

C. Kingman

L A W S

OF THE

STATE OF DELAWARE;

FROM THE SECOND DAY OF JANUARY, ONE THOUSAND EIGHT
HUNDRED AND TWENTY-SEVEN, TO THE SIXTEENTH
DAY OF FEBRUARY, ONE THOUSAND EIGHT
HUNDRED AND TWENTY-NINE.

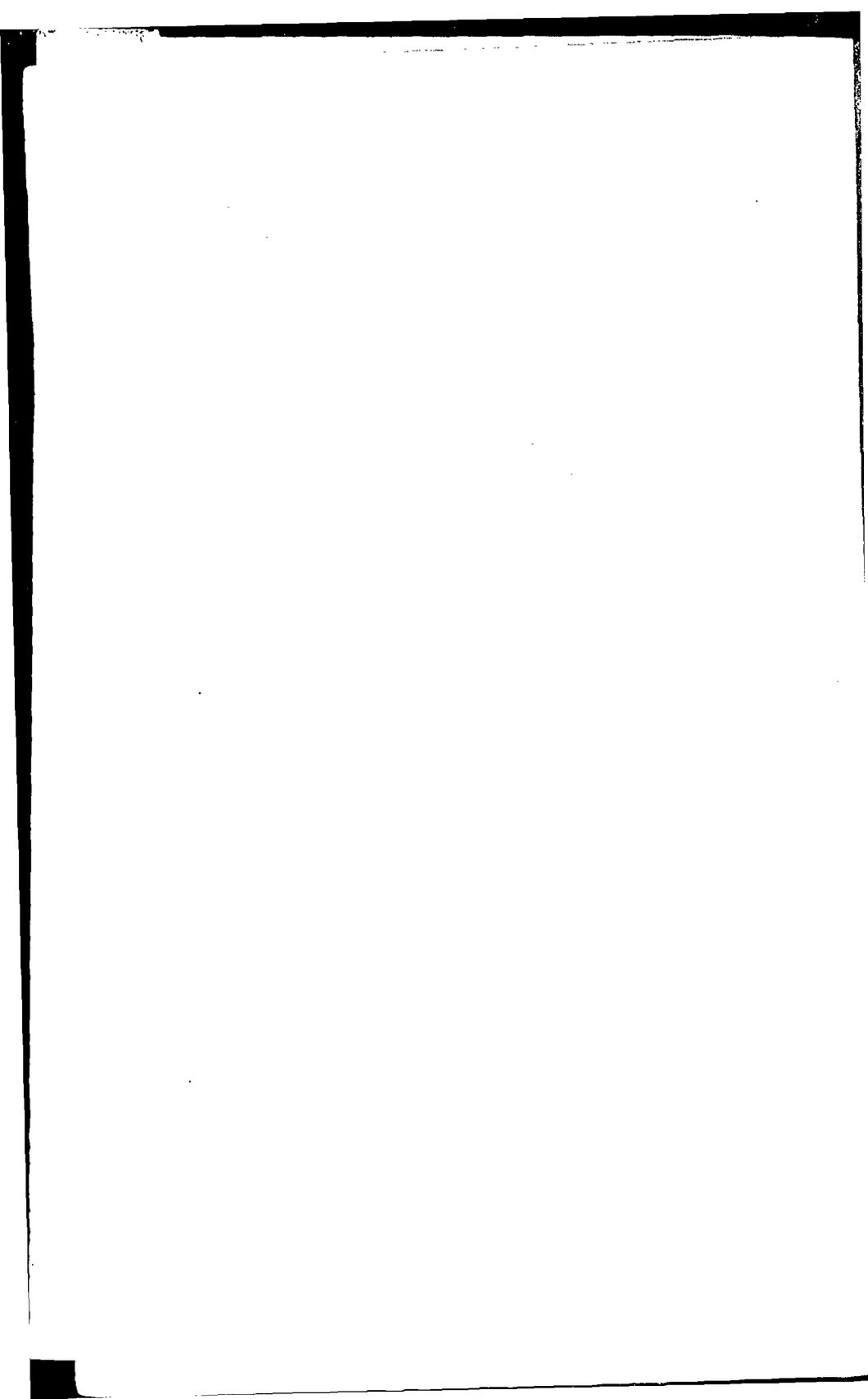


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LAWS

OF THE

State of Delaware.

CHAPTER I.

CHAPTER
I.

AN ACT to establish an Uniform Militia throughout
this State.

1827.

SECTION 1. BE IT ENACTED, by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That each and every free able-bodied white male citizen of this State, or of any of the United States residing in this State, 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, such bounds to be fixed, and limited agreeably to the subdivisions which have been made by lieutenant-colonels, majors and captains of the different counties, by the directions of an act of the General Assembly of this State entitled "A supplement to an act entitled An act for establishing the militia of this State," passed the ninth day of February in the year of our Lord one thousand seven hundred and ninety-six. And it shall be the duty of every such captain, or commanding officer of a company, at all times hereafter to enrol every such citizen as aforesaid, and also those who shall from time to time arrive at the age of eighteen years, and not excepted by this act, that have or shall come to reside within the bounds of his company, and shall notify such citizen, by a proper non-commissioned officer of his company, by whom such notice may be proven: and in all cases of doubt respecting

Who shall be
enrolled, and by
whom.

Vol. 2. p. 1225.

Notification of
the enrolment.

CHAPTER I.
1827.

Changes in di-
visions of the
counties—

and in battalions.

the age of any person enrolled, or intended to be enrolled, the party questioned shall prove his age to the satisfaction of the commanding officer of the company within whose bounds he may reside: *Provided however*, that if the brigadier-general, with the lieutenant-colonels and majors, or a majority of them, in any of the counties of this State, shall at any time deem it necessary, they, or a majority of them acting together, are hereby authorized to alter, change, or re-divide their respective counties: and the major and captains of each battalion may, if they, or a majority of them, deem it necessary, alter, change, or re-divide their respective battalions agreeably to the provisions of the first section of the act entitled "A supplement to an act entitled An act for establishing the militia of this State," passed on the ninth day of February in the year of our Lord one-thousand seven hundred and ninety-six—making return of such alterations, if any be made, as is by that act ordered and prescribed.

Exempts.

SEC. 2. *And be it 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 members of both houses of the General Assembly of this State, all custom-house officers and their clerks, judges of the supreme court and court of common pleas, chancellor and attorney-general, auditor of accounts, secretary and treasurer of this state, sheriffs, gaolers, and keepers of work-houses, 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 roads, all inspectors of exports, all pilots, all mariners actually employed in the sea service of any citizen or merchant within the United States, ministers of religion of every denomination, professors and teachers in colleges, academies, latin schools, and school-masters having twenty scholars, shall be exempt from military duty, and no other persons.

Arrangement
of the militia.

SEC. 3. *And be it enacted*, That the militia of this State shall form one division, and shall be arranged into brigades, regiments, battalions and companies in manner and form following: The State to make one division, and each county to consist of one brigade, and each brigade to consist of not less than two nor more than eight regiments, each regiment to consist of two battalions, and each battalion to consist of five companies, one of which shall be light infantry, grenadiers, or riflemen, to be formed of volunteers from their respective regiments: each compa-

ny to consist of not more than sixty-four privates, nor less than forty, or as near as may be, having regard to their local situation. There shall be to each brigade at least one company of artillery, and one or more troops of horse, as the brigadier may deem proper, provided they do not exceed one company of each to a regiment, or more than an eleventh part of the infantry, which shall be formed by volunteers from their respective brigades.

CHAPTER

I.

1827.

SEC. 4. *And be it enacted*, That in order that the militia may be well armed, equipped and accoutred, (except as hereinbefore excepted, and all young men under the age of twenty-one years enrolled agreeably to the second section of this act, shall be exempted from furnishing the necessary arms accoutrements, and from all military duties and fines during such minority, except in cases of rebellion or any actual invasion of this State, provided however that) every non-commissioned officer and private who now possesses or who shall possess, before the expiration of the (said) year, a musket or firelock, shall be obliged to appear on duty with such musket or fire-lock, whether his assessment be under or above five hundred dollars, under the penalty, for neglect, of being considered and returned among the absentees; and after the expiration of the said year, every non-commissioned officer or private who may not have received any public arms, and whose assessment shall not amount to five hundred dollars, but who shall possess a musket, or fire-lock, shall be obliged to appear on duty with such musket, or fire-lock, or be considered and returned as an absentee. The commissioned officers of the infantry shall be armed with a sword, or hanger, and esponton, and those of the artillery with a sword, or hanger, a fusee, bayonet and belt, and cartridge-box to contain twelve cartridges; the commissioned officers of the troops of horse, shall furnish themselves with good horses, at least fourteen hands and an half high; and shall be armed with a sabre and pair of pistols, the holsters of which shall be covered with bear-skin caps; each light horseman or dragoon, shall furnish himself with a good horse, at least fourteen and an half hands 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 cartouch-box to contain twelve cartridges for pistols. The artillery, light infantry, grenadiers, and cavalry, shall be uniformly clothed in regimentals at their own expense, the colour and fashion to be recommended by the brigadier commanding the brigade to which they may belong: But the officers, non-commissioned officers and privates of every troop of horse, or volunteer compa-

How the militia shall be armed.

How the officers shall be armed.

Artillery, light infantry, grenadiers and cavalry, — how clothed.

ny of militia shall be obliged to wear the uniform recommended by the brigadier of his brigade, or be considered as not belonging to such company. And all officers shall likewise uniform themselves in the manner directed by the major-general. Every militia man shall appear so armed and accoutred, when called out to exercise or into service, (here it is understood that the public find knapsacks, and ammunition,) and every man so enrolled as aforesaid, and having provided himself with arms and accoutrements as hereinbefore directed shall hold the same exempt from all suits, distress, executions, or sales for debt or payment of taxes: Each battalion shall be provided with a standard of colours by the commanding officer of the same, bearing the United States' coat of arms, which standard shall be borne by the eldest ensign present, and each company with a drum and fife; or bugle-horn by the commissioned officers of the company; each regiment shall have one drum-major and one fife-major, whose business it shall be to attend on battalion and regimental reviews, under the direction of the lieutenant-colonels and majors of each regiment: and it shall be the duty of each major of a battalion to cause to be established a school for music in the central part of his battalion, at which place and time, by previous notice given, the drum and fife majors shall attend to instruct any and every drummer and fifer of the several companies, the commanding officers of which are hereby authorized and required to send one or more scholar or scholars belonging to their respective companies to be instructed in the principles of martial music: The commanding officers of companies are hereby enjoined to send those only whom they have good reason to believe will continue to reside in their companies, or districts: If no suitable person can be found capable of teaching music in the bounds of the several regiments, the commanding officers of the same may obtain them wherever in their power, their board, and expenses of teaching, to be paid out of the fines of the respective battalions. Teachers of music for the troops of cavalry, to be procured by their respective commanding officers, which expense shall also be paid out of the fines of the brigade to which such troop shall belong: *Provided however*, that if the brigadier and a majority of the field officers of any brigade shall be of opinion that one school to a regiment or brigade be sufficient, they are hereby authorized and empowered to direct accordingly: *And provided further*, that nothing herein contained shall be obligatory on the commanding officers of regiments in any brigade, unless the brigadier and a majority of the field officers in such brigade shall recommend the establishment of said schools.

Major-General to direct the uniform of officers.

Arms or accoutrements not liable to execution or distress.

Colours, and by whom furnished.

Schools for music to be established.

Teachers of music, how to be paid.

SEC. 5. *And be it enacted,* That the militia shall be officered as follows: To a division, one major general and two aids-de-camp to be out of the line of captains with the rank of majors: To each brigade, one brigadier-general, with one brigade inspector, to serve as brigade-major and to be out of the line of captains with the rank of major: To each regiment, one lieutenant-colonel commandant: And to each battalion one major: To each company of infantry, (including light infantry, grenadiers and riflemen,) one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and one fifer or bugler: 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 and one sergeant-major: Each company of artillery shall consist of one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer and one fifer, and fifty privates or matrosses, or as near as may be: Each troop of cavalry shall consist of one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, one trumpeter, and not less than thirty-two privates, or as near as may be: there shall be one quarter-master general for the State.

How the militia shall be officered.

SEC. 6. *And be it enacted,* That the governour shall appoint and commission all the officers of the militia; to wit: the major-general, brigadier-generals, adjutant-general, quarter-master general, lieutenant-colonels, majors, captains, lieutenants, ensigns and cornets: That the major-general shall appoint his own aids-de-camp: That the field officers of each regiment shall appoint their respective regimental staffs. The brigadiers shall appoint their aids-de-camp, and each captain shall appoint his sergeants, one of whom shall be clerk of the company: That all officers appointed under this act shall be commissioned for seven years, their respective grades to be decided by the dates of their commissions: and when two of the same grade shall bear equal date, then their rank shall be determined by lot to be drawn by them before the commanding officer of the brigade, regiment or battalion, company or detachment; and if they neglect or refuse to draw, the commanding officer shall draw for them, which lot shall be marked on each commission by the commanding officer, in whose presence it shall be drawn, and forever exclude the controversy of the parties: And whenever the governour shall re-commission any officer, he shall note upon the new commission the date of the former commission, if both be of the same rank: and in all matters relating to grade, the commission shall be considered

Governour to appoint & commission the officers.—

Of their commissions & rank.

CHAPTER 1. as bearing the date of the former commission, provided it
 1827. be as aforesaid for a new office of the same rank with the
 old.

Companies,—
 how classed.

Rolls of each
 company.

Certificate in
 cases of removal
 from one dis-
 trict to another.

SEC. 7. *And be it enacted,* That on the first Tuesday in April next the captain or commanding officer of each company shall call the persons belonging to the same together, giving due notice thereof by setting up at least three advertisements in the most public places in his district, ten days before such day of meeting: and shall divide them into eight classes, as nearly equal in number to each other as conveniently may be, allotting a sergeant, or corporal to each class; and eight slips of paper, numbered respectively from one to eight, being prepared, every private shall determine, by drawing a ballot, what class he is to serve in: And in case any of the persons belonging to any company shall neglect to attend at the time and place appointed for classing the said company, or if present shall refuse to draw as aforesaid, then the said captain or commanding officer shall appoint one disinterested freeholder to draw for the absentees, or persons so refusing: and when the classes shall be so settled, the captain or commanding officer of each company shall form a roll consisting of eight classes, and the names and surnames of the men in each class, numbered according to the order of balloting, which he shall keep for his own use, transmitting forthwith a copy thereof, with a list of his commissioned officers, and the dates of their respective commissions, and non-commissioned officers, prefixed, to the colonel or commanding officer of his regiment, who shall enter the same in a book to be by him provided for that purpose; and the captain, or commanding officer of each company of artillery, troop of horse, grenadiers, light-infantry or riflemen shall in like manner return a copy of his roll to the brigadier: and the captain or commanding officer of every company shall on the first Tuesday in April in every succeeding year, add to the roll the names and surnames of all such male white citizens between the ages aforesaid, who on the preceeding twelve months have removed to, and are then residing in, that subdivision, or therein have attained the age of eighteen years, except as hereinbefore excepted: And every militia man migrating or removing out of the bounds of one battalion or company to another, shall apply to the commanding officer to which he did belong, who shall give him a discharge, certifying the class to which he belongs, and whether he has served his tour of duty or not, and the time and date of said service; which certificate the said militia man shall produce to the captain or the comman-

ding officer of the company within whose bounds he next settles, within ten days after his settlement, and the said captain or commanding officer is hereby required to enrol him in the class specified in the said certificate. Any captain or commanding officer of a company who shall neglect or refuse to perform all the duties enjoined upon him by the provisions of this section, shall be liable to a fine of fifty dollars and to a forfeiture of his commission.

CHAPTER
I.

1827.

Penalty.

SEC. 8. *And be it enacted*, That when there shall be two or more full troops of horse in any brigade, they shall be formed into a squadron or battalion and shall be entitled to a major, adjutant and quarter-master, and every such battalion shall meet in squadron at least once in every year, at such time and place as shall be ordered by the brigadier; and when the artillery in any brigade shall form two or more full companies, they shall compose a battalion, and be entitled to a major, adjutant and quarter-master; and any company of artillery most convenient to the place of regimental review appointed by this act, may be ordered to attend the same, at the direction of the brigadier.

Squadrons of
Horse, and bat-
tallions of artille-
ry, how formed.

SEC. 9. *And be it enacted*, That when it may be necessary to use any portion of the militia for public defence, it shall be in the power of the commander-in-chief, the major-general or brigadier, according to the emergency and nature of the service, to call out any company or companies of artillery, troop of horse, light-infantry, infantry or riflemen, or any part thereof: and the service so performed by them shall be deemed and taken as a part of their tour of duty: And whenever any number of battalion companies are drafted for service, it shall be the duty of the adjutant-general to call out, and proportion the number of artillery-men, horsemen, light infantry or riflemen necessary for the same, according to the military usage.

Who may call
the militia into
service.

SEC. 10. *And be it enacted*, That in case any company of artillery, light-infantry, riflemen or troop of horse, to be raised under the provisions of this act, by voluntary enrolments, shall not, in the course of one year from the appointments of their officers, contain at least twenty privates, or shall be reduced under that number and shall remain in that situation for six months thereafter, such corps shall be deemed disbanded, and the men which belonged to such corps shall be enrolled in the battalion company within the bounds of which the individuals thereof shall respectively reside; and if any non-commissioned officer

No volunteer
company be em-
tain less than 20
privates.

Uniform. or private of any volunteer corps shall neglect, for the term of six months after having enrolled in the same, to provide himself with the uniform of the company to which he belongs, he shall be considered as discharged from the said corps, and shall be enrolled in the battalion company within the district where he resides, by the captain of such company.

Drafts for actual service.

SEC. 11. *And be it enacted,* That to the end the militia when called into service by classes, shall be properly officered, the following order is hereby directed and enjoined to be observed: that is to say; for the first draft the captains, lieutenants and ensigns holding the oldest commissions in each regiment; for the second draft the captains, lieutenants and ensigns holding commissions of the next oldest dates: and so on until the whole number of classes shall have performed an equal tour of duty. The field officers of the divisions and of every brigade in this State, shall be divided in like manner, provided that not more than one commissioned officer be drawn from any one company, nor a greater number of field officers from any regiment or brigade than the commander in chief may limit, (respect being always had in like manner to the seniority of the commissions of such field officers,) and each class to be considered as a detachment from the different companies, liable to serve six months, and no more, and to be relieved by the next class in numerical order; the relief to arrive at least two days before the expiration of the term of the class relieved: but nothing herein contained shall prevent the governor, major-general or brigadiers from calling out and employing part of any class or any company or companies, regiment or

Drafts in cases of exigency.

regiments without respect to rule, whenever the exigency is too sudden to allow the assembling of the militia which compose the particular classes; and the service of those so called out, shall be a part of their tour of duty:

Pay, when to commence, &c.

and the pay of the militia, when called into actual service, shall commence two days before marching, and they shall receive pay and rations at the rate of fifteen miles per day on their return home.

Pay, how fixed.

SEC. 12. *And be it enacted,* That when the militia or any detachment thereof are called into service, the pay and rations of the officers, non-commissioned officers and privates shall be the same as is or may be established by the general government of the United States.

Rules of discipline.

SEC. 13. *And be it enacted,* That the rules of discipline approved and established, or which may hereafter be