

ACTS
AND
RESOLVES

PASSED BY THE

General Court of Massachusetts,

IN THE YEAR

1866,

TOGETHER WITH

THE CONSTITUTION, THE MESSAGES OF THE GOV-
ERNOR, LIST OF THE CIVIL GOVERNMENT,
CHANGES OF NAMES OF PERSONS,
ETC., ETC., ETC.

PUBLISHED BY THE
SECRETARY OF THE COMMONWEALTH.



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1866.

Chap. 218 AN ACT TO AUTHORIZE THE CITY OF NEWBURYPORT TO SETTLE THE CLAIMS OF NATHANIEL IRELAND, JUNIOR, AND OTHERS.

Be it enacted, &c., as follows :

May adjust claims for supplies furnished city by order overseers of poor.

SECTION 1. The city of Newburyport is hereby authorized and empowered to settle and adjust the claims of Nathaniel Ireland, junior, and others, for and on account of supplies furnished by them to the said city, in the years eighteen hundred and sixty-two and eighteen hundred and sixty-three, by orders of the overseers of the poor of said city.

SECTION 2. This act shall take effect upon its passage.

Approved May 3, 1866.

Chap. 219 AN ACT CONCERNING THE MILITIA.

Be it enacted, &c., as follows :

ENROLMENT.

Persons to be enrolled.

SECTION 1. Every able-bodied male citizen, resident within this state, of the age of eighteen years, and under the age of forty-five years, excepting persons exempted by the following sections, idiots, lunatics, common drunkards, vagabonds, paupers, and persons convicted of any infamous crime, shall be enrolled in the militia. Persons so convicted after enrolment shall forthwith be disenrolled; and in all cases of doubt respecting the age of a person enrolled, the burden of proof shall be upon him.

Assessors to make lists for enrolment; clerks to return.

SECTION 2. Assessors shall annually in May or June make a list of persons living within their respective limits liable to enrolment, and place a certified copy thereof in the hands of the clerks of their respective places, who shall place it on file with the records of their city or town, and annually in May, June or July, transmit returns of the militia thus enrolled to the adjutant-general.

Information to assessors, penalty for withholding.

SECTION 3. Keepers of taverns or boarding-houses and masters and mistresses of dwelling-houses shall, upon application of the assessors within whose bounds their houses are situated, or of persons acting under them, give information of the names of persons residing in their houses liable to enrolment or to do military duty; and every such person shall, upon like application, give his name and age; and if such keeper, master, mistress or person refuses to give such information, or gives false information, such keeper, master or mistress shall forfeit and pay twenty dollars, and such person shall forfeit and pay twelve dollars, to be recovered on complaint of either of the assessors.

Enrolled militia, when subject to active duty.

SECTION 4. The enrolled militia shall be subject to no active duty, except in case of war, invasion, the prevention of invasion, the suppression of riots, and to aid civil officers in the

SECTION 179. No citizen of the Commonwealth above the age of forty-five years shall, on account of such age, be ineligible to office in the militia, nor incapable of serving in a volunteer company, and no citizen of the Commonwealth, otherwise qualified, shall be ineligible to office in the militia from not having been enrolled therein.

Citizens above forty-five years of age not ineligible.

Unenrolled citizen.

SECTION 180. The commander of a regiment may discharge any non-commissioned officer or private in the regiment, whenever the captain of his company unreasonably refuses to make application for such discharge under the provisions of section twenty-six of this act.

Discharge of soldier, captain refusing to apply.

SECTION 181. The commander-in-chief may, whenever in his opinion the interests of the service require it, discharge any non-commissioned officer or private of a volunteer company.

Governor may discharge.

SECTION 182. The minimum number of privates to any company shall hereafter be forty.

Minimum of company.

SECTION 183. Any company now organized, or that may hereafter be organized under the provisions of this act, may be disbanded and their officers discharged by the commander-in-chief, whenever the number of privates duly enrolled therein for active service duty shall be less than forty: *provided*, that such officers shall first have returned or accounted to the quartermaster-general for all uniforms, arms, equipments and other property belonging to the Commonwealth for which they may be responsible.

Company of less than forty may be disbanded.

Proviso.

SECTION 184. It shall not be lawful for any body of men whatsoever, other than the regularly organized corps of the volunteer militia, the troops of the United States, and the ancient and honorable artillery company, and the veteran artillery association of Newburyport, to associate themselves together as a military company or organization, or to parade in public with arms in any city or town of this Commonwealth, without the license of the governor thereof, which may at any time be revoked; nor shall it be lawful for any city or town to raise or appropriate any money toward arming, equipping, uniforming or in any way supporting, sustaining or providing drill-rooms or armories for any such body of men: *provided*, that associations wholly composed of soldiers honorably discharged from the service of the United States, may parade in public with arms, upon the reception of any regiments or companies of soldiers returning from said service, and for the purpose of infantry escort duty at the burial of deceased soldiers, having first obtained the written permission so to do of the mayor and aldermen or selectmen of the cities or towns in which they desire to parade.

Military organizations, certain, forbidden, unless licensed by governor.

Towns not to raise money for.

Proviso: discharged U. S. soldiers may parade as burial escort.

Penalty for unlawful parade.

SECTION 185. Whoever offends against the provisions of the preceding section, or belongs to or parades with any such unauthorized body of men, with arms, shall be punished by a fine not exceeding the sum of ten dollars, or by imprisonment in the house of correction or common jail for a term not exceeding six months.

Soldiers enlisted between May 14, '64, and June 16, '65, may be discharged.

SECTION 186. Any non-commissioned officer or private of the volunteer militia, who enlisted between the fourteenth day of May in the year eighteen hundred and sixty-four, and the sixteenth day of June in the year eighteen hundred and sixty-five, pursuant to the provisions of the two hundred and thirty-eighth chapter of the acts of eighteen hundred and sixty-four, shall be discharged therefrom at his own request or by request of his parent or guardian at any time within thirty days from and after the passage of this act.

Applications for such discharge.

SECTION 187. Application for discharge under the preceding section shall be made in writing to the commanding officer of the company in which such non-commissioned officer or private is enrolled, and said commanding officer shall upon receipt of such application forthwith cause the name of the applicant to be stricken from the roll of his company: *provided, however*, that no such non-commissioned officer or private shall receive a discharge as aforesaid, until he shall have returned or accounted to the commanding officer of his company for any and all uniforms, arms, equipments or other property belonging to the Commonwealth, in his possession, nor until he shall have first paid or discharged all assessments made upon him under the constitutional articles of agreement of the company to which he belongs.

Proviso: applicant to make return and pay dues.

Ancient artillery, rights not affected.

SECTION 188. Nothing contained in this act shall be construed as affecting the right of the ancient and honorable artillery company to maintain its organization as a military company according to ancient usage, and agreeably to the provisions of its constitution and by-laws, provided the same are not repugnant to the laws of this Commonwealth.

Repeal.

SECTION 189. The two hundred and nineteenth chapter of the acts of the year eighteen hundred and sixty-one; the one hundred and eleventh and one hundred and sixty-seventh chapters of the acts of the year eighteen hundred and sixty-two; the one hundred and sixty-seventh, one hundred and ninety-third and two hundred and forty-third chapters of the acts of the year eighteen hundred and sixty-three; the two hundred and thirty-eighth chapter of the acts of the year eighteen hundred and sixty-four; the nineteenth and two hundred and fiftieth chapters of the acts of the year eighteen hundred and sixty-five; and all other acts and parts of acts

inconsistent with the provisions of this act are hereby repealed; and this section shall not be construed as reviving or in any manner restoring any former acts or parts of acts inconsistent with the provisions of this act that were repealed by either of the chapters herein before named.

SECTION 190. This act shall take effect upon its passage.

Approved May 8, 1866.

AN ACT IN RELATION TO PROCEEDINGS IN THE SUPREME JUDICIAL COURT. *Chap. 220*

Be it enacted, &c., as follows:

SECTION 1. The supreme judicial court upon deciding any question brought before said court at a law term thereof, by exceptions, appeal or otherwise, in any case, civil or criminal, may send a rescript, as now provided by law, to the court in which the record remains, or may by writ of *certiorari* or other proper process, remove or order to be removed the record of the case into the supreme judicial court, and there enter judgment, and may afterwards remit the record to the court from which it has been removed, to carry such judgment into effect, or may instead thereof order a new trial or further proceedings to be had at the bar of the supreme judicial court, or sentence to be awarded or execution issued in said court.

Case before at law term; record may be removed to court, and judgment entered, supreme judicial may remit to lower court or order new trial.

SECTION 2. This act shall take effect upon its passage.

Approved May 9, 1866.

AN ACT TO DIVIDE THE COMMONWEALTH INTO DISTRICTS FOR THE CHOICE OF COUNCILLORS. *Chap. 221*

Be it enacted, &c., as follows:

SECTION 1. The Island, the Cape, the first Plymouth and the second and third Bristol senatorial districts shall constitute the first council district.

First district.

SECTION 2. The second Plymouth, the first Bristol, the Norfolk and Plymouth and the second and third Norfolk senatorial districts shall constitute the second council district.

Second.

SECTION 3. The sixth Suffolk, the first Norfolk, the third and fourth Middlesex and the second Worcester senatorial districts shall constitute the third council district.

Third.

SECTION 4. The first, second, third, fourth and fifth Suffolk senatorial districts shall constitute the fourth council district.

Fourth.

SECTION 5. The five senatorial districts in the county of Essex shall constitute the fifth council district.

Fifth.