

REVISED AND ANNOTATED

5325
CODE OF IOWA

CONTAINING
Moore & Hammon et al.
ALL THE STATUTES OF THE STATE OF IOWA

OF A GENERAL NATURE IN FORCE JULY 4, 1880, BEING THE CODE OF 1873, AS AMENDED
BY STATUTES PASSED BY THE FIFTEENTH, SIXTEENTH, SEVENTEENTH AND EIGH-
TEENTH GENERAL ASSEMBLIES, AND ALL THE GENERAL AND PERMANENT
STATUTES OF THOSE SESSIONS SUITABLY ARRANGED, TOGETHER
WITH FULL

NOTES OF THE DECISIONS OF THE SUPREME COURT

OF THE STATE UPON THE VARIOUS PROVISIONS AND
SUBJECTS OF THE STATUTE DOWN TO AND INCLUDING VOL. LI, IOWA REPORTS.
CONTAINING, ALSO, THE

RULES OF THE SUPREME COURT,

AND THE ORGANIC LAWS OF THE TERRITORY AND STATE.

AUTHORIZED AND MADE LEGAL EVIDENCE BY CHAP. 196, LAWS OF 1880.

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EX-CHIEF JUSTICE OF IOWA, AND AUTHOR OF "PLEADING AND PRACTICE."

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TITLE VIII.

OF THE MILITIA.

CHAPTER 1.

MILITARY CODE.

(Chapter 1 of this title was repealed by chapter 125, laws of 1878, and that chapter was repealed by chapter 74 of the laws of 1880.)

(CHAPTER 74, LAWS OF 1880.)

AN ACT to provide a military code, and for the organization, government and support of the state militia, and to repeal chapter 125, laws of the seventeenth general assembly.

Militia of the state.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa*, that all able-bodied male citizens of the state, between the ages of eighteen and forty-five years, who are not exempted from military duty according to the laws of the United States, shall constitute the military force of this state: *Provided*, that all persons who have served in the United States service, and have been honorably discharged therefrom, are exempt from duty under the military laws of the state; but nothing herein contained shall be construed to prohibit any person from becoming a member of any military organization, or holding any office in the militia of this state.

Honorably discharged soldiers exempt.

SEC. 2. Assessors in each township are required to make and return to the county auditor of their respective counties, at the time of making the annual assessment, a correct list of persons subject to military duty, which list may be revised and corrected by the board of supervisors, and the county auditor shall, in the month of June in each even numbered year, or at such other time as the governor may direct, certify to the adjutant-general a true copy of said list, and in each odd numbered year he shall certify to the number of names on said list.

Duties of assessors in taking list of militia.

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

Shall be ordered out when a requisition is made by the president.

- Uniform.** SEC. 27. The several regiments of the Iowa national guard shall adopt the present dress uniform of the army of the United States.
- Uniform of officers.** SEC. 28. The field, staff and line officers of the Iowa national guard shall provide themselves with the uniform prescribed for officers of the same rank in the United States army, within ninety days from the date of commission.
- Penalty for failing to return arms, etc., to armory.** SEC. 29. Every officer or soldier who shall willfully neglect to return to the armory of the company, or place in charge of the commanding officer of the company to which he belongs, any arms, uniform or equipment, or portion thereof, belonging to the state, within six days after being notified by said commanding officer to make such return, or to place the same in his charge, shall be fined not more than fifty dollars, or imprisoned not more than thirty days.
- Penalty for injuring military property.** SEC. 30. Every person who shall willfully or wantonly injure or destroy any uniform, arm, equipment, or other military property of the state, and refuse to make good such injury or loss, or who shall sell, dispose of, secrete, or remove the same, with intent to sell or dispose thereof, shall be fined not more than two hundred dollars, or imprisoned not more than six months, or both.
- Penalty for absence from drill.** SEC. 31. Every soldier absent without leave or sufficient excuse from any parade, drill or encampment, shall be fined two dollars (\$2) for each day of absence; and for any unsoldierly conduct at drill, parade or encampment he may be fined not more than ten dollars (\$10), such fines to be collected by civil suit; and all suits for the collection of fines shall be brought in the name of the state of Iowa, for the use of the company to which the soldier fined belongs; but in no case shall the state pay any costs of such suits. Nothing herein shall be construed to prevent any company or band imposing such fines upon its members as it may think proper in its by-laws, which fines may be enforced in the same manner as herein before provided for the collection of fines for absence from drill, parade or encampment.
- Appointment and duty of judge-advocate.** SEC. 32. A judge-advocate, with the rank of major, shall be appointed for each brigade, and hold office during the pleasure of the commander-in-chief, who shall perform the duties of such office in the court-martial held in his district; and no other person shall prosecute or defend in such courts; but when he shall be unable to attend, from any cause, or shall be disqualified by interest or relationship, the commander-in-chief may designate the judge-advocate of another brigade to act in his place.
- Trial by court-martial.** SEC. 33. Commissioned officers, for neglect of duty, disobedience of orders or unsoldierly or ungentlemanly conduct, may be tried by court-martial, provided that no sentence of any court-martial shall affect the life, liberty or property of any citizen of Iowa, according to the regulations provided in like cases in the army of the United States. The commander-in-chief, by order, shall designate the time and place of holding such courts, and the names of officers composing it, consisting of not less than three nor more than six. The senior officer named shall preside, and shall be of superior rank to the officer on trial, when practicable. Witnesses for the prosecution and defense may be summoned to attend by subpoena signed by the judge-advocate. Any witness, duly summoned, who shall fail to appear and testify may be, by warrant of the president of the court, directed to the sheriff or any constable, arrested and treated as in like cases before civil courts. The fees of all witnesses shall be the same as allowed in civil cases, to be taxed, with the necessary expenses of the judge-advocate and the court,
- Organization of court-martial.**
- Power to compel witnesses.**

by the president of the court, and paid by the state treasurer, on the auditor's warrant, to the judge-advocate, who shall pay all expenses of the trial, when received by him.

SEC. 34. The sentences of courts-martial shall be approved or disapproved by the commander-in-chief, who may mitigate or remit any punishment awarded by sentence of court-martial, when such sentence shall have been approved by the brigade commander. The record of all the proceedings and the sentence of a court-martial in every case, with the order approving or disapproving it, shall be deposited in the office of the adjutant-general.

Sentences of courts-martial.

SEC. 35. Every brigade and regimental commander in the Iowa national guard is hereby authorized to appoint a military board or commission, of not less than three nor more than five officers, whose duty it shall be to examine the capacity, qualifications, propriety of conduct and efficiency of any commissioned officer in his command, who may be reported to the board of commission; and upon the report of said board, if adverse to such officer, and if approved by the commander-in-chief, the commission of such officer shall be vacated: *Provided, always*, that no officer shall be eligible to sit on such board whose rank or promotion would in any way be affected by the proceedings: and two members, at least, shall be of equal or superior rank with the officer examined; and if any officer shall refuse to report himself, when directed, before such board, the commander-in-chief may, upon the report of such refusal by his commander, declare his commission vacated.

Military commission.

SEC. 36. It shall not be lawful for any body of men whatever, other than the regularly organized volunteer militia of this state and the troops of the United States, to associate themselves together as a military company or organization, or to drill or parade within the limits of this state without the license of the governor thereof, which license may at any time be revoked: *Provided*, that nothing herein contained shall be so construed as to prevent social or benevolent organizations from wearing swords.

Unlawful for other than regularly organized militia to organize.

Does not affect benevolent societies.

• SEC. 37. Every soldier of the Iowa national guard shall provide and keep himself provided with a uniform, according to the rules and regulations prescribed by law, and subject to such restrictions, limitations and alterations as the commander-in-chief may direct.

To provide a uniform.

SEC. 38. In lieu of uniforms being furnished in kind by the state, there shall annually be paid to each soldier having complied with section 37, the sum of four dollars, to be paid under such provisions as the commander-in-chief may direct, unless a majority of the members of a company prefer to own their uniforms, in which case there shall be no payment to the members of said company as herein contemplated, but the said uniforms shall be the property of the members of said company respectively furnishing the same; but in no event shall the state be liable for the payment of any money in lieu of uniforms or for any purpose contemplated by this act, unless such payment can be made without exceeding the annual appropriation provided for by this act.

Appropriation for uniforms.

SEC. 39. In all other cases except those provided for in the preceding section, all uniforms and other military property shall belong to the state and be used for military purposes only; and each soldier, upon receiving a discharge or otherwise leaving the military service of the state, or upon demand of his commanding officer, shall forthwith sur-

Uniforms belong to the state, when.