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L A W S

O F T H E

STATE OF NEW - HAMPSHIRE,

TOGETHER WITH

THE DECLARATION OF INDEPENDENCE:

T H E

DEFINITIVE TREATY OF PEACE

B E T W E E N T H E

UNITED STATES OF AMERICA

A N D H I S

BRITANNIC MAJESTY:

THE CONSTITUTION OF NEW-HAMPSHIRE,

A N D

THE CONSTITUTION OF THE UNITED STATES,

WITH ITS PROPOSED AMENDMENTS.



Printed by Order of the Honorable The GENERAL-COURT of the State of New-Hampshire, from Attested Copies, and have since been carefully compared with the Originals in the Secretary's Office.

PORTSMOUTH: Printed by JOHN MELCHER,

1792.

C11



AN ACT to establish a seal, to be used as the great seal of this State. Passed Feb. 12, 1785.

WHEREAS the committee appointed by the general-court to prepare a device and inscription for a State seal, did on the first day of November last, lay before said court a device, with the following inscription, viz. *A field encompassed with laurels, round the field, in capital letters, SIGILLUM REIPUBLICÆ NEOHANTONIENSIS, on the field a rising sun and a ship on the stocks, with American banners displayed, being two inches diameter, which was then voted to be received and accepted, and accordingly hath since that time been used as the great seal of the State; but as doubts have since arisen, whether the vote for establishing said seal was sufficiently explicit; for removing such doubts,* Preamble.

Therefore,

BE it enacted by the Senate and House of Representatives in General-Court convened, That the said seal, with the above recited inscription, be fully established and used in all cases, as the great seal of this State, and considered as having been such from the first day of November last. Enacting clause.

This act passed February 12, 1785.

AN ACT for establishing courts of law, for the administration of justice within this State, and designating their powers, and regulating their proceedings in certain cases. Passed Feb. 9, 1791.

BE it enacted by the Senate and House of Representatives in General-Court convened, That every justice of the peace within his county, be, and hereby is authorized and empowered to hear, try and determine all pleas and actions (except such wherein the title of real estate may be drawn in question) where the sum demanded in damages doth not exceed forty shillings, notwithstanding the note, account or other contract Justices of the peace to try causes not exceeding 40s. excepting title of land.

streams falling into the same, on penalty of forfeiting a sum not exceeding forty shillings, nor less than five, for each fish so caught, killed, or destroyed.

And be it further enacted, That it shall and may be lawful for any person to convert to his own use, or destroy any seine, net or other implement used in catching fish contrary to this act.

Mode of recovery.

And be it further enacted, That all forfeitures before mentioned, may be recovered in the county where the offence is committed, by action before any justice of the peace not interested, where the sum does not exceed forty shillings, otherwise before the inferior court of common pleas, and shall be one half to the use of the prosecutor, the other half to the use of the town, parish or place where the offence is committed.

Limitation.

And be it further enacted, That all prosecutions for any offences against this act, shall be commenced within six months after the offence shall have been committed, and not afterwards.

Repealing clause.

And be it further enacted, That an act passed February the 6th, A. D. 1789, entitled, "An act to prevent the destruction of salmon shad and alewives in Merrimac river, and for repealing all laws heretofore made for that purpose," and all the acts therein mentioned, and an additional act passed January the 16th, 1790, be, and hereby are repealed.

Provided nevertheless, That all actions or prosecutions commenced by virtue of any of said acts, may be prosecuted to final judgment and execution in the same way and manner as though the same had not been repealed.

Provided also, That the owners of dams and other obstructions, be allowed until the first day of September next, for the removal of such dams or other obstructions.

This Act passed June 18, 1790.

Passed June 24, 1786.

AN ACT for forming and regulating the militia within this State, and for repealing all the laws heretofore made for that purpose.

WHEREAS it is the duty and interest of every State, to have the militia thereof properly armed, trained, and

and in complete readiness to defend against every violence or invasion whatever : And whereas the laws now in force respecting the regulation of the militia, are insufficient for those purposes :

Preamble.

BE it therefore enacted by the Senate and House of Representatives in General-Court convened, and by the authority of the same, That the several laws, clauses and paragraphs of laws relative to regulating the militia, be, and hereby are repealed and declared null and void.

Repealing clause.

And be it further enacted by the authority aforesaid, That the training band, so called, shall consist of all the able bodied male persons within the State, from sixteen years old to forty, excepting members of congress, members of the senate and the house of representatives for the time being, secretary of the State, all civil officers, students of colleges and academies, ministers of the gospel, elders and deacons of churches, church wardens, grammar school masters, masters of arts, people denominated quakers, selectmen for the time being, all commissioned officers, and all non-commissioned officers of more than thirty-five years of age, who have served as such three years, shall not be compelled to serve in the training band unless they have the offer of serving in the same, or a higher rank than they formerly held: Also, all persons employed as masters of vessels, of more than thirty tons burthen, other than fishing vessels, and vessels coasting to and from this to the other American States, constables, sheriffs, deputy sheriffs, negroes, indians and mulattoes : Also, all such physicians, surgeons, ferrymen and millers, as the selectmen in the several towns where they reside, may think proper to excuse, and furnish with a certificate that they ought to be excused from common and ordinary trainings.

Training band.

Persons exempted.

And be it further enacted by the authority aforesaid, That there shall be one colonel, one lieutenant-colonel, and two majors, to each regiment of foot ; which officers shall divide the regiments into companies, consisting as nearly as may be, of sixty-eight privates, and shall determine the rank of each company ; and that each company shall be commanded by a captain, two lieutenants, and an ensign ; the captains

Officers.

tains and subalterns, shall appoint four serjeants; four corporals, one drummer, and one fifer to each company, and shall from time to time, direct and appoint one of their serjeants to act as clerk.

And in order to prevent, as much as possible, the inconveniences which may arise from incorporating the soldiers of different towns into one and the same company :

Companies
how to be
formed.

Be it further enacted, That each town, which can furnish thirty-two privates, and the proper number of commissioned and non-commissioned officers, shall be entitled to form one company ; such towns as have ninety-six privates, exclusive of necessary officers, shall form two companies of forty-eight privates each ; and when the numbers are increased to one hundred and eighty-four, they are to form two companies of sixty-eight and one of forty-eight privates ; and so on from time to time, making sixty-eight the full proportion of privates for a company, and forty-eight the additional number for dividing it, and forming a new one. And in all towns which have several companies, if, after forming some companies of sixty eight privates, there shall remain a surplus of less than forty-eight, they shall be divided among the other companies, as the field officers shall think proper ; and if they amount to forty-eight privates, exclusive of the necessary number for officers, they shall be formed into a separate company : And where any town has less than thirty-two privates and a proper number for officers, they shall be joined to such other corps as the field officers shall think proper, until they amount to that number, when they are to be formed into a separate company ; and all able bodied soldiers belonging to places not incorporated, are to be annexed to such companies as the field officers shall direct ; and the field officers of the respective regiments shall have power, from time to time, to alter, divide, and arrange the companies in their regiments agreeable to the rules aforesaid.

Alarm list.

And be it further enacted by the authority aforesaid, That all male persons from forty to sixty years of age, and capable of bearing arms, who are exempted by the first section of this act, from common and ordinary training, and are not included in that part of the mi-
litia

litia called the training band, shall constitute an alarm list (excepting only members of congress, of the senate and house of representatives, secretaries, ministers of the gospel, president, officers and students of colleges, preceptors and assistants of academies, and their students for the time being, people called quakers having certificate from the clerk of their societies, ferrymen, indians, negroes and mulattoes) and shall, in all respects, be equipped with arms and accoutrements, as is by this act directed for those of the training band : And those of the alarm list, shall by the respective brigadiers be divided into companies, not to exceed ninety-six, nor less than thirty-two in number : Which companies so divided and formed, are to be commanded by a captain, holding the rank of colonel ; a lieutenant holding the rank of lieutenant colonel, and an ensign holding the rank of major ; and are to be elected by the major part of the alarm list present ; the brigadier, or such field officer as he shall order, being present, and presiding at said election : and are to proceed to the choice of non-commissioned officers in the same manner as companies in the training band ; each company is to be provided with one drummer and one fifer.

Persons exempted.

And be it further enacted by the authority aforesaid, That the commanding officer of each alarm company, shall once in every six months call his company together, and examine their arms and accoutrements, and every deficiency of arms or accoutrements, neglect of duty, or disobedience of orders, in any of the persons which compose the alarm list, shall be punished in the same manner as by this act is provided against those of the training band.

Alarm list to be mustered twice a year.

And be it further enacted by the authority aforesaid, That every non-commissioned officer and soldier, both in the alarm list and training band, shall be provided, and have constantly in readiness, a good musquet and a bayonet fitted thereto, with a good scabbard and belt, a worm, priming-wire and brush, a cartridge-box that will hold, at least twenty-four rounds, six flints, and a pound of powder, forty leaden balls fitted to his gun, a knap-sack, a blanket, and a canteen that will hold one quart. Such of the training band as are under the care of parents, masters, or guardians,

Equipage.

are

are to be furnished by them with such arms and accoutrements ; and such of the training band, or alarm list, as shall be unable to furnish themselves, shall

Those unable
&c. to be e-
quip'd at the
expense of
the town.

make application to the selectmen of the town, who are to certify to his captain, or commanding officer, that he is unable to equip himself ; and the said selectmen shall, at the expense of the town, provide for, and furnish such person with arms and equipments ; which arms and equipments shall be the property of the town at whose expense they are provided : And if any person, so furnished, shall embezzle, or wilfully destroy the same, he shall be punished by any court proper to try the same, upon complaint made by the selectmen of said town, by being publicly whipped, not exceeding twenty stripes : And the selectmen of each and every town shall provide one twentieth part as many spades, or iron shovels, with handles, as there are rateable polls in said town ; and an equal number of pick-axes, narrow-axes and hoes, one third of each kind, and deposit the same in some safe place for the use of the militia, upon an alarm ; the expense of which is to be borne by the town : And the selectmen of each town are to provide, at the cost and charge of said town, one drum and one fife, for the use of each company belonging to said town ; and are hereby empowered to tax the polls and estates of the inhabitants of their respective towns, to defray the expenses which they may be compelled, in consequence of this act, to lay out.

Penalty for
embezzle-
ment.

Selectmen to
provide tools.

Captains,&c.
to equip
themselves.

And be it further enacted, That all captains and subalterns be furnished with a half-pike, an espontoon, or fusée and bayonet ; and also with a sword, or hanger ; and that they provide themselves with those arms, within one month after receiving their commissions, under penalty of being cashiered by sentence of a court-martial.

Train bands,
by whom re-
turns are to
be made.

And be it further enacted by the authority aforesaid, That the several captains and commanding officers of companies in the train bands, shall cause true and accurate returns of their companies to be made to the colonel, or officer commanding the regiment to which they belong, at or before the first day of March ; and said colonel, or commanding officer, is to cause a proper return of his regiment to be made to his brigadier,

dier, by the first day of April; and the brigadiers are to make a proper return of their brigades to the major-general, or officer commanding the division in which said brigades may fall, on, or before the first day of May; and the said major-general, or commanding officer of the divisions, is to lodge a return of the whole militia in this State, with the secretary, on or before the first day of June: All which are to be made annually, that the general assembly may, from time to time, be able to ascertain the military force of the State.

And be it further enacted by the authority aforesaid, That the alarm companies shall make their returns to the brigadier within whose district they may fall, in the same manner as is directed for the train band; and captains of artillery to make returns to the colonel or commanding officer of the regiment by the first day of May, and to lodge a return in the secretary's office by the first day of June, annually; all returns to give a state of the respective corps on the first day of January preceding the time limited for making such returns: And all companies or detachments of the train band and alarm list shall, in time of action, upon an alarm, or on a field day, receive their orders from the brigadier, or officer commanding the brigade to which they are annexed.

Alarm, by whom returns are to be made.

And be it further enacted by the authority aforesaid, That each captain or commanding officer of the train band, shall call his company together four times every year, to examine their arms and accoutrements, and to instruct them in the necessary exercises and manœuvres; and each colonel or commanding officer of a regiment shall call his regiment together once every year, if ordered by his superior officer, for the same purpose: And each captain or commanding officer of a company, who shall neglect to call his company together as aforesaid, shall, for each neglect, pay a fine of three pounds: And each colonel or commanding officer of a regiment who shall neglect to call his regiment together once a year, as aforesaid, shall pay a fine of ten pounds for each offence.

Each company to be mustered 4 times a year.

Penalty.

And be it further enacted by the authority aforesaid, That if any commanding officer shall neglect or refuse to call his regiment together on any special occasion, at such

Penalty for not calling regiment together.

such time and place as his superior officer shall order, and be thereof convicted by a court martial appointed as in this act is hereafter provided, he shall be cashiered; and if any officer, on a training or mustering day, refuse to obey the orders of his superior officer, he shall upon being convicted thereof by a court martial, be cashiered.

Notice.

And be it further enacted by the authority aforesaid, That it shall be sufficient notice for any non-commissioned officer or private to appear with his arms and accoutrements, as the commanding officer shall direct, to be informed thereof by a non-commissioned officer, or by a notification left at his usual place of abode, which notification shall be signed by the clerk, or some commissioned officer; and if any private shall, after such notification, unnecessarily neglect to appear with his arms and accoutrements, he shall pay a fine of three shillings; and each non-commissioned officer, for such neglect or refusal, a fine of six shillings, for non-appearance, which is to be levied by distress and sale of such delinquent's goods and chattels, by warrant under the hand and seal of the captain or commanding officer of said company; and for want thereof, upon his body; and the clerk who is to levy the same, is to observe the same rules and regulations in making said distress, as the laws have pointed out for collecting rates and taxes, and shall have one quarter part of said fine for his trouble, and customary fees. *Provided nevertheless,* That no such warrant shall be issued until fifteen days after the day of appearing, that the said delinquent may have time to make his excuse (if any he has) for his non-appearance, which is to be made to the commanding officer of the company.

Parents, &c.
liable to a penalty.

And be it further enacted, That parents, masters, and guardians, shall be liable for the neglect and non-appearance of such persons as are under their care (and are liable by law to train) and are to be proceeded against for the penalty, in the same manner, as by this act is provided against other delinquents.

Officers to
yield obedience.

And be it further enacted by the authority aforesaid; That on all training and muster days, every officer shall yield due obedience to his superior officers; and every non-commissioned officer and soldier shall yield

intire

intire and due obedience to the commands and orders of their respective officers. And if any officer shall on such days, neglect or refuse to obey the orders he may receive from his superior officer, he shall be liable to be cashiered by sentence of a court martial; and the superior officer may immediately put such delinquent in arrest, and report him and his offence to the brigadier, if the offender is under the rank of a field officer: And the brigadier is hereby empowered to appoint a court martial for such trial, and to approve the sentence; which being done, the said officer shall be deemed incapable of ever holding any military post, or office in this State. And in case the offender is of the rank of a field officer, or of higher rank, his offence is to be reported to the major-general, who is hereby empowered to appoint a court martial to try such offender, and to approve the sentence; which being done, the offender shall be deemed incapable of ever holding any military office within this State. All court martials appointed by the major-general, shall consist of thirteen members, the president of which is, at least, to be of equal rank with the officer who is to be tried. All court martials appointed by the brigadier, are to consist of seven commissioned officers, the president of which is to be of the rank of captain. The members of all court martials are to be sworn by the president, and the president is to be sworn by the member next in rank on the court martial: And the president of every regimental brigade, and general court martial, shall have power to administer an oath to every witness, in order to the trial of offenders.

And be it further enacted, That if any non-commissioned officer, or soldier, shall prove refractory, or disobedient, on a training or muster day, or shall insult or abuse his officers, or either of them, or treat them with disrespect or contempt, the commanding officer present may order the offender to be immediately tried, by five commissioned officers, if so many should be present, and if not, by so many as are on the field; who are empowered to punish the offender, by ordering him to run the gantlet, or to ride the wooden horse.

Disobedience
punished.

And

And that no abuse of power may take place among the officers,

Judge advocate to be appointed.

Be it further enacted by the authority aforesaid, That every officer, appointing a court martial, shall appoint some suitable person to act as judge advocate, who is to make a fair record of the whole proceedings, and the officer who appointed the same, is to lodge a copy thereof in the secretary's office, within one month after the trial, or as soon after as may be, that the members of the general court may have opportunity to examine the same, and correct any abuse which may have taken place.

Officers, &c. to provide 3 day's provisions.

And be it further enacted, That when the militia of any town in this State, or any part thereof, shall be drawn forth for immediate defence of this, or any of the United States, each officer and soldier shall provide for himself, at least three day's allowance of provisions; and the selectmen of such town shall immediately cause carriages to attend them with further necessary provisions, and utensils to cook the same, and shall continue to forward to the quarter master or assistant, in said regiment, sufficient supplies for the part of the militia from their respective towns, until they shall be notified by the commanding officer, or by the quarter master, that the same can be otherwise supplied. And the selectmen are directed to lay their accounts of provisions supplied by them, as also of utensils lost or damaged, and of cost of transporting the same, before the general court for allowance; and to produce receipts from the quarter master or his assistant, for such part thereof as shall be delivered to them respectively.

Stock of powder to be kept.

And be it further enacted by the authority aforesaid, That there shall be a stock of powder, and other ammunition, in each town provided, and constantly kept, which shall be, one barrel of gun powder containing a hundred pounds weight, three hundred pounds of leaden balls of different sizes, and buck shot, and three hundred flints for every sixty soldiers, and the same proportion for any greater or lesser number. And the selectmen of each town are hereby empowered to raise money by tax, on the polls and estates of their towns, for the purpose aforesaid, in the same manner as other town charges are assessed; and

are

to remain six months, unless sooner released therefrom by the justices of the superior court; and the president is to lodge the accusation against him with the prison keeper. The oath to be administered to witnesses, in court martial, is to be in the following form, viz,

YOU swear, the evidence you shall give, in the case now in hearing, shall be the truth, the whole truth, and nothing but the truth.

So help you GOD.

The oath administered to members of the court martial, previous to trial, is to be in the following form, viz.

YOU swear, that you will well and truly try, and impartially determine the cause of the prisoner now to be tried, according to the rules for regulating the militia of this State.

So help you GOD.

This Act passed June 24, 1786.

Passed Sept.
23, 1786.

Preamble.

AN ACT in addition to an act, entitled, "An act for forming and regulating the militia within this State, and for repealing all the laws heretofore made for that purpose."

WHEREAS the fine laid by said act upon soldiers for not appearing on days of parade, is not sufficient to answer the good intention of the same :

Therefore,

Enacting
clause.

BE it enacted by the Senate and House of Representatives in General-Court convened, That instead of the fine of three shillings, therein mentioned, each soldier, who after being notified as in and by said act is directed, shall neglect to appear with his arms and accoutrements agreeably to the notification given him, he shall for the first offence pay a fine of six shillings, and for the second offence, being the next in course, the sum of nine shillings, and for each offence afterwards, being in course, the sum of twelve shillings, until there shall be a due appearance of such soldier : Which fines may be collected as in and by said act is directed.

This Act passed September 23, 1786.