ACTS

OF THE

THIRTY-FIRST

GENERAL ASSEMBLY

OF THE

STATE OF NEW-JERSEY,

At a Session begun at Trenton, on the twenty-eighth day of October, one thousand eight hundred and six, and continued by adjournments.

BEING THE FIRST SITTING.



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1807.

with sureties, unto the Governor of this State, in such amount as shall be approved of by the Orphan's Court of the county of Monmouth, conditioned for the true and faithful performance of the trust assigned him by this act, which bond shall be deposited in the Surrogate's office of the said county of Monmouth.

Statement to be exhibited.

SEC. 4. *And be it enacted*, That the said Tylee Williams shall within six months after the sale of the lands and real estate aforesaid, make, subscribe and exhibit under oath or affirmation unto the Surrogate of the county of Monmouth, an exact statement of the amount of the said sale or sales, to be by him recorded and filed agreeable to law; and the said Tylee Williams shall be accountable for all monies by him received by virtue of this act.

Deed how to be certified.

SEC. 5. *And be it enacted*, That no deed or conveyance of such lands and real estate made by the trustee aforesaid, shall be valid unless it be certified in or upon such deed or conveyance by James Lefetra and George Corlies, or the survivor of them, under their hands and seals, that such sale is made bona fide, and for the highest price that could be obtained for such property at the time of said sale.

Passed at Trenton, November 28, 1806.

CHAP. CLVI.

An act supplementary to an act entitled "An act for establishing and conducting the military force of New-Jersey."

SEC. 1. BE IT ENACTED *by the Council and General Assembly of this State, and it is*

hereby enacted by the authority of the same, That the commanding officer of every regiment, independent battalion and squadron, may call a meeting of the commissioned officers of their respective regiments, independent battalions and squadrons, at such time and place as he shall appoint for improvement in military exercise, which shall not exceed twice in any year; and the commissioned officers having notice of such meeting and making default shall be subject to a fine not exceeding four dollars, at the discretion of the board of general and field officers when convened; and return shall be made of such defaulter or defaulters, by the commanding officer present at such meeting.

Meeting of officers.

SEC. 2. *And be it enacted*, That the militia of this state shall rendezvous three times in every year for the purpose of training, disciplining and improving in martial exercise, once by companies or troops, within their respective bounds on the first Monday in April; once by battalions within their respective bounds, the first battalion of the first regiment, on the first Monday of May; the second battalion of said regiment on the Tuesday following; the first battalion of the second regiment on the Wednesday following; the second battalion of the said regiment on the Thursday following; the first battalion of the third regiment on the second Monday of May, the second battalion of said regiment on the Tuesday following; the first battalion of the fourth regiment on the Wednesday following, and the second battalion of the said regiment on the Thursday following; the first battalion of the fifth regiment on the third Monday of May, the second battalion of said regiment on the Tuesday following; and the independent battalions shall parade on the days immediately succeeding the trainings of such battalions as may be formed into regiments;

Times of training.

according to their rank in the brigade, always excepting the first and last days of the week: the squadron of horse in each brigade, shall meet for exercise and inspection on the fourth Monday of May, and such squadrons of horse as are so situated as to make it inconvenient to meet in squadron for inspection, shall meet by troop for that purpose, at the time and place directed for the battalion within which the majority of said troop resides; and once by regiments and independent battalions, with the troop or troops of horse and company or companies of artillery, the major part of which shall be raised within the bounds of each regiment or independent battalion attached to the same; the first regiment on the first Monday of June, the second regiment on the Tuesday following; the third regiment on the Wednesday following; the fourth regiment on the Thursday following, and the fifth regiment on the second Monday of June. It shall be the duty of the captains or commandants of companies or troops, the majors or commandants of battalions, and the colonels or commandants of regiments, to advertise the hour and place of meeting of their respective corps, on the days appointed by law at least two weeks in two of the most public places in the company, four of the most public places in the battalion, and six of the most public places in the regiment so called to exercise. That it shall be the duty of every general of brigade, when more than one independent battalion exists under his command, to direct that they draw for rank by their commanding officer in the presence of the general; and the battalion drawing the lowest number shall be highest in rank, and called the first independent battalion of the brigade, and the other or others shall be numbered and named accordingly; and in ev-

ery brigade in which there is an independent battalion or battalions the regiments shall proceed in their trainings each on the day designated by law, and the independent battalion or battalions shall follow according to their numerical order or rank on the days immediately succeeding, always excepting the first and last days of the week. The boards of general and field officers of each brigade shall have full power and authority at their discretion once in three years to order a brigade training, on one of the regimental days within the bounds of the brigade, which brigade training shall be instead of the regimental training for that year, and the same fines and penalties shall be imposed for deficiencies as are directed in cases of regimental muster, and the said board may leave out of such brigade orders any regiment or independent battalion the local situation of which may in their opinion require it, which regiment or independent battalion shall observe the day or days above appointed for such detachment. *And further*, That if the order aforesaid, in which the regiments and battalions are directed to exercise, shall be found inconvenient, it shall be lawful for the brigadier general, to change the order in which the said regiments and battalions aforesaid shall be exercised at his discretion not altering the days of training and exercise; but confining such discretion to naming the particular regiment or battalion that shall train or exercise on a particular day as before mentioned, so that the inspection and review may be rendered more convenient to the brigadier general and brigade inspector. The brigade inspector by order of the brigadier general to give notice by advertisement set up in three of the most public places within the bounds of each regiment and independent battalion be-

Brigade trainings how ordered.

longing to the said brigade at least thirty days previous to the day of meeting. That it shall be the duty of the captain or commanding officer of every company, of the major or commanding officer of every battalion, of the lieutenant-colonel or commanding officer of every regiment, of the general or commanding officer of every brigade, of the major general or commanding officer of every division to make accurate returns of the troops under their respective commands, to their next superior officer, at least once in every year, which shall be done in two months after the annual trainings. Returns to be made.

Sec. 3. *And be it enacted*, That the fines for non attendance on days of exercise shall be as follows: on a general officer the sum of ten dollars, on a field officer the sum of five dollars, on every other commissioned officer the sum of three dollars per day, on every non-commissioned officer and private the sum of one dollar per day, and the same fines and penalties shall be respectively paid by every officer, non commissioned officer and private, who shall leave the parade or absent himself from his regiment, battalion, squadron, troop or company, without leave of the commanding officer before the said regiment, battalion, squadron, troop or company shall be discharged, and if any militia man shall appear on parade without his musket or firelock, or if a trooper without his sword and pistols, he shall forfeit and pay fifty cents, and for want of a cartridge-box six cents, and if a footman for want of a bayonet and belt six cents. *Provided*, That no militia man shall be liable to such fines who in the opinion of the company court created by this supplement may be deemed unable from whatever cause to procure arms and equipments or either of them: but when any militia man shall be called into Fines. Proviso.

actual service, he shall appear fully equipped with every article required by act of congress, or be subject to a fine, if an officer, of ten dollars, or if a private two dollars.

Clerk's duty; and

SEC. 4. *And be it enacted*, That in order to ascertain those persons who by their absence on days of exercise shall be liable to the fines and forfeitures of this supplement, a clerk appointed by the captain or commanding officer of every troop or company, shall on every day of training, in the presence of the said captain or commanding officer of said troop or company, one hour after the time appointed for the meeting of the troop, company, battalion, squadron, regiment or brigade, and also after the exercise is over and before the men are dismissed call over the muster roll of the said troop or company, noting those who are absent at each roll call and also all those who are deficient in arms or equipments and the particular article or articles for want of which they are liable to be fined; and shall ten days prior to the day appointed for the meeting of the company court set up in three of the public places within the bounds of said company a written advertisement, publishing the names of all delinquents and the fines and forfeitures that each delinquent in said troop or company is liable to and shall deliver a true and particular return of all such delinquents and deficiencies on oath or affirmation to the president of said company court, which oath or affirmation shall be in the following form:

Oath.

I clerk of the company (or troop as the case may be) of the battalion (or squadron as the case may be) within the regiment of the brigade, do in the presence of Almighty God sincerely swear (or affirm as the case may be) that this return contains the names of all the delinquents of said company or troop,

according to the best of my knowledge and belief, and that the fines accrued and all the deficiencies are truly marked opposite the name of each delinquent, &c.

Company court,

SEC. 5. *And be it enacted*, That the commissioned officers of each and every company or troop shall constitute a company court, the officer first in rank shall be president; they shall when convened for business administer to each other the following oath or affirmation:

their oath

I do swear (or affirm as the case may be) that I will perform the duties of a member of this company court agreeably to the true intent and meaning of the militia law of this state, according to the best of my skill and understanding without favor, affection or partiality. So help me God

and time of meeting.

And said company court shall meet on the first Monday of August in every year at such place within the bounds of said company as the captain or commanding officer thereof shall publicly direct and proceed to hear the testimony and allegations of all such parties appearing by themselves or representatives as have been returned delinquent at the preceding trainings and impose such fines and forfeitures as in justice and equity this act requires. The president of said court shall within five days thereafter make an accurate return to the major or commanding officer of the battalion of the names of all delinquents and the sum imposed on each by the said company court.

Return by the president.

Battalion court.

SEC. 6. *And be it enacted*, That the major or commanding officer of each battalion, with the captain next in seniority of the same, and the surgeon or surgeon's mate of the regiment to which such battalion belongs shall constitute the battalion court of appeals, and shall meet on the third Monday of August in every year

and when met shall take the oath prescribed by the thirteenth section of the act to which this is a supplement, which oath or affirmation shall be administered by the captain to the major or commanding officer of the battalion, and by the major or commanding officer of the battalion to the other members; the duties of this court shall be to hear the testimony and allegation of all such parties as shall appear by themselves or their representatives and conceive themselves aggrieved by any decisions of the company court. They shall have power to administer oaths to witnesses, and the president shall keep a record of all the proceedings of the said court; there shall be no appeal from their decision nor any certiorari allowed: they shall also have full power and authority to grant certificates of exemption from military duty, to all such applicants as shall appear to them to labor under permanent inability of body or insanity of mind, which certificate shall be a sufficient warrant for the captain or commanding officer of the company to which such person belonged to erase his name from the muster roll of said company.

Their powers and duties.

SEC. 7. *And be it enacted*, That the major or president of the battalion court of appeal shall within ten days of holding said court make accurate returns of the names of all delinquents and the sum imposed on each, one to the battalion paymaster, one to the brigade paymaster, and one to the board of general and field officers, directed to the judge advocate.

Returns by the president.

SEC. 8. *And be it enacted*, That the board of general and field officers shall convene annually on the first Monday in September for the ordinary business of the brigade to whom the brigade inspector shall make return of all such delinquencies of the general, field and staff officers as shall come to his knowledge, whose duty it shall be to ascertain said delinquency by ordering the

Duty of the board of general and field officers.

adjutants of the several regiments and independent battalions to make a return of said delinquents to him, and the said board shall proceed (when no satisfactory excuses are offered) to assess such fines on each defaulter as are directed by law, and the same shall be collected by the brigade paymaster on a return from the president of the said board, which fine if not paid within ten days, the said paymaster shall prosecute for before any court having competent jurisdiction. And whenever the board of general and field officers of any brigade in this state shall re-attach a company to any other regiment or battalion, such company so attached shall hold the same rank in such regiment or battalion that they held in their former regiment or battalion, unless there should happen to be a company of the same rank in such regiment or battalion, in which case the company so attached shall be considered the lowest in rank of the said regiment or battalion.

Construction of 50th section.

SEC. 9. *And be it enacted*, That the fiftieth section of the act to which this is supplementary shall be so construed as to apply only to days of exercise appointed by this act, and to cases of invasion and insurrection.

Organization of companies.

SEC. 10. *And be it enacted*, That the majors or commanding officers of battalions shall be charged with organizing the several companies under their respective commands; so far as where militia men of any company district neglect or refuse to choose their company officers, the major or commanding officer to which such company belongs, shall under his hand and seal appoint a serjeant within the said company district, whose duty it shall be to take command of the said company and conduct it agreeable to the militia laws of this state until proper officers are elected and qualified according to law; and to constitute his company court, the said

serjeant shall appoint three of the most respectable enrolled persons from the list of said company who shall choose one of their number to be president of said court; they shall take the oath or affirmation prescribed by the fifth section of this supplement, and in all things be governed by the same regulations as are directed for other company courts.

Battalion and squadron inspections may be appointed.

SEC. 11. *And be it enacted*, That it shall be lawful for the brigade inspector to attend the battalion and squadron trainings (instead of the regimental trainings) for inspection during the time of their being under arms, whenever in the opinion of the board of general and field officers of the brigade the good of the service shall require it.

Artillery & cavalry companies, how to be completed.

SEC. 12. *And be it enacted*, That it shall be lawful for the captains or commanding officers of cavalry and artillery to enroll in their respective companies from the several companies composing the brigade, regiment or battalion, to which such troop or company may belong, such men as may be necessary to complete their respective companies subject to all the other regulations of the act to which this is a supplement.

Exemption from military duty.

SEC. 13. *And be it enacted*, That any person desirous of becoming exempt from military duty, may in the month of March in every year pay into the hands of the battalion paymaster the sum of three dollars, which shall exempt such person from military duty for the year then next ensuing, and the said battalion paymaster shall make out a certified list under his hand and seal of all such exempts (if any there are) and transmit the same to the captain or commanding officer of the company to which such person may belong, and also a duplicate of said list to the brigade paymaster, on or before the second Monday of April in every year and the

captain shall not erase such persons name from the muster roll of said company but write opposite such name exempted for 180 and said exempts shall be liable to be draughted in the same manner as the enrolled militia, when called into actual service, and liable to the same fines and penalties. And within two months thereafter the said captain shall transmit the said certified list on which he has acted to the brigade judge advocate for the use of the board of general and field officers to serve as a check on the battalion paymaster in the settlement of their accounts with the said board.

Fees.

SEC. 14. *And be it enacted*, That the following fees be allowed: To the clerk of every company or troop for duties required of him one dollar for each year, to each of the members of the company court one dollar, to the presiding officer of said court for making the return of the delinquents of said company or troop one dollar, to each of the members of the battalion court one dollar and fifty cents, to the major or presiding officer of said court for making the returns required of him as such three dollars; and the paymasters of the battalions where such officers belong are hereby authorized to pay the above fees on a certificate from the presiding officer of each court before whom the business is immediately transacted. To the board of general and field officers for the time they shall necessarily be engaged in the business of the brigade to which they belong each per day two dollars.

Purchase and distribution of ARMS.

SEC. 15. *And be it enacted*, That the monies arising from military fines, forfeitures and exemptions which may have been paid into the treasury of this state are hereby appropriated exclusively to the purchase of muskets and bayonets for the use of the military force of New Jersey, which muskets shall be of the same caliber

and construction with those used in the service of the United States, and as often hereafter as the sum of five thousand dollars shall be paid into the treasury as aforesaid, the board of general officers shall proceed to apply the same as before directed, and shall cause the same to be distributed amongst the several brigades in proportion to the number of militia present on duty according to the last return, and the several brigade quarter masters shall on the receipt of the arms cause the same to be distributed in equal proportions among the several battalions in their respective brigades, for which purpose they shall be delivered to the quarter masters of the several regiments and independent battalions, and the said quarter masters respectively shall cause them to be deposited in some convenient and safe place in the vicinity of the usual place of battalion parade, under the care of some discreet person, who shall be entrusted with the custody and preservation of the same and shall be entitled to a reasonable compensation for his services in keeping and cleaning the same, to be paid by the battalion paymaster on an order drawn by the commanding officer of the said battalion; and the said quarter masters of regiments and independent battalions shall cause the said arms to be delivered to the order of the commander in chief whenever the same may be required for public service. And it shall be the duty of the commander in chief to lay before the legislature at their first meeting in every year, the proceedings of the board of general officers under this section.

Promulgation of this act.

SEC. 16. *And be it enacted*, That two thousand copies of this act shall be printed and distributed under the direction of the commander in chief, by the adjutant general to the several officers of the militia, and it shall be the duty of any officer having such copy or copies on

his going out of office to deliver, or in case of death his executors or administrators shall deliver under the penalty of five dollars to the successor in office, who shall prosecute for the same of the person so going out of office or dying the aforesaid copy or copies.

SEC. 17. *And be it enacted*, That the duties of the battalion paymasters contained in the sixteenth and seventeenth sections, on receiving the return of delinquents from the brigade judge advocate shall continue the same on receiving a delinquent return from the major or presiding officer of the battalion courts of appeals, that the fifth, sixth, seventh, eighth, ninth, eleventh, twelfth and fifteenth sections, the thirteenth section except so far as prescribes the oath for the members of the court of appeals, so much of the third section as respects the appointment of company clerks, so much of the sixteenth section as directs the battalion paymasters to advertise the names of delinquents, and so much more of the act to which this is a supplement as comes within the purview of this act shall be and the same are hereby repealed. Parts of former act repealed.

Passed at Trenton, November 27, 1806.