the Performance of any Part of divine Ser- 1 Mod. 168. vice, and turn them out of the Church, are not within the meaning of the Statute.

Sect. 29. Also it is enacted by 1 Ma. Sess. 2. cap. 3. That if any Percan or Persons, of their own Power and Authority, shall willingly and of Purpose by open and overt Word, Fact, Act, or Deed, maliciously or contemptuously molest, let, diffurb, vex or trouble, or by any other unlawful Ways and Means, disquiet, or misuse, any Preacher who shall be licenced, allowed, or authorized to preach by the Queen's Highness, or by any Archbishop, or Bishop of this Realm, or by any other lawful Ordinary, or by any of the Universities of Oxford and Cambridge, or otherwise lawfully authorized or charged, by Reason of his or their Cure, Bene-

Of Forcible Entries and Detainers. Book I.

fice, or other Spiritual Promotion or Charge, in any of his, or their open Sermon, &c. or if any Person or Persons shall maliciously, willingly, or of purpose, molest, let, disturb, vex, disquiet, or otherwise trouble any Parson, Vicar, Parish-Priest, or Curate, or any lawful Priest, preparing, saying, doing, singing, ministring or celebrating the Mass, or other such divine Service, Sacraments, or Sacramentals, as was most commonly frequented and used in the last Tear of the Reign of the late Sovereign Lord King Henry the eight, or that at any Time hereafter should be allowed, set forth, or authorized by the Queen's Majesty; or if any Person or Persons shall unlawfully, contemptuously, or maliciously, of their ovn Power or authority, pull down, deface, spoil, or otherwise break any Altar or Altars, or any Crucifix, or Cross, in any Church, Chapel, or Church-yard; every such Offender and Offenders, his or their Aiders, Procurers, or Abettors, may be apprehended by any Constable, or Church-warden of the Place where such Offence shall be committed, or by any other Officer or Person then being present at the Time of the said Offence; and being so apprehended, shall be brought before some Justice of Peace by whom they shall be committed forthwith, and within six Days the Matter shall be examined by the same, together with some other Justices; and on Proof by two Witnesses or Confession, the Offender shall be committed for three Months, and also till the next Quarter-Sessions, where if they repent, they shall be discharged upon giving Sureties for their good Behaviour for a Year, and if they do not repent they shall be committed till they do.

2 Jon. 159. Con. Aleyn a Buift. 51,

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Sett. 30. It hath been resolved, That the Disturbance of a Minister in faying the present Common Prayer is within this Statute; for the express mention of such Divine Service, as should afterwards be authorized by Queen Mary, doth implicitly include such also as should be authorized by her Successors; for fince the King never dies, a Preroga-

tive given generally to one, goes of Course to others.

Sect. 31. Also it is enacted by 1 Will, and Mar. 18. Par. 19. That if any Person shall willingly and of Purpose, maliciously or contemptuously come into any Cathedral or Parish Church, Chapel, or other Congregation permitted by the said Act, and disquiet or disturb the same, or misuse any Preacher or Teacher, such Persons, upon Proof before any Justice of Peace, by two or more sufficient Witnesses, shall find two Sureties to be bound by Recognizance in the penal Sum of fifty Pounds, and on Default of such Sureties shall be committed to Prison, there to remain till the next General or Quarter-Sessions, and upon Conviction of the said Offence at the said General or Quarter-Sossions, shall suffer the Pain and Penalty of twenty Pounds.

CHAP. LXIV.

Of Forcible Entries and Detainers.

Lamb. 135. Dalt. cap. 76.

Sect. 1. IT seems that at the Common Law a Man disseised of any Lands, or Tenements, (if he could not prevail by fair Means,) might Crom. 70.a.b. lawfully regain the Possession thereof by Force, unless he were put to a Necessity of bringing his Action, by having neglected to re-enter in due Time: And it seems certain, That even at this Day, he who is wrongfully dispossessed of his Goods, may justify the re-taking of them by Force from the Wrong-doer, if he refuse to re-deliver them; for the Violence which happens through the Resistance of the wrongful Possessor,

Kellw. 92. Yelv. 172.

being

are situated, to give this act specially in charge of the grand

jury of said county.

SEC. 4. It is hereby made the duty of the board of public works, when any of the provisions of this act have been violated, to forthwith notify the attorney-general, and said attorney-general shall immediately commence suit upon the bond so given, in the name of the state of Ohio.

SEC. 5. This act shall apply as well to the parties who have heretofore used and are now using the waters of the canals of this state as to those who may hereafter so desire to do. The board of public works are hereby required, upon the passage of this act, to shut off and forbid the drawing of water or use of water, contrary to the requirements of this act, until the conditions herein provided shall have been fully complied with; and the chief engineer of the public works shall, by actual survey, determine the number of acros included in any pond so to be flooded, which shall be conclusive, and a record of which shall be kept in the office of the board of public works; and the cost of making such survey shall be paid by the parties so applying, and in determining the amount of such cost the certificate of said chief engineer shall be conclusive; and the board of public works are hereby authorized to increase or diminish the rates of toll as fixed by the law of 1858, when the boat travels or freight is carried less than fifty miles on any of the canals of

SEC. 6. Should the public works of the state be leased, then the drawing of the water for the purposes herein mentioned shall be under the exclusive direction and control of said lessees, and the amount of rent so due shall be paid said lessees.

Sec. 7. This act shall take effect and be in force from and after its passage.

JAMES E. NEAL,
Speaker of the House of Representatives.
JABEZ W. FITCH,
President of the Senate,

Passed June 21, 1879.

[Senate Bill No. 243.]

AN ACT

To define and suppress tramps.

SECTION 1. Be it enacted by the General Assembly of the State of Ohio, That any person, not being in the county in which he usually lives or has his home, who is found going about begging, and asking subsistence by charity, shall be taken and deemed to be a tramp.

Duties of board and attorneygeneral.

Apply to all parties.

Duties and powers of the board.

If public works are leased.

Who shall be deemed a tramp.

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Penalties of tramps.

SEC. 2. That any tramp who shall enter any dwelling-house, or shall enter the yard or enclosure about any dwelling-house, against the will or without the permission of the owner or occupant thereof, or shall not, when requested, immediately leave such place, or shall be found carrying any fire-arms or other dangerous weapons, or shall do or threaten to do any injury to any person, or shall do or threaten to do any injury to the real or personal estate or property of another, shall, upon conviction thereof, be imprisoned in the penitentiary not less than one year nor more than three years.

Apprehending offender. SEC. 3. That any person, upon view of the offense described in this act, may apprehend the offender, and take him before a justice of the peace for examination.

SEC. 4. This act shall not apply to any female or blind

SEC. 5. This act shall take effect and be in force from and

after the first day of July, 1879.

JAMES E. NEAL,

Speaker of the House of Representatives.

JABEZ W. FITCH,

President of the Senate.

Passed June 12, 1879.

[House Bill No. 1093.]

AN ACT

To provide for printing and distributing the laws of the present session, and the revised statutes in permanent form, and to repeal an act therein named.

Publication of laws.

SECTION 1. Be it enacted by the General Assembly of the State of Ohio, That there shall be printed not more than fifteen thousand copies of all the laws and joint resolutions of the present session of the general assembly, except the revision of the general statutes.

SEC. 2. No part of said edition shall be distributed until the whole is bound, when the same shall be distributed according to law, except six copies in forms of sixteen pages, which shall be sent to each member of the present general

assembly as soon as printed.

Revised statutes.

SEC. 3. There shall be published in two volumes, in permanent form, twelve thousand copies of the revised and consolidated statutes, enacted at the present session of the general assembly; the printing and other work shall be let out by special contract as hereinafter provided, and M. A. Daugherty, John S. Brasse, and George B. Okey shall prepare, edit, and superintend such publication, including proof-reading. The following mentioned matter shall be prepared by them, and shall be published in either of the volumes as they may find most practicable, viz: the articles

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CHAPTER CLXXXVI.

AN ACT to amend the Criminal Laws of this State upon the subject of carrying concealed weapons, and amend Section 4759 of the Code.

Section 1. Be it enacted by the General Assembly of the State of Tennessee, That the Act of 1871, Chapter 90, be and is hereby amended, that hereafter it shall not penalty. be lawful for any person to carry, publicly or privately, any dirk, razor concealed about his person, sword cane, spanish stilletto, belt or pocket pistol, revolver, or any kind of pistol, except the army or navy pistol, usually used in warfare, which shall be carried openly in the hand, or loaded cane, slung-shot, brass knucks; and any person guilty of a violation of this Act shall be subject to presentment or indictment, and on conviction shall be fined fifty dollars, and imprisoned in the County jail of the County where the offense was committed, the impris- Proviso. onment only in the discretion of the Court; Provided, the defendant shall give good and sufficient security for all the costs, fine, and any jail fees that may accrue by virtue of the imprisonment of the defendant.

SEC. 2. Be it further enacted, That nothing in this Act be so construed as to operate as a pardon for any offense heretofore committed, but persons indicted or presented for carrying dangerous weapons under the law now in force, shall be tried under said laws, and punished as therein required.

Sec. 3. Be it further enacted, That the provisions of this Act shall not apply to any person employed in the army, navy, or marine service of the United States, or to any officer or policeman while bona fide engaged in his Police excepted. official duties in the execution of process, or while searching for or engaged in arresting criminals, nor to persons who may have been summoned by such officers or policeman in the discharge of their said duties, and in arresting criminals and transporting and turning them over to the proper authorities; and, Provided, further, that said persons who may be employed in the army, navy or marine service, as aforesaid, shall only carry such pistols as are prescribed by the army and navy regulations. SEC. 4. Be it further enacted, That all laws and parts

Offence and

Soldiers and

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of laws that come in conflict with the provisions of this Act be and the same are hereby repealed; Provided, that any person convicted of an offense under this Act shall, not be deprived of the right of voting or holding office.

Passed March 26, 1879.

H. P. FOWLKES,

Speaker of the House of Representatives. J. R. NEAL,

Speaker of the Senate.

Approved, March 27, 1879.

ALBERT S. MARKS,

Governor.

CHAPTER CLXXXVII.

AN ACT to amend an Act approved March 6th, 1873, entitled, "An Act to establish and maintain a uniform system of Public Schools."

Study of Agri-

culture to sign book.

Section 1. Be it enacted by the General Assembly of the State of Tennessee, That Section 31 of the Act approved culture enjoined March 6th, 1873, entitled "An Act to establish and maintain a uniform system of Public Schools," be so amended as to add to the curriculum of studies prescribed therein, the study of the elementary principles of Agriculture.

SEC. 2. Be it further enacted, That the Superintendent superintendent of Public Instruction of this State, and Commissioner of Public Instruc-tion and Commissioner Agriculture shall be constituted a Commission to procure missioner Agri- the preparation of, or the designature of, a work on the de "Elementary Principles of Agriculture," which shall be taught in the Public Schools of the State, as are the other studies prescribed in the 21st Section of the Public School Law; Provided, no monies are to be paid by the State or out of the school fund for the preparation of the necessary book.

Passed March 26, 1879.

H. P. FOWLKES,

Speaker of the House of Representatives. J. R. NEAL,

Speaker of the Senate.

Approved March 27, 1879.

ALBERT S. MARKS.

Governor.

CHAPTER 52.

An Act to Prevent the Carrying of Fire Arms and Other Deadly Weapons.

Re it enacted by the Council and House of Representatives of the Territory of Wyoming:

Carrying weapons within dent of any city, town or village, or for any one not a resident of village limits, any city, town or village, in said Territory, but a sojourner prohibited. Section. 1. That hereafter it shall be unlawful for any resitherein, to bear upon his person, concealed or openly, any fire arm or other deadly weapon, within the limits of any city, town or village.

Non - resident to be first no-tified,

SEC. 2. That if any person not a resident of any town, city or village of Wyoming Territory, shall, after being notified of the existence of this act by a proper peace officer, continue to carry or bear upon his person any fire arm or other deadly weapon, he or she, shall be deemed to be guilty of a violation of the provisions of this act and shall be punished accordingly.

Violation this act a mis-demeanor.

Sec. 3. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than fifty dollars, and, in the default of the payment of any fine which may be assessed against him, shall be imprisoned in the county jail for not less than five days nor more than twenty days.

Penalty.

In force.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved, December 2nd, 1875.

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buildings and grounds shall hereafter be used exclusively for State purposes, the title to the same being in the State.

SEC. 2. That this act take effect and be in force thirty days after its passage, allowing that time for said county to vacate said rooms, &c.

Approved, April 1st, 1881.

No. XCVI.

'AN ACT To Preserve the Public Peace and Prevent Crime.

SECTION

- 1 Carrying of certain weapons constituted a misdemeanor; proviso, excepting officers, and persons journeying.
- 2 Carrying such weapons otherwise than in the hand, a misdemeanor.
- 3 Selling or disposing of such weapons, a misdemeanor.
- 4 Violation of act punishable by fine from \$50 to \$200.
- 5 Justices of the Peace knowing of violations of provisions of act and refusing to proceed, to be fined and removed.
- 6 Same penalty denounced any other officer knowing of such offense.
- 7 Violators of act how proceeded against.
- 8 Conflicting laws repealed; act in force 90 days after passage.

Be it enacted by the General Assembly of the State of Arkansas:

Section 1. That any person who shall wear or carry, in any manner whatever, as a weapon, any dirk or bowie knife, or a sword, or a spear in a cane, brass or metal knucks, razor, or any pistol of any kind whatever, except such pistols as are used in the army or navy of the United States, shall be guilty of a misdemeanor; *Provided*, That officers, whose duties require them to make arrests, or to keep and guard prisoners, together with the persons summoned by such officers, to aid them in the discharge of such duties, while actually engaged in such duties, are exempted from the provisions of this act. *Provided*, *further*, That nothing in this act be so construed as to prohibit any person from carrying any weapon when upon a journey, or upon his own premises.

- SEC. 2. Any person, excepting such officers, or persons on a journey, and on his premises, as are mentioned in section one of this act, who shall wear or carry any such pistol as in [is] used in the army or navy of the United States, in any manner except uncovered, and in his hand, shall be deemed guilty of a misdemeanor.
- SEC. 3. Any person who shall sell, barter or exchange, or otherwise dispose of, or in any manner furnish to any person any person any dirk or bowie knife, or a sword or a spear in a cane, brass or metal knucks, or any pistol, of any kind whatever, except such as are used in the army or navy of the United. States, and known as the navy pistol, or any kind of cartridge, for any pistol, or any person who shall keep any such arms or cartridges for sale, shall be guilty of a misdemeanor.
 - Sec. 4. Any person convicted of a violation of any of the provisions of this act, shall be punished by a fine of not less than fifty nor more than two hundred dollars.
 - SEC. 5. Any justice of the peace in this State, who, from his own knowledge, or from legal information, knows, or has reasonable grounds to believe, any person guilty of the violation of the provisions of this act, and shall fail or refuse to proceed against such person, shall be deemed guilty of a nonfeasance in office, and upon conviction thereof, shall be punished by the same fines and penalties as provided in section four of this act, and shall be removed from office.
 - SEC. 6. Any officer in this State, whose duty it is to make arrests, who may have personal knowledge of any person carrying arms contrary to the provisions of this act, and shall fail or refuse to arrest such person and bring him to trial, shall be punished, as provided in section four of this act.
 - SEC. 7. All persons violating any of the provisions of this act may be prosecuted in any of the courts of this State, having jurisdiction to try the same.
 - SEC. 8. All laws or parts of laws, in conflict with the provisions of this act are hereby repealed, and this act to take effect and be in force ninety days after its passage.

Approved, April 1st, 1881.

GENERAL LAWS.

CHAPTER XXXIV.

AN ACT TO REGULATE THE KEEPING AND BEARING OF DEADLY WEAPONS.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person carrying on or about his person, saddle, or in his saddle bags, any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bo sie-knife, or any other kind of knife manufactured or sold for the purposes of offense or defense, unless he has reasonable grounds for fearing an unlawful attack on his person, and that such ground of attack shall be immediate and pressing; or unless having or carrying the same on or about his person for the lawful defense of the State, as a militiaman in actual 'service, or as a peace officer or policeman, shall be guilty of a misdemeanor, and, on conviction thereof shall, for the first offense, be punished by fine of not less than twenty-five nor more than one hundred dollars, and shall forfeit to the county the weapon or weapons so found on or about his person; and for every subsequent offense may, in addition to such fine and forfeiture, be in prisoned in the county jail for a term not exceeding sixty days; and in every case of fine under this section the fines imposed and collected shall go into the treasury of the county in which they may have been imposed; provided, that this section shall not be so construed as to prohibit any person from keeping or bearing arms on his or her own premises, or at his or her own place of business, nor to prohibit sheriffs or other revenue officers, and other civil officers, from keeping or bearing arms while engaged in the discharge of their official duties, nor to prohibit persons traveling in the state from keeping or carrying arms with their baggage; provided further, that members of the Legislature shall not be included under the term "civil officers" as used in this act.

SEC. 2. Any person charged under the first section of this act, who may offer to prove, by way of defense, that he was in danger of an attack on his person, or unlawful interference with his property, shall be required to show that such danger was immediate and pressing, and was of such a nature as to alarm a person of ordinary courage; and that the weapon so carried was borne openly and not concealed beneath the clothing; and if it shall appear that this danger had its origin in a difficulty first commenced by the accused, it shall not be considered as a legal defense.

SEC. 3. If any person shall go into any church or religious assembly, any school room, or other place where persons are assem-

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bled for amusement or for educational or scientific purposes, or into any circus, show, or public exhibition of any kind, or into a ball room, social party, or social gathering, or to any election precinct on the day or days of any election, where any portion of the people of this State are collected to vote at any election, or to any other place where people may be assembled to muster, or to perform any other public duty, (except as may be required or permitted by law,) or to any other public assembly, and shall have or carry about his person a pistol or other firearm, dirk, dagger, slung shot, sword cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufactured and sold for the purposes of offense and defense, unless an officer of the peace, he shall be guilty of a misdemeanor, and, on conviction thereof, shall, for the first offense, be punished by fine of not less than fifty, nor more than five hundred dollars, and shall forfeit to the county the weapon or weapons so found on his person; and for every subsequent offense may, in addition to such fine and forfeiture, be imprisoned in the county jail for a term not more than ninety days.

Sec. 4. This act shall not apply to, nor be enforced in any county of the State, which may be designated, in a proclamation of the Governor, as a frontier county, and libble to incursions of hostile

Indians.

SEC. 5. All fines collected under the provisions of this act shall be paid into the treasury of the county, and appropriated exclusively to the keeping in repair and maintenance of public reads, and all weapons forfeited to the county under the provisions of this act shall be sold as may be prescribed by the county court, and the pro-

ceeds appropriated to the same purpose.

It shall be the duty of all sheriffs, constables, marshals, SEC. 6. and their deputies, and all policemen, and other peace officers, to arrest any person violating the first or third sections of this act, and to take such person immediately before a justice of the peace of the county where the offense is committed, or before a mayor or recorder of the town or city in which the offense is committed, who shall investigate and try the case without delay. On all such trials the accused shall have the right of a trial by jury, and of appeal to the district court; but, in case of appeal, the accused shall be required to give bond with two or more good and sufficient sureties in a sum of not less than one hundred nor more than two hundred dollars, if convicted under the first section and in a sum of not less than two hundred nor more than one thousand dollars, if convicted under the third section of this act; said bond to be payable to the State of Texas, and approved by the magistrate, and conditioned that the defendant will abide the judgment of the district court that may be rendered in the case; and in case of forfeiture the proceedings thereon shall be as is or may be prescribed by law in similar cases; and all moneys collected on any bind or judgment upon the same, shall be paid over and appropriated as provided in the fifth section of this act.

SEC. 7. Any officer named in the sixth section of this act who shall refuse or fail to arrest any person whom he is required to arrest by said section on his own information, or where knowledge is conveyed to him of any violation of the first or third sections of this act, shall be dismissed from his office on conviction in the district court, on indictment or information, or by such other proceedings or tribunal as may be provided by law, and in addition, shall be fined in any sum not exceeding five hundred dollars, at the discretion of the court or jury.

SEC. 8. That the district courts shall have concurrent jurisdiction under this act, and it is hereby made the duty of the several judges of the district courts of this State to give this act especially

in charge to the grand juries of their respective counties.

SEC. 9. It is hereby made the duty of the Governor to publish this act throughout the State; and this act shall take effect and be in force from and after the expiration of sixty days after its passage.

Approved April 12, 1871.

CHAPTER XXXV.

AN ACT TO AUTHORIZE THE COUNTY COURT OF ROBERTSON COUNTY TO LEVY AND COLLECT A SPECIAL TAX FOR THE TERM OF TWO YEARS TO BUILD A COURT HOUSE AND JAIL IN THE CITY OF CALVERT, THE COUNTY SEAT OF SAID COUNTY.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Court of Robertson county be and the same is hereby authorized to levy and collect, annually, for the term of two years, a special ad valorem tax upon all property, real, personal and mixed, in said county, not to exceed one half of one per certum in addition to all general and special taxes now authorized to be levied and collected by law, which tax shall be levied and collected the same as other taxes, and shall be appropriated and paid out solely for the purpose of building a substantial court house and jail at Calvert, the county seat of Rober son county, Texas.

Sec. 2. That this act shall take effect and be in force from and

after its passage.

Approved April 12, 1871.

VOL. 41.-NO. 298.

TUESDAY, OCTOBER 26, 1880.

TRAVEL, TRANSPORTATION, &c. AUCTION SALES. COLE, AUCTIONEER. AT THE COMMERCIAL EXCHANGE. 8. FIRUSKI, Goneral Auctioncor, T ONG ISLAND RAILROAD. Will sell on WEDNESDAY, October 27, at 11 o'clock,

November 8, upredeemed pledges, by er-Babylon, 8:30, 11:00 A. M., 3:30, 4:30, 5:33 P. M. Sunder H. & H. MCALEENAN. Far Rockaway, 8:30, 11:00 A. M., 4:30, 6:00, 7:00 P. M. Bench, 8,30 A. M., 4:30 P. M. Sundays, 9:30 A. M. ty Salegrooms, 379 Fulton at., and 354 to 359 Adams s. FRIDAY, October 29, at 1014 o'clook, at 1,029 and 1,03, tools, one watch, etc. C. M. BROWN, Ad-Creedmoor, Thesdays, Wednesdays and Saturdays only, 8:00, 10 A. M., 1:30 P. M. TRY JOS. HEGEMAN & CO.

RAILROAD OF NEW JEA At 10 A. M. at 192 Fulton at. SEY-Ferry station in New York, foot of Liberty's June 21, 1880-Leave New York, foot t TO DEALERS: 5:30 A. M.-For Faston, Dethioneni, Wind Gap, Manch Chunk, Tamanend, Drifton, Upper Lehigh, Wilkesbarre, Branch, Kaston, Allentown, Roading, Harrisburg, large silver plated show cases. By order of WILLIAM Ohunk, Danville, Williamsport, Tamaque, Drifton, Nanti-GRATES AND FENDERS. 3:30 P. M.-Por Easton, Bethlebein, Wind Gap, Mauch LOW AND HALF LOW GRATES, BRASS OPEN FIREPLACES, 4:30 P. M.-For Schooley's Mountain, High Bridge With Andirons and Basket Grates for wood or coal; Brass (Hentown, Reading, Harrisburg, Mauch Chunk, Wilkes. In Great Variety. Wholesale and Retail. Estimates giren to Architects and Builders. No. 308 Canal street, New York. 1:30. 2:00. 2:30. 3:00. 3:30. 3:45, 4:00. 4:15, 4:30. 4:45, 5:00. 5:15, 5:30. 5:45, 6:00. 6:45, 7:00. 7:15, 7:45, 8:15,

CONEY ISLAND. RIGHTON BEACH, BROOKLYN, FLATBUSH AND GONEY ISLAND On and after MONDAY, October 18, trains will leave Prospect Park for Bughton Beach at 8,10 A. M., 1, Boats of the Brooklyn and Eria Annex make connections Jersey City station to and from Brooklyn and Erie depot, Trains from the Beach for Prospect Park leave at 8:30. oats leave Jewell's Whari, foot of Fulton st. 7, 8:20. Flatbush av. Franklin av, and Lee and Nostrand av. cars run direct to Prospect Park depot.
W. E. DORWIN, Gen'l Sup't. NEW YORK AND LONG BRANCH DIVISION. ALL RAIL LINE for Purth Amboy, South Amboy, Ma DRUSPECT PARK awan, Kernert, Hazlet, Middletown, Red Bank, Little Silver, Branchport, Long Branch, Elveron, Deal Beach, AND CONRY ISLAND RAILROAD. Ocean Grove, Asbury Park, Ocean Beach, Spring Lake, Sea Girt, Point Pleasant, Tonis River, Barnegat, Atlantic Oity, WEST BRIGHTON BEACH DIVISION. Leave New York, foot Liberty street, at 5:00, 8:15, 11:46 M., 1:30, 3:30, 4:00, 5:30 P. M. EXCURSION TICKETS 25 OFNTS. AND NEW YORK RAILWAY CON. leave the Brooklyn Depot (Ninth av. and Twentieth Leave foot of laberty street for Froehold at 9 D. 10 00, 11:00, A. M. 12:00, 1:00, 2: VEW JERSEY SOUTHERN RAILWAY-Leave New (N), 4 (D), 5:411, 6.100, 7:00, 8:00 P. trains leave West Brighton, 7:05, 8:10, 2 For Sandy Hook via Branchport, 8:15, 11:46 A. M. 5:30 30 A. M. 12:30, 1:30, 2:30, 3:30, 4:30, 5:30, 6:30, or Highlands via Branchport, 5, 8:15, 11:45 A. M. 4, Extra trains will be rup on Sundays and whenever travel For Monmouth Beach and Scabright via Branchport, & On Sundays, brst train leaves Brooklyn at 0:00 A. A. and West Brighton 9:30 A. M. b A. M.-Via Red Bunk, for Manchester, Toms River Park and Vanderbilt avanue line from Pulton and Catharine ferries via Prospect Park, run direct to the depot. -All rail, via Rad Bank for Manchester,

R. SCHERMERHURN, Eng'r and Supt.

Wednesday, Oct. G. 6:00 .

Wednesday, Oct. 13, noon,

ROCKAWAY.

From Pier 20 North River, New York

Cabins, 860 to 334). Excursion lickets at reduced rates.

From Pier 46, Nurch River, foot of Charles st. N.

roughout England, Scotland and Ireland.

or E. J. SNUW. 69 and 70 Court at. Brooklyn.

830. Drafts at lowest rates.

Steamers marked thus ' do not carry passengers.

Drafts igsned at lowest rates, payable (free of charge)

MENDERSON BROTHERS, 7 Bowling Green, N. Y.

FOR QUEENSTOWN AND LIVERPOOL

OF MONTREAL, .. Thursday, Nov. 4, at 6:0

1100 to \$120; outward steerage, \$26; prepaid steerage

TO OUEENSTOWN AND LIVERPOOL.

Cabin passage, \$40 and \$100; excursion tickets, \$145,

W. B. -The steamers of this line do not carry cattle.

For passage tickets to or from the old country, or drafts

payable on demand everywhere in England, Ireland, Scot-

land. Sweden and Norway, at lowest rates, apply to V. Al.

River, fool of King at, for QUEENSTOWN and LIVER-POOL on TUESDAY as follows:

Intermediate, \$40. Steerage at low rates, payable in

GLASGOW, LIVERPOOL, BELFAST OR

860 to \$75; second cabin, 840; steerage to Europe, \$26.

LLIAMS & GUION, 29 Broadway, New York,

30 Court st, corner of Remsen.

fices, 69 and 73 Broadway, New York, HURST, Manager.

tickets, #28, "being 82 lower than most other lines."

liamsburgh, DURLAND & SUMNER,

Cabin passage, 360, 880, 8100

BRUSSELS. Saturday, Nov. 25, at 11:00 A. 1

DALE, Agent, 31 and 33 Broadway, N. Y.

MUNARD LINE.

4 P. M. -All rail, via Red Bank for all stations to Whiting's, Tom's River, Barnegat, etc. AND CONEY ISLAND RAILROAD. Trains leave depot (cor. Twenty-seventh st. and Fifth av. NEW YORK AND PHILADELPHIA · leave Coney Island: 7:80, 9:50, 11:20 A.M., Leave New York from station C. R. R. of N. J., foot it GEO. A. GUNTHER, General Manager. For station corner Ninth and Green sts. at 7 15, 9 20, 4. 1:30 5:30, 7:15, 12 P. M. On corner Third and Berks sts, at 7:45, 9:00, 11:15 A. M.; 1:30, 4:30, 5:30, P. M. On Sungay at 5:30 FALL AND WINTER SCHEDULE, Trenton, Warren and Tucker sts, 7:45, 9, 11:15 M.: 1.30. 4, 4:30, 5:30, 7:15, 12 P. M. Sunday at New York, Woodhaven and Rockaway Railroad. leave Philadelphia for New York: From Station Phila & Reading Railroad, corner Ninth B:45, 5:40, 7:15, 12 P. M. On Sunday at 8.30 A. M.: 5:30. From Third and Berks at 5, 8:20, 9:20 A. M. Leave ROCKAWAY, 7:40, 10:30 A. M.: 1, 3:10, 6:10, From Trenton. Warren and Tucker sts. 1.27 fuxcent A. Fine bunting and fishing. Several hotels open with good 1.323 Broadway, New York, and at the principal hotels; TRAVEL, TRANSPORTATION, &c. 2 and 4 Court st. and Annex office, Jewell's Whart.

Jun's River. A'TLANTIC CITY and all stations to Bayside.

uplication can be made at 944 and 1,323 Broadway, 736 Sixth av, New York, and 4 Court st. Brook-H. P. BALDWIN, General Passenger Agent TRUNK LINE AND UNITED STATES MAIL ITE On and after October 4, 1880, trains leave New with Pullman Palace Cars attached, 9 A. M., 6 and 8:39 And every following WEDNESDAY from New York. Williamsport, Lock Haven, Corry and Erie, at 9:30 Cabin passage 380 and \$100, according to accommod. Tickets to Paris \$15, additional Return tickets on pool and Queenstown and all other parts of Europe at low-"hrough bills of lading given for Belfast, Glasgow, Havre, Emigrant and second class, ? For passage Tickets from or for Europe, Drafts at lowest Boats of Brooklyn Annax connect with all through trains t Jersey Cits, affording a speedy and direct transfer for . Accommodation for Trenton, 6:30 A. M. and 2 and 4 F Newark and Elizabeth 6, 6:30,7, 7:30, 8,8:20, 9, 10,

8:15. 9 and 9:30 A.M., 1, 4:30, 5:45, 6:30, 7, 8:15, 9:30 P.M., Woodbridge, Perth Amboy, and South Amboy, 6 and 1 Vow Brinswick, 4:30, 6:30, 7:30, 8:20, 9 and 11 A. M. Sunday 4:30 and 9:30 A. M., 1, 5, 6, 7, 8:30, 10 Flemington, 7:30 and torms STEERAGE, 328 currency. Prepaid Cortificates, C. HENDERSON, No. 30 Court st, and SUMNER

PENNSYLVANIA RAILROAD. NEW YORK AND PHILADELPHIA

Trains each way daily, except Sunday; 3 Depots in Phi

adelphia, 2 in New York.

THAINS leave New York, via Desbrosses EXPRESS TRAINS leave New York daily, except Sunday, a 7:30 A. M., and 4:00 P. M., running through via Trenton Boats of Brunklyn Annex connect with all through trains at Jersey City, affording a speedy and direct transfer for :35. 8:00. 8:30 and 11:00 A. M. (Limited Er P. M. Co Sunday, 12:01, 3:45, 4:25, 8:00, 8:30A. M., 4: M. Leare Philadelphia, via Camden, 9:00 Ticket offices, 526 and 944 Broadway, No. 1 Astor House

Excursion tickety at reduced rates. AUSTIN BALDWIN & CO., Agento No. 53 Broadway, New York. CLAIRVOYANTS. Parcels forwarded to all parts of Europe by Baldwin's IMPERIAL GERMAN MAIL. ing. 356 Fulton st. cor. Red Hook lane, between Smith and Boerum place. Lucky numbers given. NORTH GERMAN LLOYD STEAMSHIP LINE. BETWEEN NEW YORK NORTHAMPTON AND enth of the seventh daughter, gives great BREMEN. Cumberlind st, near Myrtle av. and Fort, Greene, A. M. to 6 P. M. Terma 50 cents. Company's PIER, foot SECOND ST. HOBOKEN. Flathush av. from 10 A. M. to 6 P. M. Fee fifty cents: n Return tickets at reduced rates. Propaid steerage cer Can be consulted on all affairs of life, marriage, lawsuits tificates, at \$2%. Steamers sail from pier between Secun ouses, journeys and sickness. 117 Wyckoff st. between Smith and Hoyt, first floor. Business lee, 50c medical.

787 AND 780 BROADWAY, TO MAKE ROOM FOR NEW ARRIVALS DAILY OUR VARIOUS DEPARTMENTS WE HAVE DE-UNUSUALLY ATTRACTIVE BARGAINS DURING THE CURRENT WEEK THROUGHOUT | SIX MINUTES' RIDE TO OUR ESTABLISHMENT. 00000000000000000000000000 DRESS GOODS DEPARTMENT. .

500 PIECES LUPIN'S FINE ALL WOOL FRENCH OASHMERES, IN NEW COLORS AND SHADES. 36 inches wide, 43c. per yard; regular price, 50c. 38 inches wide, 50c. per yard; regular price, 65c. '50 pieces 45 inch, fine, all wool CAMEL'S HAIR SUIT

LADIES' CLOAK DEPARTMENT. O Our assortment of Ladies', Misses' and Children's Outgide CLOTH GARMENTS is unusually large and attrac-And ladies intending to purchase DOLMANS, CLOAKS, WALKING JACKETS, ULSTERS, etc., for Winter wear it a decided advantage to inspect our stock before 000000000000000000000000

CLOTH DEPARTMENT. 000000000000000000000000 FANCY DIAGONAL, MATELASSES, BASKET Weaves and BEAVERS in Black, FANCY LESTERINGS and COATINGS in all the newest o meh BLACK MATELASSE CLOAKINGS, \$1.25, 54 juch FANOY OLOAKINGS, choice styles, \$1.35 per yard, worth 32. POSITIVE BARGAINS In MERINO UNDERWEAR and HOSIERY for Ladies,

HILL, MOYNAN & CO., BROADWAY AND TENTH STREET,

BROADWAY COR. ELEVENTH STREET, NEW YORK CITY, HAVE MADE A SPECIAL COUNTER FOR

AT WHICH THEY HAVE PLACED OVER 200 PIRCES OF COLORED NOVELTY GOODS, OF THIS SEASON'S IMPORTATION, MARKED AT PRICES FAR BELOW COST. WITH THE OBJECT OF CLOSING THEM OUT IMMEDIATELY.

FANCY DRESS GOODS.

24 INCH AND 48 INCH SILK AND WOOL GOODS 300., 40e., 50c., 60c., 75c. AND \$1,00 PER YARD; RMER PRICES, \$1.00 TO \$9.00 PER YARD.

The assets of the Phenix are larger than those of any

less or damage by Fire or against Inland and Ocean Marine NOS. 12 AND 14 COURT STREET BROOKLYN, NO. 98 BROADWAY, BROOKLYN, E.D. STEPHEN UROWELL, Prosident. PHILANDER SHAW. Vice President and Secretary. RUWARD HASLEHURST, Sec'v of Brooklyn Department CONTINENTAL INSURANCE CO. COR, COURT AND MONTAGUE STREETS.

RESERVE representing other claims and un-H. U. LAMPORT, Vice President LIFE INSURANCE.

NO. 239 BROADWAY, NEW YORK. ESTABLISHED, 1853. JOHN A. NICHOLS, President.

Corner Montague and Clintonsts. Brooklyn, N. I This Company is authorized by special charter to sot receiver, trustee or guardian, executor or administrator tate, collect interest or dividends, receive registry and trans-CHAS. R. MARVIN, Vice President, W. R. BUNKER, Secretary. EDGAR M. UULLEN. Attorney and Counsel.

stock. Coney Island and Brooklyn Railroad Compan. Apply to U. E. STAPLES, dealer in stocks and bonds, 208 telegraph stock of Brooklyn. A. B., Post Office Box

CORPORATION NOTICES. IDISTOLS—CARRYING OF. ORDINANCE TO REGULATE THE CARRYING OF The Common Council of the City of Brooklyn do ordain SECTION 1. Every person, except those authorized by law

f payment of such tine, by imprisonment not exceeding

cinct where he resides, and such officer, if satisfied that

to the inspector in command at the central office, who may

of the station house of the pre-

and Excise, to the said person, allowing him to carry a pisto Sec. 3. Any non-resident, who does business in the City under this ordinance. All persons to whom such permis sion shall be given are hereby declared to be individually arise from the use of pistols carried under the permission Sec. 5. It at the time of the arrest of any person, a pistol the officer making the arrest shall state such fact to the police magistrate before whom the prisoner is brought, and

DRY GOODS, &c. GRAND AND ALLEN STREETS,

NEW YORK. RAILROAD. DIRECT CONNECTION WITH FULTON FERRY.

00000000000000000000 10,000 VOLUMES. 00000000000000000000

VARIOUS BINDINGS. STANDARD WORKS. OENT: THE VOLUME. SELLING ALL DAY, TO THE RETAIL TRADE ONLY.

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KID GLOVES. 000040000000000000000 2,000 DOZEN LADIES' GERMAN LAMB SKIN GLOVES. HREE BUTTON, SOLD REGULARLY AT ONE DOLLAR, THE PAIR. COLORS, OPERAS, WHITES AND

0000000000000000000000 BROUADED YELVETS. 000000000000000000000000 JACQUARD WOVEN, \$1.75 REGULAR PRICE, 94. STILL FINER BROCADES,

NOT \$5.50, BUT \$2.75. AND STYLES (TWO COLORS.)) BUT \$3,25. ALL SILK SATIN STRIPED VELVETS, 21, 21,25, 21.50, 21.75. EDWARD RIDLEY & SONS, 809, 311, 311% GRAND STREET,



ROOMS 3,500 SQUARE FEET, WE ARE THE NEW DESIGNS AND CHOICE

LINOLEUM

TO BE FOUND IN BROOKLYN.

A LARGE COLLECTION OF NOVELTIES

IN FOREIGN AND DOMESTIO EXTRA SUPER INGRAIN CARPETING.

WITH BORDERS TO MATCH.

BMYRNA CARPETS AND RUGS,

INDIA, PERSIAN AND TURKISH RUGB,

AND MATS OF VARIOUS SIZES. ENGLISH AND AMERICAN FLOOR OIL CLOTHS LINOLEUM, LIGNUM. ALL GOODS SOLD AT POPULAR PRICES. 607, 609 AND 611 FULTON STREET. HARDENBERGH & CO., 1880. SUCCESSORS TO

000000000000000 NHW SCENERY AND BEAUTIFUL COSTUMES. BUCK. Remember our WEDNESDAY and SATURDAY Carriagos may be ordered for 10:30 P. M. AT THE THEATRE TICKET OFFICE, No. 111 BROADWAY, N. Y.

FANCY GOODS.

Have opened their new stock of embroideries, canvas. silks, beads and chenille. BERGMAN'S BERLIN ZEPHYR WORSTED. Germantown Wool, best make: German and domestic knitting yarn and cotton; Florence knitting slik; French stamping, (own designer.)

IZ EEP'S SHIRTS. LOVES, HMBRELLAS, UNDERWEAR, &c. KEEP'S OUSTOM SHIRT'S made to measure from Wain-Perfect fit guaranteed. Six for 89.
KEEP'S PATENT PARTLY MADE DRESS SHIRTS. the very best. Same quality as Keep's Custom Shirts. BUTTONS given with each half dozen shirts.
KEEP'S COLLARS, CUFFS, HANDKERUHIEFS, HO-SIERY, TIES, UMBRELLAS, &c., at popular prices, KNIT AND FLANNEL, in all the new styles: qualities guaranteed. Popular prices, 60c. 75c., \$1, \$1,25, \$1.50 1,200 dozen PLAIN AND EMBROIDERED GLOVES. and 2 buttons, 70c. and 80c. pair. The greatest bargain ever offered in gent's fine gloves.

POLITICAL. FOR CORONER, JOHN T. PARKER.

FOR MEMBER OF ASSEMBLY. THIRD DISTRICT, Third and Tenth Wards,

ZAUHARIAH VOORHIES. RENRY C. SIMMS.

FOR CORONER,

FRANCIS NOLAN. FOR ALDERMAN, THIRD WARD, HARRY O. JONES. STEPHEN LARKIN.

WILLIAM J. POWELL

COMPRISING THIRD AND TENTH WARDS. LAWRENCE J. TORMEY.

COMPRISING EIGHTH, NINTH AND TWENTY. SECOND WARDS. RICHARD J. NEWMAN. CPECIAL CONTRACTS FOR THE DELIVERY OF LETTERS, OIROULARS OR

OTHER POLITICAL MATTER, CAN BE MADE WITH THE AMERICAN DISTRICT TELEGRAPH COMPANY APPLY TO THE SUPERINTENDENT, 191 MONTAGUE STREET. TIONS, ROOM 9. CITY HALL, Brooklyn, October

during business hours, to qualify and

Room 9, City Hall, Brooklyn, October 1 o be held on the Tuesday succeeding the first Monday November next (November 2) the following charter o cers are to be elected : Controller, Auditor, Alderman Eighth, Tenth, Twelfth, Fourteenth, S. teenth, Eighteenth, Twentieth, Twenty-second and Twenty. CAPE, CAP AND "BALLOT BOX" TOROH, AT FIFTY CENTS, HERMAN FORCE, 298 BROADWAY, N. Y.

CONTAINING IRON AND PERUVIAN BARK,

ANTI-MALARIA.

ANTI-MALARIA.

AN ELEGANT CORDIAL,

MAUDE GRANGER 000000000000000000

o TWO NIGHTS o 0000000000000000 0000000000

"The brilliant success of "I'wo Nights in Rome" at the Union Square Theatre, is a guarantee of its success every-where."—New York Herald, Sunday, September 12.

424 AND 426 FULTON STREET.

Jukes & Nathan, BARNUM'S MUSEUM, Directors. NEW CURIOSITIES AND NOVELTIES. LILIPUTIAN OPERA COMPANY. SADIR BELTON Open continuously from 1 till 10 o'clock P. Due notice will be given of appearance of the

TEXAS TWINS, weight only 31 OUNCES.
MAIN ENTRANOR 424 FULTON STREET. MERICAN INSTITUTE EXHIBITION 2nd and 3rd av. bet, 63rd and 64th sts., N. Y. Machinery in operation 10 to 12, 2 to 5, 7 to 10 o'clock Concerts, afternoon at 3, and evening at 8 o'clock. Tickets can be bought at all stations on Second or Third Aronue Elevated Railroad for 50 cents, good for admission and passage both ways. Tickets can be purchased a Three admissions, \$1; 5 admissions, \$1,50; 10 admis-

THE BAPTIST HOME OF BROOKLYN. TUESDAY TO SATURDAY OF THIS WEEK.

INSTRUCTION. Write or apply from 5 to 8 at 82 Elliott place, corner Lafay FITHEO. KAUFMANN'S ART SCHOOL. THE REMAINING DAYS AT NEW YORK. Drawing studied by the use of colors.

SEASON TICKETS 50 CENTS.

oughly for business in a short time. Private and separate MUSICAL INSTITUCTION.

HAS NO BROOKLYN BRANC banjo to ladies and gentlemen at MARSTER'S. Court at : terms \$20 per quarter: fine toned parlor banjos on

T. URIS & SON'S DANCING ACADfashionable dances in one course of lessons. Send for curing

DANCING SCHOOL the janitur of the hall. Society waltzes

8100. 5,000 copies slightly soiled music for 5 and 10 cents SPECIAL NOTICES. he and Commissioner for other States.-Office and residence 281 St. James place; hours 7 to 10 A. M., 4 to 9

M. Real Estate and Insurance. pure Orange County cream; rich, delicious and ways reliable; try it and you will use no other. Depot, 4 One gallon, 60 cts; two gallons, \$1.10; five gallons, \$2.5

THE CHOICEST FOODS IN THE

TATINDOW SHADES.

announced the same principles in stronger terms. T LIVINGSTON COTTAGES,

TEAND HOLLAND, 228 and 228 FULTON ST.

Always in stock, and hunga FINE CARPETS, RUGS, MATS, MATTING, ETC. OILCLOTHS AND LINOLEUM, UPHOLSTERY GOODS, LACE CURTAINS. P. S.—Pawn tickets for overcoats and pants DEMOCRATS.

Last Night.

Kings County War Veterans - Addresses by Demas Barnes, General McHahon and Others-Defining the Issues. was filled with an attentive audience. Mr. Thomas E Pearsail presided and introduced as speakers Mr. M. 1 Towns and Colonel Daniel J. O'Leary. MB. TOWNS' ADDRESS.

of Democratic truth and the heavens were all though determined to do their best, were now enthus campaign the Republicans came before the people with THE OLD SECTIONAL ORY

Mr. Towns said that the cloud which a fortnight ago

lowered on the horizon had been dispelled by the rays

brigadiers. On that basis the campaign in Verme bloody shirt was furled, and those who had waved it compelled to hide their heads in shame. Blaine was routed and betook himself to Philadelphia. There error of his party, proplaimed a new issue. Then the and that they were his only friends. They began bad blood betwirt North and South, and by parading thropic face and gave a sympathetic leer, and an nounced themselves as the friends of the workingman

at finding this would not do, they put on a philan [Laughter.] This was nothing but A GABB OF HYPOGRISY 'Applause.] Had not all the corporations and large lican party from the very first, not only by national party had not wages declined? Who was accountable man were reduced to the lowest possible basis? Amid all the prosperity of later years the workingman

had reaped no bonefit. His hours of labor were ment dwelling unimproved and uncheapened. Protection was granted to the capitalist exclusively tected, the only thing which the workingman had in the market—his labor— was to have no protect Applause. 1 There was to be no tariff on immigration but even the Chinese barbarians were to be brough hither in ship loads, to work for thirty cents a day and drive the American citizen to the wall. [Applause. Mr. Towns referred to the calebrated Chinese letter sen streets, with Vice President John Lynch in the Mr. Garfield, and challenged anyone to offer any reathought it very appropriate that the Republican party. which arrogated to itself the claim of having given audience to a high pitch of enthusiasm which never After a few words by Colonel Daniel J. O'Leary, the

meeting dispersed. Sixth Ward Hancock and English Demas Barnes and James D. Bell. The Sixth Ward Hancock and English Campaign Club held a meeting last evening at its headquarters on Court street opposite Butler. There was a large attendance, and previous to the meeting there was a profuse display of fireworks. The platform was | wrote the letter, neatly decorated, and portraits of the candidates were prosident of the club were prevented from attending by a meeting of the Central Campaign Club which required their presence, and in their absence Mr. R. Lalor, provided. After a few preliminary remarks, Mr. Lalor introduced as the first speaker of the even-MR. S. B. HALLIDAY,

who discussed the issues of the campaign and assured right has never once faltered. The election of Hancock would mean unity of the heart and hand, friendliness workingmen throughout the length and breadth of the and. Mr. Halliday concluded by saying: The services of General Hancock are on record in annals of his country, and when future generali tional principles of civil liberty will make hi rank as one of the most patriotic and intelligen Mr. Halliday referred to the record of

a desperate and corrupt party can invent will be over this army of office holders and corruption, [Loud Mr. Lalor introduced as the next speaker MB. DEMAS BARNES. who received a cordial greeting. Mr. Barnes, after the polause had subsided, spoke as follows: I am not time, when the president comes to me and asks

necessary to reform the civil service of the Government

to put the management of a post office upon the same

basis as we had our military and naval service con

ducted. The Republican party, a few weeks later,

Republican candidate was made President, and the

THE ADMINISTRATION OF HAYES

country has materially prospered under

thought without doubt, that Garfield had written it. would accept his denial as final. But, unfortunately, such was not the case. He had been proven by a committee composed of his own political friends, to be I said "No, not to-night." But, gentlemen, with the -This was not the verdict of a partisan comcourtesy for which he is distinguished, the chairman prenter interest in denying that letter than Mr. Gar-He had over and over expressed similar sentiments to his intimate friends. This letter came directly to von that I did not come here to-night to say one single I after the last assertion of the Republican party that word. I shall not treapass upon your patience by underwas in the interest of the workingmen in America. The taking to make a speech. The issues before us are mo-Chinese of California, were imported, not as human many times, several times during my life; but I have seen the country go on under the rule of good administra with semi slave (coolie) labor, and the American me- | sonally responsible for their execution in every partictions, and under the rule of administrations which, at chanic was bound to work for what his employer chose the commencement, seemed almost intolerable, and give him, why then perhaps Mr. Garfield would be have seen that the wisdom, the intelligence, the afflua favor of the abrogation of the Burlingame treaty. | polling place by the canvassers, the officer who shall suce of the American people, was able to evercome all The Republicans won their victory in Indiana by bull- | carry the box to the station house will securely attach this difficulty. So at this time it has appeared to me dozing employes. The speaker next considered the that whichever party shall succeed, this great American country and great American people are safe from any particular calamity. The issues are such that t and showed that the tendency of the Kepublican usrty. a party of false pretenses, was toward the centralizthem with somewhat divided sentiments as to the result ing of power in the few, or in one man, of their application. From my own standpoint it seems The election of Garfield meant the election of Grant. that one of the greatest questions which the American and the rule of the Republican party would finally become the rule of an individual. and if I could address the people of Brooklyn a lougth I would like to dwell upon it. So far as I can observe, the issue at the present time amounts to, very made a few remarks on the issues of the campaign This country, he said, ought not to forget that it was chested out of its President and its rights four years Democratic party assembled in St. Louis, and upheld ago, and Goueral Garneld was one of the chief noble, patriotic, practical sentiments with reference to gators in the fraud. [Applause.] At the close of his the control of the affairs of this nation. The party had | marks the meeting adjourned. ciples were ignored, and they declared that it was

to do when you take your position in the White House booming of a large gun and the inspiriting strains of the Administration into the channels occupied at the | a band of music at intervals during the evening added commoncement of our Government." Now we see to the general enthusiasm. At 8 o'clock Mr. John L. the Republicans inaugurate the President, and the principles, so that not a voice was raised nor a vote | great gathering to order and closed a stirring address by introducing Counselor James W. Ridgway, who was office. In looking over the records of our country we warmly received. Mr. Ridgway dwelt at length on Garfield's alleged Chinese letter, and quoted from the officeholders, and every one of them is expected to va- | contained were in accord with Garfield's actions while cate his place if the other party obtains power, and there are ten candidates for each of these places. That, the outside, say: ""If we were delegated to do the quire for Mr. Silas B. Dutcher, and you will he, likewise, is on the stand saying: "We must be kept

forged the handwriting must have gone down deep into repeated Sam. "go on with the trial." The jury retire ed in a few minutes brought in a verdict of not gui

gether too much, and if we have anything to do in puri-

upon that one point. If I were going to make a speech !

think I should want to elaborate on this question. The

lesues are so many, with reference to the teriff, to our

take longer time than I can devote to-night, but there

i esting because they are practical. Mr. Chairman, I am

MR. JAMES D. BELL,

such assertion? The speaker thought not.

Leaving the tariff question, Mr. Bell referred

to work hard until election day in favor of the mainten-

ance of Democratic principles and good government.

ribed \$10 toward club expenses, and then the muetin

Kings County War Veterans -- Ad-

dresses by Colonel Coler and Gen-

The Kings County Hancock War Veterans'

chair. There was a slim attendance, owing to a mis-

Association held a meeting last night at the Democrat!

General Committee Rooms, corner of Court and Rem

from Illinois were Democrats. The majority

but down the rebellion, never fought themselve

but it was like him and it was like the part

Republicans who were boasting to-day that that party

can voter of that day went to war, as they all did not.

wood pulp. In such matters the Democratic party

the interest of the people rather than of the favored

GARFIELD'S CHINESE LETTEB.

ing itself-that of a protector of American labor. It

instances a direct falsehood. Not a single man

familiar with Mr. Garfield's handwriting but pro-

crud the evidence for and against the letter and

Great Mass Meeting of the Fourteent.

Grady Touches Up Garrield's Chinese

Fully four thousand men attended the mass.

meeting of the Democracy of the Fourteenth Ward last

night, in Woods' Athletic Hall on Second street, corner

dusion with which the Republican party was cover-

The third speaker was

eral McMahon.

y the Tribune. Times and Harper's Weekly. After the singlug of an effective campaign song the meeting came to a close, Long Island Political Notes. Last evening there was a Republican rally at Comac, and an address by Hon. B. A. Carpenter. This evening, the Democrate of Northport will be addressed by the Hon. James Wadeworth and

THREE CENTS.

The Republicans of St. James held an enthusiastic meeting, and it is said the largest ever com-| vened there, on Friday evening. They were addressed by Wilmot D. Smith and District Attorney Petty. Last Friday evening there was a grand Democratic demonstration at Babylon. Over fifteen hundred people were present, some seven hundred being visitors from Huntington and Port Jofferson. The Republican County Committee of Suffolk has sent out a circular levying an assessment of three per cent. of the gross yearly receipts of each ofeign markets by what I call false legislation at Wash- | Accholder. Several postmasters have refused to pay it. otal issue in Suffolk County, and both candidates for the Assembly have pledged their influence for the re-

poal of the law. have other speakers, but will bid you good evening. Colonel Fleming, of Jamaica, President of the Hancock Club, has gone into the western part of the-State to do service on the stump. He is an effective tended to give to labor. There had been six years of The Democratic campaign is badly managed in Quoons County. Last evening two such eloquent gentlemen as Major Quincy and Mr. Hollabau had an audience of about one hundred people in Je-

In Friday evening the Republicans of erats, it was fair to presume, would not change the | Huntington had twelve hundred people at their meeting, and addresses were made by Mr. N. G. Carman, of Babylon, and Mr. Whittridge, of New York, President of the Independent Republican Association. Though late in the campaign, the Demoerate of Smithtown have organized a campaign club, with the following officers: President, George W. Hallock; Vice President, H. D. Norenus; Tressurer, W. Smith; Secretary, A. E. Hallock. Stephen B. French, one of the New York to the so called solid South, and closed his address by a review of the records of the candidates, and an appeal Police Commissioners, is now on a tour through Suf-

> Congressman. He is particularly interested in the election of Mr. Carpenter to the Assembly. THE ELECTION.

Orders for the Direction of the Police. The following important general orders have been issued to the various police captains by Superintendent Campbell. The captains have been notified that the provisions of the orders will be rigidly enforced OFFICE OF THE SUPERINTENDENT OF POLICE. CITY OF BROOKLYN, MUNICIPAL BUILDING. BROOKLYN, October 26, 1880. GENERAL ORDERS, No. 206-The following orders are:

eraby promulgated for the information and direction

folk County, putting the Republicans in line for a

grand struggle for victory next Tuesday. Mr. Franch-

belongs in Sag Harbor. He was formerly Treasurer of

Suffolk County, and once the Republican candidate for

of the Police Department, while on duty at the polls on You will take special precaution for the preservasupervise and instruct your officers in the performance geants to take charge of the telegraphic instruments | will promptly transmit information to the Central O fice of all disturbances and arrests that may occur dur-II. You will be held responsible for the prompt and safe transmission, before sunrise, of the prescribed number of ballot boxes to each election district in your precinct; and that said boxes are properly labeled and inspected: and that they contain no ballots before the nolls are duly opened; and that they are properly placed in one continuous row, with the glass sides fsoing to the front: and that the provisions of Section 2 the Election law are fully complied with. sous in front of the buildings where the polls are lo cated to enable all citizens to approach the polls with I denositing their votes. The police must take order from the Inspectors and Canvassers of Election, and terrible accusation against General Haucock. charging him with the murder of Mrs. Surrait, but when they | they must accept of the co-operation and co-operate learned the facts they abandoned that position. Again. | with the Deputy United States Marshals and U.S. St they fell back on the proposition that the country was | pervisors of Election for the preservation of the peace osperous, and therefore needed no change—taking to | and protection of citizens. They shall arrest and con-The | not the agents of any political candidate, faction o. were lulled to sleep by the victory in Maine, and the the advantage or prejudice of any candidate, faction or party, by any member of the Department, will be . Inasmuch as the right to challenge is the inherent out as a party question. The understanding in I right of all voters, therefore all challengers must Congress at the last and the previous Congress | protected in the discharge of that duty, whenever and the canvass. When the election in Indiana had been | allow citizens to be present at the canvassing of th decided the Democratic party awoke to a sense of its | votes, but under no circumstances will the citizens t position and set right the much mooted question. Tariff | permitted to interfere with the canvassers in the dis-VI. The enforcement of the law prohibiting the sale. or exposure for sale, of any intoxicating liquors of any description, and the closing of all drinking saloons sought to have the tariff modified, so as to make it in within the prescribed distance from the polls, and c

section 26 of the Ejection law of 1872, is strictly enjoined. The slightest evasion of duty in this respect will be followed by severe penalties. VII. It is to be hoped that the conduct of the pollo on not only this very important occasion, but at all times) will be such as to deserve the confidence and respect of all good citizens. Their attention is directed had been denied, and in every single denial that had | to sections 13, 14, 23, 24 and 26 of the Election law been issued there was a quibble, and in some | 1872. They will report to their respective captains the names of all canvassers who may refuse or neglect to canvass the votes, as provided by law, and instructions First, electoral: second. State judiciary: third. Congrops: fourth. Assembly : fifth, county officers : sixth. If Garneld was an unimpeached witness, the speaker | city officers : seventh, ward officers : eighth, Constitumittee. Secondly, came the faut that no one had a | Election laws, and of the following general orders, By order of the Commissioner. P. CAMPBELL, Superintendent of Police. --- Precinct. BROOKLEN, October 26, 188

GENERAL ORDERS. No. 207 .- You are hereby partic-

ularly charged with the carrying out of the following

instructions of the Commissioner, and will be held per-

Immediately after each ballot box is sealed at the

to the said box the police label provided for that pur-

pose, and fill up the blanks plainly in ink, by inserting Upon the delivery of each box to the sergeant in charge ar each station house, he shall enter upon the blotter the name of the officer so delivering it, and the exact u The sergeaut in charge will also be very particular in noting the condition of the said label and the locking and sealing of the box, and shall enter a description of such condition on the blotter upon the reception of The sergeant in charge will cause the boxes to be placed in the main office, immediately in front of and In full view from the deak, in charge of an officer, who shall be especially assigned to that duty, until the said boxes are taken therefrom, by the captains and commanding sorgeants, for the purpose of being conveyed and delivered to the Superintendent of Police, at Police Headquarters, on the morning of Wednesday, the third Ward Democracy-Hon. Thomas F. day of November, 1880. At all times during the canvassing of the votes one or more officers shall be present for the purpose of witnessing such canvass at each polling place. By order of the Commissioner.

Shee, President of the ward association, called the Tothe Editor of the Brooklyn Eagle: I have just returned from a hurried professional trip through a portion of Connecticut and made a few notes touching the Presidential campaign, which possibly may interest you: At South Normalk.

which has always gone Republican, I found that the

utmost enthusiasm for Hancock prevails. There is a

The Desire For a Change of Administra

To Captain --- Precinct.

P. CAMPBELL, Superintendent of Police.

large hat manufactory, employing something line 1,20% hands, and a lock factory employing about 300 in the town. I saked the proprietor of one of the rringipa hotels-Abram Kuapp, who is a native of the State, and tion would go. He replied by saying: "It is difficu. the majority of my neighbors, but this time I'll vote Republicans that I stenling than we have heard of and the only way we they had only one week for repentance [laughter | can get at the true condition of things is by a charge of and he was present to expose officeholders.

EDISTOLS-CARRYING OF.

ORDINANCE TO REGULATE THE CARRYING OF PISTOLS.

The Common Council of the City of Brooklyn do ordain

ABTOMOTO:

SECTION 1. Every person, except those authorized by law to make arrests, and persons to whom permits shall have been issued, as hereinafter provided, who shall have in his possession, within the City of Brooklyn a pistol of any description, concealed on his person, shall be punished, on conviction, by a fine not exceeding ten dollars, or, in default of payment of such fine, by imprisonment not exceeding

COLE MARKET

Sec. 2. Any person twenty one years of age and over, except as provided in Section 1 of this ordinance, who has occasion to carry a pistol for his pretection, may apply to the officer in command of the station house of the precinct where he resides, and such officer, if satisfied that the applicant is a proper and law abiding person, shall give said person a recommendation to the Superintendent of Police, or, in the absence of the superintendent, to the inspector in command at the central office, who may issue a permit, if approved by the Commissioner of Police and Excise, to the said person, allowing him to carry a pistol of any description.

Sec. 3. Any non-resident, who does business in the City of Brooklyn, and has occasion to carry a pistol while in said city, must make application for permission to do so to the officer in command of the station house of the precinct in which he does business, in the same manner as is required by residents of said city, and shall be subject to the same

conditions and restrictions.

Sec. 4. The Commissioner of Police and Excise is hereby authorized and empowered, for reasons appearing to be satisfactory to him, to annul or revoke any permit given under this ordinance. All persons to whom such permission shall be given are hereby declared to be individually responsible for their own acts or the consequences that may arise from the use of pistols carried under the permission

to be obtained, as provided in this ordinance.

Sec. 5. It, at the time of the arrest of any person, a pistol of any description shall be found concealed on the person so arrested, without the necessary permit to carry the same, the officer making the arrest shall state such fact to the police magistrate before whom the prisoner is brought, and shall make a separate complaint (in addition to the complaint under which the arrest is made) against such prisoner for violation of this ordinance.

Adopted in Common Council, October 4, 1890.

Ten days had elapsed on the 19th day of October, without the same being approved or disapproved by the Mayor.

D. MCNAMARA, City Clerk. CITY CLERK'S OFFICE, Brooklyn, October 25, 1880,

I do hereby certify that the foregoing is a true copy of the original ordinance on file in this office, and of the whole of said original.

oc25 10t D. MUNAMARA, City Clerk.

Case 1:22-cv-00986-GTS-CFH Document 49-29 Filed 10/13/22 Page 1 of

LAWS

OF THE

STATE OF NEW YORK

PASSED AT THE

ONE HUNDRED AND FOURTEENTH SESSION

OF THE

LEGISLATURE,

BEGUN JANUARY SIXTH, 1891, AND ENDED APRIL THIRTIETH, 1891, IN THE CITY OF ALBANY.



ALBANY: BANKS & BROTHERS, PUBLISHERS. 1891. / https://hdl.handle.net/2027/nyp.33433090742150 http://www.hathitrust.org/access use#pd-google

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CHAP. 105.] ONE HUNDRED AND FOURTEENTH SESSION.

CHAP. 105.

AN ACT to revise the charter of the city of Buffalo.

APPROVED by the Governor March 27, 1891. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

TITLE I.

THE CITY.

SECTION 1. The city of Buffalo shall be bounded as follows: Begin-City ning at a point where a line drawn parallel with and thirteen hundred aries. and fifty-three feet distant, and southerly at right angles from the northerly line of lot one hundred and three on the "mile strip" of the New York state reservation on the Niagara river, will intersect the east bank of the Niagara river, and running thence easterly and parallel with said northerly line of said lot one hundred and three to the New York state reservation line, including so much of said lot one hundred and three as lies southerly of the line thus establishing and excluding so much of the "Jones mile square," so called as lies northerly of said line; thence southeasterly along the northeasterly bounds of the said "Jones mile square" and the New York state reservation line the following courses and distance, to wit: South forty degrees east, two chains and sixty links; south thirty-five degrees east, seven chains; south thirty degrees east, seven chains; south twenty-five degrees east, seven chains, and south twenty degrees east, one chain and eighty-three links to the northwesterly corner of township number eleven, in the eighth range of townships of the Holland Land Company's survey; thence easterly along the northerly line of said township, to the northeasterly corner thereof; thence easterly, along the northerly line of said township, to the northeasterly corner thereof; thence easterly, along the northerly line of lot number sixty-six of the eleventh township and seventh range, to the northeasterly corner of said lot number sixty-six; thence southerly, along the easterly line of said lot number sixty-six, to the southeasterly corner thereof; thence easterly, along the southerly line of lots numbers sixty-five, fifty-eight, fifty-seven and fifty-six to the southeasterly corner of said lot fifty-six; thence northerly along the easterly line of lots numbers forty-six, forty-five, forty-four, forty-three, forty-two and forty-one, to the southwesterly corner of lot number thirty-two and the southeasterly corner of lot number forty-one in said last-mentioned township; said corners being also a point in the northerly line of the Buffalo Creek Indian reservation, as surveyed by James Sperry, eight chains and eighty-two links easterly from the northwesterly corner of lot number one hundred and forty-eight and one-half; thence south one degree and fifty-one minutes west, two hundred and eighty-eight chains and seventy-four links to a point in the southerly line of lot number two hundred and seventy-five of said reservation, and eighteen chains and forty-eight links easterly from southwesterly corner of said lot number two hundred and seventy-five; thence westerly along the southerly line of lots numbers two hundred and seventy-five, two hundred and sixty-four, two hundred and sixty-three and forty-two, to the southwesterly corner of said lot number forty-two; thence westerly on the same course

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and seizure of ments.

Arrest of

forthwith arrest all persons there found offending against any law, and shall seize all implements of gaming, lottery tickets and lottery policies found therein, and convey any person so arrested before the police justice, and bring the articles so seized to the office of the superintendent. It shall be the duty of the superintendent to cause the arrested person or persons to be rigorously prosecuted and the seized articles to be destroyed.

§ 206. The superintendent shall detail, on the day of any election

Patrolmen

Rallot-

boxes.

at election in the city, and on the night and day following if necessary, one or more patrolmen to each election poll, who may have access to the room or place in which the ballots are being received and counted. The board shall provide ballot and other boxes, for use at any election in the city, and provide for the custody of such boxes at all times, except during the taking, receiving and counting of ballots. The city shall pay the expenses of procuring and taking care of such boxes as are used at elections.

Measures § 207. The superintendent shall take propor manner, as provided by the for orderly tions conducted in an orderly and fair manner, as provided by the § 207. The superintendent shall take proper measures to have elecelection laws of the state.

Fees not charge-able with-out consent.

§ 208. No fees or compensation whatever shall be charged or received by any member of the police force, except from the city or county for the arrest, confinement or discharge of any person, or for mileage and travel, or for serving any process, or for discharging any other duty required by this act, without the consent and approval of the board, nor shall any such fee or compensation be charged or received by any officer or citizen for the arrest of any person charged with crime, or for the service of any process in any criminal case, without such consent and approval. The actual, necessary and reasonable traveling expenses, which shall include board as well as transportation, incurred by any member of the police force, or by any citizen who may have been selected to execute any process issued within the city, in executing any such process or discharging any duty required of him by the district attorney of the county of Erie, or by any police justice,

Traveling expenses how audi-ted and paid.

A ffidavit of expenditures.

superintendent, but such charges shall only be allowed upon the affidavit of the person making them that such expenditures have been actually and necessarily made and shall not include any items for traveling expenses in cases wherein transportation has been furnished to the party gratuitously.

§ 209. The superintendent may, upon application in writing, setting

judge of a court of record, or criminal court held within the city, shall be audited and allowed by the board of police, and be paid by the

Permits. to carry pistols.

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forth under oath sufficient reasons, issue to any person a permit in writing to carry a pistol or pistols in the city. If such person shall be a private watchman, whose employers recommend the issuing of such permit and whose duties may require the use of such weapon or weapons, such permit shall be issued without charge. For all other such permits issued said superintendent shall charge and receive an annual fee of two dollars and fifty cents, in advance. Such permit shall not continue in force for more than one year, but may in the discretion of the superintendent, be revoked, or renewed from time to time upon the payment in advance of the fee of two dollars and fifty cents for The superintendent shall keep a register, upon which each year.

Registra-

tion there-shall be entered the name, residence and occupation of every person to whom he shall issue such permit, the date of issue or renewal, and Deposit of the fee received for the same; and all the fees so received by him shall be deposited monthly in the city treasury to the credit and for the use

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CHAP. 105. ONE HUNDRED AND FOURTEENTH SESSION.

of the police pension fund hereinafter mentioned. No person, other carrying than members of the police force, regularly elected constables, the weapons sheriff of Erie county, and his duly appointed deputies, shall, in the prohibited. city, carry concealed upon or about his person, any pistol or revolver, or other-dangerous weapon or weapons, without having first obtained a permit, as hereinbefore provided; and such permit shall be produced Exhibiand exhibited by any person holding the same, upon the request of a permits member of the police force. A violation of any of the provisions of Penalty. this section shall be a misdemeanor and punishable as such; and all fines imposed and collected for such violations shall be deposited to Deposit of the credit of said pension fund by the clerk of the court imposing the fines.

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§ 210. The superintendent shall, either personally or through the Dog captains of the respective precincts, subject to such reasonable regulations as the board may, from time to time, adopt, issue licenses to residents of the city who own or keep a dog or dogs, to permit such dogs to run at large within the city limits. Each dog must, at all Collar to be times, wear a suitable collar, to which shall be attached a tag or plate, to be furnished by the superintendent bearing the number of the license issued for it, and all dogs so licensed shall be subject to such provisions of law or ordinances as may be enacted. Such licenses shall Term of be for the term of one year, and shall only be granted upon ree. the payment, in advance of the sum of one dollar for each dog and two dollars for each bitch so owned or kept. It shall be the duty of every person residing in the city, who owns or keeps such Application for an animal to apply to the captain of the precinct in which he resides, licenses. or to the superintendent for a license for each such animal so owned or kept by him; and if such person fail to apply for and take out such license within twenty days after being notified so to do by any member Penalty. of the police force, he shall for each offense, be liable to a fine of five dollars, to be sued for and collected in the municipal court of Buffalo, upon the complaint of the superintendent or any member of the police Any member of the Destrucforce, together with the cost of such proceeding. police force is authorized to destroy by any means other than poison- dogs. ing any such animal not duly licensed and whose owner is not known or who fails to comply with this section. The superintendent shall Record. keep a record of all licenses issued, and shall deposit all fees received Deposit of therefor with the treasurer of the city, who shall credit the same to fines. the police pension fund. All fines collected under the provisions of this section shall be deposited to the credit of said fund.

§ 211. All rewards or gifts that may be paid or given to any member of sion fund, the police force for his service, except when the board allow him to how retain the same, and all moneys arising from the sale of unclaimed created. goods remaining for the space of one year in the hands of the clerk of the board, and all fines imposed by the board upon members of the police force, and all fees received and fines imposed under the two preceding sections, and all moneys, pay, compensation or salary or any part thereof, forfeited, deducted or withheld from any member or members of the police force, for or on account of absence for any cause, lost or sick time, sickness or other disability, physical or mental, shall be paid monthly by the board, and five per centum of all fees for licenses for the sale of liquors, wines, ale and beer, and five per centum of all fines and penalties imposed for any violation of the excise law shall be paid weekly by the board of excise (provided, however, that the said five per centum of license fees, fines and penalties shall not exceed the sum of fifteen thousand dollars in any one year) all of which sum shall be

VOL.LXVIII--NO. 177.

ELMIRA, N. Y., HIURSDAY EVENING, JULY 28, 1892.

THIRD EDITION

Soldiers at Homestead Think They Will All Get Away Next Week.

SOME REGIMENTS HAVE GONE.

Several Hundred Men are Now Said to be down. at Work in the Pittsburg Mills-Labor Leader Hugh O'Donnell Has Left Homestead Again



Homestead, Pa., July 28.—Hugh O'Donnell has left Homestead quietly and is probably on his way East again. Mrs. O'Don-

the labor leader has any particular mission East, unless it be to further his political schemes. He has no commission from the Amalgamated Association or the advisory

committee, so far as could be learned. The members of the advisory committee have little to say concerning the rosy reports of mill work except that it is very easy to impose upon a person not acquainted with the subject. A fact which is heing brought to the notice of the committee by many of the earnest fighters is the increasing number of absent workmen. beginning resolution that any man who left Homestead without leave would not be allowed to work in the mill after the fight was over. For three weeks after the 28th of June very few persons left town and they were all excused, but during the past week hundreds have gone away and, as a result, the watchfulness of the men has been most decidedly impaired. A week ago not a stranger entered the mill whose arrival was not noted. Yesterday 150 non-union men went in and few knew of it until informed .by the papers. This morning two strangers, with valises, got off the train at Homestead Some townsmen told them, but po one

The militia is responsible for this seeming apathy, as the men have come to recognize that as long as men remain in the works it is impossible to argue with them and induce them to leave. So no necessity exists things are not conducted on the American for such vigilance as before.

asked why they wanted to go to the plant.

Camp Black was looking rather dreary this morning, several regiments having gone | we help each other when we are in need of and others are breaking camp. Major Gen- assistance. I gave him money if he needed k eral Snowden and staff leave this afternoon. In an interview the commanding officer said: "The troops have behaved admiraa condition exists which necessitates the left the city. calling out of the state militia every two or three years to suppress troubles arising | she had obtained money from him and out of wage disputes. Some other means of settling these troubles should be arrived

The impression is prevalent among the money when I could. He gets his easily soldiers who are to remain that they will out of poor working people." not be kept here longer than the end of next week. It is expected that the difficulty will be settled by that time.

THE SITUATION AT PITTSBURG.

Seven Hundred Men Are Now Said to be at Work in the Mills.

various trades and labor orders throughout | cago is not dead by any means. the country began in Saller's Hall here yes- "I do not think the letters or papers Dixon of Henderson, Ky., and valued at terday. The object of the meeting is to found in Knold's possession indicate the \$25,000, died here yesterday. Green River devise plans of forming an international or- revival of anarchy in this city," said Super- has a record of 2:221. He had won every ganization which will keep "in touch" with intendent of Police McClaughrey. "These race he started in this season and was enthe labor organizations of the world. The people water letters to their fellows tered in \$65,000 worth of the coming races question of the formation of a bureau of in- all over the world. They have their here. ternational information was discussed all weekly meetings and all that, but there day and finally referred to a committee.

mated Association resumed their confer- larly, and never fails to roast the police. National Express company and H. ence yesterday, but accomplished nothing. The same is true of other anarchistic publi- Julier of the American Express company Another session of the conference will be held to-day.

Four officers are now stationed outside and participants. .. in, and no loitering is allowed.

day by Secretary Lovejoy against strikers assassinate Mr. Frick. My judgment is and People's party will unite on an opposifor aggravated riot and warrants were that it resulted from no prear ranged plan, tion candidate. issued. Seven arrests were made during but was wholly the outgrowth of a dis-

the afternoon and others will follow. day at which W. E. Carney, first vice- Guiteau." president of the Amalgamated Association, was present and made an address. All operatives, including day laborers, were is yet idle.

A STRIKE AT BRADDOCK.

THE BIG IRON STRIKE. | ment at the Edgar Thompson steel works, Braddock, struck for higher wages yester-pay afternoon. The men out are yard ANXIOUS TO GO HOME. trainmen and have charge of all freight consigned to and shipped from the mill. The Amalgamated Association men claim that as nothing can be shipped into or from the steel works, it will have to shut down if the transportation department remains out for three days. In this case, the large plant in the Carnegie interests will be shut

A PRETTY ANARCHIST.

Emma Goldman, The Friend of Berkman,

Talks Pleasantly to a Reporter. New York, July 28.—Emma Goldman, the friend of Berkman, the would-be assassin of Mr. Frick, was found yesterday by a reporter in her apartments in the rear of the first floor of No. 340 East Fifth street. The reporter depicts her as follows:

clear blue eyes, which alternately sparkled waite, the leader of the World's Fair fili with fun or anger as she talked with the re- busters, has also opposed it. Mr. Outhwaite porter. She was dressed in a dark blue and said the sundry civil bill had not passed white striped skirt, white muslin waist, and and intimated that it might not pass. In

A GOOD TALKER. As she talked she looked the reporter | Monday next as the date for adjournment straight in the face and answered his questions in almost perfect English. Only once or twice did her accent betray that she was

said she was proud. anarchistic principles, got mad when the name of John Most was introduced, and was almost dumb whenever Berkman and his crime were mentioned.

The reporter then describes the interview: Mr. Bingham of Pennsylvania, to table the "I am a native of Russia," she said, "but motion to reconsider the vote by which the THE LAW TO TAKE ITS COURSE. with the aid of the Irish party, the latter insolent mien towards the judge. Each in nell was quite nervous this morning and where I was born or of my childhood and House receded from its disagreement to said her husband was away on private early life I don't care to talk. I came to business. It is not understood here that this country seven years ago, and have travelled about in all the principal cities of the United States lecturing to my comrades. front, led by Mr. Outhwaite, who moved an his decision in the case of Wood, con-I have never been arrested for any crime, adjournment, supplementing this motion but I am expecting to be arrested now at with one to adjourn to Saturday. Mr. any minute.

Then the pretty Anarchist indulged i some sarcasm at the expense of the police, who, she said, could have found her at her home or around the streets at any time during the past week, as she had not made any attempt to conceal herself. She explained that she had known Berkman for three years and saw him last week at her rooms in this city before he went to Pitts- Commissioner of Internal Revenue, has The Governor decides therefore to allow burg, but she declined to say on what day submitted to the Secretary of the Treasury the law to take its course.

Berkman and his crime she replied that she 30, 1892. The report says: The total knew nothing about it, and she did not collections from all sources of internal know where he was going when she parted revenue for the fiscal year just ended were from him last week.

Berkman, she said, had not been stay- 2.88. and inquired the way to the steel works. ing at her house in this city for some time, him last week.

NOT MARRIED TO BERKMAN.

"I was never married to Berkman," she went on, "but I am a Russian, and these customs there," she added, modestly.

"I am an Anarchist," she continued, "and | it, and he would have given it to me." She said she had not heard from or

written to Berkman since she last saw him. bly, the discipline being almost per- and afterwards she said she would not well satisfied with say whether she had received any comthe showing. It is deplorable, indeed, that munication from him or not since he had

Referring to Herr Most's statement that that she had supplied it to Berkman, she laughed and afterwards flew into a passion. "I wish I had got some of John Most's

Then she went on with a tirade of sarcasm and abuse of Most and his doings. and characterized him as a coward and a sneak, and was anything but complimentary to the fiery and bloodthirsty ex-resident of Blackwell's Island.

the employ of the company, interest on Pittsburg announce the finding of numer- man they find. Yesterday a party of prostion at the office. There are now 700 men anarchistic publications. The finding of at work, and all departments are running. letters and papers influence the Pittsburg A conference of delegates representing authorities to believe that anarchy in Chi-

is no great activity among them. The iron manufacturers and Amalga- Mrs. Parsons' paper comes out regucations, but we do not care to interfere are in consultation here with Gilman Cheny with them as long as they confine them. of the Canadian Express and L. J. Sar-The Carnegie offices on Fifth avenue are selves to discussions and letter-writing. geant of the Grand Trunk with a view to now under constant surveillance of the We merely keep track of their proceedings. the amalgamation of express interests. police. Suspicious looking men have been If they try to commit any overt act we are loitering about the place several days, but prepared to meet it, and know exactly no attempts has been made to enter it. where to place our hands on the guilty

"I do not think the Chicago agitators have nominated C. R. Breekinridge for Con-Thirty-six informations were made yester- had anything to do with the attempt to gress without opposition. The Republican ordered brain. Berkman, to my mind, had A meeting was held at Duquesne yester- no confederates. He is simply another

No Fusion in South Dakota.

YANKTON, S. D., July 28.—Chairman condition to start. admitted to membership into the associat- Miller of the Democratic State Central Comtion and the plant is now more organized mittee states that all efforts to effect fusion than any mill in Western Pennsylvania. It with the People's party on the state ticket The men in the transportation depart- | the Democrats decline to grant.

First Session of the Fifty-Second Congress Likely to End Saturday.

ACTION OF THE HOUSE TO-DAY

A Joint Resolution Providing for Fina Adjournment on Saturday at 2 p. m. Adopted-Filibustering on the World's Fair Bill.

Saturday at 2 p. m. Mr. Hatch of Mis- last night. The loss will be heavy. She is about five feet two in height, and has an exceptionally fine figure and large, souri has opposed it because he wants the anti-options bill to pass, and Mr. Outh wore russett shoes and black silk stockings. any event, time was needed for both houses to act on it, and he suggested General speechmaking followed.

The House refused-65 to 110-to agree not an American born, of which fact she to an amendment fixing the date of adjournment at 12 o'clock on Monday next. She talked freely about herself and her The original McMillin resolution was then adopted-121 to 51.

to be that made to the sundry civil bill by which were fatal. the Senate World's Fair amendment.

Immediately the fillibusters came to the Cummings of New York acted as lieutenant and moved an adjournment until Monday.

INTERNAL REVENUE REPORT.

Collections for the Year, \$153,857,543-Sugar Bounty Paid, \$7,342,077.

Washington, July 28.—John W. Mason, resulted in a disagreement. he visited her or on what day he left the a preliminary report as to the operations of In answer to all questions relating to his bureau for the fiscal year ended June \$153,857,543.45, an increase of \$7,822,-"If I did," she said with a roguish laugh, 127.48 over the previous fiscal year. The imong Dakota farmers lest they be unable oppose Mr. Gladstone.

and was not her guest at the time she saw sugar to the amount of \$7,342,077. The needed in every county in South Dakota. who the first count showed had been Mrs. Stanley. Col. Cornwallis West is the expense of collection was \$146,297. Bounty This means about 10,000 laborers. Southern elected. This change in the result at Unionist candidate for the Vale of Clwyd

lows:		1
	Producers.	Amount
Louisiana		\$6,882,589 83
Texas	. 14	176,301 7
Florida	. 11	18,233 79
Mississippi	. 1	190 86
California	. 3	163,510 56
Nebraska	. 2	54,690 00
Utah	. 1	21.898 00
Kansas	. 3	22,197 28
Massachusetts	. 5	121 58
New York	. 51	1,151 13
Pennsylvania	. 8	142 15
Ohio		1,050 86

Total..... 757 A large number of the maple sugar prohave been presented were not filed in time for payment prior to July 1.

production of the past season upon which bounty will be claimed is about 3,600,000 pounds, and the total amount to be paid thereon will be about \$63,000, as esti-

Indians in an Ugly Mood.

SPOKANE, Washn., July 28 .- An ugly feeling prevails among the Indians over the invasion of the Colville reservation by boomers. The Indian police are patrolling the frontier, but several hundred boomers PITTSBURG, July 28.—The Carnegie Steel Superintendent McClaughrey Doesn't Think have evaded their vigilance and got into the way the state officials will be relieved from company notified their former workmen | They Had a Hand in The Frick Business. | mountains. Chief Major and a war party yesterday that, as they were no longer in Chicago, July 28.—Dispatches from of sixty bucks threaten to scalp every white money deposited by them would stop and ous letters from Chicago Anarchists in the pectors was stoned while trying to cross the principal would be paid upon applica- house of Carl Knold, together with several Columbia river. Large numbers of boomers are gathering along the boundary.

The Trotting Stallion Green River Dead. Sturgis, Mich., July 28.—The trotting troops at the earliest possible moment, but stallion Green River, belonging to Robert

Express Interests.

MONTREAL, July 28 .- J. C. Fargo of the

Will Fusion Defeat C. R. Breckinridge? MALVERN, Ark., July 28.-The Democrats of the Second Congressional district

The Axtell-Allerton Race Practically Off. INDEPENDENCE, Ia., July 28.—The great race between Axtell and Allerton is practically off. C. W. Williams has received word from Budd Doble that Axtell is not in

For Governor of West Virginia.

l of wild enthusiasm.

TWENTY OIL TANKS ON FIRE.

A Tank Containing 27,000 Barrels Struck by Lightning-Awful Heat.

tank No. 17 of the Southwest Pnnsylvania Pipe Line company six miles from Washington yesterday afternoon. The tank contained 27,000 barrels of oil, and when it burst the burning fluid spread to twenty tanks in the vicinity and soon all were afire. The conflagration was still raging at 10 a. m. to-day, notwithstanding the efforts of 300 men who have been fighting it since yesterday. The heat is so intense that WASHINGTON, July 28.-Mr. McMillin of trains cannot approach within an eighth of Tennessee offered and called up in the a mile of the scene and passengers on the House to-day a joint resolution providing Washington branch of the Pan Handle he calculated that the expenses of the in the air. Walton and Adams after the for the final adjournment of Congress on road were unable to reach their destinations Parnellites in the recent elections amounted ashes had fallen were seen grasping bands.

A COLD WAVE COMING.

The Sun Finds Many New Victims in New

York and Elsewhere. NEW YORK, July 28.-New York still suffers under the great heat, but there is a prospect of cooler weather by evening. A cool wave in the West that makes Chicago a fairly comfortable place to day, with a temperature at 76, is coming this way. The the eve of the elections, he said, the Mc- complying with the order, the prisoner resun finds many new victims, six cases of heat prostration being reported this morning, as well as the death of a man who was stricken yesterday.

CINCINNATI, July 28.—There were thir-The Speaker stated the pending motion teen heat prostrations here yesterday Carthyites received 10,000 pounds from another. Get up if you want to speak to

Gov. Flower Decides Not to Grant a Reprieve to Murderer Wood.

WAHERTOWN, July 28.—Gov. Flower, in demned to be executed for the murder of Pasco, and asking for a reprieve, says:

have found him guilty of murder. He has nellites, he declared, was to get as much as Fairibault plan, for which Archbishop Irebeen defended by able and eloquent coun- they could from both the Conservatives and land went to Rome to fight, has proved a sel, and if there had been any doubt of his Liberals. In regard to the question of failure at Stillwater, Minn. It is announced guilt, or any extenuating circumstances voting in Parliament, he said that they must that St. Michael's parish of that city, which connected with the case, it ought to have follow the independent policy laid down by has been conducted during the past year

TARM LABORERS NEEDED.

Cry For Help in the Harvest Fields.

"you don't think that I would be such a cost of collection for the fiscal year just to harvest their great wheat crop. The fool as to tell you reporters? You write ended will aggregate about \$4,284,000, an grain is now being cut in the southern part nothing but lies; but I don't blame you, be- increase of about \$78,300. The percentage of South Dakota votes cast in the recent election in Greenock, cause the public does not want to know the of the cost of collection is about 2.78. The will begin its wheat harvest in about a Scotland, for member of Parliament shows vent this. truth when it is not the kind of a percentage of the cost of collection for the week or ten days. In the vicinity of Huron that Sir Thomas Sutherland, dissident week or ten days. In the vicinity of Huron that Sir Thomas Sutherland, dissident farmers are especially anxious. It is Liberal, received 2,942 votes, against 2,887 During the year bounty was paid on estimated that from 200 to 400 laborers are cast for John Bruce, his Liberal opponent,

in two or three weeks. the next month to harvest the immense not yet been received. grain crop of the Northwest. The acreage is a little less than last year, but the yield promises to be equally great if only the A Priest Attacked While Celebrating Mass crop can be secured. In order to induce laborers to come to the grain fields, all the railroads have announced a special rate of \$7,342,077 79 \$5 from this city to the Dakotas for farm Dakota and Minnesota send out a cry for help in the harvest fields.

Confined in a Building Vermin-Infested.

Court which is to be convened. When the life of the canon is not known. bound over they will be put into the custody of the United States Marshal. In this the necessity of providing for them. One hundred and six prisoners are confined here in a building but poorly adapted for such purposes, and the place is infested with

A. A. McLeod President of a New Company.

& Western Railway company with the stones, and roofs having collapsed under course. Poughkeepsie Bridge & Railroad company, forming the Philadelphia, Reading & New in many instances whole families. Streams England company, was filed with the Sec retary of State to-day. The capital of the new corporation is \$6,600,000. The directors are A. A McLeod, president; C Tower, Jr., W. W. Gibbs, John W. Brock. Charles Hartshorne, vice president; and Chas. E. Morgan, Jr., of Philadelphia; Arthur Brock of Lebanon, Pa.; Joseph F. Sinnott of Rosemont, Pa., James Armstrong J. H. Taylor, William Jacobs, Maurice Aviel and Pierson Brown of New York city. W. R. Taylor of Philadelphia secretary of the company and W. A. Church of Philadelphia treasurer. The consolidation is in pursuance to an agreement with the Reading Railway company which guarantees the payment of the principal and interest of the first mortgage bonds of this consolidated company amounting to \$11,-

l of satisfaction.

CAUSE OF HOME RULE AN Englishman and American Killed While

PITTSBURG, July 28.—Lightning struck Views of Tim Healy, William Redmond and Michael Davitt.

tion in Greenock, Scotland, Reduces Mr. Gladstone's Majority in the House to Forty.

Parliament the Parnellites would be steered vomited forth, reaching a height of thousby the hands that furnished that money. ands of feet. Walton and Adams perished in the descending fire. The guides escaped. Continuing, Healy said that Rockfort Maguire, for whom the Parnellites had found a seat in Clare, was a pal of the Duke of Abercorn and the Tories. He, Healy, re- Versailles yesterday of four Anarchists garded Maguire as the Parnellites' paymas- used in the explosions on last May Day, ter, and said Maguire would practically one of the prisoners, named Etievant, was be the dictator of the Redmondites. On told by the judge to stand up. Instead of Carthyites were almost entirely without funds and when he, Healy, drew a check for up?" mained in his seat and impudently replied:

"Get up yourself. Why don't you get up?" 33 pounds for expenses he had to ask The judge answered "I am a magistrate the payee not to present the check for a and need not rise to speak to you." Etiefew days; but within ten days the Mc- vant retorted "One man is as good as America and Australia, and it should be re- speak to me; then I will get up, too." membered that if home rule was obtained of bravado set by Etievant and adopted an would have been now extinct, from inability turn began a violent harangue and tried to to pay sheriffs' fees, except for the welcome expatiate on the subject of Anarchism. tinancial support from America and Aus- The judge, after a scene of considerable dis-

William Redmond says the English THE FAMOUS FAIRIBAULT PLAN must be compelled to concede home rule to Wood has had the benefit of two trials, country must be run into a general election juries of his countrymen, and both every six months. The policy of the Par-Mr. Parnell.

Michael Davitt in an address said that every his seat in Parliament every moment that the interests of home rule required. They were confident of the advent of home rule

Mr. Gladstone's Majority Reduced to 40.

also, and North Dakota will begin harvesting the House to 40, still counting upon the

STABBED AT THE ALTAR.

in a Spanish Church.

ducers who were licensed made no claims wages and abundant work; threshing fol- denly rushed from his place in the body of came to Wales that-" for bounty, and most of the claims which lows the cutting and giving many weeks the church, and bounding up the steps of employment at an average of \$2 a day. the altar attacked the canon with a knife, who have been arrested are to be taken be- weapon was wrested from his grasp. The

RIVERS OF MOLTEN ROCK.

cano Gunona.

vermin. At Wallace there are 116 prison- of the volcano Gunona on Great Sangir and soon afterward the meeting came to an ers. If all the troops should be withdrawn Island. The eruption commenced at 6 p. abrupt conclusion. from this region it is thought there would m. on a day early in June, and was unherbe an exodus of non-union miners. The alded by the slightest seismic warning. War Department desires to withdraw all Immense volumes of flame and smoke and of a brief rest to a small fishing village, in the fields getting in the rice crop. Those the weight of ashes, burying the inmates, of lava flowed with frightful rapidity down the slopes of the burning mountain, upon which there were situated numerous farms and villages. Houses and fugitives alike were overwhelmed by these rivers of mol-

It is estimated that over 1,000 persons perished on the slopes of the mountain and many hundreds more in the lowlands, but to write that selfsame sermon." the exact loss of life is not yet known. A week after the eruption had abated the in- of the great pulpit orator, the youth rehabitants were still in a state of terror and marked: would not approach the scene of the disaster. The island is now threatened with then? famine, all the crops having been destroyed. Cocoa trees are still standing, but their their stems left bare. In many parts of listener, exclaimed: the island wells have become dry. The Dutch authorities are doing the best they writing sermons like that. As long as you can to alleviate the distress of the people. do I shall never be ashamed to preach The first trial of Dr. Wood's Norway Pine A government steamer has been placed at them." Syrup will satisfy any one that the lung- the disposal of the local controller to dis-PARKERSBURG, W. Va., July 28.—The healing virtue of the pine has now been re- tribute relief, and many doctors have been

Ascending the Volcano of Colima. Cory of Mexico, July 28.—James Dornsby Walton of Brockenhurst, England, and Henry Adams of Bellows Falls, Vt., attempted to reach the largest crater of the FINANCIAL AID FROM AMERICA volcano of Colima a few days ago. Both men were engaged in the mining business A Recount of the Votes in the Recent Elec- and after some bantering they determined to settle the question which were the braver, Englishmen or Americans, the test being the ascent of the volcano. The guides say that with their respective flags they reached Dublin, July 28.—At the Irish Federa- a shelving rock when suddenly a volume of tion meeting here yesterday Tim Healy said ashes shot from the crater hundreds of feet to 11,000 pounds, and in the incoming The next instant a solid volume of lava was

Insolent Anarchists.

Paris, July 28.—During the trial at charged with stealing dynamite which was

order, succeeded in silencing them.

Ireland. If necessary to gain this end, the For Which Archbishop Ireland Went to

Rome to Fight, a Failure. St. Paul, Minn., July 28.—The famous under the new plan, will conduct its schools as parochials this year. The Stillwater member of the party would remain glued to Board of Education will not enter into a contract with St. Michael's school for amalgamation, and in view of the opposition of the Catholics themselves, the scheme was The Dakotas And Minnesota Send Out a for Ireland. He said he did not believe the abandoned. There had been talk that the members of the Labor party who had been parochial schools would be closed and the St. Paul, July 28.—There is a panic elected to the House of Commons would children sent to public schools and largely for this reason the city Board of Education has taken steps to erect two additional London, July 28 .- A recount of the schools. The action of the Baltimore synod, recommending that the churches maintain their parochial schools, would pre-

Mrs. Cornwallis West's Electioneering. From the Pall Mall Gazette.

Mrs. Cornwallis West has been emulating was paid to producers in states as fol- Minnesota needs help in the harvest field Greenock reduces Gladstone's majority in division of Denbighshire, and the other night he was accompanied to the platform by his wife and other ladies, as well as by Altogether, conservative estimates are Gladstonian candidate in the Orkney Isl- his masculine supporters. His reception that 40,000 laborers will be needed within ands, the returns from which district have was very noisy, and his speech was by no means well received. Presently, the disorder became very marked, and at this point Mrs. Cornwallis West stepped forward. Holding up both hands, she tried to gain a hearing. For a moment there was a lull, and shouts of "Listen to the lady:" MADRID, July 28.—In the city of Burgos "Don't shout a woman down anyhow!" yesterday while Canon Somozo was cele- She began, "I am an Irish woman-[cheers laborers. The farmers also promise good brating mass in the cathedral, a man sud- and renewed disorder]-it was not until I

This was as far as she was allowed to get. and, finally, she had to resume her seat in The fact that a large part of last year's crop stabbing him in two places. Instantly the audience was now addressing those about The total quantity of maple sugar of the was lost through lack of farm laborers were thrown into a state of ex- him from a chair with violent gestures and citement by the sacrilegious act and a num- a strident voice. After a few seconds' ber of the men present made an attempt to paused, and without waiting to communiapprehend the man. He fought desperately cate with her husband or his supporters. to make his escape, and stabbed two of Mrs. Cornwallis West left the platform and those men who had seized hold of him be- descended among the audience, who were WARDNER, Ida., July 28.—The strikers fore he was overpowered and his bloody now standing up. She went straight through the crowd to the orator, and tried fore the United States Commissioner's motive which induced the man to attempt to argue with him for some time. He bent down from the chair on which he stood, and shoving his rough and angry countemance close to hers, shouted at her fiercely Details or the Recent Eruption of the Vol- and repeatedly shook his fist in her face. This conclusion of the episode, which had AMSTERDAM, July 28. - Letters from been watched with interest, was followed Celebes give details of the recent eruption by the return of Mrs. West to the platform,

Beecher and a Man Who Stole His Sermon. From the Boston Globe.

the state authorities are using every effort masses of stones suddenly burst from the where his appearance was apparently unto retain some of the troops till winter sets volcano. The stones fell all over the island, known. When Sunday came around he killing hundreds of natives who were busy went to the morning service at the Congregational church, and was not a little aswho succeeded in reaching the supposed tonished to hear the preacher for the day, a ALBANY, July 28.—A certificate of the shelter of their homes found many houses very young man, rattle off one of his consolidation of the Central New England crushed beneath the weight of the falling (Beecher's) best sermons as an original dis-

At the conclusion of the service the great preacher waited for a chat with the young

"Might I ask you how long it took you to compose the sermon you preached to us this morning?" inquired the real author. "Oh, about six or seven hours," was the

"You must be a very smart young man," said Beecher, "for it took me just five days

After a careful but unblushing scrutiny guess you're Mr. Ward Beecher,

A grave nod was the only response. Then the juvenile apostle put out his leaves and fruit have been destroyed and hand, and, grasping that of his celebrated

"Look here, Mr. Beecher, you just go on

WHY DON'T YOU TRY Carter's Little Liver have been unavailing. The People's party Democratic state convention nominated Mc- fined into an effective and convenient cough sent to the island. The inhabitants, though Pills? They are a positive cure for sick leaders want the majority of offices, which Corkle for Governor at I a. m. aund a scene medicine. Sold by all dealers on a guarantee nearly demented with terror, are docile, and headache, and all the ills produced by disthe authorities have met with no disorder. ordered liver. Only one pill a dose.

News Up to 3:45 p. m.

The Weather. [Reported for the GAZETTE by Gerity Bros'.] ELMIRA, N. Y., July 27, 1892. Forecasts Till 8 P. M. Friday.

WASHINGTON, July 28. Fastern New York-Local showers to-night or Fri-

cooler Friday night. Western New York-Increasing cloudiness. with local thunder storms to night or Friday, southerly winds shifting to westerly, probably cooler by Frilay night.

GOOD EVENING! A Big Price.

Personal.

-Rev. Dr. George H. McKnight went to Rochester this afternoon.

-Mrs. H. L. Armstrong is visiting Mrs. J. S. Fassett in Larchmont.

Laying off Street Laborers.

The street laborers have been laid off, all been discharged.

A Row at Sodus.

[Special Dispatch to the GAZETTE.] WATKINS, N. Y., July 28.-A row occurred at Sodus last night between the combined forces of Havanna and Watkins and a gang of Sodus toughs. The latter got the worst of it. It is said they started the fuss.

Died This Afternoon. Alonzo D. Johnson of No. 229 West Water its full working order again. street, died this afternoon at 1:30 o'clock. The funeral will be held to-morrow afternoon at 2 o'clock at the house, and the interment will be in SS. Peter and Paul's cemetery.

Thoroughly Reliable.

ment appears in to-day's GAZETTE.

One of the strong points they make, is | Mathew's total Abstinance Society. no pay will be required unless work is done as agreed.

An Accident to a Horse.

[Special Dispatch to the GAZETTE.] by Mrs. Prichard, was driving when the has the following to say of the rescue:

An Engineer Injured.

dridge lake this morning. The train was dertake the perilous task, and at the risk of tween the number of new cars as given tween the assets and liabilities. Since then Adams Express..... 150 bound west, and left Elmira at 3:30 o'clock. his own life rescued the lifeless remains. by Mr. Cheney and that stated by another further shortages have been discovered to It appears that an ash pan had been blown The body was wrapt up in blankets, placed well informed person, who told a GAZETTE out, and dumped near that place. Mr. in the baggage car and carried to Denver. reporter this afternoon that the company property lately turned in by Dann. The Vandemark was running along the track when one foot got into the place, where the hot ashes had been dumped, and was He is Besting Quietly and Will Go Yachting stated that the new track, which has been turned over yesterday. terribly burned. He was obliged to dis continue his run, and was taken back to his home at Susquehanna.

Brief City News. -The new switch from the D., L. & W. to-day's New York Herald. to the silk mills is nearly completed.

over the Northern Central railway yester-

Fifth streets.

front of the new academy building, "Elmira Academy A. D. '91."

to-day and took the girls, whose arrests are mentioned elsewhere in this issue, home.

-In Elmira Tuesday, thermometers registered all the way from 100 to 103 degrees in the shade. - Corning Journal That no doubt that he will be found on the

shade was in the sun. -Warren S. Hodgman of Painted Post is working hard to capture the Republican county this fall.

-The Excelsor Colored Band paraded the streets to-day preparatory to the Union

ple in attendance. -The next session of the grand lodge K. abilities say rain. of P. will be held in Elmira. This is due to the energetic efforts of Dauntless lodge K. of P. of this city, of which James A. Camp-

at Troy, N. Y. Waverly also passed through the city en loss. route to that place. The Palmer drum

corps of this city are in attendance. -Last night's Corning papers and this morning's Elmira Advertiser contained an Mrs. Frazee and Lieutenant Mugford, who item in regard to the pantaloons and pocketbook of G. R. Brown, whose house at Fassetts' was blown down sometime ago, being services Sunday will be at Eldridge park | Silver Lake and the Erie lines will run pop- later a policeman found the clothing neatly the disaster. Gazette readers knew of the Army will hold a picnic at Grove park. Train will leave Elmira at 7:30 a. m. Fare Upon searching them \$44, a gold watch, circumstance a few days' after its occurcircumstance a few days' after its occur- Captain and Mrs. Frazee and Lieutenant

Grand excursion to Kenka Lake Assembly Aug. 12, to hear the Rev. Joseph Cook. gretted. All young people's societies and Sunday schools are invited to join. Fare \$1 round

Low rates and a grand good time assured all who go to Lake Keuka Sunday, July Extra Term of Supreme Court. 21st, on the Erie's excursion.

market 227 South Main street.

THE ROLLING MILLS.

What Was Heard and Seen Around That RAILROAD

A GAZETTE reporter called at the Elmira The Latest General, Foreign and Local rolling mills this morning for the purpose of interviewing Mr. Doxey upon the rumors Little Bits of Steam and Electric from a week's visit to Buffalo, said: "The floating about the city as to an agreement having been reached between the old hands and the rolling mill company. That gentle-Sp. m.......83° above......Wind SW: Cloudy man was very reticent about the matter. He SOME said all he knew about the matter was what 1 p. m........93° above......Wind N W; Clear off, the puddling mill would be opened, and several hundred more men would be given employment. He would not say anvday, continued warm, westerly winds, probably thing as to whether he thought the strike would or would not be declared of The reporter was shown through the mills by Charles J. Root, and many old employes were to be seen at work.

In all there are now 150 men in the company's employ and they are all satisfied with their pay, and have no hesitation The price paid for the building at the whatever in saying so. One of the old men, porner of Hudson and Pennsylvania ave- who was sent to Canada by the associaques by Col. D. C. Robinson was \$17,000 tion, has returned and recently gone back

> He stated that in order to get back, he was obliged to pawn his watch. average run of wagesis stated to be \$18 to \$20 per week. The scale paid, he stated, is as high as is paid in any mill in the country at the present time.

Within the past two weeks a new attach the work which the funds will permit of ment has been added to the mills. It is in this summer having been done. At Eld- the form of a pounderous anvil, weighing ridge lake three out of five employes have thirteen tons. This rests upon fourteen feet of solid oak timber. It is to be used to hammer strap iron. As soon as this is in running condition, it will require the employment of twenty-five more men.

The reporter was told by an outsider, and one, who pretended to know, that the only reason the men did not return to work and declare the strike off was because of the mere fact that they disliked to "give in. Mary L. Johnson, the infant daugter of Elmirans would all like to see the mill in

A BRAVE YOUNG MAN.

in The West.

Edward O'Connor, who is well known in to keep an eye on this route. this city, where he resided until about three Bacon & Rubin, are two thoroughly years ago, has come into prominence as a The hot weather also has its influence on reliable young men, who have had large hero at Denver, Colorado. Edward is the street railroad talk some of which experience as scavengers. Their advertise- son of the groceryman, John O'Connor of is more than mere gossip. Yesterday the Suprme Court this morning and re-East Water street, President of the Father 800 tons of rails

published at Denver, Colorado, contains an witnessed the distribution of the rails along account of the cruel death of Willie Gilpin, that thoroughfare. This, of course, means Daniels, Attorney Hoyt, Attorney Ford the 17-year-old son of ex-Governor Gilpin that the railroad will be commenced in a and Trustees White, Voltz, Morton, McKay Corning, July 27.-A valuable horse of of Colorado. The lad fell from a very few days, perhaps, and perhaps not.

the water about an hour and a half, and the superstructure." was so situated that it was dangerous to That the heat affects people differently, been brought in and examined. Engineer Vandemark of Erie engine No. reach it. Edward J. O'Connor, brakeman no one will deny; hence old Sol may be

HILL NOT GOING TO EUROPE. .

Next Week.

Senator David B. Hill has no intention nue as far down as the "T" rail begins. bank should resume business. They figured Chicago & E. Ill.... 60 Pacific Mail... 3412 of going to Europe during the campaign, as Superintendent Baldwin, who has just re- that it could pay 78 cents on the dollar. Do. pref............ 99 Peoria, Dec. & Ev. ... 17

connection at the corner of Lake and East only, as he put it, but because he did not says "Welcome the street railroads." care for sight-seeing, but because his trip

> tice of law in this city. If he has made any plans for the autumn sometime. no one knows them, but his friends have

stump during September. Normandie. After that he intends to Railroad Company allowed a double track and one Indian, left Cape Croker yesterday nomination for County Clerk of Steuben make a yatching trip of a week or so with to be laid on Baldwin street. He said the in a sail boat for Wiarton. When within

The Mercuy Still Stilling It.

At 7 a. m. this morning the hermometer excursion to Sodus Bay, which left the city registered 75°, at 12 m 90°, at 1 p. m. 93°, this morning. There were about 350 peo- and at 3 p. m. 97°. At the same time last year the highest notch was 80°. The prob-

Death of a Corning Young Woman.

Corning, N. Y., July 98. - Mrs. George bell is the representative at the grand lodge Rose died this morning a few minutes past 9 o'clock from consumption. She was the have occurred in police court this afternoon, -The Masonic band of Towanda was in wife of a D., L. & W. transfer man, and but the complainant, R. J. Keyes of Bing- have been recevered. The storm was the the city this morning on their way to Ham- she has suffered greatly. She was married hamton failed to appear. Recorder O'Con- worst ever known here. mondsport, N. Y., to attend the firemen's only about a year ago and leaves a little nell said he must be present, and that he parade te-day. Tioga hose company of baby besides her husband to mourn her had reason to believe he had been kept

Their Last Sunday.

Sunday will be the last Salvation army services held in this city by Captain and will be transferred elsewhere. It is not nual picnic and festival of the Western New known yet who will succeed them. The York Pioneer Association will be held at found several miles away from the scene of and will continue all day. On Tuesday the ular low rate excursions from all divisions. piled up on the sidewalk on Andrews street. Mugford have made many friends in Elmira and their departure will be greatly re- wood or oil will now soon

Don't buy poor meat but go to D. S. Hays' 227 South Main street and get the best there is for sale anywhere.

ALBANY, July 28 .- Governor Flower has to be held at Buffalo, August 16.

---GOSSIP----

Railroad Gossip.

-THE

-STREET-

Rails For the New West Side Railroad Being Distributed Along the Right of Way-Statements That the Hot Weather May Influence.

rumors are to be treated with a grain of alhears and publishes frequently, reports in regard to what the Reading steam railroad and Colonel Robinson's electric railroad are what they are worth and the GAZETTE does not act as sponsor for any of them. The rumor, however, that the Harris property scarcely bear the scrutinizing inspection of calmer reflection when the mercury allows people's thoughts and feelings to descend to their normal status.

In talking with an ex-city official yesterday a GAZETTE reporter was informed that were all affected with the glanders in dif- pointment. The grand lodge appropriated the Reading's old scheme was to come into Elmira and run up State street on stilts. Whether the idea of an elevated entrance into Elmira has been altogether abandoned or not, probably no one but the Reading's officials know.

has been casting its optics on the old tion. It is a constitutional contagion pecultion of it not owned by the D. L. & W. readily communicable to man, sheep, goat, formed divisions. It was laid on the table. switches extending from Sullivan street to narian, who was famous during the reign of cellor ruled under the decision of 1890 the Lake in the vicinity of East Fifth street, Theodosius, the Roman Emperor, wrote an which, if acquired, would make a very con- exhaustive treatise on the subject. Its Banker Geo. K. Sistar of New York Suicides. Country. Come and see me if you wish to buy. A Former Elmiran Distinguishes Himself venient connection with the E. C. & N. It only cure is caution. may, or it may not be worth one's while

THE STREET RAILWAYS. Westside railroad arrived in the city and National Savings Bank matter. Deputy The Rocky Mountain News, a newspaper | pedestrians on Baldwin street, to-day, have |

Joseph F. Moore was seriously injured this height of 200 feet into the Platte F. A. Cheney, manager of the electric forenoon by falling through Sloan's bridge canon. The dead and bruised body was light plant, was quoted by the Advertiser request of Mr. Preston, so that he could in U.S. 4s registered. 1164 M. L.S. & W...... 90 near Little Flats. Mrs. Moore accompanied swept into the raging torrent. This paper this morning as saying that the Elmira & the meantime gain a more complete knowl-Horseheads line had ordered ten new elec- edge of the actual condition of the bank. accident occurred but they were not in- The body of Willie Gilpin had been in tric cars and "some six or eight miles for The examination is now practically com-

> had only ordered four cars, for distribution deeds for this property, which was ap- Central Iowa...... over the several lines. The gentleman further praised by the new trustees last week, were Ches. & Ohio. ordered, is for the retracking of Maple aveanything about the matter.

To a friend who spent a couple of hours | It begins to look as though there was go--Six new electric cars arrived in the city on the veranda of Gen. Earle's cottage at ing to be some riding in Elmira someday, Normandie yesterday he said that he had somehow. Street railroads are going to be refused two pressing offers to accompany built and extended. This makes work and lar, which will allow a surplus to start -- A gang of workmen are laying a sewer parties of his friends ocross the ocean—not work makes business brisk and the GAZETTE

A NEW GENERATOR. as the session was over and begin the prac- the cars in use at the present time, show \$486,875.43. that more cars are to be used somewhere,

WILL THERE BE TROUBLE ? A citizen of Baldwin street called at the Stump during September.

City Clerk's office this afternoon to ascerThe rest of this week he will spend at tain if the charter of the new West Side four ladies, one little girl, three white men Memphis & Ch'n.... 50 St. P., Minn & Man. 11378

> kick on that. lay a street surface railroad and does not specify whether it shall be double or single

The Examination Adjourned. The examination of William Adams was to

away. The case was adjourned. Col. Baxter appeared for Adams and John Babcock for the people.

"Ye Olde Tyme Pick-Nick" Pioneers' Excursion. On Thursday August 4th, the 20th an-

namely: C. W. Young & Co., Griswold, Maloney & Co., G. A. Gridley & Son, John J. Wagner, A. Hurst, W. C. Loomis, J. C. Sullivan.

Rheumatism.

HORSE LARYNGITIS.

To a GAZETTE reporter to-day Dr. Edward

What a Home Veterinary Surgeon Says About the Disease.

Stack of State street, who had just returned disease known as the laryngitis, which has been giving the owners of horses so much trouble, is visibly on the decline. There FACTS, OTHERS ARE? are some cases of genuine epizootic in Western New York, especially in Buffalo. This is merely a more aggravated form of laryngitis. 1 predict that the malady will have practically subwithin twenty days. there is something else that is causing horsemen and vetermar ans far more anxiety This is very hot weather-awful hot, and, It is what is commonly known as the like everybody and everything else, glanders. This is one of the most terrible diseases to which horseflesh is addicted. lowance, that is, kept on ice. The GAZETTE What leperosy is in man, is the glanders among equines, in that it is incurable. While in Buffalo of course I spent most of my time visiting the veterinary hospitals going to do. The rumors are published for there, and I might tell you of some re epizootic seems to be far more familiar than in the smaller towns or country. On on Pennsylyvania avenue had been pur- High street I attended a clinic composed of session, the Grand Lodge of Knights of chased in the interest of the Reading seems a dozen of the most distinguished veteri- Pythias decided that it would be inexpedi- which interest of the Reading seems a dozen of the most distinguished veteri- Pythias decided that it would be inexpedi- refltting saloons, by the largest Saloon Fixture Man narians in the city. It was held in a large ent to pledge financial support to the pro- ufacturers in the world. Good man can make \$5000. barn belonging to a well known brewing posed national Pythian temple at Washingcompany; fourteen of whose finest horses ton, as the lodge is already committed in were the subjects of consultation. After favor of a similar institution in this state. critical investigation and careful delibera- It was also decided to continue the office of tion it was desired that the afflicted beasts. State Deputy, which will be filled by apferent degrees, and they were all the place was quarantined and disinfected. the grand lodge at Elmira in the fourth Cases of the dread disease are not uncom- week of July, 1893. It was decided that the furniture store. mon throughout the city. The glanders is question of eligibility to membership of per- MONEY TO LOAN-In New York and Pennsyldangerously transmissable, as has been re- sons engaged in the liquor traffic was a mat- made in these states and in western farm mort-Another bit of gossip is that the Reading peatedly shown by experiment, or inocculajunction canal, or rather that por- iar to the genus equus (horse, ass and mule) tive drill under the direction of the uni-This route would bring the Reading up dog, cat, rabbit and guinea pig. It is as old Subsequently a motion to make the appro-Newtown creek. There is a system of as civilization. Vegetius Renatus, a veteri- priation \$400 was made. The Grand Chan-

THE BUFFALO SAVINGS BANK

To Resume on The Basis of 78 Cents on The Dollar. BUFFALO, July 28.—Judge Ward sat in right temple, with a revolver. Mr. Sistar the opened the proceeding in reference to the FINANCIAL and COMMERCIAL Attorney General Hogan and Superintendent Preston were present, also ex-Judge and others incerested. It will be recalled that the motion for the appointment of a receiver was postponed until to-day upon and those calling for small amounts have

The statement made a couple of weeks Union Pacific 1sts... 10616 Norfolk & Western. 11

The new trustees held a meeting this Do. 2nd pref...... 4376 Oregon Improve't... morning and renewed their desire that the Do. pref. ances that he wished to take the course Consolidated Gas....11434 Pullman Palace...... 197
that would hast protect the description of the course C., C. C. & St. L..... 6658 Reading............... 6034 that would best protect the depositors. Do. pref...... 98 Richmond Term'1... After hearing the attorneys Judge Ward Colorado Coal...... 3416 Do. pref....... 8016 granted the order, allowing the bank to re- Del. & Hudson......13816 R. W. & Ogdensburg112

Del Lack & West'n 15976 S. L. & S. F. 1st pref 7616 sume, on the basis of 78 cents on the dol- Del. Lack. & West'n. 15978 with of \$10,000, she name to be changed to Dist. & Cal. Feed.

Superintendent Preston's revised state- Do. 2nd pref ment shows that the assets of the bank Edison Gen. E..... The following inscription adorns the might be misconstrued by political enemies. A new electric generator with a capacity are \$1,058,549.30; liabilities \$1,340,000, of gossip that he intended to resign his by Colonel Robinson. This fact and the The total amount of the defalcation as dis- Gt. Nnorthern pref. 142 Mrs. Ellis of Waverly arrived in this city seat in the United Satates Senate as soon fact that there is sufficient power now for covered in the examination up to date is Hocking Valley..... 3534 Union Pacific...... 3816

LIFTED LIKE AN EGGSHELL.

Several Persons on a Sail Boat Drowned in Ontario.

citizens along that street do not object to ten minutes sail of Wiarton a squall struck Futures steady; July 7 40; Aug. 7 40; Sept. 7 45; a single track road, but, as four rails are them. The sails were all down at the time. being laid in each pile, he suspected that it The boat was lifted like an eggshell, and was to be a double track and he would the ballast shifting she went over instantly. John Dance, living on the east shore, The charter merely grants permission to heard the screams of the wrecked party and went out with a row boat. When he arrived only two white men and the Indian were left, all three hanging to a wire on the 87 18-16; May 11/4@92. boat. One of them was foaming at the month. The drownded are George Stevens and wife of Ghesney, S. T. Stevens, two sisters, of Guelph and Mrs. L. Currie and daughter of Wiarton. None of the bodies

Went to Sleep in the Street.

ROCHESTER, N. Y., July 28.-A travelling salesman was arrested early this morning on Andrews street, clad only in hat, shirt and socks. At the police station he gave the name of Arthur E. Law, travellin, been robbed of his liquor and could not tell where. Four hours thought he was under the impression that The old method of cooking with coal, he was in his hotel and undressed on the street and retired for the night on the stone

Shot Ris Little Cousin Aged 4.

TROY, N. Y., July 28 .- A 12-yeor-old son of Shadrack Allen of Pittsfield, Mass., while visiting at East Nassau, in this state, came angry at his little cousin, a 4-year-old For Catalogue, &c., Address Beware of Frauds. -- Be sure you get the | daughter of Irving Allen, and shot the litappointed an extuaordinary general term of genuine Dr. Thomas' Eclectric Oil. It the girl with a shot gun. Four shot pene-When you buy meat go to D. S. Hays' the Supreme Court for the fifth department | cures Colds, Croup, Asthma, Derfness and | trated the child's skull, and many scalp | I wounds were made. The child is still alive

Why You Should Use Cleveland's Baking Powder

It is beyond question perfectly wholesome, being composed only of pure cream of tartar and soda, with enough flour added to keep the strength, no ammonia, no alum, no adulteration whatever.

It is the strongest. A rounded teaspoonful of Cleveland's Baking Powder does more and better work than a heaping teaspoonful of others. A large saving on a year's baking.

Cake and other articles of food keep moist and fresh and do not dry up as when made with baking powders containing ammonia or alum.

NEXT YEAR IN ELMIRA.

markable sights I saw. There the real- The Grand Lodge of Knights of Pythlas to

Hold Its Session Here. TROY, N. Y., July 28 .-- At this morning's \$600 for salary and expenses to the State

It was decided to hold the next session of ter for the subordinate lodges to decide. motion was made to renew the \$500 appropriation to be given as prizes for a competimotion was out of order.

New York, July 28 .- At 10:15 a. m. George K. Sistar, a member of the firm of Sistar Brothers, Bankers, 18 Broad street, Elmira Opera House committed suicide in his room at the Manhattan Club by shooting himself in the

was 50 years old.

To-Day's Oil Quotations. [By Telegraph to the GAZETTE.] re Oir City, July 28.—Oil opened 511/2; 12:30 p. m. 515/8; 1:30 p. m., 515/8; closed 515/8.

Stock and Money Markets. [By Telegraph to the GAZETTE.] New York. July 28. -Money 116@2 Government bonds stead, railroad bonds steady

Alton & Terra Ht. 35

the Empire State Savings Bank of Buffalo. East Tennesse...... 33 St. Paul & Omaca... 501/2 Iowa Central pref... 40 U.S. Express..... 5

> New York Produce Markets. Corron-Steady: Uplands 714: Orleans 75

Louisville & Nashv. .. 7056 Wheeling & L. E.... 3034

...... 371/2 Wisconsin Central.. 171/6

FLOUR-Weak ; superior 2 15@3 15 ; city mills 4 35@4 50; do patent 4 60@4 90; winter wheat low. grades 2 15@3 15; do fair to fancy 3 15@4 40; do patent 3 85@4 75; Minn. clear 3 10@3 65: straights 3 50@4 40; patent 4 00@5 00. Receipts 28,000 bbls.: RYE FLOUR-Steady: superfine 3 60@3 95.

WHEAT-Lower : receipts 72.000 bush : sales 1

500,000; July 8234@; Aug 827/8@83 5-16; Sept 88 7-16 @8334 : Oct 8456@85 ; Nov. --@- ; Dec 87 9-16@ Conn-Weak: Mixed -@-; No 2 Aug 5516@5536 OATS-Weaker; state 3514@43; western 35@43. Receipts 24,000 bush; sales 50,000 bush. BEEF-Firm ; family 9 00@10 00.

PORK-Steady; old mess 12 25@13 25. LARD-Firmer; 76506-BUTTER-Firm; state new 15@21. Creamery @916 : colored -@-. @4 15-16. granulated 43%@45%.
PETROLEUM-Steady; crude 4 90@5 40

TALLOW-Inactive : 414@4 5-16. Eegs-Weaker: 1646@1634. HAY-Firm: 60@90. LEATHER-Firm : sole hemlock, Buenos Ayres, light toheavy weights, 16@22 : common 1416@1716. Woot-Steady; domestic fleeces 25@85; pulled 20@32 : Texas 17@23. Coal-Firm, unchanged.

checks, etc., were found intact. It is INSURANCE. AND REAL ESTATE.

164 & 166 Lake Street. OPPOSITE THE ROBINSON BUILDING

ESTABLISHED 1851.

Course One Year. The Fall Term Begins DEAN, OR SECRETARY.

Albany, N. Y. Graduates will please forward their addresses

EVERYBODY'S COLUMN.

LOST-A "Wirt" fountain pen on Magee or Fifth street. Reward if left at the GAZETTE office. 1t A SWEDISH GIRL wants a situation as dairy A maid. Six years' experience and excellent references. 313 Tuttle avenue. july27d6t

The Rothschild Bar Fixture Co., 1158 Broadway, COR SALE—House on Hudson street, 100 feet from Main. Apply to P. J. Neagle. dec5d2awtf-moss COR SALE-The Peters house cor. Euclid Place and 3d st. Just built, all modern improvements slate roof and good walks. One of the finest places in the city. Compton & Hurlbut, 112 Lake st. jy3dtf. COR SALE-Residence 411 W. 1st st. 9 rooms with hall; hot and cold water and bath; good barn;

plenty of fruit; lot 66x185. Compton & Hurlbut All the latest improvements. Apply to Grumme's

A gages. R. King, 306 E. Water street. MONEY TO LOAN-On real estate, city or farm VI property. Compton & Hurlbut, 112 Lake street

Real Estate Agent.

153 Lake Street.

WAGNER & REIS, Managers.

FOUR NIGHTS AND ONE MATINEE. COMMENCING

Wednesday, July 27. THE Comedy

Northern Pacific 213/8 Friday, July 29 The Banker's Daughter Do. 1st pref....... 5835 Saturday Matinee, July 30..... Confusion

Gompany

Prices 15, 25 and 35c.

LICENSED SCAVENGERS.

81/2 Clean Cess Pools and Vaults by Improved Process.

ABSOLUTELY NO ODOR. Prompt service and reasonable charges. We are the only parties having all modern appliances for doing such work. Six years experience. No pay unless work is done

House 161 Washington Street. Office 151 Baldwin St. Lumber, Shingles, Lath, Sash,

Doors, Blinds, Turned Work Wabash, S. L. & P.. 1184 Coal and Kindling Wood Wells, Fargo & Co.. 148 Coal and Kindling Wood

Full lines of the above at lowest prices may always be found at

The H. C. SPAULDING CO'S. Telephone 121. Cor. 5th and State Sts.

City of Elmira---Official Notice.

The Common Council of the City of Elmira do ordain and enact as follows :

Section 1-Every person except those authorized by law to make arrests, and persons to whom per mits shall have been issued, as hereinafter provided who shall have in his possession within the city Elmira, a pistol of any description concealed on his person, shall be punished on conviction, by a fine not exceeding ten dollars, or, in default of payment of such fine, by imprisonment not exceeding ten

Section 2-Any person twenty-one years old and over, except as provided in section one of this ordi nance, who has occasion to carry a pistol for his CHEESE -- Firm; new 7@91/8; state white fine 8% protection, may apply to the chief of police of this city, and such officer if satisfied that the applicant Sugar—Firm ; crushed 5@51/8 ; powdered, 4 13-16 is a proper and law-abiding person, may issue a permit, if approved by the Commissioners of Police, to refined the said person, allowing him to carry a pistel of any description. The chief of police shall keep a list of such permits granted and shall make returns of the same, upon suitable blanks, to the Commissioners of Police as each meeting of the board for

Section 3-The chief of police is hereby authorized and empowered, for reasons appearing to be satisfactory to him, to annul or revoke any permit given under this ordinance. All persons to whom such permission shall be given are hereby declared to be individually responsible for their own acts or the consequences that may arise from the use of pistols carried under the permission to be obtained. as provided in this ordinance. Section 4-If, at the time of arrest of any person.

a pistol of any description shall be found upon the person so arrested. without the necessary permit to carry the same, it shall be deemed to work a forfeit ure of any right or interest such person may have to, or in such pistol; and the officer making the arrest shall, in addition to the complaint for which the arrest is made. make a separate complaint of violation of this ordinance. Providing that this section shall not apply to any person who may be carrying a pistol unloaded from

he place of its purchase to the residence or to the place of business of such person. CITY CLERK'S OAFICE, SS: I hereby certify that the foregoing ordinance was duly adopted by the Common Council at a regular

meeting thereof, held Monday, July 18th. 18

City of Elmira---Official Notice.

The Common Council of the City of Elmira do ordain and enact as follows:

Section 1—Every person except those authorized by law to make arrests, and persons to whom permits shall have been issued, as hereinafter provided, who shall have in his possession within the city of Elmira, a pistol of any description concealed on his person, shall be punished on conviction, by a fine not exceeding ten dollars, or, in default of payment of such fine, by imprisonment not exceeding ten

days.

Section 2-Any person twenty-one years old and over, except as provided in section one of this ordinance, who has occasion to carry a pistol for his protection, may apply to the chief of police of this city, and such officer if satisfied that the applicant is a proper and law-abiding person, may issue a permit, if approved by the Commissioners of Police, to the said person, allowing him to carry a pistel of any description. The chief of police shall keep a list of such permits granted and shall make returns of the same, upon suitable blanks, to the Commissioners of Police as each meeting of the board for their approval.

Section 3—The chief of police is hereby authorized and empowered, for reasons appearing to be satisfactory to him, to annul or revoke any permit given under this ordinance. All persons to whom such permission shall be given are hereby declared to be individually responsible for their own acts or the consequences that may arise from the use of pistols carried under the permission to be obtained,

as provided in this ordinance.

Section 4-If, at the time of arrest of any person, a pistol of any description shall be found upon the person so arrested. without the necessary permit to carry the same, it shall be deemed to work a forfeiture of any right or interest such person may have to, or in such pistol; and the officer making the arrest shall, in addition to the complaint for which the arrest is made, make a separate complaint of violation of this ordinance.

Providing that this section shall not apply to any person who may be carrying a pistol unloaded from the place of its purchase to the residence or to the

CITY OF ELMIRA.

CITY OF ELMIRA.

I hereby certify that the foregoing ordinance was duly adopted by the Common Council at a regular meeting thereof, held Monday, July 18th. 1892. THOMAS S. SMITH.

Dated City Clerk's Office, | Elmira, N. Y., July 22, 1892. | July 22dtaw 2w-fri-tu

CHARTER

AND

ORDINANCES

OF THE

CITY OF SYRACUSE, N.Y.

As Revised in 1885, and as Amended from 1885 to 1893 INCLUSIVE.

TOGETHER WITH

SPECIAL LEGISLATIVE ENACTMENTS AFFECTING THE CITY OF SYRACUSE.

SUPPLEMENT FOR 1894.

SYRACUSE, N. Y .: E. M. GROVER, PRINTER AND BINDER. 1894.

POLICE PENSION FUND.

LAW TO PROVIDE FOR A POLICE PENSION FUND FOR THE SYRACUSE POLICE FORCE, BEING CHAPTER 509 OF THE LAWS OF 1892.

Police pension fund, how constituted.

SECTION 1. The right to provide and maintain a fund to be known as the police pension fund, is hereby authorized and granted to the police force of the city of Syracuse, to be managed as hereinafter provided, and shall consist of:

Of relief fund.

First. The fund known as the police relief fund and all interests belonging thereto, now in the hands of the treasurer of the city of Syracuse, and of

Forfeitures.

Second. All forfeitures of fines imposed by the board of police commissioners, from time to time, upon or against any member or members of the police force; and of

Rewards, gifts, etc. Third. All rewards, fees, gifts, testimonials and emoluments that may be presented, paid or given to any member of the police on account of police services, except such as shall be allowed by the board of police commissioners to be retained by said board; and of

Lost, etc., money and property. Fourth. All lost, abandoned, unclaimed or stolen money remaining in the possession of the clerk of the police board, for the space of one year, and for which there shall be no lawful claimants, and all moneys arising from the sale, by the said property clerk, of unclaimed, abandoned, lost, or stolen property; and of

LEGISLATIVE ACTS.

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Fifth. All moneys, pay, compensation or salary or Deductions any part thereof, deducted or withheld from any member or members of the police force for or on account of absence, for any cause, lost or sick time, sickness or other disability, physical or mental; and of

Sixth All moneys received or derived from the Receipts from pistol permits. granting or issuing of permits to carry pistols in said city, and the chief of police is hereby authorized to issue permits for such purpose, in proper cases, upon receiving from the applicant for such permit the sum of two dollars and fifty cents, but no permit shall continue in force for more than one year; and of

Seventh. Such sum per month to be paid by each Contributions. member of the police force as shall be agreed upon by the members; and of

Eighth. All fees received by the chief of police, cap-Bail fees. tains or roundsmen for perfecting and accepting bail bonds.

§ 2. The police commissioners of said city are hereby Trustees and treasurer of made a board of trustees of said pension fund, and they fund. shall, from time to time, appoint one of their number as treasurer of said fund, but before entering upon his duties he shall execute and deliver to the said board of trustees a bond in the penal sum of ten thousand dollars to be approved by the mayor of said city and conditioned for the faithful discharge of his duties, and that he shall pay over and account for all moneys and property which shall come into his hands as such treasurer.



MUNICIPAL ORDINANCES

OF THE

CITY OF TROY

1905

RULES AND REGULATIONS

of the

HEALTH DEPARTMENT

RULES AND REGULATIONS

With Reference to the

WATER WORKS



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AN ORDINANCE REGULATING THE CARRYING OF LOADED FIREARMS AND OTHER DANGEROUS WEAPONS IN THE CITY OF TROY.

Miscellaneous.

Passed May 4, 1905.

The City of Troy in Common Council convened, ordains as follows:

Any person, other than a peace officer, Section 1. who shall in any public street, highway or place within the City of Troy, have or carry concealed upon his person any loaded pistol, revolver, or other firearm, or any slungshot, billy, sand-club, or a dagger, dirk, stilletto, or dangerous knife, without theretofore having been authorized as hereinafter provided to carry the same, shall be guilty of a misdemeanor, punishable by a fine not exceeding one hundred and fifty dollars or by imprisonment in a penitentiary or county jail for not more than one hundred and fifty days, or by both.

- § 2. Any person, except as provided in this ordinance, who has occasion to carry a loaded revolver, pistol or firearm for his protection, may apply to the commissioner of public safety-and such officer, if satisfied that the applicant is a proper and lawabiding person, shall give the said person a permit allowing him to loaded firearm for such period of time as he may deem Any non-resident who does business in the City of Troy, and has occasion to carry a loaded pistol, revolver, or firearm while in the said city, must make application for permission to do so, to the commissioner of public safety, in the same manner as is required of residents of said city, and shall be subject to the same conditions and restrictions.
- § 3. If, at the time of arrest, a loaded pistol, revolver, or firearm of any description or slungshot, billy, sand club, or a dagger, dirk, stilletto, or dangerous knife, shall be found concealed on the person of the one arrested, the

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City Ordinances.

officer making the arrest shall state such fact to the Magistrate before whom the prisoner is brought, and shall make a separate complaint against such prisoner, for violation of the provisions of this ordinance.

- § 4. The commissioner of public safety is hereby authorized and empowered, for reasons appearing to be satisfactory to him, to annul, or revoke any permission given under this ordinance. Every person to whom a permit shall be given as above provided, shall pay therefore, the sum of two dollars and fifty cents; which shall be applied in aid of the police pension fund; and a return in detail, shall be made monthly by the commissioner of public safety, to the comptroller of the city, of the amount so received and credited. All persons to whom such permission shall be granted are hereby declared to be individually responsible for their own acts or the consequences that may arise from the use of loaded pistols, revolvers, or firearms, carried under the permission obtained as provided in this ordinance.
- § 5. All ordinances or parts of ordinances of the City of Troy, inconsistent with the provisions of this ordinance are hereby repealed.
 - § 6. This ordinance shall take effect immediately.

Case 1:22-cv-00986-GTS-CFH Document 49-33 Filed 10/13/22 Page 1 of 3

REVISED CHARTER

AND

ORDINANCES

OF THE

CITY OF LOCKPORT

PRINTED BY AUTHORITY OF THE COMMON COUNCIL
OF THE CITY.

LOCKPORT, N. Y.

AUGUST, 1913.

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PENAL ORDINANCES

of sixteen years, to allow or permit any such child or ward to go or be in or upon any street, alley, park or other public places, within the time prohibited in section one of this ordinance, unless there exists a reasonable necessity therefor.

Sec. 3. Curfew bell. Two strokes of the fire alarm bell shall be given by the police from police headquarters, at the appointed time, as a warning, to be called the "Curfew Bell," after which a child is required to be in his or her home or off the streets.

Penalty. Any policeman, constable or peace officer, is hereby authorized to arrest any such minor violating any of the provisions of section one of this ordinance, and for the first violation to take such child to his home and notify his parents or guardian of said violation, and of the penalty if again arrested; upon any subsequent violation of the provisions of this ordinance, said parents or guardian shall be fined not less than One Dollar (\$1.00) nor more than Five Dollars (\$5.00); and if it shall appear that said child or minor person for want of proper parental care is growing up in mendicancy or vagrancy, or is incorrigible, such proceedings shall be had and taken as authorized and provided by law in such cases.

Sec. 5. This ordinance shall take effect immediately.

PENAL ORDINANCE NO. 35. CONCEALED WEAPON.

(Adopted Dec. 7, 1999.)

The common council of the city of Lockport do ordain as follows:

Section 1. Concealed weapon. No person over the age



PENAL ORDINANCES

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of 16 years shall have or carry concealed upon his person, in said city, any pistol, revolver, or other firearm without a written license therefor, theretofore issued to him by the chief of police of such city as hereinafter provided.

- **Permit.** The chief of police may, upon application therefor, issue to any person, who is over sixteen years of age and a citizen of the United States, a permit in writing to carry a pistol or revolver in said city. For such permits so issued said chief of police shall charge and receive a fee of one dollar and fifty cents in advance. permit shall not continue in force for more than one year, and may, in the discretion of the chief of police, be revoked or renewed from time to time upon the payment in advance of one dollar and fifty cents for each year, or fraction The chief of police shall keep a record of the name, age, residence and occupation of every person to whom he shall issue such permit, and date of issue, or renewal, and the fee received for the same; and all the fees so received by him shall be deposited monthly in the city treasury to the credit and for the use of the police pension fund of said city. Any permit issued hereunder shall be produced and exhibited by any person holding the same, upon the request of a member of the police department of said city.
- Sec. 3. Penalty. Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor and shall be punishable by a fine not to exceed fifty dollars, or imprisonment not to exceed six months, or by both such fine and imprisonment. And all fines imposed and collected for a violation of this section shall be deposited to the credit of said pension fund by the person so collecting the same.
 - This ordinance shall take effect immediately.

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MUNICIPAL CODE

OF THE

CITY OF ALBANY, N. Y.

CONTAINING

The Dongan Charter, Second Class Cities' Law,
The Unrepealed Portions of the Former City
Charters, General and Special State Laws

APPLICABLE TO

THE CITY OF ALBANY

AND

THE GENERAL CITY ORDINANCES

COMPLETE TO SEPTEMBER, 1910

Compiled and Arranged by Franklin M. Danaher and Charles H. Mills, under the Direction of

ARTHUR L. ANDREWS

Corporation Counsel

ALBANY, N. Y.

1910

PRESS OF
THE BRANDOW PRINTING COMPANY
. ALBANY, N. Y.

ments for the period of five years from the date of the contract of sale, and for the performance of all other conditions in said contract contained. The amount of such bond and the sufficiency of the sureties to be approved by the Mayor, and its form and manner of execution by the Corporation Counsel or his assistant.

- § 6. All moneys received by the City Treasurer from such sales shall be credited by him as for moneys received for redemption of lands purchased by the city for non-payment of taxes, water rents and assessments.
 - § 7. This ordinance shall take effect immediately.

CHAPTER 72

An ordinance regulating the carrying of loaded firearms in the City of Albany

Passed March 6, 1905.

The City of Albany, in Common Council convened, ordains as follows:

Section I. Any person, other than a peace officer, who shall in any public street, highway, or place within the city of Albany, have or carry concealed upon his person any loaded pistol, revolver, or other firearm, without theretofore having been authorized as hereinafter provided to carry the same, shall be guilty of a misdemeanor, punishable by a fine not exceeding one hundred and fifty dollars, or by imprisonment in a penitentiary or county jail for not more than one hundred and fifty days, or by both.

- § 2. Any person, except as provided in this ordinance, who has occasion to carry a loaded revolver, pistol, or firearm for his protection, may apply to the Commissioner of Public Safety- and such officer, if satisfied that the applicant is a proper and law-abiding person, shall give the said person a permit allowing him to carry such loaded firearms for such period of time as he may deem proper. Any nonnvesident who does business in the city of Albany, and has occasion to carry a loaded pistol, revolver, or firearm while in the said city, must make application for permission to do so, to the Commissioner of Public Safety, in the same manner as is required of residents of said city, and shall be subject to the same conditions and restrictions.
- § 3. If, at the time of arrest, a loaded pistol, revolver, or firearm of any description shall be found concealed on the person of

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the one arrested, the officer making the arrest shall state such fact to the magistrate before whom the prisoner is brought, and shall make a separate complaint against such prisoner, for violation of the provisions of this ordinance.

- § 4. The Commissioner of Public Safety is hereby authorized and empowered, for reason appearing to be satisfactory to him, to annul, or revoke any permission given under this ordinance. Every person to whom a permit shall be granted as above provided, shall pay therefor, the sum of two dollars and fifty cents; which shall be applied in aid of the Police Pension Fund; and a return in detail, shall be made monthly by the Commissioner of Public Safety, to the Comptroller of the City, of the amount so received and credited. All persons to whom such permission shall be granted are hereby declared to be individually responsible for their own acts, or the consequences that may arise from the use of loaded pistols, revolvers, or firearms, carried under the permission obtained as provided in this ordinance.
- § 5. All ordinances or parts of ordinances of the city of Albany, inconsistent with the provisions of this ordinance are hereby repealed.

CHAPTER 73

An ordinance determining the number of members of the fire department and the classes or grades in which they shall be divided

Section 1. The number of members of the Fire Department and the classes or grades in which they shall be divided is hereby determined as follows:

There shall be one chief, two permanent assistant chiefs, one clerk, one superintendent of fire alarm, one assistant superintendent of fire alarm, two operators, two linemen, one battery man, one superintendent of the hose and supply depot, one assistant superintendent of hose and supply depot, thirteen foremen, not to exceed thirteen assistant foremen, ten engineers of steamers. ten firemen of steamers, ten drivers of steamers, three tillermen, three drivers of trucks, sixty-four permanent hosemen and laddermen, two relief engineers, one relief fireman, one relief driver, one relief truckman, one call assistant engineer, not to exceed fortyfive call hosemen and laddermen, one veterinary surgeon and one department physician.

THIRD SESSION. CHAP. 55.]

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 for-feited estates. That the treasurer shall upon the warrant of the person Advances administring the government of this State, advance as cash to the said to personal named. 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.

And be it further enacted by the authority aforesaid, That if any person penalty shall forge or counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit any such loan office certificate, or shall sell, for counterfeit and the same counterfeit and the same certificate and negotiate or assign over, or tender for, or in payment at the treasury, etc. 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.

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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 regu- Preamble. lated militia as the only secure means for defending a State against external invasions, and internal commotions and insurrections.

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, repre- Persons to sented in Senate and Assembly, and it is hereby enacted by the authority of be enthe 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

[CHAP, 55,

Disputes, how to be decided.

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Equipments.

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. 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, accounted 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 accourrements, 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 administring the government of this State for the time being.

Militia to be arranged 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 najor 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

THIRD SESSION. CHAP. 55.]

grenadiers, shall respectively be formed and composed of voluntiers, 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 lifty men, officers included; and that no person shall hereafter inlist 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 voluntier; the captain of the Enlisttroop of horse, or company of grenadiers, do immediately certify to the be certicaptain of the beat, from which such voluntier shall inlist, the inlistment fled. of the said voluntier.

VIII. That each trooper shall be equipped and provided with a good Equipservicable horse, at least fourteen hands high, a good saddle, housing, ments or troopers. holsters, breast plate and crupper, a case of good pistols, a good, horseman'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.

IX. That each colonel or commanding officer of a regiment, shall, in Regimentthe first or second week in April, and in the first or second week in al parades. 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 accourrements 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. X. That every commissioned officer of the militia, in this State, who officers shall omit or neglect to perform any of the duties, by this act enjoined on the perform him, of enrolling training or disciplining in and to the use of arms, the duties have the performance of the per militia of this State, or making perfect returns of the militia, or not call- this act to ing out to actual service the militia, or any part thereof, when necessary, be court martialed. 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-

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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

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XI. That the brigadier general, and the field officers of each brigade. shall, on the second Tuesday in January and the second Tuesday in officers to June yearly and every year, meet together, at such town or place within tences. 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 diers.

XII. That every commissioned officer of the militia of this State who officers to consent of the council of appointment, shall be obliged to do the duty foot soloof and in every respect be put on a footier with shall be cashiered, or who shall resign his commission, unless with the thing contained in this act, to the contrary thereof notwithstanding.

Foot soldiers pearing.

XIII. That every foot soldier of the said militia who shall neglect to penalty for 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 accourtements, 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, etc.

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 serjeants 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

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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 Rank. 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 command- Returns. ing officers of regiments, respectively, to the respective brigadiers general, brigade returns shall without delay be made to the commander in

XVI. That one brigade, regiment, or company of foot (except How comgrenadiers 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 posted, each brigade, regiment or company shall be posted and disposed of in etc. the line on command, as the commanding officer on the spot, shall on every occasion or emergency think proper.

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XVII. That on every emergency of a sudden invasion by the enemy, Militia to or insurrection, within this State, the commanding officer of any brigade, be called regiment, or company, as the cases may require, shall immedeately draw cases of out the militia under his command and with them oppose the enemy or emergency. 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, officers when called out into actual service, either to act separately or in con- and prijunction with the troops of the United States of America, shall from the called into time of his receiving due notice thereof from his commanding officer, actual service subuntil he be properly discharged from that service, if and as long as he ject to shall perform the same, and untill properly discharged or dismissed, be articles of allowed pay, subsistence and rations, according to the Continental estab- war. lishment, 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 dismission, shall commit any offence, or shall, before such discharge or dismission, 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 offender 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

XX. That the commander in chief for the time being shall have power and authority, from time to time in his discretion, to militia, etc. whole or any part of the associated exempts and enrolled militia 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.

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

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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 limitted, 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, Privates and divided, by the captain or commanding officer of the company, into of each eight classes, as nearly equal in number to each other as conveniently to be may be, and a serjeant or a corporal shall be allotted on the roll, by the divided captain or commanding officer, to each class; which said eight classes, in classes. 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 s'ips 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 ballotting, 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 ballotting as above directed.

XXIII. That when and as often as the classes shall be thus fixed, Roll of each captain or commanding officer of each company shall form a roll classes. 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 ballotting, 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 com-

pany return, in a book to be kept by him for the purpose.

XXIV. That the colonel or next commanding officer of the regiment Tours of shall, on receipt of all the classed returns of the companies in his regiduty of ment, convene together all the commissioned officers in his regiment, stoned and proceed in like manner to fix by ballot the respective tours of duty officers. 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 ballotting

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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 appointed to command. Substi-

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.

tutes.

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 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. the substance of such associations shall be, that the associators will sev-

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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 seperate 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 In case of act to military duty in the militia, who shall remove out of the limits of removal the regiment or corps in which he shall be commissioned, associated, or liable to enrolled, and sojourn, or be within the limits of any other regiment, or draft. 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 belong's in order to avoid being drafted or performing other military duty.

XXXI. That the lieutenant governor, members of the senate and omeers, assembly, and their several clerks, and all judicial officers, the secretary etc., exof this State and two of his deputies, the treasurer, the auditor general, training. 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.

XXXII. That all those male persons, between the ages of sixteen and Quakers sixty years, who are or shall be of the people called Quakers, upon pro-but liable ducing a certificate from one of their quarterly meetings that he or they to tax 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

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within his beat; and the respective supervisors of the county, at either of their meetings, shall make out a seperate 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 per have furnished

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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 substitutes 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 etc.

XXXV. Be it therefore enacted by the authority aforesaid, That the same shall respectively be ascertained from time to time, by the presicourts-martial to dent of such courts respectively, and be paid from time to time, out of be paid out the fines arising from each regiment, or corps of exempts, and which are of times.

The this act required to be paid to the commanding officer of the regiment. 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 ballance 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 expresses, 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 repectively 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

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from the person administring 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 Wounded any person be wounded or disabled upon assisting in repelling any invasion or an incursion of the enemy, or suppressing an insurrection, or any subsisted, other legal military service, he shall be subsisted and provided for at etc. the expence of the State, during such disability, exept 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.

XXXIX. And be it further enacted by the authority aforesaid, That the Acts conact now in force, entitled, "An act for regulating the militia of the State of force. 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.

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 regi- Offenders mental courts martial shall and may take cognizance of, try and deter- may be mine, all such offenders as have been guilty of any offences against the tried. 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.

XLI. That proceedings or trials at courts martial, may be carried on Proceedat any time or times, the seventh article of the fourteenth section of logs of the said articles of the said artic the said articles of war, whereby such proceedings or trials are pro-when may hibited from being carried on, except between the hours of eight in the on. morning, and three in the afternoon, to the contrary notwithstanding.

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Articles of war to be

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.

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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.

Commiscourts named to be made

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 over 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 over and terminer and general gaol delivery.

Precepts summon-

And be it further enacted by the authority aforesaid, That whenever to be issued for and as often as any person or persons, shall be apprehended and in actual custody, charged with any of the offences aforesaid, heretofore juries, etc. 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 agreable to the form of precept issued by the justices of the courts of over 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 over and terminer and general goal 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 sherif 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

COMPILED

ORDINANCES

OF THE

CITY OF OMAHA.

EMBRACING ALL THOSE OF A GENERAL NATURE IN FORCE JULY 31st, 1881; ALSO,

MANY OF A SPECIAL, LOCAL AND MORE IMPORTANT CHARACTER, INCLUDING THOSE

PASSED DURING THE MONTHS OF AUGUST, SEPTEMBER AND OCTOBER, 1881,

AFTER THE COMPILATION WAS COMPLETED; TO WHICH IS ADDED MUCH

OTHER VALUABLE MATTER—THE WHOLE BEING PREFIXED BY

THE CONSTITUTION OF THE STATE AND THE ACTS OF THE

LEGISLATURE GOVERNING CITIES OF THE FIRST-CLASS.

COMPILED AND ARRANGED UNDER THE IMMEDIATE SUPERVISION OF CHAMPION S. CHASE.

PUBLISHED BY ORDER OF THE CITY COUNCIL.

OMAHA, NEB:
BISON, MILLER & RICHARDSON PRINTERS.
1881.

counsel. The trial may be adjourned from time to time as the council shall

deem necessary.

Sec. 3. [Contempt by witness.]—If any person shall refuse to attend as a witness at such trial, the council may order his arrest by the sergeant-at-arms, and such person when arrested shall be punished for the contempt by fine not to exceed fifty dollars, or by imprisonment not to exceed ten days, or otherwise as the council may direct. All witnesses shall be examined under oath or affirmation.

Sec. 4. [Conduct of trial.]—After hearing the proof on both sides the prosecution and defense may each, in the order named, once address the council, and for such length of time as the council shall determine. All questions arising during the progress of the trial shall be determined by the president in the first instance, subject to an appeal to the council by either party. At the close of the arguments, the council, by a vote of ayes and noes, shall determine as to the truth of the charge, or charges, or any of them. If the charge or charges, or any of them are sustained, the council may take such action in declaring the removal from office of the person accused, as to them may seem proper. The mayor by and with the consent of the city council, may suspend any officer from office whenever charges have been preferred against him, and pending the trial of the same, and may fill the temporary vacancy by appointment, except in case of the trial of any member of the city council; and in case the mayor is suspended the president of the council shall act as mayor.

Sec. 5. [Removal of employes.]—Nothing herein contained shall be construed as interfering in any way with the right of the city council to examine into charges against any appointed officer or employe of the city, by a committee of the council, and in such manner as they may determine, but the council shall have the right so to do, and any such officer may be removed from office at any time by the mayor, by and with the consent of the city council. No elective officer shall be removed the second time for

the same offense.

CHAPTER XXXI.—PEACE---DISTURBANCE OF.

Section 1. [Fighting, intoxication, etc.]---It shall be unlawful for any person to disturb the good order and peace of the city of Omaha by making any loud or unusual noise; or by fighting or threatening to fight, by tumultuous threatenings, or offensive carriage, or by being intoxicated on the streets, or in any public place in said city, or in any private place without the consent of the owner, or by using any obscene or profane language in the streets or other public places to the annoyance of citizens.

Sec. 2. [Indecent acts.]---It shall be unlawful for any person or persons to indulge in any indecent or disorderly conduct, or any lewd or lascivious behavior in the streets or other public places in the city of Omaha, or to commit any indecent, immodest or filthy act within the limits of said city in the presence of any person, or in such a situation that per-

sons passing might ordinarily see the same.

Sec. 3. [Indecent dress.]---It shall be unlawful for any person to appear in any public place in said city in a state of nudity, or in a dress not belonging to his or her sex, or in an indecent or lewd dress.

Sec. 4. [Indecent pictures, books or plays.]---It shall be unlaw-

ful for any person to exhibit, sell, or offer for sale, or to dispose of in any manner any indecent or lewd book, picture or other thing, or to exhibit any indecent, immoral, or lewd play or other representation within said city, and any person who shall violate any of the provisions of this section or of the preceding sections of this chapter, or who shall in any manner other than is herein specified, willfully or maliciously disturb the public peace of said city, shall, on conviction thereof, be fined in any sum not exceeding fifty dollars.

Sec. 5. [Fire-arms and fire-works.]---If any person shall unnecessarily discharge any fire-arms, or shoot off any fire-crackers, or other fire-works, or shall light or throw any fire-ball or crackers, in said city, without permission of the mayor, such person so doing, shall, on conviction thereof, be fined in any sum not exceeding twenty dollars. The city council may by resolution suspend the operation of the above provision of this section, on the Fourth of July or any other day of public rejoicing.

Sec. 6. [Concealed weapons.]—If any person shall carry any concealed weapon or weapons, or have concealed on or about his or her person any revolver, pistol, slungshot, bowie knife, or other deadly weapon or instrument, such person shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not exceeding twenty dollars. The foregoing provisions shall not apply to officers whose duties require that they should carry arms, nor to well known and worthy citizens, or persons of good repute, who may carry arms for their own protection in going to or from their place or places of business, if such business be lawful.

Sec. 7. [Disorderly houses.]—Any person or association of persons who shall permit in his, her, or their house, out-house, yard, or other premises under his, her, or their control, any gambling with cards, dice, or other implements or devices used in gambling, or who shall permit any loud or unusual noises therein, or shall suffer or permit any person or persons to fight or threaten to fight in such premises, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not to exceed twenty dollars.

Sec. 8. [Gaming.]—Any person or persons who shall keep a house for the purpose of gambling therein, or who shall suffer or permit other persons to come there, or to frequent and come together there for the purpose of gaming, and every person who in any public place shall play for money or other valuable thing at cards, dice, or in any other manner, or shall bet at faro, keno, or any other game, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not exceeding twenty dollars.

Sec. 9. [Vagrants and swindlers,]—Any and all persons who shall loiter about the city for the space of ten days without having some known legal occupation or means of support, and all suspicious persons who can give no reasonable account of themselves, which said classes of persons are usually termed vagrants, and all watch stuffers, ball game players, and all other persons who shall practice the game known as three-card monte or any game trick or device with intent to swindle may be arrested with or without warrant, by the marshal or any policeman of the city, and upon conviction of any act herein set forth, shall be deemed guilty of a misdemeanor, and shall be fined in the sum of twenty dollars and be imprisoned for a term of thirty days. [As amended May 13, 1873.]

Sec. 10. [Additional penalty.]—In addition to the penalty hereinbefore affixed to any ofiense mentioned in the first eight sections of this

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

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 L

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

Section 1. Be it enacted by the Senate and House of Representa-

tives 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 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 armed and acknapsack, a pouch with a box therein to contain not less than twenty- contred. 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 espontoon, and that from and after five years from the passing of this act, all muskets for arming the militia as herein required, shall be of bores sufficient for

May 8, 1792.

Militia how and by whom to be enrolled.

How to be

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 postofficers, 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,

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 brigadiergeneral, 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 con-1803, ch. 15, sist 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.

вес. 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.

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 bombadiers, one drummer, and one fifer. The officers to be armed with a sword or hanger, a fusee, 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

Artillery and horse of whom to be formed;

discretion of the commander-in-chief of the state, not exceeding one to be uniformly 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 legis-

lature of the respective states shall direct.

Sec. 6. And be it further enacted, That there shall be an adjutantgeneral 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 twentyninth 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 disci-

. pline.

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 accourrements; 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 Vol. I.—35

own expense.

1803, ch. 15.

What colors &c. and by whom to be fur-

Adjutant-general in each state, his duty.

1803, ch. 15.

Rules of dis-

Officers how to take rank.

Provision in case of wounds,

Brigade inspector's duty.

1803, ch. 15.

SECOND CONGRESS. SESS. I. CH. 34.

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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. 11. 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 allowance from 1st of July next to cersurveyors and collectors.

1790, ch. 35. sec. 53.

Act of March 2, 1799, ch. 23.

Section 1. 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-

ACTS

OF THE

THIRTIETH

GENERAL ASSEMBLY

OF THE

STATE OF NEW-JERSEY.

SECOND SITTING

CHAP. CLXXXV.

An act to erect and set off a new township from the townships of Hanover and Morris, in the county of Morris.

SEC. 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 all the district of the above townships of Hanover and Bounds. Morris, included within the following limits, viz. beginning at a pin oak tree, standing on the bank of Passaic river, on lands of Robert Moore's, near the corner of Moses Stiles, about half a mile above Col. Cook's bridge, and running thence, south eighty nine degrees west, to a cherry tree in the northwest corner of the garden, late the property of Dr. Bern Budd, deceased; thence in a direct line to the cross roads by Daniel Crane's on Loantica hill; from thence south, eighteen degrees west, forty-seven chains and fifty links to a stake and heap of stones on the brow of the hill back of Zophar Freeman's house, from thence south, five de336

fifty years, from the passing of this act, repay the proprietors of said road, the amount of the sums expended thereon, with twelve per centum per annum in addition thereto, deducting the neat amount of toll received, and in that case the said road shall become the property of the state of New-Jersey, and be under the control of the legislature thereof, any thing in this act contained to the contrary notwithstanding.

A. Passed at Trenton, February 24, 1806.

CHAP. CLXXXVII.

An act for establishing and conducting the military force of New-Jersey.

SEC. 1. BE IT ENACTED by the council

and

and general assembly of this state, and it is hereby Who shall enacted by the authority of the same, That every free able bodied white male inhabitant of this state, who is, or shall be of the age of eighteen years, and under the age of forty-five years, (except ministers of the gospel, 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 Uni-

who fitall

be enroll-

ted 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) 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, Provided always, That in cases of doubt respecting the age of any person enrolled, or intended to be enrolled, the party questioned shall prove his age to the satisfaction of the officers of the company within whose bounds he may reside, or a majority of them.

Sec. 2. And be it enacted, That the militia in the several counties of this state, except Cape-May, Each counshall form each a brigade, to be called after their two form The militia in the county of a brigade &c respective counties. Cape-May, shall be annexed and belong to the Cum-arranged in berland brigade; the Burlington, Gloucester, Salem four divisand Cumberland brigades, shall compose the first division; the Bergen, Essex and Morris brigades. shall compose the second division; the Somerset, Middlesex and Monmouth brigades, shall compose. the third division; the Hunterdon and Sussex brigades, shall compose the fourth division; and the several regiments, independent battalions, battalions, squadrons and companies of infantry, light infantry, grenadiers, artillery and cavalry, shall continue as at present arranged; subject nevertheless to such alterations and arrangements of the regiments, battal- New comions, squadrons and companies as their present talions and numbers, or future increase or diminution may in regiments, the judgment of the board of general and field offi- may be orcers of the several brigades, to which they respect ganized by ively belong, from time to time render necessary or of general expedient, by forming such company or companies, and field and attaching them to such battalions and regiments officers. as are already organized or may be formed and organized in their several brigades, as the said board of general and field officers shall order and directfor the interest and convenience of the militia of the brigade, and the general and field officers who are constituted a board for divers purposes mentioned in this act, shall meet as soon as they can be convened, to make as well as the necessary arrangements contemplated in this section, as for other duties by this act enjoined on the said board for the improvement and conducting of the militia.

Sec. 3. And be it enacted, That the present officers of the militia of this state, shall continue and:

Officers of divisions, brigades, regiments, battalions, companies continued.

exercise the several ranks and commissions which they now respectively hold. Vacancies by death, removal, resignation or otherwise, shall be filled up, so that the militia shall be officered as follows: to: each division there shall be one major-general and two aids-de-camp, with the rank of a major; to each brigade one brigadier-general, with one brigade-inspector, to serve also as brigade-major, with the rank of major, one brigade or senior surgeon, one brigade-judge-advocate, one brigade-paymäster and one brigade-quartermaster; one adjutunt-general, with the rank of brigadier-general; to each regiment, one lieutenant-colonel-commandant; and to each battalion and squadron, one major; to each company of infantry, light-infantry and gronadiers, one captain, one lieutenant and one ensign, one clerk, four serjennts, four corporals, one drummer, one fifer or bugler, and not more than sixtyfour, nor less than forty private individuals, or asnear as may be, having regards to their local situation; to each troop of horse, there shall be one captain, two lieutenants and one cornet, one clerk, four serjeants, four corporals, one saddler, one farrier and one trumpeter, and not more than fortyeight nor less than thirty-two troopers; to each company of artillery, there shall be one captain and two lieutenants, one clerk, four serjeants, four corporals, six gunners, six bombardiers, one drummer, one fifer, and not more than thirty-two nor less than twenty matrosses. There shall be a regimentalstaff, to consist of one adjutant and one quarter-master, to rank as lieutenants, one paymaster to each battalion, one surgeon and one surgeon's-mate, one

serjeant-major, one drum-major and one fife-major.

All 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 shall be determined by lot, to be drawn by them before the commanding officer of the division, brigade, regi-

Attillery

Cavalrya

Staff how appointed and commillioned.

ment, battalion, company or detachment. The regimental-staff except the paymasters shall be appointed by the field-officers. The brigade and regimental-staff shall be commissioned by the commander in chief, on certificates of their appointment, under the hands and seals of the officers making the same: And further, There shall be one adjutant and one quarter-master to each squadron If a clerk of cavalry and each independent battalion; the non- is not electcommissioned officers and music to be appointed by ed, captain the captain and subalterns; the clerk to be elected to appoint. by the company, and in case of omission to elect, or in case of refusal to act, sickness or absence, the captain or commanding officer of the company shall appoint a suitable person, who shall undertake to perform the duties enjoined by this act.

SEC. 4. And be it enacted, That each and every officer commissioned, or who may hereafter be appointed and commissioned in the manner aforesaid, fined, and shall, previous to their entering on the execution of hereafter their respective offices, give assurance of fidelity before general attachment to the government of this state, by eral or field taking and subscribing the following oath before officer.

do sincerely profess and swear (or affirm as the case may be) that I will and do bear true faith and allegiance to the government established in this state, under the authority of the people; and will with integrity execute the office of of the miditia of New-Jersey according to the best of my abilities: so help me God.

And a certificate thereof shall be made upon the back of every commission by the general or field officer, before whom the said oath or affirmation shall have been taken and subscribed.

SEC. 3. And be it enacted, That the commanding officer of every regiment and independent battalion To meet for and squadron, shall call a meeting of the commis-improvesioned officers of their respective regiments, inde-ment. pendent battalions and squadrons at such times and

-places as he shall appoint for improvement in military exercise which shall be at least twice and not exceeding four times in every year.

SEC. 6. And be it enacted, That the militia of. Mititia to this state shall rendezvous three times in every year train oncein for the purpose of training, disciplining and imbattalions proving in martial exercise, once by companies and regi- within their respective bounds, once by battalions within the bounds thereof, and once by regiments, independent battalions and squadrons for

Time and appointed: and notice given by advertifements,

exercise, inspection and review: that the brigadier general or commanding officer of each brigade, shall appoint the regimental parades, at such time and place as he may think proper, as nearly central place to be as may be within each of the respective regiments and independent battalions: that the time and place of the rendezvous for the battalions and companies, shall be appointed by the colonel or commanding officer of the regiment, independent battalion, or squadron 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: the brigade inspector shall give twenty days notice of the regimental muster and inspection by advertisements in five of the most public places within the limits of every regiment and independent battalion: the adjutants of the several regiments and independent battalions shall advertise and give at least ten days notice of the battalion and company meetings, by advertisements set up in at least two places within the bounds of each company. Sec. 7. And be it enacted, That every troop of

tached to

horse or company of cavalry and artillery, shall be artillery at- considered as being attached to the regiment or independent battalion, within the bounds of which the regiments a major part of the company was raised, and shall assemble for inspection at such time and place and in such manner as the brigadier-general or commanding officer of the brigade shall order and di-It shall be the duty of the clerks of the companies of cavalry and artillery to make a return of

all delinquents in their respective companies, in the same manner as the clerks of infantry companies are by law directed.

Sec. 8. And be it enacted, That the fines for Fines on ofnon-attendance on days of exercise shall be as fol- privates for lows: on a brigadier-general and on a field-officer, non-attendthe sum of ten dollars per day; on every other ance and for commissioned officer six dollars per day, and on want of every non-commissioned officer and private one dollar per day; and the same fines shall be respectively paid by every officer, non-commissioned officer and private, who shall leave the parade or absent himself from his regiment, battalion, squadron, troop or company, without leave of the commanding officer, before the said regiment, battalion, squadron, troop or company shall be discharged; and if any militia man shall appear on parade without a musket or firelock, or if any trooper shall appear without his sword or pistols, he shall forfeit and pay fifty cents, and for want of other accoutrements, shall forfeit and pay six cents for each and every article so deficient: Provided, That no militia man shall be liable to such fines, who, in the opinion of the battalion court of appeals created by this act may be deemed unable to procure arms or accoutrements or either of them.

SEC. 9. And be it enacted, That in order to ascertain those persons, who, by their absence on days System of of exercise, or for deficiency in arms or equipments, collection shall be liable to the fines and forfeitures of this act, of fines. the clerk of the troop or company shall on every such day, in the presence of the captain or commanding officer of the troop or company, and by his order, one hour after the time appointed for the meeting of the troop, company, independent battalion, bat-talion, squadron or regiment, and also after the ex-call the roll ercise is over, and before the men are discharged, on days of call over the roll of the troop or company, noting exercise & those who are absent; and also those who are deficient for want of arms or equipments and of each oath. and every article so deficient, and within ten days after every meeting of the company, the said clerk

shall make return thereof to the brigade-judge-advocate, who or some justice of the peace, shall ad minister to him the following oath:

clerk of the company commanded by in the brigade of the militia in the town of do swear (or affirm) that this enrollment contains a return of the names of the said company between the ages of eighteen and forty-five years made to the best of my information, knowledge and belief; and those persons whose names are noted absent, did not parade with and answer at the roll calls of the company on the and that the deficiencies in arms and equipments are truly marked opposite the name of every delinquent; so

posite the name of every delinquent; so help me God.

And which said return the brigade-judge-advo-

cate shall lay before the court of appeals as evidence of the fines incurred by delinquents.

Sec. 10. And be it enacted, That if the clerk of For neglect any company shall neglect or refuse to perform the to be fined, duties required by this act, he shall be fined at the discretion of the court of appeals in any sum not exceeding one hundred dollars, to be recovered by the battalion-paymaster, who shall prosecute for and pay the same to the brigade-paymaster.

Court of appeals companies of infantry, artillery and cavalry, at their first meeting in every year, shall elect by ballot, and in case of neglect of such election the commandant of the company shall appoint some discreet enrolled to hear exprivate who bears arms and exercises with the comcuses of delinquents a court of appeals; which shall be composed of the fines incursaid representatives of the several companies in the

respective battalions, and who or at least three of them are hereby vested with full power and authority to hear and decide upon the excuses of all persons returned as delinquents by the respective

clerks of the companies within the bounds of their battalions for non-attendance at roll call, and for deficiency of arms and equipments and to assess and ascertain the fines incurred by the officers, clerks, non-commissioned officers and privates of the several companies within the bounds of the battalion, and also to allow the compensation which shall be made to the company clerks for the performance of made to the company clerks for the performance of the duties prescribed in this act; the members of tion of said court shall each receive one dollar and fifty clerk, &c. cents per day for their attendance at the said court of appeals to be paid by the battalion-paymaster on the certificate of the brigade-judge-advocate or person who shall officiate as such at the court of appeals. The captain or commanding officer of every company shall give to the private elected or appointed to represent said company in the court of appeals, a certificate of his election or appointment/given under his hand and seal'; and on his producing such certificate, the brigade-judge-advocate shall administer to him the oath prescribed in the thirteenth section of this act. And if any of the members of the said court of appeal shall neglect or refuse to attend at the time and place as advertised by the brigadejudge-advocate for holding such court of appeals, they shall forfeit and pay the sum of ten dollars, to be sued for and recovered with costs of suit before any justice of the peace of the county where such offender resides, by the battalion-paymaster, and when recovered, to be by him paid to the brigadepaymaster: Provided, That such offender may appeal to the board of general and field officers established by this act, who, on a reasonable excuse given may remit such fine.

SEC. 12. And be it enacted, That the board of gen- Time and eral and field officers of the several brigades shall ap- place of point the days and place of the meeting of the said meeting apseveral courts of appeal as nearly central to each bat-general and talionasmay be, and within thirty days after the annu- field offial review and inspection of the several regiments and cers. independent battalions, and in such manner as the brigade-judge-advocate may attend the respective

battalion courts of appeal; and the brigade-judgeadvocate shall give notice of the meeting of said battalion courts of appeal to the several clerks of companies within the brigade, and in case of the death, sickness, removal or refusal to act, of any of the company clerks, to the captain or commanding officer of the company, who shall thereupon immediately appoint a suitable person to do the duty of company clerk; and which said company clerks court of , shall thereupon give at least ten days notice by setting up in three of the most public places in the bounds of the company, and advertisement which shall as near as circumstances will admit, be in the following form to wit:

appeals

Notice is given to and have been returned for non-attendance on days of at the militia roll call of captain company, in the township of : and notice is also given to and returned for deficiencies in military equipments, that the battalion court of appeals will meet at ten o'clock on the ... day of at the house to liear and decide upon the excuses. if any they have, for non performance of military duty and for deficiencies in military equipments for which they are severally liable to be fined according to the directions of

the militia law of this state. Dated at

day of

Glerk of said company.

Court of 'eppicale:

Form of

notice to delin-

quents.

· Sec. 13. And be it enacted, That the members of every court of appeals shall assemble at the time and place so advertised, and before proceeding to business shall take the following oath or affirmation:

> do swear (or affirm) that I will perform the duties of a member, of this battalion court of appeals, according to the true intent and meaning of the militia law of this state, according to the best of my skill and understanding without favour, affection or partiality: so help me God.

Oath.

Which shall be administered by the brigadejudge advocate or, in case of his non attendance by the person who shall be appointed by the said battalion court of appeals to officiate in his room, and the person so appointed shall take the following oath or affirmation to be administered by any member of the said court:

do swear (or affirm) that I will perform the duties of judge advocate of this Judge-adbattalion court of appeals according to the vocate. best of my skill and understanding; so help me God:

The said battalion court of appeals shall consist of at least three representatives of companies and shall appoint one of their members to preside; they shall have power to administer oaths to witnesses, The and to hear and decide upon the application of the persons advertised as delinquents and they are hereby required and enjoined to attend to every just complaint of excuse, whether of age or arising from persons being unable to procure arms or equipments, from inability of body or insanity of mind.

Sec. 14. And be it enacted, That in order, that due respect and decorum may be observed, the said battalion court of appeals, shall have power and To preserve authority and they are hereby authorized to fine any order may person not exceeding ten dollars, who shall misbe- fine. have, insult or disturb the said court in the exercise of their duty to be collected and paid to the battalion paymaster by prosecution before a justice of the peace, who shall issue execution against the offender upon a certificate of the judge advocate.

SEc. 15. And be it enacted, That the said brigade No/tentiojudge advocate and whoever shall officiate in that rail to recapacity shall keep a record of the proceedings of verse their the several battalion courts of appeal, from whose proceeddecision, no appeal shall be had, nor any certiorari allowed to reverse their proceedings. Each brigade judge advocate shall deliver over to his successor the records and all the proceedings of the battalion courts of appeal in the brigade.

master, who is to giva

Sec. 16. And be it enacted, That all fines and forfeitures which shall be incurred and assessed by the said court of appeals on persons made liable by Fines to be this act, shall be returned and paid into the hands talion pays of the paymaster of the battalion from which such fines and forfeitures may be due. That the brigade judge-advocate (or person who shall have officiated in that capacity) shall within ten days after every battalion court of appeals, transmit a certified copy of the names of the persons fined by the said battalion court of appeals, with the amount of fines, to the brigade paymaster, who shall charge the battalion with the amount thereof; and also a fair certified copy to the battalion paymaster, who shall immediately upon the reception thereof, set up an advertisment in at least one of the most public places within the bounds of each company of the battaion, as follows:

notice to pay in twenty days.

Notice is hereby given, that the court of appeals battalion, commanded by Majorof the , have decided that fines have been incurred agreeably to law for neglect of militia duty and equipments by the several persons and of the several sums opposite the respective Dolls. Cts. names following, to wit:

A. B. c. D.

And if the said sums shall not be paid to the subscriber, paymaster of the said battalion, in twenty days from the date hereof, execution will be issued against those persons who shall neglect to make payment conformably to the militia law of New-Jersey.

day of Dated the Paymaster of said battalion.

SEC. 17. And be it enacted, That the battalion paymaster shall, on the list of delinquents returned If not paid the paragraph of the paid the names of those persons who shall discharge their fines, write to iffue and " paid and discharged;" and immediately after the returned to expiration of the said twenty days, the said battalion paymaster shall deliver the said return list of delin-

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fruents, of fines assessed by the said battalion court battalion of appeals, to a justice of the peace, who is required paymalle forthwith to issue execution against the persons in thirty if named in the said return list, (opposite whose names no goods shall not be written as aforesaid " paid and dischar- to commit ged,") for the sums annexed to their respective delinnames, with costs, as in cases of taxation, directed quents to to one of the constables residing within the bounds of the battalion, and if there be no constable within such bounds, then to any constable of the county; who is required to levy the same of the goods and chattels of the respective delinquents, and to pay the several sums contained in the said execution within thirty days to the said battalion paymaster, to whom the said delinquents belong: and for want of goods and chattels, to take the bodies of the delinguents, and commit to the gaol of the county, there to be kept until the fines and costs shall be Provided nevertheless, that the board of general and field officers of the brigade, or any three of How rethem, the commanding officer of the regiment, bat-leafed. talion or squadron to which he belongs being one, upon being satisfied by the oath or affirmation of the delinquent committed to gaol, or otherwise, that the delinquent so committed, is unable to pay, may grant a supersedeas to release and discharge such poor person from confinement. The form of the execution shall as near as may be, be as follows: County.

THE STATE OF NEW-JERSEY,

To one of the Constables of said county of Form of Whereas the persons named in the schedule or execution, list hereto annexed, have by the court of appeals of their proper battalion, been duly sentenced for delinquency in military duty and equipments, to pay the fines to their names respectively subjoined. You are therefore commanded forthwith, of their several goods and chattels respectively within said county, to levy by distress and sale thereof, the fines set opposite their respective names with costs, and to

hay the same to paymaster of battalion, and for want of goods and chattels, you are commanded to take the bodies of the persons so deficient and commit them to the common gaol of said county, and the keeper thereof is hereby commanded to receive and safely keep the persons who shall be so committed, until they shall pay the same, or until discharged by order of the board of general and field officers, or otherwise by due course of law: and you are to make return of this execution, with your doings therein, unto the said battalion paymaster, within thirty days next coming, for which this shall be your sufficient warrant. Hereof fail not. Given under my hand and seal the day of the year of our Lord eighteen hundred and

Fustice of the $\it Peace.$

Battalion paymaster to keep ' record, and accounts to be fettled by the board.

how appointed:

Sec. 18. And be it enacted, That the battalion paymasters shall keep journals of all their proceedings, in the execution of the duties enjoined on them as battalion paymasters. They shall record in a book to be kept for that purpose, the amount of fines by them received, of whom and in what manner received, whether by voluntary payment or of the constables, of the fines not collected or recovered and the reason thereof, of monies paid, to whom and on whose order and for what purpose, and shall lay the same, with their vouchers and receipts, before the board of general and field officers, or a committee of said board for inspection and settlement.

SEC. 19. And be it enucted, That the general and field officers of their respective brigades, shall appoint one reputable freeholder within their brigade, to act Paymafters as brigade paymaster to the same, and that the major or commanding officer of each battalion of infantry within this state, in conjunction with the captains of the several companies of their respective battalions and of the captains of artillery and cavalry, within the bounds of their respective battalions, shall appoint one reputable freeholder within the battalion,

to act as battalion paymaster to the same, for the collection and payment of fines; which said brigade and battalion paymasters, before entering upon the duties of their office, shall severally give bond to give with sufficient sureties, to be approved of, that of the bond, brigade paymaster by the commandant of the brigade, and the bond of the battalion paymaster by the commandant of the regiment or independent battalion, the brigade paymaster in the sum of one thousand dollars, the battalion paymaster in the sum of two hundred dollars, payable to the state of New-Jersey, with condition for the faithful performance of the duties of their respective offices, and shall repair to the clerk of the county in which they reside, and subscribe and take the following oath or affirm- and take ation:

I

appointed paymaster of the brigade (or battalion as the case may be) of militia, do swear (or affirm) that I will to the utmost of my knowledge and ability, honestly and faithfully perform the duties of the office of paymaster of the said (or battalion) and that I will not on any pretence or occasion, apply any money, which shall come to my hands as paymaster thereof, to any private use or purpose: so help me God. before and Which oath (or affirmation) the said clerk shall to be filed

administer and endorse on the said bond and file the with the same in his office to be prosecuted whenever the clerk. board of general and field officers shall direct. The said clerk shall give a certificate of the said bond and oath (or affirmation) having been taken and filed under the seal of the county, on the back of their warrants of appointment, which shall be taken and received as evidence of the authority of the said paymasters.

Sec. 20. And be it enacted, That the brigade paymester shall receive and file all vouchers and Brigade returns, and keep proper and distinct accounts of paymatter's the monies arising from the fines and forfeitures in duty; the several regiments and battalions in the brigade

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to account which shall be paid and returned to him, and also to the board shall receive and file all returns, orders, vouchers of general and receipts, for all monies he may receive and pay cers, & pay out, conformably to the directions of this law, and balance to submit his books of accounts, returns, orders, treasurer; vouchers and receipts, to the inspection and examination of the said general and field officers of the brigade who are hereby constituted a board, vested with full power and authority to examine, adjust and settle as well the accounts, of the said brigade-paymaster, as of the several battalion-paymasters in the brigade; and ascertain and declare the balance unappropriated in his hands, and which the said brigade-paymaster shall pay forward to the treasurer of this state. The said balance to be certified to the treasurer by the brigade judge-advocate, who shall be ex-officio, clerk of the said board, and with which sum so certified, the said treasurer shall charge the several brigades; and in case of malpractice, embezzlement or default, the said board of general and field officers, are required to displace difplaced

for malpractice & profecuted.

Battalion to account nor, &c.

money remaining in his hands belonging to the brigade, in any court where the same may be cognizable, with costs of suit; and in case of mal-practice pay-masters embezzlement or neglect of duty of the battalion inlikeman- paymasters, the said board of general and field officers, are required to displace such battalion paymaster, and the brigade paymaster for the time being shall in like manner prosecute the said battalion paymasters, their executors or administrators, as well for the monies had, received, and collected as for such fines as they shall have incurred for neg-

the said brigade-paymaster and appoint another in

his room, which successor in office, is hereby au-

thorized and empowered in the name of the state of New-Jersey, to prosecute the defaulter, his executors or administrators for any sum or sums of

lect of duty. SEC. 21. And be it enacted, That the board of general and field officers of the several brigades shall make such allowance and compensation to the brig-

ade paymaster, brigade judge-advocate and those compensawho shall act in the capacity of judge-advocate, and tion to pay to the battalion paymasters, and to the teachers of masters music, and for music of their respective brigades, as cate and they may deem just and reasonable, to be paid out mufe. of the fines of delinquents, by the brigade paymaster. And in case there shall be no money arising from such fines in the hands of the brigade paymaster, the said board of general and field officers shall draw their order on the treasurer of the state for any such deficiencies, and the said treasurer is hereby authorized to pay such orders out of any money which may have been paid by the brigade paymasters into the treasury: Provided nevertheless, that the whole allowances to be made by the board of general and field officers in one brigade, for the term of one year, shall not exceed one hundred dollars for each regiment in the same.

Sec. 22. And be it enacted, That the commander in chief and major-generals of this state, or any three Commandof them, the commander in chief always to be one, er in chief shall compose a board of general officers, whose du- and major ty it shall be to lay before the legislature every year compose a at their annual meeting, the particular objects for board; which they conceive military appropriations are, or in the course of the ensuing year may become necessary; and the sum appropriated by law shall be subject to the orders of said board to be applied by them as the law may direct. The adjutant-general shall be secretary of said board of general officers, and their duty. shall keep a journal of all their proceedings and orders, subject to the inspection and examination of the Legislature on the first Tuesday of November in every year.

Sec. 23. And be it enacted, That the commander Quarter in chief be and is empowered to appoint a suitable mafter genperson to the office of quarter-master-general, who eral; shall perform the duties incident to that department, and shall receive compensation therefor upon exhibiting his accounts properly certified and allowed by the board of general officers: He shall have the

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bit ranks rank of lieutenant-colonel, and be commissioned accordingly.

Overplus of delinquents moncy.

Sec. 24. And be it enacted, That if any money shall remain in the hands of any constable, after making sale of the property of a delinquent, and paying the fines and costs of such delinquent, such money shall be paid by the said constable to the said delinquent; but if he shall refuse to receive the same, then the constable shall pay the said money to the paymaster of the battalion to which such delinquent belongs, to and for the use of such delinquent.

Fines of minore & apprenti-DC34

SEC. 25. And be it enacted, That the fines and forfeitures imposed by this act on minors living with their parents, and others having the proper care or charge of them, and those of apprentices, shall be paid by their respective parents, guardians, masters or mistresses, or levied of their respective goods and chattels.

Sec. 26. And be it enacted, That every person li-Whodeem- able by this act to do military duty, shall be deemed: ed enrolland adjudged to have notice of his being enrolled ed. in the company of militia within the bounds of which he shall reside.

Sec. 27. And be it enacted, That it shall be the duty of the adjutant-general to distribute all orders from the commander in chief of the state to the sev-Duty of ad- eral corps; to attend at public reviews, if required.

jutant gen- 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 directed by the commander in chief, and to explain the principles on which they shall be made; to demand and 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 disci-

pline; all which the several officers of the divisions. brigades, regiments and battalions; are hereby required to make in the manner herein directed, that the said adjutant-general may be duly furnished therewith previous to the annual meeting of the legislature; from all which returns he shall make proper abstracts and lay the same with a report of the general state of the militia magazines and military stores, and also of such improvements as he may think necessarry to advance the discipline and benefit of the militia before the commander in chief of the state, who is required to lay the same before the legislature. And the adjutant-general shall also annually make a return of all the militia of the state. to the president of the United States. And it shall be the further and especial duty of the said adjutant-general to give information against and prosecute in behalf of the state, all brigadier generals who shall fail or neglect to review the several regiments and independent battalions in their respective brigades, agreeably to the directions of this act. He shall keep a book in which shall be recorded all orders, returns, names of commissioned officers throughout the state, and every proceeding relative to the details of the military force ordered by the commander in chief, upon requisitions of the president or congress of the United States, and in cases of invasion or other emergency. All certificates of Certificate election of officers shall be transmitted to him to be of election entered of record, before commissioned by the com- of officers to be transmander in chief. He shall deliver over to his succes- mitted to sor all books and returns belonging to the office of ad-him. jutant-general. He shall be secretary to the board of general officers. The expense of blank returns and the postage of letters in his official capacity shall be settled and allowed by the board of general officers, and which with an annual salary of fifty dollars, shall be paid by the treasurer of the state, on a warrant of said board, certifying he has performed. the services required of him as adjutant general.

SEC. 28. And be it enacted, That it shall be the brigade in- duty of the brigade inspector, to attend the regimental and independent battalion meetings of the militia composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition and accourrements, to make returns annually to the adjutant general of the state, of the militia of the brigade to which he belongs, reporting therein particularly the name of the reviewing officer, of the actual situation of the arms, accourrement, and ammunition of the several corps. and every other thing which in his judgment, may relate to their government and the general advancement of good order and military discipline. said brigade inspector shall be entitled to receive thirty dollars, annually for his services; and for refusing or neglecting the duties enjoined by this law, he shall be subject to the penalty of fifty dollars, to be recovered by the treasurer of the state, who shall also withhold his said salary of thirty dollars, until he shall have produced the acknowledgement of the adact in hi jutant-general that he has received said return. In case of the absence of the brigade inspector, the commanding efficer, present at the inspection, shall

genera!, who shall the comthe brigadier general,

ablence.

Duty of

Election of lieutenant or ensign and cornet, who shall from time officers by to time, be chosen by the several companies or troops warrant shall report his acceptance of the office, within ten from brig-days after having received notice thereof, to the etal to the major or commanding officer of the battalion; and major, who in case such reportis not made as aforesaid, the said and fend to office shall be deemed as vacant. And the resignathe adjurant tion of every captain, lieutenant, ensign and cornet, shall be delivered to the brigadier general or commanding officer of the brigade in which the said company or troop is formed; and where vacancies missions to shall happen in any company or troop, by the death, removal, or resignation of a captain, lieutenant, ensign or cornet, it shall be lawful for the commanding officer of the brigade, by warrant under his hand

appoint some person to perform the duties thereof. SEC. 29. And be it enacted, That every captain,

and seal, directed to the major or commanding officer of the battalion or squadron to which such company or troop belongs, to hold an election within the limits of such company or troop, to supply the vacancy occasioned by the non acceptance, resignation, removal, death, or otherwise, of any such officer; and thereupon the said major or commanding officer of the said battalion or squadron shall give ten days notice, by advertisement in three of the most public places within the limits of such company, of an election to supply the place of the officer or officers of the company or troop which may be vacant; and the said company or troop, or such of them as may attend, shall proceed by plurality of votes, to choose such officer or officers residing within the bounds of the said company or troop; and the said major or commanding officer of the said battalion or squadron, shall certify, under his hand and seal, annexed to or endorsed on the warrant aforesaid, the name and rank of each officer so chosen or elected, addressed to the commander in chief of the state, and shall transmit the same to the adjutant general, who after entering the names and rank of the persons so elected in the books of his office, shall lay the same before the commander in chief to be commissioned, and thereupon the adjutant-general shall transmit all commissions to the brigadier-general, or officer who issued the warrant of election. The sum of two dollars shall be paid by the battalion paymasters to the commandant of the battalion for advertising and holding every elec-No candidate or any other person shall give any spirituous liquors or treat to any officers or privates, on any day of election of officers, under the penalty of twenty dollars, to be prosecuted for and recovered by the battalion paymaster, and by him paid to the brigade-paymaster.

Sec. 30. And be it enacted, That if any commis- Removal sioned officer shall remove out of the bounds of his of officers proper division, brigade, regiment, battalion, squadiron troop or company, or shall be absent therefrom,

more than six months, his office shall be thereby vacated.

Officers 7 mult uniform in three months.

Sec. 31. And be it enacted. That the uniform to be worn by the several officers of the militia of this state, shall be conformable to the general orders printed and attached to this law; and it shall be the duty of every officer within three months after receiving his commission, to appear upon all training days, in full and complete uniform, agreeably to general orders, and also either with a sword, hanger or espontagon: and if any officer shall come upon parade for exercise, not being so equipped, he shall incur the same fine as is directed by this act for non-appearance, and also shall not be suffered to do duty on that day.

Mulic to be instructed.

Sec. 32. And be it enacted, That one drum and one fife-major and one trumpeter, may be employed by the board of general and field officers of each brigade to instruct and exercise the drummers, fifers and trumpeters of each company or troop in the necessary military music, at such times and under such regulations as the said board may direct, not exceeding twelve days in the year, and shall for such services be paid the sum of two dollars per day each; and the said drummers, fifers and trumpeters shall each be paid seventy-five cents per day for the time they shall attend to such instruction.

Father excufed if fon

Sec. 33. And be it enacted, That if any youth of the age of twelve years and not exceeding the learns mu- age of eighteen years, shall, with the consent and approbation of his parents, attach himself to any company of militia for the purpose of learning to beat the drum, play on the fife or blow the trumpet, provided the number shall not exceed one person for the drum and one for the fife in each company, and one for the trumpet in each troop of horse, every such person or persons shall be put under the instructions of the drum or fife-major, or trumpeter as the case may be, whose duty it shall be to teach such person or persons to perform field duty, tothe satisfaction of the commanding officer of the bri-

gade; and the father of every youth who shall have been instructed as aforesaid, shall be excused from every kind of military duty, so long as his son shall continue to perform the duties of a drummer, fifer or trumpeter in any militia company or troop, and be under the age of eighteen years.

Sec. 34. And be it enacted, That it shall and may be lawful for the captains or commanding officers of the Artillery, several companies of cavalry, artillery, light infantry cavalry and and grenadiers, to enroll in their respective companies light infrom the several companies composing the regiment fantry enor battalion to which they may belong, such men as may they unifrom time to time be necessary to complete their res- form. pective companies; and a certificate-from the said captain or commanding officer, shall exonerate the bearer from serving or paying any fine thereafter imposed on him by the officers of the company to which he formerly belonged, any law, usage or custom to the contrary notwithstanding: Provided always, That it shall not be lawful for the captain or commanding officer of the cavalry, artillery or other uniform company, to grant a certificate to any person prior to his appearing in uniform agreeably to law.

SEC. 35. And be it enacted, That no officer or pri- Toll free vate shall on the way to or from the place of any re-days. view, regimental or company training to which he shall belong, pay more than one third of the usual rate of ferriage, or be charged any toll for passing any toll-bridge or turnpike gate; and if any ferryman or keeper of any toll-bridge or turnpike-gate, shall refuse a passage, or make a demand contrary to the directions of this act, he shall for each offence forfeit and pay the sum of eight dollars, to be recovered by any person who will sue for the same, one half to the prosecutor and the other half to the paymaster, for the use of the battalion where such demand or refusal is made, any law, usage or custom to the contrary notwithstanding.

SEC. 36. And be it enacted, That no commission- Free from ed officer, non-commissioned officer or private shall arreft. be arrested on any civil process on any day appoint-

ed by law for exercise or training nor shall any arms or accoutrements of a militia-man be levied on or sold by virtue of any execution.

May plead this act.

Sec. 37. And be it enacted, That if any suit shall be brought or commenced against any person, for any thing done in pursuance of this act, the venue shall be laid in the county where the cause of action arose; and the defendant in such action may plead the general issue, and give this act and the special matter in evidence. Sec. 38. And be it enacted, That the commander

Militia when or-

in chief of this state, for the time being, may, in case deredout, of invasion or other emergency, when he shall judge it necessary, order out any proportion of the militia of this state, to march to any part thereof, and continue as long as he may think it necessary, not exceeding two months. Sec. 39. And be it enacted, That when a part of

the militia shall be called into actual service, it shall

into actual fervice.

be the duty of the captain or commanding officer to divide his troop or company into as many classes as there shall be men required of him, and by lot, enlistment or draft, to detach one man from each class: and such draft or detachment shall be officered with such officer or officers, and of such grades as shall be proper, agreeably to military discipline; the tour of duty of which commissioned officers, shall be determined by a roaster to be kept by the adjutant for that purpose: And further, That no non-commis-

sioned officer or private shall, (after the making of the first draft) be liable to perform actual service,

until it shall become his proper tour agreeably to a roaster of the company, to be kept by the commanding officer of the same; and that no draft or detachment shall be continued in service, more than two

tour by roafter;

drafts

relieved in two months.

months at any one time, and if necessary, they shall be relieved by a detachment to be made in the manner aforesaid; which relief shall arrive at least two days before the expiration of the term of the detachment to be relieved; but nothing herein contained shall prevent the commander in chief from

calling into service the whole or any part of the militia, when the exigencies of the state, shall in his opinion require it: And further, That the pay of the militia in actual service, shall commence two days Pay and before marching, and that they shall receive pay and rations at the rate of fifteen miles per day, on their return home; and in requisitions by the President Requisior Congress of the United States, the like mode tions. shall be pursued in drafting and turning out the quota of this state.

SEC. 40. And be it enacted, That it shall and may Sublitutes. be lawful for any person called to do a tour of duty, to find a substitute, who if approved of by the captain or commanding officer of the company, may serve in the place of such person.

Sec. 41. And be it enacted, That when any draft or drafts of the militia shall be called to perform Drafts to be any tour of duty, the majors of the battalions shall noticed cause each and every person so called, to be notified of such call, by a written or printed notice being delivered to him personally, or left at his house or usual place of abode, by some officer or other suitable person employed for that purpose by the com-to attend, manding officer of the said company, at least three days before the time of assembling said militia, un-procuse less the commander in chief, on a sudden exigency, subflitutes, - shall think proper to order any part of the militia into immediate and actual service, and then the notice mentioning such special order, shall be given for immediate attendance; and any person refusing or neglecting to perform such tour of duty, or to procure a substitute, shall pay a fine not exceeding or fined. fifty dollars, for every such neglect or refusal; which fines as aforesaid shall be paid to the captain or commanding officer of the company to which such delinquent belongs, and be by him appropriated, under the direction of the commandant of the battalion to which the said company belongs, for the purpose of hiring substitutes to supply the place of the delinquents belonging to the said company; and in case of a surplusage of money arising from such fines, it shall

be paid to the paymaster of the battalion. every non-commissioned officer, whilst engaged in warning the company to which he belongs, under the orders of the commanding officer of the company, shall receive one dollar per day, for the time he may be necessarily engaged in such duty.

Horfes appraised.

Sec. 42. And be it enacted, That the brigade-inspector shall call to his assistance two reputable freeholders, above forty-five years of age, who shall appraise on oath or affirmation, the horse of each person serving as a light-horse-man, immediately before the time of going into actual service, and describe the age, size, colour and marks of the said horse, and enter the same in a book kept for that purpose; and in case such horse shall be killed or be taken by the enemy, the owner of such horse or his lawful representative, shall be paid the full value of said horse according to the said appraisement, by an order to be drawn on the certificate of the inspector, by the brigadier-general or commanding officer of the brigade, on the treasurer of this state, provided such claim be made in one year after the loss so sustained.

Rations for detachments.

Sec. 43. And be it enacted, That the quartermaster who shall furnish rations or ammunition for detachments of militia which may be ordered into the service of this state, shall lay his account therefor, accompanied with the receipts of the officer commanding such detachment, that such ammunition and rations have been furnished, before the commanding officer of the regiment or independent battalion, for his approbation; and if he shall approve and sign the same, the governor, if he also approve thereof, snall issue his warrant on the treasurer, to be paid out of any money in the treasury not otherwise appropriated.

Carrying

Sec. 44. And be it enacted, That the commandorders paid ing officer of divisions, brigades, regiments and battalions; the adjutant-general, brigade-inspector and adjutants, shall be entitled to a person to carry their orders, when the necessity of the case shall require

it; for which a reasonable compensation shall be allowed by the board of general officers.

· Sec. 45. And be it enacted, That the commander in chief shall appoint general courts martial for the Courts trial of all officers above the rank of field officers; howapthat the major-generals each in his own division, pointed. shall appoint general courts martial for the trial of all field officers; that the brigadier-generals, each in his own brigade, shall appoint general courtsmartial for the trial of captains and all commissioned officers under that rank; and that the commandants of regiments and independent battallons, shall institute regimental courts-martial within their respective regiments and independent battalions, as often as it shall be found necessary; and that it shall be the duty of every officer who shall appoint a court-martial as aforesaid, to approve or disapprove of the sentence or sentences of such courtsmartial by them appointed, or to mitigate the punishment or pardon the person convicted.

Sec. 46. And be it enacted, That my officer to be Officer w. tried by a court-martial, shall have fifteen days no- telled to tice of the time and place appointed for trial, and a have 15 copy of the charges exhibited against him, and shall days notice be put under arrest, so far as to be supported from be put under arrest, so far as to be suspended from the exercise of his office; and in case any officer for the trial of whom a court-martial shall be appointed, shall neglect to appear and make defence, the court shall be authorized to proceed in his absence, and if found guilty of the charges shall be sentenced accordingly.

Sec. 47. And be it enacted, That all persons shall Winneffer be holden bound to appear and give evidence before fame penalany court martial, or court of appeals, on oath or ties as by affirmation to be administered by said courts, that law. the evidence they shall give in the cause in hearing shall be the truth, the whole truth, and nothing but the truth, under the same penalties as are by law provided for witnesses in other cases, when thereto summoned by the brigade judge-advocate, or by any justice of the peace, who is hereby authorized

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and enjoined, when called upon, to summon such witnesses in the county to which he shall belong, and for which no fee shall be required.

Members of the court,

Sec. 48. And be it enacted, That every regimental court-martial, shall be composed of five members, all commissioned officers, the president whereof shall not be under the rank of a captain; that general courts-martial shall consist of thirteen commissioned officers, not under the rank of a captain; the senior officer shall be president, not less than two thirds of the members must agree in every sentence for inflicting any punishment, otherwise the person charged shall be acquitted. That before the trial of any cause, the judge advocate shall administer to the president and each of the members the following oath or affirmation, to wit:

their oath,

You do swear (or affirm) that you will well and truly try and determine according to evidence the cause now before you between the state of New-Jersey, and the person (if more than one persons) to be tried; and you further swear that you will not divulge the sentence of this court-martial until it shall be approved or disapproved of, and that you will not on any account, at any time whatever, discover the vote or opinion of any member of the court, unless required to give evidence thereof as a witness, by a court of justice, in a due course of law: so help you God.

And the president shall administer to the judgeadvocate the following outh or affirmation to wit:

ou do swear (or affirm) that you will not on any account, at any time whatever, divulge the vote or opinion of any particular member of this court-martial, unless required to give evidence thereof as a witness, by a court of justice, in a due course of law, and that you will not disclose the sentence of this court martial, until it shall have been approved or disapproved of, by the officer who appointed the same: so help you God.

of judge

Sec. 49. And be it enacted, That if any commis- Fines for sioned officer, at any review, or on any other occa-milbehasion, when paraded in arms or on duty, shall mis-vior of the behave 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 courtmartial, as the case may require, in any sum not exceeding fifty dollars; and if any non-commissioned officer or private, shall, on any occasion, of pa-. rading the company to which he belongs, appear drunk, or shall disobey orders, or use any reproachful or abusive language to his officers or any of them, or shall quarrel himself, or promote any quarrel among his fellow soldiers, he shall be disarmed and put under guard, by order of the commanding officer present, until the company is dismissed, and shall be fined at the discretion of a regimental court martial, in any sum not exceeding eight dollars.

Sec. 50. And be it enacted, That if the com- Neglett of manding officer of any regiment, battalion or squad-duty. ron, shall neglect or refuse to give orders for assembling his regiment, battalion or squadron, at the time appointed by the commandant of the brigade to which he belongs, or in case of an invasion of the city or county to which such regiment, battalion or squadron belongs, he shall be cashiered and punished by fine not exceeding one hundred dollars, at the discretion of a general court-martial; and if a commissioned officer of any company or troop, shall on any occasion, neglect or refuse to give orders for assembling the company to which he belongs, or any part thereof, at the direction of the commanding ofcer of the regiment battalion or squadron, to which such company or troop belongs, he shall be cashiered or punshed by fine not exceeding one hundred dollars, at the discretion of a regimental court-martial; and a non-commissioned officer offending in such case shall be fined at the discretion of a regimental court martial, in any sum not exceeding thirty dollars.

Sec. 51. And be it enacted, That if any captain or commanding officer of a company or troop, shall

Refuting to refuse or neglect to make out a list of the persons noticed to perform any tour of duty," and send or lift. convey the same to the commanding officer of the regiment battalion or squadron, to which such company or troop may belong, for such neglect or refusal he shall be cashiered or fined at the discretion of a regimental court-martial, in any sum not exceeding one hundred dollars.

Descrtion.

Sec. 52. And be it enacted, That if any militia man shall desert while he is on a tour of duty, he shall be fined in any sum not exceeding one hundred dollars for every such offence, or may be imprisoned for any term not exceeding two months, at the discretion of a court martial; and if a noncommissioned officer he shall also be degraded and placed in the ranks.

No loaded h ought on Parages.

Sec. 53. And be it enacted, That it shall not be Fun to be lawful for any non-commissioned officer or private to come on parade with a loaded or charged musket, gun, rifle, fusce or pistol, nor to discharge any fire arms within one mile of the place of parade, on any day that they shall be ordered out for improvement or inspection, without an order or permission of a commissioned officer; and if any such non-commissioned officer or private shall so load or charge, or fire or discharge any fire arm, without such order or permission, he shall forfeit one dollar for every offence; and the clerk of the company is hereby directed to read this section immediately after calling the roll of the company, and the commissioned officers are hereby enjoined to cause the names of those persons who shall offend, to be re-

Clerk te read this fection.

Military

&:.

discipline

Sec. 54. And be it enacted, That the militia of this state shall be considered to be under military discipline from the rising until the setting of the sun of from thing the same day, that they shall be ordered out for imof the fun, provement or inspection, and that no officer, noncommissioned officer or private belonging to the same, during the time aforesaid shall be subject to be arrested on any civil process. 🚉

turned to the regimental court-martial.

Sec. 55. And be it enacted, That the militia on Three the days of exercise, may be detained under arms, hours unon duty in the field, any time not exceeding six der arms, hours, provided they are not kept above three hours under arms at any one time, without allowing them a proper time to refresh themselves.

Sec. 56. And be it enacted, That any person who shall bring any kind of spirituous liquors to the place Liquors of exercise, or within one mile thereof, for the folicited purpose of retailing shall forfeit such liquors, for the use of the poor, belonging to the city or township where such exercise is had; and the commanding officer of the regiment, battalion or company, is charged with the execution of this article.

SEC. 57. And be it enacted, That the rules of Baron Steuben's exerdiscipline approved and established by congress, in cife, their resolution of the twenty-ninth day of March, one thousand seven hundred and seventy-nine, shall be the rules of discipline to be observed by the militia throughout this state, except such deviations from said rules, as may be rendered necessary by the requisitions of the acts of congress, or some other unavoidable circumstances. It shall be the duty of the commanding officer, at every training, whether by regiment battalion or single company, to cause the militia to be exercised and trained, agreeably to the said rules of discipline; and the instructions had down by the Baron Steuben and annexed to the said rules of discipline pointing out the respective duties of the officers, non-commissioned officers and privates, 'are recommended and enjoined upon the militia of this state, as particularly and fully as if the said instructions were repeated in this act at length.

Sec. 58. And be it enacted, That every officer who shall attend on courts-martial, shall be entitled Members to receive from the paymaster of the battalion in of courts which the offender resides, the sum of one dol-two dollars. Iar and fifty cents each, for every day they shall respectively attend; and all persons attending before Witneffes said courts, or either of them, as witnesses, shall be fifty cents.

entitled to receive from the said paymaster, fifty cents, each, per day, provided that no more than two witnesses on the part of the state, and two witnesses on the part of the offender, shall be entitled to pay: all which sums shall be paid by the said paymaster on certificates signed by the judge-advocate of the court martial.

Bye-Randers fined for snisbehavier.

SEC. 59. And be it enacted, That if any bye-stander shall interrupt, molest or insult, by abusive words or behavior, any officer or soldier, while on duty at any training or muster, he shall be immediately put under guard, and kept, at the discretion of the commandant of the regiment, battalion, squadron, company or corps, until the setting of the sun of the same day, on which such offence shall be committed, or if any bye-stander shall be guilty of any like conduct before a court-martial, he shall be fined in any sum not exceeding twenty dollars, with cost of prosecution, to be recovered before any justice of the peace, by the battalion paymaster, who shall sue for and pay the same to the brigade paymaster.

Fines collected by battalion paymatter.

Sec. 60. And be it enacted, That all fines imposed at any court-martial, sha'l be certified and returned by the judge-advocate to the brigade paymaster, and also to the paymaster of the battalion in which the person on whom such fine shall be imposed may belong, to be by the said battalion paymaster collected in like manner as fines assessed by the court of appeals are to be recovered and paid to the paymaster of the brigade.

General orders to be published with this laws

Sec. 61. And be it enacted, That two thousand copies of this act, together with the general orders of governor Paterson, of the twenty-ninth day of January, sevented hundred and ninety-two; of governor Howell, on the tenth day of June, and of gen. Doughty, on the sixth day of July, seventeen hundred and ninety-three, and of governor Bloomfield, on the twelfth day of March, eighteen hundred and four, respecting the uniform and dress, of the militia of this state, and also the laws of the United States, which provide for the national de-

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fence, shall be printed and distributed under the direction of the commander in chief, by the adjutant general, to the several officers of the militia; and it shall be the duty of any officer, having such copy or copies on his going out of office, to deliver, or, in case of death, his executors or administrators shall deliver under the penalty of five dollars, to the successor in office, who shall prosecute for the same of the person so going out of office or dying, the aforesaid copy or copies.

Sec. 62. And be it enacted, That the act entitled Repeal of "An act for the regulation of the militia of New-former Jersey," passed the thirteenth day of June, seventeen hundred and ninety-nine, and the supplement thereto, passed the first day of March, eighteen hundred and four, shall be and the same are hereby repealed, and made null and void: Provided always, That nothing herein contained shall be construed so as to revive any former law or laws, which in and by the said recited acts is or are repealed and made void, or to prevent the recovery of any fines or forseitures, incurred under the same, or any of them.

A. Passed at Trenton March 11, 1806.

CHAP. CLXXXVIII.

An act to incorporate the Newark and Mount-Pleasant Turnpike Company.

SEC. 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 Joseph Commois-T. Baldwin, Nathaniel Beach, Isaac Pierson, Hi-Boners to ram Smith and Joseph Jackson, be authorized to receive subscriptions for erecting a turnpike read,