

LAWS OF WISCONSIN TERRITORY.

No. 1.

AN ACT to divorce Mary McArthur from her husband, John McArthur.

SECTION 1. *Be it enacted by the counsel and house of representatives of Wisconsin territory,* That the marriage contract heretofore existing between Mary McArthur of Iowa county, in said territory, and her husband, John McArthur, be and the same is hereby annulled and made void; and that all obligations arising from the said marriage contract, be, and the same are hereby made of no more force or effect than if the said contract had never existed.

Approved December 8, 1837.

No. 2.

AN ACT to divorce Armstead W. Floyd from his wife, Eleanor Floyd.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That the marriage contract heretofore existing between Armstead W. Floyd and Eleanor Floyd, his wife, of the county of Iowa, and territory of Wisconsin, be and the same is hereby annulled and made void; and that all obligations arising from the said marriage contract, be, and the same are hereby made of no more force or effect, than if the said contract had never existed.

Approved December 9, 1837.

No. 58.

AN ACT relating to the militia, and public defense of the territory of Wisconsin.

TITLE I.

Who subject to duty.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That all able bodied free white male inhabitants, between the ages of eighteen and forty-five years, resident in this territory, and not exempted from serving in the militia by the laws of the United States, or of this territory, are subject to military duty within this territory.

Who exempt.

SECTION 2. In addition to the persons exempted by the laws of the United States, the following persons shall be exempt from military duty.

1st. The secretary of the territory.

2d. The members of the legislature and its officers during session thereof, and for fourteen days before and after each meeting.

3d. Ministers and preachers of the gospel, teachers in all colleges.

4th. Officers hereafter to be commissioned, who shall serve as such in the militia of this territory, or in that of any one of the United States for the space of five years; but no such officer who may have served in the militia of this territory, shall be so exempt unless by his resignation, after such term of service, duly accepted or in some other lawful manner he shall have been honorably discharged from his commission.

5th. Every non-commissioned officer, musician and private, of every uniform company, raised or hereafter to be raised, who has uniformed himself, or shall hereafter uniform and equip himself, and whose term of service in such company shall have amounted, or shall amount to ten years from the time of his enrollment therein, shall be exempt from military duty except in cases of insurrection or invasion.

6th. If any member of such company, who shall have been regularly uniformed and equipped, shall upon his removal out of the district of such company, or upon the disbandment thereof, enlist into any other uniformed company, and uniform and equip himself therefor, and serve in the same; whenever the whole

time of his service in such companies, computed together shall amount to ten years he shall be exempt from military duty, in like manner as if he had served for the whole period in the company in which he was first enrolled.

7th. Every person actually employed by the year or season on board any vessel, or in the merchant service, or coasting trade in this territory, all firemen attached to supply engines, and all other firemen belonging to any company in any city or village in this territory, not exceeding twenty-four (24) in number, attached to a fire engine, unless in cases otherwise especially provided shall be exempt from military duty, and also all ferrymen actually employed on post roads, not exceeding two in number to each ferry, except in cases of war, insurrection or invasion.

TITLE II.

OF THE APPOINTMENT OF MILITIA OFFICERS AND THE TENURE OF THEIR OFFICES.

SECTION 1. The governor shall nominate, and with the advice and consent of the legislative council shall appoint all militia officers except those of the staff. Who to be appointed by the governor and council.

SECTION 2. The resolution of the council concurring in any nomination made by the governor to a military office shall be certified by the president and secretary of the council, and be transmitted to the adjutant general, who shall issue the commissions and record the same in books to be provided by him.

SECTION 3. The commander-in-chief shall appoint his own staff. Who by the governor or other officer alone.

SECTION 4. Major generals, brigadier generals, and commanding officers of regiments, or separate battalions, appoint the staff officers of their respective divisions, brigades, regiments, or separate battalions.

SECTION 5. The commissioned officers of the militia are commissioned by the governor, and no commissioned officer can be removed except by the governor or by the decision of a court martial pursuant to law. Officers, how commissioned and removed.

SECTION 6. Sergeant majors, quarter master sergeants, sergeant standard bearers, drum majors, fife majors, and trumpet majors, shall be appointed by the

commanding officer of the regiment, or separate battalion, to which they shall belong by warrant under the hand of such commanding officer, and shall hold their offices during his pleasure.

Commander-in-chief to fill vacancy.

SECTION 7. Whenever the office of any commissioned officer in the militia, except those of the staff, shall become vacant, the commander in-chief shall have the power to fill the same, which appointment shall continue until the last day of the next succeeding session of the legislative assembly.

Oath of office.

SECTION 8. Every officer duly commissioned, shall within twenty days after his commission shall be tendered to him, or within twenty days after he shall be personally notified that the same is held in readiness for him, by any superior officer, take and subscribe an oath to support the constitution of the United States of America, and well and faithfully discharge the duties of his said office, and in case of neglect or refusal to take such oath within the time mentioned, he shall be deemed to have resigned said office, and a new appointment shall be forthwith made to fill his place. The neglect or refusal of an officer appointed to take such oath, shall be no excuse for neglect of duty until another shall be duly commissioned in his place.

By whom administered.

SECTION 9. Every commissioned officer, shall take and subscribe such oath, before a judge of some court of record in this territory, clerks of courts, notary public, justice of peace, or some general or field officer, who having previously taken it himself is hereby authorized to administer the same.

SECTION 10. A certificate of the oath, shall be endorsed by the officer administering the same, on the commission, and no fee shall be received for administering any such oath or endorsing such certificate.

Appointment of non commissioned officers.

SECTION 11. All non-commissioned officers of companies, shall be appointed by the commandant of their respective companies, but shall not be removed except by the approbation of the commandant of the regiment, or separate battalion to which the said company may belong.

Resignations.

SECTION 12. The commanding officers of brigades may accept the resignations of all commissioned officers in their respective brigades, but no resignation of any captain or subaltern shall be accepted, until the

same shall have been approved of by the commanding officer of the regiment to which the officer so resigning may belong. No officer shall be permitted to resign his commission, who shall be under arrest, or shall be returned to a court martial for any deficiency or delinquency, and no commanding officer of a brigade, regiment or separate battalion, shall approve, or accept any resignation, unless the officer tendering the resignation, shall furnish satisfactory evidence that he has delivered all moneys in his hands as such officer, and all books and other property of the territory in his possession to his next superior or inferior officer, or to the officer authorized by law to receive the same.

SECTION 13. The commanding officer of a brigade on accepting any resignation, shall forthwith communicate the same to the commander-in-chief, also to the commandant of the regiment to which the officer resigning may belong, and if any such officer be a subaltern, he shall also communicate the same to the commandant of his company.

SECTION 14. The commander-in-chief may accept the resignation of any officer, whose resignation the commanding officer of a brigade is not authorized to accept, and he may also accept the resignation of any officer whose resignation the commanding officer of his brigade shall have refused to accept, and cause such vacancies to be filled without delay.

SECTION 15. Every officer who shall remove out of the bounds of his command, or who shall be absent from his command twelve months without leave of the commanding officer of his brigade or regiment, shall be considered as having vacated his office. Vacation of office.

SECTION 16. The commissioned officer who shall receive a commission for any subordinate officer, shall within thirty days thereafter give notice thereof in writing by mail or otherwise to the person entitled to it.

TITLE III.

OF THE ENROLLMENT OF PERSONS SUBJECT TO MILITARY DUTY.

SECTION 1. The commanding officer of each company of infantry, shall, from time to time enroll all per- Enrollment and notice.

sons within the limits of his company, who may be subject to military duty, and shall, without delay notify such persons of their enrollment.

SECTION 2. Every notice or warning, to a person so enrolled, to attend a company, battalion, or regimental muster, or training, pursuant to the provisions of this act shall be deemed a legal notice of his enrollment.

When to be equipped

SECTION 3. Every person duly enrolled, shall be provided, within six months from and after he shall be duly notified of his enrollment, with arms, accoutrements, and ammunition, agreeably to the directions of the laws of the United States.

Who to decide upon liability to enrollment.

SECTION 4. The age and ability to bear arms, of every person so enrolled, shall be determined by the commandant of such company, subject to an appeal to the commanding officer of the regiment, but the decision of neither of these officers shall prevent a court martial from determining whether such person was properly enrolled.

Surgeon's certificate.

SECTION 5. Persons claiming to be exempted from enrollment by reason of inability to bear arms, may produce the certificate of a surgeon or surgeon's mate, as evidence of such inability, but it shall not be lawful for the surgeon giving the same to take any fee or reward therefor.

Who required to give information.

SECTION 6. All tavern keepers, keepers of boarding houses, persons having boarders in their families, and house-keepers, upon their being thereto requested by the commanding officer of the company, within the district of which they reside, shall give to such commanding officer a true account of all persons lodging or boarding with them, and of their names if known, to the end that such persons as are liable to do military duty may be enrolled according to law.

Penalty for refusing.

SECTION 7. If any person of whom such account is so demanded, shall refuse to give an account, he shall forfeit and pay ten dollars for every individual name that may be refused, omitted, concealed, or falsely stated, to be recovered by the commanding officer of the regiment for the use of his regiment.

Musicians.

SECTION 8. Every commandant of a company may enroll as musicians in his company, at least two, and not more than five persons, residing in his district who are desirous to be so enrolled.

SECTION 9. The person so enrolled shall perform

the duty of musician in such company, instead of serving as privates therein, and shall respectively be entitled to the same privileges and exemptions as non-commissioned officers and privates in uniform companies, and shall be subject to the same fines and penalties for the non-performance of their duty, as non-commissioned officers are liable to for absence from a parade.

SECTION 10. No such musician, after being enrolled, shall enlist into any other company without the written consent of the commanding officer of the company to which he belongs.

TITLE IV.

OF THE ORGANIZATION, UNIFORM AND DISCIPLINE OF THE MILITIA.

SECTION 1. The organization of the militia in divisions, brigades, regiments, battalions and companies, shall be conformed to the provisions of the laws of the United States.

SECTION 2. Subject to such laws, the commander-in-chief may arrange, alter, divide, annex and consolidate the divisions, brigades, regiments, battalions and companies, in such manner as in his opinion the proper organization of the same shall require.

SECTION 3. The commanding officer of each brigade, with the approbation of the commanding officer of his division, may divide, annex or alter the bounds of the several regiments, or separate battalions under his command, and in all cases of alteration in the bounds of any regiment, that part containing the major part of the companies of any one regiment shall retain its name, number and rank. The commanding officer of each regiment or separate battalion, with the approbation of the commanding officer of his brigade, may divide, annex or alter the bounds of the several companies under his command.

The commanding officer of a brigade to make alterations therein.

SECTION 4. All such alterations shall be forthwith reported to the commander-in-chief, and remain in force until he shall otherwise direct.

SECTION 5. Every officer rendered supernumerary by any consolidation or alteration of regiments, separate battalions or companies, shall be deemed to have

When officer considered as having resigned.

resigned his commission, unless he shall give written notice of his intention to retain his rank in the line, to the commanding officer of the brigade to which he belonged, within thirty days after such consolidation or alteration shall be published in general orders.

SECTION 6. Supernumerary officers shall equip themselves, and those under rank of colonel shall attend the parades and drill trainings of the officers and non-commissioned officers.

Volunteer
companies.

SECTION 7. Whenever thirty persons subject to military duty associate together for the purpose of forming a company of mounted riflemen, infantry, or artillery, by and with the consent of the commanding officer of their regiments, shall apply to the commander-in-chief to be organized as such, the commander-in-chief may so organize them; and such persons as a majority of the applicants shall have designated in application shall be commissioned as the officers of such company. But no artillery company shall be organized by the commander-in-chief, unless the commissary general shall have on hand a proper piece of artillery, and equipage ready to be delivered to such company.

SECTION 8. Every commanding officer of a regiment, before he shall consent to any such application, shall require satisfactory evidence that the persons making the same, intend in good faith to serve when organized, and that they are of sufficient ability to equip themselves according to law.

SECTION 9. Every company of artillery, riflemen, light infantry, or mounted riflemen, which shall not at any annual inspection and review have at least thirty privates mounted, or armed and equipped, as the law directs, shall be immediately reported by the inspector or officer acting as such, to the commandant of the brigade to which such company belongs.

When thirty
persons do not
appear at the
annual review.

SECTION 10. If thirty privates shall not so appear at such inspection and review, the inspector shall require proof that there are privates belonging to such company, properly mounted or armed and equipped, sufficient to complete the whole number of thirty; such proof may be made by the certificate on honor of a commissioned officer, or by the oath of a non-commissioned officer or private.

SECTION 11. The commandant of a brigade, to

whom a company shall be reported as deficient in number, shall thereupon disband the same in orders, unless he shall have reason to believe that such company will have thirty privates present and absent, mounted, or armed and equipped as aforesaid, at the next succeeding inspection and review. When to be disbanded.

SECTION 12. In case such company, at the next inspection and review, shall have, absent and present, the number above required, mounted or armed and equipped, it shall not be disbanded; but if otherwise, the commandant of the brigade shall without delay disband the same.

SECTION 13. All companies of mounted riflemen not formed into separate battalions or regiments, shall for all the purposes of this act, be considered as a part of the regiments or separate battalions of infantry in the bounds of which they are situated. Mounted riflemen.

SECTION 14. All regiments and separate battalions, of riflemen or artillery, not formed into brigades, shall, for the purposes of this act, be considered as a part of the brigade of infantry, in the bounds of which the commanders of such regiments or separate battalions shall respectively reside.

SECTION 15. No non-commissioned officer, musician or private, belonging to any company of mounted riflemen, artillery or light infantry, shall leave the company to which he belongs to serve as a fireman in any fire company, now raised or hereafter to be raised in any city or county, nor shall he leave such company and enlist in any other, without the written consent of the commandant of the company to which he belongs, unless he shall have removed out of the district of such company. Who restrained from leaving a volunteer company.

SECTION 16. The commandant of every uniform company, shall make a return without delay, of all persons enlisted therein, to the commandant of infantry companies within whose district the persons enlisted respectively reside, and in such return, shall specify the date of each enlistment, and the commandant of infantry companies, shall strike from their rolls the name of every person thus certified to have been enlisted in any regularly organized uniform company. Commandant of uniform company to make returns.

SECTION 17. All persons enlisted into any uniform company, shall, within three months from their en-

Persons enlisting to be uniformed within 3 months.

Uniform.

System of discipline and exercise.

Aids and secretary.

Adjutant general.

listment, furnish themselves with a uniform and other equipage, according to law. For non-compliance they shall be returned to the proper court martial and fined as hereinafter provided.

SECTION 18. The commandant of any uniform company whenever he shall discharge an able bodied man, shall give notice thereof in writing to the commandant of the infantry company, within whose district the individual discharged shall reside.

SECTION 19. The uniform of the infantry, or such portion thereof as the commander-in-chief may deem advisable, shall, in his discretion, be directed to conform with that which is now or may hereafter be established by the army regulations of the United States, and of all other corps for which provision is not made by the laws of the United States as the commander-in-chief shall from time to time direct.

SECTION 20. The militia of this territory, shall, as near as may be, conform their system of discipline and exercise, to that of the army of the United States, as is now, or shall hereafter be prescribed by the congress of the United States.

SECTION 21. The commander-in-chief, shall, from time to time, direct such book, as to him shall appear expedient, as a guide for the corps of artillery and mounted riflemen, and shall furnish the same to the field officers and commandants of companies of such corps at the expense of the territory.

ARTICLE 2.

OF THE ORGANIZATION OF THE STAFF DEPARTMENT.

SECTION 22. The commander-in chief shall be entitled to four aids, with the rank of colonel, and a military secretary with the rank of major.

SECTION 23. Each major general shall be entitled to two aids, with the rank of major, and each brigadier general to one aid, with the rank of captain.

SECTION 24. The adjutant general shall have the rank of colonel, and in his department there shall be to each division, a division inspector, with the rank of lieutenant colonel; to each brigade, a brigade inspector to serve also as a brigade major, with the rank

of major ; and to each regiment and separate battalion, an adjutant, with the rank of lieutenant.

SECTION 25. In the judge advocate's department, Judge advocate's department. there shall be a judge advocate with the rank of colonel, to each division, a division judge advocate with the rank of lieutenant colonel, and to each brigade, a brigade judge advocate, with the rank of major.

SECTION 26. In the quarter master general's department there shall be a quarter master general, with the rank of colonel ; to each division, a division quarter master, with the rank of lieutenant colonel ; to each brigade, a brigade quarter master, with the rank of captain ; and to each regiment, and separate battalion, a quartermaster, with the rank of lieutenant. Quartermaster general.

SECTION 27. In the paymaster general's department, Paymaster general. there shall be a paymaster general, with the rank of lieutenant colonel ; to each division, a division paymaster, with the rank of major ; to each brigade a brigade paymaster with the rank of captain ; and to each regiment and separate battalion, a paymaster, with the rank of lieutenant.

SECTION 28. The commissary general shall have the rank of colonel, and in his department there shall be so many military store keepers, for the safe keeping and preserving of the arsenals, magazines, fortifications and military stores, belonging to this territory, as he may find it necessary to appoint, not exceeding one to each arsenal. Commissary general.

SECTION 29. In the hospital department, there shall be a surgeon general, with the rank of colonel ; to each division, a hospital surgeon with the rank of lieutenant colonel ; each brigade, a hospital surgeon with the rank of major ; each regiment a surgeon, with the rank of captain ; and to each regiment and separate battalion, a surgeon's mate, with the rank of lieutenant ; but such rank shall not entitle such officers to promotion in the line nor regulate their pay or rations in service. Surgeon general.

SECTION 30. There shall be to each regiment and separate battalion, two sergeant stand bearers, one sergeant major, one quarter master sergeant, one drum major, and one fife major ; and to each regiment and separate battalion of mounted riflemen, one trumpet major. Non-commissioned staff.

SECTION 31. The chief of each staff department

shall under the direction of the commander-in-chief have command over all subordinate officers in his department and shall from time to time issue orders and instructions for their government and practice.

SECTION 32. Each chief of such department shall prepare and transmit at the expense of this territory all blank forms of returns, precepts, warrants and proceedings necessary in his department.

TITLE V.

OF THE SEVERAL PARADES AND RENDEZVOUS OF THE MILITIA.

Company
rendezvous.

The militia shall rendezvous as follows :

SECTION 1. By companies in their respective districts on the first Saturday of June and September, in every year at nine o'clock in the forenoon, for the purpose of training, disciplining and improving in martial exercise. And it shall be the duty of all uniform companies to meet within their respective districts in addition to the general rendezvous not less than three nor more than eight days in each year, at such time and place as their respective commandants may direct and as much oftener as a majority of all the members of their company may direct.

By regiments or
battalions.

SECTION 2. By regiments or separate battalions once in each year, between the tenth day of September and fifteenth day of October, at such time and place in their respective districts as the commanding officer of the brigade shall direct for the purpose of inspection, review and martial exercise.

SECTION 3. At such other times and places either by regiments, battalions or companies as the case may require, as shall be directed in any order of proper authority calling into service of the United States or of this territory the whole or any portion of the militia.

SECTION 4. The commandant of each brigade shall give notice to the commandant of the division of the times and place of the annual inspection and review of the several regiments and separate battalions in his brigade.

SECTION 5. Each commandant of division shall attend the review and inspection of the several regiments

and separate battalions of at least one of the brigades in his division in each year and he shall require the officers of the division staff, armed and equipped as the law directs, to accompany him. He shall so attend such reviews and inspections in each brigade of his division in succession.

When commandant of division shall attend.

SECTION 6. The commandant of each brigade shall attend with the officers of the brigade staff, armed and equipped as the law directs, the annual inspection and reviews of the several regiments and separate battalions in his brigade.

And when commandant of brigade.

SECTION 7. The commissioned and non-commissioned officers and musicians of each regiment and separate battalion shall rendezvous within their respective districts, not less than three nor more than six days successively, between the first day of June and the first day of September in each year, for the purpose of disciplining and improving in martial exercise. The day and place of rendezvous shall be prescribed by the commanding officer of the regiment or separate battalion.

Officer drill.

SECTION 8. Such commandant shall report all absentees and deficiencies to the president of the proper court-martial.

SECTION 9. For the purpose of warning the non-commissioned officers, musicians and privates to any parade or place of rendezvous required by law, the commandant of each company shall issue his warrant under his hand to his non-commissioned officers, or to such of them as he may deem proper, requiring them respectively to warn all persons subject to military duty within a certain district to be designated in such warrant, or all persons named in the warrant as such commandant may elect, to appear at such parade or place of rendezvous armed and equipped as the law directs.

Mode of warning.

SECTION 10. Each non-commissioned officer to whom such warrant shall be directed shall warn every person heretofore enlisted whom he shall be therein required to warn by reading the warrant or stating the substance thereof in the hearing of such person, or in case of his absence by leaving a notice thereof at his usual place of abode with some person of suitable age and discretion or affixing the same on the outer door of the house in case no such person can be found there-

in. Such notice shall be signed by the non-commissioned officer making the service and so left or affixed shall have the like effect as if the person to whom the same shall be directed had been personally warned.

Return.

SECTION 11. Such non-commissioned officer shall deliver the warrant to his commandant, with a return in which he shall state the names of all persons by him warned and the manner of warning them respectively, and shall make oath to the truth of such return, which oath shall be administered by the commandant and certified by him on the warrant or return.

SECTION 12. Such commandant shall deliver the warrant and return, together with his own return of all delinquents and delinquencies, to the president of the proper court-martial.

Made evidence.

SECTION 13. The return of such non-commissioned officer so sworn to and certified shall be as good evidence on the trial of any person returned as a delinquent of the facts therein stated as if such officer had testified to the same before the court-martial on such trial.

Return of a commandant of a company.

SECTION 14. Every commandant of a company shall make the like return upon honor, and with like effect, of every delinquency and neglect of duty of his non-commissioned officers, either in not attending on parade, or not executing or returning a warrant to them directed, or not obeying the orders of their commanding officer.

Who may warn without warrant.

SECTION 15. Any commissioned officer of a company, may, without a warrant, warn any or all of the persons subject to military duty within the district of the company, to appear at any parade or place of rendezvous. Such warning may be given by him either personally or by affixing a notice in the same manner as if given by a non-commissioned officer, and his certificate upon honor shall be received by any court martial as legal evidence of such warning.

Who to give the names of boarders.

SECTION 16. All tavern keepers, keepers of boarding houses, persons having boarders in their families, and housekeepers, upon their being thereto requested by the commandant of the company within the district of which they reside, or by the non-commissioned officer of any such company, having a warrant from such commanding officer to warn persons to attend any parade, shall give to such commanding officer or non-

commissioned officer a true account of all persons lodging or boarding with them and of their names if known, to the end that such persons as are liable to do military duty may be warned to rendezvous according to law.

SECTION 17. If any person of whom such account is so demanded, shall refuse to give such account and names, or shall willfully give a false account, he shall forfeit and pay ten dollars to be recovered by the commandant of the regiment for the use of the regiment. Penalty for refusing.

SECTION 18. For the purpose of preserving order on the day of parade, the militia shall be considered to be under arms, from the rising of the sun to its setting on the same day, and shall be exempted from arrest on civil process during the time. Militia to be considered under arms all day.

SECTION 19. Every commandant of a company, in addition to putting under guard as he is hereby authorized to do, and the exercise of the usual military power with which he is hereby vested, shall return to the president of the proper court martial, the names of all persons in the company who shall have discharged any fire arms on such day of parade without the order or permission of a commissioned officer, or officer acting under such, and also the name of every non-commissioned officer, musician or private who shall on such day refuse or neglect to obey the orders of his superior officer, or to perform such military duty or exercise as may be required, or depart from his colors, post or guard, or leave the rank without permission from his superior officer. Who to be returned to court martial.

SECTION 20. The commanding officer of division, brigade, regiment, or separate battalion, present at any parade, may put under guard any by-stander or spectator, who shall abuse, molest, or strike any one when on parade or under arms. When spectator may be arrested.

SECTION 21. The commanding officer of regiment or separate battalion, shall on the day on which any parade or rendezvous is to be held and previous thereto, cause the bounds of the parade ground to be designated, in such manner as not to obstruct the passage of travellers on any public highway.

SECTION 22. If any person during parade, shall encroach on the parade ground previously designated, or shall then and there sell or offer to sell or give away, any spirituous liquors, without permission of When gambler and others.

the commanding officer, or shall have in his possession any gambling table or other gambling device, such persons may be put and kept under guard by such commandor, until the setting of the sun on the same day, and such liquor, gaming table or other gambling device, may be abated or destroyed as a nuisance by order of the commandant.

No parade on election days.

SECTION 23. No parade or rendezvous of the militia shall be ordered on any day during which a general or special election shall be held, nor within five days previous to such election, except in cases of invasion or insurrection or of imminent danger thereof, and if any officer shall order any such parade, or rendezvous, he shall forfeit and pay to the people of this territory the sum of five hundred dollars.

When return made to the president of court martial.

SECTION 24. Every commandant of a company shall within twenty days after any parade, furnish the president of the proper court martial with a return of all persons belonging to his company, who shall have been at such parade delinquent in the performance of duty, or deficient in the equipments or uniform required by law, or who by any means shall have incurred any fine or penalties under this act.

SECTION 25. The commandant of every regiment or separate battalion, within fifteen days after the regimental or battalion parade, or rendezvous of commissioned and non-commissioned officers and musicians, shall furnish the president of the proper court martial with a return of all delinquents under the rank of a major in the staff or line.

In case of invasion.

SECTION 26. In case of any invasion, or of imminent danger thereof, within the limits of any division, brigade, regiment or separate battalion, it shall be the duty of the commandant of such division, brigade, regiment or separate battalion, to order out for the defense of the territory, the militia or any part thereof under his command.

SECTION 27. It shall also be his duty to give immediate notice of such invasion, and of the circumstances attending the same, to his immediate commanding officer, by whom such information shall be transmitted with the utmost expedition to the commander-in-chief.

SECTION 28. The commandant of every regiment or separate battalion, within the limits of which an insurrection may happen, shall immediately assemble

his regiment or battalion under arms, and with the utmost expedition shall transmit information of such insurrection to the commandant of his brigade and to the commander-in-chief.

SECTION 29. Every person, who, whilst in the actual service of this territory, shall be wounded or disabled in opposing or suppressing any invasion or insurrection, shall be taken care of and provided for at the expense of the territory. Pensioners.

SECTION 30. Whenever the president of the United States, or the commander-in-chief, shall order a draft for the militia for public service, such drafts shall be made in each company in which it is required, by lot, to be determined at a company parade ordered for that purpose. Drafts, how made.

SECTION 31. Each non-commissioned officer musician, or private, present at such parade, shall draw to make up the quota required, and each person drawn shall fill such grade in the militia drafted as he was entitled to when drawn in his own company.

SECTION 32. One of the commissioned officers, shall draw for every person subject to the draft, who shall refuse to draw, or be absent from the parade, and such draft shall have the like effect as if the person so refusing or absent had drawn himself.

SECTION 33. Any person so drafted, may offer a substitute at or after the time of rendezvous of the drafted militia, and such substitute, if he shall be an able bodied man, of the age of twenty-one years, and shall consent in writing to subject himself to all the duties, fines, forfeitures, and punishments, to which his principal would have been subject, had he personally served, shall be accepted by the commandant of the company of drafted militia to which his principal may belong. Substitutes.

SECTION 34. The commander-in-chief, shall prescribe such rules, orders, and regulations, relative to the distribution of arms, ammunition and military stores to the militia, when called into actual service, as he may deem proper.

SECTION 35. The commandants of companies, are hereby authorized, to put under guard, or to commit to prison for the day, and to return to the proper court martial, any non-commissioned officer, musician, or private, who shall appear on parade wearing any false Certain persons to be put under guard.

face, personal disguise, or other unusual or ludicrous article of dress, or any arms, weapons, or other implements or things, not required by law, and which are calculated to interrupt the peaceable and orderly discharge of duty.

SECTION 36. Any commissioned officer of division, brigade, regiment, separate battalion, or company, present at any parade, is hereby authorized to put under guard or to commit to prison for the day, any person or persons who shall, upon or near any parade ground, field, public highway, or any other place, occupied by the militia under arms, by means of ludicrous disguise, dress, arms, and instruments, or by any other means, disturb the peaceable and orderly proceedings of those under arms, and the jailor shall receive and confine such persons in the debtor's department of the jail, pursuant to the order of commitment, which shall be issued and delivered to him in virtue of this or the preceding section.

Duty of commandant of regiment.

SECTION 37. It shall be the duty of each commandant of a regiment or separate battalion, within twenty days after the annual inspection, to furnish the commandant of his brigade, a local description of such regiment or separate battalion, together with a roster of the commissioned officers of such regiment.

Duty of brigade inspector.

SECTION 38. It shall be the duty of each brigade inspector, within thirty days after the annual review in each year, to transmit to the adjutant general, a statement of the review and inspection of the several regiments and separate battalions in his brigade, attended by the commanding officer of division and brigade, accompanied by the division and brigade staff, armed and equipped as the law directs.

SECTION 39. In case any general officer, or any member of his staff, shall neglect to attend such inspection and review, it shall be the duty of the adjutant general to require such officer to render an excuse in writing to the commander-in-chief for his delinquency. If the commander-in-chief shall deem such excuse insufficient, he shall order a court martial to try the delinquency.

TITLE VI.

OF COURTS OF INQUIRY AND COURTS MARTIAL.

ARTICLE 1.

SECTION 1. Courts of inquiry may be instituted by the commander-in-chief, or the commanding officer of division, or brigade, in relation to those officers for whose trial they are authorized to appoint courts martial, for the purpose of investigating the conduct of any officer, either by his own solicitation, or on a complaint or charge of improper conduct, degrading to the character of an officer, or for the purpose of settling rank.

SECTION 2. Such courts shall consist of not less than three, nor more than five commissioned officers, and the president shall without delay report a statement of facts to the officer instituting such court, who may in his discretion, thereupon appoint a court martial, for the trial of the officer whose conduct shall have been inquired into.

SECTION 3. Every court martial for the trial of a major general, shall be ordered by the commander-in-chief, and shall consist of thirteen officers, any nine of whom shall constitute a quorum.

SECTION 4. Every court martial for the trial of a brigadier general, shall be ordered by the commander-in-chief and shall consist of nine officers, any seven of whom shall constitute a quorum.

SECTION 5. All other courts martial for the trial of other commissioned officers, shall consist of seven officers, any five of whom shall constitute a quorum, and shall be ordered, if for the trial of officers above the rank of captain, by the commanding officer of division, and for all other officers by the commanding officer of brigade.

SECTION 6. No officer arrested shall be brought to trial, unless a copy of the charges and specifications, certified by the officer ordering the arrest, shall be delivered to him or left at his usual place of abode within three days after his arrest, nor unless the officer ordering the court martial shall have ordered the same within thirty days after receiving notice of the arrest

and a copy of the charges and specifications, nor until ten days after a copy of a list of the names of the officers, detailed to form the court, shall have been delivered to the officer arrested, or left at his usual place of abode.

SECTION 7. The officer ordering the court, may at any time supply any vacancy that from any cause may happen therein.

Challenge.

SECTION 8. If the officer accused, shall have any cause of challenge to the president of such court, he shall within a reasonable time after receiving a copy of the charges and a list of the members, deliver his cause of challenge in writing to the officer ordering such court, who shall thereupon determine as to the validity of such challenge, and if in his opinion the causes are sufficient, he shall appoint another president of such court.

Oath.

SECTION 9. After the court shall be assembled, and after all challenges, if any are made, shall have been determined, the judge advocate, whether commissioned or special, shall administer to each member the following oath: "You _____ do swear, that you will faithfully discharge the duties of a member of a court martial now assembled, according to the best of your ability."

Injunction of secrecy.

SECTION 10. Every judge advocate, whether commissioned or special, and every member of a court martial, shall keep secret the sentence of the court, until the same shall be approved or disapproved according to law; and shall keep secret the vote or opinion of any particular member of the court, unless required to give evidence thereof in a court of justice.

Limit of sentence.

SECTION 11. The sentence of any such court martial shall be according to the nature and degree of the offense, and according to military usage, but shall not extend further than cashiering the officer convicted, and disqualifying him from holding any office in the militia of this territory, and imposing a fine not exceeding one hundred dollars.

Proceedings after sentence.

SECTION 12. The proceedings and sentence of every such court martial shall, without delay, be delivered to the officer ordering the court, who shall approve or disapprove thereof within fifteen days thereafter, and shall give notice of his approval or disapproval to the president of such court martial, and to the arresting

officer, and he may at his discretion publish the sentence as approved or disapproved in orders.

SECTION 13. He shall also transmit such proceedings and sentence, and his approval or disapproval thereof to the adjutant general to be kept in his office.

SECTION 14. The right of appeal to the commander-in-chief, as it now exists by military usage, is reserved, but no appeal shall be received unless made within twenty days after the decision appealed from is made known to the person appealing. Appeal.

ARTICLE 2.

OF REGIMENTAL AND BATTALION COURTS MARTIAL.

SECTION 15. The commandant of each regiment and separate battalion, on or before the first Monday in June in every year, appoint a regimental or battalion court martial to consist of three commissioned officers, one of whom shall be a field officer or captain, and shall be appointed president thereof. Court, how composed.

SECTION 16. The officer appointing the court shall fix the day on which it shall convene; and when convened, the court may adjourn from time to time as shall become necessary for the transaction of business, but the whole session of the court from the day on which it shall convene shall not exceed one week.

SECTION 17. In case any vacancy shall happen in the court, or a new court shall be required, the officer ordering the court, or his successor in command, may fill such vacancy or order a new court. Vacancy, how filled.

SECTION 18. The president and each member of such court, before he shall enter on his duties as such, shall take the following oath: "I, _____ do swear that I will well and truly try and determine, according to evidence, all matters between the people of the United States and any person or persons which shall come before a regimental (or battalion) court martial, of which I have been appointed president (or a member.) Oath.

SECTION 19. Such oath shall be taken by the president, on or before the day on which the court shall convene, before a justice of the county in which he may reside, or a field officer of his regiment or battalion; and it shall be the duty of such justice or field officer,

to administer the oath without fee or reward. The president shall administer the oath to each of the members.

How delinquents to be summoned.

SECTION 20. The president of the court shall direct a non-commissioned officer, or other fit person or persons to be by him designated, to summon all delinquents and parties accused, to appear before the court at a time and place to be by him appointed.

SECTION 21. Such non-commissioned officer, or other person or persons so designated, shall make the like return and with the like effect, as commissioned and non-commissioned officers are authorized and required to make, in cases of warning to a company or regimental parade, and shall be subject to the like penalties for neglect of duty.

Jurisdiction of the court.

SECTION 22. The court when organized, shall have the trial of all delinquents and deficiencies in the regiments or battalions for which it shall have been called, and shall have power to impose and direct to be levied all the fines, to which commissioned officers of companies and non-commissioned officers, musicians, or privates, are declared to be subject in first article of the 6th title of this act.

SECTION 23. No fine imposed by a regimental or battalion court martial on a commissioned officer, shall prevent such officer from being tried and cashiered for neglect of duty, by a court martial ordered by the commandant of his brigade.

In favor of whom fine to be remitted.

SECTION 24. Every such court martial may mitigate or wholly remit any penalty, or fine, directed to be imposed for any deficiency, in arms or equipments, of any delinquent in any company of infantry, whom the court shall adjudge to be so poor as not to be able to furnish himself with such arms or equipments.

Appeal.

SECTION 25. From the sentence of any such court, imposing a fine for any delinquency, an appeal, if made within twenty days, shall be allowed to the officer instituting the court, or to his successor in command, who may remit or mitigate such penalty or fine. In case the delinquent was not personally summoned to appear before such court, and did not appear, he shall have ten days after personal notice of the sentence, in which to appeal from the decision of the officer instituting such court, or of his successor in command. An appeal if made within ten days after personal no-

tice of such decision, shall be allowed, to the commanding officer of the brigade, who may remit or mitigate such penalty or fine.

ARTICLE 3.

GENERAL PROVISIONS APPLICABLE TO ALL COURTS MARTIAL AND COURTS OF INQUIRY.

SECTION 26. The president of every court martial, and of every court of inquiry, both before and after he shall have been sworn, and also the judge advocate, if required, shall issue subpoenas for all witnesses whose attendance at such court may in his opinion be necessary, in behalf of the people of the United States; and also on application for all witnesses in behalf of any officer charged or accused, or person returned as delinquent, and may direct the commandant of any company to cause such subpoena to be served on any witness residing within his district. Subpoenas, how issued.

SECTION 27. The president of such court martial, or court of inquiry, shall have power to administer the usual oath to witnesses, and shall have the same power to compel attending witnesses to be sworn and testify, and to preserve order, as courts of common law jurisdiction. And all sheriffs, jailors, and constables, are hereby required to execute any precept issued by such president for that purpose. Who may administer oaths.

SECTION 28. Every witness, not appearing in obedience to such subpoena when duly served, and not having a sufficient or reasonable excuse, shall forfeit to the people of this territory a sum not less than five, nor more than fifty dollars; and the president of such court, shall from time to time report to the district attorney such offense, the name of all such delinquent witnesses, together with the names and places of residence of the persons serving such subpoena, the better to enable him to prosecute for such forfeiture. Penalty for non-attendance and how enforced.

SECTION 29. Any person or persons, who shall be guilty of disorderly, contemptuous or insolent behavior in, or use any insulting or contemptuous or indecorous language or expression to, or before, any court martial, or court of inquiry, or any member of either of such courts in open court, may be committed to the jail of the county in which such court shall sit by war- Contempts, how punished.

warrant under the hand and seal of the president of such court.

SECTION 30. Such warrant shall be directed to the sheriff, or any or either of the constables and marshals of any such county, or any officer attending the court, and shall command the officer to whom it is directed, to take the body of such person, and to commit him to the jail of the county thereof, to remain without bail or mainprize in close confinement for a time to be limited, not exceeding three days, and until the officer's fees for committing, and the jailer's fees be paid.

SECTION 31. Such sheriff shall receive the body of any person, who shall be brought to him by virtue of such warrant, and keep him until the expiration of the time mentioned in the warrant, and until the officer's and jailer's fees shall be paid, or until the offender shall be discharged by due course of law.

Who to preside
in the absence
of the president.

SECTION 32. In the absence of the president of any court martial, or court of inquiry, the senior officer present may preside, with all the powers of the president, and all the members of such courts shall, when on duty, be in full uniform.

Appointments
of marshals and
their powers.

SECTION 33. The president of any court martial, or court of inquiry, may appoint, by warrant under his hand and seal, one or more marshals.

SECTION 34. The marshal or marshals so appointed, may not only perform the usual duties of such marshals, but may also execute all process, lawfully issued by such president, and perform all acts and duties in this act imposed on, and authorized to be performed by any sheriff, marshal or constable.

In case of ap-
peal, further
evidence may
be received.

SECTION 35. Whenever the sentence of the court martial shall be appealed from, the officer hearing the appeal, shall require the president of the court martial, to furnish him forthwith with a statement of the case, and of the evidence touching the same, which statement and evidence shall, in case of an appeal to the commanding officer of the brigade, be forthwith on notice of such appeal transmitted to him.

SECTION 36. Such statement being furnished, the officer hearing the appeal, may hear such further evidence by affidavit or otherwise, as the nature of the case may require; and for that purpose, he shall have power to administer the usual oaths to witnesses produced before him, except in cases where trials may

have been had upon charges preferred.

SECTION 37. The two last sections, shall extend to appeals made from the order of an officer approving the sentence of a court martial.

TITLE VII.

OF PENALTIES, FINES, FEES AND EXPENDITURES.

ARTICLE 1.

SECTION 1. Every commissioned officer, for disobedience of orders, neglect of duty, unofficer-like conduct, or disrespect to a superior officer, or for neglecting to furnish himself with a uniform and equipments within twelve months after receiving his commission, shall be arrested and brought to trial before a court martial, who may on conviction sentence him to be cashiered, incapacitated from holding any military commission, and fined to an amount not exceeding one hundred dollars, or may sentence him to any part of such penalties, or to be reprimanded, in their discretion.

Trial and punishment of commissioned officers.

SECTION 2. Every commissioned officer, refusing to pay over moneys in his hands as directed in the second article of this title, shall be liable to be tried and cashiered, or otherwise punished therefor by a court martial.

For refusing to pay over moneys.

SECTION 3. Every commissioned officer of a company, and every non-commissioned officer, musician and private shall, on due conviction, be subject for the following offenses to the fines thereto annexed.

Fines.

1st. Every non-commissioned officer, musician and private for non-appearance when duly warned, or summoned, at a company parade, a fine of one dollar. At a regimental or battalion parade or rendezvous of officers, not less than two nor more than four dollars, and at a place of rendezvous when called into actual service a sum not exceeding fifty dollars.

For non-attendance.

2d. Every commissioned officer under the rank of colonel, for non-attendance at any parade, and every such officer, non-commissioned officer, musician and private, for neglecting or refusing to obey the orders of his superior officers, on any day of parade, or to perform such military duty or exercise as may be re-

Desertion.

quired, or departing from his colors, post or guard, or leaving his place or ranks without permission, a fine, not more than fifteen, nor less than five dollars.

refusing to
obey orders,

3d. For neglecting or refusing to obey any order or warrant, to him lawfully given or directed, or to make a proper return thereof, if such return be necessary, or making a false return, or neglecting or refusing when required to summon a delinquent before a court martial, or duly to return such summons, a fine, not more than twenty-five, nor less than five dollars.

or to act when
appointed to
office.

4th. Every commissioned officer for neglecting or refusing to act as such, when duly appointed, shall be sentenced to pay a fine not exceeding fifty dollars, and not less than five dollars. Every non-commissioned officer, for neglecting or refusing to act as such when duly appointed, shall be sentenced to pay a fine not exceeding twenty dollars, nor less than five dollars; and every non-commissioned officer, for neglect of duty, or unofficer-like conduct, in addition to other penalties, may be reduced to the ranks by the commandant of the company, with the approbation of the commandant of the regiment or battalion.

Discharging
fire-arms.

5th. Every non-commissioned officer, musician or private, who shall unlawfully discharge any fire arms on the days of company or regimental muster, shall be sentenced to pay a fine of one dollar.

Want of equip-
ments.

6th. Every non-commissioned officer and private, appearing, without being armed and equipped as the law directs, at any parade or rendezvous, shall be sentenced to pay the following fines, namely: for want of a sufficient sword and belt, if belonging to the artillery, and for want of a sufficient musket with a steel rod, or rifle, if belonging to a company of infantry, one dollar; for want of a sufficient bayonet and belt, twenty-five cents; for want of a pouch with a box therein, sufficient to contain twenty-four cartridges, suited to the bore of his musket, twenty-five cents; for want of two spare flints and knapsack, twenty-four cartridges, shot pouch, powder horn, twenty balls, and a quarter of a pound of powder, twenty-five cents each, but the whole number of spare flints, of cartridges and of balls shall be considered each only one deficiency.

7th. The penalty imposed for want of bayonet, belt, and cartridge box, shall not apply to any non-

commissioned officer or private, of a rifle company, or to any private of any other company having a powder horn and pouch.

8th. Each non-commissioned officer and private in the mounted rifle corps, shall be sentenced to pay as fines for want of a sufficient horse, two dollars, for want of a sufficient rifle and sling, one dollar, for want of sufficient pistol and belt, one dollar, for want of a sufficient saddle, bridle, breast plate, valise, or cart-ridge-box, twenty five cents each. In the mounted rifle corps.

9th. The court martial, by which any delinquent is tried, may excuse such delinquent, if it shall be made satisfactorily to appear to the court that he has a reasonable excuse for such delinquency. Excuses allowed.

10th. Any commissioned officer, who shall retain a commission, received by him for any subaltern, for more than thirty days, without giving notice by mail or otherwise to the person entitled to it, shall be liable to pay a fine not exceeding twenty-five dollars, to be imposed, in case of a commissioned officer of a company, by a regimental or battalion court martial, on the complaint of any officer interested, and in case of a general or field officer, by a general court martial, which shall be ordered on the like complaint. In addition to the penalties imposed by any of the provisions of this act, every commissioned and non-commissioned officer, musician and private, of a company, who shall appear on parade wearing any personal disguise, or other unusual or ludicrous articles of dress, or any arms, weapons or other implements not required by law, and calculated to excite ridicule, or to intercept the orderly and peaceable discharge of duty by those under arms, shall be liable to a fine of not more than twenty-five, nor less than five dollars, to be imposed by the proper court martial. Penalty for retaining a commission.

SECTION 4. No action shall be maintained against any member of a court martial, or officer or agent acting under its authority, on account of the imposition of a fine, or the execution of a sentence on a person not liable to military duty, if such person shall have been returned a delinquent and duly summoned, and shall have neglected to show his exemption before such court. Or wearing a disguise, &c.

ARTICLE 2.

OF THE COLLECTION AND APPLICATION OF PENALTIES,
FINES AND COMMUTATION MONEY.

SECTION 1. All fines that shall be imposed by the regimental or battalion court martial, shall be reported by the president of the court to the officer ordering it, or to his successor in command, within twenty days after such fines shall have been imposed; and the officer ordering the court or his successor in command, shall, immediately after the time shall have elapsed in which appeals are allowed from his decision to the commandant of the brigade, give written notice to the president of the court of the penalties and fines which shall have been by him remitted or mitigated, and of the appeals which shall have been made from his decision to the commandant of the brigade.

Fines, how
collected.

SECTION 2. For the purpose of collecting fines the president of the court shall, within ten days after the receipt of the written notice aforesaid, make a list of all persons of whom fines are to be collected, designating the company to which they respectively belong, the sums imposed as fines on each person, and the person who shall have appealed to the commandant of the brigade; and shall draw his warrant under his hand and seal, directed to any constable of any city or county as the case may be, thereby commanding him to levy such fine or fines, together with his costs, of the goods and chattels of such delinquents; and if any such delinquent shall be under age, and live with his father or mother, master or mistress, then to levy such fine or fines and the costs, of the goods and chattels of such father or mother, master or mistress as the case may be; and in case the goods and chattels of any delinquent over the age of twenty-one years cannot be found wherewith to satisfy the same, then to take the body of such delinquent and convey him to the jail of the city or county wherein he shall reside.

By levy or
imprisonment.

SECTION 3. It shall be the duty of the jailor to whom such delinquent shall be delivered, to keep him closely confined, without bail or mainprize for four days, for any fine not exceeding two dollars, and one

additional day for every dollar above that sum, unless the fine together with the costs and the jailor's fees shall be sooner paid.

SECTION 4. Every such constable to whom such list and warrant shall be directed and delivered, may execute the same by levying and collecting the fines, or by taking the body of the delinquent, in any city, town or county, in this territory, and shall make return thereof within forty days from the receipt of such warrant to the president who issued the same. The execution of said warrant shall be suspended, as to those persons who shall have appealed to the commandant of the brigade, until the further order of such commandant.

Return to be made within forty days.

SECTION 5. If the constable shall not be able to collect the fines, or take the bodies, within the forty days aforesaid, then the president issuing the warrant, may at any time thereafter, within two years from the time of imposing the fines issue a new warrant from time to time as may be necessary.

New warrant may be issued.

SECTION 6. Any warrant for the collection of fines issued by virtue of this act, shall and may be renewed in the same manner that executions issued from justices' courts may by law be renewed.

SECTION 7. The moneys arising from fines imposed by any regimental or battalion court martial, shall be paid by the officers collecting the same to the president of the court. The sureties which shall hereafter be given by any constable elect, shall be deemed liable to pay to the president of the court all such sums of money as the said constable may become liable to pay, on account of any warrant which shall be delivered to him for collection.

To whom money to be paid.

Liability of constable's sureties.

SECTION 8. Such president after deducting and paying the costs and fees properly chargeable on the fines so recovered by him shall pay the surplus of such fines to the officer by whom the court shall have been ordered.

SECTION 9. Every such president shall from time to time as often as he shall be required furnish to the officer ordering the court, or to his successor in command, a correct statement of all moneys received by him on account of fines and of all fines imposed; and it shall be the duty of the officer instituting every such court, or his successor in command, to make such

Money to be accounted for.

request within thirty days after any such court shall be held.

Penalty.

SECTION 10. Whoever shall willfully neglect or refuse to comply with such request, for the space of ten days, shall be liable to be tried and cashiered therefor.

Duty of the president of the court.

SECTION 11. It shall be the duty of the respective presidents of courts martial to prosecute in their own names any marshal or constable who shall incur any penalty for neglect in the execution or return of any warrant or in paying over moneys collected by him.

SECTION 12. The moneys arising from such penalties when collected shall be paid over and applied as other moneys payable to the commandants of regiments and separate battalions are directed to be paid over and applied in this article.

Fines of commissioned officers how collected.

SECTION 13. All penalties and fines imposed by courts martial upon commissioned officers shall be collected by the attorney general or by the district attorneys of the counties in which the persons fined may reside and be paid by the officer collecting the same into the treasury.

How money to be applied.

SECTION 14. All moneys received by each commandant of a regiment or separate battalion shall be expended under the direction of the field officers and commandants of companies in such regiment or battalion and shall be applied in the first place to the purchase and repair of colors and instruments of music and the residue in disciplining and improving such regiment or battalion in such manner as a majority of the field officers and commandants of companies shall direct.

Account to be kept.

SECTION 15. It shall be the duty of each commandant of a regiment or separate battalion to keep an accurate account of all moneys by him received and expended for the use of the regiment or battalion and to exhibit such account, on request, to any commissioned officer of his regiment or battalion and to deliver it over to his successor in office.

When to be adjusted.

SECTION 16. Each commandant of brigade shall examine and adjust the accounts of the commandants of regiments and separate battalions in his brigade on or before the first day of May in each year.

When commandant of brigade to sue in his own name.

SECTION 17. If the commandant of any regiment or separate battalion shall neglect or refuse to pay moneys belonging to the regiment or battalion, as the

field officers and commandants of companies shall have directed, the commandant of brigade shall sue in his own name for such moneys and apply the same when recovered to the use of the regiment or battalion.

SECTION 18. It shall be the duty of the several officers to whom moneys are in this article directed to be paid, in case of the refusal or neglect of the person directed to account for and pay over such moneys, to sue for the same in their own names but to the uses before specified in an action for money had and received.

SECTION 19. Every officer so suing may retain out of the money he shall collect all necessary and reasonable expenses he may incur in such suits.

SECTION 20. It shall be no objection to any person called as a witness or to serve as a juror in any action authorized in this article that he is a member of the regiment or battalion that may be affected by such action.

ARTICLE 3.

OF THE COMPENSATION AND FEES OF THE MEMBERS OF COURT MARTIAL AND OTHER OFFICERS.

SECTION 21. There shall be allowed and paid out To be paid out of the treasury.

1st. To each division and brigade judge advocate, and to each president and member of any court of inquiry or court martial, for the trial of officers, two dollars for each day actually employed on duty; and the like compensation to any marshal or marshals appointed by any such court for every day employed in the execution of the duties required of him.

2d. To each brigade inspector, for inspecting a regiment or separate battalion, eight dollars; for attending each parade of commissioned and non-commissioned officers and musicians, which he is required by law to attend, eight dollars; for making and transmitting to the adjutant general an inspection return of his brigades, eight dollars.

3d. To each military store-keeper, such sum, not exceeding twenty dollars, as the commander-in-chief shall think proper to allow.

SECTION 22. No payment shall be made to any

brigade inspector until he shall have furnished evidence to the auditor of his having made out and transmitted the inspection return of his brigade to the adjutant general and a copy thereof to his division inspector; nor shall any payment be made to a division inspector until he shall have furnished like evidence of his having made out and transmitted his division return to the adjutant general and the commandant of his division.

To be paid out
of the fines.

SECTION 23. There shall be allowed and paid out of the fines imposed by each regimental or battalion court martial, and received by the president thereof,

1st. To the president, one dollar and fifty cents for each day he may be actually employed in holding the court, or engaged in the business thereof.

2d. To each member of the court, one dollar and fifty cents, for each day he may sit as such member or may be engaged in traveling to or from the court, allowing twenty miles for a day's travel.

3d. To the non-commissioned officer or other person who shall have summoned delinquents to appear before the court, one dollar and fifty cents for each day he may have been necessarily so employed, and the same sum for each day of his attendance on the court.

SECTION 24 No other sums or expenses whatever shall be charged on the fines received by the president of any such court, but the president, members and officers, shall defray the expenses out of the fees allowed to them respectively.

Constables,

SECTION 25. Each constable to whom a warrant for the collection of fines may be directed, shall be entitled to the same fees and be subject to the same penalties for any neglect, as are allowed and provided for on executions issued out of justices courts.

and sheriff's
fees.

SECTION 26. For all other services and commitments under this act, the sheriff, jailer and constable executing the same, shall be entitled to the like fees as for similar services in other cases.

Who to audit
accounts.

SECTION 27. The accounts of all persons, who, under this article, are entitled to be paid out of the treasury, shall be audited by the auditor, and of all persons who are to be paid out of the fines imposed by a regimental or battalion court martial, by the officer ordering the court.

SECTION 28. The auditor, on the application of the

governor, may draw his warrant on the treasurer, for such sum of money as may be requisite in the execution of the provisions of this act, and may require the chief of each staff department to account quarterly for all moneys received by him for purposes connected with his department.

TITLE VIII.

OF THE DUTIES OF CERTAIN STAFF OFFICERS, AND OF VARIOUS MATTERS CONNECTED WITH THEIR RESPECTIVE DEPARTMENTS.

ARTICLE I.

OF THE ADJUTANT GENERAL.

SECTION 1. The adjutant general shall keep a roster of all the officers of the militia of this territory, containing the corps to which they belong, the division, brigade and regiment of such corps, and the places of their residence, as accurately as can be ascertained, which roster shall be revised and corrected every year. To keep a roster.

SECTION 2. He shall also enter, in a book to be kept for that purpose, a local description of the several regiments, brigades and divisions of infantry, artillery and riflemen. and book.

SECTION 3. It shall be the duty of the commanders of divisions and brigades, to furnish the adjutant general with a roster of their officers, containing the facts requisite to enable him to comply with the provisions of this article, and also a description of the regiments and brigades. With what to be furnished.

SECTION 4. The books required by the adjutant general to comply with this article, shall be furnished him at the expense of this territory and shall go to his successor in office.

SECTION 5. It shall be the duty of the brigade inspectors, to transmit a copy of the inspection return annually to the adjutant general, and a duplicate of the same to the division inspector, within thirty days after the inspection shall be made. Copy of inspection return.

SECTION 6. The adjutant general shall procure, at the expense of the territory, a seal with some proper To procure a seal.

device thereon, which shall be the seal of his office, and shall from time to time be delivered to his successor in office, and all copies of records or papers in his office, duly certified and authenticated under the said seal, shall be evidence in all cases in like manner as if the originals were procured.

Salary.

SECTION 7. The adjutant general shall receive for his services, one hundred and fifty dollars per annum.

ARTICLE 2.

OF THE COMMISSARY GENERAL.

Duties of commissary general.

SECTION 8. The commissary general shall keep in good repair the arsenals and magazines of the territory, and attend to the due preservation and safe keeping, cleaning and repairing, of the ordinance, arms, accoutrements, ammunition, munitions of war and implements of every description, the property of this territory, and he shall at all times have the control and disposition of the same for that purpose.

SECTION 9. He shall dispose to the best advantage, of all damaged powder, and of all arms, ammunition, accoutrements, tools, implements and warlike stores, of every description whatsoever, that shall be deemed unsuitable for the use of the territory.

SECTION 10. He shall from time to time render a just and true account of all sales made by him, with all convenient speed to the governor, and shall pay the proceeds of such sales into the treasury.

When to furnish colors, &c.

SECTION 11. Whenever the commanding officer of a brigade shall certify that a stand of colors, or any drums, fifes, or bugles, are necessary for any battalion in his brigade, the commissary general, with the approbation of the commander-in-chief, shall furnish such battalion with a stand of colors, and a sufficiency of drums, fifes and bugles, at the expense of the territory; but no such drums, fifes or bugles shall be furnished to any brigade at an expense greater than the sum that shall have been theretofore actually paid into the treasury for fines in such brigade.

Or issue powder and ball.

SECTION 12. The commissary general shall issue the usual allowance of powder and balls to artillery companies for practice, and the several commandants of artillery companies shall annually report to the com-

missary general the situation and state of the pieces of ordinance, arms, implements and accoutrements, the property of the territory, entrusted to their charge respectively.

SECTION 13. The commissary general shall report annually to the commander-in-chief, whose duty it shall be to transmit the same to the legislature, a true and particular statement, showing the actual situation and disposition of all the ordinance, arms, ammunition and other munitions of war, property and things, which in any wise appertain to or respect the department confided to his keeping. Make annual report.

SECTION 14. He shall keep a just and true account of all the expenses necessarily incurred in and about his department, and, once at least in every six months, deliver the same to the auditor, who shall thereupon examine and audit the same, and shall draw his warrant on the treasurer for such sum as he shall audit and certify to be due.

SECTION 15. This act to take effect from and after its passage, and all laws contravening the same are hereby repealed.

Approved January 17, 1838.

No. 58

AN ACT to provide for the appointing of justices of the peace, to prescribe their powers and duties, and to regulate their proceedings.

SECTION 1. *Be it enacted by the council and house of representatives of Wisconsin territory, as follows:* There shall be appointed in each of the organized counties of this territory, as many justices of the peace as, in the opinion of the governor, the public good and the wants of the people may require, and whose term of service shall continue four years unless sooner removed by the governor. Number of justices and term of office.

SECTION 2. No clerk of the district court, or his deputy, shall hold or exercise the office of justice of the peace. Who disqualified.

SECTION 3. Every justice of the peace shall within twenty days after the receipt of his commission, take Oath of office.