

CHAPTER 74.

AN ACT TO PROVIDE FOR THE ORGANIZATION OF THE NATIONAL GUARD OF THE STATE OF MINNESOTA AND THE MAINTENANCE THEREOF, AND ENTITLED THE MILITARY CODE.

Be it enacted by the Legislature of the State of Minnesota:

ARTICLE I.

SECTION 1. The National Guard of the State of Minnesota shall consist of two (2) regiments of infantry and one (1) battery of artillery. National Guard

SEC. 2. Each regiment of infantry shall consist of one (1) colonel, one (1) lieutenant colonel and one (1) major; one (1) surgeon with the rank of major; one (1) chaplain with the rank of captain; one (1) adjutant, one (1) quartermaster, one (1) assistant surgeon, one (1) judge advocate, each with the rank of first lieutenant; one (1) sergeant major, one (1) quartermaster sergeant, one (1) commissary sergeant, one (1) hospital steward, one (1) chief musician, two (2) color sergeants, eight (8) companies and one (1) band of not more than twenty (20) musicians. Regimental officers.

SEC. 3. Each company of infantry shall consist of one (1) captain, one (1) first lieutenant, one (1) second lieutenant, five (5) sergeants; six (6) corporals, two (2) musicians and not less than thirty (30) nor more than sixty (60) privates. Company officers.

SEC. 4. The battery of artillery shall consist of one (1) captain, one (1) first lieutenant, one (1) second lieutenant, seven (7) sergeants, eight (8) corporals, two (2) musicians and not less than twenty-six (26) nor more than fifty-six (56) privates. Artillery.

SEC. 5. The commander-in-chief may, at his discretion, form the National Guard into a brigade, in which case he shall order an election for a brigadier-general to be elected by the field officers of said brigade and the captain of the battery of artillery. Said brigadier-general shall have power to appoint the following staff officers: One (1) assistant adjutant-general, with the rank of lieutenant-colonel; one (1) brigade inspector, one (1) brigade quartermaster, one (1) brigade judge advocate and one (1) aid-de-camp, each with the rank of captain. Said staff officers shall hold office during the pleasure of said brigadier-general. Brigade and staff officers.

ARTICLE II.

SECTION 1. Commissioned officers of companies and of the battery shall be elected by the votes of the officers, non-commissioned officers and privates of their respective companies or battery. Commissioned officers—how elected.

Non-commissioned officers—
how appointed

Company non-commissioned officers shall, on the recommendation of the captains of their respective companies, be appointed by the colonel of the regiment to which their respective companies belong, and shall be subject to reduction to the ranks by the captain of their company with the approval of the colonel of their regiment.

Non-commissioned officers of the battery shall be appointed by the captain thereof, and be subject to reduction to the ranks by him with the approval of the commander-in-chief.

Field officers—
how elected.

SEC. 2. Field officers of regiments shall be elected by the votes of the field and line officers of their respective regiments. Regimental staff officers shall be similarly elected, subject to the approval of the colonel of his regiment. Regimental non-commissioned staff officers shall be appointed by the colonel of each regiment from among the non-commissioned officers or men of some company or companies in the regiment.

Staff officers
appointed by
the colonel.

Elections—how
ordered.

SEC. 3. Elections for general and field officers and for officers of the battery shall be ordered by the commander-in-chief. Elections for line officers of infantry companies and staff officers of regiments shall be ordered by the commanding officer of the respective regiments. Five (5) days' notice of the holding of any election must be given to each person entitled to vote at such election.

Who shall pre-
side.

SEC. 4. The officer ordering an election shall preside thereat in person or shall designate some other officer to perform the duty. In the absence of the presiding officer, the chair shall be taken by the senior officer present; but no officer shall preside at any election at which he is a candidate for any office to be filled thereat.

Voting by
ballot.

SEC. 5. All voting shall be by ballot, and a majority of all the votes cast shall be necessary to a choice. *Provided*, however, that a majority of those entitled to a vote at such election are present and voting.

Term of enlist-
ment.

SEC. 6. Every person who shall enlist in the National Guard shall be mustered into the service of the state for the term of five (5) years unless sooner discharged by competent authority, and any person who, prior to the passage of this act, shall have enlisted for three (3) years, may at the expiration of his term of service be re-enlisted for two (2) years. After the organization of a company, recruits shall sign their names in a book of enlistment kept by the company for that purpose, which signing shall be a legal enlistment.

Discharges—
how granted.

SEC. 7. Discharges, except upon expiration of term of service, shall only be granted in case of permanent removal from the state, or from the city or town in which the company of the member seeking the discharge is located, or for physical disability, or for the good of the service. The commanding officer of each regiment is hereby authorized to pass upon and issue such discharges for enlisted men of his regiment, and also to grant an honorable discharge to

any person who, prior to the passage of this act, shall have enlisted for a second term of three (3) years and shall have faithfully served for two (2) years of said enlistment. Discharges from the battery can only be issued by the commander-in-chief.

SEC. 8. Officers of the National Guard shall be commissioned by the commander-in-chief, with rank from date of their election or appointment. The commander-in-chief may, at his discretion, withhold the commission of any officer until he can determine the qualifications of such officer for the office to which he may have been elected or appointed, and for the purpose of so determining, the commander-in-chief shall convene a board of officers of the National Guard, who shall examine into the qualifications of said officer and report thereon to the commander-in-chief. *Provided*, however, that no member of said board shall be inferior in rank to said officer. Should the commander-in-chief decide that the person so elected or appointed is incompetent to perform the duties of the office to which he shall have been elected or appointed, he shall have power to annul said election or appointment.

Commissions

SEC. 9. Resignations of officers shall be in writing, directed to the adjutant general and transmitted immediately through and by all intermediate commanders, who will endorse the same with their approval or disapproval. No officer shall be considered out of the service until his resignation is accepted by the commander-in-chief.

Resignation of officers.

SEC. 10. On the application of the colonel of any regiment, or the captain of the battery, the commander-in-chief is authorized to appoint an examining board of three (3) officers who shall enquire into the capability of any subordinate officer who may be sent before said board by the officer making the application, and should said board find the officer thus sent before them to be incompetent to fill the position held by him, the commander-in-chief shall cancel the commission of the officer thus found incompetent.

Examining board, duties.

SEC. 11. No officer shall hold two (2) commissions in the National Guard at the same time, and the acceptance of a second (2d) commission by any officer shall be considered as a resignation of the first (1st).

No officer can hold two commissions

SEC. 12. No staff officer can assume or be placed in command of any troops.

ARTICLE III.

SECTION 1. The staff of the commander-in-chief shall consist of one (1) adjutant general, one (1) inspector general, one (1) quartermaster general, one (1) surgeon general, one (1) judge advocate general, and one (1) commissary general, each with the rank of brigadier general; two (2) aides-de-camp, each with the rank of colonel. They shall be appointed by the commander-in-chief, and their com-

Staff of commander-in-chief to consist of.

missions shall expire with the term for which the commander-in-chief appointing them shall have been elected, except that the adjutant general shall continue to hold office until his successor has been appointed and commissioned.

ARTICLE IV.

Annual inspection

SECTION 1. There shall be an annual inspection of the National Guard by the inspector general, at such time and place as may be directed by the commander-in-chief.

Tactics.

SEC. 2. At such inspection the regiments, companies or battery, as the case may be, shall be exercised by their respective commanders in the manual of arms and in Upton's tactics generally, and shall be carefully counted by the inspector general. A roll of each company or battery, certified to by the captain thereof, shall be delivered to the inspector general prior to such inspection. The adjutant of each regiment shall deliver to the inspector general prior to such inspection, a roster of the field, staff and non-commissioned staff officers, and of the band of said regiment.

Inspector general to report.

SEC. 3. The inspector general shall report to the commander-in-chief the result of said inspections, and shall certify to the number of troops present, the condition of their uniforms, arms, accoutrements, and as to their proficiency in drill.

Company drills

SEC. 4. Every company or battery of the National Guard of this state, shall make at least two company drills or parades in each month of each year.

ARTICLE V.

Compensation.

SECTION 1. There shall be paid annually to each regiment of infantry and battery of artillery, the sum of seven dollars (\$7), for each officer, non-commissioned officer, musician and private as shall be inspected by the inspector general at the annual inspection provided for in article four (4), and shall be found to be fully uniformed, armed and equipped according to law. The aggregate amount of such payments, however, shall not exceed the sum of three hundred dollars (\$300) per annum for each company of infantry and battery of artillery, who shall muster at least the minimum number of men as provided for in this act, at said annual inspection; provided, that the battery of artillery shall be entitled to the same allowance for each horse actually used for military purposes in such battery, as is allowed for each member of the same; said allowance for horses, however, shall not exceed the additional sum of three hundred dollars (\$300) per annum for the battery aforesaid.

Money; to whom paid, and how paid.

SEC. 2. The money thus due to each company or battery, shall be paid to the commander thereof, and the money thus

due to the field, and staff and non-commissioned staff officers, and the band of each regiment, shall be paid to the commanding officer of said regiment, upon his requisition upon the adjutant general. The money so paid shall be used only for the purchase of uniforms, the expense of armory and care of arms, and for other necessary expenses of the regiments, companies and battery.

SEC. 3. Upon the receipt of said requisition, the adjutant general shall certify to the State Auditor the amount of money which such regiment, company or battery is entitled to receive under the provisions of this act, and said State Auditor shall thereupon draw his warrant on the State Treasurer for said amount, in favor of said regiment, company or battery, or of the person designated in said requisition, and the same shall be paid by said State Treasurer upon presentation of said warrant, properly endorsed.

Money: how drawn.

SEC. 4. Arms, accoutrements and ammunition shall be issued to the regiments, and to the battery on the order of the commander-in-chief, subject to such regulations as he may make.

Arms and ammunition

SEC. 5. The armory owned by any company, regiment or incorporated military association, and used exclusively for the benefit of such organization, shall be exempt from all taxes or assessments.

Armory exempt from taxes.

ARTICLE VI.

SECTION 1. The commander-in-chief shall order both regiments of infantry, and the battery of artillery into camp for a period not to exceed seven (7) days in each year, at such times and places as he may deem best.

Encampment.

SEC. 2. There shall be paid to each and every officer, and enlisted man of the National Guard, when ordered into camp by the commander-in-chief, the sum of one dollar and fifty cents (\$1.50) per day during the time of such encampment, including the time of going to and returning from the place of such encampment; *Provided*, however, that such payments shall only be made to the officers and men present at, and doing duty in such camp. In addition thereto, free transportation shall be furnished by the state. A deduction of fifty (50) cents per day from the pay of each officer and enlisted man shall be made for subsistence, if furnished by the state. The pay herein granted, shall be drawn and paid in the same manner as the annual allowance provided for in article five (5) of this act.

Per diem while in camp.

SEC. 3. That whenever the National Guard of this state or any portion thereof, shall be called into actual service by the commander-in-chief, each and every officer and enlisted man so called into such service, and who shall respond thereto, shall have and receive for such service the sum of two dollars (\$2) per day for the time he shall be engaged in such service, including the time of going to and returning from the place of such service, to be paid from the treasury

Per diem while in actual service

of the state, upon the requisition of the commander-in-chief.

ARTICLE VII.

SECTION 1. Every officer and enlisted man of the National Guard shall, during his term of service, be exempt from duty as a jurymen in any court of this state.

SEC. 2. Every person who shall have received an honorable discharge from the National Guard after a continuous service of not less than five (5) years, shall be forever thereafter exempt from jury duty in any court of this state.

SEC. 3. The uniforms, arms and equipments of any member of the National Guard shall not be liable to attachment or sale, on any final process of any court in this state.

SEC. 4. No member of the National Guard shall be arrested while going to, remaining at, or returning from any place at which he may be required to attend for the performance of military duty; but nothing contained herein shall be construed to prevent an arrest by order of the commanding officer of the regiment, company or battery to which such member may belong, or for felony or for breach of the peace.

ARTICLE VIII.

SECTION 1. Each company or battery of the National Guard may make a constitution and by-laws for its government, which shall be binding on its members, *provided*, that the same shall not be in conflict with the military code of this state, or with any rules and regulations governing the National Guard thereof and issued by the commander-in-chief. Such constitution and by-laws may prescribe the amount of dues to be paid by each member, and the fines and penalties for absence from or tardiness at any drill meeting or parade ordered by the commandant of such company or battery, or for disobedience of orders, or for acts prejudicial to military discipline. A copy of such constitution and by-laws, properly attested by the commandant of such company or battery shall be competent evidence of the provisions thereof in any action or proceeding in any court of this state.

SEC. 2. It shall be the duty of the commissioned officers of each regiment to make a constitution and by-laws for such regiment. Said constitution and by-laws shall prescribe the amount of fines and penalties to be imposed on the officers, non-commissioned officers, musicians and privates of such regiment for non-attendance or tardiness at any drill or parade ordered by the commandant of such regiment, or for acts prejudicial to military discipline. A copy of such constitution and by-laws, properly attested by the commandant of such regiment, shall be competent evi-

Exempt from jury duty.

Discharged soldiers exempt from jury duty, when.

Uniforms, etc., not liable to attachment.

Not liable to arrest, when.

Constitution and by-laws.

dence of the provisions thereof in any action or proceeding in any court of this state.

SEC. 3. Each regiment, company or battery shall have, and is hereby granted, full power and authority to sue and recover in its regiment, company or battery name, in any court of competent jurisdiction in this state, any and all dues which may be owing it under its said constitution and by-laws from any member thereof; and said court shall proceed and shall issue its processes for the collection of said dues as in other civil actions.

To sue for dues.

SEC. 4. In case any member of such regiment, company or battery shall have incurred any of the fines or penalties prescribed in its said constitution and by-laws by reason of his failure or neglect to perform his duty as a member of said regiment, company or battery, or by disobedience of orders, or by acts of insubordination, or conduct prejudicial to military discipline, such failure or neglect is hereby declared to be a misdemeanor, and the commandant, or other proper officer of such regiment, company or battery, shall make complaint against such member before any justice of the peace, or any court of competent jurisdiction within the county in which such member of such regiment, company or battery may reside. Said justice, or court, shall thereupon proceed to hear and determine said complaint and matter in the same manner as in the trial and hearing of cases of misdemeanor under the laws of this state; such member shall, upon conviction of such misdemeanor, be punished by a fine not exceeding ten dollars (\$10), together with the costs of such proceeding, and shall be committed to the county jail of said county until said fine and costs are paid, for a period not to exceed ten (10) days. Said complaint shall be made and proceedings taken thereunder in the name of the State of Minnesota, but without cost to said state; and all fines paid thereunder shall be paid into the treasury of such regiment, company or battery, as the case may be, for the benefit of its military fund.

Failure to perform duty a misdemeanor.

Punishment.

ARTICLE IX.

SECTION 1. The commander-in-chief shall appoint a board of five (5) officers who shall examine into and report the most suitable service uniform for the National Guard, and the uniform so reported shall, when approved by the commander-in-chief, be the service uniform for the National Guard of this state. The commander-in-chief shall give such time as he may see fit, not to exceed six (6) months, for the several regiments and the battery to make such changes from their present service uniform as may be necessary in order to comply with the provisions of this section.

Commission to report uniform.

ARTICLE X.

Powers of commander-in-chief.

SECTION 1. The commander-in-chief is hereby authorized to make such rules and regulations for the government of the National Guard as he may deem for the good of the service; *provided same shall not be inconsistent with this act.*

SEC. 2. The commander-in-chief is hereby authorized to appoint courts martial for the trial of members of the National Guard, against whom charges may be preferred to him. Such courts martial shall be conducted in accordance with the regulations of the army of the United States, and the findings shall be submitted to the commander-in-chief, who shall approve or disapprove them; and in the former case he is hereby authorized to carry them out, or to modify any sentence that may have been imposed.

Appropriation.

SEC. 3. There is hereby appropriated, out of any moneys in the state treasury belonging to the general fund, the sum of twelve thousand dollars (\$12,000) per annum, or so much thereof as may be necessary for the purpose of carrying out the provisions of this act, but no indebtedness shall be created hereunder in excess of the appropriations herein made, except for extraordinary expenses in case of insurrection, invasion or rebellion.

SEC. 4. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved February 14, 1883.

 CHAPTER 75.

AN ACT TO AMEND AN ACT TO PROVIDE FOR THE ORGANIZATION OF THE NATIONAL GUARD OF THE STATE OF MINNESOTA, AND THE MAINTENANCE THEREOF, AND ENTITLED THE MILITARY CODE, APPROVED FEBRUARY FOURTEENTH (14TH), ONE THOUSAND EIGHT HUNDRED AND EIGHT THREE (1883).

Be it enacted by the Legislature of the State of Minnesota:

Regimental officers.

SECTION 1. Section two (2) of said act is hereby amended to read as follows: Sec. 2. Each regiment of infantry shall consist of one (1) colonel, one (1) lieutenant colonel,