

force until the end of the first sitting of the next general assembly and no longer.

Passed January 2, 1778. See the note to the Act of Assembly passed March 17, 1757, Chapter 421; and the Acts of Assembly passed March 12, 1778, Chapter 787; September 10, 1778, Chapter 814; November 30, 1778, Chapter 821; April 5, 1779, Chapter 844.

CHAPTER DCCLXXXI.

A FURTHER SUPPLEMENT TO THE ACT, ENTITLED "AN ACT TO REGULATE THE MILITIA OF THE COMMONWEALTH OF PENNSYLVANIA."¹

(Section I, P. L.) Whereas by an act of general assembly of this commonwealth the powers given to the supreme executive council for calling out the militia into actual service are not so clearly and distinctly expressed, but that some misconstructions may arise thereon. And the mode therein prescribed for the lieutenant and sub-lieutenants to notify the different classes of the militia is found tedious and difficult:

[Section I.] (Section II, P. L.) Be it enacted, and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That whenever it may be necessary to call into actual service any part of the militia in case of rebellion in or invasion of this or any of the adjoining states, then it shall and may be lawful for the president or vice-president and council to order into actual service such part of the militia by classes of any county or counties, as the exigency may require. Provided, That the part so called doth not exceed four classes of the militia of the county or counties so called out; and provided also that such counties shall not be again called upon to furnish any more militia until an equal number of classes of the militia of the other counties respectively be first called, unless the danger of an invasion from Indians or others should make

¹ Passed March 17, 1777, Chapter 750.

it necessary to keep in reserve the militia of such county or counties for their own immediate defense.

[Section II.] (Section III, P. L.) And be it further enacted by the authority aforesaid, That the commanding officer of each battalion is hereby required immediately to forward the orders of the lieutenant or sub-lieutenant to the commanding officer of each company respectively, requiring him to notify the class or classes of his company then ordered to march by written notices left at their usual places of abode, specifying the time and place of rendezvous, and that the lieutenant or sub-lieutenants will hold an appeal, as hereafter directed, at the time and place therein appointed; and that the several militia officers respectively who shall be employed in notifying the militia in manner aforesaid shall receive the sum of ten shillings per diem for their trouble, to be paid to them by the lieutenants or sub-lieutenants out of the fines recovered from delinquents.

(Section IV, P. L.) And whereas the hiring of substitutes by the lieutenants and others is by experience found to have obstructed the completion of the quota of this state to the continental army to the great damage of the common cause:

Therefore:

[Section III.] (Section V, P. L.) Be it further enacted by the authority aforesaid, That if any militia-man shall neglect or refuse to march in person on the day appointed as aforesaid, such delinquent shall forfeit and pay within five days the sum of forty pounds to the lieutenant or nearest sub-lieutenant, unless he produce a sufficient substitute of or belonging to his own family. Provided nevertheless, That every person serving by substitute as aforesaid, if said substitute shall be called in his own turn into actual service before the term expires which he was to serve for his employer, that then the person procuring such substitute shall either march in his the 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 directed to be recovered. Provided also, That sons, apprentices or servants who are not subject to the militia law may be admitted as substitutes for their fathers or masters if of sufficient ability of body, of which the commanding officer of the

marching class together with the lieutenant or nearest sub-lieutenant shall be judges.

(Section VI, P. L.) And whereas the mode of appeal as directed in said act is found tedious, and by the length of time allowed for holding of the same delinquents may remove and defeat the intent and meaning of the said act by not paying their fines to the great injury of this commonwealth and to the dissatisfaction of those of the good people who personally step forth in defense of their country:

Therefore:

[Section IV.] (Section VII, P. L.) Be it further enacted by the authority aforesaid, That the lieutenant or one of the sub-lieutenants shall attend at the place appointed for the different classes to rendezvous and call to his assistance two freeholders, one of whom shall be a justice of the peace, to hear and determine all appeals that may be laid before them by the persons thinking themselves aggrieved by anything done in pursuance of this act, or the act to which this is a supplement; and they are hereby authorized and required to grant such relief to such appellants as to them shall appear just and reasonable, in consideration of inability of body and estate only.

[Section V.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That if any delinquent shall neglect or refuse to pay the fine aforesaid within five days after the appeal aforesaid, it shall and may be lawful for the lieutenant or any one sub-lieutenant to issue his warrant to the sheriff, constable or other fit person to levy the aforesaid fine by distress and sale of the offender's goods and chattels, lands and tenements, together with five per cent. in full for his trouble, for levying, selling and collecting. But if no such goods and chattels, lands and tenements, can be found, then to seize and take the body of such offender and commit him to the common gaol or some other place of close confinement for the space of four months unless he sooner pays the said fine; and no [process] shall issue to stay the execution of such warrant unless in the case of the seizure of real estates.

[Section VI.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That before the lieutenant or sub-lieu-

tenant and justice of the peace sit to hear and determine upon any appeal of which they are hereby directed to judge shall have taken the respective oaths or affirmations of office prescribed by the constitution, and the said freeholder before he shall sit on the said appeal shall take the following oath or affirmation, viz.:

“That he will hear and impartially determine on the cases of appeal that may be laid before him, agreeable to law and according to the best of his knowledge:”

Which oath or affirmation the said justice, lieutenant or sub-lieutenant is hereby empowered and required to administer. And the said justice and freeholder shall have and receive from the said lieutenant or sub-lieutenant the sum of twenty shillings each for each day they shall sit on the said appeals.

(Section X, P. L.) And whereas many militia-men by removing from one battalion or company to another find means to escape their tour of duty, and thereby defeat the good intent of the militia law:

Therefore:

[Section VII.] (Section XI, P. L.) Be it enacted by the authority aforesaid, That no militia-man shall withdraw himself from the company to which he belongs under the penalty of five pounds to be sued for and recovered for the use of this state by the commanding officer of the company from which he shall so withdraw himself before any justice of the peace by action of debt. Provided nevertheless, That persons removing out of the bounds of one battalion or company to another shall apply to the commanding officer of the company to which he did belong, who shall give him a discharge, certifying the class to which he belongs and whether he has served his tour of duty or not, which certificate the said militia-man shall produce to the captain or commanding officer of the company in whose bounds he next settles within ten days after his settlement under penalty of five pounds, to be recovered and applied as the aforesaid fine is directed to be recovered and applied; and the captain or commanding officer is hereby required to enroll him in the class specified in said certificate.

(Section XII, P. L.) And whereas it is found upon experience that subjecting members of the general assembly to militia

duties has a tendency to retard the public business, many of them having been called to serve their tour in the militia when their attendance at the same time is absolutely necessary in the house of assembly:

Therefore:

[Section VIII.] (Section XIII, P. L.) Be it enacted by the authority aforesaid, That members of general assembly for the time being shall be and they are hereby exempted from performing militia duties, and from all fines for any neglect thereof during the time they continue members.

[Section IX.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That so much of the act to which this is a further supplement, as also so much of the said supplement to the said militia act as is herein or hereby amended or altered, are hereby declared to be repealed.

Passed December 30, 1777. See the note to the Act of Assembly passed March 17, 1777, Chapter 750. The act in the text was repealed by the Act of Assembly passed March 20, 1780, Chapter 902.

CHAPTER DCCLXXXII.

AN ACT FOR THE BETTER SUPPLY OF THE ARMIES OF THE UNITED STATES OF AMERICA.

(Section I, P. L.) Whereas notwithstanding the large quantities of clothing which have been seasonably ordered from Europe for the armies of the United States of America, adequate supplies have not yet been imported:

And whereas a regular and fixed mode of collecting and providing such supplies as can be furnished in this state will enable the legislature thereof to administer on any emergency more expeditiously and effectually to the necessities not only of their quota of troops, but also of the rest of the army:

[Section I.] (Section II, P. L.) Be it enacted, and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the