

C. H. A. P. XVII.

fore the expiration of the term of the class to be relieved. But nothing herein contained shall prevent the governor and the council from employing or calling out one half of any battalion, where it may be convenient, or one half of any company, without respect to this rule, whenever the exigency is too sudden to allow the assembling the scattered militia which compose the particular classes. And the militia in actual service shall receive the same pay and rations as continental troops, their pay to commence two days before their marching, and receive pay and rations at the rate of twenty miles per day till they return home. Provided that not more than one fifth part of the militia shall be sent and kept out of this state at any time, nor shall any part of the militia be retained in actual service out of this state longer than the invasion of the said adjoining states continues.

X. And be it enacted, That when any part or parts of the militia shall be called into actual service, every person enrolled as aforesaid, who is not an 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 colonel or one of the field officers of the battalion to which he belongs; and if an officer, he shall find as a substitute an officer of equal rank, to be approved of as aforesaid: But if any person, not being disabled by sickness, shall neglect or refuse to serve, or find such sufficient substitute in his place, within three days after notice given to him, the colonel or other field officer of the battalion 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, for refusing or neglecting, and to charge such sum or sums, together with reasonable expences 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 the hands and seals of any two justices of the peace of the county where such person resides, and for want of such distress shall commit such offender to the common gaol of the county, there to remain without bail not exceeding two months, unless such money is sooner paid.

When called into actual service, any person may find a substitute, &c.

XI. And be it enacted, That if after the regulation aforesaid, it shall so happen that substitutes cannot be found for all the enrolled militia upon the said limited drafts, then and in such case, each and every of the persons who do not yield their personal services as aforesaid, or cannot find substitutes, shall pay such sum or sums of money, as each of the substitutes, included in the drafts, will amount to upon an average, within each respective battalion.

Persons not finding substitutes to pay such sums as they will amount to on an average.

XII. Provided also, That no militia man, having personally, or by substitute served in the militia, shall be obliged to serve again until by rotation it comes to his turn.

Proviso.

XIII. And be it enacted, That the militia of this state shall be subject to the articles of war heretofore established by authority of said state, and to such other articles of war as may hereafter be established by the general assembly, and when called on to assist any of the adjoining states, shall not be subject to the continental articles of war, but without, as well as within, this state, shall be subject only to the articles

Militia to be subject only to the articles of war of this state; &c.