

New Jersey Archives • THIRD SERIES

VOLUME III

Laws of the Royal Colony of New Jersey

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An ACT for better settling and regulating the Militia of this Colony of New Jersey, for the Repelling Invasions, and Suppressing Insurrections and Rebellions.

WHEREAS the Security of this Colony, and Preservation of His Majesty's Government over it, greatly depends upon the Militia being put into such Methods as may make the same most useful for the Defence thereof, especially at this Time, when His Majesty hath a just War against both *France* and *Spain*: THEREFORE for the better Defence of this Colony, and the Honour of His Majesty,

BE IT ENACTED by the Governor, Council, and General Assembly, and by the Authority of the same, That every Captain within this Colony, that 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, Ministers of the Gospel, the Civil Officers of the Government, and all Field-Officers and Captains, that heretofore have, now do, or hereafter shall bear such Commissions, Physicians, Schoolmasters, Millers, Ferrymen, bought white Servants, and Slaves) every one of which so listed, shall be sufficiently armed with one good Musket or Fuzee well fixed, a Sword or Bayonet, a Cartouch-Box or Powder-Horn, three Charges of Powder, and three sizeable Bullets; who shall appear in the Field so armed twice a Year, *viz.* The first *Monday* in *April*, and the second *Monday* in *October* (except the County of *Cape-May*, which shall thus appear the third *Tuesday* in *April*, and the third *Tuesday* in *October*) at the Places appointed by their respective Captains or superior Officers, and continue in Arms but one Day at each Time, besides at other such 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 within 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 Person to be kept in Arms but one Day at such Time, except in case of Alarms.

BE IT FURTHER ENACTED by the Authority aforesaid, That every Person so listed, that doth appear at the Times and Places abovesaid, shall be, and are hereby subjected to the Commands of their proper Officers, and upon Disobedience it shall and may be lawful for the Captain or Commanding Officer to fine said Offender or Offenders, any Sum not less than *One Shilling*, nor above *Ten Shillings*; and in case of Delay or Refusal to pay such Fine or Fines, then the said Captain, or Commanding-Officer, may make out his Warrant to one of his Serjeants or Corporals, commanding him to take to his Assistance one or more of the Soldiers under his Command, if Occasion should require, and take the Body of the said Offender or Offenders, and deliver him or them to

the Goaler of the said County, who is hereby required and commanded to take the said Offender or Offenders into his Custody, and keep him or them in close Goal for such Time as shall be expressed in the Captain's Warrant, not exceeding three Days; and at the Expiration of said Time, or on Payment of the said Fine or Fines, then the said Offender to be discharged, paying to the Goaler *One Shilling* for his Fees, and no more.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That no Officer shall beat or abuse any of the Soldiers whilst under Arms, on any of such Days of Training as aforesaid: But if any Soldier shall during that Time use any reproachful or abusive Language towards any of his superior Officers, or shall quarrel himself, or promote any Quarrel amongst his Fellow-Soldiers, or appear in Arms disguised in Liquor, it shall and may be lawful for the Captain or Commanding Officer, to disarm such Soldier at the Head of his Company, and to set a Centinel over him during the Time of the Company's being in Arms, and no longer, or to fine him in Manner and Form aforesaid, as the said Captain or Commanding Officer in his Discretion shall think proper.

BE IT FURTHER ENACTED by the Authority aforesaid, That every of the Persons aforesaid, that appears at the Times and Places aforesaid, without the Arms and Ammunition aforesaid, shall forfeit and pay to their respective Captain, or Commanding Officer as followeth, *viz.* For want of a Musket or Fuzee, *Two Shillings*; if not well fixed, *One Shilling*; for want of three Charges of Powder, and three sizeable Bullets, *One Shilling*; for want of a Sword, or Bayonet, *One Shilling*: Which said Sums of Money, shall be applied by said Captain, to the Purchasing Drums and Colours for his Company.

BE IT FURTHER ENACTED by the Authority aforesaid, That it shall and may be lawful for the Captain-General, or Commander in Chief for the Time being, in case of any Invasion, Insurrection, or Rebellion, to call so many of the Persons aforesaid together, for repelling the Force of the said Enemy, or quelling the said Insurrection or Rebellion, or order such Detachments for the common Defence as he shall think fit, to follow and pursue the said Enemy into any of the neighbouring Governments, for the Repelling or taking them Prisoners, and Preservation of His Majesty's Subjects and Government.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That it shall and may be lawful, and such Captains or other Commanding Officers that live near such Places where an Enemy may come, are hereby required and commanded on any Descent or Invasion of an Enemy, or on their Landing, or Danger thereof, to call all, or so many of their respective Companies together as shall be thought necessary to expel the said Enemy, and forthwith attack them; or otherwise to do the best that lies in their Power, to distress, stop, and hinder them in their intended Invasion, or Plundering. And said Captains and Commanding Officers are hereby further required and commanded, as soon as possible, to send Notice of such Descent or Invasion, to the Governor or Commander in Chief for the Time being.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That in time of any Invasion, Insurrection, Rebellion, or Alarm, as aforesaid, all the

Officers and Persons so inlisted, as aforesaid, that shall be commanded to their Arms, by Order of the Captain-General, or Commander in Chief, or other Officer or Officers, during the Time or Times of such Invasion, Insurrection, Rebellion, or Alarm, are hereby made subject to the Pains and Penalties of the Martial Law, so that the Punishment do not extend to the taking of Life or Member.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That when the Governor, or Commander in Chief for the Time being, in Time of Danger shall think fit to direct a Watch to be kept in any Place or Places within this Colony, the Colonel, Lieutenant-Colonel, Major or other commanding Officer in each respective County where such Watch shall be appointed to be kept, to whom such Directions shall be signified, shall issue out his Orders to the several Captains under his Command, to appoint such and so many Men to appear with their Arms, at such Times and Places as such Colonel, or commanding Officer, shall appoint; which Watch so appointed, shall be equally relieved by Order of the commanding Officer of said Company, and so equally through all the Companies of the said County. And every Person or Persons neglecting or refusing to appear himself, or to send a sufficient Man in his Room to watch during the Time and at the Place appointed, shall forfeit the Sum of *Ten Shillings* for each Offence; and every Person that shall leave the said Watch until he be relieved by some other Person appointed to watch in his Room, shall forfeit *Forty Shillings*; which Forfeitures shall be recovered before any Justice of the Peace of the County where said Offence or Offences is or are committed, with Costs of Suit; one Half to the Informer who shall prosecute the same to Effect, the other Half to be paid to the Captain for the Uses hereafter mentioned. PROVIDED ALWAYS, That no Person or Persons shall be obliged to continue longer on the Watch than twenty-four Hours at one Time, any Thing in this Act to the contrary notwithstanding.

AND such Watch, upon the Approach of an Enemy, or otherwise, shall make such Signals, and give such Alarms, as he shall be directed by the Officer appointing him; and every Officer or Soldier, upon hearing such Alarms, and seeing such Signals, shall obey such Orders for the repeating the same, or calling together, or marching his Regiment, Troop, or Company, as he shall receive from his Officer, or Commanding Officer, in such Case.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That if any Person be appointed to be Serjeant, Corporal, or Drummer, and shall refuse said Office, or neglect or refuse to do any of the Duties required of them by this Act, he shall forfeit for each Offence the Sum of *Twenty Shillings*, to be recovered before any Justice of the Peace within the County where said Offence or Offences are committed, one Half to the Informer who shall prosecute the same to Effect, the other Half to be paid to the Captain for the Use hereafter mentioned. PROVIDED ALWAYS that none be appointed Serjeants, Corporals, or Drummers, but such as have or shall appear in Arms as aforesaid. PROVIDED ALSO that no Person be fined but once for the Refusal of either of said Offices.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That every Person listed as aforesaid, within this Colony, and who hath, or shall appear in Arms as aforesaid, shall always be provided with one good sufficient Musket or Fuzee, 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 hereafter appointed. And each respective Captain within this Colony, is hereby impowered and required to order and appoint their Serjeants to examine the same once a Year.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That every Person so listed that shall not appear at the Times and Places aforesaid, to be taught the Use of their Arms, shall forfeit and pay the Sum of *Four 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 by the Captain, or Commanding Officer for the Time being, of their respective Companies to which they belong.

AND if any Person or Persons shall neglect or refuse to pay each of their respective Forfeitures aforesaid, the said Captain, or Commanding Officer, is hereby required and commanded, to issue out his Warrant to one of his Serjeants or Corporals, to make Distress upon every such Defaulter's Goods and Chattels, so neglecting or refusing to pay, as aforesaid. PROVIDED such Distress be made in a reasonable Manner, and but once a Year for all the Defaults committed that Year before the Time of such Distress; and shall expose the said Goods to Sale by Publick Vendue; and after Sale thereof, pay the Forfeitures to the Captains, as aforesaid, and return the Overplus, if any be, to the Owner thereof, after deducting *One Shilling* for his Trouble for each Distress, which he is hereby allowed to take. PROVIDED ALWAYS, that no such Distress be made on the Arms and Ammunition the Persons so listed are obliged to provide themselves with by this Act.

AND BE IT ENACTED by the Authority aforesaid, That all the Fines and Forfeitures (except those aforesaid for purchasing Drums and Colours) shall be applied by the Captain, or Commanding Officer of each respective Company, for providing the Arms and Ammunition required by this Act, for such Persons so listed that shall be adjudged not to be able to provide themselves with the Arms and Ammunition aforesaid, in Manner hereafter mentioned. PROVIDED ALWAYS that it shall and may be lawful for the said Captains or Commanding Officers, to retain in their Hands *Five per Cent.* out of the Money so levied and applied.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That the Captain, Lieutenant, and Ensign of each respective Company, or any two of them, shall meet together at such Time and Place as said Captain, or the Commanding Officer for the Time being, shall appoint, within the Township or District wherein he is Captain or Commanding Officer, and then, and there, adjudge which of said Persons so listed, are not able to provide themselves with

the Arms and Ammunition aforesaid. All which said Persons shall be, and are hereby exempted from the Fines and Forfeitures aforesaid, for not appearing at the Times and Places aforesaid, until such Time that they are provided for with Arms and Ammunition, or until such Time that the said Captain, Lieutenant, and Ensign, or any two of them, shall judge them able to provide Arms for themselves.

AND to prevent the said Arms being seized by an Enemy, or Persons disaffected to the Government, BE IT ENACTED by the Authority aforesaid, That the Arms and Ammunition aforesaid, that shall be purchased as aforesaid, shall be distributed by each Captain, or Commanding Officer of each respective Company, so as there be lodged but two of such Muskets or Fuzees, and but one Pound of such Powder, and twenty-four Bullets, in one House, in the Custody or Care of some of the principal Freeholders within said Captain's District or Division. AND upon Alarms or Mustering Days, the said Arms shall be delivered to such Persons to whom they were to be lent, as aforesaid, with such a Quantity of Ammunition as is required of others to bring into the Field; and as soon as the said Alarm or Mustering Day is over, the Captain shall order the said Arms to be returned to the Persons that had them in Keeping with the Ammunition aforesaid, only allowing so much to be deducted as the said Captain shall permit to be expended.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That where young Men that dwell with their Parents or Masters, and listed as aforesaid, shall neglect or refuse to do the Duties required of them by this Act, then, and in that Case, their Fines and Forfeitures shall and may be levied out of their Parents or Masters Estate, any Law or Custom to the contrary in any wise notwithstanding: UNLESS the Captain, Lieutenant, and Ensign, or any two of them, as aforesaid, shall adjudge the said Parents or Masters not to be able to furnish the Son or Apprentice with the Arms and Ammunition required by this Act; then, and in that Case, the said young Men shall have such Arms and Ammunition lent them, as the Persons aforesaid have, and be also exempted from the Fines and Penalties for not appearing at the Times and Places aforesaid, until provided as before directed.

AND WHEREAS several Persons have, or hereafter may list themselves as Volunteers in unregimented Companies, and under pretence thereof, may say that they are excused from doing the Duties required of them by this Act; which Practice, if admitted of, will much lessen the Number and Regulation of the Militia of this Colony. For Remedy whereof,

BE IT ENACTED by the Authority aforesaid, that every Person or Persons that already hath, or hereafter shall list him or themselves into said unregimented Companies, shall be, and are hereby made subject to the Commands of their proper Officers, and shall meet at the Times and Places appointed by this Act, to be taught the Use of their Arms, and provide themselves with such like Arms and Ammunition, as is required of others to provide, and do every other Matter, Duty, and Thing, required by this Act of others that serve in Regiments, under the same Pains and Penalties; any Law, Custom, or Usage to the contrary, in any wise notwithstanding.

BE IT FURTHER ENACTED by the Authority aforesaid, That if the Governor, or Commander in Chief for the Time being, shall think fit to grant Commissions for the Command of any Troops of Horse in this Colony, it shall and may be lawful for so many of the Persons inlisted by the several Captains aforesaid, to list themselves to serve in said Troop, or Troops of Horse, being able to provide themselves with the Troopers Accoutrements hereafter mentioned. And when the Commanding Officers of said Troop are ready, and shall exercise said Troop, then, and not before, the said Persons so listed in said Troop, shall be, and are hereby exempted from their Service in the Foot Companies.

BE IT FURTHER ENACTED by the Authority aforesaid, That said Troopers, being so inlisted, are hereby subjected to the Commands of their proper Officers, and, upon Disobedience, shall be under the same Fines and Penalties that the other Persons serving on Foot are: And also the said Troopers shall be under the same Fines, Penalties, Forfeitures, and Payments, for their not appearing at such Times and Places aforesaid, as the Foot-Men are by virtue of this Act.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That every Person so inlisted to serve in a Troop, shall be provided with a good Horse, a good Saddle and Bridle, Holsters and Case of Pistols, well fitted, Sword or Cutlass, Cartouch-Box, and three Charges of Powder and Ball, and shall constantly appear so armed, at the Times and Places appointed for Muster and Exercise; and shall keep at his Place of Abode, besides the Arms and Ammunition aforesaid, a well fixed Carbine, with Bolt, Swivel, and Sling, Half a Pound of Powder, and twelve sizeable Bullets, and bring the same into the Field, when specially required, which the Captain, or Commanding Officer shall send one his Serjeants to examine into once a Year.

AND BE IT ENACTED by the Authority aforesaid, That each, and every of said Persons so listed in a Troop, that shall be deficient in Keeping the Arms and Stores aforesaid, at the Place of his Abode, shall forfeit and pay as follows, *viz.* For Want of a Carbine, *Two Shillings*; if not well fixed, *One Shilling*; for Want of a Bolt, Swivel, and Sling, *One Shilling*; for Want of Half a Pound of Powder, and Twelve sizeable Bullets, *One Shilling*. And every one of said Troopers, that shall appear at the Place before appointed without the Arms and Accoutrements required, as aforesaid, he shall forfeit and pay as follows, *viz.* for Want of a good Horse, *Two Shillings*, and for Want of a good Saddle and Bridle, *One Shilling*; for Want of a Case of Pistols, *One Shilling*; for Want of three Charges of Powder, and Three sizeable Bullets, *One Shilling*. All which Fines and Forfeitures shall be paid to the Captain, as aforesaid, to be applied to purchasing Arms and Ammunition as aforesaid, for the Use aforesaid, and to be levied and accounted for in Manner aforesaid.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That each Captain, or Commanding Officer of every Company in this Colony, shall account for all such Fines and Forfeitures so by him to be received, before any Justice of the Peace, and the two Freeholders chosen in the said Township or

District wherein he is Captain or Commanding Officer, by Virtue of an Act, entitled, *An Act for Raising of Money, for Building and Repairing of Goals and Court-Houses*, at such Time and Place as the said Justice of the Peace shall appoint. And if upon such Accounting it shall appear, that any Captain or Commanding Officer shall not have expended and laid out all such Fines and Forfeitures (except those before excepted, for Drums and Colours) in Purchasing Arms and Ammunition aforesaid; then if said Sum shall appear to be *Five Pounds*, or under, it shall, and may be lawful, (in case of Refusal or Neglect of the said Captain or Commanding Officer, to pay the same to the said Justice and Freeholders) for the said Justice of the Peace, and he is hereby required and commanded to issue his Warrant to any Constable, commanding him to make Distress upon the said Captain's, or Commanding Officer's Goods and Chattels, and expose the same to Sale, by Publick Vendue; and out of the Money arising by such Sale, he shall pay to the said Justice of the Peace and said Freeholders, so much Money as the said Captain, or Commanding Officer, is found not to have laid out, returning the Overplus, to the Owner, if any be, after deducting the lawful Fees, for the Warrant, Distress, and Sale. AND if said Sum exceed *Five Pounds*, then it shall and may be lawful for the said Justice and Freeholders for the Time being in their Names, to sue the said Captain or Commanding Officer, in any Court where the same is cognizable, by Action of Debt, to be recovered with Costs of Suit, and applied by the said Justice and Freeholders, to the Purchasing the Arms and Ammunitions aforesaid.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That if any Captain or Commanding Officer, shall refuse or neglect to Account as aforesaid, he shall forfeit *Five Pounds* for every such Neglect or Refusal, with full Costs of Suit, to be recovered by Action of Debt, by any Person that will sue for the same, before any Justice of the Peace; the one Half to such Person or Persons that shall 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 no Innholder, or any other Person or Persons whatsoever, without Leave from the Captain or Commanding Officer for the Time being, shall presume to sell any strong Liquor, to any of the Persons so listed, in such Days or Times that they are obliged to appear in Arms, at the Place of Mustering or Training, or within a Mile thereof, until after they are dismissed for that Day; and every Person or Persons so selling strong Liquor, 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 no Summons, Warrant, Writ, or other Process (unless at the Suit of the King) shall be served upon any Officer or Soldier on the Day or Days of such Training and Appearing in Arms as aforesaid, but that all such Persons shall be free from Arrest, and have Liberty and Privilege of going and returning to their respective Places of Abode, without Let, Suit, or Hindrance on those Days.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That in case there shall be Occasion for the said Officers and Soldiers to pass and repass any River, or Place where a Ferry or Ferries are kept, in going to, or returning from the Place of Training or Appearing in Arms, as aforesaid, the Ferry-men, Owners, or Keepers of all such Ferries, are to take and receive of all such Officers and Soldiers only Half Ferriage, for such carrying over and bringing back, all such Officers, Soldiers, and their Horses. AND in case any Ferry-man, Owner or Keeper of such Ferry or Ferries, shall neglect to attend, or refuse carrying or bringing back all such Officers or Soldiers, or their Horses, as aforesaid, the said Ferry-man, Owner, or Keeper of such Ferry or Ferries, shall forfeit and pay the Sum of *Three Pounds*, Proclamation Money, to be recovered by the Captain or Commanding Officer of such Company, in any Court in this Colony where the same is cognizable, and when recovered, to be applied to the Purchasing of Arms and Ammunition, as aforesaid.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That this Act shall continue and be in Force for one Year after the Publication hereof, and from thence, to the End of the next Session of General Assembly, and no longer.

Passed 8 May 1746.

Franklin (1746) 16:1, pp. 3-14.