

...according to the best of my skill and ability: so help me God." And the judge advocate shall administer the following oath to the members of the court martial: "I, A. B. do swear that I will hear and determine all the causes which may come before this court, and that I will faithfully report all delinquents that come within my knowledge, that I will account for all fines and forfeitures by me collected or received, and in all cases enforce a due execution of the militia laws of this State, to the best of my knowledge and ability; so help me God." They shall enquire into the age and ability of all persons that come before them by appeal, and exempt such as may be judged incapable of service; also try and decide on all persons charged with omission or commission, as well by officers as by privates. The said regimental or battalion court martial shall hear and determine all appeals from the company court martial, and order and dispose of all fines for buying guns, rifles, and other implements of war, for the use of the company whence the same shall arise, and for supplying the militia with arms and accoutrements, and for other purposes, that will promote the good thereof. The judge advocate shall be allowed a reasonable salary, to be paid out of the fines for his services. His duty shall be to write up the proceedings of the said court. For all fines which may be imposed by the court martial, he is hereby authorized and required to enter up judgment and issue execution, which, if against commissioned officers, shall be directed to the adjutant or constable; if against non-commissioned officers or privates, shall be directed to a constable of the company to which the delinquent belongs. The constable or adjutant shall proceed to distrain and sell, in the same manner and under the same rules as are established by law for the government of constables in their duty in civil cases, and shall be allowed the same fees for their services. The adjutant or constable shall in all cases make due returns to the next succeeding court martial; and in case of failure of such an adjutant, sergeant, or constable to do the several duties as required of them by this act, in collecting and accounting for all fines, such adjutant, sergeant, or constable, as the case may be, shall incur a penalty or fine of double the amount that such adjutant, sergeant, or constable was bound to collect and account for.

Sec. 30. It shall be the duty of the paymaster to demand and receive of the adjutants, sergeants, and constables and others who may have collected fines and forfeitures, and distribute the same according to the directions of the court martial, and settle his accounts annually with the judge advocate. And the paymaster, respectively shall, before they enter on the duties of their office, give bond and sufficient security, in the sum of two hundred dollars, payable to the commanding officer of the regiment and his successors in office, for the faithful accounting for, agreeably to law, of all sums of money which may come into his hands by virtue of his appointment. And it shall be the duty of the commanding officer aforesaid, under the penalty of two hundred dollars, to sue for and recover the same; and when the same is so received by him, apply it as is already by law directed. And the several paymasters shall be allowed a reasonable compensation for their services, by the court martial. In case there shall be no paymaster appointed by the commandant of any regiment, then and in that case, each commandant shall perform and execute the duties of paymasters as above required.

Sec. 31. Every officer, at the first meeting of the court martial, after being commissioned, shall take and subscribe the following oath, to be administered in open court martial, by the judge advocate, or if a company officer, it may be taken before the commanding officer of the regiment: "I, A. B. do solemnly swear that I will execute the office of _____ according to the rules of military discipline, and the laws of this State, to the best of my knowledge and ability, and that I will support the constitution of the United States, and of this State; so help me God;" and also the following oath: "I, A. B. do swear that I will at the court martial of the company to which I belong, duly administer justice and apply fines and penalties according to law, and to the best of my ability, without favor, affection or partiality; so help me God." No officer shall be allowed to sit in a regimental, battalion or company court martial, unless he shall have taken and subscribed the oaths aforesaid.

Sec. 32. If at any regimental, battalion, or company court martial, or company of the officers, there shall be any delinquents, either for non-attendance or not being properly armed and accoutred, or for disorderly conduct, proclamation shall be made by the captain or commanding officer, calling the names of all delinquents enrolled, that they attend the trial, at the following company court martial, which shall be deemed a legal notice. If field officers or officers of the regimental staff, such notices shall be given by the commanding officer or adjutant of the regiment or battalion, or to the officers assembled; and if any officer or private has an excuse to offer to the court martial, he may send his affidavit, taken before a civil magistrate, or produce a witness, or he may personally appear and make oath to the cause of his delinquency; and in all cases, whether from neglect or failure of the officers and privates of regimental or battalion musters, or appeals from the company courts martial, and all other cases of which the regimental courts martial have jurisdiction, their determination shall be final.

Sec. 33. The several courts martial shall have power and legal authority to adjourn from day to day, or to any future day, when it shall be the duty of the officers, entitled to compose the same to attend, and the penalties by law established, in other like cases for non-attendance, and at which time the unfinished business of the court may be acted upon. If there should not meet a sufficient number at the place of adjournment to form a quorum, the officer ordering the same shall have power to continue its adjournments.

Sec. 34. It shall be the duty of each commanding officer of a regiment to exact and enforce regular settlements of all fines collected under the militia laws, from the several persons charged with the collection thereof within his regiment; which fines shall be appropriated as directed by law. And it shall be the duty of each captain or commanding officer of a company to report, in writing, once in every six months, to the commanding officer of the regiment to which he belongs, the amount of fines assessed in his company within that period.

Sec. 35. Every commandant of a regiment shall, at least once in every year, on or before the 25th day of October, make a return to the brigadier general of the brigade to which such regiment belongs, and shall transmit a duplicate of the same to the adjutant general, on or before the fifteenth day of November, in every year; at the bottom of which he shall report whether or not his regiment was reviewed by the major or brigadier general, and at what time.

Sec. 36. It shall be the duty of a major general to review his division once in every three years, and a brigadier general to review his brigade once in every two years, the several corps composing the division or brigade, to meet by order of the reviewing general by regiments, at such time as he may appoint, and at the usual places of regimental musters in their respective counties. It shall be the duty of the major and brigadier generals to give fifty days notice, by order, to the commandants of their regiments or brigades, of the time of the review, previous to such review taking place. Any major or brigadier general failing to give notice as above directed, shall forfeit and pay for every offence, the sum of forty dollars, to be recovered before any jurisdiction having cognizance thereof, one half to the use of the county in which such recovery was had, and the other half to the use of the person suing for the same.

Sec. 37. The brigadier general of each brigade shall make a return of his brigade to the major general of his division, on or before the 10th day of November, in each and every year, and shall transmit a duplicate of the same to the adjutant general, on or before the fifteenth day of November, in which he shall state when his brigade was last reviewed, by the major general of his division. The major general shall make a return of his division to the adjutant general, on or before the annual meeting of the General Assembly.

Sec. 38. If any general officer or commandant of a regiment shall fail to review his division or brigade, or muster his regiment, or to make an annual return of his division, brigade or regiment, as is now required by law, or if any major or brigadier general shall fail to equip himself, it shall be the duty of the Governor to cause the adjutant general to give such delinquent officer thirty days notice of his neglect of duty; and if such delinquent does not, within forty days thereafter, render a satisfactory excuse for such neglect, by showing to the Governor that such delinquency happened in consequence of indisposition, absence from the State, or other sufficient cause, it shall be the duty of the Governor to strike his name from the list of officers. And when the Governor shall thus strike the name of any officer from the list of officers, he shall communicate it to the adjutant general, who shall have it published in some newspaper within this State, and issue proper notices to supply the vacancy.

Sec. 39. It shall be the duty of the adjutant general to distribute all orders from the commander in chief of the State to the several corps, to attend public reviews if required, when the commander in chief of the State shall review the militia or any part thereof; to obey all orders from him relative to carrying into execution, and perfecting the system of military discipline established by law; to furnish blank forms of different returns that may be required, and to explain the principles upon which they shall be made; and also, to furnish blanks for such returns; to demand and receive from the several officers of the different corps throughout the State returns of the militia under their command, reporting the actual situation of their arms and accoutrements, and their delinquencies, and every other thing which relates to the advancement of good order and discipline. All which the several officers of the divisions, brigades, regiments and battalions, are hereby required to make in the manner herein directed, that the adjutant general may be duly furnished therewith previous to the biennial meeting of the General Assembly. From all which returns he shall make proper abstracts, and by the same, with a report of the general state of the militia, magazines and military stores, and such improvements as he may think necessary for the advancement and benefit of the militia biennially, to the General Assembly, or to the commander in chief of the State, who is requested to lay the same, without delay, before the said Assembly. And the adjutant general shall also, annually make a return of all the militia of this State to the President of the United States. In failure of which recited duties, he shall suffer the following fines and penalties: for not attending all public reviews, when required by the Governor or commander in chief of the State, fifty dollars; for not furnishing blank forms, as required by this act, the sum of ten dollars, for each neglect, to be recovered before any jurisdiction having cognizance thereof, one half to the use of the informer, and the other half to the use of the State; for not distributing all orders from the commander in chief of the State, or for not making returns as required by this act, upon conviction either before a general court martial, to be ordered by the Governor, he shall be cashiered. The said adjutant shall be compensated for the expense of all the blank forms of returns necessarily prescribed in his department, and the postage of all letters to and from him in his capacity as adjutant general, to be paid to him by the treasurer of the State, on the adjutant general producing a stated account of the same by him certified. The adjutant general shall keep a roster of the names and dates of the commissions of each major and brigadier general in this State, likewise the counties under each of their commands respectively, designating therein the numbers of each division, brigade and regiment, ready at all times for immediate inspection; shall at least once in every three years transmit a copy of this roster, certified by him, to the President of the United States, to the Governor of this State, and to the General Assembly. And he shall from time to time make report to the Legislature, of what shall be done by him in virtue of his appointment, and accompany such report with such remarks as may by him be deemed necessary for the better regulation and improvement of the militia discipline throughout the State.

Sec. 40. If no immediate opportunity offers for forwarding orders or returns, the certainty of which ensures a speedy delivery thereof, which can be easily ascertained and proved, then it shall be the duty of the officer issuing the order, or making the return, (as the case may be,) to lodge the same, properly directed, in the post office, marked on the back "public service," under which he shall write his name and grade; and a return thus made shall be deemed sufficient and good in law.

Sec. 41. The governor for the time being, is hereby authorized to mitigate or remit all fines and penalties which may be recovered in any of the courts of justice, against any general or field officer, arising under the militia laws of this State.

Sec. 42. There shall be in each brigade of militia in this State, one regiment of cavalry; there shall be to each regiment of cavalry, one colonel, one lieutenant colonel, and one major; to be appointed, in case of vacancy, by joint vote of both houses of the General Assembly, and commissioned by the governor for the time being. And out of the militia enrolled in this State, there may be formed, out of each battalion that has a separate muster, at least one troop of cavalry, to be formed of volunteers, which shall be uniformly clothed in regimentals at their own expense, the color and fashion to be determined by the field officers of cavalry of the regiment or battalion to which they belong; to each troop one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, one trumpeter, and no less than twenty-four dragoons. The commissioned officers to furnish themselves, with good horses, at least fourteen and one half hands high, to be armed with a sword and pair of pistols, the holsters of which shall be covered with bear-skin; and each dragoon shall furnish himself with a serviceable horse, at least fourteen and a half hands high, a good saddle, bridle, breast plate, cruppers and valise, a pair of boots and spurs, one pair of pistols and holsters, the holsters to be covered with bear skin; a sword and cartonch-box, to hold twelve cartridges for pistols. And the field officers and commissioned officers shall reside within the brigade, regimental or troop district in which they respectively command. There shall also be to each regiment of cavalry, one adjutant, one quartermaster, one pay master, one surgeon and one surgeon's mate; each of the rank of lieutenant, to be appointed by the commanding officer of each regiment. The commissioned officers of troops of cavalry shall be recommended by the field officers of the regiment to which they belong, and commissioned by the governor for the time being. All non-commissioned officers of each troop shall be appointed by the captain of such troop. All commissioned officers shall take rank according to the date of their commissions; and where two or more of equal grade bear the same date, then their rank shall be determined by lot, to be drawn by them before the commanding officer of the regiment to which they belong.

Sec. 43. Each troop of cavalry shall muster at least once in every three months, at such time and place as the captain or commanding officer of such troop shall direct. And it shall be the duty of the captain to make a true return of his troop to the commanding officer of the regiment to which he may belong, on or before the first day of September, in each and every year, under the penalty of thirty dollars for each neglect. The troops of cavalry, when attending the general muster of the regiment or battalion of infantry, shall be under the command of any field officer of the cavalry, if present on parade; except on review days, when ordered by the major general, adjutant general, or brigadier general; and at the reviewing of the regiment of cavalry, when ordered by the colonel thereof, the cavalry shall be under the command of the officers of the cavalry only, except a general officer shall be present on parade.

Sec. 44. It shall be the duty of the field officers of cavalry, once in every two years, to review the troops of cavalry composing their respective regiments, at some place most convenient in the brigade, to be designated by a majority of the commissioned officers of the regiment, at such time as the com-

manding officer of the regiment shall appoint, of which, at least thirty days' notice shall be given to the commanding officers of the several troops. The commanding officer of each regiment of cavalry shall, once in every year, on or before the first day of October, make a just and full return, after the form prescribed by the adjutant general, of all officers and dragoons under his command, and their equipments, to the brigadier general to whose brigade the said regiment belongs; and shall also transmit to the adjutant general, on or before the fifteenth day of November, in each year, a duplicate of such returns; and at the bottom of the same, shall state when his regiment, or the several troops composing it, were last reviewed by the brigadier and major generals.

Sec. 45. A majority of the commissioned officers of each troop, and a majority of the commissioned officers of each regiment, immediately after their respective troop or regimental musters, shall hold troop or regimental courts martial in the same manner; and the courts shall have the same power, duties and authorities, and shall be governed by the same rules and regulations, as the company or regimental courts martial of the infantry herein before prescribed: Provided, however, that the delinquents of each troop of cavalry, at any regimental parade, shall be heard, and either fined or excused at the troop court martial next succeeding such regimental muster or review. And the troop courts martial shall make returns to the next succeeding regimental court martial, of their proceedings, and of all monies by them caused to be made, to be disposed of as herein directed.

Sec. 46. The fines of the officers, non-commissioned officers and privates of the troops and regiments of cavalry, for not holding musters, not attending musters, parades and reviews, or not being armed and equipped as required by law, shall be the same as herein before prescribed for officers, non-commissioned officers, and privates of the infantry in similar cases.

Sec. 47. All fines and forfeitures incurred by the cavalry, officers or privates, and not herein particularly appropriated, shall be applied to the purposes of first buying trumpets, and then at the disposal of the regimental courts martial, to the use and benefit of the troops whence the same arose. Those fines paid by the field and staff officers, and not particularly appropriated to which they respectively belong. All other fines and forfeitures shall be appropriated and divided at the discretion of the regimental court martial, for the promotion and advancement of military discipline.

Sec. 48. It shall be the duty of the adjutant of the regiment to attend the regimental parade, and receive and execute such orders as the commanding officer may deem expedient; and the said adjutant shall take an oath of office in open court martial, and, from time to time, call upon, and bring suit against all delinquent captains, and other commissioned officers, below the grade of captain, for fines and penalties by them incurred, and which are not otherwise specially provided for in this act; and to receive and account for the same annually with the paymaster of the regiment, for which services the adjutant shall be allowed a reasonable compensation, to be paid out of the fines so collected by order of the court martial. And in case any adjutant shall fail to attend and perform his duty, as required by this act, he shall forfeit and pay the sum of one hundred dollars.

Sec. 49. The following sections of this act, in relation to the infantry, are hereby declared to apply to the cavalry, to wit: so much of the 12th, 13th and 39th sections, as relates to officers under the grade of brigadier general, also the 14th, 15th, 26th, 27th, 28th, 29th, 31st, 32nd, 35th, 40th, 41st and 42nd sections.

Sec. 50. No person shall be commissioned in any troop of cavalry, unless the number is such as shall be prescribed by this act. And when from default of numbers or otherwise, a troop shall no longer be entitled to muster as cavalry, it shall be the duty of the captain of infantry, in whose company district the members of such troop shall reside, to cause them to be enrolled in their respective companies.

Sec. 51. That out of the militia of this State, there may be enrolled as many volunteer companies of artillery, light infantry, grenadiers or rifle-men, as may see fit to form themselves into such; each company to consist of forty-four privates, four sergeants, four corporals, one captain, and three lieutenants.

Sec. 52. That the said companies shall be clothed in regimentals, to be furnished by themselves, of their own choice and fashion, and shall attend battalion and regimental reviews, parades and drills, whenever ordered by the colonel of the county, or commanding officer of the regiment to which they respectively belong; shall be subject to his orders, liable to the same fines and penalties for the non-performance of military duty, misdemeanors in office, or dereliction of duty, as the militia of this State now are or may hereafter be subjected by law.

Sec. 53. That whenever there may be a sufficient number of volunteer companies in any one brigade in this State, to form a regiment, containing as many companies as five, the commissioned officers of such companies may meet together at such time and place as a majority of them may designate, and proceed to elect a majority of said commissioned officers being present) a colonel, lieutenant colonel and major; the result of said election to be certified by the senior officers present at said meeting who shall also preside thereof) to the brigadier general of said brigade, whose duty it shall be to lay said result before the Governor, who shall forthwith issue commissions to the said officers.

Sec. 54. The captains and lieutenants of said companies shall be elected by a majority of the members of their respective companies; and the non-commissioned officers of said companies shall be appointed by the commissioned officers thereof.

Sec. 55. The captain or commanding officer of each company of artillery, light infantry, grenadiers or rifle-men, shall at least once in three months muster their men at such time as such captain may direct, and at such place as may be agreed on by a majority of the company; and that each of said companies may adopt rules and regulations for their own government, not inconsistent with the laws and constitution of this State or of the United States.

Sec. 56. That whenever a regiment of volunteers shall be formed and officered, as herein before required, it shall be their duty to make annual returns to the brigadier general and adjutant general, as is, or may be, required to be made by the field officers of infantry or militia.

Sec. 57. That no person who now is, or shall hereafter procure himself to be, enrolled in any company of artillery, light infantry, grenadiers, or rifle men, or in any volunteer company, shall be permitted to return to the infantry, except by the consent of the field officers of the regiment, or by removal out of the county, regiment or battalion, wherein such person was enrolled; and it shall be sufficient for any person to be enrolled and approved by the captain of said volunteer company, without the intervention of any other officer: Provided nevertheless, that any person enrolling himself with any captain of a volunteer company, shall be subject to perform all the duties and exercises in the infantry, and under the officers thereof, until such person so enrolling himself fully and completely equip himself with clothing and arms required and settled on for such company, and a certificate to that effect procured from the captain with whom he has enrolled, and produced to the captain under whom such person so served before such enrollment, or his successor in office.

Sec. 58. Whenever there may be formed a regiment of volunteers as herein before provided, it shall be the duty of the commanding officer of such regiment to review his regiment, as often as the colonel or commanding officer of infantry may be required to do by law.

Sec. 59. That whenever a vacancy shall occur by death, resignation or otherwise, among the field officers of said regi-

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