

privilege of a drawback of duty, shall be applicable to goods entered and stored under the provisions of this act, except as is herein otherwise provided.

APPROVED, July 5, 1838.

STATUTE II.

July 5, 1838.

CHAP. CLXI.—*An Act to authorize the issuing of patents to the last bona fide transferee of reservations under the treaty between the United States and the Creek tribe of Indians which was concluded on the twenty-fourth of March, eighteen hundred and thirty-two.*

The President to cause patents to issue to the last purchasers, &c. of Indian selections, &c.

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 be, and he is hereby, authorized and required to cause patents to be issued to such person or persons as may be the bona fide purchaser, owner, assignee, or transferee of any selection or reservation which has been made to, or in behalf of, any chief or head of an Indian family, under a treaty concluded between the United States and the Creek tribe of Indians, at Washington city, on the twenty-fourth day of March, eighteen hundred and thirty-two, whatever may be the number of intermediate transfers or assignments: *Provided,* The person or persons applying for such patent or patents shall adduce satisfactory proof to the Commissioner of the General Land Office of the fairness of said several preceding transfers or assignments.

Proviso.

APPROVED, July 5, 1838.

STATUTE II.

July 5, 1838.

Act of May 23, 1836, ch. 80.

CHAP. CLXII.—*An Act to increase the present military establishment of the United States, and for other purposes. (a)*

One company to be added to each of the regiments of artillery, &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be added to each of the four regiments of artillery, one company, to be organized in the same manner as authorized by existing laws, with the exceptions hereafter mentioned; that there be added to every company of artillery sixteen privates, and to every company of infantry one sergeant and thirty-eight privates, and that the number of second lieutenants of a company of artillery be reduced to one, and that this reduction be so made in connection with the appointment of officers to the four additional companies authorized as aforesaid, and the transfer to the Ordnance Department hereafter directed, that all the present second lieutenants shall be retained in service; and there shall be raised and organized under the direction of the President of the United States, one regiment of infantry, to be composed of the same number and rank of officers, non-commissioned officers, musicians, and privates, composing the regiments of infantry now in the service of the United States, who shall receive the same pay and allowances, and be subject to the same rules and regulations which now apply to other regiments of infantry, as provided for in this act.

Organization.

A regiment of infantry to be raised.

The President authorized to increase the corps of engineers.

SEC. 2. *And be it further enacted,* That the President of the United States be and he is hereby, authorized to add to the corps of engineers, whenever he may deem it expedient to increase the same, one lieutenant colonel, two majors, six captains, six first and six second lieutenants; and that the pay and emoluments of the said corps shall be the same as those allowed to the officers of the regiment of dragoons.

Pay and emoluments.

(a) An act supplementary to an act entitled, An act to increase the present military establishment of the United States, and for other purposes; July 7, 1838, chap. 194.

An act to amend an act regulating the pay and emoluments of brevet officers, passed April 16, 1818; March 3, 1839, chap. 85.

An act regulating the organization of the army, and for other purposes; August 23, 1842, chap. 186. An act to repeal so much of the act approved the twenty-third of August, one thousand eight hundred and forty-two, as requires the second regiment of dragoons to be converted into riflemen, after the fourth day of March, one thousand eight hundred and forty-three; April 4, 1844, chap. 11.

SEC. 3. *And be it further enacted,* That so much of the act passed the twenty-ninth day of April, one thousand eight hundred and twelve, entitled "An act making further provision for the corps of engineers," as provides that one paymaster shall be taken from the subalterns of the corps of engineers, be, and the same is hereby repealed; and that the paymaster so authorized and provided be attached to the pay department, and be in every respect, placed on the footing of other paymasters of the army.

Act of April 29, 1812, ch. 72.

Paymaster to be attached to pay dep't., &c.

SEC. 4. *And be it further enacted,* That the corps of topographical engineers shall be organized and increased by regular promotions in the same, so that the said corps shall consist of one colonel, one lieutenant colonel, four majors, ten captains, ten first lieutenants, and ten second lieutenants.

Corps of topographical engineers.

Vacancies in, how to be filled.

SEC. 5. *And be it further enacted,* That vacancies created by said organization, over and above those which can be filled by the present corps, shall be taken from the army, and from such as it may be deemed advisable of the civil engineers employed under the act of the thirtieth of April, eighteen hundred and twenty-four; that the pay and emoluments to the officers of said corps shall be the same as are allowed to officers of similar rank in the regiments of dragoons.

Act of April 30, 1824, ch. 46. Pay and emoluments.

SEC. 6. *And be it further enacted,* That the authority to employ civil engineers, in the act of the thirtieth of April, eighteen hundred and twenty-four, be and the same is hereby repealed after the passage of this act.

Authority given in act of 30th April, 1824, ch. 46, to employ civil engineers, repealed.

SEC. 7. *And be it further enacted,* That the President of the United States shall be and he is hereby, authorized to appoint so many assistant adjutants general, not exceeding two, with the brevet rank, pay, and emoluments of a major, and not exceeding four, with the brevet rank, pay and emoluments of a captain of cavalry, as he may deem necessary; and that they shall be taken from the line of the army, and in addition to their own, shall perform the duties of assistant inspectors general when the circumstances of the service may require.

The President authorized to appoint so many assistant adjutants general as he may deem necessary, &c.

SEC. 8. *And be it further enacted,* That the officers to be taken from the line and transferred to the staff, under the last preceding section, shall receive only the pay and emoluments attached to their rank in the staff; but their transfer shall be without prejudice to their rank and promotion in the line, according to their said rank and seniority; which promotion shall take place according to usage, in the same manner as if they had not been thus transferred.

Pay and emoluments of officers taken from the line and transferred to the staff.

Their rank and promotion.

SEC. 9. *And be it further enacted,* That the President of the United States be and he is hereby authorized, by and with the advice and consent of the Senate, to add to the quartermaster's department not exceeding two assistant quartermasters general with the rank of colonel, two deputy quartermasters general, with the rank of lieutenant colonel, and eight assistant quartermasters with the rank of captain; that the assistant quartermasters now in service shall have the same rank as is provided by this act for those hereby authorized; and that the pay and emoluments of the officers of the quartermaster's department, shall be the same as are allowed to officers of similar rank in the regiments of dragoons: *Provided,* That all appointments in the quartermaster's department shall be made from the army, and when officers taken for such appointments hold rank in the line, they shall thereupon relinquish said rank, and be separated from the line of the army; and that promotion in said department shall take place as in regiments and corps.

The President authorized to add to the quartermaster's department.

Rank. Pay and emoluments.

Proviso. 1838, ch. 194.

SEC. 10. *And be it further enacted,* That the quartermaster general be and he is hereby authorized from time to time, to employ as many forage-masters and wagon-masters as he may deem necessary for the service, not exceeding twenty in the whole, who shall be entitled to receive each forty dollars per month, and three rations per day, and forage

Qr. Mr. Gen. authorized to employ forage-masters and wagon-masters.

for one horse; and neither of whom shall be interested or concerned, directly or indirectly, in any wagon or other means of transport employed by [the] United States, nor in the purchase or sale of any property procured for or belonging to the United States, except as an agent for the United States.

Increase of the commissariat of subsistence.

SEC. 11. *And be it further enacted,* That there be added to the commissariat of subsistence one assistant commissary general of subsistence, with the rank, pay and emoluments of a lieutenant colonel of cavalry, one commissary of subsistence with the rank, pay and emoluments of a quartermaster of the army; and three commissaries of subsistence with the rank, pay and emoluments of assistant quartermasters.

Pay of stewards of hospitals.

SEC. 12. *And be it further enacted,* That the stewards of hospitals at posts of more than four companies be hereafter allowed the pay, clothing and rations of a sergeant of ordnance, and, at all other posts, the pay, clothing and rations of the first sergeant of a company of infantry.

The President authorized to increase the ordnance dep't. 1838, ch. 194.

SEC. 13. *And be it further enacted,* That the President of the United States, be and he is hereby authorized to add to the ordnance department, whenever he may deem it expedient to increase the same, by and with the advice of the Senate, two majors, and that he be further authorized to transfer ten first lieutenants and ten second lieutenants from the artillery to the ordnance department, and that the pay and emoluments of the officers of the said department shall be the same as those allowed to the officers of the regiment of dragoons.

Pay and emoluments.

Construction to be given to 4th sec. act 5th April 1832, ch. 67.

SEC. 14. *And be it further enacted,* That so much of the fourth section of the act passed fifth of April eighteen hundred and thirty-two for the organization of the ordnance department, as authorizes the officers of ordnance to receive the same pay and emoluments now allowed artillery officers, shall be construed to include the ten dollars per month additional pay to every officer in the actual command of a company, as compensation for the duties and responsibilities with respect to clothing, arms, and accoutrements of the company, under the authority of the second section of the act passed second of March eighteen hundred and twenty-seven, giving further compensation to the captains and subalterns of the army of the United States in certain cases: *Provided,* That the officers of the ordnance department claiming the compensation for such duties and responsibilities shall have been actually in the command of enlisted men of the ordnance equal to a company of artillery, and thereby incurred the aforesaid responsibilities.

1827, ch. 42. Proviso.

All commissioned officers, &c. to receive an additional ration for every five years' service. Proviso.

SEC. 15. *And be it further enacted,* That every commissioned officer of the line or staff exclusive of general officers shall be entitled to receive one additional ration per diem for every five years he may have served or shall serve in the army of the United States: *Provided,* That in certain cases where officers are entitled to and receive double rations, the additional one allowed in this section shall not be included in the number to be doubled.

Period of enlistments.

Pay of non-commissioned officers and soldiers.

SEC. 16. *And be it further enacted,* That from and after the passing of this act, all enlistments in the Army of the United States shall be for five years, and that the monthly pay of non-commissioned officers and soldiers shall be as follows: to each sergeant major, quartermaster sergeant, and chief musician, seventeen dollars, to each first sergeant of a company, sixteen dollars; to all other sergeants, thirteen dollars; to each artificer, eleven dollars; to each corporal, nine dollars; and to each musician and private soldier, eight dollars; *Provided,* that two dollars per month of said pay be retained until the expiration of his term of service.

Proviso.

1838, ch. 194.

Allowance of sugar and coffee in lieu of spirit or whiskey.

SEC. 17. *And be it further enacted,* That the allowance of sugar and coffee to the non-commissioned officers, musicians and privates, in lieu of the spirit or whiskey component part of the army ration, now

directed by regulation, shall be fixed at six pounds of coffee and twelve pounds of sugar to every one hundred rations, to be issued weekly when it can be done with convenience to the public service, and, when not so issued, to be paid for in money.

SEC. 18. *And be it further enacted*, That it shall be lawful for the officers composing the council of administration at any post, from time to time, to employ such person as they may think proper to officiate as chaplain who shall also perform the duties of schoolmaster at such post; and the person so employed shall, on the certificate of the commanding officer of the post, be paid such sum for his services, not exceeding forty dollars per month, as may be determined by the said council of administration, with the approval of the Secretary of War; and, in addition to his pay, the said chaplain shall be allowed four rations per diem, with quarters and fuel.

Employment of persons to act as chaplains. 1838, ch. 194.

Pay, &c.

SEC. 19. *And be it further enacted*, That an additional professor be appointed to instruct in the studies of chemistry, mineralogy, and geology with the pay and emoluments now allowed to the professor of mathematics; and that the Secretary of War may assign to the said professor an assistant, to be taken from the officers of the line or cadets: which assistant professor will receive the pay and emoluments allowed to other assistant professors.

An additional professor of chemistry, &c.

Assistant to said professor.

SEC. 20. *And be it further enacted*, That whenever suitable non-commissioned officers or privates cannot be procured from the line of the army to serve as paymasters' clerks, paymasters be and hereby are authorized and empowered by and with the approbation of the Secretary of War to employ citizens to perform that duty, at salaries not to exceed five hundred dollars per annum, each.

Paymaster's clerks.

SEC. 21. *And be it further enacted*, That all letters and packages on public business, to and from the commanding general, the colonel of ordnance, the surgeon general, and the head of the topographical corps, shall be free from postage.

Letters and packages on public business to be free of postage.

SEC. 22. *And be it further enacted*, That the President shall be and he is hereby authorized, whenever he may deem the same expedient, to cause not exceeding two of the regiments of infantry to be armed and equipped and to serve as regiments of riflemen, and one other of the regiments of infantry to be armed and equipped and to serve as a regiment of light infantry.

Regiment of riflemen. Regiment of light infantry.

SEC. 23. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act, shall be and the same are hereby repealed.

Acts inconsistent with this act repealed.

SEC. 24. *And be it further enacted*, That hereafter the officers of the pay and medical departments of the army shall receive the pay and emoluments of officers of cavalry of the same grades respectively, according to which they are now paid by existing laws.

Pay of officers of the pay and medical department.

SEC. 25. *And be it further enacted*, That when volunteers or militia are called into the service of the United States, so that the paymasters authorized by law shall not be deemed sufficient to enable them to pay the troops with proper punctuality, it shall be lawful for the President to appoint as many additional paymasters as he shall deem necessary, who shall perform the same duty, give the same bond, be subject to the same liability, and receive the same pay and emoluments, as are now provided for paymasters of the army: *Provided, however*, That the number so appointed shall not exceed one for every two regiments of militia or volunteers: *And provided also*, That the persons so appointed shall continue in service only so long as their services are required to pay militia and volunteers.

The President authorized to appoint additional paymasters.

Their duties, &c.

Proviso.

Proviso.

SEC. 26. *And be it further enacted*, That the compensation hereafter to be allowed to such ordnance storekeepers as shall be designated as

Compensation of ordnance

storekeepers designated as paymasters.
Duties of engineers.

Compensation therefor.
1838, ch. 194.
Proviso.

Time of service of cadets increased.

Three months' extra pay given in lieu of the bounty, &c.

1838, ch. 194.

Land granted for ten consecutive years' service.

Repealed,
1838, ch. 194.
So much of acts 16th March, 1802, ch. 9, and 12 April, 1808, ch. 43, as fix the height of enlisted men, repealed.

Officers not to be separated from their regiment to engage in civil works, &c.

Proviso.

Pay, &c. of superintendents of armories.

Seven additional surgeons to be appointed.

Pay, &c.

paymasters, shall not exceed the pay and emoluments of a captain of ordnance.

SEC. 27. *And be it further enacted*, That it shall be the duty of the engineer superintending the construction of a fortification, or engaged about the execution of any other public work, to disburse the moneys applicable to the same; and as a compensation therefor, may be allowed by the Secretary of War at the rate of two dollars per diem, during the continuance of such disbursements: *Provided*, That the whole amount of emolument shall not exceed one per cent. on the sum disbursed.

SEC. 28. *And be it further enacted*, That the term for which cadets hereafter admitted into the Military Academy at West Point shall engage to serve, be and the same is hereby increased to eight years, unless sooner discharged.

SEC. 29. *And be it further enacted*, That in lieu of the bounty now provided by law for re-enlistment, every able-bodied non-commissioned officer, musician or private soldier, who may re-enlist into his company or regiment within two months before or one month after the expiration of his term of service, shall receive three months' extra pay; and also any non-commissioned officer or soldier who shall serve ten consecutive years, and shall obtain from the commanding officer of his company, battalion or regiment, a certificate that he had faithfully performed his duty whilst in service, shall be allowed one hundred and sixty acres of land, to be designated, surveyed, and laid off at the public expense, in such manner and upon such conditions as may be provided by law, which land shall be patented to the soldier or his heirs, and be not assignable until patented.

SEC. 30. *And be it further enacted*, That so much of the eleventh section of the act of the sixteenth March, eighteen hundred and two, and so much of the fifth section of the act of the twelfth of April, eighteen hundred and eight, as fix the height of enlisted men at five feet six inches, be and the same are hereby repealed.

SEC. 31. *And be it further enacted*, That the officers of the army shall not be separated from their regiments and corps for employment on civil works of internal improvement, or be allowed to engage in the service of incorporated companies, and no officer of the line of the army shall hereafter be employed as acting paymaster, or disbursing agent for the Indian department, if such extra employment require that he be separated from his regiment or company, or otherwise interfere with the performance of the military duties proper: *Provided*, That where officers of the army are now employed on civil works or in the Indian or pay departments as contemplated in this section, they may be continued therein not exceeding one year, unless the convenience of the service will admit of their withdrawal sooner.

SEC. 32. *And be it further enacted*, That the superintendents of the armories at Springfield and Harper's Ferry shall hereafter receive each the sum of fifteen hundred dollars, and rations, fuel, and quarters, as at present authorized; and that the master armorers of the same shall each receive the sum of twelve hundred dollars, and fuel, and quarters, as at present authorized; and that the aforesaid sums and allowances to the officers aforesaid shall be in full compensation for their services respectively.

SEC. 33. *And be it further enacted*, That the President be, and he is hereby authorized, by and with the advice and consent of the Senate, to appoint seven additional surgeons; and that the officers whose appointment is authorized in this section, shall receive the pay and allowances of officers of the same grades respectively.

APPROVED, July 5, 1838.