

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY
GEORGE B. YOUNG.

EDITED AND PUBLISHED UNDER THE AUTHORITY OF CHAPTER 67 OF THE LAWS
OF 1878, AND CHAPTER 67 OF THE LAWS OF 1879.

FOURTH EDITION.

WITH SUPPLEMENTS,
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF
THE LEGISLATIVE SESSION OF 1883.

SAINT PAUL:
WEST PUBLISHING COMPANY.
1883.

so certified by the state auditor and the cost of collecting the same shall thereupon be deemed added to and a part of the per centum or amount which is or may be levied, as provided by law, for purposes of state revenue, and shall be so treated by any and all officers or authority in determining levies and making estimates, duplicates, and books for collection of taxes; and the said tax shall be collected with the state revenue, and all law relating to the collection of state revenue shall apply thereto except as herein otherwise provided. (1871, c. 17, § 3.)

*§ 146. **State not liable for such debts.** Nothing herein contained shall be construed to create any liability on the part of the state for the payment of any part of the principal or interest on any of said bonds. (*Id.* § 4.)

*§ 147. **Taxes, how applied.** The taxes so collected shall be paid over by the county treasurer to the person or persons presenting coupons therefor, if authorized to receive the same; and each coupon so redeemed shall be cancelled by said county treasurer, and transmitted to the city, village, township or other organization from which the same was issued. (*Id.* § 5. as amended 1875, c. 115, § 1.)

CHAPTER XII.

MILITIA*

SECTION.

- 1-2. Who liable to military duty—enrollment.
- 3. Active militia—officers—companies—exemptions—term of service.
- 4. Powers of commander-in-chief.
- 5-7. Adjutant general—general duties—seal—to act as claim agent.
- 8. Military store-keeper.

SECTION.

- 9. Disbandment of companies.
- 10. Issue of arms—security for return.
- 11-12. Boards of survey—sale of condemned arms—disposition of proceeds.
- 13-14. Adjutant general to certify vouchers and prepare blanks, etc.
- 15. Penalty for abstracting arms, etc.

*§ 1. **Who are liable to military duty.** All able-bodied male persons residing in the state of Minnesota, between the ages of eighteen and forty-five years, 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, excepting—

First. All persons who shall make and file with the clerk of the district court of their respective counties an affidavit that they are members of any religious society or organization by whose creed or discipline the bearing of arms is forbidden, and which affidavits shall be renewed every five years.

Second. Indians not taxed, idiots, lunatics, and persons who have been convicted of infamous crimes. (1870, c. 22, § 1, as amended 1877, c. 16, § 1.)

*§ 2. **Enrolment—duty of assessors and county auditors.** 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 com-

* NOTE. Chapter 12 of the General Statutes, entitled "Militia" was rejected by the legislature.

Ch. XI. *§§ 147, 148, 149. See Supp't 1881, pp. 30, 31. And ch. XI, §§ 147, 151, 152, 153. See 1880 Supp't, p. 33. And ch. XII, *§§ 1 to 43, incl. See note to MILITARY CODE, 1883 Supp't, p. 33.

pensation shall be allowed by any township, city or village for any services performed by any assessor who shall fail to make and return the enrolment herein provided for, which enrolment, 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, 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.* (1870, c. 22, § 2.)

*§ 3, 4, 5. See 1883 SUPPL. P. 31. SEC. ALSO, NOTE TO MILITARY CODE, 1883 SUPPL. P. 33.

*§ 3. **Active militia, how constituted—commander-in-chief—companies, etc.** 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 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. (*Id.* § 3, as amended 1871, c. 11, § 1.)

*§ 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. (*Id.* § 4.)

*§ 5. **Adjutant general custodian of books, accounts, &c.** 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 ammunitions, keep accounts with the military storekeeper and supervise his accounts, and perform

*In Laws, 1867, c. 59, §§ 3-11, will be found certain provisions respecting the enrolment of the militia, which possibly are not superseded by the act of 1870.

all other duties required of him by the commander-in-chief; and shall keep his office at the capitol of the state. (1870. c. 22, § 5.)

*§ 6. **Seal of the office of adjutant general.** That the seal now used in the office of the adjutant general shall continue to be the seal of his office, and shall from time to time be delivered to his successors in office, and all copies of records or papers in his office, duly certified and authenticated under the said seal, shall be evidence in all cases in like manner as if the originals were produced. (1868, c. 25, § 1.)

*§ 7. **Adjutant general to be claim agent.** It is hereby made the duty of the adjutant general of this state to act as claim agent for all persons having claims against the government of the United States for pensions, bounty or back pay, where such claims have arisen out of or by reason of the late war, and shall prosecute such claims without pay or compensation from the party seeking such pension, bounty or back pay, or from any other source other than that provided by law for the salary of the adjutant general. (1873, c. 112, § 1.)

*§ 8. **Duties of military store-keeper—compensation.** The military store-keeper shall be the armorer and ordnance officer, shall preserve and keep in order the arms and other public property necessarily connected with the ordnance 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. (1870, c. 22, § 6.)

*§ 9. **Disbandment of companies.** 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. (1871, c. 11, § 2.)

*§ 10. **Bond for safe-keeping and return of arms.** 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. (1868. c. 24, § 1.)

*§ 11. **Boards of survey—condemned arms and stores.** 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 ordnance 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 three of this 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. (*Id.* § 2.)

*§ 12. **Disposition of proceeds.** The proceeds of such 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. (*Id.* § 3.)

*§ 13. **Vouchers to be certified and approved.** All vouchers paid from said fund shall be certified to by the adjutant general as to their correctness, and approved by the governor. (*Id.* § 4.)

*§ 14. **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. (*Id.* § 6.)

*§ 15. **Penalty for abstracting state arms, etc.** Any person who shall unlawfully and wilfully 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 wilfully 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. (1866, c. 29, § 1.)

CHAPTER XIII.

ROADS, CARTWAYS AND BRIDGES.*

Ch. 12, §§ 16 to 24, incl. see 1851 Sup't, pp. 31, 32, 33.

- SECTIONS
1. 2. Duties of supervisors in regard to roads—their annual report.
 - 3-6. Duties of overseers of highways—vacancies, how filled—penalty for neglect of duty.
 - 7, 8. Supervisors' meetings—assessment of road tax.
 - 9-12. Persons and property liable to road tax—assessment lists.
 13. Notice to work out tax—commutation.
 14. Powers of overseers in special cases.
 - 15-18. Payment or commutation of road tax—requisition for team, etc.—substitutes.
 - 19-23. Penalties for not working out tax, etc.—proceedings to collect—disposition of fines.
 24. Excuse for neglect does not exempt from tax.
 25. Pay of overseers.
 - 26, 27. Overseer to return list to clerk—penalty for refusal.
 28. Clerk to deliver delinquent list to county auditor for collection.
 29. Three-fourths of road labor to be done before August.
 - 30-32. Overseers to render accounts—to pay over unexpended balances—penalty for neglect.
 - 33-38. Proceedings to lay out, alter or discontinue roads—petition—notice of hearing—hearing—survey, description and order—filing of papers—effect of order as evidence.
 39. Assessment of damages and benefits.
 - 40-41. Supervisors' action final for one year—removal of fences.
 - 42-46. Roads on lines between towns, how laid out, altered and worked.
 47. Width of roads—dedication—cartways, how laid out.
 48. Application of law to cities.
 - 49-53. Roads in more than one town, how laid out etc.—petition to county commissioners—proceedings on petition—examination of road—report—action on report—damages, to be paid by county.
 54. Remonstrances—hearing—payment of damages.
 - 55, 56. County roads defined—state roads—super- vision and repair of county roads.
 - 57, 58. Damages, when not allowable—time for application.
 - 59-61. Appeal to justice of peace—requisites—trial—view by jury—filing return of jury—costs.
 62. Appeal to district court.
 63. Proceedings on determination of appeal—au- diting and payment of damages and expenses.
 - 64-67. What roads are highways—obstruction of highways—penalty—jurisdiction of justice—disposition of fines.
 - 68-72. Fast driving on bridges—penalty—proceed- ings to collect—running toll.

- SECTIONS
73. Section line considered public road, when.
 - 74, 75. Roads in fact highways declared to be le- gally such—claims for compensation.
 - 76-84. Laying out roads in two or more counties— proceedings in district court—assessment of damages—report of commissioners—trial by jury—payment of damages—pending cases.

FREE TURNPIKES.

- 85-88. Petition to county commissioners—sub- scription toward cost—survey—return and es- timate—levy of tax.
- 89-91. Width of road—construction—subscrip- tions, how made—when payable—letting con- tract.
- 92-93. Laws applicable to such roads—tax for re- pairing.

MISCELLANEOUS PROVISIONS.

94. Side roads and ford crossings.
- 95, 96. Regulation of cattle passing over bridges.
97. Highway labor on cartways.
- 98-100. Public troughs, wells, etc., by roadside.

DRAINING WET ROADS,

- 101, 102. Affidavit of overseer—notice of meeting of supervisors—publication of notice.
- 103-105. Examination, hearing and assessment of damages—order for laying out and opening ditches—appeals to district court.
- 106-108. Ditches to be kept open—penalty for obstructing—provision for payment of dam- ages.

BRIDGES AND FERRIES.

- 109-112. Bridges on Minnesota river—rates of toll.
- 113-115. Licenses for ferries, by whom granted—to be sealed.
- 116, 117. Taxation of ferries—duty of keeper.
118. Notice of application for license.
- 119-122. Rates of ferriage—penalty for overcharge—license necessary—tax on existing ferries— license to give bond.
- 123, 124. Ferries in unorganized counties—in cities limitation of license.

ROADS FOR STEAM TRACTION MOTORS.

- 125-127. Proceedings for laying out—width—mode of construction.
- 128.—Agreement to operate—grant of right to ope- rate.
- 129-131. Survey—estimate of cost—submission to vote—execution of agreement by county—road to be opened.
- 132-134. County bonds for building—tax to pay interest, etc.
135. Construction of road by private means.

*An act relating to roads, cartways and bridges approved March 8, 1873. (Laws 1873, c. 5.)