

16. AND BE IT ENACTED, That all resignations of company and staff officers must be made through their commanding officers of regiments, or extra battalions, (as the case may be;) and all resignations of commanding officers of regiments, battalions and extra battalions, through their respective brigadiers, and at least sixty days prior to the regular field days, (except in case of removal,) and that otherwise no officer shall be considered as having resigned, which officers shall within twenty days after receiving such resignation, transmit a notification thereof to the governor and council; *Provided*, that this shall not be binding on independent corps, or where there may be no field officer or brigadier in commission.

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Resignations, how to be made.

Proviso.

17. AND BE IT ENACTED, That in all cases where a militia man may be draughted to perform a tour of duty under this act, he shall be considered as a soldier, and liable to all the duties as such, unless he shall furnish a substitute; and the commanding officer of the regiment or extra battalion, (as the case may be,) to which he may belong, shall be the sole judge of the qualification of said substitute, and may receive or reject him at his discretion.

Persons draughted to perform a tour of duty to be considered as soldiers, &c.

18. AND BE IT ENACTED. That all able bodied male white persons in this state, between eighteen and forty-five years of age, shall stand their draught, except as herein excepted(a); provided that Quakers, Menonists, Tunkers, and persons conscientiously scrupulous of bearing arms, are not to be exempt by virtue of this exemption from standing their draught; and when any part or parts of the militia shall be draughted, or called out of the state into actual service, every person liable to draught as aforesaid, who is not a commissioned officer, shall have it in his choice, either to serve in person, or to find a sufficient person for a substitute, which said substitute shall be approved of by the commanding officer of the regiment or extra battalion, (as the case may be.) to which he shall belong; but if any person, not being disabled by sickness, shall neglect or refuse to serve, or find such sufficient substitute in his place within ten days after notice given to him, the commanding officer of the regiment or extra battalion, (as the case may be,) to which such delinquent belongs, shall, and he is hereby required to provide, hire or procure, on as reasonable terms as may be, a substitute for such person so refusing or neglecting, and to charge such sum or sums, together with reasonable expenses for procuring the same, to such delinquent, to be recovered by distress and sale of his goods and chattels, lands or tenements, by warrant under his hand, directed to the sheriff of the county where such person resides; and in all cases where it shall be necessary to recover any fine or forfeiture, or other money, wherewith any person or persons may become chargeable under and by virtue of this clause, by distress and sale, or execution of the property of such person or persons, it is hereby declared to be the duty of the sheriff or person executing for the same, to take such property as shall be offered or shewn to such sheriff or person executing, amounting to such debt and costs; and if no property shall be shewn or offered, such sheriff or person executing shall not take in execution any negro, or other valuable property, to satisfy a small or trifling fine or sum,

Draughts, substitutes, &c.

(a) By June 1812, ch. 9, s. 2, ministers of the gospel, and those exempted by the act of congress, are only excepted. See November 1812, ch. 338, s. 4.