

centre of the needle-point provided for in the previous section of this act, would be in and upon the line of the true meridian, running north and south.

5. SEC. 3. It shall be furthermore the duty of the board of chosen freeholders in each county to provide and keep a standard measure of one rod in length, by which surveyors of lands in said county may compare, test and verify their several chains; the said standard measure to be kept under the control and in the custody of the county clerk, and to be accessible to all surveyors as aforesaid, under such restrictions and regulations as may be deemed by the said board of chosen freeholders to be compatible with the safety and proper preservation of the said standard measure.

Freeholders to provide and keep a standard measure.

6. SEC. 4. It shall be furthermore the duty of the board of chosen freeholders of each county wherein the pillar provided for by the act to which this is a supplement shall have been erected, to cause to be determined the accurate latitude and longitude of the pillar aforesaid, reckoning the latter from the meridian of Washington, and to have the said latitude and longitude marked, distinctly and legibly, in degrees, minutes, seconds and parts of seconds, on the pillar aforesaid.

Latitude and longitude to be marked on pillar.

7. SEC. 5. It shall be the duty of each and every surveyor engaged in surveying land within any county of this state, to test and note the actual variation of his compass from the true meridian line, at least once in every year, and to deposit a copy of the same, with the date and time of such test, and to deposit a certificate embodying the same with an affidavit verifying its correctness, with the clerk of the county in which he may reside, to be by him recorded in a book provided for that purpose; and every surveyor neglecting or refusing to comply with the provisions of this section shall be liable to the penalty of fifty dollars, to be sued for and recovered, with costs, as debts of like manner are recovered, before any justice of the peace, by the corporation of said county, or by any person, for its use and benefit, to be applied on recovery to such county uses as said corporation shall direct.

Surveyors to test variation.

8. SEC. 6. For recording each certificate of variation, and affidavit of the correctness of the same appended, and for copies or abstracts of the same, and for drawing certificate and seal therefor, the county clerk shall be allowed the same fees as are now allowed by law for similar services in regard to other matters of record in his office, the said fees to be paid by the parties presenting the same for record, or demanding abstracts or copies, or the drawing of said certificate and the affixing of said seal.(1)

Fees of clerk for recording certificate of variation &c.

(1) For supplement relating to counties of Salem and Cumberland, see P. L. 1869, p. 566.

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3. Commander in chief to organize national guard.
4. National guard how officered.
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9. Officers how commissioned.
10. Oath to be taken and subscribed.
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15. Brevet rank of major general authorized.

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16. Duties of adjutant general.

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18. Arms and equipments to be furnished national guard.
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20. Duty of surgeon general.

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28. Duty of judge advocate general.

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41. Parades.
 42. Written or printed notice of parade to be given.
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 49. Moneys received from fines how paid out.
 50. Amount of fine for absence from parade or drill.
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 52. Penalty for unofficer-like or unsoldier-like conduct.
 53. Penalty for disorderly conduct before court martial.
 54. President of court martial may issue warrant for commitment.
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 58. Penalty for non-attendance at military board or court martial.
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 62. Presidents to administer oaths, preserve order, &c.
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 65. Expenses of courts martial how paid.
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 69. Compensation, when allowed father.
 70. Term of enlistment.
 71. Exemption from jury duty, poll and military tax.
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 74. On discharge after seven years service, exempt from jury and military duty.

XVIII. ACTIVE SERVICE.

75. In case of invasion or emergency, term of service not to exceed three months.
 76. In case of riot, &c., mayor of city or sheriff may call on military.
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 81. Paymasters of companies to collect fines.
 82. Military tax laws repealed.
 83. Venue in case suit brought for anything done under this act. Pleas.
 84. Expenses to carry out provisions of act.
 85. Repealer.
 86. Enrollment of militia.
 87. Proceedings to compel persons illegally detaining arms, &c., to deliver up the same.
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 90. Prosecutor of pleas to conduct proceedings.
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 92. Bonds for arms and equipments.
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 97. Previous military service may be applied.
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 103. Proviso to section first.
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 106. Brevet of brigadier general may be conferred.
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 111. Annual appropriation for division headquarters.
 112. Commanding officers of battery members of brigade board.
 113. Brigade commanders members of state military board.
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 115. Term of enlistment made five years.
 116. To be one judge advocate to each regiment.
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 122. Judge advocate with rank of major to be on staff of major general.
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126. Militia divided into active and reserve.
 127. Bureau of enrollment and drafting.
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 129. Chief of enrollment may appoint deputies.

130. Commissioners to make enrollment.
 131. Enrollment, how conducted and made.
 132. Assessors, clerks, &c., to allow enrolling officer to examine assessment rolls, &c.
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 135. Enrollment to be had once in three years.
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An act for the organization of the national guard of the state of New Jersey.

Approved March 9, 1869.

I. Organization.

P. L. 1869, p. 251.

1. That the active militia of this state shall be known as "The National Guard of the State of New Jersey," and shall consist of not more than sixty companies of infantry, and such batteries (not more than two), and such cavalry companies (not more than six), as may be authorized by the commander in chief, to be organized into brigades, in number not more than three, and to be comprised in one division; *provided*, that each county of the state shall be entitled to at least one of said companies. (See *Sec. 103*).

National guard,
how constituted.

2. That the rifle corps of this state, and the present organized uniformed militia, shall be included in the national guard.

State rifle corps.

3. That the commander in chief is hereby authorized and empowered to proceed at once to organize the national guard in conformity to this act.

Commander in
chief to organize
national guard.

4. That the national guard shall be officered as follows, and not otherwise: The governor shall be commander in chief; his staff shall be as follows: four aides-de-camp, with the rank of lieutenant colonel, whose term of service shall expire with that of the governor; one adjutant general, with the rank of brigadier general; one quartermaster general, with the rank of brigadier general; one surgeon general, with the rank of brigadier general; one inspector general, with the rank of colonel of cavalry; one judge advocate general, with the rank of colonel of cavalry; one assistant adjutant general, with the rank of colonel of cavalry; the quartermaster general shall be acting commissary general, and the inspector general shall be acting paymaster general; there shall be a major general of division; his staff shall be as follows; three aides-de-camp, each with the rank of major; one inspector, with the rank of colonel; one assistant adjutant general, with the rank of colonel; one surgeon, with the rank of colonel; and one quartermaster, with the rank of lieutenant colonel; there shall be one brigadier general to each brigade; his staff shall be as follows: one inspector, with the rank of lieutenant colonel; one assistant adjutant general, with the rank of lieutenant colonel; one quartermaster, with the rank of major; one surgeon, with the rank of major; one paymaster, with the rank of major; two aides-de-camp, with the rank of captain; to each regiment there shall be one colonel, one lieutenant colonel, and one major; to each battalion there shall be one major; the regiment or battalion staff shall consist of one adjutant, with the rank of first lieutenant; one quartermaster, with the rank of first lieutenant; one paymaster, with the rank of first lieutenant; one surgeon, with the rank of major; one assistant surgeon, with the rank of first lieutenant; one chaplain, to rank as captain; one sergeant major, one quartermaster sergeant, one commissary sergeant, and one principal musician; to each company there shall be one captain, one first lieutenant, one second lieutenant, five sergeants, five corporals, two musicians, and not less than forty nor more than eighty privates. (See *Sec. 93, 105, 116, 118*).

National guard,
how officered.

5. That brigades, regiments, battalions, batteries and cavalry companies shall be numbered by the commander in chief in such manner as he shall deem proper and best calculated to secure uniformity, and a register thereof shall be kept in the adjutant general's office.

Brigades, regi-
ments, etc., to be
numbered.

6. That whenever any company, battalion or regiment shall fall below the standard of numbers required by this law to constitute the same, or shall be guilty of mutinous conduct, the same may be disbanded or consolidated with other corps by the division commander.

When company,
&c., to be dis-
banded.

II. Elections, appointments, resignations, &c.

- Officers to take rank from date of appointment. 7. That all officers hereafter appointed or elected shall take rank from the date of such appointment or election; 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 or battalion.
- Elections to be by ballot. 8. That all elections shall be by ballot, on five days' notice of their time and place to all persons entitled to vote, and a majority of all the votes cast shall be necessary to a choice.
- Officers to be commissioned by commander in chief. Commission not delivered until person uniformed, &c. 9. That all general, field, line and staff officers who shall have been duly elected or appointed, shall be commissioned by the commander in chief, and their commissions shall be sent by the adjutant general by whom the said commissions shall be countersigned, to the officer who held the election or who made the appointment; no commission shall be delivered to the person elected or appointed until he shall be uniformed and equipped according to the regulations of the military service of the United States, or the regulations of this state, if a different regulation exist in this state; should any person so elected or appointed, neglect or refuse so to uniform and equip for one month from the time of his election or appointment, the commission shall be returned to the adjutant general, with the cause of its return endorsed upon it, and the election or appointment shall thereupon be void; all non-commissioned officers shall receive warrants from their respective commandants, these are to be on parchment blanks and to be furnished by the adjutant general.
- Oath to be taken and subscribed. 10. 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 his entering on the execution of his office, give assurance of fidelity and attachment to the government of the United States and of this state, by taking and subscribing the following oath or affirmation before the general or some 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 national guard, of the state of New Jersey, according to the best of my ability, so help me God;" and a certificate thereof shall be made upon the back of every commission by the general or field officer before whom the said oath or affirmation shall have been taken and subscribed.
- Resignations, how to be made. 11. That any commissioned officer wishing to resign shall to that end make application in writing, if a line officer, to the commandant of his regiment or battalion; if a field officer, to the commandant of brigade; if a brigadier general, to the commandant of division; if commandant of division, to the commander in chief; if a staff officer, to the officer upon whose staff he serves; and if a sufficient reason for such resignation appear to the officer to whom such application is made, he shall so certify by written endorsement on such application, and transmit such application through the proper channels to the adjutant general, who shall file the same in his office, and thereupon such resignation shall be held to have been accepted and the commission to be void; no commissioned officer shall be permitted to resign except in the manner herein prescribed.
- Commissions, when to be void. 12. That if any officer holding a commission, is appointed or elected to another office in the state forces, and accepts the same, his commission which he held at the time of such appointment or election shall be void; and if any officer remove out of the state, or be absent therefrom more than six months, his commission shall thereupon be void; and if the corps to which any officer belongs is disbanded, or ceases to exist, the office of such officer shall thereby expire, and he shall be placed on the retired list by the adjutant general.
- Vacancies, and of elections to fill the same. 13. That whenever the office of brigadier general shall from any cause be vacant, the major general of division shall give notice of an election to be held to fill the vacancy; he shall preside at the election, and shall immediately certify its result to the commander in chief; whenever the office of colonel, lieutenant colonel, or major of a regiment or battalion shall be vacant, the commandant of the brigade to which such regiment

or battalion belongs, shall in like manner give notice of, preside at, hold and certify the result of the election; whenever the office of captain or lieutenant of a company shall be vacant, the commanding officer of the regiment or battalion to which such company belongs, shall give notice of an election to fill such vacancy, and he shall hold accordingly and preside at the election, and certify its result to the commander in chief.

14. That when there shall not be an officer qualified to hold an election as prescribed in this act, the division commander shall issue his warrant to any officer whom he may select to hold such election, who shall give notice of, and conduct it in all respects as hereinbefore prescribed, and he shall certify its results to the commander in chief.

Proceedings where there is no officer qualified to hold election.

15. That the governor and commander in chief be and he is hereby authorized to confer upon such citizens of this state, not exceeding three, as shall have served long and meritoriously as adjutant general, quartermaster general, or brigadier general of the national guard, the rank of brevet major general; *provided*, that the governor shall nominate the said officers to the senate, and the rank shall be conferred by, and with the advice and consent of the senate; and all other laws authorizing the conferring of brevet rank in the militia are hereby repealed, the rank heretofore conferred under them, however, is not to be affected by this repeal, but the commissions issued on the same are to be and remain in full force. (See *Sec. 102, 106*).

Brevet rank of major general authorized.

III. Duties of officers—Adjutant general.

16. 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; he shall attend at public reviews, if required, when the commander in chief shall review the national guard, or any part thereof; he shall obey all orders from him relative to carrying into execution and perfecting the system of military discipline established by this act; he shall furnish blank forms of the different returns that may be directed by the commander in chief, and shall explain the principles on which they shall be made; from the report of the inspector general he shall make proper abstracts, and lay the same with a report of the general state of the national guard, and also of such improvements as he may think necessary to advance the discipline of and benefit the national guard, before the commander in chief of the state, who is required to lay the same before the legislature; he shall also annually make a return of the national guard of this 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 also every proceeding relative to the details of the military force ordered by the commander in chief upon requisition of the president or congress of the United States in case of invasion or other emergency; all certificates of election of officers shall be transmitted to him, to be entered on record before such officers shall be commissioned by the commander in chief. (See *Sec. 95*).

Duties of adjutant general.

IV. Quartermaster general.

17. 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 dye, with the letters N. J.

Each stand of arms to be stamped.

18. That the quartermaster general shall, upon the application of the commandant of any corps of national guard, who are uniformed according to law, furnish from the state arsenal, when in his opinion they can be spared without manifest injury to the service of this state, and of the United States, the number and kind of arms and equipments suited to the corps, he being first satisfied that the said corps is provided with a proper depository for such arms and equipments; and he shall require the commanding officers of the company to give bond, with sufficient security, that the same shall not be loaned nor suffered to go out of the possession of the company, and shall be kept in good order, and returned to the state arsenal when he shall so require; it shall be his duty carefully to compare the returns made by the respective brigade inspectors, of the number and

Arms and equipments to be furnished National Guard.

Officers of company to give bond.

Report to be made to the legislature.

condition of public arms and equipments in the respective regiments and battalions inspected, with the numbers actually loaned to the respective companies in such regiments or battalions; and if the number does not fully appear on the respective returns, or their good condition is not manifested, the said quartermaster general shall cause the public arms and equipment of such companies to be returned to his care; he may require all arms belonging to the state, deposited in any place or in possession of any person or persons, not under lawful responsibility, to be returned to the arsenal, and he is hereby required to keep any arms and equipments so returned, separate from those already in the arsenal; it shall be the duty of the quartermaster general, the first week of every session of the legislature, to lay before them a return of the number and condition of 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 camp equipage in his charge; and he 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; he shall require annual returns from the captain or commanding officer of every uniformed corps furnished with arms and equipments, the property of the state, on or before the first day of December in each year, of the actual situation, condition, and number of the arms and accoutrements, and the number of men actually enrolled, equipped, and in uniform, doing military duty, of the respective corps; and in case of failure of such commanding officer to make such returns, or if the number of arms loaned to such corps does not fully appear on the respective returns, or their good condition is not manifest, the quartermaster general shall cause the said arms and equipments to be returned to his care; he may from time to time issue such orders and make such regulations as he may deem necessary and proper for the care and safe keeping and return of the military property of the state in the use of the uniformed companies; he may issue to any officer the arms and accoutrements required by him, for his use in the military service of the state, on payment of the regulation price, said price to be placed to the credit of the arsenal, and accounted for by the quartermaster general in his annual report; he shall furnish upon due requisition, such arms, ordnance and accoutrements, equipments or implements therewith, ammunition, tents, camp equipage or other state property, and such subsistence and forage, to conform as nearly as may be to the rations and forage prescribed for the armies of the United States, to be issued in kind as may be required at any time for the use and supply of the state forces, at any parade, encampment or station, or as may be required by them when on actual service; he is hereby authorized to nominate and appoint, by and with the advice and consent of the commander-in-chief, from time to time, a suitable person as armorer or keeper of the state arsenal, 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 the said armorer shall be responsible to the quartermaster general for the safe keeping of the said arms and equipments. (See *Sec. 124*).

To appoint armorer or keeper of state arsenal.

Salary of armorer.

19. That the treasurer of the state be and he is hereby authorized and directed to pay a salary at the rate of five hundred dollars a year to the armorer, in quarterly payments, and one dollar and twenty-five cents per day to one assistant in like manner, so long as they 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.

V. Surgeon general.

Duty of the surgeon general.

20. That the surgeon general shall have charge and general supervision of the medical department of the state forces, and shall issue from time to time such regulations, subject to the approval of the commander-in-chief, as the necessities of the case may require, he shall, if duly called upon, examine the location of all camps or stations, to see that they be established in proper places, and be properly laid out and conducted with

reference to the health and comfort of the troops; or he may detail an officer for that purpose; he shall also establish a medical bureau, in which all papers and transactions of his department, and all statistics and available information concerning the health and comfort of the troops in camp and in the field, shall be preserved for the use and guidance of the medical staff, and he shall deliver the same over to his successor; all persons nominated as surgeons or assistant surgeons to any command, shall be first examined by the surgeon general or such competent surgeon on the medical staff of the state forces as he shall designate for that purpose, and no person shall be appointed on the medical staff except upon the certificate of the examining officer, that he is a fit and competent person for such appointment.

VI. Inspector general.

21. That it shall be the duty of the inspector general to attend such brigade reviews and parades as the commander-in-chief may direct, and from the returns of brigade inspectors make a report of the condition of the national guard to the adjutant general on or before the first day of December in every year; he shall have power to inspect all armories, arsenals, or military storehouses, and as acting paymaster general, all accounts of paymasters, and report the condition of the same at any time to the adjutant general for his action. (See *Sec.* 108, 109). Duty of the inspector general.

VII. Division inspector.

22. That it shall be the duty of the division inspector to see that the brigade inspectors make proper inspections, and transmit to him due returns of the same. Duty of the division inspector.

VIII. Brigade inspectors.

23. That it shall be the duty of the brigade inspectors to once a year attend the brigade, regimental and battalion reviews, parades and musters of their respective brigades of the national guard, and to inspect their arms, ammunition and accoutrements; each brigade inspector shall make returns annually, on or before the first day of December in every year, to the inspector general of the state, of the brigade to which he belongs, reporting therein particularly the name of the reviewing officer, the actual condition of the arms, ammunition and accoutrements, their armories, and storehouses, and every other thing which in his judgment may relate to their government, and the general advancement of good order and military discipline; in case of the absence of the brigade inspector, the commanding officer present at the inspection shall appoint some officer to perform the duties thereof; it shall be the duty of the respective brigade inspectors, in the annual returns required from them, to make a particular statement of the companies in 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 companies within the bounds thereof, or that may have been purchased with money arising from fines levied within their respective brigades. (See *Sec.* 109, 110). Duties of the brigade inspectors.

IX. Paymasters.

24. That all division, brigade, regimental and battalion paymasters, or persons acting as such, shall be the collecting and disbursing officers of their respective divisions, brigades, regiments and battalions, and shall have charge, under the provisions of this act, of collecting and accounting for fines and penalties, as hereinafter provided; they shall, before entering upon the duties of their office, severally give bond, with sufficient sureties to be approved by the commandant of the division, brigade, regiment or battalion, as the case may be; division and brigade paymasters in the sum of three thousand dollars, regimental and battalion paymasters in the sum of five thousand dollars, conditioned 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 take and subscribe the following oath or affirmation: I ———, appointed paymaster of the ——— division (brigade, regiment or battalion, as the case may be) of the national guard, do swear (or affirm) that I will, to the utmost of my knowledge and ability, hon- Duties of paymasters.
Bond of.
Oath of.

estly and faithfully perform the duties of the office of paymaster of the said — division, (brigade, regiment or battalion), so help me God; which oath (or affirmation) the said clerk shall administer and endorse on the said bond, and file the said bond in his office, to be prosecuted whenever the brigade, regimental or battalion board shall so direct; the said clerk shall, on the back of the paymaster's commission, give a certificate under his hand and 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 said paymaster.

Brigade paymas-
ter to keep journal,
receive and
file vouchers, &c.

25. That every brigade paymaster shall keep a journal of his proceedings, and receive and file all vouchers and returns, and keep proper and distinct accounts of the moneys accruing from the fines and forfeitures, in the several regiments and battalions in the brigade, which shall be paid or returned to him, and shall also receive and file all returns, orders, vouchers and receipts for all moneys which he may receive and pay conformably to law, and he shall submit his books of account, 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 and returns by him received, and produce orders for any disbursements he may have made, and he shall make like submission to the treasurer of the state, or to such other officer or officers as may be provided by order or regulation of the adjutant general, with the approval of the commander in chief, whenever the treasurer or such other officer or officers may require.

Regimental and
battalion pay-
masters to keep
journal, file
vouchers, &c.

26. That the regimental or battalion paymasters, or persons acting as such, shall in like manner keep a journal of their proceedings, receive and file all papers and vouchers, and receipts for all moneys received and paid out by them, and shall account to the regimental or battalion board for all moneys or returns received by them, and produce orders for any disbursements they may have made to the regimental or battalion board, and from time to time to such other officer or officers, or board of officers as may be prescribed by order or regulation of the adjutant general, with the approval of the commander in chief.

Fines of delin-
quents, how col-
lected.

27. That if any delinquent or delinquents shall neglect or refuse to pay any fine or fines returned against him or them, to any paymaster, or person acting as such, such paymaster or acting paymaster, shall immediately thereafter put the return or list of said fine or fines so unpaid into the hands of any judge of the inferior court of common pleas of the county, or justice of the peace of the town or city where the delinquent resides or has property, who is required forthwith to issue execution against the person or persons named in said return or list, for the sum or sums assessed opposite their respective names, with costs, as in cases of taxation, directed to the sheriff of the county, or to any constable of the town or city in which such delinquent resides or hath property, who is required to levy the same of the goods and chattels of the delinquent, and to pay the sum or several sums in said execution named, within thirty days, to the paymaster, or person acting as such, charged with the collection of said fine or fines; the form of the execution shall, as near as may be, be as follows: ——— county: The State of New Jersey to the sheriff of (or to ———, one of the constables in) the county of ———: Whereas, the persons named in the schedule or list hereunto annexed, have been duly adjudged for deficiency in military duty or equipments, to pay the fines to their names respectively annexed, 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, (regiment, brigade or division), 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 ———.

X. Judge advocate general.

Duty of judge ad-
vocate general.

28. That it shall be the duty of the judge advocate general to have supervision, care and management of all things relating to the administra-

tion of justice among the military forces of this state; he shall act as judge advocate at all courts martial where the public interests require his attendance; he shall, when required so to do, by the commander in chief, report his opinion on any question of law involved in this act.

XI. Assistant adjutant general.

29. That it shall be the duty of the assistant adjutant general, in the absence of the adjutant general from the capital of the state, or in case of his inability to perform all his duties, to himself perform or assist therein. Duty of assistant adjutant general.

XII. State, brigade, regimental, battalion and examining boards.

30. That there shall be a board of officers to be called the "state military board," and to consist of the adjutant general, quartermaster general and commandant of the division, who from time to time shall prepare and submit rules and regulations, forms and precedents, for the use and government of the national guard; and the same, upon the approval of the commander in chief, and by his order, shall be published in orders by the adjutant general, and be distributed to the commissioned officers of the state, and from the publication thereof the same shall be binding upon the national guard. (See *Sec. 113*). "State Military Board," how constituted.

31. That to each brigade there shall be a brigade board, composed of the brigadier general and commandants of regiments and battalions of the respective brigades, and a majority of the members shall be necessary to form a board; they shall meet at least once in each year, at such place as shall be agreed upon by the majority of the board; it shall be lawful for the brigadier general or commandant of any brigade of the national guard, to convene, for the transaction of any appropriate business which may come or be laid before them, the brigade board of said brigade, whenever, in his opinion, it shall be proper or necessary so to do; and a meeting of said board shall be called for the transaction of such business by the brigadier general or commanding officer, whenever so requested by the majority of the members of said board; the assistant adjutant general shall be *ex officio* clerk of the board, and shall keep a record of all their proceedings; at each meeting of the brigade board, the officer of the first grade and seniority present shall preside; the brigade board shall have power to compel the attendance of its members by imposing a fine, which shall not in any case exceed twenty dollars; the brigade board may authorize the formation of new companies to fill vacancies, subject to the approval of the division commander, and attach them to such regiment or battalion of their brigade as they may think proper; they shall draw orders on the brigade paymaster for all lawful and necessary expenses, adjust, inspect and settle his accounts, and determine what balance is in his hands; and in case of the delinquency or neglect of duty on the part of the paymaster, his successor is hereby empowered and required to prosecute the delinquent or defaulter, his sureties, his or their 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; the brigade board shall determine the balances which the regimental or battalion paymasters shall severally pay to the brigade paymaster; the regimental or battalion boards shall adjust and settle the accounts of their respective regimental or battalion paymasters, and determine the balance in their hands; and in case of the neglect of duty, default or embezzlement of any regimental or battalion paymaster, his successor shall prosecute such regimental or battalion paymaster, guilty of default, embezzlement or neglect of duty as aforesaid, his sureties, his or their executors or administrators, for all moneys due to the regiment, battalion or any company thereof, from such regimental or battalion paymaster, in any court where the same may be cognizable, with costs of suit; the brigade board shall, on returns made to them by the assistant adjutant general, regimental or battalion paymaster, of any delinquent officer (where no satisfactory excuses are offered), assess such fines on such defaulter as are directed by law; they shall preserve order at their several meetings 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 fine shall Brigade board, how constituted, powers and duties.

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. (See *Sec. 112*).

Regimental and
battalion boards,
their powers and
duties.

32. That there shall be a regimental board of officers to each regiment, and a battalion board of officers to each battalion, to consist of all the commissioned officers of the regiment or battalion, which shall have power to pass laws for their own government and that of the regiment or battalion, and to establish fines and penalties for violation of such laws; to establish penalties for the non-attendance of the officers, non-commissioned officers and privates at any drill of the regiment or battalion; all companies of the national guard shall have power to adopt by-laws for their internal government, to establish fines and penalties for violation of such by-laws, and to provide for the expulsion, by company court martial, of unruly and insubordinate members, such expulsion to be subject to the approval of the commandant of the regiment or battalion.

Examining
board for officers.

33. That the division commander shall appoint three experienced officers of the national guard, above the rank of lieutenant colonel, who shall constitute an examining board for officers; the division commander may order before them for examination as to physical ability, moral character, capacity, attainments, efficiency and general fitness for the service, any officer in commission in the national guard; this board shall report to the division commander, who shall have power, on report of this board, to place said officer on the retired list, and declare a vacancy; and if any officer shall refuse to report himself, when directed, before this board, the division commander shall, by order, declare him so retired, and shall report such retirement to the adjutant general. (See *Sec. 121*).

XIII. Uniforms, arms and equipments.

Regulations for
uniforms, how
established.

34. That every company of the national guard shall be uniformed according to the regulations established by the board of the regiment or battalion to which it may be attached, which regulations shall be subject to the approval of the commander in chief.

Uniforms, arms,
&c., exempt from
sale under legal
process.

35. That the uniforms, arms and equipments, and other military property of members of a uniformed corps, shall be exempt from sale under execution, and from every process of law, except such as may be issued in pursuance of the sentence of court martial.

Time within
which uniforms
shall be supplied.

[*Sec. 36 amended and supplied by Sec. 124 post*].

36. *SEC. 37.* That every non-commissioned officer and private shall be supplied, by the regimental or battalion board to which his company is attached, with his proper uniform within two months after the organization of his corps, or his joining the same, such uniform to be and remain the property of the regimental or battalion board.

Uniforms and
equipments to be
left at company
armory.

37. *SEC. 38.* That the uniforms and equipments to be issued to each company shall be left at the company armory, for safe keeping, and whoever shall sell or dispose of any such uniform or equipments, or shall refuse to deliver up the same, after demand therefor, to the quartermaster or acting quartermaster of the regiment or battalion to which the company to which such uniform or equipments may have been issued shall be attached, or shall secrete or remove any such uniform or equipments with intent to sell or dispose thereof, without the written consent of the regimental or battalion board to which the company to which such uniform or equipments may have been issued is attached, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail for not less than two nor more than six months, or by a fine of not more than one hundred dollars nor less than fifty dollars, or by both such fine and imprisonment, at the discretion of the court.

Penalty for sell-
ing or disposing
of same.

Amount to be
paid yearly in
lieu of uniforms
and rent of
armory.

38. *SEC. 39.* That in lieu of the present provisions for uniforms and drill room or armory rent and pay, there shall be paid on the first Monday of April of each year, to the paymaster or acting paymaster of each regiment or battalion of the national guard, the sum of five hundred dollars per company for each company duly organized which at said time is attached to the regiment or battalion to which said paymaster or acting paymaster

belongs, to be expended by the said paymaster or acting paymaster, only under the direction of the regimental or battalion board of the regiment or battalion to which such paymaster or acting paymaster belongs, subject to the approval of the commandant of the said regiment or battalion, for the purpose of procuring drill rooms and armories, for the purchase of uniforms, and to defray other expenses incident to the existence of the regiment or battalion, or companies attached to the regiment or battalion; and for any company duly organized subsequently to the first day of April in any year, the paymaster or acting paymaster shall receive at the rate of five hundred dollars per year for the unexpired part of the year ending on the first day of April then next, to be expended only in the manner stated above. (See *Sec. 101*).

39. SEC. 40. That the commander in chief shall have full power at his discretion, to make such disposition of the interest of the state in the uniforms issued heretofore to the militia and rifle corps of this state, as he shall deem most for the benefit of the militia service of the state, having due regard to the claims by way of part payment on the same in favor of those to whom they have been issued.

Interest of state in uniforms heretofore issued, how disposed of.

40. SEC. 41. That the quartermaster or acting quartermaster of any regiment or battalion of the national guard, upon the order of the commandant of the regiment or battalion to which he may be attached, shall have power to seize upon and hold as the property of the regimental or battalion board, any uniforms or equipments, or any part thereof, which are the property of the regimental or battalion board of the regiment or battalion to which the quartermaster or acting quartermaster may be attached; and it shall be the duty of any justice of the peace of this state, on complaint on oath to him made by any such regimental or battalion quartermaster or acting quartermaster, that any uniform or uniforms, or equipments is or are unlawfully withheld from him by any person or persons in the county in which said justice has jurisdiction, and that the same are believed to be in any particular place, to be specified in the complaint, to issue to a constable of said county his warrant in the nature of a search warrant, for said uniform or uniforms, or equipments, which warrant shall be executed in like manner as a search warrant, and the officer to whom the same is directed shall have the same powers and authority in executing the same that he would have in executing a search warrant, and on finding said uniform or uniforms, or equipments, he shall deliver the same to said quartermaster or acting quartermaster.

Duties and powers of quartermasters and acting quartermasters.

XIV. Parades and drills.

41. SEC. 42. That every company of the national guard shall be paraded at least twelve times in every year, and at least one of its parades shall be by brigade. (See *Sec. 107*).

Parades.

42. SEC. 43. That the orderly sergeant or acting orderly sergeant of each company shall notify every member thereof of any parade ordered in pursuance of this act, by a written or printed notice to be left at the residence or place of business of such member, or sent by mail, at least two days before the time specified for such parade; at the time and place of meeting named in said orders, the orderly sergeant shall call the roll of the company, and shall make a true list of all present or absent at each roll call; if the company be part of any battalion, regiment or brigade, then the commandant of the company shall make copies of the return of the sergeant, and certify and forward the same to the commandant of the battalion, regiment or brigade; adjutants and assistant adjutant generals shall in like manner, by service of written or printed notice or by mail, three days prior to the day fixed for parade, notify commissioned officers, call the roll of officers, and make return to the commanding officers in cases of battalion, regimental or brigade parade.

Written or printed notices of parades to be given.

43. SEC. 44. That in addition to the number of days for drill, now required by law, all the national guard may, once in three years, when so ordered by the governor, be required to attend an encampment at such time and place as the commander in chief may appoint, which encampment shall continue at least six days, during which time the troops shall

Encampments may be ordered once in three years.

be exercised in company and battalion movements and target practice, and be carefully instructed in the whole routine of camp and field duty.

To have right of way on parade.

44. SEC. 45. That when a brigade, regiment, battalion, or company parade according to law, they shall have the right of way through any street or highway through which they may pass.

XV. Fines and their collection.

Courts martial, how constituted.

45. SEC. 46. That there shall be a company court martial to each company, consisting of one commissioned officer, one sergeant, one corporal and two privates, who shall be appointed annually by the commandant of the company; there shall be a regimental court to each regiment, and a battalion court to each battalion, each to consist of one field officer or senior captain, as president, one captain and one first lieutenant, who shall be appointed annually by the respective commandants of regiments and battalions; they shall hold at least three sittings in each year, at such times and places within the bounds of their commands, as the said commandants respectively shall direct, notices of which sittings shall be published as the rules and by-laws of the company, or of the regiment or battalion board shall prescribe; said courts shall have power to hear and decide upon all excuses of the members of their respective commands, for non-attendance at company, regimental or battalion duty, or neglect of duty prescribed by law, or the laws and regulations of any company or of the regimental or battalion boards, in pursuance of law; and they may impose such fines or penalties, within the purview of this law, as in their judgment may seem proper.

To hold three sittings each year.

Powers and duty.

Duties of the presidents of courts martial.

46. SEC. 47. That it shall be the duty of such presidents of such courts, respectively, to transmit to the officer commanding the company, regiment or battalion, as the case may be, the findings of the courts, together with a correct list of all delinquents upon whom said courts shall have imposed fines, and the amount of each fine, and such commandant countersigning said list of delinquents, shall transmit the same to the regimental or battalion paymaster, or person acting as such, and if any delinquent shall refuse to pay to such paymaster or acting paymaster, the fine or fines against him within ten days after notice in writing, to him given, to pay the same, then it shall be the duty of the paymaster or acting paymaster to proceed to collect and enforce the same according to law; and all the moneys so collected shall be expended for the use and purposes of the command whose court imposed said fine, as the by-laws or official board thereof may direct.

Appeal from sentence of courts.

47. SEC. 48. That from the sentence of any regimental or battalion court imposing a fine, there may be an appeal if made within ten days, to the commandant of the regiment or battalion, who may remit such fine, and certify the remission to the paymaster or acting paymaster charged with the collection of said fines.

Lists of members in arrears for fines and penalties to be made.

48. SEC. 49. That company commandants shall transmit to the commandant of the regiment or battalion of which they are a part, a correct list of all members of their respective companies who are in arrears for any fines or penalties imposed upon them; and commandants of regiments or battalions shall direct the paymaster or acting paymaster serving under their command, to collect or cause to be collected and enforced according to law, any fines or penalties which may be returned to them.

Moneys received from fines and penalties to be paid out under direction of brigade board.

49. SEC. 50. That all moneys received from fines and penalties by the brigade paymasters, or acting paymasters, shall be paid out under the direction of the brigade board, subject to the approval of the commandant of the brigade; all moneys received in like manner by regimental or battalion paymasters, or persons acting as such, shall be paid out under the direction of the regimental or battalion board, subject to the approval of the regimental or battalion commander; all moneys received in like manner by the treasurer of any company shall be disbursed as the rules and by-laws of the company shall direct, subject to the approval of the commandant of the company; but no moneys received by or accruing to any board or corps shall be expended for any other than military purposes, and any officer or officers, or board assenting to any disbursement of the

same for purposes not strictly military, shall be subject to court martial therefor.

50. SEC. 51. That every officer, non-commissioned officer or private who shall be absent from any parade or drill duly ordered, or from any state encampment, or from any active duty when called to the same, shall be subject to a fine; if the delinquent be a general officer, he shall be subject to a fine of ten dollars for every day he shall be so absent from such parade, drill, encampment or active duty; if a regimental or battalion officer, to a fine of eight dollars for every day; if a company or line officer, to a fine of six dollars for every day; and if a non-commissioned officer or private, to a fine of four dollars for every day of such absence.

Amount of fines for absence from parade or drill.

51. SEC. 52. That the same fines and penalties shall be respectively paid by every officer, non-commissioned officer and private who shall be absent at either roll call, or leave the parade of his regiment, battalion or company, without permission obtained from the commanding officer, before the said regiment, battalion or company shall be dismissed, which said fines shall and may be recovered in the manner directed in this act.

Same fines for absence from roll call or leaving parade without permission.

52. SEC. 53. That if any non-commissioned officer, musician or private, at any review or any other occasion when paraded in arms or on duty, shall misbehave or demean himself in any unofficer-like or unsoldier-like manner, he shall for such offence be cashiered, or expelled, or punished by fine not exceeding fifteen dollars, at the discretion of a regimental or battalion court martial; and if any non-commissioned officer or private shall, on any occasion of parading the company to which he belongs, appear drunk, 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.

Penalty for un-officer-like or unsoldier-like conduct.

53. SEC. 54. That any person who shall be guilty of disorderly, contemptuous or insolent behavior in, or use any insulting or contemptuous or indecorous language or expressions to, or before any court martial, or any member thereof, in open court, with intent to interrupt the proceedings of, or to bring into disrespect such court, or any member thereof, may be committed by such court to the county jail as for contempt of court, for a term not exceeding three days.

Penalty for disorderly conduct before court martial.

54. SEC. 55. That when a commitment shall have been adjudged under either of the two preceding sections of this act, the president of the court shall issue a warrant under his hand and seal, directed to the sheriff or either of the constables of the county in which said court shall sit, which warrant shall set forth the particular circumstances of the offence adjudged to have been committed, and shall command the officer to whom it is directed to take the body of the offender and commit him to the county jail, there to remain in confinement, without bail, for the time specified therein, and until the officer's fees for committing, and the jailor's fees are paid, unless sooner discharged by the process of law.

President of court may issue warrant for commitment.

55. SEC. 56. That the sheriff or jailor shall receive the body of any person who shall be brought to him by virtue of such warrant, and keep him until the expiration of the time mentioned in the warrant, and until the officer's and jailor's fees be paid, or until the offender shall be discharged by due course of law.

Duty of sheriff or jailor.

56. SEC. 57. That if any bystander shall interrupt, molest or insult, by abusive words or behavior, any officer or soldier while on duty at any parade, drill, or meeting for military improvement, he shall be put immediately under guard, and kept at the discretion of the commandant of the regiment, battalion, company or corps, until the drill, parade, or meeting be dismissed, and such commandant may turn over such bystander to any police officer of the city wherein such parade, drill or meeting is held, to be kept by him in custody accordingly, and said police officer is required to detain him in custody accordingly.

Penalty for bystander interrupting, &c., drill or parade, &c.

57. SEC. 58. 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 con-

Money arising from sale after payment of fine and costs to be paid delinquent.

stable 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 or acting paymaster of the regiment or 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 such money into the hands of the regimental or battalion paymaster or acting paymaster, immediately to certify the same to the brigade board; no property shall be exempt from process for the payment of any fine imposed under this act.

Penalty for non-attendance at military board or court.

58. SEC. 59. That any member of a military board or court who shall not attend the meetings of said board or court when duly notified so to do, shall be subject to a fine not exceeding twenty dollars, to be imposed by said board or court.

Penalty in case of neglect by sheriff or constable.

59. SEC. 60. That any sheriff or constable to whom any process for the collection or enforcing any fine and penalties imposed by this act, is committed, shall be subject, for any neglect, misfeasance or malfeasance, to like fines and penalties as are now imposed upon them for like neglect, malfeasance or misfeasance in executing final process in civil cases.

Witnesses liable to penalty for non-attendance.

60. SEC. 61. That witnesses not attending any military board or court when duly summoned or subpoenaed to appear before the same, shall be subject to like fines and penalties as are imposed for the like neglect or refusal in civil cases.

XVI. Courts Martial.

Presidents of courts martial and judge advocate to issue subpoenas for witnesses.

61. SEC. 62. That the president of every court martial, both before and after he shall have been sworn, and also the judge advocate, if required, shall issue subpoenas for all witnesses whose attendance at such court may in his opinion be necessary in behalf of the state, and also on application for all witnesses in behalf of any officer charged or accused, or persons returned as delinquent, and may direct the commandant of any company to cause such subpoena to be served on any witness, and such commandant shall cause the same to be served accordingly. (See *Sec. 98*).

President to administer oaths, preserve order, &c.

62. SEC. 63. That the president of such court martial shall have power to administer the usual oaths to witnesses, and shall have the same power to compel attending witnesses to be sworn and testify and to preserve order, as courts of common law jurisdiction, and all sheriffs, jailors and constables are hereby required to execute any precept issued by such president or court martial for that purpose; any person sworn before any court martial and giving testimony in such court, shall, in case he or she shall commit wilful and corrupt perjury in such testimony, be subject, on conviction of such perjury, to the pains and penalties by the laws of this state inflicted upon those who shall be guilty of wilful and corrupt perjury.

Witness to forfeit ten dollars for not appearing.

63. SEC. 64. That every witness not appearing in obedience to such subpoena when duly served personally with a copy of the same, and not having a sufficient or reasonable excuse, shall forfeit to this state the sum of ten dollars, and the president of such court martial shall from time to time report to the prosecutor of the pleas of the county in which the court shall sit, the names of all such delinquent witnesses, with the names and places of residence of the persons serving the subpoena or subpoenas, to enable him to prosecute for such forfeiture.

Attachment may issue to compel attendance of witnesses.

64. SEC. 65. That whenever it shall appear to the satisfaction of any court martial, by proof made before such court, that any person duly subpoenaed to appear as a witness before said court, shall have refused or neglected, without just cause, to attend as such witness, and it shall appear to the court that the testimony of such witness is material, such court, or the president thereof, shall have power to issue an attachment to compel the attendance of such witness, which attachment shall be executed in the same manner as a warrant, and by any officer authorized to execute warrants, and said court shall have the same power thereunder as courts of record in this state have in like cases.

Expenses of courts martial, how paid.

65. SEC. 66. That the expenses of any court martial ordered by the commander in chief shall be paid by the state; the expenses of all other courts martial shall be paid out of any fund under the control of the

officer ordering the same, or under the control of the board of which he is the presiding officer.

66. SEC. 67. That officers composing courts martial and military boards, and witnesses attending before them, shall receive ten cents for every mile they necessarily travel in going to and returning from the place of trial, and the following sums for each day of attendance: the president of a court martial or military board, five dollars; the judge advocate of the same, four dollars, which shall be in full compensation also for all services of preparing papers before, and making copies after any trial, inquiry or investigation; the members of each court or board, three dollars; each witness attending on such court or board, fifty cents; *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; fees for subpoenas and service of them shall be the same as in civil cases.

Mileage and compensation of officers and witnesses attending courts martial.

67. SEC. 68. That no action shall be maintained against any member of a court martial, or officer or agent acting under its authority, on account of the imposition of a fine or the execution of a sentence on any person, if such person shall have been returned as a delinquent, and duly summoned, and shall have neglected to appear and render his excuse for such delinquency.

No action against member of court or its officer by reason of imposition of fines, &c.

XVII. Exemptions and compensations.

68. SEC. 69. That all persons over the age of eighteen years, who are actually enrolled in, or who shall join any uniformed corps, shall be entitled to the same privileges and be subject to the same penalties as are prescribed in this act.

Persons enrolled over 18 years entitled to privileges and subject to penalties of this act.

69. SEC. 70. That any father shall be allowed as for his services in the national guard, the time which his son, under the age of eighteen, shall serve as musician in the national guard of this state.

Compensation, when allowed father.

70. SEC. 71. That every officer, non-commissioned officer, musician and private who is or may become attached to the national guard, shall *ipso facto* be held to be enlisted therein, and shall be holden to duty therein for the full term of seven years from the date of such his enlistment, unless disability incapacitate him, or he shall remove from this state. (See Sec. 96, 115, 123).

Term of enlistment.

71. SEC. 72. That all general and staff officers, all field officers, all commissioned and non-commissioned officers, musicians and privates of the national guard of this state shall be exempt from jury duty, and poll and military tax^(a) during the time they shall perform military duty; and every person who shall have so served seven years and shall have been honorably discharged, shall forever after be exempt from jury duty. (See Sec. 114, 117).

Exempt from jury duty, poll and military tax.

72. SEC. 73. That the commandants of companies shall report the names of any persons in their respective companies who shall have been expelled, or who shall, from any other cause, become liable to serve as jurors, and to pay a poll tax, to the sheriff of the county, and to the assessor of the ward or township in which such persons may respectively reside; and any person who shall be expelled, or from any other cause leave the national guard before the expiration of the term of service, shall not be entitled to claim any benefits of exemption for the time he may have served.

Persons expelled to be reported to sheriff and assessor.

73. SEC. 74. That no commissioned officer, non-commissioned officer, musician or private shall be arrested on any civil process, on any day appointed by lawful authority for exercise, parade or other military duty, nor shall any arms or accoutrements of a member of the national guard be levied on or sold by virtue of any execution.

Not to be arrested on civil process on day of parade or other military duty.

74. SEC. 75. That every officer, non-commissioned officer, musician and private now belonging to or who shall hereafter enlist in the national guard, who shall serve faithfully therein for the term of seven years, shall, at his request, receive a discharge from the commander in chief entitling him to exemption thereafter from jury duty, and from all militia duty, except in time of war and insurrection; to entitle any such officer, non-commissioned officer, musician or private to said privileges and exemptions,

On discharge after seven years' service exempt from jury and militia duty.

(a) This section does not exempt a member of the guard from a special poll tax imposed in the county of Essex by the law of 1865, for the payment of war bonds, *State, Gorum v. Mills*, 5 Vr. 177.

he shall have attended every division, brigade, regimental or battalion and company parade, or paid the fine for any delinquency, or have been excused therefrom by the proper authority.

XVIII. Active service.

In case of invasion or emergency term of service not to exceed three months.

75. SEC. 76. That the commander in chief may, in case of invasion or other emergency, order out any company, battalion, regiment, brigade or division of the national guard, to march to any part of the state and continue in service so long as he may think necessary, not exceeding three months.

In case of riot, &c., mayor of city or sheriff may call for aid from military.

76. SEC. 77. That in case of any breach of the peace, tumult, riot, or resistance to process of this state, or apprehension of immediate danger of the same, in any city or county of the state, it shall be lawful for the mayor of such city or the sheriff of such county to call for aid from any brigade, regiment, battalion or company of such city or county, by application to the proper authority, and it shall be the duty of the commanding officer of such brigade, regiment, battalion or company to whom such application is made in writing, to order out verbally or otherwise in aid of the civil authorities, the military force, or any part thereof under his command, and to provide the force so ordered out, with the requisite ammunition for the service; and he shall be reimbursed therefor out of the treasury of the state, on proof to the comptroller of his disbursement so made.

Compensation for actual service.

77. SEC. 78. That for the performance of actual service of this state (not in the service of the United States, and not including drills, parades, or encampments in time of peace), officers, non-commissioned officers, musicians and privates shall receive from the state the like pay and rations as are received from the United States by the officers, non-commissioned officers, musicians and privates of the regular army; and whenever the service shall continue for the space of three months, each non-commissioned officer, musician and private shall receive one full and complete suit of uniform.

Pensions.

78. SEC. 79. That the widow, or minor children if there be no widow, of any officer or soldier who may be killed in the performance of any actual service of this state (not in the service of the United States), or any officer or soldier who may be wounded or disabled in performing such service, shall receive from the treasury of the state, the like reward that persons under similar circumstances receive from the United States.

XIX. Miscellaneous.

Books of tactics, &c., to be distributed.

79. SEC. 80. That the commander in chief shall purchase such system of tactics, regulations and other military books as may be necessary for the instruction of the national guard, which books shall be distributed as the property of the state, under proper regulations through the adjutant general's office.

Legislature to provide annually for expenditures.

80. SEC. 81. That all moneys authorized by this act to be expended, shall be paid by the treasurer of this state out of any moneys not otherwise appropriated, and it shall be the duty of the legislature annually to provide the requisite funds for the payment of all moneys authorized to be expended under this act for the year.

Paymasters of companies to collect fines.

81. SEC. 82. That from the non-commissioned officers authorized by law, there shall be one paymaster appointed by the commandant to each company, who shall be empowered to collect all fines and dues in such manner as now is or may hereafter be prescribed by law.

Military tax laws repealed.

82. SEC. 83. That all laws now existing, imposing military tax, are hereby repealed.

Venue in case suit brought for anything done under this act.

83. SEC. 84. That if any suit shall be brought or commenced against any person for anything done in pursuance of this act, the venue shall be laid in the county where the cause of action arose, and the defendant in such action may plead the general issue, and give this act and the special matter in evidence.

Expenses to carry out provisions of act.

84. SEC. 85. That the commander in chief is authorized and empowered to make his requisition upon the treasurer, to meet the necessary and proper expenses to carry out the provisions of this act, and the treas-

urer shall pay the same upon the warrant of the governor, and not otherwise.

85. SEC. 86. That all acts or parts of acts for the regulation, organization, government or encouragement of the militia of this state, except the act entitled "A supplement to the act entitled 'An act for the more effectual organization of the militia,'" approved April sixth, eighteen hundred and sixty-five, which supplement was approved March eighteenth, eighteen hundred and sixty-eight, be and the same are hereby repealed.

Repealer.

86. SEC. 87. That notwithstanding anything herein contained, the enrollment of the militia shall continue to be made in the manner now provided by law. (See *Sec.* 126-136).

Enrollment of militia.

Supplement to an act entitled "An act for the more effectual organization of the militia," approved April sixth, eighteen hundred and sixty-five.

Approved March 18, 1868.

P. L. 1868, p. 407.

87. SEC. 1. That whenever the quartermaster general of this state, or any military officer of this state, charged with the care and responsibility of public property, and who shall have given bonds to the quartermaster general for the safe keeping and return of the same, shall by petition, verified by his oath or affirmation, represent to any court of common pleas, that a certain person, whom he shall name in such petition, resident in said county, has in his possession and illegally detains any arm or arms, article or articles of clothing or equipments, the property of this state, (describing the same generally) for the safe keeping and return of which such person has not given bonds to the quartermaster general or to the state, after demand made for the same by the said military officer, or by any person by him duly authorized to receive the same, upon filing said petition it shall be lawful for the said court to cause a rule to be entered in the minutes of said court, ordering the party complained against to show cause, at such short day as the said court shall appoint, to deliver up the same to the said military officer by said day, or to show cause on that day before said judge why the same shall not be so delivered up, a copy of which said rule, certified by the clerk of said court, shall be served on said delinquent personally, at least two entire days before the day of hearing, or left at his residence or place of abode at least four entire days before such day of hearing, which service may be made by any constable of the county.

Proceedings to compel persons illegally obtaining arms, equipments, &c., to deliver up the same.

88. SEC. 2. That if the said party complained against shall not deliver up said arm or arms, article or articles of clothing and equipments in said petition mentioned, at, or before the day of hearing so appointed by the court, or show good cause to the contrary, on due proof by affidavit of the service of a copy of said rule according to law, it shall be lawful for the said court to issue forthwith an attachment for contempt against said party, and he shall be held as in contempt, and dealt with accordingly, until he shall comply with the order of the court, or deliver up said arm or arms, and article or articles of clothing and equipments to the said military officer filing the petition, or to the sheriff of the county for him, and pay the reasonable costs of such proceeding, to be taxed by the court for the use of the county.

Attachment for contempt may be issued by court.

89. SEC. 3. That if the said person so complained against shall, at any time before such day of hearing, demand a trial by jury, it shall be the duty of said court to issue a *venire facias* to the sheriff of said county, to summon a jury of twelve men, competent as jurymen, according to law, to be and appear before said court, at such time as shall be expressed in such writ, to make a jury for the trial of such complaint made against the said person; if the verdict of the jury shall be against the party complained against, and if he shall fail within a reasonable time, to be fixed by the court, to deliver the property and pay the costs as aforesaid, he shall be deemed in contempt, and proceeded against as prescribed in the preceding section.

Person complained of may demand trial by jury.

90. SEC. 4. That the proceedings shall be conducted by the prosecuting attorney of the county where the petition is filed, and the costs shall be paid in the first instance by the sheriff of the county in which the complaint is made.

Prosecutor of pleas to conduct proceedings.

Bond of commissioned officers of company for uniforms.

91. SEC. 5. That it shall be the duty of the quartermaster general, before furnishing uniforms to the non-commissioned officers and privates who shall elect to be so furnished with such uniforms by the state, upon the requisition of the commandant of the company, countersigned by the commandant of regiment or battalion and corps to which said company is attached, to require the commissioned officers to give bond, with satisfactory security, that the said uniforms shall be kept in the armory of such company for safe keeping, for the use of the company, until the said uniforms shall be accounted for, as provided in section sixteen of the act to which this is a supplement.

Bonds for arms and equipments, when quartermaster general may cancel.

92. SEC. 6. That it shall and may be lawful for the quartermaster general of this state, at his discretion, to cancel the bonds given for arms or equipments, or other military property of this state, by any officer or officers of the militia of this state, whenever said quartermaster general shall be satisfied by or from the accounting of, or on behalf of such officer or his surety or sureties for such arms, equipments or other property, that the same has been lost or destroyed by misadventure, or in the service of this state or the United States, and without fraud or culpable negligence on the part of such officer or officers, or his or their surety or sureties.

Supplement to the "Act for the organization of the national guard of the state of New Jersey," approved March ninth, eighteen hundred and sixty-nine.

P. L. 1870, p. 17.

Approved March 1, 1870.

Amendments to section four.

93. SEC. 1. That the fourth section of the act to which this is a supplement, shall be and the same is hereby amended as follows, that is to say: by striking out the words "one inspector general with the rank of colonel of cavalry," and inserting in lieu thereof the words "one inspector general with the rank of brigadier general;" also in the last part of the same section, by striking out the words "to each company there shall be one captain, one first lieutenant, one second lieutenant, five sergeants, five corporals, two musicians, and not less than forty nor more than eighty privates," and inserting in lieu thereof the words following: "to each company there shall be one captain, one first lieutenant, one second lieutenant, and not more than eighty nor less than forty members, including the non-commissioned officers and musicians."

Orderly sergeant to serve court martial notices.

94. SEC. 2. That it shall be the duty of the orderly or acting orderly sergeant, of each company, to serve all court martial notices on delinquent members of their companies, in the same manner as notices for drills, parades and meetings are provided to be served, in and by the forty-third section of the act to which this is a supplement.

Addition to sec. 16.

95. SEC. 3. That at the close of the sixteenth section of the act to which this is a supplement, these words shall be added: "and he shall procure an appropriate official seal, and affix an impression of the same to all certificates of record issuing from his office."

Term of service to be six years, in two terms of enlistment.

96. SEC. 4. That in lieu of the term of seven years, as now provided by section seventy-one of the act to which this is a supplement, the term of service in the national guard shall be six years, in two terms of enlistment of three years each; and that every person having enlisted for and served faithfully for a term of three years, shall be entitled to and receive an honorable discharge, under such conditions as now exist in relation to discharges from the national guard, but shall not be entitled to any exemptions or privileges as now provided by law; and that every person who, having served one term of three years, shall re-enlist, either immediately or at any future time, for a further term of three years, and shall faithfully serve the same, shall be entitled to and receive an honorable discharge, under conditions as hereinbefore provided, and shall be entitled to and receive all the privileges and exemptions provided by law. (See Sec. 115, 123).

No exemptions unless two terms are served.

Previous militia service may be applied, as under this act

97. SEC. 5. That any person who may have served any term in the militia service of the state of New Jersey, under any organization of the same, shall be entitled to have such term of service applied, as having been served under the provisions of this act; *provided*, such term shall have been for not less than three years, if served previously to the organization of the present national guard; and that all persons now serving

Proviso.

in the national guard shall be entitled to have such time as they may now have served, under the provisions of the act in relation to the national guard, applied under the provisions of this act, as relates to the full term of service of six years.

Supplement.

Approved April 4, 1871. P. L. 1871, p. 90.

98. SEC. 1. That the commandants of brigades are hereby empowered to convene general courts martial (when in their opinion the same may be found to be necessary) for the trial of offenders in their respective brigades.

Commandants of brigades to convene general courts martial.

99. SEC. 2. That whenever a brigade is ordered to parade, as requested by law, transportation for the same shall be provided by the quartermaster general, upon requisition being made therefor by the brigade quartermaster.

Transportation when brigade parade ordered.

100. SEC. 3. That the number of commissioned officers and enlisted men in light batteries, shall not exceed one hundred and fifty, nor be less than fifty, and that there shall be one captain, two first lieutenants, two second lieutenants, six sergeants, eight corporals and two musicians to each such battery.

Officers and men of light batteries.

101. SEC. 4. That the annual appropriation of five hundred dollars to each light battery, be increased to one thousand dollars.

Appropriation for light batteries.

Supplement.

Approved March 15, 1872. P. L. 1872, p. 36.

102. SEC. 1. That the governor and commander in chief be, and he is hereby authorized to confer a lineal or brevet rank for gallant services in the field, upon any officers of the national guard, equal to the lineal or brevet rank they may have held in the service of the United States; *provided*, that the governor shall nominate the said officers to the senate, and the rank shall be conferred by and with the advice and consent of the senate.

Governor may confer brevet rank for service in the field, &c.

Supplement.

Approved March 21, 1872. P. L. 1872, p. 40.

103. SEC. 1. That the first section of the act to which this is a supplement, shall be and the same is hereby amended as follows, that is to say: by striking out the words "*provided*, that each county of the state shall be entitled to one of said companies," and inserting "*provided*, that in addition to the force now authorized, there be allowed ten additional companies of colored infantry."

Proviso added to first section of act.

Supplement.

Approved February 17, 1873. P. L. 1873, p. 16.

104. SEC. 1. That there shall be paid, on the first Monday of April of each year, to the brigade paymaster of each brigade of the national guard, the sum of five hundred dollars, to be expended by the said brigade paymaster, on the approval of the commandant of the brigade, for military expenses incident to a brigade organization; and the sum of three hundred dollars to be expended by the said brigade paymaster, on the approval of the commandant of each regiment, for military expenses incident to a regimental organization.

Annual appropriations for brigades and regiments.

Supplement.

Approved March 5, 1873. P. L. 1873, p. 31.

105. SEC. 1. That the fourth section of the act to which this is a supplement, shall be and the same is hereby amended as follows, that is to say: by striking out the words "one surgeon with the rank of major," where it refers to the staff of the brigadier general, and inserting in lieu thereof the words "one surgeon with the rank of lieutenant colonel."

Amendment to fourth section, rank of surgeon.

Supplement.

Approved April 3, 1873. P. L. 1873, p. 130.

106. SEC. 1. That the governor and commander in chief be and is hereby authorized to confer upon such citizens of this state, not exceeding two, as shall have served long and meritoriously as colonels of the national guard, the rank of brevet brigadier general; *provided*, that the governor

Brevet of brigadier general may be conferred.

shall nominate the said officers to the senate, and the rank shall be conferred by and with the advice and consent of the senate.

P. L. 1873, p. 141.

Supplement.

Approved April 4, 1873.

Transportation when regiment, battalion, &c., ordered to parade.

Inspector general to furnish muster and inspector rolls.

Annual inspection, when to be made.

When company to forfeit annual appropriation.

Annual appropriation for division headquarters.

Commanding officer of battery member of brigade board.

Brigade commanders members of State military board.

Members of national guard exempt from all tax on five hundred dollars.

Term of enlistment made five years.

P. L. 1874, p. 100.

Supplement.

Approved March 26, 1874.

To be one judge advocate to each regiment.

107. SEC. 1. That whenever any regiment, battalion or battery shall be ordered to parade for inspection, transportation shall be furnished by the quartermaster general upon the requisition of the commanding officer of such regiment, battalion or battery, approved by the brigade commander.

108. SEC. 2. That it shall be the duty of the inspector general, on or before the first day of September in each and every year, to see that each command is furnished with muster and inspection rolls in sufficient quantities to make out triplicate returns.

109. SEC. 3. That the annual inspection of each company of the national guard shall be made by the brigade inspector between the first day of September and the fifteenth day of October, except that, whenever any regiment or battalion is unattached to any brigade, the inspector general be and he is hereby authorized to detail any field or line officer of the national guard to inspect such unattached regiment or battalion, at which inspection there shall be furnished by each company commander to the inspector, muster rolls in triplicate of the company, which rolls shall have endorsed thereon a certificate of the commanding officer of the average present at all company drills and parades throughout the year, which muster rolls shall then be examined by the inspecting officer, and by him certified, and the three copies disposed of as follows: one shall be sent to the regimental paymaster, and two forwarded by the brigade inspector, or the inspecting officer, to the inspector general's office, one to be used by him in making out his annual report, and filed by him in the office of the adjutant general, and the other to be certified to by him and forwarded to the headquarters of the national guard.

110. SEC. 4. That the annual appropriation of every company that shall fail to parade for inspection within the time fixed by law, or whose reports are not duly forwarded to the inspector general's office on or before the thirtieth day of October succeeding such annual inspection, be and the same is hereby forfeited.

111. SEC. 5. That an appropriation of five hundred dollars be made annually for the expenses of division headquarters, which shall be paid to the division paymaster on the first Monday of April of each year.

112. SEC. 6. That in addition to the officers now by law composing the brigade board of each brigade, the commanding officer of any battery attached to a brigade is hereby declared to be a member of the brigade board.

113. SEC. 7. That in addition to the officers now composing the "State Military Board," brigade commanders shall be ex-officio members of said board.

114. SEC. 8. That in addition to the exemption from general and special poll tax now allowed by law, all general and staff officers, all commissioned and non-commissioned officers, musicians and privates of the national guard of this state, shall be exempted from state, county and municipal taxation upon five hundred dollars during the period they shall be actually serving in the national guard.

115. SEC. 9. That in lieu of two terms of enlistment of three years each, the term of service in the national guard shall hereafter be five years, and that it shall be upon one enlistment; but that any person now serving in the national guard, who, under the existing law, has re-enlisted for his second term of three years, shall be entitled to a full discharge when he shall have served two years of his said second enlistment. (See *Sec.* 123).

116. SEC. 1. That the fourth section of the act to which this is a supplement shall be and the same is hereby amended by inserting after the words "one chaplain, to rank as captain," the words "one judge advocate, to rank as captain."

Supplement.

Approved March 27, 1874.

P. L. 1874, p. 525.

117. SEC. 1. That the captain of every company of the national guard of this state, organized and existing in the city of Newark, in the county of Essex, shall make out or cause to be made out a written statement, and shall sign the same under oath, of the names and residences of all the members of said company residing in said city of Newark, and shall present said statement to the board of assessment and revision of taxes, in and for said city of Newark, on or before the first day of May in each and every year; and every member of said national guard, residing in said city of Newark, and claiming the exemption from taxation provided for in section eight of the said act to which this is a supplement, shall, prior to the third Monday in June of each and every year, make a return in writing, and under oath, to said board of assessment and revision of taxes, of all his estates, both real and personal, and in his said return state the fact of his membership in said national guard, and his claim for exemption from taxation on five hundred dollars by reason of said membership, by virtue of the provisions of said section eight; and any member of said national guard resident in said city of Newark, whether a general or staff officer, commissioned or non-commissioned officer, musician or private, who shall fail to make said return and claim for exemption therein to said board of assessment and revision of taxes, prior to the third Monday in June, as aforesaid, shall not be entitled to or be allowed the exemption from state, county and municipal taxation upon five hundred dollars, provided for in said section eight, any law of this state to the contrary notwithstanding.

Captains of companies in Essex co. to furnish board of assessment of taxes sworn list of members of national guard.

Supplement.

Approved April 8, 1875.

P. L. 1875, p. 64.

118. SEC. 1. That section four of the act to which this is a supplement be, and the same is hereby amended by inserting after the words "one commissary sergeant," the words "one hospital steward."

Amendment of section four.

Supplement.

Approved March 30, 1876.

P. L. 1876, p. 64.

119. SEC. 1. That the aides-de-camp on the staff of the commander in chief, provided for by the fourth section of the act to which this is a supplement, shall have the rank of colonel.

Aides-de-camp of commander-in-chief rank as colonels.

120. SEC. 2. That the commander in chief may appoint six additional aides-de-camp, with the rank of colonel, upon his staff, whose term of service shall expire with that of the commander in chief appointing them.

Six additional aids may be appointed.

121. SEC. 3. That whenever the major general commanding the division of the national guard shall report in writing to the commander in chief, that any officer in commission in the said guard is lacking in capacity, attainments, efficiency and general fitness for his position in the service, the commander in chief shall have power, and he is hereby authorized to place said officers on the retired list, and declare a vacancy.

When commander in chief may place officer on retired list and declare vacancy.

122. SEC. 4. That in addition to the officers now allowed by law upon the staff of the major general of division, there shall be one judge advocate, with the rank of lieutenant colonel, and upon the staff of the brigadier general of brigade, there shall be one judge advocate with the rank of major.

Judge advocate with rank of major to be on staff of major general.

123. SEC. 5. That whenever any enlisted man shall have completed his term of service in the national guard, he may re-enlist for a further term of one year.

Enlisted men may re-enlist for one year.

Supplement.

Approved April 21, 1876.

P. L. 1876, p. 304.

124. SEC. 1. That the thirty-sixth section of the act to which this is a supplement, which reads as follows:

Section amended.

"That every uniformed corps, before being furnished with arms and equipments, shall provide themselves with a suitable armory, or place of deposit, within the bounds of the corps, wherein the arms and equipments furnished by the state shall be carefully kept for the use of such corps, for military purposes only, and shall not be loaned or hired out, nor used for any other purposes whatsoever; the commander in chief may, on applica-

tion of the principal of any military academy or school in this state, for that purpose furnish such academy or school with any arms and equipments, the property of this state, when in his opinion they can be spared without manifest injury to the service of this state, or of the United States, the said principal giving bond with sufficient security for the keeping of the same in good order and repair, and returning the same when required, or an equivalent," be amended so that the same shall read as follows:

Arms and equipments to be placed in suitable armory.

When military academy or school may be furnished with arms.

Quartermaster general to order examination from time to time of the place of deposit of arms issued by the state.

That every uniformed corps, before being furnished with arms and equipments, shall provide themselves with a suitable armory, or place of deposit, within the bounds of the corps, wherein the arms and equipments furnished by the state shall be carefully kept for the use of such corps, for military purposes only, and shall not be loaned or hired out, nor used for any other purpose whatsoever; the commander in chief may, on application of the principal of any military academy or school, or public high school, in this state, for that purpose furnish such academy or school, or public high school, with any arms and equipments, the property of this state, when in his opinion they can be spared without manifest injury to the service of this state, or of the United States, the said principal giving bond with sufficient security for the keeping of the same in good order and repair, and returning the same when required, or an equivalent.

125. SEC. 2. That the quartermaster general from time to time, as may be necessary, may cause an examination to be made by himself, or by an officer designated for that purpose, to examine the armory or place of deposit of the arms and equipments issued by the state to any company, school or academy, to inspect them, and report to him the condition of said armory or place of deposit, and of the said arms or equipments, and if upon such report, or upon a personal examination and inspection by the quartermaster general, it shall appear that such armory is insecure or unsuitable, or that said arms and equipments are not in good condition, he may require them to be returned to the state arsenal.

XX. Enrollment of the militia.

An act for the more efficient organization of the militia.

P. L. 1865, p. 856.

Approved April 6, 1865.

Militia divided into active and reserve.

126. SEC. 1. The militia of the state shall be divided into two classes, the active and the reserve; in case of draft upon the reserve militia for state service, the contingent supplied thereby may be first applied to fill up any active corps deficient in the maximum number of recruits required to complete such corps.

Bureau of enrollment and drafting.

127. SEC. 2. There shall be in the adjutant general's department a bureau of enrollment and drafting, under an assistant adjutant general, with the rank of colonel of cavalry, who shall be chief of enrollment and drafting.

Commissioners of enrollment and drafting.

128. SEC. 3. The commander in chief shall forthwith appoint for each county, on the recommendation of the brigadier general, or senior brigadier general, if there be more than one in the county, a commissioner of enrollment and drafting, with the rank of captain of cavalry, but where the population of any county shall be forty thousand or more, the commander in chief may designate a higher rank, not above that of lieutenant colonel of cavalry, for such commissioner.

Chief of enrollment may appoint deputies, etc.

129. SEC. 4. The commander in chief may allow to the chief of enrollment and drafting, and appoint accordingly, such deputies, aids and assistants of inferior rank to the officers whose aids and assistants they are, as the commander in chief may deem necessary; the same when appointed to serve in any county, to be appointed on the recommendation of the brigadier general, or senior brigadier general, if there be more than one of the county, and the chief of enrollment and drafting and the several commissioners thereof, shall be deemed of and belonging to the general staff.

Commissioners to make enrollment.

130. SEC. 5. The commissioners of enrollment and drafting shall, upon receiving their commissions, forthwith proceed to make an enrollment of all able bodied white male inhabitants between the ages of eighteen and forty-five years, residing in their respective counties, under such forms

and regulations as they shall receive through the chief of enrollment and drafting.

131. SEC. 6. The enrollment shall be conducted so that any companies, troops or batteries to be organized therefrom shall, as far as practicable, be made up of persons being in one neighborhood, reference being had to convenience of rendezvous; and in addition to such other particulars as may be prescribed by order or regulation, such enrollment shall state upon what road or highway, and between what road and highways such person resides, if he resides in a rural district; if he resides in a city, in what ward or precinct, and if he resides in a village, it shall be so noted.

Enrollment, how conducted and made.

132. SEC. 7. All assessors and other clerks or officers shall allow enrolling officers to examine and copy their tax and assessment rolls or poll lists, and all tavern keepers, keepers of boarding houses, persons having boarders or lodgers in their families, and any master or mistress of any dwelling house, shall, upon the application of any officer authorized to make such enrollment, give information of the names of all persons residing or lodging in such house liable to be enrolled, and all other proper information concerning such persons as such officer may demand.

Assessors, clerks, &c., to allow enrolling officers to examine assessment, rolls, &c.

133. SEC. 8. The inferior court of common pleas for each county shall constitute a court of exemption, to hear and determine applications for exemption; the commander in chief shall appoint a surgeon or surgeons, resident in the county, to attend such court of exemption, to whom shall be referred for examination and report, all persons claiming exemption on account of physical or mental disability.

Court of common pleas to hear and determine applications for exemption.

134. SEC. 9. The consolidated enrollment of each county, when corrected as to exemptions, shall be filed with the county clerk, and a duplicate thereof transmitted to the chief of enrollment and drafting.

Enrollment to be filed with county clerk.

135. SEC. 10. The enrollment and all necessary proceedings thereunder, shall be had once in every three years, and as much oftener, not to exceed once in each year, as the commander in chief shall direct, and he may order any enrollment or proceedings thereunder to be reviewed and corrected as often as may be necessary.

Enrollment to be had once in three years.

136. SEC. 33. The fines and penalties imposed by this act are as follows: if any person of whom information is required by any enrolling or drafting officer, in order to enable such officer to comply with the provisions of this act, shall refuse to give such information, or shall give false information, or if any person shall refuse to give his own name or proper information in respect to himself, or shall otherwise materially obstruct or delay by force or otherwise, or harm any such officer while in pursuance of his duty, such person shall be deemed guilty as of obstruction of legal process, and be subject to like punishment or penalty as is prescribed for like offence in obstructing or opposing any sheriff or judicial officer or judicial process.

Penalty for obstructing or delaying enrolling or drafting officer.

[The remainder of this act repealed].

Mills.

1. Toll allowed to millers.

3. Millers to keep toll measures.

2. Penalty for taking unlawful toll.

An act to ascertain the toll of millers.

Passed May 25, 1799. R. S. 1057.

1. That every miller shall be allowed, for toll, one-tenth part of a bushel, and no more, out of every bushel of grain which he shall grind, including bolting; except malt, out of each bushel of which he shall be allowed one quart, and no more.

Toll allowed to millers.

2. That if any miller shall take or receive a greater toll for grinding than is allowed by this act, he shall, for every such offence, forfeit and pay three dollars, to be recovered by action of debt, with costs, by any person who shall sue for the same. (a)

Penalty for taking unlawful toll.

(a) On a suit for these penalties, the verdict must show on what offences the conviction was had, *Westbrook v. Van Auker*, 2 South. *478.