

a certified copy of such record to the secretary of state, at Madison, who shall file and preserve the same.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved April 1, 1863.

CHAPTER 242.

[Published April 10, 1863.]

AN ACT to provide for the enrollment of persons liable to perform military duty, and the organization of the state militia for active service.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows :

COMMANDER-IN-CHIEF, COMMISSIONS, OFFICERS OF GENERAL STAFF, AND STAFF OF REGIMENTS AND BATTALIONS.

Commander-in-chief—officers to whom commissions are issued, to take oath, &c.

SECTION 1. The governor, as commander-in-chief of the militia of this state, shall issue commissions to all officers appointed or elected under the provisions of this act, and each commission shall be countersigned by the secretary of state and attested by the adjutant-general; and the officer so commissioned shall take the oath of office prescribed by the constitution, before some officer authorized by law to administer oaths, a copy of which oath shall be endorsed on or attached to each commission; and the commission shall be deemed as taking effect on the day of the endorsement. In case of promotion, the commission shall take effect from its date. Commissions shall run at the pleasure of the commander-in-chief, except as is herein otherwise provided. The military staff of the commander-in-chief shall consist of one adjutant-general, one quartermaster-general, each with the rank of brigadier-general, four aids-de-camp, with the rank of lieutenant-colonel, and one surgeon-general, with the rank of colonel, and such other officers as the governor may from time to time require for active service, who shall be appointed by the governor, and shall continue in office for the same term as the governor, or at his pleasure. The adjutant-general and the quartermaster-general shall each appoint, as their [his] staff, one aid-de-camp, who must be a resident of this state, with the

General staff.

Staff of adjutant-general, quartermaster-general, regiments and battalions.

rank of captain. The staff of a colonel of a regiment and of a lieutenant-colonel, or a major commanding a battalion, as hereinafter provided, shall consist of one adjutant, one quartermaster and one surgeon, each with the rank of a first lieutenant, and one chaplain, one quartermaster-sergeant, one commissary-sergeant, one hospital steward, one chief musician and one sergeant-major, to be appointed by such commanding officer; the adjutant to be selected from the line, as in the United States army.

ADJUTANT-GENERAL AND QUARTERMASTER-GENERAL.

SECTION 2. The adjutant-general shall be *ex officio* chief of staff and inspector-general. The quartermaster-general shall be *ex officio* commissary-general and chief of ordnance. They shall reside at the seat of government, and shall keep their respective offices open for the transaction of business every day, (Sundays excepted,) during the usual business hours, as established by the several state departments.

Adj.-gen. and qr.-mas.-gen. *ex officio* ins.-gen. and com.-gen.—where to reside, &c.

DUTIES OF THE ADJUTANT-GENERAL.

SECTION 3. The adjutant-general shall keep and file in his office all returns, reports, and military correspondence made by him in accordance with the provisions of this act, or of any other law of this state. He shall, on or before the first day of October, of each year, make to the governor, to be by him laid before the legislature, a report of all the transactions of his department since his annual report, containing the number, strength and condition of the organized militia, and the strength of the enrolled militia of the state, and such matters of general interest relating to the volunteers and drafted men of this state, in the service of the United States, as his judgment may dictate. He shall also perform all other duties appertaining to his office, or which may be enjoined on him by law, and shall be the medium of military correspondence with the commander-in-chief. He shall also make and transmit to the president of the United States, an annual return of the militia of this state, pursuant to the laws of the United States, a copy of which, duly certified, he shall lay before the commander-in-chief of this state.

Adjutant-general to file returns, &c.

Annual report, &c.

Annual return to president.

DUTIES OF THE QUARTERMASTER-GENERAL.

Quartermaster-general to preserve arms, &c.

SECTION 4. It shall be the duty of the quartermaster-general to take charge of and to carefully guard and preserve, and to account for all arms, accoutrements, ammunition, ordnance stores, and other military property belonging to this state, or granted to it by the congress of the United States. He shall also keep an account of all moneys received and expended by him. The manner of keeping these accounts shall be directed by the commander-in-chief, and they shall always be subject to his inspection. He shall, on or before the first day of October, in each year, make to the governor, to be by him laid before the legislature, a report of all the transactions of his department since his last annual report, containing :

Annual report—what to contain.

1st. An account of all moneys received and expended.

2d. An account of all arms, accoutrements, ammunition, ordnance stores, and military property of every description, belonging to the state, from what source received, to whom issued or how expended, and by whose order.

3d. A statement of the present condition of all such property under his charge, and he shall state in whose possession the same may be.

BONDS AND DELIVERY OF PROPERTY.

Quartermaster-general to give bond.

SECTION 5. Before entering upon the duties of his office, the quartermaster-general shall give bonds to the state of Wisconsin, with four or more good and sufficient sureties, in the sum of twenty thousand dollars, conditioned that he shall faithfully perform all duties enjoined on him by law. If at any time the governor shall deem the sureties so given to be insufficient, he shall require the quartermaster-general to give new sureties or new bonds for such an amount as he may deem sufficient, to be approved by him, and if the quartermaster-general shall refuse or neglect to do so, the governor shall remove him from office. On the expiration of his term of office, or in case of his removal therefrom, the quartermaster-general shall deliver to his successor, in good order, all arms, ordnance, ordnance stores and other property belonging to the state, and all books, papers, bonds and money in his charge and pertaining to his office.

To deliver property to his successor.

CLERKS, STATIONERY AND PAY.

SECTION 6. The governor, adjutant-general and quartermaster-general are hereby authorized to employ such clerks and assistants, and to procure such blanks, blank books and stationery, as may be necessary to carry out the provisions of this act and for the discharge of the duties of their respective offices. The pay of such clerks and assistants, and of the adjutant-general and quartermaster-general, shall be assigned by the governor in orders to be filed at the time of their appointment, with the secretary of state; the amount for each of said clerks or assistants not to exceed the sum paid to the clerks in the office of the secretary of state and state treasurer, and the pay of the adjutant-general and quartermaster-general shall not exceed the amount now paid them, respectively, and to be paid from the treasury in the same manner as the clerks in the said last named offices are paid.

Clerks and stationery.

Salaries of clerks, &c.—how payable.

ENROLLMENTS.

SECTION 7. All able-bodied white male citizens, and other persons who shall have voted at any election in any of the United States, who are between the ages of eighteen and forty-five years, residing in this state, shall be subject to military duty, and shall constitute the militia of this state, and may be called out by the governor for discipline and inspection, and into actual service to suppress insurrection or rebellion, to disperse a mob, to repel an invasion or to enforce the execution of the laws of this state or of the United States, as hereinafter provided: *provided*, that all persons exempted from the provisions of a law of the United States, entitled "an act for enrolling and calling out the national forces, and for other purposes," approved March 3d, 1863, and such persons as may be rejected as physically or mentally unfit for service, shall be exempt from military duty, and no persons but such as are herein excepted shall be exempt.

Who subject to military duty.

Exemptions.

SECTION 8. Under the direction and superintendence of the commander-in-chief, all persons liable to military duty within this state, who are not already members of the organized militia thereof, shall be enrolled by the ward, town, city or village assessor or assessors, or by some suitable person to be designated instead, by the commander-in-chief. Such enrollment

Enrollment—how to be made

Rolls made by sheriffs may be used.

shall distinctly specify the names, ages, occupations and residences of the persons enrolled, and also whether such persons are married or unmarried. But the commander-in-chief is hereby authorized to make use of the rolls of any county which have been prepared by the sheriff thereof, under his direction, and to cause such persons to be disenrolled as are not subject to the provisions of this act, and such other persons to be enrolled as shall be liable to enrollment under this act: *provided, however*, that no enrolling officer shall be required to enroll any person whose mental or physical incompetency is visible or apparent to such officer.

Copies of enrollment to be filed.

SECTION 9. Two copies of the enrollment in the preceding section mentioned, alphabetically arranged and carefully corrected, shall be prepared by the officers making the same, one of which shall be filed in the office of the clerk of the circuit court of the county in which the villages, towns, wards or cities are situated, respectively, as aforesaid, and the other shall be deposited in the office of the adjutant-general at the capital.

Corrections, &c. of militia rolls.

SECTION 10. The commander-in-chief may annually, hereafter, cause to be made such corrections and additions to the militia rolls provided for in section eight of this act, in the manner specified in said section, so as to have said rolls contain a correct enrollment of all the persons then liable to perform military duty under this act; and copies of such rolls, so amended, shall be made, filed and deposited in the manner provided in section nine of this act.

ORGANIZATION OF VOLUNTEER COMPANIES.

Volunteer companies—meeting for organization, &c.

SECTION 11. Whenever a sufficient number of persons, by the provisions of this act, residents of any county of this state, subject to military duty, shall subscribe to a call for the organization of a volunteer company, the county judge of said county, upon due application of the persons who have subscribed, as above, shall appoint some suitable person, resident of the county, to open a book, in which he shall enter the names of persons so volunteering, and shall fix a time and place of meeting for the purpose of organization, by giving ten days' notice thereof by publication in some newspaper, or by posting notices in at least three public places in the county.

SECTION 12. The person so appointed shall preside at such meeting and organize the same. He shall superintend the election of the officers of said company, which election shall be by ballot. He shall make out, after said election shall have been determined, a list of the names of persons so volunteering, a certificate of each officer so elected, and transmit them to the colonel commanding the regiment, or the lieutenant-colonel or major commanding the battalion, if no regiment is organized, in which said company shall be organized, who shall, if found correct, transmit the same, with his approval, to the adjutant-general of the state, together with a copy of the proceedings of said meeting, and a copy of his appointments, and of the notice of said meeting, duly certified by him; and if it shall be found that such company has been organized, and such officers elected in conformity with the provisions of this act, such company shall be listed in the office of the adjutant-general as a company of the organized militia of this state; and the officers so elected shall be commissioned by the commander-in-chief: *provided*, that the commander-in-chief shall approve of such organization and of the officers so elected.

Election of officers—list to be sent to adjutant-general.

Listing of company, commissions to officers, &c.

SECTION 13. The volunteer companies shall be armed and equipped in the same manner as similar corps in the United States army, and shall consist of the following officers, non-commissioned officers and privates, viz.: To each company of cavalry, one captain, one first lieutenant, one second lieutenant, one first sergeant, five sergeants, eight corporals, one saddler, one wagoner, one farrier or blacksmith, and two trumpeters, and not less than sixty-two nor more than seventy-eight privates. To other companies there shall be one captain, one first lieutenant, one second lieutenant, five sergeants, eight corporals, one drummer, one fifer, one wagoner, and not less than sixty-four nor more than eighty-two privates, excepting light batteries, which shall be allowed one hundred and twenty-two active members each, and such officers as are allowed in the United States service.

Arming, &c., of volunteer companies.

Non commissioned officers and privates required for company.

SECTION 14. Volunteer companies and battalions may adopt a constitution and form by-laws, rules and regulations, not inconsistent with the constitution of the United States or of this state, for the government of their members and for their improvement in military

By-laws of companies and battalions.

Records.

science. It shall be the duty of the acting orderly sergeant of the company and sergeant-major of the battalion, to keep a perfect and complete record of the constitution, by-laws, rules and regulations of his company or battalion, which shall be signed by the captain or commander, and countersigned by the orderly sergeant or sergeant-major; and said record shall at all times be subject to the inspection of any member of the company or battalion, and all military officers or persons interested therein; and if any member of such volunteer company or battalion shall fail to comply with the provisions of such constitution, by-laws, rules and regulations, he may be expelled from such company or battalion, and his name erased from its roll.

Penalty.

Application to commander-in-chief for arms, &c, and his order for issuing same.

SECTION 15. When any volunteer company shall be organized according to law, the commanding officer thereof may apply to the commander-in-chief, through the proper military authorities, for such arms and accoutrements or stores as may be required. If the commander-in-chief shall approve such application, or any part thereof, he shall give an order directing the issue by the quartermaster-general, who shall immediately notify the officer making such application, that the arms, accoutrements or stores mentioned in such application, or any portion thereof, are ready for issue; and thereupon it shall be the duty of each [such] officer to give such bonds and security as may be deemed requisite by the quartermaster-general to secure the state from loss by reason of the misapplication of such arms or accoutrements, or equipments, or stores, or gross negligence of such officer, or any member of his company in relation thereto; and such bonds being given to his satisfaction, and on receiving duplicate receipts from such officer, the quartermaster-general shall make the issue, and shall file one copy of such receipts in his office, and transmit the other to the secretary of state.

Bond for proper use of arms, &c.

Issue of arms by quartermaster-general, and filing of receipts for same.

Companies may furnish their own arms.

SECTION 16. The commander-in-chief may permit the members of any organized volunteer company to furnish, at their own cost, suitable rifles, accoutrements and uniforms, subject to his approval, and may designate such company as riflemen or sharpshooters, and may assign the same to a battalion or regiment; and every member thereof who shall have furnished his own rifle, equipments and uniform, shall be entitled to re-

\$2 per year allowed for use of each.

ceive from the general fund of this state the sum of two dollars per annum for the use of the same, to be audited by the board of military auditors, upon the certificate of the quartermaster-general that such member has kept his said rifle, equipments and uniform in good condition, and that the same are fit for service: *provided, however*, that the provisions of this section shall not apply to more than two companies within any one congressional district of this state.

Proviso.

SECTION 17. The board of supervisors of each county in which there shall be one or more organized volunteer companies, upon application of the captain or commanding officer of the same, may, in their discretion, provide for each company in said county an armory, safe and suitable for the drill of squads in the school of the soldier, and an armorer to take charge of the same, and also, at each of its sessions, audit and allow, and cause to be paid, the necessary incidental expenses of said company previously incurred: *provided*, that the total amount for all the purposes above mentioned, shall not exceed twenty-five dollars per month for each company.

Armories for and incidental expenses of companies.

SECTION 18. The commander-in-chief shall have authority to demand and receive back from any portion of the military force of this state, any arms, equipments, military stores or other property belonging to the state, which may be in possession of any such military force; and when such arms, equipments, military stores or other property shall again come into the possession of the quartermaster-general, or other officer designated by the governor to receive them from such military forces to which they have been issued, as above provided, it shall be the duty of the quartermaster-general or officer so appointed, to receipt for the same, which receipt shall be in duplicate, one copy to be filed in the office of the quartermaster-general, and the other in the office of the secretary of state.

Demand for arms, &c., in possession of military force.

Receipts for arms returned.

SECTION 19. All arms, equipments and military stores issued as hereinbefore provided, shall at all times be subject to the examination by the inspector and ordnance officers of the state, and of any other officer designated by the commander-in-chief for that purpose; and if such officer shall find any of such public property out of repair, injured or defective, he shall immediately notify the facts, and report the same through

Arms, &c., subject to examination.

If not repaired when ordered, company may be disbanded.

the proper channels to the commander-in-chief, who, if the damage shall not be repaired and the defects or losses supplied within a reasonable time, may order the company or other organization having the same in charge, to be disbanded.

Transportation - bills for, to be audited by sec'y of state.

SECTION 20. The transportation of troops and all arms, equipments and military stores issued to troops, or received by the state under this act, shall be contracted for under the direction of the commander-in-chief, by the quartermaster-general, and the vouchers for such transportation, when audited by the secretary of state, shall be paid from the general fund on his warrant.

When arms, &c., may be issued to other than the organized militia.

SECTION 21. No public arms, equipments or military stores of any kind, shall hereafter be issued to any person not a member of the organized militia, except in time of war, insurrection or public danger so imminent that the commander-in-chief shall consider that the public safety requires him to make such issue, in which case an accurate account shall be taken of such issues, and to whom they are made.

Inventory and return of arms, &c.

SECTION 22. Within ninety days from the passage of this act, each and every officer of volunteer companies now organized, having in his possession any arms, equipments or military stores belonging to the state, shall make out a true and correct inventory thereof, and return the same to the quartermaster-general. No person shall retain at any time any arms, equipments or military stores of any kind belonging to the state, unless they have been properly issued to such person in pursuance of law, and he shall be permitted by proper authority to retain the same in the discharge of a public duty; and no person shall use any public arms, equipment or military stores belonging to the state, for his private use, under penalty, in either of the above cases, of not less than five nor over fifty dollars for each offence, to be recovered by suit in the name of the state of Wisconsin, by the district attorney of the county, before any court of competent jurisdiction; and the money so recovered shall be paid into the state treasury as a part of the general fund of the state. The quartermaster-general shall have authority to take possession of such arms and equipments so used, and he shall account for the same.

Who shall not retain state arms, &c.

Penalty.

Quartermaster-general to take possession of arms, &c.

ORGANIZATION OF BATTALIONS AND REGIMENTS.

SECTION 23. The commander-in-chief may form the organized volunteer companies, and companies of enrolled militia drafted into active service, into battalions and regiments, and appoint the commanding officers of the same, on the recommendation of a majority of the commissioned officers of the companies forming such battalion or regiment. Any number of volunteer or drafted companies not less than three nor more than five, may be formed into a battalion, and two battalions of five companies shall be deemed a regiment, and the officers of such regiment shall be a colonel, who shall be the commanding officer, one lieutenant-colonel and one major. A battalion of five companies shall be officered by a lieutenant-colonel, who shall be the commanding officer, and one major; and a battalion of three or four companies shall be commanded by a major.

Organization of volunteer and drafted companies into battalions and regiments—officers.

MUSTER ROLL AND LIST OF MILITARY PROPERTY.

SECTION 24. It shall be the duty of each and every commanding officer of any organized company in this state, on or before the last Mondays of April and September, of each year, to muster his company, and to make out in triplicate, muster rolls, setting forth the names and number of the members of his company, the officers in the order of their rank, and the privates in alphabetical order, one of which muster rolls, duly certified, he shall transmit, through his commanding officer, to the adjutant-general of the state. He shall file one in the office of the clerk of the circuit court of his county, and he shall keep the other as a voucher for himself. If such company shall form a part of any organized battalion or regiment, the commanding officer thereof shall transmit the same, with a muster roll of the field and staff officers of his battalion or regiment, to the adjutant-general of the state. It shall also be the duty of every such commanding officer of a company, at the time of making said muster rolls, to make duplicate lists of all arms, accoutrements, ordnance and ordnance stores, and other property belonging to the state, in his possession, one of which lists, duly certified, he shall transmit through his commanding officer to the quartermaster-general, and he shall keep the other as a voucher for himself. If such company

Triplicate muster rolls—when to be made.

How filed.

Triplicate lists of arms, &c.—how filed.

shall form a part of an organized battalion or regiment, the commanding officer thereof shall transmit the same, with a list of all the military property of the state in his possession, to the quartermaster-general.

Rank of officers. SECTION 25. All commissioned officers of regiments, battalions and companies, shall take rank according to the date assigned them by their commissions, and when two of the same grade are of the same date, their rank shall be determined by length of service in the militia, and if of equal service, then by lot.

CLASSIFICATION OF THE MILITIA.

Organized militia. SECTION 26. All commissioned officers of the staff of the commander-in-chief, the aid-de-camp [aids-de-camp] of the adjutant-general and quartermaster-general, and all commissioned officers, non-commissioned officers, musicians, artificers and privates of volunteer and drafted regiments, battalions and companies, whose names are upon the muster rolls of their respective regiments, battalions and companies, shall be denominated the organized militia of Wisconsin, and shall at all times be subject to be called into active service by the commander-in-chief; and when so called, each person shall be called and mustered according to his commission, enrollment and organization. All other militia in this state shall be denominated the enrolled militia of Wisconsin. The enrolled militia of Wisconsin shall be divided into three classes. The first class shall consist of all inhabitants of the state subject to military duty, who are unmarried and between the ages of eighteen and twenty-eight years. The second class shall consist of all inhabitants of the state, subject to military duty, who are unmarried and between the ages of twenty-eight and thirty-six years, and those who are married and between the ages of eighteen and twenty-eight years. The third class shall consist of all other inhabitants of the state subject to military duty. The second class of the enrolled militia shall not be called into active service until the first class is exhausted or insufficient in number to meet the exigency of the state. The third class of the enrolled militia shall not be called out until the first two classes are exhausted or found insufficient, as aforesaid; and the said third class shall in no case be used except within the limits of the county wherein it had been enrolled: *pro-*

May at any time be called into active service.

Enrolled militia—classification.

First class.

Second class.

Third class.

When subject to be called into service.

vided, that nothing contained in this section shall be so construed as to affect section [sections] forty and forty-one of this act.

HOW CALLED INTO ACTIVE SERVICE.

SECTION 27. In case of war, insurrection, rebellion, riot or invasion, or of resistance to the execution of the laws of this state or of the United States, or upon the call of any provost marshal [marshal] or other marshal [marshal] of the United States, in Wisconsin, or of any mayor of a city, or of any sheriff, the commander-in-chief is authorized to call into active service any portion of the organized or enrolled militia of this state. In case of the absence of the commander-in-chief from the capitol, or if it be impossible to immediately communicate with him, the civil or military officer making the requisition for troops may, if he deem the danger imminent and not admitting of delay, serve a copy of such requisition, together with a statement of the governor's absence [absence] or the impossibility of immediately communicating with him, upon the officer commanding the regiment, or in case no regiment is organized, upon the officer commanding a battalion, who is hereby authorized to exercise, with respect to calling out the troops of his regiment or battalion, the powers conferred in this section upon the governor; but if the call shall be disapproved by the governor, the troops so called into service shall be immediately recalled and discharged from such active service. Such call for any portion of the organized militia, shall be made by an order issued and directed to the company, battalion or regiment which is so called into service, designating, in such order, the particular troops called, the time and place of rendezvous [rendezvous,] and the officer to whom they shall report. If such order be directed to the officer commanding a regiment or battalion, it shall be immediately communicated to all the officers of such regiment or battalion; and any officer receiving such order shall rendezvous and report for duty as therein directed; and any officer commanding a company or battalion, on receiving such order, shall immediately proceed to notify the same to each individual of his command, by personal notice, and such officer shall attend in person, or by deputing an officer of the organized militia in his place, at the

When militia may be called into active service.

How called, in absence of commander-in-chief.

Order for call, &c.

Officer to notify his command, and superintend election of officers.

place of rendezvous, and take the name [names] of all volunteers for service under such call; and if the number of such volunteers shall be sufficient to form one or more companies or battalions, according to the provisions of this act, he shall immediately call and superintend the election of officers of volunteer companies and battalions, which elections shall be conducted in the manner prescribed by this act for the election of volunteer companies and battalions, except as to publication of notice of such election, a proclamation of the call of such election, made by the officer calling it at the place of rendezvous, being deemed a sufficient notice; but the governor shall have authority, if he shall deem it expedient, to direct that a portion of the volunteers so presenting themselves shall be assigned to organized volunteer companies or battalions already in active service, whose numbers are less than the full complement [complement] as prescribed in this act; after which those volunteering shall organize and elect as herein described.

Draft may be ordered—apportionment to towns and wards.

SECTION 28. If the number of volunteers so presenting themselves at the place of rendezvous, shall not be sufficient to satisfy the call of the commander-in-chief, he may order a draft from the persons liable to military duty as aforesaid, and the number of men required, and thirty per cent. in addition, shall be apportioned to each town and ward, according to the number of persons liable to military duty therein; and the commander-in-chief shall issue to the sheriff of each county an order stating the time at which such draft shall be made, the ages of men to be drafted, the aggregate number required from his said county, and the number required from each town and ward therein, as its just proportion of said aggregate number, including, as far as can be ascertained, the whole number of persons heretofore furnished from such town or ward; and the said sheriffs shall file the said orders in the offices of the clerks of the circuit courts in their respective counties.

Order to sheriff.

Under whose superintendence and how draft to be made.

SECTION 29. Such draft shall be made under the superintendence of the county judge and clerk of the circuit court for their respective counties, and shall be made by towns and wards, separately. The said clerk shall publicly place in a box to be provided for that purpose, separate folded ballots containing the names of all persons on said rolls of the prescribed ages, re-

siding in the town or ward to be drawn from, and the number of ballots corresponding to the number of men to be furnished by such town or ward, shall be drawn by a suitable person to be designated by said judge, from said box. Said person shall be previously blindfolded. And when a draft of all said towns and wards shall have been made, two lists of the persons so drafted shall be made out by said clerk in the order of such draft, and designating the town or ward in which such drafted men reside, duly certified, one of which lists shall be filed in the office of said clerk, and the other shall be deposited in the office of the adjutant-general.

Lists of persons drafted.

SECTION 30. The sheriff of the county shall, within five days after any draft shall be made in his county, serve a written or printed notice of the draft and place of rendezvous of the drafted military force, upon each person drafted, by delivering such notice to him personally, or by leaving it at his last and known place of residence. Such notices shall be furnished to the sheriff by the clerk of the court, who shall be supplied with suitable blanks for that purpose by the adjutant-general.

Notice to persons drafted.

SECTION 31. The governor shall appoint for each county, an examining surgeon of known experience, skill and integrity, whose duty it shall be, upon the application of any person who shall have been drafted, to make examination and determine if such person be exempt from military duty, by reason of physical disability rendering him unfit for military service. Such examination shall be thorough; and if the surgeon has reason to believe the applicant is practicing any deception, or if there is any doubt in his mind as to the actual inability of the applicant to perform military duty, he shall refuse to give such applicant a certificate. Whenever the surgeon shall determine that any person so applying shall be exempt as aforesaid, he shall deliver to him a certificate, certifying to and particularly describing such disability. Such surgeon shall keep a registry of the names of persons claiming exemption as aforesaid, in a book to be provided for that purpose; and he shall enter therein the grounds upon which each exemption is sought, the fact whether a certificate of disability be or be not granted, and, if granted, a description of such disability. If any examining surgeon shall be guilty of any fraud in relation to any duty im-

Examining surgeon to be appointed for each county—his duties.

Certificates of exemption.

Surgeon to keep registry.

Penalty.

posed upon or required of him as such surgeon, or if he shall be guilty of taking or receiving any bribe to grant or refuse any certificate of disability, he shall, on conviction, be punished by imprisonment in the state prison not less than one year nor more than three years. Such surgeon shall receive for his services such compensation as the governor shall prescribe. The governor may remove any examining surgeon whenever in his opinion justice requires it.

Compensation of surgeon, &c.

Proofs by drafted persons of non-liability to military duty.

Striking names from rolls.

Penalty.

Compensation of judge and clerk.

Substitutes.

SECTION 32. Any person drafted as aforesaid may, within five days after receiving notice thereof, as aforesaid, present to said judge and clerk his certificate of exemption, or other proof of non-liability to military duty. Where the applicant claims exemption upon any ground other than official position or physical disability, such claim, to be available, shall be established on oath to the satisfaction of both the county judge and clerk of the court. The examining surgeon's certificate of disability shall be sufficient proof in such cases. Personal knowledge or competent record proof shall be sufficient in cases of exemption claimed upon the ground of official position. When said judge and clerk are satisfied that any applicant is exempt, they shall strike his name from the roll of drafted persons, by drawing a red line through the same, and they shall enter in the margin the ground of exemption. If any county judge or clerk of the court shall fail or refuse to perform the duties required of him by this act, or by any order of the governor made under the authority conferred by law, the governor is hereby authorized to appoint some other competent person or persons to perform such duties. If any such judge, clerk or other person shall be guilty of any fraud in relation to any duty imposed upon or required of him as aforesaid, he shall, on conviction, be punished by imprisonment in the state prison not less than one year nor more than two years. Such judge and clerk (or other persons performing their duties) shall each receive three dollars for each day's services in the discharge of the duties hereinbefore mentioned.

SECTION 33. Any person so drafted may offer a substitute, who shall be an able-bodied man, between the ages of eighteen and forty-five years, and shall consent in writing, (with the consent of his father or guardian, if he be a minor,) to subject himself to all the duties and obligations to which his principal would have been sub-

ect, had he personally served ; and thereupon such substitute shall be accepted in lieu of such principal.

SECTION 34. The persons thus drafted shall assemble at the courthouse, if there be one, if not, at the place [place] where the circuit court hold their terms, of their respective counties, within six days after receiving notice of being drafted, as aforesaid, for the purpose of being mustered into the service of the state, and being transported to camps of duty. As soon as a sufficient number of such drafted men shall have appeared at the rendezvous to form a company or companies, they shall proceed to the election of their company officers, in the manner prescribed in section twenty-seven of this act.

Mustering into service of draftmen.

Election of company officers.

SECTION 35. Any company or companies of the enrolled militia, so drafted and organized, may, by direction of the commander-in-chief, be enrolled and mustered into any battalion of the organized militia having less than five companies ; and any drafted men of the enrolled militia, not organized into companies, may, at the discretion of the commander-in-chief, be enrolled and mustered into any existing company of organized or enrolled militia not having the full number authorized by law, and which has already been called into active service. If the enrolled militia, when drafted into service, shall fail to elect to any office designated in such call for an election, such vacancy or vacancies shall be filled by appointments made by the commander-in-chief ; and any company or companies of drafted militia not assigned to and mustered in any incomplete battalion of the organized volunteer militia, shall be organized into battalions or regiments, the field officers of which shall be appointed by the commander-in-chief, such appointments being made in cases where, in the opinion of the commander-in-chief, suitable persons can be obtained from the officers of the organized volunteer militia of this state.

Mustering of companies into battalions.

Officers—vacancies.

SECTION 36. As soon as the required number of able-bodied men liable to do military duty, shall be obtained from the list of those drafted, the remainder shall be discharged.

Discharge of drafted men.

OF OFFICERS IN ACTIVE SERVICE.

SECTION 37. The commission of any officer called into active service, shall continue until the military body in which he serves shall be disbanded by the command-

How long commissions to continue.

der-in-chief, or such military body shall be relieved from active service, or unless such officer shall be dismissed or discharged from the service by the proper authority; and no commissioned officer shall be allowed to resign when in active service. All vacancies of officers and non-commissioned officers shall be filled by appointment or promotion, the first by the commander-in-chief, and the second by the commanding officer of the troops in such service.

Vacancies.

NEGLECT OR REFUSAL TO RENDEZVOUS.

Persons who refuse to rendezvous deemed deserters, and subject to fine and imprisonment.

Fine to belong to school fund.

May be discharged after six months' imprisonment.

Provide.

SECTION 38. Any officer, non-commissioned officer, musician, artificer or private of the organized militia of this state, and any person of the enrolled militia thereof, who shall refuse or neglect to rendezvous and organize when ordered out or drafted, as provided in this act, shall be deemed a deserter, and shall be subject to a fine of not less than fifty nor more than five hundred dollars, to be recovered by an action to be brought by the district attorney, in the name of the state, upon the certificate of the officer or officers appointed to make the draft, or of the officer ordering out such member of the organized militia, before any court of competent jurisdiction in the county from which such person was drafted or member enrolled, and the fine so recovered shall be paid into the state treasury, as belonging to the school fund of the state; and in all cases where judgment for fines and costs of prosecution is rendered under this act, the defendant shall be committed to the county jail until the judgment is satisfied: *provided, however*, that if, upon application to the county judge, it shall appear to the satisfaction of said judge that said defendant has been imprisoned in the county jail for the period of six months, and that he is unable to pay such judgment, the county judge may order the discharge of such defendant from the county jail; *and provided, further*, that nothing in this section shall be held or construed so as to exempt or discharge such officer or person from any liability to perform military service for the term for which he was drafted, nor from arrest and trial by the proper military authorities for desertion.

PARADE OF BATTALIONS AND REGIMENTS.

Public parade at least two days each year.

SECTION 39. The commander-in-chief shall order a public parade of all the organized militia of the state,

on at least two days of each year, such parade to be held within the limits of the regiment or battalion to which such troops, respectively, belong; and such public parades shall be reviewed by the commander-in-chief, or by the officer of the regiment or battalion of the highest rank present. Immediately after such troops have been reviewed, they shall be inspected by the inspector-general, or in his absence by the officer designated by the commander-in-chief for that purpose; and such inspecting officer, after a minute inspection of dress and military bearing of the field officers and commissioned staff, and the officers of companies, and arms, accoutrements and dress of each soldier, will report the result of such inspection, and file the same in the office of the quartermaster-general.

Review and report thereof.

INSTRUCTION IN MILITARY DUTIES.

SECTION 40. All companies of the organized militia of this state, shall assemble at least once in two months for instruction, and all members who absent themselves from such meetings for instruction, during three consecutive meetings, unless properly excused by the commanding officer of such company, or through absence from the county or bodily disability, shall be debarred from the exemption of jury duty and poll tax, and subject to expulsion from their company. But it shall be lawful for the governor, whenever in his judgment the public interests require it, to order any company, regiment or other organized portion of the militia of this state, or any number or fractional part of the militia, or of the militia within certain prescribed ages, either of the whole state or any portion thereof, to assemble for instruction in military duties, at such times and places as he shall think necessary and proper. Such instruction shall be conducted under such regulations and in such manner, for such length of time, and by such officers, as the governor shall order.

Companies to assemble at least once in two months for instruction—penalty for absence.

May be assembled at any time.

EXEMPTIONS.

SECTION 41. All members of the organized volunteer companies of this state, shall be exempt from jury duty and from the payment of poll-tax of every description. Horses, arms, equipments and uniforms of all officers, non-commissioned officers and privates, used for military purposes in the organized or enrolled militia of the state, shall be exempt from execution.

Exemption from jury duty, poll-tax and execution.

RULES OF DISCIPLINE, AND SYSTEM OF INSTRUCTION.

Discipline, gov-
ernment and in-
struction.

SECTION 42. The rules of discipline and regulations of the army of the United States, shall, so far as the same may be applicable, constitute the rules of discipline and regulations of the organized militia of this state; and the rules and articles of war, established by congress and the war department for the army of the United States, shall be adopted, so far as they may be applicable, for the government of the militia of this state; and the systems of instruction in tactics, prescribed for the different arms and corps in the United States army, shall be followed in the military instruction and practice of the militia of this state, and the use of any other system is forbidden.

PAY AND ALLOWANCES OF MILITIA IN ACTIVE SERVICE.

Pay and subsis-
tence.

SECTION 43. Whenever any militia of this state shall be called into active service, and if engaged for ten days or less, the privates shall receive one dollar per day each, and be subsisted at the expense of the state. The officers shall receive the pay of their rank in the United States service. If engaged longer than ten days, they shall receive the same pay and rations as are or may hereafter be established by law for the army of the United States.

RETURN OF ARMS, &C.

Return of arms,
&c.

SECTION 44. When the commander-in-chief shall order the return to the state of any arms, equipments, military stores or other military property belonging to the state, such arms and military property shall be immediately delivered to the officers authorized in such order to receive the same, he receipting for the same and describing their condition in such receipts; and if the property mentioned in such order shall not be promptly delivered as directed, the officer named in such order is hereby authorized to take immediate possession of the same, in the name of the state; and any person resisting such officer in the performance of his duty, shall be deemed guilty of a misdemeanor, punishable by imprisonment for not less than two nor more than six months, in the county jail.

Penalty.

Auditing and
payment of ex-
penses.

SECTION 45. It shall be the duty of the secretary of state to audit all reasonable expenses incurred by

the militia in the active service of the state, and all other claims required under the provisions of this act, and to draw his warrants for the amounts thus audited; and the state treasurer is hereby required to pay the same out of any money in the general fund, not otherwise appropriated.

OFFICERS AND TROOPS ALREADY COMMISSIONED AND ORGANIZED.

SECTION 46. All volunteer companies organized prior to the passage of this act, shall be deemed to have organized in compliance with its provisions, and to be entitled to its benefits; but such companies shall be required to comply with all the remaining provisions of this act.

Companies already organized.

SECTION 47. Whenever any portion of the militia shall have been called into active service to suppress an insurrection or rebellion, or disperse a mob, or to enforce the laws of the state or of the United States, it shall be competent for the commander-in-chief to place such troops under the temporary direction of the mayor of any city, of the sheriff of any county, or of any provost or other marshal of the United States, in Wisconsin.

Under whose temporary direction troops may be placed to enforce laws of state, &c.

SECTION 48. The commander-in-chief may, from time to time, make and publish rules, regulations and orders for the government of the militia of this state, in accordance with the provisions and spirit of this act, or in accordance with the rules, regulations and orders of the war department of the United States, not inconsistent with this act.

Rules, regulations, &c.

SECTION 49. No person shall be a member of two companies at the same time, and any member of a company who removes beyond the limits of the county, shall be considered as having been discharged from such company.

No person to be member of two companies.

SECTION 50. In the absence of any appropriate commander, the next in rank in the command of troops, where not otherwise provided in this act, shall succeed to his authority; and every senior in his appropriate command shall have authority to control the actions of his junior, in accordance with the principles of military subordination, under the laws and usages that govern the United States army.

Succession to authority.

Discharges.

SECTION 51. No officers inferior in grade to a regimental or battalion commander, shall have power to grant discharges to non-commissioned officers, artificers, musicians or privates in active service, but the commander of companies of the organized militia, when not in active service, may issue certificates of service and discharge. All certificates of discharge shall be in writing, and shall set forth fully the cause of discharge, and shall be signed by the officer granting the same. Any officer resigning his commission, shall do so in writing, and transmit the same through his immediate commanding officer, who shall make his endorsement thereon, and the resignation shall go into effect when accepted by the commander-in-chief, and not before.

Resignations.

Disbanding of organized militia.

SECTION 52. The commander-in-chief is hereby authorized, at any time, by issuing his order to that effect, to disband any portion of the organized volunteer forces, or of the enrolled militia mustered into service, which may evince a mutinous, disorderly or disobedient spirit; and he may also, in like manner, disband any portion of the organized militia at any time when, in his judgment, it may be proper to reduce the military forces of the state, but he shall not have power to reduce the organized military forces of the state below a force equivalent to three full regiments, and he may deprive them of arms; a copy of which order shall be transmitted to the clerk of the circuit court or courts of the county or counties in which such force was raised; after which it shall be a misdemeanor in any person so disbanded to appear with state arms in his possession, or as any portion of the organized, volunteer or drafted militia, until again drafted or mustered into service, under the penalty of not less than ten nor more than one hundred dollars for each offense; and such person shall be proceeded against by the district attorney, in the name of the state, before any competent court of the county where such person may happen to be; and all fines so recovered and collected shall be paid into the treasury, as a part of the school fund.

Penalty.

Fines to belong to school fund.

Companies, &c., may uniform themselves.

SECTION 53. Every company, battalion or regiment of organized militia of this state, may adopt a uniform for itself, which shall be subject, however, to the approval of the commander-in-chief, on report of the inspection officers, and no uniform which is not thus approved

shall be worn when on duty. The uniform of all general officers and members of their staff, and all other officers not required to wear the distinctive uniform of their regiment or corps, shall be similar to that of corresponding grades and corps in the United States army, with such modifications as may be directed by the commander-in-chief for adapting it to state troops. Style of uniform.

SECTION 54. For all services under this act, sheriffs, constables and jailors shall receive like fees as for similar services in other cases, and shall be subject to the same penalties for any neglect of duty. Fees of sheriffs, &c.

SECTION 55. On the days of military parade, appointed by the commander-in-chief, the militia so called out and doing military duty shall be considered to be under military discipline from the rising to the setting of the sun; and no officer, non-commissioned officer, musician, artificer or private belonging to the same, during the time aforesaid, shall be subject to be arrested on any civil process. Exemption from arrest, &c.

SECTION 56. The commanding officer of any parade, review or drill, and the officer in charge of any rendezvous, [rendezvous,] may cause the ground selected for that purpose to be marked or designated in such a manner as not to obstruct the passage of travelers on any public highways; and if any person during the occupation of such ground for such military purpose, shall encroach upon such bounds, or enter upon such ground without the permission of such officer commanding or in charge, he may be put and kept under guard, by the order of such commander, until the setting of the sun of the same day, and shall be subject to arrest and punishment by any court of competent jurisdiction, for a breach of the peace. Rendezvous grounds not to be obstructed. Penalty.

SECTION 57. If any person shall intercept, molest or insult by abusive words or behavior, any officer, non-commissioned officer or soldier, while in the performance of his military duty, he shall be immediately put under guard and kept at the discretion of the commanding officer of the forces engaged in the performance of such military duty, until the setting of the sun of the same day on which the offences shall have been committed, and shall be subject to arrest and punishment by any court of competent jurisdiction, for a breach of the peace. Penalty for insulting officers or soldiers, &c.

Penalty for disobeying order of superior officer, &c.

SECTION 58. Any officer, non-commissioned officer or soldier, on military duty, who shall disobey the lawful and proper orders of his superior, use any reproachful or abusive language to his superior, or misbehave or demean himself in an unofficer or unsoldier-like manner, shall be immediately arrested, if an officer and if a non-commissioned officer or soldier, shall be disarmed and put under guard, and shall be tried and punished according to law and military usage.

When draft may be made, and manner of making it.

SECTION 59. If the number of volunteer companies of the militia of this state shall not, within three months from the passage of this act, amount to a force equivalent to three full regiments of organized militia, the commander-in-chief may proceed to draft and organize from the enrolled militia of the state a force equal to such number of regiments, in the same manner and with like effect as provided in this act for drafting enrolled militia for active service; and all the provisions of this act are hereby made applicable to the enrolled militia so drafted and organized, to the end that there shall always be a force of organized militia of the state equal to three regiments.

Fees of assessors, &c.

SECTION 60. The several assessors or other persons performing the duties of enrolling officers, as provided by section two of this act, shall each receive for such services the sum of two dollars for each day necessarily spent in the discharge of such duties. If any such assessor or enrolling officer shall be guilty of any fraud, deceit or wilful [willful] neglect of duty, he shall, on conviction, be fined in a sum not less than fifty dollars nor more than one hundred dollars, or shall be imprisoned in the county jail, not less than twenty days nor more than three months; and any justice of the peace of the county in which such offense shall be committed, shall have jurisdiction thereof, to try and determine the same and pronounce sentence thereon.

Penalty.

Governor to procure arms, &c.

SECTION 61. It shall be the duty of the governor to procure such arms, ammunition, supplies and equipments as he may deem expedient for the use of the militia of the state, in such quantities as shall be needed for those portions ordered to assemble for instruction or service, the custody of which arms, ammunition, supplies and equipments shall be assigned to the quartermaster-general.

Appropriation.

SECTION 62. There is hereby appropriated from the

general fund, and placed at the disposal of the governor, the sum of ten thousand dollars, to carry out the provisions of this act.

SECTION 63. All acts and parts of acts inconsistent with and contravening the provisions of this act, are hereby repealed. Repeal.

SECTION 64. This act shall take effect and be in force from and after its passage and publication.

Approved April 1, 1863.

CHAPTER 243.

[Published April 21, 1863.]

AN ACT to incorporate the Tomah and Lake St. Croix railroad company, and to repeal and annul a portion of a grant of land heretofore made to the La Crosse and Milwaukee railroad company.

(See supplement to local laws.)

CHAPTER 244.

[Published April 22, 1863.]

AN ACT to amend an act entitled "an act to consolidate and amend the act to incorporate the city of Milwaukee," and the several acts amendatory thereof.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows :

SECTION 1. The common council of the city of Milwaukee may, in consideration of the extraordinary expenditures in paying for and equipping steam fire-engines, levy for the year 1863, a tax not exceeding the sum of seventy thousand dollars for general city purposes, instead of the sixty thousand dollars, as now authorized by law to be levied; but this section shall not be construed to authorize the levy of any greater tax for any year subsequent to (A. D.) 1863, than is now or may be hereafter allowed by law.

Tax of \$70,000 authorized for general city purposes.