

CHAPTER CVIII.

[H. B. No. 453.]

RELATING TO THE NATIONAL GUARD.

AN ACT to provide for the enrollment of the militia, for the organization, maintenance and discipline of the National Guard of the State of Washington and for the public defense, and entitled the "Military Code," and to repeal existing laws.

Be it enacted by the Legislature of the State of Washington:

ARTICLE I.

PERSONS SUBJECT TO MILITARY DUTY, AND ENROLLMENT THEREOF.

- SEC. 1. Military code.
2. Persons subject to military duty.
 3. Persons exempt from military duty.
 4. Enrollment.
 5. Notice of enrollment.
 6. Examination of assessment rolls.

SECTION 1. *Military code.* This act shall be known as the "Military Code" of the State of Washington.

SEC. 2. *Persons subject to military duty.* All able bodied men between the ages of eighteen and forty-five, residents of the state and citizens thereof, or if of foreign birth, who shall have declared their intention to become such citizen, shall be subject to military duty if not exempted by the laws of the United States. And all such persons may voluntarily enlist in the national guard.

SEC. 3. *Persons exempt from military duty.* The following persons are exempt from military duty:

1. All persons in the army or navy or volunteer force of the United States and those who have been honorably discharged therefrom.

2. The members of any regularly organized fire or police department in any city or town; but no member of the national guard shall be relieved from duty in the national guard by reason of his joining any such fire company or police department.

3. All persons who shall have served in the national guard of this state, or in other states of the United States, for the term of seven years and have been honorably discharged therefrom.

4. All the judges and clerks of the several courts of this state, and the state and county officers and members of the state legislature.

5. Idiots, lunatics, paupers and vagabonds, habitual drunkards and persons convicted of infamous crimes. All such exempted persons, except those enumerated in subdivision 5, shall be liable to military duty in case of war, insurrection, invasion, or imminent danger thereof.

SEC. 4. *Enrollment.* Whenever the commander-in-chief deems it necessary, he may order an enrollment of all persons other than members of the national guard liable to military duty to be made by the county assessor, or by other persons designated by the commander-in-chief. Such enrollment shall state the name, residence, age and occupation of the persons enrolled. Three copies of such enrollment shall be made; one shall be retained by the enrolling officer, one shall be filed in the office of the auditor of the county in which the enrollment is made, and one in the adjutant general's office.

SEC. 5. *Notice of enrollment.* The officer or person making the enrollment shall, at the time of making the same, serve a notice of such enrollment upon each person enrolled by delivering such notice to him or leaving it with some person of suitable age and discretion at his place of residence. All persons claiming exemption must, within fifteen days after receiving such notice, file a written statement of such exemption, verified by affidavit, with the officer making the enrollment; such officer shall thereupon, if such person be exempt according to law, mark the word "exempt" opposite his name, and shall transmit a copy of such corrected roll to the adjutant general. The commanding officer highest in rank in the national guard and the head of the fire and police departments in each city or town, shall, whenever an enrollment is ordered, file with the enrolling officer a certified list of the names of the persons in his command or department.

SEC. 6. *Examination of assessment rolls.* The assessor in each county of this state shall allow persons appointed to make such enrollment, if persons other than the assessor be appointed, at all proper times to examine their assess-

ment rolls and take copies thereof, and the clerks of all counties, towns and cities shall in like manner, at all proper times, allow such persons to examine and copy the poll lists on file in their offices. All persons shall, upon the application of any person making such enrollment, give the name of and all other information concerning any person within their knowledge liable to be enrolled, under penalty of ten dollars for every concealment or false information or refusal to give the information requested, to be recovered in the name of the state in any court, with costs. The officer making the enrollment shall, within ten days, report all persons who shall fail and neglect to give information to the adjutant general of the state.

ARTICLE II.

ORGANIZATION.

SEC. 10. Division into national guard and reserve militia.

11. Number of companies and members thereof.
12. Discipline and exercise.
13. Governor and staff.
14. Brigade organization.
15. Regimental organization.
16. Battalion organization.
17. Company, troop and battery organization.
18. Bands.
19. Signal corps.

SEC. 10. *Division into national guard and reserve militia.* All persons subject to military duty under the laws of this state, and such other persons who shall voluntarily enlist or be commissioned, shall be divided into two classes, to wit: One, consisting of those now enlisted in the National Guard of Washington, and those who hereafter enlist or shall be commissioned therein under the provisions of this act, shall be known as the National Guard of Washington, and shall be subject at all times to the orders of their officers, and the other, to consist of all those subject to military duty not included in the national guard, which shall be known as the Washington reserve militia.

SEC. 11. *Number of companies and members thereof.* In time of peace the National Guard of Washington shall consist of not more than fourteen companies of infantry, two troops of cavalry, one battery of light artillery and

such bands, signal corps and medical department as are hereinafter provided for. The said companies, troops and battery may be allotted and stationed in such localities of the state as the necessity and advantage of the service require, in the discretion of the commander-in-chief, and with reference to the means of rapid concentration, and may be arranged into regiments or battalions, with power to alter and change the organization to conform to any system of drill or instruction now or hereafter adopted for the army of the United States, as the commander-in-chief may deem necessary. Infantry, cavalry and artillery companies shall consist of not less than twenty-four and not more than one hundred and five non-commissioned officers, musicians and privates. The commander-in-chief may limit the maximum membership of any company, troop or battery at any time to a less number than one hundred and five, in his discretion. Any company presenting less than the minimum number of twenty-four enlisted men at any stated muster or inspection shall be disbanded by order of the commander-in-chief.

SEC. 12. *Discipline and exercise.* The system of organization, discipline and exercise of the national guard shall conform as near as practicable to the drill regulations now in use in the army of the United States, and such as may hereafter be prescribed therefor, except as otherwise provided by this act.

SEC. 13. *Governor and staff.* The governor of the state shall be the commander-in-chief of its military forces, and his staff shall consist of one adjutant general, with the rank of brigadier general, who shall be chief of staff; one chief of engineers, one commissary general, one judge advocate general, one quartermaster general, surgeon general, one paymaster general, one inspector general, and one general inspector of rifle practice, each with the rank of colonel, and six aids-de-camp, each with the rank of lieutenant colonel, and one assistant adjutant general with the rank of major, who shall be the military secretary. Upon the recommendation of the chief of the staff departments the commander-in-chief may appoint such assistants, of such grade

not above that of major, and such storekeepers and clerks as in his judgment may be necessary.

SEC. 14. *Brigade organization.* The national guard of this state shall constitute one brigade. The brigade officers shall be as follows: One brigadier general and a staff, consisting of one assistant adjutant general, one assistant chief engineer, one brigade inspector, one judge advocate, one brigade quartermaster, one brigade commissary, one inspector of rifle practice, one chief signal officer, each with the rank of lieutenant colonel, and three aids-de-camp, with the rank of first lieutenant.

SEC. 15. *Regimental organization.* A regiment shall consist of not less than eight nor more than twelve companies, troops or batteries. Its officers shall be one colonel, one lieutenant colonel, not to exceed three majors, at the discretion of the commander-in-chief, and a staff consisting of one chaplain with the rank of captain, one adjutant with the rank of captain, one inspector of rifle practice with the rank of first lieutenant, one commissary, one quartermaster, each with the rank of first lieutenant, one signal officer with the rank of first lieutenant, one sergeant major, one quartermaster sergeant, one commissary sergeant, one color sergeant, one chief trumpeter, one drum major, and two color bearers, each with the grade of sergeant. Each major may detail from the second lieutenants of the line an adjutant, and from the sergeants of the line a sergeant major.

SEC. 16. *Battalion organization.* Each battalion not a part of a regiment shall consist of not more than six nor less than two companies, troops or batteries, one major and a battalion staff of one adjutant, one quartermaster, one inspector of rifle practice, one commissary and one signal officer of the grade of first lieutenant, and non-commissioned staff officers as provided for a regiment. Whenever a regiment shall fall below the number of eight companies, troops or batteries it may be re-organized as a battalion, and the commander-in-chief may in his discretion retain in command the field officers of the regiment so reduced to a battalion.

SEC. 17. *Company, troop and battery organization.* To each company or troop there shall be one captain, one first lieutenant, one second lieutenant, one first sergeant, one quartermaster sergeant, four sergeants, not more than twelve corporals and two musicians or trumpeters. To every battery of artillery, one captain, two first lieutenants, one second lieutenant, one first sergeant, one quartermaster sergeant, four sergeants, not more than twelve corporals, two musicians, two artificers and one wagoner. Each cavalry troop shall also have one veterinary sergeant and one guidon sergeant, two blacksmiths and one saddler.

SEC. 18. *Bands.* The commanding officer of a regiment may enlist a band of not less than sixteen and not more than thirty-six musicians, who shall be entitled to the clothing and allowance prescribed by law for enlisted men of the same rank. The members of the band must provide their own musical instruments. The leader of such band shall be entitled to the rank of a sergeant major. The said band shall be subject to the orders of the regimental commander, who may discharge and recruit said band at his discretion. The duty of said bands shall be to furnish music for the troops at the regular parades required by law, and upon such other military occasions as the commanding officer of said regiments may direct. They shall be subject to all the laws and regulations for the government of the national guard.

SEC. 19. *Signal corps.* The commanders of regiments of separate battalions, and not part of a regiment, may each organize one signal corps not to exceed twelve men. The regimental or battalion signal officer shall be in command thereof and responsible for its discipline and instruction. The chief signal officer shall be the commanding officer of all the signal corps of the state.

ARTICLE III.

MEDICAL DEPARTMENT.

SEC. 25. Medical officers.

26. Surgeon general, qualification and powers.
27. Present officers continued.
28. Assistant surgeon, how appointed.
29. Examinations.
30. Term of office and duty.

SEC. 31. Hospital and ambulance corps.

32. Qualifications.

33. Discipline and instruction.

SEC. 25. *Medical officers.* The medical department of the National Guard of Washington shall consist of a surgeon general, with the rank of colonel; one brigade surgeon, with the rank of lieutenant colonel, for each brigade; one surgeon, with the rank of major, for each regiment; one assistant surgeon, with the rank of captain or first lieutenant according to length of service, for each battalion; and if deemed advisable by the surgeon general and commander-in-chief, one assistant surgeon, with the rank of captain or first lieutenant, for each unattached company, and the hospital and ambulance corps.

SEC. 26. *Surgeon general, qualification and powers.* The surgeon general shall be appointed by the commander-in-chief to serve during his term of office. He must be a graduate in medicine and surgery of at least five years standing, qualified to practice under the laws of this state, and must have served for at least three years in the national guard of this state. He is charged with the administration of the medical department under the direction of the commander-in-chief, and shall be, with the advice and assistance of the adjutant general, the chief purchasing and disbursing officer of his department. He shall submit, annually, to the adjutant general a report of the medical department.

SEC. 27. *Present officers continued.* The medical officers serving under the present several commanders shall hold office until the expiration of their commissions, and shall be assigned to the several commands by the commander-in-chief, on the recommendation of the surgeon general.

SEC. 28. *Assistant surgeon, how appointed.* All vacancies in the grade of assistant surgeon, with the rank of first lieutenant, shall be filled by appointment by the commander-in-chief, on the recommendation of the surgeon general. Assistant surgeons, at the expiration of three years, may apply for examination for promotion to the rank of captain. Vacancies in the grades of surgeon and brigade surgeon shall be filled by the commander-in-chief, on recommendation of the surgeon general, by re-appoint-

ment or by promotion in order of seniority, in his discretion.

SEC. 29. *Examination.* Candidates for the position of assistant surgeon are required to be graduates of medicine and surgery, qualified to practice under the laws of this state, and must pass a satisfactory examination in that science as well as to mental and physical qualifications, under the direction of the surgeon general, and must give evidence of good morals and habits and general aptitude for military service before being commissioned. Candidates for promotion must be in good standing and pass a satisfactory examination as to their knowledge and fitness for the duties of the next higher grade.

SEC. 30. *Duty.* Medical officers shall be assigned to serve under the various commanders by the commander-in-chief, on the recommendation of the surgeon general. No detail for special duty outside of the commands to which they are assigned shall be made without the approval of the surgeon general.

SEC. 31. *Hospital and ambulance corps.* The hospital and ambulance corps shall consist of one hospital steward for each regiment and unattached battalion or corps, as many acting hospital stewards as may be deemed advisable, not to exceed one private for each company, who shall be regularly enlisted and discharged in the discretion of the surgeon general. They shall be uniformed and equipped at the expense of the state in accordance with the United States army regulations, the bills therefor to be audited and paid as other military bills.

SEC. 32. *Qualifications.* Candidates for the appointment to the position of hospital steward must be licensed pharmacists under the laws of this state, and must give evidence of good morals and good habits. They shall be appointed and warranted by the surgeon general after a satisfactory examination. Acting hospital stewards will be appointed by the surgeon general on the recommendation of the senior medical officer of the command to which they may be attached.

SEC. 33. *Discipline and instruction.* All hospital stewards and acting hospital stewards shall be assigned to the

several commands by the surgeon general, where they shall be under the immediate direction and control of the senior medical officer of the command, who shall be responsible for their equipments, discipline and instruction. The medical department shall be subject to all the provisions of this act and the rules and regulations governing the national guard. Hospital and acting hospital stewards shall have rank, pay and allowance of a first sergeant and corporal, respectively, and the officers of the medical department, the pay and allowance for other officers of the same rank.

ARTICLE IV.

ELECTION, APPOINTMENT, DUTIES AND QUALIFICATIONS OF OFFICERS AND NON-COMMISSIONED OFFICERS.

- SEC. 38. Duties of adjutant general.
 39. Duties of inspector general.
 40. Duties same as in United States army.
 41. Examining board—Examination.
 42. How officers to be chosen.
 43. Non-commissioned officers.
 * 44. Present officers to hold over.
 45. Term of officers.
 * 46. Notice and manner of election.
 * 47. Notice, how served.
 * 48. Holding election.
 49. Acceptance.
 50. Appeal.
 51. Oath and bond.

SEC. 38. *Duties of adjutant general.* The adjutant general must execute an official bond to the State of Washington for the sum of twenty thousand dollars, conditioned for the faithful performance of the duties of his office. His salary shall be twelve hundred dollars per annum, payable monthly, and his necessary expenses and the expenses of his department, to be limited by the board of military auditors. His duties shall be: To keep and preserve the books, arms, accoutrements, ammunition and other military property belonging to the state not issued to the various companies. To keep on file in his office all returns and reports made by and to him. To keep an account in the

* The sections above enumerated were stricken out when under consideration in the legislature.—SECRETARY OF STATE.

manner directed by the commander-in-chief of all moneys received and disbursed by him. To attest all commissions issued to military officers. To make out and transmit militia returns prescribed by the acts of congress. To perform such other duties as are required by the provisions of this act, or as much as the commander-in-chief shall direct. He shall make quarterly reports, and an annual report on or before the first day of January in each year to the commander-in-chief, upon the condition of the national guard, and a detailed statement of all expenditures of his department during the preceding year, and of the present condition of all military property under his charge. He shall cause this act to be printed, indexed and annotated, bound in pamphlet form and distributed, one copy to each commissioned officer of the national guard. He shall also furnish to brigade, regimental and battalion and company commanders, and to the judge advocates, each a copy of the rules and regulations of the United States army.

SEC. 39. *Duties of inspector general.* The inspector general shall personally, or by either his assistants or brigade inspectors, inspect as often as may be deemed necessary by the commander-in-chief, any or all organizations, and every branch connected with the military service, including armories, arsenals, store houses, camps and military property, and report to general headquarters the condition, discipline, drill and instruction of the national guard, the condition of military property belonging to the state, and all matters pertaining to his department. He shall have the power to condemn all unserviceable property.

SEC. 40. *Duties same as in United States army.* The departmental and military duties of the officers provided for in this act shall be correlative with those discharged by similarly designated officers in the United States army, except as otherwise provided by this act.

SEC. 41. *Examining board—Examination.* All officers shall be commissioned by the commander-in-chief, and no person shall be commissioned in the national guard of this state unless he is a citizen of the United States and of the State of Washington of eighteen years of age or upwards. No commission shall be issued to any person in

the national guard, save to general officers and the staff of the commander-in-chief, until the officer appointed shall have passed a satisfactory examination before a board as to his knowledge of military duties proportionate to the office to be held, his general knowledge and his fitness for the service. If such person shall be adjudged unqualified for such office, another person shall, after due notice of such adverse decision, be appointed. The commander-in-chief shall appoint such examining board, and may remove any member thereof and fill any vacancy thereon; such examining board to consist of not more than five officers, but the brigadier general and the surgeon general shall always be members of such board, who shall have the same power to compel the attendance of witnesses, administer oaths and take testimony as is possessed by general courts martial. No person shall be eligible for appointment to office in the national guard for the period of one year after he shall have been reported adversely by an examining board. Any officer required by law or by orders to appear before such board shall do so at his own expense.

SEC. 42. *How officers to be chosen.* The military officers of the state shall be chosen as follows: The brigadier general and the adjutant general shall be appointed by the commander-in-chief, with the consent of the senate. Any vacancy in said offices from any cause may be filled by the commander-in-chief, subject to confirmation or rejection by the senate at the next meeting of the legislature thereafter. Field officers of regiments and battalions shall be appointed by the commander-in-chief, and no person shall be eligible as a field officer who has not served as an officer at least three years in the aggregate in either the national guard of this state or some other state of the union, or in the army of the United States. The commissioned officers of companies shall be appointed and commissioned upon the recommendation of a majority of those signing a petition for the organization of any company; and whenever a vacancy occurs in the commissioned office of the National Guard of Washington, below the rank of colonel, the officer next in rank in the company, battalion or regiment shall be gazetted for promotion, and shall appear before the ex-

aminig board for examination at such time as the board may order, and, upon passing said examination successfully, shall be commissioned to fill the vacancy existing in said company, battalion or regiment. Vacancies created by reason of promotions, shall be filled in the same manner, and non-commissioned and warrant officers of companies or divisions shall be gazetted in order of rank to fill vacancies in the office of second lieutenant. No candidate shall be recommended for promotion who fails to make a record of seventy-five per cent. on examination, and where such failures occur the candidate shall be recommended for honorable discharge by the examining board, and the officer next in rank shall be gazetted for examination and promotion, and whenever a vacancy shall exist in the office of any field officer in any regiment or battalion not a part of a regiment, the commander of the brigade shall notify the commander-in-chief and said vacancy shall be filled in the manner herein provided: *Provided*, That when a vacancy occurred in any office by reason of the expiration of the term of office, such officer may, if found qualified upon examination, be re-appointed to fill the vacancy. No person shall be eligible as captain of a company except he shall have served at least one year as an officer and three years in the aggregate in the national guard of this state, or of some other state of the union, or of the army of the United States, or is a graduate of a military college requiring at least three years' military service. For the purpose of this act the word company or companies shall apply to and include the infantry, cavalry and artillery forces. Company commanders shall give bond in the sum of two thousand dollars in form to be prescribed by the adjutant general, conditioned for the faithful discharge of the duties of their office and the proper care and preservation of the state funds and property under their charge. The staff of the commander-in-chief shall be appointed by the governor, except as herein provided, and their commissions shall expire with the term for which the governor appointing them shall have been elected. All officers of the governor's staff shall hold office during his pleasure, and until their successors are appointed and qualified. The brigadier general

and the commanding officers of regiments and battalions not a part of a regiment, shall appoint their respective staff officers, who shall hold office at the pleasure of the officer appointing them, and their commissions shall expire as soon as the successor of such brigade, regimental or battalion commander is commissioned and qualified. No person shall be appointed as a staff officer except judge advocates and chaplains, unless he shall have served at least three years in the national guard of this state, or of some other state of the union, or of the army of the United States: *Provided*, That nothing contained in this section shall be so construed as to apply to the first officers selected of any company organized after the passage of this act.

SEC. 43. *Non-commissioned officers.* Commanding officers of regiments and battalions not part of a regiment shall appoint and warrant the non-commissioned staff officers of their respective regiments and battalions, and they shall appoint and warrant the non-commissioned officers of the companies of their respective regiments and battalions from the members thereof upon the nomination of the commanding officers of the respective companies. In any troops, batteries and companies not a part of a regiment or battalion, the non-commissioned officers shall be warranted by the commanding officer of the brigade from the members thereof upon the written nomination of the commanding officer of such troop, battery or company. All non-commissioned officers shall be appointed for length of service and military qualifications. The non-commissioned staff officers and the members of signal corps, except trumpeters, drum majors, band leaders and veterinary surgeons, who may be civilians, must be duly enlisted.

SEC. 45 [44]. *Term of officers.* The terms of all officers, not otherwise provided for, shall be for four years and until their successors are commissioned and qualified.

SEC. 49 [45]. *Acceptance.* If the person appointed shall not, within ten days after being notified of his appointment, signify his acceptance to the commander-in-chief, he shall be considered as declining the office to which he shall have been appointed, and a new appointment shall be made. All officers, except the general officers and staff of com-

mander-in-chief, must, when notified, appear before the examining board for examination under such rules and regulations as may be prescribed by the commander-in-chief.

SEC. 51 [46]. *Oath and bond.* Every officer duly commissioned shall, within ten days after his commission is tendered him, or within ten days after he shall be personally notified that the same is held in readiness for him by any superior officer, take and subscribe the constitutional oath of office, and give bond if bond is required. In case of neglect or refusal to take and subscribe such oath and give bond if required, within the time mentioned, he shall be deemed to have resigned such office, and a new appointment shall be made forthwith to fill the place.

SEC. 53 [47]. *Examinations.* No person shall be commissioned as an officer of the national guard until such person shall have first passed a satisfactory examination in the following subjects:

1. English grammar, and his ability to speak, read and write with facility and correctness.
2. Arithmetic, and his ability in the application of its rules to all practical questions.
3. His knowledge of the geography of the United States.
4. His knowledge of the history of the United States.
5. His knowledge of the constitution of the United States and of the State of Washington, and the organization of the government under each, and the laws of the state governing the national guard, and also the United States army regulations and the regulations governing the National Guard of Washington.
6. His knowledge of the drill regulations adopted for the use of the army of the United States, and his general qualifications, aptitude and probable efficiency as an officer of the national guard, marking the result on a scale of one hundred. The answers to all questions shall be reduced to writing by the party examined in the presence of the board, and no person shall be granted a certificate of proficiency who shall not make a general average of at least seventy-five, and the said board shall deliver to such per-

son as may pass the required examination, a certificate marking the general average made by the person named therein, and said certificate shall be signed by the presiding officer of said board and attested by the secretary; and on the presentation of said certificate to the commander-in-chief a commission shall be issued to the person therein named.

ARTICLE V.

ADMISSION OF COMPANIES AND ENLISTMENT.

SEC. 56. New companies; how admitted.

57. Enlistments.

58. Transfers.

59. Company may be disbanded.

SEC. 56 [48]. *New companies; how admitted.* No company other than those now organized and in the service as a part of the national guard, shall be admitted into the National Guard of Washington except upon the recommendation of the military board, approved by the commander-in-chief, upon petition duly presented for that purpose. No officers shall be appointed upon the organization of a company, hereafter organized, unless at least the prescribed minimum number of men have petitioned therefor. If such company neglects or refuses to recommend persons for officer, or the persons recommended shall not accept and qualify, the commander of the regiment or battalion to which such company may be assigned, shall detail some officer of the line of the regiment or battalion to command said company until some officer is appointed; such officer shall have the same power and be subject to the same liabilities as if he were captain of such company. The military board shall consist of the commander-in-chief, brigadier general and senior field officers below the rank of brigadier general; the adjutant general shall be the clerk of the board.

SEC. 57 [49]. *Enlistments.* All enlistments in the National Guard of Washington shall be for the term of three years, and on the expiration of that term they may be, if discharged with good character, reënlisted, either immediately or at any time thereafter, for terms of one or more years, at their option. No person above the age of forty-five years shall be enlisted or reënlisted except by the

permission of the commanding officer of the regiment or battalion to which the organization is attached, nor any person under the age of twenty-one years without the consent of his parents or guardian. No person under the age of eighteen years shall be enlisted except as musicians. Applicants for enlistment must be citizens of the United States, of the State of Washington, and of good moral character, and before any recruit shall be enlisted he shall be subjected to physical examination by a medical officer, or by any surgeon or physician designated by the surgeon general, and the certificate of such medical officer or physician shall accompany his enlistment papers. Any enlisted man at any time may be ordered by his commanding officer to appear and be examined by a medical officer, and if not up to the requirements physically shall be discharged from the service. The physical qualifications of recruits shall be fixed by the surgeon general, who shall prepare the necessary blanks for examination. Every enlisted man shall continue to be held to duty and shall retain rank, and be eligible to promotion after the expiration of his term of enlistment or reënlistment until he is actually discharged. When an organization is consolidated or disbanded its enlisted men discharged by reason thereof, who shall thereafter reënter the service, shall have allowed to them as part of their terms of service the time already served. Every person recruited for the national guard shall sign two enlistment papers, one copy of which shall be forwarded to the adjutant general, and one copy retained by the company commander, of such form as may be prescribed by the commander-in-chief, which shall contain an oath of allegiance to the state and the United States. The signing of said papers and taking the oath, and the approval thereof by the company, battalion or regimental commander or surgeon general, as the case may be, shall be considered as enlistment in the national guard. Applications for enlistment in any company shall be in writing, and shall only be made at a regular weekly meeting or assemblage of such company by reading the application before the members of the company present. The application shall then be posted in a conspicuous place in

the company's quarters or armory for at least one week, at which time, and not before, such applicant may be balloted for by the company; the ballot must be secret, and three adverse votes shall reject the applicant: *Provided*, That the company commander, in cases of emergency, when the company is about to be ordered into service in cases of riot, war, insurrection or invasion, or imminent danger thereof, may dispense with the posting of the application or with balloting for the applicant in his discretion. Nothing herein shall prevent any company from prescribing other rules as to the admission of members not in conflict herewith. Every applicant for enlistment shall have explained to him the duties and service required of a national guardsman, and the company commander shall be satisfied of the applicant's general fitness and ability to perform the service required of him for the term of his enlistment before enlistment.

SEC. 58 [50]. *Transfers.* An enlisted man, upon his own application, with the approval of the commanding officer of the organization from which and to which he is to be transferred, may be transferred from one company, troop or battery to another organization in the same regiment or battalion, not part of a regiment, by the commanding officer of the regiment or battalion, or from one organization to another in the same brigade by the commanding officer of the brigade.

SEC. 59 [51]. *Company may be disbanded.* If it appears to the commander-in-chief that any company of the national guard has failed to comply with the requirements of the law in the matters of uniform equipment and discipline so that it is incapacitated to discharge the duties required of it, such company may be disbanded by the commander-in-chief: *Provided*, That immediately upon the passage of this act the commander-in-chief shall, upon the recommendation of the brigade commander, muster out and disband such company or companies of infantry and troops of cavalry as may seem to him for the good of the service.

ARTICLE VI.

RESIGNATION, DISCHARGE AND RETIREMENT OF OFFICERS, AND
DISCHARGE OF ENLISTED MEN.

SEC. 63. Discharge of officers.

64. Officer must account before discharge.

65. Officer may be ordered before examination board.

66. Retirement of officers.

67. Discharge of enlisted men.

68. Company commander may recommend discharge.

SEC. 63 [52]. *Discharge of officers.* The commander-in-chief may discharge a commissioned officer when such officer tenders his resignation, or when he has been convicted of an infamous crime; when, either before or after receiving his commission, he has removed his residence out of the bounds of his command to so great a distance that it is inconvenient to perform the duties of his office; when he has been absent from his command more than thirty days without leave; upon sentence of a court martial after trial according to law; upon recommendation of a board of examination, as prescribed by this act; and upon disbandment of an organization, as prescribed herein. He may discharge any member of his staff at any time.

SEC. 64 [53]. *Officer must account before discharge.* No officer shall be permitted to resign his commission who shall be under arrest or return to a military court for any deficiency or delinquency; no officer shall be honorably discharged and no officer's resignation shall be accepted unless the officer tendering the same or applying for discharge shall furnish to the commander-in-chief satisfactory proofs that he has on hand and ready to deliver all books or other property of the state in his possession to the officer authorized to receive the same, and that his accounts for money and public property are correct, and that he is not indebted to the state.

SEC. 65 [54]. *Officer may be ordered before examination board.* The commander-in-chief, whenever he may deem that the good of the service requires it, shall order any officer of the national guard before the board of examination hereinbefore provided for, and such board shall examine into the moral character, capacity and general fitness, military and physical qualifications for the service of

such commissioned officer. If the findings of such board be unfavorable to such officer, and he be approved by the commander-in-chief, he shall be discharged or retired from the service. No officer whose rank or promotion would in any way be affected by the decision of said board in any case that may come before it shall participate in the examination or decision of the board in such case when it is possible to avoid the same. Such officer shall pass the examination provided in section 53.

SEC. 66 [55]. *Retirement of officers.* Any commissioned officer who shall have served as such for the continuous period of five years in the national guard of this state or of the Territory of Washington, if he shall have been honorably discharged or be in good standing, may, upon his own request, be placed upon a roll to be established and maintained in the adjutant general's office, which roll shall be designated "the roll of retired officers," with the rank held by him at the time of such application, and withdraw from active service and command, by order of the commander-in-chief, without pay or allowance, except when ordered upon duty as hereinafter provided, and the vacancy thereby created shall be filled in the same manner as other vacancies. The officers on the retired list shall be subject to detail by orders from the commander-in-chief for duty upon boards of officers for military purposes, courts martial and courts of inquiry, and for such other military duties as in his judgment may be advisable. When, however, officers on the retired list are so detailed for active duty other than upon boards of officers, courts martial and courts of inquiry, they shall only be entitled to the rank which properly belongs to the office or duties which they are detailed to perform. When the duties end or the detail is canceled, the officer shall again return to the retired list with his former retired rank. On all occasions of duty and all occasions of ceremony retired officers shall take rank next to the officers of like rank upon the active list.

SEC. 67 [56]. *Discharge of enlisted men.* Whenever any enlisted man of the national guard shall have performed service therein for the term of his enlistment, or

re-enlistment, the commanding officer of the regiment or battalion not part of a regiment, to which he belongs, or in case of a troop, battery or company, not a part of a regiment or battalion, the commanding officer of the brigade, upon a certificate of the commanding officer of his troop, battery or company, or signal corps, to that effect, and that he has turned in to the proper officer all state, regimental and company property for which he is accountable, grant him a full and honorable discharge from further service in the state forces. No enlisted man shall be discharged before the expiration of his term of service, except by order of his brigade, regimental or battalion commander, and for the following reasons: To accept promotion by commission; upon removal of residence from the state or county, or permanent removal to such distance from the command to which he belongs, or any company of the national guard, that in the opinion of his commanding officer he cannot perform his military duties; for disability, established by the certificate of a medical officer; upon being convicted of a felony in a civil court; to carry out a sentence of a court martial; upon the disbandment of any company by the commander-in-chief, as provided by this act; upon the application of commanding officers for non-commissioned staff officers, and musicians enlisted as such; for the good of the service, upon recommendation of company commanders, as herein provided. Discharges must be granted or refused in fifteen days after application therefor is made, or sentence approved, and must be published in orders. The discharge shall be in form prescribed by the commander-in-chief. A statement of all discharges shall be forwarded by the regimental or battalion commanders to the adjutant general. A member applying for a discharge, or for whom an application is made, may be excused from duty pending the application, in the discretion of the commanding officer.

SEC. 68 [57]. *Company commander may recommend discharge.* The company commander may recommend the discharge for the good of the service of any enlisted member of his command, and must state the reason for such recommendation and give notice thereof to such member

in the manner of giving warning for duty. Any member so recommended for discharge may appeal from such recommendation to the brigade, regimental or battalion commander. Non-commissioned staff officers may be discharged at any time by the officer appointing them. Non-commissioned officers may be reduced to the ranks by the commanding officer of the organization to which they belong or by sentence of a court martial.

ARTICLE VII.

UNIFORMS, ARMS AND EQUIPMENTS.

- SEC. 75. Adjutant general to furnish all uniforms and equipments.
76. Uniforms.
77. Purchasing board.
78. Equipments state property.
79. Sale or injury of property prohibited.
80. Buying or [and] receiving state property prohibited.
81. Officers having custody of property to give bond.
82. Uniforms and equipments exempt from execution.

SEC. 75 [58]. *Adjutant general to furnish all uniforms and equipments.* Every organization shall be provided by the adjutant general at the expense of the state with such uniforms, arms, equipments, colors, books of instruction and record, blanks, camp and garrison equipage and military supplies as may be necessary for the proper performance of the duty required by this act, upon requisition made for the same approved by the commander-in-chief.

SEC. 76 [59]. *Uniforms.* All non-commissioned officers, musicians and privates of a company or of a regiment or battalion staff, or members of a signal corps and of the medical department, and of the regular organized and enlisted bands shall be furnished with service uniforms of the United States army fatigue pattern, and arms and equipments, at the expense of the state. The service uniforms and equipments shall be issued to the several organizations of the national guard upon requisition of the proper officer. No dress uniforms shall be hereafter furnished by the state. The uniforms of all commissioned officers shall be the undress uniforms, such as is worn by the officers of the army of the United States.

SEC. 77 [60]. *Purchasing board.* The commander-in-

chief, brigadier general and quartermaster general shall constitute a board to purchase such service uniform, arms and equipments. This board shall fix the maximum price of uniforms ready made. This board is also authorized to adopt and purchase such arms and equipments and other military property as in their judgment will best serve the uses of the national guard, which shall be issued by the adjutant general to the several organizations upon requisition approved by the commander-in-chief. Said board shall have power to sell or to exchange from time to time such military property belonging to the state as may be unserviceable, or which it may be deemed for the interest of the state to sell or exchange. All actions or suit against any officer or enlisted man responsible therefor, for any loss or damage to any military property entrusted to his care, shall be brought and prosecuted in the name of the State of Washington.

SEC. 78 [61]. *Equipments state property.* All uniforms, arms, equipments and other property issued to organizations or members of the national guard shall be and remain the property of the State of Washington, and shall be accounted for on their annual returns.

SEC. 79 [62]. *Sale or injury of property prohibited.* Every arm, uniform or equipment issued by the state shall be used only in the discharge of military duties; and any enlisted man who shall wilfully or wantonly injure or destroy any uniform, arm or equipment, or other military property belonging to the state, or the regiment, battalion or company, or 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, or shall fail, within ten days after being notified, to return the same to the state or his commanding officer, shall be tried by a court martial and sentenced to pay a fine of not more than fifty dollars, or in default of payment of the same, undergo an imprisonment in the county jail of not more than thirty days; and all clothing, camp and garrison equipage, ordnance, ordnance stores and quartermaster stores, issued by the state, or fabricated from material issued by the state, and charged against the company allowance, or for which com-

mutation has been paid, shall be considered the property of the State of Washington.

SEC. 80 [63]. *Buying and receiving state property prohibited.* If any person shall, knowingly and wilfully, purchase or receive in pawn or pledge any arm, accoutrement, article of military clothing, equipment, tent or fly, or any quartermaster or ordnance stores, the property of the State of Washington, he shall be guilty of a misdemeanor, and, being convicted thereof in any court of competent jurisdiction, shall be sentenced to an imprisonment not exceeding one year, or a fine not exceeding three hundred dollars, or both such fine and imprisonment.

SEC. 81 [64]. *Officers having custody of property to give bond.* The commander-in-chief shall cause and require proper bonds to the state to be given, with good and sufficient sureties, from all officers who shall have any military property in their charge or possession, before any commission shall be issued to or property turned over to such officer.

SEC. 82 [65]. *Uniforms and equipments exempt from execution.* The uniforms, arms and equipments required by law or regulations of every member of the national guard shall be exempt from all suits, distresses, execution or sales for debt or the payment of taxes.

ARTICLE VIII.

PAY AND ALLOWANCE.

SEC. 86. Military auditors.

87. Allowance to companies.

88. Allowance to brigade and regimental headquarters.

89. Per diem.

90. Pay for officers on boards and courts.

91. Auditing of military bills.

92. Pensions.

SEC. 86 [66]. *Military auditors.* The commander-in-chief, the brigadier general and state auditor shall constitute a board of military auditors. The commander-in-chief is president and the adjutant general secretary; and the board must have a seal, which must be attached to all accounts audited by them.

SEC. 87 [67]. *Allowance to companies.* There must be audited and allowed by the board of military auditors, to

be paid quarterly out of the special military fund, to the commanding officer of each infantry, cavalry or artillery company of the national guard performing the duty required by law, for armory rent and other incidental expenses, the sum of forty dollars per month, and to each band twenty-five dollars per month. To each battery, in addition to the above mentioned sum, shall be allowed its actual expenses for horsing said battery for all parades and services authorized by law. The company commanders shall render to the adjutant general quarterly reports showing expenditures and duty performed for preceding quarter before said allowance is paid.

SEC. 88 [68]. *Allowance to brigade and regimental headquarters.* The necessary expenses of general, brigade, regimental or battalion headquarters shall be audited and allowed by the board of military auditors, and paid as other military bills, and such expenses shall in no event exceed for brigade headquarters twenty-five dollars per month, and for each regimental and battalion headquarters twenty-five dollars per month.

SEC. 89 [69]. *Per Diem.* There shall be provided by the state, transportation and subsistence, and in addition thereto there shall be paid to each officer and enlisted man for the annual parades, encampments or field duty, and when ordered for duty by the commander-in-chief, except when so ordered for inspection and muster or rifle practice, the following sums for every day actually on duty to be known as duty pay: Musicians or privates, one dollar and fifty cents per day; musicians, members of an enlisted band, two dollars; all non-commissioned officers, one dollar and fifty cents; each enlisted man who has served a full term of enlistment shall be entitled to additional pay at the rate of twenty-five cents per day; all commissioned officers shall receive two dollars per day while on actual duty. Each officer and enlisted man mounted and equipped shall be paid one dollar and fifty cents for each horse actually used by him. When on duty or assembled therefor, or in case of riot, tumult, breach of the peace, war, insurrection or invasion, or whenever called in aid of the civil authorities, commissioned officers shall be entitled to and shall receive

the same pay and allowance as commissioned officers of the regular army of the United States, of equal grade and term of service. Enlisted men on such service shall receive the same pay as hereinbefore provided. The necessary subsistence and quartermaster stores and transportation for the troops, when ordered on any duty, may be contracted for by the proper departmental officers by the direction of the commander-in-chief and paid for as other military claims.

SEC. 90 [70]. *Pay for officers on boards and courts.* All officers detailed or required by the duties of his office to attend or to serve on any board or commission ordered by the commander-in-chief, or in any court of inquiry, court martial or delinquency court, ordered by proper authority in pursuance of any provision of this act, shall be paid a sum equal to one day's duty pay for each day actually employed on such board or court, or engaged in the business thereof, or in traveling to and from the same. The sum in no case shall exceed ten day's pay and actual traveling expenses and subsistence unless upon application of the judge advocate of the court martial, or a presiding officer of a delinquency court, for the trial of commissioned officers, or the presiding officer of a board, the commander-in-chief, or in case of such delinquency court, the commander-in-chief or the officer ordering such court, has authorized such court to sit for a longer period than ten days. The officer detailed to serve upon a delinquency court for the trial of enlisted men shall be paid for each day actually employed therein, or engaged in the business thereof, or in traveling to and from the same, the duty pay pertaining to his rank, as provided for in section eighty-nine, including traveling expenses and subsistence, when such court shall be held at a place other than at the place or town of his residence.

SEC. 91 [71]. *Auditing of military bills.* All military bills and claims shall be certified to or verified in the manner provided by law and such regulations as the board of military auditors may prescribe, and shall be audited by the board of military auditors, and paid by the state treasurer upon the warrant of the state auditor from the special military fund hereinafter provided for: *Provided, however,*

That in all cases where the national guard, or any part thereof, is called into the service of the state in case of war, riot, insurrection, invasion, breach of the peace, or to aid the civil authorities, the pay and expenses for such services shall be audited as above and paid by the state treasurer from the general fund upon the warrant of the state auditor. Such warrants shall be the obligations of the state and shall bear interest at the legal rate from the date of their issue.

SEC. 92 [72]. *Pensions.* Every member of the national guard who shall be wounded or disabled while in the service of the state in cases of riot, tumult, breach of the peace, resistance to process, invasion, insurrection or imminent danger thereof, or whenever called upon in aid of the civil authorities, shall be taken care of and provided for at the expense of the state, and if permanently disabled shall receive the like pension or reward that persons under similar circumstances receive from the United States: *Provided*, That no pension shall be granted for any disability received while in the service of the United States, or while proceeding to or returning from such service. Before the name of any person is placed upon the pension roll under this article, proof shall be made, under such regulations as the commander-in-chief may from time to time prescribe, that the applicant is entitled to such pension.

ARTICLE IX.

MILITARY DUTY REQUIRED.

SEC. 98. Drills and parades.

99. Disobedience and interruptions.

100. Camp and field duty.

101. State camp grounds.

102. Warning for duty.

103. Not subject to arrest while on duty.

104. Discharge from employment prohibited.

SEC. 98 [73]. *Drills and parades.* Each and every company organized under the provisions of this act shall meet at least once in each month for drill and inspection. In addition to such drills the commanding officer of any organization may require the officers and enlisted men of his organization to meet for drills and instruction at such times and places as he may appoint. There shall be three

annual parades, one on the 22d of February, one on Memorial day and one on the 4th of July.

SEC. 99 [74]. *Disobedience and interruptions.* The commanding officer at any drill, parade or encampment may cause those under his command to perform any military duty he shall require, and may place in arrest for the time of such drill, parade or encampment, any officer or enlisted man who shall disobey the orders of his superior officer, or in any way interrupt the exercises, and any other person or persons who shall trespass on the camp grounds, parade ground or armory, or in any way or manner interrupt or molest the orderly discharge of duty of those under arms, or who shall disturb or prevent the passage of troops going to or returning from any regularly ordered parade or encampment; and may prohibit and prevent the sale or use of all spirituous liquors, wines, ale or beer, or holding of huckster or auction sales, and all gambling, and remove disorderly persons within the limit of such parade or encampment, or within the limits not exceeding one mile therefrom, as he may prescribe; and he may, in his discretion, abate as common nuisances all disorderly places, and all such sales of liquors, wine, ale or beer, huckster or auction sales, within such limits. Any person violating any of the provisions of this section, or any order issued to carry out the provisions hereof, shall be guilty of a misdemeanor, and may be delivered, at the termination of such drill, parade or encampment, to any peace officer, and shall be brought before the nearest court of competent jurisdiction for trial, and upon conviction shall be fined not more than one hundred dollars, or imprisoned not more than thirty days, or both such fine and imprisonment. No parade of the national guard shall be ordered on any day during which a general election shall be held, except in case of riot, invasion or insurrection, or imminent danger thereof. And if any officer shall order any such parade he shall forfeit to the State of Washington the sum of one hundred dollars.

SEC. 100 [75]. *Camp and field duty.* The commander-in-chief may cause the national guard, or such portion of it as he may direct, to perform at least five consecutive

days, in each year, of camp duty, field maneuvers or such other duty as in his judgment will best promote the discipline and efficiency of the force. There shall be no brigade encampment oftener than once in two years, unless upon request as herein provided, and it shall not continue for more than twelve days. During such camp or other duty, there shall be made by the inspector general, or his assistants, a muster and inspection of the troops and of the arms and equipments and other property. In addition to the above, inspections may be ordered by the commander-in-chief at any time: *Provided*, That on all camp and field duty, no female or other citizen shall be allowed within the limits of the camp after retreat without permission of the commander-in-chief. Upon the request of the commanding officer of any organization of the national guard, the commander-in-chief may order such organization upon camp, field or other duty not exceeding twelve days in each year, and for such camp or other duty there shall be allowed at the expense of the state, the necessary transportation and subsistence for men and horses, and other expenses for such duty, but without the per diem pay. While on such duty or ordered thereupon, such force shall in all respects be subject to the provisions of the law and regulations governing the national guard on other camp or field duty.

SEC. 101 [76]. *State camp grounds.* All encampments shall be held at such places and at such time as may be ordered by the commander-in-chief. Such grounds may be selected by the brigadier general, quartermaster general and surgeon general, subject to the approval of the commander-in-chief, and rented and paid for by the state. The auditor is hereby authorized and empowered to draw his warrant upon the state treasurer, against the military fund, upon the certificate of the board of military auditors, for such sums as shall be required in renting and in laying out and preparing grounds designated for such purposes, and in furnishing quarters for troops ordered into camp, and for all necessary disbursements, and for the pay, transportation and subsistence of such troops.

SEC. 102 [77]. *Warning for duty.* Orders for duty

may be oral or written. Officers and enlisted men may be warned for duty as follows: Either by stating the substance of the order, or by reading the order to the persons warned, or by delivering a copy of such order to such person, or by leaving a copy of such order at the last known place of abode or business of such man, with some person of suitable age and discretion, or by sending a copy of such order or notice containing the substance thereof, to such man by mail, directed to him at his last known place of abode or business, or a postoffice nearest thereto. Orders may be transmitted by telegraph also. Such warning may be given by any officer or enlisted man. The officer or enlisted man giving such warning shall, when required, make a return thereof, containing the names of persons warned and the time, place and manner of warning. Such returns shall be verified by oath and shall be *prima facie* evidence, on the trial of any person returned as a delinquent, of the facts therein stated.

SEC. 103 [78]. *Not subject to arrest while on duty.* No person belonging to the military force of this state shall be arrested under any civil process while going to, remaining at, or returning from any place at which he may be required to attend for military duty. Any portion of the national guard parading, or performing any duty according to law, shall have the right-of-way in any street or highway through which they may pass: *Provided*, The carriage of the United States mail or the legitimate functions of the police and the progress and operations of fire engines and fire departments shall not be interfered with thereby; and while on field duty shall have the right to enter upon, cross or occupy any uninclosed lands, or any inclosed lands where no damage will be caused thereby. Any person belonging to the military forces of the state going to or returning from any parades, encampments, drill or meeting, which may be required by law to attend, shall, together with his conveyance and the military property of the state, be allowed to pass free through all toll gates and over all toll bridges and ferries.

SEC. 104 [79]. *Discharge from employment prohibited.* No member of the national guard shall be discharged by

his employer by reason of the performance of any duties which he may be ordered upon. When any member of the national guard is ordered upon duty which takes him from his employment, upon the termination of such duty, if the same shall not continue for a longer period than three months, he may apply to be restored to his position or employment. Any employer, or the officer or other manager of any corporation, having authority to employ, who fails or refuses so to do, or violates any of the provisions of this act, shall be guilty of a misdemeanor, and on conviction shall be fined in a sum not exceeding one hundred dollars, or imprisonment not more than thirty days, or both such fine and imprisonment.

ARTICLE X.

INSURRECTION, INVASION, BREACH OF THE PEACE.

SEC. 110. Governor may order out the militia.

111. Commanding officer's power to order out.

112. Increase of force.

113. Drafts.

114. Failure to attend, deserter.

115. Term of service one year.

SEC. 110 [80]. *Governor may order out militia.* The commander-in-chief shall have power in case of insurrection, invasion, tumult, riot or breach of the peace, or imminent danger thereof, resistance to process, or in aid of the civil authorities, to order into the active service of the state the national guard, or any part thereof, or the reserve militia, that he may deem proper; and all the members thereof who shall be ordered out by any proper authority for such services shall not be subject to arrest nor liable, civilly or criminally, for any act or acts done by them in pursuance of orders from their commanding officers.

SEC. 111 [81]. *Commanding officer's power to order out.* In case of insurrection or invasion, or imminent danger thereof, within the limits of any command, the senior commanding officer of such command, if the exigency should be such that the commander-in-chief cannot be first communicated with, shall order out for the defense of the state the national guard, or any part thereof, under his command, and immediately report what he has done and the

circumstances of the case to the commander-in-chief. In case of any breach of the peace, tumult or resistance to process of this state, or imminent danger thereof, any sheriff of any county, or mayor of any city or town, may call for aid upon the commander-in-chief, or, if the exigencies are such that the commander-in-chief cannot first be communicated with, upon the senior commanding officer of the national guard stationed therein or adjacent thereto. The call shall be in writing, and shall set forth the grounds therefor. The commanding officer upon whom the call is made shall order out in aid of the civil authorities the military forces, or any part thereof, under his command, and shall immediately report what he has done and all circumstances of the case to the commander-in-chief: *Provided*, The circumstances are such and the urgency so great that the commander-in-chief cannot be first communicated with.

SEC. 112 [82]. *Increase of force.* In case of war, insurrection, invasion, riot, or imminent danger thereof, or any forcible obstruction to the execution of the laws, or reasonable apprehension thereof, the governor, if he deems the organized national guard insufficient to defend the state or to aid the civil authorities and enforce the laws, may, in his discretion, either call for volunteer recruits to fill the companies of the national guard to the maximum strength, or authorize the temporary organization of volunteer companies, or he may do both; and he shall have full power to increase and reorganize the national guard in any other manner as the exigencies of the occasion may require. Such temporary, volunteer or increased forces shall be discharged when directed by the commander-in-chief as soon as the exigency for which they were required has passed, and while in such service they shall be subject to the same discipline and penalties and receive the same pay as the regular national guard.

SEC. 113 [83]. *Drafts.* Whenever it shall be necessary to call out any portion of the reserve militia for active duty the commander-in-chief shall direct his orders to the senior officers of the nearest organized forces to the point of disturbance, who, upon receipt of the same, shall forthwith proceed to draft as many of the enrolled militia in

his county, or accept as many volunteers, as are required by the commander-in-chief, and shall forthwith forward to the commander-in-chief a list of the persons so drafted or accepted as volunteers.

SEC. 114 [84]. *Failure to attend, deserter.* Every member of the enrolled militia ordered out, or who volunteers or is drafted under the provisions of this article, who does not appear at the time and place designated by the officer, or who has not some able bodied and proper substitute at such time and place within twenty-four hours from such time, or who does not produce his sworn certificate of physical disability from a physician of good standing to so appear, shall be taken to be a deserter and dealt with as prescribed in the articles of war of the United States.

SEC. 115 [85]. *Term of service, one year.* The portion of the enrolled militia so accepted shall be immediately mustered into the service of the state for such period as the commander-in-chief may direct, not exceeding one year, and shall be organized into troops, batteries or companies which may be arranged in battalions or regiments, or assigned to organizations of the national guard already existing. The commander-in-chief is authorized and empowered to appoint the officers necessary to commence and complete any organization thus created. Such new organization shall be equipped, disciplined and governed and paid according to the laws for the government of the national guard.

ARTICLE XI.

ASSOCIATION AND INCORPORATION.

SEC. 122. Field, staff and line officers and members of companies may form by-laws.

123. Incorporation of companies.

124. Disbandment.

SEC. 122 [86]. *Field, staff and line officers and members of companies may form by-laws.* The field, staff and company officers of any regiment, or battalion not a part of a regiment, and the members of any troop, battery, company or signal corps, may organize themselves into an association or associations, of which the commanding officer shall be president, and by a vote of two-thirds of all their

members, form by-laws, rules and regulations, not inconsistent with this act, and which shall conform to the system prescribed in general regulations, and be submitted to the judge advocate general for his approval, and when approved by him, such by-laws, rules and regulations shall be binding upon all commissioned officers and enlisted men therein, but they may be altered in the manner provided for their adoption from time to time, as may be found necessary.

SEC. 123 [87]. *Incorporation of companies.* The officers of any regiment or battalion with the members of any military company or companies, where more than one company is stationed in the same city or town, of the national guard, may be incorporated for the purpose of renting, purchasing or erecting and constructing an armory or other edifice or hall to be used by them. Any company or companies with the officers of the national guard stationed in the same city or town, desirous of incorporating, shall adopt articles of incorporation, certifying—The designation of the company or companies and the names and official titles of the officers concerned, and their having associated to form a body politic. The corporate name and location of the chief place of business. If to be a joint stock company, the amount of capital stock and amount constituting a share, or, if not a stock company, shall set forth the manner of admission to membership in the corporation; a full statement of their object and purpose as a corporation; what officers the company will have; by what officers business will be conducted, and when and how they are to be elected or appointed; the number of trustees for the first six months of its existence, and the time of its existence, not to exceed fifty years. Which articles shall be subscribed to by all the military officers joining therein, and sworn to by their president or secretary, and filed with the county auditor and secretary of state, as articles of incorporation of other companies. When so incorporated such company or companies shall be a body politic and corporate, by the name expressed in its articles of incorporation, and by that name it shall have succession and may sue and be sued, may lease, purchase, take, receive, hold and enjoy

to itself and its successors, estates, real and personal, and may mortgage, lease and sell the same, and it may have a common seal which may be changed or altered at pleasure, may adopt by-laws and amend its articles of incorporation, and it shall have the general powers conferred upon private corporations, by the laws of this state, for carrying out the purposes of its incorporation.

SEC. 124 [88]. *Disbandment.* The dissolution or disbandment of any such company or companies as a military organization shall not operate to terminate the existence of the corporation, but the existence of the same may continue for the period limited in its articles of incorporation for the benefit of such corporation.

ARTICLE XII.

MILITARY COURTS.

SEC. 131. Officers' power to administer oath.

132. Military courts.

133. Courts of inquiry.

134. General and garrison courts martial.

135. Delinquency courts for officers.

136. Delinquency courts for enlisted men.

137. Oath.

138. Organization.

139. Procedure.

140. Counsel.

141. Secrecy.

142. Attendance of witnesses.

143. Power to preserve order.

144. Contempts.

145. Summons to delinquents.

146. Charges to be served.

147. Sentence.

148. Officer ordering may disapprove.

149. Forms.

150. Payment of fines.

151. Offenses for officers.

152. Fines for officers.

153. Return of delinquents.

154. Offenses of enlisted men.

155. Fines.

156. Excuses.

157. Payment of fines.

158. Sheriff to execute process.

159. Collection of fines.

160. Levy.

161. Dishonorable discharge.

SEC. 162. Collection of fines under by-laws.

163. Fines paid to state treasurer.

164. No action against members of military court.

SEC. 131 [89]. *Officers' power to administer oath.* All commissioned officers of the national guard shall have power to administer oaths and affirmations in all matters pertaining to or concerning the military service, but in no case shall they charge any fee therefor. Any person who shall falsely swear or affirm to any oath or affirmation so administered shall, upon trial and conviction, be deemed guilty of perjury and sentenced for such offense as is now prescribed by law.

SEC. 132 [90]. *Military courts.* The military courts of this state shall be: 1. General courts martial. 2. Garrison courts martial. 3. Delinquency courts, which are of two kinds, (*a*) for officers, (*b*) for enlisted men.

SEC. 134 [91]. *General and garrison courts martial.* General courts martial shall be ordered by the commander-in-chief and shall consist of five officers, any three of whom shall constitute a quorum, but whenever possible a majority of the court must be of a grade at least equal to that of the accused. Garrison courts martial for the trial of military offenses committed by enlisted men when subject to the articles of war, may be appointed by the officer thereunto authorized by such articles, and shall possess the jurisdiction and power to punish exercisable by such courts thereunder. Such court shall consist of three officers, and the oaths of members, the organization of the courts, its procedure and the record of its proceedings shall be in the form prescribed for that of general courts martial convened under this act.

SEC. 135 [92]. *Delinquency courts for officers.* The commander-in-chief shall order or cause to be ordered delinquency courts for the trial of commissioned officers below the rank of brigadier general for delinquencies reported. Such courts shall consist of three officers of at least equal grade with the accused, if possible. The proceedings and sentence of such court shall without delay be delivered to the commander-in-chief or to such officer as he may cause to order such court, who shall approve or disapprove the

same within fifteen days thereafter, and shall notify the delinquent of his approval or disapproval thereof, and from the sentence of such court imposing a fine or penalty for any delinquency, the person tried may appeal to the commander-in-chief or other person ordering the court, within twenty days after notification of the fine or penalty, and the commander-in-chief, or in case such court shall be ordered by any other officer under his direction, then the officer ordering such court may remit or mitigate such fine or penalty.

SEC. 136. [93]. *Delinquency courts for enlisted men.* The commanding officer of each regiment, or battalion not part of a regiment, may appoint a delinquency court, to consist of one commissioned officer of his command, for the trial of enlisted men of his command. The commanding officer of each brigade may, in like manner, appoint a delinquency court or delinquency courts, for the trial of enlisted men in such troops, batteries, separate companies and signal corps as are under his direct command, and shall designate the organizations over which each court shall have jurisdiction. The commander-in-chief may, in like manner, appoint a delinquency court or delinquency courts for the trial of enlisted men of any organization or organizations not herein provided for. Any officer so detailed may be relieved from the duties of such court at any time by the officer appointing him, or his successor in office, and another detailed as such court. Proceedings pending before such court shall not abate or be suspended by reason of such relief and new detail, and any officer so detailed shall have full power to do and perform all acts necessary to complete any proceeding pending before the court to which he was appointed, and to carry into effect any judgment, mandate, order or process made or issued by such court previous to such relief and new detail. A delinquency court so appointed shall be permanent and continuous. Its sessions shall be held at such time and in such places as may be most convenient for the prompt disposition of the business of the court within the discretion of the officer constituting the same. The officer constituting such court may appoint and at any time remove a

clerk thereof, who shall receive a reasonable compensation while on duty, to be fixed by such officer, with the approval of the officer appointing the court. It shall be the duty of the commanding officer of every regiment or battalion, every company attached to a regiment or battalion, and of every battery, troop, separate company, signal corps or hospital and ambulance corps to make return to the delinquency court appointed for or having jurisdiction over the enlisted men of his command, as herein provided, of all delinquents in his command, whereupon such delinquents must be forthwith summoned to appear before such delinquency court at the time and place designated in the summons. The proceedings and sentence of such court shall, from time to time, as may be convenient for the prompt disposition of its business, be delivered to the officer ordering the court or his successor in command, who shall approve or disapprove the same within fifteen days thereafter, and shall notify the delinquent of his approval or disapproval thereof, and from the sentence of any such court imposing a fine or penalty for any delinquency the person tried may appeal within ten days after the notification of the fine or penalty to the officer ordering the court or his successor in command, who may remit or mitigate such penalty or fine.

SEC. 137 [94]. *Oath.* Before entering upon his duties each member of a delinquency court shall take an oath of office to the effect that he will well and truly try and determine, according to the evidence, all matters between the State of Washington and any person or persons who shall come before the court to which he is appointed. The oath need not be administered but once. It may be taken before any officer authorized by law to take acknowledgments of deeds, or before any commissioned officer of the national guard, all of whom shall administer the oath without fee. When the court is composed of three officers the junior may administer the oath to the senior member, who in turn may administer it to the other members.

SEC. 138 [95]. *Organization.* The president of every military court shall be a member of the court highest in grade and rank. Whenever any military court consists of

one person he shall be deemed the president thereof within the meaning of this act. In the absence of the president of any military court the senior officer present shall preside, with all the powers of the president. All members of such court shall, when on duty, be in uniform. The court may sit without regard to hours, and may adjourn from time to time, as may be necessary for the transaction of business. Any vacancy in any military court may be filled by the officer who ordered the court or his successor in command.

SEC. 139 [96]. *Procedure.* Challenges to the court, the arraignment of the accused, the proceeding, trial, record and form of appeal shall in all respects, except as otherwise specially provided herein or in the regulations hereunder, conform to the law and procedure of the courts martial of the United States. After the challenges, if any, have been made and determined the president of the court or the judge advocate shall administer the oath to the members of the court, and the oath shall be administered to him in turn by one of the sworn members. The oath shall be administered in the presence of the accused unless, after due notice, he fails to appear, and in case of a general court martial each member shall take an oath to the effect that he will faithfully try and determine, according to evidence, the matter before him between the State of Washington and the prisoner to be tried, and that he will duly administer justice according to the established rules of law for the government of the military forces of the state, and the judge advocate shall take an oath to the effect that he will faithfully discharge the duties of judge advocate of such court according to the established rules of law for the government of the military forces of the state. No challenges shall be allowed in delinquency courts, and the member or members of any delinquency court need not be sworn in the presence of the delinquents.

SEC. 140 [97]. *Counsel.* In courts of inquiry and general courts martial, a judge advocate shall attend. In delinquency courts and in garrison courts martial, the services of a judge advocate may be dispensed with, and in garrison courts martial a member of the court may be designated

to act as its recorder. In all the courts provided by this act the accused shall have the right to appear and be heard by counsel.

SEC. 141 [98]. *Secrecy.* The members and judge advocates of military courts, except delinquency courts, shall keep secret the proceedings and sentence of the court until the same shall have been approved or disapproved by the proper officer, and shall always keep secret the vote and opinion of any member of the court, unless required to give evidence thereof by a court of justice.

SEC. 142 [99]. *Attendance of witnesses.* The president or the judge advocate of any military court, both before and after being sworn, may issue subpoenas for witnesses whose attendance at such court may be necessary in behalf of the state, and on application, for all witnesses in behalf of any person charged or accused or returned as delinquent, and may direct the commanding officer of any organization to cause such subpoena to be served on any member of his command. Subpoenas shall be served and proof thereof made, as provided by law in civil actions. The president of a military court may, upon proof of service of a subpoena, issue attachments to compel the attendance of witnesses. Such attachment shall be served in the same manner as in civil cases in courts of record. The person so attached for non-attendance shall pay the fees for such service, besides the penalty provided, unless he satisfies the court that his failure to attend was excusable. The court may issue execution for such fees which shall be levied as other executions. Every witness not appearing in obedience to such subpoena when duly served personally with a copy of the same and not having sufficient excuse, shall forfeit to the state the sum of twenty-five dollars. The president of such court shall from time to time report to the judge advocate general the names of all such delinquent witnesses, together with the names and places of residence of the persons serving such subpoenas, and such judge advocate general may sue for and recover such penalties, in the name of the state, in any court of competent jurisdiction.

SEC. 143 [100]. *Power to preserve order.* The president

or the judge advocate of every military court shall have the power to administer the usual oath to witnesses, and the president shall have the same power to preserve order, to compel witnesses to be sworn and testify, and to have the testimony of such witnesses as cannot be reasonably produced at the trial taken by commission as civil courts of record.

SEC. 144 [101]. *Contempts.* Any person who shall be guilty of disorderly, contemptuous or insolent behavior in, or use any insulting or contemptuous or indecorous language or expressions to, or before, any military court or any member of either of such courts in open court, intending to interrupt the proceedings or to impair the authority of such courts, may be committed to the jail of the county in which such court shall sit, by warrant under the hand of the president of the court. The warrant shall be directed to the sheriff or any constable of any such county, and shall briefly state the offense adjudged to have been committed, and shall command the officer to whom it is directed to take the body of such person and commit him to the jail of the county, there to remain without bail 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, if any, be paid. Such sheriff shall obey such warrant and keep the person committed thereby until the expiration of the time mentioned in the warrant, and until the officer's and jailer's fees be paid, or until the offender shall be discharged by due course of law, unless sooner discharged by a judge of a court of record, in the same manner and under the same rules as in cases of imprisonment under process of contempt from a civil court of record.

SEC. 145 [102]. *Summons to delinquents.* The president of delinquency court shall designate a fit person or persons to summon all delinquents to appear before the court. Such person or persons must be a citizen of the State of Washington, above the age of twenty-one years, and the service shall be made by delivering to and leaving with each delinquent a copy thereof, or by leaving a copy at his last known place of abode or business, or in towns

or cities in which there is a postal delivery, by mailing to him a copy directed to his last known place of abode or business.

SEC. 146 [103]. *Charges to be served.* When an officer or enlisted man is put in arrest for the purpose of trial, a copy of the charges and specifications, upon which he is to be tried, shall be delivered to him or left at his last known place of abode or business within twenty days after arrest, and a court shall be ordered for his trial within thirty days after the notice of arrest is received by the officer authorized to order the court. If a copy of the charges and specifications be not served or a court be not ordered within the time herein limited, the arrest shall cease, but such charges and specifications may be served, a court ordered and the officer or enlisted man be brought to trial within twelve months after such release from arrest. The appearance of the accused, without objection, and pleading to the charges, shall be deemed a waiver of any defect or irregularity of such service or any of the papers mentioned in this section.

SEC. 147 [104]. *Sentence.* The record of the proceedings and sentence of every court martial shall, without delay, be delivered to the officer ordering the court, or to his successor in command, who shall approve or disapprove the same. The sentence of the court as approved or modified shall be published in orders.

SEC. 148 [105]. *Officer ordering may disapprove.* Every officer authorized to approve or disapprove the proceedings and sentences of a court martial is authorized to re-convene the court and send back its findings and sentence, or either of them, for revision, and to remit, commute or mitigate any punishment awarded by the court.

SEC. 149 [106]. *Forms.* The form of summons issued by delinquency courts provided by this article shall be substantially as follows, the blanks being properly filled up:

SUMMONS.

THE STATE OF WASHINGTON, TO, GREETING:

You are hereby summoned and required personally to be and appear before a delinquency court for the trial of

....., which will meet pursuant to the laws of the State of Washington, at, on the day of, 1....., at o'clock ... M., by virtue of orders No....., from headquarters N. G. W., to answer for the following delinquencies and fines for offenses against regimental, battalion, troop, battery, company, or signal corps (as the case may be), by-laws, rules and regulations, and dues, as follows, that is to say, with being absent from (stating the parade, drill, or other duty for which the accused is charged with absence, or other delinquency).

Fines for offenses against the by-laws, rules and regulations of regiment, battalion, troop, battery, company or signal corps (as the case may be).

\$.....

Dues, \$.....

Dated at, 1.....

(Signature and rank of presiding officer.)

N. G. W.,

President of the court.

An affidavit shall be attached to such summons showing the time, place and manner of service thereof, which may be made before any officer authorized to administer oaths, and no person shall receive any fee for taking such affidavit. The judgment roll shall consist of the summons and affidavit of service thereof, and the judgment of the court, which shall be in form substantially as follows, the blanks being properly filled up:

THE STATE OF WASHINGTON,
against

.....
An (or a) in (stating the organization of which the accused is an officer or enlisted man) National Guard of the State of Washington.

Whereas, the said having been duly served with the annexed summons to personally be and appear before the court, as required by law, to make answer to the charges therein specified; and the said (stating whether the accused did or did not appear).

And it satisfactorily appearing that the said is and was an (or a) at the aforesaid dates, of the

National Guard of the State of Washington, and that he was and is subject to the jurisdiction of the court; and it duly appearing that he had been duly notified to perform the duty, for neglect whereof he was returned as delinquent; and, after due deliberation of evidence offered by the state and the delinquent, the court finds and adjudges the said guilty of the following named delinquencies, and does sentence him, the said, to pay a fine therefor as follows: (stating each delinquency as set forth in the summons and findings of the court thereon).

Fines for offenses against the by-laws, rules and regulations of regiment, battalion, troop, battery, company or signal corps (as the case may be).

\$

Dues, \$

Making a total fine of dollars.

(Signed),

(Rank), N. G. W.,

President of the court.

The warrant issued for the purpose of collecting the fines and penalties imposed by this act shall be substantially in the following form, blanks being properly filled up:

The State of Washington: To the marshals of the court below mentioned, duly appointed according to law, and to any sheriff, marshal, deputy marshal or constable to whom these presents shall come, greeting:

Whereas, pursuant to the laws of the State of Washington, by an order duly issued by (name and rank of the officer ordering court) of the National Guard of the State of Washington, and dated on the day of, 18...., court was duly appointed for (state object of court); and,

Whereas, the said court was duly and regularly convened, and was from time to time duly adjourned; and,

Whereas, (name and rank of accused), in (organization) of the National Guard of the State of Washington, was duly and regularly returned to said court, as required by law, charged with (state whether accused was charged with delinquencies, or offenses against the

military code, without specifying character thereof), as appears by (either summons or charges and specifications, as the case may be), duly filed with said court, and was duly summoned and notified to appear before said court, and it satisfactorily appearing to the court that such was and is an of the National Guard of the State of Washington, and subject to the jurisdiction of the court, and, after the deliberation of the evidence offered by the people and the accused, the court did find and adjudge the said (state finding), and did sentence him to pay a fine of dollars, and did also sentence him to pay for fines for offenses against the by-laws, rules and regulations of the said (regiment, battalion, troop, battery, company or signal corps, as the case may be) of dollars, and dues of dollars, making a total fine of dollars; and,

Whereas, the proceedings, findings and sentences of such court were thereafter duly approved by, the officer ordering said court:

These presents are, therefore, to command you to levy and collect said fines, together with the sum of dollars, being your costs, according to law, of the goods and chattels of, and in default of sufficient goods and chattels of such to satisfy the same, then to take the body of such delinquent and convey him to the common jail of county, and deliver him to the jailer thereof; and the said jailer is hereby directed and required to receive the body of such conveyed to such jail as aforesaid, and to keep such closely confined in the manner and during the time required by law, and until discharged according to law, for which this shall be his warrant; and of your doings by virtue thereof to make return to me within forty days after the execution of these presents.

Given under my hand at, State of Washington, on the day of, 18....

(Signature)

(Rank and organization of presiding officer), N. G. W.,

President of said court.

The papers constituting the judgment roll and the war-

rant shall each and all be *prima facie* evidence of the facts therein, or therein stated, before all courts. The jurisdiction of the courts established by this article shall be presumed, and the burden of proof shall rest with the person seeking to oust any such court of jurisdiction in any matter or proceeding.

SEC. 150 [107]. *Payment of fines.* Fines for delinquencies may be paid to the court at any session of the court, and in all such cases the president of the court shall record the fact in the proceedings delivered to the officer ordering the court. The officer hearing any appeal may, in his discretion, receive such further evidence as the nature of the case may require, and for that purpose he shall have power to administer oaths to witnesses produced before him and order testimony of such witnesses as cannot be reasonably produced at the hearing of such appeal, to be taken by commission as in courts of record.

SEC. 151 [108]. *Offenses for officers.* Commissioned officers may be tried by general court martial for the following offenses:

1. For unmilitary or unofficer-like conduct, or for cowardice.
2. For drunkenness on duty.
3. For neglect of duty.
4. For disobedience of orders or any act contrary to the provisions of this act, or to the provisions of the regulations for the government of the national guard.
5. For refusing to grant a discharge to an enlisted man when entitled to the same.
6. For gross oppression or injury of any one under his command.
7. For a combination or attempt to break, resist or evade the laws or lawful orders given to any person, or advising any person so to do.
8. For insult to a superior officer in the line of military duty.
9. For neglect or refusal, when commanding officer, to order out the troops under his command when required by law or lawfully ordered by his superior officer.

10. For presuming to exercise his command while under arrest or suspension.

11. For neglect or refusal to make a draft or detachment when lawfully ordered to do so.

12. For parading the troops under his command on days of election contrary to law.

13. For receiving any fee or gratuity for any certificate.

14. For neglect when detailed to drill or instruct a command, to make complaint for neglect or violation of any duty as provided by law, and for any other neglect for which a commanding officer would be liable.

15. For neglect or refusal to march, to make a draft, or for disobedience to an order in case of rebellion or insurrection, as provided by law.

16. For refusal or neglect to obey a precept or order to call out the national guard or militia, or an order issued in obedience thereto, or for advising any officer or soldier to do the like.

17. For making a false certificate, account, or muster, or parade return.

18. For conduct unbecoming an officer and a gentleman, or for conduct to the prejudice of good order and military discipline.

On conviction of any of the above named offenses, such officer may be sentenced to be cashiered, and shall thereby become disfranchised and incapacitated from holding any military commission or any office in the state, or fined to any amount not exceeding one hundred dollars, or by imprisonment in the county jail for a period not exceeding one year, or reprimanded, or to all or either of such fines and penalties. The commander-in-chief may mitigate the penalty in the order of dismissal if in his judgment there are extenuating circumstances to justify so doing.

SEC. 152 [109]. *Fines of officers.* Commissioned officers may be fined by delinquency courts for non-attendance without excuse at any drill, parade, encampment, meeting for instruction or other duty ordered by competent authority, not more than ten dollars for each day of such non-attendance or delinquency. Absence for a day or any part thereof shall constitute a delinquency.

SEC. 153 [110]. *Return of delinquents.* The commanding officer of each brigade, regiment, battalion, not a part of a regiment, troop, battery and separate company, shall, on or before May 15th and November 15th in each year, return to the adjutant general the names of all commissioned officers absent without excuse, and not on leave of absence, from any parade, encampment, drill or meeting for instruction during the preceding six months. It shall not be necessary to cause the arrest of such absentee, nor to serve any charges, but the delinquent may be fined pursuant to the provisions of this act.

SEC. 154 [111]. *Offenses of enlisted men.* Enlisted men may be tried by a general courts martial for the following offenses, and if found guilty, punished as follows:

1. For disobedience of orders, six months in the penitentiary.
2. For disrespect to his superiors, three months in the penitentiary.
3. For mutiny, in penitentiary for one year.
4. For desertion, six months in penitentiary.
5. For drunkenness on duty, thirty days in county jail.
6. For conduct prejudicial to good order and military discipline, thirty days in county jail.
7. For any act contrary to the military code or to the provisions of the regulations for the government of the national guard or to the by-laws of the organization to which he belongs, except for the non-payment of dues and fines, thirty days in the county jail.

On conviction such enlisted men may, in addition to the punishment above prescribed, be sentenced to be dishonorably discharged; if a non-commissioned officer, reduced to the ranks or dishonorably discharged or fined to an amount not exceeding fifty dollars, or all or either of such fines and penalties.

SEC. 155 [112]. *Fines.* Enlisted men who shall, without proper excuse, be absent from, or in any other respect be delinquent at any drill, parade, encampment, meeting for instruction, or other duty ordered by competent authority or prescribed by the by-laws of any company, may be fined by a delinquency court for the enlisted men not

more than five dollars nor less than one dollar for each day thereof for such absence or other delinquency. Such fines when collected shall be paid over to the treasurer of the organization of which the delinquent is a member.

SEC. 156 [113]. *Excuses.* The officer ordering any military duty shall have the power to excuse any officer or enlisted man for absence therefrom, upon good and sufficient grounds. Commanding officers of troops, batteries, companies and signal corps shall make a return within five days after any parade or encampment, of all enlisted men absent, without excuse, from the same, to their next superiors in command.

SEC. 157 [114]. *Payment of fines.* Any officer or enlisted man fined in any military court may, at any time within twenty days from the day when such fine was imposed, pay the amount thereof to the president of the court.

SEC. 158 [115]. *Sheriff to execute process.* The president of any court martial or delinquency court may designate any sheriff or a constable to execute the process and orders of the court; and the sheriff or constable so designated shall, when required, not only perform the usual duties as such officers, but shall also execute any process, mandate or order lawfully issued by such president or court, and perform all acts and duties by this act imposed or authorized to be performed by any sheriff or constable. Any sheriff or constable who refuses to execute the lawful process or orders of such courts shall forfeit his office and may be fined not exceeding one thousand dollars. He may be prosecuted in any court of competent jurisdiction, by the judge advocate general or any officer of his department.

SEC. 159 [116]. *Collection of fines.* For the purpose of collecting any fines or penalties imposed by any court martial or delinquency court, the president of the court shall, within twenty days after the expiration of the time in which an appeal is allowed, if such fines and penalties have been approved, issue a warrant or warrants for the collection of such fines and penalties as remain unpaid. No property shall be exempt from the payment of such fines and penalties. In default of sufficient personal prop-

erty to satisfy the same, the officer executing the same shall take the body of the delinquent and convey him to the common jail of the city or county in which he may be found, whose jailer shall closely confine him without bail for two days for any fine or penalty not exceeding two dollars, and two additional days for every dollar above that sum, unless the fine or penalty, together with the costs and jailer's fees, be sooner paid. No such imprisonment shall extend beyond the period of twenty days, and the prisoner may be liberated at any time by the order of the officer who ordered the court that imposed the fines or penalties.

SEC. 160 [117]. *Levy.* Any officer to whom any warrant shall be directed and delivered shall execute the same by levying and collecting the fines or penalties within forty days from the receipt of such warrant, and make return thereof to the officer who issued the same. Any warrant for the collection of fines issued by virtue of this act may be renewed in the same manner that execution issued from justice's courts may by law be renewed.

SEC. 161 [118]. *Dishonorable discharge.* Enlisted men fined by a military court who shall neglect or refuse to pay such fine within forty days after the same was imposed may be dishonorably discharged from the service by the officer ordering the court. A dishonorable discharge shall disfranchise such person and disqualify him from holding any position in the national guard or from holding any office in this state. The officer, in the order of dishonorable discharge, may reduce or remit this penalty if in his judgment there are such extenuating circumstances as to justify so doing. The commander-in-chief shall have the like power at any time.

SEC. 162 [119]. *Collection of fines and dues under by-laws.* When a certified copy of the proceedings relating to the infliction of any fine for offenses against the by-laws, rules and regulations of any association organized pursuant to this act, and dues not exceeding twenty-five dollars, with a copy of such by-laws, rules and regulations, has been returned to any delinquency court, such fine or dues may be enforced by such court in the same manner as a fine for

delinquency. Any such fine when collected shall be paid over to the treasurer of the organization of which the offender or delinquent is a member.

SEC. 163 [120]. *Fines paid to state treasurer.* All fines and penalties imposed by any military court upon any of the officers or enlisted men of the national guard, except as otherwise provided herein, shall be paid by the officer collecting the same to the treasurer of the state, and passed to the credit of the military fund.

SEC. 164 [121]. *No action against members of military court.* No action shall be maintained against any member of a military court, or officer or agent acting under its authority, on account of the imposition of a fine or penalty or for the execution of a sentence on any person.

ARTICLE XIII.

MISCELLANEOUS.

- SEC. 168. Ammunition for practice.
- 169. Prizes for rifle practice.
- 170. Articles of war, when govern.
- 171. Rules and regulations.
- 172. Custom and usage of the United States army.
- 173. Suit against officers.
- 174. Exempt from jury duty and poll tax.
- 175. Flags.
- 176. Revenue.
- 177. Military fund.
- 178. Repealing clause.

SEC. 168 [122]. *Ammunition for practice.* Upon the order of the commander-in-chief the adjutant general shall provide for and issue to the national guard for rifle and artillery practice such ammunition as may be necessary for the efficiency of the service, and he shall provide fully such conveniences for rifle practice for the national guard as shall be prescribed by the commander-in-chief to be paid as other military expenses.

SEC. 169 [123]. *Prizes for rifle practice.* The commander-in-chief is authorized to use annually the sum of one hundred fifty dollars to be given in prizes for the promotion and encouragement of rifle practice. Said sum shall be audited and paid as other military expenses, and shall be competed for under such regulations as shall be

prescribed by the commander-in-chief and general inspector of rifle practice.

SEC. 170 [124]. *Articles of war, when govern.* When any portion of the military forces of this state shall be on duty under or pursuant to the orders of the commander-in-chief, or whenever any part of the state forces shall be ordered to assemble for duty in time of war, insurrection, invasion, public danger, any breach of the peace, tumult, riot, resistance to process of this state, or imminent danger thereof, the rules and articles of war and general regulations for the government of the army of the United States, so far as they are applicable, and with such modifications as the commander-in-chief may prescribe, shall be considered in force and regarded as a part of this act until said forces shall be duly relieved from such duty. No punishment under such rules and articles which shall extend to the taking of life shall, in any case, be inflicted except in time of actual war, invasion or insurrection, declared by proclamation of the governor to exist, and then only after the approval of the commander-in-chief of the sentence inflicting such punishment.

SEC. 171 [125]. *Rules and regulations.* The commander-in-chief is hereby authorized to make such rules and regulations, from time to time, as he may deem expedient, but such rules and regulations shall conform to this act, and as nearly as practicable, to those governing the United States army, and when promulgated, shall have the same force and effect as the provisions of this act. But the rules and regulations in force at the time of the passage of this act shall remain in force, except as changed hereby, until new rules and regulations are approved and promulgated.

SEC. 172 [126]. *Custom and usage of the United States army.* All matters relating to the organization, discipline and government of the national guard, not otherwise provided for in this act or in the general regulations, shall be decided by the custom and usage of the United States army.

SEC. 173 [127]. *Suit against officers.* When a suit or proceeding shall be commenced in any court by any person against any military officer of the state, for any act done

by such officer in his official capacity in the discharge of any duty under this act, or against any person acting under the authority or order of any such officer, or by virtue of any warrant issued by him pursuant to law, the defendant may require the person prosecuting or instituting a suit or proceeding, to file security for the payment of costs that may be incurred by the defendant therein, and in case the plaintiff shall be non-suited, or have a verdict or judgment rendered against him, the defendant shall recover treble cost.

SEC. 174 [128]. *Exempt from jury duty and poll tax.* Every commissioned officer and every enlisted man of the national guard of this state shall be during his term of service exempt from all jury duty, if he claims it, and from the payment of poll tax.

SEC. 175 [129]. *Flags.* No flag but that of the United States and that of the State of Washington shall be carried by the national guard.

SEC. 176 [130]. *Revenue.* For the purpose of raising revenue for the national guard, there is hereby levied, and the proper officers shall collect, a tax of one-fifth of one mill upon all the property in the state subject to taxation for the present fiscal year and for each fiscal year hereafter.

SEC. 177 [131]. *Military fund.* The revenue raised under the provisions of this act shall be paid into the state treasury and be converted into a special military fund, from which special fund shall be paid the expenses authorized by this act, except as otherwise provided.

SEC. 178 [132]. From and after the passage of this act, the acts of the legislature of the State of Washington, entitled "An act to provide for the organization, maintenance and discipline of the militia of the State of Washington," approved March 27, 1890; "An act to amend an act entitled 'An act to provide for the organization, maintenance and discipline of the militia of the State of Washington,' approved March 27, 1890," approved March 10, 1893, be and the same are hereby repealed.

Passed the house March 8, 1895.

Passed the senate March 11, 1895.

Approved March 19, 1895.