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EVERYTOWN FOR GUN SAFETY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI‘I

TODD YUKUTAKE and DAVID KIKUKAWA,

Plaintiffs,

v.

CLARE E. CONNORS, in her official capacity as the Attorney General of the State of Hawaii, and the CITY and COUNTY OF HONOLULU,

Defendants.

Civil No. CV19-00578-JMS-RT

BRIEF OF EVERYTOWN FOR GUN SAFETY AS AMICUS CURIAE; APPENDIX

Summary Judgment Motion Hearing:
October 19, 2020, at 10:00 a.m.
Chief Judge J. Michael Seabright

Trial Date: January 12, 2021

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BRIEF OF EVERYTOWN FOR GUN SAFETY AS AMICUS CURIAE

I. INTEREST OF AMICUS CURIAE

Amicus curiae Everytown for Gun Safety Action Fund (formally, Everytown for Gun Safety Action fund, hereafter, "Everytown") is the nation's largest gun-violence-prevention organization, with nearly six million supporters across the country, including thousands in Hawai'i. Everytown was founded in 2014 as the combined efforts of Mayors Against Illegal Guns, a national, bipartisan coalition of mayors combating illegal guns and gun trafficking, and Moms Demand Action for Gun Sense in America, an organization formed after the murder of twenty children and six adults in an elementary school in Newtown, Conn. Everytown also includes a large network of gun-violence survivors who are empowered to share their stories and advocate for responsible gun laws.

Everytown's mission includes defending gun laws through the filing of amicus briefs providing historical context, social science and public policy research, and doctrinal analysis that might otherwise be overlooked. Everytown has filed such briefs in numerous Second Amendment cases, including cases in this District. *See, e.g.*, *Teter v. Connors*, No. 1:19-cv-00183 (D. Haw.), Dkt. 47; *Roberts v. Suzuki*, No. 1:18-cv-00125 (D. Haw.), Dkt. 62-1; *Young v. Hawaii*, No. 12-17808 (9th Cir.); *Silvester v. Harris*, No. 14-16840 (9th Cir.). Several courts, again including in this District, have expressly relied on Everytown's amicus briefs

in deciding Second Amendment and other gun cases. *See Teter v. Connors*, --- F. Supp. 3d ---, 2020 WL 2476225, at *11 (D. Haw. May 13, 2020), *appeal docketed*, No. 20-15948 (9th Cir. May 19, 2020); *Ass'n of N.J. Rifle & Pistol Clubs, Inc. v. Att'y Gen. N.J.*, 910 F.3d 106, 112 n.8 (3d Cir. 2018); *Rupp v. Becerra*, 401 F. Supp. 3d 978, 991-92 & n.11 (C.D. Cal. 2019), *appeal docketed*, No. 19-56004 (9th Cir. Aug. 28, 2019); *see also Rehaif v. United States*, 139 S. Ct. 2191, 2210-11 nn.4 & 7 (2019) (Alito, J., dissenting).

II. INTRODUCTION

Hawai‘i protects its citizens from gun violence through permit-to-acquire and registration laws for handguns. Plaintiffs allege that these laws violate the Second Amendment. As the State explains in its brief, however, the permitting scheme does not regulate constitutionally-protected conduct and, in any event, survives the applicable standard of scrutiny (*see* State Br. 12-18); the registration law does not on its face require in-person inspection (*see id.* at 18-20); and even if it did require such inspection, it would not fall within the Second Amendment's scope and would, in any event, survive scrutiny (*see id.* at 20-27).

Everytown submits this amicus brief in support of the State to address a single, narrow issue: even assuming that Hawai‘i's registration law requires in-person inspection, there is a long history of regulation supporting such a requirement. Not only does Hawai‘i's challenged registration law itself date back

to the early twentieth century (*see id.* at 8), but any inspection requirement in the law would be part of a history stretching all the way back to the founding era. Militia laws in the earliest days of the United States required members to equip themselves with specific firearms and ammunition and to present themselves and their weapons for inspection on a regular basis. In light of these laws, ordinary citizens in the founding era would have considered in-person inspection requirements to be well within the government's powers—and thus, under *District of Columbia v. Heller*, 554 U.S. 570 (2008), such requirements fall outside the scope of the Second Amendment. Plaintiffs' challenge to H.R.S. § 134-3 on this basis should therefore fail.

III. UNDER *HELLER* AND NINTH CIRCUIT PRECEDENT, GUN REGULATIONS WITH A LONGSTANDING HISTORICAL PEDIGREE ARE CONSTITUTIONAL

In *Heller*, the Supreme Court held that the Second Amendment protects an individual right to bear arms. It emphasized, however, that the right "is not unlimited," and that "nothing in [its] opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms." *Id.* at 626. Those longstanding prohibitions include "laws imposing conditions and qualifications on the commercial sale of arms," which are "presumptively lawful regulatory measures." *Id.* at 626-27 n.26. Such "exclusions need not mirror limits that were on the books in 1791." *United States v. Skoien*, 614 F.3d 638, 641 (7th Cir. 2010) (en

banc) (upholding federal law prohibiting the possession of firearms for persons convicted of misdemeanor domestic violence crimes); *see Fyock v. City of Sunnyvale*, 779 F.3d 991, 997 (9th Cir. 2015) (noting that even "early twentieth century regulations might…demonstrate a history of longstanding regulation").

In the wake of *Heller*, courts in the Ninth Circuit—and, indeed, in every circuit to have addressed the issue—apply a two-step analysis to Second Amendment claims. The first step is to ask "whether the challenged law burdens conduct protected by the Second Amendment." *United States v. Chovan*, 735 F.3d 1127, 1136 (9th Cir. 2013). Courts examine "whether there is persuasive historical evidence showing that the regulation does not impinge on the Second Amendment right as it was historically understood." *Silvester v. Harris*, 843 F.3d 816, 821 (9th Cir. 2016). Where such evidence exists, the law should be upheld because it falls outside the Second Amendment's scope; there is no need to proceed to the step-two scrutiny analysis. *Id.*; *see also Peruta v. Cty. of San Diego*, 824 F.3d 919, 942 (9th Cir. 2016) (en banc) (holding, based on historical analysis alone, that law prohibiting persons from carrying concealed weapons, subject to a license-based exception, did not violate the Second Amendment).

As the following section explains, there is abundant, persuasive historical evidence showing that any in-person inspection requirement in H.R.S. § 134-3 does not impinge on the Second Amendment right as it was historically

understood. Accordingly, this Court should reject Plaintiffs' challenge to the law at the first step of the Second Amendment analysis.[1]

IV. THE LONGSTANDING HISTORICAL PEDIGREE OF IN-PERSON INSPECTION REQUIREMENTS ESTABLISHES THE CONSTITUTIONALITY OF H.R.S. § 134-3

A. Laws Imposing Stringent In-Person Gun Inspection Requirements Were Widespread in 1791

Around the time of the Second Amendment's ratification in 1791, and in the decades preceding, laws requiring inspection of personal weapons existed at the federal level and throughout the original states. These laws were part of militia requirements, which mandated that individuals subject to militia duty—typically, white men in a specified age range[2]—must acquire their own arms and ammunition. The laws described the weapons required and provided for regular inspection by militia officers.

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[1] If the Court were to choose to proceed to the second step, it should uphold the law for the reasons set out in Defendant's brief. *See* State Br. 24-27. As Defendant explains, the appropriate standard is intermediate scrutiny and Hawai'i's law survives such scrutiny. *See id.*

[2] *See, e.g.*, United States Selective Service System, *Military Obligation: The American Tradition*, v. 2, pt. 3, pp. 26-27 (1947) (republishing *An Act for Establishing the Militia*, Del. June 4, 1785) (Delaware's militia composed of white males between 18 and 50 years of age) (App'x p. A6); *id*. at pt. 4, pp. 144-45 (republishing *An Act for Revising and Amending the Several Militia Laws of this State*, Ga., Feb. 26, 1784) (Georgia's militia composed of every free male between 16 and 50 years of age) (App'x p. A8). The Selective Service System's compilation of early American militia laws is available at https://catalog.hathitrust.org/Record/100889778/Home, and the sections cited in this brief are compiled in the attached appendix.

Weapons requirements were specific. Connecticut's 1784 law, for example, required "a well fixed Musket, the Barrel not less than three Feet and [a] Half long, and a Bayonet fitted thereto, with a Sheath and Belt or Strap for the same, with a Ram-rod, Worm, Priming-wire and Brush, [and] one Cartouch-box carrying sixteen rounds of Cartridges, made with good Musket Powder and Ball, fitting his Gun."[3] A 1776 Massachusetts law required "a good fire-arm, with a steel or iron ramrod and a spring to retain the same, a worm, priming-wire and brush, and a bayonet fitted to his gun, … and a cutting-sword, or a tomahawk or hatchet, a pouch containing a cartridge-box that will hold fifteen rounds of cartridges, at least, a hundred buck-shot, a jack-knife, … one pound of powder, [and] forty leaden balls."[4] South Carolina law in 1778 required "one good musket and bayonet, or a good substantial smooth bore gun and bayonet, … or one good rifle-gun and tomahawk or cutlass," with appropriate ammunition.[5]

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[3] *Id*. at pt. 2, p. 256 (republishing *An Act for Forming, Regulating and Conducting the Military Force of this State*, Conn., 1784) (App'x p. A4).

[4] *Id*. at pt. 6, p. 223 (republishing *An Act for Forming and Regulating the Militia within the Colony of the Massachusetts Bay, in New England, and for Repealing All the Laws Heretofore Made for that Purpose*, Jan. 22, 1776) (App'x p. A14).

[5] *Id*. at pt. 13, pp. 67-68 (republishing *An Act for the Regulation of the Militia of this State; and for Repealing Such Laws as Have Hitherto Been Enacted for the Government of the Militia,* S.C., Mar. 28, 1778) (App'x pp. A31-A32).

Militia laws also provided for in-person inspection to ensure that militiamen were prepared and properly armed if called up to fight. In particular, they required members to attend regular musters with their arms and ammunition, which officers would inspect. The 1792 federal Militia Acts, for example, required "the brigade-inspector to attend the regimental and battalion meeting of the militia composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition and accoutrements."[6] Massachusetts required that "every captain … shall call the train-band of his company together four days in a year, … for the purpose of examining their arms and equipments, and instructing them in military exercises."[7] In Virginia, "every militiaman" had to "furnish himself with a good rifle, if to be had," or certain identified alternative weapons, "and appear with the same at the place appointed for mustering."[8] And in Connecticut, commanding officers had to "cause the arms and ammunition of all under his command … to be reviewed …, by requiring such persons to bring forth their arms and ammunition at

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[6] Act of May 8, 1792, ch. 33, § 10, 1 Stat. 271, 273.

[7] *Military Obligation: The American Tradition*, v. 2 at pt. 6, p. 264 (republishing *An Act for Regulating and Governing the Militia of the Commonwealth of Massachusetts, and for Repealing All Laws Heretofore Made for that Purpose*, 1789) (App'x p. A17).

[8] *Id*. at pt. 14, p. 274 (republishing *An Ordinance for Raising and Embodying a Sufficient Force, for the Defense and Protection of this Colony*, Va., July 17, 1775) (App'x p. A35).

a certain time and place."[9] If a member failed to bring the required firearm, or if it was in defective condition, he would be fined.[10] Musters where weapons would be inspected occurred regularly—for example, twice per year in Connecticut and North Carolina;[11] three times per year in Rhode Island;[12] four times per year in

[9] *Id*. at pt. 2, pp. 201-02 (republishing *An Act in Further Addition to an Act Entitled An Act for the Forming and Regulating of the Militia and for the Encouragement of Military Skill for the Better Defence of this Colony*, Conn., Oct. 11-25, 1775) (App'x pp. A1-A2).

[10] *Id.*, p. 202 ("[I]f any of the persons aforesaid shall … be deficient in arms or ammunition, such persons respectively shall pay the same fine … for deficiency of arms or ammunition[.]") (App'x p. A2); *see also, e.g.*, *id*. at pt. 4, p. 146 (republishing *An Act for Revising and Amending the Several Militia Laws of this State*, Ga., Feb. 26, 1784) (any member who "shall neglect or refuse to appear comple[te]ly armed and furnished with one rifle musket, fowling-piece or fusee fit for action, … at any general musters" shall be fined up to five shillings) (App'x p. A10); *id*. at pt. 13, p. 103 (reprinting *An Act for the Regulation of the Militia of this State*, S.C., Mar. 26, 1784) (any person summoned to muster who "shall wilfully neglect to turn out at a regimental muster, properly armed and accoutred," shall be fined up to four dollars) (App'x p. A33).

[11] *Id*. at pt. 2, pp. 201-02 (republishing *An Act in Further Addition to An Act Entitled An Act for the Forming and Regulating of the Militia and for the Encouragement of Military Skill for the Better Defence of this Colony*, Conn., Oct. 11-25, 1775) (App'x pp. A1-A2); *id*. at pt. 10, p. 51 (republishing *An Act to Establish a Militia for the Security and Defence of this Province*, N.C., Mar. 2, 1774) (App'x p. A-24).

[12] *Id.* at pt. 12, pp. 227-230 (republishing *An Act to Organize the Militia of this State*, R.I., 1798) (App'x pp. A26-A29).

New Jersey;[13] and between four and six times per year in Massachusetts.[14] Some states also required officers to visit militia members' homes to inspect their weapons.[15]

In a number of states and under federal law, furthermore, not only were militia members' firearms inspected, they were also recorded in a register. Massachusetts's 1776 law, for example, provided that "the clerk of each and every company of said militia shall, once every six months …, take an exact list of his company, and of each man's equipments."[16] Maryland's 1756 law required militia officers to "make d[i]ligent Search and Enquiry" in their districts and to report "what Number of Arms and what Quantity of Ammunition they … discover and

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[13] *Id*. at pt. 8, pp. 70-71 (republishing *An Act for the Regulating, Training, and Arraying of the Militia, and for providing more effectually for the Defence and Security of the State*, N.J., Jan. 8, 1781) (App'x pp. A21-A22).

[14] *Id*. at pt. 6, p. 264 (republishing *An Act for Regulating and Governing the Militia of the Commonwealth of Massachusetts, and for Repealing All Laws Heretofore Made for that Purpose*, 1789) (App'x p. A17).

[15] *Id*. at pt. 8, p. 70 (republishing *An Act for the Regulating, Training, and Arraying of the Militia, and for providing more effectually for the Defence and Security of the State*, N.J., Jan. 8, 1781) (requiring captains to order sergeants, once every four months, "to call at the Place of Abode of each Person enrolled as aforesaid, for the Purpose of examining the State of his Arms, Accoutrements, and Ammunition, of which the Sergeant shall make exact Report to the Officer issuing the Orders") (App'x p. A21).

[16] *Id*. at pt. 6, p. 224 (republishing *An Act for Forming and Regulating the Militia within the Colony of the Massachusetts Bay, in New England, and for Repealing All the Laws Heretofore Made for that Purpose*, Jan. 22, 1776) (App'x p. A15).

the Condition and kind of such Arms and Ammunition and who shall be possessed thereof distinctly in Writing," and it required "all and every Person" to produce their arms and ammunition on demand for this recording, on penalty of a five pound fine.[17] New Hampshire's 1776 law required the clerk of each militia company, once every six months, to "take an exact List of his Company, and of each Man's Equipments respectively, and present the same to the Captain or commanding Officer thereof."[18] Virginia's 1784 law required commanding officers to send a list of militia members to the Governor, including an account of members' weapons and their condition.[19] New Jersey had a similar requirement.[20] And the federal Militia Acts required the brigade inspector "to make returns … at least once in every year, of the militia of the brigade to which he belongs, reporting

[17] *Id*. at pt. 5, p. 85 (republishing *An Act for Regulating the Militia of the Province of Maryland*, May 22, 1756) (App'x p. A12).

[18] *Id.* at pt. 7, p. 83 (republishing *An Act for Forming and Regulating the Militia within the State of New Hampshire in New England, and for Repealing all the Laws Heretofore Made for that Purpose*, Sept. 19, 1776) (App'x p. A19).

[19] *Id*. at pt. 14, pp. 426-27 (republishing *An Act for Amending the Several Laws for Regulating and Disciplining the Militia, and Guarding Against Invasions and Insurrections*, Va., Oct. 18, 1784) (App'x pp. A37-A38).

[20] *Id*. at pt. 8, pp. 70-71 (republishing *An Act for the Regulating, Training, and Arraying of the Militia, and for providing more effectually for the Defence and Security of the State*, N.J., Jan. 8, 1781) (requiring sergeants to inspect arms in members' homes and make "exact report" to commanding officer, who must in turn "make a Return of … his Company, and a State of their Arms, Accoutrements and Ammunition" to superiors) (App'x pp. A21-A22).

therein the actual situation of the arms, accoutrement, and ammunition, of the several corps."[21]

"Constitutional rights are enshrined with the scope they were understood to have when the people adopted them[.]" *Heller*, 554 U.S. at 634-35. The ubiquity of these militia inspection laws means that ordinary citizens in the founding era would have understood a requirement to present arms for inspection to be well within the government's power—and thus outside the scope of the Second Amendment. *See United States v. Marzzarella*, 614 F.3d 85, 91 (3d Cir. 2010) ("If the Second Amendment codified a pre-existing right to bear arms [as *Heller* announced], it codified the pre-ratification understanding of that right …. Therefore, if the right to bear arms as commonly understood at the time of ratification did not bar [a certain set of restrictions or limitations], it follows that by constitutionalizing this understanding, the Second Amendment carved out these limitations from the right.").[22]

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[21] Act of May 8, 1792, ch. 33, § 10, 1 Stat. 271, 273; *see also* A. Winkler, *The Secret History of Guns*, The Atlantic (Sept. 2011), *available at* https://bit.ly/3l6n0fE ("A 1792 federal law mandated every eligible man to purchase a military-style gun and ammunition for his service in the citizen militia. Such men had to report for frequent musters—where their guns would be inspected and, yes, registered on public rolls.").

[22] To be sure, not every gun owner would have been required to join the militia, and thus required *personally* to maintain and present the specified arms for inspection, given that states typically confined the militia to white men in a specified age range. *See supra* n.2. But most guns in the founding era were owned

B. In-Person Inspection and Registration Under Hawai‘i Law Sits Firmly Within This Longstanding Historical Tradition.

The historical tradition of requiring in-person inspection of firearms provides a robust historical basis for Hawai‘i’s law. Just as militia officers would inspect (and frequently record) members’ personal weapons to ensure that they comported with militia weaponry requirements, Hawai‘i’s law (as construed by Plaintiffs) requires police officers to inspect and register guns in-person to verify that they comport with the information provided in the registration form. In fact, by mandating regular and repeated in-person firearm inspections, these historical laws imposed a much greater burden on militia-eligible gun owners than would such a comparatively modest one-time check.

To be sure, Hawai‘i’s challenged gun inspection law exists in a different context than the historical laws discussed above—as part of a background check and registration process, rather than as part of ensuring a functional state militia.

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by white adult men. *See generally* Winkler, *supra* n. 21 (explaining that founding-era authorities disarmed many groups and, “[f]or those men who *were* allowed to own guns,” mandated purchase, inspection, and registration as part of militia duty); J. Lindgren & J. Heather, *Counting Guns in Early America*, 43 Wm. & Mary L. Rev. 1777, 1871 (2002) (finding 4.4 times greater likelihood of male than female gun ownership in Virginia and Maryland probate estates, 1740-1810). And the Supreme Court has never suggested—nor would it make any sense to require—that a law had to be *universally* applicable in the founding era before a court can conclude that ordinary citizens in that era would have considered it to be within the government’s powers.

But, as the Ninth Circuit has recognized, *see Fyock*, 779 F.3d at 997,[23] a law need not precisely match a set of founding-era regulations to be part of a longstanding historical tradition. *Cf. Kachalsky v. Cty. of Westchester*, 701 F.3d 81, 91 (2d Cir. 2012) (upholding law regulating public carry of firearms, which has "a number of close and longstanding cousins" in historical gun regulation); J. Blocher & D.A.H. Miller, *The Positive Second Amendment* 136 (2018) ("[L]ower courts have used analogy to extend *Heller*'s exclusions beyond those specifically identified in the case.").[24] Moreover, a central function of Hawai'i's law and the historical laws is the same: to ensure that the gun an individual possesses matches the applicable specifications—of the registration in Hawai'i's case and of the militia laws in the

[23] A Ninth Circuit panel recently indicated that, in undertaking the step-one historical analysis, a court should "look[] for evidence showing whether the challenged law traces its lineage to founding-era or Reconstruction-era regulations," *Duncan v. Becerra*, --- F.3d ----, 2020 WL 4730668, at *10 (9th Cir. Aug. 14, 2020)—which is precisely the sort of evidence set forth in this amicus brief. (At the time of this filing, it is unclear whether the California Attorney General will seek rehearing en banc in *Duncan*. *See, e.g.*, M. Levenson, *California's Ban on High-Capacity Magazines Violates the Second Amendment, Court Rules*, N.Y. Times (Aug. 14, 2020), *available at* https://nyti.ms/3avMGNV.)

[24] Even the small number of dissenting judges who would prefer to interpret the Second Amendment to bar any firearm regulation not grounded in "text, history, and tradition"—a view contrary to the two-part Second Amendment test that is the law of the Ninth Circuit and every other circuit that has weighed in—acknowledge that "the proper interpretive approach" to the historical inquiry involves "reason[ing] *by analogy* from history and tradition." *See, e.g.*, *Heller v. District of Columbia*, 670 F.3d 1244, 1275 (D.C. Cir. 2011) (Kavanaugh, J., dissenting) (emphasis added).

historical cases. *See* Response to Interrogatory No. 6, Dkt. 55-2 at 6-7 ("In-person handgun registrations can prevent fraud and reduce or eliminate discrepancies."); State Br. 26 ("[The] government['s] objective in requiring people to bring the firearm to the registration is that it ensures that the registration information is accurate, it ensures that the firearm complies with Hawaii law, and it confirms the identity of the firearm so as to facilitate tracing by law enforcement[.]"); *see generally Heller v. District of Columbia*, 801 F.3d 264, 285 (D.C. Cir. 2015) (Henderson, J., concurring in part and dissenting in part) (in-person inspection and registration process is needed to "verify that the application information is correct" (internal quotation marks and citations omitted)). In other words, in each case, the requirements exist to ensure that people own the specific firearm they are supposed to. Such a requirement was understood to be permissible in 1791, and thus it does not implicate a Second Amendment right today.

V. CONCLUSION

This Court should enter summary judgment in favor of the State and against the Plaintiffs.

DATED: Honolulu, Hawai'i, _____.

PAMELA W. BUNN

Attorney for Amicus Curiae
EVERYTOWN FOR GUN SAFETY

Appendix of Excerpts of Early American Militia Laws
Republished in Volume 2 (Part --) of United States Selective Service System,
***Military Obligation: The American Tradition* (1947)**

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safety; and of such their proceedings and resolves they do transmit authentic copies from time to time to the General Assembly of this Colony. That the said Delegates now appointed do repair to and take their seats in said Congress by the first day of January next, in case said Congress shall be then sitting, or as soon after as said Congress shall be convened; and that the said gentlemen who are now attending said Congress in behalf of this Colony do continue in their said office until the gentlemen now chosen and are directed to attend in manner aforesaid shall arrive at said Congress.

Whereas the committee appointed by this Assembly in May last for the purpose of procuring three thousand stand of arms for the use of this Colony &c. have now represented to this Assembly that they have proceeded in said business and procured a considerable number of said arms to be made [504] in this Colony, which are now in the hands ‖ of said committee: but notwithstanding their utmost assiduity have not been able to procure the whole number ordered by said act within the time therein limited:

Resolved by this Assembly, That the said committee be directed and they are hereby directed, to purchase and receive for the use of this Colony all the stands of fire-arms which shall be made and compleated within this Colony, according to the direction of the aforesaid act, and shall be delivered to said committee at any time before the first day of May next; and the manufacturers of said fire-arms and gun-locks shall be entituled to and receive the same bounty as those are entituled to by said act who made and delivered to the committee any arms before the 20th day of October instant, the time therein limited.

See also original p. 138

An Act in further Addition to an Act entituled An Act for the forming and regulating the Militia and for the Encouragement of Military Skill for the better Defence of this Colony.

Be it enacted by the Governor, Council and Representatives, in General Court assembled, and by the authority of the same, That the chief officer of every troop shall cause the arms and ammunition of all under his command, and the chief officer of every company of foot shall cause the arms and ammuni-

480. Conn.—*General Assembly, New Haven, 15 Hoadly; Act, Oct. 11–25, 1775, pp. 137–139.*

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tion of all under his command, and also of all others dwelling within the limits of his company who are by law obliged to keep arms, to be reviewed on the first Monday of May and the first Monday of October annually, by requiring such persons to bring forth their arms and ammunition at a certain time and place by such officer appointed; and if any of the persons aforesaid shall not appear, being thereto required and duly warned, or shall be deficient in arms or ammunition, such persons respectively shall pay the same fine for non-appearance, and also for deficiency of arms or ammunition, and in manner as in and by said act is provided, saving and excepting as in said act is excepted; any repealing act, or any law, usage or custom to the contrary notwithstanding.

This act to continue and be in force for the term of one year from the rising of this Assembly, and no longer.

An Act in further Addition to an Act entituled An Act for forming and regulating the Militia and for the Encouragement of Military Skill for the better Defence of this Colony.

Be it enacted by the Governor, Council and Representatives, in General Court assembled, and by the authority of the same, That each and every trooper inlisted into and belonging to any troop of horse in this Colony shall, within three months from the first day of November next, furnish and provide himself with a suitable horse and furniture, a carabine and every other article of fire-arms and accoutrements which are by law already directed and prescribed for troopers, and the same constantly hold and keep in readiness for service. And that every person who shall hereafter inlist and be received into any troop of horse shall, within three months after such his inlistment, be compleatly furnished, provided and equipped in manner aforesaid.

Be it further enacted by the authority aforesaid, That every inlisted or to be inlisted trooper who shall neglect to furnish and provide himself in manner and within the time and times limited as aforesaid, shall be by the captain or chief officer of such troop discharged and dismissed from the same; and every person so discharged shall be liable and shall attend and perform military duty in the company of foot within

A2

On penalty of 40l.

Forty Pounds, to the Treaſury of ſuch County: To be recovered before the County Court in the County where the Tranſgreſſion is committed.

Charge to be born by the Society.

And the Proceedings in ſettling and affixing ſuch Meeting-Houſe Place ſhall be at the Charge of the Society where ſuch Houſe is needed: And ſuch County Court ſhall be allowed the Fees for their Judgment thereon, as in the Trial of other Cauſes.

An Act for preſerving due Order in Town-Meetings, Society-Meetings, and in the Meetings of other Communities; and for preventing Tumults therein.

Preamble.

WHEREAS the Peace and good Order of Towns, Societies and other Communities do very much depend on their peaceably and orderly carrying on and managing their Affairs in their Meetings, and their regularly proceeding therein.

Therefore,

BE it enacted by the Governor, Council and Repreſentatives, in General Court aſſembled, and by the Authority of the ſame, That when any Town, Society or Proprietors Meeting, or the Meeting of any other Community is lawfully aſſembled, if any Perſon or Perſons whatſoever, ſhall in ſuch Meeting or Aſſembly, by tumultuous Noiſe, Quarrelling, or by any unlawful Act, diſturb ſuch Meeting, or hinder the Members thereof from proceeding in an orderly and peaceable Manner to the choice of their Moderator, or after the choice of ſuch Moderator, ſhall vilify or abuſe him, or interrupt him in the diſcharge of his Truſt; or after he hath commanded Silence in ſuch Meeting, ſhall ſpeak in the Meeting to the diſturbance of the Buſineſs of the Meeting, without the Moderator's Leave firſt had and obtained, (unleſs it be to aſk reaſonable Liberty to ſpeak) ſuch Perſon or Perſons ſo offending in any of the Particulars above-mentioned, contrary to the Intent of this Act, ſhall for every ſuch Offence forfeit and pay a Fine of *Five Shillings* to the Treaſurer of the Town where the Offence is committed.

Penalty for diſturbing any meeting, &c.

Triable by an aſſiſtant or Juſtice.

All Offences againſt this Act to be heard and determined by any one Aſſiſtant or Juſtice of the Peace; unleſs the Offence be aggravated by ſome notorious breach of Peace; in which Caſe the Offenders ſhall be bound over by ſuch Aſſiſtant or Juſtice, to the next County Court, to anſwer for ſuch Offence: Which Court may impoſe ſuch Fine as the aggravations of the Offence, in their Judgment deſerves; not exceeding *Ten Pounds*.

Adjournments to be by major part.

And that no ſuch Meeting ſhall be adjourned, but by the major Part of the Members preſent.

An Act for forming, regulating, and conducting the military Force of this State.

Preamble.

WHEREAS the Defence and Security of all free States depends (under God) upon the Exertions of a well regulated and diſciplined Militia.

Wherefore,

Who obliged to bear arms, and who exempt.

BE it Enacted by the Governor, Council and Repreſentatives, in General Court aſſembled, and by the Authority of the ſame, That all male Perſons, from ſixteen Years of Age to Forty-five, ſhall conſtitute the military Force of this State, except Members of the Council, of the Houſe of Repreſentatives, and of the Congreſs of the United States for the Time being, the State Treaſurer, and Secretary, Juſtices of the Peace, field, commiſſioned, and ſtaff Officers, honourably diſcharged, Miniſters of the Goſpel, the Preſident, Tutors and Students of College, Phyſicians and Surgeons, Select-men, conſtant School-maſters, one Miller to each Grift-mill, being approved by the Select-men, and having a Certificate thereof, conſtant Mariners who

6. Conn.—*General Assembly, Hartford, A & L, T. Green, 1784; Act, n. d., pp. 144–157.*

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Captain-General, to be by him laid before the General Assembly, at such Times as he or they shall think proper: And every Captain neglecting to make a Return as aforesaid, or shall make a false Return to the commanding Officer of the Regiment, shall forfeit and pay a fine of *Ten Pounds*; and if any commanding Officer of any Regiment shall neglect to make a regimental Return as aforesaid, or shall make a false Return, he shall forfeit and pay a fine of *Twenty Pounds*; and if any commanding Officer of a Brigade shall neglect or refuse to make a Return, as herein directed, he shall forfeit and pay a fine of *forty Pounds*; the distress thereof to be granted by the commanding Officer of the Regiment or Brigade to which such delinquent Officer belongs, or by the Captain-General, directed to the Adjutant, Brigade-Major, or Adjutant-General, as the nature of the Case shall require, and returnable in four Weeks, unless such delinquent Officer shall make a satisfactory Excuse to the Officers hereby directed to grant such Warrant, within twelve Days after such Neglect or Default shall happen.

Infantry, &c. how furnished.

And be it further Enacted, That all such as belong to the Infantry Companies, and Housholders under fifty-five Years of Age, shall, at all Times be furnished at their own Expence, with a well fixed Musket, the Barrel not less than three Feet and an Half long, and a Bayonet fitted thereto, with a Sheath and Belt or Strap for the same, with a Ram-rod, Worm, Priming-wire and Brush, one Cartouch-box carrying sixteen rounds of Cartridges, made with good Musket Powder and Ball, fitting his Gun, six good Flints, and each Militia Man one Canteen holding not less than three Pints, upon Penalty of forfeiting and paying a Fine of *Three Shillings* for want of such Arms and Ammunition as is hereby required, and *One Shilling* for each Defect, and the like Sum or Sums for every four Weeks he shall remain unprovided.

Penalty for neglect.

Proviso.

Provided nevertheless, That if any Soldier shall, in the Judgment of the Selectmen of the Town to which he belongs, be unable to arm and accoutre himself, agreeable to the directions of this Act, it shall be the Duty of such Selectmen to certify the same to the commissioned Officers of the Company to which such Soldier belongs, in order that Execution may not issue against him for deficiency in such Arms and Accoutrements; and also at the Expence of such Town, to provide such Soldier with Arms, and the whole or any part of such Accoutrements, as may be necessary, within forty Days from the Time of granting such Certificate, under Penalty of the Value of such Arms and Accoutrements, to be recovered of any or all of said Selectmen, by Warrant from an Assistant or Justice of the Peace, upon proper Information and Proof of such Neglect, by said commissioned Officers, which Warrant shall be directed to any Sheriff or Constable proper to serve the same, returnable in sixty Days, and the Fine payable into the Treasury of such Town.

And all Arms and Accoutrements thus provided, shall be the Property of such Town, and shall, by the commanding Officer of the Company, be deposited in such Place or Places as he shall think proper, to be ready for such Soldiers, as occasion shall require; and such Officers shall stand accountable for such Arms and Accoutrements, and shall be liable to pay for the same, if lost through his Neglect or Default.

Dragoons how accoutred.

And be it further Enacted, That every Light-Dragoon shall always be provided with a good serviceable Horse, not less than fourteen Hands high, to the acceptance of the two chief commissioned Officers of the Company to which he belongs, covered with a good Saddle, with Housing and other proper Furniture, bitt Bridle and Holsters, a Case of good Pistols, a Sword or Cutlass, not less than four Feet in Length, and also a Cap made of Jirk-Leather, or other Cover for the Head sufficient to withstand the Force of a Broad-sword, a Flask or Cartouch-box, one Pound of good Powder, three Pounds of sizable Bullets, twelve Flints, a good pair of Boots and Spurs, on Penalty of *Three Pounds* for want of such Horse, and the Value of each other Article in which he shall be deficient.

And

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See also original p. 58.

ments, (unleſs their remaining eſtate be ſufficient to anſwer what they are then in arrear) are hereby declared fraudulent, and ſhall not prevent or avoid the ſeizing and ſelling the ſame eſtates, on any judgment that may be had on ſuits to be brought for the recovery of the monies ſo in arrear.

State treaſurer to give bond.

Sect. 15. *And be it enacted*, That the ſaid ſtate treaſurer, before the firſt day of November next, ſhall become bound unto the Delaware ſtate, with two or more ſufficient ſureties, to be approved of by the preſident or commander in chief for the time being, in an obligation of fifteen thouſand pounds, conditioned for the true obſervation of this act and the duty which to the ſaid office doth appertain; and in caſe of neglect or refuſal of the ſaid ſtate treaſurer ſo to do, or of his death in the recels of the general aſſembly, it ſhall and may be lawful for the preſident or commander in chief, with the approbation of the privy-council, to appoint ſome other fit perſon to ſupply his place, who ſhall give ſecurity as aforeſaid.

His place how ſupplied in caſe of delinquency, &c.

Sect. 16. *And be it enacted*, That if any of the days appointed by this act for the performance of any of the duties herein required, ſhall happen to be on a Sunday, then ſuch duties ſhall be performed on the day following.

WHEREAS it appears, that ſundry collectors of the ſtate taxes directed to be raiſed for the ſervice of the years ſeventeen hundred and eighty-one, eighty-two, eighty-three and eighty-four, have through their indulgence, omitted to execute for thoſe taxes within the times limited by law, and this general aſſembly being willing to give the ſame ſummary mode to the ſaid collectors to collect the arrearages of ſuch taxes, as they could have had under the ſeveral acts of aſſembly paſſed for thoſe purpoſes.

Summary mode for collecting the arrearages of taxes.

Sect. 17. *Be it enacted*, That the collectors reſpectively of the ſaid ſeveral ſtate-taxes, heretofore appointed, or hereafter to be appointed for that purpoſe, be and they hereby are impowered to collect all arrearages and balances due of the ſaid taxes by execution, or otherwiſe, between the time of paſſing this act and the firſt day of November next, in as full and ample manner as heretofore could have been done had the ſame been done within the time limited by law.

Signed by Order of the Houſe of Aſſembly,

THOMAS DUFF, *Speaker.*

Signed by Order of the Council,

THOMAS M'DONOUGH, *Speaker.*

Paſſed at DOVER, *June* 4, 1785.

An ACT for eſtabliſhing a Militia.

Preamble.

SECTION 1. WHEREAS a well regulated Militia is the proper and natural defence of every free ſtate; and as the laws heretofore made for the regulation thereof within this ſtate are expired, and it is neceſſary that a militia be eſtabliſhed;

Sect. 2. *Be it therefore enacted by the General Aſſembly of Delaware*, That the late captain or commanding officer of each militia company in the

332. Del.—*General Aſſembly, Dover; Laws, June 1785; Act, June 4, 1785, pp. 57–66.*

Militia how often to be exercised.

Sect. 6. *And be it enacted*, That every company shall be duly exercised and instructed in the months of April and September annually, at such time and place as the captain or commanding officer shall direct, he giving notice thereof by advertisement at three of the most public places in his district, at least five days before the day of muster; and every regiment shall be reviewed on the first Wednesday in June and the second Wednesday in October in every year, and be properly trained and disciplined at such place as the colonel or commanding officer shall direct, and at such other times and places as the president or commander in chief shall think necessary, and shall order.

What persons shall provide arms, &c.

Sect. 7. *And be it enacted*, That every person between the ages of eighteen and fifty, or who may hereafter attain to the age of eighteen years, except as before excepted, whose public taxes may amount to twenty shillings a year, shall at his own expence, provide himself; and every apprentice, or other person of the age of eighteen and under twenty-one years, who hath an estate of the value of eighty pounds, or whose parent shall pay six pounds annually towards the public taxes, shall by his parent or guardian respectively be provided with a musket or firelock, with a bayonet, a cartouch box to contain twenty three cartridges, a priming wire, a brush and six flints, all in good order, on or before the first day of April next, under the penalty of forty shillings, and shall keep the same by him at all times, ready and fit for service, under the penalty of two shillings and six pence for each neglect or default thereof on every muster day, to be paid by such person if of full age, or by the parent or guardian of such as are under twenty-one years, the same arms and accoutrements to be charged by the guardian to his ward, and allowed at settling the accounts of his guardianship.

Penalty for neglecting to keep them in repair.

Penalty on persons for non-attendance, &c.

Sect. 8. *And be it enacted*, That every male white person within this state, between the ages of eighteen and fifty, or who shall hereafter attain to the age of eighteen years, except as before excepted, shall attend at the times and places appointed in pursuance of this act for the appearance of the company or regiment to which he belongs, and if any non-commissioned officer or private, so as aforesaid required to be armed and accoutred with his firelock and accoutrements aforesaid in good order, or if any male white person between the ages aforesaid although not required to be so armed and accoutred, shall neglect or refuse to appear on the parade and answer to his name when the roll is called over, which the commanding officer is hereby directed to cause to be done at the distance of one hour after the time appointed for meeting, not having a reasonable excuse, to be adjudged of by a court-martial to be appointed by the commanding officer of the company, which shall consist of a subaltern and four privates, the subaltern to be president thereof, every such person shall forfeit and pay the sum of four shillings for every such neglect or refusal; and if the said court-martial shall adjudge, that such person had not a reasonable excuse for such neglect or refusal, the justice to whom the captain or commanding officer of the company shall make return of the proceedings of such court martial shall enter judgment and issue execution thereupon, unless it shall appear to him, that the defendant was sick, or out of the county on some necessary business, and had not an opportunity of being heard before the court-martial.

How to be adjudged.

For neglect of duty, the penalty.

Sect. 9. *And be it enacted*, That every person required to attend as aforesaid at the time and place of exercise in company, or in regiment, who shall then and there appear, and shall neglect or refuse to answer to his name when the roll is called over, or to obey the lawful commands of his commanding officer or to perform his exercise with the care and attention requi-

site

(State Archives.)

AN ACT

For Revising and amending the several Militia Laws of this State. —

WHEREAS the Laws now in being For the regulation of the Militia, are either expired or near expiring, or are found inadequate to the present Period: and a well ordered and well disciplined Militia is essentially necessary to the safety, peace And prosperity of the State in Particular, and the Confederal Union in General.

BE IT THEREFORE ENACTED by the Representatives of the Freemen of the State of Georgia in General Assembly Met and by the Authority of the same. That from and immediately after the passing this Act it shall and may be lawful for his honor the Governor for the time being, by and with the Advice and consent of the honorable Executive Council, to call forth And Assemble all the Male free Inhabitants of this State, from the Age of Sixteen to fifty Years Within the Different Counties, Districts, and places of the same at such times as may appear to him and them Necessary, and to Lead, conduct or employ, or cause or procure to be led, Conducted or employed as well within the said Counties, Districts and places where such persons Reside, as into any other County, District,

327. Ga.—*General Assembly; Col. Recs. . . Vol. 19, Pt. II, Candler, 1911; Act, Feb. 26, 1784, pp. 348–359.*

Regiment within this state, and they are hereby Required to assemble, Muster train and exercise, or Cause to be Mustered trained and Exercised their respective Companies, giving Notice of the same by beat of Drum or otherwise in such expeditious Manner as the Colonel or Officer Commanding the Regiment shall think fit, at any place, or places for Ordering Musters; PROVIDED the same does not exceed six times each Year, and that such Muster, training and exercising be within the district or division the said Company belongs to — ——

AND BE IT FURTHER ENACTED that the several Captains or Commanding Officers of Companies in the Different Battalions or Regiments, shall Respectively enter enlist and enroll the names of all the male free inhabitants from the age of Sixteen to fifty as aforesaid within their respective companies districts or divisions and shall cause the several persons so enrolled and enlisted notice being given of the same, to appear at the times and places appointed for ordinary muster in each respective districts or division, and the publishing of which as aforesaid, shall be deemed a sufficient summons within the intent of this act to oblige the persons so entered and enrolled liable to appear as well at such ordinary musters, as at any general musters which may be held as aforesaid, and the persons so enrolled shall be deemed and held to be enlisted in and to belong to

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to the company of that district or division in which he or they shall so reside and be so entered and enrolled and in case of any neglect or refusal to obey such summons, such person or persons so offending shall be fined at the direction of a court-martial to consist, if an ordinary muster of one captain two lieutenants in a sum not exceeding twenty shellings.

AND BE IT FURTHER ENACTED that it shall and may be lawful for the captains of the respective companies to appoint a proper person in each of their companies to act as clerk thereof who shall enroll and enter the names of the free male inhabitants so as aforesaid to be taken and sett down in a fair book for that purpose, and after the same shall be set down, such captain or other commanding officer of such company shall cause the different names to be thrown into a box, with a partition to be made for that purpose and shall every year draw four names from the one part, to be put into the other agreable to the mode of drawing jurors, to act as serjeants for such company who shall proceed to obey the commands of their superior officers, and shall be respected and obey'd as such by the other non-commissioned officers and privates of their company and in case such serjeant or serjeants so drawn shall refuse in his or their turn to act immediately or shall at any time within his or their turn of continuance as such, that is one year as aforesaid, he or they shall

shall be liable to the mulct or fine of five pounds to be levied and placed to such purposes, as this act hereafter points out and directs, and the said officer so commanding is hereby required to proceed in manner before mentioned to draw another or others in his or their room: PROVID'D NEVERTHELESS that this clause shall not extend to prevent any captain, previous to such election from appointing any serjeant or serjeants not exceeding the number aforesaid who may be found capable and willing to act in that capacity

AND BE IT FURTHER ENACTED that in case any person or persons so liable shall neglect or refuse to appear compleatly armed and furnished with one rifle musket, fowling-piece or fusee fit for action, with a cartridge box or powder-horn answerable for that purpose with six cartridges or powder and lead equal thereto and three flints, at any general musters of the regiment or battalion to which his company belongs, every such person shall forfeit and pay a sum not exceeding five shillings, and if an ordinary muster a sum not exceeding two shellings and six pence

AND WHEREAS it may much contribute to the safety and welfare of the state, by encouraging volunteer troops of horse and companies subject however to the Field Officers of each regiment or battalion: BE IT THEREFORE

L. H. J. Liber No. 48 May 22

An Act for regulating the Militia of the Province of Maryland.

Whereas in this Time of Immiment Danger it is requisite for the Defence and Security of this Province that the Militia thereof be duly regulated and well Armed as well to repell the hostile Attempt of foreign Invaders as to quell and Suppress any intestine Commotions Rebellions or Insurrections which may happen.

p. 298

Be it therefore Enacted by the Right honourable the Lord Proprietary by and with the Advice and Consent of his Lordships Governor and the Upper and Lower Houses of Assembly and the Authority of the Same that every Male Inhabitant of this Province (Papists, the Persons commonly called Neutralls, Servants, and Slaves excepted) who shall be from the Age of Sixteen Years to the Age of Sixty Years and able to bear Arms at the Expiration of Ten days after the Publication of this Act in the County wherein he shall reside shall inlist with the Captain or next Commanding Officer of the Troop of Horse or Company of Foot in the District or Place where such Person shall reside by writing his name or making his Mark (as he shall be able) in a Roll to be Entituled and kept for that Purpose within Ten Days from and after the Publication of this Act as aforesaid under the Penalty of forty Shillings Current Money and the Same Penalty for every Thirty days Neglect or Omission thereafter and all Captains within this Province are hereby directed and commanded to take due Care to Inlist accordingly all such Persons as aforesaid and in Case of dispute whether any Person ought to inlist in respect of his Age the Same Shall be determined by the Officer before whom Such Dispute Shall happen by the Oath of the Person whose Age shall be in Question or the Oath or Affirmation (if a Quaker) of his Parent or some other credible Witness which Oath or Affirmation the Said Officer is hereby authorized to Administer.

And Be it further Enacted by the Authority aforesaid that all and every Male Person and Persons (except as above excepted) who shall attain his or their Age of Sixteen Years or come into and Settle in this Province after the Expiration of the aforesaid Ten Days from and after the Publication of this Act and be of the Age aforesaid Shall within Ten days after his or their attaining their Said of Sixteen Years or Twenty Days after his or their Arrival within this Province inlist in the manner aforesaid under the Penalty of Forty Shilling Current Money and the Same Penalty for every Thirty days Neglect or Omission hereafter so to inlist as aforesaid.

And be it Enacted by the Authority aforesaid that the Colonels or Commanding Officers of all Regiments Troops and Company's shall in Ten days after the Publication of this Act in their respective Counties and once at least in every Two Months thereafter issue

367. Md.—*General Assembly (Lower House), Annapolis; Arch . . . Vol. 52, Pleasants, 1935; Act, May 22, 1756, pp. 450–474.*

L. H. J. Liber No. 48 May 22

Custody upon Payment of the aforesaid Sum of One hundred Pounds Current Money and Fees aforesaid Shall Presume to have or keep in his Possession or in his House or upon his Plantation or elsewhere any Fire-Arms or Ammunition Such Person Shall forfeit and pay the further Sum of One hundred pounds Current Money

And be it Enacted by the authority aforesaid that in Ten days after the Publication of this Act the Colonel or Commanding Officer of every Regiment Troop or Company in the Militia of this Province shall issue his Warrant to his inferiour Officers directing them to make deligent Search and Enquiry in their respective District what Arms and Ammunition shall be therein and return what Number of Arms and what Quantitiy of Ammunition they Shall on such Search and Enquiry find or discover and the Condition and kind of such Arms and Ammunition and who shall be possessed thereof distinctly in Writing under the Penalty of Twenty Pounds Current Money upon the Colonel or Commanding Officer aforesaid neglecting his duty in this Behalf and the Penalty of Five Pounds Current Money on the Inferiour Officer charged with the Execution of Such Warrant who shall neglect within five days after receipt of such Warrant to comply with his Duty herein and all and every Person and Persons shall on Demand produce his or their Arms and Ammunition to the Said Officers charged with the Execution of Such Warrants under the Penalty of Five Pounds Current Money for his or their every wilfull neglect or refusal so to do And Whereas on many Occasions Arms Ammunition and military Accoutrements of different Kinds have been delivered out of the public Magazines of this Province and are now dispersed among the Inhabitants and have been Sold or Sent from one to another and it is represented that the Locks have been taken of from many of the Said Arms and put to private Use therefore for discovering the Said Arms Ammunition and Military Accoutrements and Locks and rendering of Service towards Arming the Militia of this Province in this Time of common Danger Be it Enacted by the Authority aforesaid

p. 300 that the Captain of every Troop or Company of Militia shall within Ten Days after the Publication of this Act issue his Warrant to his Several Corporals to make diligent Inquiry within their Limits for all Arms military Accoutrements and Locks belonging to the Public and the Said Corporals are hereby required as soon as may be after receit of such Warrant to repair to the Habitation of every Housekeeper within their respective Limits and demand of him Such Arms Ammunition Military Accoutrements and Locks as he hath in his Possession belonging to the Public and immediately on Such Demand Such Person shall deliver the Same to the Said Corporals And the Said Corporals shall give Receits for all Such Arms Ammunition military Accoutrements and Locks as Shall be delivered

See also original p. 451

CHAPTER 10.

AN ACT FOR FORMING AND REGULATING THE MILITIA WITHIN THE COLONY OF THE MASSACHUSETTS BAY, IN NEW ENGLAND, AND FOR REPEALING ALL THE LAWS HERETOFORE MADE FOR THAT PURPOSE.

Preamble. WHEREAS it is not only the interest but the duty of all nations to defend their lives, liberties and properties, in that land which the Supreme Ruler of the universe has bestowed on them, against the unlawful attacks and depredations of all enemies whatever, especially those who are moved by a spirit of avarice, or despotism; *and whereas* the honorable American Congress have recommended to the United Colonies to put the militia into a proper state for the defence of America; *and whereas* the laws now in force respecting the regulation of the militia have been found insufficient for the purposes aforesaid, —

* *It is therefore enacted by the Council and House of Representatives in General Court assembled, and by the authority of the same,*

Repealing clause. [SECT. 1.] That the several laws, and the several paragraphs and clauses of all and every the laws, of this colony, enforc[e]ing or any ways relating to the regulation of the militia, be and hereby are repeal[e]'d, and declared null and void.

And be it further enacted by the authority aforesaid,

The training-band. [SECT. 2.] That that part of the militia of this colony, commonly called the training-band, shall be constituted of all the able-bodied male persons therein, from sixteen years old to fifty, excepting members of the American Congress, members of the council and of the house of representatives, for the time being, the secretary of the colony, all civil officers that have been or shall be appointed by the general court or either branch of it, officers and students of Harvard College, ministers of the gospel, elders and deacons of churches, church-wardens, grammar-school masters, masters of arts, the denomination of Christians called Quakers, selectmen, for the time being, those who have by commission under any government or congress, or by election in pursuance of the vote of any congress, of the continent, or of this or any other colony, held the post of a subaltern, or higher officer, persons while actually employed as masters of vessels of more than thirty tons burthen, other than fishing vessels and vessels coasting in this colony, and to and from this colony to the other New-England governments, constables, and deputy sher[r]if[f]s, negroes, Indians and m[o][u]latoes, and shall be under the command of such officers as shall be chosen, impower[e]'d, and commissionated over them, as is by this act provided; and the selectmen, or the

Persons excepted.

* [SECT.] 1.

NOTE. — In numbering the sections of this chapter the division of the engrossed act has not been strictly followed, as the numbers there given are placed opposite the first line of the enacting clauses of the respective sections, and, moreover, are not, in all cases, denotative of clearly distinct sections. It has, therefore, been deemed best to give in the margin the numbers of the sections in the engrossment. The word [Sect.] not appearing in the engrossment, nor in the contemporary impression, is, in each instance, enclosed in brackets. Another impression of this act, under the resolve of April 21, 1776, differs from it in several unimportant particulars, which have not been thought of sufficient consequence to be noticed here, inasmuch as all differences between the engrossment and the printed act most nearly in conformity thereto, have been carefully noted.

461. Mass.—*General Court, Watertown; A & R Vol. 5, 1886, Ch. 10; Act, Jan. 22, 1776, pp. 445–454.*

to be chosen by the company.

called together by their captain or commanding officer, as soon as may be, for the purpose of choosing one clerk, four serjeants, four corporals, one drummer and one fifer; and when it shall appear to the commission officers of any company that either of said non-commission[e]'d officers shall neglect his duty, they may remove and dismiss him from his office, and call upon their company, including the alarm list, to choose another in the room of such delinquent; and if the said company, being called together for that purpose, shall at any time neglect or refuse immediately to proceed to the choice of one or more non-commission[e]'d officer or officers so order[e]'d to be chosen, the commission officers of such company, or the major part of them, shall, by warrant under their hands, in writing, appoint said non-commissioned officer or officers which the said company shall have refused to choose as aforesaid.

And be it further enacted by the authority aforesaid,

Articles of equipments. 16 Allen, 581.

[SECT. 8.] That each and every officer and private soldier of said militia, not under the controul of parents, masters or guardians, and being of sufficient ability therefor, in the judgment of the selectmen of the town wherein he has his usual place of abode, shall equip himself, and be constantly provided with, a good fire-arm, with a steel or iron ramrod and a spring to retain the same, a worm, priming-wire and brush, and a bayonet fitted to his gun, a scabbard and belt therefor, and a cutting-sword, or a tomahawk or hatchet, a pouch containing a cartridge-box that will hold fifteen rounds of cartridges, at least, a hundred buck-shot, a jack-knife, and tow for wadding, six flints, one pound of powder, forty leaden balls fitted to his gun, a knapsack and blanket, a canteen or wooden bottle sufficient to hold one quart. And all parents, masters and guardians shall furnish and equip those of the militia which are under their care and command, with the arms, equipments, and accoutrements aforesaid; and where the selectmen of any town shall adjudge any person, belonging to the militia of their town, unable to equip and arm himself, as aforesaid, such selectmen shall, in writing, under their hands, certify the same to the captain or commanding officer in whose company such person may be, and shall, at the expence of such town, provide for, furnish, arm and equip such person with such arms and equipments: which arms so provided by such selectmen shall be the property of the town at whose expence they shall be provided; and if any non-commission[e]'d officer or soldier shall embezzle or destroy the same, he shall be punish[e]'d at the discretion of the justice or court before whom he may be convicted thereof, by paying double the value of the arms or accoutrements so wilfully destroy[e]'d or embezzled; and on default thereof, to be publicly whipp[e]'d not exceeding twenty stripes. And the selectmen of each and every town shall provide at the expence of the colony, and deposit and keep in some safe place for the use of the militia upon an alarm, one sixteenth part so many spades, or iron shovels with handles, and fitted for service, as there are rateable polls in their town; one-half as many narrow axes as spades and iron shovels, and as many pickaxes as narrow axes, — all fitted for service; and, at the cost and charge of their respective towns, one drum and one fife for each company therein. And the freeholders and inhabitants of each and every town in this colony, qualified by law to vote in town meetings, are hereby impower[e]'d, at a meeting regularly warned for that purpose, to raise mon[e]y by tax on the pol[e][l]s and estates of

Poor persons to be equipped at the expense of their town.

Penalties for embezzlement of such equipments.

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* [Sect.] 7.

the inhabitants of their towns, to defrey all charges arising on said towns in consequence of this act.

*And be it further enacted by the authority aforesaid,

Penalty for commission officers neglecting to equip themselves.

[Sect. 9.] That each and every commission officer of said militia who shall not within one month next after receiving his commission provide for, arm and equip himself with such arms and accoutrements as [*is*] by this act [is] directed, shall, by order of a court martial, appointed as by this act is provided, be removed from his office. And every commission[*e*]'d officer, who shall be deposed from his office in the militia for neglect of duty, or other misdemeanor, as by this act is provided, shall receive no benefit from any commission which he shall be thus incapacitated to execute, to exempt him from military duty.

†*And be it further enacted*,

A return of all the equipments, to be made every six months.

[Sect. 10.] That the clerk of each and every company of said militia shall, once every six months after the time of his choice or appointment, take an exact list of his company, and of each man's equipments, respectively, and present the same to the captain or commanding officer thereof; a copy whereof the captain or commanding officer of said company shall immediately deliver to the colonel or commanding officer of the regiment he belongs to; and the colonel shall, without delay, return the number therein contained to the brigadier, and the brigadier shall as soon as may be, return the same to the first major-general, and he shall forthwith return the same to the council.

‡*And be it further enacted by the authority aforesaid*,

Each brigadier to review his brigade twice a year.

[Sect. 11.] That every brigadier shall review each regiment of his brigade twice a year, and oft[e]ner if the council shall order it, and on default thereof shall be liable to be removed from his office; and when the captain or commanding officer of any company of such militia shall choose to call his company together, or shall be order[*e*]'d by his superior officer to do it, to examine their arms, or instruct them in the exercises which, from time to time, shall by the general court be order[*e*]'d for them, he shall notify and warn them of the time and place of meeting, in such manner as his colonel shall appoint therefor; and each and every company shall be muster[*e*]'d eight times a year, at least, including their regimental musters.

Each company to be mustered eight times a year.

§*And be it further enacted*,

Penalty for colonels neglecting to call their regiments together.

[Sect. 12.] That, if the commanding officer of any regiment shall neglect to call his regiment together at such time and place and in such manner as his brigadier shall order, and be thereof convicted before a court-martial, appointed as is in this act provided, he shall be liable to be removed from his office; and if any captain or subaltern shall prove disobedient on a training-, or muster[*ing*]-day, or shall not draw out the company he commands, being order[*e*]'d by his superior officer thereto, he shall be liable to be removed from his office by a court-martial appointed as by this act is provided; and when any commission officer shall be removed from his office as aforesaid, he shall be held incapable of holding any military office, in said militia, for the space of three years next after sentence declared against him; and when any captain or subaltern shall be removed from his office as aforesaid, the commanding officer of the company wherein such incapacitated person used last to command, shall call the company together, including the alarm list, and direct them, in the presence of

• [Sect.] 8. † [Sect.] 9. ‡ [Sect.] 10. § [Sect.] 11.

See also original p. 339

Perpetual Laws,

Of the Commonwealth of Maſſachuſetts.

PART VII.

Militia Regulations.

An Act for regulating and governing the Militia of the Commonwealth of *Maſſachuſetts*, and for repealing all Laws heretofore made for that Purpoſe.

Preamble. *WHEREAS the laws now in force for regulating the militia of the Commonwealth, are found to be inſufficient for the ſaid purpoſe:*

Laws heretofore made for regulating the militia, repealed. I. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That the ſeveral laws heretofore made for regulating the militia aforeſaid, be, and hereby are repealed.

Proviſo. *Provided nevertheleſs,* That all actions and proceſſes commenced and depending in any Court within this Commonwealth, upon or by force of the ſaid laws, ſhall, and may be ſuſtained and proſecuted to final judgment and execution; and that all officers elected, appointed and commiſſionated agreeably to law, ſhall be continued in commiſſion, and hold their reſpective commands in the militia, in the ſame manner as they would in caſe the ſaid laws were ſtill in force.

II.

468. Mass.—*General Court; Perpetual Laws, Adams & Nourse, 1789; Part VII, Mil. Regs. pp. 338–343.*

one pound of powder, forty leaden balls ſuitable for his fire-arm, a haverſack, blanket and canteen; and if any non-commiſſioned officer or private ſoldier ſhall neglect to keep himſelf ſo armed and equipped, he ſhall forfeit and pay a fine not exceeding *three pounds*, in proportion to the value of the article or articles in which he ſhall be deficient, at the diſcretion of the Juſtice of the Peace before whom trial ſhall be had.

Fine for not equipment.

XIV. *And be it further enacted by the authority aforeſaid*, That all parents, maſters and guardians, ſhall furniſh thoſe of the ſaid militia who ſhall be under their care and command, with the arms and equipments afore-mentioned, under the like penalties for any neglect.

Parents, maſters and guardians, to equip thoſe under their care under the like penalties.

XV. *And be it further enacted by the authority aforeſaid*, That whenever the ſelectmen of any town ſhall judge any inhabitant thereof, belonging to the ſaid militia, unable to arm and equip himſelf in manner as aforeſaid, they ſhall, at the expence of the town, provide for and furniſh ſuch inhabitant with the aforeſaid arms and equipments, which ſhall remain the property of the town at the expence of which they ſhall be provided; and if any ſoldier ſhall embezzel or deſtroy the arms and equipments, or any part thereof, with which he ſhall be ſo furniſhed, he ſhall upon conviction before ſome Juſtice of the Peace in the county where ſuch offender ſhall live, be adjudged to replace the article or articles which ſhall be by him ſo embezzeled or deſtroyed, and to pay the coſt ariſing from the proceſs againſt him; and in caſe he ſhall not within fourteen days after ſuch adjudication againſt him perform the ſame, it ſhall be in the power of the ſelectmen of the town to which he ſhall belong, to bind him out to ſervice or labour, for ſuch term of time as ſhall in the diſcretion of the ſaid Juſtice, be ſufficient to procure a ſum of money equal to the amount of the value of the article or articles embezzeled or deſtroyed, and to pay the coſt ariſing as aforeſaid.

Perſons unable to equip themſelves, to be provided by the town.

Soldiers embezzling or deſtroying their arms, &c. how puniſhed upon conviction.

In caſe.

XVI. *And be it further enacted by the authority aforeſaid*, That every captain or commanding-officer of a company, ſhall call the train-band of his company together four days in a year, and oftener if he ſhall judge neceſſary, not exceeding ſix days in the whole, for the purpoſe of examining their arms and equipments, and inſtructing them in military exerciſes; and ſhall alſo once in a year, on a day when he ſhall muſter the train-band of his company, call together the alarm-liſt belonging to his company, within the limits of the town of which they ſhall be inhabitants, for the purpoſe of examining their arms and equipments.

Officers to call together the train-band four days in a year, and the alarm-liſt once a year.

XVII. *And be it further enacted by the authority aforeſaid*, That when any captain or commanding officer of a company ſhall think fit to muſter or call his company together, he ſhall iſſue his orders therefor to one or more of his non-commiſſioned officers, if he ſhall have any, otherwiſe to one or more of the private ſoldiers belonging to his company, directing him or them to notify and warn the ſaid company to appear at ſuch time and place as ſhall be appointed, and with ſuch arms and equipments as ſhall be mentioned in the

Manner of calling together militia companies.

the Public Treasury of the same, and the other moiety to and for the Benefit of the Town, where the Offense is Committed after deducting the reasonable Charges of Prosecution. This Act to be in force until the Twentieth Day of November next, and no longer.

[CHAPTER 3.]

{ *State of* / *New Hampshire.* }

AN ACT FOR FORMING AND REGULATING THE MILITIA WITHIN THE STATE OF NEW HAMPSHIRE IN NEW ENGLAND, AND FOR REPEALING ALL THE THE LAWS HERETOFORE MADE FOR THAT PURPOSE.

[Passed Sept. 19, 1776. Original Acts, vol. 7, p. 15; recorded Acts, vol. 3, p. 271. Laws, 1780 ed., p. 36. Repealed March 18, 1780. See resolutions of March 19, 1777 and Dec. 25, 1778. Laws, 1780 ed., pp. 90, 145. See additional act of June 26, 1779. For analysis of the militia laws of the province period, consult Fry, "New Hampshire as a Royal Province," p. 473; Potter, "Military History of New Hampshire," pp. 1–263; "History of the 17th N. H. Regiment. War of 1861–5," Ch. 38, p. 213.]

Whereas it is not only the Interest but the Duty of all Nations to defend their Lives, Liberties and Properties in that Land which the Supreme Ruler of the Universe has bestowed on them, against the unlawful attacks and Depredations of all Enemies whatever; especially those who are moved by a Spirit of Avarice or Despotism:—And whereas the Honorable American Congress have recommended to the United Colonies, to put the Militia into a proper State for the Defence of America:—And whereas the Laws now in Force, respecting the Regulation of the Militia, have been found insufficient for the Purposes aforesaid.

1st It is therefore enacted by the Council & House of Representatives in General Court Assembled, And by the Authority of the same, that the several Laws and the several Paragraphs and Clauses of all and every the Laws of this State enforceing, or any Ways relating to the Regulation of the Militia, be and hereby are repealed & declared null and void.

And be it further enacted by the Authority aforesaid That that part of the Militia of this State commonly called the Training Band, shall be constituted of all the able-bodied Male persons therein, from sixteen Years old to fifty excepting Members of the American Congress, Members of the Council and of the House of Representatives for the time being, the Secretary of the Colony, all Civil Officers that have been or shall be appointed by the General Court, or either Branch of it, Officers and Students of

517. N. H.—*General Assembly, Exeter; Laws, Metalf, Vol. 4, 1916; Act, Sept. 19, 1776, pp. 39–57.*

be publickly whipped not exceeding twenty stripes: And the Selectmen of each and every Town shall provide at the Expence of the Colony and deposit and keep in some safe Place for the Use of the Militia upon an Alarm—one sixteenth part so many Spades, or Iron Shovels with Handles and fitted for Service, as there are Rateable Polls in their Town; one half as many narrow Axes, as Spades and Iron Shovels, and as many Pick Axes, as narrow Axes all fitted for Service:—And at the Cost and Charge of their respective Towns, one Drum and one Fife for each Company therein. And the Freeholders & Inhabitants of each and every Town in this Colony, qualified by Law to vote in Town Meetings, are hereby impowered at a Meeting regularly warned for that purpose, to raise Money by Tax on the Polls and Estates of the Inhabitants of their Towns to defray all charges arising on said Towns in Consequence of this Act.—

7. And be it further enacted by the Authority aforesaid, That each and every Commission Officer of said Militia, who shall not within one Month next after receiving his Commission, provide for, arm and equip himself with Such Arms and Accoutrements, as is by this Act directed, shall by Order of a Court Martial appointed, as by this Act is provided, be removed from his Office. And every Commissioned Officer, who shall be deposed from his Office in the Militia for Neglect of Duty, or other Misdemeanor, as by this Act is provided, shall receive no Benefit from any Commission, which he shall be thus incapacitated to execute to exempt him from Military Duty.

8. And be it further enacted, That the Clerk of each and every company of said Militia, shall once every six months after the Time of his Choice or Appointment, take an exact List of his Company, and of each Man's Equipments respectively, and present the same to the Captain or commanding Officer thereof; a Copy whereof the Captain or commanding Officer of said Company, shall immediately deliver to the Colonel or commanding Officer of the Regiment he belongs to; and the Colonel shall without delay return the Number therein contained to the Major General, and he shall forthwith return the same to the Council.—

9. And be it further enacted by the Authority aforesaid, That when the Captain or commanding Officer of any Company of Militia in this Colony, shall choose to call his Company together, or shall be ordered by his Superior Officer to do it, to examine their Arms, or instruct them in the Exercises, which from Time to Time shall by the General Court be ordered for them, he shall notify and warn them of the Time and Place of Meeting, in such manner as his Colonel shall appoint therefor, and each and every Company shall be mustered eight Times a Year at least, including their Regimental Musters.

10. And be it further enacted, that if the commanding Officer of any Regiment shall neglect to call his Regiment together at

CHAP. CCXLII. See in general

* *An* ACT *for the regulating, training, and arraying of the Militia, and for providing more effectually for the Defence and Security of the State.*

Paſſed Jan. 8, 1781.

Preamble. WHEREAS the ſeveral Laws heretofore made for the Government of the Militia, and for the Purpoſe of directing the internal Force of the State to the Preſervation and Safety of the ſame, have been found inadequate to theſe important Purpoſes, and have become, from their Number and Diverſity, difficult to be underſtood and executed; Therefore,

Militia, how to be divided. *Sect.* 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, from and after the Publication of this Act, the Militia of this State ſhall be divided into three Brigades, as follows: The Militia of the Counties of *Bergen*, *Eſſex*, *Morris*, *Suſſex*, and of thoſe Parts of the Counties of *Middleſex* and *Somerſet* lying on the Northern and Eaſtern Side of *Raritan* River, and of the South Branch of the ſame, ſhall compoſe the upper Brigade; the Militia of the Counties of *Monmouth*, *Hunterdon* and *Burlington*, and of thoſe Parts of the Counties of *Middleſex* and *Somerſet* lying on the Southern and Weſtern Side of the ſaid River *Raritan*, and of the South Branch of the ſame, ſhall compoſe the middle Brigade; and the Militia of the Counties of *Glouceſter*, *Salem*, *Cape-May* and *Cumberland*, ſhall compoſe the lower Brigade.

Brigades, by whom to be commanded. 2. AND BE IT FURTHER ENACTED, That each Brigade ſhall be commanded by a Brigadier or Colonel Commandant, who ſhall be the eldeſt Colonel, and if there is no Colonel, the eldeſt Lieutenant-Colonel of the Regiments which compoſe the Brigade, to be determined by the Date of their ſeveral Commiſſions; which Brigadiers, Colonels, or Lieutenant-Colonels Commandant, ſhall be empowered to appoint a Major of Brigade, to rank as Major of the Militia, and receive Pay on the Certificate of his Brigadier, Colonel or Lieutenant-Colonel Commandant.

Regiments, how to be officered. 3. AND BE IT FURTHER ENACTED, That each Regiment or Battalion ſhall be officered with one Lieutenant-Colonel (except where a Colonel is already appointed) and one Major; and alſo with an Adjutant, who ſhall be taken from the Line, and rank as Firſt Lieutenant, and when in Service be entitled to the Pay and Rations of a Captain; one Quartermaſter, who ſhall alſo be taken from the Line, rank with Lieutenants, and receive like Pay and Rations when in Service; and when Circumſtances will admit, a Surgeon; which Regimental Staff-Officers ſhall be appointed by the Field Officers or a Majority of them; and the Commanding Officer of each Regiment or Battalion ſhall appoint a Sergeant-Major.

Proviſo. PROVIDED ALWAYS, That where two Majors have been heretofore appointed and commiſſioned in any Regiment or Battalion both ſhall be continued, but Vacancies happening in the Office of Second Major, ſhall not hereafter be ſupplied.

4. AND

* See a Supplement to this Act, Chap. CCCXIX.

Members of the Legiſlative-Council and General Aſſembly, the Judges and Juſtices of the Supreme and Inferior Courts, the Judge of the Court of Admiralty, the Attorney-General, the Secretary, the Treaſurer, the Auditor of Accounts, the Clerks of the Council and General Aſſembly, the Clerks of the Courts of Record, the Governor's private Secretary, the Superintendant of Purchaſes, the County Contractors, Poſtmaſters, Miniſters of the Goſpel of every Denomination, the Preſident, the Profeſſors and Tutors of Colleges, Sheriffs, Coroners, one Conſtable for each Townſhip, to be determined by the Court of Quarter-Seſſions of the County, two Ferrymen for each publick Ferry on the *Delaware* below the Falls at *Trenton*, and one for every other publick Ferry in this State, Slaves, and every Perſon exempted by any particular Law of this State, ſhall not be borne on any ſuch Liſts or Rolls, or be ſubject to Military Duty.

Arms and Accoutrements to be procured by each Man.

11. AND BE IT ENACTED, That every Perſon enrolled as aforeſaid, ſhall conſtantly keep himſelf furniſhed with a good Muſket well fitted with a Bayonet, a Worm, a Cartridge-Box, twenty-three Rounds of Cartridges ſized to his Muſket, a Priming-Wire, Bruſh, ſix Flints, a Knapſack and Canteen, under the Forfeiture of *Seven Shillings and Sixpence* for Want of a Muſket, and *One Shilling* for Want of any other of the aforeſaid Articles, whenever called out to Training or Service; to be recovered and applied as herein after is directed. PROVIDED ALWAYS, That if any Perſon be furniſhed as aforeſaid with a good Rifle-Gun, the Apparatus neceſſary for the ſame, and a Tomahawk, it ſhall be accepted in Lieu of the Muſket and the Bayonet and other Articles belonging thereto.

Penalty on Neglect.

Proviſo.

Ammunition to be kept by each Man.

12. AND BE IT ENACTED, That each Perſon enrolled as aforeſaid, ſhall alſo keep at his Place of Abode one Pound of good merchantable Gunpowder, and three Pounds of Ball ſized to his Muſket or Rifle, and for Want of either ſhall forfeit the Sum of *Three Shillings*, to be recovered and applied as herein after is directed. PROVIDED ALWAYS, That if any Perſon enrolled as aforeſaid ſhall, by a Majority of the commiſſioned Officers of the Company to which he may belong, be deemed and adjudged unable to purchaſe the Arms, Accoutrements, and Ammunition above ſpecified, he ſhall be exempted from the Forfeiture for any Deficiency therein until he can procure them, or they are provided for him.

Proviſo.

Sergeants to examine and report State of Arms, &c.

13. AND BE IT FURTHER ENACTED, That the Captain or Commanding Officer of each Company ſhall, once in every four Months, order a Sergeant to call at the Place of Abode of each Perſon enrolled as aforeſaid, for the Purpoſe of examining the State of his Arms, Accoutrements, and Ammunition, of which the Sergeant ſhall make exact Report to the Officer iſſuing the Orders, and if the Captain ſhall neglect his Duty herein he ſhall forfeit *Six Pounds*; and if any Sergeant ſhall neglect his Duty in this Reſpect he ſhall forfeit and pay for each Offence the Sum of *Three Pounds*, to be recovered and applied as herein after is directed; and for this Service he ſhall receive the Sum of *Three Shillings and Nine-pence* for each Day he ſhall be neceſſarily engaged therein, to be paid by the Treaſurer of the Regiment, on an Order from the Captain or Commanding Officer of the Company, certifying the Number of Days the Sergeant was on the Duty, the Treaſurer taking the Sergeant's Receipt on the Back of the Order for the ſame.

Penalty for Neglect.

Wages for this Service.

Days of muſtering in Companies.

14. AND BE IT FURTHER ENACTED, That each Company ſhall aſſemble, properly armed and accoutred, not later than ten o'Clock in the Forenoon of the firſt *Monday* in the Months of *April* and *September* every Year, at ſuch Place as the Commanding Officer of the Company ſhall appoint, and there ſpend the Remainder of the Day in Training and Exerciſe, and that the Penalty in caſe of Abſence ſhall be as follows: On

Penalty in caſe of Abſence.

a Captain, *Three Pounds;* on a Lieutenant or Enſign, *Forty Shillings;* on a Non-commiſſioned Officer or Private, any Sum not under *Five Shillings* nor more than *Forty Shillings;* and in due Proportion for attending later than the Hour above limited.

Days of Regimental Muſters.

15. AND BE IT FURTHER ENACTED, That each Regiment or Battalion ſhall aſſemble, properly armed and accoutred, twice in a Year, *videlicet*, On the firſt *Monday* in *June* and *November*, at ſuch Hour and Place as the Field Officers, or a Majority of them, ſhall appoint, for the Purpoſe of Training and Exerciſe; and the Colonel or Commanding Officer, after parading his Regiment or Battalion, ſhall require from the

Returns of Companies to be required and made.

Captain or Commanding Officer of each Company a Return of the commiſſioned and Non-commiſſioned Officers and Privates of his Company, and a State of their Arms, Accoutrements, and Ammunition; and if the Captain or Commanding Officers of Companies ſhall neglect or refuſe to make ſuch Return, they ſhall forfeit for each Neglect or Refuſal

Forfeitures.

the Sum of *Six Pounds;* and the Penalty in caſe of Abſence on the Day of Regimental Training or Review ſhall be as follows: On a Colonel or Lieutenant-Colonel Commandant, *Ten Pounds;* on a Lieutenant-Colonel, *Eight Pounds;* on a Major, *Six Pounds;* on a Captain or Adjutant, *Five Pounds;* on a Lieutenant, Quartermaſter, or Enſign, *Three Pounds;* on Non-commiſſioned Officers and Privates, any Sum not leſs than *Ten Shillings* nor more than *Three Pounds;* and in due Proportion for attending later than the Hour ſpecified in the Order for Meeting; to be recovered

Proviſo.

and applied as herein after is directed. PROVIDED ALWAYS, That if the local Situation of the Companies compoſing any Regiment or Battalion be ſuch as may render it inconvenient to aſſemble the Whole at the ſame Time and Place, it ſhall and may be lawful for the Field-Officers, or a Majority of them, to aſſemble ſuch Regiment or Battalion by Parts, at different Times, and in different Places, each Part being aſſembled twice in a Year.

Returns of Regiments to be made and when, and Penalties for Neglect.

16. AND BE IT FURTHER ENACTED, That the Colonel or Commanding Officer of each Regiment or Battalion ſhall make Returns of his Regiment or Battalion, and of the State of their Arms, Accoutrements and Ammunition, in the Months of *July* and *December*, yearly, and every Year, to the Brigadier or Commanding Officer of the Brigade to which ſuch Regiment may belong, under the Penalty of *Twenty Pounds*, and ſhall alſo make Return in the ſaid Months, of the State of the Magazines of Arms, Accoutrements and Ammunition belonging to his Regiment or Battalion, to the Keeper of the Magazine or Commiſſary of Military Stores of the State for the Time being, under the Penalty of *Twenty*

Of Brigades.

Pounds; and the Brigadier or Commanding Officer of each Brigade ſhall make Return of his Brigade to the Major-General, in the Months of *January* and *Auguſt*, every Year, under the Penalty of *Twenty-five Pounds;*

Of the Whole of the Militia.

and the Major-General ſhall make Returns to the Governor or Commander in Chief of the State, in the Months of *February* and *September*, every Year, under the Penalty of *Fifty Pounds* for each Default: Which

ſeveral

heretofore had, held, and enjoyed, due respect being had to the several limitations and Restrictions in this law heretofore mentioned.

XLIII. And be it further enacted by the Authority aforesaid, that the time elapsed since the expiration of the late Inferior Court Law to the passing of this Act, shall not be allowed of in any Plea of Limitation, or in the computation of time allowed for proving accounts under the Act ascertaining the method of proving Book debts.

XLIV. And be it further enacted by the Authority aforesaid, that the Sheriff of each respective County of this Province shall five days at least before the sitting of each respective Inferior Court to be held after the passing of this Act Summon Twenty-four Freeholders to serve on the Grand Jury, and Twelve Freeholders to serve on the Petit Jury to attend at such Court respectively which said Jurors shall appear and give their attendance accordingly till discharged by the Court, and that there may not be a default of Jurors, it shall and may be lawful during the sitting of the Court for the Sheriff by order of the said Court to summon of the by-standers other Jurors to serve on the Petit Jury from day to day, and on any day of the said Court the Justices may discharge those who have served the preceding day.

XLV. And to enforce the attendance of Jurymen at the said Court, Be it enacted by the Authority aforesaid, that every Person, who shall hereafter be summoned in virtue of this Act to appear either as a Grand or Petit Juror at any of the said Courts and shall fail to appear and give his attendance till discharged by order of the Court, such Person so failing to appear or give his attendance till discharged, shall be fined forty shillings by the Justices of the said Court to be applied towards defraying the charges of the County and lessening the County tax, unless he shall shew sufficient cause to the next succeeding Court for such failure.

XLVI. And be it further enacted by the Authority aforesaid, that this Act shall continue and be in force during the Term of one year, and from thence to the end of the next Session of Assembly, and no longer.

CHAPTER II.

An Act to Establish a Militia for the Security and Defence of this Province.

Whereas a Militia may be necessary for the defence and safety of this Province.

I. Be it Enacted by the Governor, Council and Assembly and by the Authority of the same That all Freemen and Servants within this province between the Age of Sixteen and Sixty shall compose the Militia thereof and that the several Captains of the same shall Enroll the names of all such Freemen and Servants of which their several Companies consist and shall at their respective General Musters return a Copy thereof to the Colonel of their respective Regiments under the Penalty of Five Pounds Proclamation money to be levied by a Warrant of Distress from the Colonel of their Regiment directed to the Sheriff of the County to which the said Regiment belongs which Sheriff shall be paid out of the said Penalty the sum of ten Shillings: and in case any Sheriff shall neglect or refuse to serve such Warrant he shall forfeit and pay the sum of five pounds to be recovered by action of Debt in any court of Record and be applied as hereinafter directed which Copy so returned shall by every Colonel be returned to the Governor or Commander in Chief for the time being under the like Penalty and that all persons after being so Enrolled who shall at any time (Unless

283. N. C.—*Assembly, New Bern; Recs. Clark, Vol. 23, 1904, Ch. II; Act, Mar. 2, 1774, pp. 940–945.*

A Colonel p. day	12s 6d
A Lieutenant p. day	10s
A Major p. day	10s
A Captain p. day	7s 6d
An Aujutant p. day	7s 6d
A Lieutenant and Chirurgeon each p. day	5s
An Ensign p. day	4s 6d
A Clerk p. day	4s
A Serjeant p. day	4s
A Corporal and Drummer each p. day	3s
Every private Man p. day	2s

And Eight pence p. day to the Commanding Officer for victualing each Man.

X. And be it further Enacted by the Authority aforesaid, That every Captain of a Company shall once within every Six Months at such times and places within their Several Districts as their respective Colonels shall appoint muster his Company and see that every Soldier in his said Company be furnished with such Arms, Ammunition and Accoutrements as in and by this Act is directed under the Penalty of three pounds for each Muster he shall neglect to be levied by a Warrant of Distress from the Colonel or Commanding Officer of the County in Manner aforesaid and be applied as by this Act is directed and that each and every Company shall consist of not less than fifty men exclusive of Officers.

XI. And be it further Enacted by the Authority aforesaid, That all Officers of the Militia shall be resident in the County for which they are appointed Officers.

XII. And be it further Enacted by the Authority aforesaid, That if any Soldier shall during the time of Muster resist his Commanding Officer or refuse his Lawful Commands such Soldier shall be punished at the discretion of his officer by being tied Neck and Heels not exceeding fifteen minutes, picqueted or ride the Wooden horse and if any Officer or Soldier shall refuse to Carry such Commands into execution he or they so offending shall forfeit and pay the sum of five pounds Proclamation Money to be levied by a Warrant from any Field Officer in the Regiment and applied as other Fines mentioned in this Act.

XIII. And be it further Enacted by the Authority aforesaid, That if any Number of Men not less than thirty nor exceeding Sixty including officers belonging to any of the Regiments within this province shall desire to form themselves into a Troop of Horse it shall and may be lawful for such persons by and with the Assent of the Colonel of the Regiment to form themselves into a Troop and give a list of their names to the Colonel who shall forthwith return the same under his Hand and Seal to the Governor or Commander in Chief of this province for the time being and it shall and may be lawful for the said Governor or Commander in Chief to appoint and Commissionate a Captain, Lieutenant and Cornet to the said Troop and when the Commanding Officers of the said Troop are ready and shall Exercise the said Troop and not before the Persons so Enrolled in the said Troop shall be and are Exempt from their Service in the foot Companies. And the Officers and private men of the said Troop shall afterwards be subject to Muster as many times as well with regard to private Musters as to General Musters of the County and under the same penalties as in and by this Act is before directed for the foot Muster.

XIV. And be it further Enacted by the Authority aforesaid, That every Trooper shall be provided with a good serviceable Horse not less than

See in general and especially original pp. 422, 423, 430, and following

Court proper to try the ſame; one moiety thereof to the uſe of the perſon who ſhall ſue for the ſame, and the other moiety to and for the uſe of the State.

Officers to proſecute for the ſame.

Sec. 2. *And be it further enacted*, That it ſhall be the duty of the officers from whom any fines, forfeitures or penalties may be withholden or detained, to collect the ſame in the due courſe of law, and to proſecute for the breaches of this act in manner aforeſaid.

Juſtices to make return of fines to the General-Treaſurer.

Sec. 3. *And be it further enacted*, That every Juſtice of the Peace and Warden ſhall annually, at the May ſeſſion of the General Aſſembly, make return to the General-Treaſurer whether he hath collected any fines due to the State during the laſt year, and until that time, and the amount and circumſtances of ſuch fines, if any, by him collected, and ſhall pay over the ſame to the General-Treaſurer; and that if any Juſtice of the Peace or Warden ſhall neglect to make return as aforeſaid, or ſhall neglect to pay over the fines by him collected, he ſhall be ineligible to the ſaid office of Juſtice of the Peace or Warden.

On neglect, rendered ineligible.

1718. 1736. 1740. 1744. 1745. 1754. 1755. 1756. 1758. 1767. 1774.

An Act to organize the Militia of this State.

Preamble.

WHEREAS by the Conſtitution of the United States, the Congreſs have power to provide for organizing, arming and diſciplining the militia, and for governing ſuch part of them as may be employed in the ſervice of the United States; reſerving to the States reſpectively the appointment of the officers, and the authority of training the militia according to the diſcipline

465. R. I.—*General Assembly; Pub. Laws, Carter & Wilkinson, 1798; Act, reenacted Jan. 1798 with marginal annotations including 1718, 1736, 1740, 1744, 1745, 1754, 1755, 1756, 1758, 1767, 1774, pp. 422–442.*

it ſhall be the duty of the Commanding Officer of every company to make a return of the ſame to the Commandants of their reſpective regiments, who ſhall make returns of their reſpective regiments to the Brigadier-Generals: And where ſaid companies or regiments are not reſpectively attached to any regiment or brigade, returns ſhall be made to the Adjutant-General. And it ſhall be the duty of the Brigade-Major of ſuch brigade, to form a brigade return, and tranſmit the ſame to the Adjutant-General, who ſhall, from the ſeveral returns thus made, form a general return, and preſent the ſame to his Excellency the Commander in Chief of the State, and a copy thereof to the Major-General; and tranſmit another duplicate thereof to the Preſident of the United States; and that the general return aforeſaid, and the copies thereof, be made, preſented and tranſmitted as aforeſaid, on or before the firſt day of January, annually.

Times, &c. of training.

Sec. 9. *And be it further enacted*, That on the firſt Wedneſday in April, and on the ſecond Wedneſday in September, in every year, the militia of this State ſhall meet by companies (unleſs the weather on thoſe days ſhall be foul, in which caſe they ſhall meet on the next fair day) for the purpoſe of training, diſciplining and improving them in martial exerciſe; and in the month of October, in every year, in regiment or battalion; and that the places of rendezvouzing by companies be appointed by the Commanding Officers of the reſpective companies; the places of regimental or battalion rendezvous, by the Commandants of the regiments reſpectively; and the days of regimental

regimental or battalion rendezvous, by the reſpective Brigadiers.

Orders for muſtering, by whom to be furniſhed.

Sec. 10. *And be it further enacted*, That it ſhall be the duty of the Brigade-Major of each brigade, to furniſh a copy of all orders for muſter to the Commandants of regiments within each reſpective brigade; and of the Adjutant of each regiment to furniſh a copy of all orders for muſter from the Commandants thereof, to the Commanding Officers of the reſpective companies.

Companies, how to be warned.

Sec. 11. *And be it further enacted*, That whenever the Commanding Officer of any company ſhall receive orders from his Brigadier, or the Commandant of his regiment, he ſhall iſſue his warrant for the aſſembling of his company, at leaſt ten days before the time appointed for muſter, directed to one or more non-commiſſioned officer or officers, private or privates, by him ſpecially appointed, requiring him or them to warn the men of ſaid company, either in general or in diſtricts, to be by him aſſigned, to aſſemble, at the time and place appointed therein, equipped according to law. And the warning officer aforeſaid ſhall warn the men as aforeſaid, either by perſonal notice, or by leaving word at their uſual places of abode, ſix days before, and ſhall return his warrant, with the name of every man ſo warned, to the ſaid Commanding Officer, one day before the day of aſſembling, as aforeſaid.

Poſt of captains and companies.

Sec. 12. *And be it further enacted*, That the Commanding Officers of the ſeveral companies of militia in this State ſhall take poſt according to the dates of their reſpective commiſſions, and that their companies ſhall

shall take post with them in the same station when on parade.

Commanding Officer may punish for disorderly behaviour, &c.

Sec. 13. *And be it further enacted*, That when the militia, or any part of them, shall be assembled together for review or training, it shall be in the power of the Commanding Officer present to punish all disorders, or breaches of military order and discipline, whether in non-commissioned officers or privates, by immediately putting the offender under guard, for a space of time not exceeding twelve hours, or by fining him, not exceeding six dollars, at the discretion of the said Commanding Officer; which fine shall be certified by the officer inflicting the same, to some one Justice of the Peace, and collected, paid over and appropriated, in the manner prescribed by the fifteenth section of this act. And if any commissioned officer shall behave in a disorderly or insolent manner, when the militia, or any part of them, shall be assembled as aforesaid, the said officer shall be liable to be arrested and tried for such behaviour by a Court-Martial, and if found guilty, shall be broken.

Fines for non-appearance at the rendezvous.

Sec. 14. *And be it further enacted*, That every non-commissioned officer or private, who shall neglect to appear (being first legally warned) at the regimental or battalion rendezvous, shall forfeit two dollars for every day of such neglect; and every one who shall neglect to appear (being first legally warned) at the company parade, shall forfeit one dollar and fifty cents for every day of such neglect; and if he shall not be armed and equipped according to the said act of Congress, when so appearing, in case he shall have resided in this State six months, and

For not being equipped.

and ſhall not, within ten days after ſuch rendezvous or parade, produce to the Commanding Officer of his company a certificate from the Clerk of the Town-Council of the town, that he had been adjudged by ſaid Town-Council unable to arm and equip himſelf, he ſhall, for appearing without a gun, forfeit twenty-five cents; without a bayonet and belt, eight cents; without a cartouch-box and cartridges, eight cents; without a knapſack, four cents; and without flints, priming-wire and bruſh, four cents.

Fines, how collected.

Sec. 15. *And be it further enacted*, That at the expiration of ten days after ſuch rendezvous or parade, the Commanding Officer of every company ſhall deliver to ſome one Juſtice of the Peace, reſiding in the ſame town, a copy of his warrant, and of the return of the warning officer thereon, together with a liſt of the delinquents, in not appearing at the rendezvous or parade as aforeſaid, and of the delinquents, in not being equipped in the articles enumerated in the preceding ſection of this act, and of the articles of equipment aforeſaid in which they ſhall have been deficient, and of ſuch offenders as he ſhall fine, or ſhall incur a fine, by virtue of the proviſions of the thirteenth or eighteenth ſection of this act, who ſhall not have paid their fines to ſaid Commanding Officer, or ſhall not have rendered to him a ſatisfactory excuſe for their delinquencies; and the ſaid Juſtice of the Peace ſhall, within ten days after he ſhall have received ſuch copy and liſt from ſuch Commanding Officer, iſſue his warrant againſt each of ſuch delinquents or offenders, directed to the Town-Sergeant or either of the Conſtables of ſaid town,

the public, furnish the said company with an artillery chest and proper carriages, such as powder carts and ammunition wagons.

General issue may be pleaded.

VIII. *And be it further enacted* by the authority aforesaid, That if any person or persons whosoever, shall be sued, impleaded, molested or prosecuted for any matter, cause or thing whatsoever, done or executed, or caused to be done and executed, by virtue of or in pursuance of this Act, such person or persons may plead the general issue, and give this Act and the special matter in evidence; and in case the plaintiff or prosecutor shall suffer a discontinuance, or become non-suit, or a verdict or judgment shall pass against him, he shall pay to every defendant that shall be acquitted, or for whom judgment shall pass, his full double costs of suit, for which the court where such prosecution shall be brought, is hereby fully authorized to give judgment and award execution accordingly.

IX. *And it is hereby also enacted* by the authority aforesaid, That this Act shall be and continue of force for and during the term of four years, and from thence to the end of the next session of the General Assembly, and no longer.

B. SMITH, *Speaker.*

In the Council Chamber, the 31st day of July, 1760.

Assented to: WM. BULL

No. 1076. AN ACT FOR THE REGULATION OF THE MILITIA OF THIS STATE; AND FOR REPEALING SUCH LAWS AS HAVE HITHERTO BEEN ENACTED FOR THE GOVERNMENT OF THE MILITIA.

Preamble.

WHEREAS, the establishment of a well regulated militia in a free State, will greatly conduce to its happiness and prosperity, and is absolutely essential to the preservation of its freedom; and *whereas*, it is necessary that the laws hitherto enacted for the regulation of the militia of this State, be amended and reduced into one body, for the satisfaction and better information of individuals, and for the interest of the community.

Militia divided into brigades, regiments and companies.

I. *Be it therefore enacted*, by his Excellency Rawlins Lowndes, Esqr., President and Commander-in-chief in and over the State of South Carolina, by the Honorable the Legislative Council and the General Assembly of the said State, and by the authority of the same, That as soon as conveniently may be, after the passing of this Act, the whole militia of this State shall be divided into three brigades; and there shall be a Brigadier-General and a Major of Brigade appointed to each; and the several regiments of militia in this State, consisting of more than twelve hundred men, shall be divided into regiments of not less than six hundred men each, by the majority of the field officers of the regiments so to be divided and those appointed to such new regiments, and who are hereby empowered

308. S. C.—*General Assembly; Statutes, Vol. 9, D. McCord, 1841; Act, Mar. 28, 1778, pp. 666–682.*

A. D. 1778.

Acts relating to the Militia.

Fines, how to be applied.

X. *And be it further enacted* by the authority aforesaid, That all fines which are inflicted under this Act for any sum not exceeding ten pounds, shall be applied by the majority of the officers of the company in which the persons paying them are, towards purchasing drums, fifes, standards and other necessaries for the said company; and the purchasing of arms, ammunition and accoutrements for such persons belonging to such companies respectively, as shall on oath make it appear they cannot purchase the same without distressing their families. *Provided, nevertheless*, that such persons so furnished, shall return the same on removing out of the beat of such company, on pain of forfeiting for neglect thereof, seventy-five pounds, currency, to be recovered as all fines under six pounds, are recoverable by this Act. And that all fines recovered in any regiment in the county above ten pounds, shall be paid by the commanding-officer, once a year, into the treasury of this State, for the use thereof; and those above ten pounds recovered in any regiment of Charlestown, shall by the commanding officer be paid at the end of every six months, into the treasury, for the use aforesaid: *Provided, nevertheless*, That the major of each regiment shall receive and pay, in like manner, all fines and forfeitures incured by his commanding officer.

Returns to be made.

XI. *And be it further enacted* by the authority aforesaid, That every captain of every regiment of militia in this State shall, (in Charlestown immediately, and in the country within two months,) after the passing of this Act, and once in every six months thereafter, take and enrol the names of all male free inhabitants within the districts of their respective companies, from the age of sixteen to sixty years, and inform them of the companies to which they belong, who are hereby obliged to turn out, and to do the duty of such companies, whenever their respective companies are by law obliged to be mustered or trained, or to perform any duty or service whatever; the publishing of the time and places of any such mustering, training or performance of any duty or service, by beat of drum, or any other expeditious and proper manner, shall be deemed a legal notice thereof, to oblige such persons to appear in their respective companies in a proper and legal manner for such purposes, and in no other. And every captain of every regiment shall, immediately after taking such list, which he is hereby enjoined to do twice in every year, and as often after as required by the commanding officer, make and return an exact copy thereof, on oath, to the adjutant of the regiment to which he belongs, who shall therefrom make an exact roll of the officers and privates of such regiment, and certify the same immediately to the brigadier-general of the brigade to which such regiments belong, who shall return the same to the colonel of such regiment, who shall return an exact copy thereof to the President or Governor and Commander-in-chief, as the case may be, for the time being, within sixty days thereafter; on pain that every such captain, adjutant, colonel or brigadier, neglecting or refusing so to do, shall, for every such offence, forfeit the sum of one hundred pounds.

Arms.

XII. *And be it further enacted* by the authority aforesaid, That all persons under the age of sixteen and above the age of sixty years, are hereby excused from bearing arms in time of peace or alarm, on making such age appear, on oath; and all persons liable to bear arms by this Act, shall constantly keep in good repair, at his place of abode, and appear with, at every muster of the company to which he belongs, and do duty in the said company on all occasions, with one good musket and bayonet, or a good substantial smooth bore gun and bayonet, a cross belt and car-

touch box, capable of containing thirty-six rounds, with at least twelve rounds of good cartridges, filled with gun powder and a leaden bullet, each fit for such musket or smooth bore gun, and half a pound of spare powder and twenty-four spare rounds of leaden bullets or buck-shot, or one good rifle-gun and tomahawk or cutlass, with three quarters of a pound of powder, and not less than thirty-six leaden bullets proper for such rifle, with an equal number of patches, together with a cover for the lock of such musket or gun, one ball of wax, one worm and picker, six spare flints, and one screw driver or substantial knife, of the fitness and sufficiency of which arms, ammunition and accoutrements, the captain or commanding officer of each company shall determine.

XIII. *And be it further enacted* by the authority aforesaid, That every person liable to bear arms by this Act, whose arms, ammunition or accoutrements shall be found at any muster deficient, and not as required by this Act, shall forfeit and pay, for every such part of his arms, ammunition or accoutrements which shall be so deficient, a sum not exceeding three pounds. And every commissioned officer of any company in any of the regiments of militia of this State, may, once in every two months, and not oftener, with one or more sergeants of the company under his command, repair to the abode of every such person enrolled in such company, and demand a sight of his arms, ammunition and accoutrements, and every such person refusing to produce such arms, ammunition and accoutrements to be viewed, and who shall be found deficient in any of them, or not to have kept them in good order, shall, for every such refusal, or part of such arms, ammunition or accoutrements so deficient or out of order, forfeit and pay a sum not exceeding six pounds. *Provided, nevertheless*, that no such person shall be fined for such deficiency of arms, ammunition or accoutrements, if he can make it credibly appear to the captain of his company that such deficiency of such arms, ammunition and accoutrements, is not from wilful neglect. Penalty for not being armed.

XIV. *And be it further enacted* by the authority aforesaid, That the following persons are excused from general and ordinary musters, that is to say:—the Lieutenant-Governor for the time being, and all such persons as have held the offices of President or Governor and Commander-in-chief, or Vice-President or Lieutenant-Governor, all members of the Privy Council for the time being, with their clerk and door-keepers, the judges of the several courts of justice, and clerks of such courts, the master in chancery, sergeant-at-arms, sheriffs, with one deputy each, collectors of the customs, comptrollers, powder receiver, commissary, surveyor-general, auditors-general, secretary and one deputy, waiters and searchers, commissioners of the treasury, all non-commissioned colonels, lieutenant-colonels, majors and captains in the several regiments who have borne commissions, or any or all of them, respectively, for the space of ten years in the whole, all officers in the continental regiments in the service of this State, who shall have borne commissions for ten years successively, or who continue in the said service until such regiments be disbanded by public authority, the members of the Senate and House of Representatives, and their respective officers, all officers of the courts of justice not before mentioned, while attending the same, all justices of the peace who actually qualify and act, and no other, all licensed clergymen, belonging to any established church in this State, the post-master, his deputy and post-rider, the fire-masters and managers of the fire engines in Charlestown, the pilots and their crews, one white man to each ferry, and one to Who exempt from muster.

Acts relating to the Militia. A.D. 1784.

AN ACT FOR THE REGULATION OF THE MILITIA OF THIS STATE. No. 1233.

I. *Be it enacted* by the Honorable the Senate and House of Representatives, in General Assembly met, and by the authority of the same, That it shall be lawful for the Governer or Commander-in-chief of this State to order the militia of this State to assemble once in every six months in the city of Charleston, and once in every twelve months in the other districts throughout the State, at regimental musters, and to assemble at ordinary musters of companies once in two months, within the districts of such regiments and companies; and also, to order out the militia of this State in any time of invasion or alarm, for the security and defence of the same: That every person who, on being summoned, shall wilfully neglect to turn out at a regimental muster, properly armed and accoutred, or shall be guilty of a disobedience of orders at such musters, shall be fined in a sum not exceeding four dollars; and who, on being summoned, shall wilfully neglect to turn out at an ordinary muster of the company he belongs to, or shall be guilty of a disobedience of orders at such ordinary muster, shall be fined in a sum not exceeding two dollars; and every person who shall wilfully neglect to repair to the rendezvous of the company to which he belongs, properly armed and accoutred, on being properly summoned thereto by beat or drum or otherwise, in time of any invasion or alarm for the defence of this State, or shall while under orders on such duty, be guilty of disobedience of orders, every such persons so offending shall be fined in a sum not exceeding ten pounds. That all fines shall be inflicted, on non-commissioned officers and privates, by the judgment of the majority of the officers of the company in which the offender is enrolled: that a captain shall be tried by three captains and two field-officers, and a subaltern by a captain and two subalterns, who shall take the following oath before they proceed to trial. "I, A, B, C, D, E, F, will faithfully and impartially try and determine the case of G. H, now to be tried before this court, so help me God." That no fines shall be levied until ten days after conviction; and the courts authorized by this Act shall administer the necessary oaths, and issue the necessary process for summoning offenders and levying of fines; and that the sergeants, for executing such process, shall be allowed fees as constables are by law allowed.

Militia, when to muster.

Fines for neglect.

II. *And be it further enacted* by the authority aforesaid, That from and immediately after the passing of this Act, the captains and subalterns of each company shall divide their repective companies into small divisions, who shall do the necessary duties of patrol in their respective districts, at least once in every fortnight, under the same fines as are inflicted for non-attendance at ordinary musters, and to be recovered in the same manner.

Patrols.

III. *And be it enacted* by the authority aforesaid, That the following persons shall be excused from militia duty, except in times of alarm, to wit: the members of the privy council with their officers, all clergymen regularly licensed in this State, all school masters who have under their tuition not less than fifteen scholars, the members of the Legislature and their officers, judges and clerks of the several courts and officers, the intendant and wardens of Charleston and their officers, the commissioners of the treasury, all officers of the customs, the Secretary and his deputies, the auditor general and his several clerks, all acting magistrates and constables legally appointed, all regularly bred practising physicians and surgeons, the post-master and post riders, branch

Who exempt from muster.

311. S. C.—*General Assembly; Statutes, Vol. 9, D. McCord, 1841; Act, Mar. 26, 1784, pp. 689–690.*

AT a Convention of Delegates for the Counties and Corporations in the Colony of Virginia, held at Richmond town, in the county of Henrico, on Monday the seventeenth day of July, in the year of our Lord one thousand seven hundred and seventy-five.

[redacted], esq. President.

See also original pp. 27 and 34

[redacted]

ORDINANCES, &c.

CHAP. I.

*An ordinance for raising and embodying a sufficient force, for the defence and protection of this colony.**

Preamble.

WHEREAS it is found necessary, in the present time of danger, that a number of forces should be immediately raised, and that the militia should be settled under proper arrangements, and be thoroughly disciplined, for the better protection and defence of the country against invasions and insurrections:

Two regiments of regulars to be raised.

Be it therefore ordained, by the delegates and representatives of the several counties and corporations within the colony and dominion of Virginia, now assembled in general convention, and it is hereby ordained by authority of the same, That there shall be forthwith raised and taken into the pay of this colony, from the time of their enlistment, two regiments complete, to consist of one thousand and twenty privates, rank and file: Five hundred and forty four of whom to be the first regiment, under the command of a colonel, lieutenant-colonel, and a major, eight captains, sixteen lieutenants, eight ensigns, twenty four serjeants, eight drummers,

Number.

Officers.

* In the original, the title of this ordinance is wanting, nor was any of the chapters numbered. The title is here inserted from the Chancellors' Revisal, edi. 1785, p. 30, and the late edition of the Ordinances of 1816, p. 29.

416. Va.—*Convention of Delegates, Richmond; Va. Laws, W. Hening, Vol. 9, 1821; Chs. I & II Acts, July 17, 1775, pp. 9–48.*

the county, and formed into companies of not less than thirty two, nor more than sixty eight, rank and file, to be placed under one captain, one lieutenant, and one ensign, all of whom shall be commissioned by the committee of safety, upon the nomination of the committees of the counties as aforesaid. And the commander in chief of each county shall, within three months after passing this ordinance, deliver to each captain a list of the names of the men appointed for his company; and every captain receiving such list shall summon his company to meet him within a fortnight, at such convenient time and place as he may appoint, in order to lay a proper foundation for training and disciplining them in the most effectual manner.

How enrolled.

Provided, That the members of his majesty's council, and the committee of safety, the president of the convention, treasurer, attorney-general, auditor, clerk of the council, clerk of the secretary's office, clerk of the general convention, and clerk of the committee of safety (each of which exempts furnishing a stand of arms for a soldier) all clergymen and dissenting ministers, the president, professors, students, and scholars, of William and Mary college, the keeper of the publick jail, all overseers of four tithables residing on a plantation, and all millers, and persons concerned in iron works, shall be exempted from such enlistment.

Who exempted.

And be it further ordained, That if any commander in chief of any county shall fail to do his duty as above directed, he shall forfeit and pay the sum of two hundred pounds.

Fine on colonel for neglect.

And be it further ordained, That every militia man so to be enlisted shall furnish himself with a good rifle, if to be had, or otherwise with a tomahawk, common firelock, bayonet, pouch, or cartouch box, three charges of powder and ball, and appear with the same at the place appointed for mustering, and shall constantly keep by him one pound of powder and four pounds of ball, to be produced whenever called for by his commanding-officer.

Arms, &c. to be furnished by militia.

Provided always, That no person shall be subject to the penalties hereby inflicted, for the not providing or producing the quantity of powder required, who shall make it appear to the court-martial that he has used his best endeavours to procure such powder, and hath not been able so to do; also, that if it be certified by a court-martial that any soldier enlisted is so poor as not

Exceptions.

[Ch. LXVI in original.]

CHAP. XXVII.

An act to continue an act, intituled An act to revive and amend in part an act, intituled an act for giving further time to enter certificates for settlement rights, and for locating warrants upon pre-emption rights, and for other purposes.

Further time allowed to enter certificates for settlement rights, and locate warrants, on pre-emption rights.

I. IT being represented to this present general assembly, that many people within this commonwealth have not received the benefit of an act of the last session of assembly, intituled "An act to revive and amend in part an act, intituled an act for giving further time to enter certificates for settlement rights, and for locating warrants upon pre-emption rights, and for other purposes;"

II. *Be it enacted*, That the said act be, and is hereby continued, until the first day of June, one thousand seven hundred and eighty five, and no longer.

See also original p. 477

[Ch. LXVII in original.]

CHAP. XXVIII.

An act for amending the several laws for regulating and disciplining the militia, and guarding against invasions and insurrections.

Preamble.

I. WHEREAS the defence and safety of the commonwealth depend upon having its citizens properly armed and taught the knowledge of military duty, and the different laws heretofore enacted being found inadequate to such purposes, and in order that the same may be formed into one plain and regular system;

Who shall be enrolled in the militia.

II. *Be it enacted*, That all free male persons between the ages of eighteen and fifty years, except the members

436. Va.—*General Assembly, Richmond; Va. Laws, W. Hening, Vol. 11, 1823; Act, Oct. 18, 1784, pp. 476–494.*

in such time as the court shall deem reasonable, he shall suffer such corporal punishment as the court before whom the recovery shall be, may think fit, not exceeding thirty-nine lashes. And the lieutenant or commanding officer for the time being of any county, may recover any arms so sold, concealed, or removed, by action or petition in detinue or trover, with costs. And to the end that such arms may be known, the commanding officer shall cause to be stamped or engraved on them, the name of the county, together with the number of the regiment to which they may belong. At every muster, each captain or commanding officer, shall call his roll, examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof at the next regimental or general muster to the lieutenant colonel commandant, or commanding officer of his regiment, including those which may occur on that day. Every lieutenant colonel commandant or commanding officer of a regiment, shall in like manner call his roll, examine and note down all delinquencies in his regiment, and make return thereof, together with those reported from commanding officers of companies, to the county lieutenant or commanding officer, within ten days after every general and regimental muster, who shall lay the whole, together with the delinquencies occurring to him on the like examination, so far as they relate to persons below field officers, before the court hereafter appointed to take cognisance of, and determine on them. And so far as they relate to field officers, the like returns shall be made to the executive who shall enquire into and determine on them. *Provided*, That the commanding officer of a county or of a regiment, shall not be obliged to extend their roll calls, or individual examinations beyond the officers, unless they observe some apparent necessity therefor. And to each of the said returns shall be annexed the following oath, to be administered by any justice of the peace, viz. "I ————, do swear that the returns hereunto annexed, contain all delinquencies which have occurred in the militia of my county, the ——— regiment, or ——— company of ——— regiment (as the case may be) since the last return, having examined the same as the law directs; (and to the county and regimental return shall be added) and that the reports which accompany them are all which have been made

Arms how stamped.

Delinquencies how noted.

Returns.

by the commanding officers of regiments or companies, as the case may be. So help me God." Every captain or commanding officer of a company shall, within ten days after every regimental and general muster, make up and report to the commanding officer of his regiment, a return of his company, including all arms, ammunition, and accoutrements, by this act directed, distinguishing effective and good from non-effective and bad, noting therein such as have died, removed, been exempted or added, and all persons within the bounds of his company not on his roll, who ought to be enrolled. The commanding officer of each regiment shall, within fifteen days after every general muster, make the like return to the commanding officer of the county, who shall, within forty days thereafter, make the like return of the whole of his militia, to the governor. The militia of this commonwealth as now organized, shall be disbanded, and all officers of the same are exonerated from all pains and penalties for non-performance of their duties heretofore prescribed, except the duties prescribed by the act for the better collection of the one-eighth per cent. tax, and the penalties for failure therein. And for providing for the appointments of the officers and others by this act described;

Company returns.

Regimental returns.

III. *Be it further enacted*, That the governor, with the advice of council, shall, on or before the first day April next, appoint in each county within this commonwealth, the most able and fit persons who shall be willing to accept the same, to be county lieutenant, and the necessary regimental field officers, according to the number of militia on the present returns, and immediately issue commissions accordingly. Each county lieutenant and other field officer, shall, at the first or second court to be held in ther county after receiving such commissions, take the oath by this act directed. Every county lieutenant shall within one month after having taken such oath, summon all the field officers of his county, and an equal number of the senior magistrates, not being militia officers, to meet at the court-house, to form a board, at which he shall preside, and with them, or a majority of the said field officers and magistrates, respectively, each having taken the following oath, to be administered by one of the magistrates to the other members, and then by another magistrate to him, viz. "I————, do swear, that I will truly and faithfully

Field officers to be appointed by executive.

Captains and subalterns to be recommended by a board of officers and senior magistrates, to the executive & commissioned.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI‘I

TODD YUKUTAKE and DAVID KIKUKAWA, Plaintiffs, v. CLARE E. CONNORS, in her official capacity as the Attorney General of the State of Hawaii, and the CITY and COUNTY OF HONOLULU, Defendants.	Civil No. CV19-00578-JMS-RT CERTIFICATE OF COMPLIANCE

CERTIFICATE OF COMPLIANCE

The undersigned attorneys for Everytown for Gun Safety, hereby certify the foregoing *Motion For Leave To File Brief Of Everytown For Gun Safety As Amicus Curiae* is in compliance with United States District Court Local Rule 7.4(c) and (e).

The Memorandum contains 1,084 words, in Times New Roman 14-point font.

DATED: Honolulu, Hawai‘i, August 19, 2020.

/s/ Pamela W. Bunn
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EVERYTOWN FOR GUN SAFETY