

CHAP. XLII. — *An Act providing for the better Organization of the Military Establishment.* August 3, 1861.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, an officer in the War Department, to be called the Assistant Secretary of War, whose salary shall be three thousand dollars per annum, payable in the same manner as that of the Secretary of War, who shall perform all such duties in the office of the Secretary of War, belonging to that department, as shall be prescribed by the Secretary of War, or as may be required by law.

Assistant-Secretary of war

Salary.

Duties.

SEC. 2. *And be it further enacted,* That the President be, and is hereby, authorized to appoint, by and with the advice and consent of the Senate, in addition to the number authorized by existing laws and in accordance with existing regulations, five assistant inspector-generals, with the rank and pay of majors of cavalry, ten surgeons, and twenty assistant-surgeons, to have the pay, rank, and allowances, and perform the duties of similar officers in the present military establishment. That hereafter the Adjutant-General's department shall consist of the following officers, namely: One adjutant-general, with the rank, pay, and emoluments of a brigadier-general; one assistant adjutant-general, with the rank, pay, and emoluments of a colonel of cavalry; two assistant adjutant-generals, with the rank, pay, and emoluments each of a lieutenant-colonel of cavalry; four assistant adjutant-generals, with the rank, pay, and emoluments each of a major of cavalry; and twelve assistant adjutant-generals, with the rank, pay, and emoluments each of a captain of cavalry; and that there shall be added to the subsistence department four commissaries of subsistence, each with the rank, pay, and emoluments of a major of cavalry; and eight commissaries of subsistence, with the rank, pay, and emoluments each of a captain of cavalry, and to be taken from the line of the army, either of the volunteers or regular army.

Additional assistant inspector-generals, surgeons, and assistant-surgeons.

Adjutant-general's department, of whom to consist.

Subsistence department.

SEC. 3. *And be it further enacted,* That there shall be added to each of the corps of engineers and topographical engineers three first and three second lieutenants, to be promoted thereto in accordance with the existing laws and regulations. And there shall be added to the quartermaster's department one colonel, two lieutenant-colonels, four majors, and twenty captains, with the rank, pay, and allowances of officers of cavalry; and whenever any army captain of the quartermaster's department shall have served fourteen years' continuous service he shall be promoted to the rank of major; and that there shall be added to the quartermaster's department as many master wagoners, with the rank, pay, and allowances of sergeants of cavalry, and as many wagoners, with the pay and allowances of corporals of cavalry, as the military service, in the judgment of the President, may render necessary. And there shall be added to the ordnance department of the United States army, as now organized, one chief of ordnance, with the rank, pay, and emoluments of the quartermaster-general of the army; one colonel, one lieutenant-colonel, and six second lieutenants; the field officers to be appointed by selection from the officers of the army, and the second lieutenants from the graduates of the United States Military Academy, by transfers from the engineers, or the topographical engineers, or the artillery.

Engineers and topographical engineers.

Quartermaster's department.

Rule as to promotions.

Master wagoners, &c.

Ordnance department, increase of.

Appointments.

SEC. 4. *And be it further enacted,* That there shall be added to the corps of engineers three companies of engineer soldiers, to be commanded by appropriate officers of said corps, to have the same pay and rations, clothing, and other allowances, and be entitled to the same benefits, in every respect, as the company created by the act for the organization of a company of sappers and miners and pontoniers, approved May sixteen, eighteen hundred and forty-six. The said three companies shall be subject to the rules and articles of war; shall be recruited in the same manner and

Engineer soldiers.

Pay, &c.

1846, ch. 21, Vol. ix. p. 12

with the same limitations; shall be instructed in and perform the same duties, and be liable to serve in the same way, and shall have their vehicles, pontons, tools, implements, arms, and other supplies, regulated in the same manner as the existing engineer company; and each of the four companies of engineer soldiers shall hereafter be composed of ten sergeants, ten corporals, two musicians, sixty-four privates of the first class, or artificers, and sixty-four privates of the second class, in all one hundred and fifty men each.

How composed.
Medical cadets added to medical staff.

Rank, pay, number, qualifications, &c.

SEC. 5. *And be it further enacted*, That there be added to the medical staff of the army a corps of medical cadets, whose duty it shall be to act as dressers in the general hospitals and as ambulance attendants in the field, under the direction and control of the medical officers alone. They shall have the same rank and pay as the military cadets at West Point. Their number shall be regulated by the exigencies of service, at no time to exceed fifty. It shall be composed of young men of liberal education, students of medicine, between the ages of eighteen and twenty-three, who have been reading medicine for two years, and have attended at least one course of lectures in a medical college. They shall enlist for one year, and be subject to the rules and articles of war. On the fifteenth day of the last month of their service, the near approach of their discharge shall be reported to the surgeon-general, in order, if desired, that they may be relieved by another detail of applicants.

Female nurses.

SEC. 6. *And be it further enacted*, That in general or permanent hospitals female nurses may be substituted for soldiers, when, in the opinion of the surgeon-general or medical officer in charge, it is expedient to do so; the number of female nurses to be indicated by the surgeon-general or surgeon in charge of the hospital. The nurses so employed to receive forty cents a day and one ration in kind, or by commutation, in lieu of all emoluments except transportation in kind.

Chaplains.
Ante, p. 270.
Proviso.
Post, p. 595.

SEC. 7. *And be it further enacted*, That one chaplain shall be allowed to each regiment of the army, to be selected and appointed as the President may direct: *Provided*, That none but regularly ordained ministers of some Christian denomination shall be eligible to selection or appointment.

Cadets reported deficient not to be reappointed.

SEC. 8. *And be it further enacted*, That no cadet, who has been or shall hereafter be reported as deficient, either in conduct or studies, and recommended to be discharged from the academy, shall be returned or reappointed, or appointed to any place in the army before his class shall have left the academy and received their commissions, unless upon the recommendation of the academic board of the academy: *Provided*, That all cadets now in the service, or hereafter entering the Military Academy at West Point, shall be called on to take and subscribe the following oath: "I, A. B., do solemnly swear that I will support the Constitution of the United States, and bear true allegiance to the National Government; that I will maintain and defend the sovereignty of the United States paramount to any and all allegiance, sovereignty, or fealty I may owe to any State, county, or country whatsoever; and that I will at all times obey the legal orders of my superior officers and the rules and articles governing the armies of the United States." And any cadet or candidate for admission who shall refuse to take this oath shall be dismissed from the service.

All cadets to take the oath.

Form of Oath.

Effect of refusal to take oath.

Certain extra pay, bounty and premium abolished.

1838, ch. 162, § 29.
Vol. v. p. 260.
1850, ch. 20, § 3.
Vol. ix. p. 439.
Post, p. 620.

SEC. 9. *And be it further enacted*, That the three months' extra pay allowed by the twenty-ninth section of the act of the fifth of July, eighteen hundred and thirty-eight, for re-enlistments under certain conditions, the bounty granted by the third section of the act of the seventeenth of June, eighteen hundred and fifty, for enlistments at remote and distant stations, and the premium now paid for bringing accepted recruits to the rendezvous, be and they are hereby abolished.

SEC. 10. *And be it further enacted*, That hereafter two dollars per

month shall be retained out of the monthly pay of each enlisted man in the regular army until the expiration of his term of service, instead of one dollar per month, as authorized by existing laws.

\$2 a month to be retained out of pay.

SEC. 11. *And be it further enacted*, That in all cases of enlistment and re-enlistment in the military service of the United States the prescribed oath of allegiance may be administered by any commissioned officer of the army.

[Repealed, *Post*, p. 595.]

Who may administer oath of allegiance to soldiers.

SEC. 12. *And be it further enacted*, That the two regiments of dragoons, the regiment of mounted riflemen, and the two regiments of cavalry, shall hereafter be known and recognized as the first, second, third, fourth, and fifth regiments of cavalry, respectively; the officers thereof to retain their present relative rank, and to be promoted as of one arm of service, according to existing law and established usage and regulation.

Dragoons, mounted riflemen, and cavalry, to be known as cavalry.

Present officers to retain their rank.

SEC. 13. *And be it further enacted*, That the army ration shall be increased as follows, viz.: Twenty-two ounces of bread or flour, or one pound of hard bread, instead of the present issue; fresh beef shall be issued as often as the commanding-officer of any detachment or regiment shall require it, when practicable, in place of salt meat; beans and rice or hominy shall be issued in the same ration in the proportions now provided by the regulation, and one pound of potatoes per man shall be issued at least three times a week, if practicable; and when these articles cannot be issued in these proportions, an equivalent in value shall be issued in some other proper food, and a ration of tea may be substituted for a ration of coffee upon the requisition of the proper officer: *Provided*, That after the present insurrection shall cease, the ration shall be as provided by law and regulations on the first day of July, eighteen hundred and sixty-one.

Army ration, increase of.

Proviso.

SEC. 14. *And be it further enacted*, That there may be allowed in hospitals, to be provided under such rules as the surgeon-general of the army, with the approval of the Secretary of War, may prescribe, such quantities of fresh or preserved fruits, milk or butter, and of eggs, as may be necessary for the proper diet of the sick.

Allowance to hospitals.

SEC. 15. *And be it further enacted*, That any commissioned officer of the army, or of the marine corps, who shall have served as such for forty consecutive years, may, upon his own application to the President of the United States, be placed upon the list of retired officers, with the pay and emoluments allowed by this act.

Certain commissioned officers of the army and marine corps may be retired, at their request.

SEC. 16. *And be it further enacted*, That if any commissioned officer of the army, or of the marine corps, shall have become, or shall hereafter become, incapable of performing the duties of his office, he shall be placed upon the retired list and withdrawn from active service and command and from the line of promotion, with the following pay and emoluments, namely: the pay proper of the highest rank held by him at the time of his retirement, whether by staff or regimental commission, and four rations per day, and without any other pay, emoluments, or allowances; and the next officer in rank shall be promoted to the place of the retired officer, according to the established rules of the service. And the same rule of promotion shall be applied successively to the vacancies consequent upon the retirement of an officer: *Provided*, That should the brevet lieutenant-general be retired under this act, it shall be without reduction in his current pay, subsistence, or allowances: *And provided further*, That there shall not be on the retired list at any one time more than seven per centum of the whole number of officers of the army, as fixed by law.

Commissioned officers of the army and marine corps, if incapacitated, to be retired.

Pay.

Promotions.

Proviso.

Brevet Lieutenant-General.

Limit of retired list.

SEC. 17. *And be it further enacted*, That, in order to carry out the provisions of this act, the Secretary of War, or Secretary of the Navy, as the case may be, under the direction and approval of the President of the United States, shall, from time to time, as occasion may require, assemble a board of not more than nine, nor less than five commissioned officers, two-fifths of whom shall be of the medical staff; the board, ex-

Secretary of War or Navy may assemble a board to determine the disabilities of officers.

Board, how composed, duties, report.

Effect of decision when approved.

Members of board to be sworn
Army officers to have a hearing.

Officers partially retired.

Act allowing certain double rations repealed. 1842, ch. 186, § 6. Vol. v. p. 513.

Army officers absent from duty over six months, not to have certain allowances.

Certain navy officers may be retired at their request.

Pay, &c.

Retired list for navy officers.

Pay, &c.

cept those taken from the medical staff, to be composed, as far as may be, of his seniors in rank, to determine the facts as to the nature and occasion of the disability of such officers as appear disabled to perform such military service, such board being hereby invested with the powers of a court of inquiry and court-martial, and their decision shall be subject to like revision as that of such courts by the President of the United States. The board, whenever it finds an officer incapacitated for active service, will report whether, in its judgment, the said incapacity result from long and faithful service, from wounds or injury received in the line of duty, from sickness or exposure therein, or from any other incident of service. If so, and the President approve such judgment, the disabled officer shall thereupon be placed upon the list of retired officers, according to the provisions of this act. If otherwise, and if the President concur in opinion with the board, the officer shall be retired as above, either with his pay proper alone, or with his service rations alone, at the discretion of the President, or he shall be wholly retired from the service, with one year's pay and allowances; and in this last case his name shall be thenceforward omitted from the army register, or navy register, as the case may be: *Provided always*, That the members of the board shall in every case be sworn to an honest and impartial discharge of their duties, and that no officer of the army shall be retired either partially or wholly from the service without having had a fair and full hearing before the board, if, upon due summons, he shall demand it.

SEC. 18. *And be it further enacted*, That the officers partially retired shall be entitled to wear the uniform of their respective grades, shall continue to be borne upon the army register, or navy register, as the case may be, and shall be subject to the rules and articles of war, and to trial by general court-martial for any breach of the said articles.

SEC. 19. *And be it further enacted*, That so much of the sixth section of the act of August twenty-three, eighteen hundred and forty-two, as allows additional or double rations to the commandant of each permanent or fixed post garrisoned with troops, be and the same is hereby repealed.

SEC. 20. *And be it further enacted*, That officers of the army, when absent from their appropriate duties for a period exceeding six months, either with or without leave, shall not receive the allowances authorized by the existing laws for servants, forage, transportation of baggage, fuel, and quarters, either in kind or in commutation.

SEC. 21. *And be it further enacted*, That any officer of the navy who has been forty years in the service of the United States may, upon his own application to the President of the United States, be placed upon the list of retired officers of the navy, and shall receive the pay and emoluments allowed by this act.

SEC. 22. *And be it further enacted*, That if any officer of the navy shall have become, or shall hereafter become, incapable of performing the duties of his office, he shall be placed upon the retired list and withdrawn from active service and command and from the line of promotion, with the following pay and emoluments, namely:

- Captains in the navy, thirteen hundred dollars;
- Commanders in the navy, eleven hundred dollars;
- Lieutenants in the navy, one thousand dollars;
- Surgeons ranking with captains, thirteen hundred dollars;
- Surgeons ranking with commanders, eleven hundred dollars;
- Surgeons ranking with lieutenants, one thousand dollars;
- Paymasters ranking with captains, thirteen hundred dollars;
- Paymasters ranking with commanders, eleven hundred dollars;
- Paymasters ranking with lieutenants, one thousand dollars;
- Chief engineers, one thousand dollars;
- First assistant engineers, seven hundred dollars;
- Second assistant engineers, five hundred dollars;

Third assistant engineers, four hundred dollars ;
 Masters, four hundred dollars ;
 Passed midshipmen, three hundred and fifty dollars ; and with four rations per day to each of the above-named officers of the navy, to be commuted at thirty cents, each ration, and without any other pay or allowances. Captains, commanders, and lieutenants now on the retired list of the navy shall receive the same compensation and no greater than is allowed to retired officers of the same rank by the provisions of this act. The next officer in rank shall be promoted to the place of the retired officer, according to the established rules of the service. And the same rule of promotion shall be applied successively to the vacancies consequent upon the retirement of an officer.

Rations.

Commutation.

Promotions.

SEC. 23. *And be it further enacted*, That whenever any officer of the navy, on being ordered to perform the duties appropriate to his commission, shall report himself unable to comply with such order, or whenever, in the judgment of the President of the United States, an officer of the navy shall be in any way incapacitated from performing the duties of his office, the President, at his discretion, shall direct the Secretary of the Navy to refer the case of such officer to a board of not more than nine, and not less than five, commissioned officers, two-fifths of whom shall be members of the medical bureau of the navy ; the board, except those taken from the medical bureau, to be composed, if possible, (as far as may be,) of his seniors in rank. The determination of the board in each case shall, with a record of its proceedings, be transmitted to the Secretary of the Navy, to be laid before the President for his approval or disapproval, and orders in the case. The board, whenever it finds an officer incapacitated for active service, will report whether, in its judgment, the incapacity result from long and faithful service, from wounds or injury received in the line of duty, from sickness or exposure therein, or from any other incident of service ; if so, and the President approve of such judgment, the disabled officer shall thereupon be placed upon the list of retired officers, according to the provisions of this act. But if such disability or incompetency proceeded from other causes, and the President concur in opinion with the board, the officer may be retired upon furlough pay, or he shall be wholly retired from the service, with one year's pay, at the discretion of the President ; and in this last case his name shall be wholly omitted from the navy register. The members of the board shall, in every case, be sworn to an honest and impartial discharge of their duties, and no officer of the navy shall be retired, either partially or wholly, from the service without having had a fair and full hearing before the board, if he shall demand it.

Board to decide the incapacity of navy officers.

How composed duty.

Report.

Effect of decision when approved.

Members to be sworn.

Officers may be heard.

SEC. 24. *And be it further enacted*, That the retired officers shall be entitled to wear the uniform of their respective grades, shall continue to be borne upon the navy register, shall be subject to the rules and articles governing the navy, and to trial by general court-martial.

Privileges and liabilities of retired officers.

SEC. 25. *And be it further enacted*, That retired officers of the army, navy, and marine corps may be assigned to such duties as the President may deem them capable of performing, and such as the exigencies of the public service may require.

Duty may be assigned retired officers.

APPROVED, August 3, 1861.

CHAP. XLIV.—*An Act to prohibit the Sale of Spirituous Liquors and Intoxicating Drinks in the District of Columbia, in certain Cases.*

August 5, 1861.

1862, ch. 168.
 Post, p. 571.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be lawful for any person in the District of Columbia to sell, give, or administer to any soldier or volunteer in the service of the United States, or any person wearing the uniform of such soldier or volunteer, any spirituous liquor or

Sale of spirituous liquors, &c., in District of Columbia, to soldiers, forbidden.