

BACKGROUNDS OF SELECTIVE SERVICE

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# Military Obligation: THE AMERICAN TRADITION

*A Compilation of the Enactments of Compulsion  
From the Earliest Settlements  
of the Original Thirteen Colonies in 1607  
Through the  
Articles of Confederation 1789*

SPECIAL MONOGRAPH NO. 1

VOLUME II

PART 3. DELAWARE ENACTMENTS

THE SELECTIVE SERVICE SYSTEM

1947

ments, (unless their remaining estate be sufficient to answer what they are then in arrear) are hereby declared fraudulent, and shall not prevent or avoid the seizing and selling the same estates, on any judgment that may be had on suits to be brought for the recovery of the monies so in arrear.

SECT. 15. *And be it enacted*, That the said state treasurer, before the first day of November next, shall become bound unto the Delaware state, with two or more sufficient sureties, to be approved of by the president or commander in chief for the time being, in an obligation of fifteen thousand pounds, conditioned for the true observation of this act and the duty which to the said office doth appertain; and in case of neglect or refusal of the said state treasurer so to do, or of his death in the recess of the general assembly, it shall and may be lawful for the president or commander in chief, with the approbation of the privy-council, to appoint some other fit person to supply his place, who shall give security as aforesaid.

State treasurer to give bond.

His place how supplied in case of delinquency, &c.

SECT. 16. *And be it enacted*, That if any of the days appointed by this act for the performance of any of the duties herein required, shall happen to be on a Sunday, then such duties shall be performed on the day following.

WHEREAS it appears, that sundry collectors of the state taxes directed to be raised for the service of the years seventeen hundred and eighty-one, eighty-two, eighty-three and eighty-four, have through their indulgence, omitted to execute for those taxes within the times limited by law, and this general assembly being willing to give the same summary mode to the said collectors to collect the arrearages of such taxes, as they could have had under the several acts of assembly passed for those purposes.

SECT. 17. *Be it enacted*, That the collectors respectively of the said several state-taxes, heretofore appointed, or hereafter to be appointed for that purpose, be and they hereby are empowered to collect all arrearages and balances due of the said taxes by, execution, or otherwise, between the time of passing this act and the first day of November next, in as full and ample manner as heretofore could have been done had the same been done within the time limited by law.

Summary mode for collecting the arrearages of taxes.

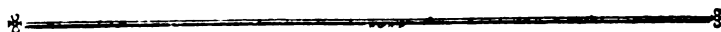
*Signed by Order of the House of Assembly,*

THOMAS DUFF, *Speaker.*

*Signed by Order of the Council,*

THOMAS M'DONOUGH, *Speaker.*

*Passed at DOVER, }  
June 4, 1785.*



### AN ACT for establishing a Militia.

SECTION I. **W**HEREAS a well regulated Militia is the proper and natural defence of every free state; and as the laws heretofore made for the regulation thereof within this state are expired, and it is necessary that a militia be established;

Preamble.

( SECT. 2. *Be it therefore enacted by the General Assembly of Delaware,*  
That the late captain or commanding officer of each militia company in the

332. Del.—General Assembly, Dover; Laws, June 1785; Act, June 4, 1785, pp. 57-66.

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Returns to be made to the colonels of regiments, of all able-bodied male inhabitants wit in the districts of companies, &c.

the several counties of this state, shall, on or before the first day of August next, make an exact return to the late colonel or commanding officer of the regiment to which he did formerly belong, of the names and surnames of every able-bodied effective male white inhabitant between the ages of eighteen and fifty years, then residing in the district of which he was formerly captain or commanding officer; a copy of which return the said colonel or commanding officer of such regiment shall immediately transmit to the president or commander in chief of this state: And all male white persons between the ages aforesaid (clergymen and preachers of the gospel of every denomination, justices of the supreme court, keepers of the public gaols, school-masters teaching a Latin-school, or having at least twenty English scholars, and indented servants bona fide purchased, excepted) who on the said first day of August next, shall reside in any district or sub-division heretofore laid off in pursuance of the late militia laws of this state shall be considered as belonging to the militia company for such district or sub-division.

Officers in the military line, by whom appointed.

SECT. 3. *And be it enacted*, That the president or commander in chief shall, on or before the first day of October next, appoint and commission one colonel, one lieutenant-colonel and one major to command each of the regiments, and one captain, two lieutenants, and one ensign to command each of the companies within this state; and in case of the vacancy of a colonel, lieutenant colonel or major, captain, lieutenant or ensign, the president or commander in chief shall appoint and commission such person to fill the said vacancy as he shall judge most suitable for that purpose.

Quarter-masters, &c. by whom appointed. Militia to be divided into classes.

SECT. 4. *And be it enacted*, That the field officers of each regiment shall appoint a quarter master and adjutant, a drum and a fife major for the regiment, and the commissioned officers of each company shall appoint four sergeants, four corporals, one drum and one fife for their respective companies.

Rolls thereof to be formed, and transmitted to the colonel.

SECT. 5. *And be it enacted*, That on the tenth day of April next ensuing, the captain or commanding officer of each company shall call the persons belonging to the same together, giving due notice, and shall divide them into eight classes, as nearly equal in number to each other, as conveniently may be, allotting a sergeant or a corporal to each class, and eight slips of paper numbered respectively from one to eight being prepared, every private shall determine, by drawing a ballot, what class he is to serve in; and in case any of the persons belonging to any company shall neglect to attend at the time and place appointed for classing the said company, or if present, shall refuse to draw as aforesaid, then the said captain or commanding officer thereof shall appoint one disinterested freeholder to draw for the absentees or persons so refusing; and when the classes shall be so settled, the captain or commanding officer of each company shall form a roll consisting of the eight classes, and the names and surnames of the men in each class, numbered according to the order of balloting, which he shall keep for his own use and direction, transmitting forthwith a copy thereof, with a list of his commissioned and non-commissioned officers prefixed, to the colonel or commanding officer of the regiment, who shall enter the same in a book by him to be provided for that purpose: And the said captain or commanding officer shall in the month of April in the year of our Lord one thousand seven hundred and eighty-seven, and in the month of April in every succeeding year, add to the said roll the names and surnames of all such male white inhabitants between the ages aforesaid, who on the next preceding twelve months have removed to, and are then residing in, that sub-division, or therein have attained to the age of eighteen years, except as herein before are excepted, annexing them respectively to such class or classes as may still render all the classes of a company as nearly equal in number to each other as conveniently may be.

SECT. 6.

Sec't. 6. *And be it enacted*, That every company shall be duly exercised and instructed in the months of April and September annually, at such time and place as the captain or commanding officer shall direct, he giving notice thereof by advertisement at three of the most public places in his district, at least five days before the day of muster; and every regiment shall be reviewed on the first Wednesday in June and the second Wednesday in October in every year, and be properly trained and disciplined at such place as the colonel or commanding officer shall direct, and at such other times and places as the president or commander in chief shall think necessary, and shall order.

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Militia how often to be exercised.

Sec't. 7. *And be it enacted*, That every person between the ages of eighteen and fifty, or who may hereafter attain to the age of eighteen years, except as before excepted, whose public taxes may amount to twenty shillings a year, shall at his own expence, provide himself; and every apprentice, or other person of the age of eighteen and under twenty-one years, who hath an estate of the value of eighty pounds, or whose parent shall pay six pounds annually towards the public taxes, shall by his parent or guardian respectively be provided with a musket or firelock, with a bayonet, a cartouch box to contain twenty three cartridges, a priming wire, a brush and six flints, all in good order, on or before the first day of April next, under the penalty of forty shillings, and shall keep the same by him at all times, ready and fit for service, under the penalty of two shillings and six pence for each neglect or default thereof on every muster day, to be paid by such person if of full age, or by the parent or guardian of such as are under twenty-one years, the same arms and accoutrements to be charged by the guardian to his ward, and allowed at settling the accounts of his guardianship.

What persons shall provide arms, &c.

Penalty for neglecting to keep them in repair.

Sec't. 8. *And be it enacted*, That every male white person within this state, between the ages of eighteen and fifty, or who shall hereafter attain to the age of eighteen years, except as before excepted, shall attend at the times and places appointed in pursuance of this act for the appearance of the company or regiment to which he belongs, and if any non-commissioned officer or private, so as aforesaid required to be armed and accoutred with his firelock and accoutrements aforesaid in good order, or if any male white person between the ages aforesaid although not required to be so armed and accoutred, shall neglect or refuse to appear on the parade and answer to his name when the roll is called over, which the commanding officer is hereby directed to cause to be done at the distance of one hour after the time appointed for meeting, not having a reasonable excuse, to be adjudged of by a court-martial to be appointed by the commanding officer of the company, which shall consist of a subaltern and four privates, the subaltern to be president thereof, every such person shall forfeit and pay the sum of four shillings for every such neglect or refusal; and if the said court-martial shall adjudge, that such person had not a reasonable excuse for such neglect or refusal, the justice to whom the captain or commanding officer of the company shall make return of the proceedings of such court-martial shall enter judgment and issue execution thereupon, unless it shall appear to him, that the defendant was sick, or out of the county on some necessary business, and had not an opportunity of being heard before the court-martial.

Penalty on privates for non-attendance, &c.

How to be adjudged.

Sec't. 9. *And be it enacted*, That every person required to attend as aforesaid at the time and place of exercise in company, or in regiment, who shall then and there appear, and shall neglect or refuse to answer to his name when the roll is called over, or to obey the lawful commands of his commanding officer or to perform his exercise with the care and attention requi-

For neglect of duty, the penalty.

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site therein, being convicted of any of the said offences, by a court-martial to be appointed as aforesaid, shall forfeit and pay for every such offence, any sum not exceeding ten shillings.

Fines incurred by minors, of whom to be recovered.

SECT. 10. *And be it enacted*, That if any person of the age of eighteen and under twenty-one years, who is hereby required to attend at the time and place of exercise in company, or in regiment, shall neglect or refuse to appear on the parade and answer to his name when the roll is called over, or shall then and there appear, and shall neglect or refuse to answer to his name, when the roll is called over, or to obey the lawful commands of his commanding officer, or to perform his exercise with the care and attention requisite therein, the fines and penalties by this act in such case to be incurred by him, shall be recovered of his parent, guardian or master, (if found to be the fault of the master) in the same manner as if such parent, guardian or master had personally incurred such fines and forfeitures, and shall in the case of a guardian be by him charged to his ward when of age.

Commissioned officers to be fined for neglect of duty.

SECT. 11. *And be it enacted*, That every commissioned officer who shall neglect or refuse to appear at the time and place appointed for exercise in regiment, having no reasonable excuse, to be adjudged of by such of the officers present as any two of the field officers shall appoint, and there do and perform his duty according to his office and station, shall forfeit and pay, if a colonel, thirty shillings; if a lieutenant-colonel, twenty-two shillings and six pence; if a major, fifteen shillings; if a captain, ten shillings; and if a subaltern or staff officer, seven shillings and six pence: and every commissioned officer who shall refuse or neglect to appear at the time and place appointed for exercise on other muster days, having no reasonable excuse, to be adjudged of by the officers present, or a majority of them, shall forfeit and pay the sum of ten shillings, if a captain, and the sum of seven shillings and six pence if a subaltern.

A clerk to be appointed for each company.

SECT. 12. *And be it enacted*, That the commissioned officers of every company shall appoint such sergeant thereof as they shall judge best qualified for that business, to be clerk thereto, who shall keep in a book, to be provided by him for that purpose, to be viewed and examined from time to time by the commanding officer thereof, a fair and exact account of all fines and forfeitures incurred by persons belonging to the same, noting therein at the time and place appointed for meeting in company or regiment the names of the persons belonging to his company and then absent; a transcript of which entries of fines and forfeitures the said clerk shall deliver to the treasurer of his regiment once in three months, by whom he shall be paid thirty shillings a year for his services aforesaid as clerk.

and pay.

The commanding officer of each company to be fined for neglect.

SECT. 13. *And be it enacted*, That the commanding officer of every company is hereby impowered and required to sue for and recover, in the manner herein after directed, all fines and forfeitures incurred as aforesaid by any officer, non-commissioned officer or private belonging to his company, and being so recovered shall forthwith pay over the same into the hands of the treasurer of the regiment to which he doth belong, deducting one shilling in the pound for collecting the same: and if any such commanding officer shall neglect or refuse to sue for and recover all fines and forfeitures incurred in his company once in every six months, and pay over the same, agreeable to the directions of this act, he shall forfeit and pay the sum of five pounds for the first offence, and for the second and every other offence the sum of ten pounds.

Penalty for neglect.

A treasurer for each regiment to be chosen annually.

SECT. 14. *And be it enacted*, That it shall and may be lawful for the commissioned officers of each regiment to meet on the first Wednesday in June

June annually, and choose by ballot, to be taken under the inspection of the field officers, or such of them as attend, one reputable freeholder, not being one of the said commissioned officers, to be treasurer to such regiment for the year thence next ensuing.

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SECT. 15. *And be it enacted*, That the treasurer of each regiment in the several counties of this state, before he enters on the duties by this act required of him, shall give bond to the colonel of the same, in such sum, and with such sureties as he shall approve of, conditioned for the faithful performance of the duties hereby enjoined him, and shall pay over all such sums of money as shall come into his hands, in pursuance of this act, in the manner herein directed; and at the expiration of the year for which he was chosen, shall render an account to the general assembly, or their committee, of all monies that have come into his hands as treasurer of said regiment, and in what manner he hath disposed of the same, and the balance remaining in his hands, if any, shall forthwith, after such account rendered, be paid over to the orders of the general assembly, after deducting six pence in the pound for his trouble.

He shall give bond,

and account with the General Assembly.

SECT. 16. *And be it enacted*, That all fines and forfeitures that shall be paid into the hands of any treasurer of a regiment, in pursuance of this act, shall be applied for the purpose of purchasing arms, accoutrements and ammunition for the use of the regiment, as the president or commander in chief from time to time shall order and direct, and for purchasing such drums colours and fifes for the several companies, and also for paying adjutants, drummers and fifers, and in such manner as the field officers thereof, shall, from time to time order and direct.

Appropriation of the fines.

SECT. 17. *And be it enacted*, That the president or commander in chief shall have full power and authority, in case of invasion, rebellion, or insurrection, within this state, or in case of actual invasion of the state of Maryland, New Jersey, Pennsylvania, or the eastern shore of Virginia, to call into service such part of the militia, by classes as to him shall seem necessary; the first draught to be composed of the class number one, of each company; and in case the first draught shall not be sufficient for the exigency, then the class number two shall be drawn, and so on by classes, from time to time, as occasion may require: and to the end that each particular draught may be suitably officered, the following order is hereby directed and enjoined; that is to say, for the first draught, the captain of the first company, the first lieutenant of the second company, the second lieutenant of the third company, and the ensign of the fourth company. For the second draught, the captain of the second company, the first lieutenant of the first company, the second lieutenant of the fourth company, and the ensign of the third company. For the third draught, the captain of the third company, the first lieutenant of the fourth company, the second lieutenant of the first company, and the ensign of the second company. For the fourth draught, the captain of the fourth company, the first lieutenant of the third company, the second lieutenant of the second company, and the ensign of the first company. For the fifth draught, the captain of the fifth company, the first lieutenant of the sixth company, the second lieutenant of the seventh company, and the ensign of the eighth company. For the sixth draught, the captain of the sixth company, the first lieutenant of the fifth company, the second lieutenant of the eighth company, and the ensign of the seventh company. For the seventh draught, the captain of the seventh company, the first lieutenant of the eighth company, the second lieutenant of the fifth company, and the ensign of the sixth company. For the eighth draught, the captain of the eighth company, the first lieutenant of the seventh company, the second lieutenant of the sixth company, and the ensign of the fifth company.

President may call out the militia upon invasion, &c.

Draughts how officered.

SECT. 18.

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Rotation of  
duty among  
field-officers.

how ascertain-  
ed.

Militia how  
relieved.

Their pay  
and rations.

Not to be  
kept out of  
the state long-  
er than, &c.

Who may call  
out the Militia  
in the ab-  
sence of the  
President.

How notice  
shall be given  
to the classes  
ordered to  
march.

Penalty for  
negligence.

Sec<sup>t</sup>. 18. *And be it enacted*, That the several colonels, lieutenant-colonels and majors of the regiments composing a brigade in each county, shall, on or before the twelfth day of October next ensuing, meet together and decide the rotation of duty among them, by several and separate lots in numerical order as aforesaid, in the several lines of office; which being done, a roll thereof shall be immediately made and subscribed by them all, and returned to the general of the brigade, and by him, he first taking a copy thereof, without delay, be transmitted to the president or commander in chief; and if the field officers aforesaid shall neglect to decide the rotation of duty, or to return the roll subscribed as aforesaid to the brigadier-general, or if brigades or detachments shall be composed of classes from different counties, the field officers shall take their tour of duty according to their respective ranks, in such manner as the president or commander in chief shall direct and order, each class to be considered as detachments from different corps, liable to serve any term not exceeding six weeks, 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 president or commander in chief from employing or calling out the whole of any regiment where it may be necessary, or the whole of any company, without respect to this rule, whenever the exigency is too sudden to assemble the militia which compose the particular classes. And the militia in actual service shall receive the same pay and rations as continental troops, their pay to commence two days before their marching by classes, and receive pay and rations till their return home: provided, that not more than one fourth of the classes of the militia shall be sent and kept out of this state at any time, nor shall any part of the militia be retained in actual service out of this state, longer than the invasion of the adjoining state continues.

Sec<sup>t</sup>. 19. *And be it enacted*, That in case of the absence of the president or commander in chief of this state, on any insurrection, rebellion, or invasion, the general or commanding officer in the military line, in each county respectively, is hereby authorized and directed to issue his orders, to call out such part of the militia as he may judge immediately necessary, and shall forthwith transmit an immediate account thereof to the president or commander in chief.

Sec<sup>t</sup>. 20. *And be it enacted*, That the general of each brigade upon receiving orders from the president or commander in chief, for any class or classes of militia, to be called out by virtue of this act, shall give due notice thereof to the commanding officers of regiments, they to the commanding officers of companies respectively, who shall forthwith give the same to the class or classes ordered to march, and without delay certify in writing under their hands respectively, to the commanding officer of the regiment in what manner such orders have been executed, and shall make returns in writing of those who are then sick, or absent out of the county; and for such service each commanding officer of a company shall receive from the treasurer of the regiment, out of the fines and forfeitures incurred by this act, the sum of thirty shillings and no more. And such commanding officer of the regiment shall forthwith transmit a copy of such returns to the brigadier general aforesaid. And if the commanding officer of a regiment shall neglect or refuse to give such notice as he is hereby directed to give, or if the commanding officer of a company shall neglect or refuse to give such notice as he is hereby directed to give, or to certify as aforesaid, he shall forfeit and pay to the treasurer of the regiment the sum of ten pounds.

Sec<sup>t</sup>. 21.

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SECT. 21. *And be it enacted*, That if any person of the age of eighteen and under twenty-one years, who by this act is required to march with his class, company or regiment, shall neglect or refuse so to do, the fines and penalties by this act in such case to be incurred by him, shall be recovered of his parent, guardian, or master, (if found to be the fault of the master) in the same manner as if such parent, guardian or master had personally incurred such fines and forfeitures, and shall, in the case of a guardian, be by him charged to his ward when of age.

Fines incurred by minors for neglecting to march, of whom recovered.

SECT. 22. *And be it enacted*, That every field officer within this state, who shall refuse or neglect to take his tour of duty, when the militia of this state shall be called into actual service by classes, companies, or regiments, having no sufficient excuse, to be adjudged of by a court-martial, to be appointed by the commanding officer of the brigade to which he belongs, shall forfeit and pay, if a colonel, thirty pounds, if a lieutenant-colonel, twenty-two pounds and ten shillings, if a major, fifteen pounds; and every other commissioned officer who shall refuse or neglect to march with his class, company or regiment, when the same shall be called into actual service, and continue with the same until such class, company, or regiment is discharged, having no reasonable excuse, to be adjudged of by a court martial, to be appointed by the colonel of the regiment to which he belongs, shall forfeit and pay the sum of ten pounds, if a captain, and the sum of seven pounds and ten shillings, if a subaltern or staff officer. And every non-commissioned officer and private, except as before excepted, who shall refuse or neglect to attend at the time and place appointed for any class or company to meet, or having met, shall refuse to march with his class or company, and continue with the same until such class or company is discharged, not having a reasonable excuse, to be adjudged of by a court-martial, to be appointed by the commanding officer of the company in the manner herein before directed, shall forfeit and pay the sum of five pounds; and the commanding officer of every company shall, immediately after the return of a class or classes of his company, or of his whole company, from a tour of duty, return to the treasurer of the regiment a true list, containing the names of every person belonging to the said class or classes, or company, who hath failed in performing the duties hereby required of him, and such commanding officer neglecting or refusing to return a list as aforesaid, shall forfeit and pay the sum of ten pounds.

Officers neglecting their tour of duty to be fined.

Privates not marching with their classes, &c. to be fined.

List of delinquents to be returned to the treasurer.

SECT. 23. *And be it enacted*, That the firing of four muskets successively and distinctly, and the beating of a drum immediately after for fifteen minutes successively, or the firing of two cannon at four minutes distance of time, and the beating of a drum immediately after for fifteen minutes successively, within this state, shall be signals of, and be deemed and taken to be an alarm; and the commanding officer of each company, who shall have notice of an alarm, shall forthwith cause the assemble to be beat, use his utmost diligence to collect the company under his command, and send immediate notice to all the field-officers in the neighbourhood, and to the commanding officer, or in case of his absence, to some commissioned officer of the next company, who shall in like manner give notice to field officers, and to an officer of the next company, and so on till the notice becomes general, and the field officers shall immediately repair, and the officers of companies shall immediately march with their companies respectively and in proper order, to such place of rendezvous as shall be appointed by the commanding officer; and upon every such alarm every officer of a company under the commanding officer thereof, and every private, shall, and is hereby required immediately to repair with his arms, accoutrements and ammunition, to the habitation of the commanding officer of the company, unless some other place be appointed as aforesaid for that purpose, and shall obey all such lawful commands as shall be given him; and after such company is formed, it shall be

What shall be deemed an alarm.

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Who may make an alarm.

considered as in actual service and full pay, and so remain until discharged; and all officers and privates shall continue in service on such alarm, as long as the commanding officer shall judge expedient; and if any person or persons, except a commissioned officer, shall presume to make the signals of an alarm as aforesaid, within this state, he or they shall forfeit and pay for such offence the sum of fifty pounds.

Officers and privates neglecting their duty on an alarm, the penalty.

SECT. 24. *And be it enacted*, That if any field officer shall not perform the duties belonging to his station in case of an alarm, having no reasonable excuse, to be judged of by a court-martial, to be appointed by the commanding officer of the brigade to which he belongs, he shall forfeit and pay if a colonel, twenty pounds, if a lieutenant-colonel, fifteen pounds, and if a major, ten pounds. And every other commissioned officer who shall not perform the duties belonging to his station, in case of an alarm, having no reasonable excuse, to be adjudged of by a court-martial to be appointed by the commanding officer of the regiment to which he belongs, shall forfeit and pay if a captain, six pounds, and if a subaltern or staff officer, five pounds; and every non-commissioned officer and private who shall not perform the duties required of him in case of an alarm, not having a reasonable excuse, to be adjudged of by a court-martial to be appointed by the commanding officer of the company which he belongs to, in the manner herein before directed, shall forfeit and pay three pounds; and the commanding officer of every company shall immediately after it is discharged from attending on an alarm, return to the treasurer of the regiment a true list containing the names of every person belonging to his company who hath failed in performing the duties required of him on such alarm, and such commanding officer neglecting or refusing to return a list as aforesaid, shall forfeit and pay the sum of six pounds.

Officers guilty of a breach of duty to be removed.

SECT. 25. *And be it enacted*, That if any commissioned officer shall neglect or refuse to perform any thing herein before directed to be done by him, the president or commander in chief is hereby required to remove him from his office, and appoint another in his place, and to issue a commission to the person so appointed accordingly, it being first adjudged by a court-martial to be appointed respectively as the rank of the officer may be, in the manner herein before directed, that such officer had no reasonable excuse for the non-performance of his duty.

Deserters allowed no pay for duty previous to desertion.

SECT. 26. *And be it enacted*, That every captain and other officer of the militia, who shall hereafter make out a pay-roll, shall insert therein, as well the names of those who shall have deserted, if any there shall be, as of those who shall serve out their tour, and note such deserters as having deserted, but shall not annex any pay for their time they did duty, previous to their desertion.

Who may issue warrants in the President's absence.

SECT. 27. *And be it enacted*, That in case of invasion, rebellion or insurrection as aforesaid, the president or commander in chief, or in his absence, the general or commanding officer in the military line, in each county respectively, is hereby empowered to issue warrants to proper persons, for impressing horses and carriages as the service may require.

The President may appoint a major-general, &c.

SECT. 28. *And be it enacted*, That the president or commander in chief may commissionate one major-general, and three brigadier-generals to command the militia of this state, which major-general is hereby empowered to appoint an aid de camp, and each of the said brigadier-generals to appoint an adjutant for each brigade, who shall have the rank of major.

Commissaries to be appointed.

SECT. 29. *And be it enacted*, That a proper person may be appointed by the president or commander in chief, to be commissary of military stores and provisions in each of the counties of this state, when the exigency of affairs

affairs shall render such appointment necessary, whose business and duty shall be to collect together all public arms and military stores, and the same safely and securely to keep in some convenient and proper place, in good order and fit for service, and not to deliver out any of the said arms, stores, or provisions, but by virtue of an order in writing from the president or commander in chief, or in his absence, and in case of emergency, by an order from the officer commanding the militia in the respective counties; and whenever any arms, stores or provisions, shall be so delivered by such commissary, the officer to whom they shall be delivered shall give a receipt for the same, accurately specifying the articles received and the number, and quantity of arms, stores, and provisions respectively, who upon delivering them to the commanding officers of companies shall take receipts in like manner, and the said commanding officers of companies upon delivering them to the privates, shall make entries in a book, fairly kept, specifying the articles and the numbers as aforesaid, and the names of the persons respectively, into whose hands they were by him delivered; which persons respectively, shall be accountable to him, for the full value of every of the said articles received by them in case of abuse, waste, or embezzlement, to be sued for and recovered by him, in the manner herein after directed; and the said commanding officers of companies, and every field officer of the regiment into whose hands any such arms, stores, or provisions may come, shall be accountable to the treasurer of such regiment for the full value of every of the said articles respectively received by them, in case of waste, abuse, or embezzlement, to be sued for and recovered by the said treasurer in like manner; and the said commissary shall make report of the condition of the arms, stores, and provisions, in his care and custody, once in every six months, to the president or commander in chief; and the said commissary is hereby directed to keep a just and fair account of all arms, stores, and provisions which may come to his hands as aforesaid, and of the delivery thereof.

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Their duty.

Officers and privates accountable for arms and stores delivered them.

Sect. 30. *And be it enacted*, That the militia of this state, as well without as within the state, be subject only to such articles of war as may be established by the general assembly thereof, and shall be tried by their own officers only.

What articles of war the militia shall be subject to.

Sect. 31. *And be it enacted*, That if any person, either officer or private shall happen to be wounded or disabled upon any invasion, or in any military service under this act, he shall be taken care of, supported, and maintained, according to his rank and dignity, at the public charge of this state, during the time of his disability.

Persons disabled, to be supported.

Sect. 32. *And be it enacted*, That no person or persons, by this act directed to meet and muster, or perform any military duty, shall be liable to be arrested, or taken by any sheriff, constable or other officer, in any civil action whatsoever, on the day of such meeting, in going to, remaining at, or returning from the place of such meeting for muster, or other military duty, but every such arrest shall be void, and the officer making the same, shall be liable to an action of trespass for false imprisonment, at the suit of the party so arrested, and he shall be forthwith set at liberty and discharged from the custody of such officer, by order of any one judge or justice of the peace of the county where such arrest is made, or of the captain of the company to which such person doth belong; and the arms and accoutrements aforesaid of every person required by this act to provide and keep the same for military service, shall be, and are hereby declared to be exempt and privileged from all distresses, executions, extents, attachments or other process whatsoever; and any civil officer distraining, seizing, attaching, or taking the same in execution, shall forfeit and pay the sum of three pounds to the party aggrieved; to be recovered at the suit of said party, in the

Militia exempt from arrest.

Their arms privileged from distresses, &c.

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the same mode other debts, or demands under five pounds are made recoverable by the laws of this state, and any sale of said arms and accoutrements, so as aforesaid exempt, made by any officer, shall be null and void.

Fines under  
twelve  
pounds how  
recovered.

Above twelve  
pounds how

SECT. 33. *And be it enacted*, That all fines or forfeitures under twelve pounds, that may be incurred under this act, shall be sued for and recovered, as debts of forty shillings or under, may now be sued for and recovered; and all and every of the fines and forfeitures of twelve pounds and upwards, by this act made payable, the mode of recovering which is not herein particularly pointed out, shall be sued for and recovered by the treasurer of the regiment to which the officer or person incurring the same belongs, by summons or warrant, and execution, from under the hand and seal of a justice of the peace in the neighbourhood where the person charged resides, directed to the sheriff of the county, requiring him to levy the same on the goods and chattles of the delinquent, and the same cause to be appraised by two freeholders, and after being publicly advertised ten days, to make sale thereof, and after payment of the fine or forfeiture to the treasurer suing for the same, together with costs and charges, pay the overplus, if any, to the owner; and if goods and chattles sufficient to discharge the same cannot be found, that then the justice granting such precept, shall certify the proceedings had thereon, to the prothonotary of the county, who is thereupon required to issue a fieri facias for the levying of the fines and forfeitures aforesaid on the lands or tenements of such delinquents.

Persons ag-  
grieved may  
appeal.

SECT. 34. *Provided always, and be it enacted*, That if any person or persons shall think him, her or themselves aggrieved by the judgment of the justice aforesaid, in any suit of five pounds and upwards, he, she, or they may appeal before the justice aforesaid, and on the parties giving sufficient security, within six days next after any such judgment, to prosecute such appeal in the court of common pleas of the county with effect, the justice shall receive the same, and stay further process, and the said justice shall return every such appeal on the first day of the next term, and the court shall direct the trial of jury as in other cases of debt, whole verdict shall be final and conclusive; and all such appeals shall be tried at the term to which such returns shall be made; any law, custom, or usage to the contrary notwithstanding.

Officers' fund,  
their remedy.

SECT. 35. *And be it enacted*, That if any suit or action shall be brought against any officer, civil or military, for doing the duty enjoined or required of him by this act, he may plead the general issue and give this act in evidence, and if the plaintiff in such suit or action shall discontinue the same, be non-suited, or a verdict pass against him, or judgment be given against him, he shall pay the defendant treble costs.

*Signed by Order of the House of Assembly,*

THOMAS DUFF, *Speaker.*

*Signed by Order of the Council,*

THOMAS M'DONOUGH II, *Speaker.*

*Passed at DOVER, }*  
*June 4, 1785.*