

31700

THE
REVISED STATUTES,
OF THE
TERRITORY OF MINNESOTA,

PASSED AT THE SECOND SESSION OF THE
LEGISLATIVE ASSEMBLY,

COMMENCING JANUARY 1, 1851.

PRINTED AND PUBLISHED PURSUANT TO LAW, UNDER THE SUPERVISION OF M. S. WILKINSON.

SAINT PAUL:

JAMES M. GOODHUE, TERRITORIAL PRINTER.

.....
1851

APPENDIX.

AN ACT RELATING TO THE MILITIA.

SEC. 1. That all able bodied free white male inhabitants, between the ages of eighteen and forty-five years, resident in this territory, and not exempted from serving in the militia, by the laws of the United States, or of this territory, are subject to military duty within this territory.

Persons liable to duty.

SEC. 2. In addition to the persons exempted by the laws of the United States, the following persons shall be exempt from military duty:

Who exempt.

1. The secretary of the territory :
2. The members of the legislature, and its officers, during the session thereof, and fourteen days before and after each meeting :
3. Ministers and preachers of the gospel, teachers in all colleges :
4. Officers hereafter to be commissioned, who shall serve as such in the militia of this territory, or in that of any one of the United States for the space of five years ; but no such officer who may have served in the militia of this territory shall be so exempt unless by his resignation, after such term of service duly accepted, or in some other lawful manner he shall have been honorably discharged from his commission :
5. Every non-commissioned officer, musician and private, of every uniform company, raised or hereafter to be raised, who has uniformed himself, or shall hereafter uniform and equip himself, and whose term of service in such company shall have amounted, or shall amount to ten years from the time of his enrolment therein, shall be exempt from military duty, except in cases of insurrection or invasion :
6. If any member of such company, who shall have been regularly uniformed and equipped, shall, upon his removal out of the district of such company, or upon the disbandment thereof, enlist into another uniformed company, and uniform and equip himself therefor, and serve in the same, whenever the whole time of his service in such companies, computed together, shall amount to ten years, he shall be exempt from military duty, in like manner, as if he had served for the whole period in the company in which he was first enrolled :
7. Every person actually employed by the year or season on board any vessel, or in the merchant service or coasting trade in this territory, all firemen attached to supply engines, and all other firemen belonging to any company in any city or village in this territory, not exceeding twenty-four (24) in number, attached to a fire engine, unless, in cases otherwise especially provided, shall be exempt from military duty, and also all ferrymen actually employed on post roads, not exceeding two in number, to each ferry, except in cases of war, insurrection or invasion.

OF THE APPOINTMENT OF MILITIA OFFICERS AND THE TENOR OF THEIR OFFICES.

- Officers how appointed.** SEC. 3. The officers of the militia shall be appointed in the manner prescribed in the seventh section of the "act of congress, establishing the territorial government of Minnesota," and shall hold their commissions without limitation of time, subject however to be revoked and determined by the governor of the territory for the time being, at his pleasure.
- Tenure of office.** SEC. 4. The commander-in-chief shall appoint his own staff.
- Staff of com. in chief.** SEC. 5. Major-generals, brigadier-generals, and commanding officers of regiments, or separate battalions, shall appoint the staff officers of their respective divisions, brigades, regiments, or separate battalions.
- Other staff officers.** SEC. 6. No commissioned officer can be removed, except by the governor, or by the decision of a court-martial pursuant to law.
- Removal of officers.** SEC. 7. Sergeant-majors, quarter-master sergeants, sergeant-standard-bearers, drum-majors, fife-majors, and trumpet-majors, shall be appointed by the commanding officer of the regiment or separate battalion to which they shall belong, by warrant under the hand of such commanding officer, and shall hold their office during his pleasure.
- Warrant officers.** SEC. 8. Whenever the office of any commissioned officer in the militia, except those of the staff, shall become vacant, the commander-in-chief shall have power to fill the same, which appointment shall continue until the last day of the next succeeding session of the legislative assembly.
- Vacancies how fill'd** SEC. 9. Every officer duly commissioned, shall within twenty days after his commission shall be tendered to him, or within twenty days after he shall be personally notified that the same is held in readiness for him, by any superior officer, take and subscribe an oath to support the constitution of the United States of America, and well and faithfully discharge the duties of his said office; and in case of neglect or refusal to take such oath within the time mentioned, he shall be deemed to have resigned said office; and a new appointment shall be forthwith made to fill his place. The neglect or refusal of an officer appointed, to take such oath, shall be no excuse for neglect of duty, until another shall be duly commissioned in his place.
- Officers to take oath** SEC. 10. Every commissioned officer shall take and subscribe such oath before a judge of some court of record in this territory, clerks of courts, notaries public, justice of the peace, or some general or field officer, who having previously taken it himself, is hereby authorized to administer the same.
- By whom administered** SEC. 11. A certificate of the oath, shall be indorsed by the officer administering the same, on the commission, and no fee shall be received for administering any such oath or indorsing such certificate.
- Certificate indorsed on commission.** SEC. 12. All non-commissioned officers of companies shall be appointed by the commandants of their, respective companies, but shall not be removed except by the approbation of the commandant of the regiment, or separate battalion to which the said company may belong.
- Non-commissioned officers how appointed.** SEC. 13. The commanding officers of brigades may accept the resignations of all commissioned officers in their respective brigades; but no resignation of any captain or subaltern shall be accepted until the same shall have been approved of by the commanding officer of the regiment to which the officer so resigning may belong. No officer shall be permitted to resign his commission who shall be under arrest, or shall be returned to a court-martial for any deficiency or delinquency; and no commanding officer of a brigade, regiment or separate battalion, shall approve or accept any resignation, unless the officer tendering the resignation shall furnish satisfactory evidence that he has delivered all
- Resignations.**
- Not to be accepted in certain cases.**

moneys in his hands as such officer, and all books and other property of the territory in his possession, to his next superior or inferior officer, or to the officer, authorized by law to receive the same.

SEC. 14. The commanding officer of a brigade, on accepting any resignation, shall forthwith communicate the same to the commander-in-chief; also to the commandant of the regiment to which the officer resigning may belong; and if any such officer be a subaltern, he shall also communicate the same to the commandant of his company.

To notify com. in chief.

SEC. 15. The commander-in-chief may accept the resignation of any officer whose resignation the commanding officer of a brigade is not authorized to accept, and he may also accept the resignation of any officer whose resignation the commanding officer of his brigade shall have refused to accept, and cause such vacancies to be filled without delay.

Commander-in-chief may accept resignations.

SEC. 16. Every officer who shall remove out of the bounds of his command, or who shall be absent from his command twelve months without leave of the commanding officer of his brigade, or regiment, shall be considered as having vacated his office.

Office how vacated.

SEC. 17. The commissioned officer who shall receive a commission for any subordinate officer, shall, within thirty days thereafter, give notice thereof in writing, by mail or otherwise, to the person entitled to it.

Commission how forwarded.

OF THE ENROLMENT OF PERSONS SUBJECT TO MILITARY DUTY.

SEC. 18. The commanding officer of each company of infantry shall from time to time enroll all persons within the limits of his company, who may be subject to military duty, and shall, without delay, notify such persons of their enrolment.

Enrolment.

SEC. 19. Every notice or warning, to a person so enrolled, to attend a company, battalion or regimental muster or training, pursuant to the provisions of this act, shall be deemed a legal notice of his enrolment.

Enrolment.

SEC. 20. Every person duly enrolled, shall be provided, within six months from and after he shall be duly notified of his enrolment, with arms, accoutrements and ammunition, agreeably to the directions of the laws of the United States.

Duty of persons enrolled.

SEC. 21. The age and ability to bear arms, of every person so enrolled, shall be determined by the commandant of such company, subject to an appeal to the commanding officer of the regiment; but the decision of neither of these officers shall prevent a court-martial from determining whether such person was duly enrolled.

Age and ability.

SEC. 22. Persons claiming to be exempted from enrolment, by reason of inability to bear arms, may produce the certificate of a surgeon or surgeon's mate, as evidence of such inability; but it shall not be lawful for the surgeon giving the same to take any fee or reward therefor.

Certificate of surgeon.

SEC. 23. All tavern-keepers, keepers of boarding-houses, persons having boarders in their families, and house-keepers, upon their being thereto requested by the commanding officer of the company within the district of which they reside, shall give to such commanding officer a true account of all persons lodging or boarding with them, and of their names, if known, to the end that such persons as are liable to do military duty may be enrolled according to law.

Tavern-keepers to give notice.

SEC. 24. If any person of whom such account is so demanded, shall refuse to give an account, he shall forfeit and pay ten dollars for every individual name that may be refused, omitted, concealed, or falsely stated, to be recovered by the commanding officer of the regiment, for the use of his regiment.

Penalty for refusing.

SEC. 25. Every commandant of a company may enroll as musicians in his company, at least two, and not more than five persons residing in his district, who are desirous to be so enrolled.

Musicians.

Exemptious. SEC. 26. The person so enrolled shall perform the duty of musician in such company instead of serving as privates therein, and shall respectively be entitled to the same privileges and exemptions as non-commissioned officers and privates in uniform companies, and shall be subject to the same fines and penalties for the non-performance of their duty, as non-commissioned officers are liable to for absence from parade.

Not to enlist in other companies. SEC. 27. No such musician, after being enrolled, shall enlist into another company without the written consent of the commanding officer of the company to which he belongs.

OF THE ORGANIZATION, UNIFORM, AND DISCIPLINE, OF THE MILITIA.

Militia, how organized. SEC. 28. The organization of the militia in divisions, brigades, regiments, battalions, and companies shall be conformed to the provisions of the laws of the United States.

Militia, how organized. SEC. 29. Subject to such laws the commander-in-chief may arrange, alter, divide, annex and consolidate the divisions, brigades, regiments, battalions and companies, in such manner as in his opinion the proper organization of the same shall require.

Bounds of regiments, &c., how altered. SEC. 30. The commanding officer of each brigade, with the approbation of the commanding officer of his divisions, may divide, annex or alter the bounds of the several regiments or separate battalions under his command; and in all cases of alteration in the bounds of any regiment, that part containing the major part of the companies of any one regiment shall retain its name, number and rank. The commanding officer of each regiment or separate battalion, with the approbation of the commanding officer of his brigade, may divide, annex, or alter the bounds of the several companies under his command.

Alterations to be reported. SEC. 31. All such alterations shall be forthwith reported to the commander-in-chief, and remain in force until he shall otherwise direct.

When officer deemed to have resigned. SEC. 32. Every officer rendered supernumerary by any consolidation or alteration of regiments, separate battalions or companies, shall be deemed to have resigned his commission, unless he shall have given written notice of his intention to retain his rank in the line, to the commanding officer of the brigade to which he belonged, within thirty days after such consolidation or alteration shall be published in general orders.

Supernumerary officers to equip, &c. SEC. 33. Supernumerary officers shall equip themselves, and those under rank of colonel shall attend the parades and drill trainings of the officers and non-commissioned officers.

Volunteer companies, how organized. SEC. 34. Whenever thirty persons, subject to military duty, associate together for the purpose of forming a company of mounted riflemen, infantry or artillery, by and with the consent of the commanding officer of their regiments, shall apply to the commander-in-chief to be organized as such, the commander-in-chief may so organize them, and such persons as a majority of the applicants shall have designated in their application shall be commissioned as the officers of such company. But no artillery company shall be organized by the commander-in-chief unless the commissary-general shall have on hand a proper piece of artillery and equipage ready to be delivered to such company.

Volunteer companies, how organized. SEC. 35. Every commanding officer of a regiment, before he shall consent to any such application, shall require satisfactory evidence that the persons making the same intend in good faith to serve when organized, and that they are of sufficient ability to equip themselves according to law.

When to be reported, number, &c. SEC. 36. Every company of artillery, riflemen, light infantry, or mounted riflemen, which shall not at any annual inspection and review

have at least thirty privates mounted, or armed and equipped as the law directs, shall be immediately reported by the inspector, or officer acting as such, to the commandant of the brigade to whom such company belongs.

SEC. 87. If thirty privates shall not so appear at such inspection and review, the inspector shall require proof that there are privates belonging to such company properly mounted, or armed and equipped, sufficient to complete the whole number of thirty; such proof may be made by the certificate on honor of a commissioned officer, or by the oath of a non-commissioned officer or private. Proof required.

SEC. 38. The commandant of a brigade to whom a company shall be reported as deficient in number, shall thereupon disband the same in orders, unless he shall have reason to believe that such company will have thirty privates present and absent, mounted, or armed and equipped as aforesaid, at the next succeeding inspection and review. When to be disbanded.

SEC. 39. In case such company at the next inspection and review shall have absent and present the number above required, mounted, or armed and equipped, it shall, not be disbanded, but if otherwise, the commandant of the brigade shall without delay disband the same. When to be disbanded.

SEC. 40. All the companies of mounted riflemen and dragoons in each of the judicial districts of the territory, shall be formed into separate battalions, and the members of all such companies after they shall have uniformed and equipped, shall be exempt from poll tax to work on the highways in their respective towns. Mounted riflemen.

SEC. 41. All battalions of mounted riflemen, or dragoons, not formed into separate regiments, shall for all the purposes of this act be considered as a part of the regiments or separate battalions of infantry in the bounds of which they are situated. Considered part of infantry.

SEC. 42. All regiments and separate battalions of riflemen or artillery, not formed into brigades, shall for the purpose of this act be considered as a part of the brigade of infantry in the bounds of which the commanders of such regiment separate battalion shall respectively reside. Considered part of infantry, riflemen or artillery

SEC. 43. No non-commissioned officer, musician, or private, belonging to any company of mounted riflemen, artillery, or light infantry, shall leave the company to which he belongs to serve as a fireman in any fire company now raised or hereafter to be raised in any city or county, nor shall he leave such company and enlist in any other, without the written consent of the commandant of the company to which he belongs, unless he shall have removed out of the district of such company. Person not to leave volunteer company

SEC. 44. The commandant of every uniform company shall make a return without delay of all persons enlisted therein, to the commandant of the infantry companies within whose district the persons enlisted respectively reside, and in such return shall specify the date of each enlistment, and the commandant of infantry companies shall strike from their rolls the name of every person thus certified to have been enlisted in any regularly organized uniform company. Return of enlistment.

SEC. 45. All persons enlisted into any uniform company shall within three months from their enlistment furnish themselves with a uniform and other equipage according to law; for non-compliance they shall be returned to the proper court-martial and fined as hereinafter provided. To equip.

SEC. 46. The commandant of any uniform company, whenever he shall discharge an able bodied man, shall give notice thereof in writing to the commandant of the infantry company, within whose district the individual discharged shall reside. Notice of discharge

SEC. 47. The uniform of the infantry, or such portion thereof as the commander-in-chief may deem advisable, shall in his discretion be Uniform.

directed to conform with that which is now or may hereafter be established by the army regulations of the United States, and of all other corps for which provision is not made by the laws of the United States, as the commander-in-chief shall from time to time direct.

Discipline. SEC. 48. The militia of the territory shall as near as may be, conform their system of discipline and exercise to that of the army of the United States, as is now, or shall hereafter be prescribed by the congress of the United States.

Discipline. SEC. 49. The commander-in-chief shall from time to time direct such book as to him shall appear expedient as a guide for the corps of artillery and mounted riflemen, and shall furnish the same to the field officers and commandants of companies of such corps at the expense of the territory.

Volunteer companies, how called into service. SEC. 50. All mounted riflemen and dragoons, as well as all other independent or volunteer corps, shall be subject to be called into the service of the United States or of this territory, by companies, battalions, regiments or brigades, by order of the commander-in-chief, or other proper officers.

OF THE ORGANIZATION OF THE STAFF DEPARTMENT.

Aids, &c., of commander-in-chief. SEC. 51. The commander-in-chief shall be entitled to four aids with the rank of colonel, and a military secretary with the rank of major.

Aids of major and brigadier-generals. SEC. 52. Each major-general shall be entitled to two aids with the rank of major; and each brigadier-general to one aid with the rank of captain.

Adjutant-general. SEC. 53. The adjutant-general shall have the rank of colonel, and in his department there shall be to each division, a division inspector with the rank of lieutenant-colonel; to each brigade, a brigade inspector, to serve also as a brigade major with the rank of major; and to each regiment and separate battalion an adjutant, with the rank of lieutenant.

Judge advocates. SEC. 54. In the judge advocate's department there shall be a judge advocate with the rank of colonel; to each division, a division judge advocate with the rank of lieutenant-colonel; and to each brigade a brigade judge advocate with the rank of major.

Quartermaster-general and quartermasters. SEC. 55. In the quarter-master general's department there shall be a quarter-master general with the rank of colonel; to each division a division quarter-master with the rank of lieutenant-colonel; to each brigade a brigade quarter-master with the rank of captain; and to each regiment and separate battalion, a quarter-master with the rank of lieutenant.

Paymaster-general and paymasters. SEC. 56. In the pay-master general's department there shall be a pay-master general with the rank of lieutenant-colonel; to each division a division pay-master with the rank of major; to each brigade a brigade pay-master with the rank of captain; and to each regiment and separate battalion, a pay-master with the rank of lieutenant.

Commissary-general. SEC. 57. The commissary-general shall have the rank of colonel, and in his department there shall be so many military store-keepers for the safe keeping and preserving of the arsenals, magazines, fortifications, and military stores belonging to this territory, as he may find it necessary to appoint, not exceeding one to each arsenal.

Surgeon-general, surgeon, &c. SEC. 58. In the hospital department there shall be a surgeon-general with the rank of colonel; to each division a hospital surgeon with the rank of lieutenant-colonel; to each brigade a hospital surgeon with the rank of major; to each regiment a surgeon with the rank of captain; and to each regiment or separate battalion a surgeon's mate with the

rank of lieutenant; but such rank shall not entitle officers to promotion in the line, nor regulate their pay or rations in the service.

SEC. 59. There shall be to each regiment and separate battalion two sergeant-standard-bearers, one sergeant-major, one quarter-master-sergeant, one drum-major, and one fife-major, and to each regiment and separate battalion of mounted riflemen, one trumpet-major. Non-commissioned staff.

SEC. 60. The chief of each staff department shall, under the direction of the commander-in-chief, have command over all subordinate officers in his department, and shall from time to time issue orders and instructions for their government and practice. Chief of staff.

SEC. 61. Each chief of such department shall prepare and transmit, at the expense of the territory, all blank forms of returns, precepts, warrants and proceedings necessary in his department. Forms.

OF THE SEVERAL PARADES AND RENDEZVOUS OF THE MILITIA.

The militia shall rendezvous as follows :

SEC. 62. By regiments, or separate battalions, once in each year, between the tenth day of September and fifteenth day of October, at such time and place in their respective districts as the commanding officer of the brigade shall direct, for the purpose of inspection, review and martial exercise. Times of parade.

SEC. 63. At such other times and places, either by regiments, battalions or companies as the case may require, as shall be directed in any order of proper authority, calling into service of the United States, or of this territory, the whole or any portion of the militia. Times of parade.

SEC. 64. It shall be the duty of all uniform companies to meet within their respective districts, in addition to the general rendezvous, not less than three nor more than eight days in each year, at such a time and place as their respective commandants may direct, and as much oftener as a majority of all the members of their company may direct, for the purpose of drill and martial exercise. Times of parade, uniform companies.

SEC. 65. The commandant of each brigade shall give notice to the commandant of the division of the times and places of the annual inspection and review of the several regiments and separate battalions in his brigade. Notice to be given.

SEC. 66. Each commandant of division shall attend the review and inspection of the several regiments and separate battalions of at least one of the brigades in his division in each year; and he shall require the officers of the division staff, armed and equipped as the law directs, to accompany him; he shall also attend such reviews and inspections in each brigade of his division in succession. Commandant of division to attend.

SEC. 67. The commandant of each brigade shall attend, with the officers of the brigade staff, armed and equipped as the law directs, the annual inspection and review of the several regiments and separate battalions in his brigade. Commandant of brigade.

SEC. 68. The commissioned and non-commissioned officers and musicians of each regiment and separate battalion, shall rendezvous within their respective districts not less than three nor more than six days successively, between the first day of June and the first day of September in each year, for the purpose of disciplining and improving in martial exercise. The day and place of rendezvous shall be prescribed by the commanding officer of the regiment or separate battalion. Officers to meet for drill.

SEC. 69. Such commandant shall report all absentees and deficiencies to the president of the proper court-martial. To report.

SEC. 70. For the purpose of warning the non-commissioned officers, musicians and privates, to any parade or place of rendezvous, required by law, the commandant of each company shall issue his warrant, under Warning.

his hand, to his non-commissioned officers, or to such of them as he may deem proper, requiring them respectively to warn all persons subject to military duty, within a certain district to be designated in such warrant, or all persons named in the warrant, as such commandant may elect, to appear at such parade or place of rendezvous, armed and equipped as the law directs.

Warning.

SEC. 71. Each non-commissioned officer to whom such warrant shall be directed, shall warn every person heretofore enlisted, whom he shall be therein required to warn, by reading the warrant or stating the substance thereof in the hearing of such person; or in case of his absence by leaving a notice thereof at his usual place of abode, with some person of suitable age and discretion, or affixing the same on the outer door of the house in case no person can be found therein; such notice shall be signed by the non-commissioned officer making the service, and so left or affixed shall have the like effect as if the person to whom the same shall be directed had been personally warned.

Return.

SEC. 72. Such non-commissioned officer shall deliver the warrant to his commandant, with a return, in which he shall state the names of all persons by him warned, and the manner of warning them respectively, and shall make oath to the truth of such return, which oath shall be administered by the commandant, and certified by him on the warrant or return.

To whom delivered.

SEC. 73. Such commandant shall deliver the warrant and return, together with his own return of all delinquents and delinquencies, to the president of the proper court-martial.

Made evidence.

SEC. 74. The return of such non-commissioned officer, so sworn to and certified, shall be as good evidence on the trial of any person returned as a delinquent, of the facts therein stated, as if such officer had testified to the same before the court-martial on such trial.

By commandant.

SEC. 75. Every commandant of a company shall make the like return upon honor, and with like effect, of every delinquency and neglect of duty of his non-commissioned officers, either in not attending on parade, or not executing or returning a warrant to them directed, or not obeying the orders of their commanding officer.

May warn without warrant.

SEC. 76. Any commissioned officer of a company, may, without a warrant, warn any or all the persons subject to military duty, within the district of the company, to appear at any parade or place of rendezvous; such warning may be given by him, either personally, or by affixing a notice in the same manner as if given by a non-commissioned officer, and his certificate upon honor shall be received by any court-martial as legal evidence of such warning.

Duty of inn-keepers.

SEC. 77. All tavern-keepers, keepers of boarding-houses, persons having boarders in their families, and house-keepers, upon their being thereto requested by the commandant of the company within the district of which they reside, or by the non-commissioned officer of any such company having a warrant from such commanding officer to warn persons to attend any parade, shall give to such commanding officer or non-commissioned officer, a true account of all persons lodging or boarding with them, and their names, if known, to the end that such persons as are liable to do military duty, may be warned to rendezvous according to law.

Penalty.

SEC. 78. If any person of whom such account is so demanded, shall refuse to give such account and names, or shall wilfully give a false account, he shall forfeit and pay ten dollars, to be recovered by the commandant of the regiment for the use of the regiment.

Time of parade.

SEC. 79. For the purpose of preserving order on the day of parade, the militia shall be considered to be under arms from the rising of the sun to its setting, on the same day, and shall be exempted from arrest on civil process during the time.

SEC. 80. Every commandant of a company, in addition to putting under guard as he is hereby authorized to do, and the exercise of the usual military power with which he is hereby vested, shall return to the president of the proper court-martial, the names of all persons in the company who shall have discharged any fire arms on such day of parade, without the order or permission of a commissioned officer, or officer acting under such; and also the name of every non-commissioned officer, musician or private, who shall on such day refuse or neglect to obey the order of his superior officer, or to perform such military duty or exercise as may be required, or depart from his colors, post or guard, or leave the ranks, without permission from his superior officer.

Who returned to court-martial.

SEC. 81. The commanding officer of a division, brigade, regiment, or separate battalion, present at any parade, may put under guard any by-stander or spectator, who shall abuse, molest, or strike any one when on parade or under arms.

Power of commandant.

SEC. 82. The commanding officer of a regiment or separate battalion, shall, on the day on which any parade or rendezvous is to be held, and previous thereto, cause the bounds of the parade ground to be designated in such manner as not to obstruct the passage of travelers on any public highway.

Bounds of parade ground.

SEC. 83. If any person, during parade, shall encroach on the parade ground previously designated, or shall then and there sell, or offer to sell or give away, any spirituous liquors, without permission of the commanding officer, or shall have in his possession any gambling table or other gambling device, such persons may be put and kept under guard by such commander, until the setting of the sun on the same day; and such liquor, gaming table, or other gambling device, may be abated or destroyed as a nuisance, by order of the commandant.

Gamblers, &c., put under guard.

SEC. 84. No parade or rendezvous of the militia shall be ordered on any day during which a general or special election shall be held, nor within five days previous to such election, except in cases of invasion or insurrection, or of imminent danger thereof; and if any officer shall order any such parade or rendezvous, he shall forfeit and pay to the people of this territory the sum of five hundred dollars.

No parade on election day.

SEC. 85. Every commandant of a company shall, within twenty days after any parade, furnish the president of the proper court-martial with a return of all persons belonging to his company, who shall have been at such parade delinquent in the performance of duty, or deficient in the equipment or uniform required by law, or who by any means shall have incurred any fine or penalties under this act.

Delinquents to be reported.

SEC. 86. The commandant of every regiment or separate battalion, within fifteen days after the regimental or battalion parade or rendezvous of commissioned and non-commissioned officers and musicians, shall furnish the president of the proper court-martial with a return of all delinquents under the rank of a major in the staff or line.

Delinquents to be reported.

SEC. 87. In case of any invasion, or of imminent danger thereof, within the limits of any division, brigade, regiment or separate battalion, it shall be the duty of the commandant of such division, brigade, regiment or separate battalion, to order out for the defence of the territory, the militia or any part thereof under his command.

Duty of officers in case of invasion.

SEC. 88. It shall also be his duty to give immediate notice of such invasion, and of the circumstances attending the same, to his immediate commanding officer, by whom such information shall be transmitted with the utmost expedition to the commander-in-chief.

1b.

SEC. 89. The commandant of every regiment or separate battalion, within the limits of which an insurrection may happen, shall immediately assemble his regiment or battalion under arms, and with the utmost

1b.

expedition, shall transmit information of such insurrection to the commandant of his brigade, and to the commander-in-chief.

Persons disabled provided for.

SEC. 90. Every person who, while in the actual service of this territory, shall be wounded or disabled, in opposing or suppressing any invasion or insurrection, shall be taken care of and provided for at the expense of the territory.

Drafts, how made.

SEC. 91. Whenever the president of the United States, or the commander-in-chief, shall order a draft for of the militia for public service, such draft shall be made in each company in which it is required, by lot to be determined at a company parade ordered for that purpose.

Ib.

SEC. 92. Each non-commissioned officer, musician or private, present at such parade, shall draw to make up the quota required, and each person drawn shall fill such grade in the militia drafted, as he was entitled to when drawn in his own company.

Ib.

SEC. 93. One of the commissioned officers shall draw for every person subject to the draft who shall refuse to draw, or be absent from the parade, and such draft shall have the like effect as if the person so refusing or absent, had drawn himself.

Persons may offer substitute.

SEC. 94. Any person so drafted may offer a substitute at or after the time of rendezvous of the drafted militia, and such substitute, if he be an able bodied man of the age of twenty-one years, and shall consent in writing to subject himself to all the duties, fines, forfeitures and punishments, to which his principal would have been subject, had he personally served, shall be accepted by the commandant of the company of drafted militia to which his principal may belong.

Distribution of arms.

SEC. 95. The commander-in-chief shall prescribe such rules, orders and regulations, relative to the distribution of arms, ammunition and military stores, to the militia when called into actual service as he may deem proper.

Persons may be put under guard.

SEC. 96. The commandant of companies are hereby authorized to put under guard, or to commit to prison for the day, and to return to the proper court-martial, any non-commissioned officer, musician or private, who shall appear on parade wearing any false face, personal disguise or other unusual ludicrous article of dress, or any arms, weapons, or other implements or things not required by law, and which are calculated to interrupt the peaceable and orderly discharge of duty.

Persons may be put under guard.

SEC. 97. Any commissioned officer of division, brigade, regiment, separate battalion or company, present at any parade, is hereby authorized to put under guard, or to commit to prison for the day, any person or persons, who shall upon or near any parade ground, field, public highway, or any other place occupied by the militia under arms, by means of ludicrous disguise, dress, arms and instruments, or by any other means disturb the peaceable and orderly proceedings of those under arms; and the jailor shall receive and confine such persons in the debtors department of the jail, pursuant to the order of commitment which shall be issued and delivered to him in virtue of this or the preceding section.

Description of regiment.

SEC. 98. It shall be the duty of each commandant of a regiment or separate battalion, within twenty days after the annual inspection, to furnish the commandant of his brigade a local description of such regiment or separate battalion, together with a roster of the commissioned officers of such regiment.

Statement of review.

SEC. 99. It shall be the duty of each brigade inspector, within thirty days after the annual review, in each year, to transmit to the adjutant-general a statement of the review, and inspection of the several regiments and separate battalions in his brigade, accompanied by the division and brigade staff armed and equipped as the law directs.

SEC. 100. In case any general officer, or any member of his staff

shall neglect to attend such inspection and review, it shall be the duty of the adjutant-general to require such officer to render an excuse, in writing, to the commander-in-chief, for his delinquency. If the commander-in-chief shall deem such excuse insufficient, he shall order a court-martial to try the delinquency.

Duty of adjutant-general.

OF COURTS OF INQUIRY AND COURTS-MARTIAL.

SEC. 101. Courts of inquiry may be instituted by the commander-in-chief, or the commanding officer of division or brigade in relation to those officers for whose trial they are authorized to appoint courts-martial, for the purpose of investigating the conduct of any officer, either by his own solicitation or on a complaint, or charge of improper conduct, degrading to the character of an officer; or for the purpose of settling rank.

Courts of inquiry.

SEC. 102. Such courts shall consist of not less than three nor more than five commissioned officers; and the president shall, without delay, report a statement of facts to the officer instituting such court, who may, in his discretion, thereupon appoint a court-martial for the trial of the officer whose conduct shall have been inquired into.

Courts of inquiry.

SEC. 103. Every court-martial for the trial of a major-general shall be ordered by the commander-in-chief, and shall consist of thirteen officers, any nine of whom shall constitute a quorum.

Courts-martial.

SEC. 104. Every court-martial for the trial of a brigadier-general shall be ordered by the commander-in-chief, and shall consist of nine officers, any seven of whom shall constitute a quorum.

1b.

SEC. 105. All other courts-martial, for the trial of other commissioned officers, shall consist of seven officers, and any five of whom shall constitute a quorum, and shall be ordered, if for the trial of officers above the rank of captain, by the commanding officer of division, and for all other officers by the commanding officer of brigade.

1b.

SEC. 106. No officer arrested shall be brought to trial, unless a copy of the charges and specifications, certified by the officer ordering the arrest, shall be delivered to him, or left at his usual place of abode within three days after his arrest; nor unless the officer ordering the court-martial shall have ordered the same within thirty days after receiving notice of the arrest and a copy of the charges and specifications; nor until ten days after a copy of a list of the names of the officers detailed to form the court shall have been delivered to the officer arrested, or left at his usual place of abode.

Requisites before trial.

SEC. 107. The officer ordering the court may at any time supply any vacancy that from any cause may happen therein.

Vacancies.

SEC. 108. If the officer accused shall have any cause of challenge to the president, he shall, within a reasonable time after receiving a copy of the charges, and a list of the members, deliver his cause of challenge, in writing, to the officer ordering such court, who shall thereupon determine as to the validity of such challenge; and if, in his opinion, the causes are sufficient, he shall appoint another president of such court.

Challenge.

SEC. 109. After the court shall be assembled, and after all challenges if any, are made, shall have been determined, the judge-advocate, whether commissioned or special, shall administer to each member the following oath: "You, do swear that you will faithfully discharge the duties of a member of a court-martial now assembled, according to the best of your ability."

Oath.

SEC. 110. Every judge-advocate, whether commissioned or special, and every member of a court-martial, shall keep secret the sentence of the court until the same shall be approved, or disapproved, according to law, and shall keep secret the vote or opinion of any particular mem-

Sentence of court, secret.

ber of the court, unless required to give evidence thereof by a court of justice.

Limit of sentence. SEC. 111. The sentence of any such court-martial shall be according to the nature and degree of the offence, and according to military usage, but shall not extend further than cashiering the officer convicted, and disqualifying him from holding any office in the militia of this territory, and imposing a fine not exceeding one hundred dollars.

To whom to be delivered. SEC. 112. The proceedings and sentence of every such court-martial, shall, without delay, be delivered to the officer ordering the court, who shall approve or disapprove thereof within fifteen days thereafter, and shall give notice of his approval or disapproval to the president of such court-martial, and to the arresting officer, and he may, at his discretion, publish the sentence, as approved or disapproved in orders.

Transmitted to adjutant-general. SEC. 113. He shall also transmit such proceedings and sentence, and his approval or disapproval thereof, to the adjutant-general, to be kept in his office.

Appeal. SEC. 114. The right of appeal to the commander-in-chief, as it now exists by military usage, is reserved, but no appeal shall be received, unless made within twenty days, after the decision appealed from is made known to the person appealing.

OF REGIMENTAL AND BATTALION COURTS-MARTIAL.

Courts-martial, how composed. SEC. 115. The commandant of each regiment and separate battalion, shall, on or before the first Monday of June, in every year, appoint a regimental or battalion court-martial, to consist of three commissioned officers, one of whom shall be a field officer or captain, and shall be appointed president thereof.

Time of convening. SEC. 116. The officer appointing the court, shall fix the day on which it shall convene; and when convened, the court may adjourn from time to time, as shall become necessary for the transaction of business; but the whole session of the court, from the day on which it shall convene, shall not exceed one week.

Vacancy. SEC. 117. In case any vacancy shall happen in the court, or a new court shall be required, the officer ordering the court or his successor in command, may fill such vacancy, or order a new court.

Oath. SEC. 118. The president and each member of such court, before he shall enter on his duties as such, shall take the following oath: "I, _____, do swear that I will well and truly try and determine, according to evidence, all matters between the people of the United States, and any person or persons which shall come before a regimental or battalion court-martial of which I have been appointed president or member."

Oath. SEC. 119. Such oath shall be taken by the president, on or before the day on which the court shall convene, before a justice of the county in which he may reside, or a field officer of his regiment or battalion; and it shall be the duty of such justice, or field officer, to administer the oath without fee or reward. The president shall administer the oath to each of the members.

Delinquents summoned. SEC. 120. The president of the court shall direct a non-commissioned officer, or other fit person or persons, to be by him designated, to summon all delinquents and parties accused, to appear before the court at a time and place to be by him appointed.

Return of summons. SEC. 121. Such non-commissioned officer, or other person or persons so designated, shall make the like return, and with the like effect as commission and non-commissioned officers are authorized and required to make in cases of warning to a company, or regimental parade, and shall be subject to the like penalties for neglect of duty.

SEC. 122. The court, when organized, shall have the trial of all delinquents and defiances in the regiments or battalions for which it shall have been called, and shall have power to impose and direct to be levied all the fines to which commissioned officers, of companies, and non-commissioned officers musicians or privates are declared to be subject in sections, from one hundred and one to one hundred and fourteen inclusive of this act.

Jurisdiction of court.

SEC. 123. No fine, imposed by a regimental or battalion court-martial on a commissioned officer, shall prevent such officer from being tried and cashiered for neglect of duty by a court-martial, ordered by the commandant of his brigade.

Officer cashiered.

SEC. 124. Every such court-martial may mitigate or wholly remit any penalty or fine, directed to be imposed for any deficiency, in arms or equipments of any delinquent in any company of infantry, whom the court shall adjudge to be so poor as not to be able to furnish himself with such arms or equipments.

Remission of fine.

SEC. 125. From the sentence of any such court imposing a fine for any delinquency, an appeal, if made within twenty days, shall be allowed to the officer instituting the court, or to his successor in command, who may remit or mitigate such penalty or fine. In case the delinquent was not personally summoned to appear before such court, and did not appear, he shall have ten days, after personal notice of the sentence, in which to appeal from the decision of the officer instituting such court, or of his successor in command. An appeal, if made within ten days after personal notice of such decision, shall be allowed to the commanding officer of the brigade, who may remit or mitigate such penalty or fine.

Appeal.

GENERAL PROVISIONS APPLICABLE TO COURTS-MARTIAL AND COURTS OF INQUIRY.

SEC. 126. The president of every court-martial, and of every court of inquiry, both before and after he shall have been sworn, and also the judge advocate, if required, shall issue subpoenas for all witnesses, whose attendance at such court, may, in his opinion, be necessary, in behalf of the people of the United States, and also an application for all witnesses in behalf of any officer charged or accused, or person returned as delinquent, and may direct the commandant of any company to cause such subpoena to be served on any witnesses residing within his district.

Subpoenas for witnesses.

SEC. 127. The president of such court-martial, or court of inquiry, shall have power to administer the usual oath to witnesses, and shall have the same power to compel attending witnesses to be sworn and testify, and to preserve order, as courts of common law jurisdiction; and all sheriffs, jailers and constables are hereby required to execute any precept issued by such president for that purpose.

Oaths to witnesses.

SEC. 128. Every witness not appearing in obedience to such subpoena, when duly served, and not having a sufficient or reasonable excuse, shall forfeit to the people of this territory a sum not less than five or more than fifty dollars; and the president of such court shall from time to time report to the district attorney such offence, the name of all such delinquent witnesses; together with the names and places of the residence of the persons serving such subpoenas, the better to enable him to prosecute for such forfeiture.

Penalty for non-attendance.

SEC. 129. Any person or persons who shall be guilty of disorderly, contemptuous, or insolent behavior in, or use any insulting or contemptuous, or indecorous language, or expression to, or before any court-martial, or court of inquiry, or any member of either of such courts in

Contempt, how punished.

open court, may be committed to the jail of the county in which such court shall sit, by warrant under the hand and seal of the president of such court.

Contempts, how punished.

SEC. 130. Such warrant shall be directed to the sheriff, or any or either of the constables, or marshals of any such county, or any officer attending the court, and shall command the officer to whom it is directed to take the body of such person and to commit him to the jail of the county thereof, to remain without bail or mainprise in close confinement for a time to be limited, not exceeding three days, and until the officer's fees for committing, and the jailer's fees be paid.

Contempts, how punished.

SEC. 131. Such sheriff shall receive the body of any person who shall be brought to him by virtue of such warrant, and keep him until the expiration of the time mentioned in the warrant, and until the officer's and jailer's fees shall be paid, or until the offender shall be discharged by due course of law.

Senior officer, when to preside.

SEC. 132. In the absence of the president of any court-martial, or court of inquiry, the senior officer present may preside, with all the powers of the president, and all the members of such courts shall, when on duty, be in full uniform.

Marshals.

SEC. 133. The president of any court-martial, or court of inquiry, may appoint by warrant under his hand and seal, one or more marshals.

Their powers.

SEC. 134. The marshal or marshals so appointed, may not only perform the usual duties of such marshals, but may also execute all process lawfully issued by such president, and perform all acts and duties in this act imposed on and authorized to be performed by any sheriff, marshal or constable.

Evidence on appeal

SEC. 135. Whenever the sentence of any court-martial shall be appealed from, the officer hearing the appeal shall require the president of the court-martial to furnish him forthwith with a statement of the case, and of the evidence touching the same, which statement and evidence shall, in case of an appeal to the commanding officer of the brigade, be forthwith, on notice of such appeal, transmitted to him.

Ib.

SEC. 136. Such statement be [being] furnished, the officer hearing the appeal shall require the president of the court-martial to furnish him forthwith with a statement of the case, and of the evidence touching the same, which statement and evidence shall, in case of an appeal to the commanding officer of the brigade, be forthwith, on notice of such appeal, transmitted to him.

Ib.

SEC. 137. Such statement being furnished, the officer hearing the appeal may hear such further evidence by affidavit or otherwise, as the nature of the case may require; and for that purpose he shall have the power to administer the usual oaths to witnesses produced before him except in cases where trials may have been had upon charges preferred.

Ib.

SEC. 138. The two last sections shall extend to appeals made from the order of an officer approving the sentence of a court-martial.

OF PENALTIES, FINES, FEES AND EXPENDITURES.

Penalty on officers.

SEC. 139. Every commissioned officer, for disobedience of orders, neglect of duty, unofficer-like conduct, or disrespect to a superior officer, shall be arrested and brought to trial before a court-martial, who may, on conviction, sentence him to be cashiered, incapacitated from holding any military commission; and fined to an amount not exceeding one hundred dollars, or may sentence him to any part of such penalties, or to be reprimanded, in their discretion.

Penalty on officers.

SEC. 140. Every commissioned officer refusing to pay over moneys

in his hands as is directed in sections one hundred and forty-three to one hundred and sixty-one inclusive of this act, shall be liable to be tried and cashiered, or otherwise punished therefor by a court-martial.

SEC. 141. Every commissioned officer of a company, and every non-commissioned officer, musician and private, shall, on due conviction, be subject for the following offences to the fines thereto annexed:

Officers and non-commissioned officers liable to fines.

1. Every non-commissioned officer, musician and private for non appearance when duly warned or summoned at a company parade, a fine of one dollar; at a regimental or battalion parade, or rendezvous of officers, not less than two, nor more than four dollars; and at a place of rendezvous when called into actual service, a sum not exceeding fifty dollars.

Non-attendance.

2. Every commissioned officer under the rank of colonel, for non-attendance at any parade, and every such officer, non-commissioned officer, musician, or private, for neglecting, or refusing to obey the orders of his superior officers on any day of parade, or to perform such military duty or exercise as may be required, or departing from his colors, post or guard, or leaving his place or rank without permission, a fine not more than fifteen nor less than five dollars.

Desertion, &c.

3. For neglecting or refusing to obey any order, warrant, to him lawfully given or directed, or to make a proper return thereof, if such return be necessary, or making a false return, or neglecting or refusing when required to summon a delinquent before a court-martial, or duly to return such summons, a fine not more than twenty-five nor less than five dollars.

Disobedience.

4. Every commissioned officer for neglecting or refusing to act as such, when duly appointed, shall be sentenced to pay a fine not exceeding fifty dollars, and not less than five dollars. Every non-commissioned officer for neglecting or refusing to act as such when duly appointed, shall be sentenced to pay a fine not exceeding twenty dollars nor less than five dollars; and every non-commissioned officer for neglect of duty, or unofficer-like conduct, in addition to other penalties, may be reduced to the ranks by the commandant of the company, with the approbation of the commandant of the regiment or battalion.

Disobedience.

Unofficer-like conduct.

5. Every non-commissioned officer, musician or private, who shall unlawfully discharge any fire-arms on the days of company or regimental muster, shall be sentenced to pay a fine of one dollar.

Discharging arms.

6. Every non-commissioned officer and private appearing without being armed and equipped as the law directs, at any parade or rendezvous, shall be sentenced to pay the following fines, namely: for want of a sufficient sword and belt, if belonging to the artillery, and for want of a sufficient musket with a steel rod, or rifle, if belonging to a company of infantry, one dollar; for want of a sufficient bayonet and belt, twenty-five cents; for want of a pouch with a box therein sufficient to contain twenty-four cartridges, suited to the bore of his musket, twenty-five cents; for want of two separate flints and knapsack, twenty-four cartridges, shot-pouch, powder-horn, twenty balls, and a quarter of a pound of powder, twenty-five cents each; but the whole number of spare flints, of cartridges and of balls shall be considered each only one deficiency.

Want of equipments.

7. The penalty imposed for want of bayonet, belt and cartridge-box, shall not apply to any non-commissioned officer or private of a rifle company, or to any private of any other company, having a powder-horn and pouch.

Id.

8. Each non-commissioned officer and private in a mounted rifle corps shall be sentenced to pay as fines, for want of a sufficient horse, two dollars; for want of a sufficient rifle and sling, one dollar; for want of

Id.

sufficient pistol and belt, one dollar; for want of sufficient saddle, bridle, breast-plate, valise, or cartridge-box, twenty-five cents each.

Excuses.

9. The court-martial by which any delinquent is tried, may excuse such delinquent if it shall be made satisfactorily to appear to the court that he has a reasonable excuse for such delinquency.

Penalty for retaining commission.

10. Any commissioned officer who shall retain a commission received by him for any subaltern, for more than thirty days without giving notice by mail or otherwise, to the person entitled to it, shall be liable to pay a fine not exceeding twenty-five dollars, to be imposed, in case of a commissioned officer of a company, by a regimental or battalion court-martial, on the complaint of any officer interested, and in case of a general or field officer, by a general court-martial, which shall be ordered on the like complaint. In addition to the penalties imposed by any of the provisions of this act, every commissioned and non-commissioned officer, musician and private of a company, who shall appear on parade wearing any personal disguise, or other unusual or ludicrous article of dress, or any arms, weapons, or other implements not required by law, and calculated to excite ridicule, or to intercept the orderly and peaceable discharge of duty by those under arms, shall be liable to a fine of not more than twenty-five nor less than five dollars, to be imposed by the proper court-martial.

Disguise, &c.

Action against member of court martial.

SEC. 142. No action shall be maintained against any member of a court-martial, or officer, or agent acting under its authority, on account of the imposition of a fine, or the execution of a sentence on a person not liable to military duty, if such person shall have been returned as a delinquent, and duly summoned, and shall have neglected to show his exemption before such court.

OF THE COLLECTION AND APPLICATION OF PENALTIES, FINES AND COMMUTATION MONEY.

Fines to be reported

SEC. 143. All fines that shall be imposed by any regimental or battalion court-martial shall be reported by the president of the court to the officer ordering it, or to his successor in command, within twenty days after such fines shall have been imposed; and the officer ordering the court, or his successor in command, shall immediately after the time shall have elapsed in which appeals are allowed from his decision to the commandant of the brigade, give written notice to the president of the court of the penalties and fines which shall have been by him remitted or mitigated, and of the appeals which shall have been made from his decision to the commandant of the brigade.

How collected.

SEC. 144. For the purpose of collecting fines the president of the court shall, within ten days after the receipt of the written notice aforesaid, make a list of all persons of whom fines are to be collected, designating the company to which they respectively belong, the sums imposed as fines on each person, and the person who shall have appealed to the commandant of the brigade; and shall draw his warrant under his hand and seal directed to any constable of any city or county, as the case may be, thereby commanding him to levy such fine or fines, together with the costs, of the goods and chattels of such delinquents.

Fines, how collected.

SEC. 145. Every such constable to whom such list and warrant shall be directed and delivered, may execute the same by levying and collecting the fines in any city, town or county in this territory, and shall make return thereof within forty days from the receipt of such warrant to the president who issued the same; the execution of said warrant shall be suspended as to those persons who shall have appealed

to the commandant of the brigade until the further order of such commandant.

SEC. 146. If the constable shall not be able to collect the fines within the forty days aforesaid, then the president issuing the warrant may at any time thereafter, within two years from the time of imposing the fines, issue a new warrant from time to time, as may be necessary. Fines, how collected.

SEC. 147. Any warrant for the collection of fines, issued by virtue of this act, shall and may be recovered in the same manner that executions issued from justices' courts may by law be recovered. Ib.

SEC. 148. The moneys arising from fines imposed by any regimental or battalion court martial, shall be paid by the officers collecting the same to the president of the court. The sureties which shall hereafter be given by any constable elect, shall be deemed liable to pay to the president of the court all such sums of money as the said constable may become liable to pay on account of any warrant which shall be delivered to him for collection. To whom paid.

SEC. 149. Such president, after deducting and paying the costs and fees properly chargeable on the fines so recovered by him, shall pay the surplus of such fines to the officer by whom the court shall have been ordered. Surplus.

SEC. 150. Every such president shall from time to time, as often as he shall be required, furnish to the officer ordering the court, or to his successor in command, a correct statement of all moneys received by him on account of fines, and of all fines imposed; and it shall be the duty of the officer instituting every such court, or his successor in command, to make such request within thirty days after any such court shall be held. Money to be accounted for.

SEC. 151. Whoever shall wilfully neglect or refuse to comply with such request for the space of ten days, shall be liable to be tried and cashiered therefor. Penalty.

SEC. 152. It shall be the duty of the respective presidents of courts-martial to prosecute in their own names any marshal or constable who shall incur any penalty for neglect in the execution or return of any warrant, or in paying over moneys collected by him. Marshals to be prosecuted.

SEC. 153. The moneys arising from such penalties, when collected, shall be paid over and applied as other moneys payable to the commandants of regiments and separate battalions are directed to be paid over and applied in this act. Money how applied

SEC. 154. All penalties and fines imposed by courts-martial upon commissioned officers, shall be collected by the attorney-general, or by the district attorneys of the counties in which the persons fined may reside, and be paid by the officer collecting the same into the treasury. Fines how collected

SEC. 155. All moneys received by each commandant of a regiment or separate battalion, shall be expended under the direction of the field officers and commandants of companies, in such regiment or battalion, and shall be applied in the first place to the purchase and repair of colors, and instruments of music, and the residue in disciplining and improving such regiment or battalion in such manner as a majority of the field officers and commandants of companies shall direct. Fines how expended.

SEC. 156. It shall be the duty of each commandant of a regiment or separate battalion to keep an accurate account of all moneys by him received and expended for the use of the regiment or battalion, and to exhibit such account on request, to any commissioned officer of his regiment or battalion; and to deliver it over to his successor in office. Accounted for.

SEC. 157. Each commandant of brigade shall examine and adjust the accounts of the commandants of regiments and separate battalions in his brigade, on or before the first day of may in each year. Accounts to be examined, &c.

Proceedings in case of neglect.

SEC. 158. If the commandants of any regiment or separate battalion, shall neglect or refuse to pay moneys belonging to the regiment or battalion, as the field officers and commandants of companies shall have directed, the commandant of brigade shall sue in his own name for such moneys, and apply the same when recovered to the use of the regiment or battalion.

Proceedings in case of neglect.

SEC. 159. It shall be the duty of the several officers to whom moneys are in this act directed to be paid, in case of the refusal or neglect of the person directed to account for and pay over such moneys, to sue for the same in their own names, but to the uses before specified, in an action for money had and received.

Expenses of suits.

SEC. 160. Every officer so suing may retain out of the money he shall collect, all necessary and reasonable expenses he may incur in such suits.

Jurors and witnesses.

SEC. 161. It shall be no objection to any person called as a witness, or to serve as a juror in any action authorized in this act that he is a member of the regiment or battalion that may be affected by such action.

OF THE COMPENSATION AND FEES OF THE MEMBERS OF COURT-MARTIAL, AND OTHER OFFICERS.

Compensation.

SEC. 162. There shall be allowed and paid out of the treasury:

Judge advocate &c.

1. To each division and brigade judge-advocate, and to each president and member of any court of inquiry, or court-martial for the trial of officers, two dollars for each day actually employed on duty; and the like compensation to any marshal or marshals appointed by such court, for every day employed in the execution of the duties required of him:

Brigade-Inspector.

2. To such brigade-inspector, for inspecting a regiment or separate battalion, eight dollars; for attending each parade of commissioned and non-commissioned officers and musicians, which he is required by law to attend, eight dollars; for making out and transmitting to the adjutant-general an inspection return of his brigade, eight dollars:

Military store keeper.

3. To each military store-keeper, such sum not exceeding twenty dollars, as the commandant-in-chief shall think proper to allow.

Inspector when paid.

SEC. 163. No payment shall be made to any brigade-inspector until he shall have furnished evidence to the auditor, of his having made out and transmitted the inspection return of his brigade to the adjutant-general, and a copy thereof to his division-inspector; nor shall any payment be made to a division-inspector until he shall have furnished like evidence of his having made out and transmitted his division return to the adjutant-general, and the commandant of his division.

Compensation of members of courts-martial.

SEC. 164. There shall be allowed and paid out of the fines imposed by each regimental or battalion court-martial, and received by the president thereof:

1. To the president, one dollar and fifty cents for each day he may be actually employed in holding the court or engaged in the business thereof:

2. To each member of the court, one dollar and fifty cents for each day he may sit as such member, or may be engaged in traveling to and from the court, allowing twenty miles for a day's travel:

3. To the non-commissioned officer, or other person who shall have summoned delinquents to appear before the court, one dollar and fifty cents for each day he may have been so necessarily employed, and the same sum for each day of his attendance on the court.

No other charges.

SEC. 165. No other sums or expenses whatever shall be charged on the fines received by the president of any such court, but the president,

members and officers shall defray the expenses out of the fees allowed to them respectively.

SEC. 166. Each constable to whom a warrant for the collection of fines may be directed, shall be entitled to the same fees, and be subject to the same penalties for any neglect, as are allowed and provided for an execution issued out of justices' courts. Fees of constables.

SEC. 167. For all other service and commitments under this act, the sheriff, jailor and constables executing the same, shall be entitled to the like fees as for similar services in other cases. Of sheriffs.

SEC. 168. The accounts of all persons who, under this act are entitled to be paid out of the treasury, shall be audited by the auditor; and all persons who are to be paid out of the fines imposed by a regimental or battalion court-martial, by the officer ordering the court. Accounts audited.

SEC. 169. The auditor, on the application of the governor, may draw his warrant on the treasurer, for such sum of money as may be requisite in the execution of the provisions of this act, and may require the chief of each staff department to account quarterly for all moneys received by him for purposes connected with his department. Duty of auditor.

OF THE DUTIES OF CERTAIN STAFF OFFICERS AND OF VARIOUS MATTERS CONNECTED WITH THEIR RESPECTIVE DEPARTMENTS.

SEC. 169. The adjutant-general shall keep a roster of all the officers of the militia of this territory, containing the corps to which they belong, the division, brigade, and regiment of such corps, and the places of their residence, as accurately as can be ascertained, which roster shall be revised and corrected every year. To keep roster.

SEC. 170. He shall also enter in a book to be kept for that purpose, a local description of the several regiments, brigades, and divisions of infantry, artillery and riflemen. Local description.

SEC. 171. It shall be the duty of the commandants of divisions and brigades to furnish the adjutant-general with a roster of their officers, containing the facts requisite to enable him to comply with the provisions of this act and also a description of the regiments and brigades. Duty of commandants of divisions and brigades.

SEC. 172. The books required by the adjutant-general to comply with this act, shall be furnished him at the expense of this territory, and shall go to his successor in office. Books.

SEC. 173. It shall be the duty of the brigade-inspectors to transmit a copy of the inspection return annually to the adjutant-general, and duplicate of the same to the division-inspector, within thirty days after the inspection shall be made. Duty of brigade-inspector.

SEC. 174. The adjutant-general shall procure, at the expense of the territory, a seal with some proper device thereon, which shall be the seal of his office, and shall, from time to time, be delivered to his successor 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 original were procured. Seal.

SEC. 175. The adjutant-general shall receive for his services, one hundred and fifty dollars per annum. Compensation.

OF THE COMMISSARY-GENERAL.

SEC. 176. The commissary-general shall keep in good repair the arsenals and magazines of the territory, and attend to the due preservation and safe keeping, cleaning and repairing of the ordnance, arms, accoutrements, ammunition, munitions of war and implements of every description, the property of this territory; and he shall, at all times, have the control and disposition of the same for that purpose. Duty of commissary-general.

- Duty of commissary-general.** SEC. 177. He shall dispose, to the best advantage, of all damaged powder, and of all arms, ammunition, accoutrements, tools, implements and warlike stores of every description whatever, that shall be deemed unsuitable for the use of the territory.
- 1b.** SEC. 178. He shall, from time to time, render a just and true account of all sales made by him, with all convenient speed, to the governor, and shall pay the proceeds of such sales into the treasury.
- To furnish colors, &c.** SEC. 179. Whenever the commanding officer of a brigade shall certify that a stand of colors, or any drum, fifes or bugles, are necessary for any battalion in his brigade, the commissary-general, with the approbation of the commander-in-chief, shall furnish such battalion with a stand of colors, and a sufficiency of drums, at the expense of the territory; but no such drums, fifes or bugles shall be furnished to any brigade at an expense greater than the sum that shall have been theretofore actually paid into the treasury for fines in such brigade.
- Powder and ball.** SEC. 180. The commissary-general shall issue the general allowance of powder and balls to artillery companies for practice, and the several commandants of artillery companies shall, annually, report to the commissary-general, the situation and state of the pieces of ordnance, arms, implements and accoutrements, the property of the territory entrusted to their charge, respectively.
- Annual report.** SEC. 181. The commissary-general shall report annually to the commander-in-chief, whose duty it shall be to transmit the same to the legislature, a true and particular statement, showing the actual situation and disposition of all the ordnance, arms, ammunition and other munitions of war, property and things which in anywise appertain to, or respect the department confided to his keeping.
- Account of expenses.** SEC. 182. He shall keep a just and true account of all the expense, necessarily incurred in and about his department, and once at least in every six months, deliver the same to the auditor, who shall thereupon examine and audit the same, and shall draw his warrant on the treasurer for such sum as he shall audit and certify to be due.
- Act to take effect.** SEC. 183. This act shall take effect from and after its passage, and all laws contravening the same are hereby repealed.

AN ACT PROVIDING FOR THE APPOINTMENT OF A LIBRARIAN, AND FOR OTHER PURPOSES.

- Governor to appoint with consent of Council.** SEC. 1. The governor shall nominate, and by and with the advice and consent of the council, shall appoint a librarian, who shall continue in office one year, and until his successor is appointed and qualified; who shall have the custody, charge, safe keeping, management and direction of all books, papers, maps, charts, engravings, paintings, and all other things, of what nature soever, properly belonging to the library of the territory.
- Bond and oath, bond to be filed with the Secretary.** SEC. 2. Before entering upon the duties of his office, said librarian shall execute a bond to the Secretary of the territory, with three or more sufficient sureties, in the penal sum of six thousand dollars, which bond shall be approved in writing by the governor of the territory, conditioned for the faithful performance of the duties of his office; and he shall also take and subscribe an oath or affirmation, before one of the justices of the supreme court or clerk of the district court, to support the constitution of the United States, and the provisions of the law or-

ganizing the Territory of Minnesota, and faithfully and impartially to perform the duties of his office according to law, to the best of his abilities; which oath shall be endorsed and certified on the back of said bond, and shall be filed in the office of the secretary of the territory.

SEC. 3. It shall be the duty of the librarian to provide a suitable and convenient room at the seat of government, for the safe keeping of the territorial library, and all things belonging or appertaining thereto, and provide proper shelves for the arrangement thereof, in such manner as to be easy and convenient of access, and it shall further be the duty of the librarian to procure the insurance of the library and all other property in his charge against damage or loss by fire.

Safe keeping and insurance of Library.

SEC. 4. The members of the council and house of representatives, and their officers, the governor of the territory, the judges of the supreme court, members of the bar during the sitting of the supreme and district courts, the secretary of the territory, the United States attorney of the territory, the attorney general and marshal of the territory, the delegate in congress, and the clerk of the supreme court, ministers of the gospel, ex-members and officers of the legislature and ex-librarian, may have free access to the library during the regular hours of the day, and may take any work therefrom, and keep the same in their possession, not exceeding six days, except as herein otherwise provided for; and any person or persons who shall retain any work or book in his or their possession for a longer period than is provided for in this act, shall pay twenty-five cents for each volume, for every day so retained, and all persons refusing to pay their fines, will be debarred the privilege of the library until said fines are paid; *Provided*, That works of a miscellaneous character, may be kept for a period of thirty days.

Those privileged to use the Library and conditions.

SEC. 5. No person shall take more than one volume of the laws from the library at any one time, and shall not retain the same for a longer period than two days except during the terms of courts, or the legislature; nor take more than five volumes of a miscellaneous character; and no book shall be removed from the library, without being receipted for to the librarian, or upon the written order of some person entitled to the privileges of the library.

Law and miscellaneous books how taken out.

SEC. 6. If any person injure, or fail to return any book, map, or other work, for more than two months, he shall forfeit and pay to the librarian for the benefit of the library, three times the value thereof or of the set to which it belongs.

Penalties for damage.

SEC. 7. The persons privileged to remove books, &c., from the library, may introduce citizens or strangers into the library, who shall have the privilege, during all seasonable hours, of reading the books therein, not required for the use of any such privileged persons.

Citizens or strangers, how introduced

SEC. 8. The library shall be kept open during the session of the legislature and supreme court, from the hours of nine o'clock A. M., until twelve o'clock M., and from two until nine o'clock P. M. At all other times the library shall be kept open for the space of four hours each day, Sundays excepted. The librarian shall have authority to appoint a deputy or assistant librarian, during the session of the legislative assembly and supreme court, and the librarian and his sureties shall be responsible for the acts of said assistant, and for the services of said assistant the legislative assembly shall appropriate such compensation as they shall deem reasonable.

Library, when to be kept open, Librarian power to appoint an assistant paid by Legislature.

SEC. 9. The librarian shall collect all books, charts, &c., into the library previous to the session of the legislature, and he shall report to the legislative assembly at the commencement of the session, a catalogue of the books and other property belonging to the library at the last report, and purchased or received into the library since; books, charts, &c., loaned and not returned, showing all moneys received for

Annual report—how made.

those lost, and from whom, the sums due, and from whom, all articles purchased since last report, from whom and the cost, articles expended for the use of the library, and an estimate of articles necessary during the coming year.

Librarian authorized to sue for penalties under this act

SEC. 10. The librarian is hereby authorized and required to sue for in the name of the territory, for the use of the library, all penalties under the provisions of this act, and for all injuries done to the library or any property belonging or appertaining thereto; he shall purchase at the lowest price, all stationery, fuel, light, or other articles necessary for the use of the library, to be paid for out of the appropriations made for the expenses of the legislative assembly. All fines or penalties collected by the librarian, shall be subject to the order of the governor, and to be by him appropriated to the purchase of such books, charts, &c., as he may deem most proper.

Books not to be taken out.

SEC. 11. The congressional copy of the "United States Exploring Expedition, Heath's New Gallery of British Engravings," and all works of that character, shall not be taken out of the library.

Librarian—how removed.

SEC. 12. The governor may at any time remove the librarian from office for good cause, and whenever the office shall become vacant by death resignation, removal, or otherwise, it shall be the duty of the governor to appoint some suitable person, who shall qualify as provided in the second section of this act, and who shall remain in office until the adjournment of the next session of the legislative assembly.

Removal of books from the Library.

SEC. 13. The governor may, at any time, make such regulations relative to the removal of books from the library, not inconsistent with the provisions of this act, as he may deem proper and expedient.

Compensation.

SEC. 14. The librarian shall receive for his services, at the rate of four hundred dollars per annum, to be paid quarter yearly by the secretary of the territory, out of the money appropriated by congress to defray the expenses of the legislative assembly.

APPROVED, February twenty-fifth, one thousand eight hundred and fifty-one.

AN ACT TO PROVIDE FOR THE ERECTION OF PUBLIC BUILDINGS IN THE TERRITORY OF MINNESOTA.

The Capitol located at St. Paul, and Territorial Prison at Stillwater.

SEC. 1. The capitol or public buildings for the sessions of the legislative assembly, and the supreme court of the territory, the library, and for the use of such officers of the territory as may be prescribed by law, shall be erected at a central point in the town of Saint Paul, and a territorial prison for the territory of Minnesota, shall be erected on some eligible point in the town of Stillwater.

Apportionment of districts for commissioners.

SEC. 2. The county of Washington, and the counties thereunto attached, shall constitute one district, and shall be entitled to elect one commissioner of public buildings: The county of Ramsey, and the counties thereunto attached, shall constitute one district, and shall be entitled to elect two commissioners of public buildings: and the county of Benton, and the counties thereunto attached, shall constitute one district, and shall be entitled to elect one commissioner of public buildings.

Election—when held, where, and in what manner.

SEC. 3. An election shall be held in the several precincts in this territory, on the second Monday in April, one thousand eight hundred and fifty-one, for the election of four commissioners of public buildings.

as above provided; which election shall be held at the places, and polls opened, the election conducted, and the returns made, in the manner and form prescribed by law, for holding the general elections; returns from the unorganized counties, being made to the office of the register of deeds of the county to which the county may be attached.

SEC. 4. The several registers of deeds, shall canvass the votes polled in their districts, in the manner prescribed for canvassing the votes polled at the general elections; and the person or persons in their respective districts, eligible by law to hold the office, having the highest number of votes, according to the number prescribed to be elected in each district, respectively, shall be declared duly elected, and shall be entitled to receive a certificate from the register of deeds of his proper county, or the county to which it is attached, under the seal of the board of commissioners of said county.

Register of deeds to canvass the returns and give certificates to the persons chosen commissioners.

SEC. 5. Each commissioner of public buildings so elected, before entering upon the duties of his office, shall take and subscribe an oath, to be certified on the back of his bond, before one of the judges of the supreme court, or a judge of probate of one of the counties of this territory, to support the constitution of the United States, and the provisions of the act of congress, organizing the territory of Minnesota, and faithfully to perform the duties of his office, according to law, to the best of his abilities; and shall also enter into a bond, to the secretary of the territory, with three or more good and sufficient sureties, to be approved by said secretary, in the sum of one thousand dollars, conditional for the faithful performance of his duties, according to law; which oath and bond shall be filed in the office of the secretary of the territory.

Commissioners to take oath and give bond before entering on their duties.

SEC. 6. The persons so elected and qualified, shall meet at Saint Paul, on the third Monday in the month of May, A. D., one thousand eight hundred and fifty-one, and together with the governor of the territory, shall constitute a board of commissioners on public buildings, for the territory of Minnesota.

Board to be organized, and when, and where.

SEC. 7. The governor of the territory, shall preside at all the meetings of the board, and shall have the casting vote on all questions before the board whenever there shall be a tie vote; and in case of the absence of the governor; at any meeting of said board, a president *pro tem.* shall be appointed. But all questions before the board, when the votes shall be equal at any meeting, owing to the absence of any member of the board, shall be laid on the table until a subsequent meeting of the board.

Governor to preside with casting vote. In his absence all questions on which there is a tie to be laid on the table for subsequent consideration.

SEC. 8. At the first meeting of said board of commissioners, the board shall elect a secretary to the board, who shall keep a true and correct journal of the proceedings of the board, at each and every meeting; all votes shall be entered on the journal, and the names of the members of the board voting for or against all questions, shall be entered on the journal. The journal of the proceedings of the board, on each day, shall be signed by the president, and attested by the secretary. The board may assign such other duties to the secretary, compatible with his office, as they may deem proper; and they may adopt such rules for the government of the proceedings of the board during the meetings thereof, as may be deemed advisable and not incompatible with the provisions of this act.

A secretary to be elected at the first meeting. His duties prescribed.

SEC. 9. At the said first meeting of the board, the members thereof, shall elect one of their number treasurer of the fund appropriated by congress, for the erection of the capitol buildings; and they shall elect another member of their board treasurer of the fund appropriated by congress, for the erection of a territorial prison; and they shall elect another member of their board, the building commissioner, for the erection of the capitol building, who was elected in the district where the

Treasurers to be elected for fund for erection of the Capitol, for the Territorial Prison. Superintendents for the erection of said building to be chosen.

capitol is situated; and another member of their board, shall be elected building commissioner, for the erection of the said territorial prison, who was elected in the district where said prison is located.

Immediate measures for the erection of said buildings to be taken.

SEC. 10. At the first meeting of said board, the necessary steps shall be taken, and measures adopted, to procure suitable sites, upon which to erect said capitol buildings, in the town of Saint Paul, and the said territorial prison in the town of Stillwater; and for the commencement and early completion of said public buildings. And the said board may adjourn, from time to time, as they may deem necessary.

Contracts, how to be made supervised and controlled.

SEC. 11. All the contracts, and other acts of any building commissioner, shall be under the supervision and control of said board, and no contract shall be entered into for material or labor, for the erection of said public buildings, until approved by the said board or a majority thereof, nor until the said board shall have first given notice, by publication in one or more newspapers printed in the territory, for three successive weeks, inviting proposals for the performance of the labor, and furnishing of necessary material, for the fulfillment of the contract so proposed, and the bond which will be required for their fulfillment; and in all cases, contracts shall be given by the board to the lowest and best responsible bidder, who will give the security required.

Funds, how to be drawn and paid out.

SEC. 12. No money shall be paid by any treasurer, for any purpose, unless on a draft ordered by the board, and signed by the president, and attested by the secretary of the board; and the board shall in no case sanction the payment of any money unless satisfied that the labor has been performed, or the material has been furnished for which any such payment is contemplated.

Commissioners to superintend the performance of contracts for labor and material.

SEC. 13. It shall be the duty of each of the building commissioners, to enter into, and superintend the performance of all contracts for labor and material, which may have been authorized by the board, for the erection of his proper building, to see that the terms of each contract are fulfilled, and to do and perform such other duties pertaining to his building as the board shall direct: *Provided*, That no member of the board shall be interested, directly or indirectly, in any contract of any kind connective with the erection of any public building, during their continuance in office, under the penalty of five hundred dollars; to be collected by the secretary of the territory, on the official bond of the person so offending.

Must not be interested in contracts under penalty.

The treasurers, their duties defined.

SEC. 14. It shall be the duty of the persons elected treasurers as hereinbefore prescribed, at any time after qualifying, as hereinafter specified, when directed so to do by the board, to demand and receive from the proper officer of the United States treasury, any and all the moneys that now are, or hereafter may be appropriated for the erection of any public buildings, the fund for building whereof they are treasurers; and to keep the same in safety, being at all times prepared to pay the drafts of the board in the same funds received from the United States: *Provided*, That the board may authorize the application for the whole or a part of the moneys appropriated for the erection of public buildings in the territory of Minnesota, at any time after the qualification of the proper treasurers, as the said board may deem expedient.

Treasurers to give bond with sureties, for faithful discharge of duty.

SEC. 15. Each of the treasurers elected as provided in the ninth section of this act, shall execute a bond to the secretary of the territory, in the penal sum of thirty thousand dollars, with ten or more good and sufficient sureties, to be approved by the secretary of the territory, conditioned for the faithful performance of his duties, and that he will keep and disburse, according to law, all moneys received by him as treasurer, for the fund appropriated by congress for the erection of public buildings, the fund for the erection of which, he was elected to receive; and that he will not dispose of any portion of said funds for his

own use, nor pay out any portion thereof, except on drafts drawn by order of the board as prescribed by this act.

SEC. 16. The treasurer and building commissioner elected for the erection of the capitol, shall keep their offices in the town of Saint Paul, and the treasurer and building commissioner elected for the erection of the territorial prison, shall keep their offices in the town of Stillwater; and in case of the death, resignation, removal from the territory, or other cause by which a vacancy shall at any time occur in the said board of commissioners of public buildings, it shall be the duty of the secretary of the board, forthwith to notify the sheriff of the county or counties comprising the district, who shall thereupon, cause a special election to be held, to supply the vacancy, giving not less than fifteen days notice thereof; and the person so elected shall qualify according to the provisions of this act; and shall enter upon the duties assigned to his predecessor, and continue in office during the time for which his predecessor was elected.

Treasurer of capitol fund, and treasurer of territorial prison where to keep their offices.

In case of vacancy how to proceed.

SEC. 17. Each person elected commissioner of public buildings, as provided in the third section of this act, shall continue in office until the general election in the year one thousand eight hundred and fifty-two, unless the building assigned them shall be sooner completed.

Commissioners, term of office.

SEC. 18. Each member of the board of commissioners of public buildings, shall receive three dollars per day, for each day he shall serve at any meeting of its board, and each treasurer and building commissioner, elected as herein prescribed, shall receive in addition, four hundred dollars per annum, to be paid quarter yearly, out of the fund to which they are designated.

Compensation of commissioners.

SEC. 19. The said board of commissioners, shall not occupy more than six days in any one month, in the meetings of said board.

Time of meetings of the board.

SEC. 20. The secretary of the board, shall give a bond to the secretary of the territory, in the penal sum of one thousand dollars, conditioned for the faithful performance of his duties; and shall also take and subscribe an oath on the back of his bond, to be certified by some person authorized to administer oaths, that he will faithfully and impartially, fulfill the duties of his office according to law, and to the best of his abilities; which shall be filed in the office of the secretary of the territory. The secretary shall receive such compensation, not exceeding three dollars per each day employed, as the board shall deem proper; and the said board of commissioners, shall make a full report of their proceedings to each session of the legislature annually, on or before the third Monday of each session.

Secretary to give bond and take oath.

SEC. 21. This act shall take effect from and after its passage.

Act to go instantly into effect.

APPROVED, February seventh, one thousand eight hundred and fifty-one.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE ERECTION OF PUBLIC BUILDINGS IN THE TERRITORY OF MINNESOTA."

SEC. 1. That the provisions of the act to which this is amendatory, shall be so construed, and are hereby so amended that the territorial prison for the territory of Minnesota, may be erected upon any eligible site to be selected within one-half mile distance from the centre of the

Territorial prison located at Stillwater.

village or town of Stillwater, in the county of Washington, Minnesota territory.

On failure or neglect in any district to elect a commissioner, the governor or to fill the vacancy so created.

SEC. 2. Should any of the districts entitled to elect a commissioner of public buildings, as prescribed by the act to which this is amendatory, neglect or refuse to elect such commissioner, or should any person elected commissioner of public buildings, refuse or neglect to qualify and give bonds according to the provisions of said act, the governor is hereby empowered to appoint some suitable person, a resident of the territory, to fill said office of commissioner of public buildings for such district.

Commissioners to continue in office until successors are elected.

SEC. 3. Each commissioner of public buildings, whether elected by the people, or appointed by the governor, shall continue in office until others are elected and qualified according to law.

Election for commissioners to be held at the general election in 1852, if the public buildings are not completed previously.

SEC. 4. It shall be the duty of the governor, if in his opinion, the public buildings of the territory will not be completed before the general election in the year eighteen hundred and fifty-two, to give notice to the several registers of deeds for the counties of Washington, Ramsey and Benton; and the registers of deeds for the said counties, upon being so notified, shall give notice as prescribed by law, for the election of county officers, that an election will be held at the said general election, for the election of commissioner of public buildings according to section two of the act to which this is amendatory, and the persons elected shall qualify and give bonds as required by said act.

A commissioner may act as treasurer of the funds also.

SEC. 5. Section nine of the act to which this is amendatory, shall not be so construed as to prevent any building commissioner holding the office of treasurer of the funds appropriated by congress for the erection, either of the capitol buildings or territorial prison, in the territory of Minnesota.

The commissioner chosen superintendent, to receive extra compensation.

SEC. 6. The commissioners elected to superintend the performance of all contracts for labor and materials required in the erection of the capitol buildings and territorial prison as required by section thirteen of the act to which this is amendatory, shall be entitled to receive two hundred dollars per year, in addition to the salary, and payable at the same time as provided in section eighteen of said act.

APPROVED, March thirty-first, one thousand eight hundred and fifty-one.

AN ACT TO AUTHORIZE THE ESTABLISHMENT AND REGULATION OF FERRIES.

The board of commissioners of any county may grant licenses.

SEC. 1. The board of commissioners, of any county in this territory, may grant a license to any person applying therefor, to keep a ferry across any stream within their respective counties, upon being satisfied that a ferry is necessary at the point applied for; but no ferry shall be established within one-half mile of any ferry already established, unless when the county commissioners think it necessary.

Tax for licenses.

SEC. 2. The board of commissioners shall tax such sum as may appear reasonable, not less than five, nor more than fifty dollars per annum; and the person to whom such license shall be granted, shall pay to the county treasurer, the tax for one year in advance, and file the receipt therefor with the register of deeds; and shall also pay to the said register, one dollar, as fees for issuing said license.

Sec. 3. All licenses for ferries, granted under the provisions of this act, shall be sealed with the seal of the board of commissioners, and signed by the president of the board, attested by the register of deeds, and may be granted for any period not exceeding two years.

Licenses to bear the county commissioners' seal—term of duration.

Sec. 4. All persons intending to apply for a license, shall give notice of their intention to apply for a license for a ferry, at a certain point, by posting up at least three notices in public places, in the neighborhood where the ferry is proposed to be kept, twenty days prior to any regular meeting of the board of commissioners: *Provided*, That when application shall be made for a renewal of a license, where the former license has expired, the same may be granted or renewed, without previous notice or petition.

Notice of intention to apply for license to be publicly given

Sec. 5. Every person obtaining a license to keep a ferry, shall provide and keep in complete repair, the necessary boat or boats, for the safe conveyance of persons and property, and shall keep a sufficient number of hands to give due attendance, from day light in the morning until dark in the evening; and shall, moreover, at any hour in the night or day, when called upon for the purpose, convey the United States mail, or other public express, across said ferry: *Provided*, That when the stream is impassable from the high stage of water, or from the drift ice in the river, or when the river is frozen over, no damage shall be recovered for a failure or refusal to convey any person or property across said stream

Regulations of the ferry.

Sec. 6. Whenever a board of commissioners of any county, shall grant a license to keep a ferry across any stream, the said board shall establish the rate of ferriage which may be demanded for the transportation of persons and property; and the register of deeds shall furnish every person to whom a license has been granted, a list of the rate of ferriage allowed at said ferry; which list the ferry-keeper shall post up at the door of his ferry-house, or in some other conspicuous place, near the landing of said ferry; and any person who shall demand or receive more than the amount so designated, for ferrying, shall pay such sum, not exceeding twenty dollars, as any court having competent jurisdiction shall determine; to be recovered in an action of debt, by any person suing for the same.

The commissioners to regulate the rate of ferriage.

Sec. 7. Any person who shall maintain any ferry, and receive pay for ferriage, without first obtaining a license for the same, shall pay a fine of not less than one, nor more than twenty-five dollars; to be collected for the use of the county, by any person who may sue for the same.

Penalty for maintaining a ferry without license.

Sec. 8. Any person who shall have obtained a license for a ferry, shall pay his yearly tax to the county treasurer, and file the treasurer's receipt with the register of deeds; and whenever there shall be a failure of filing such receipt on the part of any person or persons, having a license to keep a ferry, for twenty days after the expiration of the time when such tax shall have become due, the said register of deeds shall forthwith cause suit to be brought against such person or persons, so failing aforesaid, in the name of the board of commissioners of the county, for said tax, with ten per cent. interest thereon; and every such failure to pay said tax, as aforesaid, within twenty days after the time it becomes due, shall annul the license of any such person or persons, so failing as aforesaid.

License tax, to whom and how paid

Sec. 9. All annual taxes for ferries, shall be paid in advance; and no license for a ferry, for a longer period than one year, shall be granted at a special meeting of any board of commissioners, nor shall the payment of any annual tax imposed by this act, be valid or complete, until the treasurer's receipt shall have been filed in the register of deeds' office.

The license to be paid in advance.

APPROVED, February nineteenth, one thousand eight hundred and fifty-one.

AN ACT TO INCORPORATE THE HISTORICAL SOCIETY OF MINNESOTA.

Corporate name and powers.

SEC. 1. That C. K. Smith, David Olmsted, H. H. Sibley, Aaron Goodrich, David Cooper, B. B. Meeker, A. M. Mitchell, T. R. Potts, J. C. Ramsey, H. M. Rice, F. Steele, Charles W. Borup, D. B. Loomis, M. S. Wilkinson, L. A. Babcock, Henry Jackson, W. D. Phillips, Wm. H. Forbes, Martin McLeod and their associates, be, and they are hereby constituted a body corporate and politic, by the name and style of the "Minnesota Historical Society;" and by that name, they and their successors shall be, and they are hereby made capable in law, to contract and be contracted with, sue and be sued, plead and be impleaded, prosecute and defend, answer and be answered in any court of record or elsewhere, and to hold any estate, real, personal or mixed, and the same to grant, sell, lease, mortgage, or otherwise dispose of for the benefit of said society, and to receive donations to be applied as the donor may direct, and to devise and keep a common seal; and to make and enforce any by-laws not contrary to the constitution and laws of the United States or this territory; and to enjoy all the privileges and franchises incident to a corporation, and that the property which the society may be allowed to hold, shall not exceed five thousand dollars.

Officers, their duties, &c.

SEC. 2. Any five members may, at any meeting of said society, constitute a quorum to do business, and shall, within one year from and after the passage of this act, organize, and under such regulations as they may adopt, elect a president, two vice-presidents, a treasurer and a secretary, who shall record the proceedings, do the correspondence, and file all communications he may receive, touching the object of the society; which said officers shall hold their offices respectively until their successors are elected, which may take place every three years. The regular meetings of said society shall take place on the second Monday succeeding the annual meeting of the legislative assembly of said territory, at the seat of government, and the object of said society shall be the collection and preservation of a library, mineralogical and geological specimens, Indian curiosities, and other matters and things connected with, and calculated to illustrate and perpetuate the history and settlement of said territory.

APPROVED, the twentieth day of October, one thousand eight hundred and forty-nine.

CORRECTIONS.

- PAGE 9, Sec. 9, line 7, after "public" read "safety."
- 46, Sec. 6, line 7, for "Monday" read "Tuesday."
- 50, Sec. 31, line 1, for "the poll books" read "one of the poll books."
- 114, Sec. 12, last line, "chapter" inserted for "act."
- 115, Sec. 1, last line, "chapter" inserted for "act."
- 118, Sec. 13, line 5, "civil action" inserted for "action of debt."
- 118, Sec. 15, line 5, "civil action" inserted for "action of debt."
- 122, Sec. 11, line 5, "civil action" inserted for "action of debt."
- 129, Sec. 3, last line, "chapter" inserted for "act."
- 130, Sec. 7, last line, "chapter" inserted for "act."
- 130, Sec. 10, last line, "chapter" inserted for "act."
- 130, Sec. 13, last line, "chapter" inserted for "act."
- 287, Sec. 2, line 4, "Seplember" inserted for "November," which was in the enrolled bill by mistake of clerk.
- 296, Sec. 44, line 3, after the word "had" read "not."
- 302, Sec. 31, line 5, for "any" read "the"
- 313, Sec. 102, line 4, from top of page, for "town" read "precinct."
- 316, Sec. 127, line 2, for "declaration" read "complaint."
- 317, Sec. 144, line 1, for "constable" read "contempt."
- 339, Sec. 83, line 6, for "property" read "character."
- 352, Sec. 2, line 2, for "on" read "or."
- 358, Sec. 56, last line, for "sixty-three" read "sixty-one."
- 363, Sec. 88, line 6, strike out "that" and after "section" read "ninety-five of chapter seventy."
- 367, Sec. 113, line 4, for "four" read "two."
- 409, Sec. 13, line 1, after "action" read "must."
- 414, Sec. 12, line 8, for "presents" read "prevents."
- 414, Sec. 12, last line, for "secured" read "waived."
- 415, Sec. 17, line 2, after "fourteen" read "fifteen."
- 424, Sec. 8, last line, "such as the court shall direct," was inserted in place of "such as is provided in case of writ of review."
- 452, Sec. 10, line 2, for "seven" read "eight."
- 539, Sec. 36, line 2, for "hearing" read "hearsay."
- 554, Sec. 136, last line, for "thirty-three" read "thirty-two."