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THE
WORKS
OF
BENJAMIN FRANKLIN;
CONTAINING
SEVERAL POLITICAL AND HISTORICAL TRACTS
NOT INCLUDED IN ANY FORMER EDITION,
AND
MANY LETTERS OFFICIAL AND PRIVATE
NOT HITHERTO PUBLISHED;
WITH
NOTES
AND
A LIFE OF THE AUTHOR.
BY JARED SPARKS.
VOLUME III.

BOSTON:
CHARLES TAPPAN, PUBLISHER.
LOUISVILLE, KY.:
ALSTON MYGATT.
1844.

A N A C T

FOR THE BETTER ORDERING AND REGULATING SUCH AS ARE
WILLING AND DESIROUS TO BE UNITED FOR MILITARY
PURPOSES IN PENNSYLVANIA.

PASSED NOVEMBER 25TH, 1755.

The defeat of General Braddock at the battle of the Monongahela, on the 9th of July, 1755, had filled the people of Pennsylvania with alarm. The Assembly at its next session made a large grant in money for purposes of defence. The doctrine of non-resistance, which was a part of the creed of a large portion of the population, had hitherto prevented the establishment of any efficient militia system. To meet the present crisis, Franklin drew up the following act for embodying and disciplining a voluntary militia. It was carried through the House, he says, without much difficulty, because care had been taken to leave the Quakers at liberty. — EDITOR.

WHEREAS this province was first settled by (and a majority of the Assemblies have ever since been of) the people called Quakers, who, though they do not, as the world is now circumstanced, condemn the use of arms in others, yet are principled against bearing arms themselves; and to make any law to compel them thereto, against their consciences, would be not only to violate a fundamental in our constitution, and be a direct breach of our charter of privileges, but would also in effect be to commence persecution against all that part of the inhabitants of the province; and for them by any law to compel others to bear arms, and exempt themselves, would be inconsistent and partial;

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yet forasmuch as, by the general toleration and equity of our laws, great numbers of people of other religious denominations are come among us, who are under no such restraint, some of whom have been disciplined in the art of war, and conscientiously think it their duty to fight in defence of their country, their wives, their families, and estates, and such have an equal right to liberty of conscience with others; and whereas a great number of petitions from the several counties of this province have been presented to this House, setting forth, that the petitioners are very willing to defend themselves and their country, and desirous of being formed into regular bodies for that purpose, instructed and disciplined under proper officers, with suitable and legal authority; representing withal, that unless measures of this kind are taken, so as to unite them together, subject them to due command, and thereby give them confidence in each other, they cannot assemble to oppose the enemy, without the utmost danger of exposing themselves to confusion and destruction;

And whereas the voluntary assembling of great bodies of armed men from different parts of the province on any occasional alarm, whether true or false, as of late hath happened, without call or authority from the government, and without due order and direction among themselves, may be attended with danger to our neighbouring Indian friends and allies, as well as to the internal peace of the province;

And whereas the governor hath frequently recommended it to the Assembly, that, in preparing and passing a law for such purposes, they should have a due regard for scrupulous and tender consciences, which cannot be done where compulsive means are used to force men into military service; therefore, as we

represent all the people of the province, and are composed of members of different religious persuasions, we do not think it reasonable that any should, through a want of legal powers, be in the least restrained from doing what they judge it their duty to do for their own security and the public good; we, in compliance with the said petitions and recommendations, do offer it to the governor to be enacted, and be it enacted by the Honorable Robert Hunter Morris, with the King's royal approbation lieutenant-governor, under Thomas Penn and Richard Penn, true and absolute proprietors of the province of Pennsylvania, and of the counties of Newcastle, Kent, and Sussex, upon Delaware, by and with the advice and consent of the representatives of the freemen of the said province in General Assembly met, and by the authority of the same, that, from and after the publication of this act, it shall and may be lawful for the freemen of this province to form themselves into companies, as heretofore they have used in time of war without law, and for each company, by majority of votes in the way of ballot, to choose its own officers, to wit, a captain, lieutenant, and ensign, and present them to the governor or commander-in-chief for the time being for his approbation; which officers so chosen, if approved and commissioned by him, shall be the captain, lieutenant, and ensign of each company respectively, according to their commissions; and, the said companies being divided into regiments by the governor or commander-in-chief, it shall and may be lawful for the officers so chosen and commissioned for the several companies of each regiment to meet together, and by majority of votes, in the way of ballot, to choose a colonel, lieutenant-colonel, and major, for the regiment, and present them to the governor or

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commander-in-chief for his approbation ; which officers so chosen, if approved and commissioned by him, shall be the colonel, lieutenant-colonel, and major of the regiment, according to their commissions, during the continuance of this act.

Provided always, that if the governor or commander-in-chief shall not think fit to grant his commission to any officer so first chosen and presented, it shall and may be lawful for the electors of such officer to choose two other persons in his stead, and present them to the governor or commander-in-chief, one of whom, at his pleasure, shall receive his commission, and be the officer as aforesaid.

And be it further enacted by the authority aforesaid, that, as soon as the said companies and regiments are formed, and their officers commissioned as aforesaid, it shall and may be lawful to and for the governor, or commander-in-chief, by and with the advice and consent of the colonels, lieutenant-colonels, and majors of all the regiments, being for that purpose by him called and convened, or by and with the advice and consent of a majority of the said officers that shall be met and present together on such call, to form, make, and establish articles of war, for the better government of the forces that shall be under their command, and for bringing offenders against the same to justice ; and to erect and constitute courts-martial, with power to hear, try, and determine any crimes or offences by such articles of war, and inflict penalties by sentence or judgment of the same on those who shall be subject thereto, in any place within this province. Which articles of war, when made as aforesaid, shall be printed, and distributed to the captains of the several companies, and by them distinctly read to their respective companies ; and all and every

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captain, lieutenant, ensign, or other freeman, who shall, after at least three days' consideration of the said articles, voluntarily sign the same, in presence of some one justice of the peace, acknowledging his having perused or heard the same distinctly read, and that he has well considered thereof, and is willing to be bound and governed thereby, and promises obedience thereto, and to his officers accordingly, shall henceforth be deemed well and duly bound to the observance of the said articles, and to the duties thereby required, and subject to the pains, penalties, punishments, and forfeitures, that may therein be appointed for disobedience and other offences.

Provided always, that the articles, so to be made and established, shall contain nothing repugnant, but be as near as possible conformable, to the military laws of Great Britain, and to the articles of war made and established by his Majesty in pursuance of the last act of Parliament for punishing mutiny and desertion, the different circumstances of this province compared with Great Britain, and of a voluntary militia of free-men compared with mercenary standing troops, being duly weighed and maturely considered.

Provided also, that nothing in this act shall be understood or construed to give any power or authority to the governor or commander-in-chief, and the said officers, to make any articles or rules that shall in the least affect those of the inhabitants of the province who are conscientiously scrupulous of bearing arms, either in their liberties, persons, or estates; nor any other persons of what persuasion or denomination soever, who have not first voluntarily and freely signed the said articles after due consideration as aforesaid.

Provided also, that no youth under the age of twenty-one years, nor any bought servant or indented

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apprentice, shall be admitted to enroll himself, or be capable of being enrolled, in the said companies or regiments without the consent of his or their parents or guardians, masters or mistresses, in writing under their hands first had and obtained.

Provided also, that no enlistment or enrolment of any person in any of the companies or regiments to be formed and raised as aforesaid, shall protect such person in any suit or civil action brought against him by his creditors or others, except during his being in actual service in field or garrison; nor from a prosecution for any offence committed against the laws of this province.

Provided, also, that no regiment, company, or party of volunteers, shall, by virtue of this act, be compelled or led more than three days' march beyond the inhabited parts of the province; nor detained longer than three weeks in any garrison, without an express engagement for that purpose, first voluntarily entered into and subscribed by every man so to march or remain in garrison.

This act to continue in force until the 30th day of October next, and no longer.