

CHANGES

IN THE

General Statutes of 1878,

OF THE

STATE OF MINNESOTA,

EFFECTED BY THE GENERAL LAWS OF THE EXTRA
SESSION OF 1881, AND THE REGULAR
SESSION OF 1883.

Arranged with reference to the Chapter and Section Amended.

SAINT PAUL:
WEST PUBLISHING COMPANY.
1883.

vided. (1871, c. 17, § 3, as amended 1881, c. 16, § 1, and 1881, *Ex. Sess.* c. 15, § 1.)

See page 250.

*§ 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 canceled 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; 1881, c. 16, § 2; and 1881, *Ex. Sess.* c. 15, § 2.)

See page 251.

*§ 151. **Mining property—tax on product—rate per cent.** That all corporations now organized, or that may be hereafter organized, under the laws of this state, for the purpose of carrying on the business of mining, smelting, or refining copper or iron ores, or for the purposes of mining coal within this state, may pay into the state treasury annually, on or before the first day of January in each year, in lieu of all the taxes or assessments upon the capital stock, personal property, income, and real estate of such corporation in or upon which real estate such business of mining may be carried on, or which real estate is connected therewith and set apart for such business, the following amounts; that is to say: on and for each ton of copper, fifty cents; on and for each ton of iron ore mined and shipped or disposed of, one cent for each ton; and for each ton of coal mined the sum of one cent per ton,—each ton to be estimated as containing two thousand two hundred and forty pounds; one-half of such payments to be credited to the general fund of the state, and the other half credited to the county or counties in which such mines are located. (1881, *Ex. Sess.* c. 54, § 1.)

*§ 152. **Corporation to make return to state auditor.** That it shall be the duty of each and every corporation accepting the provisions of this act to make return in writing and report to the state auditor, on or before the fifteenth day of December in each year, a true and full statement of each and every ton of copper or iron ore or coal mined and sold or disposed of during the year preceding the date of such return, which statement shall be verified by the oath of the president and secretary of such corporation; that any such officer who shall knowingly make or sign any false or untrue statement in such report or return, shall be deemed guilty of perjury, and on conviction thereof shall be punished as provided in chapter twenty-seven of the General Statutes 1878. (*Id.* § 2.)

*§ 153. **Corporations to file acceptance of act.** That any corporation now organized under the laws of this state, or that may hereafter be organized therein, for the purpose of mining, smelting, or refining copper or iron ores, or for mining coal, may, by resolution duly adopted by its board of directors, accept all the provisions of this act, and that upon the filing of a certified copy of such resolution of acceptance in the office of the secretary of state for this state, such corporations shall be bound by the provisions of this act and thereafter be entitled to all the benefits thereof. (*Id.* § 3.)

See page 251.

CHAPTER XII.

MILITIA.

THE MILITARY CODE.*

*§ 1. **National guard.** The National Guard of the state of Minnesota shall consist of two regiments of infantry and one battery of artillery. (1883, c. 74, § 1.)

See page 251.

(* 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 14, 1883. Gen. Laws 1883, c. 74.)
(This act supersedes chapter 116, Laws 1881, and all others inconsistent with its provisions.)

*§ 2. **Regimental officers.** 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 assistant surgeon, 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, not less than eight nor more than ten companies, and one band of not more than twenty musicians. (*Id.* § 2. As amended 1883, c. 75, § 1.)

*§ 3. **Company officers.** 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, § 3.)

*§ 4. **Artillery.** The battery of artillery 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. (*Id.* § 4.)

*§ 5. **Brigade and 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 and the captain of the battery of artillery. Said brigadier general shall have power to appoint the following staff officers: One assistant adjutant general, with the rank of lieutenant colonel; one brigade inspector, one brigade quartermaster, one brigade judge advocate, and one aid-de-camp, each with the rank of captain. Said staff officers shall hold office during the pleasure of said brigadier general. (*Id.* § 5.)

*§ 6. **Commissioned and non-commissioned officers—how elected and appointed.** 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.

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. (*Id.* § 6.)

*§ 7. **Field officers—how elected—staff appointed.** 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. (*Id.* § 7.)

*§ 8. **Elections—how ordered.** 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 days' notice of the holding of any election must be given to each person entitled to vote at such election. (*Id.* § 8.)

*§ 9. **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. (*Id.* § 9.)

*§ 10. **Voting by ballot.** 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. (*Id.* § 10.)

*§ 11. **Term of 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, un-

less 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. (*Id.* § 11.)

*§ 12. **Discharges—how granted.** 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 years, and shall have faithfully served for two years of said enlistment. Discharges from the battery can only be issued by the commander in chief. (*Id.* § 12.)

*§ 13. **Commissions—examination of appointees.** 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. (*Id.* § 13.)

*§ 14. **Resignation of officers.** 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. (*Id.* § 14.)

*§ 15. **Examining board—duties.** 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 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. (*Id.* § 15.)

*§ 16. **No officer shall hold two commissions.** 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. (*Id.* § 16.)

*§ 17. **Staff officers.** No staff officer can assume or be placed in command of any troops. (*Id.* § 17.)

*§ 18. **Staff of commander in chief to consist of.** 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. (*Id.* § 18.)

*§ 19. **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. (*Id.* § 19.)

*§ 20. **Tactics—roll and roster.** At such inspection the regiments, com-

panies, 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. (*Id.* § 20.)

*§ 21. **Inspector general to 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, accouterments, and as to their proficiency in drill. (*Id.* § 21.)

*§ 22. **Company drills.** 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. (*Id.* § 22.)

*§ 23. **Compensation.** There shall be paid annually to each regiment of infantry and battery of artillery 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, [*i. e.* § 20] 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 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 per annum for the battery aforesaid. (*Id.* § 23.)

*§ 24. **Money, to whom and how paid.** 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. (*Id.* § 24.)

*§ 25. **Money, how drawn.** 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 indorsed. (*Id.* § 25.)

*§ 26. **Arms and ammunition.** Arms, accouterments, 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. (*Id.* § 26.)

*§ 27. **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. (*Id.* § 27.)

*§ 28. **Encampment.** The commander in chief shall order both regiments of infantry and the battery of artillery into camp for a period not to exceed seven days in each year, at such times and places as he may deem best. (*Id.* § 28.)

*§ 29. **Per diem while in camp.** 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 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 cents per day from the pay of each officer and enlisted man shall be made for subsistence, if fur-

nished 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 [§ 23] of this act. (*Id.* § 29.)

*§ 30. **Per diem while in actual service.** 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 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. (*Id.* § 30.)

*§ 31. **Exempt 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. (*Id.* § 31.)

*§ 32. **Discharged soldiers exempt from jury duty, when.** 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. (*Id.* § 32.)

*§ 33. **Uniforms, etc., not liable to 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. (*Id.* § 33.)

*§ 34. **Not liable to 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. (*Id.* § 34.)

*§ 35. **Constitution and by-laws of company.** 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. (*Id.* § 35.)

*§ 36. **Same—of regiment.** 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 evidence of the provisions thereof in any action or proceeding in any court of this state. (*Id.* § 36.)

*§ 37. **To sue for dues, how.** Each regiment, or 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. (*Id.* § 37.)

*§ 38. **Failure to perform duty a misdemeanor—penalty.** 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, 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, company, or battery, as the case may be, for the benefit of its military fund. (*Id.* § 38.)

*§ 39. **Commission to report uniform.** 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. (*Id.* § 39.)

*§ 40. **Powers of 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* [the] same shall not be inconsistent with this act. (*Id.* § 40.)

*§ 41. **Same—courts martial.** 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. (*Id.* § 41.)

*§ 42. **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.* (*Id.* § 42.)

*§ 43. **Repeal of other acts.** All acts and parts of acts inconsistent with this act are hereby repealed. (*Id.* § 43.)

See page 251.

CHAPTER XIII.

ROADS, CARTWAYS, AND BRIDGES.

*§ 19. **Penalties for neglecting road duty.** Every person so assessed and duly notified who does not commute, and who refuses or neglects to appear as above provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof as hereinafter provided shall be fined for every day's refusal or neglect the sum of two dollars. If he was required to furnish a team, man, carriage, or implements, and refused or neglected so to comply, he shall be fined as follows: For wholly omitting to comply with such requisition, four dollars for each day; for omitting

(*See, also, § 2, c. 75, 1883 appropriating \$2,500 annually.)