

dicted of the crimes aforesaid, shall be allowed and admitted in his said defence to make any proof that he or they can produce, by lawful witness or witnesses, and shall have the like process of the court where he or they shall be tried, to compel his or their witnesses to appear at his or their trial, as is usually granted to compel witnesses to appear on the prosecution against them.

SEC. 30. *And be it further enacted*, That if any person or persons be indicted of treason against the United States, and shall stand mute or refuse to plead, or shall challenge peremptorily above the number of thirty-five of the jury; or if any person or persons be indicted of any other of the offences herein before set forth, for which the punishment is declared to be death, if he or they shall also stand mute or will not answer to the indictment, or challenge peremptorily above the number of twenty persons of the jury; the court, in any of the cases aforesaid, shall notwithstanding proceed to the trial of the person or persons so standing mute or challenging, as if he or they had pleaded not guilty, and render judgment thereon accordingly.

SEC. 31. *And be it further enacted*, That the benefit of clergy shall not be used or allowed, upon conviction of any crime, for which, by any statute of the United States, the punishment is or shall be declared to be death.

SEC. 32. *And be it further enacted*, That no person or persons shall be prosecuted, tried or punished for treason or other capital offence aforesaid, wilful murder or forgery excepted, unless the indictment for the same shall be found by a grand jury within three years next after the treason or capital offence aforesaid shall be done or committed; nor shall any person be prosecuted, tried or punished for any offence, not capital, nor for any fine or forfeiture under any penal statute, unless the indictment or information for the same shall be found or instituted within two years from the time of committing the offence, or incurring the fine or forfeiture aforesaid: *Provided*, That nothing herein contained shall extend to any person or persons fleeing from justice.

SEC. 33. *And be it further enacted*, That the manner of inflicting the punishment of death, shall be by hanging the person convicted by the neck until dead.

APPROVED, April 30, 1790.

and with process to compel the attendance of witnesses.

In cases of treason or other capital offence, prisoner standing mute, how to be proceeded against.

Act of March 3, 1825, ch. 65, sec. 14.

No benefit of clergy in cases where the punishment is death.

No prosecution or punishment for treason or other capital offence unless indictment be found within three years, nor in other cases unless within two years;

except the offender flee.

Punishment of death to be by hanging.

STATUTE II.

April 30, 1790.

CHAP. X.—An Act for regulating the Military Establishment of the United States.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the commissioned officers herein after mentioned, and the number of one thousand two hundred and sixteen non-commissioned officers, privates and musicians, shall be raised for the service of the United States, for the period of three years, unless they should previously by law be discharged.

SEC. 2. *And be it further enacted*, That the non-commissioned officers and privates aforesaid shall, at the time of their enlistments respectively, be able-bodied men, not under five feet six inches in height, without shoes; nor under the age of eighteen, nor above the age of forty-six years.

SEC. 3. *And be it further enacted*, That the commissioned officers herein after mentioned, and the said non-commissioned officers, privates and musicians, shall be formed into one regiment of infantry, to consist of three battalions, and one battalion of artillery. The regiment of infantry to be composed of one lieutenant-colonel commandant, three majors, three adjutants, three quartermasters, one paymaster, one surgeon, two surgeon's mates, and twelve companies, each of which shall consist of one captain, one lieutenant, one ensign, four sergeants, four

Repealed by Act of March 3, 1795 ch. 44, sec. 18.

Number of troops, and term of service.

Of what size and age.

How formed into regiments and battalions.

corporals, sixty-six privates, and two musicians. The battalion of artillery shall be composed of one major commandant, one adjutant, one quartermaster, one paymaster, one surgeon's mate, and four companies; each of which shall consist of one captain, two lieutenants, four sergeants, four corporals, sixty-six privates, and two musicians: *Provided always*, That the adjutants, quartermasters, and paymasters, shall be appointed from the line of subalterns of the aforesaid corps respectively.

Inspectors;
their duty, &c.

SEC. 4. *And be it further enacted*, That the President of the United States may from time to time appoint one or two inspectors, as to him shall seem meet, to inspect the said troops, who shall also muster the same, and each of whom shall receive the like pay and subsistence as a captain, and be allowed ten dollars per month for forage.

Pay of the troops;

deductions for clothing and hospital stores.

SEC. 5. *And be it further enacted*, That the troops aforesaid shall receive for their services the following enumerated monthly rates of pay: Lieutenant-colonel commandant, sixty dollars; major commandant of artillery, forty-five dollars; majors, forty dollars; captains, thirty dollars; lieutenants, twenty-two dollars; ensigns, eighteen dollars; surgeons, thirty dollars; surgeon's mates, twenty-four dollars; sergeants, five dollars; corporals, four dollars; privates, three dollars; senior musician in each battalion of infantry, and in the battalion of artillery, five dollars; musicians, three dollars: *Provided always*, That the sums herein after specified, shall be deducted from the pay of the non-commissioned officers, privates and musicians stipulated as aforesaid, for the purposes of forming a fund for clothing and hospital stores. From the monthly pay of each sergeant and senior musician, there shall be deducted for uniform clothing, the sum of one dollar and forty cents, and the farther sum of ten cents for hospital stores; and from the monthly pay of each corporal, for uniform clothing, one dollar and fifteen cents, and the farther sum of ten cents for hospital stores; and from the monthly pay of each private and musician, for uniform clothing, the sum of ninety cents, and the farther sum of ten cents for hospital stores.

Adjutants, quartermaster, and paymaster's additional pay.

SEC. 6. *And be it further enacted*, That the subalterns who may be appointed to act as adjutants, shall each receive for the same, in addition to their regimental pay, ten dollars per month; and quarter and paymasters so appointed, each five dollars per month.

Officers, what rations allowed to for daily subsistence.

SEC. 7. *And be it further enacted*, That the commissioned officers aforesaid, shall receive for their daily subsistence, the following number of rations of provisions—to wit: Lieutenant-colonel commandant, six; a major, four; a captain, three; a lieutenant, two; an ensign, two; a surgeon, three; a surgeon's mate, two, or money in lieu thereof, at the option of the said officers, at the contract price at the posts respectively where the rations shall become due.

Also, money in lieu of forage.

SEC. 8. *And be it further enacted*, That the commissioned officers herein after described, shall receive monthly the following enumerated sums, instead of forage: Lieutenant-colonels commandant, twelve dollars; major commandant of artillery, majors and surgeon each, ten dollars; surgeon's mates each, six dollars.

Privates, what clothing shall receive annually;

SEC. 9. *And be it further enacted*, That every non-commissioned officer, private and musician aforesaid, shall receive annually the following articles of uniform clothing: One hat or helmet, one coat, one vest, two pair of woollen and two pair of linen overalls, four pair of shoes, four shirts, two pair of socks, one blanket, one stock and clasp, and one pair of buckles.

and daily rations.

SEC. 10. *And be it further enacted*, That every non-commissioned officer, private and musician aforesaid, shall receive daily the following rations of provisions, or the value thereof: One pound of beef, or three quarters of a pound of pork, one pound of bread or flour, half a gill of rum, brandy or whisky, or the value thereof at the contract price where the same shall become due, and at the rate of one quart of salt,

two quarts of vinegar, two pounds of soap, and one pound of candles, to every hundred rations.

SEC. 11. *And be it further enacted*, That if any commissioned officer, non-commissioned officer, private or musician aforesaid, shall be wounded or disabled while in the line of his duty in public service, he shall be placed on the list of the invalids of the United States, at such rate of pay, and under such regulations as shall be directed by the President of the United States, for the time being: *Provided always*, That the rate of compensation for such wounds or disabilities, shall never exceed for the highest disability, half the monthly pay received by any commissioned officer, at the time of being so wounded or disabled; and that the rate of compensation to non-commissioned officers, privates and musicians, shall never exceed five dollars per month. *And provided also*, That all inferior disabilities shall entitle the persons so disabled, to receive only a sum in proportion to the highest disability.

If wounded or disabled, what compensation.

SEC. 12. *And be it further enacted*, That every commissioned officer, non-commissioned officer, private and musician aforesaid, shall take and subscribe the following oath or affirmation—to wit: "I, A. B. do solemnly swear or affirm (as the case may be) to bear true allegiance to the United States of America, and to serve them honestly and faithfully against all their enemies or opposers whomsoever, and to observe and obey the orders of the President of the United States of America, and the orders of the officers appointed over me, according to the articles of war."

Officers and privates to take an oath of allegiance to the United States; and

SEC. 13. *And be it further enacted*, That the commissioned officers, non-commissioned officers, privates and musicians aforesaid, shall be governed by the rules and articles of war, which have been established by the United States in Congress assembled, as far as the same may be applicable to the constitution of the United States, or by such rules and articles as may hereafter by law be established.

be governed by the articles of war.

SEC. 14. *And be it further enacted*, That the "act for recognizing and adapting to the constitution of the United States, the establishment of the troops raised under the resolves of the United States in Congress assembled, and for other purposes therein mentioned," passed the twenty-ninth day of September, one thousand seven hundred and eighty-nine, be, and the same is hereby repealed.

Former establishment of troops repealed.

Act of Sept. 29, 1789, ch. 25.

SEC. 15. *Provided always*, That the non-commissioned officers and privates continued and engaged under the aforesaid act of the twenty-ninth day of September, one thousand seven hundred and eighty-nine, and who shall decline to re-enlist under the establishment made by this act, shall be discharged whenever the President of the United States shall direct the same. *Provided further*, That the whole number of non-commissioned officers, privates and musicians, in the service of the United States at any one time, either by virtue of this act, or by virtue of the aforesaid act, passed the twenty-ninth day of September, one thousand seven hundred and eighty-nine, shall not exceed the number of one thousand two hundred and sixteen.

Certain exceptions; and

SEC. 16. *And be it further enacted*, That for the purpose of aiding the troops now in service, or to be raised by this act, in protecting the inhabitants of the frontiers of the United States, the President is hereby authorized to call into service from time to time such part of the militia of the states respectively, as he may judge necessary for the purpose aforesaid; and that their pay and subsistence while in service, be the same as the pay and subsistence of the troops above mentioned, and they shall be subject to the rules and articles of war.

for further defence, President may call out militia.

APPROVED, April 30, 1790.