

# ACTS AND RESOLUTIONS

PASSED AT THE

REGULAR SESSION

OF THE

# SEVENTEENTH GENERAL ASSEMBLY

OF THE

STATE OF IOWA:

BEGUN JANUARY 14, AND ENDED MARCH 26, 1878.

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PUBLISHED BY AUTHORITY.

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DES MOINES:  
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1878.

County to be credited with number of laws on voucher.

such laws by the county auditor at the rate of fifty cents per copy. The said county auditor shall pay said amounts to the county treasurer of his county, for the use of the state revenue, and the treasurer shall execute duplicate receipts therefor, one of which shall be filed with the auditor of state.

The county auditors shall furnish the laws in their respective counties as hereinbefore provided.

Publication.

SEC. 3. This act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Iowa State Register and Iowa State Leader, newspapers published at Des Moines, Iowa.

Approved, March 25, 1878.

I hereby certify that the foregoing act was published in the *Iowa State Leader*, April 2, and in the *Iowa State Register*, April 3, 1878.

JOSIAH T. YOUNG, *Secretary of State*.

## CHAPTER 124.

### BARBED WIRE FENCE.

S. F. 269.

AN ACT to Amend Chapter 101, Laws of the Sixteenth General Assembly, in relation to Fences.

*Be it enacted by the General Assembly of the State of Iowa:*

Chapter 101, 16th G. A., amended.

SECTION 1. That chapter 101 of the general laws of the sixteenth general assembly, be amended by inserting after the word "rod," in the seventh line of section one of said chapter, the words, "of two points each on each wire or twenty-six iron barbs of four points each on each wire."

Approved, March 25, 1878.

## CHAPTER 125.

### MILITARY CODE OF IOWA.

Sub. S. F. 54. AN ACT to provide for the Organization of the State Militia, and entitled the "Military Code of Iowa," and fixing the salary of certain officers. Repealing Title VIII of the Code.

*Be it enacted by the General Assembly of the State of Iowa:*

Militia of the State.

SECTION 1. That all able-bodied male citizens of the state, between the ages of eighteen and forty-five years, who are not exempted from military duty according to the laws of the United States, shall constitute the military force of this state.

SEC. 2. Assessors in each township are required to make and

return to the county auditor of their respective counties, at the time of making the annual assessment, a correct list of persons subject to military duty, which list may be revised and corrected by the board of supervisors, and the county auditor shall, in the month of June in each year, certify to the adjutant-general of the state a true copy of said list.

Duty of assessors in taking list of militia.

SEC. 3. When it is necessary to execute the laws, suppress insurrection or repel invasion, or when a requisition shall be made by the president of the United States for troops, the governor, as commander-in-chief shall, by his proclamation, order out for active service the militia of the state, or such portion thereof as may be necessary, designating the same by draft if a sufficient number shall not volunteer, and may organize the same and appoint and commission officers therefor; and when so ordered out for service the militia shall be subject to like regulations and receive from the state like compensation and subsistence, as are prescribed by law for the army of the United States.

In case of insurrection &c. may be ordered out.

SEC. 4, SUB-DIV. 1. Except in time of war or public danger, the active militia shall not exceed one regiment of infantry for each congressional district in the state, and one regiment of cavalry and one regiment of artillery for the state at large. It shall be designated as the "Iowa National Guard," and shall be recruited by volunteer enlistments.

Active force limited except in time of public danger.

Name.

SUB-DIV. 2. The entire state shall compose one division of not more than two brigades, to be commanded by one major-general and two brigadier-generals. The commander-in-chief shall assign all regiments, battalions and companies to such brigades as he shall think proper. All enlistments therein shall be for three years, and made by signing enlistment papers prescribed by the adjutant-general, and taking the following oath or affirmation, which may be administered by the enlisting officer, to-wit: You do solemnly swear (or affirm) that you will bear true allegiance to the United States and the State of Iowa, and that you will support the constitution thereof; that you will serve the State of Iowa faithfully in its military service for the term of three years, unless sooner discharged or you cease to become a citizen thereof; that you will obey the orders of the commander-in-chief and such officers as may be placed over you, and the laws governing the military forces of Iowa—so help you God.

State shall compose one division.

Enlistments for three years.

Oath.

SEC. 5, SUB-DIV. 1. The staff of commander-in-chief shall consist of an adjutant-general, an inspector-general, a quartermaster-general, a commissary-general, and a surgeon-general, and such other officers as he may think proper to appoint. The adjutant-general shall rank as a major-general. He shall issue and transmit all orders of the commander-in-chief, with reference to the militia or military organizations of the state, and shall keep a record of all officers commissioned by the governor, and of all general and special orders and regulations, and of all such matters as pertain to the organization of the state militia and the duties of an adjutant-general, and except in times of war or public danger, he shall perform the duties of quartermaster-general, as required by law, without additional compensation therefor. He

Staff of commander-in-chief.

Adjutant general.

Shall have charge of arsenal.

Ordnance sergeant. Salary.

Adjutant general shall report.

Adjutant general: Term of office. Salary.

Generals of division and brigades: Election and term of office.

Division staff.

Brigade staff.

Make-up of regiment. Battalion.

Regimental staff.

shall have charge of the state arsenal and grounds, and shall receive and issue all ordnance and ordnance stores and camp equipage, on order of the commander-in-chief. He may appoint, with the approval of the governor, an ordnance sergeant, at a salary of not more than \$400.00 per year, who shall, under the direction of the adjutant-general, take charge of the state arsenal and grounds, and shall aid and assist him in the discharge of his duties. He shall furnish, at the expense of the state, such blanks and forms as shall be approved by the commander-in-chief. He shall also, on or before the first day of October next preceding the regular session of the general assembly, and at such other times as the governor shall require, make out a full and detailed account of all the transactions of his office, with the expenses of the same, for the preceding two years, and such other matters as shall be required by the governor. He shall reside at the state capital, and shall hold his office during the pleasure of the governor, and shall receive for his services \$1,000 a year, except in time of war or public danger, when he shall receive like pay as a brigadier-general in the United States army.

SUB-DIV. 2. The generals of divisions and brigades shall be elected in accordance with sec. 3, art. 6, of the constitution, and shall hold their office for three years, or until removed by court-martial or resignation. On recommendation of the general of division the governor shall appoint and commission the following as division staff: Chief of staff, with rank of colonel; assistant adjutant-general, with rank of lieutenant-colonel; assistant inspector, with rank of lieutenant-colonel; surgeon, with rank of lieutenant-colonel; quartermaster, with rank of major; commissary, with rank of major; judge advocate, with rank of major; paymaster, with rank of major; and two aids de-camp, with rank of captain. On recommendation of brigade commanders, the governor shall appoint and commission the brigade staff, as follows: Assistant adjutant-general, with rank of lieutenant-colonel; assistant inspector-general, with rank of major; surgeon, with rank of major; quartermaster, with rank of captain; commissary, with rank of captain; and two aids-de-camp, with rank of first lieutenant.

*Provided*, That none of the officers named in this section shall receive pay except in time of war or public danger.

SUB-DIV. 3. A regiment shall consist of not less than eight or more than ten companies. A battalion shall consist of not less than two or more than seven companies. A battalion of less than four companies shall be entitled to a major, and when it has been augmented to four or more companies, it shall be entitled to a lieutenant-colonel. The colonel, lieutenant-colonel and major of all battalions and regiments, shall be elected in accordance with sec. 3, art. 6 of the constitution. The regimental staff shall consist of a surgeon, with rank of major; assistant surgeon, with rank of captain; chaplain, with rank of captain; adjutant, with rank of first lieutenant; quartermaster, with rank of first lieutenant; who shall be appointed and commissioned by the governor, on recommendation of the regimental commander. The colonel of

each regiment shall appoint by warrant, countersigned by the adjutant, a sergeant-major, quartermaster sergeant, commissary sergeant, hospital steward, color sergeant, ordnance sergeant, drum-major, fife-major, and one bugler, who shall constitute the non-commissioned staff. All field officers shall hold their offices for three years. The commissions of all staff officers shall expire when the successor of the officer nominating them shall make new nominations to their respective office, and such nominations shall be confirmed by the commander-in-chief.

Non-commissioned staff.

SUB-DIV. 4. A company shall consist of a captain, a first lieutenant, a second lieutenant, five sergeants, eight corporals, two musicians, and not less than forty or more than sixty-four privates and non-commissioned officers; artillery companies not to exceed twenty privates to each gun, and each company to have four commissioned officers. Company officers shall be elected by members of the company, and shall hold their offices for three years. All non-commissioned officers of companies, on recommendation of their captain, shall be appointed by the warrant of the battalion commander, countersigned by the adjutant.

Organization of a company.

SUB-DIV. 5. All elections of line officers shall be ordered by the regimental commander. The order for such election shall be sent to the commanding officer of the company in which said election is ordered, who shall in turn issue his special order for such election, giving at least six days notice thereof, posting said order in three public places accessible to the members of his command, and, where practicable, the same shall be published in one or more newspapers in the county where said company is located. All voting shall be by ballot, and no voting by proxy shall be legal; and a majority of all votes cast shall be necessary to elect. The senior officer present at such election shall preside. The returns of election, properly attested, shall be made promptly within five days from the date of election, to the commanding officer of the regiment, who shall promptly forward the result of said election to the brigade commander, who will report the same to the adjutant general of the state, by whose approval the commander-in-chief will issue commissions accordingly;

Election of line officers.

*Provided*, That at the organization of a new company the election shall be conducted under such regulations as the adjutant-general shall prescribe.

SUB-DIV. 6. Every company, battalion and regiment may make by-laws for its own government not in conflict with this act or general orders or regulations, which shall be binding upon the members.

By-laws.

SUB-DIV. 7. Every officer, non-commissioned officer, musician and private of the Iowa national guard shall be held to duty for the full term of three years, unless regularly discharged for good and sufficient cause by the commandant of his regiment, battalion or battery, approved by the division commander;

Term of service.

*Provided*, That said term of three years shall in all cases commence from the time such officer, non-commissioned officer, musician, and private, shall have become an active member of any band, company, battalion or brigade organized or commissioned

When term begins.

under the laws of this state, and now belonging thereto. All persons serving three years consecutively in the active militia, shall, on application, be entitled to an honorable discharge, exempting them from military duty except in time of war or public danger.

Military regulations.

SUB DIV. 8. The organization, equipment, discipline and military regulations of the state militia, shall strictly conform to the regulations for the government of the army of the United States, in all cases except as herein otherwise provided, and all orders and regulations governing troops, not in conflict with the constitution of this state, and the provisions of this act, shall be binding upon all members of the Iowa national guard.

Exemptions on account of military duty.

SEC. 6. Every officer, non-commissioned officer, musician and private of the Iowa national guard, shall be exempt from jury duty, from head or poll tax of every description during the term he shall perform military duty. The uniforms, arms and equipments of every member of the state guard, shall be exempt from all suits, distresses, executions or sales for debt or payment of taxes.

Not exempt from fines assessed by court martial.

*Provided*, That no property of any kind or nature whatsoever, shall be exempt from executions issued for fines lawfully assessed by any officer, company, battalion or court martial against any member of the state guard. The militia shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at drills, parades, encampments, and the election of officers, and in going to and returning from the same.

Drill by companies.

SEC. 7, SUB-DIV. 1. The commandant of each regiment and battalion may order monthly or semi-monthly, day or evening drills, by the companies of his command, from October to April, inclusive, and the members thereof shall receive no compensation for their services while attending such drills.

Regimental drill.

Compensation.

SUB DIV. 2. The Iowa national guard may parade for drill three or five days annually, by company or regiment as ordered by the major-general, and the members thereof shall receive as compensation for their services at such annual parade, their subsistence at the rate of thirty-three and one-third cents per day, and their transportation to and from the place of rendezvous, at the rate of not to exceed one and one-half cents per mile each way.

Field or camp duty.

SUB DIV. 3. The commanding officer of any encampment may cause those under his command to perform any field or camp duty. he shall require, and may put under arrest during such encampment or parade, any member of his command who shall disobey a superior officer, or be guilty of disorderly or unmilitary conduct, and any other person who shall trespass on the parade or encampment grounds, or in any way interrupt or molest the orderly discharge of duty by members of his command, and he may prohibit the sale of all spirituous or malt liquors within one mile of such encampment and enforce such prohibition by force if necessary.

*Provided*, however, that nothing herein contained shall be construed to interfere with the regular business of any liquor

dealer whose place of business shall be situated within said limits.

SUB-DIV. 4. The major-general shall direct such target practice at the annual parades and encampments as he may deem expedient, and he may command at each general encampment, and report the conduct and discipline thereof to the commander-in-chief. And for the use of the militia in such target practice, the adjutant-general shall issue to each infantry or cavalry company on the requisition of the commanding officer thereof, an amount not exceeding one thousand rounds of fixed ammunition in each year; and for the use of the artillery he shall issue in each year forty rounds of ammunition to each gun. Target practice.

SEC. 8, SUB-DIV. 1. Upon the organization of any company or battalion of the state guard, on the requisition of its commanding officer, and the approval of the governor, the adjutant-general shall issue all necessary ordnance and ordnance stores. New company to receive ordnance on giving bond.

*Provided*, however, that when any arms or munitions are delivered to any commander, he shall execute and deliver to the adjutant-general a bond payable to the people of the State of Iowa, in a sufficient amount, and with sufficient sureties to be approved by the governor, conditioned for the proper use of such arms and munitions, and return of the same when requested by the proper officers in good order, wear, use and unavoidable loss and damage excepted; all such arms and munitions shall be kept at the company or regimental armory.

SUB-DIV. 2. The following amounts of money shall be set apart from the fund of the state, as hereinafter provided, for the rent of an armory for each regiment or battalion, viz: The adjutant-general, under the approval of the commander, shall apportion to each company of the state guards not to exceed \$50 for the payment of armory rent, fires and lighting thereof. Appropriation for armory rent.

*Provided*, That said apportionment shall be equal between the several regiments, battalions, or companies, based upon the number of enlisted men regularly reporting for duty. All requisitions for the rent of armories must be made in duplicate by the commandant of any regiment or battalion, countersigned by his adjutant and quartermaster, on the governor, who, being satisfied that said requisition is in compliance with this act, shall cause one copy to be filed in the office of the adjutant-general and the other copy he shall forward with his indorsement thereon to the state auditor, who shall thereupon draw his warrant for the amount named in said requisition on the state treasurer, payable out of the state fund, and forward said warrant to said commander. The armory of each regiment, battalion, or company shall be subject to the orders of the adjutant-general, be under the charge of its commanding officer, who shall keep therein all property furnished by the state, and no company shall be furnished with arms or equipments until a suitable armory shall be provided for their deposit.

SUB-DIV. 3. The entire state guard and all armories, ordnance stores, and camp equipage belonging to the state shall be inspected at least once each year, without expense to the state, un- Annual inspection.

der such rules and regulations as may be provided by the inspector general, with the approval of the commander-in-chief.

Penalty for making false statement as to disposition of funds or property.

SUB-DIV. 4. Any officer, non-commissioned officer, or private of the Iowa national guard knowingly making any false certificate, or false returns of state property in his hands, or neglecting or refusing to apply all money drawn from the state treasurer for the purpose named in the requisition therefor, shall be guilty of embezzlement and fraud, and shall be punished in the manner as provided for like offenses in the criminal code of this state.

Uniform.

SEC. 9, SUB-DIV. 1. The several organizations, regiments, battalions and batteries of the Iowa national guard shall adopt the fatigue uniform of the army of the United States.

Officers uniform.

SUB-DIV. 2. The field, staff and line officers of the Iowa national guard shall adopt the uniform prescribed for officers of the same rank in the United States army.

Penalty for failing to return arms, &c., to armory.

SUB-DIV. 3. Every officer, non commissioned officer, musician, or private, who shall neglect to return to the armory of the company, or to place in charge of the commanding officer of the company to which he belongs, any arms, uniform, or equipment, or portion thereof belonging to the state within six days after being notified by said commanding officer to make such return, or to place the same in his charge, shall be fined not more than fifty dollars, or imprisoned not more than two months, or both.

Penalty for injuring arms, &c.

SUB-DIV. 4. Every person who shall wilfully or wantonly injure or destroy any uniform, arm, equipment, or other military property of the state, and refuse to make good such injury or loss, or who shall sell, dispose of, secrete or remove the same, with intent to sell or dispose thereof, shall be fined not more than two hundred dollars, or imprisoned not more than six months, or both.

Penalty for absence from drill.

SEC. 10, SUB-DIV. 1. Every non-commissioned officer, musician and private, absent without leave or excuse satisfactory to his commanding officer, from any parade, drill, or encampment, shall be fined two dollars (\$2.00) for each day of absence; and for any unsoldierly conduct at drill, parade or encampment, he may be fined not more than ten dollars (\$10.00) by his commanding officer, who shall notify him of such fine within ten days after such absence or offense. If such fine is not paid within ten days after said notice, said commanding officer shall certify the same to the commandant of his regiment, who shall hear and determine the same. And he may at any time within six months after such hearing, draw his warrant for the collection of said fine, directed to the sheriff, or any constable, who shall proceed to enforce the same in the same manner as an execution issued in any civil action. Such fines, when collected, shall be paid into the treasury of the company, troop or band to which the offender belongs. Nothing herein shall be construed to prevent any company or band imposing such fines upon its members as it may think proper in its by-laws; which fines may be enforced in the same manner as hereinbefore provided for the collection of fines for absence from drill, parade or encampment.

SUB-DIV. 2. A judge advocate, with the rank of ——— major

—, shall be appointed for each brigade, and hold office during the pleasure of the commander-in-chief, who shall perform the duties of such office in the courts-martial held in his district; and no other person shall prosecute or defend in such courts; but when he shall be unable to attend, from any cause, or shall be disqualified by interest or relationship, the major-general may designate the judge advocate of another brigade to act in his place.

Judge-advocate.

SUB-DIV. 3. Commissioned officers, for neglect of duty, disobedience of orders or unsoldierly or ungentlemanly conduct, may be tried by court martial, provided that no sentence of any court martial shall affect the life, liberty or property of any citizen of Iowa, according to the regulations provided in like cases in the army of the United States. The major-general, by order, shall designate the time and place of holding such courts, and the names of officers composing it, consisting of not less than three, nor more than six. The senior officer named shall preside, and shall be of superior rank to the officer on trial, when practicable. Witnesses for the prosecution and defense may be summoned to attend by subpoena signed by the judge advocate. Any witness duly summoned, who shall fail to appear and testify, may be, by warrant of the president of the court, directed to the sheriff, or any constable, arrested, and treated as in like cases before civil courts. The fees of all witnesses shall be the same as allowed in civil cases, to be taxed, with the necessary expenses of the judge advocate and the court, by the president of the court, and paid by the state treasurer, on the auditor's warrant, to the judge advocate, who shall pay all expenses of the trial, when received by him.

Officers to be tried by court-martial.

Organization and procedure of court-martial.

SUB-DIV. 4. The sentences of courts-martial shall be approved or disapproved by the commander-in-chief, who may mitigate or remit any punishment awarded by sentence of court martial, when such sentence shall have been approved by the major-general. The record of all the proceedings and the sentence of a court martial, in every case with the order approving or disapproving it, shall be deposited in the office of the adjutant-general.

Sentence of court-martial.

SEC. 11. Every division, brigade and regimental commander in the Iowa national guard, is hereby authorized to appoint a military board or commission without expense to the state, of not less than three nor more than five officers, whose duty it shall be to examine the capacity, qualification, propriety of conduct, and efficiency of any commissioned officer in his command, who may be reported to the board or commission; and upon the report of said board, if adverse to such officer, and if approved by the commander-in-chief, the commission of such officer shall be vacated; *Provided*, always, that no officer shall be eligible to sit on such board, whose rank or promotion would in any way be affected by the proceedings; and two members at least shall be of equal or superior rank with the officer examined; and if any officer shall refuse to report himself, when directed, before such board, the commander-in-chief may, upon the report of such refusal by his commander, declare his commission vacated.

Military commission.

Construction of this act as to term of officers already elected.

SEC. 12. Nothing in this act shall be construed to extend the time of office of any commissioned officer beyond the term for which he shall have been elected by his company, battalion or regiment.

Repealing clause.

SEC. 13. Chapter 1, title 8, of the Code of 1873, and all other acts or portions of acts in conflict herewith, are hereby repealed. Approved, March 25, 1878.

I hereby certify that the foregoing act was published in the *Iowa State Register*, and *Iowa State Leader*, April 3, 1878.

JOSIAH T. YOUNG, *Secretary of State*.

## CHAPTER 126.

### TAKING PRIVATE PROPERTY FOR WORKS OF INTERNAL IMPROVEMENT.

S. F. 53. AN ACT to Amend Section 1241 of the Code, Title 10, Chapter 4, Relating to Taking Private Property for Works of Internal Improvement.

*Be it enacted by the General Assembly of the State of Iowa:*

Code, § 1241, amended. Railroads.

SECTION 1. That section 1241 of the Code be amended by inserting after the word "state," in the first line thereof, the words "or chartered by or organized under the laws of the United States or any state or territory."

Publication.

SEC. 2. This act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the *Daily State Register*, published at Des Moines, and the *Daily Nonpareil*, published in Council Bluffs, Iowa, without expense to the state.

Approved, March 25, 1878.

I hereby certify that the foregoing act was published in the *Iowa State Register*, March 29, and in the *Council Bluffs Nonpareil*, March 30, 1878.

JOSIAH T. YOUNG, *Secretary of State*.

## CHAPTER 127.

### INDEPENDENT SCHOOL DISTRICT OF PLAINFIELD, BREMER COUNTY.

H. F. 579. AN ACT to Legalize the Independent School District of Plainfield, Bremer County, Iowa.

Preamble.

WHEREAS, On or about the ninth day of March, A. D., 1871, the independent school district of Plainfield, Bremer county, Iowa, was organized; and,