

THE 79
GENERAL STATUTES

OF THE
STATE OF MINNESOTA

As Amended by Subsequent Legislation, with which are Incorporated
All General Laws of the State in Force December 31, 1894

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WITH ANNOTATIONS BY
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AND A GENERAL INDEX BY THE EDITORIAL STAFF OF THE NATIONAL
REPORTER SYSTEM

COMPLETE IN TWO VOLUMES

VOL. 1

CONTAINING THE CONSTITUTION OF THE UNITED STATES, THE ORDINANCE OF 1787,
THE ORGANIC ACT, ACT AUTHORIZING A STATE GOVERNMENT, THE STATE
CONSTITUTION, THE ACT OF ADMISSION INTO THE UNION, AND

Sections 1 to 4821 of the General Statutes

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1894

CHAPTER 12.

MILITIA.¹1698-1774
99 - 231**§ 1698. 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; G. S. 1878, c. 12, § 1.)

§ 1699. Enrollment—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 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, 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; G. S. 1878, c. 12, § 2.)

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1867, c. 59, §§ 3-11, will be found certain provisions respecting the enrollment of the militia, which possibly are not superseded by the act of 1870.

§ 1700. 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

¹ Chapter 12, G. S. 1866, entitled "Militia," was rejected by the legislature.

MINNESOTA STATUTES 1894

Ch. 12]

MILITIA.

§§ 1700-1705.

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.

(1870, c. 22, § 3, as amended 1871, c. 11, § 1; G. S. 1878, c. 12, § 3.)

§ 1701. 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.

(1870, c. 22, § 4; G. S. 1878, c. 12, § 4.)

§ 1702. Adjutant general 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 ammunitions, 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.

(1870, c. 22, § 5; G. S. 1878, c. 12, § 5.)

For the duties of the adjutant general in relation to the Renville Rangers, see Laws 1885, c. 219.

§ 1703. 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; G. S. 1878, c. 12, § 6.)

§ 1704. 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; G. S. 1878, c. 12, § 7.)

§ 1705. 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

(475)

1702
95 . 68

1704 '05 . 315

§§ 1705-1713

MILITIA.

[Ch. 12

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; G. S. 1878, c. 12, § 8.)

§ 1706. Military store-keeper—Salary.

The salary of the military store-keeper is hereby fixed at twelve hundred dollars per annum from the first day of January, A. D. eighteen hundred and eighty-three.

(1883, c. 149; G. S. 1878, v. 2, c. 12, § 8a.)

§ 1707. 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; G. S. 1878, c. 12, § 9.)

§ 1708. 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; G. S. 1878, c. 12, § 10.)

§ 1709. 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.

(1868, c. 24, § 2; G. S. 1878, c. 12, § 11.)

§ 1710. 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.

(1868, c. 24, § 3; G. S. 1878, c. 12, § 12.)

§ 1711. 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.

(1868, c. 24, § 4; G. S. 1878, c. 12, § 13.)

§ 1712. 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.

(1868, c. 24, § 6; G. S. 1878, c. 12, § 14.)

§ 1713. 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,

MINNESOTA STATUTES 1894

§§ 1705-1713

MILITIA.

[Ch. 12

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MINNESOTA STATUTES 1894

§§ 1705-1713

MILITIA.

[Ch. 12

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MINNESOTA STATUTES 1894

Ch. 12]

MILITARY CODE.

§§ 1713-1718

1714-1757
99 - 238

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; G. S. 1878, c. 12, § 15.)

1714-1758
65-M - 160

MILITARY CODE.

1714-1774
99 - 243

§ 1714. National guard.

The National Guard of the State of Minnesota shall consist of three regiments of infantry and one battalion of mounted troops.

(1883, c. 74, art. 1, § 1,² as amended 1885, c. 92; G. S. 1878, v. 2, c. 12, § 16; 1889, c. 114, § 1; * Id. c. 115, § 1.)

*By § 20, c. 114, Laws 1889, all inconsistent acts, especially Laws 1885, c. 92, are repealed.

1714
95 - 70-1

1714-1757
95 - 197

1714-1774
97 - 118

§ 1715. Regiment, how constituted.

Each regiment of infantry shall consist of one colonel, one lieutenant colonel, and one major; one surgeon with the rank of major; one chaplain with the rank of captain; one adjutant, one quartermaster, one commissary of subsistence, one inspector of rifle practice, two assistant surgeons, one judge advocate, each with the rank of first lieutenant; one sergeant major; one quartermaster sergeant; one commissary sergeant; one hospital steward; one chief musician; two color sergeants; two general guides; not less than eight nor more than ten companies; and one band of not more than twenty musicians.

(1883, c. 74, art. 1, § 2, as amended 1883, c. 75, § 1; 1885, c. 91, § 1; 1887, c. 95, § 1; G. S. 1878, v. 2, c. 12, § 17.)

1715
95 - 70-2

1714-1757
01 - 110
01 - 162
01 - 359

1714-1774
01 - 244

§ 1716. Company, how constituted.

Each company of infantry shall consist of one captain; one first lieutenant; one second lieutenant; five sergeants; six corporals; two musicians; and not less than thirty nor more than sixty privates.

(1883, c. 74, art. 1, § 3; G. S. 1878, v. 2, c. 12, § 18.)

§ 1717. Battalion, how constituted.

The battalion of mounted troops shall consist of one major, one adjutant, one assistant surgeon, one quarter master, each with the rank of first lieutenant; one sergeant major, one quarter master sergeant, one hospital steward, two batteries of artillery and one troop of cavalry. Each battery or troop shall consist of one captain, one first lieutenant, one second lieutenant, seven sergeants, eight corporals, two musicians and not less than twenty-six nor more than fifty-six privates. Provided, That whenever by reason of the exigencies of the service, the battalion shall actually be reduced to two batteries of artillery, then and thereafter the battalion shall consist only of such batteries, and the battalion officers and non-commissioned officers herein provided for.

(1883, c. 74, art. 1, § 4; G. S. 1878, v. 2, c. 12, § 19; as amended 1889, c. 114, § 2.)

§ 1718. Brigade—Officers—Staff officers.

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. Said brigadier general shall have power to appoint the following staff officers: One assistant adjutant general, one assistant inspector general; one brigade quartermaster; one brigade judge advocate; one commissary of subsistence; one inspector of rifle practice; and one aid-de-camp,—each with the rank of captain. Said staff officers shall hold office during the pleasure of said brigadier general.

(1883, c. 74, art. 1, § 5, as amended 1887, c. 95, § 2; G. S. 1878, v. 2, c. 12, § 20; 1889, c. 114, § 3.)

²An 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 14, 1883. By art. 10, § 4, "all acts and parts of acts inconsistent with this act are hereby repealed."

Compare Laws 1881, c. 116.

§ 1719. Company and battery officers—Election and appointment.

Commissioned officers of companies, batteries and of the troop shall be elected by the votes of the officers, non-commissioned officers and privates of their respective companies, batteries or troop.

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 battalion shall, on the recommendation of the captains of their respective organizations, be appointed by the major of the battalion, and shall be subject to reduction to the ranks by their respective captains, with the approval of the major of the battalion.

(1883, c. 74, art. 2, § 1; G. S. 1878, v. 2, c. 12, § 21; as amended 1889, c. 114, § 4.)

§ 1720. Field and staff officers.

The field officers of the regiments and of the battalion shall be elected by the votes of the field and line officers of their respective regiments and battalion. The staff officers of each regiment and of the battalion shall be appointed by the commanding officer thereof and shall hold office during his pleasure, subject to the approval of the commander-in-chief. Regimental and battalion non-commissioned staff officers shall be appointed by the colonel of each regiment and the major of the battalion respectively, from among the non-commissioned officers or men of some company or companies in his command, and shall be subject to reduction to the ranks by him.

(1883, c. 74, art. 2, § 2; G. S. 1878, v. 2, c. 12, § 22; as amended 1889, c. 114, § 5.)

§ 1721. Elections, how ordered—Notice.

Elections for general and field officers shall be ordered by the commander in chief. Elections for line officers of infantry companies shall be ordered by the commanding officer of the respective regiments. Five days' notice of the holding of any election must be given. Elections for line officers of batteries and of the troop shall be ordered by the commanding officer of the battalion; after the national guard is organized into a brigade, elections for field officers thereof shall be ordered by the commanding officer of said brigade.

(1883, c. 74, art. 2, § 3, as amended 1885, c. 91, § 2; G. S. 1878, v. 2, c. 12, § 23; 1889, c. 114, § 6.)

§ 1722. Same—Who shall preside.

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.

(1883, c. 74, art. 2, § 4; G. S. 1878, v. 2, c. 12, § 24.)

§ 1723. Voting to be by ballot—Majority vote.

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.

(1883, c. 74, art. 2, § 5; G. S. 1878, v. 2, c. 12, § 25.)

§ 1724. Enlistment—Term—Re-enlistment.

Every person who shall enlist in the National Guard shall be mustered in the service of the state for the term of five years, unless sooner discharged by competent authority, and any person who, prior to the passage of this act, shall have enlisted for three years, may, at the expiration of his term of service, be re-enlisted for two 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. Any person who

shall have faithfully served for five years, and be entitled to an honorable discharge, may be re-enlisted for such further term of one year each as his commanding officer shall elect.

(1883, c. 74, art. 2, § 6, as amended 1887, c. 95, § 3; G. S. 1878, v. 2, c. 12, § 26.)

§ 1725. Discharges.

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, or by order of the commander-in-chief. The commanding officer of each regiment and battalion 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 years, and shall have faithfully served for two years of said enlistment.

(1883, c. 74, art. 2, § 7; G. S. 1878, v. 2, c. 12, § 27; as amended 1889, c. 114, § 7.)

§ 1726. Commissions.

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 said board report 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, the commander in chief shall have power to annul said election or appointment.

(1883, c. 74, art. 2, § 8, as amended 1887, c. 95, § 5; G. S. 1878, v. 2, c. 12, § 28.)

§ 1727. Same—Professor of military science.

That the governor of the state may commission the professor of military science and tactics of the State University, or at any seminary or college within this state maintaining military instruction and drill in its course of study, and having not less than one hundred students on its drill-roll at any one term, to the rank of colonel of infantry; said commission, however, shall not entitle such professor of military science to command in the state militia.

(1885, c. 220; G. S. 1878, v. 2; c. 37, § 6c.)

§ 1728. Resignations.

Resignations of officers shall be in writing, directed to the adjutant general, and transmitted immediately through and by all intermediate commanders, who will indorse 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.

(1883, c. 74, art. 2, § 9; G. S. 1878, v. 2, c. 12, § 29.)

§ 1729. Examining board—Canceling commissions.

On the application of the colonel of any regiment, or the major of the battalion, the commander in chief is authorized to appoint an examining board of three officers, who shall inquire 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.

(1883, c. 74, art. 2, § 10; G. S. 1878, v. 2, c. 12, § 30; as amended 1889, c. 114, § 8.)

§§ 1730-1737.

MILITIA.

[Ch. 12

§ 1730. Second commission.

No officer shall hold two commissions in the National Guard at the same time, and the acceptance of a second commission by any officer shall be considered as a resignation of the first.

(1883, c. 74, art. 2, § 11; G. S. 1878, v. 2, c. 12, § 31.)

§ 1731. When staff officer can take command.

No staff officer can assume or be placed in command of any troops except when no commissioned officer of the line is present with such troops.

(1883, c. 74, art. 2, § 12; G. S. 1878, v. 2, c. 12, § 32; as amended 1889, c. 114, § 9.)

§ 1732. Staff of commander in chief.

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

(1883, c. 74, art. 3, § 1; G. S. 1878, v. 2, c. 12, § 33.)

§ 1733. Same—Assistants.

When the service requires, each of the general officers named in section one shall have power, with the approval of the commander in chief, to appoint one assistant in his department, with the rank of lieutenant colonel, who shall hold office during term of his chief.

(1883, c. 74, art. 3, § 2, added 1885, c. 91, § 3; G. S. 1878, v. 2, c. 12, § 34.)

§ 1734. Annual inspection.

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.

(1883, c. 74, art. 4, § 1; G. S. 1878, v. 2, c. 12, § 35.)

§ 1735. Tactics—Roll and roster.

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.

(1883, c. 74, art. 4, § 2; G. S. 1878, v. 2, c. 12, § 36.)

§ 1736. Inspector general—Report.

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.

(1883, c. 74, art. 4, § 3; G. S. 1878, v. 2, c. 12, § 37.)

§ 1737. Drills.

Every company or battery of the National Guard of this state shall make at least thirty company drills or parades in each year, exclusive of camp and actual service.

(1883, c. 74, art. 4, § 4, as amended 1885, c. 91, § 4; G. S. 1878, v. 2, c. 12, § 38.)

(480)

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§ 1738. Annual allowance.

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There shall be paid annually to each regiment of infantry, battalion of mounted troops and troop of cavalry, the sum of seven dollars 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, and shall be found to be fully uniformed, armed, and equipped according to law. But no allowance or payment shall be made to any company, battery, or troop which, at said annual inspection, shall not in members present and members accounted for, to the satisfaction of the inspecting officer, muster at least the minimum number of men as provided for in this act: provided, that each battery and troop and the troop of cavalry shall be entitled to the same allowance for each horse actually used for military purposes in such battery and troop respectively as is allowed for each member of the same. But said allowance for horses shall not exceed the sum of three hundred dollars per annum for the battery and three hundred dollars per annum for the troop.

(1883, c. 74, art. 5, § 1, as amended 1887, c. 95, § 4; G. S. 1878, v. 2, c. 12, § 39; 1889, c. 114, § 10.)

§ 1739. Same—To whom payable.

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 and battalion, shall be paid to the commanding officer of said regiment and battalion, 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.

(1883, c. 74, art. 5, § 2; G. S. 1878, v. 2, c. 12, § 40; as amended 1889, c. 114, § 11.)

§ 1740. Same—How drawn.

Upon the receipt of said requisition the adjutant general shall certify to the state auditor the amount of money which such regiment, battalion, 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, battalion, 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 indorsed.

(1883, c. 74, art. 5, § 3; G. S. 1878, v. 2, c. 12, § 41; as amended 1889, c. 114, § 12.)

§ 1741. Arms and ammunition.

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

(1883, c. 74, art. 5, § 4; G. S. 1878, v. 2, c. 12, § 42; as amended 1889, c. 114, § 13.)

§ 1742. Armory exempt from taxes.

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.

(1883, c. 74, art. 5, § 5; G. S. 1878, v. 2, c. 12, § 43.)

§ 1743. Encampment.

The commander in chief shall order both regiments of infantry and the battalion of mounted troops and troop of cavalry into camp for a period not to exceed ten days in each year, at such times and places as he may deem best.

(1883, c. 74, art. 6, § 1, as amended 1887, c. 95, § 6; G. S. 1878, v. 2, c. 12, § 44; 1889, c. 114, § 14.)

§ 1744. Per diem while in camp.

There shall be paid to each and every enlisted man of the National Guard, when ordered into camp by the commander in chief, the sum of one dollar and

fifty cents 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 men present at and doing duty in such camp. In addition thereto, free transportation shall be furnished by the state. A deduction of fifty cents per day from the pay of each 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 of this act.

(1883, c. 74, art. 6, § 2, as amended 1887, c. 95, § 7; G. S. 1878, v. 2, c. 12, § 45.)

§ 1745. Per diem of enlisted men.

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 enlisted man so called into such service, and who shall respond thereto, shall have and receive for such service the sum of two dollars 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 of the state, upon the requisition of the commander in chief.

(1883, c. 74, art. 6, § 3, as amended 1885, c. 91, § 5; G. S. 1878, v. 2, c. 12, § 46.)

§ 1746. Compensation of officers.

That each and every officer of the National Guard, while in any service under orders of the commander in chief, shall receive the same rate of compensation as is allowed officers of similar rank in the United States army, except officers whose salaries are otherwise provided by law.

(1883, c. 74, art. 6, § 4, added 1885, c. 91, § 5, as amended 1887, c. 95, § 8; G. S. 1878, v. 2, c. 12, § 47.)

§ 1747. Exemption from jury duty.

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.

(1883, c. 74, art. 7, § 1; G. S. 1878, v. 2, c. 12, § 48.)

§ 1748. Same—Discharged militiamen.

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

(1883, c. 74, art. 7, § 2; G. S. 1878, v. 2, c. 12, § 49.)

§ 1749. What exempt from attachment.

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.

(1883, c. 74, art. 7, § 3; G. S. 1878, v. 2, c. 12, § 50.)

§ 1750. Exemption from arrest, when.

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.

(1883, c. 74, art. 7, § 4; G. S. 1878, v. 2, c. 12, § 51.)

§ 1751. Constitution and by-laws—When evidence.

Each company or battery or troop of the National Guard may make a constitution and by-laws for its government, which shall be binding on its mem-

(482)

bers: 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 troop, 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 or troop, shall be competent evidence of the provisions thereof in any action or proceeding in any court of this state.

(1883, c. 74, art. 8, § 1; G. S. 1878, v. 2, c. 12, § 52; as amended 1889, c. 114, § 15.)

§ 1752. Same—Regiment.

It shall be the duty of the commissioned officers of each regiment and battalion to make a constitution and by-laws for such regiment and battalion. 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 and battalion for nonattendance or tardiness at any drill or parade ordered by the commandant of such regiment and battalion, or for acts prejudicial to military discipline. A copy of such constitution and by-laws, properly attested by the commandant of such regiment and battalion, shall be competent evidence of the provisions thereof in any action or proceeding in any court of this state.

(1883, c. 74, art. 8, § 2; G. S. 1878, v. 2, c. 12, § 53; as amended 1889, c. 114, § 16.)

§ 1753. Dues—Collection.

Each regiment, battalion, or company, or battery shall have, and is hereby granted, full power and authority to sue and recover, in its regiment, battalion, company, or battery name, in any court of competent jurisdiction in this state, any and all dues which may be owing it under its 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.

(1883, c. 74, art. 8, § 3; G. S. 1878, v. 2, c. 12, § 54; as amended 1889, c. 114, § 17.)

§ 1754. Penalty for neglect of duty.

In case any member of such regiment, battalion, 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, battalion, 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, battalion, 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, battalion, 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, 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 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, battalion, company, or battery, as the case may be, for the benefit of its military fund.

(1883, c. 74, art. 8, § 4; G. S. 1878, v. 2, c. 12, § 55; as amended 1889, c. 114, § 18.)

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MINNESOTA STATUTES 1894

§§ 1755-1759

MILITIA.

[Ch. 12

§ 1755. Service uniforms.

The commander in chief shall appoint a board of five 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 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.

(1883, c. 74, art. 9, § 1; G. S. 1878, v. 2, c. 12, § 56.)

§ 1756. Rules and regulations by commander in chief.

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.

(1883, c. 74, art. 10, § 1; G. S. 1878, v. 2, c. 12, § 57.)

§ 1757. Courts-martial.

The commander in chief is hereby authorized to appoint courts-martial for the trial of officers 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. The colonel of each regiment and major of the battalion is authorized to appoint courts-martial for the trial of enlisted men of his command against whom charges may be preferred to him, and such courts-martial shall have the same jurisdiction as regimental courts-martial in the United States army, and shall be conducted in accordance with the regulations, and the findings shall be submitted to the officers appointing the court, 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; but no part of such sentence shall be executed until after the time allowed for appeal has expired, nor pending the adjudication of an appeal taken, and he shall transmit the record of the court proceedings and sentence, with his approval or disapproval thereof, to the adjutant general, to be kept in his office. The right of appeal in all cases to the commander in chief, as it now exists by military usage, is reserved; but no appeal shall be entertained unless made within twenty days after the decision appealed from is made known to the person appealing.

(1883, c. 74, art. 10, § 2, as amended 1885, c. 91, § 6; G. S. 1878, v. 2, c. 12, § 58; 1889, c. 114, § 19.)

§ 1758. Annual appropriation.

There is hereby appropriated, out of any moneys in the state treasury belonging to the general fund, the sum of twelve thousand dollars 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.

(1883, c. 74, art. 10, § 3; G. S. 1878, v. 2, c. 12, § 59.)

§ 1759. Same.

There is hereby appropriated out of the general fund such sum of money, not exceeding two thousand five hundred dollars annually, or so much thereof as may be necessary to carry into effect the provisions of this act. [See § 1715, ante.]

(1883, c. 75, § 2; G. S. 1878, v. 2, c. 12, § 60.)

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MINNESOTA STATUTES 1894

Ch. 12]

MILITARY CODE.

§§ 1760-1764

§ 1760. Same.

That an additional sum of five thousand five hundred dollars be and is hereby appropriated out of the general fund for the current fiscal year, and annually thereafter, for the purpose of carrying out the provisions of the said Military Code of one thousand eight hundred and eighty-three, and amendments thereto.

(1885, c. 91, § 7; G. S. 1878, v. 2, c. 12, § 61.)

§ 1761. Same.

That the sum of ten thousand dollars be and is hereby appropriated out of the general fund for the current fiscal year; and annually thereafter, for the purpose of carrying out the provisions of the said Military Code of one thousand eight hundred and eighty-three, and amendments thereto. Such sum to be in addition to all appropriations heretofore made for the purposes aforesaid.

(1887, c. 95, § 9; G. S. 1878, v. 2, c. 12, § 62.)

§ 1762. Same.

That an additional sum of ten thousand dollars be and is hereby appropriated out of the general fund for the current fiscal year, and annually thereafter, for the purpose of carrying out the provisions of said military code of eighteen hundred and eighty-three and the amendments thereto. Provided, that the amount expended in any year for the third regiment shall not exceed the amount herein appropriated.

(1889, c. 115, § 2.)

§ 1763. Armories for national guard.

Whenever it shall appear by the certificate of the commander of the regiment or battalion to which any company, organized under the provisions of the general laws of the state of Minnesota (the military code), and the amendments thereof, belongs, that such battery or company has reached the minimum number of enlisted men who regularly attend the drills and parades of such battery and company, the commanding officer of the regiment or battalion, the mayor and the treasurer of the city, town or village, or where there is no mayor, then the proper authorities of the town or village, in which such battery or company is located, shall constitute a board to erect or rent, within the bounds of such city, town or village, for the use of such battery or company, a suitable or convenient armory, drill room, and place of deposit for the safe keeping of the arms, uniforms, equipments, accoutrements and camp equipage, furnished under the provisions of this act. And whenever, in the opinion of the officer in permanent command or in permanent charge of any armory, the same shall be unfit for the uses for which it is designed, he may make a complaint in writing thereof to said board, which board shall forthwith examine into the condition of such armory, and shall have power thereupon to direct the alteration, repair, enlargement or abandonment of the same, and, in case of abandonment, to provide another suitable armory. Whenever the commanding officer of the regiment or battalion, the chairman of the board of supervisors and the city, town or county treasurer shall deem it expedient that a regiment or battalion armory be provided, to be used by all the companies of a regiment or battalion, the said board shall erect or rent within such county suitable and convenient premises, approved by the adjutant general, for a regimental or battalion armory, to be used by all the companies of such regiment or battalion, unless companies in a regiment or battalion are already quartered in a building or buildings which have been fitted up for them by the city, town or county authorities.

(1891, c. 54, § 1.3)

§ 1764. Same—To be a municipal charge—Duties of armory board.

The expenses of erecting, altering, repairing, enlarging or renting armories, purchasing lands for the erection of armories, and for providing the necessary

*An act to provide suitable armories for the companies of the national guard. Approved April 20, 1891.

MINNESOTA STATUTES 1894

§§. 1764-1766

MILITIA.

[Ch. 12

camp stools, apparatus and fixtures for heating and lighting, and the fuel and gas or oil for the same, and water closets in such building, and for the proper preserving from injury the arms, equipments, uniforms and records stored therein, by the construction of suitable lockers, closets, gun racks and cases for uniforms, equipments, arms and records, and for the maintenance thereof in good and safe repair, shall be a portion of the charges of such city, town or village, and shall be levied, collected and paid in the same manner as other city, town or village charges are levied, collected and paid; but no moneys shall be appropriated or expense incurred for furnishing or decorating any building erected or rented under the provisions of this act, and no moneys shall be appropriated or expense incurred to be paid out of moneys thus levied and collected, except for the erecting or renting of such armories, unless the necessity of such expenditure shall have been examined into by the auditing boards of the commands and certified to as necessary by a majority of the board named in section one of this act, who shall report to the adjutant general, annually, on or before the fifteenth day of December, a recapitulation of the expenses thus incurred. In the cities of St. Paul and Minneapolis said board shall make its recommendations to the city council, which, in case of approval, shall specify the sum to be appropriated for such purchase, rental, repairing, erection or alteration, which sum shall be inserted by the comptroller in his departmental estimate, and the board of estimate and apportionment is hereby authorized and directed to include such sum in the final estimate for the tax levy for the next ensuing year. The title to any property thus acquired shall be vested in the mayor, aldermen and commonalty of the city aforesaid. The erection, repairs and alterations of all armory buildings shall be done under the direction and supervision of the board constituted by section one of this act. The comptroller is hereby authorized and required to pay, on the requisition of said board, the amount certified from time to time to be due, in such manner as he shall direct; and the amount appropriated shall not be exceeded in incurring expenditures under this provision.

(Id. § 2.)

§ 1765. Use and control of armory.

Such armory, when erected or rented, shall be under the control and charge of the commanding officer of the regiment, battalion, battery or company for which it has been provided; and such commanding officer shall deposit therein all arms, uniforms and equipments received, from time to time, for the use of his regiment, battalion, battery or company. The chiefs of the general staff departments of the state and division and brigade commanders, and their respective staff officers, shall at all times have access to such armory, whenever, in their judgment, the exigencies of the service require it.

(Id. § 3.)

§ 1766. Armorer—Janitor.

The commanding officer of each regiment, battalion, battery or company shall appoint an armorer, who shall, under his direction, take charge of the armory or place of deposit of his regiment, battalion, battery or company, and of all uniforms, arms, equipments and other property which shall have been issued under the provisions of this act, therein deposited, and discharge all duties connected therewith as shall be from time to time prescribed by such commanding officer. In the several cities of the state the officer highest in rank occupying any armory may also appoint a janitor, whose special duty shall be to care for said armory, the repairs and cleanliness of the same, and the furniture and fixtures; and in armories heated by steam, may appoint an engineer to have charge of the heating apparatus. Such persons so appointed shall receive compensation not to exceed two dollars per day for the time actually and necessarily employed in their duties, which compensation, as certified to by the commanding officer appointing such persons under the provisions of this section, shall be paid monthly and shall be a charge upon the city, town or village in which said armory is situated, and shall be audited, levied, collected and paid in the same manner other city, town or village charges are audited, levied, collected and paid.

(Id. § 4.)

§ 1767. Rules and regulations.

The commander-in-chief may, from time to time, make such orders, rules and regulations as he deems proper for the observance of all officers and persons having charge of any arsenal or armory.

(Id. § 5.)

§ 1768. Penalty for injury to property—Liquors.

Any person who shall willfully injure any arsenal, armory or its fixtures, or any uniforms, arms or equipments, or any other property therein deposited, shall be deemed guilty of a misdemeanor; and any person who shall introduce any wine, spirituous or malt liquor into any state arsenal or armory shall, upon conviction, be guilty of a misdemeanor, and punished by a fine of not less than fifty dollars nor more than one hundred dollars, or imprisonment in the county jail or prison for not less than thirty days nor more than one hundred days. But nothing herein contained shall be so construed as to prevent the introduction thereof when prescribed for medical purposes by a medical officer of the national guard.

(Id. § 6.)

§ 1769. Place of holding annual encampment.

There shall be annually held, for the next thirty years, by the national guard of the state, upon the premises hereinbefore described,* at such time and for such period in each year as the proper authorities may prescribe, an encampment for the instruction and practice of the members of said national guard.

(1891, c. 55, § 1.)

*The premises donated by Lake City for this purpose, being part of section 15, township 111 north, of range 12 west, and other lands, are particularly described in the preamble to the act.

§ 1770. Issue of military arms to Sons of Veterans.

That the adjutant general of the state is hereby authorized to issue, from time to time, to the regularly organized camps of the military organization known as the Sons of Veterans, U. S. A., now or hereafter existing within the state, such military arms and accoutrements as may be under his control, belonging to the state and not necessary for the arming and equipment of the national guard, upon such camps giving bonds as hereinafter provided, conditioned for the safe keeping of such arms and accoutrements and for the safe and prompt return thereof when called for by the adjutant general.

(1889, c. 249, § 1.)

§ 1771. Same—Requisitions, how made.

Said arms and accoutrements shall be furnished only on requisition from the captains of the camps desiring the same, which requisitions shall be approved by the colonel of the division. Each requisition shall state the number of active members in the camp, and no camp shall at any time be entitled to a greater number of arms than the number of its active members.

(Id. § 2.)

§ 1772. Same—Arms must be returned, when.

The adjutant general shall have the right to require the return of all such arms as may have been furnished to any camp under the provisions of this act, whenever in his opinion the same may be needed for other purposes; and whenever any camp shall disband, or in which the active members do not number at least twelve, the arms furnished to such camp shall forthwith be returned to the adjutant general.

(Id. § 3.)

§ 1773. Same—Bond must be furnished.

Before any arms shall be furnished under the provisions of this act, the camp applying therefor shall file with the adjutant general a bond in the penal sum of at least twice the aggregate value of the number of arms desired, estimating each rifle at ten dollars, payable to the state of Minnesota, and condi-

*An act to authorize the adjutant general to supply the various camps of the Sons of Veterans, U. S. A., organized and existing within this state, with such arms and accoutrements as may belong to the state, and not be necessary for the equipment of the National Guard. Approved April 24, 1889.

MINNESOTA STATUTES 1894

§§ 1773-1774

MILITIA.

[Ch. 12

tioned for the safe keeping and prompt return of all arms furnished. Said bond shall be signed by at least one adult member of the camp as principal, and by at least two resident sureties, who shall each qualify in double the amount of the bond.

(Id. § 4.)

§ 1774. Same—Penalty for wanton injury.

Any member of any camp who shall wilfully or wantonly injure or destroy any arm furnished to any camp under the provisions of this act, or who shall refuse to return to the state or the captain of his camp, any arm or arms, in his possession or control, within five days after being duly notified to return the same, shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than fifty dollars, and on default in the payment of such fine, shall be imprisoned in the county jail not more than thirty days or until such fine is paid.

(Id. § 5.)

(488)