

Matthew Stough Esqur

T H E *Henry B. ...*
A C T S
OF THE
General Assembly

O F T H E
Commonwealth of Pennsylvania,
Carefully compared with the ORIGINALS.

A N D A N
A P P E N D I X,
Containing the LAWS now in FORCE, passed between the 30th
Day of *September* 1775, and the REVOLUTION.

TOGETHER WITH
The Declaration of Independence; the Constitution of the State of
Pennsylvania; and the Articles of Confederation of the United
States of America.

33246

Published by order of the General Assembly.



P H I L A D E L P H I A :
PRINTED AND SOLD BY FRANCIS BAILEY,
IN MARKET-STREET.
M,DCC,LXXXII.

be lawful for the commissioners and assessors of said county, or a majority of them, to assess and levy so much money as the said trustees or any four of them shall judge necessary, for paying the remainder aforesaid, of purchasing the land, and finishing the said court house and prison, and they are hereby required so to do.

1780.
The fourth Year
of the Common-
wealth.

JOHN BAYARD, SPEAKER.

*Enacted into a law at Philadelphia, on Monday, the
20th day of March, A. D. 1780.*
THOMAS PAINE, clerk of the general assembly.

CHAPTER CLXVII.

An ACT for the regulation of the militia of the commonwealth of Pennsylvania.

SECTION 1. **W**HEREAS a militia law, founded upon just and equitable principles, hath been ever regarded as the best security of liberty, and the most effectual means of drawing forth and exerting the natural strength of a state. Preamble.

SECT. 2. *And whereas* a well regulated militia is the only safe and constitutional method of defending a free state, as the necessity of keeping up a standing army, especially in times of peace, is thereby superseded.

SECT. 3. *And whereas* the militia law of this commonwealth, enacted by the general assembly the seventeenth day of March, one thousand seven hundred and seventy seven, from a change of circumstances and other causes, hath become insufficient to answer the purposes aforesaid, which renders it highly necessary that a new law should be enacted. Therefore,

SECT. 4. *Be it enacted, and it is hereby enacted by the representatives of the freemen of the commonwealth of Pennsylvania, in general assembly met, and by the authority of the same,* That the president in council, or, in his absence, the vice president in council, of this commonwealth, shall appoint and commissionate one reputable freeholder in the city of Philadelphia, and one in each county within this state, to serve as lieutenants of the militia for the said city and counties respectively; and also any number of persons not exceeding two for the said city; and in the several counties any number not exceeding the

President in
council to
appoint a
lieutenant
in each
county.

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wealth.*

manner, he shall for such offence be cashiered or punished by fine, at the discretion of a general court martial, as the case may require, in any sum not exceeding the price of six days labour; and if any non commissioned officer or private shall, on any occasion of parading the company to which he belongs, appear with his arms and accoutrements in an unfit condition, or be found drunk, or shall disobey orders, or use any reproachful or abusive language to his officers or any of them; or shall quarrel himself, or promote any quarrel among his fellow soldiers, he shall be disarmed and put under guard, by order of the commanding officer present, until the company is dismissed, and shall be fined in any sum not exceeding the price of ten day's labour, nor less than one day's labour.

Penalty on
officers ne-
glecting to
issue orders
for assem-
bling in bat-
talion or
company,

SECT. 58. *And be it further enacted by the authority aforesaid,* That if the lieutenant colonel or commanding officer of any battalion shall neglect or refuse to give orders for assembling his battalion at the times appointed by this law, or at the direction of the lieutenant or sub lieutenant of the city or any county, when the said lieutenant or sub lieutenant is thereto commanded by the president or vice president in council, or in case of an invasion of the city or county to which such battalion belongs, he shall be cashiered and punished by fine at the discretion of a general court martial; and if a commissioned officer of any company shall on any occasion neglect or refuse to give orders for assembling the company to which he belongs, or any part thereof, at the direction of the lieutenant colonel or commanding officer of the battalion to which such company belongs, he shall be cashiered and punished by fine at the discretion of a regimental court martial; and a non commissioned officer offending in such case shall be fined in any sum not exceeding the price of ten days labour.

and on non-
commissioned
officers.

Penalty on
captains for
neglecting
to make out
a list of per-
sons noticed
to a tour of
duty.

SECT. 59. *And be it further enacted by the authority aforesaid,* That if any captain or commanding officer of a company shall refuse or neglect to make out a list of the persons noticed to perform any tour of duty, and send or convey the same to the lieutenant colonel or commanding officer of the battalion to which such company may belong, for such neglect or refusal he shall be cashiered or fined, at the discretion of a regimental court martial

Rules and
regulations.

SECT. 60. *And be it further enacted by the authority aforesaid,* That the following rules and regulations shall be those by which the militia shall be governed.

1st. Every general court martial shall consist of thirteen members, all of whom shall be commissioned officers, and

and of such rank as the case may require, and these thirteen shall choose a president, out of their number who shall be a field officer.

2d. Every regimental court martial shall be composed of five members, all commissioned officers, who are to choose one of their members a president, not under the rank of a captain.

3d. In any court martial, not less than two thirds of the members must agree in every sentence for inflicting any punishment, otherwise the person charged shall be acquitted.

4th. The president of each and every court martial, whether general or regimental, shall require all witnesses, in order to the trial of offenders, to declare on oath or affirmation, that the evidence they shall give is the truth, the whole truth, and nothing but the truth; and the members of all such courts shall take an oath or affirmation, which the president is required to administer to the other members, and the next in rank is required to administer to him, that they will give judgment with impartiality.

5th. All members of any militia, called as witnesses in any case before a court martial, who shall refuse to attend and give evidence, shall be censured or fined at the discretion of the court.

6th. No officer or private man being charged with transgressing these rules shall be suffered to do duty in the battalion, company or troop to which he belongs, until he has had his trial by a court martial, and every person so charged shall be tried as soon as a court martial can be conveniently assembled.

7th. If any officer or private man shall think himself injured by his lieutenant colonel or the commanding officer of the battalion, and shall upon due application made to him, be refused redress, he may complain to the lieutenant of the county, who shall summon a general court martial, that justice may be done.

8th. If any inferior officer or private man shall think himself injured by his captain, or other superior officer in the battalion, troop or company to which he belongs, he may complain to the commanding officer of the battalion, who shall summon a regimental court martial for the doing justice, according to the nature of the case.

9th. No penalty shall be inflicted at the discretion of a court martial other then degrading, cashiering or fining.

10th. The commanding officer of the militia for the time being, shall have full power of pardoning or mitigating

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wealth.*

ing any censures or penalties ordered to be inflicted on any private or non commissioned officer for the breach of any of these articles by a general court martial; and every offender, convicted as aforesaid by any regimental court martial, may be pardoned, or have the penalty mitigated by the lieutenant colonel or commanding officer of the battalion, excepting only where such censures or penalties are directed as satisfaction for injuries received by one officer or private man from another; but in case of officers, such sentence to be approved by the commander in chief or the nearest general officer of the militia, who are respectively impowered to pardon or mitigate such sentence or disapprove the same.

11th. The militia on the days of exercise may be detained under arms on duty in the field any time not exceeding six hours, provided they are not kept above three hours under arms at any one time, without allowing them a proper time to refresh themselves.

12th. No company or battalion shall meet at a tavern on any of the days of exercise, nor shall march to any tavern before they are discharged; and any person who shall bring any kind of spiritous liquor to such place of training shall forfeit such liquors so brought for the use of the poor belonging to the township where such offender lives.

Fines, how
to be paid
in.

13th. All fines that shall be incurred by any breach of these rules shall be paid into the hands of the clerk of the company to which the offenders belong; but if a field officer, to the clerk of that company whose captain has the first rank in the battalion, within three weeks after they become due; but in case of neglect or refusal to pay any of the said fines, then in such case, upon application made by the clerk to whom such fine or fines ought to have been paid, it shall and may be lawful for any one justice of the peace of the county (if the fines do not exceed fifty pounds, or two justices, if above that sum) by warrant under his or their hands and seals, to levy such fine or fines respectively on the offender's goods and chattels, and otherwise proceed in recovering the same as is by law directed. And when recovered, the said justice or justices are required to pay such fines into the hands of the clerk who applied for recovery and shall be applied as other fines before directed.

How service
is to be paid
for where
no special
recompence
is provided.

SECT. 61. *And be it further enacted by the authority aforesaid,* That in any case wherein any person is by this act called to do or perform any thing in execution thereof, or otherwise, and no special recompence is herein provided for

supplement to the said act, passed on the thirteenth day of December, anno domini, one thousand seven hundred and seventy seven; also a further supplement to the said act, passed on the fifth day of April, anno domini, one thousand seven hundred and seventy nine; also such parts of an act intituled, *An Act to impower the supreme executive council, and justices of the supreme court, to apprehend suspected persons, and to increase the fine to which persons are liable, for neglecting to perform their tour of militia duty;* as relates to the fining the militia for not performing a tour of duty, and the pay of the lieutenants, are hereby repealed and made void.

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SECT. 68. *Provided always,* That nothing in this act contained shall be deemed to repeal, alter or dispense with the powers, authorities or duties of the present lieutenants and sub lieutenants of the city and counties aforesaid, or of any other officer or person under the militia laws that have been in force in this state immediately before the passing of this act, until their respective offices are supplied and filled by new appointments in virtue of this act; which said present lieutenants and sub lieutenants, or other proper officers, are hereby authorized, required and enjoined to collect or cause to be collected all such fines and forfeitures as have been or shall be incurred during the continuance of their respective commissions, and pay in the same agreeable to this law, or the late laws aforesaid, on or before the first day of July next. But in case the president or vice president and council shall approve of the discontinuing to act or resignation of the said present lieutenants and sub lieutenants, or any of them, and not otherwise, it shall be lawful for every such officer, and he is hereby required, to deliver to his successor in office an account, on oath, of all monies uncollected and outstanding on account of fines and forfeitures aforesaid, who is in such case impowered and required to collect the same.

Proviso.

JOHN BAYARD, SPEAKER.

*Enacted into a law at Philadelphia, on Monday, the
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THOMAS PAINE, clerk of the general assembly.

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