

## CHAPTER MMLXVIII.

## AN ACT FOR THE REGULATION OF THE MILITIA OF THE COMMONWEALTH OF PENNSYLVANIA.

[Section I.] (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That each and every free able bodied white male citizen of this or any other of the United States, and every other free able bodied white male person, who has been resident in this commonwealth for six months previous to the time of his enrollment, who is or shall be of the age of eighteen years and under the age of forty-five years, except as hereinafter excepted, shall severally and respectively be enrolled in the militia, by the captain or commanding officer of the company within whose bounds such citizen or other person as above described shall reside, and that it shall be, at all times hereafter, the duty of such captain or commanding officer to enroll, or cause to be enrolled, every such citizen and other person resident 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, or become resident as aforesaid, and not excepted by this act, shall come to reside within his bounds, and shall, without delay, notify such citizen or other person of such enrollment, by a printed or written notice, to be left at the dwelling house of the person so enrolled by a sergeant of the company, by whom such notice may be proved; and in all cases of doubt respecting the age or residence of any person enrolled, or intended to be enrolled, the party shall prove his age or residence to the satisfaction of the officers of the company within whose bounds he may reside, or a majority of them; and it shall be the duty of the said captain or commanding officer, and it is hereby enjoined upon him, to take, or cause to be

taken, an accurate list of all the persons subject to militia duty, who shall have been enrolled by him as aforesaid in the militia, noting, as precisely as possible, the particular age of each person enrolled, and also to take, or cause to be taken, another list of such persons residing within the bounds of his company, subject to militia duty, who shall decline to be enrolled as aforesaid, who shall be considered as exempts, or persons exempted from training with the militia in regiments and companies, as is directed by this act,—but not as persons exempted from their tour of duty, when the militia of this state, or any detachment thereof, shall be called into actual service; and the said captain or commanding officer shall, under the penalty of twenty dollars for every such neglect or refusal, yearly, and every year, on or before the fifteenth day of April, deliver, or cause to be delivered, a full and complete list or roll, on oath or affirmation, as well of the persons so enrolled by him, as of the exempts residing within his bounds, to the brigade inspector; and it shall be the duty of the said brigade inspector, within twenty days after he shall have received the said lists or rolls as aforesaid, to deliver or safely transmit to the commissioners of the county, in which he shall reside, under the penalty of twenty dollars, and shall incur a further fine of twenty dollars for every month's delay after the expiration of the said twenty days, to be recovered by the treasurer of the state, for the use of the commonwealth, a true and accurate list of the said exempts, so as aforesaid returned to him by the captains or commanding officers of the respective companies; and thereupon the said county commissioners shall fine or charge the persons so returned to them as exempts, in their county duplicates, the sum of six dollars each, over and above the amount of their taxes, keeping the account of the said fines in a separate and distinct column from the county tax; and it shall be the duty of the said commissioners to direct and cause the said exempt fines to be collected at the same time, and in the same manner, in which the county tax is directed by law to be collected, except as to the discretion of exoneration invested in the commissioners in other cases, and in like manner to be paid and received in the treasury of the county; and the county

treasurers, respectively, are hereby directed to keep separate and distinct accounts of all the moneys so by them received for exempt fines, in pursuance of this act; and the said county treasurers, respectively, shall settle with the register-general, and pay yearly to the treasurer of the commonwealth, all such fines from exempts, as they shall receive by virtue of this act. Provided always, That no person, who shall be enrolled as aforesaid, shall be called upon to exercise with the militia in regiments and companies, as is directed by this act, until he shall arrive at the age of twenty-one years, but in case of actual war, invasion or rebellion of this or any of the United States, then the persons enrolled, who shall be of the age of eighteen years, and all such persons who are described in this act under the denomination of exempts, shall be called upon to perform their respective tours of duty, in like manner and under the same penalties with the other militia of this state.

[Section II.] (Section II, P. L.) And be it further enacted by the authority aforesaid, That the vice-president of the United States, 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 United States, all ferrymen employed at any ferry on the post roads, all inspectors of exports, all pilots, all mariners actually employed in the sea service of any citizen or merchant within the United States, ministers of religion of every denomination, professors and teachers in the university, colleges, academies and schools, judges of the supreme court and presidents of the courts of common pleas, menial servants of ambassadors, ministers and consuls from foreign states, sheriffs, gaolers and keepers of work houses, and no other person or persons, shall be, and are hereby, excepted from militia duty, notwithstanding their being above the age of eighteen years and under the age of forty-five years.

[Section III.] (Section III, P. L.) And be it further enacted by the authority aforesaid, That the militia of this commonwealth shall, within the respective bounds hereinafter mentioned,

be arranged into divisions, brigades, regiments, battalions and companies; that each brigade so to be formed shall consist of four regiments, each regiment of two battalions, and each battalion of four companies, exclusive of the flank companies, in such manner that no company shall consist of more than one hundred, or less than sixty-four privates, or as near as may be, having regard to their local situations; there may be to each battalion one company of grenadiers, light infantry or riflemen, which company shall be formed within the bounds of the regiment; and to each division there may be at least one company of artillery, which company shall be furnished with one piece of ordnance at the expense of the state, and one troop of horse, which shall be formed of volunteers in their respective brigades, at the discretion of the governor, not exceeding one company of each to a regiment, nor more in number than one-eleventh part of the infantry. Provided always, That the several volunteer corps of artillery, cavalry, infantry and riflemen, which have hitherto existed in this commonwealth and have not been included in the general formation of the militia, shall continue to exist as heretofore.

[Section IV.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the territory of the commonwealth be, and it is hereby, divided into division bounds, as follows, to wit: the city and county of Philadelphia shall form one division; the counties of Bucks and Montgomery one other division; the counties of Chester and Delaware one other division; the county of Lancaster one other division; the county of York one other division; the counties of Berks and Dauphin one other division; the counties of Cumberland and Franklin one other division; the counties of Northampton and Wayne one other division; the counties of Northumberland, Lycoming and Luzerne one other division; the counties of Mifflin and Huntingdon one other division; the counties of Bedford, Fayette and Somerset, one other division; the counties of Washington and Greene one other division; and the counties of Westmoreland and Allegheny one other division; the city of Philadelphia shall form one brigade; and each division shall form two brigades; and when, from

the increase of population, the number of men in some companies of a regiment shall become greatly disproportionate to the number in other companies, the field officers of such regiment are hereby authorized to make such arrangements and distributions of the men, as in their discretion shall be convenient and proper, in order to equalize the number in the several companies.

[Section V.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That there shall be two colors or standards, provided at the expense of the state, for every regiment, so that each battalion may have one, and they shall be uniform throughout the state, and of the following dimensions and devices, to wit: the length or height of the staff of each of the said colors shall be at least nine feet, with a brass spear on the top thereof, the fly of each of the said colors shall be six feet six inches in length, and four feet six inches in height on the staff; on the fly of one of the said colors, to be made of a dark blue colored silk, there shall be painted an American eagle, with expanded wings, supporting the arms of the state, or some striking part thereof; in the upper corner, next to the staff, there shall be inserted, in white letters and figures, the number of the regiment, and the word Pennsylvania, encircled or ornamented with thirteen white stars; the fly of the other color shall be composed of thirteen red and white alternate stripes, with the upper corner, next to the staff, colored and appropriated as above directed; and each color shall be ornamented with two silk tassels; and the governor is hereby authorized to cause two colors or standards to be made, as soon as convenient, according to the above directions, and lodged in the office of the secretary of the commonwealth, and preserved as models for the colors of the state, agreeably to which all the regimental colors of this commonwealth shall hereafter be made; and the uniform or military dress of the militia of this state shall be as follows, to wit: a blue coat, faced with red, and the lining thereof white or red, the buttons to correspond with the color of the same; and the uniform of the general officers and the officers of the staff may be blue faced with buff.

[Section VI.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the commissioned officers of infantry shall severally, at their own expense, be armed with a sword or hanger, and an espartoon, and those of artillery with a sword or hanger, a suzee, bayonet and belt, and a cartridge box to contain at least twelve cartridges; the commissioned officers of the several troops of horse shall furnish themselves with good horses, of at least fourteen hands and an half high, and shall be armed with a sword and a pair of pistols, the holsters of which shall be covered with bear skin caps; each light horseman or dragoon shall furnish himself with a serviceable horse, of at least fourteen hands and an half high, a good saddle, bridle, mail pillion, and valise, holsters and [a] breast plate and crupper; a pair of boots and spurs, a pair of pistols, the holsters of which shall be covered with bear skin caps, a sabre and cartouch box, to contain at least twelve cartridges for pistols; and every person so enrolled and provided with 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.

[Section VII.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the militia shall be officered as follows: to each division one major-general and two aides-de-camp, with the rank of major; to each brigade one brigadier-general and one brigade-major, with rank of major; to each regiment one lieutenant-colonel commandant; and to each battalion one major; to each company of infantry (including light infantry, riflemen and grenadiers) one captain, one lieutenant, one ensign, four serjeants, four corporals, one drummer and one fifer or bugler. There shall be a regimental staff, to consist of one adjutant and one quarter-master, to rank as lieutenants, one pay-master, one suregon, one surgeon's mate, one serjeant-major, one quarter-master serjeant, one drum-major, and one fife-major. There shall be to each company of artillery one captain, two lieutenants, four serjeants, four corporals, six gunners, six bombardiers, one drummer and one fifer; and to each troop of horse there shall be one captain, two lieutenants, one

cornet, four serjeants, four corporals, one saddler, one farrier, and one trumpeter. There shall be an adjutant-general, with the rank of brigadier-general, appointed for the whole militia; and it shall be the duty of the first serjeant of every company to act as clerk of the company, and to do and perform all such things as shall be required of him by this or any other act of assembly of this commonwealth.

[Section VIII.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the adjutant-general, majors-general, brigadier-general and brigade-inspectors, shall be appointed and commissioned by the governor, the division and brigade officers to be residing within their respective division and brigade bounds; that the majors-general shall appoint their own aides-de-camp; and the brigadiers-general their brigade-majors; that the field officers of each regiment shall appoint their respective regimental staffs; that the lieutenant-colonels, majors, captains, lieutenants and ensigns shall be elected, in form and manner hereinafter mentioned and provided for, but no person shall be eligible, or hold a commission in the militia, who is not a citizen of the United States; that all commissioned officers shall be commissioned during seven years, if they shall so long behave themselves well, and 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 detachment; and if any commissioned officer shall remove out of the bounds of the city of Philadelphia, or out of the bounds of his proper county, for more than nine months, his office shall thereby become vacant.

[Section IX.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the duty of the adjutant-general shall be to distribute all orders from the governor, as commander-in-chief of the militia of this state, to the brigade-inspectors, or to the several corps, when in actual service, to attend all public reviews, when the governor shall review the militia, to obey all orders from him relating to the carrying into execution and per-

fecting the system of military discipline established by this act, to furnish blank forms of [the] different returns that may be required, for which blank forms he shall be allowed in the settlement of his accounts with the register-general, 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 such manner as the governor shall direct, so that the said adjutant-general may be furnished therewith, from all which returns he shall make a general return of all the militia of the state, and lay the same before the governor, and a duplicate thereof before the president of the United States; that the said adjutant-general, before he enters upon the exercise of the duties of his office, shall give bond, with two or more sufficient sureties, in the penalty of five thousand dollars, conditioned for the due and faithful performance of the said duties, and shall, in full compensation for his services, receive a yearly salary of eight hundred dollars.

[Section X.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That the governor [be], and he hereby is, authorized to commission one brigade-inspector in each brigade for seven years, whose duty it shall be, once in every year, to inspect the arms, ammunition and accoutrements of the militia composing his brigade, to execute all orders which he may receive from the commander-in-chief, to make returns to the adjutant-general, at least once in every year and at such other times as thereunto required, to superintend the elections of field officers, and, between the first and last days of March in every year, to issue his warrant, directed to the commanding officer of each company, or to some other fit person of each company in the brigade, commanding him to deliver to the said inspector, within ten days from the date of the said warrant, (on oath or affirmation, which the said inspectors are hereby severally empowered



to administer) a true and exact list of the names, surnames and ages of each and every free able bodied male white citizen, or other person, residing within the bounds of his company, between the ages of eighteen and forty-five years, (not being such as are above declared exempted from militia duty) and one other list, containing the names and surnames of all such persons enrolled as aforesaid, who may choose to become exempt for one year, designating in each list the class to which each person belongs, under the penalty of twenty dollars; and the said inspector, when he has received the said returns, shall make out three lists of all the exempts in his brigade, and deliver one list to the commissioners of taxes of the proper county, and shall forward one list to the state treasurer, and the other to the register-general; and it shall also be the duty of each brigade inspector, when any class or classes of the militia are called to perform any tour of duty, immediately to notify every commissioned officer, whose tour of duty it may be, and shall cause each non-commissioned officer and private so called to be notified by a written or printed notice, in the following words: "Take notice that you are hereby required personally, or by [sufficient] substitute, to appear at \_\_\_\_\_, properly armed and equipped for service, at the hour of \_\_\_\_\_, on \_\_\_\_\_, to march where required. Appeals to be heard at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_. Given under my hand \_\_\_\_\_," by being delivered to him personally, or left at his house or usual place of abode, at least three days before the time of assembling the said militia, by the commanding officer of each company, or by a serjeant under his orders, who shall prove such notice on oath or affirmation, unless the governor, on a sudden exigency, shall think proper to order any part of the militia into immediate and actual service, in which case the notice, mentioning such special order, shall be given for immediate attendance; and any [person] refusing or neglecting to perform such tour of duty shall pay a fine of sixteen dollars per month for every such offence; and it shall further be the duty of the brigade-inspector, forthwith after the marching of any part of the militia, to call to his assistance two respectable citizens, one whereof shall be a justice of the peace, to sit at the

places named in the notices above directed to be served upon every militiaman so called out, and shall [there] hear and determine all appeals that may be made by the persons thinking themselves aggrieved by anything done in pursuance of this act, and they are hereby authorized and required to grant such relief to such appellants; as to them shall appear just and reasonable; and each of the said reputable citizens, before they enter on the said duties, shall take the following oath or affirmation, viz: "That he will hear and impartially determine on the cases of appeal which may be laid before him, agreeably to law, and according to the best of his knowledge;" which oath or affirmation the inspector is hereby empowered to administer; and the said justice and citizen shall have and receive from the said inspector the sum of one dollar each, for every day they shall sit on the said appeals; and the said inspector and justice of the peace shall each keep a separate record of the proceedings of such court of appeals; and the said inspector shall, within twenty days after such determination of appeals, make out and deliver, or cause to be delivered, to the state treasurer, the register-general, and to the county commissioners of the proper county, each a list of all such delinquents, as well those whose appeals shall have been determined against them, with the sums due by each respectively; and that each inspector shall receive for his services the yearly salary of forty dollars for each regiment belonging to his brigade, and receive such reasonable allowance for stationery, printing, and for such just and reasonable expenses as he may have incurred, or shall hereafter incur, for providing and repairing drums, colors, artillery carriages and other incidental expenses, as he shall make appear to the register and comptroller-general to be really necessary; and, before he enters upon the duties of his office, he shall give bond, with one or more sufficient sureties, in the penal sum of one thousand dollars, conditioned for the due and faithful performance of his duties, and for the faithful accounting for and paying over all the moneys which shall come to his hands by virtue of this act; and each of the said inspectors shall, once in every twelve months, make out complete accounts of all moneys by him received, and of his expenditure, and re-

turn the same to the register-general, or in default thereof, shall forfeit and pay the sum of one [thousand] dollars; and on the death, removal or resignation of any of the said inspectors, such inspector, his executors or administrators, shall deliver up to his successors in office, or some other person duly authorized by the governor to receive the same, all and singular the books, papers and documents belonging to, or in use in, the said office, and on refusal thereof, he or they so offending shall forfeit the sum of one thousand dollars, to be recovered by action of debt, in any court of record within this state.

[Section XI.] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the elections of such officers as are by this act declared to be elective, shall be made as follows: The several brigade inspectors shall, between the [first] day of May, and the first day of August in the year one thousand eight hundred, give notice, by advertisements at eight or more of the most public places of each regiment bounds or districts, appointing a certain day for each district; not less than ten days after the said notice, and requiring all the enrolled inhabitants in the said regiment, and residing within the bounds thereof, to meet at a certain place, as near the center of the said district as may be, and then and there, between the hours of ten in the morning and six in the afternoon of the said day, to elect by ballot one lieutenant-colonel; and the enrolled inhabitants of each battalion bounds, respectively, shall elect by ballot as aforesaid, on the same or some other day, and at such place or places as shall be most convenient, but with the least possible delay, one major; and the enrolled inhabitants of each company bounds respectively shall elect by ballot as aforesaid, on the same or some other day, and at such place or places as shall be most convenient, but with the least possible delay, one captain, one lieutenant and one ensign; previous to which said election or elections, respectively, the said enrolled inhabitants shall elect two respectable citizens to preside as judges thereof, who shall certify to the inspector the names of the persons so elected; and the said inspector shall attend and superintend each and every of the said battalion elections, and, after the officers are elected,

shall give notice thereof to the persons elected, and transmit to the governor a proper return of the officers elected, mentioning the number of the regiment, the name of each person and their respective ranks, in order that commissions may be granted agreeably to the intent of this act. And elections for officers in the light horse shall be made in like manner as elections for officers in the infantry and artillery. And in every case of future vacancy, whether by death, resignation or absence, as herein-after provided, the brigadier in whose brigade such vacancy or vacancies shall happen shall, immediately upon receiving notice thereof, cause one or more regiment, battalion or company elections to be held, in manner and form aforesaid, in order to supply the same, and shall, when there shall be occasion, cause the ranks to be ascertained, and make return to the governor, in manner hereinbefore provided; and whenever any vacancy or vacancies shall happen as aforesaid in any regiment, battalion or company, the commanding officer of such regiment, battalion or company, for the time being, shall give immediate notice thereof to the inspector of his brigade, that the same may be filled up without loss of time; and if any regiment, battalion, troop or company, being duly noticed and required as aforesaid, shall neglect or refuse to elect their officers as aforesaid, then it shall and may be lawful for the inspector of the brigade to which such regiment, battalion, troop or company shall belong, to nominate, if the said election was to have been held for a field officer or officers, with the approbation of the brigadier-general, and if for a company officer or officers, with the approbation of the field officers of the regiment, one suitable person to the governor, in the room of each officer so neglected to be chosen; and the governor approving thereof shall commission the said person, which shall be as effectual to all intents and purposes as if the said officers had been elected as before directed; and the said inspector [shall], as soon as may be, acquaint the parties so neglecting or refusing with the appointments that shall have been made as aforesaid; but no change shall take place, either in the divisions, brigades, or the numbers of the regiments of the city or the several counties of this commonwealth, until after the expiration of the seven years

for which the officers were elected and commissioned under the directions of an act, passed on the eleventh day of April, one thousand seven hundred and ninety-three, entitled, "An act for the regulation of the militia of the commonwealth of Pennsylvania;"<sup>1</sup> but that all commissions which may have issued to fill any vacancies, subsequent to the first election held in conformity to the said act, shall expire and cease to be of effect at the end of seven years from the time of holding the said first general election for the several and respective regiments, so that an entire and general election of all the officers of all and every of the regiments throughout the commonwealth shall take place, according to the directions and intent of this act, at the completion and expiration of seven years from the time of holding the first election aforementioned under the before recited act, any term mentioned in any commission or commissions granted by the governor notwithstanding.

[Section XII.] (Section XII, P. L.) And be it further enacted by the authority aforesaid, That, in order to give respectability and permanency to the militia arrangements, all the regiments of this state shall be numbered and called as follows, to wit:

In the city of Philadelphia the regiment commanded by Lieutenant-Colonel Gurney shall be No. 24; by Lieutenant-Colonel Guyer No. 25; by Lieutenant-Colonel Nichols No. 28; by Lieutenant-Colonel McLane No. 50; and by Lieutenant-Colonel Scott No. 84.

In the county of Philadelphia the regiment commanded by Lieutenant-Colonel Shrupp shall be No. 42; by Lieutenant-Colonel Patterson No. 67; by Lieutenant-Colonel Franks No. 75; by Lieutenant-Colonel Worrell No. 80; and by Lieutenant-Colonel Coats No. 88.

In the county of Bucks the regiment commanded by Lieutenant-Colonel Smith shall be No. 15; by Lieutenant-Colonel Erwin No. 31; by Lieutenant-Colonel Hanna No. 32; and by Lieutenant-Colonel Hart No. 48.

In the county of Chester the regiment commanded by Lieutenant-Colonel Whelen shall be No. 27; by Lieutenant-Colonel Harris No. 44; by Lieutenant-Colonel Corry's No. 47; by Lieutenant-Colonel Craig No. 85; by Lieutenant-Colonel Heister No. 92; and by Lieutenant-Colonel Boyd No. 97.

In the county of Lancaster the regiment commanded by Lieutenant-Colonel Hambright No. 5; by Lieutenant-Colonel Ensminger No. 7; by Lieutenant-Colonel Strickler No. 34; by Lieutenant-Colonel Mills No. 60; by Lieutenant-Colonel Foutz No. 98; by Lieutenant-Colonel Steel No. 104; by Lieutenant-Colonel Ream No. 120; and by Lieutenant-Colonel Mosher No. 121.

In the county of York the regiment commanded [by] Lieutenant-Colonel Shearman shall be No. 9; by Lieutenant-Colonel Read No. 20; by Lieutenant-Colonel Campbell No. 40; by Lieutenant-Colonel Kelly 41; by Lieutenant-Colonel May No. 61; by Lieutenant-Colonel King No. 93; by Lieutenant-Colonel Diehl No. 111; and by Lieutenant-Colonel Edie No. 113.

In the county of Cumberland the regiment commanded by Lieutenant-Colonel Alexander shall be No. 12; by Lieutenant-Colonel Mitchell No. 21; by Lieutenant-Colonel Anderson No. 49; by Lieutenant-Colonel Lusk No. 59; by Lieutenant-Colonel McFarland No. 87; and by Lieutenant-Colonel McDonald No. 116.

In the county of Berks the regiment commanded by Lieutenant-Colonel Frailey shall be No. 43; by Lieutenant-Colonel Spang No. 69; by Lieutenant-Colonel Moyers No. 79; by Lieutenant-Colonel Lower No. 95; by Lieutenant-Colonel Bauma No. 110; and by Lieutenant-Colonel Gehr No. 114.

In the county of Northampton the regiment commanded by Lieutenant-Colonel McFarren shall be No. 8; by Lieutenant-Colonel Grim No. 13; by Lieutenant-Colonel Bachman No. 38; by Lieutenant-Colonel Mulhallon No. 71; by Lieutenant-Colonel Rinker No. 94; by Lieutenant-Colonel Bauchman No. 101; by Lieutenant-Colonel Starbird No. 115; and by Lieutenant-Colonel Kern No. 118.

In the county of Westmoreland the regiment commanded by Lieutenant-[Colonel] Bonnet shall be No. 2; by Lieutenant-Colonel Kuhn No. 19; by Lieutenant-[Colonel] Craig No. 30; by Lieutenant-Colonel Powers No. 54; by Lieutenant-Colonel Halferty No. 63; and by Lieutenant-Colonel Hunter No. 70.

In the county of Northumberland the regiment commanded by Lieutenant-Colonel McKenny No. 18; by Lieutenant-Colonel Kelley No. 39; by Lieutenant-Colonel Price No. 77; by Lieutenant-Colonel Montgomery No. 81; by Lieutenant-Colonel Lazarus No. 106; by Lieutenant-Colonel Salmon No. 112; and by Lieutenant-Colonel Tietsworth No. 123.

In the county of Franklin the regiment commanded by Lieutenant-Colonel Parker No. 1; by Lieutenant-Colonel Rhea No. 73; by Lieutenant-Colonel Elliott No. 64; by Lieutenant-Colonel Johnston No. 68; and by Lieutenant-Colonel Miller No. 96.

In the county of Montgomery the regiment commanded by Lieutenant-Colonel Pugh shall be No. 36; by Lieutenant-Colonel Wentz No. 51; by Lieutenant-Colonel Hines No. 56; and by Lieutenant-Colonel Markley No. 86.

In the county of Dauphin the regiment commanded by Lieutenant-Colonel Woods shall be No. 3; by Lieutenant-Colonel Forster 66; by Lieutenant-Colonel McKee No. 78; and by Lieutenant-Colonel Shaufler No. 117.

In the county of Luzerne the regiment commanded by Lieutenant-Colonel Ransom shall be No. 35; by Lieutenant-Colonel Faulkner No. 45; [and] by Lieutenant-Colonel Franklin No. 57.

In the county of Mifflin the regiment commanded by Lieutenant-Colonel McFarlane shall be No. 11; by Lieutenant Sterrett No. 52; by Lieutenant-Colonel Williamson No. 74; by Lieutenant-Colonel Nelson No. 83; and by Lieutenant-Colonel Holt No. 89.

In the county of Delaware the regiment commanded by Lieutenant-Colonel Levis shall be No. 65; and by Lieutenant-Colonel Wilcocks No. 110.

In the county of Huntingdon the regiment commanded by Lieutenant-Colonel Moore shall be No. 14; by Lieutenant-Colonel Fee

No. 33; by Lieutenant-Colonel Cromell No. 46; by Lieutenant-Colonel Holliday No. 58; and by Lieutenant-Colonel Spencer No. 119.

In the county of Allegheny the regiment commanded by Lieutenant-Colonel Patterson shall be No. 16; by Lieutenant-Colonel Forster No. 17; by Lieutenant-Colonel Sprout No. 26; by Lieutenant-Colonel Gilland No. 29; by Lieutenant-Colonel McNair No. 62; by Lieutenant-Colonel Wilson No. 76; and by Lieutenant-Colonel McDowell No. 107.

In the county of Washington the regiment commanded by Lieutenant-Colonel Stockely shall be No. 22; by Lieutenant-Colonel Marshall No. 23; by Lieutenant-Colonel Hamilton No. 53; by Lieutenant-Colonel Williamson No. 82; and by Lieutenant-Colonel Jenkins No. 99.

In the county of Greene the regiment commanded by Lieutenant-Colonel Woolverton shall be No. 6; and by Lieutenant-Colonel Swan No. 122.

In the county of Fayette the regiment commanded by Lieutenant-Colonel Paul shall be No. 72; by Lieutenant-Colonel Springer No. 90; by Lieutenant-Colonel Lynn No. 91; and by Lieutenant-Colonel Whaley No. 108.

In the county of Bedford the regiment commanded by Lieutenant-Colonel Patterson shall be No. 55; and by Lieutenant-Colonel Ward No. 105.

In the county of Somerset the regiment commanded by Lieutenant-Colonel Stall shall be No. 10; and by Lieutenant-Colonel Kimmel No. 109.

In the county of Wayne the regiment commanded by Lieutenant-Colonel Schrunk shall be No. 73; and by Lieutenant-Colonel Coolbaugh No. 103.

In the county of Lycoming the regiment commanded by Lieutenant-Colonel Cummings shall be No. 4; and by Lieutenant-Colonel Crane No. 102.

And all regiments hereafter to be formed shall follow these numbers in numerical order.

[Section XIII.] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That every militiaman migrating or removing out of the bounds of one battalion or com-



pany 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, and the time and date of said service, which certificate the said militiaman shall produce to the captain or commanding officer of the company in whose bounds he next settles, within ten days after his settlement, and the said captain or commanding officer is hereby required to enroll him in the class specified in the said certificate.

[Section XIV.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That the whole of the militia of this state, except as herein excepted, shall be trained and exercised in companies, battalions and regiments, by their respective officers, in every year as follows, to wit: in companies on the second and third Saturdays in the month of April, and on the first and second Saturdays in the month of October, and the first regiment in each and every brigade on the Mondays next after the third Saturdays in April and October, the second regiment on the Tuesday following, the third regiment on the Wednesday, and so on according to their rank in brigade, on every day in the week (Sundays excepted) until the whole number of regiments shall have [mustered] and exercised in the aforesaid manner.

[Section XV.] (Section XV, P. L.) And be it further enacted by the authorities aforesaid, That if any commissioned officer shall, without a lawful excuse, neglect or refuse to attend on any of the days hereinbefore appointed for exercise, if a field officer, he shall forfeit and pay the sum of four dollars, and every other commissioned officer shall forfeit and pay the sum of two dollars; and every non-commissioned officer or private, so neglecting or refusing to attend, shall forfeit and pay the sum of one dollar for every such neglect or refusal, except such commissioned officer, non-commissioned officer and privates, who shall be summoned and actually attending, on any of the days of exercise aforesaid, as a juror or witness in any court within this commonwealth; and the same fines shall be respectively paid by every officer, non-commissioned officer or private, who shall

leave the parade on any day of training before the regiment or company is discharged, without leave first had and obtained of the officer commanding.

[Section XVI.] (Section XVI, P. L.) And be it further enacted by the authority aforesaid, In order to ascertain those person[s], who, by their absence on days of exercise, shall have incurred the fines above mentioned, a serjeant or the clerk of each company shall, on every such day, in the presence of the captain or commanding officer of the company, at the end of one hour after the time appointed for the meeting of the company, battalion or regiment, and also after the exercise is over and before the men are discharged, call over the muster-roll of the company, noting those who are absent, and a return shall be made by him, within two days after each regimental or company meeting, to the captain or commanding officer of the company, of all the absentees on the several days of exercise, particularly designating the day on which each default was made, under the penalty of four dollars for every time he shall refuse or neglect to make such return, it shall be the duty of the commanding officer of each regiment annually to appoint, in regimental orders, six commissioned officers, three to preside in each battalion for the current year, to hear appeals, and said orders shall be issued previous to the days appointed by this act for the training of the militia in the months of April and October, and the days of appeal shall not be less than ten nor more than fifteen days after the meeting of the regiments in the said months of April and October; and every person who may think himself aggrieved, and shall make it appear to the satisfaction of the court of his proper battalion, that he was prevented from attending militia duty on the day or days for which he may stand charged by sickness, or other unavoidable necessity, in such case it shall be lawful for the court to remit the fine or fines, but no excuse shall be received at any other time, or in any other manner, than is above mentioned.

[Section XVII.] (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That for the purpose of collecting and levying the fines that shall be incurred for nonat-

tendance on days of training, and also all such fines as shall be imposed by courts martial, it shall and may be lawful for the president of the court martial, if the fine was imposed by a court martial, and for the [commanding] officer of the company, if incurred for non-attendance on any day or days of training, to issue a warrant, under their respective hands and seals, directed to a serjeant of the company to which the delinquent shall belong, commanding him to collect and levy the said fine or fines, and the [said] serjeant, by virtue of the said warrant, shall be authorized and empowered to call on every delinquent that shall be named in the said warrant, or in a list annexed to and accompanying the same, and demand payment of the said fine or fines, and of five per centum on the amount thereof, for his trouble in collecting the same; and on neglect or refusal of such payment, then the said serjeant shall proceed to levy the said fine or fines, with costs equal to those received by constables in similar cases, by distress irrepleviabie and sale of the offender's goods and chattels, in like manner and with like effect as the collectors of taxes may or can do; and it shall be the duty of the said serjeant, within ten days after he shall have collected and received any fine or fines as aforesaid, to deliver over and pay the same to the paymaster of the regiment, who shall allow the said serjeant five per centum on the amount of the money so paid, in addition to the five per centum received by the said serjeant from the delinquent from whom the said fine or fines were collected; and the said pay-master shall hold the money so received by him subject to the drafts of the colonel or commanding officer of the regiment, to defray the expense of the service of notices, as directed by this act, for the payment of drummers, fifers, trumpeters and buglers, and for such other uses of the regiment as are contemplated by this act; and it shall be the duty of the said paymaster of the regiment, on the first Monday in December yearly and every year, to make out a fair and clear statement or settlement of his accounts, and lay the same before the field officers, and any two of the captains of the regiment, who shall examine it, and having certified the balance as it shall

appear to them on the account, one copy thereof shall remain with the pay-master, and another be lodged with the colonel or commanding officer of the regiment.

[Section XVIII.] (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That whenever it may be necessary to call into actual service any part of the militia, in case of rebellion, or of an actual or threatened invasion of this or any of the neighboring states, then it shall and may be lawful for the governor to order into actual service such part of the militia, by classes, as the exigency may require. Provided, That the part so called doth not exceed four classes of the militia of the brigade or brigades so called out. And provided also, That such brigade or brigades, shall not be again called into actual service, until an equal number of classes of the militia of the other brigade or brigades, respectively, be first called, unless the danger of an invasion from Indians or others should make it necessary to keep in reserve the militia of such brigade or brigades, for their immediate defence; the numbers or ranks of the companies in their respective battalions or regiments shall remain as they now are, and each battalion or regiment of the state shall be divided into eight classes (preserving to every man his original class) all flank companies, whether of grenadiers, light infantry or riflemen, shall be called into service by companies, or part of companies, and not by classes, the first flank company making part of the first call, and the second flank company shall make part of the fifth call of the militia, and be commanded by their own proper officers; and every flank company to be formed in future shall be formed under the direction and approbation of the field officers of the regiments, to consist of sixty-four privates, and composed of men actually resident within the bounds of the regiment to which they are to be attached, and not otherwise.

[Section XIX.] (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That to the end that the militia, when called by classes, shall be properly officered, the following order is hereby directed and enjoined, that is to say: for the first draft, the captain of the first company, the lieutenant

of the second, and ensign of the fourth; second draft, the captain of the second company, the lieutenant of the first, and the ensign of the third; third draft, the captain of the third company, the lieutenant of the fourth, and the ensign of the second; fourth draft, the fourth captain, the lieutenant of the third company, and the ensign of the first; fifth draft, the fifth captain, the lieutenant of the sixth company, and the ensign of the eighth; sixth draft, the sixth captain, the lieutenant of the fifth company, and the ensign of the seventh; seventh draft, the captain of the seventh company, the lieutenant of the eighth, and the ensign of [the] sixth; eighth draft, the captain of the eighth company, the lieutenant of the seventh, and the ensign of the fifth; non-commissioned officers to take tour of duty with the commissioned officers, and the routine of the field officers shall be according to the date of their respective commissions; the first colonel of the brigade shall command the first detachment, if it amount to a colonel's command, if it does not, the command shall devolve on the first major liable to serve two months and no longer, and to be relieved by the class next in numerical order, the relief to arrive at least two days before the expiration of the term of the class to be relieved, but nothing herein contained shall prevent the governor from employing and calling part of any class, or any company or companies, regiment or regiments, without respect to this rule, whenever the exigency is too sudden to allow the assembling of the militia which compose the particular classes; and the service of the persons so called out shall be accounted as part of their tour of duty; and the pay of the militia in actual service shall commence two days before marching, and they shall receive pay and rations at the rate of fifteen miles per day on their return home.

[Section XX.] (Section XX, P. L.) And be it further enacted by the authority aforesaid, That when any detachment of the militia shall be called into service, the captain of each company shall take care that his proportion of men are assembled and marched to the proper place of parade, under the care of a commissioned officer or serjeant, with a list of the men, which list shall be delivered to the adjutant of the regiment,

whose business it shall be to attend at the place appointed, to receive the detachments from the several companies of his regiment, and he shall make out a roll of the whole, mentioning the rank of the officers and names of the non-commissioned officers and privates, and when the detachment shall be completed and placed under the command of the proper officer, he shall attend them to the place appointed for the meeting of the detachment of the brigade, where the several adjutants shall deliver to the major of brigade, or officer appointed to command the whole detachment, a complete roll, containing the names of the officers and privates composing the detachment from each regiment or battalion, noting such remarks as circumstances may render proper; and it shall be the duty of the officer appointed to the command of said detachment to cause two complete rolls to be made, and certified under his hand, one of which rolls he shall cause to be delivered to the adjutant-general, and the other to the brigade-major, within five days after the marching of his detachment, under the penalty of fifty dollars.

[Section XXI.] (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for any person called to do a tour of duty to find a sufficient substitute, such substitute being approved of by the captain or commanding officer of the company, which he shall be offered to serve in. Provided always, That persons 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 march, or find a 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 directed to be recovered; and that sons who are not subject to the militia law may be admitted as substitutes for their fathers.

[Section XXII.] (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That when the militia, or any detachment thereof, are called out on duty, they shall be entitled to like pay and rations as is or shall be provided for the

army of the United States; and that every person refusing or neglecting to perform his tour of duty in person or by substitute shall pay the sum of his tour of duty in person or by substitute shall pay the sum of twelve dollars for every such neglect or refusal, if the tour was to be for a term not exceeding one month, and in proportion if the tour was to be for any longer or shorter term.

[Section XXIII.] (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That the following articles, rules and regulations shall be those by which the militia shall be governed:

Article I. If any field or other commissioned officer, at any regimental review, or on any other occasion when the regiment or company to which he may belong, or in which he holds a command, is paraded in arms, shall misbehave or demean himself in an unofficer-like manner, he shall for such offence be cashiered, or punished by fine, at the discretion of a general court martial, as the case may require, in any sum not exceeding sixty dollars; and if any non-commissioned officer or private shall, on any occasion of parading the company to which he belongs, appear with his arms and accoutrements in an unfit condition, or be drunk, or shall disobey orders or use any reproachful or abusive language to his officers, or any of them, 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 company is dismissed, and shall be fined, at the discretion of a regimental court martial, in any sum not exceeding four dollars, nor less than one dollar.

Article 2. If the lieutenant-colonel or commanding officer of any regiment shall neglect or refuse to give orders for assembling his regiment at the times appointed by this law, or at the direction of the inspector of the brigade to which he belongs, when the said inspector is thereto commanded by the governor, or in case of an invasion of the city or county to which such regiment belongs, he shall be cashiered, and punished by fine, not exceeding two hundred dollars, at the discretion of a general court martial; and if a commissioned officer of any company 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 lieutenant-colonel or commanding officer of the regiment to which such company belongs, he shall be cashiered, and punished by fine, not exceeding sixty 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 twenty dollars.

Article 3. If any captain or commanding officer of a company shall refuse or neglect to make out a list of the persons noticed to perform any tour of duty, and send or convey the same to the lieutenant-colonel or commanding officer of the regiment to which such company 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 forty dollars.

Article 4. If any militiaman shall desert while he is on a tour of duty, he shall be fined twenty-four dollars for every such offence, and be obliged to march on the next tour of duty, under the [same] penalties as at first, if a non-commissioned officer shall so desert, he shall be degraded and placed in the ranks, shall pay a fine of thirty dollars, and be obliged to serve another tour as a private.

Article 5. Every general court martial shall consist of thirteen members, all of whom shall be commissioned officers, and of such rank as the case may require, and these thirteen shall choose a president out of their number, who shall not be under the rank of a field officer.

Article 6. Every regimental court martial shall be composed of five members, all commissioned officers, who are to choose one of their members a president, not under the rank of captain.

Article 7. In any court martial, not less than two-thirds of the members must agree in every sentence for inflicting any punishment, otherwise the person charged shall be acquitted.

Article 8. The president of each and every court martial, whether general or regimental, shall require all witnesses, in order to the trial of offenders, to declare on oath or affirmation that the evidence they shall give is the truth, the whole truth and



nothing but the truth; and the members of all such courts shall take an oath or affirmation, which the president is required to administer to them, that they will give judgment with impartiality.

Article 9. All persons belonging to the militia, called as witnesses in any case before a court martial, who shall refuse to attend and give evidence, shall be censured, or fined, at the discretion of the court, in any sum not exceeding four dollars.

Article 10. No officer or private man, being charged with transgressing these rules, shall be suffered to do duty in the regiment, company or troop to which he belongs, until he has had his trial by a court martial; and every person so charged shall be tried as soon as a court martial can conveniently be assembled.

Article 11. If any officer or private man shall think himself injured by his lieutenant-colonel, or the commanding officer of the regiment, and shall, upon due application made to him, be refused redress, he may complain to the brigadier-général, who shall direct the inspector of the brigade to summon a general court martial, that justice may be done.

Article 12. If any inferior officer or private man shall think himself injured by his captain, or other superior in the regiment, troop or company to which he belongs, he may complain to the commanding officer of the regiment, who shall summon a regimental court martial, for doing justice according to the nature of the case.

Article 13. No penalty shall be inflicted at the discretion of a court martial, other than degrading, cashiering or fining.

Article 14. The commanding officer of the militia, for the time being, shall have full power of pardoning or mitigating any censures or penalties ordered to be inflicted on any private or non-commissioned officer, for the breach of any of these articles, by [a] general court martial, and every offender, convicted as aforesaid by any regimental court martial, may be pardoned, or have the penalty mitigated, by the lieutenant-colonel or commanding officer of the regiment, excepting only where such censures or penalties are directed as satisfaction for injuries re-

ceived by one officer or private man from another; but in case of officers, such sentence to be approved by the commander-in-chief of the militia, who is empowered to pardon or mitigate such sentence, or disapprove of the same.

Article 15. That if any commissioned officer shall at any time, or upon any occasion, behave in an unofficer-like, ungentlemanly, or disgraceful manner, the commander-in-chief, if the person accused be a major-general, the major-general of the division, if a brigadier, the brigadier, if a field officer, or the lieutenant-colonel, if an inferior officer, as the case may be, upon the application of any commissioned officer, may appoint a board of three officers to inquire into the matter of complaint, and if, upon their report, it shall appear to him deserving of trial, then, and in such case, he shall direct a court-martial, whose proceedings herein shall have the same effect as if the officer had been committed when on actual duty.

Article 16. The militia, on the days of training, may be detained under arms on duty in the field any time not exceeding six hours, provided they are not kept above three hours under arms at any one time, without allowing them a proper time to refresh themselves.

Article 17. All fines that shall be incurred by any breach of these rules shall be paid into the hands of the inspectors of the brigades to which the offenders belong, or to such person or persons as he shall appoint and make known, in general or brigade orders, as his agents or attorneys to receive the same, within three weeks after they become due; but in case of neglect or refusal to pay any of the said fines, the said inspector shall cause the same to be collected and levied in the manner hereinafter mentioned.

Article 18. The rules of discipline approved and established by congress, in their resolution of the twenty-ninth of March, one thousand seven hundred and seventy-nine, shall be the rules of discipline to be observed by the militia throughout 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 command-

ing officer, at every training, whether by regiment or single company, to cause the militia to be exercised and trained agreeably to the said rules of discipline; and the instructions laid 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 and expressed in this act at length.

Article 19. The militia of this state, whilst in the actual service of the United States, shall be subject to the same rules and regulations as the federal army. Provided, That upon any transgression or offence of a militiaman, whether officer or private, against the rules and regulations of the federal army, the cause shall be tried and determined by a court martial of the militia of this state, and [that] it shall be in the power of the governor, or in case of his absence, of the commanding officer of the militia, to mitigate, suspend or pardon any punishment, to which any militiaman may be sentenced by a general court martial.

[Section XXIV.] (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That no civil process shall be served on any commissioned, non-commissioned officer or private, at any regimental review or training of any company, or while going to or returning from the place of such review or training.

[Section XXV.] (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That all and every of the fines and forfeitures by this act made payable, and the mode of recovery not hereinbefore particularly pointed out, shall be recovered by the inspectors of the several brigades, in the name and for the use of the commonwealth, by action of debt, before a justice of the peace or in any court of record within this commonwealth, as from the amount thereof they shall be more properly cognizable; and the said inspector shall render his accounts, for all moneys received and disbursed by him in virtue of this act, to the register-general, for settlement, every twelve months; and in case of the refusal or neglect of any brigade-inspector to render his accounts as aforesaid, the register-general and the comptroller-general are hereby empowered and directed

to proceed against him, in like manner as they are authorized and empowered to proceed against other delinquent revenue officers, to compel the settlement of his accounts, and the payment of moneys due the commonwealth thereon into the state treasury.

[Section XXVI.] (Section XXVI, P. L.) And be it further enacted by the authority aforesaid, That all moneys passing into the treasury by virtue of this act shall be appropriated as a fund, for the purpose of equipping and furnishing the militia with arms, and every necessary apparatus for the defence and security of the state; and the treasurer of the commonwealth shall keep all the moneys arising from fines by the militia law separate from all other moneys, and keep separate books of the same, and the expenditures thereof, pursuant to the directions of this act.

[Section XXVII.] (Section XXVII, P. L.) And be it further enacted by the authority aforesaid, That the brigade inspector and two reputable citizens shall appraise the horse of each person serving as light-horsemen immediately before every time of going into actual service, and enter the same 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, he shall be paid the full value of his horse according to the said appraisement, by an order to be drawn by the Governor on the militia fund in the hands of the state treasurer for that purpose, on his producing to the governor a certificate of the loss of said horse signed by the commanding officer of the detachment to which he did belong whilst in actual service, together with a certificate of the valuation signed by the brigade inspector.

[Section XXVIII.] (Section XXVIII, P. L.) And be it further enacted by the authority aforesaid, That if any officer non-commissioned officer or private militiaman, or volunteer acting with the militia, residing in this state, having a family, shall be killed, or shall die of his wounds received in the service of this state, his widow, child or children, shall be entitled to similar relief, and under the same regulations and restrictions as were provided by the act, entitled, "An act to provide for the more effectual relief of the widows and children of the officers and

privates of the militia, who have lost their lives in the service of their country," passed the twenty-seventh day of March, one thousand seven hundred and ninety;<sup>2</sup> and if any officer, non-commissioned officer or private militiaman, or vounteer acting with the militia, residing in this state, shall be wounded, or otherwise disabled, in the service of this state, he shall be entitled to similar relief, and under the same regulations and restrictions as had been provided by an act, entitled, "An act for the relief of officers, soldiers and seamen, in the course of the late war, have been wounded, or otherwise disabled, in the service of this state, or of the United States," passed the tenth day of March, one thousand seven hundred and eighty-seven.<sup>3</sup>

[Section XXIX.] (Section XXIX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall knowingly sell, buy, take or exchange, conceal, or otherwise fraudulently receive, any arms, accoutrements, colors or drums, belonging to this state, or the United States, on any account or pretence whatsoever, the person so offending, being convicted thereof before one or more justice or justices of the peace of the city or county where such offence shall be committed, shall forfeit and pay, for every such offence, treble the value of such arms [or] accoutrements, to be ascertained by the said justice or justices, and levied by distress and sale of the offender's goods and chattels, by the justice or justices before whom such offender shall be convicted, returning the overplus, if any, on demand, to such offender, and for want of such distress, shall commit such offender to the common gaol of the county, there to remain without bail or mainprize, for any term not exceeding three months, unless such money shall be sooner paid, and in every such case, the proof of the property shall be made by the possessor of such arms and accoutrements.

[Section XXX.] (Section XXX, P. L.) And be it further enacted by the authority aforesaid, That if any suit or suits shall be brought or commenced against any person or persons for anything done in pursuance of this act, the action shall be laid in the county where the cause of such action did arise, and not elsewhere; and the defendant or defendants, in such action

or actions to be brought, may plead the general issue, and give this act and the special matter in evidence; and if the jury shall find for the defendant or defendants in such action or actions, or if the plaintiff or plaintiffs shall be nonsuited or 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 defendants shall have treble costs, and have the like remedy for the same, as any defendant or defendants hath or have in other cases to recover costs by law.

[Section XXXI.] (Section XXXI, P. L.) And be it further enacted by the authority aforesaid, That as in an act to provide arms for the use of the commonwealth, passed on the twenty-eighth day of March, one thousand seven hundred and ninety-seven, it is directed that a due proportion of said arms shall be delivered to the colonel or commanding officer of each regiment, and lodged in a suitable place or places of deposit, under the care of the field officers, and as it becomes necessary to make some further provision for the use and disposal of the said arms, and of such other arms as shall hereafter be purchased or procured for the use of the militia of the commonwealth, It is therefore hereby directed, That when any number of arms shall be delivered to the commanding officer of a battalion or regiment, he shall, as soon as may be, divide such arms among the companies of the regiment, having due regard to the number of men in each, and taking a responsible receipt from each captain for the arms delivered to his company, and the arms so delivered shall be marked with the number of the regiment and company, and numbered from one progressively; and the arms of each company shall be kept in a separate and distinct part of the store or place of deposit, so that every company may know where to receive their arms, and where to return them when the time of exercise or service shall be ended; and the said arms shall not be taken from their places of deposit, except on the days appointed by this act for the exercise and discipline of the militia, or when they shall be called into service, and at such times it shall be the duty of the quartermaster of the regiment, under the orders of the

commanding officer of the battalion or regiment, to attend at the place and hour appointed, under the penalty of twenty dollars for each and every neglect, and deliver to each company their proper arms, taking an account of the number to be delivered to each, and also to attend, when the exercise or service is over, and receive the said arms, and see that they are deposited in their proper and respective places; and the said quartermaster shall also take an account of, and forthwith report to, the commanding officer, any injuries to the said arms, or deficiencies therein, if any such have taken place; and if the arms of any regiment shall be lodged in any two places of deposit, in that case the quartermaster shall order and direct the quartermaster serjeant to attend to the delivery and receipt of the arms at one of the places of deposit, who shall perform all the duties herein enjoined upon the quartermaster, and under like penalties for neglect or failure of duty, and the expense of marking and numbering the arms, as above directed, shall be paid by the brigade inspector, who shall be allowed for the same in the settlement of his accounts.

[Section XXXII.] (Section XXXII, P. L.) And be it further enacted by the authority aforesaid, That if any youth of the age of twelve years, and not exceeding the age of twenty-one 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, blow the bugle-horn or trumpet, provided the number shall not exceed one person for the drum and one for the fife, or one for the bugle-horn in each company, and one for the trumpet for each troop of horse, every such person or persons shall be put under the instructions of the drum or fife-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 commanding officer, he shall draw his warrant on the paymaster of the regiment, in favor of the drum or fife-major, the bugler or trumpeter, who may have taught such person or persons to beat the drum, play the fife, blow the bugle-horn or trum-

pet, as aforesaid, for the sum of ten dollars for every person so taught; [and the person so taught] shall be furnished with a suit of regimentals, to be paid for out of the funds of the regiment or battalion, as the case may be; and the father of every youth, who shall have been instructed as aforesaid, shall be exempted and excused from every kind of militia duty, so long as his son shall continue to perform the duties of a drummer, fifer, bugler or trumpeter, in any militia company.

[Section XXXIII.] (Section XXXIII, P. L.) And be it further enacted by the authority aforesaid, That four days, in addition to the days authorized by this act, be, and they are hereby, appointed annually for all the commissioned officers of the several regiments within this state to meet together, at the most convenient time and place, to be fixed upon by the field officers of each regiment, that they may practice and perfect themselves in the military art, and become acquainted with the duties of a soldier; and the officers aforesaid shall appear with proper arms and uniform.

[Section XXXIV.] (Section XXXIV, P. L.) And be it further enacted by the authority aforesaid, That a majority of any volunteer infantry, grenadier, rifle or artillery companies, or of any troop of horse, shall have power, at their first meeting in each year, to fix upon, declare and settle what and how many days of training they will have throughout the year, over and above the days hereinbefore appointed for the training and mustering of the militia, for the purpose of improving themselves in military discipline; and it shall be lawful for each and every commanding officer of each and every such company to fix and notify his respective company of such stated days of meeting, and to inflict and levy such fines and penalties on any member, who shall refuse or neglect to attend such days of exercise, as may be agreed upon by a majority of the company convened for that purpose, which fines shall be collected by a serjeant of each company, by virtue of a warrant under the hands and seals of the commissioned officers of the same, and shall be appropriated for the payment of the music and other contingent expenses of the company by warrants drawn by the commanding officer; and



the accounts of each company shall be examined and settled once in every year, by a committee of three persons, members thereof, to be chosen by ballot at a meeting of the company convened for that purpose, which the commanding officer is hereby enjoined to do, some time in the month of April annually.

[Section XXXV.] (Section XXXV, P. L.) And be it further enacted by the authority aforesaid, That the adjutant-general shall cause to be printed a sufficient number of copies of this act, together with the rules and regulations for the discipline of the troops of the United States, by the Baron Steuben, and cause the same to be distributed in the manner following, viz: To every general and field officer one copy; to every captain, for the use of his company, one copy; and to every adjutant one copy; and the expenses of printing and distributing shall be allowed in the settlement of his accounts by the register-general.

[Section XXXVI.] (Section XXXVI, P. L.) And be it further enacted by the authority aforesaid, That an act, entitled, "An act for the regulation of the militia of the commonwealth, of Pennsylvania, passed the eleventh day of April, in the year of our Lord one thousand seven hundred and ninety-three,<sup>4</sup> and also an act, entitled, "An act to provide a more effectual method for settling the accounts of the several brigade inspectors within this commonwealth," passed the fourth day of April, one thousand seven hundred and ninety-eight,<sup>5</sup> 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 first recited act, is repealed and made void, or to prevent the recovery of any fines or forfeitures incurred under the same.

Passed April 9, 1799. Recorded L. B. No. 6, p. 399, etc.

<sup>1</sup>Chapter 1696.

<sup>2</sup>Chapter 1493.

<sup>3</sup>Chapter 1271.

<sup>4</sup>Chapter 1696.

<sup>5</sup>Chapter 2002.