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**ACTS**  
OF THE  
*THIRTIETH*  
**GENERAL ASSEMBLY**  
OF THE  
*STATE OF NEW-JERSEY.*

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SECOND SITTING.

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CHAP. CLXXXV.

An act to erect and set off a new township from the townships of Hanover and Morris, in the county of Morris.

SEC. 1. **BE IT ENACTED** *by the council and general assembly of this state, and it is hereby enacted by the authority of the same,* That all the district of the above townships of Hanover and Morris, included within the following limits, viz. <sup>Bounds,</sup> beginning at a pin oak tree, standing on the bank of Passaic river, on lands of Robert Moore's, near the corner of Moses Stiles, about half a mile above Col. Cook's bridge, and running thence, south eighty nine degrees west, to a cherry tree in the northwest corner of the garden, late the property of Dr. Bern Budd, deceased; thence in a direct line to the cross roads by Daniel Crane's on Loantica hill; from thence south, eighteen degrees west, forty-seven chains and fifty links to a stake and heap of stones on the brow of the hill back of Zophar Freeman's house, from thence south, five de-

fifty years; from the passing of this act, repay the proprietors of said road, the amount of the sums expended thereon, with twelve per centum per annum in addition thereto, deducting the neat amount of toll received, and in that case the said road shall become the property of the state of New-Jersey, and be under the controul of the legislature thereof, any thing in this act contained to the contrary notwithstanding.

A. Passed at Trenton, February 24, 1806.

**CHAP. CLXXXVII.**

An act for establishing and conducting the military force of New-Jersey.

SEC. 1. **BE IT ENACTED** *by the council and general assembly of this state, and it is hereby enacted by the authority of the same,* That every free able bodied white male inhabitant of this state, who is, or shall be of the age of eighteen years, and under the age of forty-five years, (except ministers of the gospel, the vice-president of the United States; the officers judicial and executive of the government of the United States; the members of both houses of congress, and their respective officers; all custom house officers, with their clerks; all post officers and stage-drivers, who are employed in the care and conveyance of the mail of the post office of the United States; all ferrymen employed at any ferry on the post road; all inspectors of exports; all pilots, all mariners actually employed in the sea service of any citizen or merchant within the United States) shall severally and respectively be enrolled in the militia by the captain or commanding officer of the company within whose bounds such citizen shall re-

Who shall and

who shall not

be enrolled.

side, *Provided always*, That in cases of doubt respecting the age of any person enrolled, or intended to be enrolled, the party questioned shall prove his age to the satisfaction of the officers of the company within whose bounds he may reside, or a majority of them.

SEC. 2. *And be it enacted*, That the militia in the several counties of this state, except Cape-May, shall form each a brigade, to be called after their respective counties. The militia in the county of Cape-May, shall be annexed and belong to the Cumberland brigade; the Burlington, Gloucester, Salem and Cumberland brigades, shall compose the first division; the Bergen, Essex and Morris brigades, shall compose the second division; the Somerset, Middlesex and Monmouth brigades, shall compose the third division; the Hunterdon and Sussex brigades, shall compose the fourth division; and the several regiments, independent battalions, battalions, squadrons and companies of infantry, light infantry, grenadiers, artillery and cavalry, shall continue as at present arranged; subject nevertheless to such alterations and arrangements of the regiments, battalions, squadrons and companies as their present numbers, or future increase or diminution may in the judgment of the board of general and field officers of the several brigades, to which they respectively belong, from time to time render necessary or expedient, by forming such company or companies, and attaching them to such battalions and regiments as are already organized or may be formed and organized in their several brigades, as the said board of general and field officers shall order and direct for the interest and convenience of the militia of the brigade, and the general and field officers who are constituted a board for divers purposes mentioned in this act, shall meet as soon as they can be convened, to make as well as the necessary arrangements contemplated in this section, as for other duties by this act enjoined on the said board for the improvement and conducting of the militia.

Each county to form a brigade & arranged in four divisions;

New companies, battalions and regiments, may be organized by the board of general and field officers.

Sec. 3. *And be it enacted*, That the present officers of the militia of this state, shall continue and exercise the several ranks and commissions which they now respectively hold. Vacancies by death, removal, resignation or otherwise, shall be filled up, so that the militia shall be officered as follows: to each division there shall be one major-general and two aids-de-camp, with the rank of a major; to each brigade one brigadier-general, with one brigade-inspector, to serve also as brigade-major, with the rank of major, one brigade or senior surgeon, one brigade-judge-advocate, one brigade-paymaster and one brigade-quartermaster; one adjutant-general, with the rank of brigadier-general; to each regiment, one lieutenant-colonel-commandant; and to each battalion and squadron, one major; to each company of infantry, light-infantry and grenadiers, one captain, one lieutenant and one ensign, one clerk, four serjeants, four corporals, one drummer, one fifer or bugler, and not more than sixty-four, nor less than forty private individuals, or as near as may be, having regard to their local situation; to each troop of horse, there shall be one captain, two lieutenants and one cornet, one clerk, four serjeants, four corporals, one saddler, one farrier and one trumpeter, and not more than forty-eight nor less than thirty-two troopers; to each company of artillery, there shall be one captain and two lieutenants, one clerk, four serjeants, four corporals, six gunners, six bombardiers, one drummer, one fifer, and not more than thirty-two nor less than twenty matrosses. There shall be a regimental-staff, to consist of one adjutant and one quartermaster, to rank as lieutenants, one paymaster to each battalion, one surgeon and one surgeon's-mate, one serjeant-major, one drum-major and one fife-major. All officers shall take rank according to the date of their commissions; and when two of the same grade bear an equal date, then their rank shall be determined by lot, to be drawn by them before the commanding officer of the division, brigade, regi-

Officers of  
divisions,  
brigades,  
regiments,  
battalions,  
companies  
continued.

Cavalry:

Artillery:

Staff how  
appointed  
and com-  
missioned.

ment, battalion, company or detachment. The regimental-staff except the paymasters shall be appointed by the field-officers. The brigade and regimental-staff shall be commissioned by the commander in chief, on certificates of their appointment, under the hands and seals of the officers making the same: *And further,* There shall be one adjutant and one quarter-master to each squadron of cavalry and each independent battalion; the non-commissioned officers and music to be appointed by the captain and subalterns; the clerk to be elected by the company, and in case of omission to elect, or in case of refusal to act, sickness or absence, the captain or commanding officer of the company shall appoint a suitable person, who shall undertake to perform the duties enjoined by this act.

If a clerk is not elected, captain to appoint.

SEC. 4. *And be it enacted,* That each and every officer commissioned, or who may hereafter be appointed and commissioned in the manner aforesaid, shall, previous to their entering on the execution of their respective offices, give assurance of fidelity and attachment to the government of this state, by taking and subscribing the following oath before some general or field officer of the brigade :

Officers commissioned, and hereafter to take oath before general or field officer.

I do sincerely profess and swear (or affirm as the case may be) that I will and do bear true faith and allegiance to the government established in this state, under the authority of the people; and will with integrity execute the office of of the militia of New-Jersey according to the best of my abilities: so help me God.

And a certificate thereof shall be made upon the back of every commission by the general or field officer, before whom the said oath or affirmation shall have been taken and subscribed.

SEC. 5. *And be it enacted,* That the commanding officer of every regiment and independent battalion and squadron, shall call a meeting of the commissioned officers of their respective regiments, independent battalions and squadrons at such times and

To meet for improvement.

places as he shall appoint for improvement in military exercise which shall be at least twice and not exceeding four times in every year.

Militia to train once in companies, battalions and regiments.

SEC. 6. *And be it enacted,* That the militia of this state shall rendezvous three times in every year for the purpose of training, disciplining and improving in martial exercise, once by companies within their respective bounds, once by battalions within the bounds thereof, and once by regiments, independent battalions and squadrons for exercise, inspection and review: that the brigadier general or commanding officer of each brigade, shall appoint the regimental parades, at such time and place as he may think proper, as nearly central as may be within each of the respective regiments and independent battalions: that the time and place of the rendezvous for the battalions and companies, shall be appointed by the colonel or commanding officer of the regiment, independent battalion, or squadron on different days, that the field and staff officers may have an opportunity of attending the several companies exercised in detail, in order to introduce uniformity in the manœuvres and discipline: the brigade inspector shall give twenty days notice of the regimental muster and inspection by advertisements in five of the most public places within the limits of every regiment and independent battalion: the adjutants of the several regiments and independent battalions shall advertise and give at least ten days notice of the battalion and company meetings, by advertisements set up in at least two places within the bounds of each company.

Time and place to be appointed and notice given by advertisements.

Cavalry & artillery attached to regiments & battalions.

SEC. 7. *And be it enacted,* That every troop of horse or company of cavalry and artillery, shall be considered as being attached to the regiment or independent battalion, within the bounds of which the major part of the company was raised, and shall assemble for inspection at such time and place and in such manner as the brigadier-general or commanding officer of the brigade shall order and direct. It shall be the duty of the clerks of the companies of cavalry and artillery to make a return of

all delinquents in their respective companies, in the same manner as the clerks of infantry companies are by law directed.

SEC. 8. *And be it enacted*, That the fines for non-attendance on days of exercise shall be as follows: on a brigadier-general and on a field-officer, the sum of ten dollars per day; on every other commissioned officer six dollars per day, and on every non-commissioned officer and private one dollar per day; and the same fines shall be respectively paid by every officer, non-commissioned officer and private, who shall leave the parade or absent himself from his regiment, battalion, squadron, troop or company, without leave of the commanding officer, before the said regiment, battalion, squadron, troop or company shall be discharged; and if any militia man shall appear on parade without a musket or firelock, or if any trooper shall appear without his sword or pistols, he shall forfeit and pay fifty cents, and for want of other accoutrements, shall forfeit and pay six cents for each and every article so deficient: *Provided*, That no militia man shall be liable to such fines, who, in the opinion of the battalion court of appeals created by this act may be deemed unable to procure arms or accoutrements or either of them.

Fines of officers and privates for non-attendance and for want of arms &c.

SEC. 9. *And be it enacted*, That in order to ascertain those persons, who, by their absence on days of exercise, or for deficiency in arms or equipments, shall be liable to the fines and forfeitures of this act, the clerk of the troop or company shall on every such day, in the presence of the captain or commanding officer of the troop or company, and by his order, one hour after the time appointed for the meeting of the troop, company, independent battalion, battalion, squadron or regiment, and also after the exercise is over, and before the men are discharged, call over the roll of the troop or company, noting those who are absent; and also those who are deficient for want of arms or equipments and of each and every article so deficient, and within ten days after every meeting of the company, the said clerk

System of collection of fines.

Clerk to call the roll on days of exercise & make return under oath.

shall make return thereof to the brigade-judge-advocate, who or some justice of the peace, shall administer to him the following oath :

I clerk of the company commanded by in the brigade of the militia in the town of do swear (or affirm) that this enrollment contains a return of the names of the said company between the ages of eighteen and forty-five years made to the best of my information, knowledge and belief ; and those persons whose names are noted absent, did not parade with and answer at the roll calls of the company on the day of and that the deficiencies in arms and equipments are truly marked opposite the name of every delinquent ; so help me God.

And which said return the brigade-judge-advocate shall lay before the court of appeals as evidence of the fines incurred by delinquents.

For neglect to be fined. SEC. 10. *And be it enacted,* That if the clerk of any company shall neglect or refuse to perform the duties required by this act, he shall be fined at the discretion of the court of appeals in any sum not exceeding one hundred dollars, to be recovered by the battalion-paymaster, who shall prosecute for and pay the same to the brigade-paymaster.

Court of appeals formed of representatives of companies to hear excuses of delinquents & ascertain fines incurred. SEC. 11. *And be it enacted,* That the several companies of infantry, artillery and cavalry, at their first meeting in every year, shall elect by ballot, and in case of neglect of such election the commandant of the company shall appoint some discreet enrolled private who bears arms and exercises with the company, to be a representative of the company at the court of appeals ; which shall be composed of the said representatives of the several companies in the respective battalions, and who or at least three of them are hereby vested with full power and authority to hear and decide upon the excuses of all persons returned as delinquents by the respective

clerks of the companies within the bounds of their battalions for non-attendance at roll call, and for deficiency of arms and equipments and to assess and ascertain the fines incurred by the officers, clerks, non-commissioned officers and privates of the several companies within the bounds of the battalion, and also to allow the compensation which shall be made to the company clerks for the performance of the duties prescribed in this act; the members of said court shall each receive one dollar and fifty cents per day for their attendance at the said court of appeals to be paid by the battalion-paymaster on the certificate of the brigade-judge-advocate or person who shall officiate as such at the court of appeals. The captain or commanding officer of every company shall give to the private elected or appointed to represent said company in the court of appeals, a certificate of his election or appointment given under his hand and seal; and on his producing such certificate, the brigade-judge-advocate shall administer to him the oath prescribed in the thirteenth section of this act. And if any of the members of the said court of appeal shall neglect or refuse to attend at the time and place as advertised by the brigade-judge-advocate for holding such court of appeals, they shall forfeit and pay the sum of ten dollars, to be sued for and recovered with costs of suit before any justice of the peace of the county where such offender resides, by the battalion-paymaster, and when recovered, to be by him paid to the brigade-paymaster: *Provided*, That such offender may appeal to the board of general and field officers established by this act, who, on a reasonable excuse given may remit such fine.

SEC. 12. *And be it enacted*, That the board of general and field officers of the several brigades shall appoint the days and place of the meeting of the said several courts of appeal as nearly central to each battalion as may be, and within thirty days after the annual review and inspection of the several regiments and independent battalions, and in such manner as the brigade-judge-advocate may attend the respective

Compensation of clerk, &c.

Time and place of meeting appointed by general and field officers.

battalion courts of appeal ; and the brigade-judge-advocate shall give notice of the meeting of said battalion courts of appeal to the several clerks of companies within the brigade, and in case of the death, sickness, removal or refusal to act, of any of the company clerks, to the captain or commanding officer of the company, who shall thereupon immediately appoint a suitable person to do the duty of company clerk ; and which said company clerks shall thereupon give at least ten days notice by setting up in three of the most public places in the bounds of the company, and advertisement which shall as near as circumstances will admit, be in the following form to wit :

Clerk to advertise court of appeals.

Notice is given to \_\_\_\_\_ and \_\_\_\_\_ who have been returned for non-attendance on the \_\_\_\_\_ days of \_\_\_\_\_ at the militia roll call of captain \_\_\_\_\_ company, in the township of \_\_\_\_\_ : and notice is also given to \_\_\_\_\_ and \_\_\_\_\_ returned for deficiencies in military equipments, that the battalion court of appeals will meet at ten o'clock on the \_\_\_\_\_ day of \_\_\_\_\_ at the house of \_\_\_\_\_ to hear and decide upon the excuses, if any they have, for non performance of military duty and for deficiencies in military equipments for which they are severally liable to be fined according to the directions of the militia law of this state.

Form of notice to delinquents.

Dated at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

*Clerk of said company.*

SEC. 13. *And be it enacted,* That the members of every court of appeals shall assemble at the time and place so advertised, and before proceeding to business shall take the following oath or affirmation :

Court of appeals.

I \_\_\_\_\_ do swear (or affirm) that I will perform the duties of a member of this battalion court of appeals, according to the true intent and meaning of the militia law of this state, according to the best of my skill and understanding without favour, affection or partiality : so help me God.

Oath.

Which shall be administered by the brigade-judge advocate or, in case of his non attendance by the person who shall be appointed by the said battalion court of appeals to officiate in his room, and the person so appointed shall take the following oath or affirmation to be administered by any member of the said court:

I do swear (or affirm) that I will perform the duties of judge advocate of this battalion court of appeals according to the best of my skill and understanding; so help me God.

*Also of Judge-advocate.*

The said battalion court of appeals shall consist of at least three representatives of companies and shall appoint one of their members to preside; they shall have power to administer oaths to witnesses, and to hear and decide upon the application of the persons advertised as delinquents and they are hereby required and enjoined to attend to every just complaint of excuse, whether of age or arising from persons being unable to procure arms or equipments, from inability of body or insanity of mind.

*Their power.*  
*Excuses.*

SEC. 14. *And be it enacted,* That in order, that due respect and decorum may be observed, the said battalion court of appeals, shall have power and authority and they are hereby authorized to fine any person not exceeding ten dollars, who shall misbehave, insult or disturb the said court in the exercise of their duty to be collected and paid to the battalion paymaster by prosecution before a justice of the peace, who shall issue execution against the offender upon a certificate of the judge advocate.

*To preserve order may fine.*

SEC. 15. *And be it enacted,* That the said brigade judge advocate and whoever shall officiate in that capacity shall keep a record of the proceedings of the several battalion courts of appeal, from whose decision, no appeal shall be had, nor any certiorari allowed to reverse their proceedings. Each brigade judge advocate shall deliver over to his successor the records and all the proceedings of the battalion courts of appeal in the brigade.

*No certiorari to reverse their proceedings.*

**SEC. 16.** *And be it enacted,* That all fines and forfeitures which shall be incurred and assessed by the said court of appeals on persons made liable by this act, shall be returned and paid into the hands of the paymaster of the battalion from which such fines and forfeitures may be due. That the brigade judge-advocate (or person who shall have officiated in that capacity) shall within ten days after every battalion court of appeals, transmit a certified copy of the names of the persons fined by the said battalion court of appeals, with the amount of fines, to the brigade paymaster, who shall charge the battalion with the amount thereof; and also a fair certified copy to the battalion paymaster, who shall immediately upon the reception thereof, set up an advertisement in at least one of the most public places within the bounds of each company of the battalion, as follows :

Fines to be paid to battalion paymaster, who is to give

notice to pay in twenty days.

Notice is hereby given, that the court of appeals of the \_\_\_\_\_ battalion, commanded by Major \_\_\_\_\_, have decided that fines have been incurred agreeably to law for neglect of militia duty and equipments by the several persons and of the several sums opposite the respective names following, to wit :

	<i>Dolls.</i>	<i>Cts.</i>
A. B.	—	—
C. D.	—	—

And if the said sums shall not be paid to the subscriber, paymaster of the said battalion, in twenty days from the date hereof, execution will be issued against those persons who shall neglect to make payment conformably to the militia law of New-Jersey.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*Paymaster of said battalion.*

**SEC. 17.** *And be it enacted,* That the battalion paymaster shall, on the list of delinquents returned to him by the judge-advocate opposite the names of those persons who shall discharge their fines, write "paid and discharged;" and immediately after the expiration of the said twenty days, the said battalion paymaster shall deliver the said return list of delin-

If not paid execution to issue and returned to

delinquents, of fines assessed by the said battalion court of appeals, to a justice of the peace, who is required forthwith to issue execution against the persons named in the said return list, (opposite whose names shall not be written as aforesaid "paid and discharged,") for the sums annexed to their respective names, with costs, as in cases of taxation, directed to one of the constables residing within the bounds of the battalion, and if there be no constable within such bounds, then to any constable of the county; who is required to levy the same of the goods and chattels of the respective delinquents, and to pay the several sums contained in the said execution within thirty days to the said battalion paymaster, to whom the said delinquents belong: and for want of goods and chattels, to take the bodies of the delinquents, and commit to the gaol of the county, there to be kept until the fines and costs shall be paid. *Provided nevertheless*, that the board of general and field officers of the brigade, or any three of them, the commanding officer of the regiment, battalion or squadron to which he belongs being one, upon being satisfied by the oath or affirmation of the delinquent committed to gaol, or otherwise, that the delinquent so committed, is unable to pay, may grant a supersedeas to release and discharge such poor person from confinement. The form of the execution shall as near as may be, be as follows:

battalion paymaster in thirty days and no goods to commit delinquents to gaol.

How released.

County.

THE STATE OF NEW-JERSEY,

To one of the Constables of said county of  
 Whereas the persons named in the schedule or list hereto annexed, have by the court of appeals of their proper battalion, been duly sentenced for delinquency in military duty and equipments, to pay the fines to their names respectively subjoined. You are therefore commanded forthwith, of their several goods and chattels respectively within said county, to levy by distress and sale thereof, the fines set opposite their respective names with costs, and to

Form of execution.



to act as battalion paymaster to the same, for the collection and payment of fines ; which said brigade and battalion paymasters, before entering upon the duties of their office, shall severally give bond with sufficient sureties, to be approved of, that of the brigade paymaster by the commandant of the brigade, and the bond of the battalion paymaster by the commandant of the regiment or independent battalion, the brigade paymaster in the sum of one thousand dollars, the battalion paymaster in the sum of two hundred dollars, payable to the state of New-Jersey, with condition for the faithful performance of the duties of their respective offices, and shall repair to the clerk of the county in which they reside, and subscribe and take the following oath or affirmation :

I appointed paymaster of the brigade (or battalion as the case may be) of militia, do swear (or affirm) that I will to the utmost of my knowledge and ability, honestly and faithfully perform the duties of the office of paymaster of the said brigade (or battalion) and that I will not on any pretence or occasion, apply any money, which shall come to my hands as paymaster thereof, to any private use or purpose : so help me God.

Which oath (or affirmation) the said clerk shall administer and endorse on the said bond and file the same in his office to be prosecuted whenever the board of general and field officers shall direct. The said clerk shall give a certificate of the said bond and oath (or affirmation) having been taken and filed under the seal of the county, on the back of their warrants of appointment, which shall be taken and received as evidence of the authority of the said paymasters.

SEC. 20. *And be it enacted,* That the brigade paymaster shall receive and file all vouchers and returns, and keep proper and distinct accounts of the monies arising from the fines and forfeitures in the several regiments and battalions in the brigade

to give bond,

and take oath;

before and to be filed with the county clerk.

Brigade paymaster's duty;

to account which shall be paid and returned to him, and also  
to the board shall receive and file all returns, orders, vouchers  
of general and receipts, for all monies he may receive and pay  
& field officers, & pay out, conformably to the directions of this law, and  
balance to submit his books of accounts, returns, orders,  
treasurer; vouchers and receipts, to the inspection and ex-  
amination of the said general and field officers of  
the brigade who are hereby constituted a board,  
vested with full power and authority to examine,  
adjust and settle as well the accounts, of the said  
brigade-paymaster, as of the several battalion-pay-  
masters in the brigade; and ascertain and declare  
the balance unappropriated in his hands, and which  
the said brigade-paymaster shall pay forward to the  
treasurer of this state. The said balance to be cer-  
tified to the treasurer by the brigade judge-advocate,  
who shall be ex-officio, clerk of the said board, and  
with which sum so certified, the said treasurer shall  
charge the several brigades; and in case of mal-  
practice, embezzlement or default, the said board of  
general and field officers, are required to displace  
the said brigade-paymaster and appoint another in  
his room, which successor in office, is hereby au-  
thorized and empowered in the name of the state  
of New-Jersey, to prosecute the defaulter, his ex-  
ecutors or administrators for any sum or sums of  
money remaining in his hands belonging to the bri-  
gade, in any court where the same may be cogniza-  
ble, with costs of suit; and in case of mal-practice  
embezzlement or neglect of duty of the battalion  
paymasters, the said board of general and field offi-  
cers, are required to displace such battalion pay-  
master, and the brigade paymaster for the time being  
shall in like manner prosecute the said battalion  
paymasters, their executors or administrators, as  
well for the monies had, received, and collected as  
for such fines as they shall have incurred for neg-  
lect of duty.

SEC. 21. *And be it enacted*, That the board of  
general and field officers of the several brigades shall  
make such allowance and compensation to the brig-

ade paymaster, brigade judge-advocate and those who shall act in the capacity of judge-advocate, and to the battalion paymasters, and to the teachers of music, and for music of their respective brigades, as they may deem just and reasonable, to be paid out of the fines of delinquents, by the brigade paymaster. And in case there shall be no money arising from such fines in the hands of the brigade paymaster, the said board of general and field officers shall draw their order on the treasurer of the state for any such deficiencies, and the said treasurer is hereby authorized to pay such orders out of any money which may have been paid by the brigade paymasters into the treasury : *Provided nevertheless*, that the whole allowances to be made by the board of general and field officers in one brigade, for the term of one year, shall not exceed one hundred dollars for each regiment in the same.

SEC. 22. *And be it enacted*, That the commander in chief and major-generals of this state, or any three of them, the commander in chief always to be one, shall compose a board of general officers, whose duty it shall be to lay before the legislature every year at their annual meeting, the particular objects for which they conceive military appropriations are, or in the course of the ensuing year may become necessary ; and the sum appropriated by law shall be subject to the orders of said board to be applied by them as the law may direct. The adjutant-general shall be secretary of said board of general officers, and shall keep a journal of all their proceedings and orders, subject to the inspection and examination of the Legislature on the first Tuesday of November in every year.

SEC. 23. *And be it enacted*, That the commander in chief be and is empowered to appoint a suitable person to the office of quarter-master-general, who shall perform the duties incident to that department, and shall receive compensation therefor upon exhibiting his accounts properly certified and allowed by the board of general officers : He shall have the

his rank rank of lieutenant-colonel, and be commissioned accordingly.

**Overplus of delinquents money.** *Sec. 24. And be it enacted,* That if any money shall remain in the hands of any constable, after making sale of the property of a delinquent, and paying the fines and costs of such delinquent, such money shall be paid by the said constable to the said delinquent; but if he shall refuse to receive the same, then the constable shall pay the said money to the paymaster of the battalion to which such delinquent belongs, to and for the use of such delinquent.

**Fines of minors & apprentices.** *SEC. 25. And be it enacted,* That the fines and forfeitures imposed by this act on minors living with their parents, and others having the proper care or charge of them, and those of apprentices, shall be paid by their respective parents, guardians, masters or mistresses, or levied of their respective goods and chattels.

**Who deemed enrolled.** *SEC. 26. And be it enacted,* That every person liable by this act to do military duty, shall be deemed and adjudged to have notice of his being enrolled in the company of militia within the bounds of which he shall reside.

**Duty of adjutant general.** *SEC. 27. And be it enacted,* That it shall be the duty of the adjutant-general to distribute all orders from the commander in chief of the state to the several corps; to attend at public reviews, if required, when the commander in chief of the state shall review the militia or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the system of military discipline established by this act; to furnish blank forms of different returns that may be directed by the commander in chief, and to explain the principles on which they shall be made; to demand and receive from the several officers of the different corps throughout the state, returns of the militia under their command, reporting the actual situation of their arms, accoutrements and ammunition, their delinquencies and every other thing which relates to the general advancement of good order and disci-

pline ; all which the several officers of the divisions, brigades, regiments and battalions; are hereby required to make in the manner herein directed, that the said adjutant-general may be duly furnished therewith previous to the annual meeting of the legislature; from all which returns he shall make proper abstracts and lay the same with a report of the general state of the militia magazines and military stores, and also of such improvements as he may think necessary to advance the discipline and benefit of the militia before the commander in chief of the state, who is required to lay the same before the legislature. And the adjutant-general shall also annually make a return of all the militia of the state to the president of the United States. And it shall be the further and especial duty of the said adjutant-general to give information against and prosecute in behalf of the state, all brigadier generals who shall fail or neglect to review the several regiments and independent battalions in their respective brigades, agreeably to the directions of this act. He shall keep a book in which shall be recorded all orders, returns, names of commissioned officers throughout the state, and every proceeding relative to the details of the military force ordered by the commander in chief, upon requisitions of the president or congress of the United States, and in cases of invasion or other emergency. All certificates of election of officers shall be transmitted to him to be entered of record, before commissioned by the commander in chief. He shall deliver over to his successor all books and returns belonging to the office of adjutant-general. He shall be secretary to the board of general officers. The expense of blank returns and the postage of letters in his official capacity shall be settled and allowed by the board of general officers, and which with an annual salary of fifty dollars, shall be paid by the treasurer of the state, on a warrant of said board, certifying he has performed the services required of him as adjutant general.

D

Duty of  
brigade in-  
spector :

SEC. 28. *And be it enacted*, That it shall be the duty of the brigade inspector, to attend the regimental and independent battalion meetings of the militia composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition and accoutrements, to make returns annually to the adjutant general of the state, of the militia of the brigade to which he belongs, reporting therein particularly the name of the reviewing officer, of the actual situation of the arms, accoutrements, and ammunition of the several corps, and every other thing which in his judgment, may relate to their government and the general advancement of good order and military discipline. The said brigade inspector shall be entitled to receive thirty dollars, annually for his services; and for refusing or neglecting the duties enjoined by this law, he shall be subject to the penalty of fifty dollars, to be recovered by the treasurer of the state, who shall also withhold his said salary of thirty dollars, until he shall have produced the acknowledgement of the adjutant-general that he has received said return. In case of the absence of the brigade inspector, the commanding officer, present at the inspection, shall appoint some person to perform the duties thereof.

A person to  
act in his  
absence.

Election of  
officers by  
warrant  
from brig-  
adier gen-  
eral to the  
major, who  
shall certify  
and send to  
the adjutant  
general,  
who shall  
transmit  
the com-  
missions to  
the brig-  
adier gene-  
ral.

SEC. 29. *And be it enacted*, That every captain, lieutenant or ensign and cornet, who shall from time to time, be chosen by the several companies or troops shall report his acceptance of the office, within ten days after having received notice thereof, to the major or commanding officer of the battalion; and in case such reports not made as aforesaid, the said office shall be deemed as vacant. And the resignation of every captain, lieutenant, ensign and cornet, shall be delivered to the brigadier general or commanding officer of the brigade in which the said company or troop is formed; and where vacancies shall happen in any company or troop, by the death, removal, or resignation of a captain, lieutenant, ensign or cornet, it shall be lawful for the commanding officer of the brigade, by warrant under his hand

and seal, directed to the major or commanding officer of the battalion or squadron to which such company or troop belongs, to hold an election within the limits of such company or troop, to supply the vacancy occasioned by the non acceptance, resignation, removal, death, or otherwise, of any such officer; and thereupon the said major or commanding officer of the said battalion or squadron shall give ten days notice, by advertisement in three of the most public places within the limits of such company, of an election to supply the place of the officer or officers of the company or troop which may be vacant; and the said company or troop, or such of them as may attend, shall proceed by plurality of votes, to choose such officer or officers residing within the bounds of the said company or troop; and the said major or commanding officer of the said battalion or squadron, shall certify, under his hand and seal, annexed to or endorsed on the warrant aforesaid, the name and rank of each officer so chosen or elected, addressed to the commander in chief of the state, and shall transmit the same to the adjutant general, who after entering the names and rank of the persons so elected in the books of his office, shall lay the same before the commander in chief to be commissioned, and thereupon the adjutant-general shall transmit all commissions to the brigadier-general, or officer who issued the warrant of election. The sum of two dollars shall be paid by the battalion paymasters to the commandant of the battalion for advertising and holding every election. No candidate or any other person shall give any spirituous liquors or treat to any officers or privates, on any day of election of officers, under the penalty of twenty dollars, to be prosecuted for and recovered by the battalion paymaster, and by him paid to the brigade-paymaster.

SEC. 30. *And be it enacted*, That if any commissioned officer shall remove out of the bounds of his proper division, brigade, regiment, battalion, squadron, troop or company, or shall be absent therefrom, Removal  
of officers,

more than six months, his office shall be thereby vacated.

Officers  
mult uni-  
form in  
three  
months.

SEC. 31. *And be it enacted*, That the uniform to be worn by the several officers of the militia of this state, shall be conformable to the general orders printed and attached to this law ; and it shall be the duty of every officer within three months after receiving his commission, to appear upon all training days, in full and complete uniform, agreeably to general orders, and also either with a sword, hanger or esponton: and if any officer shall come upon parade for exercise, not being so equipped, he shall incur the same fine as is directed by this act for non-appearance, and also shall not be suffered to do duty on that day.

Music to  
be instruct-  
ed.

SEC. 32. *And be it enacted*, That one drum and one fife-major and one trumpeter, may be employed by the board of general and field officers of each brigade to instruct and exercise the drummers, fifers and trumpeters of each company or troop in the necessary military music, at such times and under such regulations as the said board may direct, not exceeding twelve days in the year, and shall for such services be paid the sum of two dollars per day each ; and the said drummers, fifers and trumpeters shall each be paid seventy-five cents per day for the time they shall attend to such instruction.

Father ex-  
cused if son  
learns mu-  
sic.

SEC. 33. *And be it enacted*, That if any youth of the age of twelve years and not exceeding the age of eighteen years, shall, with the consent and approbation of his parents, attach himself to any company of militia for the purpose of learning to beat the drum, play on the fife or blow the trumpet, provided the number shall not exceed one person for the drum and one for the fife in each company, and one for the trumpet in each troop of horse, every such person or persons shall be put under the instructions of the drum or fife-major, or trumpeter as the case may be, whose duty it shall be to teach such person or persons to perform field duty, to the satisfaction of the commanding officer of the bri-

gade; and the father of every youth who shall have been instructed as aforesaid, shall be excused from every kind of military duty, so long as his son shall continue to perform the duties of a drummer, fifer or trumpeter in any militia company or troop, and be under the age of eighteen years.

SEC. 34. *And be it enacted*, That it shall and may be lawful for the captains or commanding officers of the several companies of cavalry, artillery, light infantry and grenadiers, to enroll in their respective companies from the several companies composing the regiment or battalion to which they may belong, such men as may from time to time be necessary to complete their respective companies; and a certificate from the said captain or commanding officer, shall exonerate the bearer from serving or paying any fine thereafter imposed on him by the officers of the company to which he formerly belonged, any law, usage or custom to the contrary notwithstanding: *Provided always*, That it shall not be lawful for the captain or commanding officer of the cavalry, artillery or other uniform company, to grant a certificate to any person prior to his appearing in uniform agreeably to law.

Artillery,  
cavalry and  
light in-  
fantry en-  
rolled if  
they uni-  
form.

SEC. 35. *And be it enacted*, That no officer or private shall on the way to or from the place of any review, regimental or company training to which he shall belong, pay more than one third of the usual rate of ferriage, or be charged any toll for passing any toll-bridge or turnpike gate; and if any ferryman or keeper of any toll-bridge or turnpike-gate, shall refuse a passage, or make a demand contrary to the directions of this act, he shall for each offence forfeit and pay the sum of eight dollars, to be recovered by any person who will sue for the same, one half to the prosecutor and the other half to the paymaster, for the use of the battalion where such demand or refusal is made, any law, usage or custom to the contrary notwithstanding.

Toll free  
on training  
days.

SEC. 36. *And be it enacted*, That no commissioned officer, non-commissioned officer or private shall be arrested on any civil process on any day appoint-

Free from  
arrest.

ed by law for exercise or training, nor shall any arms or accoutrements of a militia-man be levied on or sold by virtue of any execution.

May plead  
this act.

SEC. 37. *And be it enacted*, That if any suit shall be brought or commenced against any person, for any thing done in pursuance of this act, the venue shall be laid in the county where the cause of action arose ; and the defendant in such action may plead the general issue, and give this act and the special matter in evidence.

Militia  
when or-  
dered out,

SEC. 38. *And be it enacted*, That the commander in chief of this state, for the time being, may, in case of invasion or other emergency, when he shall judge it necessary, order out any proportion of the militia of this state, to march to any part thereof, and continue as long as he may think it necessary, not exceeding two months.

into actual  
service,

SEC. 39. *And be it enacted*, That when a part of the militia shall be called into actual service, it shall be the duty of the captain or commanding officer to divide his troop or company into as many classes as there shall be men required of him, and by lot, enlistment or draft, to detach one man from each class; and such draft or detachment shall be officered with such officer or officers, and of such grades as shall be proper, agreeably to military discipline ; the tour of duty of which commissioned officers, shall be determined by a roaster to be kept by the adjutant for that purpose : *And further*, That no non-commissioned officer or private shall, (after the making of the first draft) be liable to perform actual service, until it shall become his proper tour agreeably to a roaster of the company, to be kept by the commanding officer of the same ; and that no draft or detachment shall be continued in service, more than two months at any one time, and if necessary, they shall be relieved by a detachment to be made in the manner aforesaid ; which relief shall arrive at least two days before the expiration of the term of the detachment to be relieved ; but nothing herein contained shall prevent the commander in chief from

tour by  
roaster ;

drafts

relieved in  
two  
months.

calling into service the whole or any part of the militia, when the exigencies of the state, shall in his opinion require it: *And further*, That the pay of the militia in actual service, shall commence two days before marching, and that they shall receive pay and rations at the rate of fifteen miles per day, on their return home; and in requisitions by the President or Congress of the United States, the like mode shall be pursued in drafting and turning out the quota of this state.

Pay and rations.

Requisitions.

SEC. 40. *And be it enacted*, That it shall and may be lawful for any person called to do a tour of duty, to find a substitute, who if approved of by the captain or commanding officer of the company, may serve in the place of such person.

Substitutes.

SEC. 41. *And be it enacted*, That when any draft or drafts of the militia shall be called to perform any tour of duty, the majors of the battalions shall cause each and every person so called, to be notified of such call, by a written or printed notice being delivered to him personally, or left at his house or usual place of abode, by some officer or other suitable person employed for that purpose by the commanding officer of the said company, at least three days before the time of assembling said militia, unless the commander in chief, on a sudden exigency, shall think proper to order any part of the militia into immediate and actual service, and then the notice mentioning such special order, shall be given for immediate attendance; and any person refusing or neglecting to perform such tour of duty, or to procure a substitute, shall pay a fine not exceeding fifty dollars, for every such neglect or refusal; which fines as aforesaid shall be paid to the captain or commanding officer of the company to which such delinquent belongs, and be by him appropriated, under the direction of the commandant of the battalion to which the said company belongs, for the purpose of hiring substitutes to supply the place of the delinquents belonging to the said company; and in case of a surplusage of money arising from such fines, it shall

Drafts to be noticed

to attend,

procure substitutes,

or fined.

be paid to the paymaster of the battalion. And every non-commissioned officer, whilst engaged in warning the company to which he belongs, under the orders of the commanding officer of the company, shall receive one dollar per day, for the time he may be necessarily engaged in such duty.

Horses appraised.

SEC. 42. *And be it enacted*, That the brigade-inspector shall call to his assistance two reputable freeholders, above forty-five years of age, who shall appraise on oath or affirmation, the horse of each person serving as a light-horse-man, immediately before the time of going into actual service, and describe the age, size, colour and marks of the said horse, and enter the same in a book kept for that purpose; and in case such horse shall be killed or be taken by the enemy, the owner of such horse or his lawful representative, shall be paid the full value of said horse according to the said appraisement, by an order to be drawn on the certificate of the inspector, by the brigadier-general or commanding officer of the brigade, on the treasurer of this state, provided such claim be made in one year after the loss so sustained.

Rations for detachments.

SEC. 43. *And be it enacted*, That the quartermaster who shall furnish rations or ammunition for detachments of militia which may be ordered into the service of this state, shall lay his account therefor, accompanied with the receipts of the officer commanding such detachment, that such ammunition and rations have been furnished, before the commanding officer of the regiment or independent battalion, for his approbation; and if he shall approve and sign the same, the governor, if he also approve thereof, shall issue his warrant on the treasurer, to be paid out of any money in the treasury not otherwise appropriated.

Carrying orders paid for.

SEC. 44. *And be it enacted*, That the commanding officer of divisions, brigades, regiments and battalions; the adjutant-general, brigade-inspector and adjutants, shall be entitled to a person to carry their orders, when the necessity of the case shall require

it; for which a reasonable compensation shall be allowed by the board of general officers.

SEC. 45. *And be it enacted*, That the commander in chief shall appoint general courts martial for the trial of all officers above the rank of field officers; that the major-generals each in his own division; shall appoint general courts martial for the trial of all field officers; that the brigadier-generals, each in his own brigade, shall appoint general courts-martial for the trial of captains and all commissioned officers under that rank; and that the commandants of regiments and independent battalions, shall institute regimental courts-martial within their respective regiments and independent battalions, as often as it shall be found necessary; and that it shall be the duty of every officer who shall appoint a court-martial as aforesaid, to approve or disapprove of the sentence or sentences of such courts-martial by them appointed, or to mitigate the punishment or pardon the person convicted.

Courts martial, how appointed.

SEC. 46. *And be it enacted*, That any officer to be tried by a court-martial, shall have fifteen days notice of the time and place appointed for trial, and a copy of the charges exhibited against him, and shall be put under arrest, so far as to be suspended from the exercise of his office; and in case any officer for the trial of whom a court-martial shall be appointed, shall neglect to appear and make defence, the court shall be authorized to proceed in his absence, and if found guilty of the charges shall be sentenced accordingly.

Officer arrested to have 15 days notice of trial.

SEC. 47. *And be it enacted*, That all persons shall be holden bound to appear and give evidence before any court martial, or court of appeals, on oath or affirmation to be administered by said courts, that the evidence they shall give in the cause in hearing shall be the truth, the whole truth, and nothing but the truth, under the same penalties as are by law provided for witnesses in other cases, when thereto summoned by the brigade judge-advocate, or by any justice of the peace, who is hereby authorized

Witnesses same penalties as by law.

and enjoined, when called upon, to summon such witnesses in the county to which he shall belong, and for which no fee shall be required.

Members  
of the  
court,

SEC. 48. *And be it enacted,* That every regimental court-martial, shall be composed of five members, all commissioned officers, the president whereof shall not be under the rank of a captain; that general courts-martial shall consist of thirteen commissioned officers, not under the rank of a captain; the senior officer shall be president, not less than two thirds of the members must agree in every sentence for inflicting any punishment, otherwise the person charged shall be acquitted. That before the trial of any cause, the judge advocate shall administer to the president and each of the members the following oath or affirmation, to wit:

their oath,

You do swear (or affirm) that you will well and truly try and determine according to evidence the cause now before you between the state of New-Jersey, and the person (if more than one persons) to be tried; and you further swear that you will not divulge the sentence of this court-martial until it shall be approved or disapproved of, and that you will not on any account, at any time whatever, discover the vote or opinion of any member of the court, unless required to give evidence thereof as a witness, by a court of justice, in a due course of law: so help you God.

And the president shall administer to the judge-advocate the following oath or affirmation to wit:

of judge  
advocate.

You do swear (or affirm) that you will not on any account, at any time whatever, divulge the vote or opinion of any particular member of this court-martial, unless required to give evidence thereof as a witness, by a court of justice, in a due course of law, and that you will not disclose the sentence of this court martial, until it shall have been approved or disapproved of, by the officer who appointed the same: so help you God.

Sec. 49. *And be it enacted*, That if any commis-<sup>Fines for</sup> sioned officer, at any review, or on any other occa-<sup>misbeh-</sup> sion, when paraded in arms or on duty, shall mis-<sup>avior of offi-</sup> behave or demean himself in an unofficer-like man-<sup>cers.</sup> ner, he shall, for such offence be cashiered or punished by fine, at the discretion of a general court-martial, as the case may require, in any sum not exceeding fifty dollars; and if any non-commissioned officer or private, shall, on any occasion, of parading the company to which he belongs, appear drunk, or shall disobey orders, or use any reproachful or abusive language to his officers or any of them, or shall quarrel himself, or promote any quarrel among his fellow soldiers, he shall be disarmed and put under guard, by order of the commanding officer present, until the company is dismissed, and shall be fined at the discretion of a regimental court martial, in any sum not exceeding eight dollars.

Sec. 50. *And be it enacted*, That if the com-<sup>Neglect of</sup> manding officer of any regiment, battalion or sq<sup>duty.</sup> adron, shall neglect or refuse to give orders for assembling his regiment, battalion or squadron, at the time appointed by the commandant of the brigade to which he belongs, or in case of an invasion of the city or county to which such regiment, battalion or squadron belongs, he shall be cashiered and punished by fine not exceeding one hundred dollars, at the discretion of a general court-martial; and if a commissioned officer of any company or troop, shall on any occasion, neglect or refuse to give orders for assembling the company to which he belongs, or any part thereof, at the direction of the commanding officer of the regiment battalion or squadron, to which such company or troop belongs, he shall be cashiered or punished by fine not exceeding one hundred dollars, at the discretion of a regimental court-martial; and a non-commissioned officer offending in such case shall be fined at the discretion of a regimental court martial, in any sum not exceeding thirty dollars.

Sec. 51. *And be it enacted*, That if any captain or commanding officer of a company or troop, shall

Refusing to  
make out  
list. refuse or neglect to make out a list of the persons noticed to perform any tour of duty, and send or convey the same to the commanding officer of the regiment battalion or squadron, to which such company or troop may belong; for such neglect or refusal he shall be cashiered or fined at the discretion of a regimental court-martial, in any sum not exceeding one hundred dollars.

Defertion. SEC. 52. *And be it enacted,* That if any militia man shall desert while he is on a tour of duty, he shall be fined in any sum not exceeding one hundred dollars for every such offence, or may be imprisoned for any term not exceeding two months, at the discretion of a court martial; and if a non-commissioned officer he shall also be degraded and placed in the ranks.

No loaded  
gun to be  
brought on  
parade. SEC. 53. *And be it enacted,* That it shall not be lawful for any non-commissioned officer or private to come on parade with a loaded or charged musket, gun, rifle, fusee or pistol, nor to discharge any fire arms within one mile of the place of parade, on any day that they shall be ordered out for improvement or inspection, without an order or permission of a commissioned officer; and if any such non-commissioned officer or private shall so load or charge, or fire or discharge any fire arm, without such order or permission, he shall forfeit one dollar for every offence; and the clerk of the company is hereby directed to read this section immediately after calling the roll of the company, and the commissioned officers are hereby enjoined to cause the names of those persons who shall offend, to be returned to the regimental court-martial.

Clerk to  
read this  
section.

Military  
discipline  
from rising  
of the sun,  
&c.

SEC. 54. *And be it enacted,* That the militia of this state shall be considered to be under military discipline from the rising until the setting of the sun of the same day, that they shall be ordered out for improvement or inspection, and that no officer, non-commissioned officer or private belonging to the same, during the time aforesaid shall be subject to be arrested on any civil process.

SEC. 55. *And be it enacted,* That the militia on the days of exercise, may be detained under arms, on duty in the field, any time not exceeding six hours, provided they are not kept above three hours under arms at any one time, without allowing them a proper time to refresh themselves.

Three  
hours un-  
der arms.

SEC. 56. *And be it enacted,* That any person who shall bring any kind of spirituous liquors to the place of exercise, or within one mile thereof, for the purpose of retailing shall forfeit such liquors, for the use of the poor, belonging to the city or township where such exercise is had; and the commanding officer of the regiment, battalion or company, is charged with the execution of this article.

Liquors  
forfeited.

SEC. 57. *And be it enacted,* That the rules of discipline approved and established by congress, in their resolution of the twenty-ninth day of March, one thousand seven hundred and seventy-nine, shall be the rules of discipline to be observed by the militia throughout this state, except such deviations from said rules, as may be rendered necessary by the requisitions of the acts of congress, or some other unavoidable circumstances. It shall be the duty of the commanding officer, at every training, whether by regiment battalion or single company, to cause the militia to be exercised and trained, agreeably to the said rules of discipline; and the instructions laid down by the Baron Steuben and annexed to the said rules of discipline pointing out the respective duties of the officers, non-commissioned officers and privates, are recommended and enjoined upon the militia of this state, as particularly and fully as if the said instructions were repeated in this act at length.

Baron Steu-  
ben's exer-  
cise.

SEC. 58. *And be it enacted,* That every officer who shall attend on courts-martial, shall be entitled to receive from the paymaster of the battalion in which the offender resides, the sum of one dollar and fifty cents each, for every day they shall respectively attend; and all persons attending before said courts, or either of them, as witnesses, shall be

Members  
of courts  
two dollars.

Witnesses  
fifty cents.

entitled to receive from the said paymaster, fifty cents, each, per day, provided that no more than two witnesses on the part of the state, and two witnesses on the part of the offender, shall be entitled to pay: all which sums shall be paid by the said paymaster on certificates signed by the judge-advocate of the court martial.

Bye-stand-  
ers fined for  
misbehav-  
ior.

SEC. 59. *And be it enacted*, That if any bye-stander shall interrupt, molest or insult, by abusive words or behavior, any officer or soldier, while on duty at any training or muster, he shall be immediately put under guard, and kept, at the discretion of the commandant of the regiment, battalion, squadron, company or corps, until the setting of the sun of the same day, on which such offence shall be committed, or if any bye-stander shall be guilty of any like conduct before a court-martial, he shall be fined in any sum not exceeding twenty dollars, with cost of prosecution, to be recovered before any justice of the peace, by the battalion paymaster, who shall sue for and pay the same to the brigade paymaster.

Fines col-  
lected by  
battalion  
paymaster.

SEC. 60. *And be it enacted*, That all fines imposed at any court-martial, shall be certified and returned by the judge-advocate to the brigade paymaster, and also to the paymaster of the battalion in which the person on whom such fine shall be imposed may belong, to be by the said battalion paymaster collected in like manner as fines assessed by the court of appeals are to be recovered and paid to the paymaster of the brigade.

General or-  
ders to be  
published  
with this  
law.

SEC. 61. *And be it enacted*, That two thousand copies of this act, together with the general orders of governor Paterson, of the twenty-ninth day of January, seventeen hundred and ninety-two; of governor Howell, on the tenth day of June, and of gen. Doughty, on the sixth day of July, seventeen hundred and ninety-three, and of governor Bloomfield, on the twelfth day of March, eighteen hundred and four, respecting the uniform and dress, of the militia of this state, and also the laws of the United States, which provide for the national de-

fence, shall be printed and distributed under the direction of the commander in chief, by the adjutant general, to the several officers of the militia; and it shall be the duty of any officer, having such copy or copies on his going out of office, to deliver, or, in case of death, his executors or administrators shall deliver under the penalty of five dollars, to the successor in office, who shall prosecute for the same of the person so going out of office or dying, the aforesaid copy or copies.

SEC. 62. *And be it enacted*, That the act entitled <sup>Repeal of</sup> "An act for the regulation of the militia of New-<sup>former</sup> Jersey," passed the thirteenth day of June, seven-<sup>acts.</sup> teen hundred and ninety-nine, and the supplement thereto, passed the first day of March, eighteen hundred and four, shall be and the same are hereby repealed, and made null and void: *Provided always*, That nothing herein contained shall be construed so as to revive any former law or laws, which in and by the said recited acts is or are repealed and made void, or to prevent the recovery of any fines or forfeitures, incurred under the same, or any of them.

A. Passed at Trenton March 11, 1806.

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## CHAP: CLXXXVIII.

An act to incorporate the Newark and Mount-Pleasant Turnpike Company.

SEC. 1. **BE IT ENACTED** *by the council and general assembly of this state; and it is hereby enacted by the authority of the same*, That Joseph <sup>Commois-</sup> F. Baldwin, Nathaniel Beach, Isaac Pierson, Hi-<sup>oners to</sup> ram Smith and Joseph Jackson, be authorized to <sup>receive sub-</sup> receive subscriptions for erecting a turnpike road,<sup>scriptions.</sup>

GENERAL  
LAWS OF PENNSYLVANIA,

FROM THE YEAR 1700, TO APRIL 22, 1846,

CHRONOLOGICALLY ARRANGED:

WITH

NOTES AND REFERENCES

TO ALL THE DECISIONS

OF THE

SUPREME COURT OF PENNSYLVANIA

GIVING CONSTRUCTION TO SAID LAWS:

AND A COPIOUS INDEX.



COMPILED BY

JAMES DUNLOP,

OF PITTSBURGH.

---

PHILADELPHIA:

T. & J. W. JOHNSON, LAW BOOKSELLERS,

No. 197 CHESNUT STREET.

1847.

1822. son or persons so offending, shall for each and every such offence, forfeit and pay the sum of five dollars, which may be sued for and recovered in the same manner as debts of a like amount are by law recoverable, for the use of the poor of the city, district or township, in which the fine shall have been incurred: *Provided*, That the provisions of the third and fourth sections of this act shall not be so construed as to extend to such dry measures as shall be used by the proprietor thereof, only upon his or her farm or plantation.

Passed 2d April, 1822.—7 Sm. L. p. 571.

## CHAPTER CCLXXIV.

### AN ACT FOR THE REGULATION OF THE MILITIA OF THIS COMMONWEALTH.

I. The commonwealth of Pennsylvania shall be divided and organized into military divisions, as follows, to wit:

16 divisions.

*First Division*—city and county of Philadelphia.

*Second Division*—counties of Bucks and Montgomery.

*Third Division*—counties of Chester and Delaware.

*Fourth Division*—county of Lancaster.

*Fifth Division*—counties of York and Adams.

*Sixth Division*—counties of Dauphin, Lebanon, Berks and Schuylkill.

*Seventh Division*—counties of Northampton, Pike, and Lehigh.

*Eighth Division*—counties of Northumberland, Union, Columbia, Luzerne, Susquehanna and Wayne.

*Ninth Division*—counties of Lycoming, Potter, M'Kean, Bradford and Tioga.

*Tenth Division*—counties of Mifflin, Centre, Huntingdon and Clearfield.

*Eleventh Division*—counties of Cumberland, Perry and Franklin.

*Twelfth Division*—counties of Bedford, Somerset and Cambria.

*Thirteenth Division*—counties of Westmoreland and Fayette.

*Fourteenth Division*—counties of Washington and Greene.

*Fifteenth Division*—counties of Allegheny, Armstrong, Indiana, and Jefferson.

*Sixteenth Division*—counties of Beaver, Butler, Mercer, Crawford, Erie, Venango and Warren.

Of two brigades as organized.

II. Each division shall consist of two brigades, as at present organized; but when, in the opinion of the major general and the brigadier generals, of any division it may be deemed useful and necessary to form a third brigade, within the bounds of such division, they are hereby authorized to do so, making the said brigades as nearly equal in strength as circumstances will permit.

Each brigade of the number of regiments now belonging.

III. Each brigade shall consist of the number of regiments now belonging to the same; but when, in the opinion of the brigadier general and the colonels of the regiments of any brigade, it may be deemed useful and necessary to form an additional regiment or regiments within the bounds of such brigade, they are hereby authorized to do so: *Provided however*, That no brigade shall contain less than two thousand one hundred men, nor consist of less than three nor more than five regiments, and they shall be as equal in point of strength as circumstances will permit. And each regiment shall consist of two battalions, also as nearly equally divided in strength as conveniently may be; and each battalion shall have the same number of companies if practicable. The regiments of militia in this commonwealth shall retain their present numbers, and every new regiment formed shall be numbered by the adjutant general. And the said regiments and battalions shall take rank according to the number of the same, reckoning the lowest in number to be the highest in rank. But the adjutant general shall be authorized once in every seven years, to make any other general arrangement in the number of the regiments; and if any such arrangement is made by him, he is hereby required to give notice of the same to the several bri-

Each regiment of two battalions. Old regiments to retain their numbers.

Adjutant general to make arrangements.

gade inspectors, and the regiments shall thenceforth have and bear the numbers made according to said arrangement, and a record of the same shall be filed by the Adjutant general in his office, and also in the office of the secretary of the commonwealth. Each regiment of militia shall contain at least seven hundred men, and be entitled to a stand of colours at the expense of the state. 1822.

IV. Each regiment shall consist of the number of companies now attached to the same; but when, in the opinion of a majority of the field officers of any regiment, it may be deemed useful and necessary to create an additional company or companies within the bounds of such regiment, they are hereby authorized to do so: *Provided however*, That the number of companies in each regiment shall not be less than eight, nor more than twelve, nor the number of non-commissioned officers and privates in each company less than seventy, nor more than one hundred and fifty. Each regiment to consist of the number of companies now attached.

V. Whenever the major general and brigadier generals of any division may be of opinion that a better organization of the brigades and regiments of said division may be made, by attaching one part of a brigade to another, they are hereby authorized to make such arrangement; of which they shall notify the brigade inspectors, who shall give notice to the commanding officers of the regiments affected thereby. Major general, &c. to make other arrangements, &c.

VI. Whenever the brigadier general may be of opinion that a better organization of the regiments or companies his brigade may be made, by attaching one part of a regiment to another, he is hereby authorized to make such arrangement, with the assent of the commanding officer of said regiments; of which notice shall be given to the brigade inspector and to the captains of the companies to be affected thereby. New arrangements.

VII. Whenever a majority of the field officers of any regiment may be of opinion that a better organization of the companies of said regiment may be made, by transferring part of one company to another, they are hereby authorized to make such arrangement; of which the majors of the battalions to which any such company may belong, shall give notice to the captain or commanding officer thereof; and shall also give notice thereof to the proper brigade inspector, stating particularly the alterations so made. Field officers may re-organize companies.

VIII. Every free able bodied white male person who has resided within this commonwealth for one month, and is between the ages of eighteen and forty-five, except those hereinafter enumerated, shall be enrolled in the militia of this commonwealth, the vice president of the United States, the judicial and executive officers of the United States, members of congress, custom house officers, stage drivers employed conveying the mail of the United States, ferrymen employed on any post road while in the actual performance of that duty, post masters, inspectors of exports, pilots and mariners actually employed in the sea service, and ministers of religion, teachers in universities, academies and schools while so employed, and who have been so employed for at least one year before, members of the board of health, directors and controllers of the public schools of the first school district in this commonwealth, judges of the supreme and district courts, and courts of common pleas, the mayors and recorders of cities, and the menial servants of foreign ambassadors, ministers and consuls, sheriffs, jailers and keepers of workhouses shall be exempted from militia duty. Who to be enrolled. Who to be exempted. And every person within the ages before mentioned shall be considered an able bodied man, unless he shall produce to the commanding officer of the proper regiment, a certificate from two practising surgeons or physicians residing within the bounds of the regiment, under oath or affirmation, that, in their opinion he is unable and unfit to perform military duty by reason of infirmity or disability, or shall produce such a certificate from the surgeon of the regiment, who shall take one general oath or affirmation to perform his duty with fidelity; and unless the commanding officer of the said regiment is further satisfied that any such person is not an able bodied man within the spirit and meaning of this act.

IX. The captain or commanding officer of every company of militia, Captain to enrol.

**1822.** shall between the first day of April and the first Monday of May, in the year eighteen hundred and twenty-two, and in every subsequent year enrol or cause to be enrolled every person subject to militia duty within the bounds of his company, by having entered the name, age, and place of residence of every such person in a book to be procured for that purpose, and if any doubt shall exist about his age or place of residence, the age shall be entered at twenty one years, and the place of residence shall be considered as being in the district, township or ward, and within the bounds of the company in which he is believed to reside, which shall be conclusive until he satisfies the captain or commanding officer of his proper age and place of residence; and if it is found that he ought to be enrolled in any other company, he shall only be released from performing duty in the company in which he is first enrolled, by producing a certificate that he is actually enrolled in such other company. And the captain or commanding officer shall enroi, or cause to be enrolled, from time to time, every person arriving within the bounds of his company, or arriving to the age of eighteen years, and liable to perform militia duty, and shall enter his name, age and place of residence in manner aforesaid: *Provided however,* That no actual member of a duly organized volunteer corps shall be enrolled in manner aforesaid, if at the time thereof he is uniformed and equipped as a volunteer, which fact he must show if required, by a certificate from the commanding officer of his troop or company.

**X.** If any person liable to perform militia duty, shall make a false representation of his name, age, or place of residence to the person authorized to enrol him, or shall wilfully conceal or refuse to give the same, or if any head of a family shall conceal the name of any person subject to militia duty, residing, boarding or lodging in the family, or occupying any part of the dwelling house, or make a false representation thereof, every person so offending shall forfeit and pay the sum of ten dollars, to be recovered before any alderman or justice of the peace, as debts of equal amount are by law recoverable by any person who shall sue for the same.

**XI.** The captain or commanding officer of every militia company, shall on or before the day of regimental or battalion training in each and every year, deliver, or cause to be delivered to the proper brigade inspector, a copy of the roll of the militia of his company under oath or affirmation; and the adjutant of the said regiment shall, on or before the said regimental or battalion training in every year, deliver or cause to be delivered to the proper brigade inspector, a roll of all the field, staff and company officers in his regiment; and each of the said officers failing to furnish the said rolls, and deliver the same as directed by this section, shall forfeit and pay the sum of thirty dollars.

**XII.** The adjutant general of the militia of this commonwealth now in commission, shall hold his office for the term of three years from the third day of August last, if he so long behaves himself well, and faithfully performs the duties of his office; but, whenever in the opinion of the governor the said adjutant general fails and neglects faithfully to perform the duties of his office, the governor shall remove him from office; and as often as a vacancy happens by such a removal, or by death, resignation, expiration of the term of office or otherwise, the governor shall appoint and commission another person in manner aforesaid; and the said adjutant general shall receive for his services the annual salary of three hundred dollars, to be paid out of the state treasury; and the said adjutant general shall receive and distribute all orders from the governor or commander-in-chief of the militia to the several officers of the said militia; whenever required, he shall furnish to the brigade inspectors one complete set of all forms and returns connected with a proper discharge of their duties, and of the duties of the several officers of the brigade to whom they shall be distributed by the said brigade inspector: for which forms and returns he shall be paid out of the state treasury upon the settlement of his accounts by the proper officers; and shall also be paid for all postage on letters or packages from or to him on

How age and residence to be determined.

Persons arriving within the bounds of any company to be enrolled.

Penalty, a false representation, or concealment of names.

Enrollment of companies to be delivery annually to the brigade inspector.

Of the field, staff and company officers.

Present adjutant general to continue in office for 3 years, &c.

May be removed. Vacancy.

Salary.

Duties.

subjects connected with military duty; he shall give explanations and information on all matters connected with military duty to the major generals, brigadier generals and brigade inspectors, whenever required by them; he shall receive and file all returns made to him of the militia agreeably to law, and shall annually make a detailed report thereof to the governor, to be submitted to the legislature; and shall also transmit a duplicate thereof to the president of the United States, and shall instruct the proper officers in the form in which these returns shall be made to him; and shall also in the report to the governor particularly designate the number of militia in each brigade and regiment, and the number and kind of volunteer corps attached to the same respectively; he shall also procure or cause to be procured, any arms, military stores, clothing, accoutrements and camp equipage, and shall distribute the same to the proper officers when legally required. The adjutant general shall, before he enters on his duties, give bond with one or more sufficient sureties to be approved of by the governor, which bond shall be taken in the name and for the use of the commonwealth of Pennsylvania, (and filed in the office of the secretary of state,) in the sum of one thousand dollars, conditioned for the true and faithful performance of his duties, and the safe delivery to his successor of all books and papers belonging to his office; and in case of the death of the adjutant general, his executors or administrators shall, under the penalty of one thousand dollars, safely deliver all books and papers belonging to the office of the said adjutant general, to any person appointed by the governor to receive the same; which penalty shall be recovered in the name and for the use of the commonwealth of Pennsylvania.

1822.

To give bond.

XIII. The divisions, brigades, regiments and companies of militia shall be officered as follows:

How the militia to be officered.

To each division one major general and two aids-de-camp, to be appointed by him with the rank of major; and one division inspector and one division quarter master, to be appointed by a majority of the general officers of the said division.

To each brigade, one brigadier general, one aid-de-camp, one brigade major, and one brigade quarter master, to be appointed by him with the rank of captains, and one brigade inspector.

To each regiment one colonel, one lieutenant colonel and two majors; one surgeon and two surgeon's mates; one adjutant and one quarter master, with the rank of first lieutenants; one sergeant major, one quarter master sergeant, one drum major, and one fife major. The said commissioned and non-commissioned staff officers to be appointed by the commanding officer of the regiment.

To each company one captain, one first lieutenant, one second lieutenant, five sergeants, six corporals, two musicians, and the number of privates directed by the fourth section of this act.

XIV. On the first Monday of June, one thousand eight hundred and twenty-eight, and on the first Monday of June in every seventh year thereafter, an election shall be held within the several battalion bounds of the militia of this commonwealth, in the manner and for the several officers hereinafter mentioned. The brigade inspector of each brigade then in commission, shall advertise and give notice in the most public manner, by printed or written advertisements, and by publication in two newspapers in the city or county, if such papers are published therein, to all persons subject to militia duty within the bounds of every such battalion of the brigade, that an election will be held on the said day, between the hours of ten in the forenoon and six in the afternoon, except within the city and liberties of Philadelphia, where the election shall be kept open until nine o'clock, at such place within the bounds of the said battalion as near the centre as may be, as shall be designated in such notice, for the election of one brigadier general for the brigade, of one colonel and lieutenant colonel for each regiment of said brigade, and one major for each battalion of said regiments. And the said brigade inspectors shall order and direct the major of every

Brigadier general and field officers to be elected.

Elections.

1822. battalion, or if he neglects or refuses, or in case there is no such officer, he shall appoint one respectable citizen residing within the limits of the said battalion to superintend and conduct the said election; and the said major or citizen appointed as aforesaid, shall attend at the time and place fixed on for the election, and shall prior to the opening thereof select another respectable citizen, who with himself shall act as judges of said election; and they shall take to their assistance two clerks; and the persons so appointed to act as judges and clerks shall be sworn or affirmed by any alderman or justice of the peace, or if there is no alderman or justice of the peace present, then by any commissioned officer, to conduct the said election fairly and impartially, and make a correct and true return thereof. And every militia man belonging to the said battalion, or any member of a volunteer corps residing within the bounds of the same, may vote by ballot at such election in the manner now practised at the general elections: *Provided however,* That no volunteer of any troop or company which actually belongs to a battalion or regiment of volunteers, shall vote for field or company officers of a militia regiment, but may vote for brigade inspector or brigadier general of the brigade. And if the said judges shall deem it necessary, they may administer oaths or affirmations to voters and others, and examine them about their right to vote, and shall decide thereon; and when the said election shall have been closed and the votes counted, the said judges shall make out duplicate returns of the same, to be signed by them as well as the clerks, particularly stating in the said returns the number of votes in words at length given for each person for the office before mentioned, of brigadier general, brigade inspector, colonel, lieutenant colonel and major separately and distinctly; and the superintendent of such election, after sealing up the said returns in the presence of the other judges, shall take charge of the same, and shall within ten days after the said election, deliver, or cause to be delivered, the said returns to the proper brigade inspector then in commission. And the said superintendent shall receive two dollars, and the said judge and clerks one dollar each for their services for performing the duties required of them. And if any such superintendent, judge or clerk shall act fraudulently in conducting said election, or shall wilfully make a false return thereof, he shall, on conviction thereof before the court of quarter sessions of the county in which he resides, forfeit and pay any sum not less than fifty nor more than one hundred dollars, to be paid to the proper brigade inspector.

**Who to vote.**

**Returns.**

**Penalty false returns.**

**How and by whom the returns to be received, &c.**

**Persons elected to be notified.**

**Penalty false returns.**

XV. The brigade inspector after having received the returns of the elections held in manner aforesaid, and before he opens the same, shall call to his assistance two respectable citizens residing within the bounds of the brigade, one of whom shall be an alderman or justice of the peace, and after swearing or affirming the said citizens truly to examine and cast up said returns, and make a fair and correct report thereof, the same oath or affirmation shall be administered by the said alderman or justice of the peace to the brigade inspector, and they shall then open the returns of the said elections and cast up the same, and shall make out one general return of the election of brigadier general, one other return of the election of brigade inspector, one other return of the election of each colonel and lieutenant colonel, and one other return of the election of each major; and having certified and signed the same, the said brigade inspector shall forthwith transmit the same to the secretary of the commonwealth. And the said brigade inspector shall immediately cause a written certificate and notice to be given to each of the said persons of his election. And the returns of the battalion elections received by the brigade inspector shall be filed and preserved in his office, and shall be subject to the inspection of any person interested who may wish to examine the same; and if the said brigade inspector, and either of the citizens aforesaid called by him to his assistance, shall be guilty of fraud in casting up the returns of the battalion elections aforesaid, or shall wilfully sign a false return thereof, or if the said brigade inspector shall wilfully suppress any of the said returns, upon con-

viction thereof before the court of quarter sessions of the county in which they severally reside, they shall forfeit and pay any sum not less than one hundred nor more than five hundred dollars for the use of the brigade; and the said brigade inspector shall further be deprived of his office: *Provided*, That each of the persons called to the assistance of the brigade inspector shall receive one dollar for his services, to be paid by the said brigade inspector. 1822.

XVI. The proper brigade inspector shall notify the brigadier general, and the field officers of the several regiments and battalions of militia and volunteers of the brigade, elected according to this act, to meet on the first Monday of July then next ensuing, and on the first Monday in July in every seventh year thereafter, at a place as near the centre of the brigade as possible to be fixed by him, to elect a major general for the division. And the said brigade inspector shall attend at the time and place so fixed on, and together with the brigadier general or other senior officer present, shall superintend and conduct the said election. And the said officers of the brigade being assembled, shall ballot for a major general, and after counting the votes, duplicate returns of the said election shall be made out and signed by the said brigade inspector and brigadier general or other senior officer, stating particularly the number of votes given for each person for major general in words at length. And the said brigade inspector shall file one of the said returns in his office, and the brigade inspectors of the other brigade or brigades of the division shall, within ten days after the election, call upon the brigade inspector of the first brigade of the said division, and they shall examine and cast up their respective returns, and make out a division return, stating the election of the person having the highest number of votes for the office of major general, which being certified and signed by the said brigade inspectors, shall immediately be transmitted to the secretary of the commonwealth; and one of the said brigade inspectors shall also notify in writing the person so elected; but if no one should have a majority of the votes given, or if any person elected a major general as aforesaid shall refuse to accept, or whenever a vacancy shall happen by death, resignation or otherwise, of which immediate notice shall be given to the adjutant general of the commonwealth, by the proper brigade inspectors, the said adjutant general shall direct the brigade inspectors of the division to hold a new election on a day to be named by him, which election shall be held and conducted, and returns thereof made in all respects as is directed by the preceding part of this section. And when, in consequence of no one having a majority of votes, a second election shall have been held for major general in manner aforesaid, and it should again happen that no one has a majority of the votes given, then the governor shall appoint and commission one of those highest in vote.

XVII. Before any commission shall issue to a brigade inspector, he shall give bond with sufficient sureties, to be approved of by two of the judges of the court of common pleas of the county in which he resides, in the sum of five thousand dollars, taken in the name of the commonwealth of Pennsylvania, conditioned for the faithful performance of his duties as brigade inspector, which bond shall be filed in the office for recording of deeds of the county, and a copy thereof sent to the secretary of the commonwealth. And whenever a vacancy shall happen, by death, resignation or removal of any brigade inspector, the brigadier general or senior officer of the brigade, shall cause an election to be held to supply such vacancy, on a convenient day to be named by him, which election shall be held and conducted in all respects similar to the mode prescribed by the fourteenth and fifteenth sections of this act, the said brigadier general or senior officer acting in lieu of the brigade inspector, and who shall be paid the necessary expenses for advertising said election, and two dollars for attending the same.

XVIII. If any brigadier general, colonel, lieutenant colonel, or major, elected, shall refuse to accept; or whenever, and as often as a vacancy shall occur by the resignation, removal, death or otherwise, of any such officer, a new election shall be immediately ordered by the proper brigade inspector,

**1822.** at a time to be fixed on by him, which shall be held, conducted, and returns thereof made in all respects, and under the like penalties as is provided and directed by the fourteenth and fifteenth sections of this act, except that in the elections of majors, it shall not be necessary to advertise in two city or county newspapers: nor shall it be necessary for the brigade inspector to call to his aid two citizens to examine the returns of the elections of majors, nor to be sworn or affirmed; but he shall transmit a copy of the return of any election of major, received by him, to the secretary of the commonwealth.

**field officer.** Returns.

**When and where company officers to be elected.**

**How elections to be conducted.**

**Captain to furnish a list of the enrolled militia.**

**Who may vote.**

**Returns.**

**If one third of the enrolled militia do not vote, the commanding officer**

**XIX.** On the third Monday of August, on thousand eight hundred and twenty-eight, and on the same day in every seventh year thereafter, an election shall be held within the bounds of every company of militia in this commonwealth, for company officers for the same; and the major of every battalion, or in case there is no major, the lieutenant colonel of the regiment shall give at least ten days' public notice, by written or printed advertisements, and by publication in one or more newspapers, if he thinks it necessary, to the persons subject to militia duty within the bounds of every company of the battalion, that an election will be held on said day between the hours of ten o'clock in the forenoon and six in the afternoon, at such place within the bounds of every said company, as near the centre as may be, as shall be designated in such notice, for the election of one captain, one first lieutenant, and one second lieutenant. And the said major, or lieutenant colonel, shall appoint one respectable citizen to superintend and conduct each of said elections, who shall attend at the time and place fixed on for the same; and shall prior to the opening thereof, select one other person, who, with himself, shall act as judges; and they shall appoint one other person to act as clerk thereof; but if any person appointed by the major, or lieutenant colonel as aforesaid, shall fail to attend, then, and in that case, the enrolled militia present at such election, may and shall appoint two citizens as judges, and one citizen as clerk, and the said judges and clerk shall be sworn or affirmed by any alderman or justice of the peace, or by any commissioned officer, to conduct the said election fairly and impartially, and to make correct and true returns thereof; and the captain or commanding officer of every company of militia within the bounds of which any such election is held, is hereby required, under the penalty of fifty dollars, to furnish the said judges on or before the opening of the election, a correct list of the militia belonging to his company. And every militia man (volunteers excepted), within the bounds of every said company, shall and may vote at such elections in the manner practised at the general elections. And the said judges may, if necessary, examine persons offering to vote upon their right to do so, under oath or affirmation, and shall decide thereon. And when the said elections shall have closed, duplicate returns thereof shall be made out, and signed by the said judges and clerks respectively, stating the number of votes given for each person for the offices aforesaid, separately and distinctly; and also stating in the said returns the number of militia within the bounds of the company; and one of the said judges shall take charge of the said returns, and within five days thereafter deliver, or cause the same to be delivered to the aforesaid major or lieutenant colonel, who shall immediately transmit one of each of said returns to the brigade inspector, who shall file the same in his office; and the said brigade inspector shall make out one general return for each regiment, of the officers elected in the several companies thereof, in every case where it appears at least one third of the militia of the company voted for officers; which returns he shall certify and sign, and send immediately to the secretary of the commonwealth. But when, by any such returns, it appears that one third of the militia of any company did not vote for company officers, the brigade inspector shall notify the colonel or commanding officer of the regiment thereof, who shall appoint the proper officers for every said company; but he may if he thinks proper, appoint all or any of the persons voted for. And he shall also appoint the proper

officers for every company where no election shall be held; and in case any person shall be elected who shall refuse or decline to accept, or shall fail to perform the duties of his office, the commanding officer of the regiment is hereby authorized and directed to appoint proper officers in the place of every such person thus declining to accept, or failing to perform his duty. But the said commanding officer may, if he thinks proper, in any of the cases above mentioned, order new elections to be held; and he shall make out duplicate returns of all appointments made by him, and shall deliver or cause the same to be delivered to the brigade inspector without delay; one of which returns he shall file in his office, and the other transmit to the secretary of the commonwealth. And as often as a vacancy occurs of a commissioned officer in any company, such vacancy shall be filled by a new election or appointment in manner aforesaid, only that the superintendent appointed for each election, shall hold and conduct the same himself, without selecting another person to act with him as a judge thereof; and shall have the like powers, and do and perform every act and thing required to be done by the two judges in the preceding part of this section. *Provided however,* That the company officers shall reside within the bounds of their company, unless proper persons cannot, in the opinion of the commander of the regiment, be found therein, to accept of such appointments, in which case they may be taken from the bounds of other companies. And the judges and clerks of the aforesaid elections shall be entitled to one dollar each for their services, and be subject to the like penalties as are directed and prescribed by the fourteenth section of this act. And the said brigade inspector shall also be subject to the same penalties for misconduct, as are prescribed by the fifteenth section of this act.

1822.  
may appoint.  
Where no election to be held.  
And may order new elections held.  
Vacancies.  
Provido as to the residence of the officers.  
Compensation to judges and clerks.

The field officers or a majority of them, the commandant being one, shall and may number the companies, and arrange them to the battalions of the regiment, giving notice thereof to the proper brigade inspector. And all field and company officers of militia shall take rank according to the number of their respective regiments, battalions, or companies, reckoning the lowest in number to be highest in rank, when their commissions are of the same date. And the commanding officer of every company, is authorized to appoint the proper non-commissioned officers for the same.

How companies are to be numbered, &c.  
How to rank.

XX. When elections, held under this act, are contested, the following proceedings shall be had: when at least four of the officers, who voted at any election for major general, shall complain to the adjutant general of the commonwealth, that illegal votes were taken, or that the same was otherwise unlawfully held and conducted, it shall be the duty of the said adjutant general, to select at least three officers, who do not belong to the division in which the election was held, one of whom shall not be under the rank of a general officer, and the others not under the rank of colonel. If the election of a brigadier general, or brigade inspector shall be contested, by at least one hundred of the volunteers or militia who voted at any such election, application may be made by them, to the major general, or the next senior officer in rank in the division, if there is no major general, who shall direct and notify two other officers of said division, not belonging to the brigade in which the election was held, who shall not be under the rank of lieutenant colonel. If the election of any field officer shall be contested, by at least fifty of those who voted at such election, application may be made by them to the brigadier general, or if there should be no brigadier general, then the next senior officer in rank, in the brigade, not belonging to the regiment in which the election was held, who shall direct and notify two other officers not under rank of the field officers, and not belonging to the said regiment, which officers shall compose boards for the trial of the contested elections in the cases before mentioned, for which they were selected and appointed; and may belong to the volunteers or militia, or either thereof, at the discretion of the authority making

Contested elections.  
Of Major general.  
Brigadier general or brigade inspector.  
Field officers.

1822. Company officers.	<p>the selection. And if the election of an officer of any company of militia, or of independent volunteers, shall be contested by at least twenty of those who voted at any such election, application may be made by them, to the colonel or commanding officer of the regiment to which said militia company belongs, or said volunteer company is attached, who, with two other field officers of said regiment to be notified by him, shall compose a board for the trial of said election. And if the election of an officer of any company of volunteers belonging to a battalion or regiment, shall be contested by at least twenty of the volunteers who voted at any such election, application may be made by them to the commanding officer of their proper battalion, or regiment, who, with the other field officers of the battalion or regiment, if any there are, not, however, exceeding two besides himself, to be notified by him, shall be a board for the trial of such election. And the senior officer of any such board, shall fix on a convenient time and place for determining the said contested election, with power to adjourn if necessary; and shall direct not less than ten days notice to be given to at least one of the complainants, and to the other parties concerned, and may issue process, to compel the attendance of necessary witnesses, who shall be paid by the party who requires them to be summoned. And the said board shall proceed to hear the allegations and proofs offered; and they, or a majority of them, shall either confirm or set aside any such election, as the justice of the case may require, and shall immediately make report thereof to the proper authority. But the said board, in deciding upon any contested election, shall reject and deduct all illegal votes given to any candidate, and if there is not other sufficient cause of complaint, shall confirm the election in favor of the person having the highest number of lawful votes given. But if the election shall be set aside, then any commission which may have issued in consequence of the same, shall be void, and the office declared vacant, and a new election shall be held in the manner prescribed in other cases by this act.</p>
Time and place for determin- ing, &c.	
Duties of the board.	
Term of commis- sions to be until the 3d of Au- gust, 1828.	<p>XXI. All officers of volunteers or militia, elected or appointed in pursuance of the act for the regulation of the militia, passed the second day of April, one thousand eight hundred and twenty-one, or that may hereafter be elected or appointed, prior to the next septennial elections, shall hold their commissions until the third day of August, one thousand eight hundred and twenty-eight; and all officers elected or appointed at the next, and all subsequent septennial elections and appointments, shall hold their commissions until the third of August, in every seventh year thereafter, if they so long behave themselves well, and perform the duties required by law; except, however, the staff officers appointed by the major generals and brigadier generals, and of the regiments and battalions of volunteers and militia, who shall hold their commissions for the periods before mentioned, unless sooner removed by the general officers, or by the commanding officers of the said regiments or battalions respectively. But the appointment and commission of every staff officer, of a major or brigadier general, shall become void, whenever the person making such appointment shall cease to be an officer himself, from any cause whatever. And whenever the secretary of the commonwealth shall have received the returns of any elections or appointments, made in pursuance of this act, commissions shall immediately be issued to the said officers respectively, to be sent to the proper brigade inspector, unless he shall have received notice that the election of any such officer is contested, in which case the commission shall be withheld until the contest is decided, and then shall only issue to the officer lawfully elected. And all commissions for officers elected or appointed at the next, and all subsequent septennial elections or appointments, shall bear date and take effect from the third of August. And all commissions for officers elected or appointed at any other time, shall bear date and take effect from the day of election or appointment of every such officer. But every officer elected or appointed in pursuance of this act,</p>
Except for staff offi- cers.	
When com- missions to issue.	
When to take effect.	

shall have all the rights and authorities of an officer, from the time of receiving notice of his election or appointment, (when his election is not contested) although not commissioned, except the brigade inspector, who shall have no authority until regularly commissioned. No officer shall be permitted to resign, until he shall have accounted and settled for all money, arms and property of the commonwealth, which may have come into his hands. Nor shall any person be a commissioned officer who is not a citizen of the United States. And the commission of every such officer shall be null and void, unless he is actually resident within the bounds of his proper command. And whenever it happens, from any cause whatever, that he is not so resident, his office is hereby declared vacant: excepting, however, the case of company officers, who may reside without the bounds of their company, agreeably to the nineteenth section of this act: *And provided,* That within the first division of militia, the officers may reside in any part of their respective brigades.

1822.  
At what time officers to exercise their duties.  
No person to be commissioned not a citizen.  
Officers to reside within the bounds of their commands.

XXII. The militia of this commonwealth shall be paraded and trained in companies and battalions, as follows, viz: In companies on the first Monday of May in every year: and the battalion parades and trainings, shall commence on the second Monday in May, in every year; and shall continue in such order as the brigade inspector shall direct, on every day of the week, except Sunday, until all the battalions of the brigade shall have paraded: of which trainings one month's notice shall be given by the brigade inspector, in as public a manner as possible, by printed advertisements or otherwise, as he may deem best. The place for the company trainings shall be fixed by the commanding officer thereof, and of which he shall give at least ten days public notice, by printed advertisements or otherwise. And the place for battalion trainings, shall be fixed by the commanding officer of the regiment, with the approbation of the major of the battalion. And the commanding officer of the regiment shall give at least fifteen days public notice of the place of said battalion trainings, by printed advertisements or otherwise. And the colonel of the regiment shall attend, and command the training of one battalion of the regiment; and the lieutenant colonel shall attend and command the training of the other battalion of the said regiment, to be determined by said colonel: but in case of the absence of those officers, the command shall devolve upon the next senior officer. And at every regimental and battalion training, the commanding officer shall cause the roll of the field and staff officers to be called, and the absentees noted, and a return thereof made to the proper court of appeal for the first battalion: *Provided however,* That the militia shall parade and train in regiment instead of battalion, when the commanding officer may require it, of which he shall give notice to the brigade inspector, before he is directed to advertise in manner aforesaid. And the said commanding officer shall give the same notice of the place of regimental training, that is required in the case of battalion training: *And provided,* That each of the brigade inspectors within the bounds of the first division, shall publish the said notice required of him by this section, three times in two of the daily newspapers printed in the city of Philadelphia, and shall describe therein the bounds of his brigade, and of each regiment therein, together with the names of their respective commanding officers: *And provided also,* That no enrolled militia man, under the age of twenty-one years, shall be required to parade or train, or shall be fined for not having so paraded or trained.

When and where company and battalion trainings.  
Public notice to be given.  
Who to command the trainings of the battalions.  
Roll of field and staff officers to be called, &c.

XXIII. Every commissioned and staff officer, and every non-commissioned officer and private, enrolled in the militia, and between the ages of twenty-one and forty-five years, who, without a lawful excuse, shall neglect or refuse to attend, on any day of parade and training, herein before appointed, (without good and sufficient arms) shall be fined as follows, to wit: Every field officer, five dollars; every staff officer, and captain of a company, three dollars; every subaltern officer, two dollars; and every

Penalty for not attending training.

**1822.** non-commissioned officer and private, one dollar; and every such officer, non-commissioned officer and private, shall pay the same fine if he leaves the ranks and parade on any day of training, without the leave of his commanding officer, before the regiment, battalion, or company is dismissed: *Provided however,* That if the officers of the company shall be of opinion that any militia man could not procure arms, he shall not be fined for appearing without them; and all officers, who shall appear on parade, without being in uniform, shall be subject to the same fines, as if they had not attended, and they shall be returned as absentees, in the cases before mentioned.

**Leaving the ranks and parade.** **XXIV.** It shall be the duty of every captain, or commanding officer, on the days of training aforesaid, to call the roll of his company, or cause the same to be called, and note down those who are absent at any time during the hours of parade, as often as he shall think most proper, to ascertain the absentees. And the said captain or commanding officer, shall make out a return of all such absentees, who are required to parade, under oath or affirmation, with the amount of fine incurred, set opposite each name; and shall deliver the said return to the proper court of appeal, on the day of their meeting, under the penalty of fifty dollars.

**Roll to be called.**

**Absentees.**

**3 officers to be a court of appeal.** **XXV.<sup>1</sup>** The colonel or commanding officer of each regiment, shall, on or before the day of regimental or battalion training, in every year, appoint three commissioned officers for each battalion of his regiment, to compose a court of appeal for the said battalion for the current year, and shall fix on the place where the said officers shall assemble; and shall give public notice of such appointment, and of the time and place of meeting, fifteen days at least before each meeting, by printed advertisements or otherwise. And the said officers, so appointed as a court of appeal for the battalion, shall meet on the second Monday of June, in said year, and shall, before they enter on their duties, be sworn or affirmed, justly and impartially to decide on all cases that may come before them, and shall continue to sit as long as business absolutely requires it. The senior officer shall be president of the said court, and if a vacancy should happen, the colonel or commanding officer shall immediately appoint another officer to fill such vacancy, and give him notice thereof. And all officers and enrolled militia men of the proper battalion, who shall have neglected to attend on any day of training, may appear in person or by agent before the said court, to assign their excuse for such non-attendance, and the said court shall and may examine all persons under oath or affirmation; and if it shall be satisfactorily proved or shown, that any officer or militia man was prevented from attending, by reason of being a juror, arbitrator or witness, before any court or other legal tribunal, or of illness, or unavoidable cause which rendered his attendance impracticable on any day for which he is fined for non-attendance, the said court or a majority thereof, shall remit the fine or fines incurred. But no remission shall be made, or redress given at any other time or by any other authority, or in any other manner, than is before mentioned. And as soon as the said court of appeals shall have decided upon all cases before them, they shall make out two lists of the officers and enrolled militia of each company, returned by the captain or commanding officer thereof, as are fined for non-attendance on any day of training, and whose fines were not remitted by the said court of appeal; which lists shall be signed by the president of the said court, with a certificate attached thereto, that the officers of the said court of appeal had been sworn or affirmed according to law. They shall also mark on the return of each captain, furnished to the said court, opposite to the name of each individual, the remission of any fine; which return, so marked, shall also be signed by the president of the said court. And the said court of appeal shall also make out two lists of all field and staff officers returned to them,

**When to meet.**

**To be on oath.**

**Vacancies.**

**Persons fined may appeal.**

**When fines may be remitted.**

**Two lists to be made.**

(1) This is not to affect the right of exoneration by the field officers under the 26 §. See 30 March, 1824, § 4.

MILITIA

1822.

as fined for non-attendance, and whose fines are not remitted by the said court, signed and certified as aforesaid. And the president of the said court of appeal, within ten days after the sitting of the said court, shall, under the penalty of fifty dollars, deliver or cause to be delivered to the proper brigade inspector, one of each of the lists aforesaid, of the fines not remitted, and also the company returns, marked as before directed, and shall transmit the other lists of the said delinquents, to the auditor-general of the commonwealth, who shall charge the amount of the fines not remitted by the said court, to the proper brigade inspector, and file the said lists in his office.

To be delivered to brigade inspector.

XXVI. The brigade inspector shall, as soon as conveniently may be after receiving from the presidents of the several courts of appeal in his brigade, the returns of fines not remitted by the said courts, issue warrants under his hand and seal, for all the fines not remitted, to wit: One warrant for all fines not remitted of field and staff officers; and one other warrant for all fines not remitted in each and every company, and which shall be in the following form:

His duties after receiving the same.

“The commonwealth of Pennsylvania to A. B. greeting:

“Whereas the persons named in the schedule or list hitherto annexed, have incurred the fine or fines set opposite to their respective names, for non-attendance and neglect of duty on the day or days of training appointed by law, for the militia of this commonwealth, and which have not been remitted by the court of appeal of the proper battalion. This warrant therefore authorizes and requires you to demand and collect of each and every person named in the said list or schedule the sum set opposite to his name. And in case of neglect or refusal to pay the same, you are to levy and collect the same, with costs, of the goods and chattels of each and every such person by distress and sale thereof, returning the overplus, if any, to the owner. Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ eighteen hundred and \_\_\_\_\_

Brigade Inspector.

{ L. S. }

Brigade, Division of Pennsylvania Militia.”

And the said brigade inspector shall deliver, or cause to be delivered, each of the said warrants to a constable, who is hereby required to execute the same, or to some other fit person, at his discretion, from whom he shall require security, if he thinks it necessary. And any person to whom any such warrant is delivered, shall, under the penalty of twenty dollars, call on each and every person named in the list or schedule to the said warrant, if within the bounds of the brigade, within twenty days after he has received the same, and demand payment of the fine or fines due. And in case any such fine or fines is not paid within ten days after demand, he shall proceed to levy and collect the same according to the command of the warrant, with costs; and in the levy and sale of the delinquent's property, he shall proceed in the same manner that constables are, or shall be, by law required to proceed under executions; and the said collector shall have the same fees as are allowed to constables for similar services; and for want of sufficient goods and chattels to pay the fine or fines against him, every such delinquent shall be committed by the proper collector to the custody of the sheriff or jailer of the proper county, to be held and detained until he pays the said fine or fines, or is discharged agreeably to the insolvent laws of the commonwealth, and a copy of the warrant certified by the said collector, shall be sufficient authority to the sheriff or jailer, to receive and hold such delinquent in custody, and which he is hereby required to do until legally discharged. And the constable, or other person to whom any warrant shall be delivered, shall, within forty days after he has received the same, pay to the brigade inspector the amount of fines contained in the schedule to said warrant, unless the said brigade inspector shall allow him further time to

Payment to be demanded.

Proceedings to compel payment.

Constables, &c. to pay over fines.

1822.

collect the same; but if the said person after the expiration of the forty days, shall fail, on the demand of the said brigade inspector, to pay the amount of the said fines to him, he shall forfeit and pay double the amount thereof, to be recovered by the said brigade inspector in the name of the commonwealth of Pennsylvania, as debts of equal amount are by law recoverable. And if the said constable or other person, shall report to the brigade inspector, which he is hereby required to do within the said forty days, that it is impracticable to collect some of the fines contained in the said schedule, each of the persons to whom any warrant is delivered, shall make such report. The brigade inspector shall order the field officers of the regiment to be assembled, and persons having warrants shall appear before the said field officers, or a majority of them, who are authorized to act at the time and place to be fixed on by the brigade inspector, of which they shall have notice. And the said field officers having been first sworn or affirmed, they, or a majority of them, shall determine whether it was and is impracticable to collect any such fines or not. And if they find any of the fines contained in the warrants could not have been, nor cannot be collected, they shall make out two lists thereof and deliver the same to the brigade inspector, signed by the senior officer present; and the said field officers, when so assembled, or a majority of them, are hereby further authorized to exonerate any person or persons against whom warrants have issued, from any fine or fines against them which ought not to be levied and collected agreeably to this act, and lists thereof shall be made out and delivered to the brigade inspector in manner aforesaid; and the brigade inspector shall, after having received said lists, exonerate any person having a warrant or warrants from the amount of any fine or fines contained in the schedule to the same, which by the lists aforesaid, it appears cannot be collected. And the bail required by law to be given by constables, shall be answerable for the amount of any military fines and forfeitures which may come into the hands of said constable, in the same manner as they are liable in all other cases, on the default of the constable. And the persons appointed to collect the fines as aforesaid, shall receive for their services, any sum not exceeding ten per cent. on the amount collected by them. And each field officer shall receive one dollar per day while employed in the performance of the duties required by this section.

Proceedings if fines cannot be collected.

Field officers may exonerate persons from the payment of fines in certain cases.

Bail of constables liable for fines collected.

Compensation to constables and field officers.

XXVII. [Repealed by 30 March, 1824, § 9.]

Proceedings on neglecting to elect, or failure to perform duties required.

Duty of brigade inspector.

Of the person employed to enrol, &c.

XXVIII. If it shall happen that the proper officers shall not be elected in any regiment or battalion of militia, or in any company or companies thereof, or who being elected shall fail to perform the duties required, in causing the militia to be enrolled and trained, and returns made according to law, it shall be the duty of the brigade inspector of the proper brigade, as soon after the first Monday in June in every year, as conveniently may be, to employ one or more proper persons to enrol all and every person residing within the bounds of every such regiment or battalion, or of any such company or companies thereof, and liable to perform duty in the militia, who shall proceed in the same manner, and have the like authorities as are given to captains or commanding officers of militia companies by the ninth section of this act; and every person so employed to enrol as aforesaid, shall make a return of the persons enrolled within the bounds assigned to him by the brigade inspector; and he shall be sworn or affirmed that the enrollment so made, contains a correct list of all persons liable to perform duty in the militia within the bounds so assigned to him, as far as he could ascertain the same; which oath or affirmation may be administered by any alderman or justice of the peace, or the said brigade inspector: and which return of enrollment shall be conclusive evidence that the persons therein named are liable to perform militia duty; and each and every person so enrolled between the ages of twenty-one and forty-five, shall pay the sum

(1) If the officers are not elected, or fail to perform the duty, the brigade inspector appoints some one. 17 S. & R. 148.

of two dollars; and it shall be the duty of the proper brigade inspector as soon as he has received any of, or all of the enrolments aforesaid, to transmit copies thereof to the auditor-general, and to issue one or more warrants, as he may think necessary for the collection of the said sum of two dollars from each of said persons; which warrants shall be in the form following, to wit.

“The Commonwealth of Pennsylvania to A. B. greeting:

“Whereas the persons named in the schedule or list hereto annexed, have each become liable to pay the sum of two dollars, according to the militia law of this commonwealth, this warrant, therefore, authorizes and requires you to demand and collect of each and every such person the sum of two dollars. And in case of neglect or refusal to pay the same, you are to levy and collect the same with costs, of the goods and chattels of each and every such person by distress and sale thereof, returning the overplus if any, to the owner. Witness my hand and seal this day of eighteen hundred and

Brigade Inspector,

Brigade Division of Pennsylvania Militia.”

{ L. S. }

And the brigade inspector shall deliver the said warrant or warrants to a constable or other fit person, who shall execute the same, and from whom he shall require security, if he thinks it necessary; and the said constable or other person, as well as the field officers of the regiment, shall perform the same duties, have the same authority, be subject to the like penalties, and proceed in all respects, as is directed and provided by the twenty-sixth section of this act, for the collection of fines for non-attendance on days of training. But in case there should not be at least three field officers of the regiment, then the brigade inspector is hereby required to order the proper number of field officers from any other regiment, who shall perform all the duties required by the said twenty-sixth section. And the said brigade inspectors shall have the same powers and authority, and perform the same duties as are required by said section, and shall account for any money received by virtue of this section, in the same manner as is provided for in other cases. And the said brigade inspectors shall pay to the persons employed by them to enrol as aforesaid, as well as to the constables or other persons authorized to collect as aforesaid, such compensation as shall be reasonable and just.

XXIX. The compensation for services performed by direction of this act, except for serving as members of courts martial, and which is not herein otherwise provided for, shall be as follows:

- To each commanding officer of a militia company. Compensation to officers, to wit.
- Taking the annual enrolment, each person lawfully enrolled, three cents. Commanding officer of a company.
- Furnishing copy of roll to brigade inspector, one dollar.
- Giving notice of annual training, fifty cents.
- Making return of absentees, one dollar.
- Furnishing copy of company roll to judges of election, fifty cents.
- To each major or lieutenant colonel of militia. Major or lieutenant colonel.
- Advertising company elections, and appointing superintendants therefor, each company, fifty cents.
- To each commanding officer of a regiment of militia. Commanding officer of a regiment.
- Advertising the regimental or battalion trainings, one dollar.
- To each officer sitting to try contested elections per day, one dollar.
- To each member of a court of appeal for the militia, every day necessarily and actually employed, one dollar. Member of court of appeal.
- To each president of a court of appeal, making return to brigade inspector, fifty cents.
- To each field officer assembled to exonerate fines per day, one dollar.

**1822.** **XXX.** All oaths or affirmations required to be taken by this act, and not otherwise provided for, may be administered by any judge, alderman or justice of the peace, or any commissioned officer, who shall perform such service without any fee therefor.

**XXXI.** Troops and companies of volunteers, except within the bounds of the first brigade, first division, shall be organized as follows: There shall be in each troop of cavalry one captain, one first lieutenant, one second lieutenant, one coronet, one quarter master sergeant, four sergeants, four corporals, one trumpeter, one saddler, one farrier, one blacksmith, and not less than thirty privates.

There shall be in each company of artillery one captain, one first lieutenant, one second lieutenant, one quarter master sergeant, four sergeants, four corporals, two musicians, and not less than thirty-five artificers and privates.

There shall be in each company of infantry one captain, one first lieutenant, one second lieutenant, four sergeants, four corporals, two musicians, and not less than forty-five privates.

There shall be in each company of riflemen, one captain, one first lieutenant, one second lieutenant, four sergeants, four corporals, one bugler, and not less than forty privates.

*Provided however,* That volunteer troops and companies now organized may have the number of officers at present authorized: but whenever a vacancy shall occur, said troops and companies shall only have the number of officers above authorized: *And provided further,* That there shall not be more than four companies of artillery in any division of militia, except in the first division.

And when the members of any such troop or company, are within the bounds of different brigades, such troop or company shall be attached to, and belong to the brigade in which a majority of the members reside; and the said troop or company shall be inspected, and under the order of the proper officers of the said brigade, in the same manner as if all the members had resided therein.

**XXXII.** The officers of volunteer corps, shall be elected by the members thereof; and whenever a vacancy happens by the death, resignation or removal of any officer of a volunteer corps, his place shall be supplied by a new election, to be ordered by the brigade inspector, to be held and conducted in the same manner as elections to supply vacancies of captains in the militia. And whenever the number of volunteers required by this act for any troop or company, shall have uniformed and equipped themselves according to law, upon notice thereof, given to the brigade inspector, he shall, on a day and at a place to be fixed on by him, of which the members of the said troop or company shall be notified, proceed to inspect the said troop or company, and if he finds the same to contain the number of men required, who are properly uniformed and equipped, he shall on the said day of inspection, direct an election to be held for the officers thereof; which election he shall superintend and conduct in person, and shall make out and sign duplicate returns of the same, one of which said returns he shall file in his office, and the other transmit to the secretary of the commonwealth, together with a certificate of the fact, that the said troop or company has the number of men required, properly uniformed, and equipped; and the non-commissioned officers of every troop and company of volunteers, shall be appointed according to the by-laws of the same; and it shall not be lawful for any member of any troop or company of volunteers, to withdraw from, or leave the same, without the consent of a majority of the commissioned officers thereof first obtained, nor without first delivering up in good order any arms or accoutrements which he may have received; and whenever a volunteer shall have leave to withdraw from his troop or company, the captain or commanding officer shall furnish him with a certificate or discharge if required, and shall also give notice thereof

Oath, &c.  
to be ad-  
ministered  
without  
fee.

Volunteers  
organized.  
Number of  
officers and  
men in  
each troop  
of cavalry.

Company  
of artillery.

Infantry.

Riflemen.

When  
troop or  
company is  
within the  
bounds of  
different  
brigades,  
how at-  
tached.

Electors of  
officers of  
volunteers.

Vacancies.

Brigade in-  
spector to  
inspect vo-  
lunteer  
companies.

To hold  
elections.

How con-  
ducted, re-  
turned, and  
certified.

Non-com-  
missioned  
officers.

Members  
of volun-  
teer corps  
not to with-  
draw with-  
out consent  
of officers.

to the commanding officer of the militia company, in which the said volunteer may reside, or if there is no such company officer, then to the commanding officer of the proper battalion or regiment. 1822.

XXXIII. Any volunteer troops or companies, except within the bounds of the first brigade of the first division, may be formed into battalions or regiments, in the following manner although not of the same descriptions of troops or force. Formation of battalions or regiments of volunteers.

Any number of troops or companies not less than three, to compose a battalion, and have one major, one adjutant, one quarter master, and one assistant surgeon. Number of companies to form a battalion, and officers to be elected.

Any number not less than five to compose a battalion, and have one lieutenant colonel, one major, one adjutant, one quarter master and one surgeon.

Any number not less than six to compose a battalion, and have one lieutenant colonel, two majors, one adjutant, one quarter master, one surgeon and one assistant surgeon.

And any number not less than eight, to compose a regiment, and have one colonel, one lieutenant colonel, two majors, one adjutant, one quarter master, one surgeon and two assisting surgeons. What number to compose a regiment.

And troops of cavalry may be organized as follows:

Any number not less than three to compose a battalion, to have the same officers as is before provided for the same number of companies. Battalions and regiments of cavalry, how formed, and officers elected.

Any number not less than four to compose a battalion, and have one lieutenant colonel, one major, one adjutant, one quarter master and one surgeon.

Any number not less than five to compose a battalion, and to have one lieutenant colonel, two majors, one adjutant, one quarter master, one surgeon and one assistant surgeon.

Any number not less than six to compose a regiment, and have the same officers as is before provided for a regiment.

And each regiment and independent shall have one sergeant major, one quarter master sergeant, and two principal musicians.

And the members of any said battalion or regiment, shall elect the field officers, and the commanding officer thereof shall appoint the commissioned and non-commissioned staff officers for the same, and supply vacancies as often as they occur. Field officers by whom elected, and staff appointed.

And whenever any number of troops or companies have agreed to associate in manner aforesaid, upon notice being given to the proper brigade inspector, or in case the said troops and companies are in different brigades, then to the brigade inspector in whose brigade the election is proposed to be held; who shall order the said troops and companies to meet in some central place, and on a day to be fixed by him, of which fifteen days public notice shall be given by him. And at the same time and place, the members of the said troops and companies shall proceed to the election of the field officers authorized by this act. And the said election shall be held and conducted by the said brigade inspector in person, in the same manner that the battalion elections are directed to be held, and duplicate returns thereof made out and signed, one of which shall be filed in his office and the other transmitted to the secretary of the commonwealth. And as often as a vacancy occurs by the death, resignation or otherwise of any such field officer, an election shall be held to supply the vacancy, which shall be conducted and returned in all respects, as is directed and prescribed by this act, in the case of militia battalion elections, only, that instead of the major of the militia battalion, the brigade inspector shall appoint one of the officers of the said volunteer regiment or battalion, who shall alone and without the aid of a judge therein provided for, superintend and conduct said election and make return thereof: Provided, That unless required to be held sooner, the said election shall be held on one of the days fixed on for the meeting of the said battalion or regiment of volunteers. And no troop or Election for field officers.

And the said election shall be held and conducted by the said brigade inspector in person, in the same manner that the battalion elections are directed to be held, and duplicate returns thereof made out and signed, one of which shall be filed in his office and the other transmitted to the secretary of the commonwealth. And as often as a vacancy occurs by the death, resignation or otherwise of any such field officer, an election shall be held to supply the vacancy, which shall be conducted and returned in all respects, as is directed and prescribed by this act, in the case of militia battalion elections, only, that instead of the major of the militia battalion, the brigade inspector shall appoint one of the officers of the said volunteer regiment or battalion, who shall alone and without the aid of a judge therein provided for, superintend and conduct said election and make return thereof: Provided, That unless required to be held sooner, the said election shall be held on one of the days fixed on for the meeting of the said battalion or regiment of volunteers. And no troop or How conducted.

And as often as a vacancy occurs by the death, resignation or otherwise of any such field officer, an election shall be held to supply the vacancy, which shall be conducted and returned in all respects, as is directed and prescribed by this act, in the case of militia battalion elections, only, that instead of the major of the militia battalion, the brigade inspector shall appoint one of the officers of the said volunteer regiment or battalion, who shall alone and without the aid of a judge therein provided for, superintend and conduct said election and make return thereof: Provided, That unless required to be held sooner, the said election shall be held on one of the days fixed on for the meeting of the said battalion or regiment of volunteers. And no troop or Vacancies.

And as often as a vacancy occurs by the death, resignation or otherwise of any such field officer, an election shall be held to supply the vacancy, which shall be conducted and returned in all respects, as is directed and prescribed by this act, in the case of militia battalion elections, only, that instead of the major of the militia battalion, the brigade inspector shall appoint one of the officers of the said volunteer regiment or battalion, who shall alone and without the aid of a judge therein provided for, superintend and conduct said election and make return thereof: Provided, That unless required to be held sooner, the said election shall be held on one of the days fixed on for the meeting of the said battalion or regiment of volunteers. And no troop or Who to superintend election.

And as often as a vacancy occurs by the death, resignation or otherwise of any such field officer, an election shall be held to supply the vacancy, which shall be conducted and returned in all respects, as is directed and prescribed by this act, in the case of militia battalion elections, only, that instead of the major of the militia battalion, the brigade inspector shall appoint one of the officers of the said volunteer regiment or battalion, who shall alone and without the aid of a judge therein provided for, superintend and conduct said election and make return thereof: Provided, That unless required to be held sooner, the said election shall be held on one of the days fixed on for the meeting of the said battalion or regiment of volunteers. And no troop or

And no troop or

1822. company shall be permitted to withdraw from the battalion or regiment of volunteers to which the same is attached, without the consent of a majority of the field officers thereof.

Troop or company not to withdraw. And each regiment of volunteers shall be entitled to a pair of colours, and each battalion of volunteers to a battalion colour, to be properly and appropriately marked, to be procured and purchased by the proper brigade inspector, at the expense of the state. And the commanding officer of every such regiment or independent battalion, may once in every year, order all the commissioned officers thereof, to meet at a time and place to be fixed on by him, for the purpose of drill. And every officer failing to attend, shall be subject to a fine of three dollars, to be collected by virtue of a warrant from the adjutant, in the same manner as other fines are collected under this act.

Regiments and battalion of volunteers entitled to colours. Commissioned officers may be ordered to drill. XXXIV. Within the bounds of the first brigade of the first division, regiments of volunteers shall be formed of troops and companies of the same description of arms in the manner following, that is to say:

How regiments of volunteers in 1st brigade, 1st division to be formed. Officers of a regiment. A regiment of cavalry to consist of six troops. Of artillery, six companies. Each regiment of cavalry, artillery, infantry, and riflemen shall have one colonel, one lieutenant colonel, two majors, one adjutant, one quarter-master, one pay-master, one surgeon, two surgeons' mates, one sergeant major, one quarter-master sergeant, and two principal musicians.

Battalions to be formed. Each regiment of cavalry, shall consist of at least six troops, each troop shall consist of one captain, one first lieutenant, one second lieutenant, one coronet, one quarter master sergeant, four sergeants, four corporals, one musician, one saddler, one furrier, and at least thirty privates.

Regiments of infantry and riflemen to consist of 8 companies. Field officers how elected. Staff, by whom appointed. Regiments and independent battalion of volunteers to meet for inspection. To be subject to fines for non-attendance. May make by-laws. Each regiment of artillery shall consist of at least six companies, each company shall consist of one captain, one first lieutenant, two second lieutenants, one third lieutenant, one quarter master sergeant, four sergeants, four corporals, two musicians, and at least sixty-four privates. The commanding officer of the regiment, to designate one of the second lieutenants of each company, as conductor of artillery for said company. But if there shall not be a sufficient number of companies to form the said regiment, then any number of companies not less than three nor more than five, may be formed into a battalion, and have one lieutenant colonel, one major, one adjutant, one quarter master, one pay-master, one surgeon, one sergeant-major, and two principal musicians.

Each regiment of infantry and riflemen, shall consist of at least eight companies, each company shall consist of one captain, one first lieutenant, one second lieutenant, one third lieutenant, four sergeants, four corporals, two musicians, and at least sixty-four privates.

And the said field officers shall be elected in the same manner, and at the same time, as is provided for the field officers of other volunteer regiments. And the said commissioned and non-commissioned staff officers, shall be appointed by the commanding officers of the said regiments or battalion of artillery.

XXXV. Every regiment and independent battalion of volunteers, shall meet once in every year, if required by the proper brigade inspector, for inspection, at a time and place to be fixed on by the commanding officer of said regiment or battalion, and as much oftener for training, as shall be determined on by the companies or troops composing the same, and at such times and places as the said companies and troops may agree and fix on. And the members of the said troops and companies, shall be subject to the like fines for non-attendance, as in the case of company or troop trainings, and to be collected in the same manner; for the use of the said troops or companies respectively.

And every regiment, battalion, troop, and company of volunteers, shall have power to make all necessary by-laws, rules and regulations, not inconsistent with the constitution and laws of this state, or of the United States, to promote the interest, good order, and discipline of the same, and for fixing on, and giving notice of the times and places for parades and trainings

Volunteer corps shall be ranked in the following order, *to wit*: First, 1822. cavalry; second, artillery; third, infantry; and fourth, riflemen. And all troops and companies of the same description of force, shall take rank according to their priority of organization. All officers of the same grade, without regard to the corps to which they belong, shall take rank according to the dates of their commissions respectively. And whenever officers have commissions of the same date, their rank shall be established by lot, in the presence of the commanding officer; but officers of the volunteers of the same grade with officers of the militia, and when their commissions are of the same date, shall take rank of such officers of the militia, but not otherwise, *Provided*, That all officers, who at any election or appointment, shall be elected or appointed to offices of the same grade, shall rank according to the dates of their preceding commissions.

Rank of volunteer corps.  
How rank of officers to be determined.

XXXVI. The captain or commanding officer of every volunteer troop or company shall, on or before the third Monday in May, in every year, deliver or cause to be delivered to the proper brigade inspector, a complete roll of his troop or company, under oath or affirmation, and if the same is attached to any battalion or regiment of volunteers, the fact thereof shall be stated, and the said captain or commanding officer of any last mentioned troop or company, shall also furnish to the adjutant thereof, on or before the said third Monday of May, in every year, a roll of the same. And the adjutant of every volunteer battalion or regiment, shall, on or before the said third Monday in May, in every year, deliver, or cause to be delivered to the proper brigade inspector, or where the troops or companies belong to the different brigades, to the brigade inspector of the brigade in which the election for field officers was originally held, a roll of the field and staff officers thereof. And each of the officers failing to perform the duty required by this section, shall forfeit and pay the sum of twenty dollars; and the said officers shall have the like compensation as is given to officers of militia for similar services.

Roll of volunteer corps to be delivered annually to brigade inspector.  
To be furnished with a roll of field and staff officers.  
Penalty for neglect.

XXXVII. The several volunteer troops and companies in this commonwealth, shall meet at least three times in every year for training, one of which days shall be at the time and place, when the said troop or company is to be inspected by the brigade inspectors, and the other days of training, at such time and place as shall be determined on by a majority of the members of the said troops or companies, of which public notice shall be given, by the captain or commanding officer thereof, at least ten days before any such meeting. But all volunteer troops or companies, not belonging to any regiment or battalion of volunteers shall be attached by the brigade inspector to the most convenient regiment of militia, and shall parade and train with the said regiment, or such battalion thereof as shall be directed by the commanding officer at the annual trainings, provided for by this act, and shall be under the orders of the commanding officer of the same, which day of training shall be accounted one of the three days required by this section. All volunteer troops or companies belonging to any regiment or battalion of volunteers, shall not be obliged to parade or train with the militia. And the officers, non-commissioned officers, musicians and privates of said troops or companies, shall incur the like fines for non-attendance, on said days of training, as is directed to be paid by the militia of this commonwealth. And the members of the said troops and companies, or a majority of them, shall at their first meeting in every year, determine whether they will meet on any other days than those required by law, and how often, and when, and where. And the said officers, non-commissioned officers, musicians and privates, shall incur such fines for non-attendance on any of the said days, as may be determined on by the by-laws of the troop or company, not being less than half the amount of fines for non-attendance on the days of training required by law.

Volunteer troops and companies to meet three times a year for training.  
When to attach to regiments.  
Subject to like fines.  
May meet on other days than those required by law.

XXXVIII. On every day of parade and training, directed and authorized by this act, for volunteer troops and companies, the rolls of the said troops

Rolls to be called.

334

MILITIA.

1822. and companies shall be called under the direction of the captain or commanding officer thereof, by the first or other sergeant, and all absentees noted, and lists thereof kept, to be presented to the officers of the said troops and companies, when acting as a court of appeal, as hereinafter directed. And all members of said troops or companies who shall leave the ranks during the hours of parade without permission, or shall not be properly uniformed and equipped, shall be considered and marked as absentees, and incur the like fines. And the said sergeant shall, on or before the first Monday in November, in each and every year, make out a complete list of all absentees, on any of the appointed days of training, for the preceding year, stating particularly, the days on which said member was marked as an absentee, and being sworn or affirmed to the said list, shall deliver the same to the said officers acting as a court of appeal on the said first Monday of November in every year. And the captain or the commanding officer shall give public notice to the members of his troop or company, of the place where the said officers will sit as a court of appeal; and on the day, and at the place aforesaid, the officers of every troop and company shall be assembled and compose a court of appeal for their respective troops and companies, and shall take the same oath or affirmation, and they or a majority of them, have the same authority, proceed in the same manner, and remit fines for the same cause as is directed, given and prescribed in the case of battalion courts of appeal for the militia. But no fines shall be remitted, or redress given by any other authority, at any other time or in any other manner. And as soon as the said courts shall have decided upon all cases before them, they shall make out lists of the members of the said troops, or companies, whose fines were not remitted, stating opposite the name of each member, the amount of fines not remitted: to be signed by the officers composing the said court, with a certificate attached thereto, that they had been sworn or affirmed according to law, and shall deliver the same to the captain or commanding officer of the said troop or company. And the said captain or commanding officer shall, within ten days thereafter issue a warrant under his hand and seal in the following form:

Fines incurred for leaving ranks.

List of absentees to be delivered to court of appeal. Notice of its sitting.

May remit fines in certain cases.

A list of fines not remitted to be certified.

Form of the warrants.

"The commonwealth of Pennsylvania to A. B. greeting:  
 "Whereas the persons named in the list or schedule hereto annexed, have incurred the amount of fines set opposite to their respective names as members of the volunteer corps of (designating it by its proper title), as absentees on the days appointed for training, which have not been remitted by the proper court of appeal. This warrant therefore authorizes and requires you to demand and collect of each and every person named in the said list or schedule, the sum set opposite to his name. And in case of neglect or refusal to pay the same, you are to levy and collect the same with costs, of the goods and chattels of each and every such person by distress and sale thereof, returning the overplus if any, to the owner. Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ eighteen hundred and \_\_\_\_\_

Captain." { L. S. }

[or commanding officer of the volunteer corps, naming it.]

And the said captain or commanding officer shall immediately deliver the said warrant to a constable or other fit person to be executed, and who is hereby required, under the penalty of twenty dollars, to be recovered by the said captain for the use of the company, to execute the same, who shall perform the same duties, have the same authority and compensation, be subject to the like penalties, and proceed in all respects, as is provided and directed by the twenty-sixth section of this act, only, that the said captain or commanding officer, shall be in the place and situation of the brigade inspector mentioned in the said section, and shall have all the rights and

To be delivered to a constable.

His duties.

powers therein given to the said brigade inspector; as well in proceeding against the said constable or other fit person in recovering the amount of fines collected by him as otherwise: *Provided however*, That every troop and company of volunteers may authorize courts of appeal to be held by any of its members, and at such time and times as may be fixed on by the by-laws thereof, and the fine and fines for non-attendance and neglect of duty, may be collected as often as shall be determined on by the said by-laws; and which courts of appeal shall be conducted, and the fines collected under the provisions of this section; and all fines collected from the members of any volunteer troop or company, shall be for the use of the said troop or company. And the captain or commanding officer of any troop of cavalry or company of artillery, when he has received from the collector any such fines, shall pay the same to the quarter master sergeant thereof. And the captains or commanding officers of any companies of infantry or rifle-  
1822.  
Appropriation of fines.

XXXIX. It shall be lawful for any member of a volunteer corps, to be at the same time an officer of the militia, with the consent of his company; nor shall the commission of any officer of a volunteer corps, be vacated by his election or appointment as a field or staff officer, of a battalion or regiment of volunteers; but he may continue to hold the same if requested by the company.  
Members of volunteer corps may be officers of the militia. Commissions not vacated, &c.

XL. The uniform and equipments for the militia officers of this commonwealth, shall be the same as that prescribed for the officers of the United States army; and it shall be the duty of the adjutant general to obtain a description thereof, and furnish each brigade inspector with a sufficient number of copies for himself, and each major and brigadier general, and each field officer and captain of volunteers and militia, the expense whereof shall be paid out of the state treasury. But the governor is hereby authorized to alter the dress for the company officers, so as to render the same less expensive, if he shall deem it proper and advisable; and which uniform so prescribed by him, shall be established for that class of officers, and descriptions thereof furnished to the brigade inspectors immediately, for the use of said officers; the expense of furnishing which to be paid in manner aforesaid. And every officer shall be armed and equipped at his own expense; and if any officer shall fail to uniform and equip himself within six months after his election or appointment, if he accepted of the office, he shall be liable to a fine of twenty dollars, to be recovered by the brigade inspector; and every officer so elected or appointed more than six months, shall appear on every day of parade uniformed and equipped as aforesaid.  
Uniform and equipments. Description thereof to be furnished by adjutant general. Governor may alter. Officers to be uniformed and equipped at their own expense.

XLI. Volunteer troops and companies may uniform and equip in such military manner as they may think proper, conforming as nearly as may be to the same kind of force in the army of the United States; *Provided however*, That companies having a uniform dress, and acting as infantry, may be supplied with muskets and bayonets, cartridge boxes and belts, if there be sufficient, after supplying the companies properly uniformed and equipped, upon sufficient security being given therefor, in the manner hereinafter directed; but such company shall not be entitled to the sum allowed by the forty-sixth section, nor shall the members thereof be entitled to the exemption provided for in the forty-seventh section of this act.  
How volunteer troops and companies are to be uniformed.

XLII. Every artillery and infantry volunteer company, uniformed and equipped, and the officers thereof commissioned agreeably to this act, shall be entitled to the following arms, viz. To every such artillery company, the  
Volunteer corps entitled to arms.

1822. proper number of muskets and bayonets, cartridge boxes and belts, and if  
 Artillery. required, and they can be supplied out of the arsenals, twelve pikes,  
 together with one piece of artillery of the proper calibre, with all the appa-  
 ratus and equipments complete. And the governor is hereby authorized to  
 cause to be issued to the first lawfully organized artillery company properly  
 uniformed, in each brigade who have a field piece, the proper number of  
 swords and belts in lieu of muskets, for the non-commissioned officers, mu-  
 sicians and privates thereof, upon the order of the proper brigade inspector.  
 Infantry. And to every such infantry company, the proper number of muskets and  
 bayonets, cartridge boxes and belts for the non-commissioned officers and  
 privates of the same. And the proper brigade inspector shall make a requi-  
 sition upon the adjutant general for the arms aforesaid, who shall give him  
 an order therefor to the keeper of the nearest or most convenient arsenal;  
 How to be drawn for. and the said brigade inspector shall thereupon draw the said arms and de-  
 liver the same to the company aforesaid, and the expense thereof shall be  
 Expense how paid. defrayed out of the state treasury, to be paid to the said brigade inspector  
 upon the settlement of his accounts.

Security to be given for return in good order of arms, &c. XLIII. Before any arms and accoutrements are delivered to any volunteer  
 company, sufficient security shall be given for the return and delivery of the  
 same in good order and condition, upon the dissolution of the company or  
 whenever lawfully required. And all volunteer companies that have already  
 received arms or accoutrements shall give the like security; on failure  
 whereof, it shall be the duty of the brigade inspector, and he is hereby  
 required to take possession of the said arms, to be disposed of in the  
 manner hereinafter directed; and it shall be the duty of every commanding  
 officer of a company, to take duplicate receipts from the non-commissioned  
 officers and privates of his company for the arms delivered to them re-  
 spectively, one of which receipts shall be given to the brigade inspector to  
 be filed in his office.

Duty of brigade inspector to collect arms, &c. and to furnish a list thereof to adjutant general. XLIV. It shall be the duty of every brigade inspector, and he is hereby  
 required to collect or cause to be collected from time to time, all mili-  
 tary arms and other military property of this commonwealth, in the hands  
 or possession of any person or persons not entitled by law to hold the same,  
 for which he shall receive a reasonable compensation; and to furnish a list  
 of the said arms and property when required by the adjutant general, as of  
 all arms and public property in the possession of any volunteer company,  
 who have not given the security required by this act, or are not lawfully  
 entitled to the same; and the said adjutant general may order all such arms  
 and public property to be conveyed at the expense of the state to the  
 nearest arsenal; and the said adjutant general is hereby required to make  
 such regulations relative to the amount and kind of security to be given for  
 arms and accoutrements delivered to volunteer companies, as well as all  
 such other regulations for the disposition, security, and preservation of the  
 arms and military property of this commonwealth, as he may from time to  
 time find necessary and proper to promote the public interest, and which  
 the several brigade inspectors are hereby required to obey and carry into  
 effect under the penalty prescribed in the fifty-second section of this act,  
 besides being amenable to a court martial for neglect of duty.

Volunteers to keep their arms in good order at their own expense. Penalty for loaning or selling them in certain cases. XLV. Every volunteer who may have received public arms and accou-  
 trements, shall keep the same in good order and repair at his own expense.  
 And if any volunteer shall loan his arms to any person whatever, except to  
 a volunteer to parade or drill, or shall knowingly suffer any other person to  
 use the same, except for drill or training, he shall be subject to a penalty of  
 five dollars. And if any volunteer shall sell or dispose of his arms, or shall  
 quit his company by removal out of the neighbourhood or otherwise, with-  
 out delivering up the same in good order to his commanding officer, he  
 shall forfeit and pay the sum of fifteen dollars, to be recovered by the said  
 commanding officer, as debts of equal amount are recoverable; and for  
 want of sufficient property to pay the same, he shall be committed to the

jail of the county for fifteen days. And if upon the death of any volunteer, his heirs, executors, or administrators, or any of them, shall neglect or refuse to deliver up to the commanding officer of the troop or company to which he belonged, any arms, accoutrements, or instruments of music, which he may have received, they shall forfeit and pay the aforesaid sum, to be recovered from any one of them, in the manner aforementioned. And it shall be the duty of the proper brigade inspector, to pay the expense necessary, for the repairs of any field piece, and the apparatus, and equipments thereof, in the possession of any volunteer artillery company, or of any drums or other instruments of music, authorized to be furnished by law, to the volunteers or militia.

1822.  
Arms to be delivered up in certain cases under penalty.  
Brigade inspector to pay for repairs of field pieces, &c.

XLVI. [Repealed by 10 April, 1826, § 9.]

XLVII. Every person who shall have been uniformed and equipped agreeably to this act, and faithfully served as a member of any organized volunteer corps, for seven successive years, since the first of January eighteen hundred and eighteen, and shall produce a certificate of such service, from the captain or commanding officer of the corps in which he has so served, he shall for ever thereafter be exempted from militia duty, except in time of an invasion, insurrection, or actual war: *Provided*, The persons exempt from duty in pursuance of this section, shall be enrolled in the same manner as if they were not exempt: *Provided however*, That if the fact of such service shall be disputed, the certificates aforesaid shall be sworn or affirmed to by the officer giving the same, or proof of such service made in some other satisfactory manner. And it shall be the duty of the captain or commanding officer of every troop or company of volunteers, to procure an orderly book, in which he shall cause to be entered the name and place of residence of every member thereof, and the time (being properly uniformed and equipped) he may have joined the troop or company; and on every day of parade or training, when the roll is called, a record shall be kept in said book, of both those present and those absent; and if any volunteer shall not have attended on at least three-fourths of the days of parade or training of his troop or company, for seven successive years, unless absent for some of the causes which would authorize him to be excused agreeably to this act, he shall not be considered as having faithfully served agreeably to the preceding part of this section.

Volunteers having served 7 years from 1st of Jan. 1818, to be exempt.  
Officers commanding volunteers to procure orderly books, &c.  
What a service for 7 successive years.

XLVIII. Every person who shall have been properly uniformed and equipped, and have faithfully served as a commissioned officer for seven successive years, in the volunteers or militia of this commonwealth, since the first day of January, eighteen hundred and eighteen, shall for ever thereafter be exempted from military duty, except in time of an invasion, insurrection, or actual war.

Officers, &c. serving 7 years, to be exempt.

XLIX. Each brigade inspector heretofore elected, or who may hereafter be elected in pursuance of this act, shall take an oath or affirmation, to perform his duties with fidelity, and transmit a certificate thereof to the adjutant general, and shall execute all orders relative to duty, received by him from the adjutant general. He shall attend each regimental or battalion parade, and shall annually inspect the said regiments and battalions; and shall also, once in every year, inspect each volunteer troop of cavalry, and company of artillery, infantry, and riflemen, within the bounds of the brigade. But when any such troop of cavalry, or company of artillery, infantry or riflemen, shall be part of a regiment or battalion of volunteers, he may inspect the said troops and companies separately, or in battalion or regiment, as he may think proper. And the said brigade inspector shall direct the time and place, when and where any such troop, company, battalion, or regiment, shall assemble to be inspected as aforesaid; and shall give at least twenty days public notice thereof. He shall annually furnish to the adjutant general, a detailed statement of the militia and volunteers within his brigade, at such time and in such manner, as the said adjutant general shall direct. He shall keep a record of all alterations in the bounds of the brigade, regi-

Brigade inspector to be on oath.  
His duties.  
To appoint places of inspection.  
To furnish annually statements of the militia.  
Keep a

1822. ments or battalions, or of the formation of any new one, and shall give information thereof to the adjutant general, and shall generally furnish him with information upon all subjects connected with military duty in his brigade, whenever required to do so; and shall also furnish like statements to the major general of the division, and brigadier general of the brigade, once in every year when required. The brigade inspectors shall transmit all returns of elections and appointments of officers under this act, as soon as practicable, to the secretary of the commonwealth, and shall distribute to the proper officers, all commissions received by them. They shall take charge of, and be answerable for all military articles which may be delivered to them. They shall make an annual return to the adjutant general, of all arms and other military property in their possession, and of the condition of the same, and of the arms and other military property, distributed in the brigade, in such form and manner as shall be directed by him. The said brigade inspectors shall sue for, and collect in the name of the commonwealth all fines, forfeitures, and other sums, for which no mode of collection is prescribed by this act, and recover the same as debts of equal amount are by law recoverable. They shall procure and purchase all the necessary colours, drums, fifes, trumpets and bugles. They shall pay all expenses and sums of money directed to be paid in their several brigades, to the persons entitled by law to receive the same. They shall keep an accurate account of all monies received and expended by them. They shall account for all fines not remitted by the proper courts of appeal, or imposed by courts martial, and directed to be collected by them, and shall only be released from their accountability for any such fines, by producing a certificate of a board of field officers, to be signed by the president thereof, that it was impracticable to collect the same. They shall annually, in the month of January, settle with the auditor general, who is hereby required to settle and adjust their accounts, and shall pay into the state treasury, any surplus arising from fines and forfeitures, which may remain after payment of the sums and expenses, directed to be paid by them by this act, in their several brigades, first deducting five per cent. on the amount so to be paid into the state treasury. And on the removal or resignation of any brigade inspector, all the books, vouchers, papers, and public property, which may be in his possession, shall be delivered to his successor. And if any brigade inspector as aforesaid, shall fail to settle his accounts annually, with the auditor general, during the time prescribed, or shall neglect or fail to pay into the state treasury, the balance due upon such settlement, upon demand made by the state treasurer, and of which settlement the auditor general shall furnish the state treasurer with an account, or shall neglect or refuse to deliver over to his successor, the books, vouchers, papers, and public property, in his possession, on notice given to the auditor general thereof, the said auditor general, or the state treasurer, as the case may be, shall, and it is hereby made their duty respectively, to cause the bond given by the said brigade inspector and his sureties, lodged in the recorder's office of the county, to be sued out and recovered for the use of the commonwealth, as well as in all other cases of neglect of duty; but any such suit may be stayed, upon the said brigade inspector's performing the duties above required of him. And on the death of any brigade inspector, all the books, vouchers, papers, and public property, which he had in his possession, shall be delivered over to his successor, by the executors or administrators of such deceased brigade inspector, under the penalty of one thousand dollars, to be recovered from them, or either of them, by the said successor, in the name of the commonwealth, as debts of like amount are recoverable. And each brigade inspector shall annually receive as a full compensation for his services, including blanks and stationary, seventy-five dollars per regiment for the three first regiments, and fifty dollars per regiment for every additional regiment of militia and volunteers of his brigade, and for volunteer battalions in proportion, to be paid out of the state treasury.

record of the alterations of brigades, &c.

To furnish statements to major and brigadier generals.

Transmit returns, &c.

To be answerable for all military articles, &c. and make return of arms, sue for and collect fines, &c.

Purchase colours, drums, &c.

Pay expenses, &c.

Account for moneys.

Annually to settle their accounts.

Books, &c. to be delivered to their successors.

On failure to settle accounts, &c. bond to be sued.

In the case of death, books, &c. to be delivered.

Compensation.

L. It shall be the duty of each brigade inspector, at the time when he is annually required to settle his accounts, to exhibit to the auditor-general, a statement of the expenses incurred in his brigade, for the preceding year; making the allowances intended by the law; and if, upon the settlement of the accounts of the said brigade inspector, it shall be found that the fines and forfeitures have been insufficient to pay the said expenses so adjusted and allowed, *then the said auditor general shall draw his warrant on the state treasurer, for the amount of such deficiency, which the brigade inspector shall immediately thereafter pay to the officers or persons entitled to receive the same:* *Provided however,* That the sums allowed to volunteer corps, by the forty-sixth section of this act, shall form no part of the expenses to be drawn from the state treasury in manner aforesaid.

LI. If any brigade inspector shall neglect or fail to make the returns to the adjutant-general, or perform any other duty according to this act, it shall be the duty of the said adjutant-general to give notice thereof to the state treasurer, when the compensation of the said brigade inspector shall be forfeited from the time of such notice, until he performs his duty according to law; and he shall only be entitled to the same for the residue of the year; and the said brigade inspectors shall also be amenable to courts martial for neglect of duty, in the same manner as all other offences.

LII. The discipline of the volunteers and militia of this commonwealth, shall be the same as that prescribed for the army of the United States; and it shall be the duty of the adjutant general, to select the best abridged system for the instruction and discipline of cavalry, artillery, infantry and riflemen, making such alterations as may be deemed necessary for the use of the militia and volunteers of this commonwealth, and shall submit the same to the governor, and if approved of by him, a sufficient number of copies to furnish each general and brigade inspector with a copy thereof, and each field officer and captain of a company, with a copy of the system applicable to his particular corps, shall be procured at the expense of the state, and transmitted to the several brigade inspectors, to be delivered to the said officers respectively, who shall receipt for and deliver the same to their successors in office, under the penalty of ten dollars, to be recovered by the person suing for the same.

LIII. On each of the days of training authorized and required by law, the commanding officer of every troop of cavalry, may employ one trumpeter; the commanding officer of every rifle company, one bugler; and the commanding officer of every company of artillery, infantry and of militia, one drummer and one fifer, who shall be severally entitled to receive the sum of one dollar per day, for each of said days of training, to be paid by the proper brigade inspector, upon the certificate of the commanding officer of the troop or company.

LIV. If any youth of the age of twelve years and not exceeding the age of twenty one years, shall, with the consent and approbation of his parents or guardians, attach himself to any company of volunteers or militia for the purpose of learning to beat the drum, play on the fife, blow the bugle or trumpet, provided the number shall not exceed one person for the drum and one for the fife, or one for the bugle in each company, and one for the trumpet in each troop of horse. Every such person or persons shall be put under the instruction of the drum and fife major, the bugler or trumpeter as the case may be, whose duty it shall be to teach such person or persons, in the best manner in his power. And as soon as such person or persons shall be able to perform field duty to the satisfaction of the commanding officer of the regiment, or of the volunteer troop or company, to which he is attached, he shall draw his warrant in favour of the drum or fife major, the bugler or trampeter, who may have taught such person or

(1) The part in italic repealed by 29 Sep. 1843, § 1.

**1822.** persons as aforesaid, for the sum of ten dollars for every person so taught, to be paid by the proper brigade inspector; and the person so taught shall be furnished with a suit of uniform, to be paid for out of the funds of the brigade; and the father of every youth who shall have been instructed as aforesaid, shall be exempted and excused from training in the militia, so long as his son being a minor, shall continue to perform the duties of a drummer, fifer, bugler or trumpeter in any militia or volunteer company.

The father of every youth instructed, to be exempt.

Articles of regulation. LV. The following articles, rules and regulations, shall be those by which the militia of this commonwealth shall be governed, including volunteers.

Officers may be tried by courts martial. ART. I. All officers now in commission, or who may be elected or appointed under this act, shall be subject to be tried and punished by a court martial, in the manner herein mentioned; and general courts martial, or courts of inquiry may be composed of officers of either volunteers or militia, at the discretion of the officers ordering the same.

Punishment of commissioned officers. ART. II. If any field, or other commissioned, or staff officer, when the regiment, battalion, troop or company to which he may belong, or in which he holds a command, shall be paraded, shall misbehave or demean himself in a manner unbecoming an officer, or shall on any such occasion neglect or refuse to obey the orders of his superior officer; he shall for every such offence be cashiered or punished by fine, at the discretion of a general court martial, as the case may require in any sum not exceeding fifty dollars. And if any non-commissioned officer or private, shall on any parade of the troop or company to which he belongs, appear with his arms and accoutrements in an unfit condition, or be intoxicated, or shall disobey orders, or shall use any reproachful or abusive language to any of his officers, or shall quarrel, or promote any quarrel among his fellow soldiers, he shall be disarmed and put under guard by order of the commanding officer present, until the troop or company is dismissed, and shall be fined at the discretion of a regimental court martial, in any sum not exceeding twenty dollars, nor less than five.

Punishment of field officers for neglecting to assemble their commands. ART. III. If any general officer, field officer or brigade inspector, shall neglect or refuse to assemble his command when required to do so by the competent authority, or at any time or times authorized and required by law, or if any such officer shall neglect or refuse to perform any duty when directed by the proper authority, or which is required by this act, he shall be cashiered and punished by a fine not exceeding one hundred dollars, or either of them, at the discretion of a general court martial. And if any company officer shall neglect or refuse to assemble his command when required by law, or the competent authority, or if any such officer, or any staff officer of a general officer, or of any regiment or battalion, shall neglect or refuse to perform any duty when directed by the proper authority, or which is required by this act, he shall be cashiered and punished by a fine of thirty dollars, or either of them, at the discretion of the court martial; and any such court martial is further authorized to declare any officer cashiered, incapable of holding a commission in the militia or volunteers, for any term not exceeding seven years.

General courts martial. ART. IV. Every general court martial for the trial of offences against this act, and not assembled to try delinquents, for neglecting to perform tours of duty, shall consist of not less than five nor more than nine members, and of such rank as the case may require, and shall choose a president who shall be the senior officer, and not under the rank of a field officer. And every regimental court martial shall consist of three members, and shall choose a president who shall be the senior officer, and not under the rank of captain; and every court martial shall appoint a commissioned officer or other fit person to officiate as judge advocate. But no member of said courts shall be entitled to any pay or compensation, but the reasonable expenses incurred by the sitting of the said courts shall be paid by the proper brigade inspector.

Regimental courts martial.

Expenses of courts martial.

ART. V. In every court martial two-thirds of the members must agree in 1822.  
every sentence, or the person charged be acquitted.

ART. VI. The members of such courts martial shall take an oath or affirmation, which the president is required to administer to them, that they will decide and give judgment with impartiality; and one of the members so sworn or affirmed, shall swear or affirm the president in like manner; and the president of the said court shall require all witnesses to be sworn or affirmed that the evidence they shall give shall be the truth, the whole truth, and nothing but the truth; to be administered by him or the judge advocate.

ART. VII. Every court martial shall have power and authority to issue compulsory process against any persons, who shall neglect or refuse to attend to give evidence in any case therein depending after being duly summoned; which precept, as well for summoning as for enforcing obedience thereto, shall be signed by the president of the said court, and executed by a proper person, to be appointed by him.

ART. VIII. No officer or other person charged with any offence, shall be suffered to do duty in the brigade, regiment, battalion, troop or company to which he shall belong, until he shall have had his trial by a court martial: and every person shall be tried as soon as a court martial can be conveniently assembled; and every officer under arrest shall be furnished by the adjutant general, brigade inspector, adjutant or other person, as the case may require, with a copy of the charge or charges exhibited against him, at least ten days before his trial, that he may have an opportunity to prepare for his defence.

ART. IX. If any officer, non-commissioned officer or private shall think himself injured by his superior or commanding officer, and shall, on due application made to him, be refused redress, he may complain to the brigadier general, who may, if he thinks it proper, direct the brigade inspector to summon a general court martial that justice may be done.

ART. X. No penalty shall be inflicted by a court martial for any offence committed by an officer, non-commissioned officer, or private, whilst acting merely under the jurisdiction of this state, and not for neglect or refusal to perform a tour of military duty in actual service, other than cashiering rendering incapable of holding a commission, for any term not exceeding seven years, and fining, or either of them. And all fines imposed by any such offences, shall be collected and paid into the hands of the proper brigade inspector.

ART. XI. All persons charged with any offence, who may be tried and acquitted by a court martial, shall be notified thereof and immediately discharged from arrest.

ART. XII. General courts martial may be ordered in the following manner, to wit: For the trial of a major general, by the governor of the commonwealth; for the trial of a brigadier general, by the major general of the division; and for the trial of any colonel, brigade inspector, or other commissioned officer of the brigade, by the proper brigadier general. But in all cases where charges are preferred against an officer, the officer authorized to order a general court martial, may, if he thinks proper, direct a court of inquiry to examine and report the facts and circumstances; and if upon such report, the said officer shall deem a court martial necessary he shall order the same; and every court of inquiry shall consist of three members to be selected by the officer ordering the said court, who shall be sworn or affirmed diligently to inquire into, and truly report the facts and circumstances of the case referred to them; and courts of inquiry may, in like manner, be ordered by the proper officer, upon the request of any commissioned officer, and the junior officer shall act as recorder of every such court of inquiry.

Regimental courts martial may be ordered by the colonel or commanding officer of any regiment of volunteers or militia, or by the commanding

1822. officer of any battalion of volunteers, not part of a regiment; and the courts martial, officers authorised to order courts martial, or courts of inquiry, may refuse to order the same if they think the complaint or circumstances of such a nature as not to require it.

Sentence to be approved of by the proper officer. The sentence of every court martial must be approved of by the officer ordering the same, before it is carried into effect: and every said officer may disapprove of any such sentence, or, if having approved of the same, may remit the whole or any part thereof, and pardon the offender.

Proceedings of the court to be transmitted to brigade inspector. ART. XIII. As soon as the sentence of any court martial shall be approved by the proper officer, the proceedings of such court, shall be transmitted to the proper brigade inspector, who shall thereupon issue a warrant under his hand and seal, for any fine or fines imposed by the said court martial, to be levied and collected in the same manner as is prescribed and directed for fines for non-attendance on days of training. But if the said court martial was for the trial of a brigade inspector, then the brigadier general shall issue his warrant to any person he may appoint for the amount of the fine imposed, to be levied and collected in manner aforesaid.

Militia, when subject to U. S. rules. ART. XIV. The militia and volunteers of this state, while in the actual service of the state or of the United States, shall be subject to the same rules and regulations as the army of the United States.

Penalty for neglect of duty. LVI.<sup>1</sup> Every officer or other person, who shall fail or neglect to perform any duty enjoined and required by this act, and for which no penalty is fixed, shall forfeit and pay the sum of twenty dollars, to be recovered by the proper brigade inspector, as directed in other cases.

Penalty for selling liquor on days of parade within prescribed limits. LVII. It shall be unlawful for any person or persons, within half a mile of the limits, prescribed by any commanding officer, for the parade of his regiment, battalion, or company of volunteers or militia, to set up or have any booth, or stand, to dispose of any kind of liquor, or to dispose of the same by gift, sale, or in any manner whatever, without the consent of such commanding officer, except at stores or licensed inns. And if any person shall so set up or have any booth, or stand as aforesaid, the commanding officer is hereby authorized to cause the same to be prostrated and removed. And every person offending against the provisions of this section, shall further forfeit and pay the sum of twenty dollars, to any person who will sue for the same.

Commanding officer to fix limits. LVIII. The commanding officer of any regiment, battalion, or company, when his command is on parade or duty, is hereby authorized to fix certain limits to his place of parade, not to include any public highway, within which no spectator or by-stander shall enter without permission from the said commanding officer: and if any person shall intrude therein, or if any spectator or by-stander shall abuse, molest, strike, or otherwise ill treat any officer, non-commissioned officer, or private, when on parade, or in the performance of military duty, every person so offending, may be put under guard for any time not exceeding six hours, and shall moreover forfeit and pay the sum of ten dollars, to be recovered by any commissioned officer who will sue for the same, as debts of like amount are by law recoverable.

Penalty for intruding within. LIX. If any person or persons shall have knowingly sold, bought, taken, exchanged, concealed, or otherwise fraudulently or unlawfully received, held, or detained, or shall unlawfully hold, or detain, or shall refuse to deliver up to the proper brigade inspector, any arms, accoutrements, colours, drums, or other military property of this commonwealth, on any account or pretence whatsoever; the person so offending shall forfeit and pay for every such offence, treble the value of such property, to be recovered by the said brigade inspector in the name of the commonwealth of Pennsylvania, before any alderman or justice of the peace, of the proper city or county; and the amount so recovered shall be levied and collected of the

(1) For cases under this section. 2 S. & R. 75; 3 id. 169, n., 176, 590; 5 Whart. 1; 5 Am. Law Jour. 536; 4 S. & R. 83.

offender's goods and chattels, by distress and sale thereof, in the usual manner; but for want of sufficient goods and chattels, the offender shall be committed to the jail of the county, there to remain at the expense of the said county, for any term not exceeding one month, at the discretion of the alderman or justice, unless the amount recovered, with the costs, shall be sooner paid.

1822.

LX. When any doubts shall exist, as to the true construction of any part of this act, on a military subject, it shall be the duty of the adjutant general, to take to his assistance two general officers, and they or a majority of them, shall decide thereon; and which decision shall be conclusive as to the construction of the said act, and shall be recorded by the adjutant general in a book to be kept by him for that purpose; and a copy thereof certified by the adjutant general, shall always be legal evidence of the same.

The act to be construed by adjutant general and 2 general officers.

LXI. As soon as any portion of the militia of this commonwealth shall be required for the service of this state, or of the United States, and upon notice thereof by the adjutant general to any brigade inspector, the said brigade inspector shall immediately order the major and captains, or commanding officers of companies, of every battalion of militia, to assemble at a time and place to be fixed on by him, within the bounds of every such battalion, for the purpose of having the enrolled militia in the said companies, justly and fairly classed; and shall further order the said captains, or commanding officers of companies to produce full and complete rolls of all the persons subject to militia duty, in their said companies, to be sworn or affirmed to by them respectively: And the colonel of the regiment shall attend the meeting aforesaid for the first battalion; and the lieutenant colonel the meeting aforesaid, for the second battalion; and the said officers being so assembled, with the rolls aforesaid, the men composing said companies, shall be divided into ten parts, and the name of each and every person enrolled in said companies, shall be written on a small slip of paper, and carefully rolled up; and then shall be deposited by companies, beginning with the first company, in a box to be procured for that purpose, and the senior officer then present, shall draw from the said box, the names therein contained; and a person to be appointed by the senior officers present shall take down the names as drawn out; and the persons first drawn, making one tenth of the said company, shall form the first class. And the persons next drawn, making one tenth of said company, shall compose the second class; and so on in the same manner, until all the names in the said box shall be drawn and classed. And as soon as the said drawing for all the companies, in manner aforesaid, shall be completed, two lists of the said companies, thus classed, shall be made out to be signed by the proper commanding officer of the company and countersigned by the senior officer of the regiment present; one of which lists of each company, shall be delivered to the proper brigade inspector, by the said senior officer, as soon after as possible: and the other list shall be kept by the commanding officer of the company. And the officers engaged in drawing and taking down the names as aforesaid shall be first severally sworn or affirmed to perform the duty required of them, with fairness, impartiality, and fidelity. And the men of the several companies shall be liable to perform tours of duty in the order in which they are classed, beginning with the first class, and proceeding in numerical order; but no class shall be called on to perform any second tour of duty, until every other class in the company shall have first performed a tour of duty; nor shall any militia-man or volunteer, who performed a tour of duty by himself or substitute, or paid an equivalent therefor, during the late war, be compelled to perform any tour of duty, until all who have not served in the late war, shall have performed a tour of duty, or paid an equivalent therefor. And if any officer shall fail promptly to obey the order of the brigade inspector, requiring his attendance, or in producing the rolls of his company, as aforesaid, he shall forfeit and pay the sum of three hundred dollars. And if any officer shall have acted unfairly, and

Proceedings when militia required for service of the U. S.

Rolls to be made out.

Companies to be divided into 10 parts.

Formation of classes.

Two lists of classes to be made out, &c.

Officers classing to be on oath.

How men liable to perform tours of duty.

Penalty for disobedience of orders, fraudulent

**1822.** fraudulently in classing the militia as aforesaid, he shall forfeit and pay the sum of one hundred dollars, to be recovered by the party aggrieved as debts of equal amount are or shall be by law recoverable: and his commission shall be vacated. And it shall be the duty of the adjutant general, under the direction of the governor, to prescribe the manner in which commissioned officers shall be selected and assigned to any portion of the militia, to be called into service, to be announced in general orders, paying due regard to the rank of such officers, and which the several brigade inspectors, and all other officers shall execute, observe and be governed by, under the penalties before mentioned. And each of the said officers shall be entitled to one dollar per day, for his services in classing the militia as aforesaid.

**LXII.** The militia of this commonwealth may be called into actual service by the governor thereof, in case of a rebellion, or of an actual or threatened invasion of this or any neighbouring state; but no part thereof shall be detained in service, at any one time, longer than three months, under the mere requisitions of the governor, without the direction or assent of the president of the United States.

Whenever any part of the militia of this commonwealth shall be required for public service, by the president of the United States, if no particular description of troops shall have been required, the governor shall detach the number of men demanded in such proportions of the several description of troops, as he may think proper.

The commanding officer of any detachment, when called into actual service, shall have the power of supplying all vacancies which may occur in his detachment, and the persons nominated by him shall be commissioned by the governor. Troops of cavalry and companies of artillery, infantry and riflemen, shall be detached at the discretion of the commander-in-chief. If either or any of them shall be necessary as a part of the force required for public service, those companies nearest the rendezvous, that may be specified, shall in each instance, be the first detached; but no company shall be called to perform a second tour, until every other company, in its proper brigade, shall have performed its tour of service, unless in the opinion of the commander-in-chief, the urgency of any particular case may require it.

The time, manner, and regulations necessary for marching militia called into actual service, to the place of general rendezvous, unless defined in this act, shall be prescribed and published in general orders, by the commander-in-chief of the militia of this state.

When the president of the United States shall have made a requisition of a part of the militia of this state, for public service, the adjutant general shall take the most prompt and efficacious measure, for detaching and supplying with all necessary arms, equipments, ammunition and provisions, the number of men required, and for having them marched to the place or places of rendezvous. The general of division, or of brigade, to whom orders may be issued, shall take immediate measures, for having the number of militia required, called out and inspected by the proper brigade inspector: *Provided*, That volunteer troops and companies, shall be the first detached, and may be kept in service any time not exceeding six months.

Whenever any portion of the militia of this state, shall have been ordered into actual service, under a requisition from the president of the United States, or otherwise, the proper brigade inspector shall notify the commissioned officers, whose tour of duty it may be to serve in the detachment required, and all captains, or commanding officers of companies of the militia, within the bounds of such draft, whether required to serve in the detachment or otherwise, shall furnish to the proper brigade inspector, on or before the day appointed for inspection, an authenticated roll of the non-commissioned officers, musicians and privates, selected or drafted out

of his company, and it shall be the duty of the said captains, or commanding officers of companies to cause a written or printed notice to be served upon or left at the usual place of residence of each and every officer, non-commissioned officer, musician, and private, liable to serve, requiring every such person to attend at a time and place, to be in the said notice specified, and every such notice shall be served at least three days prior to the day fixed for marching to the place of rendezvous, unless upon any sudden emergency, when the said notice shall require immediate attendance for service. The form of the notice for non-commissioned officers and privates, shall be as follows:

1822.

“Take notice that you are hereby required personally, or by a sufficient substitute, to appear properly armed and equipped for service, at the day of to march when required. Given under my hand, &c.

A. B. captain or commanding officer.”

The governor shall select such general officer or officers as the nature of each case shall require, to proceed to the place of rendezvous, and take the command of the troops called into actual service. The officer who shall be selected for the chief command, shall immediately proceed to organize the detachment; whenever any detachment of the militia shall have been called into actual service, it shall be the duty of the proper brigade inspectors, to organize within their respective brigades, the militia detached therefrom, in such a manner as that the requisite number of company officers for the militia detached, shall march therewith to the place of general rendezvous.

The pay, rations and forage of the officers, non-commissioned officers and privates of the volunteers and militia called into the service of the United States or of this state, shall commence two days prior to their marching to the place or places of rendezvous, and each of the said officers, non-commissioned officers and privates, shall receive pay, rations and forage at the rate of sixteen miles per day, on their return home. For the service of the horse of each officer and member of a troop of cavalry, there shall be paid to the owner thereof, twenty-five cents per day; and for the service of each horse used by a company of artillery, there shall be paid twenty-five cents per day.

The governor of this commonwealth may, if he shall think proper, direct the cavalry, artillery, infantry or riflemen who may be called into actual service, to be formed into battalions or regiments.

Whenever any portion of the militia shall be ordered into actual service, it shall be the duty of the governor, through the adjutant general, to notify the brigade inspector, from whose brigade any such detachment may be required, whether the call of militia so made, is by order or requisition from the general government, or by the authority of the governor of this state, and also the time of service for which the said detachment may be required.

When any part of the militia shall have been called into actual service, the officer who may have the command of the detachment, about to march to the place of rendezvous, shall nominate to the proper brigade inspector, one of his staff or subaltern officers to act as paymaster, and also a subaltern to act as quarter master for the detachment, until it shall have arrived at the place of rendezvous, (if the detachment consist of but one company, a sergeant thereof shall act as quarter master) to whom, if he shall approve the choice, the brigade inspector shall advance such sum or sums as may be necessary for the pay and subsistence of the troops upon their march, taking duplicate receipts therefor from the pay master or quarter master, which shall also be endorsed by the commanding officer of the detachment. The officer so appointed pay master, or quarter master, shall keep exact accounts of the mode of expenditure, and when he shall have arrived at the place of rendezvous, shall transmit a statement thereof to the proper brigade

1822. inspector, charging two and one half per centum for the services thus rendered; and if any balance shall remain in his hands, he shall pay it over to such person, or in such manner as the proper brigade inspector shall have instructed him.

**How and by whom horses to be appraised.** The brigade inspector, and two reputable and disinterested citizens to be nominated by him, shall appraise the horse of each officer, who is entitled by the rules of war to keep a horse: and the horse of each member of a troop of cavalry, and each horse belonging to the artillery, immediately before every time of going into actual service, and enter such appraisement in a book; and in case such horse shall be killed or die in actual service, or be taken by the enemy, otherwise than by neglect of the owner; on his producing to the officers of the department of accounts, a certificate of the loss of said horse, signed by the commanding officer of the detachment to which he belonged whilst in actual service, together with a certificate of the valuation so as aforesaid directed to be made; he shall thereupon be paid the full amount of such appraisement, by an order to be drawn in the usual manner on the state treasurer, out of any money not otherwise appropriated.

**Pay and rations.** LXIII. The officers, non-commissioned officers and privates, when called into actual service, either on a requisition from the president of the United States, or under the orders of the governor of this state, shall receive the like pay and rations, and other emoluments as are or shall be allowed and granted by the said United States, to the officers, non-commissioned officers and privates of the regular army at the time they shall be in service, and the non-commissioned officers and privates shall be armed and equipped at the expense of the state, during said service.

**Period of service for which to receive clothing.** Whenever the militia of this state shall be called into actual service for the term of three months or more, they shall severally receive one uniform coat, one pair of overalls, and one pair of shoes. When called for the term of one year, they shall severally receive a full suit of uniform, consisting of one cap or hat, one stock and clasp, one vest, one uniform coat, two shirts, one pair of woolen overalls, one pair of linen overalls, one pair of stockings, one pair of socks, one frock, and one pair of shoes; which articles of clothing shall be distributed by orders of the adjutant general when the several corps shall have arrived at their respective places of rendezvous.

**The governor to draw for money, &c.** That in all cases of emergency where money may be wanted to organize, furnish or supply the militia of this commonwealth, who may be called into actual service, the governor is hereby authorized to draw his warrant on the state treasurer for the sum or sums of money, and to dispose of it in such manner as the exigency of the case may require.

**Of substitutes.** LXIV. It shall and may be lawful for any person called to perform a tour of duty to find a sufficient substitute, such substitute being approved of by the captain or commanding officer of the company in which he shall have offered to serve: *Provided always,* That if any substitute shall be called in his own turn, into actual service before the term expires, which he was to serve for his employer, then the person procuring such substitute shall march, or find a sufficient person to march in his said substitute's turn, or be liable to pay his fine for neglect; which fine is to be recovered as other fines for neglect of serving are by this act recoverable; and sons who are not subject to the militia law, may be admitted as substitutes for their fathers if approved of by the commanding officer of the company in which they shall be offered to serve.

**Penalties for officers neglecting, &c.** LXV. If any commissioned officer of the militia, shall have neglected or refused to serve when called into actual service, in pursuance of any order or requisition of the president of the United States, he shall be liable to the penalties defined in the act of congress of the United States, passed on the twenty-eighth day of February, one thousand seven hundred and ninety-five, that is to say, each and every officer having so offended, shall

forfeit a sum not exceeding one year's pay nor less than one month's pay, 1822.  
 to be determined and adjudged by a court martial, and shall moreover be  
 liable to be cashiered by sentence of a court martial, and to be incapacitated  
 from holding a commission in the militia for a term not exceeding  
 twelve months, at the discretion of the said court, or shall be liable to any  
 penalty prescribed by the acts of the congress of the United States now in  
 force, or that hereafter may be passed for the government of the militia  
 thereof.

Each and every non-commissioned officer, *musician* and private of the militia, who shall have neglected or refused to serve, when called into actual service in pursuance of an order or requisition of the president of the United States, shall be liable to the penalties defined in said acts of congress, or any acts that may be hereafter passed. Non-commissioned officers and privates.

Within one month after the expiration of the time for which any detachment of the militia shall have been called into the service of the United States, or after such detachment shall have been discharged by the proper authority, the proper brigade inspector shall summon a general court martial for the trial of such person or persons belonging to the detachment called out, who shall have refused or neglected to march therewith, or to furnish a sufficient substitute, of which delinquents, the proper brigade inspector shall furnish to the said court martial an accurate list. And as soon as the said court martial shall have decided in each of the cases which shall have been submitted to their consideration, the president thereof shall furnish to the *proper brigade inspector, and also to the accountant department*, a list of the delinquents fined, in order that the further proceedings directed to be had thereon, by the laws of this state or of the United States, may be completed. When and by whom general courts martial to be summoned.  
To whom lists of delinquents fined to be furnished.

LXVI. Each and every commissioned officer, who shall have neglected to perform his tour of duty, when called into the service of this state, by the governor thereof, shall pay a fine of thirty dollars for each and every month which he was called on to serve, and every private and non-commissioned officer who shall so neglect, shall pay the sum of sixteen dollars, for every month which he shall have been called on to serve: and it shall be the duty of the proper brigade inspector, immediately after the marching of any detachment, in the service of the state, to order a court martial, to consist of not less than five commissioned officers of the brigade, one of whom shall be a field officer, to meet at a time and place to be fixed on by the said brigade inspector; and of which public notice shall be given. And the court martial being assembled, shall be sworn or affirmed, to hear and determine all cases that may be submitted to them with justice and impartiality and according to law: And the said court shall be organized as courts martial in the United States' service. And the said brigade inspector shall furnish to the said court a list of all persons who neglected to perform their tour of duty in the state service, according to law. And the said court martial shall decide upon all cases brought before it, and having so decided the said court shall make out two lists of all such delinquents whose fines were not remitted, to be signed by the president of the said court, with a certificate, that the members of the said court were sworn and affirmed according to law: One of which lists shall be transmitted to the auditor-general, and the other delivered to the said brigade inspector; and the said brigade inspector shall, thereupon, issue one or more warrants, under his hand and seal for the collection of the said fines, to a constable or other fit person, which fines shall be collected and recovered, and all proceedings had on the said warrant or warrants in the same manner in all respects as is prescribed and directed in the case of fines for non-attendance on days of training. But if any person or persons against whom any such warrant shall issue as aforesaid, shall not have sufficient goods and chattels to pay and satisfy the amount of the fine incurred; every such person for want of the same, shall be committed to the jail of Penalty refusing to perform military duty on call of the governor.  
Courts martial may be ordered.  
Members to be on oath.  
How organized.  
Duty of brigade inspector.  
List of delinquents to be made out, &c.  
Proceedings for collecting fines.

**1822.** the proper county, for the term of twenty days for every month he was called on to serve in the militia, unless the said fines and costs are sooner paid, there to be supported by the said county. And every commissioned officer, who shall neglect or refuse to perform his tour of duty, when called into the service of this state, shall, in addition to the fine prescribed by this section, be cashiered and rendered incapable of holding a commission for any term not exceeding seven years, at the discretion of the court martial. And each member of the court martial, and the judge advocate, shall be entitled to one dollar per day, for every day necessarily employed on said court.

Additional punishment where officers refuse to perform, &c.  
Pay of.

**LXVII.** Whenever the militia of this commonwealth shall be ordered into the service of the state, it shall be the duty of the governor to appoint one or more pay masters, who shall, before he enters upon the duties of his appointment, give bonds to the governor with sufficient sureties in such amount as the governor shall think proper and necessary, conditioned for the faithful disposition of all money placed in his hands, and for the true performance of his duty. And every said paymaster shall receive from the state treasury, upon warrants to be drawn by the governor, such sums as will be necessary to pay the militia in the service of the state; and he shall attend at the camp of the said militia, before they are discharged, if practicable to pay them. And it shall be the duty of the several commanding officers of regiments, battalions, detachments, or companies in service, to furnish the pay-master with complete rolls, duly certified, of all officers, non-commissioned officers, musicians, and privates, stating the time they have respectively served, and for which they are entitled to pay, in order to make payment to them; and the said rolls shall be countersigned by the commanding officer.

Pay-masters to be appointed by the governor.

Duties.  
To be furnished with complete rolls, &c.

**LXVIII.** If any male person shall attempt to persuade any non-commissioned officer or private, when called into actual service, to desert, or shall attempt in any manner whatever, to dissuade or hinder any officer, non-commissioned officer or private, from marching with his proper detachment, when called into actual service; every person so offending, shall forfeit and pay the sum of one hundred dollars, to be sued for in the name of the commonwealth of Pennsylvania; to be recovered as debts of equal amount are by law recoverable by the proper brigade inspector, to be accounted for by him, in the settlement of his accounts. But for want of sufficient property to pay the same, such offender shall be committed to the jail of the proper county, there to remain for the term of thirty days, unless the said sum, with costs, shall be sooner paid.

Penalty on persons who shall persuade to desertion, &c.

How recovered.

**LXIX.** No *certiorari* or other writ, shall in any case issue from any court of law in this commonwealth, to remove any proceedings that shall be had in any court of appeal, or court martial, held under, and by virtue of the laws of this commonwealth, or under and by virtue of any law of the United States; and no court of law of this commonwealth or alderman or justice of the peace within the same, shall in any case hear or determine, or in any matter, take cognizance of appeals that may be offered or attempted from any sentence or decree, passed or made by any such court of appeal, or court martial; any law, usage or practice, or any construction of any clause of this act to the contrary in any wise notwithstanding. And if any justice of the peace, alderman, or judge of any of the courts of this commonwealth, shall issue, or cause to be issued, any writ or process, with a view to, or shall re-hear, examine, or obstruct the decision of any court of appeal, or court martial; any and every such justice of the peace, alderman, or judge, so having offended, shall be deemed, and held to be guilty of a misdemeanor in office; *Provided*, That nothing herein contained shall impair or affect the provisions of an act for the better securing personal liberty and preventing wrongful imprisonments, passed the eighteenth of February, one thousand seven hundred and eighty-five.

No judge, &c. to interfere with decisions.

Penalty.

All suits that may be brought against any person or persons, for any thing done in pursuance of this act, shall be commenced and tried in the county where the cause of action shall have arisen, and not elsewhere; and the defendant or defendants, may plead the general issue, and give this act, and the special matter in evidence; and if the jury shall find for the defendant or defendants, or if the plaintiff or plaintiffs shall be non-suited, or shall discontinue his or their action or actions, after the defendant or defendants shall have appeared, or if upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants, shall have treble costs,<sup>1</sup> and shall have the like remedy for the same, as any defendant or defendants hath or have in other cases, to recover costs by law, and the proceedings of courts of appeal and courts martial, shall, in no case whatever, be set aside or declared void by any judge or court of law, on the ground of informality, in such proceedings; and every judge who shall declare any such proceedings void, on the grounds before mentioned, shall be deemed guilty of a misdemeanor in office: *Provided*, Such courts of appeal, or courts martial, shall be constituted under the authority of the United States, or of this state. And it shall be the duty of the prosecuting attorney of the commonwealth, in the county in which any suit may be brought against an officer, for any thing done in pursuance of this act, to appear to, and defend the said suit on behalf of the commonwealth.

LXX. No civil process shall be served upon any officer, non-commissioned officer or private, when going to, whilst attending at, or when returning from any parade, for disciplining any part of the volunteers or militia.

No execution or other process shall issue against any officer, non-commissioned officer, or private of the militia, when called into actual service, under a requisition from the president of the United States, or in pursuance of the orders of the governor of this commonwealth: nor shall any such process issue against him, until thirty days after he shall have returned from duty, to his usual place of residence, or until forty days after he shall have been discharged; and the court, alderman, or justice of the peace, from which or from whom any such process shall have issued, shall quash the same, as soon as the fact of any such person being ordered on public duty, shall have been proven, and all the costs which shall have accrued in commencing or conducting any such process, shall be paid by the person or persons, who shall have applied for the said execution or other process.

The uniform, arms, and accoutrements of every volunteer or any person enrolled in the militia of this commonwealth, and the horse furniture of every person entitled to use a horse in the militia or volunteers of this state, shall be exempt from all suits, distress, executions, or sales for debt, or for the payment of taxes.

LXXI. If any person subject to be enrolled as is provided for in the ninth section of this act, shall, on or before the first day of April, in any year, pay to the county treasurer for the use of the commonwealth, the sum of two dollars, and produce a receipt therefor, to the captain or commanding officer of the company to which he belongs, on or before the day of company training, but not otherwise, such captain or commanding officer, shall set down in his roll, such person as exempt from military duty for one year, from said first day of April, and shall in his return to the proper court of appeal, designate such person as exempt from duty, and said court of appeal shall return each exempt as such to the brigade inspector; who shall transmit the same to the auditor general: *Provided*, That nothing in this act contained, shall exempt such person from being enrolled as a militia man, or from being called into actual service in time of war, as others who are not exempted as herein provided: *Provided also*, That the

(1) The costs are to be trebled, and not counted according to the English rule. 2 Rawle, 201.

1822. person so exempted shall not be entitled to vote at any election for military officers during the time he shall be so exempted. And said receipt shall be in the following form, to wit: " \_\_\_\_\_ has paid me two dollars for the use of the commonwealth, and is exempt from military duty for one year, \_\_\_\_\_ Treasurer of \_\_\_\_\_ county." And the treasurer of the county, shall account for the monies received in pursuance of this section, at the same time, in the same manner, and under the same penalty as he shall account for monies received from tavern licenses, and shall be entitled to the same commission.

Form of receipt.

Treasurer to account.

Brigade inspector to take charge of the state arsenals. Additional compensation.

Repeal.

Duty of the adjutant general to visit the arsenals.

To make report to the legislature. Compensation.

LXXII. It shall be the duty of the brigade inspectors to take charge of the state arsenals or depot of arms and military stores, the property of this commonwealth, established within their respective brigades; and the brigade inspectors who shall have charge of the arsenals at Philadelphia, Harrisburg, and Meadville, shall each receive the sum of one hundred dollars, in addition to their other compensation allowed by this act, and their duties shall be the same as that directed to be performed by the fourth section of the act, entitled "An act to provide for the erection of two arsenals," so much of the said act as provides for the appointment and compensation of state armourers, being repealed.

LXXIII. It shall be the duty of the adjutant general, as soon after the passage of this act, as conveniently may be, and as much oftener as he may deem it advisable, to visit the arsenals<sup>1</sup> of this commonwealth, and examine and inspect the arms and public property therein deposited; and he shall establish such regulations for the preservation and safe keeping of the same, as he may find necessary and proper; and which the brigade inspectors having the same in charge, are hereby required to strictly observe and attend to, under the same penalty as in other cases for neglect of duty; and the said adjutant general in his annual report to the legislature shall return the state and condition of the said arms and public property, and shall make such other representations as he may deem necessary for the information of the legislature. And the said adjutant general shall receive as a compensation, in addition to his annual salary for his services and expenses in performing the duty herein required for the ensuing year, two hundred and fifty dollars, to be paid out of the state treasury.

LXXIV., LXXV., LXXVI., LXXVII., LXXVIII. [Are temporary, except the part of the 75th section which is retained.]

LXXV. And it shall be the duty of the adjutant general, under the direction of the governor, to designate and receive such kind of arms from the United States, as shall be deemed necessary and proper for the military service of the commonwealth, and cause the same to be deposited in the most convenient arsenals, to be disposed of agreeably to the provisions of this act.

LXXIX. All officers of the volunteers or militia elected or appointed under any former law, or who may hereafter be elected or appointed, or in case of their death, their executors and administrators are hereby required under the penalty of one hundred dollars, to deliver over to the successors of such officers, all books, records, documents and papers in anywise appertaining to their said offices; which penalty shall be recovered for the use and in the name of the commonwealth of Pennsylvania, by any person who may sue for the same: *Provided, however,* That the provisions and penalties contained in the twelfth and fiftieth sections of this act, relative to adjutant general and brigade inspectors, shall not be altered, affected or impaired hereby.

LXXX. [Obsolete.]

LXXXI. and LXXXII. [Repeal former laws.]

Passed 2d April, 1822.—7 Sm. L. p. 607.

Adjutant general to designate the kind of arms to be received from the U. States.

Officers to deliver to their successors, records, &c.

(1) The Meadville arsenal once in three years. 14 April, 1827, § 6; 9 Sm. 398.

submitting plan and estimate for its improvement; and the Chief of Engineers shall submit to the Secretary of War the reports of the local and division engineers, with his views thereon and his opinion of the public necessity or convenience to be subserved by the proposed improvement; and all such reports of preliminary examinations with such recommendations as he may see proper to make, shall be transmitted by the Secretary of War to the House of Representatives, and are hereby ordered to be printed when so made.

Reports to be sent to House of Representatives and printed.

Appropriation for examinations, etc.

SEC. 8. For preliminary examinations, contingencies, expenses connected with inspection of bridges, the service of notice required in such cases, the examination of bridge sites and reports thereon, and for incidental repairs for which there is no special appropriation for rivers and harbors, one hundred and twenty-five thousand dollars: *Provided*, That no preliminary examination, survey, project, or estimate for new works other than those designated in this act shall be made: *And provided further*, That after the regular or formal report on any examination, survey, project, or work under way or proposed is submitted, no supplemental or additional report or estimate, for the same fiscal year, shall be made unless ordered by a resolution of Congress. The Government shall not be deemed to have entered upon any project for the improvement of any water way or harbor mentioned in this act until funds for the commencement of the proposed work shall have been actually appropriated by law.

*Provisos.*  
No survey, etc., unless provided for.

No supplemental reports, etc., to be made.

No project authorized until appropriation made.

Approved, July 13, 1892.

July 13, 1892.

**CHAP. 159.**—An Act to punish the carrying or selling of deadly or dangerous weapons within the District of Columbia, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it shall not be lawful for any person or persons within the District of Columbia, to have concealed about their person any deadly or dangerous weapons, such as daggers, air-guns, pistols, bowie-knives, dirk knives or dirks, blackjacks, razors, razor blades, sword canes, slung shot, brass or other metal knuckles.

District of Columbia.

Carrying concealed weapons forbidden.

SEC. 2. That it shall not be lawful for any person or persons within the District of Columbia to carry openly any such weapons as hereinbefore described with intent to unlawfully use the same, and any person or persons violating either of these sections shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, for the first offense, forfeit and pay a fine or penalty of not less than fifty dollars nor more than five hundred dollars, of which one half shall be paid to any one giving information leading to such conviction, or be imprisoned in the jail of the District of Columbia not exceeding six months, or both such fine and imprisonment, in the discretion of the court: *Provided*, That the officers, non-commissioned officers, and privates of the United States Army, Navy, or Marine Corps, or of any regularly organized Militia Company, police officers, officers guarding prisoners, officials of the United States or the District of Columbia engaged in the execution of the laws for the protection of persons or property, when any of such persons are on duty, shall not be liable for carrying necessary arms for use in performance of their duty: *Provided further*, that nothing contained in the first or second sections of this act shall be so construed as to prevent any person from keeping or carrying about his place of business, dwelling house, or premises any such dangerous or deadly weapons, or from carrying the same from place of purchase to his dwelling house or place of business or from his dwelling house or place of business to any place where repairing is done, to have the same repaired, and back again: *Provided further*, That nothing contained in the first or second sections of this act shall be so construed as to apply to any person who shall have been granted a written permit to carry such weapon or weapons by any judge of the police court of the District

Openly carrying weapons with unlawful intent forbidden.

Punishment, first offense.

*Provisos.*  
Exceptions.

Lawful use of weapons.

Permits.

of Columbia, and authority is hereby given to any such judge to grant such permit for a period of not more than one month at any one time, upon satisfactory proof to him of the necessity for the granting thereof; and further, upon the filing with such judge of a bond, with sureties to be approved by said judge, by the applicant for such permit, conditioned to the United States in such penal sum as said judge shall require for the keeping of the peace, save in the case of necessary self-defense by such applicant during the continuance of said permit, which bond shall be put in suit by the United States for its benefit upon any breach of such condition.

SEC. 3. That for the second violation of the provisions of either of the preceding sections the person or persons offending shall be proceeded against by indictment in the supreme court of the District of Columbia, and upon conviction thereof shall be imprisoned in the penitentiary for not more than three years.

Punishment, second offense.

SEC. 4. That all such weapons as hereinbefore described which may be taken from any person offending against any of the provisions of this act shall, upon conviction of such person, be disposed of as may be ordered by the judge trying the case, and the record shall show any and all such orders relating thereto as a part of the judgment in the case.

Disposition of weapons taken from offenders.

SEC. 5. That any person or persons who shall, within the District of Columbia, sell, barter, hire, lend or give to any minor under the age of twenty-one years any such weapon as hereinbefore described shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, pay a fine or penalty of not less than twenty dollars nor more than one hundred dollars, or be imprisoned in the jail of the District of Columbia not more than three months. No person shall engage in or conduct the business of selling, bartering, hiring, lending, or giving any weapon or weapons of the kind hereinbefore named without having previously obtained from the Commissioners of the District of Columbia a special license authorizing the conduct of such business by such person, and the said Commissioners are hereby authorized to grant such license, without fee therefor, upon the filing with them by the applicant therefor of a bond with sureties to be by them approved, conditioned in such penal sum as they shall fix to the United States for the compliance by said applicant with all the provisions of this section; and upon any breach or breaches of said condition said bond shall be put in suit by said United States for its benefit, and said Commissioners may revoke said license. Any person engaging in said business without having previously obtained said special license shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not less than one hundred dollars nor more than five hundred dollars, of which one half shall be paid to the informer, if any, whose information shall lead to the conviction of the person paying said fine. All persons whose business it is to sell barter, hire, lend or give any such weapon or weapons shall be and they hereby, are, required to keep a written register of the name and residence of every purchaser, barterer, hirer, borrower, or donee of any such weapon or weapons, which register shall be subject to the inspection of the major and superintendent of Metropolitan Police of the District of Columbia, and further to make a weekly report, under oath to said major, and superintendent of all such sales, barterings, hirings, lendings or gifts. And one half of every fine imposed under this section shall be paid to the informer, if any, whose information shall have led to the conviction of the person paying said fine. Any police officer failing to arrest any person guilty in his sight or presence and knowledge of any violation of any section of this act shall be fined not less than fifty nor more than five hundred dollars

Punishment for sale of weapons to minors.

Special license for dealers in weapons.

Penalty for dealing without license.

Register of sales, etc.

Half of fine to informer.

Penalty for failure to arrest by officers.

Repeal.

SEC. 6. That all acts or parts of acts inconsistent with the provisions of this act be, and the same hereby are, repealed.

Approved, July 13, 1892.

July 13, 1892.

**CHAP. 160.**—An act authorizing The Aransas Harbor Terminal Railway Company to construct a bridge across the Corpus Christi Channel, known as the Morris and Cummings Ship Channel, in Aransas County, Texas.

Aransas Harbor and Terminal Railway Company may bridge Corpus Christi Channel, Tex.

Railway bridge.

Draw.

Provisos.

Opening draw.

Lights, etc.

Unobstructed navigation.

Litigation.

Existing laws not affected.

Use by other companies.

Terms.

Secretary of War to approve plans, etc.

Changes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That The Aransas Harbor Terminal Railway Company, a corporation chartered under the laws of the State of Texas, is hereby authorized and empowered to erect, construct, maintain, and operate a bridge over and across the Corpus Christi Channel, known as the Morris and Cummings Ship Channel, in Aransas County, Texas. Said bridge shall be constructed to provide for the passage of railway trains on and over a double or single track as said Aransas Harbor Terminal Railway Company may elect.

**SEC. 2.** That said bridge shall be constructed with a draw or turn of sufficient capacity to afford free passage to such vessels and boats as navigate said channel: *Provided,* That said bridge shall be opened promptly upon reasonable signal for the passage of boats and other water craft, except when trains are passing over the draw or turn; but in no case shall unnecessary delay occur in opening the draw or turn after the passage of trains or at any other time; and the said Aransas Harbor Terminal Railway Company shall maintain at its own expense, from sunset to sunrise, such lights or other signals on said bridge as the United States Light-House Board shall prescribe. And no bridge shall be erected and maintained under the authority of this act which shall at any time substantially or materially obstruct the free navigation of said channel; and if any bridge erected under such authority shall, in the opinion of the Secretary of War, obstruct such navigation, he is hereby authorized to cause such change or alteration of such bridge to be made as will effectually obviate such obstruction, and all such alterations shall be made and all such obstructions be removed at the expense of the owner of said bridge. And in case of any obstruction, or alleged obstruction, to the navigation of said channel, caused, or alleged to be caused, by said bridge, the case may be brought in the circuit court of the United States in which any portion of said obstruction or bridge may be located: *Provided further,* That nothing in this act shall be so construed as to repeal any or modify any of the provisions of law now existing in reference to the protection of navigation of rivers, or to exempt this bridge from the operations of the same. That all railroad companies desiring the use of any bridge constructed under this act shall have and be entitled to equal rights and privileges relative to the passage of railway trains or cars over the same and over the approaches thereto upon payment of a reasonable compensation for such use; and in case the owner or owners of said bridge, and the several railroad companies, or any one of them desiring such use, shall fail to agree upon the sum or sums to be paid, and upon rules and conditions to which each shall conform in using said bridge, all matters at issue between them shall be decided by the Secretary of War upon a hearing of the allegations and proofs of the parties.

**SEC. 3.** That any bridge authorized to be constructed under this act shall be located and built under and subject to such regulations for the security of said channel as the Secretary of War shall prescribe; and to secure that object, the said corporation shall, at least two months previous to the commencement of the construction of said bridge, submit to the Secretary of War, for his examination and approval, a design and drawing of the bridge and a map of the location, giving such information as may be necessary to enable the Secretary of War to judge of the proper location of said bridge, and shall furnish such information as may be required for a full and satisfactory understanding of the subject; and until such plan and location of the bridge are approved by the Secretary of War, the bridge shall not be built; and should any change be made in the plan of said bridge during the progress of construction or after completion such change shall be subject to the approval of the Secretary of War.

New York (City)  
**ORDINANCES**

OF THE

**Mayor, Aldermen and Commonalty**

OF THE

**CITY OF NEW YORK,**

**IN FORCE JANUARY 1, 1881;**

REVISED BY

**ELLIOTT F. SHEPARD<sup>itch</sup> AND EBENEZER B. SHAFER,**

**COMMISSIONERS APPOINTED FOR THAT PURPOSE.**

**ADOPTED BY THE COMMON COUNCIL AND PUBLISHED BY THEIR AUTHORITY.**

**NEW YORK:**

**MARTIN B. BROWN, PRINTER AND STATIONER,**

**NOS. 49 AND 51 PARK PLACE.**

**1881.**

**Surplus.** SEC. 260. The surplus money, if any, arising from any such sale, after deducting the amount of the loan, the interest then due on the same, and the expenses of the advertisement and sale, shall be paid over by the pawnbroker, loanbroker, or keeper of a loan office, to the person who would be entitled to redeem the pledge in case no such sale had taken place.

**Regulations** SEC. 261. No pawnbroker, loanbroker or keeper of a loan office shall make any loan on the separate or divided part or parts of any one article or thing, and which article or thing shall have been offered entire or collectively to him or her by way of pawn or pledge.

**Ibid.** SEC. 262. No pawnbroker, loanbroker, or keeper of a loan office, shall, under any pretense whatever, purchase or buy any second-hand furniture, metals or clothes, or any other article or thing whatever, offered to him or her as a pawn or pledge.

**Penalties.** SEC. 263. Every pawnbroker, loanbroker, or keeper of a loan office, who shall violate or neglect or refuse to comply with any or either of the provisions of sections of this article shall, for every such offense, forfeit and pay the sum of one hundred dollars.

## ARTICLE XXVII.

### *Carrying of Pistols.*

**Concealed weapons.** SEC. 264. Every person, except judges of the federal, state and city courts, and officers of the general, state and municipal governments, authorized by law to make arrests, and persons to whom permits shall have been issued, as hereinafter provided, who shall have in his

## MISCELLANEOUS ORDINANCES.

215

possession within the city of New York a pistol of any description concealed on his person, or not carried openly, shall be deemed guilty of a misdemeanor, and shall be punished, on conviction, by a fine not exceeding ten dollars, or, in default of payment of such fine, by imprisonment not exceeding ten days.

SEC. 265. Any person, except as provided in this article, who has occasion to carry a pistol for his protection, may apply to the officer in command at the station-house of the precinct where he resides, and such officer, if satisfied that the applicant is a proper and law-abiding person, shall give said person a recommendation to the superintendent of police, or the inspector in command at the central office in the absence of the superintendent, who shall issue a permit to the said person, allowing him to carry a pistol of any description. Any non-resident who does business in the city of New York, and has occasion to carry a pistol while in said city, must make application for permission to do so to the officer in command of the station-house of the police precinct in which he so does business, in the same manner as is required by residents of said city, and shall be subject to the same conditions and restrictions.

Permits to carry pistols

SEC. 266. If, at the time of the arrest, a pistol of any description shall be found concealed on the person of, or not carried openly by any one arrested, the officer making the arrest shall state such fact to the police magistrate before whom the prisoner is brought, and shall make a separate complaint against such prisoner for violation of the provisions of this article.

Complaint for carrying concealed weapons.

Revocation  
of permis-  
sion to carry  
pistols.

SEC. 267. The commissioners of police of the police department of the city of New York are hereby authorized and empowered, for reasons appearing to be satisfactory to them, by a vote of a majority of a quorum of said commissioners on ayes and noes, to annul or revoke any permission given under this article. All persons to whom such permission shall be given are hereby declared to be individually responsible for their own acts, or the consequences that may arise from the use of pistols carried under the permission to be obtained as provided in this article.

ARTICLE XXVIII.

*Snow-ploughs and Sweeping-machines by Railroad Companies and others in the City of New York.*

Snow-  
ploughs.

SEC. 268. It shall not be lawful for any or either of the street or horse-car railroads or stage companies, proprietors or corporations, within the limits of the city of New York, or their officers, agents or servants, to cause or allow any snow-plough, sweeping-machine or other similar instrument to pass over the tracks or lines occupied or used by them within the said limits, unless by the express permission in that behalf to be granted to them by the mayor.

Sweeping-  
machines.

Fines.

SEC. 269. Any of the said companies, proprietors or corporations who shall violate the provisions of the above section, shall be punished by a fine not exceeding one hundred dollars for each offense, and the officers, agents or servants of such companies, proprietors or corporations who shall violate the said provisions

PROCEEDINGS

MAYOR'S  
OFFICE.

OF THE

BOARD OF ALDERMEN

OF THE

CITY OF NEW YORK.

From January 7 to March 26, 1878.

VOL. CXLIX.



New York:

MARTIN B. BROWN, PRINTER AND STATIONER

201, 203 & 205 WILLIAM STREET.

1878.

By Alderman Morris—

AN ORDINANCE

TO REGULATE THE CARRYING OF PISTOLS IN THE CITY OF  
NEW YORK.

*Whereas*, In a large portion of the arrest made by the police for disorderly conduct or intoxication, the persons so arrested are found to have on them at the time a pistol of some kind, and as the records of the criminal courts will show that in the largest portion of the arrests for murder or felonious assault the criminal claims he was drunk ; and was, therefore, unfit to carry any weapon of any kind, particularly as the majority of those arrested are twenty-five years of age, and as such persons are always ready and willing to insult respectable citizens, and draw a pistol on any and every occasion, while the better and law-abiding class try to obey the laws and protect themselves with nothing but nature's weapons ; therefore, be it ordained by the Mayor, Aldermen, and Commonalty of the City of New York, in Common Council convened, as follows :

SECTION 1. Every person, except Judges of the Federal, State, and Municipal governments, authorized by law to make arrests, and persons to whom permits shall have been issued, as hereinafter provided, who shall have in his possession, within the City of New York, a pistol of any description, concealed on his person, or not carried openly,

*January 7.]*

shall be deemed guilty of a misdemeanor, and shall be punished, on conviction, by a fine not exceeding ten dollars, or in default of payment of such fine, by imprisonment not exceeding ten days.

SEC. 2. Any person, except as provided in section 1 of the ordinance, who has occasion to carry a pistol for his protection, may apply to the officer in command at the Station-house of the Precinct where he resides, and such officer, if satisfied that the applicant is a proper and law-abiding person, shall give said person a recommendation to the Superintendent of Police, or the inspector in command at the Central Office in the absence of the Superintendent, who shall issue a permit to the said person allowing him to carry a pistol of any description.

SEC. 3. If, at the time of the arrest, a pistol of any description shall be found concealed on the person of, or not carried openly by, any one arrested for disorderly conduct or intoxication, the officer making the arrest shall state such fact to the Police Magistrate before whom the prisoner is brought, and shall make a separate complaint against such prisoner for violation of this ordinance.

SEC. 4. This ordinance shall take effect immediately.

Which was referred to the Committee on Law Department, when appointed.

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(G. O. 43.)

The Committee on Law Department, to whom was referred the accompanying communication from the Counsel to the Corporation, with an ordinance to regulate the carrying of pistols in the City of New York, respectfully

REPORT:

That the ordinance so submitted by the Counsel to the Corporation was considered and amended by your Honorable Body at a meeting held on the 23d of October, 1877, and before reference to your Committee.

As your Honorable Body did not indicate what other amendments, if any, were necessary or desirable, or give your Committee any instruction, and as the ordinance was originally prepared by the law officer of the city, it is fair to presume that it is perfect.

As to the necessity for the passage of the ordinance there can be no question. The reckless use of fire-arms by the dangerous classes in this city is proverbial, and this measure of repression seems to be necessary. Your Committee therefore respectfully recommends the adoption of the ordinance.

AN ORDINANCE

TO REGULATE THE CARRYING OF PISTOLS IN THE CITY OF NEW YORK.

Whereas, In a large portion of the arrests made by the police for disorderly conduct or intoxication, the persons

*February 12.]*

368

so arrested are found to have on them at the time a pistol of some kind, and as the records of the criminal courts will show that in the largest portion of the arrests for murder or felonious assault the criminal claims he was drunk, and was, therefore, unfit to carry any weapon of any kind, particularly as the majority of those arrested are twenty-five years of age, and as such persons are always ready and willing to insult respectable citizens, and draw a pistol on any and every occasion, while the better and law-abiding class try to obey the laws and protect themselves with nothing but nature's weapons; therefore be it ordained by the Mayor, Alderman, and Commonalty of the City of New York, in Common Council convened, as follows :

SECTION 1. Every person, except judges of the Federal, State, and municipal governments, authorized by law to make arrests, and persons to whom permits shall have been issued, as hereinafter provided, who shall have in his possession within the City of New York a pistol of any description, concealed on his person, or not carried openly, shall be deemed guilty of a misdemeanor, and shall be punished, on conviction, by a fine not exceeding ten dollars, or, in default of payment of such fine, by imprisonment not exceeding ten days.

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[February 12.

officer, if satisfied that the applicant is a proper and law-abiding person, shall give said person a recommendation to the Superintendent of Police, or the inspector in command at the Central Office in the absence of the Superintendent, who shall issue a permit to the said person, allowing him to carry a pistol of any description.

SEC. 3. If, at the time of the arrest, a pistol of any description shall be found concealed on the person of, or not carried openly by, any one arrested for disorderly conduct or intoxication, the officer making the arrest shall state such fact to the police magistrate before whom the prisoner is brought, and shall make a separate complaint against such prisoner for violation of this ordinance.

SEC. 4. This ordinance shall effect immediately.

J. C. WAEHNER, } Committee  
GEO. HALL, } on  
J. C. PINCKNEY, } Law Department.

Which was laid over.

The Committee on Salaries and Offices, to whom were referred at different times resolutions in favor of appointing sundry persons as Commissioners of Deeds, respectfully

REPORT

For your adoption the following resolution :

*Resolved*, That the following-named persons be and they are hereby appointed Commissioners of Deeds in and

*February* 19.]

460

The President put the question whether the Board would agree with said resolution.

Which was decided in the affirmative, on a division, viz. :

AFFIRMATIVE—The President, Aldermen Biglin, Carroll, Ehrhart, Gedney, Guntzer, Hall, Jacobus, Keenan, Kiernan, Lewis, Morris, Perley, Phillips, Pinckney, Slevin, and Waehner—17.

Alderman Morris called up

G. O. 43,

being a preamble and ordinance, as follows :

*Whereas*, In a large portion of the arrests made by the police for disorderly conduct or intoxication, the persons so arrested are found to have on them at the time a pistol of some kind, and as the records of the criminal courts, will show that in the largest portion of the arrests for murder or felonious assault the criminal claims he was drunk, and was, therefore unfit to carry any weapon of any kind, particularly as the majority of those arrested are twenty-five years of age, and as such persons are always ready and willing to insult respectable citizens, and draw a pistol on any and every occasion, while the better and law-abiding class try to obey the laws and protect themselves with nothing but nature's weapons; therefore be it ordained by the Mayor, Aldermen, and Commonalty of

the City of New York, in Common Council convened, as follows :

SECTION 1. Every person, except judges of the Federal, State, and municipal governments, authorized by law to make arrests, and persons to whom permits shall have been issued, as hereinafter provided, who shall have in his possession within the City of New York a pistol of any description, concealed on his person, or not carried openly, shall be deemed guilty of a misdemeanor, and shall be punished, on conviction, by a fine not exceeding ten dollars, or, in default of payment of such fine, by imprisonment not exceeding ten days.

SEC. 2. Any person, except as provided in section 1 of the ordinance, who has occasion to carry a pistol for his protection, may apply to the officer in command at the station-house of the precinct where he resides, and such officer, if satisfied that the applicant is a proper and law-abiding person, shall give said person a recommendation to the Superintendent of Police, or the inspector in command at the Central Office in the absence of the Superintendent, who shall issue a permit to the said person allowing him to carry a pistol of any description.

SEC. 3. If, at the time of the arrest, a pistol of any description shall be found concealed on the person of, or not carried openly by, any one arrested for disorderly conduct or intoxication, the officer making the arrest shall

*February 19.]* 462

state such fact to the police magistrate before whom the prisoner is brought, and shall make a separate complaint against such prisoner for violation of this ordinance.

SEC. 4. This ordinance shall take effect immediately.

The President put the question whether the Board would agree with said ordinance.

Which was decided in the affirmative, on a division, viz. :

AFFIRMATIVE—The President, Aldermen Biglin, Carroll, Ehrhart, Gedney, Hall, Jacobus, Keenan, Kiernan, Lewis, Morris, Perley, Phillips, Pinckney, Slevin, and Waehner—16.

MOTIONS AND RESOLUTIONS AGAIN RESUMED.

Alderman Pinckney moved that the Board do now adjourn.

The President put the question whether the Board would agree with said motion.

Which was decided in the affirmative.

And the President announced that the Board stood adjourned until Tuesday, February 26, 1878, at 2 o'clock

P. M.

FRANCIS J. TWOMEY,  
*Clerk.*

*March 12.]*

612

MOTIONS AND RESOLUTIONS RESUMED.

By Alderman Morris—

AN ORDINANCE

TO AMEND AN ORDINANCE ENTITLED "AN ORDINANCE TO REGULATE THE CARRYING OF PISTOLS IN THE CITY OF NEW YORK," PASSED FEBRUARY 28, 1878.

*The Mayor, Aldermen, and Commonalty of the City of New York, do ordain as follows :*

SECTION 1. Section 2 of the above-entitled ordinance is hereby amended by adding thereto at the end thereof the following: "Any non-resident who does business in the City of New York, and has occasion to carry a pistol while in said city, must make application for permission to do so to the officer in command of the station-house of the police precinct in which he so does business, in the same manner as is required by residents of said city, and shall be subject to the same conditions and restrictions."

SEC. 2. Section 3 of the above-entitled ordinance is hereby amended by striking therefrom the words "for disorderly conduct or intoxication."

SEC. 3. Section 4 of said ordinance shall read as follows:

§ 4. The Commissioners of Police of the Police Department of the City of New York are hereby author-

ized and empowered, for reasons appearing to be satisfactory to them, by a vote of a majority of a quorum of said Commissioners on ayes and noes, to annul or revoke any permission given under this ordinance. All persons to whom such permission shall be given are hereby declared to be individually responsible for their own acts, or the consequences that may arise from the use of pistols carried under the permission to be obtained as provided in this ordinance.

SEC. 4. Section 4 of said ordinance shall be numbered section 5, so that said ordinance when so amended shall read as follows :

AN ORDINANCE

TO REGULATE THE CARRYING OF PISTOLS IN THE CITY OF NEW YORK.

*Whereas,* In a large portion of the arrests made by the police for disorderly conduct or intoxication, the persons so arrested are found to have on them at the time a pistol of some kind, and as the records of the criminal courts will show that in the largest portion of the arrests for murder or felonious assault the criminal claims he was drunk, and was, therefore, unfit to carry any weapon of any kind, particularly as the majority of those arrested are twenty-five years of age, and as such persons are always ready and willing to insult respectable citizens, and draw a pistol on any and every occasion, while the better and

*March 12.]* , 614

law-abiding class try to obey the laws and protect themselves with nothing but nature's weapons; therefore be it ordained by the Mayor, Aldermen, and Commonalty of the City of New York, in Common Council convened, as follows:

SECTION 1. Every person, except judges of the Federal, State and city courts, and officers of the general, State, and municipal governments, authorized by law to make arrests, and persons to whom permits shall have been issued, as hereinafter provided, who shall have in his possession within the City of New York a pistol of any description, concealed on his person, or not carried openly, shall be deemed guilty of a misdemeanor, and shall be punished, on conviction, by a fine not exceeding ten dollars, or, in default of payment of such fine, by imprisonment not exceeding ten days.

SEC. 2. Any person, except as provided in section 1 of the ordinance, who has occasion to carry a pistol for his protection, may apply to the officer in command at the station-house of the precinct where he resides, and such officer, if satisfied that the applicant is a proper and law-abiding person, shall give said person a recommendation to the Superintendent of Police, or the inspector in command at the Central Office in the absence of the Superintendent, who shall issue a permit to the said person allowing him to carry a pistol of any description. Any non-

resident who does business in the City of New York, and has occasion to carry a pistol while in said city, must make application for permission to do so to the officer in command of the station-house of the police precinct in which he so does business, in the same manner as is required by residents of said city, and shall be subject to the same conditions and restrictions.

SEC. 3. If, at the time of the arrest, a pistol of any description shall be found concealed on the person of, or not carried openly by, any one arrested, the officer making the arrest shall state such fact to the police magistrate before whom the prisoner is brought, and shall make a separate complaint against such prisoner for violation of this ordinance.

SEC. 4. The Commissioners of Police of the Police Department of the City of New York are hereby authorized and empowered, for reasons appearing to be satisfactory to them, by a vote of a majority of a quorum of said Commissioners on ayes and noes, to annul or revoke any permission given under this ordinance. All persons to whom such permission shall be given are hereby declared to be individually responsible for their own acts, or the consequences that may arise from the use of pistols carried under the permission to be obtained as provided in this ordinance.

SEC. 5. This ordinance shall take effect immediately.

*March 12.]*

616

The President put the question whether the Board would agree with said ordinance.

Which was decided in the affirmative, on a division, viz. :

AFFIRMATIVE — The President, Aldermen Bennett, Biglin, Carroll, Ehrhart, Foster, Gedney, Guntzer, Hall, Jacobus, Kiernan, Lewis, Morris, Perley, Phillips, Pinckney, Sauer, and Slevin—17.

By Alderman Pinckney—

*Resolved*, That gas-mains be laid, lamp-posts erected, and street-lamps lighted in Depot place, between Sedgwick avenue and the railroad depot at Highbridge station, under the direction of the Commissioner of Public Works.

Which was referred to the Committee on Public Works.

By Alderman Gedney—

*Resolved*, That the sidewalks on the south side of Fifty-ninth street, between Madison and Fifth avenues, and on the north side of Fifty-eighth street, between Madison and Fifth avenues, be flagged full width, where not already done, under the direction of the Commissioner of Public Works; and that the accompanying ordinance therefor be adopted.

Which was referred to the Committee on Public Works.

AN ORDINANCE—

to regulate the carrying of pistols in the City  
of New York . . . . . 59, 367, 460, 612

to amend chapter 37 of the ordinances of  
1866, relative to carts and cartmen, etc., 104,  
405, 578, 749

to amend an ordinance relative to awnings  
and side-curtains . . . . . 121, 365, 456

to amend an ordinance relative to nuisances  
and noxious things and practices . . . . . 218

to prevent accidents to persons in small  
boats . . . . . 438

to amend an ordinance relative to blasting  
rock or stones . . . . . 663

to amend chapter XLV. of the Revised  
Ordinances of 1866 . . . . . 717

APPOINTMENT, AS A CITY SURVEYOR, OF—

Staats, Robert P. . . . . 662, 720

APPOINTMENT, AS A COMMISSIONER OF DEEDS, OF—

Ackerman, Gunther K. . . . . 630

Alt, William . . . . . 116, 273

Angerman, Michael . . . . . 625

Archibald, Carson G. . . . . 326, 370

Armstrong, G. D'Arcy . . . . . 546

Baaden, Casper A . . . . . 171

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are situated, to give this act specially in charge of the grand jury of said county.

Sec. 4. It is hereby made the duty of the board of public works, when any of the provisions of this act have been violated, to forthwith notify the attorney-general, and said attorney-general shall immediately commence suit upon the bond so given, in the name of the state of Ohio.

Duties of board and attorney-general.

Sec. 5. This act shall apply as well to the parties who have heretofore used and are now using the waters of the canals of this state as to those who may hereafter so desire to do. The board of public works are hereby required, upon the passage of this act, to shut off and forbid the drawing of water or use of water, contrary to the requirements of this act, until the conditions herein provided shall have been fully complied with; and the chief engineer of the public works shall, by actual survey, determine the number of acres included in any pond so to be flooded, which shall be conclusive, and a record of which shall be kept in the office of the board of public works; and the cost of making such survey shall be paid by the parties so applying, and in determining the amount of such cost the certificate of said chief engineer shall be conclusive; and the board of public works are hereby authorized to increase or diminish the rates of toll as fixed by the law of 1858, when the boat travels or freight is carried less than fifty miles on any of the canals of this state.

Apply to all parties.

Duties and powers of the board.

Sec. 6. Should the public works of the state be leased, then the drawing of the water for the purposes herein mentioned shall be under the exclusive direction and control of said lessees, and the amount of rent so due shall be paid said lessees.

If public works are leased.

Sec. 7. This act shall take effect and be in force from and after its passage.

JAMES E. NEAL,  
*Speaker of the House of Representatives.*  
JABEZ W. FITCH,  
*President of the Senate.*

Passed June 21, 1879.

[Senate Bill No. 243.]

AN ACT

To define and suppress tramps.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That any person, not being in the county in which he usually lives or has his home, who is found going about begging, and asking subsistence by charity, shall be taken and deemed to be a tramp.

Who shall be deemed a tramp.

Penalties of  
tramps.

SEC. 2. That any tramp who shall enter any dwelling-house, or shall enter the yard or enclosure about any dwelling-house, against the will or without the permission of the owner or occupant thereof, or shall not, when requested, immediately leave such place, or shall be found carrying any fire-arms or other dangerous weapons, or shall do or threaten to do any injury to any person, or shall do or threaten to do any injury to the real or personal estate or property of another, shall, upon conviction thereof, be imprisoned in the penitentiary not less than one year nor more than three years.

Apprehending  
offender.

SEC. 3. That any person, upon view of the offense described in this act, may apprehend the offender, and take him before a justice of the peace for examination.

SEC. 4. This act shall not apply to any female or blind person.

SEC. 5. This act shall take effect and be in force from and after the first day of July, 1879.

JAMES E. NEAL,  
*Speaker of the House of Representatives.*  
JABEZ W. FITCH,  
*President of the Senate.*

Passed June 12, 1879.

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[House Bill No. 1083.]

AN ACT

To provide for printing and distributing the laws of the present session, and the revised statutes in permanent form, and to repeal an act therein named.

Publication  
of laws.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That there shall be printed not more than fifteen thousand copies of all the laws and joint resolutions of the present session of the general assembly, except the revision of the general statutes.

SEC. 2. No part of said edition shall be distributed until the whole is bound, when the same shall be distributed according to law, except six copies in forms of sixteen pages, which shall be sent to each member of the present general assembly as soon as printed.

Revised  
statutes.

SEC. 3. There shall be published in two volumes, in permanent form, twelve thousand copies of the revised and consolidated statutes, enacted at the present session of the general assembly; the printing and other work shall be let out by special contract as hereinafter provided, and M. A. Daugherty, John S. Brasee, and George B. Okey shall prepare, edit, and superintend such publication, including proof-reading. The following mentioned matter shall be prepared by them, and shall be published in either of the volumes as they may find most practicable, viz: the articles