

and possessed of several tracts of unseated land in the counties of Lycoming and Tioga, and by his last will and testament, has made certain provisions on which must depend a sale of the said property, and although it is believed that by the operation of the laws in such case made and provided, the executors of the said last will and testament, will have power to sell, yet this power is supported by implication of law only, and has been doubted by some, and difficulties may arise by reason of such doubts, in the sale thereof, in obtaining a fair price for the same, and as it is reasonable and expedient to remove all difficulties touching the premises: Therefore,

SECT. 1. *BE it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That* Mercy Ellis, Joseph Whitacre and Samuel W. Morris, guardians of the minor children of William Ellis, late of Lycoming county, deceased, are hereby empowered to sell and convey, for the highest and best price that can be had for the same, the right of the said minor children to all those tracts of unseated land of which the said William Ellis died seized and possessed in the counties of Lycoming and Tioga, and make such deed or deeds or other conveyances, as shall sufficiently secure to the purchaser or purchasers all the right, title and interest which the said William Ellis in his life time, and at the time of his decease, had in and to the same, and to every part thereof, and which by his last will and testament duly executed and devised to his said minor children: *Provided, That* the said Mercy Ellis, Joseph Whitacre and Samuel W. Morris, do, before they proceed to sell and convey the right of the minor children as aforesaid, enter into recognizance, with sufficient security, before the orphans' court of the county of Lycoming, for the faithful performance of the duties and powers hereby granted; and that nothing herein contained, shall authorise the sale of the part of any such child after his or her attaining the age of twenty-one years.

REES HILL, *Speaker*
of the *House of Representatives.*

JOHN TOD, *Speaker of the Senate.*

APPROVED—the nineteenth day of March, one thousand eight hundred and sixteen.

SIMON SNYDER.

CHAPTER CXXXVI.

A SUPPLEMENT to the act, entitled "An act for the regulation of the militia of this commonwealth."

SECT. 1. *BE it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That*

the several regiments of militia within this commonwealth shall be ranked and numbered as follows, viz :

*First Division....*First Brigade, the regiment now or late ^{Regiments} commanded by Edward Tilghman, number nine; by Thomas ^{numbered.} M'Euen, number nineteen; by Peter A. Brown, number eighty-one; by Joshua Sullivan, number seventy-two; by Isaac Boyer, number seventy-four; by Anthony Simmons, number ninety-six....Second Brigade, by Samuel Castor, number three; by Robert Watkins, number forty-seven; by John Shinn, number seventy-nine; by John D. Goodwin, number four; by John Goodman, number eighty-four; by John Thompson, number ninety-three; by John Zane, number one hundred.

*Second Division....*First Brigade, the regiment now or late commanded by William Long, number thirty-three; by Lewis Bache, number forty-two; by Jacob Kitnor, number fifty-nine....Second Brigade, by Philip Boyer, number fifty-six; by William M. White, number sixty-three; by Thomas Humphrey, number ninety-two.

*Third Division....*First Brigade, the regiment now or late commanded by John L. Peirson, number thirty-eight; by Gideon Humphrey, number forty-nine; by William Ralston, number thirty-seven....Second Brigade, by Robert Morton, number forty-one; by David Dicky, number ninety-one; by Jacob Humphrey, number ninety-five.

*Fourth Division....*First Brigade, the regiment now or late commanded by Samuel L. Gehr, number eighteen; by David Shirk, number fifty-one; by Jeremiah Mosher, number sixty-nine....Second Brigade, by John Hamilton, number thirty-five; by James Ankrim, number sixty-five; by William M'Mullen, number seventy-five; by John M'Clure, number one hundred and one.

*Fifth Division....*First Brigade, the regiment now or late commanded by Henry Stover, number twenty-five; by Robert Colvin, number sixty-four; by Michael Spangler, number ninety-four....Second Brigade, by Thomas C. Miller, number eighty; by George Sherman, number eighty-nine; by Frederick Eichelberger, number ninety.

*Sixth Division....*First Brigade, the regiment now or late commanded by Adam Ritscher, number fourteen; by William Cochran, number sixteen; by Frederick Hummel, number thirty-six; by Abraham Guldin, number forty-four; by Thomas Walker, number ninety-eight....Second Brigade, by Daniel Levan, number one; by John Neikerch, number eleven; by Jacob Huntzinger, number thirty; by John Lutz, number fifty-three; by Jonathan Cleaver, number seventy-seven.

*Seventh Division....*First Brigade, the regiment now or late commanded by Henry Winters, number twenty-six; by James Shaffer, number thirty-four; by Jacob Seiple, number ninety-seven....Second Brigade, by James Jamison, number sixty-eight; by Jacob Shaffer, number eighty-two.

*Eighth Division....*First Brigade, the regiment now or late commanded by George Weyrich, number seven; by Aaron Chamberlain, number forty-three; by John Robins, number for-

ty-five ; by John Darr, number forty-eight ; by James M'Clure, number seventy-one....Second Brigade, by Isaac Bowman, number two ; by Isaac Dimmick, number seventy ; by Frederick Bailey, number seventy-six.

Ninth Division....First Brigade, the regiment now or late commanded by Jonathan Smith, number seventeen ; by John M' Meens, number fifty-four....Second Brigade, by Harry Spalding, number fifteen ; by Samuel M'Kean, number twenty-one.

Tenth Division....First Brigade, the regiment now or late commanded by William Smith, number twelve ; by William Turner, number twenty-two ; by Mathew Rogers, number seventy-three.... Second Brigade, by Charles Cadwallader, number twenty-nine ; by Thomas M'Pherson, number thirty-two ; by William R. Smith, number sixty-two.

Eleventh Division....First Brigade, the regiment now or late commanded by John Rippy, number twenty-three ; by John Maxwell, number thirty-nine ; by John Weiss, number eighty-six.... Second Brigade, by John Snyder, number five ; by James Wood, number six ; by Stephen Wilson, number fifty.

Twelfth Division....First Brigade, the regiment now or late commanded by John R. Reid, number fifty-five ; by Moses Gordon, number eighty-five....Second Brigade, by Isaac Proctor, number eight ; by Michael Dievely, number thirteen.

Thirteenth Division....First Brigade, the regiment now or late commanded by Thomas M'Quaid, number sixty ; by James Guthrie, number sixty-seven ; by James B. Oliver, number eighty-eight....Second Brigade, by James A. M'Clelland, number twenty ; by Andrew Moore, number fifty-two.

Fourteenth Division....First Brigade, the regiment now or late commanded by Joshua Dickerson, number ten ; by House Bentley, number thirty-seven ; by Samuel Scott, number sixty-six.... Second Brigade, by Andrew Sutton, number forty ; by Andrew Buchanan, number forty-six.

Fifteenth Division....First Brigade, the regiment now or late commanded by George O. Valendegen, number twenty-eight ; by James Logan, number sixty-one ; by Magnus M. Murray, number eighty-seven....Second Brigade, by Robert Orr, junior, number fifty-eight ; by John Douglass, number ninety-nine.

Sixteenth Division....First Brigade, the regiment now or late commanded by Robert Martin, number twenty-four ; by Robert Moore, number eighty-three....Second Brigade, by David Nelson, number thirty-one ; by Andrew Christie, number twenty-seven ; by George Moore, number seventy-eight.

Rank of regimental officers. All officers shall take rank according to the number of their respective regiments, reckoning the first or lowest number highest in rank ; and as often as new regiments may be formed, the same shall be numbered by the adjutant-general.

Of vacancies. Whenever any vacancy shall happen in consequence of the death, resignation, or otherwise, of any brigadier general or brigade inspector, the major general of the proper division shall appoint a suitable officer to hold an election, who shall give notice by advertisement, at eight or more of the most public places within such regiment or battalion bounds or district, as

Notice of election to be given.

the case may be, appointing a certain day, which shall be the same for such district, not less than twenty days after the publication of the said notice, requiring all the enrolled inhabitants (not being exempts) in the said regiment and battalion, and residing within the bounds thereof, to meet at a certain place as near the centre of said district as may be, and then and there, between the hours of ten o'clock in the forenoon and six o'clock in the afternoon of the said day, to elect, by ballot, one brigadier general, or one brigade inspector, as the case may be; for which service such officer shall receive one dollar and fifty cents per day, to be paid by the brigade inspector of the proper brigade, which said election shall be held in the same manner, and under the same penalties as elections are directed to be held by the tenth section of the act to which this is a supplement: And the brigade inspectors elected by virtue of this act, shall give the same security, shall have the same power, shall perform the same duties, and shall be entitled to the same pay, as brigade inspectors are entitled to under the act to which this is a supplement.

Brigadier
generals and
brigade in-
spectors to
be elective.
Compensa-
tion for hold-
ing election.
Brigade in-
spectors to
give bond.

SECT. II. *And be it further enacted by the authority aforesaid,* That within fifteen days from the first day of October, in the year one thousand eight hundred and sixteen, and in each succeeding year, the captain or commanding officer of each company of the militia, shall enrol each person residing within the bounds of his company, liable to perform militia duty; and he shall enter the name, age and place of residence of every such person in the roll book, and also take, or cause to be taken, another list of such persons residing within the bounds of his company, subject to militia duty, who shall decline to be enrolled as aforesaid, who shall be considered as exempt, or persons exempted from training with the militia in regiments, battalions and companies, as is directed by the act to which this is a supplement, but not as persons exempted from their tour of duty when the militia of this state or any detachment thereof shall be called into actual service; and every person refusing to make a choice as aforesaid, shall be considered as an exempt and shall be so entered in the enrolment. And the said captain or commanding officer shall, under the penalty of twenty dollars for every such neglect or refusal, yearly, on or before the day of battalion training, deliver, or cause to be delivered, a full and complete roll, on oath or affirmation, as well of the persons so enrolled by him, as of the exempts residing within his bounds, to the brigade inspector. And the said captain or commanding officer of each company shall also, under the penalty of twenty dollars for every such neglect or refusal, deliver, or cause to be delivered, a copy of the said list of exempts to the president of the court of appeal which may be held next after the battalion training in each year; and the said president shall, under the penalty of one hundred dollars, transmit, or deposit in some post office within this commonwealth, properly endorsed for transmission, all such lists to the auditor general, together with the list of exempts and absentees who have not been excused. And the several brigade inspectors shall charge every such ex-

Enrollments
when to be
made.
Of exempts.
Captains to
deliver annu-
ally a com-
plete roll to
the brigade
inspector.
Penalty on
neglecting to
furnish a list
of exempts to
the president
of the court
of appeal.
Duties of the
president of
the court of
appeal.

Six dollars to be charged on each exempt. Entitled to an appeal. Captains compensation. Compensation of president of court of appeal.

empt the sum of six dollars, and shall proceed to recover the said exempt fines in the same manner, and under the same penalties and restrictions, as other militia fines are by law recoverable; and the said exempts shall be entitled to the same right of appeal, either by themselves or others on their behalf, as is by law provided for absentees. And the captain or commanding officer of each company, shall receive, as a full compensation for furnishing the lists or rolls as aforesaid, and also the list of absentees, the sum of four dollars; and the president of each court of appeal shall receive, for furnishing the lists aforesaid to the auditor general, the sum of two dollars, to be paid by the brigade inspectors, whenever he shall exhibit to him a receipt for the same from the auditor general.

Proceedings of courts of appeal and martial not cognizable by a civil court. Penalty. Proviso. Action of trespass not to lie, &c.

SECT. III. *And be it further enacted by the authority aforesaid,* That the proceedings of the courts of appeal and courts martial shall, in no case whatever, be set aside or declared void by any judge or court of law, on the ground of informality in such proceedings; and every judge who shall declare any such proceedings void, on the grounds before mentioned, shall be deemed guilty of a misdemeanor in office: *Provided* such courts of appeal or courts martial shall be constituted under the authority of the United States or of this state; and no action of trespass shall be sustained in any court of record within this commonwealth, in consequence of any proceedings had by any courts martial or courts of appeal.

Volunteer companies may fix days of training. Make by-laws. Levy fines. Sergeant collect them. Appropriation thereof. Accounts to be annually settled by a committee.

SECT. IV. *And be it further enacted by the authority aforesaid,* That from and after the passage of this act, it shall and may be lawful for all volunteer companies and troops, at their first meeting in each year, to fix, declare and settle upon the number of days of training they will have throughout the year, over and above the days prescribed by the act to which this is a supplement; and shall have power to make such by-laws, rules and regulations as they may deem best calculated to promote the interest, good order and discipline of said companies. And the commanding officer of each company shall give at least five days previous notice to his company, of such stated days of training, and shall have power to inflict and levy such fines and penalties on any member who shall refuse or neglect to attend such days of training, as may be agreed upon by a majority of the company convened for that purpose, which fines shall be collected by a sergeant of each company, or any other member duly authorized by the commanding officer thereof, by virtue of a warrant under his hand and seal. And the fines as aforesaid, when collected, shall be appropriated and held as a fund for the payment of music and other contingent expenses of the company, and paid on warrants drawn by the commanding officer. And the accounts of such company shall be examined and settled once in every year by a committee of three persons, members thereof, to be chosen by ballot at a meeting of the company convened for that purpose, which the commanding officer is hereby enjoined to have done on the first Monday in the month of May annually.

Whenever there may be within any brigade such a number of Brigadier companies or troops of volunteers, as would, if organized and general may united, form a battalion or squadron, the brigadier general may organize into cause them to be so organized; but in all cases where there is battalion or not a sufficient number, they shall be attached to their respective squadron. regiments as flank companies: *Provided*, That in all cases the Proviso. Right of appeal shall be extended to delinquents as provided by appeal. the act to which this is a supplement.

SECT. V. *And be it further enacted by the authority afore-* said, That the militia of this commonwealth may be called into Of calls into actual service by the governor thereof, in case of an insurrection actual ser- or of an actual or threatened invasion of this or of any neighbour- vice. ing state, but no part thereof shall be detained in service at any one time longer than three months under the mere requisition of the governor, or without the direction or assent of the president of the United States.

Whenever any part of the militia of this commonwealth shall be required for public service, by the president of the United States, if no particular description of troops shall have been re- Mode of de- quired, the governor shall detach the number of men demanded taching the militia. in such proportions, as to the several descriptions of troops, as he may think proper; light infantry, artillery or riflemen shall be detached by companies, cavalry shall be detached by troops.

When any portion of the militia shall be drafted, the requi- site number of field officers shall be taken from the bounds com- Detailing officers for prehended in such draft, and the detail shall be as follows, viz: service. If a colonel's command, the colonel of the regiment lowest in number, lieutenant colonel of the second lowest, first major of the third lowest, second major of the fourth lowest, and the same principle shall govern in all subsequent drafts, commencing with the regiment whose number shall be lowest, not having previous- ly furnished a colonel.

The commanding officer of any detachment, when called into actual service, shall have the power of supplying all vacancies Commanding officer of a detachment may supply vacancies. which may occur in his detachment, and the persons nominated by him shall be commissioned by the governor, and shall respect- ively hold their commissions until the discharge of the detach- ment and no longer.

Whenever any part of the infantry of the militia of this state Militia to be shall be required for public service, it shall be detached by clas- detached by ses as the exigency may require. classes.

Whenever any portion of the militia may be called into actu- Mode of se- al service, the proper regimental staff officers shall be selected lecting staff officers. by the general of the brigade from the bounds of which such detachment may have been drawn, and this shall be done in such manner as that as nearly as conveniently may be, an equal number of staff officers shall be taken from each of the regiments within the brigade.

Whenever any portion of the militia may be called into actu- Non-commis- al service, the proper non-commissioned officers shall be select- sioned: ed by the field officers of the regiments from which such militia officers. shall have been drawn or required, and this shall be done in such manner as that there shall, as nearly as conveniently may

be, an equal number of non-commissioned officers taken from each of the regiments from which drafts may be required.

Of detaching artillery and riflemen.

Companies of artillery or riflemen shall be detached at the discretion of the commander in chief; if either or both shall be necessary as a part of the force required for the service of the United States, those companies nearest the rendezvous that may be specified, shall, in each instance, be the first detached, but no company shall be called to perform a second tour until every other company in its proper brigade shall have performed its tour of service, unless in the opinion of the commander in chief the urgency of any particular case may require it.

Troops of cavalry.

Troops of cavalry shall be detached and shall serve under the like provisions as those prescribed for companies of light infantry, artillery and riflemen.

General orders to designate places of rendezvous, &c.

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

Of calls into service of U. States. Adjutant general's duty.

When the president of the United States shall have made a requisition of a part of the militia of this state for public service, the adjutant general shall take the most prompt and efficacious measures for detaching, and supplying with all necessary arms, equipments, ammunition and provisions, the number of men required, and for having them marched to the place or places of rendezvous. The general of division, or of brigade, to whom orders may be issued, shall take immediate measures for having the number of militia required, called out and inspected by the proper brigade inspector.

Brigade inspector's duty and brigadier general's.

Whenever any portion of the militia of this state shall have been ordered into actual service, under a requisition from the president of the United States, or otherwise, the proper brigade inspector shall notify the commissioned officers whose tour of duty it may be to serve in the detachment required. In the absence or sickness of the brigade inspector, it shall be the duty of the brigadier general to appoint one of the majors in the brigade to execute the duties of the brigade inspector; and all captains or commanding officers of companies of the militia

Company officers duty.

within the bounds of such draft, whether required to serve in the detachment or otherwise, shall furnish to the proper brigade inspector, on or before the day appointed for inspection, an authenticated roll of the non-commissioned officers, musicians and privates selected or drafted out of his company. And it shall be the duty of the said captains or commanding officers of companies, to cause a written or printed notice to be served upon or left at the usual place of residence of each officer, non-commissioned officer, musician or private liable to serve, requiring every such person to attend at a time and place to be in the said notice specified. Every such notice shall be served at least three days prior to the day fixed for marching to the place of rendezvous, unless upon any sudden emergency, when the said notice shall require immediate attendance for service. The form of the notice for non-commissioned officers and privates shall be as follows: "Take notice, that you are hereby required, per-

Of giving and serving notices.

sonally or by a sufficient substitute, to appear as properly armed and equipped for service, at on the day of to march when required. Courts martial or appeal (as the case may be,) will be held hereafter, whereof due notice will be given by the proper brigade inspector.

Given under my hand, &c.

A. B. captain (or commanding officer.)”

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

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

The governor may, if he shall think proper, direct the light infantry, riflemen or artillery who may be called into actual service, to be formed into battalions or regiments distinct from and independent of the infantry, and he may direct the cavalry who may be called into actual service, to be formed into regiments or squadrons, in such a manner as that there shall not be less than fifty nor more than one hundred men, including officers, in each troop, and not less than four troops in each of the two squadrons of a regiment.

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

When any part of the militia shall have been called into actual service, the officer who may have the command of the detachment about to march to the place of rendezvous, shall nominate to the proper brigade inspector a suitable person to act as quarter master for the detachment until it shall have arrived at the place of rendezvous, to whom, if he shall approve the choice, the brigade inspector shall advance such sum or sums as may be necessary for the subsistence of the troops upon their march, taking duplicate receipts therefor from the quarter master, which shall also be endorsed by the commanding officer of the detachment. The officer so appointed quarter master shall keep exact

Form of notice.

Governor to select general officers.

Duty of such officers.

Pay and rations.

Governor may direct organization of artillery, &c.

Governor to inform the brigade inspector whether the call be a state or U. States' call, and the term of service.

Of quarter masters.

Money to be advanced to them.

Quarter master to keep accounts. His compensation. accounts of all expenditures, and when he shall have arrived at the place of rendezvous, shall transmit a statement thereof to the proper brigade inspector, charging two and one half per centum for the services thus rendered. If any balance shall remain in his hands, he shall pay it over to such person, or in such manner as the proper brigade inspector shall have instructed him.

Horses to be appraised. The brigade inspector, and two reputable and disinterested citizens, to be nominated by him, shall appraise the horse of each officer who is entitled by the rules of war to keep a horse, and the horse of each light-horseman, and each horse belonging to the artillery, and all horses pressed into the service, immediately before every time of going into actual service, and enter such appraisement in a book, and give to the owner a certificate thereof; and in case such horse shall be killed or die in actual service, or be taken by the enemy, otherwise than by neglect of the owner, on his producing to the auditor general a certificate of the loss of said horse, signed by the commanding officer of the detachment to which he belonged whilst in actual service of the state, together with a certificate of the appraisement so as aforesaid directed to be made, he shall, thereupon, be paid the full amount of such appraisement.

How paid for if lost.

General officers to select their staff. In all cases where such portion of the militia shall be ordered into actual service as shall constitute a division or brigade, the general officers appointed to the command thereof, shall have power to select from the bounds of which such detachment may have been drawn, their respective staff officers, and shall not, in such selection, be confined to officers then holding commissions in the militia; and if the person or persons thus selected shall not be a commissioned officer or officers, the governor shall, on receiving a certificate under the hand of the general having made such selection, cause such commission or commissions to issue as shall be necessary and proper, to be held during the continuance of the detachment in the service, and no longer.

How commissioned.

Penalty on encouraging desertion. Any man who shall attempt to persuade any non-commissioned officer or private to desert, or who shall attempt in any manner whatsoever to persuade or hinder any non-commissioned officer or private from marching with the proper detachment when called into actual service, such person, on conviction thereof before any alderman or justice of the peace in the proper county, shall be fined in any sum not exceeding one hundred dollars, nor less than five dollars, and it is hereby made the duty of the brigade inspector to see that this provision is duly enforced, and all fines so recovered by him shall be accounted for in the settlement of his accounts.

Penalty on neglecting to uniform. *SECT. VI. And be it further enacted by the authority aforesaid,* That the commission of every officer who shall have been or may hereafter be elected or appointed to supply vacancies, in pursuance of the provisions of this act or the act to which this is a supplement, and who shall not have uniformed or equipped himself as such within six months after the time of such election or appointment, shall not be thereby vacated, but he shall be fined, during the continuance of such neglect, in the same

amount for each day of discipline of officers and of the militia, required by law, as if he were absent on such day of discipline of officers and of the militia; which fines shall be levied and collected as in other cases: And each officer shall enter upon and perform the duties of his office as soon as he shall have been elected and agreed to accept the said office, and shall be subjected to the same penalties for absence on days of training of officers and of militia, as if he had been commissioned: *Provided*, That no person who heretofore has been fined, or who hereafter shall be fined as an absentee, shall be exonerated from the payment of such fine because the officers composing the court of appeal have not been in uniform, as required by the act to which this is a supplement, but all such fines shall be collected as in other cases.

SECT. VII. *And be it further enacted by the authority aforesaid*, That in case of holding elections for company officers, if the proper major should be sick or absent, it shall be lawful for any other field officer of the proper regiment to advertise and superintend such elections, in like manner, and make returns thereof, as is directed by the act to which this is a supplement; and the major or other officer shall have three dollars for advertising and superintending said election.

SECT. VIII. *And be it further enacted by the authority aforesaid*, That the officers who are required by the sixteenth section of the act to which this is a supplement, to attend the parades for discipline, shall each receive an additional compensation of fifty cents for each and every day's service on parade for discipline, to be paid by the proper brigade inspector.

SECT. IX. *And be it further enacted by the authority aforesaid*, That if any non-commissioned officer or private shall appear in the ranks on any of the days appointed for training by the act to which this is a supplement, without a musket or firelock, it shall be the duty of the captain or commanding officer of the company to which he may belong, to make return of every such person to the court of appeal of his proper battalion, whose duty it shall be to fine every such person one dollar: *Provided*, That the commissioned officers of the company, or a majority of them, shall have power to exonerate any person appearing without arms as aforesaid, if it shall appear to them that such person was unable to procure arms, or that arms could not be procured: *Provided also*, That the militia within the bounds of the seventy-eighth regiment, now commanded by colonel George Moore, may be allowed to muster in companies on any of the days appointed for regimental or battalion training, if a majority of the field officers shall think proper so to direct: *And provided further*, That the provision relating to the seventy-eighth regiment in the sixteenth division, be extended to the militia residing in Jefferson county.

SECT. X. *And be it further enacted by the authority aforesaid*, That the uniform of the general officers and the general staff of the militia, shall be in all respects similar to that prescribed to be worn by officers of the same grade in the army of the United States; and that the cockade of the state shall be black.

