

1 Section 1. Be it enacted by the Senate and House of Representatives of the United States of
2 America in Congress assembled, That whenever the United States shall be invaded, or be in
3 imminent danger of invasion from any foreign nation or Indian tribe, it shall be lawful for the
4 President of the United States, to call forth such number of the militia of the state or states most
5 convenient to the place of danger or scene of action as he may judge necessary to repel such
6 invasion, and to issue his orders for that purpose, to such officer or officers of the militia as he
7 shall think proper; and in case of an insurrection in any state, against the government thereof, it
8 shall be lawful for the President of the United States, on application of the legislature of such
9 state, or of the executive (when the legislature cannot be convened) to call forth such number of
10 the militia of any other state or states, as may be applied for, or as he may judge sufficient to
11 suppress such insurrection.

12 Sec. 2. And be it further enacted, That whenever the laws of the United States shall be opposed
13 or the execution thereof obstructed, in any state, by combinations too powerful to be suppressed
14 by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this
15 act, the same being notified to the President of the United States, by an associate justice or the
16 district judge, it shall be lawful for the President of the United States to call forth the militia of
17 such state to suppress such combinations, and to cause the laws to be duly executed. And if the
18 militia of a state, where such combinations may happen, shall refuse, or be insufficient to
19 suppress the same, it shall be lawful for the President, if the legislature of the United States be
20 not in session, to call forth and employ such numbers of the militia of any other state or states
21 most convenient thereto, as may be necessary, and the use of militia, so to be called forth, may
22 be continued, if necessary, until the expiration of thirty days after the commencement of the
23 ensuing session.

24 Sec. 3. Provided always, and be it further enacted, That whenever it may be necessary, in the
25 judgment of the President, to use the military force hereby directed to be called forth, the
26 President shall forthwith, and previous thereto, by proclamation, command such insurgents to
27 disperse, and retire peaceably to their respective abodes, within a limited time.

28 Sec. 4. And be it further enacted, That the militia employed in the service of the United States,
29 shall receive the same pay and allowances, as the troops of the United States, who may be in
30 service at the same time, or who were last in service, and shall be subject to the same rules and
31 articles of war: And that no officer, non-commissioned officer or private of the militia shall be
32 compelled to serve more than three months in any one year, nor more than in due rotation with
33 every other able-bodied man of the same rank in the battalion to which he belongs.

34 Sec. 5. And be it further enacted, That every officer, non-commissioned officer or private of the
35 militia, who shall fail to obey the orders of the President of the United States in any of the cases
36 before recited, shall forfeit a sum not exceeding one year's pay, and not less than one month's
37 pay, to be determined and adjudged by a court martial; and such officers shall, moreover, be
38 liable to be cashiered by sentence of a court martial: and such non-commissioned officers and
39 privates shall be liable to be imprisoned by the like sentence, or failure of payment of the fines
40 adjudged against them, for the space of one calendar month for every five dollars of such fine.

41 Sec. 6. And be it further enacted, That court martial for the trial of militia be composed of militia
42 officers only.

43 Sec. 7. And be it further enacted, That all fines to be assessed, as aforesaid, shall be certified by
44 the presiding officer of the court martial before whom the same shall be assessed, to the marshal
45 of the district, in which the delinquent shall reside, or to one of his deputies; and also the
46 supervisor of the revenue of the same district, who shall record the said certificate in a book to be
47 kept for that purpose. The said marshal or his deputy shall forthwith proceed to levy the said
48 fines with costs, by distress and sale of the goods and chattels of the delinquent, which costs and
49 manner of proceeding, with respect to the sale of the goods distrained, shall be agreeable to the
50 laws of the state, in which the same shall be, in other cases of distress; and where any non-
51 commissioned officer or private shall be adjudged to suffer imprisonment, there being no goods
52 or chattels to be found, whereof to levy the said fines, the marshal of the district or his deputy
53 may commit such delinquent to gaol, during the term, for which he shall be so adjudged to

54 imprisonment, or until the fine shall be paid, in the same manner as other persons condemned to
55 fine and imprisonment at the suit of the United States, may be committed.

56 Sec. 8. And be it further enacted, That the marshals and their deputies shall pay all such fines by
57 them levied to the supervisor of the revenue, in the district in which they are collected, within
58 two months after they shall have received the same, deducting there from five per centum, as a
59 compensation for their trouble; and in case of failure, the same shall be recoverable by action of
60 debt or information in any court of the United States, of the district, in which such fines shall be
61 levied, having cognizance therefor, to be sued for, prosecuted and recovered, in the name of the
62 supervisor of the district, with interest and costs.

63 Sec. 9. And be it further enacted, That the marshals of the several districts and deputies, shall
64 have the same powers in executing the laws of the United States, as sheriffs, and their deputies in
65 the several states have by law, in executing the laws of their respective states.

66 Sec. 10. And be it further enacted, That this act shall continue and be in force, for and during the
67 term of two years, and from thence to the end of the next session of Congress thereafter, and no
68 longer.

69 APPROVED, May 2, 1792.

70 **The Militia Act of 1792, Passed May 8, 1792, providing federal standards for the**
71 **organization of the Militia.**

72 An ACT more effectually to provide for the National Defence, by establishing an Uniform
73 Militia throughout the United States.

74 I. Be it enacted by the Senate and House of Representatives of the United States of America, in
75 Congress assembled, That each and every free able-bodied white male citizen of the respective
76 States, resident therein, who is or shall be of age of eighteen years, and under the age of forty-
77 five years (except as is herein after excepted) shall severally and respectively be enrolled in the

78 militia, by the Captain or Commanding Officer of the company, within whose bounds such
79 citizen shall reside, and that within twelve months after the passing of this Act. And it shall at all
80 time hereafter be the duty of every such Captain or Commanding Officer of a company, to enroll
81 every such citizen as aforesaid, and also those who shall, from time to time, arrive at the age of
82 18 years, or being at the age of 18 years, and under the age of 45 years (except as before
83 excepted) shall come to reside within his bounds; and shall without delay notify such citizen of
84 the said enrollment, by the proper non-commissioned Officer of the company, by whom such
85 notice may be proved. That every citizen, so enrolled and notified, shall, within six months
86 thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two
87 spare flints, and a knapsack, a pouch, with a box therein, to contain not less than twenty four
88 cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity
89 of powder and ball; or with a good rifle, knapsack, shot-pouch, and powder-horn, twenty balls
90 suited to the bore of his rifle, and a quarter of a pound of powder; and shall appear so armed,
91 accoutred and provided, when called out to exercise or into service, except, that when called out
92 on company days to exercise only, he may appear without a knapsack. That the commissioned
93 Officers shall severally be armed with a sword or hanger, and esponton; and that from and after
94 five years from the passing of this Act, all muskets from arming the militia as is herein required,
95 shall be of bores sufficient for balls of the eighteenth part of a pound; and every citizen so
96 enrolled, and providing himself with the arms, ammunition and accoutrements, required as
97 aforesaid, shall hold the same exempted from all suits, distresses, executions or sales, for debt or
98 for the payment of taxes.

99 II. And be it further enacted, That the Vice-President of the United States, the Officers, judicial
100 and executives, of the government of the United States; the members of both houses of Congress,
101 and their respective officers; all custom house officers, with the clerks; all post officers, and
102 stage-drivers who are employed in the care and conveyance of the mail of the post office of the
103 United States; all Ferrymen employed at any ferry on the post road; all inspectors of exports; all
104 pilots, all mariners actually employed in the sea service of any citizen or merchant within the
105 United States; and all persons who now are or may be hereafter exempted by the laws of the

106 respective states, shall be and are hereby exempted from militia duty, notwithstanding their being
107 above the age of eighteen and under the age of forty-five years.

108 III. And be it further enacted, That within one year after the passing of the Act, the militia of the
109 respective states shall be arranged into divisions, brigades, regiments, battalions, and companies,
110 as the legislature of each state shall direct; and each division, brigade, and regiment, shall be
111 numbered at the formation thereof; and a record made of such numbers of the Adjutant-General's
112 office in the state; and when in the field, or in serviced in the state, such division, brigade, and
113 regiment shall, respectively, take rank according to their numbers, reckoning the first and lowest
114 number highest in rank. That if the same be convenient, each brigade shall consist of four
115 regiments; each regiment or two battalions; each battalion of five companies; each company of
116 sixty-four privates. That the said militia shall be officered by the respective states, as follows: To
117 each division on Major-General, with two Aids-de-camp, with the rank of major; to each
118 brigade, one brigadier-major, with the rank of a major; to each company, one captain, one
119 lieutenant, one ensign, four serjeants, four corporals, one drummer, and one fifer and bugler.
120 That there shall be a regimental staff, to consist of one adjutant, and one quartermaster, to rank as
121 lieutenants; one paymaster; one surgeon, and one surgeon's mate; one serjeant-major; one drum-
122 major, and one fife-major.

123 IV. And be it further enacted, That out of the militia enrolled as is herein directed, there shall be
124 formed for each battalion, as least one company of grenadiers, light infantry or riflemen; and that
125 each division there shall be, at least, one company of artillery, and one troop of horse: There
126 shall be to each company of artillery, one captain, two lieutenants, four serjeants, four corporals,
127 six gunners, six bombardiers, one drummer, and one fifer. The officers to be armed with a sword
128 or hanger, a fusee, bayonet and belt, with a cartridge box to contain twelve cartridges; and each
129 private of matoss shall furnish themselves with good horses of at least fourteen hands and an half
130 high, and to be armed with a sword and pair of pistols, the holsters of which to be covered with
131 bearskin caps. Each dragoon to furnish himself with a serviceable horse, at least fourteen hands
132 and an half high, a good saddle, bridle, mail-pillion and valise, holster, and a best plate and

133 crupper, a pair of boots and spurs; a pair of pistols, a sabre, and a cartouchbox to contain twelve
134 cartridges for pistols. That each company of artillery and troop of horse shall be formed of
135 volunteers from the brigade, at the discretion of the Commander in Chief of the State, not
136 exceeding one company of each to a regiment, nor more in number than one eleventh part of the
137 infantry, and shall be uniformly clothed in raiments, to be furnished at their expense, the colour
138 and fashion to be determined by the Brigadier commanding the brigade to which they belong.

139 V. And be it further enacted, That each battalion and regiment shall be provided with the state
140 and regimental colours by the Field-Officers, and each company with a drum and fife or bugle-
141 horn, by the commissioned officers of the company, in such manner as the legislature of the
142 respective States shall direct.

143 VI. And be it further enacted, That there shall be an adjutant general appointed in each state,
144 whose duty it shall be to distribute all orders for the Commander in Chief of the State to the
145 several corps; to attend all publick reviews, when the Commander in Chief of the State shall
146 review the militia, or any part thereof; to obey all orders from him relative to carrying into
147 execution, and perfecting, the system of military discipline established by this Act; to furnish
148 blank forms of different returns that may be required; and to explain the principles of which they
149 should be made; to receive from the several officers of the different corps throughout the state,
150 returns of the militia under their command, reporting the actual situation of their arms,
151 accoutrements, and ammunition, their delinquencies, and every other thing which relates to the
152 general advancement of good order and discipline: All which, the several officers of the division,
153 brigades, regiments, and battalions are hereby required to make in the usual manner, so that the
154 said adjutant general may be duly furnished therewith: From all which returns he shall make
155 proper abstracts, and by the same annually before the Commander in Chief of the State.

156 VII. And be it further enacted, That the rules of discipline, approved and established by
157 Congress, in their resolution of the twenty-ninth of March, 1779, shall be the rules of discipline
158 so be observed by the militia throughout the United States, except such deviations from the said
159 rules, as may be rendered necessary by the requisitions of the Act, or by some other unavoidable

160 circumstances. It shall be the duty of the Commanding Officer as every muster, whether by
161 battalion, regiment, or single company, to cause the militia to be exercised and trained, agreeably
162 to the said rules of said discipline.

163 VIII. And be it further enacted, That all commissioned officers shall take rank according to the
164 date of their commissions; and when two of the same grade bear an equal date, then their rank to
165 be determined by lots, to be drawn by them before the Commanding officers of the brigade,
166 regiment, battalion, company or detachment.

167 IX. And be it further enacted That if any person whether officer or soldier, belonging to the
168 militia of any state, and called out into the service of the United States, be wounded or disabled,
169 while in actual service, he shall be taken care of as provided for at the publick expense.

170 X. And be it further enacted, That it shall be the duty of the brigade inspector, to attend the
171 regimental and battalion meeting of the militia composing their several brigades, during the time
172 of their being under arms, to inspect their arms, ammunition and accoutrements; superintend
173 their exercise and manœuvres and introduce the system of military discipline before described,
174 throughout the brigade, agreeable to law, and such orders as they shall from time to time receive
175 from the commander in Chief of the State; to make returns to the adjutant general of the state at
176 least once in every year, of the militia of the brigade to which he belongs, reporting therein the
177 actual situation of the arms, accoutrement, and ammunition, of the several corps, and every other
178 thing which, in his judgment, may relate to their government and general advancement of good
179 order and military discipline; an adjutant general shall make a return of all militia of the state, to
180 the Commander in Chief of the said state, and a duplicate of the same to the president of the
181 United States.

182 And whereas sundry corps of artillery, cavalry and infantry now exist in several of the said
183 states, which by the laws, customs, or usages thereof, have not been incorporated with, or subject
184 to the general regulation of the militia.

185 XI. Be it enacted, That such corps retain their accustomed privileges subject, nevertheless, to all
186 other duties required by this Act, in like manner with the other militias.

187 **[Act of February 28, 1795, made small revisions in Sections 2, 4, 5, and 10 of Act of May 2,**
188 **1792. The 1795 act was the authority for ruling in Houston v. Moore, 1820. Other revisions**
189 **were enacted April 18, 1814]**

190 Sec. 2. And be it further enacted, That whenever the laws of the United States shall be opposed
191 or the execution thereof obstructed, in any state, by combinations too powerful to be suppressed
192 by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this
193 act, [words requiring notification by an associate justice or district judge were omitted in 1795
194 revision. The revision gave the President more authority] the same being notified to the President
195 of the United States, by an associate justice or the district judge, it shall be lawful for the
196 President of the United States to call forth the militia of such state to suppress such
197 combinations, and to cause the laws to be duly executed. And if the militia of a state, where such
198 combinations may happen, shall refuse, or be insufficient to suppress the same, it shall be lawful
199 for the President, if the legislature of the United States be not in session, to call forth and employ
200 such numbers of the militia of any other state or states most convenient thereto, as may be
201 necessary, and the use of militia, so to be called forth, may be continued, if necessary, until the
202 expiration of thirty days after the commencement of the ensuing session.

203 Sec. 4. And be it further enacted, That the militia employed in the service of the United States,
204 shall receive the same pay and allowances, as the troops of the United States, [omitted in 1795:
205 "who may be in service at the same time, or who were last in service, and shall be subject to the
206 same rules and articles of war"]: And that no officer, non-commissioned officer or private of the
207 militia shall be compelled to serve more than three months in any one year, nor more than in due
208 rotation with every other able-bodied man of the same rank in the battalion to which he belongs.

209 Sec. 5. And be it further enacted, That every officer, non-commissioned officer or private of the
210 militia, who shall fail to obey the orders of the President of the United States in any of the cases

211 before recited, shall forfeit a sum not exceeding one year's pay, and not less than one month's
212 pay, to be determined and adjudged by a court martial; and such officers shall, moreover, be
213 liable to be cashiered by sentence of a court martial: [words added in 1795:] and be incapacitated
214 from holding a commission in the militia, for a term not exceeding twelve months, at the
215 discretion of the said court: and such non-commissioned officers and privates shall be liable to
216 be imprisoned by the like sentence, or failure of payment of the fines adjudged against them, for
217 the space of one calendar month for every five dollars of such fine.

218 Sec. 10. [revised to read:] And be it further enacted, That the act, intituled "Act to provide for
219 calling forth the militia, to execute the laws of Union, suppress insurrections, and repel
220 invasions," passed the second day of May one thousand seven hundred and ninety-two, shall be,
221 and the same is hereby repealed.

222 APPROVED, February 28, 1795.

