

which he may have, in consequence of labor that he may have performed on the same.

SEC. 6. All acts, and parts of acts, coming within the purview of this act, are hereby repealed. This act to take effect from and after its passage. Repealing clause.

APPROVED, December 17, 1838.

MILITIA.

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

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That immediately after the passage of this act, the militia of this territory shall be arranged into divisions, brigades, regiments, battalions, and companies. It shall consist of infantry or district companies, light infantry, riflemen, artillery men, and dragoons or mounted riflemen. There shall be three divisions, as follows, viz: The counties of Lee, Van Buren, Jefferson, Henry, and Des Moines, shall form the first division. The counties of Louisa, Slaughter, Keokuck, Johnson, Linn, Cedar, Scott, and Muscatine, shall form the second division. And the counties of Clinton, Jones, Jackson, Du Buque, Clayton, Delaware, Fayette, Buchanan, and Benton, shall form the third division. A division shall consist of not less than two, nor more than three brigades; a brigade shall consist of not less than two, nor more than five regiments; a regiment shall consist of not less than five, nor more than ten companies, two of which shall be light infantry or riflemen; each company shall consist of not less than thirty, nor more than one hundred men, exclusive of commissioned officers. Militia how to be arranged. Divisions.

SEC. 2. That whenever a county or district of country is distant, or so detached that in the opinion of the Governor it would be inconvenient for the persons residing therein to belong to an organized regiment, they shall be organized as a separate battalion, under the command of a major, and be subject to the same rules and regulations in all respects that regiments are subject to. Detached districts may form separate battalions.

SEC. 3. That to a division there shall be one major-general; to a brigade one brigadier-general; to a regiment one colonel, one lieutenant-colonel, Officers.

and one major; to a company of infantry, light infantry, and riflemen, there shall be one captain, one first lieutenant, and one second lieutenant; to a company of artillery men, and dragoon or mounted riflemen, there shall be one captain, one first lieutenant, one second lieutenant, and one third lieutenant. All commissioned officers (except those of the light infantry and rifle corps), and staff officers, shall be clothed, armed, and accoutred as the commander-in-chief may direct.

Gov. & Council to appoint them.

SEC. 4. That the Governor, with the advice and consent of the Legislative Council, shall appoint and commission all the officers provided for in the preceding section.

Aids.

SEC. 5. That the commander-in-chief may appoint, during his pleasure, four aids, with the rank of colonel; a major-general may appoint, during his pleasure, two aids, with the rank of major; a brigadier general may appoint, during his pleasure, one aid, with the rank of captain. The Governor shall

Adjutant General, &c.

appoint and commission one adjutant general, one commissary general, and one quarter-master general, each with the rank of brigadier general, and to each brigade a brigade inspector, with the rank of major.

Appointments in each regt.

The commandant of each regiment, and separate battalion, shall appoint, during his pleasure, one adjutant, one quarter-master, and one pay-master, each with the rank of lieutenant, also one surgeon, and one surgeon's mate, one drum major, one fife major, and one sergeant major. The captain or commanding officer of each company shall appoint, during his pleasure, four sergeants, one of whom shall be clerk of the company, four corporals, and two musicians.

Who shall be enrolled.

SEC. 6. That the captain or commanding officer of each infantry or district company shall, by his clerk, enroll all free white male persons, between the ages of eighteen and forty-five years, residing, or from time to time coming to reside, within the bounds of his beat or company district, except such as are hereinafter excepted.

Divisions and brigades may be increased or diminished.

SEC. 7. That the commander-in-chief shall have power and authority to increase or diminish the number of divisions and brigades, and to alter and arrange the boundaries thereof, and to divide, annex, and consolidate them as he may from time to time deem necessary, having regard however to the provisions of the first section of this act. And in like

manner the brigadier general may, with the appro- Bounds of regiments, &c., may be altered.
 bation of the major general, divide, annex, or alter
 the bounds of any of the regiments, or separate
 battalions, under his command, and the commanding
 officer of a regiment, or separate battalion, with the
 approbation of the brigadier general, may divide,
 annex, or alter the bounds of the companies under
 his command.

SEC. 8. That there shall be within each brigade Artillery and dragoons.
 district, and attached to said brigade, one company
 of artillery, and one company of dragoons or
 mounted riflemen, to be composed of volunteers;
 they shall be organized, clothed, armed, and ac-
 counted in all respects as such corps in the service
 of the United States are, unless the commander-in-
 chief shall otherwise direct. There shall be within
 each regimental district, and attached to said regi- Light infantry or riflemen.
 ment, two companies of light infantry or riflemen;
 they shall be composed of volunteers, and the light
 infantry shall be organized, clothed, armed, and
 equipped as the infantry in the army of the United
 States are for the time being, unless the brigadier
 general shall otherwise order and direct. The rifle-
 men shall be clothed, armed, and equipped as the
 brigadier general may direct.

SEC. 9. That the militia, for the purpose of improv- When militia to rendezvous.
 ing in martial exercise, shall rendezvous by companies
 in their respective districts, on the first Saturdays
 in the months of May and September, in each year, at
 ten o'clock in the forenoon of said days. The place
 of meeting shall be designated by the captain or
 commanding officer, by putting up, or causing to be
 put up, at least four written or printed advertise-
 ments, in the most public places in his district, ten
 days before the day of meeting. Captains or com-
 manding officers of volunteer companies shall in like
 manner, give notice of the place of the meeting of
 their respective companies twelve days previous to
 said day.

SEC. 10. That on the last Saturday of the month When company and staff officers to rendezvous.
 of August, in every year, the colonel or command-
 ing officer of each regiment, and separate battalion,
 shall, by written or printed advertisements put up
 or distributed, fifteen days before said day, call out
 all company and staff officers under his command
 to rendezvous at some convenient and suitable
 place, where they shall be formed and drilled in
 company order by the commandant. And at said

- Notice of regimental meetings.** rendezvous the commandant shall give to the officers public notice of the place where the regiment or battalion shall meet, which place shall be within his district, and the time as follows, viz: the first regiment, or the one lowest in number in each brigade, shall meet at ten o'clock in the forenoon, on the first Monday in October, and the next lowest in number shall meet on the next day, and so on, in numerical order, until all shall have met. The captain or commanding officers of companies shall then, within proper time, give notice of the intended regimental or battalion parade, in the same manner as they are directed by the preceding section to do in case of company rendezvous. Each regiment, and separate battalion, shall assemble in the month of October, as aforesaid, for the purpose of drill and parade, at such place as the commandant may appoint and direct. And at such drill and parade as many evolutions shall be performed as circumstances and the nature of the case will permit. *Provided*, That at the parades provided for by this and the preceding sections, the militia shall not be kept under arms longer than three hours at any one time.
- When to assemble for drill and parade.**
- How long militia may be kept under arms.**
- Rifles, &c., to be in good order.** SEC. 11. That it shall be the duty of every non-commissioned officer and private, who owns a rifle, musket, or fire-lock, to appear with it in good order at every parade.
- Books of instruction to be provided.** SEC. 12. That in order to ensure uniformity in the organization, discipline, and government of the militia of this Territory, it shall be the duty of the commander-in-chief from time to time to provide, at the expense of the Territory, such books of instruction as are or may be prescribed for the use of the army or militia of the United States, and furnish each commissioned officer with a copy. And each officer shall preserve and keep said book or books in good order, and hand them over to his successor in office.
- Militia to be reviewed.** SEC. 13. That the commander-in-chief, or the major general, may review the militia at his pleasure. It shall be the duty of the brigadier generals to review at least one regiment, under their respective commands, every year.
- Duties of brigade inspectors.** SEC. 14. That it shall be the duty of the brigade inspectors to attend to the regimental and battalion parades of the militia, composing the brigade to which they respectively belong, during the time of their being under arms, to inspect the arms and accoutrements of the different corps, superintend

their exercise and manœuvres, and to see that the same system of discipline is uniformly used by every officer in the brigade, and that it be the same which is used for the time being in similar corps in the army of the United States, or such as is directed to be used in the militia by the government of the United States. And it shall be the duty of the brigade inspectors to attend particularly to the dress, arms, and accoutrements of the volunteer companies, and also to the horse and equipments of the dragoons or mounted riflemen. The brigade inspectors shall, one month previous to the meeting of the Legislative Assembly, make full and complete returns to the adjutant-general of the actual condition of the arms and accoutrements of the several corps, and of every other thing which in his judgment may relate to the government and the general advancement of good order and military discipline. Each brigade inspector shall be allowed the sum of eight dollars for each regiment, or separate battalion, by him inspected and returned agreeably to this section, and twenty dollars additional, in full, for defraying travelling and contingent expenses, which shall be paid out of any money in the Territorial Treasury not otherwise appropriated. Their pay.

SEC. 15. That the commissary general shall, under the order of the commander-in-chief, have the custody and direction of all arms belonging to this Territory, and shall annually report to the commander-in-chief, and Legislative Assembly, the condition of the same. He shall, under the orders of the Governor, lend the arms and accoutrements to the officers of any volunteer company having twenty men in uniform. It shall be his duty to take the bond of the officers, with sufficient security, for the preservation and prompt return of said arms and accoutrements, when called for. And in order to enable the commissary general to comply with this section, it shall be the duty of the captain or commanding officer of each company, which shall have obtained arms and accoutrements as aforesaid, to report to him annually, or oftener if required, the exact condition of said arms and accoutrements. Arms and accoutrements.

SEC. 16. That the captain or commanding officer of each company of infantry, light infantry, and riflemen, shall annually, six weeks before the annual meeting of the Legislative Assembly, make a full and complete return, to the colonel or commandant When commanding officers of companies to make returns.

of the regiment or battalion to which he belongs, of the names of all the officers, non-commissioned officers, musicians, and privates, belonging to his company, also the dates of the commissions, and place of residence of the officers, the number and kind of arms and accoutrements belonging to, or in the possession of, the members of his company. The captains of the companies of artillery, and dragoons or mounted riflemen, shall, at the same time, make similar returns to the adjutant general.

When commanders of regiments to make returns.

SEC. 17. That the colonels or commandants of regiments and separate battalions, on receiving the annual returns from the captains, shall, one month previous to the annual meeting of the Legislative Assembly, consolidate them, and make a return thereof to the adjutant general. They shall also, at the same time, give a local description and the bounds of each company district composing the regimental or separate battalion district which they command.

Returns to be filed by the Adjutant General.

SEC. 18. That the adjutant general shall receive, and file in his office, all returns directed by law to be sent to him; he shall enter in a book, to be kept for that purpose, a local description of the companies, regiments, brigades, and divisions; he shall keep a roster of the officers of the militia, containing their names, dates of commissions, their rank, and corps to which they belong, also the division, brigade, regiment, and company to which they are attached. He shall annually, previous to the meeting of the Legislative Assembly, make a return to the commander-in-chief, and forward a duplicate thereof to the President of the United States; said return shall show the strength and condition of the different corps, and the number and quality of the arms and accoutrements. The adjutant general shall be allowed and paid one hundred and fifty dollars, annually, for book stationery, and in full for all his services as such, payable quarterly out of any money in the Territorial Treasury not otherwise appropriated.

When and to whom his returns to be made.

His pay.

Fines to be imposed for neglect or refusal to perform the duties required

SEC. 19. That if any commandant of a regiment, separate battalion, or company, shall refuse or neglect to give the proper notice for calling out the militia under his command, as required by the 9th and 10th sections of this act, he shall be tried by a court-martial, and fined at the discretion of the court in a sum not exceeding twenty dollars. And every person, subject to do duty under the provisions of

this act, who shall be absent, except in case of the sickness of himself or family, or, if present, shall refuse or neglect to answer to his name, and to do duty, or who shall leave his post or quit the ranks without leave, shall be tried by a court martial, and fined, if a colonel, not more than twenty dollars, nor less than five dollars; if a lieutenant colonel, or major, not more than fifteen dollars, nor less than five dollars; if a captain, not more than ten dollars, nor less than five dollars; if a lieutenant, not more than six dollars, nor less than three dollars; if a non-commissioned officer, musician, or private, not more than three dollars, nor less than two dollars. That every commissioned officer, who shall be guilty of disobedience of orders, neglect of duty, disrespect towards a superior officer, or any other unofficer-like conduct, shall be arrested and tried by a court martial, and fined in any sum not exceeding one hundred dollars, and may be suspended or cashiered, at the discretion of the court martial. If a non-commissioned officer, musician, or private, shall be guilty of disobedience to orders, or disrespect to an officer, during the course of the hours of parade, he shall be arrested and kept under guard during the balance of the three hours, and afterwards tried by a court martial, and fined not less than five dollars, nor more than twenty dollars. If any person, whether officer, non-commissioned officer, or private, or whether belonging to the militia of this Territory or not, shall appear at any 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 interrupt the orderly and peaceable discharge of duty by those under arms, he shall be arrested and kept under guard the balance of the three hours of parade, and be tried by a court martial, and fined not more than twenty dollars, nor less than five dollars.

And for appearing on parade ludicrously attired, &c.

SEC. 20. That the colonel or commanding officer shall, on the day of the regimental or battalion parade, make a list of the field officers, staff officers, and company officers, who are absent without special leave, and also a list of those (if any) who have been guilty of any offence mentioned in the preceding section, and he shall, within ten days thereafter, forward the list, with the charges and specifications, to the brigadier general, unless the brigadier general

To whom list of absentees and offenders to be forwarded.

be charged with some offence, in that case the list and charges and specifications shall be forwarded to the major general. The major general, or brigadier general, on receiving the aforesaid list, shall detail a court martial to meet at some suitable and convenient place within twenty days thereafter. And such courts martial shall be constituted, and all their proceedings shall be conducted, as courts martial for the trial of officers of similar grade are by the rules and regulations of the army of the United States for the time being, except only that the members may sit without being dressed in uniform. The proceedings of the court shall be immediately transmitted to the commander-in-chief for his approval or rejection.

Court martial to be detailed.

Proceedings to be sent to commander in chief.

Non-com. officers and privates absent without leave, &c.

Court martial.

SEC. 21. That at each and every parade, either company, battalion, or regimental, the captain or commanding officer of each company shall keep a correct list of the non-commissioned officers, musicians, and privates, who are absent without special leave, and on the last parade day, in each and every year, he shall detail a court martial for the trial of all who shall have been absent as aforesaid, or who shall have been guilty of any offence in the course of the current year. Said court martial shall consist of one commissioned officer, and four privates, the commissioned officer shall preside, and in case of a tie he shall decide. The president of a court martial shall have power and authority to swear and examine witnesses. If the commissioned officer be absent on the day of the court martial, the officer who detailed the court shall immediately supply the vacancy, by the appointment of another member of the company, whether officer or private. And a report of said absence shall be made to the commandant of the regiment, and the absentee shall be tried by a court martial, and fined in like manner as if he had been absent on the day of the regimental parade. And if any one of the privates be absent, the vacancy shall be immediately filled, and the absentee fined as though he had been absent on a parade day, without leave and without excuse, but he may appeal to the colonel of the regiment, who shall hear the cause and determine it equitably.

Fines, how collected and applied.

SEC. 22. That it shall be the duty of the president of each and every court martial held under the authority of this act, immediately after court rises, to make out a return to the clerk of the county com-

missioners' court of the name of each of the persons fined, and the amount of each fine. The said return shall be made to the clerk in the county in which the person fined resides, and the clerk shall include said fines in the list of taxes, and they shall be collected in the same manner, by the same collectors, with the same fees and costs, and be applied in the same manner, as other taxes for county purposes are for the time being collected and applied.

SEC. 23. That each drum major and fife major shall be allowed and paid two dollars for each day that they are employed on field days and officers' drills, and each drummer, fifer, and bugler, shall be allowed and paid one dollar for each day that they are employed under the provisions of this act.

SEC. 24 That the field officers of each regiment, and the commissioned officers of each company, shall furnish their respective commands with a stand of colors, and the necessary instruments of music. Each captain shall appoint the most efficient of the non-commissioned officers color bearer, and the field officers, on the day of the regimental parade, shall select the most efficient color bearer on that day. The commandants of regiments and companies shall have power and authority to draw on the county treasurer, of the county in which they respectively reside, for the amount by them expended in the purchase of colors and instruments of music, and also for the per diem herein allowed for the pay of musicians. And the treasurer is hereby authorized and required to pay it out of any money in the treasury not otherwise appropriated: *Provided*, That a stand of colors for a regiment shall not cost more than thirty dollars, and a stand for a company not more than fifteen dollars.

SEC. 25. That it shall be lawful for any commissioned officer, whenever and as often as any invasion, or imminent danger thereof, may come to his knowledge, to order out the militia, or any part thereof under his command, for the defence of the Territory. He shall immediately give notice thereof, detailing all the circumstances, to the commander-in-chief, and the commander-in-chief shall, on all occasions which to him may seem to require it, have full power and authority to call out any portion of the militia, either by draft, by the acceptance of volunteers, or EN MASSE.

Per diem allowance to musicians.

Colors and musical instruments to be furnished.

Militia may be called out in case of invasion, or danger thereof.

Persons ex-
empted from
militia duty.

SEC. 26. *And be it further enacted*, That the following designated officers and persons be and they are hereby exempted from militia duty, viz: The members of the executive, legislative, and judiciary departments of the Government of the United States, and their respective officers, all custom house officers and their clerks, all postmasters and mail carriers actually employed in the care and conveyance of the mail of the United States, all ferrymen on post roads, the Secretary of the Territory, the members and officers of the Legislative Assembly during its session and fourteen days before and after each session, ministers of the gospel of every denomination, who prove to the commandant of the company, in whose beat or precinct they reside, that they have been regularly ordained or licensed, and are now in full communion with their respective churches, and no others.

Repealing
clause.

SEC. 27. That all laws contrary to the provisions of this act are hereby repealed, and that this act take effect from and after its passage.

APPROVED, January 4, 1839.

MILL DAMS.

AN ACT to authorize Benjamin Nye to build a dam across Pine river.

Authority to
erect a dam
and mills or
other machinery.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That Benjamin Nye, his heirs and assigns, are hereby authorized and empowered to build a dam across Pine river, at any point on the north-west quarter of section twenty-one, township seventy-seven, north, range one, east of the fifth principal meridian, and to erect mills or other machinery, as they may deem proper, or in any other manner to make use of the water power created thereby: *Provided*, Said dam, or mills, shall not interfere with the rights of any individual, or of the United States.

APPROVED, January 12, 1839.