

SECT. 7. *And be it further enacted by the authority aforesaid,* That the second section of the act, entitled, "An act relating to auctioneers," passed the twentieth day of March, eighteen hundred and eighteen, be and the same is hereby repealed.

SECT. 8. *And be it further enacted by the authority aforesaid,* That all and every act or acts of the general assembly of this commonwealth now in force, respecting any auction or auctions, or auction duties, or person or persons using or exercising the business of auctioneer within two miles of the state house in the city of Philadelphia, and all the rules, regulations, provisions and directions, pains and penalties, contained in the said act or acts, not inconsistent with, nor repealed by, the present act, shall continue in full force and vigor, and be applied as fully and effectually to the auctioneers to be commissioned in virtue of this act, as to those appointed and commissioned by such former act or acts.

JOHN GILMORE, *Speaker*
of the House of Representatives.

PHILIP S. MARKLEY,
Speaker of the Senate.

APPROVED—April the second, one thousand eight hundred and twenty-one.

JOSEPH HIESTER.

CHAPTER CLXII.

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 commonwealth of Pennsylvania shall be divided and organised into military divisions as follows, to wit.

First division—city and county of Philadelphia.

Second division—counties of Bucks and Montgomery.

Third division—counties of Chester and Delaware.

Fourth division—county of Lancaster.

Fifth division—counties of York and Adams.

Sixth division—counties of Dauphin, Lebanon, Berks and Schuylkill.

The state divided into 16 military divisions.

Seventh division—counties of Northampton, Pike and Lehigh.

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

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

Tenth division—counties of Mifflin, Centre, Huntingdon and Clearfield.

Eleventh division—counties of Cumberland, Perry and Franklin.

Twelfth division—counties of Bedford, Somerset and Cambria.

Thirteenth division—counties of Westmoreland and Fayette.

Fourteenth division—counties of Washington and Greene.

Fifteenth division—counties of Allegheny, Armstrong, Indiana and Jefferson.

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

Each division to consist of 2 brigades as at present organized.

SECT. 2. *And be it further enacted by the authority aforesaid*, That each division shall consist of two brigades as at present organised, but when in the opinion of the major general and the brigadier generals of any division, it may be deemed useful and necessary to form a third brigade within the bounds of such division, they are hereby authorised to do so, making the said brigades as nearly equal in strength as circumstances will permit.

Each brigade to consist of the number of regiments now belonging to the same.

SECT. 3. *And be it further enacted by the authority aforesaid*, That each brigade shall consist of the number of regiments now belonging to the same, but when in the opinion of the brigadier general and the colonels of the regiments of any brigade, it may be deemed useful and necessary to form an additional regiment or regiments within the bounds of such brigade, they are hereby authorised to do so: *Provided however*, That no brigade shall contain less than two thousand

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one hundred men, nor consist of less than two nor more than five regiments, and they shall be as equal in point of strength as circumstances will permit; and each regiment shall consist of two battalions, also as nearly equally divided in strength as conveniently may be, and each battalion shall

And each regiment to consist of 2 battalions.

have the same number of companies if practicable. The regiments of militia in this commonwealth shall retain their present numbers, and every new regiment formed shall be numbered by the adjutant general, and the said regiments and battalions shall take rank according to the number of the same, reckoning the lowest in number to be highest in rank; but the adjutant general shall be authorised once in every seven years to make any other general arrangement in the number of the regiments, and if any such arrangement is made by him, he is hereby required to give notice of the same to the several brigade inspectors, and the regiments shall thenceforward have and bear the numbers made according to

Adjutant General may make other arrangements, &c.

said arrangement, and a record of the same shall be filed by the adjutant general in his office, and also in the office of the Secretary of the Commonwealth. Each regiment of militia shall contain at least seven hundred men, and be entitled to a stand of colours at the expense of the state.

SECT. 4. *And be it further enacted by the authority aforesaid,* That each regiment shall consist of the number of companies now attached to the same, but when in the opinion of the field officers of any regiment, it may be deemed useful and necessary to create an additional company or companies within the bounds of such regiment, they are hereby authorized to do so: *Provided however,* That the number of companies in each regiment shall not be less than eight nor more than twelve, nor the number of non-commissioned officers and privates in each company less than seventy nor more than one hundred and fifty.

Each regiment to consist of the number of companies now attached thereto.

SECT. 5. *And be it further enacted by the authority aforesaid,* That whenever the major general and brigadier generals of any division, may be of opinion that a better organization of the brigades and regiments of said division may be made, by attaching one part of a brigade to another, they are hereby authorised to make such arrangement, of which they shall notify the brigade inspectors, who shall give notice to the commanding officers of the regiments affected thereby.

Major general, &c. may make other arrangements of brigades, &c.

SECT. 6. *And be it further enacted by the authority aforesaid,* That whenever the brigadier general and the commanding officers of regiments in such brigade, may be of opinion that a better organization of the regiments or companies of any brigades may be made, by attaching one part of a regiment to another, they are hereby authorised to make such arrangement, of which notice shall be given to the inspector, and to the captains of the companies to be affected thereby.

Arrangements of regiments and companies in any brigade.

SECT. 7. *And be it further enacted by the authority aforesaid,* That whenever the field officers of any regiment, may be of opinion that a better organization of the companies of said regiment may be made, by transferring part of one company to another, they are hereby authorised to make such arrangement, of which the majors of the battalions to which any such company may belong, shall give notice to the captain or commanding officer thereof, and shall also give notice thereof to the proper brigade inspector, stating particularly the alterations so made.

The field officers may reorganize the companies of any regiment

SECT. 8. *And be it further enacted by the authority aforesaid,* That every free able bodied white male person, who has resided within this commonwealth for one month, and is between the ages of eighteen and forty-five, except those hereinafter enumerated, shall be enrolled in the militia of this commonwealth. The vice president of the United States, the judicial and executive officers of the United States, members of congress, custom house officers, stage drivers em-

Who shall be enrolled in the militia.

employed in conveying the mail of the United States, ferrymen employed on any post road while in the actual performance of that duty, post masters, inspectors of exports, pilots and mariners actually employed in the sea service, ministers of religion, teachers in universities, academies and schools while so employed, judges of the supreme and districts courts and courts of common pleas, the mayors and recorders of cities, and the menial servants of foreign ambassadors, ministers and consuls, sheriffs, jailors and keepers of work houses shall be exempted from militia duty; and every person within the ages before mentioned, shall be considered an able bodied man unless he shall produce to the commanding officer of the proper regiment, a certificate from two practising surgeons or physicians under oath or affirmation, that in their opinion he is unable and unfit to perform military duty by reason of infirmity or disability.

SECT. 9. *And be it further enacted by the authority aforesaid,* That the captain or commanding officer of every company of militia, shall between the first day of April and the first Monday of May, in the year eighteen hundred and twenty-two, and in every subsequent year, enrol or cause to be enrolled every person subject to militia duty within the bounds of his company, by having entered the name, age and place of residence of every such person in a book to be procured for that purpose; and if any doubt shall exist about his age or place of residence, the age shall be entered at eighteen years, and the place of residence shall be considered as being in the township or ward, and within the bounds of the company in which he is believed to reside, which shall be conclusive until he satisfies the captain or commanding officer of his proper age and place of residence; and if it is found that he ought to be enrolled in any other company, he shall only be released from performing duty in the company in which he is first enrolled, by producing a certificate that he is actually enrolled in such other company; and the captain or commanding officer shall enrol or cause to be enrolled, from time to time every person arriving within the bounds of his company and liable to perform militia duty, and shall enter his name, age and place of residence in manner aforesaid; and the captain or commanding officer shall receive for each annual enrolment the sum of two dollars: *Provided however,* That no actual member of a duly organized volunteer corps shall be enrolled in manner aforesaid, if at the time thereof he is uniformed and equipped as a volunteer, which fact he must show if required by a certificate from the commanding officer of his troop or company.

SECT. 10. *And be it further enacted by the authority aforesaid,* That if any person liable to perform militia duty shall make a false representation of his name, age or place of residence to the person authorised to enrol him, or shall wilfully conceal or refuse to give the same, or if any head of a family

Who shall be exempted from militia duty.

Captain to enrol persons residing within the bounds of his company.

How age and residence shall be determined.

Persons arriving in any company to be enrolled from time to time.

shall conceal the name of any person subject to militia duty residing, boarding or lodging in the family or occupying part of the dwelling house or make a false representation thereof, every person so offending shall forfeit and pay the sum of twenty dollars, to be recovered before any alderman or justice of the peace as debts of equal amount are or may be by law recoverable by any person who shall sue for the same.

Penalty on persons making a false representation, &c. or concealing the names of others.

SECT. 11. *And be it further enacted by the authority aforesaid,* That the captain or commanding officer of every militia company shall, on or before the day of regimental or battalion training in each and every year, deliver or cause to be delivered to the proper brigade inspector a copy of the roll of the militia of his company, under oath or affirmation, to be administered by any alderman or justice of the peace or any commissioned officer; and every captain or commanding officer of a company shall receive for furnishing a copy of his militia roll as aforesaid the sum of two dollars; and the adjutant of the said regiment shall, on or before the said regimental or battalion training in every year, deliver or cause to be delivered to the proper brigade inspector a roll of all the field, staff and company officers in his regiment; and each of the said officers failing to furnish the said rolls and deliver the same as directed by this section, shall forfeit and pay the sum of thirty dollars.

Enrolment of companies to be delivered annually to the brigade inspector under oath. And of the field, staff & company officers.

SECT. 12. *And be it further enacted by the authority aforesaid,* That the Governor shall appoint and commission a person to be adjutant general of the militia of this commonwealth, who shall hold his office for the term of three years if he so long behaves himself well and faithfully performs the duties of his office; but whenever in the opinion of the Governor the said adjutant general fails and neglects faithfully to perform the duties of his office, the Governor shall remove the said adjutant general; and as often as a vacancy happens by such removal, death, resignation or otherwise, the Governor shall appoint and commission another person in manner aforesaid; and the said adjutant general shall receive for his services the annual salary of three hundred dollars, to be paid out of the state treasury; and the said adjutant general shall receive and distribute all orders from the Governor or commander in chief of the militia to the several officers of the said militia whenever required; he shall furnish to the brigade inspectors one complete set of all forms and returns connected with a proper discharge of their duties and of the duties of the several officers of the brigade, to whom they shall be distributed by the said brigade inspector, for which forms and returns he shall be paid out of the state treasury upon the settlement of his accounts by the proper officers, and shall also be paid for all postage on letters or packages from or to him on subjects connected with military duty; he shall give explanations and information on all mat-

The Governor to appoint and commission an adjutant general. Who may be removed for neglect of duty. His salary. And duties

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

The adjutant general to give bond with sureties.

SECT. 13. *And be it further enacted by the authority aforesaid,* That the divisions, brigades, regiments and companies of militia shall be officered as follows:

How the militia shall be officered.

To each division one major general and two aids de camp, to be appointed by him, with the rank of major.

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

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

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

SECT. 14. *And be it further enacted by the authority aforesaid,*

said, That on the first Monday of June next, and on the first Monday of June in every seventh year thereafter, an election shall be held within the several battalion bounds of the militia of this commonwealth, in the manner and for the several officers hereinafter mentioned. The brigade inspector of each brigade then in commission, shall advertise and give notice in the most public manner, by printed or written advertisements and by publication in two newspapers in the city or county, if such papers are published therein, to the enrolled militia within the bounds of every such battalion of the brigade that an election will be held on the said day, between the hours of ten in the forenoon and six in the afternoon, at such place within the bounds of the said battalion, as near the centre as may be, as shall be designated in such notice, for the election of one brigadier general and one brigade inspector for the brigade, of one colonel and lieutenant colonel for each regiment of said brigade, and of one major for each battalion of said regiments; and the said brigade inspectors shall order and direct the present major of every said battalion, or if he neglects or refuses or in case there is no such officer, he shall appoint one respectable citizen, residing within the limits of the said battalion, to superintend and conduct the said election; and the said major or citizen appointed as aforesaid, shall attend at the time and place fixed on for the election, and shall, prior to the opening thereof, select another respectable citizen, who, with himself, shall act as judges of said election, and they shall take to their assistance two clerks; and the persons so appointed to act as judges and clerks shall be sworn or affirmed by any alderman or justice of the peace, or if there is no one present, by any commissioned officer, to conduct the said election fairly and impartially and make a correct and true return thereof; and every enrolled militia man belonging to the said battalion, or any member of a volunteer corps residing within the bounds of the same, shall and may vote by ballot at such election, in the manner now practised at the general elections; and if the said judges shall deem it necessary, they may administer oaths or affirmations to voters and others, and examine them about their right to vote, and shall decide thereon; and when the said election shall have been closed and the votes counted, the said judges shall make out duplicate returns of the same, to be signed by them as well as the clerks, particularly stating in the said returns the number of votes in words at length given for each person for the offices before mentioned, of brigadier general, brigade inspector, colonel, lieutenant colonel and major separately and distinctly; and the superintendant of such election, after sealing up the said returns in the presence of the other judge, shall take charge of the same, and shall, within ten days after the said election, deliver or cause to be delivered, the said returns to the proper brigade inspector then in commission; and the said superintendant shall receive two

When and where the enrolled militia shall elect a brigadier general and brigade inspector for the brigade.

And field officers for each regiment of said brigade.

How elections are to be conducted

Who may vote.

How returns are to be made.

Penalty for making a false return.

dollars, and the said judge and clerks one dollar each for their services for performing the duties required of them; and if any such superintendant, judge or clerk shall act fraudulently in conducting said election, or shall wilfully make a false return thereof, he shall, on conviction thereof before the court of quarter sessions of the county in which he resides, forfeit and pay any sum not less than fifty nor more than one hundred dollars, to be paid to the proper brigade inspector.

How and by whom the returns shall be received, opened and examined.

SECT. 15. *And be it further enacted by the authority aforesaid,* That the brigade inspector, after having received the returns of the elections held in manner aforesaid and before he opens the same, shall call to his assistance two respectable citizens residing within the bounds of the brigade, one of whom shall be an alderman or justice of the peace, and after swearing or affirming the said citizens truly to examine and cast up said returns and make a fair and correct report thereof, the same oath or affirmation shall be administered by the said alderman or justice of the peace to the brigade inspector, and they shall then open the returns of the said elections and cast up the same, and shall make out one general return of the election of brigadier general, one other return of the election of brigade inspector, one other return of the election of each colonel and lieutenant colonel, and one other return of the election of each major, and having certified and signed the same, the said brigade inspector shall forthwith transmit the same to the Secretary of the Commonwealth; and the said brigade inspector shall immediately cause a written certificate and notice to be given to each of the said persons of his election; and the returns of the battalion elections received by the brigade inspector, shall be filed and preserved in his office, and shall be subject to the inspection of any person interested who may wish to examine the same; and if the said brigade inspector and either of the citizens aforesaid called by him to his assistance, shall be guilty of fraud in casting up the returns of the battalion elections aforesaid, or shall wilfully sign a false return thereof, or if the said brigade inspector shall wilfully suppress any of the said returns, upon conviction thereof before the court of quarter sessions of the county in which they severally reside, they shall forfeit and pay any sum not less than one hundred nor more than five hundred dollars, for the use of the brigade, and the said brigade inspector shall further be deprived of his office. *Provided,* That each of the persons called to the assistance of the brigade inspector shall receive one dollar for his services, to be paid by the said brigade inspector.

Each person elected to be notified.

Penalty for making false returns.

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Officers to elect a major general.

SECT. 16. *And be it further enacted by the authority aforesaid,* That the proper brigade inspector shall notify the brigadier general and the field officers of the several regiments and battalions of militia and volunteers of the brigade, elected according to this act, to meet on the first

Monday of July next, and on the first Monday in July in every seventh year thereafter, at a place as near the centre of the brigade as possible, to be fixed by him, to elect a major general for the division; and the said brigade inspector shall attend at the time and place so fixed on, and together with the brigadier general or other senior officer present, shall superintend and conduct said election; and the said officers of the brigade being assembled, shall ballot for a major general, and after counting the votes, duplicate returns of the said election shall be made out and signed by the said brigade inspector and brigadier general or other senior officer, stating particularly the number of votes given for each person for major general in words at length; and the said brigade inspector shall file one of the said returns in his office; and the brigade inspectors of the other brigade or brigades of the division shall, within ten days after the election, call upon the brigade inspector of the first brigade of the said division, and they shall examine and cast up their respective returns and make out a division return, stating the election of the person having the highest number of votes for the office of major general, which being certified and signed by the said brigade inspectors, shall immediately be transmitted to the Secretary of the Commonwealth, and one of the said brigade inspectors shall also notify in writing the person so elected; and if any person elected a major general as aforesaid shall refuse to accept, or whenever a vacancy shall happen by death, resignation or otherwise, of which immediate notice shall be given to the adjutant general of the commonwealth by the proper brigade inspectors, the said adjutant general shall direct the brigade inspectors of the division to hold a new election on a day to be named by him, which election shall be held and conducted and returns thereof made in all respects as is directed by the preceding part of this section.

How the election is to be conducted

And returns thereof made

How a vacancy is to be supplied.

SECT. 17. *And be it further enacted by the authority aforesaid,* That before any commission shall issue to a brigade inspector, he shall give bond with sufficient sureties, to be approved of by two of the judges of the court of common pleas of the county in which he resides, in the sum of five thousand dollars, to be taken in the name of the commonwealth of Pennsylvania, conditioned for the faithful performance of his duties as brigade inspector, which bond shall be filed in the office for recording of deeds of the county, and a copy thereof sent to the Secretary of the Commonwealth; and whenever a vacancy happens by death, resignation, or removal of any brigade inspector, the brigadier general or senior officer of the brigade shall cause an election to be held to supply such vacancy on a convenient day to be named by him, which election shall be held and conducted in all respects similar to the mode prescribed by the fourteenth and fifteenth sections of this act, the said brigadier general or senior officer acting in lieu of the brigade inspector.

A brigade inspector to give bond with sureties before he receives his commission.

How vacancy in that office is to be supplied.

And the election how conducted.

How elections to fill vacancies in the office of brigadier general & field officers are to be held and conducted.

And returns made.

When and where the company of officers shall be elected.

How and by whom the elections shall be held.

The captain to make a return.

SECT. 18. *And be it further enacted by the authority aforesaid,* That if any brigadier general, colonel, lieutenant colonel, or major elected, shall refuse to accept, or whenever and as often as a vacancy shall occur by the resignation, removal, or death, of any such officer, a new election shall be immediately ordered by the proper brigade inspector, at a time to be fixed on by him, which shall be held, conducted, and returns thereof made in all respects and under the like penalties as is provided and directed by the fourteenth and fifteenth sections of this act, except that in the elections of majors it shall not be necessary to advertise in two city or county newspapers, nor shall it be necessary for the brigade inspector to call to his aid two citizens to examine the returns of the elections of majors, nor to be sworn or affirmed, but he shall transmit a copy of the return of any election of major received by him to the Secretary of the Commonwealth, certified and signed by him.

SECT. 19. *And be it further enacted by the authority aforesaid,* That on the third Monday of August next, and on the same day in every seventh year thereafter, an election shall be held within the bounds of every company of militia in this commonwealth for company officers for the same, and the major of every battalion elected by virtue of this act, or in case there is no major, the lieutenant colonel of the regiment shall give at least ten days public notice by written or printed advertisements, and by publication in one or more newspapers if he thinks it necessary to the enrolled militia within the bounds of every company of the battalion, that an election will be held on said day between the hours of ten o'clock in the forenoon and six in the afternoon, at such place within the bounds of every said company as near the centre as may be, as shall be designated in such notice, for the election of one captain, one first lieutenant, and one second lieutenant; and the said major or lieutenant colonel shall appoint one respectable citizen to superintend and conduct each of said elections, who shall attend at the time and place fixed on for the same, and shall prior to the opening thereof select one other person, who with himself shall act as judges, and they shall appoint one other person to act as clerk thereof; but if any person appointed by the major or lieutenant colonel as aforesaid, shall fail to attend, then and in that case, the enrolled militia present at such election, may and shall appoint two citizens as judges, and one citizen as clerk, and the said judges and clerk shall be sworn or affirmed by any alderman or justice of the peace, or by any commissioned officer, to conduct the said election fairly and impartially, and to make correct and true returns thereof, and the captain or commanding officer now in commission, or hereafter to be elected or appointed, of any company of militia within the bounds of which any such election is to be held, is hereby required under the penalty of fifty dollars to

furnish to the said judges, on or before the opening of the aforesaid elections, a correct list of the enrolled militia of his company. And every enrolled militia man within the bounds of every said company shall and may vote at such elections in the manner practised at the general elections; and the said judges may, if necessary, examine persons offering to vote upon their right to do so, under oath or affirmation, and shall decide thereon; and when the said elections shall have closed, duplicate returns thereof shall be made out and signed by the said judges and clerks respectively, stating the number of votes given for each person for the offices aforesaid, separately and distinctly, and also stating in the said returns the number of enrolled militia within the bounds of the company, and one of the said judges shall take charge of the said returns, and within five days thereafter, deliver, or cause the same to be delivered to the aforesaid major or lieutenant colonel, who shall immediately transmit one of each of said returns to the brigade inspector, who shall file the same in his office; and the said brigade inspector shall make out one general return for each regiment of the officers elected in the several companies thereof, in every case where it appears at least one third of the enrolled militia of the company voted for officers, which returns he shall certify and sign, and send immediately to the Secretary of the Commonwealth. But when by any such returns, it appears that one third of the enrolled militia of any company did not vote for company officers, the brigade inspector shall notify the colonel or commanding officer of the regiment thereof, who shall direct the other field officers to meet at a time and place to be fixed on by him, and they shall appoint the proper officers for every said company, but they may if they think proper appoint all or any of the persons voted for; and they shall also appoint the proper officers for every company where no election shall be held, and in case any person shall be elected who shall refuse or decline to accept, or shall fail to perform the duties of his office, the field officers of the regiment are hereby authorised and directed to appoint proper officers in the place of every such person thus declining to accept or failing to perform his duty; but the said field officers may, if they think proper in any of the cases above mentioned, order new elections to be held, and they shall make out duplicate returns of all appointments made by them to be signed by the senior field officer, and shall deliver, or cause the same to be delivered to the brigade inspector without delay, one of which returns he shall file in his office and the other transmit to the Secretary of the Commonwealth; and as often as a vacancy occurs in any company such vacancies shall be filled by a new election or appointment in manner aforesaid: *Provided however*, That the company officers shall reside within the bounds of the company, unless proper persons cannot be found therein to accept of such appoint-

Who may vote.

Returns how made.

If one-third of the enrolled militia do not meet and vote the field officers may appoint company officers.

And also where no election shall be held.

And may order new elections to be held.

How vacancies are to be supplied.

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ments, in which case they may be taken from the bounds of other companies; and the judges and clerks of the aforesaid elections shall be entitled to the same compensation and be subject to the like penalties as are directed and prescribed by the fourteenth section of this act; and the said brigade inspector shall also be subject to the same penalties for misconduct as are prescribed by the fifteenth section of this act.

The field of-
ficers may
number and
arrange the
companies.
How to take
rank.

The field officers shall and may number the companies and arrange them to the battalions of the regiment, giving notice thereof to the proper brigade inspector; and all company officers shall take rank according to the number of their respective companies, reckoning the lowest in number to be highest in rank, when their commissions are of the same date, and the commissioned officers of every company are authorized to appoint the proper non-commissioned officers for the same.

Term of all
commissions.

SECT. 20. *And be it further enacted by the authority aforesaid,* That officers elected or appointed in pursuance of this act shall hold their commissions until the third day of August one thousand eight hundred and twenty-eight, if they shall so long behave themselves well and perform the duties required by law; and whenever the Secretary of the Commonwealth shall have received the returns of any elections or appointments under this act, commissions shall be immediately issued for the said officers respectively, to be sent to the proper brigade inspector; and all commissions for officers elected or appointed previous to the third day of August next, under the provisions of this law, shall bear date and take effect from that day; and all commissions for officers elected or appointed subsequent to that day, shall bear date and take effect from the day of the election or appointment of every such officer; and no person shall be a commissioned officer who is not a citizen of this commonwealth, and the commission of every officer shall become void upon his removing out of the bounds of his command, unless in the case of company officers with the consent of the field officers of the regiment: *Provided however,* That within the bounds of the first division, the officers may reside any where within the bounds of the brigade.

Commissions
when issued.

And when to
take effect.

No person to
be commissi-
oned who is
not a citizen.

When and
where com-
pany and bat-
talions train-
ings shall be
held.

SECT. 21. *And be it further enacted by the authority aforesaid,* That the militia of this commonwealth shall be paraded and trained in companies and battalions, as follows, viz. In companies on the first Tuesday of May in every year, and the battalion parades and trainings shall commence on the second Monday in May in every year, and shall continue in such order as the brigade inspector shall direct, on every day of the week except Saturday and Sunday, until all the battalions of the brigade shall have paraded, of which trainings one month's notice shall be given by the brigade inspector in as public a manner as possible, by printed advertisements or

otherwise as he may deem best. The place for the company trainings shall be fixed by the commanding officer thereof, and of which he shall give at least ten days public notice by printed advertisements or otherwise, and the place for battalion trainings shall be fixed by the field officers of the regiment, and the commanding officer of the regiment shall give at least fifteen days public notice of the place of said battalion trainings, by printed advertisements or otherwise; and the colonel of the regiment shall attend the training of the first battalion of the regiment, and the lieutenant colonel shall attend the training of the second battalion of the said regiment: *Provided however*, That the militia shall parade and train in regiments instead of battalions, when the field officers may require it, of which the commanding officer shall give notice to the brigade inspector, before he is directed to advertise in manner aforesaid; and the said commanding officer shall give the same notice of the place of regimental trainings that is required in the case of battalion trainings: *And provided*, That each of the brigade inspectors within the bounds of the first division, shall publish the said notice required of him by this section, three times in each of the daily newspapers printed in the city of Philadelphia, and shall describe therein the bounds of his brigade and of each regiment and company therein; together with the names of their respective commanding officers: *And provided also*, That no enrolled militia man under the age of twenty-one years shall be required to parade or train, or shall be fined for not having so paraded or trained.

Public notice thereof to be given.

The militia may parade and train in regiments; &c.

Proviso.

2d Proviso.

SECT. 22. *And be it further enacted by the authority aforesaid*, That every commissioned and staff officer, and every non commissioned officer and private enrolled in the militia, and between the ages of twenty-one and forty-five years, who without a lawful excuse shall neglect or refuse to attend on any day of parade and training hereinbefore appointed, without good and sufficient arms, shall be fined as follows, to wit. Every field officer five dollars, every staff officer and captain of a company three dollars, every subaltern officer two dollars, and every non-commissioned officer and private one dollar; and every such officer, non-commissioned officer and private shall pay the same fine if he leaves the ranks and parade on any day of training, without the leave of his commanding officer, before the regiment, battalion or company is dismissed: *Provided however*, That if the officers of the company shall be of opinion that any militia man could not procure arms, he shall not be fined for appearing without them, and all officers who shall appear on parade without being in uniform, shall be subject to the same fines as if they had not attended.

Penalty for not attending on days of exercise.

And for leaving the ranks and parade without leave.

Proviso.

SECT. 23. *And be it further enacted by the authority aforesaid*, That it shall be the duty of every captain or commanding officer on the days of training aforesaid, to call the roll

Absentees
noted and re-
turned, &c.

of his company or cause the same to be called at least twice, and note down those who are absent at any time during the day, that he shall think most proper to ascertain the absentees; and the said captain or commanding officer shall make out a return of all such absentees, who are required to parade under oath or affirmation, with the amount of fine incurred set opposite each name, and shall deliver the said return to the proper court of appeal on the day of their meeting, under the penalty of fifty dollars.

3 commis-
sioned offi-
cers to com-
pose a court
of appeal.

SECT. 24. *And be it further enacted by the authority afore-
said,* That the colonel or commanding officer of each regi-
ment, shall on or before the day of regimental or battalion
training in every year, appoint three commissioned officers
for each battalion of his regiment, to compose a court of ap-
peal for the said battalion for the current year, and shall fix
on the place where the said officers shall assemble, and shall
give public notice of such appointment and of the time and
place of meeting, fifteen days at least before each meeting
by printed advertisements or otherwise; and the said offi-
cers so appointed as a court of appeal for the battalion, shall
meet on the second Monday of June in said year, and shall
before they enter on their duties, be sworn or affirmed justly
and impartially to decide on all cases that may come before
them, and shall continue to sit as long as business absolutely
requires it. The senior officer shall be president of the said
court, and if a vacancy should happen, the colonel or com-
manding officer shall immediately appoint another officer to
fill such vacancy, and give him notice thereof; and all en-
rolled militia men of the proper battalion, who shall have ne-
glected to attend on any day of training, may appear in per-
son or by agent before the said court, to assign their excuse
for such non-attendance, and the said court shall and may
examine all persons under oath or affirmation, and if it shall
be satisfactorily proved or shewn that any militia man was
prevented from attending by reason of being a juror, arbi-
trator or witness before any court or other legal tribunal, or
of illness, or unavoidable cause which rendered his attend-
ance impracticable, on any day for which he is fined for non
attendance, the said court shall remit the fine or fines in-
curred; but no remission shall be made or redress given at
any other time, or by any other authority or in any other
manner than is before mentioned, or is herein otherwise pro-
vided for; and each and every commissioned officer is au-
thorised to administer the oath or affirmation required to be
taken by the officers of the court of appeal, or by any officer
in the performance of any duty directed by the militia law;
and as soon as the said court of appeal shall have decided
upon all cases before them, they shall make out two lists of
the officers and enrolled militia of each company returned
by the captain or commanding officer thereof, as fined for
non-attendance on any day of training, and whose fines were

To be under
oath or affir-
mation in de-
ciding on ca-
ses that may
come before
them.

The court
may remit
fines for non
attendance in
certain cases.

2 lists of fines
to be made
out.

delivered each of the said warrants to a constable or other fit person, at his discretion, from whom he shall require security if he thinks it necessary, and any person to whom any such warrant is delivered, shall under the penalty of twenty dollars call on each and every person named in the list or schedule to the said warrant, if within the bounds of the brigade, within twenty days after he has received the same and demand payment of the fine or fines due; and in case any such fine or fines is not paid within ten days after demand, he shall proceed to levy and collect the same according to the commands of the warrant, and in the levy and sale of the delinquents property, he shall proceed in the same manner that constables are or shall be by law required to proceed under executions, and shall have the like fees, and for want of such goods and chattels to pay the fine or fines against him, every such delinquent shall be committed by the proper collector to the custody of the sheriff or jailor of the proper county, to be held and detained agreeably to the insolvent laws of this commonwealth, and a copy of the warrant certified by the said collector shall be good and sufficient authority to the sheriff or jailor to detain such delinquent in custody until he is legally discharged; and the constable or other person to whom any warrant shall be delivered, shall within forty days after he has received the same, pay to the brigade inspector the amount of fines contained in the schedule to said warrant, unless the said brigade inspector shall allow him further time to collect the same; but if the said person after the expiration of forty days shall fail, on the demand of the said brigade inspector to pay the amount of the said fines to him, he shall forfeit and pay double the amount thereof, to be recovered by the said brigade inspector in the name of the commonwealth of Pennsylvania, as debts of equal amount are by law recoverable: and if the said constable or other person shall report to the brigade inspector, which he is hereby required to do within the said forty days, that it is impracticable to collect some of the fines contained in the said schedule, the brigade inspector shall order the field officers of the regiment to be assembled, and persons having warrants shall appear before the said field officers at the time and place to be fixed on by the brigade inspector, of which they shall have notice, and the said field officers having been first sworn or affirmed, they or a majority of them shall determine whether it was and is impracticable to collect any such fines or not, and if they find any of the fines contained in the warrants could not have been nor cannot be collected, they shall make out two lists thereof and deliver the same to the brigade inspector, signed by the senior officer present; and the said field officers when so assembled, are hereby further authorized to exonerate any person or persons against whom warrants have issued, from any fine or fines against them which ought not to be levied and collected agreeably to this act;

Payment to be demanded of the person charged within 20 days.

Constable to pay over fines collected.

Duties enjoined on the brigade inspector and field officers of the regiment.

2 lists to be made out.

Field officers may exonerate, &c.

and lists thereof shall be made out and delivered to the brigade inspector in manner aforesaid; and the brigade inspector shall after having received said lists, exonerate any person having a warrant or warrants from the amount of any fine or fines contained in the schedule to the same, which by the lists aforesaid it appears cannot be collected, and the persons appointed to collect the fines as aforesaid, shall receive for their services ten per cent. on the amount collected by them; and each field officer shall receive one dollar per day while employed in the performance of the duties required by this section.

SECT. 26. *And be it further enacted by the authority aforesaid.* That if it shall happen that the proper officers shall not be elected in any battalion or regiment of militia, or who being elected shall fail to perform the duties required by this act in causing the militia to be enrolled and trained, and returns made according to law, it shall be the duty of the brigade inspector of the proper brigade, as soon after the first Monday in June in every year as conveniently may be, to employ one or more proper persons to enrol all and every person residing within the bounds of every such battalion or regiment and liable to perform duty in the militia, who shall proceed in the same manner and have the like authorities as are given to captains or commanding officers of militia companies by the ninth section of this act; and the person or persons so employed to enrol as aforesaid, shall make a return of the persons enrolled by him or them within the bounds assigned to them respectively by the brigade inspector, which returns shall be under oath or affirmation that the enrolment contains a fair and correct return of all persons liable to perform duty in the militia within the bounds assigned to such person by the brigade inspector as far as he could ascertain the same, which oath or affirmation shall be administered by any justice of the peace or by the brigade inspector; and each and every person so enrolled shall pay the sum of two dollars; and it shall be the duty of the proper brigade inspector, as soon as he has received the enrolments aforesaid, to issue one or more warrants, as he may think necessary, for the collection of the said sum of two dollars from each of said persons, which warrants shall be in the form following, to wit:


Proceedings in cases of neglecting to elect, or failure to perform duties required.

Duties of the brigade inspector, &c.

“The Commonwealth of Pennsylvania to A. B. greeting:
 “Whereas the persons named in the schedule or list here-
 “to annexed have each become liable to pay the sum of
 “two dollars, according to the militia law of this common-
 “wealth, this warrant therefore authorises and requires you
 “to demand and collect of each and every such person the
 “sum of two dollars; and in case of neglect or refusal to pay
 “the same, you are to levy and collect the same with costs,
 “of the goods and chattels of each and every such person
 “by distress and sale thereof, returning the overplus, if any,

Form of the warrant.

“ to the owner. Witness my hand and seal this day
“ of eighteen hundred and

“ Brigade Inspector, 
“ brigade, division
“ of Pennsylvania militia.

Duties of the constable who shall execute the warrant.

And the said brigade inspector shall deliver the said warrant or warrants to a constable or other fit person, who shall execute the same, and from whom he shall require security (if he thinks it necessary) and the said constable or other person shall perform the same duties, have the same authority, be subject to the like penalties, and proceed in all respects as is directed and provided by the twenty-fifth section of this act for the collection of fines for non-attendance on days of training; and the said brigade inspectors shall have the same powers and authority and perform the same duties as are required by said section, and shall account for any money received by virtue of this section in the same manner as is provided for in other cases; and the said brigade inspectors shall pay to the persons employed by them to enrol as aforesaid, as well as to the constables or other persons authorised to collect as aforesaid such compensation as shall be reasonable and just: *Provided*, That no person shall be liable to pay the penalty imposed on him by this section if he can produce satisfactory evidence that he paraded and trained on the days that are or may be designated under the provisions of this act, under any officer or officers belonging to the regiment within the bounds of which he resides or resided.

Powers of the brigade inspectors.

Proviso.

Volunteers how organized.

SECT. 27. *And be it further enacted by the authority aforesaid*, That troops and companies of volunteers, except within the bounds of the first division, shall be organized as follows:

Number of officers and privates in each troop of cavalry.

There shall be in each troop of cavalry one captain, one first lieutenant, one second lieutenant, one cornet, one quarter-master sergeant, four sergeants, four corporals, one trumpeter, one saddler, one farrier, one black-smith, and not less than thirty privates.

In each company of artillery.

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

In each company of infantry.

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

In each company of riflemen.

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

Proviso.

Provided however, That volunteer troops and companies now organized, may elect at the time prescribed by this act in the month of June next, the number of officers authorised by the present militia law, but whenever thereafter a vacancy shall

occur, said troops and companies shall only have the number of officers above authorised.

SECT. 28. *And be it further enacted by the authority aforesaid,* That the officers of volunteer corps shall be elected by the members thereof, and the brigade inspector of the brigade within the bounds of which any such company may be, shall give public notice to the members thereof on a day to be fixed by him in the month of June next, and at a place as convenient as possible, that an election will be held for officers of the said corps, which shall be held, conducted, and returned in the same manner as the elections are directed by this act to be held, conducted and returned in the several battalions of this commonwealth; and whenever a vacancy happens by the death, resignation, or removal of any officer of a volunteer corps, his place shall be supplied by a new election to be ordered by the brigade inspector in manner aforesaid; and whenever the number of volunteers required by this act for any troop or company shall have uniformed and equipped themselves, upon notice thereof given to the brigade inspector, he shall on a day and at a place to be fixed on by him, of which the members of the said troop or company shall be notified, proceed to inspect the said troop or company, and if he finds the same to contain the number of men required who are properly uniformed and equipped, he shall on the said day of inspection direct an election to be held for the officers thereof, which election he shall superintend and conduct in person, and shall make out and sign duplicate returns of the same, one of which said returns he shall file in his office, and the other transmit to the Secretary of the Commonwealth, together with a certificate of the fact that the said troop or company has the number of men required, properly uniformed and equipped; and every volunteer company of artillery shall be entitled to one piece of artillery of the proper calibre, with all the apparatus and equipments complete; and every company of volunteer infantry shall be entitled to the proper number of muskets and bayonets, cartridge boxes and belts, for the non commissioned officers and privates of the same, which arms shall be drawn for and furnished by the proper brigade inspector, and delivered to the commanding officer of every such company who shall receipt for and be held accountable for the same, which arms shall be delivered up in good order upon the dissolution of the company: and the non-commissioned officers of every troop or company shall be appointed according to the by-laws of the said troop or company.

SECT. 29. *And be it further enacted by the authority aforesaid,* That any volunteer troops or companies, except within the bounds of the first division, may be formed into battalions or regiments in the following manner.

Any number of troops or companies not less than three shall compose a battalion and elect one major, one adjutant and one quarter master.

Officers of volunteer corps how elected.

Brigade inspector to give notice.

How conducted.

Vacancies how supplied.

Brigade inspector to inspect volunteer companies, &c.

If a competent number is found properly equipped, to proceed to an election of officers.

Each company of artillery to have one piece of artillery.

Each company of infantry to have muskets, &c.

How volunteers may be formed, &c.

What number shall compose a battalion, &c. Any number of troops or companies not less than five shall compose a battalion and elect one lieutenant colonel, one major, one adjutant, and one quarter-master.

Any number of troops or companies not less than six shall compose a battalion, and elect one lieutenant colonel, two majors, one adjutant, one quarter-master and one surgeon.

What number shall compose a regiment.

Any number of troops or companies not less than eight shall compose a regiment, and elect one colonel, one lieutenant colonel, two majors, one adjutant, one quarter-master. one surgeon and one surgeon's mate; and the field officer or officers of the said battalions or regiments shall appoint the requisite number of non-commissioned staff officers. It shall not be necessary that the said battalions and regiments shall consist of corps of the same description of force; and whenever any number of troops and companies have agreed to associate in manner aforesaid, upon notice being given to the proper brigade inspector, he shall order the said troops and companies to meet in some central place and on a day to be fixed by him, of which fifteen days public notice shall be given by him; and at the said time and place the members of the said troops and companies shall proceed to the election of the field and staff officers authorised by this act, and the said election shall be held and conducted by the said brigade inspector in person, in the same manner that the battalion elections are directed to be held, and duplicate returns thereof made out and signed, one of which shall be filed in his office, and the other transmitted to the Secretary of the Commonwealth, and as often as a vacancy occurs by the death, resignation or otherwise, of any such field or staff officer, an election shall be held to supply the vacancy, which shall be conducted and returned in all respects as is directed and prescribed by this act in the case of militia battalion elections, only that instead of the major of the militia battalion, the brigade inspector shall appoint one of the officers of the said volunteer corps to superintend and conduct said election and make return thereof: *Provided*, That unless required to be held sooner, the said election shall be held on one of the days fixed on for the meeting of the said battalion or regiment of volunteers; and each regiment of volunteers shall be entitled to a pair of colours, and each battalion of volunteers to a battalion colour to be properly and appropriately marked, to be procured and purchased by the proper brigade inspector at the expense of the state. *And provided further*, That the proper field and staff officers of the several regiments and battalions of volunteers now organized in this commonwealth, shall be elected in the month of June next under the direction and superintendance of the proper brigade inspectors, in the same manner that battalion elections in the militia are directed to be held and conducted.

An election of field and staff officers authorised.

Vacancies how supplied

Proviso.

2d Proviso.

SECT. 50. *And be it further enacted by the authority aforesaid*, That within the bounds of the first division, regiments

of volunteers, shall be formed of troops and companies of the same description of arms in the manner following, that is to say : Relative to the 1st division.

Each regiment of cavalry, artillery, infantry and riflemen, shall have one colonel, one lieutenant colonel, two majors, one adjutant, one quarter-master, one pay-master, one surgeon, two surgeons' mates, one sergeant-major, one quarter-master sergeant and two principal musicians.

Each regiment of cavalry shall consist of at least six troops : each troop shall consist of one captain, one first lieutenant, one second lieutenant, one cornet, one quarter-master sergeant, four sergeants, four corporals, one musician, one saddler, one farrier, and at least thirty privates. A regiment of cavalry to consist of six troops.

Each regiment of artillery shall consist of at least six companies : each company shall consist of one captain, one first lieutenant, two second lieutenants, one third lieutenant, one quarter-master sergeant, four sergeants, four corporals, two musicians, and at least sixty four privates ; the commanding officer of the regiment to designate one of the second lieutenants of each company as conductor of artillery for said company. Artillery six companies.

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

And the said field officers shall be elected in the same manner and at the same time as is provided for the field officers of other volunteer regiments ; and the said commissioned and non-commissioned staff officers shall be appointed by the commanding officers of the respective regiments. Field officers how elected.

SECT. 31. *And be it further enacted by the authority aforesaid,* That every regiment and battalion of volunteers shall meet once in every year, if required by the proper brigade inspector, for inspection, at a time and place to be fixed on by him, and as much oftener for training as shall be determined on by the companies or troops composing the same, and at such times and places as the said companies and troops may agree and fix on ; and the members of the said troops and companies shall be subject to the like fines for non-attendance as in the case of company or troop trainings, and to be collected in the same manner, for the use of the said troops or companies respectively. When regiments and battalions of volunteers shall meet.

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

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

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

Rank of volunteer corps

And officers of the same grade.

Proviso.

A roll of every volunteer troop or company to be delivered annually to the brigade-inspector.

Who is also to be furnished by the adjutant of the regiment with a roll of the field and staff officers thereof.

Volunteers not to parade with the battalions or regiments of militia, but shall meet at least twice a year for training

Of notices and fines for non-attendance.

SECT. 32. *And be it further enacted by the authority aforesaid*, That the captain or commanding officer of every volunteer troop or company, shall, on or before the third Monday in May, in every year, deliver or cause to be delivered to the proper brigade inspector, a complete roll of his troop or company, under oath or affirmation, and if the same is attached to any battalion or regiment of volunteers, the fact thereof shall be stated, and the said captain or commanding officer of any last mentioned troop or company, shall also furnish to the adjutant thereof, on or before the said third Monday of May, in every year, a roll of the same; and the adjutant of every volunteer battalion or regiment, shall, on or before the said third Monday of May, in every year, deliver, or cause to be delivered, to the brigade-inspector, a roll of the field and staff officers thereof; and each of the officers failing to perform the duty required by this section, shall forfeit and pay the sum of twenty dollars, and the said officers shall have the like compensation as is given to officers of militia for similar services.

SECT. 33. *And be it further enacted by the authority aforesaid*, That the several volunteer troops and companies in this commonwealth shall not be obliged to parade with the battalions or regiments of militia, but shall meet at least twice in every year for training, one of which days of training shall be at the time and place directed by the proper brigade inspector, when the said troop or company shall be inspected by him, and the other day of training at such time and place as shall be determined on by a majority of the members of the said troops or companies, of which public notice shall be given by the captain or commanding officer thereof, at least ten days before any such meeting; and the officers, non-commissioned officers, musicians and privates of said troops or companies shall incur the like fines for non-attendance on said days of training as is directed to be paid by the militia

of this commonwealth; and the members of the said troops and companies, or a majority of them, shall, at their first meeting in every year, determine whether they will meet on any other days than those required by law, and how often, and when and where; and the commanding officer of each company or troop shall give to each member thereof not present at the said first meeting notice of the same; and the said officers, non commissioned officers, musicians and privates shall incur one-half of the amount of fines for non-attendance on any of the said days, as is directed to be paid for non-attendance on the days of training required by law.

May meet on other days than those required by law

SECT. 34. *And be it further enacted by the authority aforesaid,* That on every day of parade and training directed and authorised by this act, for volunteer troops and companies, the rolls of the said troops and companies shall be called under the direction of the captain or commanding officer thereof, by the first or other sergeant, and all absentees noted and lists thereof kept to be presented to the officers of the said troops and companies, when acting as a court of appeal as hereinafter directed. And all members of said troops or companies who shall leave the ranks during the hours of parade without permission, or shall not be properly uniformed and equipped, shall be considered and marked as absentees, and incur the like fines. And the said sergeant shall, on or before the first Monday in November, in each and every year, make out a complete list of all absentees aforesaid, on any of the appointed days of training for the preceding year, stating particularly the days on which said member was marked as an absentee, and being sworn or affirmed to the said list, shall deliver the same to the said officers acting as a court of appeal, on the said first Monday of November, in every year; and the captain or the commanding officer shall give notice to the members of his troop or company, of the place where the said officers will sit as a court of appeal, and on the day and at the place aforesaid, the officers of every troop and company shall be assembled and compose a court of appeal for their respective troops and companies, and shall take the same oath or affirmation, have the same authority, proceed in the same manner, and remit fines for the same causes as is directed, given and prescribed, in the case of battalion courts of appeal for the militia; but no fines shall be remitted or redress given by any other authority, at any other time or in any other manner, except such as is herein before provided for. And as soon as the said court shall have decided upon all cases before them, they shall make out a list of the members of the said troops or companies, whose fines were not remitted, stating opposite the name of each member the amount of fines not remitted, to be signed by the officers composing the said court, with a certificate attached thereto, that they had been sworn or affirmed according to law, and shall deliver the same to the captain or command-

Rolls to be called. Absentees noted, and lists thereof kept, &c.

Fines incurred for leaving the ranks or not being properly uniformed.

A list of absentees to be made out and delivered to the court of appeal.

Court may remit fines in certain cases.

A list of fines not remitted to be made out and certified, &c.

ing officer of the said troop or company; and the said captain or commanding officer shall, within ten days thereafter, issue a warrant under his hand and seal, in the following form:

Form of the warrant for collection.

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

“ Whereas the persons named in the list or schedule here- to annexed, have incurred the amount of fines set opposite to their respective names, as members of the volunteer corps of [designating it by its proper title] as absentees on the days appointed for training, which have not been remitted by the proper court of appeal. This warrant therefore authorises and requires you to demand and collect of each and every person named in the said list or schedule, the sum set opposite to his name; and in case of neglect or refusal to pay the same, you are to levy and collect the same, with costs, of the goods and chattels of each and every such person, by distress and sale thereof, returning the overplus, if any, to the owner. Witness my hand and seal, this day of eighteen hundred and

“ Captain.” (L. s.)

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

To be delivered to a constable and to be executed.

His duties.

Rights and powers of the captain or commanding officer.

Fines show appropriated & applied.

And the said captain or commanding officer shall immediately deliver the said warrant to a constable, or other fit person, to be executed, who shall perform the same duties, have the same authority and compensation, be subject to the like penalties, and proceed in all respects as is provided and directed by the twenty-fifth section of this act, only that the said captain or commanding officer shall be in the place and situation of the brigade-inspector, mentioned in the said section, and shall have all the rights and powers therein given to the said brigade-inspector, as well in proceeding against the said constable, or other fit person, in recovering the amount of fines collected by him, as otherwise. And all fines collected from the members of any volunteer troop or company shall be for the use of said troop or company. And the captain or commanding officer of any troop of cavalry, or company of artillery, when he has received from the collector any such fines, shall pay the same to the quarter master sergeant thereof. And the captains or commanding officers of any companies of infantry, or riflemen, upon the receipt of any such fines, shall pay the same to the junior lieutenant, or other person appointed by the company, to be appropriated and applied by them in defraying the necessary expenses of the said troops and companies, under the direction of the commissioned officers thereof; and they shall render an account thereof to the said officers, under the penalty of fifty dollars, at the first meeting of the troop or company, in every year.

SECT. 35. *And be it further enacted by the authority aforesaid,* That each troop of cavalry and company of artillery, shall be entitled to receive from the proper brigade inspector, the sum of fifty dollars annually; and each company of riflemen and volunteer infantry, the sum of twenty dollars annually, to be paid by the said brigade inspector to the commanding officers of the same out of any militia fines in his hands, after other expenses have been paid; but if a sufficient sum shall not remain in his hands to pay the above mentioned sums, then the said troops and companies shall receive a ^{Amount re- ceivable an- nually by each troop or company.} table part of the same, which money so received shall be paid to the quarter master sergeants of each troop of cavalry and company of artillery; and to the junior lieutenants or other authorised persons of each company of infantry and riflemen, by the commanding officers thereof, as soon as they shall have received the same, to be applied and appropriated by them in the same manner and under the like penalty as is directed in the case of fines received. ^{How paid, &c}

SECT. 36. *And be it further enacted by the authority aforesaid,* That every person who shall have uniformed and equipped himself, and faithfully served as a member of any organized volunteer corps, for seven successive years, and shall produce a certificate of such service from the captain or commanding officer of the corps in which he has so served, he shall forever thereafter be exempted from militia duty, except in time of an invasion, insurrection, or actual war: ^{Volunteers having served 7 successive years to be exempt, &c.} *Provided however,* That if the fact of such service shall be disputed, the certificates aforesaid shall be sworn or affirmed to by the officer giving the same, or proof of such service made in some other satisfactory manner.

SECT. 37. *And be it further enacted by the authority aforesaid,* That every person who shall have faithfully served as a commissioned officer for seven successive years in the volunteers or militia of this commonwealth, such person shall forever thereafter be exempted from militia duty, except in time of an invasion, insurrection or actual war. ^{And commis- sioned offi- cers also.}

SECT. 38. *And be it further enacted by the authority aforesaid,* That each brigade inspector elected in pursuance of this act, shall execute all orders relative to duty received by him from the adjutant general; he shall attend each regimental or battalion parade, and shall annually inspect the said regiments and battalions, and shall also once in every year inspect each volunteer troop of cavalry and company of artillery, infantry, and riflemen, within the bounds of the brigade; but when any such troop of cavalry or company of artillery, infantry, or riflemen, shall be part of a regiment or battalion of volunteers, he may inspect the said troops and companies separately, or in battalion or regiment as he may think proper; and the said brigade inspector shall direct the time and place, when and where, any such troop, company, battalion or regiment shall assemble to be inspected as afore- ^{The duty of the brigade inspector. To appoint places for inspection.}

said, and shall give at least twenty days public notice thereof. He shall annually furnish to the adjutant general a detailed statement of the militia and volunteers within his brigade, at such time and in such manner as the said adjutant general shall direct; he shall keep a record of all alterations in the bounds of the brigade, regiments or battalions, or of the formation of any new one, and shall give information thereof to the adjutant general, and shall generally furnish him with information upon all subjects connected with military duty in his brigade, whenever required to do so, and shall also furnish like statements to the major general of the division, and brigadier general of the brigade, once in every year when required. The brigade inspectors shall transmit all returns of elections and appointments of officers under this act, as soon as practicable, to the Secretary of the Commonwealth, and shall distribute to the proper officers all commissions received by them; they shall take charge of and be answerable for all military articles which may be delivered to them; they are authorised and required to collect or cause to be collected, all military arms and property belonging to the commonwealth, in the hands or possession of any person or persons not entitled to the same, and shall make an annual return to the adjutant general of all arms and other military property in their possession, and of the condition of the same, and of the arms and other military property distributed in the brigade. The said brigade inspectors shall sue for and collect in the name of the commonwealth, all fines, forfeitures, and other sums for which no mode of collection is prescribed by this act, and recover the same as debts of equal amount are by law recoverable; they shall procure and purchase all the necessary colours, drums, fifes, trumpets and bugles, and shall pay all expenses and sums of money directed to be paid in their several brigades, as well as all other necessary expenses not provided for by this act; they shall keep an accurate account of all monies received and expended by them; they shall account for all fines, not remitted, by the proper courts of appeal, or imposed by courts martial, and directed to be collected by them, and shall only be released from their accountability for any such fines, by producing a certificate of a board of field officers, to be signed by the president thereof, that it was impracticable to collect the same; they shall annually in the month of January settle with the Auditor General, who is hereby required to settle and adjust their accounts, and shall pay into the state treasury any surplus arising from fines and forfeitures which may remain after payment of the sums and expenses, directed to be paid by them by this act in their several brigades, first deducting five per cent on the amount so to be paid into the state treasury; and on the removal or resignation of any brigade inspector, all the books, vouchers, papers and public property, which may be in his possession, shall be delivered to his successor :

To furnish
a statement
of the militia,
&c.

And like
statements to
to the major
& brigadier
generals.
Transmit re-
turns, &c.

Collect arms,
&c.

Sue for and
collect fines.

Procure and
purchase co-
lours, &c.

Account for
monies, &c.

And annually
to settle their
accounts, &c.

and if any brigade inspector as aforesaid, shall fail to settle his accounts annually with the Auditor General, during the time prescribed, or shall neglect or fail to pay into the state treasury the balance due upon such settlement, upon demand made by the State Treasurer, and of which settlement the Auditor General shall furnish the State Treasurer with an account, or shall neglect or refuse to deliver over to his successor the books, vouchers, papers and public property in his possession, on notice given to the Auditor General thereof, the said Auditor General, or the State Treasurer, as the case may be, shall, and it is hereby made their duty respectively, to cause the bond given by the said brigade inspector and his sureties, lodged in the recorder's office of the county, to be sued out and recovered for the use of the commonwealth, as well as in all other cases of neglect of duty; but any such suit may be stayed upon the said brigade inspector's performing the duties above required of him; and on the death of any brigade inspector, all the books, vouchers, papers and public property which he had in his possession, shall be delivered over to his successor by the executors or administrators of such deceased brigade inspector, under the penalty of one thousand dollars, to be recovered from them or either of them by the said successor in the name of the commonwealth, as debts of like amount are recoverable; and each brigade inspector shall annually receive as a full compensation for his services, including blanks and stationary, seventy five dollars per regiment for the three first regiments, and fifty dollars per regiment for every additional regiment of militia and volunteers of his brigade.

Upon any brigade inspector failing to settle his account his bond to be put in suit,

And on the death of any brigade inspector, papers, &c. to be delivered over.

Compensation.

SECT. 39. *And be it further enacted by the authority aforesaid.* That the discipline, uniform and equipments of the militia of this commonwealth, shall be the same as that prescribed for the army of the United States: *Provided however,* That the volunteer corps shall uniform and equip themselves in such manner as they think proper, but conforming as nearly as may be in their equipments to the same kind of corps in the army of the United States; and each officer of the militia shall be armed and equipped at his own expense, and if any such officer shall fail to equip and uniform himself within six months after his election or appointment, he shall be liable to a fine of twenty dollars if he accepted of such office; and every officer shall appear on every day of parade and training properly uniformed and equipped, if he shall have been elected or appointed more than six months; and every officer elected or appointed in pursuance of this act, shall have all the rights, powers and authorities of an officer from the time of receiving notice of his election or appointment, although not commissioned, except however the brigade inspectors, who shall have no authority until regularly commissioned; and no officer shall be permitted to resign until he shall have

Of discipline, uniform and equipments.

Provided,

Each officer to be in uniform, armed and equipped at his own expense.

accounted and settled for all money, arms and property of the commonwealth which may have come into his hands.

Music to be
procured and
paid for.

SECT. 40. *And be it further enacted by the authority aforesaid,* That on each of the days of training authorised and required by law, the commanding officer of every troop of cavalry may employ one trumpeter, the commanding officer of every rifle company one bugler, and the commanding officer of every company of artillery, infantry and of militia, one drummer and one fifer, who shall be severally entitled to receive the sum of one dollar per day for each of said days of training, to be paid by the proper brigade inspector out of any fines in his hands, upon the certificate of the commanding officer of the troop or company.

Persons to be
taught mar-
tial music.

SECT. 41. *And be it further enacted by the authority aforesaid,* That if any youth of the age of twelve years and not exceeding the age of twenty-one years, shall with the consent and approbation of his parents or guardians, attach himself to any company of volunteers or militia for the purpose of learning to beat the drum, play on the fife, blow on the bugle or trumpet, provided the number shall not exceed one person for the drum, and one for the fife, or one for the bugle in each company, and one for the trumpet in each troop of horse; every such person or persons shall be put under the instruction of the drum and fife major, the bugler or trumpeter as the case may be, whose duty it shall be to teach such person or persons in the best manner in his power; and as soon as such person or persons shall be able to perform field duty to the satisfaction of the commanding officer of the regiment, or of the volunteer troop or company to which he is attached, he shall draw his warrant in favor of the drum or fife major, the bugler or trumpeter who may have taught such person or persons as aforesaid, for the sum of ten dollars for every person so taught, to be paid by the proper brigade inspector; and the person so taught shall be furnished with a suit of uniform to be paid for out of the funds of the brigade; and the father of every youth who shall have been instructed as aforesaid, shall be exempted and excused from training in the militia so long as his son being a minor, shall continue to perform the duties of a drummer, fifer, bugler or trumpeter in any militia or volunteer company.

When paid
for.

The father of
every youth
to be ex-
empted from
militia duty.

SECT. 42. *And be it further enacted by the authority aforesaid,* That the following articles, rules and regulations shall be those by which the militia of this commonwealth shall be governed, including volunteers:

Punishment
of officers
for disobe-
dience.

Article I. If any field or other commissioned or staff officer when the regiment, battalion, troop or company to which he may belong, or in which he holds a command, shall be paraded, shall misbehave or demean himself in a manner unbecoming an officer, or shall on any such occasion neglect or refuse to obey the orders of his superior officer, he shall for every such offence be cashiered or punished by fine, at the

discretion of a general court martial as the case may require; in any sum not exceeding fifty dollars; and if any non-commissioned officer or private, shall on any parade of the troop or company to which he belongs, appear with his arms and accoutrements in an unfit condition, he shall be fined in a sum not less than one dollar or more than three, at the discretion of a regimental court martial, or if he be intoxicated, or shall disobey orders, or shall use any reproachful or abusive language to any of his officers, or shall quarrel or promote any quarrel among his fellow soldiers, he shall be disarmed and put under guard by order of the commanding officer present, until the troop or company is dismissed, and shall be fined at the discretion of a regimental court martial, in any sum not exceeding twenty dollars nor less than two.

Penalty for misconduct.

Article II. If any officer shall neglect or refuse to give orders for assembling his command, at any time or times when required to do so by the competent authority, or at any time or times required and authorised by law, or at the direction of the proper brigade inspector, when the said brigade inspector is thereto commanded by the Governor, or in case of an invasion of the city or county to which his command belongs, he shall be cashiered and punished by fine not exceeding two hundred dollars, at the discretion of a general court martial; and if a company officer shall on any occasion, neglect or refuse to give orders for assembling the troop or company under his command, when lawfully required and authorised, he shall be cashiered and punished by a fine not exceeding fifty dollars, at the discretion of a court martial.

Fine for officers neglecting to muster.

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

Of a general court martial.

Of a regimental court martial.

A judge advocate to be appointed.

Article IV. In every court martial two thirds of the members must agree in every sentence, or the person charged be acquitted.

Article V. The members of such courts martial shall take an oath or affirmation, which the president is required to administer to them, that they will decide and give judgment with impartiality, and one of the members so sworn or affirmed shall swear or affirm the president in like manner, and the president of the said court shall require all witnesses

The president, members, &c. to be under oath.

to be sworn or affirmed that the evidence they shall give shall be the truth, the whole truth, and nothing but the truth, to be administered by him or the judge advocate.

Court martial to issue compulsory process.

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

Persons arrested shall do no duty.

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

Redress for grievances.

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

Extent of punishment.

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

Persons to receive notice of acquittal.

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

Manner of ordering general courts martial.

Article XI. General courts martial may be ordered in the following manner, to wit: for the trial of a major general, by the Governor of the commonwealth; for the trial of a brigadier general, by the major general of the division; and for the trial of any colonel or other commissioned officer of the brigade, by the proper brigadier general; but in all cases where charges are preferred against an officer, the officer authorised to order a general court martial, may if he thinks proper, direct a court of inquiry to examine and report the facts and circumstances, and if upon such report the said officer shall deem a court martial necessary he shall order the same, and every court of enquiry shall consist of three members to be

Court of inquiry may be instituted.

selected by the officer ordering the said court, who shall be sworn or affirmed diligently to inquire into and truly report the facts and circumstances of the case referred to them; and courts of enquiry may in like manner be ordered by the proper officer upon the request of any commissioned officer, and the junior officer shall act as recorder of every such court of inquiry.

Regimental courts martial may be ordered by the colonel or commanding officer of any regiment of volunteers or militia, or by the commanding officer of any battalion of volunteers not part of a regiment, and the officers authorised to order courts martial or courts of inquiry, may refuse to order the same if they think the complaint or circumstances of such a nature as not to require it.

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

Article XII. As soon as the sentence of any court martial shall be approved of by the proper officer, the proceedings of such court shall be transmitted to the proper brigade inspector, who shall thereupon issue a warrant under his hand and seal for any fine or fines imposed by the said court martial, to be levied and collected in the same manner as is prescribed and directed for fines for non-attendance on days of training.

Article XIII. The militia and volunteers of this state while in the actual service of the state, or of the United States, shall be subject to the same rules and regulations as the army of the United States.

SECT. 43. *And be it further enacted by the authority aforesaid,* That every officer who shall fail or neglect to perform any duty enjoined and required by this act, and for which no penalty is fixed, shall forfeit and pay the sum of twenty dollars to be recovered by the proper brigade inspector as directed in other cases.

SECT. 44. *And be it further enacted by the authority aforesaid,* That all money paid into the state treasury by virtue of this act shall be appropriated, when necessary, under the direction of the Governor for the purpose of arming and equipping the volunteers and militia of this commonwealth, and in providing every thing requisite for the defence and security of the state, and the State Treasurer shall keep the same as a distinct and separate fund.

SECT. 45. *And be it further enacted by the authority aforesaid,* That if any spectator or by-stander shall abuse, molest, strike or otherwise ill treat any officer, non commissioned officer, or private, when on parade or in the performance of military duty, such person so offending may be put under guard for any time not exceeding six hours, and shall more-

over forfeit and pay the sum of ten dollars, to be recovered by the party injured or any other person who will sue for the same, as debts of like amount are by law recoverable.

PUNISHMENT FOR CONCEALING OR FRAUDULENTLY WITHHOLDING PUBLIC PROPERTY.
SECT. 46. *And be it further enacted by the authority aforesaid,* That if any person or persons, shall have knowingly sold, bought, taken, exchanged, concealed, or otherwise fraudulently or unlawfully received, held, or detained, or shall have refused to deliver up to the proper brigade inspector, any arms, accoutrements, colours, drums or other property of this commonwealth, on any account or pretence whatsoever, the person so offending shall forfeit and pay for every such offence treble the value of such property, to be recovered by the said brigade inspector in the name of the commonwealth of Pennsylvania, before any alderman or justice of the peace of the proper city or county, and the amount so recovered shall be levied and collected of the offender's goods and chattels, by distress and sale thereof in the usual manner, but for want of sufficient goods and chattels the offender shall be committed to the jail of the county, there to remain at the expense of the said county for any term not exceeding one month, at the discretion of the alderman or justice, unless the amount recovered with the costs shall be sooner paid.

PROCEEDINGS WHEN A PORTION OF THE MILITIA SHALL BE REQUIRED FOR THE SERVICE OF THE U. STATES.
FULL & COMPLETE ROLLS TO BE MADE OUT.
THE MEN COMPOSING COMPANIES TO BE DIVIDED INTO TEN PARTS.
MODE OF FORMING CLASSES.
SECT. 47. *And be it further enacted by the authority aforesaid,* That as soon as any portion of the militia of this commonwealth shall be required for the service of this state or of the United States, and upon notice thereof by the adjutant general to any brigade inspector, the said brigade inspector shall immediately order the major and captains, or commanding officers of companies of every battalion of militia, to assemble at a time and place to be fixed on by him within the bounds of every such battalion, for the purpose of having the enrolled militia in the said companies justly and fairly classed, and shall further order the said captains or commanding officers of companies to produce full and complete rolls of all the persons subject to militia duty in their said companies, to be sworn or affirmed to by them respectively; and the colonel of the regiment shall attend the meeting aforesaid for the first battalion, and the lieutenant colonel the meeting aforesaid for the second battalion; and the said officers being so assembled with the rolls aforesaid, the men composing said companies shall be divided into ten parts, and the name of each and every person enrolled in said companies shall be written on a small slip of paper and carefully rolled up, and then shall be deposited by companies, beginning with the first company, in a box to be procured for that purpose, and the senior officer then present shall draw from the said box the names therein contained; and a person to be appointed by the senior officer present, shall take down the names as drawn out, and the persons first drawn making one tenth of the said company, shall form the first class; and the persons next drawn making one tenth of said company, shall compose the

second class; and so on in the same manner until all the names in the said box shall be drawn and classed; and as soon as the said drawing for all the companies in manner aforesaid shall be completed, two lists of the said companies thus classed shall be made out to be signed by the proper commanding officer of the company, and countersigned by the senior officer of the regiment present, one of which lists of each company shall be delivered to the proper brigade inspector by the said senior officer as soon after as possible, and the other list shall be kept by the commanding officer of the company; and the officers engaged in drawing and taking down the names as aforesaid, shall be first severally sworn or affirmed to perform the duty required of them with fairness, impartiality and fidelity. And the men of the several companies shall be liable to perform tours of duty in the order in which they are classed, beginning with the first class and proceeding in numerical order, but no class shall be called on to perform any second tour of duty until every other class in the company shall have first performed a tour of duty; nor shall any militia man or volunteer who performed a tour of duty by himself or substitute, or paid an equivalent therefor during the late war, be compelled to perform any tour of duty until all who have not served in the late war shall have performed a tour of duty or paid an equivalent therefor; and if any officer shall fail promptly to obey the order of the brigade inspector requiring his attendance, or in producing the rolls of his company as aforesaid, he shall forfeit and pay the sum of three hundred dollars; and if any officer shall have acted unfairly and fraudulently in classing the militia as aforesaid, he shall forfeit and pay the sum of one hundred dollars to be recovered by the party aggrieved, as debts of equal amount are or shall be by law recoverable, and his commission shall be vacated; and it shall be the duty of the adjutant general under the direction of the Governor, to prescribe the manner in which commissioned officers shall be selected and assigned to any portion of the militia to be called into service, to be announced in general orders, paying due regard to the rank of such officers, and which the several brigade inspectors and all other officers shall execute, observe, and be governed by, under the penalties before mentioned; and each of the said officers shall be entitled to one dollar per day for his services in classing the militia as aforesaid.

SECT. 48. *And be it further enacted by the authority aforesaid,* That the militia of this commonwealth may be called into actual service by the Governor thereof, in case of a rebellion or of an actual or threatened invasion of this or of any neighboring 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, without the direction or assent of the president of the United States.

Lists to be made out.

Duty of officers.

The men how liable to perform tours of duty.

Penalties how incurred.

Duty of the adjutant general, brigade inspector and other officers.

Powers of the governor, in certain cases.

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

Of detachments for the service of the U. States.

The commanding officer of any detachment, when called into actual service, shall have the power of supplying all vacancies which may occur in his detachment, and the persons nominated by him shall be commissioned by the governor.

Supply of vacancies.

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

Detachments of cavalry, artillery, infantry and riflemen.

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

Rendezvous to be designated.

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. *Provided always,* That volunteer troops and companies shall be the first detached, and may be kept in service any time not exceeding six months.

Duty of the adjutant general when a call is made by the United States

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

Brigade-inspector's, in similar calls.

Captains furnish rolls and serve notices.

notice to be served upon or left at the usual place of residence of each and every officer, non-commissioned officer, musician and private liable to serve, requiring every such person to attend at a time and place to be in the said notice specified, 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, personally, or by a sufficient substitute, to appear properly armed and equipped for service, at _____ on the _____ day of _____ to march when required. Given under my hand, &c.

A. B. captain, or commanding officer.”

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

In the following form.

The governor shall appoint general officers for the detachment.

Duty of the brigade inspectors to organize, &c.

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

Pay and rations of the officers and men called into service.

Pay for cavalry.

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

Different corps may be organized into distinct regiments when called into service.

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

Calls made on the militia. The adjutant general to give notice thereof to the brigade inspector.

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 appoint to the proper brigade inspector, one of his staff or subaltern officers to act as paymaster, and also a subaltern to act as quartermaster for the detachment, until it shall have arrived at the place of rendezvous; (if the detachment consist of but one company, a sergeant thereof shall act as quartermaster,) to whom, if he shall approve the choice, the brigade inspector shall advance such sum or sums as may be necessary for the pay and subsistence of the troops upon their march, taking duplicate receipts therefor from the paymaster or quartermaster, which shall also be endorsed by the commanding officer of the detachment. The officer so appointed paymaster or quartermaster shall keep exact accounts of the mode of expenditure, and when he shall have arrived at the place of rendezvous, shall transmit a statement thereof to the proper brigade inspector, charging two and one-half per centum for the services thus rendered, and if any balance shall remain in his hands he shall pay it over to such person or in such manner as the proper brigade inspector shall have instructed him.

Appointment of paymaster and quartermaster.

Keep accounts, &c.

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

How and by whom horses shall be appraised.

If such horses &c. in service the owner shall be paid such appraisal.

Pay and rations of the officers and men called into service.

SECT. 49. *And be it further enacted by the authority aforesaid,* That the officers, non-commissioned officers and privates, when called into actual service, either on a requisition from the president of the United States, or under the orders of the governor of this state, shall receive the like pay and rations and other emoluments as are or shall be allowed and granted by the said United States to the officers, non-commissioned officers and privates of the regular army, at the time they shall be in service, and the non-commissioned officers and privates shall be armed and equipped at the expense of the state during said service.

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

The period of service for which certain militia shall receive clothing.

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

The governor to draw his warrant for money to organise militia in cases of emergency.

SECT. 50. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any person called to perform a tour of duty to find a sufficient substitute, such substitute being approved of by the captain or commanding officer of the company in which he shall have offered to serve. *Provided always,* That if any substitute shall be called in his own turn into actual service before the term expires which he was to serve for, his employer, then the person procuring such substitute shall march, or find a sufficient person to march in his said substitute's turn, or be liable to pay his fine for neglect, which fine is to be recovered as other fines for neglect of serving are by this act recoverable, and sons who are not subject to the militia law may be admitted as substitutes for their fathers, if approved of by the commanding officer of the company in which they shall be offered to serve.

Find substitute, &c.

Provided

SECT. 51. *And be it further enacted by the authority aforesaid,* That if any commissioned officer of the militia shall have neglected or refused to serve, when called into actual service in pursuance of any order or requisition of the president of the United States, he shall be liable to the penalties defined in the act of the congress of the United States, passed on the twenty-eighth day of February, one thousand seven hundred and ninety-five, that is to say, each and every officer having so offended, shall forfeit a sum not exceeding one year's pay nor less than one month's pay, to be determined and adjudged by a court martial, and shall moreover be liable to be cashiered by sentence of a court martial, and to be incapacitated from holding a commission in the militia for a term not exceeding twelve months, at the discretion of the said court, or shall be liable to any penalty prescribed by the acts of the congress of the United States now in force, or

Punishment for neglect of duty in an officer, or refusal to serve.

that hereafter may be passed for the government of the militia thereof.

And also in every non-commissioned officer, &c.

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

When a general court martial shall be summoned.

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

Penalty for refusing to perform military duty when called into actual service.

SECT. 52. *And be it further enacted by the authority aforesaid.* That each and every officer or other person who shall have neglected to perform his tour of duty, when called into the service of this state by the Governor thereof, shall pay a fine of sixteen dollars for each and every month which he was called on to serve, and it shall be the duty of the proper brigade inspector immediately after the marching of any detachment in the service of the state, to order a court martial to consist of not less than five commissioned officers of the brigade, one of whom shall be a field officer, to meet at a time and place to be fixed on by the said brigade inspector, and of which public notice shall be given; and the court martial being assembled, shall be sworn or affirmed to hear and determine all cases that may be submitted to them with justice and impartiality and according to law; and the said court shall be organized as courts martial in the United States service; and the said brigade inspector shall furnish to the said court a list of all persons who neglected to perform their tour of duty in the state service, according to law; and the said court martial shall decide upon all cases brought before it, and having so decided, the said court shall make out two lists of all such delinquents whose fines were not remitted. to be signed by the president of the said court, with a certificate that the members of the said court were sworn and affirmed according to law; one of which lists shall be transmitted to the Auditor General, and the other delivered to the said brigade inspector; and the said brigade inspector shall

A court martial may be ordered.

To be sworn or affirmed, and to hear and determine cases brought before them.

Duty of Brigade Inspector.

List of delinquents to be made out. How transmitted.

thereupon issue one or more warrants, under his hand and seal, for the collection of the said fines, to a constable or other fit person, which fines shall be collected and recovered, and all proceedings had on the said warrant or warrants in the same manner in all respects as is prescribed and directed in the case of fines for non attendance on days of training; but if any person or persons against whom any such warrant shall issue as aforesaid, shall not have sufficient goods and chattels to pay and satisfy the amount of the fine incurred, every such person for want of the same shall be committed to the jail of the proper county for the term of twenty days for every month he was called on to serve in the militia, unless the said fines and costs are sooner paid, there to be supported by the said county; and every commissioned officer who shall neglect or refuse to perform his tour of duty when called into the service of this state, shall in addition to the fine prescribed by this section, be cashiered and rendered incapable of holding a commission for any term not exceeding seven years, at the discretion of the court martial; and each member of the court martial and the judge advocate shall be entitled to one dollar per day for every day necessarily employed on said court.

Proceedings for collecting and recovering fines.

Pay of the court martial and judge advocate.

SECT. 53. *And be it further enacted by the authority aforesaid,* That whenever the militia of this commonwealth shall be ordered into the service of the state, it shall be the duty of the Governor to appoint one or more paymasters, who shall point one or more before he enters upon the duties of his appointment, give bonds to the Governor with sufficient sureties, in such amount as the Governor shall think proper and necessary, conditioned for the faithful disposition of all money placed in his hands and for the true performance of his duty; and every said paymaster shall receive from the state treasury upon warrants to be drawn by the Governor, such sums as will be necessary to pay the militia in the service of the state, and he shall attend at the camp of the said militia before they are discharged, if practicable, to pay them; and it shall be the duty of the several commanding officers of regiments, battalions, detachments or companies in service, to furnish the paymaster with complete rolls duly certified, of all officers, non-commissioned officers, musicians and privates, stating the time they have respectively served, and for which they are entitled to pay, in order to make payment to them, and the said rolls shall be countersigned by the commanding officer.

The Governor to appoint one or more paymasters, who are to give bonds with sureties.

Their duties.

To be furnished with complete rolls of all officers and men.

SECT. 54. *And be it further enacted by the authority aforesaid,* That if any male person shall attempt to persuade any non commissioned officer or private, when called into actual service, to desert, or shall attempt in any manner whatever to dissuade or hinder any officer, non commissioned officer or private from marching with his proper detachment, when called into actual service, every person so offending shall for-

Penalty on persons who persuade to desert.

feit and pay the sum of one hundred dollars, to be sued for in the name of the commonwealth of Pennsylvania, to be recovered as debts of equal amount are by law recoverable by the proper brigade inspector, to be accounted for by him in the settlement of his accounts; but for want of sufficient property to pay the same, such offender shall be committed to jail of the proper county, there to remain for the term of thirty days, unless the said sum with costs shall be sooner paid.

SECT. 55. *And be it further enacted by the authority aforesaid,* That no certiorari or other writ shall in any case issue from any court of law in this commonwealth, to remove any proceedings that shall be had in any court of appeal or court martial held under and by virtue of this act, or under and by virtue of any law of the United States, and no court of law of this commonwealth or alderman or justice of the peace within the same, shall in any case hear or determine or in any manner take cognizance of appeals that may be offered or attempted from any sentence or decree passed or made by any such court of appeal or court martial, any law, usage or practice, or any construction of any clause of this act to the contrary in any wise notwithstanding; and if any justice of the peace, alderman or judge of any of the courts of this commonwealth shall issue or cause to be issued any writ or process with a view to, or shall re-hear, examine or obstruct the decision of any court of appeal or court martial, any and every such justice of the peace, alderman or judge so having offended shall be deemed and held to be guilty of a misdemeanor in office: *Provided,* That nothing herein contained shall impair or affect the provisions of an act for the better securing personal liberty and preventing wrongful imprisonments, passed the eighteenth of February, one thousand seven hundred and eight five.

All suits that may be brought against any person or persons for any thing done in pursuance of this act, shall be commenced and tried in the county where the cause of action shall have arisen, and not elsewhere, and the defendant or defendants may plead the general issue, and give this act and the special matter in evidence, and if the jury shall find for the defendant or defendants, or if the plaintiff or plaintiffs shall be non suited or shall discontinue his or their action or actions, after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs and shall have the like remedy for the same as any defendant or defendants hath or have in other cases to recover costs by law, and the proceedings of courts of appeal and courts martial shall in no case whatever be set aside or declared void by any judge or court of law on the ground of informality in such proceedings, and every judge who shall declare any such proceedings void on the grounds before mentioned, shall be deemed guilty of a misdemeanor in office:

No judge or justice to interfere with the decision of courts of appeal or courts martial.

For any such interference shall be guilty of a misdemeanor in office.

Proviso.

All suits brought under this act shall be tried in the proper county, Defendants to give this act in evidence.

Restriction on judges in cases of appeal, &c.

Provided such courts of appeal or courts martial shall be constituted under the authority of the United States or of this state. Proviso.

SECT. 56. *And be it further enacted by the authority aforesaid,* That no civil process shall be served upon any officer, non-commissioned officer or private when going to, whilst attending at, or when returning from any parade for disciplin- ing any part of the volunteers or militia. Exemption from civil process.

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

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

SECT. 57. *And be it further enacted by the authority aforesaid,* That from and after the passage of this act it shall be the duty of each brigade inspector to take charge of the state arsenals or depots of arms and military stores, the property of this commonwealth, now established or hereafter directed to be established within the bounds of their respective brigades; and the brigade inspector who shall have charge of the arsenals at Philadelphia, Harrisburg and Meadville, shall each receive the sum of one hundred dollars in addition to their other compensation allowed by this act. And their duties shall be the same as those required from the state armorer by the fourth section of the act, entitled, "An act to provide for the erection of two arsenals," passed the fifteenth day of March eighteen hundred and sixteen, with the exception of giving additional security, and so much of the said section of the said act as authorises the appointment of and compensation to state armorers, be and the same is hereby repealed. Brigade inspectors to take charge of state arsenals or depots of arms.
Allowance to those having charge of the arsenals at Philadelphia, Harrisburg & Meadville.
Repeal.

SECT. 58. *And be it further enacted by the authority aforesaid,* That if any person subject to be enrolled as is provided for in the ninth section of this act, shall on or before the first day of April in any year, pay to the county treasurer

Any enrolled for the use of the commonwealth, the sum of two dollars, and person upon producing a receipt therefor to the captain or commanding officer of the company to which he belongs, such captain or commanding officer shall set down in his roll such person as exempt from military duty for one year from said first day of April, and shall in his return to the proper court of appeal designate such person as exempt from duty, and said court of appeal shall return each exempt as such to the brigade inspector, who shall transmit the same to the Auditor General:

Proviso.

2d Proviso.

Provided, That nothing in this act contained shall exempt such person from being classed as a militia man, or from being called into actual service in time of war, as others who are not exempted as herein provided: *Provided also*, That the person so exempted shall not be entitled to vote at any election for military officers during the time he shall be so exempted; and said receipt shall be in the following form, to wit:

“ has paid me two dollars for the use of the commonwealth, and is exempt from military duty for one year.

treasurer of county.”

Treasurer to account.

And the treasurer of the county shall account for the monies received in pursuance of this section at the same time, in the same manner, and under the same penalty as he shall account for monies received for tavern licenses, and shall be entitled to the same commission.

The brigade inspector may draw on the state treasurer.

SECT. 59. *And be it further enacted by the authority aforesaid*, That whenever it shall happen that the fines and forfeitures received by any brigade inspector shall not be sufficient to pay the sums authorized and directed to be paid in his brigade by this act, it shall and may be lawful for such brigade inspector to draw on the State Treasurer for any sum or sums to meet such deficiency, not exceeding the amount of exempt fines received from his brigade and paid into the state treasury agreeably to the fifty-eighth section of this act, or the State Treasurer may draw his warrant in favor of said brigade inspector on the proper county treasurer for any such sum or sums, where the exempt fines have not been paid into the state treasury.

Or the state treasurer may draw his warrant in certain cases.

Repealing clause.

SECT. 60. *And be it further enacted by the authority aforesaid*, That so much of any former law or laws of this commonwealth as directs the several brigade inspectors within the month of April, of the seventh year, from and after one thousand eight hundred and fourteen, to take measures for holding elections, be and the same is hereby repealed, and from and after the first day of August next, the act, entitled, “An act for the regulation of the militia of this commonwealth,” passed the twenty-eighth day of March, eighteen hundred and fourteen, and its supplements, shall be and the same are hereby declared to be repealed, null and void: *Provided however*, That nothing herein contained shall be so con-

Proviso.

strued as to prevent the recovery and collection of any fines and forfeitures under any of the said acts, agreeably to the provisions thereof, or to revive any former law or laws which by the said acts were repealed and made void: *And provided also,* That the present brigade inspectors shall continue in office until the brigade inspectors elected in pursuance of this act shall severally be commissioned. And each of said brigade inspectors shall receive the sum of forty dollars in addition to his other compensation for performing the duties required by this act. 2d Proviso.

SECT. 61. *And be it further enacted by the authority aforesaid,* That the Secretary of the Commonwealth shall immediately cause to be printed a sufficient number of copies of this act in pamphlet form, and distributed to the several brigade inspectors, so that every commissioned officer to be elected or appointed in pursuance of this act shall have a copy thereof. And the postage of all letters and packages to and from the Secretary of the Commonwealth on military subjects shall be paid out of the state treasury. Copies of this act to be printed and distributed.
Of postage.

JOHN GILMORE, *Speaker*
of the House of Representatives.

PHILIP S. MARKLEY,
Speaker of the Senate.

APPROVED—April the second, one thousand eight hundred and twenty-one.

JOSEPH HIESTER.

CHAPTER CLXIII.

AN ACT

Establishing and altering certain election districts.

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 from and after the passing of this act the townships of Middletown, Upper Providence, Ashton, all that part of Thornbury lying east of a public road leading from the street road by the shops and continuing by the house of Jacob Parks to the road dividing the townships of Concord and Thornbury, and all that part of Edgmont lying west of Ridley creek in the county of Delaware, are hereby erected into a separate election district to be called the fifth election A new election district erected in Delaware county.