

THE  
STATUTES AT LARGE  
OF THE  
STATE OF MINNESOTA

COMPRISING

THE GENERAL STATUTES OF 1866

*As amended by subsequent Legislation to the close of the Session of 1873*

TOGETHER WITH

*ALL LAWS OF A GENERAL NATURE IN FORCE, MARCH 7, A.D. 1873*

WITH REFERENCES TO

JUDICIAL DECISIONS OF THE STATE OF MINNESOTA, AND OF OTHER  
STATES WHOSE STATUTES ARE SIMILAR

TO WHICH ARE PREFIXED

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT,  
THE ACT AUTHORIZING A STATE GOVERNMENT, AND THE  
CONSTITUTION OF THE STATE OF MINNESOTA

*VOL. I.*

---

COMPILED AND ARRANGED BY

A. H. BISSELL

ATTORNEY-AT-LAW

---

CHICAGO  
CALLAGHAN AND COMPANY

1873

## CHAPTER XXIII.\*

## OF THE MILITIA AND STATE ARMS.

## TIT. I.

## SEC.

1. What to constitute the militia of this state.
2. Duty of assessors—penalty in case of neglect—duty of county auditor.
3. National guard of the state—who to be commander-in-chief—field and staff officers, how appointed— independent companies exempt— term of service.
4. Power of commander-in-chief.
5. Who to be custodian of the books, accounts, etc.
6. Duties of military storekeeper—compensation.
7. When independent companies may be disbanded.

## TIT. II.

## SEC.

8. No arms shall be issued unless a good and sufficient bond be given for their safe keeping, etc.
9. Adjutant general authorized to appoint board of survey for inspection of arms, etc.
10. Proceeds to be turned over to state treasurer as an arsenal fund.
11. All vouchers paid from said fund to be certified to and approved, by whom.
12. Adjutant general authorized to drop from the returns arms issued, when.
13. Adjutant general to prepare all necessary blanks, rules, and instructions.
14. Penalty for abstracting state arms.

## TITLE I.

## OF THE ENROLLMENT AND ORGANIZATION OF THE MILITIA.

(*Title I. is the Act of March 2, 1870. S. L. 1870, 36.*)

SECTION 1. *What to constitute the militia of this state.*—All able-bodied male persons residing in the state of Minnesota, between the ages of eighteen and forty-five years, excepting only Indians not taxed, idiots, lunatics, and persons who have been convicted of infamous crimes, shall constitute the militia of this state, and be liable to perform military duty in case of war, invasion, rebellion, or to maintain the public peace and enforce the laws.

SEC. 2. *Duty of assessors—penalty in case of neglect—duty of county auditor.*—It shall be the duty of all assessors of personal property for taxation in the year one thousand eight hundred and seventy, and every second year thereafter, in their respective districts of townships, villages, or cities to enroll all persons in their respective districts liable to do military duty, according to the provisions of this act, which enrollment shall be made according to the forms to be prescribed by the adjutant general, and return the same under oath to the county auditor, at the same time the return of personal property in his district is made, and no pay or compensation shall be allowed by any township, city, or village for any services performed by any assessor who shall fail to make and return the enrollment herein provided for, which enrollment when made shall be filed in the office of the county auditor and safely preserved, an abstract or statement of which shall be made and duly certified by said auditor on or before the first day of October, one thousand eight hundred and seventy, and every two years thereafter, or when required to be made

\* The chapter upon this subject reported by the commissioners appointed to revise the statutes, was rejected by the legislature of 1866. In 1867 (S. L. 1867, 100) an act was passed for organizing, etc., the militia, but it seems to have been superseded by the Act of March 2, 1870, *infra*. *Vide* also S. L. 1868, 48; S. L. 1871, 33.

for each town, village, city, or ward in his county, according to such forms as may be prescribed and furnished by the adjutant general. The county auditor of each county is hereby authorized and required to enroll any person liable to be enrolled as aforesaid who may have been omitted on said rolls, and may erase therefrom the name of any one on satisfactory proof who has been improperly enrolled, or who shall be exempt by age or may be otherwise legally exempt: *provided*, that whenever in the opinion of the governor it is unnecessary, he may direct the adjutant general, by general order, to dispense for the time being with the same, or by a like order may require the same to be taken in any alternate year, or in each and every year.

SEC. 3 (AS AMENDED BY ACT OF MARCH 1, 1871). *What to constitute the militia of this state—who to be commander-in-chief—field and staff officers, how appointed—independent companies exempt—term of service.*—The active militia shall be composed of volunteers, and in case of war, invasion, the prevention of invasion, the suppression of riots, and to aid civil officers in the execution of the laws of the commonwealth, shall be first ordered into service, and shall be known and designated as the National Guard of the State of Minnesota. The governor is commander-in-chief of the militia of the state, and shall appoint his staff officers, to consist of one adjutant general, with the rank of brigadier general; one judge advocate general, with the rank of brigadier general; one surgeon general, with the rank of brigadier general; one chaplain, with the rank of colonel; one aid-de-camp with the rank of colonel, and one aid-de-camp, with the rank of major, and one military storekeeper, to rank as non-commissioned officer. The commander-in-chief in case he deems it necessary, or the public safety requires it, may appoint such number of field, staff, and officers of the line, as may be required to render the militia of the state available and efficient in case an emergency shall arise for calling into the service the military force of the state, or any part thereof, for the purposes set forth in this chapter (act); and it shall also be competent for the governor, as commander-in-chief, to authorize the formation and organization of uniformed companies in any locality in this state, when the same may be deemed desirable, prescribing such rules for the government of the same as he may deem advisable, and arm and equip the same, and the persons so organized and uniformed shall be exempt from serving as jurors, from labor on the public highways, and from personal taxation to the amount of two hundred dollars. For non-commissioned officers and privates the term of service shall be three years, to date from the time of mustering in by the proper officer, unless regularly discharged by competent authority.

S. L. 1871, 31.

SEC. 4. *Power of commander-in-chief.*—The commander-in-chief shall have full power and authority to establish all needful rules and regulations (which shall be uniform throughout the state) for the government of the militia of this state, but to conform to the regulations adopted for the army of the United States, as near as may be applicable in regard to discipline, drill, and rank.

SEC. 5. *Who to be custodian of books, accounts, etc.*—The adjutant general, by virtue of his office, is the custodian of all records, books, papers, and accounts of the military department of the state, and under the commander-in-chief shall have general supervision of all property belonging thereto, shall issue all requisitions (to be countersigned by the governor) for arms and ammunition, keep accounts with

the military storekeeper, and supervise his accounts, and perform all other duties required of him by the commander-in-chief, [and] shall keep his office at the capitol of the state.

SEC. 6. *Duties of military storekeeper.*—The military storekeeper shall be armorer and ordinance officer, shall preserve and keep in order the arms and other public property necessarily connected with the ordinance department and camp equipage that may be placed under his care, and for his services shall receive an annual compensation not exceeding two hundred dollars, to be paid out of the state treasury.

SEC. 7 (ADDED BY ACT OF MARCH 1, 1871). *When independent companies may be disbanded.*—If it appears to the commander-in-chief, on representation of the commanding officer of a regiment, brigade, or division, that a company of uniformed militia has failed to comply with the requisitions of law in matters of equipment and discipline, so that it is incapacitated to discharge the duties required of it, such company may be disbanded by the commander-in-chief.

S. L. 1871, 32.

## TITLE II.

### RELATING TO STATE ARMS.

(*This Title is the Act of March 5, 1868. S. L. 1868, 46.*)

SEC. 8 (1). *No arms to be issued unless bond given.*—No arms, accoutrements, or material of war shall be issued by the state to the militia or inhabitants of this state, unless a good and sufficient bond is given for the safe keeping, preservation, and return of said arms, said bonds to be approved by the adjutant general: *provided always*, that arms issued to the militia called out by the commander-in-chief for active service, shall be issued to the proper commanding officer, and be kept and accounted for by such officer according to the army regulations of the United States.

SEC. 9 (2). *Adjutant general to appoint board of survey to inspect arms.*—The adjutant general, whenever in his opinion it is necessary, is authorized to appoint boards of survey of three persons, who shall inspect all arms, accoutrements, and ordinance stores, stored in the state arsenal; said board shall make a detailed report of all arms, accoutrements, and stores which are unserviceable and unfit for use, and such as cannot be made serviceable by reasonable repairs as provided for in section ten (three) of this chapter (act), and upon such report to the adjutant general, said arms and other stores shall be declared as condemned and shall be sold at public auction, at least three weeks' notice being given of such public sale, by publication.

SEC. 10 (3). *Disposition of proceeds.*—The proceeds of said sale shall be turned over to the state treasurer, and kept by him as an arsenal fund out of which shall be paid all proper expenses for the inspection and sale of said arms, and the repair of such other arms as may be necessary, and ordered by the adjutant general.

SEC. 11 (4). *Vouchers to be certified and approved, by whom.*—All vouchers paid from said fund shall be certified to by the adjutant general as to their correctness, and approved by the governor.

SEC. 12 (5). *Drop from the returns certain arms—duty of governor.*—The

adjutant general is authorized to drop from the returns of arms and ordnance such arms and stores as were issued to militia and citizens during the Sioux war of 1862, and also for frontier defence in 1863 and 1864, and are still outstanding, and he is authorized to relieve all persons who gave receipts for the same from the further responsibility for them: *provided*, that it shall be the duty of the governor to cause the return to the state arsenal of all state arms now stored at any place in this state, and to cause the storage charges on the same to be paid by the state.

SEC. 13 (6). *All necessary blanks to be prepared.*—The adjutant general shall prepare all necessary blanks, rules, and instructions which may be necessary to carry into effect the provisions of this act.

SEC. 14 (ACT OF MARCH 2, 1866). *Penalty for abstracting state arms.*—Any person who shall unlawfully and willfully carry away or conceal any of the public arms, equipments, accoutrements, military stores, or munitions of war belonging to the state of Minnesota, or under the control or in the custody of said state, or who shall willfully and maliciously refuse to deliver up the same to any officer or person having the legal right to demand such public arms, equipments, accoutrements, military stores, or munitions of war, shall be deemed guilty of a misdemeanor, and upon conviction in the proper court shall be punished by a fine not exceeding one hundred dollars.

S. L. 1866, 71.