

TITLE XXVI.
MILITIA.

CHAPTER 1.

MILITIA.

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An Act establishing a militia system.

REV. 574, 709.

HAR. 24, 50,

53, 76, 134,

152, 266, 307,

363.

1838-9.

PAMPH. 136.

Revision.....Approved April 17, 1846.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That every free able bodied white male inha-

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Who enrolled.
ed.

Exceptions.

bitant of this state, who is or shall be of the age of eighteen years and under the age of forty-five, (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 judges of the supreme court of this state, 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, all students of divinity and students of colleges in this state, except in cases of actual invasion,) shall severally and respectively be enrolled by the captain or commanding officer of the company within whose bounds such citizen shall reside. And in all cases

Proof of age.

of doubt respecting the age of any person, the party questioned shall prove his age to the satisfaction of the officers of the company or to the assessor of the township within whose bounds he may reside; *provided nevertheless*, that every person who is actually enrolled in, or shall hereafter join any uniform corps that is now or may be established under this act, fully equip himself, and continue faithfully to do the duties required of him on days appointed by law for training, and on such other days as the commanding officer of said company or troop shall require, for the term of ten years, on making the same appear by due proof, shall be exempt ever after from common militia duty; and the commanding officer of the company or troop in which such person may have so served, shall not erase such person's name from his muster-roll, but write opposite to his name, on the muster-roll of said company, "exempted from common duty". And any person who may have held any commissioned office under this act for the term of ten years, shall, on removal or resignation, be entitled to the same privilege of exemption without fine, if he duly prove the same; but no exemption created by this proviso shall in any case clear or exonerate any person exempted from common militia duty from bearing his proportion of actual service in time of war, insurrection, invasion, or other emergency.

Who shall be exempt.

Organization of.

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 Burlington, Gloucester, Atlantic, Camden, Salem, and Cumberland brigades, and the Cape May regiment, shall form the first division; the Bergen, Passaic, Hudson, Essex, and Morris brigades, shall compose the second division; the Somerset, Mercer, Middlesex, and Monmouth brigades, shall

compose the third division; the Hunterdon, Warren, and Sussex ^{TIT. XXVI. CHAP. 1.} brigades, shall compose the fourth division; the militia of the county of Cape May shall form an independent regiment, under the command of a lieutenant colonel, who shall from time to time, as occasion may require, issue warrants to the commandants of battalions for the election of company officers, and receive and transmit their returns to the adjutant general, and perform all the duties of commandants of brigades, as far as may be necessary for the due organization and order of said regiment; that the field officers of said regiment shall form a regimental board, of which the adjutant shall be ex officio judge advocate; which board shall meet at the same time that the several brigade boards are required by law to meet, and shall exercise all the powers of a brigade board, so far as respects the organization of new companies or battalions, the alteration of the boundaries of old ones, the settlement of accounts, and the general superintendence of the military concerns of said county; and that the adjutant of said regiment shall perform the duties required of brigade majors and inspectors, for which service he shall receive ten dollars per annum; and the several regiments, independent battalions, squadrons, and companies, shall continue as at present arranged, subject nevertheless to such alteration and arrangements as are hereinafter provided for.

3. *And be it enacted*, That the present officers of the militia of this state, shall continue to hold 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: there shall be a general staff, ^{Present officers continued.} of which the commander-in-chief shall appoint his four aids-de-camp with the rank of lieutenant colonel, one quartermaster general and one adjutant general, severally with the rank of brigadier general; and whenever he may consider that the service shall require it, one deputy adjutant general and inspector, and one deputy quartermaster general, to each brigade or division, as he may judge expedient, who shall respectively rank as lieutenant colonels; to ^{General staff.} each division, there shall be one major general, and two aids-de-camp with the rank of a major; to each brigade, one brigadier ^{Officers of division.} general, with one brigade inspector, to serve also as a brigade ^{Brigade.} major, with the rank of major, and one aid-de-camp, to be taken from the line, one brigade judge advocate, one brigade paymaster, and one brigade quartermaster; to each regiment, one lieutenant ^{Regiment.} colonel; and to each battalion or squadron, one major; to each ^{Battalion.} company of infantry, light infantry, and grenadiers, one captain, ^{Company.} one lieutenant, and one ensign, four sergeants, four corporals, one drummer, one fifer, and not more than sixty-four, nor less than ^{Number of privates.} forty privates, or as near as may be, having regard to their local

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situation; to each troop of horse, there shall be one captain, two lieutenants, and one cornet, four sergeants, four corporals, one saddler, one farrier, and one trumpeter, and not more than sixty-four, nor less than forty troopers, said companies of horse to be raised hereafter only by the permission of the commander-in-chief; to each company of artillery, there shall be one captain and two lieutenants, four sergeants, four corporals, one drummer, one fifer, not more than six, nor less than three gunners, not more than six, nor less than three bombardiers, and not more than sixty-two, nor less than fifteen 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 chaplain, one sergeant major, one drum major, one fife major, and one quartermaster sergeant: all officers shall take rank according to the date of their commissions, and when two of the same grade bear equal date, then their rank shall be determined by lot, to be drawn by them before the commanding officer of the division, brigade, regiment, battalion, company, or detachment. The regimental staff, except the paymasters, shall be appointed by the field officers; the brigade and regimental staff officers shall be commissioned by the commander-in-chief, on certificates of their appointment, under the hands and seals of the officers making the same; the noncommissioned regimental staff shall receive warrants from the commanding officers of the regiments and independent battalions: *and further*, there shall be one adjutant, one quartermaster, and one surgeon, or surgeon's mate, to each squadron of cavalry and each independent battalion. The noncommissioned officers and music to be appointed by the captain and subalterns.

Regimental
staff.

Rank.

How com-
missioned.

Oath to be
taken.

4. *And be it enacted*, That each and every officer, who has been or may hereafter be appointed and commissioned in the manner aforesaid, and who shall not already have taken the same, 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 or affirmation, before some general or field officer of the brigade :

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.

Certificate.

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.

5. *And be it enacted*, That the militia of this state shall rendezvous once in every year, for the purposes of training, disciplining, and improving in martial exercise, by regiments and independent battalions or by brigades, at the discretion of the brigade boards, (except as hereinafter provided) on the third Monday in June; it shall be the duty of the captains or commanding officers of said companies or troops, the majors or commandants of battalions, the colonels or commandants of regiments, independent battalions, and squadrons, to advertise the hour and place of meeting of their respective corps, on the day appointed by law, at least two weeks, in two of the most public places in the company or troop, and six of the most public places in the regiment, independent battalion, or squadron, so called to exercise; that it shall be the duty of every general of brigade, when more than one independent battalion exists under his command, to direct that they draw for rank by their commanding officer, in the presence of the general, and the battalion drawing the lowest number, shall be highest in rank, and called the first independent battalion of the — brigade, and the other or others shall be numbered and named accordingly.

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Training.

Notice of, to
be given.Rank of in-
dependent
battalion.

6. *And be it enacted*, That the fines imposed for the nonperformance of militia duty, shall be as follows, viz: on a field officer, eight dollars; on every commissioned officer, five dollars; on every noncommissioned officer, musician, and private, two dollars, for each absence from militia duty required in the foregoing section; *provided*, that all persons who now are or hereafter shall become and continue actual members of any regular fire company or association, who now are or hereafter shall be possessed of a fire engine, and which said fire company or association shall consist of not less than sixteen men, and not more than thirty men, be, and they are hereby exempted from militia duty in time of peace; *and provided further*, that all persons under the age of twenty-one years be, and they are hereby exempt from militia duty in time of peace; but in the enrollment of the militia of this state, made agreeably to the first section of this act, it shall be the duty of the officer making such enrollment to write opposite to the name of each minor, the words "under age;" *provided*, that all persons under the age of twenty-one years as aforesaid, who are actually enrolled in, or shall, after the passing of this act, join any uniform corps, shall be entitled to the same privileges, and subject to the same penalties, as are prescribed in the above mentioned act; *and provided further*, that all persons actually employed as mariners on board of any vessel, under license of the United States, in the coasting trade, be, and they are hereby exempted from the performance of common militia duty; and in case fines shall be im-

Fines for ab-
sence.Exemptions
of fire com-
panies.

Minors.

Mariners.

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Fines for o-
ther delin-
quencies.

Proviso.

Fines, how
ascertained.

Roll to be
called.

Names ad-
vertised.

Company
court.

Oath of or-
derly.

posed upon them, they shall be relieved therefrom by producing to the company or battalion court, to whom the same may be returned, a receipt for the payment of hospital money during the time they may have been so fined.

7. *And be it enacted*, That the same fines and penalties shall be respectively paid by every officer, noncommissioned officer, and private, who shall be absent at either roll-call, or leave the parade of his regiment, battalion, squadron, troop, or company, without permission obtained from the commanding officer, before the said regiment, battalion, squadron, troop, or company shall be discharged, which said fines shall and may be recovered in the manner directed in this act; and if any militiaman shall appear on parade without his musket or firelock, or if a trooper without his sword and pistols, he shall forfeit and pay fifty cents; *provided*, that no militiaman shall be liable to such fines, who in the opinion of the company court, created by this act, may be deemed unable to procure arms and equipments, or either of them; but when any militiaman shall be called into actual service, he shall appear fully equipped with every article required by act of congress, or be subject to a fine, if an officer, of ten dollars, or if a private, two.

8. *And be it enacted*, That, in order to ascertain those persons who by their absence on days of exercise shall be liable to the fines and forfeitures of this act, an orderly or first sergeant, appointed by the captain or commanding officer of every troop or company, shall, on every day of training, in presence of said captain or commanding officer of said troop or company, one hour after the time appointed for the meeting of the troop, company, battalion, squadron, or regiment, and also after the exercise is over, and before the men are dismissed, call over the muster-roll of the said troop or company, noting those who are absent at each roll-call, and also all those who are deficient in arms or equipments, and the particular article or articles for want of which they are liable to be fined, and shall, six days prior to the day appointed for the meeting of the company court, by a written or printed notice, put up in three public places within the bounds of the company, a return of the names of the delinquents of said company, the amount of the fine or fines by them incurred, the day when and the place where the company court will meet, and shall deliver a true and particular return of all such delinquents and deficiencies, on oath or affirmation, to the president of said company court, which oath or affirmation shall be in the following form:

1, ——— orderly sergeant of the ——— company (or troop, as the case may be,) of the ——— battalion (or squadron, as the case may be,) within the ——— regiment of the ——— brigade, do, in

the presence of Almighty God, swear, (or affirm, as the case may be,) that this return contains the names of all delinquents of said company or troop, all which (except those marked as absent from my company district) have been notified as the law requires, and that the fines incurred and all deficiencies are truly marked opposite the names of each delinquent, according to the best of my knowledge and belief, &c.; and the president of said company court shall, within ten days after the meeting of said court, make an accurate return, to the major or commanding officer of the battalion, of the names of all delinquents, and the sum imposed upon each, by the said company court.

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9. *And be it enacted*, That the commissioned officers of each and every company or troop shall constitute a company court, the officer first in rank shall be president; they shall, when convened for business, administer to each other the following oath or affirmation:

Oath of
members of
company
court.

I, —— do swear, (or affirm, as the case may be,) that I will perform the duties of a member of this company court, agreeably 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.

And said company court shall meet on the fourth Monday of June, in every year, at such place within the bounds of said company as the captain or commanding officer thereof shall publicly direct, and proceed to hear the testimony and allegations of all such parties, appearing by themselves or representatives, as have been returned delinquent at the preceding trainings, and impose such fines and forfeitures as in justice and equity this act requires; and in case but one of the officers composing the said company court shall attend, it shall be lawful for the said officer to call to his assistance two respectable enrolled persons from the list of said company, who, having taken the oath or affirmation prescribed by this section, shall constitute the company court, and in all things shall be governed by the same regulations as are directed for the other company courts; the president of the said court shall, within ten days thereafter, make an accurate return, to the major or commanding officer of the battalion, of the names of all delinquents, and the sum imposed on each by the said company court.

Time and
place of
meeting.

Proceedings.

Return.

10. *And be it enacted*, That the major or commanding officer of each and every battalion, shall call to his assistance the surgeon or surgeon's mate and the senior captain, or, in case of his absence, sickness, or inability, the next captain in rank of his battalion, who shall compose the battalion court of appeal, and shall meet on the first Monday in August, in each and every year, at some conveni-

Battalion
court.

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To be ad-
vertised.

Hear and de-
cide appeals.

Returns.

Penalties.

Duty of bat-
talion pay-
masters.

Justices.

Constables.

ent place, to be appointed by the said major or commanding officer, as central as may be within the bounds of said battalion, public notice whereof shall be given by the said major or commanding officer, by advertisements set up in four of the most public places in the bounds of their respective battalions, at least fifteen days previous to the day of meeting; and all persons believing themselves aggrieved by fines and forfeitures imposed on them by the company court, may, by himself or friend, apply to the said battalion court of appeal, who are hereby vested with full power and authority to hear and decide upon the excuses offered, and to remit any fines and forfeitures, for reasons which shall appear to them reasonable; and in case of permanent inability, the court shall give said applicant a certificate of discharge from military duty.

11. *And be it enacted*, That the major or president of the battalion court of appeal shall, within ten days after holding said court, make accurate returns of the names of delinquents, and the sum imposed on each, one to the battalion paymaster and one to the brigade paymaster; and in case any member of the battalion court shall neglect to attend at the time and place publicly notified, or when met shall refuse to proceed in the duties thereby required of him, he shall forfeit and pay a sum not exceeding ten dollars; and if the president of said company court or battalion court shall neglect to make out and safely transmit accurate returns as aforesaid, he shall forfeit a sum not less than fifteen dollars, nor exceeding thirty dollars, to be recovered in an action of debt by the brigade paymaster, to be assessed by the brigade board, and collected as by this act is directed for the recovery of fines imposed on delinquent officers.

12. *And be it enacted*, That it shall be the duty of the battalion paymaster, on receiving the list of delinquents returned to him by the president of the battalion court, and on receiving from the said president the fines he may have collected, to write opposite the names of those persons who shall have discharged their fines, paid; and if any delinquent shall neglect or refuse to pay the fine or fines returned against him to said paymaster before the first Monday of September then next ensuing, the said paymaster shall immediately thereafter deliver the said return lists of delinquents to a justice of the peace, who is required forthwith to issue execution against the person or persons named in said return list (opposite whose names shall not be written as aforesaid, paid,) 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: the form of the execution shall, as near as may be, be as follows:

_____ county:

The state of New Jersey to _____ one of the constables in the Execution. county of _____

Whereas the persons named in the schedule or list, hereunto annexed, have been duly adjudged, for deficiency 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 the said county, to levy, by distress and sale thereof, the fines set opposite their respective names, with costs, and to pay the same to _____ paymaster of _____ battalion: and you are to make return of this execution, with your doings therein, unto me, _____ within thirty days next coming, for which this shall be your sufficient warrant. Hereof fail not. Given under my hand and seal, the _____ day of _____ in the year of our Lord eighteen hundred and _____

Justice of the peace.

13. *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 constable to the said delinquent; but if he shall refuse to receive the same, then the said constable shall pay the said money to the paymaster of the battalion to which such delinquent belongs, to be by him accounted for in his settlement with the brigade board. And it shall be the duty of such constable, after having paid any such money into the hands of the battalion paymaster, immediately to certify the same to the judge advocate or brigade board: and 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.

14. *And be it enacted*, That the said battalion paymasters shall keep journals of all their proceedings, in the execution of the duties enjoined on them as battalion paymasters: they shall record, in a book to be kept for that purpose, the amount of fines by them received, of whom, and in what manner received, whether by voluntary payment or of the constables, of the fines not collected or recovered, and the reason thereof, of moneys paid, to whom, and on whose order, and for what purpose, and shall lay the same, with their vouchers and receipts, before the brigade board for inspection and settlement.

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Paymasters,
how appointed.

Bond.

Oath.

Certificate.

Duty of brigade pay-
master.

Collection of
fines.

Justice.

15. *And be it enacted*, That the brigade board shall appoint one reputable freeholder within their respective brigade, to act as brigade paymaster to the same, and one reputable freeholder within the bounds of each battalion, 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 by the commandant of the brigade, the brigade paymaster in the sum of two thousand dollars, the battalion paymaster in the sum of five 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). 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 brigade board shall direct. The said clerk shall, on the back of the warrant of appointment, give a certificate, under his hand and the seal of the county, of said bond and oath (or affirmation) having been taken and filed, which shall be received as evidence of the authority of the said paymaster.

16. *And be it enacted*, That the brigade paymaster shall receive and file all vouchers and returns, and keep proper and distinct accounts of the moneys arising from the fines and forfeitures in the several regiments and battalions in the brigade, which shall be paid and returned to him, and also shall receive and file all returns, orders, vouchers, and receipts for all moneys he may receive and pay out, conformably to the directions of this law, and submit his books of accounts, returns, orders, vouchers, and receipts, to the inspection and examination of the brigade board, to whom he shall account from time to time for all moneys by him received, and produce orders for any disbursements he may have made. On receiving the list of fines imposed by the brigade board on delinquent officers, he shall proceed to collect the same, and if any delinquent officer shall neglect or refuse to pay, for sixty days thereafter, the said paymaster shall put the said list into the hands of a justice of the peace of the county, having previously crossed the names of such as may have paid, and the said justice is hereby required to issue execution against the delinquents who have not paid, in

the words and form of execution directed in the twelfth section of this act, substituting the words brigade paymaster, instead of battalion paymaster. And the constable into whose hands said execution may be placed, shall observe all the duties in executing such process enjoined by this act, and be subject to the same penalties as are provided by law for neglect of duty. TIT. XXVI. CHAP. I. Constable.

17. *And be it enacted*, That there shall be a brigade board, composed of the brigadier general, brigade major, and commandants of regiments, independent battalions, and squadrons of the respective brigades, and a majority of them shall be necessary to form a board; they shall meet annually on the third Monday in December, at such place as shall be agreed upon by a majority of the board, and their next meeting in each brigade shall be at the place to which the board of general and field officers of such brigade stands adjourned. Brigade board. Time of meeting.

18. *And be it enacted*, That at any meeting of the brigade board, the officer of the first grade and seniority present shall preside: the said board shall have power to compel the attendance of its members by imposing a fine, which shall not in any case exceed twenty dollars: it shall be their duty, and the said brigade board are hereby respectively empowered to make such alterations and arrangements of the regiments, battalions, squadrons, troops, and companies, within their respective brigades, as may from time to time appear to them as necessary and expedient; to authorize the formation of such new uniform companies, and to attach them to such battalion or regiment as they may think proper; and whenever the brigade board of any brigade in this state shall reattach a company to any other regiment or battalion, the company so attached shall be considered the lowest in rank; they shall draw orders upon the brigade paymaster for all lawful and necessary expenses; they shall make said paymaster a reasonable allowance for his services, adjust, inspect, and settle his accounts, determine what balance is in his hands; they shall remove said paymaster in case of embezzlement or neglect of duty, and appoint another in his place, which successor is hereby empowered and required to prosecute the said delinquent or defaulter, his executors or administrators, for any moneys remaining in his hands belonging to the brigade, in any court where the same may be cognizable, with costs of suit; they shall settle with the battalion paymasters, determine the balances which they shall severally pay to the brigade paymaster, and allow them a reasonable compensation for their services; they shall remove either of them in case of embezzlement or neglect of duty, or suspicion thereof, and make other appointments to fill the vacancies; they shall direct the brigade paymaster, who is hereby, on Duties of brigade board.

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such direction, required to prosecute such battalion paymaster guilty, or suspected to be guilty of embezzlement or neglect of duty as aforesaid, his executors or administrators, for all moneys so embezzled, in any court where the same may be cognizable, with costs of suit; they shall make a reasonable allowance to adjutants for extra services, and to persons employed by commanders of brigades, regiments, independent battalions, and squadrons, to carry their orders; they shall make compensation to the brigade judge advocate, or person acting in that capacity; they shall, on returns made to them by the brigade major or battalion paymaster, of any delinquent officers (where no satisfactory excuses are offered), assess such fines on each defaulter as are directed by law; they shall preserve order at their several sittings, by imposing a fine, not exceeding ten dollars, upon any person who shall interrupt or insult them while engaged in the business of the brigade, which shall be collected by the brigade paymaster in the same way as fines on delinquent officers, and return a list of the names of such delinquents, together with the name or names of any defaulting member or members of said board, with the amount of the fine or fines annexed, to the brigade paymaster; that the brigade board of each brigade are hereby authorized to erect, in some convenient place or places, a suitable covering or coverings for the preservation of the piece or pieces of field artillery committed to their care, and pay the necessary disbursements out of moneys arising from military fines and forfeitures accruing within their respective brigades.

Judge advo-
cate.

19. *And be it enacted*, That there shall be a judge advocate to each brigade, who shall be appointed by the brigade board, of which he shall be ex officio clerk. It shall be his duty to attend every meeting of the board, and keep a record of all their proceedings.

Duties of ad-
jutant gene-
ral.

20. *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 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 discipline; 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. 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 on 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 lay his accounts before the legislature, at their annual sitting, in every year, and receive from them a reasonable allowance for his services. TIT. XXVI.
CHAP. 1.
Compensation.

21. *And be it enacted,* That it shall be the duty of the brigade inspector, to attend the brigade 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, on or before the first day of September in every year, 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, 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 extra duty an allowance, at the discretion of the brigade board, upon an examination of the accounts; and for refusing or neglecting the duties enjoined by this act, 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 acknowledgment of the adjutant general, that he has received said return. In case of the absence of the brigade Duty of brigade inspector.
Compensation.
Penalty for neglect.

TIT. XXVI.
CHAP. I.

inspector, the commanding officer present at the inspection, shall appoint some person to perform the duties thereof.

Election of
officers.

22. *And be it enacted*, That whenever a vacancy shall happen in the office of brigadier general of any brigade, the major general of the division to which such brigade is attached, shall cause notice to be given to the several field officers of such brigade, to meet at such time and place as he shall appoint, and hold an election to supply such vacancy ; the major general shall attend at the time and place so appointed, and shall preside at said election ; the said election shall be by ballot, and the person receiving a majority of the votes of the said field officers present, shall be declared duly elected, and shall be commissioned by the governor, upon the certificate of the major general presiding, that such election was held in due form, and that the person elected received a majority of the votes of all the field officers present at said election ; field officers of regiments, independent battalions, and squadrons, shall be elected in the same manner, by the officers entitled to choose the same respectively, upon like notice, to be given by the brigadier general of the brigade to which the regiment, independent battalion, or squadron in which the vacancy exists is attached, who shall in like manner preside at the meeting ordered for such election ; and the person so elected shall be in like manner commissioned upon a like certificate from the brigadier general presiding ; and if any such vacancy occurs in a brigade which is not attached to any division, or in any regiment, independent battalion, or squadron, which is not attached to any brigade, then such notice as aforesaid shall be given by the commanding officer for the time being of such brigade, regiment, independent battalion, or squadron, who shall in like manner preside at such election, and perform all the duties herein before assigned to the brigadier general ; and the person so elected shall be in like manner commissioned upon a like certificate from the officer presiding ; the sum of ten dollars shall be paid by the paymaster of the brigade, regiment, independent battalion, or squadron, to supply a vacancy in which such election shall be held, to the officer presiding at such election as aforesaid, for his services as aforesaid.

How com-
missioned.

Of resigna-
tions, vacan-
cies, etc.

23. *And be it enacted*, That every brigadier general, and every field officer desirous of resigning, shall send his resignation in writing to the officer whose duty it is to cause the vacancy thus occasioned to be filled ; and every vacancy occurring in any of the said offices, otherwise than by resignation, shall be notified in writing to the officer whose duty it is to cause such vacancy to be filled, by the commanding officer for the time being of the brigade, regiment, independent battalion, or squadron, as the case may be, in which

the vacancy occurs, except in cases where such commanding officer is himself authorized to cause such vacancy to be filled; and 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 report is 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 vacancies occasioned by the nonacceptance, 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 a majority 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 governor, 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 paymaster to the commandant of the battalion or squadron, for advertising and holding an election or elections. 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.

TIT. XXVI
CHAP. I.

Compensa-
tion.

Treating
prohibited.

24. *And be it enacted,* That if any commissioned officer shall Of removals.

TIT. XXVI.
CHAP. 1.

remove out of the bounds of his proper division, brigade, regiment, battalion, squadron, troop, or company, or shall be absent therefrom more than six months, his office shall be thereby vacated.

Uniform. 25. *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 heretofore, or that may hereafter be issued on that subject; and it shall be the duty of every officer, within three months after receiving his commission, to appear upon all training days, courts martial, and meetings of the brigade board, in full and complete uniform, agreeably to general orders, and also, either with a sword or hanger; 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 nonappearance, and also shall not be suffered to do duty on that day.

Musicians. 26. *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 or bugle, 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, the father of every youth who shall serve as musician 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, trumpeter, or bugler in any militia company or troop, and be under the age of eighteen years.

Uniform companies. 27. *And be it enacted*, That it shall be lawful for the captains or commanding officers of the several companies of cavalry, artillery, light infantry, grenadiers, and riflemen, to enroll in their respective companies, from the several companies composing the brigade, regiment, or battalion, to which they may belong, and if such company be on the bounds of the brigade, then from the adjoining brigade, 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 any uniform company to grant a certificate to any person prior to his appearing in uniform agreeably to law, under the penalty of ten dollars, to be recovered, when incurred, by action of debt, before any court having cognizance of the same; and the court shall pay the money, when collected, to the paymaster of the brigade in which the delinquent may reside.

Proviso.

28. *And be it enacted*, That the majors or commanding officers of battalions shall be charged with organizing the several companies under their respective commands, so far as where militiamen of any company district neglect or refuse to choose their company officers, the major or commanding officer to which such company belongs shall, under his hand and seal, appoint a sergeant within the said company district, whose duty it shall be to take command of the said company, and conduct it agreeably to this act, until proper officers are duly elected and qualified; and to constitute his company court, the said sergeant shall appoint three respectable enrolled persons from the list of said company, who shall choose one of their number to be president of said court; they shall take the oath or affirmation prescribed by the ninth section of this act, and in all things be governed by the same regulations as are directed for other company courts.

TIT. XXVI.
CHAP. I.
Duty of majors.

29. *And be it enacted*, That no officer or private shall, on the way to or from the place of any review, regimental, battalion, or company training of the regiment, battalion, or company to which he shall belong, pay more than one-third of the usual rate of ferrriage, or be charged any toll for passing any tollbridge or turnpike gate; and if any ferryman or keeper of any tollbridge or turnpike gate shall refuse a passage, or enforce a demand contrary to the direction 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 and ferrriage.

30. *And be it enacted*, That no commissioned officer, non-commissioned officer, or private, shall be arrested on any civil process on any day appointed by law for exercise or training, nor shall any arms or accoutrements of a militiaman be levied on or sold, by virtue of any execution.

Arrests on civil process.

31. *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 a general issue, and give this act and the special matter in evidence.

Venue.

Plea.

32. *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 so long as he may think it necessary, not exceeding two months.

Militia ordered out.

TIT. XXVI.
CHAP. I.

Substitutes.

33. *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 out of which such person is so called, or passed by the muster master, may serve in the place of such person.

Horses appraised

34. *And be it enacted*, That the brigadier inspector shall call to his assistance two respectable freeholders, above forty-five years of age, who shall appraise, on oath or affirmation, the horse of each person serving as a light horseman, immediately before the time of going into actual service, and describe the age, size, colour, and marks of 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 appraisal, 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.

and paid for.

Proviso.

Duty of quartermaster.

35. *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 by the commander-in-chief, 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, or person administering the government, 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.

Of courts martial.

36. *And be it enacted*, That the commander-in-chief shall appoint a general court martial for the trial of all officers above the rank of field officers; that the major generals, each in his own division, shall appoint a general court martial for the trial of all field officers; that the brigadier generals, each in his own brigade, shall appoint a general court martial for the trial of captains and all commissioned officers under that rank; and that the commandants of regiments and independent battalions shall institute a regimental court 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, excepting where the offence is of a personal nature, in which case the sentence of the court

martial shall be conclusive. And any officer, by this act authorized TIT. XXVI.
CHAP. I. to appoint a court martial, is also hereby authorized (in the absence of the brigade judge advocate) to appoint a person to officiate as judge advocate pro tempore to attend any courts martial ordered immediately.

37. *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, he shall be sentenced accordingly. Notice to be given, officer arrested, etc.

38. *And be it enacted*, That all persons shall be holden bound Witnesses. to appear and give evidence before any court martial, court of inquiry, or brigade board, 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 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.

39. *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 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:

You, —— do swear (or affirm), that you will well and truly Oath of members. try and determine, according to evidence, the cause now before you, between the state of New Jersey and the persons (if more than one person) 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.

TIT. XXVI.
CHAP. 1. And the president shall administer to the judge advocate the following oath or affirmation, to wit:

Oath 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 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.

Misbehavi-
our of offi-
cers. 40. *And be it enacted*, That if any commissioned officer, at any review or any other occasion when paraded in arms or on duty, shall misbehave or demean himself in an unofficer like manner, 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 noncommissioned officer or private shall, on any occasion of parading the company to which he belongs, appear drunk or 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, and until the company is dismissed, and shall be fined, at the discretion of a regimental court martial, in any sum not exceeding eight dollars.

Of men.

Disobedi-
ence of offi-
cers. 41. *And be it enacted*, That if the commanding officer of any regiment, battalion, or squadron, 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 discretion 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 general court martial; and a noncommissioned officer offending in such case, shall be fined, at the discretion of a regimental court martial, in any sum not exceeding thirty dollars.

Neglect of
officers. 42. *And be it enacted*, That if any captain or commanding officer of a company or troop shall refuse or neglect to make out a list of the persons notified 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 general court martial, in any sum not exceeding one hundred dollars. TIT. XXVI. CHAP. 1.

43. *And be it enacted*, That if any militiaman 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 regimental court martial; and if a noncommissioned officer, he shall also be degraded and placed in the ranks. Desertion.

44. *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 firearms 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 from a commissioned officer; and if any noncommissioned officer or private shall so load or charge, or fire or discharge, any firearms without such order or permission, he shall forfeit one dollar for every offence, and the orderly sergeant 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 the persons who shall offend to be returned to the regimental court martial. Loaded guns prohibited.

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

46. *And be it enacted*, That the militia, on the days of exercise, may be detained under arms on duty in the field 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. Time of exercise.

47. *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, squadron, or company, is charged with the execution of this article. Spirits prohibited.

48. *And be it enacted*, That the rules of discipline for the militia of this state, shall be the same at all times as those established by congress for disciplining the regular troops of the United States. Rules of discipline.

49. *And be it enacted*, That the commander-in-chief be, and he To be published.

TIT. XXVI. is hereby authorized to procure a sufficient number of copies of a
 CHAP. 1.

system embracing the first elements and most essential movements of field artillery; also, a sufficient number of copies of a manual for the exercise of cavalry, infantry, and riflemen, and distribute the same to such officers of the cavalry, artillery, riflemen, and infantry, as in his opinion the service may require; and he is hereby authorized to draw on the treasurer of the state for moneys to defray the necessary expenses, and the said treasurer is hereby authorized and required to pay such draft out of any moneys in the treasury, arising from militia fines, not otherwise appropriated.

Expenses of courts martial.

50. *And be it enacted*, That when any officer of the general staff shall be tried by courts martial, the expense shall be paid by the treasurer of the state, out of any militia fines in the treasury, not otherwise appropriated; that when any officer, having commanded in any brigade, above the grade of major, shall be tried by court martial, the expense shall be paid by the paymaster of the brigade to which the delinquent belongs; and that when the commanding officer of any battalion or squadron, or of a grade inferior, or private, shall be tried by court martial, the expense shall be paid by the battalion paymaster in whose bounds the delinquent may reside; that every officer who shall attend on courts martial, shall be entitled to receive the sum of one dollar and fifty cents, each, for every day they shall respectively attend; and all persons attending before said courts martial as witnesses, shall be entitled to receive fifty cents per day; *provided*, that no more than four witnesses on the part of the state, and four on the part of the offender, shall be entitled to pay; all which sums shall be paid as aforesaid, on certificates signed by the judge advocate, or the person acting as such, at any courts martial which may be held.

Compensation of officers and witnesses.

Proviso.

Penalty on bystanders for misbehaviour.

51. *And be it enacted*, That if any bystander shall interrupt, molest, or insult, by abusive words or behaviour, 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; and if any bystander shall be guilty of any like conduct before a court martial, he shall be fined in any sum not exceeding twenty dollars, with costs of prosecution, to be recovered before any justice of the peace by the battalion paymaster, who shall sue for and pay the same, when recovered, to the brigade paymaster.

Fines imposed and collected.

52. *And be it enacted*, That all fines imposed by any courts martial, shall be certified and returned by the judge advocate to the brigade board, who shall direct their brigade paymaster to collect

the same, in the manner directed for the collection of fines imposed on delinquent officers, in the sixteenth section of this act. TIT. XXVI. CHAP. I.

53. *And be it enacted*, That the surplus money, after paying the expenses authorized by law, that may remain in the hands of the brigade paymaster on the settlement of his accounts, shall be appropriated to the purchase of arms, accoutrements, colours, instruments of music, and to teach music, and the preservation of arms, at the discretion of the brigade board, the said arms and other military implements always subject to the order of the commander-in-chief in case of invasion, insurrection, or actual war; and the judge advocate shall, immediately after the annual meeting of the said board, make out and transmit to the adjutant general a statement of the disbursements, the number of arms and other military implements, and the said adjutant general shall lay the same before the legislature, as soon thereafter as may be. Surplus money appropriated. Arms and implements.

54. *And be it enacted*, That, in addition to the military corps now authorized to be formed in the several counties of this state, companies of riflemen may be formed. Each company of riflemen shall consist of one captain, three lieutenants, four sergeants, four corporals, one drummer and fifer (or bugler), and not more than one hundred, nor less than fifty privates; that such rifle companies as are already formed, or may be hereafter formed, shall be attached to the battalion in whose bounds a majority of said company shall reside, and be subject to the marching orders of their superior commanders, rendezvous at the regimental and battalion trainings, and be inspected by the proper officers of said brigade. Rifle corps organized.

55. *And be it enacted*, That the following fees shall be allowed for services required by this act, viz: to the orderly sergeant, for advertising the names of exempts and delinquents, two cents for each name, and fifty cents for a copy thereof to the company court; to each member of said court, for holding the same, one dollar; to the president thereof, for returning a list of exempts and delinquents who have been fined, two cents for each name; to the major or commanding officer, for advertising the battalion court of appeal, fifty cents; and to each of the members, for holding the court, one dollar; to the president of the battalion court, for the names required to be furnished to the county collector, battalion paymaster, and brigade paymaster, two cents on each name; all which fees shall be paid by the battalion paymaster, on a certificate signed by the president of the company court, for the members of said court and orderly sergeant, and by the president of the battalion court, for the members thereof. Fees for specified duties.

56. *And be it enacted*, That all arms hereafter purchased for the use of the militia of this state, shall be of the same calibre as the arms used in the service of the United States. Calibre of arms.

TIT. XXVI.
CHAP. 1.

Substitutes
not to excuse
from duty.

Of volun-
teers.

Defence of
frontiers.

Arms fur-
nished.

Uniform
companies
attached to
battalions.

57. *And be it enacted,* That those militiamen who may have substitutes in actual service, shall not on that account be excused from doing duty on parade days authorized by law, in the companies to which they may respectively belong.

58. *And be it enacted,* That it shall and may be lawful for the commander-in-chief or commandant of brigade, at any time when any part of the militia may be called into actual service, to receive any one or more of the uniformed companies from any of the brigades in this state as volunteers; and when any of said companies shall have volunteered their services, and shall have served their tour, they shall be exempted from any draft or further service until their respective battalion, regiment, or brigade shall have performed the like service; and their brigade shall receive credit for the number so volunteering their services in the requisition made by them.

59. *And be it enacted,* That it shall and may be lawful for the commander-in-chief, at any time when he may deem it necessary for the protection of the maritime frontier of this state, to cause to be organized any company or companies in any of the brigades bordering on the sea, to be prepared for actual service on any sudden emergency, and, when so organized, to furnish the commanding officer of such company or detachment with ordnance, arms, and sufficient quantity of ammunition for immediate defence; which commanding officer or officers shall from time to time obey all such orders as he shall receive from the commander-in-chief, through any of his superior officers, for the performance of his duties in the defence of the state; and every such commanding officer receiving any of the arms and implements of war as aforesaid, shall be answerable at the expiration of his tour of service for the safe deposit or delivery of the same, at such place as shall be directed, and agreeably to such receipt as he may and shall be required to give for the same when delivered to him, or satisfactorily account for the same.

60. *And be it enacted,* That it shall and may be lawful, on application of the commander of any uniform corps, to the commander-in-chief, for that purpose, to furnish such corps with any arms, the property of the state, when in his opinion they can be spared without manifest injury to the service of this state or the United States, the said company officers giving bond with sufficient surety, for the keeping the same in good order and repair, and the returning the same, when required, or an equivalent.

61. *And be it enacted,* That uniform companies shall be attached to the battalion within the bounds of which a majority of such companies may reside.

62. *And be it enacted,* That when a part of the militia shall be called into actual service, the captain or commanding officer shall assemble his company, or such of them as will assemble, and divide them into as many classes as there shall be men required of him, and all those that wish to determine the tour of duty by draft, shall be classed together as near as may be, and the commanding officer shall select by lot from each of the said classes one man, unless they shall volunteer their service; the commanding officer shall fine each and every class who shall not determine the tour of duty, by draft or voluntary enrollment, the sum of fifty dollars, and if the said class shall neglect or refuse to furnish an able bodied man capable of performing military duty within two days after such fine shall have been levied, the said commanding officer is required forthwith to return the said fine to a justice of the peace, apportioning the sum equally on all persons composing the classes, together with the name of each delinquent, who is hereby required to issue execution for such sum, with costs, against such delinquent, which moneys shall be appropriated by the said commanding officer to hiring a substitute or substitutes, as the case may be. All surplus moneys that shall remain in the hands of the captain or commanding officer of the company, after paying for a substitute, or after he shall not have been able to procure one for any of the classes, shall, after retaining one dollar for every fifty dollars he shall have received, pay the same to the battalion paymasters of their respective battalions, and on neglect or refusal so to do, shall be prosecuted by the said paymaster for the amount thereof, with costs; *provided always,* that no militiaman who shall perform his tour of duty in actual service, either in person or by substitute, or paid a fine in lieu thereof, in pursuance of this or any former act, shall be classed or made liable to a fine as aforesaid, until the remainder of the company or troop to which he may belong shall have performed a tour, except in cases of actual invasion or sudden emergency.

63. *And be it enacted,* That it shall be the duty of the commanding officer of each regiment, independent battalion, and squadron, in this state, to call a meeting of the commissioned officers under his command, once in each year, at which meeting he shall order the orderly sergeant of each of the companies composing such regiment, independent battalion, or squadron, to attend for the purpose of military improvement, notice of which meeting shall be given by advertisements set up in at least six of the most public places within the bounds of such regiment, independent battalion, or squadron, appointing the time and place of such meeting, at least two weeks previous thereto, and at which meeting the com-

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manding officer of such regiment, independent battalion, or squadron, may, if he think proper, order the attendance of one of the companies under his command, by giving notice of his intention to the commanding officer of such company previous to the time appointed by law for advertising company trainings; which meeting shall be advertised by such commanding officer in the same manner as company trainings are required by law to be advertised, and such meeting shall be in lieu of company training, and the fines and penalties for nonattendance shall be the same as on other days of military service.

Returns of
absent offi-
cers.

64. *And be it enacted*, That it shall be the duty of the orderly or first sergeant of each company of the militia of this state, to make return of any officer or officers of his company, who may be absent at any training appointed by law, to the adjutant of the regiment, independent battalion, or squadron, to which such company may belong; and it shall be the duty of the adjutants of the respective regiments, independent battalions, and squadrons of this state, or the persons charged with their duty, to make accurate returns of all delinquent commissioned and staff officers who shall have been absent at the last training appointed by law; also of all such officers or noncommissioned officers as shall have been absent at the training ordered agreeably to the sixty-third section of this act, which return, together with the returns made to him by the respective sergeants as aforesaid, he shall lay before the brigade board at their annual meeting, and unless satisfactory excuses are offered, the said brigade board shall thereupon proceed to assess on each delinquent the same fines and penalties for such nonattendance as are imposed by the sixth section of this act; and it shall be the duty of the brigade judge advocate to make a certified return of the fines so assessed to the brigade paymaster, within ten days thereafter, who shall proceed to collect the same, as directed in the sixteenth section of this act; and if any brigade judge advocate, adjutant, or sergeant, shall neglect or refuse to make returns required of him or them by this act, or to perform any of the duties of their office, he or they shall be liable to be fined by the brigade board, in any sum not exceeding fifteen, nor less than two dollars, which fines shall be collected in the manner prescribed by law for collecting the fines of delinquent officers.

Fines of de-
linquents.

Substitute
for orderly
or clerk ap-
pointed.

65. *And be it enacted*, That if the orderly sergeant or clerk of any company shall be absent from any training, which by law it may be his duty to attend, the commanding officer of such company for the time being shall appoint some fit person of his company to the office, who shall execute the duties of orderly sergeant or clerk for the day, whose acts shall be as valid, to all intents and

purposes, as though such acts were performed by an orderly sergeant previously appointed. TIT. XXVI. CHAP. 1.

66. *And be it enacted*, That the rifle companies of this state shall, on days of parade, form with the battalions or regiments to which they respectively belong, and perform such evolutions as may be ordered by the commanding officer of the day, and not leave the line without his permission. Rifle company parade.

67. *And be it enacted*, That no fees shall be allowed to battalion, company, staff, or noncommissioned officers for services, to which by law they may be entitled, unless demanded in the same year in which the services were performed. When fees to be demanded.

68. *And be it enacted*, That all commissioned officers hereafter appointed, shall within six months thereafter, on all days of parade, appear in full and complete uniform, agreeably to that worn by the officers of the army of the United States. Officers to be uniformed.

69. *And be it enacted*, That the commandants of regiments hereafter to be appointed, shall be commissioned as full colonels, and rank accordingly. Rank of commandants.

70. *And be it enacted*, That the commandants of regiments, independent battalions, and squadrons, shall annually account to the brigade board for all moneys they may receive for teaching music and other purposes. Account to brigade board.

71. *And be it enacted*, That every sergeant who shall attend the meetings of the officers, agreeably to the sixty-third section of this act, shall be entitled to receive from the battalion paymaster seventy-five cents per day for such services, upon his producing the certificate of the adjutant of his having performed said duty. Pay of sergeants.

72. *And be it enacted*, That it shall be the duty of the captain or commanding officer of any company of militia, to enroll all persons subject to militia duty by the first section of this act, within the bounds of his company, except those who belong to some uniform company, and furnish a copy thereof to the orderly sergeant of his company. Captains to enroll.

73. *And be it enacted*, That the brigade board may, at their discretion, exempt from common militia duty any officer who has held a commission for one year in the army of the United States. Board may exempt.

74. *And be it enacted*, That if any bystander shall interrupt, molest, or insult, by abusive words or behaviour, any officer or soldier while on duty at any training or meeting for military improvement, he shall be immediately put under guard, and may be fined by a regimental court martial, in the same manner as if he was at the time on duty, and any fine imposed shall be collected as is directed in the fifty-second section of this act. Meetings for improvement not to be molested.

75. *And be it enacted*, That, in addition to the military corps

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Horse artillery organized.

now authorized to be formed in the several counties of this state, troops of horse artillery may be formed; each troop shall consist of one captain, four lieutenants, one quartermaster sergeant, four sergeants, four corporals, one saddler, one farrier, one bugler, one trumpeter, and not more than one hundred, nor less than forty privates; and the commander-in-chief of this state is hereby authorized to commission the officer of any such troop of horse artillery as is now formed, as such, who shall rank in the order of seniority, according to the date of the commissions they now hold as cavalry officers; and such troops of horse artillery as are already formed, or may hereafter be formed, shall be attached to the squadron of cavalry in whose bounds a majority of said troop may reside, be subject to the marching orders of their superior commanders, rendezvous at the regimental or squadron parade, and be inspected by the proper officer of the brigade, subject to be trained by the commanding officer or officers, agreeably to such rules of discipline as are or may be hereafter laid down for the government of horse artillery.

Aids-de-camp, etc., appointed.

76. *And be it enacted*, That each major general for the time being, in case of vacancy, shall appoint his two aid-de-camps; each brigadier general for the time being, shall appoint his aid-de-camp; all other brigade staff shall be appointed by the brigade board, and commissioned by the commander-in-chief.

Brigade boards to keep accounts.

77. *And be it enacted*, That it shall be the duty of the brigade board to keep accounts of all sums by them received and expended, keeping a separate account of the fees and expenses attending the militia system, and the appropriations they may make for arms and other military implements, and make report thereof every year to the legislature.

When officers to take rank.

78. *And be it enacted*, That all officers hereafter appointed or elected, shall take rank from the date of such appointment or election.

Duty of quartermaster general.

79. *And be it enacted*, That it shall be the duty of the quartermaster general, where public arms have heretofore been distributed to any company of militia, to inquire into the state and condition of such arms, and in whose custody or possession remaining, and to take all legal measures for bringing to account such person or persons as are accountable for such arms, and make report of his proceeding, in this respect, to the next legislature.

Uniform battalions, etc.

80. *And be it enacted*, That it shall be lawful for the respective brigade boards, at their discretion, upon application made to them by any number of uniform companies competent to form a battalion, squadron, or regiment, to set off said uniform companies into an independent battalion, squadron, or regiment, as the case may be.

81. *And be it enacted*, That it shall be the duty of the respective brigade inspectors, in the annual returns required from them, ^{TIT. XXVI. CHAP. 1.} to make a particular statement of the troops and companies in ^{Brigade inspector's report.} uniform, their arms and equipments; likewise the arms and equipments, if any, belonging to the state, which may have been loaned to the brigade or to any troop or companies within the bounds thereof, or that may have been purchased with money arising from fines of exempts or others, within the respective brigades.

82. *And be it enacted*, That all fines imposed upon the members of any uniform troop or company under the provisions of this act, be, and they are hereby appropriated to the use of such uniform troop or company; and the battalion paymaster is hereby directed to pay the same, when collected, after deducting therefrom the expenses of the troop or company court, into the hands of the respective commanding officers for that purpose. ^{Appropriation of certain fines.}

83. *And be it enacted*, That the cavalry of this state shall form ^{Cavalry organized.} one brigade, and continue in their present arrangement, in squadrons and regiments as follows, that is to say: the troops of cavalry in the counties of Bergen, Passaic and Hudson shall form one squadron, and the troops of cavalry in the county of Essex shall form one squadron, which two squadrons shall form one regiment; the troops of cavalry in the county of Morris shall form one squadron, and the troops of cavalry in the counties of Sussex and Warren shall form one squadron, which two squadrons shall form one regiment; the troops of cavalry in the county of Middlesex shall form one squadron, and the troops of cavalry in the county of Monmouth shall form one squadron, which two squadrons shall form one regiment; the troops of cavalry in the counties of Hunterdon and Mercer shall form one squadron, and the troops of cavalry in the county of Somerset shall form one squadron, which two squadrons shall form one regiment; the troops of cavalry in the counties of Burlington, Gloucester, Atlantic and Camden shall form one squadron, and the troops of cavalry in the counties of Salem, Cumberland and Cape May shall form one squadron, which two squadrons shall form one regiment.

84. *And be it enacted*, That the present officers of the cavalry ^{Present cavalry officers continued.} of this state shall continue to hold and exercise the several ranks and commissions they now hold, and vacancies shall be filled up, so that the cavalry shall be officered as follows, that is to say: to the brigade there shall be one brigadier general and a brigade staff, ^{How officered.} to consist of one aid-de-camp and one brigade major, to serve also as brigade inspector, each with the rank of major, one brigade judge advocate, one brigade paymaster, and one brigade quartermaster; to each regiment one colonel and a regimental staff, to

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consist of one regimental adjutant, who at the meetings of the regiment, in the absence of the brigade major, shall perform the duty of brigade inspector, and one quartermaster, each with the rank of captain, one sergeant major, one master of music, and one master of the drill and sword exercise, one surgeon, and one chaplain; to each squadron one major and a staff, to consist of one adjutant, one paymaster, and one quartermaster, each with the rank of lieutenant, one quartermaster sergeant, and one surgeon's mate; and to each troop of horse one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, one trumpeter or bugler, and not less than thirty-six, or more than sixty troopers; the brigade staff to be appointed by the brigadier general, the regimental and squadron staff by the commandants of the regiments and squadrons, respectively, and the noncommissioned officers and musicians by the commissioned officers of the troops, respectively.

Resignations, vacancies, etc.

85. *And be it enacted*, That the resignations of captains and subalterns shall be made to the major or commandant of the squadron; and whenever any new troop shall be formed, or vacancy in the officers of a troop shall occur, from resignation or otherwise, the major or commandant of the squadron shall immediately report the same to the colonel or commandant of the regiment, who shall thereupon, by warrant under his hand and seal, direct the major or commandant of the squadron to hold an election in said troop to supply such vacancy; and the major or commandant of the squadron, after giving ten days previous notice of the time and place of holding such election, by advertisement set up in three of the most public places within the limits of said troop, shall proceed to hold said election within said limits, and the troop, or such of them as may attend at such time and place, shall, by plurality of votes, choose officers to supply the vacancies in said troop, and the major or commandant of the squadron shall certify the same to the commander-in-chief, to be commissioned accordingly.

Cavalry trainings.

86. *And be it enacted*, That the cavalry shall rendezvous once in every year for the improvement in military discipline, by troop, on the third Monday in April; *provided*, that if the colonel or commandant of any regiment of cavalry shall think fit (not oftener than once in three years) to order a regimental training, then the several troops and squadrons composing the said regiment, together with the staff, shall meet by regiment, within the bounds thereof, on the Tuesday following the second Monday in June, which regimental training shall be instead of the meeting above mentioned for that year; and it shall be the duty of the colonels or commandants of regiments to give twenty days notice, the majors and commandants of squadrons to give fifteen days notice, and the captains

Notice.

or commandants of troops to give ten days notice of such meetings, by advertisements set up in three of the most public places, or inserted in a newspaper circulating within the bounds of the regiment, squadron, or troop, respectively; and at every meeting of a regiment of cavalry, the brigade inspector, or in his absence the adjutant of the regiment, shall make an accurate return and report of the state of the several troops composing the regiment, their number, horses, arms, and equipments, one copy of which return he shall forthwith forward to the adjutant general, and one other copy to the colonel or commandant of the regiment, who shall forward the same to the brigadier general or commander-in-chief of the cavalry.

87. *And be it enacted*, That the colonel or commanding officer of each regiment of cavalry, shall once in each year, if he think necessary, call a meeting of all the commissioned officers of his regiment, at such time and place, within the bounds of the same, as he shall appoint for improvement in military discipline, of which meeting he shall give twenty days notice in manner aforesaid, and if he shall think proper, may order the first or orderly serjeant of each troop belonging to the said regiment to attend the said meeting; and also, may order any one troop belonging to the squadron, within the bounds of which the said meeting shall be held, to attend the same, giving notice of his intention so to do to the captain or commandant of said troop, fifteen days before the time appointed for the first meeting of the troop in that year; which meeting of the said troop with the officers of the regiment shall be advertised by the captain or commandant of the troop in manner aforesaid, and shall be in lieu of the training of that year.

88. *And be it enacted*, That all officers, privates, and musicians, belonging to the cavalry, shall be subject to the same fines and penalties for nonattendance on the days of parade directed and required by the troop, squadron, or regiment to which they may belong, and for deficiencies of arms and equipments, as are or may be imposed by law on the militia generally.

89. *And be it enacted*, That it shall and may be lawful for the captains or commandants of any troops of cavalry, to enroll in their respective troops, from the several companies of militia composing the regiment or brigade to which they may belong, and if the said company be in the bounds of the said regiment or brigade, then from the regiment or brigade adjoining the same, and a certificate from the captain or commanding officer of any troop shall exonerate the person therein named from being fined, or from paying any fine thereafter imposed on him by the officers of the company of militia within the bounds of which he may belong; *provided*, it

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shall not be lawful for the captains or commandants of any troop of cavalry to grant a certificate to any person prior to his appearing in uniform agreeably to law, under the penalty of ten dollars, to be recovered by the paymaster of the battalion within the bounds of which such officer may reside, and paid to the brigade paymaster.

Regimental
meetings
may be va-
ried.

90. *And be it enacted*, That it shall be lawful for the colonels or commandants of regiments of cavalry, and it shall be their duty when required by the brigadier general of cavalry, to vary the day of the meeting of said regiment, so that the several regiments may meet in succession for inspection or review by the brigadier general of cavalry, or other superior officer or officers, if he shall think fit.

Cavalry
rules.

91. *And be it enacted*, That in all respects not herein particularly provided for, the cavalry of this state shall be subject to such rules and regulations as are or may be provided by law for the government of the militia of this state.

Squadron
parades.

92. *And be it enacted*, That it shall and may be lawful for the commandants of the several squadrons of cavalry in this state, in lieu of any other parade or inspection, to order a squadron parade at such time and place within the bounds of the squadron as he shall judge proper, by giving fifteen days notice of such parade, by advertisements set up in three of the most public places, or inserted in a newspaper circulating within the bounds of the squadron, at which parade the squadron shall be duly inspected by the brigade inspector, or, in his absence, by the adjutant of the squadron; and the officers, noncommissioned officers, and privates, shall be liable to the same fines and penalties for absence or delinquency as are now imposed by the militia laws of this state, and which shall be levied and collected in like manner with other militia fines.

Arms to be
marked.

93. *And be it enacted*, That it shall be the duty of the quartermaster general to cause each stand of arms now in the arsenal, or which may hereafter be received as the quota of the state, to be struck on the barrel with a steel die, with the letters N. J.

Of the pub-
lic arms and
equipments.

94. *And be it enacted*, That it shall be the duty of the quartermaster general, hereafter carefully to compare the returns made by the respective brigade inspectors, of the number and condition of public arms and equipments in the respective regiments inspected, with the number actually loaned to such regiment; and if the number does not fully appear on the respective returns, or their good condition is not manifested, the said quartermaster general shall, as soon as may be, cause the public arms and equipments of such regiment to be returned to his care: he is also authorized to cause all such arms belonging to the state, deposited in any place, or in

possession of any person or persons not under lawful responsibility, ^{TTT. XXVI.} to be returned to the arsenal, and he is hereby required to keep ^{CHAP. 1.} any arms and equipments returned in pursuance of this act, separate from those now in the arsenal; and it shall be the duty of the quartermaster general, on the first week of every session of the legislature, to lay before them a particular return of all the arms and equipments belonging to the state, the number loaned out, in whose hands, and whether they remain under proper responsibilities, including in said return all the camp equipage in his charge: and the quartermaster general is authorized to require from the respective brigade inspectors, such particular returns as may give every information requisite fully to carry this section into effect. ^{Annual report.}

95. *And be it enacted,* That the quartermaster general be, and he is hereby authorized, by and with the advice and consent of the commander-in-chief, from time to time to nominate and appoint a suitable person as armourer or keeper of the state arsenal, and one assistant to take charge of the said arsenal, to repair and keep in good and proper order the arms and equipments belonging to this state, that now are or may hereafter be placed under his charge; and that the said armourer be responsible to the quartermaster general for the safe keeping of the said arms and equipments; that the said quarter master general report annually to the commander-in-chief the number and condition of the arms and equipments, including in said report all the camp equipage belonging to the state, and that the said report be laid before the legislature by the commander-in-chief. ^{Armourer appointed.}

96. *And be it enacted,* That the treasurer of the state be, and he is hereby authorized and directed to pay a salary, after the rate of four hundred dollars a year, to such armourer, in quarterly payments, and one dollar per day to one assistant in like manner, so long as he shall be actually employed in repairing and keeping in order the arms and equipments of the state, upon warrants drawn by the quartermaster general, and approved by the commander-in-chief. ^{Salary.}