

APPENDIX;

CONTAINING

Select Laws relating to the Militia of the United States.

CHAPTER I.

An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That each and every free able bodied white male citizen of the respective states, resident therein, who is or shall be of the age of eighteen years, and under the age of forty-five years, (except as is hereinafter excepted,) shall, severally and respectively, be enrolled in the militia by the captain or commanding officer of the company, within whose bounds such citizen shall reside, and that within twelve months after the passing of this act. And it shall, at all times hereafter, be the duty of every such captain or commanding officer of a company, to enrol every such citizen, as aforesaid, and also those who shall, from time to time, arrive at the age of eighteen years, or, being of the age of eighteen years and under the age of forty-five years, (except as before excepted,) shall come to reside within his bounds; and shall, without delay, notify such citizen of the said enrolment, by a proper non-commissioned officer of the company, by whom such notice may be proved. That every citizen so enrolled and notified, shall, within six months thereafter, provide himself with a good musket, or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch, with a box therein to contain not less than twenty-four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball; or, with a good rifle, knapsack, shot pouch, and powder horn, twenty balls, suited to the bore of his rifle, and a quarter of a pound of powder; and shall appear, so armed, accoutred, and provided, when called out to exercise, or into service; except, that when called out on company days to exercise only, he may appear without a knap-

Every able bodied white male citizen, of the age of 18, and under 45 years, to be enrolled, &c.

Duty of captains with respect to enrolling, &c.

Citizens enrolled, to provide themselves with arms and accoutrements in six months after enrolment, &c.

Militiamen to appear armed, &c. when called out to exercise, &c. except, &c.

*See additional act of 2d March, 1803, chapter 5, appendix, by which the provisions of this act are modified in some respects.

sack. That the commissioned officers shall, severally, be armed with a sword or hanger, and esponton; and that, from and after five years from the passing of this act, all muskets for arming the militia, as herein required, shall be of bores sufficient for balls of the eighteenth part of a pound. And every citizen so enrolled, and providing himself with the arms, ammunition, and accoutrements, required as aforesaid, shall hold the same exempted from all suits, distresses, executions, or sales, for debt, or for the payment of taxes.

SEC. 2. And be it further enacted, That the vice-president of the United States; the officers, judicial and executive, of the government of the United States; the members of both houses of Congress and their respective officers; all custom-house officers, with their clerks; all post officers, and stage drivers, who are employed in the care and conveyance of the mail of the post office of the United States; all ferrymen employed at any ferry on the post road; all inspectors of exports; all pilots; all mariners, actually employed in the sea service of any citizen or merchant within the United States; and all persons who now are, or may hereafter be, exempted by the laws of the respective states, shall be, and are hereby, exempted from militia duty, notwithstanding their being above the age of eighteen, and under the age of forty-five years.

SEC. 3. And be it further enacted, That within one year after the passing of this act, the militia of the respective states shall be arranged into divisions, brigades, regiments, battalions, and companies, as the legislature of each state shall direct; and each division, brigade, and regiment, shall be numbered at the formation thereof; and a record made of such numbers in the adjutant-general's office in the state; and when in the field, or in service in the state, each division, brigade and regiment shall, respectively, take rank according to their numbers, reckoning the first or lowest number highest in rank. That, if the same be convenient, each brigade shall consist of four regiments; each regiment of two battalions; each battalion of five companies; each company of sixty-four privates. That the said militia shall be officered by the respective states, as follows:

To each division, one major-general and two aids-de-camp, with the rank of major; to each brigade, one brigadier-general, with the rank of a major; to each regiment, one lieutenant-colonel commandant; and to each battalion, one major; to each company, one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer, and one fife or bugler. That there shall be a regimental staff, to consist of one adjutant and one quartermaster, to rank as lieutenants; one paymaster; one surgeon, and one surgeon's mate; one sergeant-major; one drum-major, and one fife-major.

SEC. 4. And be it further enacted, That out of the militia enrolled, as is herein directed, there shall be formed, for each battalion, at least one company of grenadiers, light infantry,

Muskets to carry balls eighteen to the pound.

Arms, &c. free from distress, executions, &c.

Enumeration of officers and persons, who are exempt from militia duty under this act.

Militia in each state to be arranged into divisions, brigades, &c. as the legislature thereof may direct.

Organization of brigades, regiments, &c.

To be officered by the states in the manner here prescribed.

One company of grenadiers, light infantry or rifle-

or riflemen; and that, to each division, there shall be at least one company of artillery, and one troop of horse: there shall be to each company of artillery, one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer, and one fife. The officers to be armed with a sword, or hanger, a fusee, bayonet and belt, with a cartridge box, to contain twelve cartridges; and each private, or matross, shall furnish himself with all the equipments of a private in the infantry, until proper ordnance and field artillery is provided. There shall be, to each troop of horse, one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, and one trumpeter. The commissioned officers to furnish themselves with good horses, of at least, fourteen hands and an half high, and to be armed with a sword, and pair of pistols, the holsters of which to be covered with bearskin caps. Each dragoon to furnish himself with a serviceable horse, at least fourteen hands and an half high, a good saddle, bridle, mail pillion, and valise, holsters, and a breast plate and crupper, a pair of boots and spurs, a pair of pistols, a sabre, and a cartouch box, to contain twelve cartridges for pistols. That each company of artillery and troop of horse shall be formed of volunteers from the brigade, at the discretion of the commander-in-chief of the state, not exceeding one company of each to a regiment, nor more in number than one-eleventh part of the infantry, and shall be uniformly clothed in regimentals, to be furnished at their own expense; the color and fashion to be determined by the brigadier commanding the brigade to which they belong.

SEC. 5. And be it further enacted, That each battalion and regiment shall be provided with the state and regimental colors, by the field officers, and each company with a drum, and fife or bugle horn, by the commissioned officers of the company in such manner as the legislature of the respective states shall direct.

SEC. 6. And be it further enacted, That, there shall be an adjutant-general appointed in each state, whose duty it shall be to distribute all orders from the commander-in-chief of the state to the several corps; to attend all public reviews, when the commander-in-chief of the state shall review the militia, or any part thereof; to obey all orders from him, relative to carrying into execution and perfecting the system of military discipline established by this act; to furnish blank forms of different returns, that may be required, and to explain the principles on which they should be made; to receive from the several officers of the different corps, throughout the state, returns of the militia under their command, reporting the actual situation of their arms, accoutrements, and ammunition, their delinquencies, and every other thing which relates to the general advancement of good order and discipline: All which, the several officers of the divisions, brigades, regiments, and battalions, are hereby required to make, in the usual manner so that

men, to each battalion.

A company of artillery and troop of horse to each division.

Officers of the dragoons, their horses, arms, &c.

Dragoons, their horses, arms, &c.

Company of artillery and troop of horse to be formed of volunteers, &c.

Colors to battalions and regiments, and by whom provided.

An adjutant-general in each state.

His duties.

the said adjutant-general may be duly furnished therewith: From all which returns, he shall make proper abstracts, and lay the same annually before the commander-in-chief of the state.

Rules of discipline, the same as in 1779; except, &c.

Commanding officers to train militia according to the rules prescribed.

Commissioned officers to take rank according to date, &c.

Militiamen wounded and disabled in public service, to be provided for, &c.

Duties of brigade inspectors.

SEC. 7.* *And be it further enacted*, That the rules of discipline, approved and established by Congress, in their resolution of the twenty-ninth of March, one thousand seven hundred and seventy-nine, shall be the rules of discipline to be observed by the militia throughout the United States; except such deviations from the said rules as may be rendered necessary by the requisitions of this act, or by some other unavoidable circumstances. It shall be the duty of the commanding officer, at every muster, whether by battalion, regiment, or single company, to cause the militia to be exercised and trained agreeably to the said rules of discipline.

SEC. 8. *And be it further enacted*, That all commissioned officers shall take rank according to the date of their commissions; and when two of the same grade bear an equal date, then their rank to be determined by lot, to be drawn, by them, before the commanding officer of the brigade, regiment, battalion, company, or detachment.

SEC. 9. *And be it further enacted*, That if any person, whether officer or soldier, belonging to the militia of any state, and called out into the service of the United States, be wounded or disabled while in actual service, he shall be taken care of and provided for at the public expense.

SEC. 10. *And be it further enacted*, That it shall be the duty of the brigade-inspector, to attend the regimental and battalion meetings of the militia composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition, and accoutrements; superintend their exercise and manœuvres, and introduce the system of military discipline, before described, throughout the brigade, agreeable to law, and such orders as they shall, from time to time, receive from the commander-in-chief of the state; to make returns to the adjutant-general of the state, at least once in every year, of the militia of the brigade to which he belongs, reporting therein the actual situation of the arms, accoutrements, and ammunition, of the several corps, and every other thing which, in his judgment, may relate to their government and the general advancement of good order and military discipline; and the adjutant-general shall make a return of all the militia of the state, to the commander-in-chief of the said state, and a duplicate of the same to the President of the United States.

And whereas sundry corps of artillery, cavalry, and infan-

*This section is repealed by act of 12th May, 1820, chapter 10, appendix, which adopts, for the militia of the United States, the system of discipline and field exercise observed by the regular army. The rules of 1779, here referred to, were contained in the system prepared by the baron Steuben, which was examined and amended by General Washington prior to its adoption by Congress.

try, now exist in several of the said states, which, by the laws, customs, or usages, thereof, have not been incorporated with, or subject to, the general regulations of the militia:

SEC. 11. *And be it further enacted*, That such corps retain their accustomed privileges, subject, nevertheless, to all other duties required by this act in like manner with the other militia. Existing corps to retain their accustomed privileges; subject, &c.

[Approved, May 8, 1792.]

CHAPTER 2.

An act to regulate the pay of the non-commissioned officers, musicians, and privates, of the militia of the United States, when called into actual service, 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, from and after the passing of this act, the allowance of bounty, clothing, and pay, to the non-commissioned officers, musicians, and privates, of the infantry, artillery, and cavalry, of the militia of the United States, when called into actual service, shall be at the rate per month, as follows: Each sergeant-major and quartermaster-sergeant, nine dollars; each drum and fife-major, eight dollars and thirty-three cents; each sergeant, eight dollars; each corporal, drummer, fifer, and trumpeter, seven dollars and thirty-three cents; each farrier, saddler, and artificer, (included as a private,) eight dollars; each gunner, bombardier, and private, six dollars and sixty-six cents. Monthly rate of pay of non-commissioned officers, privates, &c. of the militia, when called into service.

SEC. 2. *And be it further enacted*, That, in addition to the monthly pay, there shall be allowed to each officer, non-commissioned officer, musician, and private, of the cavalry, for the use of his horse, arms, and accoutrements, and for the risk thereof, except of horses killed in action, forty cents per day; and to each non-commissioned officer, musician, and private, twenty-five cents per day, in lieu of rations and forage, when they shall provide the same. Allowances to cavalry for use, &c. of horses, &c. and in lieu of rations and forage, when, &c.

SEC. 3. *And be it further enacted*, That whenever the militia shall be called into the actual service of the United States, their pay shall be deemed to commence from the day of their appearing at the places of battalion, regimental, or brigade, rendezvous; allowing to each non-commissioned officer, musician, and private soldier, a day's pay and rations for every fifteen miles from his home to such place of rendezvous, and the same allowance for travelling home from the place of discharge. Pay to commence from the time of appearing at rendezvous. A day's pay, &c. for every fifteen miles to the place of rendezvous, &c.

SEC. 4. *And be it further enacted*, That, in addition to the pay heretofore authorized by law, there shall be allowed and paid to the non-commissioned officers, musicians, and privates, of the militia lately called forth into the actual service of the United States, on an expedition to fort Pitt, such sums as shall, Pay in addition, &c. to the militia lately called forth into actual service, &c.

* See act of 19th March, 1836, chapter 13, appendix.

Proviso; the compensation made by any state to be included, &c.
The states entitled to receive from the treasury such sums as they have paid, &c.

Additional pay to the troops enlisted, &c.

Additional bounty to soldiers re-enlisting, &c.

The payment of \$4 of the additional bounty deferred, &c.

Additional allowance of provisions to those in the military service who are employed on the western frontiers, &c.

with the pay heretofore by law established, be equal to the allowances respectively provided in the first and second sections of this act: *Provided nevertheless*, That the compensations made by any state, to the militia called forth, from such state, shall be deemed to be included in the additional allowance authorized by this act; and such state shall be entitled to receive from the treasury of the United States, such sums as they shall have paid, or allowed, to the non-commissioned officers, musicians, and privates, over and above the pay heretofore allowed by law, and not exceeding the additional allowance granted by this act.

SEC. 5.* *And be it further enacted*, That, for the completing and better supporting the military establishment of the United States, as provided by the act, entitled "An act making further and more effectual provision for the protection of the frontiers of the United States," there shall be allowed and paid, from and after the first day of January, one thousand seven hundred and ninety-five, to each non-commissioned officer, musician, and private, now in service, or hereafter to be enlisted, the additional pay of one dollar per month, during the terms of their respective enlistments; and to each soldier now in the service of the United States, or discharged therefrom, subsequent to the third day of March last, who shall re-enlist after the first day of January next, an additional bounty of eight dollars, making the entire bounty sixteen dollars; and to each person not now in the army of the United States, or discharged, as above, who shall enlist after the said first day of January next, an additional bounty of six dollars, making the entire bounty fourteen dollars: but the payment of four dollars of each additional bounty hereby granted, shall be deferred until the soldier enlisting shall join the regiment or corps in which he is to serve.

SEC. 6. *And be it further enacted*, That to those in the military service of the United States, who are, or shall be, employed on the western frontiers, there shall be allowed, during the time of their being so employed, two ounces of flour or bread, and two ounces of beef or pork, in addition to each of their rations, and half a pint of salt, in addition to every hundred of their rations.

[Approved, January 2, 1795.]

*This, and the next succeeding section, relate to the regular army. Similar provisions will be found incorporated in the act of 30th May, 1796, to ascertain and fix the military establishment of the United States, which may be regarded as superseding these—See chapter 26, sections 7, 11, and 12.

CHAPTER 3.

An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions; and to repeal the act now in force for those purposes.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*—That whenever the United States shall be invaded, or be in imminent danger of invasion, from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the state or states, most convenient to the place of danger, or scene of action, as he may judge necessary to repel such invasion, and to issue his orders, for that purpose, to such officer or officers of the militia as he shall think proper. And in case of an insurrection in any state, against the government thereof, it shall be lawful for the President of the United States, on application of the legislature of such state, or of the Executive, (when the legislature cannot be convened,) to call forth such number of the militia of any other state or states, as may be applied for, as he may judge sufficient to suppress such insurrection.

SEC. 2. *And be it further enacted*, That whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any state, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such state, or of any other state or states, as may be necessary to suppress such combinations, and to cause the laws to be duly executed; and the use of militia so to be called forth may be continued, if necessary, until the expiration of thirty days after the commencement of the then next session of Congress.

SEC. 3. *Provided always, and be it further enacted*, That whenever it may be necessary, in the judgment of the President, to use the military force hereby directed to be called forth, the President shall forthwith, by proclamation, command such insurgents to disperse, and retire peaceably to their respective abode, within a limited time.

SEC. 4. *And be it further enacted*, That the militia employed in the service of the United States, shall be subject to the same rules and articles of war as the troops of the United States: And that no officer, non-commissioned officer, or private, of the militia, shall be compelled to serve more than three months after his arrival at the place of rendezvous, in any one year, nor more than in due rotation with every other able bodied man of the same rank in the battalion to which he belongs.

SEC. 5. *And be it further enacted*, That every officer, non-commissioned officer, or private, of the militia, who shall

In case of invasion, &c. the President may call forth the militia most convenient, and issue his orders to the militia officers, &c.

In case of insurrection against the government of a state, the President, on application, &c. may call forth the militia of other states, &c.

In case of opposition to the laws by powerful combinations, &c. the President may call forth the militia of any state, &c.

Whenever the military force is necessary, the President, by proclamation, to command the insurgents to disperse, &c.

Militia in service, to be subject to the rules and articles of war, &c. Militia not to serve more than three months after arrival at the place of rendezvous, &c.

Officers, privates &c. failing to

*See supplementary act, chapter 6, appendix.

obey the President, &c. forfeit pay, not exceeding, &c.

Officers liable, moreover, to be cashiered, &c.

Non-commissioned officers and privates liable to be imprisoned on failing to pay fines, &c.
Courts-martial, &c. of militia officers only.

Fines to be certified by the presiding officer of the court-martial, to the marshal, &c. who is to levy, &c.

Sale of distrained goods according to state laws &c.

Where non-commissioned officers and privates are adjudged to suffer imprisonment, &c. the marshal, &c. may commit, &c.

The marshals to pay fines to supervisors, &c.

Five per cent. compensation to the marshal.
The marshals failing to pay over, may be sued, &c.

Marshals, in executing the laws of the United States, empowered as sheriffs, &c.

fail to obey the orders of the President of the United States, in any of the cases before recited, shall forfeit a sum not exceeding one year's pay, and not less than one month's pay, to be determined and adjudged by a court-martial; and such officer shall, moreover, be liable to be cashiered by sentence of a court-martial, and be incapacitated from holding a commission in the militia, for a term not exceeding twelve months, at the discretion of the said court: And such non-commissioned officers and privates shall be liable to be imprisoned, by a like sentence, on failure of the payment of fines adjudged against them, for one calendar month, for every five dollars of such fine.

SEC. 6. *And be it further enacted*, That courts-martial for the trial of militia, shall be composed of militia officers only.

SEC. 7. *And be it further enacted*, That all fines to be assessed, as aforesaid, shall be certified by the presiding officer of the court-martial before whom the same shall be assessed, to the marshal of the district in which the delinquent shall reside, or to one of his deputies, and also to the supervisor of the revenue of the same district, who shall record the said certificate in a book to be kept for that purpose. The said marshal, or his deputy, shall forthwith proceed to levy the said fines, with costs, by distress and sale of the goods and chattels of the delinquent; which costs, and the manner of proceeding, with respect to the sale of the goods distrained, shall be agreeable to the laws of the state in which the same shall be, in other cases of distress. And where any non-commissioned officer or private shall be adjudged to suffer imprisonment, there being no goods or chattels to be found whereof to levy the said fines, the marshal of the district, or his deputy, may commit such delinquent to gaol, during the term for which he shall be so adjudged to imprisonment, or until the fine shall be paid, in the same manner as other persons condemned to fine and imprisonment at the suit of the United States may be committed.

SEC. 8. *And be it further enacted*, That the marshals and their deputies shall pay all such fines by them levied, to the supervisor of the revenue in the district in which they are collected, within two months after they shall have received the same, deducting therefrom five per centum as a compensation for their trouble; and in case of failure, the same shall be recoverable by action of debt or information, in any court of the United States, of the district in which such fines shall be levied, having cognizance thereof, to be sued for, prosecuted, and recovered, in the name of the supervisor of the district, with interest and costs.

SEC. 9. *And be it further enacted*, That the marshals of the several districts, and their deputies, shall have the same powers, in executing the laws of the United States, as sheriffs, and their deputies, in the several states, have by law in executing the laws of the respective states.

SEC. 10. *And be it further enacted*, That the act, entitled

"An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions," passed the second day of May, one thousand seven hundred and ninety-two, shall be, and the same is hereby, repealed.

[Approved, February 28, 1795.]

CHAPTER 4.

An act providing arms for the militia throughout the United States.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That there shall be provided, at the charge and expense of the government of the United States, thirty thousand stand of arms, which shall be deposited, by order of the President of the United States, at suitable places, for the purpose of being sold to the governments of the respective states, or the militia thereof, under such regulations, and at such prices, as the President of the United States shall prescribe.

SEC. 2. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to cause all or any part of the arms herein directed to be provided and deposited for sale, which shall, at any time, remain unsold, to be delivered to the militia, when called into the service of the United States, proper receipts and security being given for the return of the same.

SEC. 3. *And be it further enacted*, That the moneys arising from such sales shall be paid into the treasury of the United States, and the amount received shall be annually reported to Congress.

SEC. 4. *And be it further enacted*, That, for the purpose of carrying this act into effect, the President of the United States shall be, and he is hereby, authorized to draw from the treasury of the United States a sum not exceeding four hundred thousand dollars, to be paid out of any money in the treasury not otherwise appropriated.

[Approved, July 6, 1798.]

CHAPTER 5.

An act in addition to an act, entitled "An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States."†

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That it shall be the duty of the adjutant-general of the militia, in

*See act of 23d April, 1808, chapter 59.

†For original act, see chapter 1, appendix.