

CHAPTER 406.

[Published April 27, 1864.]

AN ACT to incorporate the Howard foundry company.

(See supplement to local laws.)

CHAPTER 407.

[Published April 4, 1864.]

AN ACT to amend chapter 242 of the general laws of 1863, entitled "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 :

Sec. 1 amended.

SECTION 1. Section one of chapter two hundred and forty-two of the general laws of 1863, entitled "an act to provide for the enrollment of persons liable to perform military duty, and the organization of the state militia for active service," is hereby amended, by striking out the word, "colonel," in the nineteenth line, and by inserting the words, "brigadier-general" in lieu thereof, and by striking out the word, "lieutenant," in the eighteenth line.

Quartermaster-general to preserve arms, &c.

SECTION 2. Section four of the act aforesaid is hereby amended, so as to read as follows: "The quartermaster-general shall discharge the customary duties of his office, and in addition thereto, such duties as pertain to the office of commissary-general and chief of ordnance. He shall have the charge of the military property of the state, and it shall be his duty to carefully guard all such property as may at any time be in his possession, to repair, preserve and account for the same. He shall also keep an account of all moneys received and expended by him. The manner of keeping such accounts shall be directed by the commander-in-chief, and 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 leg-

Annual report—what to contain.

islature, a report of all the transactions of his department since his last annual report, containing an account of all moneys received and expended by him, an account of all military property of every description belonging to the state and remaining on hand at the date of his last annual report, together with such as may have come into his possession subsequently to such date, stating from what source the same had been received, to whom issued or how expended, and on whose order, with the condition of such property remaining on hand; also, a statement exhibiting the possession and condition of all such military property as may have been issued under the military laws of this state, so far as the same may have been reported to him."

SECTION 3. Section five of the act aforesaid is hereby amended, so as to read as follows: "Before entering upon the discharge of the duties of his office, the quartermaster-general shall give a bond to the state of Wisconsin in the sum of twenty thousand dollars, with not less than four sureties, who shall be resident freeholders of this state, conditioned that he shall faithfully discharge the duties of his office, and that he shall deliver to his successor in office, or any other person authorized by law to receive the same, all arms, ordnance, ordnance stores and other property belonging to the state, all books, papers, bonds and money in his possession or charge pertaining to his office, which bond shall be approved by the governor; and if at any time, the governor shall deem the bond so given to the insufficient, he shall require the quartermaster-general to furnish such additional security as he may deem sufficient, and if the quartermaster-general shall refuse or fail to give such security, the governor shall remove him from office."

Quartermaster-general to give bond.

If deemed insufficient, additional security may be required.

SECTION 4. Section eleven of the act aforesaid is hereby amended, so as to read as follows: "Whenever sixty-five persons, residents of any county in this state, subject to perform military duty, shall subscribe to a call for the organization of a volunteer company or battery, the county judge of the county, upon such call being presented to him, shall appoint some suitable person, a resident of the county, to superintend the organization of such company or battery, who shall forthwith fix a time and place of meeting for the purpose of organizing the same, by giving at least ten days' notice

Volunteer companies—meeting for organization, &c.

thereof by publication in some newspaper published in said county, or by posting notices in three or more of the most public places in the county."

Sec. 12 amended. SECTION 5. Section twelve of the act aforesaid is hereby amended, by striking out that part commencing with the word, "He," in the fourth line, and ending with the word, "him," in the fifteenth line, and in lieu thereof inserting the following: "After said election shall have been determined, he shall make out a certified list of the names of the persons constituting said company or battery, and of the officers elected, and shall transmit the same, together with a copy of the proceedings and notice of said meeting, to the adjutant-general of the state;" and by adding to said section the following: "Vacancies occasioned by the death, promotion, resignation or discharge of said company officers, shall be filled by promotion of the next ranking officer, subject to the approval of the commander-in-chief."

Certified copies
of names of com-
pany and offi-
cers.

Vacancies.

Sec. 13 amended. SECTION 6. Section thirteen of the act aforesaid is hereby amended, by striking out the words, "sixty-two," in the ninth line, and in lieu thereof inserting the words, "forty-three," and by striking out the words, "sixty-four," in the thirteenth line, and in lieu thereof inserting the words, "forty-six."

By-laws of com-
panies and bat-
teries, &c., &c.

SECTION 7. Section fourteen of the act aforesaid is hereby amended, so as to read as follows: "Each company or battery of organized militia, may adopt such constitution and by-laws as a majority of all the members of such company or battery may approve, which shall be binding on all the members of the same; and when any fines are assessed by reason of any infraction of such constitution and by-laws, such company or battery, through its commanding officer, may have process from any court of competent jurisdiction in the name of the state, against the delinquent member, and prosecute the suit so instituted, to judgment and execution: *provided*, that no fine shall be executed under such constitution and by-laws against any member for willful absence or refusal to appear properly armed and equipped, and perform duty, at any of the stated times for muster, for instruction or for parade, exceeding five dollars nor less than one dollar; and that the commander of such company or battery may exonerate an absentee from a penalty named under the provisions of such constitution and by-laws, upon a reasonable ex-

cause being offered by the delinquent within one week after the committal of the offense; and *provided, further*, that said constitution and by-laws shall not conflict with the constitution of the United States and of this state, nor with the act aforesaid as herein amended, and that such fines and penalties as are provided for in this section, when collected, shall be paid into the treasury, as a part of the school fund of the state, by the commander of such company or battery."

SECTION 8. Section fifteen of the act aforesaid is hereby amended, by inserting between the words, "company" and "shall," in the first line, the words, "or company of drafted militia." Sec. 15 amended.

SECTION 9. Section sixteen of the act aforesaid is hereby amended, by striking out the words, "[board of] military auditors," in the eleventh line, and in lieu thereof inserting the words, "secretary of state." Accounts to be audited by sec'y of state.

SECTION 10. Section seventeen of the act aforesaid is hereby amended, by striking out the words, "may in their discretion," in the fourth and fifth lines, and in lieu thereof inserting the word, "shall." Sec. 17 amended.

SECTION 11. Section eighteen of the act aforesaid is hereby amended, so as to read as follows: "The commander-in-chief shall have authority to demand and receive back from any portion of the military force of the state, or from any person or persons to whom the same may have been issued under the militia laws of this state, any arms, equipments or other military property of every description, and when he shall order such return of military property, it shall be immediately delivered to the officer authorized in such order to receive the same; and when such property shall again come into possession of the quartermaster-general, or other officer designated by the commander-in-chief to receive the same, it shall be the duty of the quartermaster-general or other officer so designated, to receipt therefor, describing its condition in such receipt, which shall be in triplicate, one copy to be delivered to the officer or person returning it, one copy to be filed in the office of the quartermaster-general, and the other in the office of the secretary of state; and if the property mentioned in such order shall not be promptly delivered as directed, the officer named in the same is hereby authorized to take it into his immediate possession; and any person resisting such officer in the performance of

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

Receipts for arms returned.

Officer may take property into his possession.

Penalty for resisting officer.

his duty as herein prescribed, shall be deemed guilty of a misdemeanor, punishable by imprisonment for not less than two nor more than six months in the common jail of the county wherein the offense was committed."

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

SECTION 12. Section twenty-one of the act aforesaid is hereby amended, by striking out all after the word, "issue," in the sixth line, and in lieu thereof inserting the following: "In which case, they shall be issued in the usual form, by the quartermaster-general: *provided*, that the governor may, in his discretion, order the issue of old or unserviceable arms and equipments in the state armory, to such colleges and schools applying for the same, for the purpose instruction in military science, in such quantities as he may deem proper."

Sec. 37 amended.

SECTION 13. Section twenty-seven of the act aforesaid is hereby amended, by striking out the words, "or enrolled," in the eighth line, and by striking out all of said section after the word, "by," in the thirty-eighth line, and in lieu thereof inserting the following: "A written, or partly written and partly printed notice, delivered personally or left at the last and usual place of residence of the person so to be notified, with some person of suitable age and discretion, to whom the contents shall be explained; and in case of the refusal or neglect of any commissioned officer commanding a company or battery to notify, or cause to be notified, his command in the manner herein prescribed, when ordered so to do by the commander-in-chief, or other officers authorized to make such call under the provisions of this act, or failure to appear at the time and place of rendezvous named in such call, prepared for duty, as well as such subordinate commissioned officers of the organized militia refusing or neglecting to appear at the time and place of rendezvous, after being duly notified, as aforesaid, prepared for duty, such officer or officers shall be liable to a penalty of two hundred and fifty dollars, and be dishonorably dismissed the service, should the commander-in-chief deem it necessary for the public good. And if any non-commissioned officer, musician or private of the organized militia, after being duly notified, as aforesaid, refuse or neglect to appear at the time and place of rendezvous, properly armed and equipped for duty, he shall be liable to a penalty of fifty dollars. For the enforcement and collection of the penalties so incurred, process

How notice to be given.

Penalty.

shall be had from any court of competent jurisdiction in the county where the defendant or defendants may reside, in an action to be prosecuted in the name of the state, by the district attorney of the proper county, upon the complaint of any commissioned officer of the regiment, battalion, company or battery, or either of the officers authorized to make the call, as aforesaid: *provided*, that it shall constitute a good defense to such action to show irregularity in service of the notice, or physical disability to perform military duty at the time of the service of notice, or dangerous sickness in the family of the defendant at the time of service of such notice, or absence from home at the time of the service of the notice aforesaid, where such absence was not intended to avoid the service of the same; and all penalties recovered and collected under the provisions of this section, shall be by the district attorney prosecuting the suit, paid into the treasury as a part of the school fund of the state."

SECTION 14. Section twenty-eight of the act aforesaid is hereby amended, by striking out the word, "volunteers," in the first line, and by inserting the words, "members of the organized militia," in lieu thereof, and by striking the word, "aforesaid," in the fifth line, and in lieu thereof inserting the words, "enrolled militia."

SECTION 15. Section thirty-eight of the act aforesaid is hereby amended, by striking out the following: Commencing with the word "any," in the first line, and ending with the word, "and," in the third line; and by striking out the word, "thereof," in the fourth line, and in lieu thereof inserting the words, "of this state;" and by striking out the word, "organized," in the twelfth line, and in lieu thereof inserting the word, "enrolled;" and by striking out the words, "officer or," in the twenty-eighth line.

SECTION 16. Section forty-one of the act aforesaid is hereby amended, by adding thereto the following: "Every commissioned [and] non-commissioned officer, musician and private of any company or battery of the organized militia of this state, shall be held to duty therein for five years, unless some absolute disability shall occur after joining such company or battery, or he shall be discharged by the proper officer; and every person as aforesaid, after the expiration of said term,

shall be entitled to a certificate of such service, and said certificate shall be given to all such persons by the adjutant-general; and the holders of said certificates shall be thereafter exempt from military duty in time of peace, and from the payment of poll tax.”

Exemption from
jury duty, &c.

Quartermaster-
general to make
necessary pur-
chases, &c.

SECTION 17. Section forty-two of the act aforesaid is hereby amended, by adding thereto the following: “And the quartermaster-general is hereby authorized, under the direction of the governor, to make the necessary purchases, and issue to each company or battery of the organized militia, three copies of tactics, as above prescribed, invoicing and taking receipts for the same, as other military property, to such company or battery.”

Sec. 43 amended.

Section forty-three of the act aforesaid is hereby amended, by inserting between the words, “service” and “if,” in the sixth line, the following: “except the general staff, whose pay shall be assigned by the governor, as hereinafter provided.”

Parade, &c. not
to be held on
election day.

SECTION 18. The following shall stand in place of section forty-four of the act aforesaid: “No muster for instruction or parade of the organized militia of this state shall be held or called on any day during which a general or special election shall be held, nor within five days previously to such election, except in cases of riot, invasion or insurrection, or imminent danger thereof; and if any officer shall order any such muster or parade, he shall forfeit and pay the sum of one hundred dollars, in an action upon complaint of any person interested, to be commenced and prosecuted to final judgment and execution in like manner as is provided for in section twenty-seven of the act aforesaid, as herein amended; and the amount so forfeited, when collected, shall be paid into the treasury as a part of the school fund of the state, by the district attorney prosecuting the action.”

Penalty.

Sec. 45 amended.

SECTION 19. Section forty-five of the act aforesaid is hereby amended, by inserting between the words, “by” and “the,” in the second and third lines, the following: “members of the general staff in carrying out his orders, and by.”

Sec. 56 amended.

SECTION 20. Section fifty-six of the act aforesaid is hereby amended, by inserting the word, “unnecessarily,” after the word, “to,” and before the word, “obstruct,” in the fifth line.

Sec. 62 amended.

SECTION 21. Section sixty-two of the act aforesaid is hereby amended, so as to read as follows: “There is

hereby annually appropriated from the general fund, a sum sufficient to carry out the provisions of the act aforesaid, as herein amended."

SECTION 22. All acts and parts of acts, so far as they conflict with the provisions of the act to which this amendatory, are hereby repealed. Repeal.

SECTION 23. This act shall take effect and be in force from and after its passage.

Approved April 4, 1864.

CHAPTER 408.

[Published April 27, 1864.]

AN ACT to protect the owners of ferry charters on the Wisconsin river.

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

SECTION 1. In all cases where a ferry charter has been or shall hereafter be granted, on the Wisconsin river, giving to any person or persons the exclusive right of ferriage, it shall not be lawful for any board or boards of supervisors to grant a license or licenses to any other person or persons other than such as own such charter, within one mile each way from the point or points designated for landing by said charter: *provided*, the person or persons owning said charter shall at all proper times keep and run a sufficient number of ferry boats to accommodate the wants of the public.

No ferry to be licensed within one mile of any having a charter.

SECTION 2. This act shall take effect from and after its passage.

Approved April 4, 1864.