

Seventh district. catine and Johnson shall form the Seventh Electoral District, and shall each elect one member to the House of Representatives, and two members to the Council;—The Counties of Cedar, Jones, and Linn shall form the Eighth Electoral District, and shall be entitled to one member of the Council, and two members of the House of Representatives;—The Counties of Scott and Clinton shall form the Ninth Electoral District, and shall be entitled to one member of the Council, and two members of the House of Representatives;—The Counties of Du Buque, Jackson, Delaware, Clayton and the country thereunto attached, shall form the Tenth Electoral District, and shall be entitled to two members of the Council, and three members of the House of Representatives;—The County of Jackson shall elect one, and the Counties of Du Buque, Delaware, Clayton, and the country thereunto attached, shall elect two of said members to the House of Representatives.

Act of 1833 repealed.

SEC. 3. That the act entitled "An act to district the Territory of Iowa into Electoral Districts and to apportion the Representatives of each, approved January 21, 1839," be and the same is hereby repealed.

APPROVED, July 30, 1840.

[Chap. 32.]

AN ACT to organize, discipline and govern the Militia of this Territory.

TITLE I.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, 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.

Persons liable to duty.

Who exempt. SEC. 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.

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

3rd. 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 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 enrolment 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 another uniform 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 TENOR OF THEIR OFFICES.

Officers how appointed.

SECTION 1. The officers of the militia shall be appointed in the manner prescribed in the seventh section of the "Act of Congress, establishing the territorial government of Iowa," and shall hold their commissions without limitation of time, subject however to be revoked and determined by the Governor of the Territory for the time being, at his pleasure.

Tenure of office.

Staff of com. in chief.

SEC. 2. The commander-in-chief shall appoint his own staff.

Other staff officers.

SEC. 3. Major-generals, brigadier-generals and commanding officers of regiments, or separate battalions, shall appoint the staff officers of their respective divisions, brigades, regiments, or separate battalions.

Officers, how removed.

SEC. 4. No commissioned officer can be removed, except by the Governor, or by the decision of a court-martial pursuant to law.

Warrant officers.

SEC. 5. 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 office during his pleasure.

Vacancies, how filled.

SEC. 6. Whenever the office of any commissioned officer in the militia, except those of the staff, shall become vacant, the commander-in-chief shall have power to fill the same, which appointment shall continue until the last day of the next succeeding session of the Legislative Assembly.

Officers to take oath.

SEC. 7. 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.

SEC. 8. Every commissioned officer shall take and subscribe such oath before a judge of some court of record in this Territory, clerks of courts, notaries public, justice of the peace, or some general or field officer, who having previously taken it himself, is hereby authorized to administer the same. By whom administered.

SEC. 9. 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. Certificate endorsed on commission.

SEC. 10. All non-commissioned officers of companies shall be appointed by the commandants 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. Non-commissioned officers, how appointed

SEC. 11. 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. Resignations. Not to be accepted in certain cases.

SEC. 12. 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. To notify com. in chief.

SEC. 13. 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, Com. in chief may accept resignations.

and cause such vacancies to be filled without delay.

Office how vacated.

SEC. 14. 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.

Commission how forwarded.

SEC. 15. 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 ENROLMENT OF PERSONS SUBJECT TO MILITARY DUTY.

Enrolment.

SECTION 1. The commanding officer of each company of infantry shall from time to time enrol all persons within the limits of his company, who may be subject to military duty, and shall without delay notify such persons of their enrolment.

Ib.

SEC. 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 enrolment.

Duty of persons enrolled.

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

Age and ability.

SEC. 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 duly enrolled.

Certificate of surgeon.

SEC. 5. Persons claiming to be exempted from enrolment, 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.

Tavern-keepers to give notice.

SEC. 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.

SEC. 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. Penalty for refusing.

SEC. 8. Every commandant of a company may enrol 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. Musicians.

SEC. 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 parade. Exemptions.

SEC. 10. No such musician, after being enrolled, shall enlist into another company without the written consent of the commanding officer of the company to which he belongs. Not to enlist in other companies.

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. Militia, how organized.

SEC. 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. Ib.

SEC. 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 Bounds of regiments, &c. how altered.

shall retain its name, number and rank. The commanding officer of each regiment or separate battalion, with approbation of the commanding officer of his brigade, may divide, annex, or alter the bounds of the several companies under his command.

Alterations to be reported.

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

When officers deemed to have resigned.

SEC. 5. Every officer rendered supernumerary by any consolidation or alteration of regiments, separate battalions or companies, shall be deemed to have resigned his commission, unless he shall have given 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.

Supernumerary officers to equip, &c.

SEC. 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, how organized

SEC. 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 their application shall be commissioned as the officers of such company. All artillery companies organized under the provisions of said act shall be liable to do military duty in the same manner as volunteer riflemen until they shall be provided with a suitable piece of artillery.

Ib.

SEC. 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.

When to be reported, number, &c.

SEC. 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 whom such company belongs.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 13. All the companies of mounted, riflemen and dragoons in each of the judicial districts of the Territory, shall be formed into separate battalions, and the members of all such companies after they shall have uniformed and equipped, shall be exempt from poll tax to work on the highways in their respective towns.

SEC. 14. All battalions of mounted riflemen or dragoons, not formed into separate 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.

SEC. 15. All regiments and separate battalions of riflemen or artillery, not formed into brigades, shall for the purpose of this act be considered as a part of the brigade of infantry in the hands of which the commanders of such regiment or separate battalion shall respectively reside.

SEC. 16. 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.

Return of enlistment.

SEC. 17. The commandant of every uniform company shall make a return without delay of all persons entitled therein to the commandant of the 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 roils the name of every person thus certified to have been enlisted in any regularly organized uniform company.

To equip.

SEC. 18. All persons enlisted into any uniform company shall within three months from their enlistment 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.

Notice of discharge.

SEC. 19. 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.

Uniform.

SEC. 20. 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.

Discipline.

SEC. 21. The militia of the 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.

Ib.

SEC. 22. 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.

Volunteer companies, how called into service.

SEC. 23. All mounted riflemen and dragoons as well as all other independent or volunteer corps, shall be subject to be called into the service of the United States or of this Territory, by companies, bat-

talions, regiments or brigades, by order of the commander-in-chief, or other proper officer.

ARTICLE SECOND.

Of the organization of the Staff Department.

SEC. 24. The commander-in-chief shall be entitled to four aids with the rank of colonel, and a military secretary with the rank of major.

Aids, &c. of com. in chief.

SEC. 25. 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.

Aids of major and brigadier-generals.

SEC. 26. The adjutant-general shall have the rank of brigadier general, and in his department there shall be to each division a division inspector with the rank of 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.

Adjutant general.

Rank of inspectors.

SEC. 27. In the judge advocate's department there shall be a judge advocate with the rank of brigadier general; to each division a division judge advocate with the rank of colonel; and to each brigade a brigade judge advocate with the rank of major.

Judge advocates.

SEC. 28. In the quarter-master general's department there shall be a quarter-master general with the rank of brigadier general; to each division a division quarter-master with the rank of colonel; to each brigade a brigade quarter-master with the rank of captain; and to each regiment and separate battalion, a quarter-master with the rank of lieutenant.

Quarter-master-general and quarter masters.

SEC. 29. In the pay-master general's department there shall be a pay-master general with the rank of colonel; to each division a division pay-master with the rank of major; to each brigade a brigade pay-master with the rank of captain; and to each regiment and separate battalion, a pay-master with the rank of lieutenant.

Paymaster-general and paymasters.

SEC. 30. The commissary-general shall have the rank of brigadier general, and in his department there shall be so many military storekeepers, 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.

SEC. 31. In the hospital department there shall be a surgeon-general with the rank of brigadier gen-

Surgeon-general, surgeons, &c.

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

Non-commissioned staff.

SEC. 32. There shall be to each regiment and separate battalion two serjeant-standard bearers, one serjeant-major, one quarter-master-serjeant, one drum-major, and one fife-major, and to each regiment and separate battalion of mounted riflemen, one trumpet-major.

Chief of staff.

SEC. 33. 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.

Forms.

SEC. 34. Each chief of such department shall prepare and transmit, at the expense of the 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.

The militia shall rendezvous as follows:

Times of parade.

SEC. 1. By regiments, or separate battalions, once in each year, between the tenth day of September and the 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.

Ib.

SEC. 2. 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.

Ib. uniform companies.

SEC. 3. 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, for the purpose of drill and martial exercise.

SEC. 4. The commandant of each brigade shall give notice to the commandant of the division of the times and places of the annual inspection and review of the several regiments and separate battalions in his brigade. Notice to be given.

SEC. 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 also attend such reviews and inspections in each brigade of his division in succession. Commandant of division to attend.

SEC. 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 review of the several regiments and separate battalions in his brigade. lb. of brigade.

SEC. 7. The commissioned and non-commissioned officers and musicians of each regiment and separate battalions, 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 officers of the regiment or separate battalion. Officers to meet for drill.

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

SEC. 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. Warning.

SEC. 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; Warning.

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 affix the same on the outer door of the house in case no person can be found therein; 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.

SEC. 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.

To whom delivered.

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

Made evidence.

SEC. 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.

By commandant.

SEC. 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.

May warn without warrant.

SEC. 15. Any commissioned officer of a company, may, without a warrant, warn any or all 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.

Duty of in-keepers.

SEC. 16. All tavern keepers, keepers of boarding houses, persons having boarders in their families, and house-keepers 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.

SEC. 17. If any person of whom such account is ^{Penalty.} so demanded, shall refuse to give such account and names, or shall wilfully 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.

SEC. 18. For the purpose of preserving order on ^{Time of} the day of parade, the militia shall be considered to be under arms from the rising of the sun to its sitting, on the same day, and shall be exempted from arrest on civil process during the time.

SEC. 19. Every commandant of a company, in ^{Who returned} addition to putting under guard as he is hereby ^{to court-mar-} 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 order 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 ranks, without permission from his superior officer.

SEC. 20. The commanding officers of a division, ^{Power of} brigade, regiment, or separate battalion, present at ^{commandant.} 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.

SEC. 21. The commanding officer of a regiment ^{Bounds of pa-} or separate battalion, shall on the day on which any ^{rade ground.} 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.

Gamblers, &c.
put under
guard.

SEC. 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 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 commander 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 day.

SEC. 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.

Delinquents to
be reported.

SEC. 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 equipment or uniform required by law, or who by any means shall have incurred any fine or penalties under this act.

Ib.

SEC. 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.

Duty of officers
in cases of
invasion.

SEC. 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 defence of the Territory, the militia of any part thereof under his command.

Ib.

SEC. 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.

SEC. 28. The commandant of every regiment or ^{Ib.} 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 to the commandant of his brigade, and to the commander-in-chief.

SEC. 29. Every person who, while 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. ^{Persons disabled provided for.}

SEC. 30. Whenever the President of the United States, or the commander-in-chief, shall order a draft for [of] the militia for public service, such draft 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.}

SEC. 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. ^{Ib.}

SEC. 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. ^{Ib.}

SEC. 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 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. ^{Persons may offer substitute.}

SEC. 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. ^{Distribution of arms.}

SEC. 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, musi- ^{Persons may be put under guard.}

cian or private, who shall appear on parade wearing any false face, personal disguise or other unusual 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.

1b. SEC. 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 debtors 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.

Description of
regiment.

SEC. 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 separate regiment or separate battalion, together with a roster of the commissioned officer of such regiment.

Statement of
review.

SEC. 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 accompanied by the division and brigade staff armed and equipped as the law directs.

Duty of adju-
tant-general.

SEC. 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 FIRST.

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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

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

Challenge. SEC. 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. SEC. 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."

Sentence of court, secret. SEC. 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 by a court of justice.

Limits of sentence. SEC. 11. The sentence of any such court-martial shall be according to the nature and degree of the offence, 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.

To whom to be delivered. SEC. 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.

Transmitted to adjutant general. SEC. 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.

SEC. 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 SECOND.

Of Regimental and Battalion Courts-Martial.

SEC. 15. The commandant of each regiment and separate battalion, shall, on or before the first Monday of 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. ^{Courts-martial how composed.}

SEC. 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. ^{Time of convening.}

SEC. 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.}

SEC. 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.}

SEC. 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. ^{Ib.}

SEC. 20. The president of the court shall direct a non-commissioned officer, or other fit person or ^{Delinquents summoned.}

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.

Return of
summons.

SEC. 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 court.

SEC. 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 sixth title of this act.

Officers
cashiered.

SEC. 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.

Remission of
fine.

SEC. 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.

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

ARTICLE THIRD.

General provisions applicable to all Courts-Martial and Courts of Inquiry.

SEC. 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 an application for all witnesses in behalf of any officer charged or accused, or persons returned as delinquent, and may direct the commandant of any company to cause such subpoena to be served on any witness residing within his district.

Subpoenas for witnesses.

SEC. 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.

Oaths to witnesses.

SEC. 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 or more than fifty dollars; and the president of such court shall from time to time report to the district attorney such offence, 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.

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

Contempts, how punished.

SEC. 30. Such warrant shall be directed to the sheriff, or any or either of the constables, or marshals of any such county, or any officer attending the court, and shall command the officer to whom it is

Ib.

directed to take the body of such person and to commit him to the jail of the county thereof, to remain without bail or mainprise in close confinement for a time to be limited, not exceeding three days, and until the officer's fees for committing, and the jailor's fees be paid.

Ib. SEC. 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 jailor's fees shall be paid, or until the offender shall be discharged by due course of law.

Senior officer
when to pre-
side.

SEC. 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.

Marshals.

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

Their powers.

SEC. 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.

Evidence on
appeal.

SEC. 35. Whenever the sentence of any 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.

Ib. SEC. 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 the power to administer the usual oaths to witnesses produced before him, except in cases where trials may have been had upon charges preferred.

Evidence on
appeal.

SEC. 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 FIRST.

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. Penalty on officers.

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

SEC 3. Every commissioned officer of a company, and every non-commissioned officer, musician and private, shall, on due conviction, be subject for the following offences to the fines thereto annexed. Officers and non-com. officers liable to 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. 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, or 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 required, or departing from his colors, post or guard, or leaving his place or rank without permission, a fine not more than fifteen nor less than five dollars. Desertion, &c.

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 Disobedience.

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.

Ib. 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.

Unofficer-like
conduct.

Discharging
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 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.

Ib. 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.

Ib. 8th. Each non-commissioned officer and private in the mounted rifle corps shall be sentenced to pay as fine, for want of 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 cartridge-box, twenty-five cents each.

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. Excuse.

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 article 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 commission.

SEC. 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 as a delinquent, and duly summoned, and shall have neglected to show his exemption before such court. Disguise, &c.

ARTICLE SECOND.

Of the collection and application of penalties, fines and commutation money.

SECTION I. All fines that shall be imposed by any 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 Action against member of court-martial.

Fines to be reported.

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.

How collected.

SEC. 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.

SEC. 3. It shall be the duty of the jailor to whom such delinquent shall be delivered, to keep him closely confined without bail or mainprise, 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 jailor's fees shall be sooner paid.

Fines, how collected.

SEC. 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.

SEC. 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. Fines, how collected.

SEC. 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. Ib.

SEC. 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 paid.

SEC. 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. Surplus.

SEC. 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 request within thirty days after any such court shall be held. Money to be accounted for.

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

SEC. 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. Marshals to be prosecuted.

SEC. 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. Money how applied.

Fines how collected.

SEC. 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.

Fines how expended.

SEC. 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.

Accounted for.

SEC. 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.

Accounts to be examined, &c.

SEC. 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.

Proceedings in case of neglect.

SEC. 17. If the commandants 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.

- 1b. SEC. 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.

Expenses of suits.

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

SEC. 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.

Jurors and witnesses.

ARTICLE THIRD.

Of the compensation and fees of the members of courts-martial, and other officers.

SEC. 21. There shall be allowed and paid out of the treasury:

Compensation.

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:

Judge-advocate, &c.

2nd. 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 out and transmitting to the adjutant-general an inspection return of his brigade, eight dollars:

Brigade-inspector.

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

Military store-keepers.

SEC. 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.

Inspector when paid.

SEC. 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:

Compensation of members of courts-martial

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.

2nd. 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 travelling to and from the court, allowing twenty miles for a day's travel:

3rd. 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 so necessarily employed, and the same sum for each day of his attendance on the court.

No other charges.

SEC. 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.

Fees of constables.

SEC. 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.

Of sheriffs.

SEC. 26. For all other service and commitments under this act, the sheriff, jailor and constables executing the same, shall be entitled to the like fees as for similar services in other cases.

Accounts audited.

SEC. 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.

Duty of auditor.

SEC. 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 FIRST.

Of the Adjutant-General.

To keep roster. 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.

SEC. 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.

SEC. 3. It shall be the duty of the commandants 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.

SEC. 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.

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

SEC. 6. The adjutant-general shall procure, at the expense of the Territory, a seal with some proper 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 seal, shall be evidence in all cases in like manner as if the originals were procured.

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

ARTICLE SECOND.

Of the Commissary-General.

SEC. 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 ordnance, 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.

SEC. 9. He shall dispose, to the best advantage, of all damaged powder, and of all arms, ammuni-

tion, accoutrements, tools, implements and warlike stores of every description whatsoever, that shall be deemed unsuitable for the use of the Territory.

Ib. SEC. 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.

To furnish colors, &c.

SEC. 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.

Powder and balls.

SEC. 12. The commissary-general shall issue the general allowance of powder and balls to artillery companies for practice, and the several commanders of artillery companies shall annually report to the commissary-general the situation and state of the pieces of ordnance, arms, implements and accoutrements, the property of the Territory entrusted to their charge, respectively.

Annual report.

SEC. 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 ordnance, arms, ammunition and other munitions of war, property and things, which in anywise appertain to, or respect the department confided to his keeping.

Account of expenses.

SEC. 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.

SEC. 15. The organization of the militia into divisions, brigades, regiments and companies, under the act to organize, discipline and govern the militia, approved January 4, 1838, shall remain unchanged, except by order of the commander-in-chief, or in accordance with the provisions of this act.

SEC. 16. This act shall take effect from and after its passage, and all laws contravening the same are hereby repealed. Act to take effect.

APPROVED, July 31, 1840.

[Chap. 33.]

AN ACT to provide for the expression of the opinion of the people of the Territory of Iowa as to taking preparatory steps for their admission into the Union.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa, That* for the purpose of obtaining the wishes of the people of the Territory of Iowa, as to preparatory steps for admission into the Union as a State, a poll shall be opened at each electoral precinct in this Territory at the time of holding the next general election for Delegate to Congress, members of the Council, and House of Representatives, &c. To obtain expression of the people. State government. Polls to be opened.

SEC. 2. That it shall be the duty of the judges of election at every precinct in this Territory, at the time in the first section provided, to receive the ballots of all persons authorized by the laws to vote for Delegate to Congress, and safely deposit the same in a separate box for that purpose. Duty of judges.

SEC. 3. That those voters who wish to call a convention to frame a constitution for their future government, will say on their ballot "convention," and those opposed to taking any preparatory steps will say "no convention." Form of ticket.

SEC. 4. That immediately after the polls are closed, it shall be the duty of the judges aforesaid to open and examine the ballots given as aforesaid, and upon a separate piece of paper set down truly and distinctly the number of votes given for and against the convention, and certify the same as judges of election for the precinct and county where the same are given. Judges to open and examine ballots.

SEC. 5. That it shall be the duty of the judges of election aforesaid to carefully seal up said list of votes, certified as aforesaid, and safely send the same, with the returns of the general election, to the clerk of the county commissioners court of the proper county endorsed, "returns for and against convention." Judges to certify and return votes to clerk of county commissioners.

SEC. 6. That it shall be the duty of said clerk, by whom said returns shall be received, within five days Duty of clerk.