

lution of Assembly passed) June 20, 1839, P. L. 681; (the two Acts of Assembly passed) June 21, 1839, P. L. 373, 376; July 2, 1839, P. L. 581; (the Resolution of Assembly passed) January 31, 1840, P. L. 703; (the Resolution of Assembly passed) May 19, 1840, P. L. 747; March 12, 1841, P. L. 78; February 10, 1843, P. L. 18; May 6, 1844, P. L. 564; (the Resolution of Assembly passed) January 6, 1845, P. L. 545; January 4, 1847, P. L. 27; March 15, 1847, P. L. 366; February 14, 1848, P. L. 54; March 6, 1848, P. L. 104; March 8, 1848, P. L. 119; March 18, 1848, P. L. 209; March 24, 1848, P. L. 235; April 5, 1848, P. L. 337; April 10, 1848, P. L. 443; February 6, 1849, P. L. 40; February 19, 1849, P. L. 74; April 5, 1849, P. L. 424; January 22, 1850, P. L. 16; April 6, 1850, P. L. 400; May 8, 1850, P. L. 713; May 13, 1850, P. L. 749; April 12, 1851, P. L. 464; February 6, 1852, P. L. 37; March 30, 1852, P. L. 207; April 1, 1852, P. L. 219; April 6, 1852, P. L. 265; April 18, 1853, P. L. 530, 565; April 13, 1854, P. L. 352; April 21, 1854, P. L. 446; May 5, 1854, P. L. 584; March 15, 1855, P. L. 81; March 16, 1855, P. L. 92; May 25, 1855, P. L. 473; February 12, 1856, P. L. 40; April 21, 1856, P. L. 485; January 31, 1857, P. L. 9; April 7, 1858, P. L. 220, March 26, 1860, P. L. 270; March 31, 1860; P. L. 475; April 2, 1860, P. L. 556, 569; March 16, 1861, P. L. 132; March 20, 1863, P. L. 173; March 16, 1864, P. L. 16; February 27, 1865, P. L. 74; March 16, 1866, P. L. 237; April 4, 1866, P. L. 469; January 24, 1867, P. L. 111; February 13, 1867, P. L. 158; April 5, 1867, P. L. 783; April 8, 1867, P. L. 905; April 10, 1867, P. L. 995; February 21, 1868, P. L. 199; March 16, 1868, P. L. 327; April 13, 1868, P. L. 876; April 14, 1868, P. L. 1094; February 11, 1869, P. L. 141; February 26, 1869, P. L. 285; March 12, 1869, P. L. 322; March 20, 1869, P. L. 462; April 17, 1869, P. L. 1144; January 25, 1870, P. L. 89; March 14, 1870, P. L. 432; March 27, 1872, P. L. 595; March 28, 1872, P. L. 616; April 9, 1872, P. L. 1075; March 19, 1873, P. L. 315; March 28, 1873, P. L. 449; April 10, 1873, P. L. 734; April 18, 1873, P. L. 811.

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## CHAPTER DCCLX.

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

(Section I, P. L.) Whereas by the said act it is provided that each of the field officers to be elected by the militia of this state shall be a freeholder, and it may happen that in some of the divisions or districts out of which the several battalions in the city of Philadelphia and the several counties of this state are or shall be formed the greater part of the electors do incline to serve under the command of a man of superior merit, knowledge of military affairs, prudence and courage who is no freeholder and it is very suitable to the genius and the general maxims of a

free state especially in the military department, to prefer its officers rather on the scale of their merits than of their estates:

[Section I] Be it therefore enacted, and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met and by the authority of the same, That from and after the publication of this act it shall be lawful to and for the inhabitants of each division or district in the said city and counties respectively at their elections of one or more field officer or officers to elect any person being a freeman in whose abilities of commanding them they shall put the highest confidence and trust for a field-officer whether he be a freeholder or not.

[Section II] (Section II, P. L.) And be it further enacted by the authority aforesaid, That the colonel or commanding officer of every battalion which has not been in due time arranged and exercised shall in lieu of the several days which by the said act of assembly for exercising the militia of this state in battalions or companies have been fixed and not observed and kept, fix, observe and keep for the purposes aforesaid a number of days equal to those that have been so lost and are elapsed as aforesaid; and that all persons who shall accordingly meet and exercise shall be and they are hereby acquitted of the fines incurred by them for not meeting and exercising on the days appointed by the aforesaid act to which this is a supplement.

[Section III] (Section III, P. L.) And be it enacted by the authority aforesaid, That any militia-man who on the day of exercise of the battalion or company shall be from home in actual service as a substitute for another shall not be fined as an absentee.

[Section IV] (Section IV, P. L.) And be it further enacted, That the captains in the several districts and sub-divisions shall from time to time enter into their muster-roll such persons living in their districts as have not been already entered agreeable to the said act and put them into that class into which the lot will cast them.

[Section V] (Section V, P. L.) And be it further enacted, That every officer (under the rank of a field-officer), non-commissioned officer and private having in his possession arms or accoutre-

ments who shall neglect or refuse to bring such arms and accoutrements to the place of parade on the days of exercise shall be liable to pay the same fines which by the act to which this is a supplement are imposed on officers and privates not attending on the days of exercise.

[Section VI] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That all and every the late officers in the militia of this state who have not been re-elected at the last election of officers and shall have in their possession any drums, colors, arms or accoutrements belonging to the battalion in which they have been officers shall deliver up the same on demand to the lieutenant or sub-lieutenant or to the commanding officer of the battalion of the district wherein he doth reside under the penalty of double the value of the articles so detained, to be recovered in a summary way as the charges for procuring substitutes in the militia are directed to be recovered in and by the act of general assembly to which this is a supplement.

[Section VII] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the field-officers of each battalion to nominate and appoint one surgeon and surgeon's mate and one chaplain to their respective battalions. And that the lieutenant and sub-lieutenants of the city and counties aforesaid shall at their discretion furnish and procure carriages for the battalions or drafts of the militia when it shall be necessary.

[Section VIII] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the commissioned officers of each company of militia shall nominate and appoint one discreet person, who shall be called the almoner, residing in the district or sub-division out of which their company is formed to take proper care of the families of such poor militia men within their respective districts as are in actual service in their own turn and to grant them such support as their necessities may require, provided that such support do not exceed the sum of ten shillings per week for any one family. And the said officers of the company or any two of them shall make out a certificate of their nomination and appointment directed to the lieutenant of the city or county to which the company belongeth, which

certificate shall enable the person thereby appointed to draw from time to time on the lieutenant for such sum and sums of money as shall be necessary for the purpose aforesaid and he shall be liable to render an account of the moneys by him drawn for to the said lieutenants and the several lieutenants of the city and counties in this state shall lay their accounts of such their expenditures before the general assembly or a committee by them appointed for that purpose once in every six months.

(Section IX, P. L.) And whereas the fines in the said act of assembly by the fourth and fifth articles of the rules and regulations by which the militia shall be governed (which said rules and regulations are to be construed and intended as rules and regulations for the government of the militia while in training at their places of exercise and parade and not when drawn out into actual service) imposed on any officer or private who shall strike his superior officer or draw or offer to draw, or shall lift up any weapon or offer any violence against him being in the execution of his office and on any commanding or other officer who shall strike his inferior officer or a private man when on duty are not adequate to the offenses in either cases which from particular circumstances to be given in evidence to a court-martial may be aggravated or alleviated:

For remedying whereof:

[Section IX.] Be it enacted, That the officers and privates offending against either of the said recited two articles, upon conviction thereof before a court-martial shall be fined by the said court at their discretion in any sum not exceeding fifteen pounds.

[Section X] (Section X, P. L.) And be it further enacted by the authority aforesaid, That the militia of this state whilst in actual continental service shall be subject to the same rules and regulations as the continental troops are. Provided, That upon any breach, transgression or offense of a militia-man, whether officer or private, against the rules and regulations of the continental troops the cause shall be tried and determined by a court-martial of the militia of this state except for a charge of high treason upon which he shall or may be tried by such court-

martial as the commander in chief of the army or of the post or division where the offense shall be committed shall direct.

Provided always, That it shall be in the power of the president of the executive council (if he commands the said militia in person), or in case of his absence, of the commanding officer of the militia to alter, mitigate, suspend or pardon any punishment to which any militia man may be sentenced by a general court-martial, except in the said case of high treason.

[Section XI] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the militia of the Northern Liberties of the city of Philadelphia, the district of Southwark and the townships of Moyamensing and Passyunk be and are hereby united to the city of Philadelphia [to act in conjunction with the militia of the said city] and distinct from the county of Philadelphia, that they draw lots for rank in battalion and be joined in brigade, and to act in every other matter that respects the militia law as if they were inhabitants of the said city, and to be under the jurisdiction of the lieutenant and sub-lieutenants of the city.

[Section XII] (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the lieutenants of the city of Philadelphia and of each county in this state respectively are hereby directed and empowered to employ a clerk or clerks as often as occasion may require and lay their accounts before the committee of public accounts appointed by the assembly, who are empowered to adjust and settle the same as other incidental charges are settled.

[Section XIII] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That all persons employed as post-masters, post-riders or in any other necessary business in the several post-offices within this state are hereby declared to be exempted from all militia duties directed to be performed by this act or the act to which this is a supplement anything in the said acts contained to the contrary notwithstanding.

[Section XIV] (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the lieutenant of the city of Philadelphia, with the assistance of the sub-lieutenants and the colonels of the several battalions of the said city and liber-

ties, shall out of the several battalions of militia take such a number as including the artillery companies already raised and raising, shall be sufficient to compose six companies consisting of one captain, one captain lieutenant, two lieutenants and fifty privates, each of such militia-men as [may be] judged most fit for the artillery service and most inclinable thereto and as equally from the several battalions as conveniently may be consistent with the good of the service, and shall form the same into companies of the number aforesaid, which companies when formed by the lieutenants and colonels aforesaid shall elect for themselves one colonel, one lieutenant-colonel and one major and such company officers as may be wanting to complete the said companies, and shall be called the artillery battalion and be considered a corps separate from the other battalions of the militia. And the several captains thereof shall by order of their colonel determine their rank by lot and be numbered from one to six in numerical order and subject to be drawn forth into actual service in rotation by companies, according to their number in rank, number first in rank with class first of the militia and so on until all take their tour, or otherwise as the president or in his absence the vice-president of the supreme executive council shall direct.

[Section XV] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That so much of the aforesaid [act] of general assembly to which this is a supplement as is herein altered or otherwise provided for shall be and is hereby declared to be repealed and made null and void.

Passed June 19, 1777. See the note to the Act of Assembly passed March 17, 1777, Chapter 750. The act in the text was repealed by the Act of Assembly passed March 20, 1780, Chapter 902.

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## CHAPTER DCCLXI.

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AN ACT TO PROHIBIT THE SALE OF GOODS, WARES AND MERCHANDISES BY PUBLIC VENDUE AND TO REGULATE PEDDLERS AND HAWKERS IN THIS STATE.

(Section I, P. L.) Whereas the practice of selling goods, wares and merchandises by public vendue, as tending to raise the price