Statute II.

May 28, 1798.

[Repealed.]

Act of March 16, 1802, ch. 9, sec. 29.

CHAP. XLVII.—*An Act authorizing the President of the United States to raise a Provisional Army.*

The President may, on certain events taking place, raise an army of 10,000 men for three years.

1799, ch. 48.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he is hereby authorized, in the event of a declaration of war against the United States, or of actual invasion of their territory, by a foreign power, or of imminent danger of such invasion discovered in his opinion to exist, before the next session of Congress, to cause to be enlisted, and to call into actual service, a number of troops, not exceeding ten thousand non-commissioned officers, musicians and privates, to be enlisted for a term not exceeding three years: each of whom shall be entitled to receive a bounty of ten dollars, one half on enlisting, and the other half on joining the corps to which he may belong.

Bounty.

The President may organize those troops, and appoint their officers in the recess.

SEC. 2. *And be it further enacted,* That the President be, and he is hereby authorized to organize, with a suitable number of major-generals, and conformably to the military establishment of the United States, the said troops into corps of artillery, cavalry and infantry, as the exigencies of the service may require; and in the recess of the Senate, alone to appoint the commissioned officers. The appointment of the field officers to be submitted to the advice and consent of the Senate, at their next subsequent meeting. The commissioned and non-commissioned officers, musicians and privates, raised in pursuance of this act, shall be subject to the rules and articles of war, and regulations for the government of the army, and be entitled to the same pay, clothing, rations, forage and all other emoluments, bounty excepted, and in case of wounds or disability received in service, to the same compensation as the troops of the United States are by law entitled.

Those troops to be on the footing of the other troops of the U. States.

1798, ch. 57.

The President may accept of volunteers, in addition to those troops.

SEC. 3. *And be it further enacted,* That in addition to the aforesaid number of troops, the President is hereby empowered, at any time within three years after the passing of this act, if in his opinion the public interest shall require, to accept of any company or companies of volunteers, either of artillery, cavalry or infantry, who may associate and offer themselves for the service, who shall be armed, clothed and equipped at their own expense, and whose commissioned officers the President is hereby authorized to appoint; who shall be liable to be called upon to do military duty at any time the President shall judge proper, within two years after he shall accept the same; and when called into actual service, and while remaining in the same, shall be under the same rules and regulations, and shall be entitled to the same pay, rations, forage and emoluments of every kind, excepting bounty and clothing, as the other troops to be raised by this act.

1799, ch. 48.

Allowance for injuries or loss of horses, arms or equipage to be made to volunteers.

SEC. 4. *And be it further enacted,* That in case any such volunteer, while in actual service, and in the line of his duty, sustains any damage, by injury done to his horse, arms or equipage, or by loss of the same, without any fault or negligence on his part, a reasonable sum, to be ascertained in such manner as the President shall direct, shall be allowed for each and every such damage or loss.

President may appoint a lieutenant general.

SEC. 5. *And be it further enacted,* That whenever the President shall deem it expedient, he is hereby empowered to appoint, by and with the advice and consent of the Senate, a commander of the army which may be raised by virtue of this act, and who being commissioned as lieutenant-general may be authorized to command the armies of the United States, and shall be entitled to the following pay and emoluments, viz.: two hundred and fifty dollars monthly pay, fifty dollars monthly allowance for forage, when the same shall not be provided by the United States, and forty rations per day, or money in lieu thereof at the current price, who shall have authority to appoint, from time to time, such num-

His pay and emoluments.

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ber of aids not exceeding four, and secretaries not exceeding two, as he may judge proper, each to have the rank, pay and emoluments of a lieutenant-colonel.

Aids and secretaries.

SEC. 6. *And be it further enacted*, That whenever the President shall deem it expedient, he is hereby empowered, by and with the advice and consent of the Senate, to appoint an inspector-general, with the rank of major-general, and the major-generals and inspector-general shall each be entitled to the following pay and emoluments, viz.: one hundred and sixty-six dollars monthly pay, twenty dollars monthly allowance for forage, when the same is not provided by the United States, and fifteen rations per day, or money in lieu thereof, at the current price; and shall be and they are hereby authorized to appoint two aids, each of whom shall have the rank, pay and emoluments of a major. And at the time aforesaid, the President is further empowered, by and with the advice and consent of the Senate, to appoint an adjutant-general, who shall have the rank pay and emoluments of a brigadier-general. And the President is hereby authorized alone to appoint, from time to time, when he shall judge proper, assistant inspectors to every separate portion of the army, consisting of one or more divisions, who shall be deputy adjutant-generals thereof respectively, and who shall be taken from the line of the army, and allowed, in addition to their pay, eight dollars per month; and likewise to appoint inspectors and sub-inspectors to each brigade and corps of every description, at his discretion, taking them from the line of the army, and they shall each receive, while acting in said capacity, an additional pay of six dollars per month.

President may appoint an inspector general.

Pay and emoluments of major generals and inspector general.

They may appoint aids.

President may appoint an adjutant general;

Assistant inspectors to every separate portion of the army;

and inspectors and sub-inspectors to each brigade and corps.

SEC. 7. *And be it further enacted*, That in case the President shall judge the employment of a quartermaster-general, physician-general and paymaster-general or either of them essential to the public interest, he is hereby authorized, by and with the advice and consent of the Senate, to appoint the same accordingly, who shall be entitled to the rank, pay and emoluments which follow, viz.: quartermaster-general, the rank, pay and emoluments of a lieutenant-colonel; physician-general and paymaster-general each the pay and emoluments of a lieutenant-colonel. *Provided*, that in case the President shall judge it expedient to appoint a commander of the army, an inspector-general, adjutant-general, quartermaster-general, physician-general and paymaster-general, or either of them, in the recess of the Senate, he is hereby authorized to make any or all of said appointments and grant commissions thereon, which shall expire at the end of the next session of the Senate thereafter.

Also a quartermaster general, physician general and paymaster general.

Proviso, enabling the President to make appointments of certain officers in the recess, whose commissions shall expire at the end of the session of the Senate thereafter.

SEC. 8. *And be it further enacted*, That the laws of the United States, respecting the regulations and emoluments of recruiting officers; punishment of persons who shall procure or entice a soldier to desert or shall purchase his arms, uniform clothing, or any part thereof; and the punishment of every commanding officer of any ship or vessel who shall receive on board his ship or vessel as one of his crew, knowing him to have deserted, or otherwise carry away any soldier or refuse to deliver him up to the orders of his commanding officer; and the law respecting the oath or affirmation to be taken by officers, non-commissioned officers, musicians and privates; and respecting the inserting of conditions in the enlistments; and all other laws respecting the military establishment of the United States, excepting in such cases where different and specific regulations are made by this act—shall be in force and apply to all persons, matters and things within the intent and meaning of this act, in the same manner, as they would, were they inserted at large in the same.

Former laws respecting the military establishment of the U. States extended to the persons matters and things within the meaning of this act.

SEC. 9. *And be it further enacted*, That the commander of the army, inspector-general, adjutant-general, quartermaster-general, physician-general, and paymaster-general, and the general, field and commissioned officers who may be appointed by virtue of this act, shall respectively continue in

The President may at his discretion discharge the whole or any

part of the officers and soldiers raised or accepted under this act.

commission during such term only as the President shall judge requisite for the public service, and that it shall be lawful for the President to discharge the whole or any part of the troops, which may be raised or accepted under authority of this act, whenever he shall judge the measure consistent with the public safety.

No commissioned or staff officer to be entitled to pay or emolument but for actual service.

Sec. 10. *And be it further enacted*, That no commissioned or staff-officer, who shall be appointed by virtue of this act, shall be entitled to receive pay or emoluments until he shall be called into actual service, nor for any longer time than he shall continue therein. *Provided*, nothing in this section shall be construed to prevent captains and subalterns from receiving pay and emoluments while employed in the recruiting service. *And provided also*, that no enlistment shall take place by virtue of this act after three years from the passing thereof.

The President may loan field artillery to militia corps, disposed to inform themselves in its use.

Sec. 11. *And be it further enacted*, That it shall be lawful for the President of the United States, at his discretion, upon the request of any militia corps established by law, in any state, disposed to inform themselves in the use of artillery, or of the executive of any state, in behalf of such corps, to suffer to be loaned to them, such pieces, not exceeding two to any one corps, of the field artillery of the United States, as may be most conveniently spared, to be taken, removed and returned, at the expense of the party requesting: who are to be accountable for the same, and to give receipts accordingly.

And also to loan field artillery, arms, and accoutrements to militia or volunteer corps called forth and engaged in actual service.

Sec. 12. *And be it further enacted*, That the President of the United States shall be, and he is hereby authorized, when, under his orders, any portion of the militia, or any volunteer corps, shall be called forth and engaged in the actual service of the United States, to suffer to be loaned, at the request of the executive of the state from which such militia shall be called forth, or of such volunteer corps, appearing to be unavoidably deficient, a supply of field artillery, arms and accoutrements from the arsenals of the United States, as the case may require; proper receipts and security being given to be accountable to return the same, the accidents of the service excepted.

President may procure certain equipage for cavalry, which may be loaned as aforesaid.

Sec. 13. *And be it further enacted*, That the President of the United States shall be, and he is hereby authorized to cause to be purchased and procured a quantity of caps, swords or sabres, and pistols with holsters, not exceeding what may be sufficient for four thousand cavalry, and to be deposited in the parts of the United States, where he shall deem it most convenient for the supply of any corps of cavalry which shall be called into the actual service of the United States, and which the President of the United States may loan upon the terms and the like receipts, to be accountable as herein before provided. And for this purpose, and towards defraying the expenses which may be necessarily incurred before the next session of Congress, in executing the other purposes of this act, a sum not exceeding two hundred thousand dollars, shall be, and is hereby appropriated, and shall and may be paid at the treasury, under the orders of the President of the United States, out of any money not already appropriated.

Appropriation of $200,000.

Privates exempt from arrests for debt or contract.

Sec. 14. *And be it further enacted*, That the private soldiers who are and who shall be enlisted and employed in the service of the United States, shall be, and they are hereby exempted, during their term of service, from all personal arrests, for any debt or contract. And whenever any soldier shall be arrested, whether by mesne process, or in execution, contrary to the intent hereof, it shall be the duty of the judge of the district court of the district in which the arrest shall happen, and of any justice of the supreme court of the United States, and of any court or judge of a state, who, by the laws of such state, are authorized to issue writs of habeas corpus, respectively, on application by any officer of the corps in which such soldier shall be engaged, to grant a writ of habeas corpus returnable before himself; and upon due hearing and

examination, in a summary manner, to discharge the soldier from such arrest, taking common bail, if required, in any case upon mesne process, and commit him to the applicant, or some other officer of the same corps.

Approved, May 28, 1798.

Statute II.

May 28, 1798.

[Obsolete.]

Chap. XLVIII.—*An Act more effectually to protect the Commerce and Coasts of the United States.*

Preamble.
1798, ch. 53.
1798, ch. 67.
1798, ch. 68.

Whereas armed vessels sailing under authority or pretence of authority from the Republic of France, have committed depredations on the commerce of the United States, and have recently captured the vessels and property of citizens thereof, on and near the coasts, in violation of the law of nations, and treaties between the United States and the French nation. Therefore:

President may issue instructions to the commanders of public armed ships to bring into port certain French armed vessels, and to make recaptures from them.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for the President of the United States, and he is hereby authorized to instruct and direct the commanders of the armed vessels belonging to the United States to seize, take and bring into any port of the United States, to be proceeded against according to the laws of nations, any such armed vessel which shall have committed or which shall be found hovering on the coasts of the United States, for the purpose of committing depredations on the vessels belonging to citizens thereof;—and also to retake any ship or vessel, of any citizen or citizens of the United States which may have been captured by any such armed vessel.

Approved, May 28, 1798.

Statute II.

June 6, 1798.

March 3, 1817, ch. 114.

Chap. XLIX.—*An Act providing for the relief of persons imprisoned for Debts due to the United States.*

Insolvent to make application to the Secretary of the Treasury,

Ante, p. 48.

who may cause an examination to be made of the facts of the case;

Section 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any person imprisoned upon execution issuing from any court of the United States, for a debt due to the United States, which he shall be unable to pay, may, at any time after commitment, make application, in writing, to the Secretary of the Treasury, stating the circumstances of his case, and his inability to discharge the debt; and it shall thereupon be lawful for the said Secretary to make, or require to be made, an examination and inquiry into the circumstances of the debtor, either by the oath or affirmation of the debtor, (which the said secretary, or any other person by him specially appointed, are hereby authorized to administer) or otherwise, as the said secretary shall deem necessary and expedient, to ascertain the truth; and upon proof being made to his satisfaction, that such debtor is unable to pay the debt for which he is imprisoned, and that he hath not concealed, or made any conveyance of his estate, in trust, for himself, or with an intent to defraud the United States, or deprive them of their legal priority, the said secretary is hereby authorized to receive from such debtor, any deed, assignment, or conveyance of the real or personal estate of such debtor, if any he hath, or any collateral security to the use of the United States; and upon a compliance by the debtor, with such terms and conditions as the said secretary may judge reasonable and proper, under all the circumstances of the case, it shall be lawful for the said secretary to issue his order, under his hand, to the keeper of the prison, directing him to discharge such debtor from his imprisonment under such execution, and he shall be accordingly discharged, and shall not be liable to be imprisoned again for the said debt; but the judgment shall remain good and sufficient in law, and may be satisfied out of any estate which may then, or at any time afterwards, belong to the debtor.

and upon proof of certain facts, he may receive an assignment of the debtor's property;

and on the debtor's complying with the terms prescribed by the Secretary; he may order him to be discharged.