

moreland county; to be paid by the treasurer of said county on a warrant or warrants of the commissioners thereof, out of the arrearages of state taxes aforesaid, and not otherwise; which sum so paid shall be allowed the said treasurer on the settlement of his accounts.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the sum hereby appropriated shall be applied to the opening of the aforesaid road within the county of Westmoreland, and shall be expended under the direction of the commissioners thereof, always giving a preference to the mountainous and uninhabited parts of the said road.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 176.

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## CHAPTER MMDCVII.

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A FURTHER SUPPLEMENT TO AN ACT, ENTITLED, "AN ACT FOR THE REGULATION OF THE MILITIA OF THE COMMONWEALTH OF PENNSYLVANIA." (2).

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 no person who may hereafter be placed on the list of exempts, agreeably to the directions of the first section of the act<sup>(1)</sup> to which this is a supplement, shall have the right to appeal to nor be exonerated from the payment of the tax or fine imposed on exempts, by any court or tribunal whatever, other than the court of appeals of the proper battalion within whose bounds such exempt or exempts resides; and it is hereby declared, that the county commissioners shall not have or exercise any power or authority whatever to exonerate or make any allowance or abatement to any exempt or exempts, excepting only in such case in which a certificate of exoneration shall be produced and delivered to such commissioners by any such exempt, under the signature of the president of the proper court of ap-

peals, and any such certificate, so produced and delivered to the commissioners of any county, shall be by them preserved in their proper office, and shall be ready to be produced whenever the same may be required, to ascertain the fact and ground of such exoneration or otherwise; and if any head of a family shall hereafter refuse to give an account to any captain or commanding officer, of any inmate or inmates liable to militia duty when legally called upon, residing, boarding, or lodging in such family, or occupying any part of the dwelling house, or shall willfully conceal the name or names of any such inmate or inmates, boarder, lodger or occupier, he or she so offending shall forfeit and pay any sum not exceeding twenty dollars; to be recovered before any justice of the peace, in like manner as debts of the same amount are or may be recoverable by law.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when, by virtue of the arrangement made in the third section of the act<sup>(1)</sup> to which this is a supplement, one-eleventh part of the militia within the bounds of any company, shall have attached themselves to any of the troops of horse belonging to the brigade, no more of the militia within the bounds of such company shall be permitted to join any such troop of horse without the consent of the commanding officer of the said company, to be by him expressed by a written certificate thereof.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That in addition to the officers enumerated in the seventh section of the act<sup>(1)</sup> to which this is a supplement, the governor is hereby authorized and required to appoint a quarter-master general of the militia; and the brigadier-generals shall appoint a quarter-master of brigade, in their brigades respectively; and the field officers of each regiment, or a majority of them, shall appoint one chaplain to their respective regiments.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the commission of major shall not be vacated by any removal, provided such major do not re-

move out of the bounds of his proper regiment; nor shall the commission of captain or subaltern within the township of Germantown, in the county of Philadelphia, or within any incorporated town or borough, be vacated by any removal of such officer, provided he do not remove out of the bounds of his proper regiment; and within the limits of the city of Philadelphia, the field officers of any regiment may be elected from any part or place within the bounds of the city brigade, and the company officers may be elected from any part or place within the bounds of their proper regiment; and in case of removal by any commissioned officer heretofore elected, or who may hereafter be elected within the city brigade, the commission of such officer shall not be vacated in consequence thereof, provided he do not remove out of the bounds of his brigade; and any vacancy which now exists, or may hereafter happen in the eighty-eighth regiment, now or late commanded by colonel Bowers, or in the forty-second regiment, now or late commanded by colonel Krips, if in the commission of a field officer, may be filled with any proper person residing within the bounds of either of the said regiments; and if in the commission of any company officer, such vacancy may be filled with any proper person within the bounds of his proper regiment; and in case of the removal of any commissioned officer heretofore elected, or who may hereafter be elected, his commission shall not be vacated in consequence thereof, provided such officer do not remove out of the bounds of the said two regiments; any thing in the eighth section of the act<sup>(1)</sup> to which this is a supplement, to the contrary notwithstanding.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the oath or affirmation directed to be administered by the seventeenth section of the act<sup>(1)</sup> to which this is a supplement, by any judge or justice of the peace, to officers appointed to hear appeals, shall and may be administered by any of the field officers or any of the commissioned officers, any of which officers shall have the like power and authority to administer an oath or affirmation when necessary in cases of militia elections, or at courts martial,

and to witnesses attending to be examined before such court, or to any officer or board of officers, who, previously to the execution of any duty to be performed by him or them under the militia laws, is, or are required to act under oath or affirmation; any thing contained in the act<sup>(1)</sup> to which this is a supplement, to the contrary notwithstanding.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the commanding officers of militia companies shall, and they are severally and respectively enjoined and required to deliver in writing, to the proper paymaster, the name or names of any constable or constables to whom any warrant or warrants has, have or may be directed and delivered to collect any fine or fines which have been or may be incurred, or is or are recoverable by or under the nineteenth section of the act<sup>(1)</sup> to which this is a supplement, and the said paymaster is hereby authorized, directed and enjoined, under the penalty of fifty dollars, in case of his refusal or neglect so to do, to compel the payment of, and to collect all monies which shall not be paid over by the said constable or constables, within the times limited by the said act;<sup>(1)</sup> and in each regiment of militia a board of field-officers shall be convened twice in each and every year; to wit, on the fourth Mondays in June and November, who shall be under oath or affirmation; and, if necessary, shall have power to meet upon their own adjournments for the purpose of exonerating any such constable or constables from being accountable for any fine or fines which it may be impracticable or improper for them to collect, and no constable or constables by virtue of any warrant or warrants to be hereafter delivered to them, shall take or receive from any delinquent or delinquents five per centum on the amount of any fine or fines as is directed by the said nineteenth section, but, in lieu thereof, such constable or constables shall be entitled to have and receive ten per centum on the amount by him or them collected and paid over out of the regimental funds; and the colonels or commanding officers of regiments respectively, shall direct and compel the paymaster to enforce the collection and payment over of all fines

within the time limited by law, and in case of neglect or refusal of any colonel or commanding officer so to do, on complaint thereof made and exhibited to the commander in chief, if such charge shall be substantiated, such colonel or commanding officer shall be removed, and his commission be vacated; and no paymaster shall be allowed to resign without the consent of the field-officers, until all the fines for the year in which he may desire to resign shall be collected and paid over, and all fines incurred for which warrants have been issued according to law, but which have not heretofore been collected and paid over within the time limited by law, shall be collected and paid over, for which purpose the commanding officers of regiments respectively, are hereby enjoined forthwith to institute enquiries, and to direct and compel the paymasters respectively to collect all such fines without delay, and in any case where such warrant may not have been issued or made out within the time limited by law, new warrants shall be forthwith issued by the commanding officer of the regiment, for the collection of such fines, which shall be collected and paid over in like manner and under the same penalties as herein and by the act<sup>(1)</sup> to which this is a supplement is directed; and in any case where the commanding officer of a company shall not issue his warrant within the time appointed by law, it shall be the duty of the paymaster forthwith to enforce the payment of the fine imposed by the nineteenth section of the act<sup>(1)</sup> to which this is a supplement; to be recovered as debts of equal amount are or may be by law recoverable, and to be appropriated to the use of the regimental funds; and in all cases where the payment of any fine may be enforced, and no property can be found to satisfy and discharge the same, the constable shall take the body of such delinquent in execution and commit him to the common jail of the proper county until he shall pay the same, or be discharged by the due course of law; any thing contained in the act<sup>(1)</sup> to which this is a supplement to the contrary notwithstanding.

Secion VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of

the commanding officer of each company to transmit to the court of appeals a list of the names of all the absentees, and the fines charged for non-attendance on days of training, as also the names of exempts as directed in the twenty-third section of the act<sup>(1)</sup> to which this is a supplement, upon oath or affirmation, and the officers holding appeals are hereby enjoined and required to make return of all delinquents whose fines shall not be remitted, to the commanding officer of the company for which the court of appeal shall have been held within two days after such court of appeal shall have adjourned.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the quarter-master of the proper regiment is hereby enjoined and directed to execute the warrant of the commanding officer of the regiment, for the due collection of the fine imposed by the forty-first section of the act<sup>(1)</sup> to which this is a supplement, and to pay over the fines collected by virtue of such warrant to the paymaster of his proper regiment, under the like penalties as are specified in the nineteenth section of the said act,<sup>(1)</sup> and such quarter-master shall not be permitted to resign before all the fines set forth in such warrant, or in any schedule to be thereto annexed for the year in which he may be desirous to resign, shall be duly collected and paid over, without the consent of the field-officers of his regiment; and all such fines which have been incurred under the forty-first section of the act<sup>(1)</sup> to which this is a supplement, and which are now due, for the collection of which no warrants have issued, or where warrants have been issued and the fines not collected and paid over, or in cases where warrants have not been issued according to law, such fines shall be forthwith collected, for which purpose the commanding officer of the proper regiment shall institute enquiry and ascertain what fines are or may be due, and shall, without delay, enforce the collection thereof; and in all cases where warrants have not been issued according to law, new warrants shall forthwith be issued by the colonel or commanding officer, for the collection of such fines, which shall be col-

lected and paid over, as herein and by the act<sup>(1)</sup> to which this is a supplement is directed; nor shall any officer of any company be permitted to resign, until it shall appear to the satisfaction of the field-officers of the regiment that he has duly performed all the duties required of him by law, previously to such intended resignation, nor until he shall have delivered up to his colonel or commanding officer all the public property in his possession as a militia officer belonging to this commonwealth; and all resignations shall be made as follows; that is to say, a company or regimental staff officer to the colonel or commanding officer of the regiment, a field-officer to the brigadier general, and a general officer to the commander in chief; and the commanding officer of each regiment shall make returns of all resignations to the brigade inspectors; and the commanding officers are hereby respectively enjoined not to permit any ardent spirits to be sold by sutlers near the place of parade; and in case any officer, who shall have been appointed a member of the court of appeal, shall be obliged to attend any court of justice on representation thereof to the commanding officer, he shall appoint another in his place; and the officers appointed by the nineteenth section of the act<sup>(1)</sup> to which this is a supplement, to settle the accounts of the paymasters, shall, within ten days after each settlement, publish the same; and in any case where vacancies have been neglected to be filled by companies, the field officers with the approbation of the brigade inspector, are hereby authorized to fill such vacancies with proper persons residing within the bounds of the regiment: Provided, that if no person can be found in the regiment who shall be willing to serve as an officer of the company aforesaid, then, in such case, the brigade inspector is hereby authorized to appoint a person who shall, agreeably to the provisions of the act<sup>(1)</sup> to which this is a supplement, make a return of such company as exempts to him; which return shall be as valid to all intents and purposes as if made by a proper commissioned officer of said company.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That all arrearages of fines which

are due and recoverable under the act, entitled, "An act for the regulation of the militia of the commonwealth of Pennsylvania," passed the eleventh day of April, one thousand seven hundred and ninety-three,<sup>(2)</sup> shall be forthwith collected by virtue of warrants issued from under the respective hands and seals of the brigade inspectors, directed to the constable of the proper township, who is hereby required and enjoined to execute the same, under the penalty of twenty dollars; to be recovered, by the brigade inspectors in the name and for the use of the commonwealth, as debts of equal amount are or may be by law recoverable, which monies shall be collected and paid to the proper inspector who shall pay the same to the treasurer of the commonwealth; and in case any delinquent shall neglect or refuse to pay the fine or penalty incurred by him, and no property can be found to satisfy and discharge the same, the constable shall take the body of such delinquent and commit him to the common jail of the proper county, until he shall pay the same, or be discharged by the due course of law; and within nine months after the passing of this act the brigade inspectors respectively shall make return to the comptroller general of their proceedings, relating to the duties hereby enjoined on them, together with an account of the monies by them received and paid over as aforesaid, under oath or affirmation; and in case of neglect or refusal in any brigade inspector aforesaid, to perform the duties hereby enjoined, the comptroller general shall forthwith report such brigade inspector to the governor, who, upon proof of such refusal or neglect in any inspector aforesaid, shall remove such brigade inspector from office; and in all cases where there is reason to presume that any brigade inspector has not fully complied with the duties required by this act, according to the true intent and meaning thereof, the comptroller general shall forthwith proceed, agreeably to the forty-sixth section of the act<sup>(1)</sup> to which this is a supplement, and the agent by him appointed, before he enters on the duties of his appointment, shall take an oath or affirmation faithfully to execute the duties enjoined and required.



Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That there may be raised one additional company of artillery within the bounds of the second brigade of Philadelphia county militia; which company, when so raised, shall be officered in like manner, and shall be entitled to the same advantages, and in all respects be subject to the same regulations and restrictions, as companies of the same rank are entitled and subject to by and under the act<sup>(1)</sup> to which this is a supplement; anything contained in said act to the contrary notwithstanding.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That no militiaman who may join any volunteer troop of horse or company of artillery, grenadiers, light-infantry or riflemen, shall have the privilege of leaving the troop or company he so joined, in order to become a member of another troop or company, without the consent of a majority of the officers commanding that troop or company in which he is enrolled, be first had and obtained; and in all cases where any volunteer is desirous to leave the troop or company of which he is a member, he shall make his intentions known to his officers, who shall thereupon take the reasons assigned by such volunteer into consideration, and if the reasons so assigned shall appear satisfactory to a majority of them, the commanding officer of such troop or company shall grant the volunteer, so applying, a discharge; and no captain or commanding officer of any volunteer troop or company shall admit any person a member of the troop or company under his command as aforesaid, without the person, so applying, shows a regular discharge from the troop or company to which he previously belonged.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the militia within the bounds of Somerset, Cambria and Indiana counties, and such parts of Westmoreland county, as are connected with the said counties, in the formation of any regiment or battalion, may

be trained and exercised in battalions or regiments, as may appear to the field officers most convenient for the inhabitants of said counties.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 177.

Note (\*). Chapter 2302. *Supra*, this volume, p. 174.

Note (\*). Chapter 1696; 14 Statutes at Large, 454.

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## CHAPTER MMDCVIII.

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### AN ACT GRANTING TO THOMAS PRICE A LOT OF DONATION LAND.

Whereas it appears that Thomas Price, early in the revolutionary war, served as sergeant in Colonel Miles' regiment; that in the battle of Long Island he was wounded and taken prisoner; that, to preserve life, he was forced to enlist with the enemy; was by them transported to Nova Scotia, from whence he made his escape, by traveling, by land, round the head of the bay of Fundy to New England, and thence to the army, where he faithfully served out the remainder of the period of his enlistment; that in consequence of the wound he received in the service, and his advanced age, he is unable to procure a livelihood by labor; and whereas it is reasonable to make this patriotic citizen some compensation for his services: Therefore,

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 the proper officers are hereby authorized and required to place Thomas Price on the list of those entitled to donation lands, and on his application, by himself or his attorney duly authorized, shall draw and patent to him such donation land as he would have been entitled to, as a sergeant, if he had served to the conclusion of the war.

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