

Feb. 24, 1864.  
1863, ch. 75.  
Vol. xii. p. 731.

CHAP. XIII. — *An Act to amend an Act entitled "An Act for enrolling and calling out the National Forces, and for other Purposes," approved March third, eighteen hundred and sixty-three.*

1865, ch. 79.  
Post, p. 487.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States shall be authorized, whenever he shall deem it necessary, during the present war, to call for such number of men for the military service of the United States as the public exigencies may require.

President may call for such number of men as public exigencies require.

SEC. 2. *And be it further enacted,* That the quota of each ward of a city, town, township, precinct, or election district, or of a county, where the county is not divided into wards, towns, townships, precincts, or election districts, shall be, as nearly as possible, in proportion to the number of men resident therein liable to render military service, taking into account as far as practicable, the number which has been previously furnished therefrom; and in ascertaining and filling said quota there shall be taken into account the number of men who have heretofore entered the naval service of the United States, and whose names are borne upon the enrolment lists as already returned to the office of the provost-marshal general of the United States.

Quota of each ward, town, &c., how to be determined.

Persons in naval service to be reckoned.

SEC. 3. *And be it further enacted,* That if the quotas shall not be filled within the time designated by the President, the provost-marshal of the district within which any ward of a city, town, township, precinct, or election district, or county, where the same is not divided into wards, towns, townships, precincts, or election districts, which is deficient in its quota, is situated, shall, under the direction of the provost-marshal general, make a draft for the number deficient therefrom; but all volunteers who may enlist after the draft shall have been ordered, and before it shall be actually made, shall be deducted from the number ordered to be drafted in such ward, town, township, precinct, or election district, or county. And if the quota of any district shall not be filled by the draft made in accordance with the provisions of this act, and the act to which it is an amendment, further drafts shall be made, and like proceedings had, until the quota of such district shall be filled.

If quota is not filled by volunteers, draft to be made.

1864, ch. 237, § 6.  
Post, p. 380.

Volunteers enlisting after draft.

Further drafts.

SEC. 4. *And be it further enacted,* That any person enrolled under the provisions of the act for enrolling and calling out the national forces, and for other purposes, approved March third, eighteen hundred and sixty-three, or who may be hereafter so enrolled, may furnish, at any time previous to the draft, an acceptable substitute, who is not liable to draft, nor at the time in the military or naval service of the United States, and such person so furnishing a substitute shall be exempt from draft during the time for which [such] substitute shall not be liable to draft, not exceeding the time for which such substitute shall have been accepted.

Substitutes, what and by whom may be furnished, and for how long.

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Drafted persons may furnish substitutes.

1865, ch. 79, § 15.  
Post, p. 489.

How long to be exempt.

SEC. 5. *And be it further enacted,* That any person drafted into the military service of the United States may, before the time fixed for his appearance for duty at the draft rendezvous, furnish an acceptable substitute, subject to such rules and regulations as may be prescribed by the Secretary of War. That if such substitute is not liable to draft, the person furnishing him shall be exempt from draft during the time for which such substitute is not liable to draft, not exceeding the term for which he was drafted; and, if such substitute is liable to draft, the name of the person furnishing him shall again be placed on the roll, and shall be liable to draft on future calls, but not until the present enrolment shall be exhausted; and this exemption shall not exceed the term for which such person shall have been drafted. And any person now in the military or naval service of the United States, not physically disqualified, who has so served more than one year, and whose term of unexpired service shall not at the time of substitution exceed six months, may be employed as a substitute to serve in the troops of the State in which he enlisted; and if

Who may be employed as substitutes.

any drafted person shall hereafter pay money for the procurement of a substitute, under the provisions of the act to which this is an amendment, such payment of money shall operate only to relieve such person from draft in filling that quota; and his name shall be retained on the roll in filling future quotas; but in no instance shall the exemption of any person, on account of his payment of commutation money for the procurement of a substitute, extend beyond one year; but at the end of one year, in every such case, the name of any person so exempted shall be enrolled again, if not before returned to the enrolment list under the provisions of this section.

Payment of commutation money, how to exempt.

SEC. 6. *And be it further enacted*, That boards of enrolment shall enroll all persons liable to draft under the provisions of this act, and the act to which this is an amendment, whose names may have been omitted by the proper enrolling officers; all persons who shall arrive at the age of twenty years before the draft; all aliens who shall declare their intentions to become citizens; all persons discharged from the military or naval service of the United States who have not been in such service two years during the present war; and all persons who have been exempted under the provisions of the second section of the act to which this is an amendment, but who are not exempted by the provisions of this act; and said boards of enrolment shall release and discharge from draft all persons who, between the time of the enrolment and the draft, shall have arrived at the age of forty-five years, and shall strike the names of such persons from the enrolment.

Who to be enrolled.

Names of what persons to be struck from enrolment list.

SEC. 7. *And be it further enacted*, That any mariner or able or ordinary seaman who shall be drafted under this act, or the act to which this is an amendment, shall have the right, within eight days after the notification of such draft, to enlist in the naval service as a seaman, and a certificate that he has so enlisted being made out, in conformity with regulations which may be prescribed by the Secretary of the Navy, and duly presented to the provost-marshal of the district in which such mariner or able or ordinary seaman shall have been drafted, shall exempt him from such draft: *Provided*, That the period for which he shall have enlisted into the naval service shall not be less than the period for which he shall have been drafted into the military service: *And provided further*, That the said certificate shall declare that satisfactory proof has been made before the naval officer issuing the same that the said person so enlisting in the navy is a mariner by vocation, or an able or ordinary seaman. And any person now in the military service of the United States, who shall furnish satisfactory proof that he is a mariner by vocation or an able or ordinary seaman, may enlist into the navy under such rules and regulations as may be prescribed by the President of the United States: *Provided*, That such enlistment shall not be for less than the unexpired term of his military service nor for less than one year. And the bounty-money which any mariner or seaman enlisting from the army into the navy may have received from the United States, or from the state in which he enlisted in the army, shall be deducted from the prize-money to which he may become entitled during the time required to complete his military service: *And provided further*, That the whole number of such transfer enlistments shall not exceed ten thousand.

Seamen drafted may enlist in naval service, &c.

Term of enlistment.

Proof that he is a seaman.

Bounty-money to be deducted from prize-money.

Limit of transfer enlistments.

SEC. 8. *And be it further enacted*, That whenever any such mariner or able or ordinary seaman shall have been exempted from such draft in the military service by such enlistment into the naval service, under such due certificate thereof, then the ward, town, township, precinct, or election district, or county, when the same is not divided into wards, towns, townships, precincts, or election districts, from which such person has been drafted, shall be credited with his services to all intents and purposes as if he had been duly mustered into the military service under such draft.

Such enlisted seamen to be credited to town, ward, &c. on their quota.

SEC. 9. *And be it further enacted*, That all enlistments into the naval

Enlistments into naval service or marine corps to be credited.

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Exempts from enrolment.

Law for enrolment into two classes repealed.

1863, ch. 75,  
§§ 3, 10.  
Vol. xii. p. 731.

Penalty for forcibly resisting, &c. the enrolment, or persons employed therein.

Offenders liable to be punished under the State law.

Additional surgeons to examine drafted persons authorized.

Their duties.

Examinations of drafted men may be held at

service of the United States, or into the marine corps of the United States, that may hereafter be made of persons liable to service under the act of congress entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March third, eighteen hundred and sixty-three, shall be credited to the ward, town, township, precinct, or election district, or county, when the same is not divided into wards, towns, townships, precincts, or election districts, in which such enlisted men were or may be enrolled and liable to duty under the act aforesaid, under such regulations as the provost-marshal general of the United States may prescribe.

SEC. 10. *And be it further enacted*, That the following persons be and they are hereby exempted from enrolment and draft under the provisions of this act and of the act to which this is an amendment, to wit: Such as are rejected as physically or mentally unfit for the service, all persons actually in the military or naval service of the United States at the time of the draft, and all persons who have served in the military or naval service two years during the present war and been honorably discharged therefrom; and no persons but such as are herein exempted shall be exempt.

SEC. 11. *And be it further enacted*, That section third of the "Act for enrolling and calling out the national forces, and for other purposes," approved March third, eighteen hundred and sixty-three, and so much of section ten of said act as provides for the separate enrolment of each class, be, and the same are hereby repealed; and it shall be the duty of the board of enrolment of each district to consolidate the two classes mentioned in the third section of said act.

SEC. 12. *And be it further enacted*, That any person who shall forcibly resist or oppose any enrolment, or who shall incite, counsel, encourage, or who shall conspire or confederate with any other person or persons forcibly to resist or oppose any such enrolment, or who shall aid or assist, or take any part in any forcible resistance or opposition thereto, or who shall assault, obstruct, hinder, impede, or threaten any officer or other person employed in making or in aiding to make such enrolment, or employed in the performance, or in aiding in the performance of any service in any way relating thereto, or in arresting or aiding to arrest any spy or deserter from the military service of the United States, shall, upon conviction thereof in any court competent to try the offence, be punished by a fine not exceeding five thousand dollars, or by imprisonment not exceeding five years, or by both of said punishments in the discretion of the court. And in cases where such assaulting, obstructing, hindering, or impeding shall produce the death of such officer or other person, the offender shall be deemed guilty of murder, and, upon conviction thereof upon indictment in the circuit court of the United States for the district within which the offence was committed, shall be punished with death. And nothing in this section contained shall be construed to relieve the party offending from liability, under proper indictment or process, for any crime against the laws of a state, committed by him while violating the provisions of this section.

SEC. 13. *And be it further enacted*, That the Secretary of War shall be authorized to detail or appoint such number of additional surgeons for temporary duty in the examination of persons drafted into the military service, in any district, as may be necessary to secure the prompt examination of all such persons, and to fix the compensation to be paid surgeons so appointed while actually employed. And such surgeons so detailed or appointed shall perform the same duties as the surgeon of the board of enrolment, except that they shall not be permitted to vote or sit with the board of enrolment.

SEC. 14. *And be it further enacted*, That the Secretary of War is authorized, whenever in his judgment the public interest will be subserved thereby, to permit or require boards of examination of enrolled or drafted

men to hold their examinations at different points within their respective enrolment districts, to be determined by him: *Provided*, That in all districts over one hundred miles in extent, and in such as are composed of over ten counties, the board shall hold their sessions in at least two places in such district, and at such points as are best calculated to accommodate the people thereof.

SEC. 15. *And be it further enacted*, That provost-marshals, boards of enrolment, or any member thereof, acting by authority of the board, shall have power to summon witnesses in behalf of the government, and enforce their attendance by attachment without previous payment of fees, in any case pending before them, or either of them; and the fees allowed for witnesses attending under summons shall be six cents per mile for mileage, counting one way; and no other fees or costs shall be allowed under the provisions of this section; and they shall have power to administer oaths and affirmations. And any person who shall wilfully and corruptly swear or affirm falsely before any provost-marshal, or board of enrolment, or member thereof, acting by authority of the board, or who shall, before any civil magistrate, wilfully and corruptly swear or affirm falsely to any affidavit to be used in any case pending before any provost-marshal or board of enrolment, shall, on conviction, be fined not exceeding five hundred dollars, and imprisoned not less than six months nor more than twelve months. The drafted men shall have process to bring in witnesses, but without mileage.

SEC. 16. *And be it further enacted*, That copies of any record of a provost-marshal or board of enrolment, or of any part thereof, certified by the provost-marshal, or a majority of said board of enrolment, shall be deemed and taken as evidence in any civil or military court in like manner as the original record: *Provided*, That if any person shall knowingly certify any false copy or copies of such record, to be used in any civil or military court, he shall be subject to the pains and penalties of perjury.

SEC. 17. *And be it further enacted*, That members of religious denominations, who shall by oath or affirmation declare that they are conscientiously opposed to the bearing of arms, and who are prohibited from doing so by the rules and articles of faith and practice of said religious denominations, shall, when drafted into the military service, be considered non-combatants, and shall be assigned by the Secretary of War to duty in the hospitals, or to the care of freedmen, or shall pay the sum of three hundred dollars to such person as the Secretary of War shall designate to receive it, to be applied to the benefit of the sick and wounded soldiers: *Provided*, That no person shall be entitled to the benefit of the provisions of this section unless his declaration of conscientious scruples against bearing arms shall be supported by satisfactory evidence that his deportment has been uniformly consistent with such declaration.

SEC. 18. *And be it further enacted*, That no person of foreign birth shall, on account of alienage, be exempted from enrolment or draft under the provisions of this act, or the act to which it is an amendment, who has at any time assumed the rights of a citizen by voting at any election held under authority of the laws of any state or territory, or of the United States, or who has held any office under such laws or any of them; but the fact that any such person of foreign birth has voted or held, or shall vote or hold, office as aforesaid, shall be taken as conclusive evidence that he is not entitled to exemption from military service on account of alienage.

SEC. 19. *And be it further enacted*, That all claims to exemption shall be verified by the oath or affirmation of the party claiming exemption, to the truth of the facts stated, unless it shall satisfactorily appear to the board of enrolment that such party is for some good and sufficient reason unable to make such oath or affirmation; and the testimony of any other

different points in district.

Where must be so held.

Witnesses for the government, when and how may be summoned before boards of enrolment.

Fees. Oath.

Penalty for false swearing.

1865, ch. 79, § 24. Post, p. 491.

Drafted men may have process for witnesses.

Copies of record of provost-marshal or board of enrolment, to be evidence.

Penalty for falsely certifying record.

Persons conscientiously opposed to bearing arms, &c., if drafted, how to be treated.

Evidence as to conscientious scruples.

Persons of foreign birth not to be exempted from enrolment or draft, if they have voted, &c.

Claims to exemption to be verified by oath, unless, &c.

party filed in support of a claim to exemption shall also be made upon oath or affirmation.

Exemptions obtained by fraud to be of no effect, and person exempted to be deemed a deserter, &c.

Persons in military service under eighteen may be discharged, &c.

1864, ch. 237, § 5.  
Post, p. 380.

Bounty, &c., to be refunded.

Penalty for procuring a false report from surgeon of board of enrolment.

Fees of attorneys, &c., for making papers in claim for exemption.

Physicians not to have fees.

Penalties on attorneys, physicians, officers, clerks, &c., regarding fees, &c.

Who not to be employed in procuring substitutes.

Penalty.

SEC. 20. *And be it further enacted*, That if any person drafted and liable to render military service shall procure a decision of the board of enrolment in his favor upon a claim to exemption by any fraud or false representation practised by himself or by his procurement, such decision or exemption shall be of no effect, and the person exempted, or in whose favor the decision may be made, shall be deemed a deserter, and may be arrested, tried by court-martial, and punished as such, and shall be held to service for the full term for which he was drafted, reckoning from the time of his arrest: *Provided*, That the Secretary of War may order the discharge of all persons in the military service who are under the age of eighteen years at the time of the application for their discharge, when it shall appear upon due proof that such persons are in the service without the consent, either expressed or implied, of their parents or guardians. *And provided further*, That such persons, their parents or guardians, shall first repay to the government and to the state and local authorities all bounties and advance-pay which may have been paid to them, anything in the act to which this is an amendment to the contrary notwithstanding.

SEC. 21. *And be it further enacted*, That any person who shall procure, or attempt to procure, a false report from the surgeon of the board of enrolment concerning the physical condition of any drafted person, or a decision in favor of such person by the board of enrolment upon a claim to exemption, knowing the same to be false, shall, upon conviction in any district or circuit court of the United States, be punished by imprisonment for the period for which the party was drafted.

SEC. 22. *And be it further enacted*, That the fees of agents and attorneys for making out and causing to be executed any papers in support of a claim for exemption from draft, or for any services that may be rendered to the claimant, shall not, in any case, exceed five dollars; and physicians or surgeons furnishing certificates of disability to any claimant for exemption from draft shall not be entitled to any fees or compensation therefor. And any agent or attorney who shall, directly or indirectly, demand or receive any greater compensation for his services under this act, and any physician or surgeon who shall, directly or indirectly, demand or receive any compensation for furnishing said certificates of disability, and any officer, clerk, or deputy connected with the board of enrolment who shall receive compensation from any drafted man for any services, or obtaining the performance of such service required from any member of said board by the provisions of this act, shall be deemed guilty of a high misdemeanor, and, upon conviction, shall, for every such offence, be fined not exceeding five hundred dollars, to be recovered upon information or indictment before any court of competent jurisdiction, one half for the use of any informer who may prosecute for the same in the name of the United States, and the other half for the use of the United States, and shall also be subject to imprisonment for a term not exceeding one year, at the discretion of the court.

SEC. 23. *And be it further enacted*, That no member of the board of enrolment, and no surgeon detailed or employed to assist the board of enrolment, and no clerk, assistant, or employee of any provost-marshal or board of enrolment, shall, directly or indirectly, be engaged in procuring or attempting to procure substitutes for persons drafted, or liable to be drafted, into the military service of the United States. And if any member of a board of enrolment, or any such surgeon, clerk, assistant, or employee, shall procure, or attempt to procure, a substitute for any person drafted, or liable to be drafted, as aforesaid, he shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by imprisonment not less than thirty days, nor more than six months, and pay a fine

not less than one hundred, nor more than one thousand dollars, by any court competent to try the offence.

SEC. 24. *And be it further enacted,* That all able-bodied male colored persons, between the ages of twenty and forty-five years, resident in the United States, shall be enrolled according to the provisions of this act, and of the act to which this is an amendment, and form part of the national forces; and when a slave of a loyal master shall be drafted and mustered into the service of the United States, his master shall have a certificate thereof, and thereupon such slave shall be free; and the bounty of one hundred dollars, now payable by law for each drafted man, shall be paid to the person to whom such drafted person was owing service or labor at the time of his muster into the service of the United States. The Secretary of War shall appoint a commission in each of the slave States represented in Congress, charged to award to each loyal person to whom a colored volunteer may owe service a just compensation, not exceeding three hundred dollars, for each such colored volunteer, payable out of the fund derived from commutations, and every such colored volunteer on being mustered into the service shall be free. And in all cases where men of color have been heretofore enlisted or have volunteered in the military service of the United States, all the provisions of this act, so far as the payment of bounty and compensation are provided, shall be equally applicable as to those who may be hereafter recruited. But men of color, drafted or enlisted, or who may volunteer into the military service, while they shall be credited on the quotas of the several states, or subdivisions of states, wherein they are respectively drafted, enlisted, or shall volunteer, shall not be assigned as state troops, but shall be mustered into regiments or companies as United States colored troops.

Certain colored persons to be enrolled, and form part of the national forces.

Slaves of loyal masters.

Bounty to master.

Commission to determine compensation to loyal masters of colored volunteers.

How to be mustered into service.

SEC. 25. *And be it further enacted,* That the fifteenth section of the act to which this is amendatory be so amended that it will read as follows: That any surgeon charged with the duty of such inspection, who shall receive from any person whomsoever any money or other valuable thing, or agree, directly or indirectly, to receive the same to his own or another's use, for making an imperfect inspection, or a false or incorrect report, or who shall wilfully neglect to make a faithful inspection and true report, and each member of the board of enrolment who shall wilfully agree to the discharge from service of any drafted person who is not legally and properly entitled to such discharge, shall be tried by a court-martial, and, on conviction thereof, be punished by a fine not less than three hundred dollars and not more than ten thousand dollars, shall be imprisoned at the discretion of the court, and be cashiered and dismissed the service.

Penalty upon surgeon for making false report, or negligent inspection;

1863, ch. 75, § 15. Vol. xii. p. 734.

on member of board of enrolment for illegally discharging drafted persons.

SEC. 26. *And be it further enacted,* That the words "precinct" and "election district," as used in this act, shall not be construed to require any subdivision for purposes of enrolment and draft less than the wards into which any city or village may be divided, or than the towns or townships into which any county may be divided.

"Precinct" and "election district," how construed.

SEC. 27. *And be it further enacted,* That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March third, eighteen hundred and sixty-three, as may be inconsistent with the provisions of this act, is hereby repealed.

Repeal of inconsistent provisions.

1863, ch. 75. Vol. xii. p. 731.

APPROVED, February 24, 1864.

CHAP. XIV. — *An Act reviving the Grade of Lieutenant-General in the United States Army.*

Feb. 29, 1864.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the grade of lieutenant-general be and the same is hereby revived in the army of the United States; and the President is hereby authorized, whenever he shall deem

Grade of lieutenant-general revived, and