

PUBLIC LAWS
OF THE
STATE OF NORTH-CAROLINA,

PASSED BY THE
GENERAL ASSEMBLY,

AT ITS
SECOND EXTRA SESSION, 1861.

RALEIGH:
JOHN SPELMAN, PRINTER TO THE STATE.

1861.

Penalty.

tempt to pass or deliver the same to another person knowing the same to be falsely forged or counterfeited, the person so offending, shall, on conviction thereof in the superior courts, be punished in like manner as provided in the preceding section of this act.

SEC. 5. *Be it further enacted*, That this act shall be in force from and after its ratification. [*Ratified the 18th day of September, 1861.*]

Chap. 16. AN ACT TO AMEND 119 CHAPTER OF THE REVISED CODE ENTITLED
"WILLS AND TESTAMENTS."

One witness
sufficient to ad-
mit to probate
in certain cases

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That in the probate of last wills and testaments in common form the testimony of one witness shall be sufficient to prove the due execution thereof whenever it may appear to the court that the other witnesses reside beyond the limits of the State or from bodily infirmity are unable to attend court. [*Ratified the 19th day of September, 1861.*]

Chap. 17.

MILITIA BILL.

Organization.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the militia organization of the State shall be as follows: One Adjutant and Inspector General, with the rank of Major-General, who shall be General-in-Chief of all the forces of the State of North Carolina; such Brigadier-Generals as may be necessary to command brigades of not less than two nor more than six regiments, the regiments now established by law, and until otherwise ordered, the following shall be the established brigades and regiments, viz:

Brigades.

BRIGADES.	COUNTIES.	NO. OF REG'T	HOW DISTINGUISHED IN COUNTIES WHERE MORE THAN ONE REGI- MENT.
1st	Currituck,	1	
	Camden,	2	
	Perquimans,	3	
	Pasquotank,	4	

BRIGADES.	COUNTIES.	NO. OF REG'T	HOW DISTINGUISHED IN COUNTIES WHERE MORE THAN ONE REGI- MENT.	Brigades.
2nd	Chowan,	5		
	Hertford,	6		
	Gates,	7		
	Bertie,	8		
3rd	"	9		
	Martin,	10		
	Washington,	11		
	Tyrrell,	12		
4th	Hyde,	13		
	Beaufort,	14		
	Craven,	15	North.	
	"	16	South.	
5th	Pitt,	17		
	Carteret,	18		
	Jones,	19		
	Lenoir,	20		
6th	Onslow,	21		
	New Hanover,	22	East of N. East River.	
	"	23	West of " " "	
	Sampson,	24	East of Big Coharie.	
7th	"	25	West of " "	
	Duplin,	26		
	Wayne,	27	Upper.	
	"	28	Lower.	
8th	Greene,	29		
	Edgecombe,	30	Upper.	
	"	31	Lower.	
	Nash,	32		
9th	Wilson,	33		
	Halifax,	34	Upper.	
	"	35	Lower.	
	Northampton,	36		
10th	Warren,	37		
	Wake,	38	East of Raleigh.	
	"	39	West " "	
	Franklin,	40		
11th	Johnston,	41		
	Granville,	42	North.	
	"	43	South.	
	Person,	44		
11th	Orange,	45	Hillsboro'.	
	"	46	Hawfields.	

Brigades.

BRIGADES.	COUNTIES.	NO. OF REG'T	HOW DISTINGUISHED IN COUNTIES WHERE MORE THAN ONE REGI- MENT.
12th	Caswell,	47	
	Alamance,	48	
	Chatham,	49	Lower.
	"	50	Upper.
13th	Moore,	51	
	Harnett,	52	
	Cumberland,	53	Lower.
	"	54	Upper.
14th	Bladen,	55	
	Brunswick,	56	
	Columbus,	57	
	Robeson,	58	Lower.
15th	"	59	Upper.
	Richmond,	60	Lower.
	"	61	Upper.
	Montgomery,	62	
16th	Randolph,	63	West.
	"	64	East.
	Davidson,	65	Lower.
	"	66	Upper.
17th	Guilford,	67	West.
	"	68	East.
	Rockingham,	69	Lower.
	"	70	Upper.
18th	Forsythe,	71	
	Stokes,	72	
	Surry,	73	North.
	"	74	South.
19th	Yadkin,	75	
	Rowan,	76	
	Davie,	77	
	Iredell,	78	North of S. Yadkin.
20th	"	79	South " " "
	Anson,	80	Lower.
	Union,	81	East.
	"	82	West.
21st	Stanly,	83	
	Cabarrus,	84	
	Mecklenburg,	85	North.
	"	86	South.
	Gaston,	87	

BRIGADES.	COUNTIES.	N.O. OF REG'T	HOW DISTINGUISHED IN COUNTIES WHERE MORE THAN ONE REGI- MENT.	Brigades.
22nd	Lincoln,	88		
	Catawba,	89		
	Cleveland,	90	Upper.	
23rd	"	91	Lower.	
	Wilkes,	92	Lower.	
	"	93	Upper.	
24th	Alexander,	94		
	Caldwell,	95		
	Alleghany,	96		
25th	Ashe,	97		
	Watauga,	98		
	Mitchell,	99		
26th	Burke,	100	North.	
	"	101	South.	
	McDowell,	102		
27th	Rutherford,	103	North.	
	"	104	South.	
	Polk,	105		
28th	Henderson,	106		
	Transylvania,	107		
	Buncombe,	108	North.	
29th	"	109	South	
	Madison,	110		
	Yancey,	111		
30th	Haywood,	112		
	Jackson,	113		
	Macon,	114		
31st	Cherokee,	115		
	Clay,	116		

Sec. 2. Each regiment of Artillery, Infantry, Rifle-Regimental
men, or Cavalry shall consist of one colonel; one lieutenant-officers.
tenant-colonel; one major; three surgeons, with the
assimilated rank, one of major, one of captain, and one
of first lieutenant; one adjutant; one assistant commis-
sary and one assistant quartermaster, who shall also be
the paymaster, each with the rank of first lieutenant; and
[one] chaplain, with the assimilated rank of captain; one
sergeant-major; one commissary's sergeant; one quarter-
master's sergeant; and one chief musician—(all after
the major to be appointed by the colonel), and ten com-
panies. Each company shall consist of one captain, one

first lieutenant, two second lieutenants, five sergeants, four corporals, two musicians, (and in horse companies, one farrier and one blacksmith,) and from sixty to one hundred privates, (non-commissioned officers, musicians, farriers and blacksmiths to be appointed by the captain.)

Who liable to enrolment.

SEC. 3. All free white men and white apprentices, residents of this State, except ministers of the Gospel of every denomination that are properly ordained, or have the cure of souls, and the superintendent, assistant physician and necessary attendants of the Insane Asylum, of North Carolina, who shall be of the age of eighteen and under fifty years, shall as soon as practicable, be severally and respectively enrolled in the militia of this State by the captain or commanding officer of the infantry company within the bounds of whose district, (to be allotted to him as hereinafter directed,) such person shall reside; and it shall at all times be the duty of every captain, or commanding officer of any company, to enrol every such person, except as hereinbefore or hereinafter excepted, and also those between the ages aforesaid and not exempt by law, who may, from time to time, come to reside within the bounds of his district, and remain therein thirty days, and he shall without delay notify such person of the enrolment, by a proper non-commissioned officer of the company, by whom the notice may be proved. And in case there shall be no captain or

Captains to enrol.

In case no captain.

commanding officer in any district, the Adjutant-General shall appoint an enrolling officer for such district, whose duty it shall be to make a note of the free white persons and white apprentices in said district, between the ages of eighteen and fifty years, and he shall within ten days after said enrolment, order an election, and notify all persons to attend said election, who are required to do militia duty; the said enrolling officer is further required to open the polls and superintend the election for company officers, and transmit to the adjutant general a fair statement thereof, with a copy of the vote; and it shall be the duty of the adjutant general to compare the statements made to him by the enrolling officer aforesaid and make known to the Governor the persons elected: and he shall commission said persons. And any enrolling officers, appointed as aforesaid, who shall refuse to act, or undertaking to act, shall fail to make his returns to the adjutant general within thirty days from his appointment, shall forfeit and pay to the State of North Carolina one hundred dollars, to be recovered upon sum-

Election of company officers.

Failure or refusal to make returns.

mary motion in the Superior Court of law for Wake county.

SEC. 4. The Vice President of the Confederate States, Exemptions. the officers, judicial and executive, of the Confederate States, the judges of the Supreme and Superior Courts of Law, the secretary, comptroller, treasurer, high sheriffs of the several counties; all the necessary employees of the different Railroad Companies in the State, and telegraph operators; all custom house officers, postmasters, and stage drivers or mail carriers, employed in the care and conveyance of the mail to the post offices of the Confederate States, all millers of public mills: *Provided* that this exemption shall only extend as to each mill to one person subject to do military duty, whose occupation and daily employment it is to attend and perform the duty of a public miller; all branch pilots, all mariners actually employed in the sea service of the Confederate States, or of any merchant; shall be, and they are hereby, exempted from military duty: *Provided, always,* Proviso. That nothing herein contained shall be so construed as to exempt any person from performing duty in case of invasion or insurrection in this State: *And provided further,* That every practising physician shall be exempted from any fine or penalty for not attending to the ordinary company and regimental drill, upon making oath that it was necessary for him to be absent upon professional duty.

SEC. 5. The members of the several fire companies, so long as they shall continue members of said companies, Further exemptions. that now are, or may hereafter be established in this State, shall be and they are hereby declared exempted from all military duty, except in time of war, invasion or insurrection. It shall be the duty of the captains of all fire companies, once a year, to send a regular muster roll to the colonel commandant of the regiment, by the first of November, in each year, under the penalties now imposed on the captains of militia companies on failure of sending a muster roll, in the limits of which the company exists, of all persons belonging to said company, liable to do military duty, and the colonel of the regiment shall include them in his regular annual returns to the general of the brigade and adjutant general. Duty of captains of fire companies. Persons having scruples of conscience against bearing arms, who shall produce to the captains of their respective districts certificates, signed by the clerks of their respective churches, that they are regular members thereof, and shall make oath or affirmation, before a justice of the peace, that they

Persons having scruples of conscience.

are, from religious scruples, averse to bearing arms, and shall also produce a certificate from such justice of the peace that such oath or affirmation has been duly made, shall not be compelled to muster or perform military duty, except in case of insurrection or invasion, or pay any tax for said exemption, but they shall be subject to taxation in time of insurrection, invasion or war, and also to furnish their quota of men or pay an equivalent. All other persons liable to do military duty shall be allowed to furnish their quota of men, or pay an equivalent.

Exempts to be
unrolled.

SEC. 6. The captains or commandants of companies shall enrol and keep enrolled on their muster rolls, all within the limits of their respective districts, who are exempt from performing militia duty by law, except in time of invasion or insurrection, and shall return the number of exempts on their annual muster rolls to the commandants of regiments, who shall make a like return of all exempts in their respective regiments in their annual returns to the brigadier and adjutant generals, regulations for which annual reports are hereinafter prescribed.

Comptroller to
make provision
for enrolling.

SEC. 7. That the tax list shall have a column headed military roll, to be prepared by the comptroller, and that the tax list takers shall annually include in their lists the names of the persons in their districts between the ages of eighteen and fifty years, liable to be enrolled for military duty; and it shall be the duty of every white person who shall give in his taxables to report himself on oath for enlistment, who is liable for military duty; and every white person who shall return his taxes, shall also, on oath, report every white person residing in his family who shall be liable for military duty.

Duty of tax list
taker.

SEC. 8. That the tax list takers shall return the lists to the clerks of the county courts, and by them the names of the persons liable to military duty shall be drawn off, the district in which they live specified, and a copy of such list shall be given to the colonel of the regiment, and also to the captain of the company in each district; and the clerks shall receive the sum of five dollars for their services, to be paid by the county treasurer.

Free negroes.

SEC. 9. It shall not be lawful for any captain or other militia officer in this State to enrol any free persons of color, except for musicians, and, in time of actual service, four to each company as cooks, who shall be rationed and paid by the State, and four others as washers, to be rationed by the State, and paid by men of the company for whom they wash.

SEC. 10. Every resident enrolled and notified, as is directed in the third section of this act, shall, within one month thereafter, provide himself with a good musket, smooth bore gun or rifle, shot pouch and powder horn, and shall appear so armed and accoutred when called out to exercise or in actual service; the commissioned officers shall severally be armed with a sword or revolver at his discretion; and every resident, so enrolled and providing himself with arms and accoutrements as herein directed, shall hold the same exempt from all writs, executions, or sales for debt or for the payment of taxes; and if he shall fail to provide himself with arms and accoutrements, as herein directed, and if the commissioned officers of his company shall deem him in sufficient circumstances to equip himself, he shall forfeit and pay, as follows: for want of a good serviceable musket, smooth bore gun or rifle, the sum of fifty cents. And all parents, guardians and masters shall furnish those of the militia, who shall be under their care or command, with the arms and equipments above mentioned, under the like penalty for each neglect: *Provided*, Such guardian shall have sufficient in his hands belonging to his ward to purchase said arms. If the company court martial, after examination on oath, shall adjudge any person enrolled to be incapable of providing himself with arms and accoutrements, as here required, they shall make a report thereof to the next court martial, who may, if it shall appear necessary, exempt such person from the fines here imposed, until such arms and accoutrements shall be provided and delivered to him by the court martial, who shall take security for the safe keeping of such arms and accoutrements, to be returned when required. Arms.
 Proviso.

SEC. 11. When a company in any district exceeds one hundred, it shall be divided into two as nearly equal as may be; and all the companies in any one county shall remain in the same regiment until the number reaches sixteen, when it shall be divided into two regiments of eight companies each, unless otherwise especially provided by law; and any new companies shall be added alternately to one and the other. The regimental courts martial of the several regiments in this State, shall have power so to lay off the several captain's districts, as to render them as convenient to the inhabitants as a due regard to the number of persons liable to perform military duty will permit; and they may at any subsequent court martial so alter or consolidate their respective districts, as to Number in
 companies.
 Captain's dis-
 tricts.