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# LAWS OF THE STATE OF LOUISIANA

(PUBLISHED BY AUTHORITY.)

EXTRA SESSION.

No. 75.

## AN ACT

To organize, arm and equip a Uniformed Militia, to provide for its instruction, duties and government, to appropriate one hundred thousand dollars for the arming, equipping and payment of the same.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That the militia of the State of Louisiana shall be composed of all the able-bodied male citizens thereof, between the ages of eighteen and forty-five years, who are not disfranchised by the laws of the United States and of this State.

SEC. 2. Be it further enacted, etc., That the militia of the State shall be and are hereby divided into three divisions, which shall be known, respectively, as the First, Second and Third Divisions of the Louisiana State Militia.

SEC. 3. Be it further enacted, etc., That it shall be the duty of the collector of taxes in each parish, except the parish of Orleans, immediately upon the passage of this act, to enroll on a list the names, residences and ages of all the able bodied male citizens who are subject to military duty in their respective parishes, and transmit the same to the Governor within thirty days from the passage of this act.

SEC. 4. Be it further enacted, etc., That in the parish of Orleans it shall be the duty of the State tax assessors of the several districts, immediately upon the passage of this act, to proceed forthwith to enrol on a list the names residences and ages of all the able bodied male citizens of said parish subject to military duty, and transmit the same to the Governor within thirty days from the passage of this act, or as soon thereafter as possible.

SEC. 5. Be it further enacted etc., That the lists provided in sections three and four shall be made in duplicate, and shall be signed and attested under oath by said collectors of taxes or State assessors of taxes, as the case may be, as true and correct lists of all persons subject to military duty in their respective parishes, and one list shall be transmitted to the Governor and the other shall be filed with the clerk of the District Court of the parish.

SEC. 6. Be it further enacted, etc., That said collectors and assessors shall receive as compensation the sum of five cents for every name enrolled by them, to be paid to them upon a warrant of the Auditor of Public Accounts, out of the fund herein appropriated; the warrant to be issued upon the certificate of the Governor, stating the number of names enrolled by each assessor and commissioner.

SEC. 7. Be it further enacted, etc., That immediately upon the receipt of such enrollments, or any part of them, the Governor shall assign to immediate service, in such division as he may deem necessary, a sufficient number of persons from such enrollments to fill up the regiments hereafter provided for, and shall assign each person to a certain company and regiment, and such persons so assigned shall constitute the militia of that division.

SEC. 8. Be it further enacted, etc., That the Governor shall, whenever he may deem it necessary, organize and officer five (5) regiments of infantry, of ten companies each; two regiments of cavalry, of twelve companies each; and three batteries of artillery, of one hundred and fifty men each, which shall constitute one artillery regiment.

SEC. "VIV" [9.] Be it further enacted, etc., That whenever he may deem it necessary, after the passage of this act, the Governor shall appoint and commission one major general of militia, two brigadier generals of militia; five colonels, five lieutenant colonels and five majors of infantry; three colonels, three lieutenant colonels and six majors of cavalry; one colonel, one lieutenant colonel and one major of artillery; ten captains, ten first lieutenants and ten second lieutenants for each regiment of infantry; twelve captains, twelve first lieutenants and twelve second lieutenants for each cavalry regiment; and three captains, three first lieutenants and six second lieutenants for the artillery regiment. The term of office for each of said officers shall be for two years from the date of his commission.

SEC. 10. Be it further enacted, etc., That upon the receipt of a sufficient portion of the enrollment lists, the Governor shall fill up the regiments and companies above provided for, from those persons enrolled on such lists, and shall assign to each company and regiment its proper complement of commissioned officers. Each company shall consist of eighty (80) privates, eight corporals and four sergeants. Each artillery and cavalry company shall also have two buglers and three artificers. The non-commissioned company officers shall be appointed upon the nomination of their regimental commanders.

SEC. 11. Be it further enctel, etc., That the Governor shall, as soon as the aforesaid regiments are organized, arm, equip, and uniform so much thereof as he may deem necessary—not less than one regiment of infantry, one battalion of cavalry, and one battery of artillery—and may call the same or any part thereof, or any part of the whole of the militia, into active service when he may deem it necessary for the preservation of law and order, or when the public service may require it; provided, that for the companies of cavalry uniformed and equipped under this act, neither horses nor their accoutrements shall be furnished by the Governor, nor shall any purchases of horses or accoutrements be made on account of the State; but each member of the company shall, when called into active service, furnish his own horse and accoutrements, and be allowed forty cents per day for each and every day while in active service for the use of the same.

SEC. 12. Be it further enacted, etc., That the militia so armed and equipped shall constitute the first division, and said division, and such parts thereof as may, at any time, be called into active service, shall be under the command of a major general, who shall be subject to the orders of the commander-in-chief. The major general shall, under the orders of the commander-in-chief, regulate and superintend the details of the organization of the regiments and brigades.

SEC 13. Be it further enacted, etc., That the Governor shall be the Commander-in-Chief of all the militia.

SEC. 14. Be it further enacted, etc., That the officers and privates of the militia when called into active service by the Governor, and not otherwise, shall receive the same pay and allowances as are received by officers and privates of like grades in the United States army for the time actually served. For privates and non-commissioned officers such pay shall be ascertained by monthly muster and pay rolls for each company, to be made in the form and manner prescribed for similar rolls in the United States army; said roll shall be subscribed and sworn to by the company and regimental commanders, verified and approved by the brigade commander and major general, and approved by the Governor. The Auditor of Public Accounts shall issue his warrant for the gross amount of each monthly muster and pay roll, so signed and approved, after the same shall have been examined and approved by the finance committee of the Senate, as hereinafter provided to the paymaster general upon the treasurer, which shall be paid out of the funds herein appropriated. The paymaster general shall account monthly to the treasurer for all sums so received and disbursed, exhibiting the proper vouchers and receipts for all his disbursements, said accounts, pay rolls and exhibit shall be carefully examined by the finance committee of the Senate, and shall at all times be open to their inspection.

SEC. 15. Be it further enacted, etc., That in the first division the term of service of the privates and non-commissioned officers of the militia shall be two years from the date of their assignment to the same. The Governor shall, as fast as the term of service of the privates and non-commissioned officers of the first division expires, fill up the companies and regiments by the assignments from the remaining divisions. He shall, every two years after the first enrollment, cause a new enrollment to be made in the manner provided for the first enrollment; and for each enrollment the commissioner and assessor shall receive the same pay and in the same manner as is herein provided for their payment for making the first enrollment.

SEC. 16. Be it further enacted, etc., That any person who shall have faithfully served in the first division for the term of two years, shall receive an honorable discharge from the service, and shall afterwards be exempt from serving in the militia, unless when called into the service of the United States.

SEC. 17. Be it further enacted, etc., That each major general, brigadier general and colonel shall appoint his own staff officers respectively, and the Governor shall commission them. The staff officers of the major general shall consist of an adjutant general of division and inspector general of division, a quartermaster general of division, paymaster general of division, and a surgeon general of division, each with the rank of colonel. The staff officers of the brigadier general shall consist of a brigade adjutant with the rank of captain, a brigade inspector and brigade surgeon, each with the rank of captain. The staff officer of a colonel shall consist of an adjutant, a quartermaster and a surgeon, each with the rank of a first lieutenant, and of the same number and rank of non-commissioned staff officers as are allowed to a regiment in the same arm of service in the United States army.

SEC. 18. Be it further enacted, etc., That the Governor as commander-in-chief, shall have and appoint the following staff officers: One adjutant general, one inspector general, one quartermaster general, and one surgeon general each, with the rank of brigadier general, and four aid-de-camps, each with the rank of major. Each of such staff officers, except the adjutant general, shall receive pay only when some portion of companies and regiments shall have been called into active service, and then only such of said staff officers shall receive pay whose services are actually needed, and whom the Governor may specially detail on duty, and only for the time actually engaged on duty. The adjutant general shall receive the same compensation as is now allowed him by law.

SEC. VIV [19]. Be it further enacted, etc., That all general and staff officers shall receive mileage when on active service at the rate of ten cents per mile, going and returning, the distance actually traveled by them in the performance of their duty.

SEC. 20. Be it further enacted, etc., That the commander-in chief shall have power to make all lawful rules and regulations with regard to returns, reports and other communications, and other matters of detail not inconsistent with this act as may be deemed necessary for the good of the service.

SEC. 21. Be it further enacted, etc., That the sum of one hundred thousand ($100—000) dollars, or so much thereof as may be necessary, is hereby appropriated out of any funds in the treasury, not otherwise appropriated, to defray the expenses incurred in carrying this act into execution.

SEC. 22. Be it further enacted, etc., That all pay rolls, vouchers and requisitions shall be made in form as prescribed in like cases by the rules and regulations governing the United States army.

SEC 23. Be it further enacted, etc., That all stores, supplies, arms, equipments and munitions of war belonging to this State shall be under the charge of the quartermaster general and ordnance officer.

SEC. 24. Be it further enacted, etc., That the Governor and the major general of the first division be and are hereby authorized to purchase the necessary arms, equipments, ammunition, uniforms and commissary supplies for such portion of the militia as the Governor, at any time, shall think proper to call into active service.

SEC. 25. Be it further enacted, etc., That the major general of the first division is hereby authorized to contract for and rent, at a reasonable price, a suitable building in the city of New Orleans for the storing of all arms, ammunition and supplies of whatever kind that may be purchased for the use of the militia; and in case of danger he is hereby authorized to take such steps as may be necessary to protect them from loss, injury or capture.

SEC. 26. Be it further enacted, etc., That the Governor shall fill all vacancies among the officers of the militia occurring from death, resignation or otherwise, except in the case of regimental, brigade and division staff officers; vacancies in these shall be filled by the officers making the original appointments.

SEC. 27. Be it further enacted, etc., That the Governor shall have power to call into active service, at any time he may deem it necessary for the good of the service, any general officers and any of their staff officers; such call to be made by general orders from the commander-in-chief, promulgated regularly through the various subordinate headquarters.

SEC. 28. Be it further enacted, etc., That the paymaster general of the State and of the first division shall each give bond in the sum of ten thousand dollars for the faithful performance of his duty, and the correct and accurate disbursement of all funds entrusted to his charge, and the reimbursement to the State of any indebtedness which he may incur to the same.

SEC. 29. Be it further enacted, etc., That the Governor is hereby authorized to accept such volunteer companies as may offer themselves, and assign them to service with the first division. Such companies, after acceptance and assignment, shall be considered part of the first division, and subject to all the provisions of this act, in the same manner as if they had been regularly enrolled and assigned, and the number of such volunteers shall be deducted from the total number assigned from the general enrollment, so as so that the total number of the first division shall in no case exceed the number herein before provided. The muster and pay rolls shall correspond with the muster rolls in the adjutant general's office, and shall be carefully examined and compared with said muster rolls by the Finance Committee of the Senate before the issuance of any warrant by the Auditor for their payment. The Finance Committee shall certify such examination on the said muster and pay rolls and approve the said rolls.

SEC. 30. Be it further enacted, etc., That all regimental and line officers shall be paid upon the regimental muster and pay rolls, in the same manner as is provided for the payment of privates and non-commissioned officers. All general and staff officers shall be paid by the State Treasurer upon their own warrants, accompanied by the certificate of the immediate commander, the major general of the first division and the Governor, showing that the amount called for in the warrant is correct, and the number of days the officer was actually employed and the number of miles traveled. Said certificate shall be indorsed on the warrant, and both shall be attached to an official copy of the order of the commander-in-chief, calling such officers into active service. The Governor may organize and officer the second and third divisions in the manner prescribed for the first division. The day after every regimental or other review the orderly sergeant shall make out a list of all officers, non-commissioned officers and privates in the company who have failed to attend the review. The captain of each company shall appoint a sergeant of the company as company clerk. Such appointment shall be written on the back of such sergeant's warrant.

SEC. 31. Be it further enacted, etc., That the first division shall, in case of war, invasion, the prevention of invasion, the suppression of riots, and to aid civil officers in the execution of the laws of the commonwealth, first be ordered into service.

SEC. 32. Be it further enacted, etc., That the commander of a regiment or battalion may raise by voluntary enlistment, and warrant and organize within the limits of his command, to be under his direction and command at encampments, a band of musicians, not to exceed, including a master and deputy master, eighteen for a regiment and eight for a battalion. The master, and in his absence the deputy master, shall teach and command the band, and issue all orders directed by such commander. Each member of the band shall keep himself provided with such uniform as may be directed by the commander-in-chief, and such instrument as the commander of his regiment or battalion prescribes, under penalty—for each neglect or deficiency, or for misconduct, of dismissal from the band by such commander, and of a fine of not less than ten nor more than twenty dollars, to be recovered on complaint by the brigade major.

SEC. 33. Be it further enacted, etc., That enrolled militia shall be subject to no active duty, except in case of war, invasion, the prevention of invasion, the suppression of riots, and to aid civil officers in the execution of the laws of the State; in which cases the commander-in-chief shall order out for active service, by draft or otherwise, as many of the militia as necessity demands.

SEC. 34. Be it further enacted, etc., That the commander-in-chief, with the advice and consent of the council, may sell or exchange, from time to time, such military stores belonging to the quartermaster general's department as are found unserviceable, or in a state of decay, or which they think it fit for the interest of the State to sell or exchange.

SEC. 35. Be it further enacted, etc., That the commander-in-chief may order out any portion of the militia for escort or other duties. The commanders of companies or corps so ordered out shall present their accounts for necessary music to the quartermaster general, who shall pay them out of the money of the State in his hands.

SEC. 36. Be it further enacted, etc., That nothing herein contained shall be construed to prevent any company from meeting for the purpose of drill, funeral or other escort, or a voluntary service, nor to impair the obligation arising under constitutional articles of agreement adopted by the company, so far as regards the members who have signed the same, unless they are repugnant to law. All fines, penalties and assessments incurred by officers or soldiers of such company under such constitutional articles of agreement signed by them and approved by the commander-in-chief, may, in addition to any other remedy thereon, be recovered before any court of competent jurisdiction on complaint of the clerk.

SEC. 37. Be it further enacted, etc., That every non-commissioned officer or private who appears at a parade or drill required by law, deficient in any arm furnished him by the State, or with such arms unserviceable, or in a bad condition, shall forfeit one dollar; and every such officer or private so appearing deficient in any article of equipment furnished to or required of him by law or general order, or with such equipment or ammunition of bad quality or condition, shall forfeit fifty cents, to be recovered before any court of competent jurisdiction on complaint of the clerk, one-half to his use, and one-half to the use of the commanding officer.

SEC. 38. Be it further enacted, etc., That a soldier, who unnecessarily or without order from a superior officer, comes to any parade with his musket, rifle or pistol loaded with ball, slug or shot, or so loads the same while on parade, or unnecessarily or without order from a superior officer, discharges the same when going to, returning from or upon parade, shall forfeit not less than five nor more than twenty dollars, to be recovered before any court of competent jurisdiction upon complaint of the clerk, one-half to his use and one-half to the use of the commanding officer.

SEC. 39. Be it further enacted, etc., That a soldier behaving with contempt towards an officer, or conducting in a disorderly manner, or exciting or joining in a tumult or riot, or being guilty of unmilitary conduct, disobedience of orders, or neglect of duty, when under arms or on duty, shall forfeit not less than five nor more than twenty dollars, to be recovered as provided in the preceding section.

SEC. 40. Be it further enacted, etc., That a soldier quitting his guard, section, platoon, or company, shall forfeit not less than two nor more than ten dollars, to be recovered before any court of competent jurisdiction, if the offense is committed at regimental or battalion parade, on complaint by the commander of the regiment or battalion or the company clerk; if at any other parade, by the clerk.

SEC. 41. Be it further enacted, etc., That for any offense mentioned in the preceding section, the delinquent may be put and kept under guard by the commander of the regiment, company or field, for a time not extending beyond the time of service for which he is then ordered. A non-commissioned officer for an offense mentioned in this chapter, or for disobedience of orders, or unmilitary conduct at a regimental or battalion parade, may, besides incurring the fine prescribed, be reduced to the ranks by the commander of his regiment or battalion, and for such misconduct at any other parade, by such commander, with the advice of his company commander.

SEC. 42. Be it further enacted, etc., That soldiers in companies, without officers, when ordered out to be trained and disciplined, shall, for absence, deficiency, misconduct, or neglect, be liable to the fines prescribed for offenses in other companies, to be recovered upon complaint of the officer so detailed, substantially as by clerks under section thirty-eight, one-half to the use of such officer, and one-half to the use of the regiment or battalion.

SEC. 43. Be it further enacted, etc., That an orderly book shall also be kept in each company, by the clerk, under the direction of the commander, and the proceedings of the company, orders received and issued, and exact details of drafts and detachments, shall be recorded therein. Fines and forfeitures, with the time when, and the offense, neglect, default, or deficiency, for which they were incurred, money collected by him, with the names of the persons from whom collected, and all delinquencies and deficiences shall be recorded in said book, which shall not be alienated from the company, and shall always be open to the inspection of its officers.

SEC. 44. Be it further enacted, etc., That when an invasion of, or insurrection in the State is made or threatened, the commander-in-chief shall call upon the militia to repel or repress the same, and may order out divisions, brigades, regiments, battalions or companies; or may order to be detached parts of companies thereof, or any number of men to be drafted therefrom, and may cause officers to be detailed, sufficient with those attached to the troops, to organize the forces.

SEC. 45. Be it further enacted, etc., That every soldier so ordered out, detached or drafted, who does not appear armed and equipped according to law, at the appointed time and place, or provide a substitute within twenty-four hours, or pay to the captain of his company fifty dollars; shall be taken to be a soldier absent without leave, and each soldier ordered out, detached or drafted, when so ordered, shall take with him provisions for not less three days.

SEC. 46. Be it further enacted, etc., That the police jury of a parish, and the Mayor and Aldermen of a city to which men so ordered out, detached or drafted belong, when required in writing by the commander of a regiment or detachment, shall provide wagons to attend them, with further supplies of provisions, and to carry necessary baggage, and provide necessary camp equipage and utensils, until notified by the commanding officer to desist, and shall present their accounts as provided in section fourteen. For any neglect by Mayor and Aldermen or Police Jury under this section, their parish or town shall forfeit not less than twenty nor more than five hundred dollars. The officers to whom any articles above mentioned are delivered, shall be responsible that care is taken of the same.

SEC. 47. Be it further enacted, etc., That when there is in any parish a tumult, riot, mob or body of men, acting together, by force, with intent to commit a felony, or to offer violence to persons or property, or by force and violence to break and resist the the laws of the State; or when such tumult, riot or mob is threatened, and the fact is made to appear to the commander-in-chief, or the Mayor of a city, or to a court of record sitting in said parish; or if no court is sitting therein, then to a justice of such parish; or if no such justice is within the parish, then to the Sheriff thereof, the commander-in-chief may issue his order to any commander of a division, brigade, regiment, battalion or corps, directing him to order his corps, or a part thereof (describing the kind and number of troops), to appear at a time and place therein specified, to aid the civil authority in suppressing such violence and supporting the laws.

SEC. 48. Be it further enacted, etc., That the officer to whom the order of the commander-in-chief is directed shall forthwith order the troops therein mentioned to parade at the time and place appointed. If he refuse or neglect to obey such order, or if an officer neglect or refuse to obey an order issued in pursuance thereof, he shall be cashiered and punished by fine or imprisonment not exceeding six months, as a court-martial may adjudge; and a non-commissioned officer or soldier neglecting or refusing to appear at the place of parade to obey an order issued in such case, or any person advising or endeavoring to persuade an officer or soldier to neglect or refuse to appear at such place, or to obey such order shall be fined fifty dollars.

SEC. 49. Be it further enacted, etc., That each officer and soldier appearing at an elementary drill shall receive for his necessary travel to and from the place of drill five cents a mile, not exceeding forty miles in all. The travel of every such person shall annually, on or before the first of October, be certified and returned to the adjutant general by the commander of his regiment, battalion or detached company; and the sum due members of companies therefor shall be computed by the adjutant general on such returns, and be transmitted, paid, remitted and reimbursed, as provided in section fourteen.

SEC. 50. Be it further enacted, etc., That if any officer or soldier is wounded or otherwise disabled, or is killed, or dies of wounds received while doing military duty, he, his widow or children shall receive from the General Assembly just and reasonable relief. When the militia are discharged from actual service they shall be allowed pay and rations to their respective homes, at the rate of fifteen miles a day.

SEC. 51. Be it further enacted, etc., That the clerk of each company, after the expiration of twenty days and within forty days after the day of parade shall, in those cases where fines are to be collected, upon his complaint, make and subscribe an information against the offending soldiers who have not been excused by the commander of the company, or who have not, within the twenty days aforesaid, paid to him the forfeiture they have incurred, which information shall be left with some justice of the peace, or filed in the parish court of the parish in which the offender resides. Such information shall be in substance as follows: To A. B., Esq., justice of the peace in and for the parish of ——; or, to the judge of the parish court, within and for ——. I, the subscriber, clerk of the company commanded by ——, do hereby give information against the following person (or persons) who being duly enrolled in said company, and being duly notified to meet with said company on the —— day of ——, in the year, —— (for inspection or review, election of officers, special duty, or as the case may be), was guilty of the offenses, or incurred the forfeitures set against his name:

| NAMES. | OFFENSES. | FORFEITURE. | AMS. |
|---|---|---|---|
| A. B., non-commissioned officer; C. D., private. | For unnecessarily neglecting to appear on said day. | | |
| E. F. | For being deficient of a —— on said day. | Has forfeited | $ — |
| G. H. | For being, on said day, guilty of coming on parade with his arms loaded. | Has forfeited | — |
| J. K. | For unnecessarily discharging his musket, rifle or pistol, in going to (or returning from, or on the place of) parade without order of an officer. | Has forfeited | — |
| L. M. | For leaving his guard (section or platoon or company) without leave of an officer. | Has forfeited | — |

(and in the same manner, substantially all other offenses are to be set forth against offending non-commissioned officers and privates). I, therefore, agreeably to my oath of office, and in compliance with the requisitions of law in this behalf, request you to issue a summons, directed to the person named in the above information, to appear before you and show cause, if any he has, why it should not be adjudged that he pay the forfeiture set against his name for the offense which he is therein alleged to have committed. Dated at ——, this —— day of ——, in the year ——. A. B., clerk of the company commanded by ——. The justice, or court, shall file the same, and upon motion of the clerk, shall, within nine months, and not afterwards, issue a summons to each person informed against, to be served at least seven days before the time appointed for showing cause. The summons, if issued by a justice of the peace, shall be in substance as follows:

SS. (Seal)—To the Sheriff of said —— parish, or either of his deputies, or either of the constables of the town of ——, in the parish aforesaid, greeting:

In the name of the State of Louisiana, you are hereby required to summon C. D., of ——, in the parish aforesaid, to appear before me, E. F., one of the justices of the peace for the parish aforesaid, at ——, in ——, on the —— day of ——, at —— of the clock in the —— noon, then and there to show cause, if any he has, why judgment should not be rendered that he has forfeited —— for (here insert the offense, and the time when, and the place where the offense was committed). Hereof fail not, and make due return of this writ, and your doings thereon unto myself, on or before the said hour of the day of ——. Dated at ——, aforesaid, the —— day of ——, in the year ——.

E. F.,
Justice of the Peace.

If issued from a parish court, as follows:

SS. The State of Louisiana.

(Seal). To the Sheriff of the parish of ——, or either of his deputies, or either of the constables of the town of ——, in said parish, greeting: We command you to summon C. D., of ——, in said parish, to appear before our parish court, to be holden at ——, within and for our ——, on ——; then and there to show cause, if any he has, why judgment should not be rendered; that he has forfeited —— for (here insert the offense, and the time and place where it was committed). Hereof fail not, and have you there this writ with your doings thereon. Witness W. S. Esq., at ——, on the —— day of ——, in the year ——.

T. P., Clerk.

(Or witness my hand and seal, ——, on the —— day of ——, in the year of our Lord, ——).

A. B., Parish Judge.

When the person summoned appears, he may plead that he is not guilty, and give any special matter in evidence. Upon the trial of such complaint, made by the clerk of a company, it shall be sufficient for the complainant to prove that he is the clerk of said company; for which purpose he shall produce his warrant as a non-commissioned officer, and prove the signature thereto of the colonel or commanding officer of the regiment or battalion, and that at the time of signing such warrant he was reputed to be, and acted as such colonel or commanding officer; which shall be *prima facie* evidence that such complainant was appointed a non-commissioned officer by the captain or commanding officer of such company, and that a legal return of such appointment was made to the colonel or commanding officer of the regiment. He shall then show upon the back of his warrant a legal certificate of his appointment as clerk, and qualification as such, by taking the oath required by law, for which purpose he shall prove the signature of the captain or commanding officer of such company, and that he is such captain or commanding officer, by producing his commission as such; but if the clerk is appointed clerk pro tempore, his appointment may be proved by the records of the company. He shall then produce the roll of the company and prove that the defendant reside within the limits of the company, and was enrolled or enlisted therein at the time he was notified of such meeting. He shall then produce the order of the commanding officer of such company to notify the said meeting or meetings thereof, and prove his signature thereto; and that the defendant was legally notified of the time and place of such meeting or meetings. If it is required by law that the order for such military duty, shall, in such case, be given by any officer superior to the commanding officer of a company, then the order of such superior officer, and all intermediate orders of officers, transmitting the same to the commanding officer of a company, shall be proved, and that the person purporting by said orders to be such officers are such; for which purpose it shall be sufficient to produce the transmitted, written or printed copies of such order, and the regiment, battalion or other last order, transmitting the same to the commanding officer of the company, to prove the signature of the proper officer to such regimental, battalion, or other last order transmitting the same, and to prove that all the officers above mentioned are reputed to be such officers and act as such. The absence or offense of the defendant shall then be proved to show that he is liable to the fine alleged to be incurred by him; and in case of absence, the burden of proof shall be upon him to show that his absence was necessary. The evidence above described shall be taken to be prima facie sufficient to support the complaint. When it appears that a document or paper above mentioned can not be produced, satisfactory secondary evidence shall be received. Upon the hearing of such case, the testimony of the clerk or other person who was ordered to notify the whole or part of the company, shall be prima facie evidence of notice to the defendant, and that he neglected to appear. The certificate of the surgeon of the regiment that the defendant was unable to perform military duty at the time of his absence, shall be prima facie evidence that he ought to be excused for a particular absence. The commanding officer of a company may be a witness to prove any fact whatever. If the defendant makes default, or judgment is rendered against him, and he neglects for two days after to satisfy the same with legal costs, execution shall be issued therefor; which execution, issued by Justices of the Peace, shall be in substance as follows, but if by a parish court, shall be so altered as to conform to the summons:

SS. The State of Louisiana.

(Seal.) To the Sheriff of said parish, or either of his deputies, or either of the constables of the parish of ——, in the same parish, greeting: Whereas, E. L., clerk of the company commanded by ——, on the —— day of ——, before J. D., Esq., one of our Justices of the Peace for our parish aforesaid, recovered for the sum of $ —— judgment against T. P., of ——, fine or forfeiture, and —— costs of prosecution, as to us appears of record, whereof execution remains to be done; we command you, therefore, that ——, of the money of the said T. P., or of his goods or chattles, within your precinct, as the value thereof in money, you cause to be levied, paid and satisfied unto the said E. L. the aforesaid sums being ——, in the whole; and also out of the money, goods and chattels of the said T. P. you levy twenty-five cents for this suit, together with your own fees; and for want of such money, goods or chattels of said T. P., to be by him shown unto you, or found within your precinct, to the acceptance of the said E. L. for the aforesaid sums, we command you to take the body of the said T. P., and him commit unto our jail in ——; and we command the keeper thereof accordingly to receive the said T. P. into our jail, and him safely keep until he pay the full sum above mentioned, with your fees, or that he be discharged by the said E. L., or otherwise by order of law. Hereof fail not, and make return of your doings therein unto our said justice within twenty days next coming.

Witness our said justice, at ——, the —— day of ——, in the year one thousand eight hundred and ——.

J. D.,
Justice of the Peace.

The complaint or summons may be amended in any stage of the proceedings without peyment of costs; and the defendant shall be allowed an adjournment or continuance of the case if justice requires it. The clerk shall not be liable to pay costs to a defendant in a case in which the commanding officer of his company has certified upon the information of the clerk, his approval of the same. And no appeal shall be allowed from any such judgment unless the forfeiture adjudged exceeds ten dollars, exclusive of costs. A complaint by any other officer shall be prosecuted in the like manner, so far as the same is applicable thereto, the forms being varied accordingly, and he shall prove his authority by producing his commission and other competent evidence which may be necessary.

SEC. 52. Be it further enacted, etc., That the clerk of each company shall retain to his own use one-half of the forfeitures so collected, and upon demand pay the other half to the commander, who shall give his receipt therefor, and expend the same in defraying such expenses of the company as a majority of the commissioned officers thereof judge necessary.

SEC. 53. Be it further enacted, etc., That every commissioned officer may be tried by a court-martial for the following offenses: For unmilitary or unofficer like conduct when on duty; for neglect of any duty required in this act; for disobedience of orders, or an act contrary to the provisions of this act; for oppression or injury of any under his command; for a combination or attempt to break, resist or evade the laws, or lawful orders given to a person, or advising any person to do so; for insult to a superior officer in the discharge of his office; for presuming to exercise his command while under arrest, in which case, if guilty, he shall be removed from office; for neglect or refusal, when commanding officer, to order out the troops under his command, when required by law or ordered by his superior officer; for excusing, as commanding officer of a company, any person under his command for deficiency or unnecessary absence, or after the expiration of the time allowed by law; for neglect or refusal to make a draft or detachment when legally ordered to do so; for neglect or refusal to cause prosecution to be commenced for fines, when it is necessary; for parading the troops under his command on days of elect on, contrary to the provisions of section forty-eight (48); for receiving any fee or gratuity, as surgeon or surgeon's mate, for a certificate of inability to do military duty; or neglect to train and discipline a company, or to make complaint for neglect in violation of duty, as provided by law, or for any other neglect for which a commanding officer of the company would be liable; for neglect or refusal to march, to make a draft, or for disobedience to an order, in case of rebellion or insurrection, as provided in sections forty four (41) to forty-eight (48) inclusive, in which case the offender shall be cashiered; for neglect or refusal to obey a precept or order to call out the militia, or an order issued in obedience thereto, in case of tumult, riot or other cause, as provided in sections forty-four (44) to forty-eight (48) inclusive, or for advising any officer or soldier to do the like, in which case the offender shall be cashiered, besides being subject to a fine and imprisonment, as provided in section fifty-one (51). No commission shall issue to any officer appointed under this act until he shall have deposited in the office of the adjutant general his written acceptance of the office to which he is to be commissioned, and his oath of office taken, according to law; and this shall then be certified in the commission by the adjutant general, and shall be full proof of the acceptance and oath of office.

SEC. 54. Be it further enacted, etc., That if, one month after the appointment of any officer, the acceptance and oath of office mentioned in the preceding section be not deposited in the office of the adjutant general, the appointment shall be void, and the Governor shall make another appointment.

SEC. 55. Be it further enacted, etc., That the duties of all officers, non-commissioned officers, or privates, shall be such as are by law and military usage required of similar grades in the army of the United States, and by the laws of the State or the United States.

SEC. 56. Be it further enacted, etc., That the brigade inspector shall attend all battalion or regimental musters of the brigade to which he belongs, and make strict inspection of each corps and proper returns thereof; he shall distribute the forms received from the adjutant general, and condense and transmit all returns made in conformity therewith; he shall keep the register of the officers of the brigade, and make all details for detachments therefrom. He shall receive and inspect all detachments from the different corps of the brigade, and see that they are marched to their place of rendezvous.

SEC. 57. Be it further enacted, etc., That all resignations shall be addressed to the commander-in-chief, and no officer shall be relieved from the duties appertaining to his office under the plea that he has resigned, until he can produce the written acceptance of his resignation from the commander-in-chief, or an official order from the same source.

SEC. 58. Be it further enacted, etc., That every officer who accepts a commission shall be bound to serve for the period prescribed by this act, unless he become disqualified by law.

SEC. 59. Be it further enacted, etc., That whenever any duty is imposed by law on an officer who is sick, absent or incapable, from any cause, of performing it, the officer next to him in rank shall be obliged to perform the duty, and in the performance of it, shall have the same authority, right and power as the officer whose duty he performs; but when any such duty is imposed on an officer who neglects it, his immediate superior, and in succession those above him, shall be bound to take measures to have such duty performed, and may designate any officer under their command to perform it; and the officer so designated shall, while performing the duty, have the same authority, rights and powers, and receive the same pay as belong to the office, the duties of which he is performing. And whenever the laws and regulations for governing the militia are not enforced, and the superior orders duly obeyed in any body of the militia, either from want of officers or from the neglect of those in commission, or from any other cause, the commander in-chief is authorized to designate any officer to take charge of such duty, to do all that the law requires to be done by any officer of it or that may be necessary to restore its complete organization; and the officer so designated shall have all the authority, rights and powers of any of the officers whose duty he performs.

SEC. 60. Be it further enacted, etc., That all non-commissioned officers of companies shall be obliged to serve two years; a certificate of their appointment, signed by the regimental commander, shall be full evidence of their rank.

SEC. 61. Be it further enacted, etc., That if any officer of the militia be accused of an offense committed while in active service or on parade, for which an officer in the army of the United States would be liable to be arrested and tried by a court-martial, he shall, if found guilty, be sentenced to be reprimanded, suspended for a certain period or cashiered, the court shall adjudge him incapable of holding an office in the militia for life or for not less than one year, according to the gravity of the offense. All sentences shall be published in orders by the commander-in-chief, and as he may further direct.

SEC. 62. Be it further enacted, etc., That any officer may, when in active service or on parade, arrest an inferior for an offense cognizable by a court-martial, of which arrest the immediate superior of the accused shall be forthwith notified.

SEC. 63. Be it further enacted, etc., That any person accusing an officer of an offense for which he would be liable to be tried by a court-martial, shall lay his complaint before the immediate superior of the accused, who shall transmit it with his own observations thereon, to the commander-in-chief; the latter shall cause to be detailed a court martial to try the accused, if the offense appears to merit it, or shall direct the accused to be brought before a court of assessment as the case may seem to require, or he may order a court of inquiry, upon whose report he may decide what to do, or may dismiss the complaint. The officer before whom the complaint is first made may either arrest the officer, or postpone his arrest until before the court-martial.

SEC. 64. Be it further enacted, etc., That the commander-in chief shall order all courts-martial and courts of inquiry and general courts of assessment, but he may direct the detail for these courts, or any part of it, to be made by any other officer of competent rank.

SEC. 65. Be it further enacted, etc., That a court martial shall consist of a president, at least six members, and not more than twelve, a judge advocate and provost marshal. A court of inquiry and court of assessment shall each consist of a president, two members, a judge advocate and provost marshal.

SEC. 66. Be it further enacted, etc., That when the commander in-chief orders a court-martial for the trial of any officer, or a court of inquiry to examine into the charges, he shall give to the judge advocate a copy of the charges and specifications on which the accusation is made. The judge advocate is authorized to put such charges and specifications into legal form, without altering their substance, and shall then have a copy served on the accused by the provost marshal at least ten days before the assembling of the court, and allowing the accused also one day more for every twenty miles from his domicil to the place of sitting of the court.

SEC. 67. Be it further enacted, etc., That there shall always be detailed four supernumerary members for a court martial, and two supernumerary members for a court of inquiry or assessment, who shall attend the court until it is organized, to repace those absent or excused from serving.

SEC. 68. Be it further enacted, etc., That the president, members and judge advocate of courts-martial and courts of inquiry and courts of assessment shall take the oaths and be governed by the rules and regulations laid down for the army and militia in the service of the United States (changing what ought to be changed); but they may hold their sessions at night.

SEC. 69. Be it further enacted, etc., That the provost marshal, upon receiving his appointment, shall take an oath faithfully to perform the duties of his office, before any Justice of the Peace, and shall present the oath, duly certified, to the court, upon its first sitting, to be recorded among their proceedings.

SEC. 70. Be it further enacted, etc., That the judge advocate shall issue summonses for all witnesses, which the provost marshal shall serve; and if any witness, duly summoned, fail to appear, the court-martial may fine him not more than twenty dollars, to be recovered in the manner provided in section fifty-one, and attach him, and compel his appearance.

SEC. 71. Be it further enacted, etc., That courts-martial, courts of inquiry and courts of assessment shall have power to maintain order in their presence, and to commit to the prison of the parish in which either may be sitting, for not more than twenty-four hours, all persons guilty of any breach of order which would render them liable to be committed to prison in a court of law. All process of either court in the maintenance of its order and authority, shall be served by the provost marshal; nor will the execution of any such process be suspended by the dissolution of the court.

SEC. 72. Be it further enacted, etc., That an officer arraigned before a court shall not have the right to challenge any member, unless for cause.

SEC. 73. Be it further enacted, etc., That the proceedings and sentence of a court-martial shall be referred to the commander-in-chief. If he approve the sentence it shall be executed accordingly, unless he see fit to remit the punishment; if he disapprove it, the proceedings will end, unless he send back the matter to be reconsidered by the court.

SEC. 74. Be it further enacted, etc., That the members of each court-martial, court of inquiry or court of assessment shall, for their term of service as such, be considered as called into active service, and shall receive pay for the time actually employed in their duties, which shall be paid them by the State Treasurer, upon their own warrants, in the manner hereinbefore provided.

SEC. 75. Be it further enacted, etc., That colonels, lieutenant colonels and majors, for absence from parade or neglect of duty, in contravention of law not subjecting them to be tried by a court-martial, shall be fined by a brigade court of assessment, not less than five dollars nor more than one hundred; brigadier and major generals, for similar offenses, by a general court of assessment, not less than fifty dollars nor more than two hundred dollars. Said fines to be recovered before any court of competent jurisdiction in the manner prescribed in section fifty-one.

SEC. 76. Be it further enacted, etc., That brigade and general courts of assessment shall be ordered whenever necessary by the commander-in-chief.

SEC. 77. Be it further enacted, etc., That when any major, lieutenant colonel, or colonel, shall be absent from parade or guilty of any neglect of duty or contravention of law not subjecting him to trial by court martial, and the brigade inspector, or other officer, if superior, shall certify to the brigadier general, or if the charge from any other person