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AN ACT TO REVISE AND AMEND THE MILITIA LAWS OF NORTH CAROLINA.

Ratified in the General Assembly, December 20, 1860.

BE it enacted by the General Assembly of North Carolina, and it is hereby enacted by the authority of the same, That all freemen and indentured servants, citizens in this State or of the United States, resident in this State, who are or shall be of the age of eighteen years, and under forty-five years, shall, as soon as it is 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, except as hereinafter excepted, or shall come to reside within his bounds, and remain therein thirty days, and shall without delay notify such citizen of 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 hereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints, a knapsack, and 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, and twenty balls suited to the bore of his rifle, and a quarter of a pound of powder and lead; and shall appear so armed, accoutred, and provided, when called out to exercise, or in actual 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 an esponton. And every citizen so enrolled, and providing himself with the arms, ammunition, and accoutrements as aforesaid, shall hold the same exempted and free from all suits, distresses, executions, or sales for debt, or for the payment of taxes.

II. And be it further enacted, That the Vice-President of the United States, the Officers judicial and executive of the United States, the Members of both houses of Congress and their respective officers, the Judges of the Superior courts of Law and courts of Equity, and Justices of the Peace, Printer to the State, Councillors of State, the Secretary, Treasurer, Comptroller, the Attorney General, Solicitor General, High Sheriffs of the several counties in this State, Ministers of the Gospel of every denomination, that are properly and regularly ordained, and have the care of souls; Quakers, Moravians, Dunkards or Menonites, who may produce a certificate of their being regular members of either of the said societies; all custom-house officers, post-masters, and stage drivers, who are employed under the care and conveyance of the mail to the post offices of the United States; all continental officers, who served with reputation three years, or until the end of the revolutionary war, unless sooner discharged by a reform of the army; all ferry-men employed on any ferry of any public road, provided the same shall not exceed the superintendant and one other to each ferry; all superintendants of public mills and inspectors of impost, all branch pilots, all marines actually employed in the sea-service of any citizen or merchant of the United States; all officers and students of the University and all other seminaries of learning within this State, particularly established by law, shall be, and they 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 invasion or insurrection within this State.

III. And be it further enacted, That every person liable to do militia duty, who may be by the commissioned officers of his company, be deemed in circumstances sufficient to equip himself, and who shall fail to do the same as herein required, shall forfeit and pay for each deficiency as follows, viz. for want of a good and serviceable musket, rifle or firelock, the sum of five shillings; a cartouch box of

the capacity described, or shot pouch and powder horn, the sum of two shillings; flints, cartridge-box or powder and ball, as required, the sum of two shillings. And all parents, masters, or guardians, shall furnish those of the militia, who shall be under their care or command, with their arms and equipments above mentioned, under the like penalties for any neglect. That all commissioned officers shall take rank according to the date of their commission; and where two or more of the same grade bear an equal date, then their ranks 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 shall be convenient, each regiment shall consist of at least 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, and one Aid-de-camp, and one Brigade Inspector, to serve also as Brigade Major, and with the rank and pay of Major, to be appointed by the Brigadier-General; To each regiment one Lieutenant-Colonel Commandant and two Majors: which general, regiment and field officers shall be appointed by the Senate and House of Commons, and commissioned by the Governor for the time being. Provided, if at this time any regiment is officered in a different manner, the commission shall continue, until by vacancy happening, it shall be practicable to arrange the appointments agreeable to this act. And to each company, one Captain, one Lieutenant, one Ensign, four Sergeants, four Corporals, one Drummer or Fifer or Bugler: That there shall be to each regiment, one Adjutant and one Quarter-master, who shall be commissioned officers, with the rank of Lieutenant, to be appointed by the commanding officer of the regiment: There shall be also one Paymaster, one Surgeon, and one Surgeon's Mate, to be appointed as aforesaid, and one Sergeant Major, one Drum-Major and one File-Major to each battalion, to be appointed by the commanding officers thereof. And the non-commissioned officers, Drummers and Fifers, Buglers, Trumpeters, and Farriers shall be appointed by the Captains of each company or troop. The commissioned officers of the companies of grenadiers, light infantry or riflemen, and also the artillery shall be recommended by the Brigadier-General of the brigade; and of the troop of horse by the field officers of the regiment of cavalry; and the commissioned officers of the infantry shall be recommended by the field officers of the regiment to the Governor, who shall issue commissions to fulfil all the said appointments and recommendations. And the General and field officers, as well as all other commissioned officers, shall reside within the division, brigade, county or company district which they respectively command.

Provided nevertheless, That this arrangement shall not effect any appointment heretofore made.

IV. And be it further enacted, That out of the militia enrolled as herein directed, there may be formed for each battalion one company of grenadiers, light infantry or riflemen; and to each division at least one company of artillery, and to each regiment or battalion having a separate muster, at least one troop of horse, all which companies shall be formed of volunteers from the Brigade, and shall be uniformly clothed in regimentals to be furnished at their own expense, the colour and fashion to be determined by the Brigadier commanding the brigade to which they belong. There shall be to each company of artillery, one Captain, two Lieutenants, four Sergeants, four Corporals, six Gunners, six Bombardiers, one Drummer, one Fifer, and fifty-two Mufflers: The officers to be armed with a sword or hanger, and a fusée, bayonet, and belt, with a cartridge box to contain twelve cartridges; and each private or muffs 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, one Trumpeter, and not less than thirty-six dragoons: The commissioned officers to furnish themselves with good horses at least fourteen hands and a half high; to be armed

with a sword and pair of pistols, the holsters of which shall be covered with bear skin: and each dragoon to furnish himself with a serviceable horse fourteen hands & a half high, a good saddle, bridle, valise, breast-plate, and crupper; a pair of boots and spurs, a pair of pistols and holsters, a sabre, and cartouch box to hold twelve cartridges for pistols.

V. And be it further enacted, That no person that now is, or shall hereafter procure himself to be enrolled in any volunteer company authorized by this act, shall be permitted to return to the infantry, except by the consent of the Captain with whom he may be enrolled, or by removal out of the county where such person was enrolled, and it shall be sufficient for such person to be enrolled and approved by the captain of any volunteer company or troop without the intervention of any other officer whatsoever.

VI. And be it further enacted, That the rules 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 of this State, except such alterations as may be rendered necessary by the requisition of this act, or some unavoidable circumstance. It shall be the duty of the commanding officer, at every muster, whether by regiment, battalion or single company, to cause the militia to be exercised agreeable to the said rules of discipline.

VII. And be it further enacted, That it shall be the duty of the Brigadier Inspector to attend at the regimental or battalion parade, the day preceding each regimental or battalion muster, when and where the officers of the companies shall attend, and the Brigadier Inspectors are hereby required to train & instruct said officers in the duty of their respective stations, by explaining the principle on which the different manoeuvres in the system of discipline established are to be performed, the utility 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 manoeuvres shall be performed at the 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 directed; to inspect their arms, ammunition, and accoutrements, superintend their exercise and manoeuvres, and introduce the system of military discipline before described, throughout the brigade, agreeable to law and such orders as he shall from time to time receive from the commander in chief of this State; to report to the Brigadier-general the field officers absent from general review or muster; to make timely returns to the commander in chief of this State, as well as to the Brigadier of his brigade, 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 they in their judgment conceive may relate to the government thereof, and the general advancement of good order and military discipline. For which field service they shall be entitled to twenty-five shillings per day, and twenty-five shillings for every thirty miles after they leave home in going round the circuit of their brigade; to be paid by the Treasurer of this State, on the certificate of the Brigadier-general: And if the said Brigadier Inspector shall fail to attend the regimental and battalion parades the day preceding, or on the day of regimental and battalion musters, as required by this act, and performing the duties therein required (sickness or unavoidable accidents excepted) each of them shall forfeit and pay for such failure the sum of twenty-five pounds to be recovered by prosecution of the Brigadier-general before any jurisdiction having cognizance thereof. That for every neglect to make the returns to the Commander in chief of this State, 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.

VIII. And be it further enacted, That there shall be in every year, at least one regimental or battalion muster, at such place or places, as have been or shall be appointed by law for general musters; And that the Brigadier General shall order the said muster in such time and rotation, that the Brigadier Inspector may attend each of the regimental and battalion musters, following each other in course, for the purpose herein required; on failure where-

of, the said Brigadier shall forfeit and pay the sum of twenty-five pounds, to be recovered and applied as hereinafter directed: And the commanding officer of each regiment or battalion if he does not receive such orders, in time 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 the fine of fifteen pounds for each neglect. And the said Brigadier 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 any review, regiment or battalion muster, or attending not armed as required by this act, he or they shall, on conviction before a court-martial, forfeit and pay, if a field officer, the sum of ten pounds; if a commissioned officer under that grade, five pounds; and every non-commissioned officer or private, who shall fail to attend such review or muster, shall on conviction pay such sum as shall be adjudged against him or them by the court-martial, not exceeding two pounds, nor less than fifteen shillings; or if appearing, be not armed as by this act directed, shall for such default forfeit and pay not exceeding twenty shillings, nor less than five shillings, to be adjudged as aforesaid, which fees shall be recovered and applied as hereinafter directed: And the company officers in each regiment or battalion of infantry shall incur the same penalty, if they fail to attend at the muster ground the day preceding each muster, for the purposes herein mentioned. And every Captain or commanding officer of a company shall, at least once in two months, at such place as he shall think most proper and convenient, and agreeable to the order of the commanding officer, muster, train, and exercise each company; and shall cause them to remain under arms at least three hours in each and every day, by himself or his Lieutenant, and then and there teach them the manual exercise and manoeuvres directed by the book of discipline; at which muster the officers and privates shall appear armed as before required. If any Captain or commanding officer of any company shall fail or neglect to muster his company as herein directed, he shall forfeit and pay the sum of two pounds ten shillings; and if he or any commissioned officer of the company, shall fail to appear equipped as directed at the said muster, the officer so failing shall pay the sum of two pounds; and if any non-commissioned officer or private shall fail to attend a company muster, he shall forfeit and pay a sum not exceeding fifteen shillings, nor less than ten shillings; and if attending without being armed and accoutred, shall pay a sum not exceeding ten shillings, nor less than five shillings, which sum shall be adjudged in manner as hereinafter directed, according to the circumstances of the delinquent: Provided, That every absentee shall be allowed until the next succeeding company muster to make his excuse, which shall always and without exception be on oath, the officer highest in rank being hereby authorized 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 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 fined at the discretion of the said court, not exceeding two pounds; and for the second offence, shall be absolutely cashiered.

IX. 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 non-commissioned officer, he shall be confined and kept under guard during such muster, and fined at the discretion of the court-martial, not exceeding ten shillings. And if the court-martial after examination on oath shall adjudge any person or persons enrolled as aforesaid, to be incapable of providing him or themselves with arms, ammunition, and accoutrements required by this act, they shall make report thereof to the next regimental or battalion court-martial, as the case may be, who may, if it shall appear necessary, exempt such persons from the fines or forfeitures by this act imposed, until such arms and accoutrements shall be provided and delivered to 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.

X. And be it further enacted, That the several Captains of infantry shall, at their several musters, make a return of their respective companies to the commanding officer of