LAWS
OF
NORTH-CAROLINA.

At a GENERAL ASSEMBLY, begun and held at Newbern, on the seventh day of July, in the Year of our Lord One Thouſand Seven Hundred and Ninety-Four, and in the Nineteenth Year of the Independence of the ſaid State: Being the Second Seſſion of the ſaid Aſſembly.

JULY 1794.

RICHARD D. SPAIGHT, Eſq. Governor.

CHAP. I.

An act to cede to the United States of America certain lands, upon the condition therein mentioned.

I. WHEREAS the Congreſs of the United States have paſſed an act to provide for the defence of certain ports and harbours in the United States, in which is comprized *Cape-Fear* river and *Occacock* inlet, and alſo an act to erect a light houſe on the head land of *Cape-Hatteras*; and whereas, it is expedient, that the United States, ſhould have the excluſive juriſdiction of a ſufficient quantity of land, on which ſaid forts and light-houſes ſhall be erected. Preamble.

II. *Be it enacted, by the General Aſſembly of the State of North-Carolina, and it is hereby enacted by the authority of the ſame,* that part of the public ground, laid out by the Commiſſioners of *Smithville*, for a fort on *Cape-Fear* river, including part of the ground, whereon *Fort-Johnſton* formerly ſtood, with the excluſive juriſdiction thereof, ſhall be and the ſame is hereby ceded to the United States of America, under the condition herein after mentioned. Land ceded in Smithville.

III. *And be it further enacted, by the authority aforeſaid,* that the excluſive juriſdiction of *Beacon* iſland, in the harbour of *Occacock*, and four acres of land, at the head land of *Cape-Hatteras*, and alſo ſo much of the town of *Smithville*, adjoining *Fort-Johnſton* as may be found neceſſary for the ſaid fort, not exceeding ſix acres, ſhall be ceded and ſtand veſted in the United States, as ſoon as the proprietors of ſaid lands ſhall convey the ſame to the United States. Beacon iſland, and Cape-Hatteras.

IV. *And be it further enacted,* that the above mentioned lands are and ſhall be ceded to the United States, upon the expreſs condition, that the fortifications, light houſes and beacons, for which the ſaid lands are ceded, or to be ceded, ſhall be erected within three years and be continued and kept up forever thereafter for the public uſe. Condition.

V. *And be it further enacted,* that nothing herein contained, ſhall be ſo conſtrued, as to debar or hinder any of the officers of this ſtate from ſerving any proceſs or levying executions within the limits ceded by this act, to the United States, in the ſame manner and to the ſame effect, as if this act had never been made. Reſtriction.

CHAP. II.

An act to amend an act paſſed at Fayetteville, *in the year one thouſand ſeven hundred and ninety three, entitled "an act to carry into effect an act of Congreſs entitled an act more effectually to provide for the national defence by eſtabliſhing an uniform militia throughout the United States," and to repeal an act paſſed at* Fayetteville *in the year one thouſand ſeven hundred and eighty ſix, entitled "an act for eſtabliſhing a militia in this ſtate."*

I. BE *it enacted by the General Aſſembly of the State of North-Carolina, and it is hereby enacted by the authority of the ſame,* that all free men and indented ſervants, citizens of this ſtate, or the United States, reſident in this ſtate, who are or ſhall be of the age of eighteen and under forty-five years, except as herein afterexcepted, ſhall as ſoon as ſhall be practicable, be ſeverally and reſpectively enrolled in the militia by the captain or commanding officer of the company within the bounds of whoſe diſtrict, to be allotted him by the court-martial ſuch citizen ſhall reſide: and it ſhall at all times hereafter be the duty of every captain, or commanding officer of any company, to enrol every ſuch citizen, as aforeſaid, and alſo thoſe who ſhall, from time to time, arrive at the age of eighteen years, and under the age of forty-five, except as herein after excepted, come to reſide within his bounds, and remain therein thirty days; and ſhall, without delay, notify ſuch citizen of the ſaid enrolment, by a proper non-commiſſioned officer of the Militia, how compoſed,

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Armed and equipped.

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, 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 knapsack; that the commissioned officers shall severally be armed with a sword or hanger, and espontoon; and that on or before the eighth day of May one thousand seven hundred and ninety seven, 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.

Musket's bore in '97.

Arms not seizable.

Exempts.

II. *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, the Judges of the Superior Courts of Law and Equity, Counsellors of State, the Secretary, Treasurer, Comptroller, Attorney-General, Solicitor-General, Printer to the State, Justices of the Peace, High Sheriffs of the several counties in this State, Ministers of the gospel of every denomination that are properly and regularly ordained, having the cure of souls, the Clerks of the several courts of record within this State, all Quakers, Moravians, Dunkards, or Menonists, 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 continental Officers who have served with reputation three years or until the end of the war, unless sooner deranged by a reform of the army, and those who have served as field officers of the Militia with reputation for three years, all ferrymen employed at any ferry on the post or public roads, provided the same shall not exceed the superintendant and one other, all inspectors of exports, all branch Pilots, all mariners actually employed in the sea service of any citizen or merchant within the United States, all officers and students of the university and all other seminaries of learning in this State, particularly established by law, shall be and are hereby exempted from militia duty. *Provided always*, that nothing herein contained shall be construed so as to exempt any person from performing duty in case of insurrection or invasion in this State.

Proviso.

Fines for appearing without arms or ammunition.

III. *And be it further enacted*, that every person liable to do militia duty, who may be deemed in circumstances sufficient to equip himself by the commissioned officers of his company and who shall fail to do the same as herein required shall forfeit and pay for each deficiency as follows *viz*: for the want of a good serviceable musket, rifle or firelock, the sum of two shillings and six pence; a pouch with a box of the capacity described, or shot pouch and powder horn, the sum of one shilling; flints, cartridges, or powder and ball, as required, the sum of one shilling; bayonet, after the eight day of May one thousand seven hundred and ninety seven, the sum of one shilling. And all parents, masters and guardians, shall furnish those of said militia who shall be under their care and command with the arms and equipments above mentioned, under the like penalties for any neglect.

Officers how to rank.

IV. *And be it further enacted*, that all commissioned officers shall take rank according to the date of their commissions, and when two or more of the same grade bear an equal date, then their rank shall be determined by lot to be drawn by them before the commanding officer of the division, brigade, regiment, battalion, company or detachment; and each Superior Court district shall form at least one brigade, and each county at least one regiment, and when the same be convenient each regiment shall consist of two battalions, each battalion of five companies and each company of sixty-four privates: that the militia shall be officered as follows, to each division, one Major-General and two Aids de Camp, with the rank and pay of Major, to be appointed by the Major-General; to each brigade one Brigadier-General with one Aid-de-Camp, and one brigade inspector, to serve also as brigade Major, with the rank and pay of Major to be appointed by the Brigadier-General; to each regiment one Lieutenant-Colonel commandant, and to each battalion one Major: which general, regimental and field officers shall be appointed by the Senate and House of Commons: provided that if any regiment or battalion is at this time officered in a different manner, the commissions shall continue until by vacancies happening, it shall be practicable to arrange the appointments agreeably to this act. And to each company one Captain, one Lieutenant, one Ensign, four Serjeants, four Corporals, one drummer, one fifer or bugler: that there shall be a regimental staff, to consist of one Adjutant and one Quarter-Master to rank as Lieutenants, one Paymaster, one Surgeon and one Surgeon's mate, to be appointed by the commanding officer of the regiment, and one Serjeant Major, one Drum Major and one Fife Major to each battalion, to be appointed by the commanding officers thereof. And the non-commissioned officers, drummers, fifers, buglers, trumpeteers and farriers shall depend on the appointment of the Captain of each company or troop, who are hereby impowered to make the same; the commissioned officers of the companies of artillery shall be recommended by

Militia how divided and officered.

the Brigadier-General of the diſtrict, and of the troop of horſe by the field officers of the regiment of cavalry, and the commiſſioned officers of the companies in the infantry ſhall be recommended by the field officers of the regiment, to the Governor; who ſhall iſſue commiſſions to fill all the above mentioned appointments and recommendations and the general and field officers as well as all other commiſſioned officers ſhall reſide in the diſtricts or companies which they reſpectively command. *Provided nevertheleſs* that the above arrangement ſhall not affect any appointment hitherto made.

Officers to reſide in the diſtricts they command. Proviſo.

V. *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 or riflemen, and that to each diviſion there ſhall be at leaſt one company of artillery and to each regiment at leaſt one troop of horſe: there ſhall be to each company of artillery one captain, two lieutenants, four ſerjeants, four corporals, ſix gunners, ſix bombardiers, one drummer and one fifer, and fifty two matroſſes; 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 ordinance and field artillery is provided. There ſhall be to each troop of horſe one captain, two lieutenants, one cornet, four ſerjeants, four corporals, one ſaddler, one farrier, one trumpeteer and ſixty four dragoons; the commiſſioned officers to furniſh themſelves with good horſes of at leaſt fourteen hands and a half high, and to be armed with a ſword and a pair of piſtols, the holſters of which to be covered with bear ſkin caps; each dragoon to furniſh himſelf with a ſerviceable horſe fourteen hands and a half high, a good ſaddle, bridle, mail pillion and valiſe, holſters, a breaſt plate and crupper, a pair of boots and ſpurs, one piſtol, a ſabre and a cartouch box to contain twelve cartridges for piſtols. *Provided*, that no perſon ſhall be enrolled in any troop of horſe until approved of by a majority of the field officers of the regiment to which he belongeth, but ſhall until then and afterwards 'till he equips himſelf agreable to law, do his duty in the infantry; 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 the eleventh part of the infantry, and ſhall be uniformly cloathed in regimentals to be furniſhed at their own expence; the colour and faſhion to be determined by the Brigadiers commanding the brigade to which they belong.

Grenadiers, riflemen, artillery and horſe how officered, and equipped.

VI. And whereas ſundry corps of artillery, cavalry and infantry now exiſt in this ſtate, *Be it 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, and provided they have complied, or, within ſix months after the paſſing of this act, ſhall comply with the regulations of their reſpective corps; in failure whereof, they are hereby returned to the infantry, and required to do duty in the ſame.

Privileges of certain corps, preſerved.

VII. *And be it further enacted* that each battalion and regiment ſhall be provided with the State, and regimental colours by the field officers in ſuch manner as is herein directed.

Colours how provided.

VIII. *And be it further enacted*, that it ſhall be the duty of the Adjutant-General to diſtribute all orders from the commander in chief of the State to the ſeveral corps; to attend at public reviews, if required, 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 ſhall be made; to demand and 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 manner herein directed, that the ſaid Adjutant-General may be duly furniſhed therewith previous to the annual meeting of the general Aſſembly; from all which returns he ſhall make proper abſtracts and lay the ſame with a report of the general ſtate of the militia, magazines, and military ſtores, and alſo of ſuch improvemenrs as he may think neceſſary to advance the diſcipline and benefit of the militia, annually on the firſt week of the ſetting of ſaid Aſſembly before the commander in chief of the State; who is required to lay the ſame without delay before the ſaid Aſſembly. And the Adjutant-General ſhall alſo annually make a return of all the militia of the State to the Preſident of the United States. And it ſhall be the further and eſpecial duty of the ſaid adjutant General to give information againſt and proſecute in behalf of the State all Major and Brigadier Generals who ſhall fail or neglect to review their reſpective diviſions and brigades agreeable to the directions of this act; and to the end that he may receive information whether the ſaid duty has been performed, the commanding officer of each regiment, under the penalty of twenty five pounds for each neglect, is hereby required to forward to the ſaid Adjutant General a duplicate of the annual return made to the Brigadier, at the bottom of which he ſhall report whether or not his regiment was reviewed by the Major General or Brigadier, and at what time; in failure of which before recited duties, he ſhall ſuffer the following fines and puniſhments that is to ſay, for not attending all public reviews when required by the Governor or commander in chief of the State, twenty five pounds for each neglect; for not furniſhing blank forms, as required

Adjutant-General's duty, and penalties in caſe of negligence.

by this act, the ſame to be forwarded in due time to the Inſpectors of brigades, the ſum of five pounds for each neglect; the ſaid fines to be recovered before any juriſdiction having cognizance thereof, one half to the uſe of the informer, the other half to the uſe of the ſtate; for not diſtributing all orders from the Commander in Chief of the ſtate, or for not making returns, informations and proſecutions, as required by this act, upon conviction of either, before a general court-martial, to be ordered by the Governor, he ſhall be caſhiered and rendered incapable of ever after holding a military appointment under the authority of the ſtate. And to compenſate him for the ſaid ſervice, he is hereby allowed a ſalary of one hundred pounds, to be paid him by the Treaſurer, on a warrant from the Governor, which ſhall be granted at his receipt of each annual return, as herein required.

Salary.

IX. *And be it further enacted*, that the rules approved and eſtabliſhed by Congreſs, in their reſolution of the twenty ninth of March, ſeventeen hundred and ſeventy nine, ſhall be the rules of diſcipline, to be obſerved by the militia of this ſtate, except, ſuch alterations as may be rendered neceſſary by the requiſitions of this act, or by ſome other unavoidable circumſtance: 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 agreeable to the ſaid rules of diſcipline, a copy of which and one of Baron Steuben's military guide, complete with the drafts, alſo the continental articles of war, together with this act, it ſhall be conſidered part of the public printer's duty to furniſh for every officer in each Brigade, down to the grade of Captain inclusive; for which he ſhall be allowed by the next General Aſſembly, where ſaid copies ſhall be delivered by the firſt day of January next, to the Brigadiers of each diſtrict, who ſhall cauſe them to be diſtributed to the ſeveral officers above deſcribed, and that there ſhall be taken from each a receipt and obligation to return the ſame, for the uſe of his ſucceſſor, on vacating his commiſſion.

Rules of Diſcipline.

Books provided for Officers.

X. *And be it further enacted*, that it ſhall be the duty of the Brigade-Inſpector, to attend at the regimental or battalion parades, the day preceding each regimental or battalion muſter, when and where the officers of the companies ſhall attend, and the Brigade Inſpectors, are hereby required to train and inſtruct, the ſaid officers in the duty of their ſtations reſpectively, by explaining the principles, on which the different manœuvres in the ſyſtem of diſcipline eſtabliſhed are to be performed; the utility and neceſſity of being acquainted with the different formations and changes of poſition, marching, wheeling and other proper movements; together with the manual exerciſe and the different methods of firing by platoons, and by recommending, what exerciſe and manœuvres, ſhall be performed at their company muſters, and that they uſe their endeavours, to inſpire a ſpirit of emulation among the officers and alſo to attend the regimental and battalion meetings of the militia compoſing their ſeveral brigades, during the time of their being under arms, as above preſcribed; 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 report to the Brigadier-General the field officers abſent at general muſters or reviews, to make timely returns to the Adjutant-General of the ſtate, at leaſt once in every year, of the militia of their reſpective brigades, reporting therein the actual condition of the arms, accoutrements and ammunition of the ſeveral corps, and every thing which in their judgment may relate to the government thereof, and the general advancement of good order and military diſcipline: for which field ſervices, each of them ſhall be allowed the ſum of fifteen ſhillings per day and fifteen ſhillings for every thirty miles, after they leave home, riding round the circuit of their brigade, to be paid by the Treaſurer of the ſtate, on the certificate of the Brigadier-General; and if the ſaid Brigade Inſpector, ſhall fail to attend the regimental and battalion parades, the day preceding or on the day of the regimental and battalion muſters as required by this act and to perform the duties therein, required (ſickneſs or other unavoidable accident excepted) each of them ſhall forfeit and pay for ſuch failure the ſum of twenty pounds, to be recovered by proſecution of the Brigadier-General, before any juriſdiction, having cognizance thereof, and for every neglect to make the returns to the Adjutant-General as required by this act, the ſum of twenty pounds, to be recovered as above; all which fines ſhall be paid to the Treaſurer for the uſe of the ſtate.

Brigade-Inſpector's duty,

And penalties for neglect.

XI. *And be it further enacted*, that there ſhall be in every year, one regimental or battalion muſter, at the Court-houſe of the county of ſuch regiment or battalion, or at ſuch other places as have been or ſhall be appointed by law for general muſters, and that the Brigadier General ſhall order the ſaid muſter, ſo that the Adjutant General may receive his returns, in due time to lay the ſame before the Governor as herein required and in ſuch rotation that the Brigade Inſpector, may attend each of the ſaid regiments and battalions, following each other immediately in courſe, for the purpoſe herein required: On failure whereof, the ſaid Brigadier ſhall forfeit and pay the ſum of twenty five pounds to be recovered and applied as herein directed, and the commanding officer of each regiment or battalion, if he does not receive ſuch orders from the Brigadier General of his diſtrict ſhall appoint the ſaid muſter, ſo as to anſwer the above intention; on failure whereof, he ſhall ſuffer a fine of fifteen pounds, for each neglect: and the ſaid Brigadiers ſhall cauſe the commanding officers of the reſpective regiments or corps, to be notified thereof at leaſt two weeks previous to ſuch muſter; and if any officer ſhall fail to attend, at any review,

Regimental & Battalion muſters, when and where held.

Brigadier-General to order them,

If he does not, the Commanding Officer ought to—

Penalties.

regimental or battalion muſter, or attending not appear armed as required by this act, he ſhall on conviction before a court-martial, forfeit and pay, if a field officer the ſum of five pounds; or if attending and he be not properly armed, two pounds, ten ſhillings; if a commiſſioned officer under that grade, the ſum of two pounds; and if attending he be not properly armed, one pound; and every non commiſſioned officer and private, who ſhall fail to appear on the laid occaſions, ſhall forfeit for every ſuch failure or neglect, ten ſhillings; or if appearing he be not armed and provided in manner as directed by this act, ſhall for ſuch deficiency, forfeit and pay, five ſhillings; which fines ſhall be recovered and applied as hereafter directed, and the company Officers in each regiment or battalion of infantry, ſhall incur the ſame penalties, if they fail to attend at the muſter ground the day preceeding each muſter, for the purpoſe herein mentioned: and every Captain or commanding Officer of a company, ſhall once within three months, at ſuch place as he ſhall think moſt convenient and agreable to the order of the commanding Officer, muſter train, and exerciſe his company; at which muſter the Officers and privates, ſhall appear armed as before required; and if any Captain or commanding Officer of a company, ſhall fail or neglect to muſter his company, as herein directed, he ſhall forfeit and pay the ſum of ten pounds, and if he or any commiſſioned Officer of the company, ſhall fail to appear at the ſaid muſter, the Officers ſo failing, ſhall forfeit and pay the ſum of twenty ſhillings, and if appearing be not properly armed ten ſhillings: to be recovered by warrant from the commanding Officer of the regiment or battalion, directed to the Adjutant who ſhall collect the ſame and alſo four ſhillings for his trouble in ſo doing; and if any non commiſſioned Officer or ſoldier ſhall fail to attend at a company muſter, he ſhall pay the ſum of five ſhillings; and if attending, without being armed and accoutred, ſhall pay the ſum of two ſhillings and ſix-pence to be recovered, as well, as all other fines, from non commiſſioned officers and privates, where no other method is directed, by a warrant from the Captain or commanding Officer of the company, directed to a ſerjeant, who, ſhall at the ſame time, levy over and above the fine, four ſhillings for his trouble: which fines ſhall be applied, as ſhall hereafter be directed. *Provided*, that every abſentee or defaulter, ſhall be allowed until the next ſucceeding company muſter, to make his excuſe, which ſhall always, and without exception, be upon oath; the Officer higheſt in rank being hereby authoriſed to adminiſter the ſame. If any Officer ſhall ſuffer himſelf to be intoxicated or behave in a riotous or diſorderly manner, when required to be on duty, or diſobey the lawful orders of his commanding Officer, he ſhall for the firſt offence, be openly reprimanded, by the Preſident of the Court Martial, before which he is convicted, and be fined at the diſcretion of the ſaid Court, not exceeding five pounds, or be caſhiered; and for the ſecond offence, he ſhall be abſolutely caſhiered: the fines before mentioned to be recovered by warrant of the ſaid Preſident, directed to the Adjutant, who ſhall further levy four ſhillings, for his trouble in collecting the fine.

Fines for failing to appear; or being not properly equipped.

Time allowed for excuſes.

Miſbehaviour of officers,

XII. *And be it further enacted*, that if any non commiſſioned officer or private, ſhall during the time of muſter reſiſt his commanding officer, or refuſe to obey his lawful commands, if a noncommiſſioned officer, he ſhall be fined, twenty ſhillings, reduced to the ranks, and be confined and kept under guard, during ſuch muſter; and if a private, ſhall be fined ten ſhillings and be confined and kept under guard during ſuch muſter. And if the officers of a company or any two of them, after an examination upon oath, ſhall adjudge any perſon or perſons enroled as aforeſaid, to be incapable of providing and furniſhing him or themſelves with the arms, ammunition and accoutrements, required by this act, they ſhall make report thereof to the next battalion court martial as the caſe may be; who may if it ſhould appear neceſſary exempt ſuch perſon or perſons from the fines and forfeitures by this act impoſed, until ſuch arms and accoutrements ſhall be provided, and delivered him or them by the court martial, who ſhall take ſecurity for the ſafe keeping of ſuch arms and accoutrements to be returned when required.

of non commiſſioned officers and privates.

Perſons unable to procure arms.

XIII. *And be it further enacted*, that the ſeveral Captains of infantry, ſhall at their general muſters make a return of their reſpective companies to the commanding officer of their battalion; the Captain of cavalry, to the commanding officer of cavalry in thirty days; and the captains of artillery to the Brigadier of the diſtrict, within thirty days thereafter, and to the commanding officers of his regiment in three months, under the penality of five pounds, to be levied by warrant of diſtreſs from the ſaid reſpective officers to whom the returns are to be made directed to the adjutant of the regiment, reſpectively of infantry or cavalry, who may deduct out of the ſame four ſhillings for his ſervices; which commanding officers of infantry, are required to make a return of his battalion to the Colonel of the regiment within thirty days after ſuch muſter, under the penalty of twenty five pounds and the Colonel or commanding officer of the regiment of cavalry or infantry, ſhall make in thirty days, after their receipt thereof, a complete return thereof, to the General of the Brigade, to which they reſpectively belong, under the penalty of twenty five pounds each; which Brigadier is hereby required within thirty days thereafter, to tranſmit the ſame to the Major General of his diviſion, under the penalty of twenty five pounds; who is required to make a return thereof to the Adjutant General in thirty days after he receives the ſame, under the penalty of fifty pounds; which fines ſhall be recovered, as herein after directed.

Returns, when, by whom, and under what penalty, to be made.

XIV. *And be it further enacted*, that when any Major-General ſhall be charged with mal-practice, or neglect of duty, the Governor or Commander in Chief for the time being

shall order him to be arrested, and furnished with a copy of his charge and shall order a general court-martial, for the trial, compoted of one Major-General, two Brigadier-General nd ten field officers; one half the number of which officers at least shall be of a different division. And on a like charge against a Brigadier-General, the Major-General shall order him to be arrested, and furnished with a copy of his charge, and shall order a court martial, for his trial, composed of one Brigadier-General and twelve field-officers; six of whom at least shall be drawn from some other brigade. And in like manner, the Brigadier General, or commanding officer of each brigade, shall arrest and appoint court-martials, for the trial of the field officers of the same, against whom charges may be exhibited; which courts shall be composed of thirteen officers, none of whom to be under the rank of captain, and a field Officer to preside. The commanding Officer of each regiment or battalion shall order a Court-Martial to be held at the place appointed for the muster of the same, on the day after their respective regimental or battalion musters: which courts shall consist of a majority of the officers, two of whom at least shall be of the grade of Captain, the eldest of which shall be president. The court shall be warned to that duty by the Adjutant of the battalion, by a roster to be by him kept, and the said court when convened shall have power to cause the necessary oaths to be administered by the Judge-Advocate, and to enquire into the age and abilities of all persons brought before them, and exempt such as may be judged incapable of service: and also all neglects or omissions as well by officers as privates; and to hear and determine all appeals which shall be made by non commissioned officers and privates who may think themselves aggrieved by the Officers of the companies; and to order and dispose of all fines for buying drums, fifes and other implements of war, for the use of the company whence the same shall arise, and for supplying the militia with arms and accoutrements and other purposes that will promote the advantage thereof.

Major and Brigadier-Generals, how tried,

Court martial, how composed & warned,

its province.

XV. *And be it further enacted*, that whenever a Court-Martial is ordered, the officers directing the same shall appoint a Judge-Advocate to attend; who shall be allowed a reasonable salary out of the fines arising from the neglects of duty, for his services; whose duty it shall be to write at length the proceedings of the said court; and no sentence of a court-martial shall be put in execution until it shall be returned to the officer ordering such court, and when the judgment or sentence shall be to cashier or suspend any officer whose appointment is in the General Assembly, the proceedings shall be transmitted to the Adjutant-General, to be by him delivered to the Governor or commander in chief; whose duty it shall be to lay the same before the next General Assembly after such sentence. The president and members of every court, before they proceed to business shall take the oath herein after directed to be taken by the members of courts-martial in actual service, and battalion courts-martial, shall also take the following oath, *to wit.* "I swear that I will well and truly appropriate all fines and forfeitures according to law, without favour, affection, or partiality, *So help me God.*" Which said oath shall be administered by the Judge-Advocate, who shall himself in the presence of the said court, take the following oath. "*I, A. B. do swear that I will well and truly perform the duties of Judge-Advocate of this court, according to the best of my skill and abilities, so help me God.*" And the said courts when formed and sworn shall observe due order and decorum.

Oath of its members and of the Judge-Advocate.

XVI. *And be it further enacted*, that in case of an insurrection within this State, or invasion, it shall and may be lawful for the Governor and commander in chief for the time being, or any officer by him directed to raise so many of the militia, as shall be thought necessary for opposing such insurrection or invasion; and the militia so raised shall perform such duty or service as they shall be required to do, by their commanding officers, and it is hereby directed, that the said militia shall appear furnished with arms, ammunition and accoutrements as aforesaid.

Militia, raised in case of insurrection.

XVII. *And be it further enacted*, that every officer who shall neglect or refuse, on call of alarm given to appear at such times and places as shall be appointed by his commanding Officer, he shall on due conviction before a Court Martial be cashiered and rendered incapable of ever after holding a military appointment under the authority of this state. and be further liable to pay the sum of twenty pounds to be collected as herein directed; if a non-commissioned Officer or private, he shall forfeit and pay ten pounds: And if any person do not march against an enemy when commanded, by himself or substitute, or refuse or neglect to do his duty or perform the service he is put upon by his Officer, or quit his post, desert or mutiny, it shall and may be lawful for the commanding Officer of the regiment or corps to order a Court Martial for the trial of such offender; the members of which when met shall individually before they proceed take the following oath, *to wit*; "I swear, well and truly, to try and determine according to the evidence of the matter, before me, between the state and the prisoner now to be tried. *So help me God.*" And on trial and conviction shall punish the offender according to the articles of war established for the regulation of the continental army, and the nature of the offence. *Provided nevertheless*, such punishment shall not extend to sentence of death, except in case of desertion to an enemy or mutiny.

Punishments, when capital.

XVIII. *And be it further enacted*, that when any commissioned Officer shall be convicted before a Court Martial of having violated this act, he shall not only be subject to the fines imposed by this act, but may at the discretion of the Court Martial be cashiered. And the persons enrolled in any troop of horse or company of artillery, who have complied with the condition of the law, shall be and are exempt from service in the infantry and shall not be afterwards transferred to the infantry except in case of removal, or by

Officers may be cashiered.

Horse and artillerymen's exemptions.

conſe t of the commandin̄ Officers of the troop, or as herein b. fore directed.

XIX. *And be it further enacted*, that no officer or ſoldier directed by this act to appear and muſter as aforeſaid, ſhall be liable to be taken or arreſted in any civil action or proceſs whatever, on the day ſuch perſon or perſons is or a.e directed to appear; or in any reaſonable time either in going to, continuing at, or retu ning from the place appointed to muſter or appear; but every ſuch arreſt is hereby decl. red to be void. And every perſon required by this act to attend muſters or reviews, going to or returning from the ſame ſhall be ſuffered to paſs over any toll bridge or toll-cauſe-way, and ſhall be put over any ferry without delay, free from any charge whatſoever. And if any ferryman, or proprietor of any toll bridge ſhall demand pay, delay or refuſe to put ſuch perſon or perſons over, they ſhall forfeit for every ſuch offence the ſum of twenty ſhillings, to be recovered by a warrant from a Juſtice of the Peace; one half to the informer, and the other half to the uſe of the county wherein the offence was committed. And the Major-General of each diviſion ſhall, when convenient to himſelf, but at leaſt once in two years order a review of the ſeveral corps compoſing the ſame by regiments in their reſpective counties, except the regiments of cavalry and companies of artillery, which ſhall be muſtered at the court houſes of their reſpective diſtricts, and he ſhall attend the ſaid reviews, under the penalty of fifty pounds. And the Brigadiers of each diſtrict or brigade ſhall in like manner at leaſt once in every two years order a review of their ſeveral commands in his brigade under the penalty of twenty five pounds, to be recovered as heretofore preſcribed by the Adjutant-General of the State. And when penalties are inflicted upon field officers, and no other method is directed for the recovery thereof, the ſame ſhall be recovered by information of the Brigade inſpector, before a regimental court-martial to be ordered by the Brigadier; the ſentence or judgment of which court ſhall be carried into execution and levied by the Adjutant of the regiment as preſcribed.

Freedom of arreſt.

On muſter days.

Free paſſage over toll-bridges, ferries &c.

Penalty.

Major-General's.

and

Brigadier-General's muſter.

Penalties how recovered from Field Officers.

XX. *And be it further enacted*, that the Major of each battalion of artillery ſhall once in every two years, review the companies of the ſame under the penalty of twenty five pounds. And the commanding Officer of the regiment ſhall once in two years review the ſaid regiment by companies under the penalty of thirty pounds; and ſhall once in every year tranſm t a return of the ſaid regiment to the Adjutant-General, in due time for him to lay the ſame before the Governor at the annual meeting of the Aſſembly. The commanding Officer of each regiment of cavalry ſhall once in two years muſter his regiment at ſome convenient place under the penalty of twenty five pounds; and ſhall alſo once in every year review each troop in his regiment by calling one or more of them together at ſome convenient place, and ſhall alſo once in every year and in due time, make a juſt return of his regiment to the Brigadier-General of the diſtrict or brigade, under the penalty of twenty five pounds. *Provided always*, that the companies of artillery and troops of horſe ſhall when attending the general muſters of the regiment or battalion of infantry in which they reſide, be under the orders of the commanding Officers of ſaid regiment or battalion; except that at reviews of the regiments of cavalry, they ſhall be under the command of the Officers of cavalry only.

Artillery reviews.

XXI. *And be it further enacted*, that all fines and forfeitures by this act directed, and not herein before particularly appropriated ſhall be applied to the purpoſe of firſt buying drums, fifes and colours, and then arms and accoutrements for the uſe of the corps from whence the ſame may ariſe. And thoſe paid by the Major General ſhall be equally divided amongſt the Brigades of his diviſion: thoſe paid by the Brigadier ſhall be equally divided amongſt the different regiments and battalions of his Brigade: thoſe paid by the field and ſtaff officers, and not before appropriated herein, equally amongſt the companies of the regiments or battalions to which they belong: and thoſe paid by the other commiſſioned Officers, amongſt their companies, for the uſe and benefit of the ſaid reſpective corps.

Fines appropriated.

XXII. *And be it further enacted, by the authority aforeſaid*, that the reſpective Officers, non commiſſioned Officers and privates when in actual ſervice in the defence of this ſtate, ſhall from the day they are ordered on duty, be paid according to the following rates, *to wit*, a Major General per day, twenty five ſhillings, a Brigadier General per day, twenty ſhillings, a Colonel or Lieutenant Colonel commandant of infantry, per day, fifteen ſhillings, a Major of infantry, ten ſhillings.

Pay,

A Captain of ditto, — ſeven ſhillings and ſix-pence.
A Lieutenant of ditto, five ſhilling.
Enſign of ditto, — four ſhillings and ſix-pence.
Surgeon of ditto, ſeven ſhillings and ſix-pence.
Sergeant Major of ditto, four ſhilings.
Drum Major of ditto, four ſhillings.
Fife Major of ditto, — four ſhillings.
Serjeants of ditto, three ſhillings and ſix-pence.
Drummer of ditto, three ſhillings.
Fifers of ditto, three ſhillings.
Corporal of ditto, three ſhillings.
Private of ditto, two ſhillings and ſix pence.
Lieutenant Colonel commandant of cavalry, twenty ſhillings,
Major of ditto, fifteen ſhillings.
Captain of ditto, twelve ſhillings and ſixpence.
Lieutenant of ditto, ten ſhillings.
Cornet of ditto, ſeven ſhillings and ſix-pence
Surgeon of ditto, ten ſhillings.
Serjeant of ditto, five ſhillings and ſixpence.
Corporal of ditto. five ſhillings and ſix-pence.
Trumpets of ditto. five ſhillings and ſix-pence.
Private of ditto, four ſhillings and ſix-pence.
Lieutenant Colonel commandant of artillery. twenty ſhillings.
Major of ditto, twelve ſhillings and ſix-pence.
Captain of ditto, ten ſhillings.
Captain Lieutenant of ditto, ſeven ſhillings and ſix-pence
Lieutenant of ditto, ſeven ſhillings and ſix-pence.
Surgeon of ditto, ten ſhillings.

Non commiſſioned Officers and privates to have the ſame pay as in the cavalry.

Provided nevertheleſs, that the above mentioned pay ſhall not be conſtrued to be due to any Officer or men of the militia, called out at any time in purſuance of orders from the

Not due in certain caſes.

executive of the United States, or the laws thereof.

XXIII. *And be it further enacted* that the act of Assembly passed at Fayetteville, in the year one thousand seven hundred and eighty six, entitled "an act for establishing a militia in this State and all acts and clauses of acts, which come within the meaning and purview of this act, be and the same are hereby repealed and made void.

Repealing clause.

CHAP. III.

An Act for raising the proportion of militia required of this State, agreeably to the act of Congress of the United States, entitled, "an act directing a detachment from the militia of the United States."

I. BE *it enacted, by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same,* that the Governor or Commander in Chief be, and he is hereby authorized and required to issue the necessary orders to the Major-Generals, commanding the different divisions of militia of this state, requiring them to raise by volunteers or draft, as soon as may be, the quota of their respective divisions of the seven thousand three hundred and thirty one men, officers included, required of this state, agreeably to the aforesaid act of Congress, in manner following, that is to say—From the county of *Perquimans*, ninety two; *Camden*, seventy six; *Gates*, eighty two; *Bertie*, one hundred and eighty four; *Chowan*, sixty seven; *Pasquotank*, one hundred; *Currituck*, one hundred and six; *Hertford*, eighty-five; *Tarrel*, eighty-five; *Jones*, seventy seven; *Wayne*, one hundred and thirteen; *Pitt*, one hundred and fifty-three; *Hyde*, eighty two; *Craven*, one hundred and seventy nine; *Johnston*, one hundred and nine, *Glasgow*, fifty seven; *Lenoir*, sixty four; *Beaufort*, one hundred, *Carteret*, seventy five; *Brunswick*, forty; *Bladen*, eighty seven; *Onslow*, eighty-seven; *New-Hanover*, eighty eight; *Duplin*, one hundred and nine; *Moore*, eighty-nine; *Robinson*, one hundred and eighteen; *Sampson*, one hundred and twenty; *Cumberland*, one hundred and eighty seven; *Richmond*, one hundred and fifteen; *Anson*, one hundred and nine; *Halifax*, one hundred and ninety two: *Northampton*, one hundred and forty; *Warren*, one hundred and twelve; *Nash*, one hundred and nineteen; *Martin*, one hundred and three; *Franklin*, one hundred and fourteen; *Edgecombe*, one hundred and eighty one; *Orange*, two hundred and fifty five; *Granville*; one hundred and sixty six; *Chatham*, one hundred and eighty four; *Wake*, one hundred and eighty six; *Randolph*, one hundred and sixty six; *Caswell* one hundred and six; *Person*, eighty three; *Rowan*, three hundred and forty four; *Mecklemberg*, one hundred and fifty one; *Guilford*, one hundred and sixty nine; *Surry*, one hundred and sixty; *Stokes*, one hundred and ninety four; *Iredell*, one hundred and seventeen; *Rockingham*, one hundred and twenty three; *Montgomery*, one hundred and two; *Cabarrus*, ninety eight; *Burke*, one hundred and fifty four; *Lincoln*, two hundred and sixteen; *Wilkes*, one hundred and sixty nine; *Rutherford*, one hundred and forty; *Buncomb*, fifty two: and that the men and officers so raised or drafted shall hold themselves in readiness within their respective counties, to march at a moment's warning.

Governor to issue orders, &c.

Quota of each county.

II. *And be it further enacted*, that when accurate returns are obtained, if it shall appear thereby that any county has been aggrieved by the quota herein established, such county shall be entitled to a credit for such extraordinary services, in the next subsequent requisitions; and such counties, as may not have performed their due proportions, shall be bound to make up their respective deficiencies.

Inaccuracies in it rectified.

III. *And be it further enacted*, that it shall be the duty of the field officers, and they are hereby required immediately to arrange such persons as are exempted from militia duty on account of religious principles in classes, and to call upon them for such an equal proportion of men, as shall be required from their fellow citizens of the same county, and if any class shall fail, refuse or neglect to furnish a good able bodied man within ten days after being so called upon (to be approved of by the proper receiving Officer) then the field Officers of the county shall cause advertisements to be put up at the Court-house, and at least two other public places within the Captain's district from whence the man is required and giving notice that any able bodied man offering to perform the required tour of duty on the most reasonable terms; shall be preferred, and upon such person engaging; the Court Martial of said county shall apportion the sum of money given for said substitute equally amongst the class, and deliver an account of such apportionment to the sheriff or collector of said county who shall proceed immediately to collect the same and pay to the commanding Officers of said county, and shall be allowed the same commissions, as he is allowed for other public taxes.

Duty of field officers as to persons religiously scrupulous.

Sum levied on their goods.

IV. *And be it further enacted*, that where the sheriff shall not be able to make the sum out of the goods and chattels of such person or persons, he is hereby directed to levy the process on his or their lands, and make return to the court of his county. Whereupon the court shall order so much of the said land to be sold as will make the sum required to be raised; and such land shall be sold in the same manner as land levied upon by execution from any court in this state. *Provided nevertheless*, no substitute shall be hired for such class or classes of religious societies, until the detachment shall be ordered into actual service.

orland,

V. *And be it further enacted*, that it shall be the duty of the field Officers in classing the men exempted in times of peace by the militia law to perform the same, by causing all

Duty of field officers as to persons exempted from militia duty.

the names of those able bodied men between the age of eighteen and forty five years, and all other able bodied men not exempt in time of insurrection or invasion to be put into a box by companies and to be drawn out in a fair, impartial manner such number as shall compose a class and so on untill all be drawn out. And if a fraction remain the number composing the same shall be added to any fraction that might remain of the other companies of militia in the county.

Substitutes may be employed.

VI. *And be it further enacted*, that it shall and may be lawful for any person drafted or raised by virtue of this act to furnish a good able bodied man as a substitute, equipped agreable to law. Which said substitute after being received by the proper Officer and approved of by the commanding Officer of the detachment in the county in which he resides, shall in every respect be bound to serve his required tour in the same manner, as those who are volunteers or drafted men. And the person furnishing such substitute shall be entitled to the full exemption of the service required by this act. *Provided*, that no deserter from an enemy, shall be received as a substitute for any person whatever.

Independent corps may be accepted.

VII. *And be it further enacted*, that if any independent corps of cavalry, artillery or infantry shall voluntarily offer to engage in this service, they shall be accepted, if properly equipt as part of the above detachment, and accredited to the counties in which they were raised, so that the several classes of the county shall be enlarged in proportion to the volunteers, and the regiments of artillery and corps of cavalry heretofore established, are hereby declared to be of this description, where the same are now kept up and organized agreable to law.

Detachment how officered.

VIII. *And be it further enacted*, that the detachment so raised, shall be officered out of those at present commanding the militia of the state that is to say by the Major General first in rank; and by the Brigadier General eldest in commission, in the first and second divisions, and by the Brigadier General eldest in commission in the third and fourth divisions. And the proper proportion of field and other Officers, the numbers and rank of which field officers shall be apportioned to the Brigades of their respective divisions by the Major Generals thereof, who shall command the Brigadiers forthwith to furnish the same, which order shall be carried into effect by their respectively accepting of such as voluntarily offer. If more than a sufficient number of the same rank offers as volunteers, then the determination shall be by lot, but if a sufficient number do not offer after their corps are called upon, then the deficiency shall be made up by ordering out those eldest in commission of each grade. And the Brigadiers shall immediately apportion the grade and number of Officers necessary from each county, under their command, and make requisition to the commanding Officers of each corps for such Officers, who shall observe the rule above prescribed to the Brigadiers, and in every case where the officer highest in rank neglects or refuses to take his tour, when ordered (sickness or other unavoidable causes excepted) his commission shall be vacated by such neglect or refusal, and another shall be immediately appointed in his stead. And the officers raised or appointed in pursuance of this act shall immediately make return of their respective commands to the commanding Officer of the Brigade in which they were raised, who shall return the state of that part of the detachment raised from such Brigade to the Major General of the detachment, who shall thereupon arrange the same into brigades and regiments, and make report thereof to the commander in chief of the state.

Receipts taken for arms.

IX. *And be it further enacted*, that all volunteers, drafted persons, or substitutes, receiving public arms and accoutrements, shall sign a receipt for the same; and be held accountable to the state, for the fare keeping and redelivery of them (if not destroyed, or lost by unavoidable accidents) to such officers as may be appointed for that purpose, at the expiration of the terms of service.

Governor to procure arms.

X. *And be it further enacted*, that the Governor be and he is hereby authorized to procure from the executive of the United States a sufficient quantity of arms and military stores to answer the exigencies of the State, on such terms as they are furnished the other States of the union, and in case of failure to procure the arms above mentioned, it shall be the duty of each class or company to arm and equip agreeable to law the men they by are this act required to furnish, who shall be accountable to the class for the arms they are furnished with, unavoidable accidents excepted.

Bounty.

XI. *And be it further enacted*, that each and every of the non commissioned officers and privates of the aforesaid detachment shall be entitled to a bounty of two pounds, when called into actual service, to be paid by some person appointed by the constituted authorities at the place of general rendezvous in this State.

Drafted persons to serve in the militia till called out.

XII. *And be it further enacted*, that until the aforesaid detachments is called into actual service they shall remain annexed to and perform the duty required of militia of this State by law with the divisions, brigades, regiments, battalions, companies, and corps to which they now belong, or in which they would have been subject to do duty, if this act had not been passed.

Continuance of this act.

XIII. *And be it further enacted*, that this act shall continue and be in force until the ninth day of May next, and from thence to the end of the next session of Congress and no longer.

Read three times and ratified, in General Assembly, this 18th day of July, Anno Dom. 1794.

WILLIAM LENOIR, S. S.
JOHN LEIGH, S. H. C.

Extract of a letter from H. Knox, Secretary at war, ordered to be printed and annexed to the laws, passed this Session.

"The term of service and allowances to the detachment are mentioned generally by the fourth section of the said act; but it is conceived proper, that the pay, rations, and forage be more precisely specified as follows, *viz.*

Rank	Monthly pay	Rations	Forage per Month	
Major-General,	166 Dols.	15 per day	20 Dols.	
Brigadier-General,	104	12	16	
Lieut. Col. Commandant,	75	6	12	
Major,	50	4	10	
Captain,	40	3	10	
Lieutenant,	26	2	6	Cavalry.
Cornet,	28	2	6	
Ensign,	20	2		
Surgeon,	45	3	10	
Surgeon's Mate,	30	2	6	
Serjeant Major,	7	1		
Quarter Master Serjeant,	7	1		
Serjeant,	6	1		
Corporal,	5	1		
Senior Musician,	6	1		
Musicians,	4	1		
Privates,	3	1		

The ration of provisions to consist of one pound of beef or three quarters of a pound of pork, one pound of bread or flour, half gill of rum, brandy, whisky, or the value thereof at the contract price, where the same shall become due, and at the rate of one quart of salt, two quarts of vinegar, two pounds of soap, and one pound of candles, to every hundred rations.

Test. J. HUNT, C. H. C.

NEWBERN: FROM THE PRESS OF FRANCOIS X. MARTIN.