

CHAPTER 31.

An act supplementary to the act providing for the further defence of the ports and harbors of the United States.*

250,000 dollars additional, appropriated for fortifications.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That a sum not exceeding two hundred and fifty thousand dollars, in addition to the sums heretofore appropriated, remaining unexpended, shall be, and is hereby, appropriated, and shall and may be paid out of any moneys not before appropriated, to make and complete, at the discretion of the President of the United States, the fortifications heretofore directed for certain ports and harbors, and to erect fortifications in any other place or places, as the public safety shall require, in the opinion of the President of the United States; and which other fortifications he is hereby authorized to cause to be erected, under his direction, from time to time, as he shall judge necessary.

States indebted to the U. S. finishing fortifications, &c. to have credit therefor.

SEC. 2. *And be it further enacted,* That where any state which was found indebted to the United States, by the report of the commissioners for settling the accounts between the United States and the individual states, shall, with the approbation of the President of the United States, proceed to finish or complete any fortifications heretofore commenced by such state, for the defence of any port or harbor within the same, or shall, under the direction of the President of the United States, make and erect any additional fortifications, pursuant to the act, entitled "An act to provide for the further defence of the ports and harbors within the United States,"† as well the previous expenditures, made since the twentieth day of March, one thousand seven hundred and ninety-four, which shall be approved by the President of the United States, as the expenditures which have been, or which shall be, directed by him, shall be allowed and credited to such state, on account of the balance found and reported, as aforesaid: *Provided,* That no expenditure exceeding the balance found and reported against the respective state, shall be allowed as aforesaid; and provided, that the fortifications for which the whole or any part of the expenditures shall be so allowed and credited as aforesaid, with their privileges and appurtenances, shall be, and shall be declared and established as, the property of the United States, while maintained by them.

Proviso; no expenditure exceeding balance due to be allowed, &c.

Proviso of the act of 23d June, 1797, repealed.

* Original, act of 23d June, 1797, chapter 28.

† See chapter 28.

‡ See chapter 28, sec. 3.

or places on which such fortifications shall be so erected, in cases where the lands are the property of such states," shall be, and the same are hereby, repealed.

[Approved, May 3, 1798.]

CHAPTER 32.

An act to enable the President of the United States to procure cannon, arms, and ammunition; and for other purposes.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That a sum, not exceeding eight hundred thousand dollars, shall be, and hereby is, appropriated, and shall and may be paid out of any moneys not before appropriated, under the direction of the President of the United States, to purchase, as soon as may be, a sufficient number of cannon, also a supply of small arms, and of ammunition and military stores, to be deposited, and used, as will be most conducive to the public safety and defence, at the discretion of the President of the United States.

800,000 dollars appropriated to purchase cannon, small arms, &c.

SEC. 2. *And be it further enacted,* That the President of the United States be, and he is hereby, authorized, in case he shall find it impracticable to procure by purchase, with certainty and despatch proportionate to the necessities of the public service, the cannon and arms hereby required, and any considerable part thereof shall be likely to be deficient, to take, by lease, for a term of years, or by sale, in fee, to the United States, one or more suitable place or places where cannon or small arms may be advantageously cast and manufactured, and shall and may there establish foundries and armories, for the manufacture of the same, respectively, and shall cause suitable artizans and laborers to be there employed, for account of the United States; and shall and may appoint one or more persons to superintend the said works, under the direction of the department of war. And an account of the expenditures, which shall be incurred in forming and employing these establishments, and of the cannon and arms which shall be cast and manufactured therein, respectively, shall be laid before the Congress of the United States, at their next session, and annually thereafter, so long as the same shall be continued.

The President may establish foundries and armories, &c.

Account of expenditures, to be laid before Congress, annually.

SEC. 3. *And be it further enacted,* That the sum of one hundred thousand dollars shall be, and hereby is, appropriated, and shall be paid out of any moneys not before appropriated, for the hire, purchase, and employ, of the said foundries and armories, respectively, in case such establishments shall be found necessary, as hereinbefore provided.

100,000 dollars, appropriated for the purposes of this act.

[Approved, May 4, 1798.]

* See act of 2d April, 1794, chap. 19; also chaps. 47, and 59.

CHAPTER 33.

An act to amend the act, entitled "An act to amend and repeal, in part, the act, entitled 'An act to ascertain and fix the military establishment of the United States.'"

The brigadier-general may choose his brigade-major and inspector from the commissioned officers of the line.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the brigadier-general who is now, or may hereafter be, in the service of the United States, be, and he hereby is, authorized to choose his brigade-major and inspector, or either of them, from the commissioned officers in the line of the army; and that so much of the second section of the act, entitled "An act to amend and repeal, in part, the act, entitled 'An act to ascertain and fix the military establishment of the United States,'" as confines the choice of brigade-major and inspector to the captains and subalterns of the line, be, and the same is hereby repealed.

Pay and allowances as established by law, to major Cushing, as inspector.

SEC. 2. *And be it further enacted,* That the accounting officers of the treasury shall allow to major Cushing the monthly pay, rations, forage, and allowances; for the same, as established by law, for an inspector, during the time he has acted in said capacity by appointment of General Wilkinson.

[Approved, May 22, 1798.]

CHAPTER 34.

An act authorizing the President of the United States to raise a provisional army.[†]

The President may, on the events mentioned taking place, raise an army of 10,000 men, for three years.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the President of the United States be, and he is hereby, authorized, in the event of a declaration of war against the United States, or, of actual invasion of their territory, by a foreign power; or of imminent danger of such invasion discovered, in his opinion, to exist, before the next session of Congress, to cause to be enlisted, and to call into actual service, a number of troops, not exceeding ten thousand non-commissioned officers, musicians, and privates, to be enlisted for a term not exceeding three years; each of whom shall be entitled to receive a bounty of ten dollars, one half on enlisting, and the other half on joining the corps to which he may belong.

Bounty of \$10.

The President may organize the

SEC. 2. *And be it further enacted,* That the President be, and he is hereby, authorized to organize, with a suitable num-

* Repealed by act of 16th March, 1802, chap. 49—For the act amended, see chap. 27.

† Repealed by act of 16th March, 1802,—See chapter 49—See also chapter 43, in connexion with this act.

ber of major-generals, and conformably to the military establishment of the United States, the said troops into corps of artillery, cavalry, and infantry, as the exigencies of the service may require; and, in the recess of the Senate, alone, to appoint the commissioned officers. The appointment of the field officers to be submitted to the advice and consent of the Senate at their next subsequent meeting. The commissioned, and non-commissioned officers, musicians, and privates, raised in pursuance of this act, shall be subject to the rules and articles of war, and regulations for the government of the army, and be entitled to the same pay, clothing, rations, forage, and all other emoluments, bounty excepted, and in case of wounds or disability, received in service, to the same compensation, as the troops of the United States are by law entitled.

troops, and appoint officers, in the recess of the Senate, &c.

Appointment of field officers, to be submitted to the Senate, &c. The troops to be on the footing of the other troops of the United States, bounty excepted.

SEC. 3. *And be it further enacted,* That, in addition to the aforesaid number of troops, the President is hereby empowered, at any time within three years after the passing of this act, if in his opinion, the public interest shall require, to accept of any company or companies of volunteers, either of artillery, cavalry, or infantry, who may associate and offer themselves for the service, who shall be armed, clothed, and equipped, at their own expense, and whose commissioned officers the President is hereby authorized to appoint; who shall be liable to be called upon to do military duty, at any time the President shall judge proper, within two years after he shall accept the same; and when called into actual service, and while remaining in the same, shall be under the same rules and regulations, and shall be entitled to the same pay, rations, forage, and emoluments of every kind, excepting bounty and clothing, as the other troops to be raised by this act.

The President may accept of volunteers, in addition to the troops authorized by this act, appoint their commissioned officers, &c.

The volunteers may be called upon to perform duty within two years, &c. Volunteers in actual service on the same footing as other troops, bounty and clothing excepted.

SEC. 4. *And be it further enacted,* That in case any such volunteer, while in actual service, and in the line of his duty, sustains any damage, by injury done to his horse, arms, or equipage, or by loss of the same, without any fault or negligence on his part, a reasonable sum, to be ascertained in such manner as the President shall direct, shall be allowed for each and every such damage or loss.

Allowance to volunteers for loss of horses, &c.

SEC. 5. *And be it further enacted,* That whenever the President shall deem it expedient, he is hereby empowered to appoint, by and with the advice and consent of the Senate, a commander of the army which may be raised by virtue of this act, and who, being commissioned as lieutenant-general,* may be authorized to command the armies of the United States, and shall be entitled to the following pay and emoluments, viz: two hundred and fifty dollars monthly pay, fifty dollars monthly allowance for forage, when the same shall not be provided by the United States, and forty rations per day, or money in lieu thereof, at the current price, who shall have authority to appoint, from time to time, such number of aids, not exceeding

The President may appoint a lieutenant-general.

His pay and emoluments.

*The title of lieutenant-general abolished, by act of 3d March, 1799—see chap. 43, sec. 9.

Aids and secretaries.

The President may appoint an inspector-general.

Pay and emoluments of major-generals and inspector-general.

They may appoint aids, &c.

The President may appoint an adjutant-general.

Assistant inspectors to every separate portion of the army; and inspectors and sub-inspectors to each brigade and corps.

Also, a quartermaster-general, physician-general, and paymaster-general.

Their pay and emoluments.

Provido; the President may make the appointments mentioned in the recess, &c.

Former laws respecting the military establishment of the United States, extended to the persons, matters,

four, and secretaries, not exceeding two, as he may judge proper, each to have the rank, pay, and emoluments of a lieutenant-colonel.

SEC. 6. *And be it further enacted*, That, whenever the President shall deem it expedient, he is hereby empowered, by and with the advice and consent of the senate, to appoint an inspector-general, with the rank of major-general; and the major-generals and inspector-general shall, each, be entitled to the following pay and emoluments, viz: one hundred and sixty-six dollars monthly pay, twenty dollars monthly allowance for forage, when the same is not provided by the United States, and fifteen rations per day, or money in lieu thereof, at the current price; and shall be, and they are hereby, authorized to appoint two aids, each of whom shall have the rank, pay, and emoluments of a major. And at the time aforesaid, the President is further empowered, by and with the advice and consent of the Senate, to appoint an adjutant-general, who shall have the rank, pay, and emoluments of a brigadier-general. And the President is hereby authorized, alone, to appoint, from time to time, when he shall judge proper, assistant-inspectors, to every separate portion of the army, consisting of one or more divisions, who shall be deputy adjutant-generals thereof, respectively, and who shall be taken from the line of the army, and allowed, in addition to their pay, eight dollars per month; and, likewise, to appoint inspectors and sub-inspectors to each brigade and corps, of every description, at his discretion, taking them from the line of the army, and they shall each receive, while acting in said capacity, an additional pay or six dollars per month.

SEC. 7. *And be it further enacted*, That in case the President shall judge the employment of a quartermaster-general, physician-general, and paymaster-general, or either of them, essential to the public interest, he is hereby authorized, by and with the advice and consent of the Senate, to appoint the same accordingly, who shall be entitled to the rank, pay, and emoluments, which follow, viz: quartermaster-general, the rank, pay, and emoluments of a lieutenant-colonel; physician-general, and paymaster-general, each, the pay and emoluments of a lieutenant-colonel; *Provided*, That in case the President shall judge it expedient to appoint a commander of the army, an inspector-general, adjutant-general, quartermaster-general, physician-general, and paymaster-general, or either of them, in the recess of the Senate, he is hereby authorized to make any or all of said appointments, and grant commissions thereon, which shall expire at the end of the next session of the Senate thereafter.

SEC. 8. *And be it further enacted*, That the laws of the United States respecting the regulations and emoluments of recruiting officers, punishment of persons who shall procure or entice a soldier to desert, or shall purchase his arms, uniform, clothing, or any part thereof; and the punishment of every

commanding officer of any ship or vessel, who shall receive on board his ship or vessel, as one of his crew, knowing him to have deserted, or otherwise carry away, any soldier, or refuse to deliver him up to the orders of the commanding officer, and the law respecting the oath or affirmation to be taken by officers, non-commissioned officers, musicians, and privates, and respecting the inserting of conditions in the enlistments, and all other laws respecting the military establishment of the United States, excepting in such cases where different and specific regulations are made by this act, shall be in force, and apply to all persons, matters, and things, within the intent and meaning of this act, in the same manner as they would, were they inserted at large in the same.

SEC. 9. *And be it further enacted*, That the commander of the army, inspector-general, adjutant-general, quartermaster-general, physician-general, and paymaster-general, and the general, field, and commissioned officers, who may be appointed by virtue of this act, shall, respectively, continue in commission during such term only as the President shall judge requisite for the public service; and that it shall be lawful for the President to discharge the whole, or any part, of the troops, which may be raised, or accepted, under the authority of this act, whenever he shall judge the measure consistent with the public safety.

SEC. 10. *And be it further enacted*, That no commissioned or staff officer, who shall be appointed by virtue of this act, shall be entitled to receive pay or emoluments until he shall be called into actual service, nor for any longer time than he shall continue therein: *Provided*, nothing in this section shall be construed to prevent captains and subalterns from receiving pay and emoluments while employed in the recruiting service: *And provided also*, That no enlistment shall take place by virtue of this act, after three years from the passing thereof.

SEC. 11. *And be it further enacted*, That it shall be lawful for the President of the United States, at his discretion, upon the request of any militia corps, established by law, in any state, disposed to inform themselves in the use of artillery, or of the executive of any state, in behalf of such corps, to suffer to be loaned to them, such pieces, not exceeding two to any one corps, of the field artillery of the United States, as may be most conveniently spared, to be taken, removed, and returned, at the expense of the party requesting; who are to be accountable for the same, and to give receipts accordingly.

SEC. 12. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized, when, under his orders, any portion of the militia, or any volunteer corps, shall be called forth and engaged in the actual service of the United States, to suffer to be loaned, at the request of the executive of the state from which such militia shall be called forth, or of such volunteer corps, appearing to be unavoidably deficient, a supply of field artillery, arms, and accou-

and things, within the meaning of this act.

The President may discharge the whole, or any part, of the officers and soldiers raised or accepted, under this act, when consistent with the public safety.

No commissioned or staff officer to be entitled to pay or emoluments but for actual service. *Provido*; as to recruiting service.

Provido; no enlistment after three years.

The President may loan field artillery to militia corps, disposed to inform themselves in its use, &c.

And, also, field artillery, arms, and accoutrements, to militia or volunteer corps called forth and engaged in actual service.

trements, from the arsenals of the United States, as the case may require; proper receipts and security being given to be accountable to return the same, the accidents of the service excepted.

The President may procure certain equipage for cavalry, which may be likewise loaned.

SEC. 13. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized to cause to be purchased and procured a quantity of caps, swords, or sabres, and pistols with holsters, not exceeding what may be sufficient for four thousand cavalry, and to be deposited in the parts of the United States where he shall deem it most convenient for the supply of any corps of cavalry which shall be called into the actual service of the United States, and which the President of the United States may loan, upon the terms, and the like receipts, to be accountable, as hereinbefore provided: and, for this purpose, and towards defraying the expenses which may be necessarily incurred before the next session of Congress, in executing the other purposes of this act, a sum, not exceeding two hundred thousand dollars, shall be, and is hereby, appropriated, and shall and may be paid at the treasury, under the orders of the President of the United States, out of any money not already appropriated.

Appropriation of \$200,000 for the purposes of this act.

Privates exempt from arrest for debt or contract, during their term of service.

Judges, &c. upon arrest of soldiers for debt, &c. to grant writs of habeas corpus, hear and examine the cases, and discharge, &c.

SEC. 14. *And be it further enacted*, That the private soldiers who are, and who shall be enlisted and employed in the service of the United States, shall be, and they are hereby, exempted, during their term of service, from all personal arrests, for any debt or contract. And whenever any soldier shall be arrested, whether by mesne process, or in execution, contrary to the intent hereof, it shall be the duty of the judge of the district court of the district in which the arrest shall happen, and of any justice of the supreme court of the United States, and of any court or judge of a state, who, by the laws of such state, are authorized to issue writs of habeas corpus, respectively, on application, by an officer of the corps in which such soldier shall be engaged, to grant a writ of habeas corpus, returnable before himself; and, upon due hearing and examination, in a summary manner, to discharge the soldier from such arrest, taking common bail, if required, in any case upon mesne process, and commit him to the applicant, or some other officer of the same corps.

[Approved, May 28, 1798.]

CHAPTER 35.

An act supplementary to, and to amend, the act, entitled "An act authorizing the President of the United States to raise a provisional army."*

Volunteers to observe the rules to be fixed by the President for

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the companies of volunteers, and the members of each

*For original act, see preceding chapter.

company, who shall be duly engaged and accepted by the President of the United States, and organized with proper officers commissioned by him, pursuant to the third section of the act, entitled "An act authorizing the President of the United States to raise a provisional army," shall submit to, and observe such rules of training and discipline, as shall be thought necessary to prepare them for actual service; and which rules the President of the United States is hereby authorized to make and establish; and all such companies and volunteers are hereby exempted, until their discharge, or during the time of their engagement, as aforesaid, from all militia duty which is or shall be required by the laws of the United States, or of any state, and from every fine, penalty, or disability, which is or shall be provided to enforce the performance of any duty or service in the militia.

training and disciplining them.

Exempted from militia duty.

SEC. 2. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized, by and with the consent of the Senate, or by himself, in the recess of Congress, pursuant to the said act, to appoint and commission, as soon as he shall think it expedient, such and so many field officers as shall be necessary for the organizing and embodying in legions, regiments, or battalions, any volunteer companies who shall engage, and shall be accepted, as aforesaid; and such field officers shall have authority, accordingly, to train and discipline such volunteer companies, pursuant to the rules therefor, which shall be established, as aforesaid; *Provided*, That no officer or volunteer, who shall be appointed, engaged, or employed in any training or discipline, as aforesaid, shall be considered as in the pay of the United States, until called into actual service.

The President may appoint their field officers in the recess of Congress.

Provido; no pay from the United States, until called into actual service.

SEC. 3. *And be it further enacted*, That the President of the United States may authorize the sale, at a reasonable rate, sufficient to indemnify the United States, to any company of volunteers who shall be accepted, as aforesaid, of such pieces of artillery, small arms, and accoutrements, to be delivered from the public arsenals, as shall be found necessary for the equipment and training of such volunteers; or may loan the same to them, upon the receipts of their respective officers, to be accounted for, or returned, at the expiration of their engagement, or other discharge: and of such sales or loans, the necessary accounts shall be kept in the war department, and the money, accruing by any sale, shall be paid into the treasury of the United States; and the same shall be, and is hereby, appropriated for the purchase of other artillery, arms, and accoutrements, as the President of the United States shall direct.

The President may authorize the sale, to volunteers, of artillery, arms, &c., or may loan the same, &c.

Accounts of the sales or loans to be kept in the war department, &c. other artillery, &c. to be purchased with the money accruing.

SEC. 4. *And be it further enacted*, That the President of the United States may proceed to appoint and commission, in the manner prescribed by the said act, such and so many of the officers authorized thereby, for the raising, organizing, and commanding, the provisional army of ten thousand men, as, in his opinion, the public service shall more immediately require;

The President may proceed to appoint such of the officers for the army of 10,000 men as may be more immediately requisite.

Officers not entitled to pay until employed in actual service.

any thing which may be supposed in the said act, to the contrary hereof notwithstanding: *Provided*, That the officers who shall be so appointed, shall not be entitled to any pay, subsistence, or other emolument, by reason of such commission, until they shall be, respectively, employed in the actual service of the United States: *And provided*, That the further raising of the said army shall not be authorized otherwise than as by the said act is provided.

[*Approved*, June 22, 1798.]

CHAPTER 36.

An act for the establishing and organizing a Marine Corps.*

A corps of marines to be raised and organized, &c.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That in addition to the present military establishment, there shall be raised and organized a corps of marines, which shall consist of one major,† four captains, sixteen first lieutenants, twelve second lieutenants, forty-eight sergeants, forty-eight corporals, thirty-two drums and fifes, and seven hundred and twenty privates, including the marines who have been enlisted, or are authorized to be raised, for the naval armament, and the said corps may be formed into as many companies, or detachments, as the President of the United States shall direct, with a proper distribution of the commissioned and non-commissioned officers and musicians to each company or detachment.

The corps may be formed into companies, &c.

Pay and subsistence of the officers, privates, &c.

SEC. 2. *And be it further enacted*, That the pay and subsistence of the said officers, privates, and musicians, shall be as follows, to wit: to a major, fifty dollars per month, and four rations per day; to a captain, forty dollars per month, and three rations per day; to a first lieutenant, thirty dollars per month, and three rations per day; to a second lieutenant, twenty-five dollars per month, and two rations per day; and to the non-commissioned officers, privates, and musicians, conformably to the act, entitled "An act providing a naval armament," as shall be fixed by the President of the United States: and the

The President to continue enlistments; appoint commissioned officers in the recess, &c.
Enlistment for three years, subject, &c.

President of the United States shall be, and is hereby, authorized to continue the enlistment of marines, until the said corps shall be complete: and, of himself, to appoint the commissioned officers, whenever, in the recess of the Senate, an appointment shall be necessary. And the enlistments, which shall be made by virtue hereof, may be for the term of three years,‡ subject to be discharged by the President of the United States, or

* See chapters 41, 61, 94.

† See chapter 46, abolishing the office of major, and creating a lieutenant-colonel commandant.

‡ See chapter 61.

by the ceasing or repeal of the laws providing for the naval armament. And if the marine corps, or any part of it, shall be ordered by the President to do duty on shore, and it shall become necessary to appoint an adjutant, paymaster, quartermaster, sergeant major, quartermaster sergeant, and drum and fife major, or any of them, the major or commandant of the corps is hereby authorized to appoint such staff officer or officers, from the line of subalterns, sergeants, and music, respectively, who shall be entitled, during the time they shall do such duty, to the same extra pay and emoluments which are allowed by law to officers acting in the same capacities in the infantry.

The marine corps being ordered to do duty on shore, the commandant of the corps may appoint the necessary staff officers, &c.

SEC. 3. *And be it further enacted*, That detachments of the corps of marines hereby authorized, shall be made in lieu of the respective quotas of marines which have been established or authorized for the frigates, and other armed vessels and galleys, which shall be employed in the service of the United States: and the President of the United States may detach and appoint such of the officers of this marine corps to act on board the frigates, and any of the armed vessels of the United States, respectively, as he shall, from time to time, judge necessary, any thing in the act "providing a naval armament" to the contrary hereof notwithstanding.

Detachment of the corps to be in lieu of the quotas established for the frigates, &c.

SEC. 4. *And be it further enacted*, That the officers, non-commissioned officers, privates, and musicians, aforesaid, shall take the same oath, and shall be governed by the same rules and articles of war, as are prescribed for the military establishment of the United States,* and by the rules for the regulation of the navy, heretofore, or which shall be, established by law, according to the nature of the service in which they shall be employed, and shall be entitled to the same allowance, in case of wounds or disabilities, according to their respective ranks, as are granted by the act "to ascertain and fix the military establishment of the United States."†

Officers, &c. of the corps to take an oath, be governed by established rules; be entitled to the same allowance in case of wounds, &c. as granted by the act mentioned.

SEC. 5. *And be it further enacted*, That the non-commissioned officers, musicians, seamen, and marines, who are or shall be enlisted into the service of the United States; and the non-commissioned officers and musicians, who are or shall be enlisted into the army of the United States, shall be, and they are hereby, exempted, during their term of service, from all personal arrests, for any debt or contract.

Exemption of non-commissioned officers, &c. from arrest for debts or contracts.

SEC. 6. *And be it further enacted*, That the marine corps, established by this act, shall, at any time, be liable to do duty in the forts and garrisons of the United States, on the seacoast, or any other duty on shore, as the President, at his discretion, shall direct.

The marine corps liable to do duty in forts and garrisons, &c.

[*Approved*, July 11, 1798.]

* See chapters 2 and 53.

† See chapter 26.