

New Jersey Archives • THIRD SERIES

VOLUME III

Laws of the Royal Colony of New Jersey

1746 • 1760

COMPILED BY
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and Prisoners, and all other Persons who shall be Inhabitants of the said County at the Publication of this Act, shall be free and clear from any Restraint as to confinement of their Persons in the said County upon any Civil Process until the *first* Day of *December* next, and no longer. PROVIDED NEVERTHELESS, that it shall and may be lawful to and for any Plaintiff or Plaintiffs during the Time limited as aforesaid, upon any Process being served, to file a common Appearance in any Action to be brought against any Debtor or Debtors in the said County of *Sussex*, so as to entitle such Plaintiff to proceed to Judgment and to have an Execution thereupon, other than against the Body or Bodies of him or them; any Thing in this or any former Law contained to the Contrary in any wise notwithstanding.

AND BE IT FURTHER ENACTED by the Authority aforesaid, that the Sheriff of the said County of *Sussex* is and shall be clear and free from any Action, or Actions which may or shall be brought against him for any Matter or Thing which he shall do in pursuance of this Act; and if any Action or Actions shall be brought against the said Sheriff for the same, he may plead the General Issue, and give this Act in Evidence, which shall be sufficient Discharge for the said Sheriff with Costs of Suit.

PROVIDED NEVERTHELESS that nothing in this Act contained, shall be construed or intended to discharge any Person or Persons from Confinement upon civil Process, longer than the said *first* Day of *December* next; after which Time the Sheriff of the said County of *Sussex*, upon Process issued for that Purpose may retake the Body or Bodies of every such Person and Persons, so confined as aforesaid, or charged in Execution, and convey him or them to the said common Goal, there to remain in the same Manner and Form as before the Publication of this Act; any Thing to the Contrary hereof in any wise notwithstanding.

AND BE IT ENACTED by the Authority aforesaid, That the Forces aforesaid, shall be and continue in the Pay of this Colony until the *first* Day of *December* next, unless the Governor with the Advice and Consent of his Majesty's Council, shall think fit sooner to disband the said Forces; in which Case it shall and may be lawful for them to be Disbanded.

Bradford (1757) 19:8:1, pp. 3-15.

A Supplementary Act to the Act entituled, *An Act for better settling and regulating the Militia of this Colony of New-Jersey, for the repelling Invasions, and suppressing*

Insurrections and Rebellions: As also for continuing such Parts and Clauses, of the said Law as are not altered and amended by this Act.

BE IT ENACTED by the Governor, Council and General Assembly of this Colony, and it is hereby Enacted by the Authority of the same, That every Captain within this Colony who already is, or hereafter shall be appointed, shall make a true and perfect List of all the Men that now do, or hereafter shall dwell within the Districts or Divisions of which they are or shall be Captains, between the Age of *Sixteen* and *Fifty* Years (except the Gentlemen of his Majesty's Council, the Representatives of the General Assembly, Protestant Ministers of the Gospel of every Denomination and Persuasion, Magistrates, Sheriffs, Coroners, Constables, and all Field Officers, and Captains, who heretofore have, now do, or hereafter shall bear such Commissions; Ferry Men, one Miller to each Grist Mill, bought Servants, and Slaves) and all and every Person and Persons, so enlisted as aforesaid, shall appear upon the Parade appointed by their Captains or Superior Officers, three Times in the Year, to wit on the *second Monday in April*, on the *first Monday in October*, and on the *first Monday in November*, where they shall be taught the Use of their Arms by their shall be compleatly armed with one good Musquet or Fusee well fixed, a Sword or Bayonet, a Cartouch Box, or Powder Horn, three charges of Powder, and three sizeable Bullets, and the said Persons shall continue under Arms but one Day at each Time; besides at such other Times when they may be called together by an Order in writing under the Hand of the Captain General or Commander in Chief for the Time being, at such Places in each respective County as shall be by him appointed, to be taught the Use of their Arms; PROVIDED ALWAYS that such calling together in writing as aforesaid shall not exceed once in a Year, and said Persons to be kept in Arms but one Day at such Time, except in Case of Alarms.

AND BE IT FURTHER ENACTED by the Authority aforesaid, that every Person so enlisted as aforesaid, who shall not appear at the Times and Places aforesaid to be taught the Use of their Arms, shall forfeit and pay (in lieu of the Fines for non Appearance in the afore recited Act,) the Sum of *Six* Shillings for each of the said Days Absence, to the Captain of the Company to which they belong, except in Cases of Sickness or other reasonable Excuse to be allowed of by the Captain or other commanding Officer of the said Company. And if any Person so enlisted as aforesaid, shall appear at the Times and Places aforesaid, and not under Arms but as a Spectator, or Looker on, every such Person shall forfeit and pay to the Captain of the Company in which he is so enlisted, the Sum of *Twelve* Shillings, for his Contempt in not joining the said Company with his Arms, as is by this Act directed.

AND BE IT FURTHER ENACTED by the Authority aforesaid, that if any Person or Persons shall neglect or refuse upon Demand to pay any of the Forfeitures incurred by this or the former recited Act, to the Captain or his

Order, as thereby directed, every such Captain is hereby required to make out a true and exact List of the Names of all such Defaulters, together with the Sum and Sums annexed, by them so forfeited; and shall deliver the same to any one Justice of the Peace of the County wherein such Delinquents reside, (such Justice not being one of the People called *Quakers*;) And every such Justice is hereby required and commanded forthwith to issue his warrant without Fee or Reward to any one of the Constables of the same County, to make Distress upon every such Defaulters Goods and Chattels so neglecting or refusing to pay as aforesaid; and to expose the said Goods and Chattels to sale by Public Vendue in the usual Manner; and after the Sale thereof, the said Constable shall forthwith pay to every such Captain the Forfeitures recovered as aforesaid, to be by him the said Captain applied to the Use and Uses in the said former recited Act appointed, and shall then return the Overplus (if any be) to the Owner, after deducting *one* Shilling for his Trouble, for each Distress, and Sale, which he is hereby allowed to take. PROVIDED ALWAYS that every such Distress shall be made in a reasonable Manner; and not upon the Arms and Ammunition the Persons so enlisted are obliged to provide themselves with by this Act, and but once in every Year.

AND BE IT FURTHER ENACTED by the Authority aforesaid, that every Person so enlisted as aforesaid within this Colony, shall always be provided with one good Musquet or Fusee well fixed, a Cartouch Box or Powder Horn, *One* Pound of Powder, *Twenty four* sizeable Bullets, *three* Flints; and a Sword or Bayonet in his House or Place of Abode; and as often as any of the said Persons shall be deficient in keeping the Arms and Stores aforesaid, he shall forfeit and pay to the Captain of the Company where such Offence is committed, the Sum of *Four* Shillings for the Use in the former recited Act appointed. And each respective Captain within this Colony is hereby impowered and required to order and appoint their Serjeants to examine the same once in every four Months at farthest.

AND BE IT FURTHER ENACTED by the Authority aforesaid, that no Innholder, or any other Person or Persons whatsoever, shall presume to sell or give any strong Liquor to any of the Persons so listed, on such Days or Times that they are obliged to appear in Arms, until after they are dismissed for that Day; and every Person or Persons so selling or giving strong Liquors contrary to the Directions of this Act shall forfeit the Sum of *Three* Pounds, to be recovered by any Person that will sue for the same, before any Justice of the Peace, the one half to such Person as will prosecute the same to effect, the other half to be applied for purchasing the Arms and Ammunition aforesaid.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That in Times of any Invasion, Insurrection, Rebellion, or Alarm in this Colony, all the Officers and Persons so enlisted as aforesaid, who shall be commanded to their Arms by Order of the Captain General or Commander in Chief for the Time being, or other Officer or Officers by Virtue of the former recited Act, during the Times of such Invasion, Insurrection, Rebellion or Alarm, are hereby made subject to such Pains and Penalties for non-Appearance and Disobedience as shall be inflicted upon them by Sentence of a Court Martial; which

Court Martial shall consist of a Field Officer, four Captains and two Lieutenants of the said Militia, who shall be under Oath to execute Justice impartially; which Oath any Field Officer or Magistrate may administer; and every such Court Martial (during the Times of such Invasion, Insurrection, Rebellion or Alarm as aforesaid) are hereby authorized and empowered to inflict such Pains and Penalties on all and every Offender and Offenders, as the said Court in their Discretion shall think they justly deserve, PROVIDED ALWAYS, that no such Pains and Penalties shall extend to the taking of Life or Member.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That if either of the neighbouring Provinces of *New-York*, or *Pennsylvania*, shall happen to be attacked by an Army of the Enemy within *One Year* from the Publication of this Act, and shall request the Aid and Assistance of this Colony in such their Distress' upon Application of the Governor or Commander in Chief thereof for the Time being, with Advice of his Council; it shall and may be lawful for the Governor or Commander in Chief by and with the Advice and Consent of his Majesty's Council of this Colony, upon certain Advice of such attack as aforesaid, to order a Detachment of so many of the Militia of this Colony, as they the said Governor and Council in their Discretion shall think expedient, and the Necessity of the Case may require, to march into either of the said neighbouring Provinces, of *New-York* or *Pennsylvania*, to their Aid and Assistance as aforesaid, PROVIDED nevertheless that it shall and may be lawful for every such Detachment to return into this Colony in the Space of *Twenty Days* after their leaving the same, unless it shall be tho't necessary by an Act of General Assembly of this Colony to continue the said Detachment longer in the said Service. And the Detachment of the said Militia shall be made in the following Manner, to wit, upon Request, and certain Advice of such an Attack as aforesaid, the Governor or Commander in Chief, by and with the Advice and Consent of the Council as aforesaid shall order so many Men (not exceeding *One Thousand* in the whole) to be enlisted out of the several Regiments in this Colony, as shall be sufficient to make up the Detachment so ordered as aforesaid, equally, and in Proportion to the Number of Men of which each Regiment shall consist, together with proper Officers suitable to the said Detachment, and the whole to be commanded by a Colonel to be appointed by the Governor, or Commander in Chief, out of the Militia Colonels, or other Field Officers; and the Governor shall immediately issue his Warrants to the Colonels or Commanders of the said several Regiments of Militia of this Colony, commanding each of the said Colonels or Commanders forthwith to summon the Captains of each of the Companies of his said Regiment, to meet together at such Time and Place as the said Colonel or Commander shall appoint, and each of the said Captains so summoned and appearing as aforesaid, shall make out a List of such and so many Men of his said Company as shall be wanted to make up a proportionable Number of the Militia so ordered to march as aforesaid; and the said List being approved of by the Colonel of the Regiment from which they are draughted, shall be returned to the Commanding Officer of such Detachment: And every Person so entered upon the List as aforesaid shall appear himself (or provide an able bodied Man to appear in his Room) at the Time and Place

appointed by the Commander of the said Detachment for the General Rendezvous, completely armed with one good Musquet or Fusee well fixed, a Sword or Bayonet, a Cartouch-Box or Powder-Horn, one Pound of Powder, and twenty four sizeable Bullets. And for an Encouragement for every Person enlisted, to go upon the said Service, there shall be paid to the Officers and Men so detached as aforesaid, (on their Return into this Colony) during their Continuance in the said Service, the Sums following, to wit, To the Colonel or Commander of the said Detachment, the Sum of *Six Shillings per Day*; To each Captain the Sum of *Four Shillings per Day*; To each Subaltern commission Officer, the Sum of *Three Shillings per Day*; To each Serjeant and Corporal the Sum of *Two Shillings per Day*; And to each private Man the Sum of *One Shilling and Eight Pence per Day*. PROVIDED ALWAYS that either of the said Provinces so requesting such Aid and Assistance as aforesaid, shall provide good and sufficient Provisions for the said Detachment during their Continuance in the said Province, with Carriages, Quarters, and such other Necessaries as may be wanted for the Conveniency of their Marching and Encampment. And in case either of the said Provinces shall neglect or refuse to make such Provisions as aforesaid, that then, and in such Case it shall and may be lawful for such Detachment to return immediately into this Colony, any Law or Order to the Contrary in any wise notwithstanding. And that the Power hereby given, and Directions in this Clause shall not be and remain in Force longer than one Year. And the said Detachment of the Militia are hereby made subject to the Rules, Orders and Commands of their own Officers. And during the Continuance of the said Detachment in either of the neighbouring Provinces aforesaid, the Officers and Soldiers are hereby made liable to such Pains and Penalties for Disobedience to Command, Neglect of Duty, and other Offences of the like Nature, as shall be inflicted upon them by the Discretionary Sentence of a Court Martial compos'd of their own Commission Officers, or the Majority of them, and no other Officers whatsoever; at which Court Martial the second Officer in Command of the said Detachment shall always preside. PROVIDED ALWAYS that no such Pains and Penalties shall extend to the taking of Life or Member.

AND BE IT FURTHER ENACTED by the Authority aforesaid, that whenever the Governor or Commander in Chief shall order such detachment as aforesaid, he shall also issue his Warrant to the Captain of every Company of Cadets, or unregimented Company in this Colony, commanding each Captain to make out a List of such and so many Men under his Command as shall make up their Proportion of such Detachment, and each of the said Captains shall return every such List forthwith to the commanding Officer of such Detachment: And every such Person thus enlisted as aforesaid, shall appear completely armed and provided with Ammunition as aforesaid, at the Times and Places prefixed by this Act, and shall be under the Command of the Officers of the said Detachment; and for neglect of Duty, Disobedience to command, and other Offences of the like Nature, shall be subject and liable to such Forfeitures, Pains and Penalties in every Respect, as is already ordered and directed by this Act, in Case of the Militia as aforesaid, and to be recovered and applied in the same Manner and Form.

AND BE IT FURTHER ENACTED by the Authority aforesaid, that if any Captain or Commanding Officer of any Company in the several Regiments of Militia of this Colony, or any Captain or Commanding Officer of any of the Companies of Cadets or unregimented Companies of this Colony; or any Captain or Commanding Officer of any of the Troops of Horse within this Colony, shall hereafter neglect, delay, or refuse to do and perform the several Duties and Services required of him or them to be done and performed by this Act, or by the before recited Act entitled, *An Act for better settling and regulating the Militia of this Colony of New-Jersey, for the repelling Invasions, and suppressing Insurrections and Rebellions*, every such Captain or commanding Officer, for every such Neglect, Delay or Refusal as aforesaid, shall forfeit and pay the Sum of *Forty* Shillings for the Use of each Company to which he or they shall belong: And the two Freeholders chosen for each Township or Precinct in which such Captain, shall live or reside, or in Case of their Refusal or Neglect, any other Person, having a real Estate in the said County, is and are hereby impowered, required and directed to sue for and recover the said Forfeiture and Forfeitures by Action of Debt, before any one Justice of the Peace of the County where such Forfeiture or Forfeitures shall arise. And when the same shall be recovered, the said Person or Persons, is and are hereby required, and directed to lay out the said Money, in purchasing Arms, for the Use of the Company to which the said Captain shall belong.

AND BE IT FURTHER ENACTED by the Authority aforesaid, that if any Justice of the Peace of this Colony (not being one of the People called *Quakers*) shall neglect, delay or refuse to do and perform the several Duties and Services required of him to be done and performed by Virtue of this Act, or the before recited Act, then and in such Case every such Justice so neglecting, delaying or refusing as aforesaid, shall forfeit and pay for every such Offence, the Sum of *Five* Pounds to every such Captain or Commanding Officer of the Militia, or other Person or Persons who shall be empowered to require any such services to be done and performed by the said Justice; and the said Fine shall be recovered of the said Justice so offending by Action of Debt in the usual Manner, before any one other Justice of the Peace of the said County where the said Offence shall be committed; and when recovered shall be paid and applied in the same Manner and Form as is directed by this and the before recited Act.

AND BE IT FURTHER ENACTED by the Authority aforesaid, that the before mentioned Act entitled *An Act for better settling and regulating the Militia of this Colony of New-Jersey for the repelling Invasions, and suppressing Insurrections and Rebellions*. And every Clause, Article and Thing therein contained, which are not altered, amended, and otherwise provided for by this present Act, together with this Act; (except the Clause relating to the marching of the Militia into the neighbouring Colonies) shall be and remain in Force during the Continuance of the present War with *France*, and from thence to the End of the next Session of General Assembly, and no longer.

An ACT to enable the Owners and Possessors of a large Tract of Salt Marsh situate in the Township of Greenwich, in the County of Cumberland, called Tindals Island Marsh, to make a Causey and Bridges on the two rod Road laid out from a Point of fast Land on the South Side of Bacons Neck (now the Property of Charles Davis, Esq;) across the Marsh and Creeks to Tindals Island aforesaid.

WHEREAS the making and maintaining a good and sufficient Causey and Bridges on the two rod Road laid out from a Point of fast Land aforesaid to the said *Tindals* Island, will not only be very beneficial to the Owners and Possessors of the said Tract of Salt Marsh in particular, but to many of the Inhabitants of the said County. THEREFORE BE IT ENACTED by the Governor, Council, and General Assembly of this Colony, and it is hereby Enacted by the Authority of the same, That there shall be a good and sufficient Causey and Bridges made on the two rod Road laid out from a Point of fast Land on the *South Side of Bacons Neck* (now the Property of *Charles Davis, Esq;*) across the Marsh and Creeks on a straight Line to that Part of *Tindals* Island now the Property of *Philip Vickers*, sufficient for Carts and Waggon to pass and repass.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That *Howel Powel, Esq; Seth Brooks* and *Thomas Ewing* are hereby appointed and impowered to divide the said Causey and Bridges unto the Owners and Possessors in equal Proportions in Quantity and Quality according to their several and respective Shares, and Quantities of Marsh they the said Owners or Possessors do or shall hold within the said Tract of Salt Marsh aforesaid; of which Division so made as aforesaid, they are hereby required, to notify each and every of the said Owners and Possessors, who are to make or cause to be made each and every of his, her, or their several respective Shares and Proportions of the said Bridges and Causey within two Months after such Notice given; and when the same is so sufficiently made as aforesaid, the Owners and Possessors are to maintain and repair each and every of his, her or their respective Shares and Proportions of the said Causey and Bridges from time to time as the same may require, within ten Days after due Notice given them by the Managers or Overseers for the time being as aforesaid.

AND BE IT FURTHER ENACTED by the Authority aforesaid, that the Owners and Possessors of the said Tract of Salt Marsh for the time being, or the Majority of them, shall meet and assemble yearly on the *first Tuesday of March* at the now Dwelling House of *Howel Powel, Esq;* or where else they shall appoint, and by the Majority of Voices of them so met, chuse out of the said Owners and Possessors, three Managers or Overseers, to oversee the making, maintaing and upholding the said Work, that it be effectually done so as to answer the Purposes aforesaid.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That if

any or either of the Owners or Possessors aforesaid, shall neglect or refuse to make, maintain and repair his, her or their Share or Proportion of the said Causey or Bridges (so proportionally divided as aforesaid) after due Notice given them by the Managers or Overseers for the Time being, within the Time limited as aforesaid, That it shall and may be lawful for the said Managers or Overseers to order the same to be made good and sufficient, and to have it valued by two honest indifferent Men of the Neighbourhood, for which Sum so valued (if the said Party or Parties refuse to pay) it shall and may be lawful for any or either of the Managers or Overseers for the Time being, to sue all and every such Person or Persons so neglecting, in his or their own Names for the respective Sum or Sums of Money so valued as aforesaid, in Action of Debt; if *Five Pounds* or under before any Justice of the Peace of the County aforesaid; if above, in any Court of Record where the same may be cognizable (and give the said Account of the Sum or Sums so valued as aforesaid in Evidence) and the said Court and Justice of the Peace are hereby empowered to give Judgment and Execution for the same with Costs of Suit.

AND BE IT FURTHER ENACTED by the Authority aforesaid, that in Case the Owners or Possessors of the said Marsh, shall neglect to meet on the *first Tuesday in March* yearly as aforesaid, that then and in such Case the Managers or Overseers chosen for the preceeding Year, shall summons the said Owners or Possessors to meet on a Day by the said Managers or Overseers to be prefixed, in order to proceed to the said Election; and in failure of such meeting upon such summons, that then and in such Case the said Managers or Overseers, shall elect and chuse the Managers or Overseers for the ensuing Year: And in Case the said Managers or Overseers or either of them so chosen, shall neglect or refuse to do their Duties as required by this Act, he or they so refusing or neglecting shall forfeit *Twenty Shillings* to be recovered as aforesaid, by any of the Owners or Possessors, one half of which shall be paid to him who shall prosecute the same to effect, the other half to the said Owners and Possessors to be made use of in purchasing Materials for the Use of the said Bridges and Causey. And in Case either of the said Managers shall neglect or refuse to do their Duty, or be removed by Death, that the surviving Managers or Overseers, shall chuse a third Man to act with them, who shall be vested with the same Power, and liable to the same Penalties as if chosen at the annual Meeting of the said Owners and Possessors.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That it shall and may be lawful for every Tenant or Tenants that now is or hereafter shall be in Possession of any part of the said Marshes, to bring their respective Charge of Money paid or Services done pursuant to this Act, against their respective Landlords, which shall be allowed out of the Rent.

PROVIDED ALWAYS, that nothing in this Act shall oblige any Tenant to pay any Money, or to charge their Landlord with the same, except their said Landlord doth or shall reside out of the said County: And in Case there is or hereafter may be any part of the said Marshes that neither Owner nor Tenant, or any other Person to represent them, doth reside in said County, to make, maintain and uphold his, her or their Share and Proportion of the Causey and

Bridges, that then and in such Case the Managers for the Time being shall let out the said Marsh to rent from Year to Year, until the Rent arising therefrom shall pay such Sum or Sums of Money as shall accrue from the making, maintaining and upholding his, her, or their Share as aforesaid, and no longer: PROVIDED NEVERTHELESS, that no such Owner shall be chargeable with above two Years Arrearages at any one Time: The Charges and Expences of the first erecting and building the said Bridges and Causey only excepted.

PROVIDED ALSO, and it is hereby FURTHER ENACTED by the Authority aforesaid, that nothing contained in this Act, shall extend to render the said Marsh aforesaid, or any part thereof, which may hereafter be the Property of, or in the Possession of any Minor or Minors under the Age of *Twenty one* Years, liable to be sold for or because such Minor or their Guardian, or Person to whom may belong the Care of the Person or Estate of such Minor, shall not discharge such Debt or Charges, but in that Case the Managers or Overseers for that Year, shall have full and ample Power to lease such Minors part of the said Marsh for any time sufficient to discharge the said Debt, not exceeding *One* Year; and if *One* Years Rent be not sufficient, then the succeeding Managers shall have the same Power of letting the said Marsh during the Year which they shall serve in that Office, until the said Debt is fully satisfied, and no longer. PROVIDED NEVERTHELESS, that no such Minor shall be chargeable with above *Two* Years Arrearages at any one time: The Charges and Expences of the first erecting and building the said Bridges and Causey only excepted.

AND BE IT FURTHER ENACTED by the Authority aforesaid, that the following Persons shall serve as Managers until the *first Tuesday in March* next as aforesaid, viz. *Howel Powel, Esq; Seth Brooks, and Thomas Ewing*, who are hereby impowered to do and perform all such Matters and Things as in and by this Act is required of them as aforesaid, until others are chosen in their Places.

PROVIDED NEVERTHELESS, and be it hereby ENACTED by the Authority aforesaid, that nothing contained in this Act, shall extend to oblige the Heirs of *William Watson* late of the said Town of *Greenwich* deceased (who are Possessors of a considerable Tract of Salt Marsh within the aforesaid Boundaries, which is of no use to them at present) to make, maintain or uphold any part of the said Causey and Bridges (but that the same shall be made, maintained and upheld by the rest of the Owners and Possessors in equal Proportion as aforesaid) until such time as they, or either of them shall think proper by themselves, or any Persons claiming under them, to make use of the same, by driving Creatures to pasture, or carting Hay from the said Marsh. And that then he, she, or they, so using the same shall have their proportional Part of the said Causey and Bridges, valued by two indifferent Men of the Neighbourhood, who after valuing the same, shall make Account thereof to the Managers or Overseers for the Time being, who (on neglect or refusal of any or either of them to pay such Sum or Sums of Money so valued) are hereby impowered to sue for and recover the same in Manner aforesaid, and after Recovery thereof, to pay the same to the rest of the Owners or Possessors, who have been at the

Charge of making, maintaining and upholding the same, their Heirs, Executors, Administrators or Assigns, in Proportion.

Bradford (1757) 19:8:1, pp. 23-27.