

of their capital expended in the prosecution of the said work, and of the income and profits arising from the said toll, for and during the said respective periods, together with an exact account of the costs and charges of keeping the said bridge in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be ascertained and known, and if at the end of two years after the said bridge shall be completed, it shall appear from the average profits of the said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum on the whole capital stock of the said company so expended, then it shall and may be lawful for the president, managers and company to increase the tolls hereinabove allowed, so much upon each and every allowance thereof as will raise the dividends to six per centum per annum, and at the end of every ten years after the said bridge shall be completed, they shall render to the general assembly a like abstract of their accounts for three preceding years, and if at the end of any such decennial period, it shall appear from such abstract that the clear profits and income of the said company will bear a dividend of more than twenty-five per centum per annum, then the said tolls shall be so reduced, as will reduce the said dividend to twenty-five per centum per annum.

Passed April 11, 1793. Recorded L. B. —, p. —. (not given.)

CHAPTER MDCXCVI.

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

Whereas a well regulated militia is the only safe and constitutional method of defending a free state, and whereas, the

several laws enacted by the legislature of this commonwealth for the regulation of the militia thereof, have been found to require material alterations, in order to which it has been thought more advisable to revise the whole system, than to amend it by supplementary statutes: 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 each and every free, able-bodied, white, male citizen of this or any other of the United States, residing in this commonwealth, 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 shall reside, within three months after the passing of this act, and that it shall be at all times hereafter the duty of every such captain or commanding officer of a company, to enroll every such citizen as aforesaid, and also those who shall from time to time arrive at the age of eighteen years, or being of the age of eighteen years and under the age of forty-five years, and not excepted by this act, shall come to reside within his bounds, and shall without delay notify such citizen of the said enrollment by a proper non-commissioned officer of the company, by whom such notice may be proved; and all cases of doubt respecting the age of any person enrolled or intended to be enrolled, the party questioned shall prove his age to the satisfaction of the officers of the company within whose bounds he may reside, or a majority of them.

[Section II.] (Section II, P. I.) 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, judges of the supreme court, judges of the court of common pleas, attorney general, secretary and treasurer of the state, sheriffs, gaolers and keepers of workhouses, all post-officers and stage-drivers who are employed in the care and conveyance of the mail of the post

office of the United States, all ferrymen employed at any ferry on the post 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, the librarian of the library company of Philadelphia and of the Loganian library, and menial servants of ambassadors or ministers and consuls from foreign states, and no other person or persons, shall be, and are hereby, excepted from military duty, notwithstanding their being above the age of eighteen and under the age of forty-five years. And also all young men under the age of twenty-one years, and all servants purchased bona fide and for a valuable consideration, though enrolled agreeably to the first section of this law, shall be exempted from furnishing the necessary arms, ammunition and accoutrements, as are required by the fifth section thereof, and shall be excepted from militia duties and fines during such minority or servitude, except in cases of rebellion, or an actual or threatened invasion of this or any of the neighboring states.

[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 not less than two nor more than eight regiments; each regiment into two battalions; and each battalion into four companies, in such manner that no company shall consist of more than eighty or less than forty individuals, or as near as may be, having regard to their local situations; there shall be to each battalion at least one company of grenadiers, light infantry or riflemen, and to each division there shall be at least one company of artillery and one troop of horse, which shall be formed of volunteers from the 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 and infantry, 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, and retain the privileges which they have hitherto enjoyed.

[Section IV.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the territory of this commonwealth, for the purpose of making the arrangement in the preceding section mentioned, be and 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 counties of Lancaster and 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, Northumberland and Luzerne one other division; the counties of Bedford, Huntingdon and Mifflin one other division, and the counties of Westmoreland, Washington, Fayette and Allegheny one other division. The city of Philadelphia shall form a brigade, and each county shall form a brigade; provided that it shall be lawful for the governor to divide any county into two brigades, when the number of men enrolled in the militia of such county shall exceed four thousand.

[Section V.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That in order that the militia may be properly armed, equipped and accoutred, every citizen enrolled and notified of this enrollment in manner aforesaid, except as is hereinbefore excepted, shall, within six months after receiving such notice, provide himself with the arms, ammunition and accoutrement hereinafter mentioned, viz.: Every non-commissioned officer and private of the infantry (including grenadiers and light infantry and of the artillery) shall have a good musket or firelock, a sufficient bayonet and belt, two spare flints and a knapsack, a pouch with a box therein, to contain not less than twenty-four cartridges suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball, or with a good rifle, knapsack,

shot-pouch and powder horn, twenty balls suited to the bore of his rifle and a quarter of a pound of powder; the commissioned officers of infantry shall be armed with a sword or hanger and an espartoon, and those of artillery with a sword or hanger, a fuzee, bayonet and belt, and a cartridge box to contain 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 bearskin 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 cupper, a pair of boots and spurs, a pair of pistols, a sabre and a cartouch box, to contain twelve cartridges for pistols; the artillery and horse shall be uniformly clothed in regimentals, to be furnished at their own expense, the color and fashion to be determined by the brigadier commanding the brigade to which they belong; every militiaman shall appear so armed, accoutred and provided when called out to exercise or into service (except that when called out on company days to exercise only he may appear without a knapsack) and every man so enrolled as aforesaid, and providing himself with the arms, ammunition and accoutrements required as aforesaid, shall hold the same exempted from all suits, distresses, executions, or sales for debt or the payment of taxes. Each battalion and regiment shall be provided with the state and regimental colors by the field officers, and each company with a drum and fife or bugle horn by the commissioned officers of the company; the expenses of such colors, drums, fifes or bugle horns to be repaid to the officers out of the fines incurred by this act.

Provided always, That whenever the field officers of any regiment shall judge any person enrolled therein, unable to arm and equip himself as aforesaid, such person shall not be subject to any fine for not arming, anything herein contained to the contrary notwithstanding.

[Section VI.] (Section VI, 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 rank of major; to each brigade one brigadier general, with one brigade inspector to serve also as 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 and grenadiers) one captain, one lieutenant, one ensign, four sergeants, four corporals, one clerk, one drummer and one fifer or bugler; that their shall be a regimental staff, to consist of one adjutant and one quarter-master, to rank as lieutenants; one paymaster, one surgeon and one surgeon's mate, one sergeant major, one drum major and one fife major; there shall be to each company of artillery one captain, two lieutenants, four sergeants, 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 sergeants, four corporals, one saddler, one farrier and one trumpeter; there shall be an adjutant-general appointed for the whole militia.

[Section VII.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the adjutant-general, major-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 divisions and brigade bounds; that the majors-general shall appoint their own aides-de-camp out of the line of captains or subalterns; 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; that all commissioned officers shall be commissioned for seven years, 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 brigade, regiment, battalion, company or detachment.

[Section VIII.] (Section VIII, 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 the state, to the several corps; 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 perfecting the system of military discipline established by this act; to furnish blank forms of the different returns that may be required, and to explain the principles on which they should be made; to receive 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 IX.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the brigade inspectors to attend the regimental and battalion meetings of the militia composing their several brigades during the time of their being under arms; to inspect their arms, ammunition and accoutrements, superintend their exercise and manoeuvres, and introduce throughout the state the system of military discipline established by this act, as well as such orders as they shall from time to time receive from the governor, as commander-in-chief of the militia, to make returns to the adjutant-general at least once in every year, and at such stated time or times as the governor shall direct, of the militia of the brigade to which he belongs, reporting therein the actual situation of the arms, accoutrements and ammunition of the several corps and every other thing which in his judgment may relate to their government and the general advancement of good order and military discipline; that it shall

moreover be the duty of the said brigade inspectors to superintend the elections of the field officers, to procure and furnish arms, accoutrements, ammunition, drums, fifes, bugle horns, carriages for the transportation of baggage and other articles that may be wanted for the use of their respective brigades, and to do all and every such other duties as are enjoined upon them by this act, in form and manner therein prescribed; and in full compensation for all their services each of the said brigade inspectors shall receive the yearly salary of two hundred dollars; and each of the said inspectors before he enters upon the duties of his office 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 the said duties and for the faithful accounting for, according to law, and paying of all the moneys which shall come to his hands by virtue of this act, when thereunto lawfully required; and each of the said inspectors shall, once in every twelve months, make out complete accounts of all the moneys received by him, and of his expenditures, and return the same to the adjutant-general, and on failure of accounting as aforesaid, each inspector shall forfeit and pay for every such neglect the sum of fifty dollars, to be applied as other fines are directed to be applied by this act; and on the death, removal, or resignation of any of the said inspectors, such inspector, his executors or administrators, shall, on the reasonable demand in writing of his successor in office, or of any other person who shall be appointed by the governor to receive the same, deliver up to the said successor, or other person as aforesaid, all and singular the books, duplicates, returns and other papers 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 and the necessary cost of prosecution, to be recovered by the said successor in office, or other person duly authorized as aforesaid, upon indictment, bill, plaint or information, or by action of debt, in any court of record within this state, to be applied as other militia fines are directed to be applied by this act, and in case of a second refusal, such person or persons so refusing

shall suffer as well the said penalty as the further punishment of six months' imprisonment, without bail or mainprise, and the judges of the court where such penalty shall be recovered shall order the said commitment accordingly.

[Section X.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That each of the said inspectors shall, on or before the first Monday in May next, and some time between the first day and last day of March in every succeeding year, issue his warrant, directed to the captain or commanding officer for the time being of each company of the several battalions, or some other fit person in his brigade, commanding him in the name of the commonwealth to deliver to him, the said inspector, within ten days from and after 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 and surnames of each and every free, able-bodied, white, male citizen of this or any other of the United States, residing within the bounds of his company, between the ages of eighteen and forty-five years, not being such as are above declared excepted from militia duty, and lay such lists, within three days after he shall have received the same, before the brigadier general of his brigade, who shall thereupon divide his said brigade into regimental battalions and companies, in manner hereinbefore directed, to each of which he shall appoint proper districts or local subdivisions, paying due regard to the conveniency of the inhabitants, and taking care that each person be annexed to the numerical class to which he formerly belonged.

[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, on or before the first Tuesday of June next, give notice, by advertisement at eight or more of the most public places of each regiment bounds or district, appointing a certain day for each district, not less than ten days after the said notice, and requiring all the citizens enrolled in the said regiment and residing within the bounds thereof, except as is hereinbefore excepted, to meet at a cer-

tain place as near the centre 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 each captain shall appoint a suitable person for a clerk in his company, 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 brigadier, who shall cause the lieutenant colonels of his brigade to assemble together, as soon as may be, to cast lots for rank of the regiments, and the said lieutenant colonels shall afterwards call together the majors and captains of their respective regiments, to cast lots in like manner for their respective ranks, and the ranks of the lieutenants and ensigns shall be determined by the ranks of the captains, respectively, and the said inspectors shall, as soon as may be after the officers shall have been elected and their ranks ascertained, transmit proper certificates to the governor, of the names of the persons so as aforesaid elected and their ranks, in order that commissions may be granted to them according to the said certificates; 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 hereinafter 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 com-

pany 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, with the approbation of the brigadier-general, one suitable person to the governor, in the room of each officer so neglected to be chosen, and the said 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.

[Section XII.] (Section XII, P. L.) And be it further enacted by the authority aforesaid, That if any commissioned officer shall remove out of the bounds of his proper division, brigade, battalion or company, except within the city of Philadelphia (as the case may be), or shall be absent therefrom (otherwise than on militia duty) for more than six months, his office shall be thereby vacated; and if a light-horseman shall remove or be absent in like manner from the bounds of his troop, or be appointed or elected a commissioned officer in any other part of the militia, his place in the said light-horse shall likewise be vacated.

[Section XIII.] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That every militia-man migrating or removing out of the bounds of one battalion or company to another, shall apply to the commanding officer of the company to which he did belong, who shall give him a

discharge, certifying the class to which he belongs, and whether he has served his tour of duty or not, and the time and date of said service, which certificate the said militia-man shall produce to the captain or commanding officer of the company in whose bounds he next settles, within ten days after his settlement, 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 shall be subject to be mustered and exercised in regiments and in companies, by their respective officers, in the autumn or fall season of every year, on the days hereinafter stated, to wit: In regiments, as follow: the first regiments of each and every brigade in the commonwealth, shall be exercised on the third Monday in the month of October; the second regiments, on the Tuesday following; the third regiments, on the Wednesday; and so on, according to their numerical rank, on every day in the week (Saturdays and Sundays excepted) until the whole number of regiments shall have mustered and exercised in the aforesaid manner; and the several regiments shall meet and exercise in companies on the first Monday in the month of October; and the militia shall be and is hereby indemnified and excused from mustering and exercising on any other days than those enumerated in this act.

[Section XV.] (Section XV, P. L.) And be it further enacted by the authority 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 a day of exercise 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 persons who by their absence on the days of exercise shall have incurred the fines above mentioned, a sergeant 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 or regiment, and also after the exercise is over and before the men are discharged, call over a muster-roll of the company, noting those who are absent, and a return shall be made on the same or following day of such absentees, which shall be signed by the sergeant or clerk and by the captain or commanding officer of the company, and shall, within ten days thereafter if a regimental meeting, or if a company meeting, within ten days after the next regimental meeting, be returned by the said captain or commanding officer of the company, upon his oath or affirmation, to the inspector of the brigade, under the penalty of fifty dollars for every time he shall refuse or neglect to make such return, and if any of the said absentees shall have been unable to attend from sickness or unavoidable necessity, and shall within the space of eight days next after the day of exercise, state his case by himself or his friend to the said captain or commanding officer of the company, and satisfy him of the truth thereof, then the said captain or commanding officer of the company, shall mention in his said return the particular reasons of excuse which each absentee shall have made appear to his satisfaction, and the inspector, on sight of the said return, shall admit every such excuse as shall appear to him reasonable, without favor or partiality, and remit the fines accordingly, but no excuse shall be received at any other time or in any other manner, than as is above prescribed.

[Section XVII.] (Section XVII, 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 governör 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 out to furnish any more militia, 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 own immediate defence.

[Section XVIII.] (Section XVIII, 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 the 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 field officers of regiments, in every division and brigade in the state, shall be divided in like manner, and each class to be considered as a detachment from different corps 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 out 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 scattered militia which compose the particular classes, and the services 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 XIX.] (Section XIX, 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 in his said substitutes' 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 XX.] (Section XX, P. L.) And be it further enacted by the authority aforesaid, That when the militia, or any detachment thereof, are called out on duty, the pay of each major-general shall be sixty dollars per month; of each brigadier-general, fifty dollars per month; of each lieutenant-colonel, forty dollars per month; of each major, thirty dollars per month; of each captain, twenty-five dollars per month; of each lieutenant, twenty dollars per month; of each ensign, fifteen dollars per month; of each sergeant, eight dollars per month; of each corporal, seven dollars per month; and of each private and musician, six dollars per month; and that every person

refusing or neglecting to perform 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 term.

[Section XXI.] (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That when any class or classes of the militia shall be called to perform any tour of duty, the brigade inspector shall cause each and every person so called to be notified of such call, by a written or printed notice being delivered to him personally, or left at his house or usual place of abode, by some officer or other fit person employed for that purpose by the commanding officer of said company, at least three days before the time of assembling the said militia, unless the governor, on a sudden exigency, shall think proper to order any part of the militia into immediate and actual service, and then the notice mentioning such special order shall be given for immediate attendance; and any person refusing or neglecting to perform such tour of duty, shall pay a fine of sixteen dollars per month for every such offence.

[Section XXII.] (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That the inspector shall, forthwith after the marching of any part of the militia, call to his assistance two reputable citizens, one of whom shall be a justice of the peace, to sit at the most convenient place for the inhabitants of their respective districts, notice having been given of such place in the written or printed summons of every militia-man 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 appellant as to them shall appear just and reasonable (in consideration of such inability of body as in the opinion of the court renders him incapable of performing military duty) or of unavoidable absence from the brigade in which he shall reside; and each of the said reputable citizens, before they shall sit on the said appeal, shall take the following oath or affirmation, viz.: That he will hear and impartially deter-

mine on the cases of appeal that 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 sit on the appeals; and the said inspector and justice of the peace shall keep a separate record of the proceedings of such court of appeals, and if any delinquent, whose appeal shall have been determined against him, shall not pay his fine within five days after such determination, the inspector shall and may proceed to levy the said fine in manner hereinafter mentioned.

[Section XXIII.] (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That the commanding officers of the several regiments shall attend at the place of rendezvous of the marching class or classes, and the commanding officers of the marching class or classes are hereby required, then and there to deliver, to the commanding officer of the regiment, a muster-role of all those who attend and proceed to perform their then required tour of duty, under the penalty of fifty dollars, which return or muster-roll shall be transmitted by the said commanding officer of the regiment, within five days after marching, under the penalty of fifty dollars, to the inspector of the brigade to which they respectively belong.

[Section XXIV.] (Section XXIV, 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 1. 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 appear, misbehave or demean himself in an unofficerlike 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 himself or promote any quarrel among his fellow soldiers, he shall be disarmed and put under guard, by order of the commanding officer present, until the company is dismissed, and shall be fined, at the discretion of a regimental court martial, in any sum not exceeding 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 militia-man shall desert while he is on a tour of duty, he shall be fined twenty-four dollars for every such

offence; if a non-commissioned officer, he shall be degraded and placed in the ranks.

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 be 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 members of any 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.

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 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 general, 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 court martial other than degrading, cashiering or fining.

Article 15.* 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 received by one officer or private man from another; but in case of officers, such sentence to be approved by the commander-in-chief, or the nearest general officer of the militia, who are respectively empowered to pardon or mitigate such sentence, or disapprove of the same.

Article 16. The militia, on the days of exercise, 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. No company or regiment shall meet at a tavern on any of the days of exercise, nor shall march to any tavern before they are discharged, and any person who shall bring any kind of spirituous liquors to such place of training, shall forfeit such liquors, so brought, for the use of the poor belonging to the ward, district or township where such offender lives.

Article 18. 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

*This mistake in numbering occurs in the original.

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 manner hereinafter mentioned.

Article 19. The rules of discipline approved and established by congress in their resolution of the 29th 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 this act or some other unavoidable circumstances. It shall be the duty of the commanding officer at every muster, whether by regiment or single company, to cause the militia to be exercised and trained agreeably to the said rules of discipline.

Article 20. 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 militia-man, 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 militia-man may be sentenced by a general court martial.

[Section XXV.] (Section XXV, 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 XXVI.] (Section XXVI, 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, as well for non-attendance on days of exercise as for neglect of performing tours of duty, and also all such fines as shall be im-

posed by court martial on persons belonging to their respective brigades, it shall and may be lawful for the several brigade inspectors to appoint one or more proper persons, by warrant under their respective hands and seals, to be collectors of the said fines; and the said collectors, by virtue of the said warrants, shall be authorized and empowered to call on every delinquent that shall be named in the lists to be furnished to them by the said inspectors, and demand payment of the said fines, and of five per centum on the amount thereof for their trouble in collecting the same, and on neglect or refusal of such payment, then the said collectors shall proceed to levy the said fines, with costs equal to those received by constables or sheriffs in similar cases, by distress, irreplevisable and sale of the offender's goods and chattels, lands and tenements, in like manner and with like effect as the collectors of taxes may or can do by virtue of any law or laws of this commonwealth.

Provided, That in the case of seizure of lands or tenements, the same notice shall be given previous to the sale thereof as is required in case of land sold by a sheriff, by virtue of a writ of venditioni exponas, and no process shall issue to stay the execution of such warrant, unless in the case of the seizure of real estate.

Provided always, That if any person shall think himself aggrieved in the seizure of his lands and tenements, he may enter an appeal before the judges of the next court of common pleas for the proper county, and on the parties giving sufficient security, within fifteen days next after any lands or tenements shall be seized or distrained, as aforesaid, to prosecute such appeal with effect, the judges shall receive the same and stay further process, and the said judges shall return every such appeal on the first day of the next term, and the court shall direct a trial by jury of the county, as in cases of debt, whose verdict shall be final and conclusive, and except in extraordinary cases, of which the court shall judge, all such appeals shall be tried at the term to which such returns shall be made.

Provided also, That in case real estates be sold as aforesaid, such sale shall be made by the sheriff of the county, who shall make a sufficient deed for the same, and if any collector, ap-

pointed by any brigade inspector, as aforesaid, and having accepted of his appointment, shall refuse or neglect to perform his duty, he shall, for every such offence, forfeit and pay, at the discretion of the courts of quarter sessions of the peace within this commonwealth, any sum not exceeding forty dollars.

[Section XXVII.] (Section XXVII, P. L.) And be it further enacted by the authority aforesaid, That any person who shall or may be appointed by any brigade inspector within this state to collect the militia fines, shall be bound to account with and pay over to the inspector of the brigade, by whom he shall have been so appointed, all the moneys received by him for fines, within ten days after demand thereof shall be made; and all and every such persons refusing to render or settle his account in manner aforesaid, shall be liable to have his goods, chattels, lands and tenements within this state seized and secured by warrant, under the hand and seal of the inspector of the brigade in which such delinquent collector hath or may have acted, directed to the sheriff or coroner of the proper county, who shall make report of his proceedings to the said inspectors, and if there are no such goods, chattels, lands or tenements, or they being seized, he shall continue to withhold or refuse to settle his account of fines received, then, and in that case, the said inspector shall issue his warrant, under his hand and seal, directing the sheriff or the coroner of the county in which the delinquent may be, to seize and take his body and commit the same to the common gaol of the county, there to continue without bail or mainprise until he shall exhibit and settle his account, as aforesaid, and discharge the costs of prosecution, and all and every collector appointed as aforesaid, who hath or shall upon settlement of his account, be found to have a balance due by him of the fines collected, and shall not, within ten days after demand made by the inspector, discharge and pay the full amount thereof, then and in such case it shall and may be lawful for the said inspector immediately to issue his warrant to the sheriff or coroner, to levy the sum due by such delinquent collector, by distress and sale of the offender's goods and chattels, lands and tenements, together with costs and charges, which distress and sale shall be made in manner be-

fore directed for tour and muster fines and fines imposed by courts martial, but if no such goods and chattels, lands or tenements can be found, then to seize and take the body of such offender and commit him to the common gaol, there to remain for the space of six months, unless he shall sooner discharge the debt, or procure such security that the same shall be discharged within a reasonable time, as may secure and satisfy the said inspector.

[Section XXVIII.]' (Section XXVIII, 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 account for and pay yearly to the treasurer of the commonwealth all such fines as he shall receive by virtue of this act.

[Section XXIX.] (Section XXIX, P. L.) And be it further enacted by the authority aforesaid, That all moneys passing into the treasury by virtue of the directions of this act, shall be appropriated as a fund for the purpose of supporting the necessary officers for carrying this law into effect, and of equipping and furnishing the militia with every necessary apparatus for the defence and security of the state, the surplus, if any, to be appropriated in such manner and to such uses as the general assembly shall from time to time direct and appoint; 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 XXX.] (Section XXX, P. L.) And be it enacted by the authority aforesaid, That the brigade inspector and two reputable citizens, shall appraise the horse of each person serving as a light-horseman, 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, he shall be paid the full value of his horse, according to the said appraisement, by an order to be drawn by the inspector on the militia fund in the hands of the treasurer for that purpose.

[Section XXXI]. (Section XXXI, P. L.) And be it further enacted by the authority aforesaid, That if any officer, non-commissioned officer, or private militia-man, 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,"¹ passed on the twenty-seventh day of March, one thousand seven hundred and ninety, and if any officer, non-commissioned officer, or private militia-man, or volunteer 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 to alter and amend the act, entitled 'An act for the relief of officers, soldiers and seamen, who in the course of the late war have been wounded or otherwise disabled in the service of this state or of the United States,'"² passed the tenth day of March, one thousand seven hundred and eighty-seven.

[Section XXXII.] (Section XXXII, 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, or 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

¹ Chapter 1493.

² Chapter 1271.

the value of such arms or accoutrements, to be ascertained by the said justice or justices, and levied by distress and sale of the offenders' 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 mainprise, 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 XXXIII.] (Section XXXIII, 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 her 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 XXXIV.] (Section XXXIV, 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,"³ passed on the twentieth day of March, in the year of our Lord one thousand seven hundred and eighty, also a supplement to the said act passed the twenty-second day of September one thousand seven hundred and eighty,⁴ also the supplement to the said act passed on the twenty-first day of March, in the year of our Lord one thousand

³ Chapter 902.

⁴ Chapter 916.

seven hundred and eighty-three,⁵ also a further supplement thereto passed on the twenty-second day of September, in the year of our Lord one thousand seven hundred and eighty-three,⁶ also so much of an act passed on the ninth day of December, in the year of our Lord one thousand seven hundred and eighty-three, entitled "An act for the more effectually securing and recovering for the uses of the commonwealth the moneys due for excise and militia fines and for other purposes therein mentioned"⁷ as comes within the intent, meaning and purview of this act, also a further supplement to the said recited acts passed on the twenty-second day of March, in the year of our Lord one thousand seven hundred and eighty-eight,⁸ 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 part of a law which in and by any of the said recited acts is repealed and made void.

Provided also, That nothing in this act contained shall be deemed to repeal, alter and dispense with the powers, authorities or duties of the [present] lieutenants of the city of Philadelphia and of the several counties in this commonwealth, or of any other officer or person under the militia laws that have been enforced in this state immediately before the passing of this act, until by new appointments under this act their respective functions and duties shall have devolved on other persons, and that the said present lieutenants and other proper officers are hereby authorized, required and enjoined to collect, or cause to be collected, all such fines and forfeitures as have been or shall be incurred during the continuance of their respective commissions, and pay in the same agreeably to this law, or the late laws aforesaid, on or before the first day of January next.

[Section XXXV.] (Section XXXV, P. L.) And be it further enacted by the authority aforesaid, That the governor shall

⁵ Chapter 1022.

⁶ Chapter 1038.

⁷ Chapter 1061.

⁸ Chapter 1339.

cause a sufficient number of copies of this law, and of the rules of discipline approved and established by congress in their resolution of the twenty-ninth day of March, one thousand seven hundred and seventy-nine, to be printed in the English and German languages and distributed throughout the state, so that every general and field officer, every brigade inspector and every captain be furnished with one copy, and it shall be the duty of every captain at every company meeting to read, or cause to be read, to the company, the same, or such part thereof as he may think necessary.

Passed April 11, 1793. Recorded L. B. No. —, p. —. (not given).

Repealed by act of April 9, 1799; Chapter 2068.

CHAPTER MDCXCVII.

AN ACT FOR ERECTING A LOAN-OFFICE FOR THE SUM OF FIVE HUNDRED THOUSAND DOLLARS.

Whereas the institution of a loan office, upon just and proper principles, will be greatly beneficial to agriculture and promote in general the welfare of the people of this commonwealth. And whereas the legislature in and by the act, entitled "An act to incorporate the subscribers to the Bank of Pennsylvania,"¹ did reserve, for the purpose of instituting such loan office, a power to borrow from the said bank an adequate sum of money. In order, therefore, to carry the same into effect:

[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 a sum not exceeding five hundred thousand dollars, shall be borrowed of the Bank of Pennsylvania, and appropriated for the sole and exclusive purpose of being lent to the citizens of this state, upon mortgages upon real estate, under restrictions, limitations and regulations, and in the respective proportions hereinafter directed.

¹ Passed March 30, 1793; Chapter 1667.