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GENERAL STATUTES

OF THE

STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE
THE STATUTES OF THE STATE, BY ACT OF THE
LEGISLATURE, PASSED FEBRUARY 17, 1863.

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CHAPTER XII.

MILITIA.

1 SECTION 1. All able-bodied, male citizens resident of
 2 this state, and all male persons resident therein who have
 3 declared their intention to become citizens of the United
 4 States, being eighteen years of age, and under the age of
 5 forty-five years, excepting persons exempt as hereinafter
 6 provided, shall be enrolled in the militia, and perform mil-
 7 itary duty in such manner, not incompatible with the con-
 8 stitution and laws of the United States, as hereinafter pre-
 9 scribed.

C. S. p. 738, Sect. 1. C120
Amended.

1 SECT. 2. The persons mentioned in this section are ab-
 2 solutely exempt from military duty, that is to say, besides
 3 persons absolutely exempt from military duty under the
 4 laws of the United States:

5 *First.*—All judges of any of the courts of record of the ^{Now.}
 6 state.

7 *Second.*—Ministers of the gospel of every denomination.

8 *Third.*—The warden, deputy warden, officers and guards
 9 of the state prison.

10 *Fourth.*—All acting members of any fire engine, hook
 11 and ladder, hose, or other company for the extinguishment
 12 of fires or the protection of property at fires, under the con-
 13 trol of the corporate authorities of any town, city or village
 14 in this state, during the time they continue such members;
 15 and all persons who have served as such members of any
 16 such company for the period of five years, are forever
 17 thereafter exempt as aforesaid. The certificate of the pre-
 18 sident or foreman of any such company, of such member-
 19 ship, shall be received by any officer as sufficient evidence
 20 thereof.

21 *Fifth.*—Every member of either of the religious denom-
 22 inations of quakers or shakers who shall, on or before the
 23 first day of May annually, produce to the enrolling officer
 24 a certificate signed by two or more of the elders or deacons
 25 and countersigned by the clerk of the society with which
 26 he meets for religious worship, in substance as follows:

27 We the subscribers, _____, of the society
 28 of the people called _____, in the town of _____,
 29 and county of _____, do hereby certify that
 30 _____ is a member of our society, and that he frequently and

31 usually attends religious worship with said society, and we
 32 believe he is religiously scrupulous against bearing arms.
 33 A. B., *elder*,
 34 E. F., *clerk*. C. D., "
 35 *Sixth*.—Idiots, lunatics, and persons convicted of any
 36 infamous crime.

MILITIA DIVISIONS.

c120

C. S. p. 709, Sects. 2, 3 & 4 combined & amended.

1 SECT. 3. The state is divided into three divisions, as
 2 follows: that portion of the state lying south of a line com-
 3 mencing at the south east corner of Dakota county, running
 4 along the south lines of Dakota, Scott, Sibley, McLeod,
 5 Renville, and thence due west to the west line of the state,
 6 constitutes the first division. The counties lying north of
 7 said line and west of the Mississippi river, constitute the sec-
 8 ond division. The counties lying east of the Mississippi riv-
 9 er, constitute the third division.

c120

C. S. p. 709, Sect. 5.

1 SECT. 4. The governor of the state is commander-in-
 2 chief, and may appoint one major general, and two or
 3 more brigadier generals for each division, and may appoint
 4 and commission all commissioned officers of regiments,
 5 battalions and companies; each colonel may appoint his
 6 own staff, and each captain his own commissioned company
 7 officers.

BRIGADES.

c120

C. S. p. 709, Sect. 6.

1 SECT. 5. That the divisions aforesaid shall be divided
 2 into as many brigades as the commander-in-chief deems
 3 expedient.

ENROLLED MILITIA.

c120

C. S. p. 709, Sect. 8.

1 SECT. 6. The township assessors of the several town-
 2 ships, and the assessors of the several wards of the several
 3 cities, shall annually, at the time of assessing taxable prop-
 4 erty, prepare a list of all persons liable to be enrolled as
 5 aforesaid, in their respective wards, townships or districts,
 6 save and except members of uniform volunteer companies,
 7 and file it in the auditor's office of the proper county; and
 8 such auditor shall annually, on or before the first day of
 9 November, return an accurate copy of such records of en-
 10 rollment to the adjutant general of the state, and an ab-
 11 stract of the aggregate number of persons so returned shall
 12 be forwarded by the adjutant general of the state to the
 13 war department at Washington, on or before the first day
 14 of January of each year. All tavern keepers, keepers of
 15 boarding houses, persons having boarders in their families,

16 and every master or mistress of any dwelling house, shall,
 17 upon the application of any assessor, give information of
 18 the names of all persons residing or lodging in such house
 19 liable to be enrolled, and all other proper information con-
 20 cerning such persons as such assessors may demand. If any
 21 person of whom any information is required by any asses-
 22 sor in order to enable him to comply with the provisions of
 23 this chapter, refuses to give such information, or gives false
 24 information, he shall forfeit and pay not more than ten dol-
 25 lars for each offense; any person who refuses to give his
 26 own name and proper information when applied to by any
 27 assessor, or gives false name or information, shall forfeit
 28 and pay a like sum, such penalties to be recovered in any
 29 court of competent jurisdiction, in the name of the state of
 30 Minnesota; and the assessors shall report the names of all
 31 persons who may incur any penalty in this section pre-
 32 scribed, to the commandant of the brigade in which they
 33 reside. All moneys collected under the provisions of this
 34 chapter, shall be paid to the county treasurer, and go to the
 35 military fund of said county. The assessors shall be com-
 36 pensated for their services in making said enrollment at the
 37 same rate and in like manner as for making the annual as-
 38 sessment of property.

1 SECT. 7. The militia thus enrolled are subject to per-
 2 form no active military duty except in case of war, invasion,
 3 or to prevent invasion, riot or insurrection; in such case
 4 the commander-in-chief is authorized to order out from time
 5 to time, for actual service, as many of the militia thus en-
 6 rolled as necessity requires, and to provide for their organi-
 7 zation in the manner hereinafter prescribed for the organi-
 8 zation of volunteer militia: *provided*, that in all such cases
 9 the enrolled volunteer militia shall first be ordered into ser-
 10 vice. The militia, while in actual service, shall be governed
 11 by the military laws of the state, and the rules and articles
 12 of war of the United States; and when any troops are in
 13 the field for the purpose aforesaid, the senior ranking offi-
 14 cer of the troops present shall take command.

C. S. p. 800, Sect. 9.

C 120

VOLUNTEER MILITIA ORGANIZATION.

1 SECT. 8. The active militia of this state shall be com-
 2 posed of volunteer companies, raised by order of the com-
 3 mander-in-chief within the limits of the several brigade dis-
 4 tricts. The volunteer militia shall in all cases of war, in-
 5 vasion, riot or insurrection, be the first military force
 6 ordered into the field. Volunteer companies shall consist
 7 of men between the ages of eighteen and forty-five; *provid-*
 8 *ed*, that no minor shall be enrolled as a member of any such
 9 volunteer company, without the consent of his parent or

C. S. p. 801, Sect. 10.

C 120

10 guardian. Whenever, according to the provisions of this
 11 chapter, forty men are enrolled as members of a volunteer
 12 company of artillery, infantry, light infantry or rifle; or
 13 whenever thirty men are enrolled as members of a volun-
 14 teer company of cavalry, such companies shall be officered
 15 by the commander-in-chief, as provided for in the fourth
 16 section of this chapter. No such company shall be increas-
 17 ed to more than a hundred members, and whenever a com-
 18 pany becomes reduced to less than twenty members, it may
 19 be attached to another company or disbanded, by order of
 20 the commander-in-chief. When two light artillery com-
 21 panies are organized in any brigade, they may be formed
 22 into a battalion, under command of a major and such sub-
 23 ordinate officers as the commander-in-chief directs; and
 24 whenever three such companies of light artillery are organ-
 25 ized in any brigade, they may be formed into a battalion
 26 under the command of a lieutenant colonel and major, with
 27 such other subordinate officers as the commander-in-chief
 28 may direct; and when five such light artillery companies
 29 exist in any one brigade, they may, by order of the com-
 30 mander-in-chief, be formed and organized into a regiment,
 31 with a full complement of regimental officers; all such com-
 32 nies, battalions and regiments of light artillery, when organ-
 33 ized, shall be armed and drilled as near as practicable in
 34 accordance with the system of the United States army for
 35 like organizations.

COMPANIES TO BE NUMBERED.

c120 C. S. p. 802, Sect. 11.
 1 SECT. 9. The several volunteer companies of cavalry,
 2 artillery, infantry, light infantry and riflemen in each brig-
 3 ade, shall be numbered by the proper commandant of brig-
 4 ade, and a record made of such members in his office, and
 5 in the adjutant general's office, and when they exist in suf-
 6 ficient numbers, and are conveniently located for the pur-
 7 pose, shall be organized into battalions and regiments, and
 8 officered as provided in section four of this chapter. And
 9 in all cases of the same description of arms the oldest or-
 10 ganized uniform company first commissioned shall be first
 11 and senior in rank, the next uniform company commission-
 12 ed second in rank, and so on to the junior organized and
 13 commissioned company, dating from the first commissions
 14 issued to the officers of the company.

c120 C. S. p. 802, Sect. 12.
 1 SECT. 10. Whenever there are not less than three nor
 2 more than six volunteer or independent companies of in-
 3 fantry, light infantry or rifle of any one description within
 4 the bounds of any brigade, the commandant thereof may
 5 organize such companies into a battalion under the com-
 6 mand of a lieutenant colonel and major, with all the staff

7 officers necessary to a regiment or battalion, as provided for
 8 by this chapter; *provided*, that whenever there are over
 9 five and under eleven companies of any one description as
 10 above provided, within the bounds of any brigade, the com-
 11 mandant shall organize the same into a full regiment, com-
 12 manded by one colonel, lieutenant colonel and major, and a
 13 full staff, and whenever there are over ten companies in any
 14 one brigade as heretofore provided, the commandant of
 15 brigade may organize them into battalions or regiments, or
 16 both, if there is a sufficient number of companies so to do;
 17 and whenever there are not less than two, nor more than
 18 four companies of artillery or cavalry, the commandant of
 19 brigade may organize them, if artillery, into a battalion, if
 20 cavalry, into a squadron, under the command of a lieuten-
 21 ant colonel and major, and a full set of staff officers as is
 22 provided for a regiment by this chapter; and whenever
 23 there are four or more companies of artillery or cavalry in
 24 any one brigade, the commandant of said brigade shall or-
 25 ganize them into regiments; and whenever there are over
 26 five companies of artillery or cavalry, the commandant of
 27 said brigade may organize the artillery into battalions or
 28 regiments, or both, if there is a sufficient number of com-
 29 panies, and may organize the cavalry into squadrons or
 30 regiments, or both, as he may think proper, being govern-
 31 ed by the number of companies of any one description in
 32 his brigade in all cases.

OFFICERS TO MAKE RETURNS—WHEN AND WHAT TO BE RETURNED.

1 SECT. 11. Every commandant of any volunteer inde-
 2 pendent company shall make a return of all non-commis-
 3 sioned officers, musicians and privates under his command
 4 belonging to his company; and all the arms and accoutre-
 5 ments belonging thereto, to the command of his regiment,
 6 squadron and battalion; but if his company does not form
 7 a part of any regiment, squadron, or battalion, then he shall
 8 make return to the commandant of his brigade, but in either
 9 case shall make his return on or before the first day of Au-
 10 gust in each year; and the commandants of each and every
 11 regiment, squadron, or battalion shall make return to the
 12 commandants of brigades on or before the first day of
 13 September annually; and the commandants of brigades
 14 shall make return to commandants of divisions, on or before
 15 the first of October annually; and the commandants of divis-
 16 ions to the adjutant general on or before the first day of
 17 November in each year. All commandants named in this
 18 chapter shall make return of all commissioned and staff offi-
 19 cers, non-commissioned staff officers; all members of vol-
 20 unteer or independent companies; all arms and accountre-
 21 ments belonging to or in possession of their commandants;

c. s. p. 803, Sect. 13.

c/28

22 and such return shall be preserved by the adjutant general
 23 in a book of records in his office, and an abstract thereof,
 24 showing the number of uniform volunteer militia, or active
 25 military of the state, shall be by him forwarded to the war
 26 department at Washington, at the same time that the re-
 27 turns of the uniformed or enrolled militia are forwarded as
 28 hereinbefore provided.

VOLUNTEER COMPANIES HELD TO FIVE YEARS.

C 120 C. S. p. 804, Sect. 14.
 1 12. Every non-commissioned officer and soldier of any
 2 volunteer company, shall be held to duty therein for five
 3 years unless some absolute disability occurs after forming
 4 such company, or he is discharged by the proper officer;
 5 and every such person after the expiration of said term, and
 6 every commissioned officer, after serving a similar term in
 7 conformity with the provisions of this chapter, shall be en-
 8 titled to a certificate of such service; and such certificate
 9 shall be given to all such persons under the rank of briga-
 10 dier general, by generals of brigade, and if there is no
 11 brigadier, by officers of any brigade in command, and to all
 12 other officers by commandants of divisions, and the holders
 13 of such certificates, shall be exempt from military duty in
 14 time of peace; and all members of volunteer companies
 15 organized under the provisions of this chapter while mem-
 16 bers of such company are exempt from labor on the public
 17 highways of this state, and service on juries; *provided*, that
 18 if any officer or person knowingly grants, issues, or uses any
 19 illegal certificate under the provisions of this chapter, such
 20 officer or person shall be deemed guilty of misdemeanor,
 21 and subject to pay a penalty, in amount, not less than ten
 22 nor more than one hundred dollars for each offense, to be
 23 collected before any court having competent jurisdiction,
 24 and when collected to be paid into the military fund in the
 25 county where the offense was committed.

CONSTITUTION AND BY-LAWS.

C 120 C. S. p. 805, Sect. 15.
 1 SECT. 13. Each volunteer company organized under the
 2 provisions of this chapter, may adopt such constitution and
 3 by-laws as a majority of all the members of such company
 4 approve; which shall be binding on all who sign the same;
 5 and when any fines are assessed by reason of any infraction
 6 of such constitution and by-laws, such company may have
 7 process before any court of competent jurisdiction, in the
 8 name of the state, for the use of such company, and prose-
 9 cute to final judgment and execution, all such fines and
 10 penalties provided for by such constitution or by-laws;
 11 *Provided*, that said constitution and by-laws are not inconsis-
 12 tent with this chapter, or the constitution of the United States

13 or of this state; *Provided, also,* That in no case will the
14 state pay any costs of such prosecution.

1 SECT. 14. All military commissions issued, except to
2 the quarter-master-general, adjutant-general, paymaster-
3 general and aid-de-camp to the commander-in-chief, shall
4 expire in five years from the date thereof; but, any officer
5 who may be re-appointed to the same office, shall retain the
6 same rank as he was entitled to under his former commis-
7 sion; *Provided,* That every officer who removes out of the
8 bounds of his command, or who is absent from his command
9 six months, without leave of the commanding officer of his
10 brigade, shall be considered as having vacated his office,
11 and a new appointment shall be made without delay to fill
12 the vacancy so created; *Provided,* That nothing in this
13 chapter shall be so construed or understood as to prevent
14 the removal of any appointed officer from his office when-
15 ever in the opinion of the officer appointing him it is ad-
16 visable.

C. S. p. 804, Sect.
10. Amended.

c 120

1 SECT. 15. The uniform of all companies, and of all com-
2 pany officers, and staff officers of regiments shall be such
3 as may be prescribed by the colonel of the regiment in
4 which the same are; *Provided,* That all officers, except
5 chaplains, shall uniform themselves within six months from
6 the date of their commissions, and every member of any
7 volunteer company shall uniform himself within six months
8 from the time he is attached to such company.

1860—p. 142, Sect. 2.

c 16

MAJOR GENERALS MAY ORGANIZE COMPANIES.

1 SECT. 16. Whenever there is no brigadier-general in
2 any brigade, the major general of the division shall dis-
3 charge the duties of brigadier general, as far as practicable,
4 by giving orders to raise volunteer companies, and organ-
5 izing them into regiments, squadrons or battalions; *Pro-*
6 *vided,* When any brigadier or major general issues an order
7 to raise any volunteer or independent company, said gene-
8 ral may confine the raising of such company, within the
9 bounds of any city, ward, or town, which is within the
10 bounds of any brigade.

C. S. p. 806, Sect. 18.

c 120

UNIFORM COMPLETE.

1 SECT. 17. Every officer of the line and staff, and every
2 officer and soldier of any volunteer company, shall provide
3 himself with a uniform complete, as required by law, and
4 each commissioned officer shall also provide himself with a
5 suitable sword.

C. S. p. 806, Sect
19. Amended.

c 120

FINES.

c120

C. S. p. 807, Sect. 20.

1 SECT. 18. Every non-commissioned officer, musician
 2 and private, who refuses to appear full armed and equipped
 3 on any day of muster required by this chapter, shall for
 4 every such refusal or neglect, pay the sum of one dollar
 5 for each company muster, and two dollars for each day's
 6 brigade or encampment muster.

c120

C. S. p. 807, Sect.
21. Amended.

1 SECT. 19. The commissioned officers of every company,
 2 within ten days after each day's company muster required
 3 by this chapter, shall make out a list of such delinquents,
 4 noting the fines assessed on each member of his company,
 5 and for what cause; a copy of which list shall forthwith be
 6 returned to a justice of the peace of the proper township.
 7 Such justice, on receiving such list, shall forthwith issue a
 8 summons against each delinquent named in such list, nam-
 9 ing a day, not more than eight, nor less than three days
 10 from the date of such summons, when the defendant shall
 11 appear at the place named in such summons, before such
 12 justice and defend, and if no legal defence is shown, such
 13 justice shall render a judgment in the name of the state for
 14 the use of such company, for the amount appearing by such
 15 list to have been assessed against such delinquent, and the
 16 commandant of the company shall call the commissioned
 17 officers of his company together within five days after each
 18 company muster, for the purpose of assessing the aforesaid
 19 fines; all such fines to be paid over to the county treasurer
 20 for the use of the military fund. Trials in such cases
 21 shall be conducted in the same manner and appeals may be
 22 taken in the same time and manner as in criminal cases tri-
 23 able by a justice.

c120

C. S. p. 808, Sect. 22.
Amended.

1 SECT. 20. The following fines may be imposed upon
 2 all general officers, lieutenant colonels, majors, captains,
 3 lieutenants and non-commissioned staff officers, for refusing
 4 or neglecting to discharge any of the duties enjoined on
 5 them by the provisions of this chapter, and for refusing to
 6 obey any order of their superior officers: non-commissioned
 7 staff officers not exceeding thirty dollars; lieutenants not
 8 exceeding forty dollars; captains not exceeding fifty dol-
 9 lars; majors not exceeding eighty dollars; lieutenant colo-
 10 nels not exceeding ninety dollars; colonels not exceeding
 11 one hundred dollars; all of said fines to be assessed or im-
 12 posed by a brigade court or court martial, and collected as
 13 herein provided. Actions therefor shall be brought in
 14 the name of the state of Minnesota, for the use of the brig-
 15 ade in which such fines were assessed or imposed, if under
 16 one hundred dollars, before a justice of the peace; if one
 17 hundred dollars or more, in the district court; to be col-

18 lected by the brigade-inspector, or any other brigade staff-
 19 officer, that the commandant of brigade may designate:
 20 *provided*, that actions commenced by the brigade-inspector,
 21 or other brigade staff-officer, shall be for the collection of
 22 fines on commissioned and staff-officers of his own brigade.
 23 No fine imposed by any brigadier general shall exceed one
 24 hundred and fifty dollars, to be collected by the major
 25 general or commandant of division; and when any major
 26 general is fined, it shall not exceed two hundred dollars, to
 27 be collected by the commander-in-chief. The proceedings
 28 when attested and signed by the president of said court,
 29 shall entitle the person prosecuting the same to a judgment
 30 in favor of his brigade, or the state of Minnesota, as the
 31 case may be, and shall in all courts of justice be received
 32 with like effect as the judgment of a civil court.

1 SECT. 21. If any non-commissioned officer, musician,
 2 private, or bystander, at any officer, regimental, squadron,
 3 battalion or company muster or parade, or at a meeting of
 4 officers, authorized or required by this chapter, molests
 5 any officer or soldier when on duty, the commanding officer
 6 may order and require such person to be put under guard
 7 for any time not exceeding six hours, and such non-com-
 8 missioned officer, musician, or private, may moreover be
 9 returned by such commanding officer to the next brigade
 10 court of inquiry for the assessment of fines, and may be
 11 fined in any sum not more than ten dollars, which fine shall
 12 be collected and applied as other fines under the provisions
 13 of this chapter; and any officer or soldier appointed as
 14 guard, or placed upon duty as a sentinel, at any muster,
 15 parade or encampment held under the provisions of this
 16 chapter, is hereby authorized and required to discharge that
 17 duty, maintain his post, and guard the lines, to protect the
 18 muster, parade or encampment, by using such force as will
 19 be necessary and sufficient to effect the same.

C. S. p. 809, Sect. 23. c120

1 SECT. 22. A father shall be bound for his son, guardian
 2 for his ward, and master for his apprentice, under the pro-
 3 visions of this chapter, for all fines against minors, for the
 4 non-performance of military duty.

C. S. p. 810, Sect. 24. Amended. c120

1 SECT. 23. In all cases where fines or penalties are in-
 2 curred in accordance with the provisions of this chapter,
 3 the company, squadron, battalion, or regiment, brigade or
 4 court-martial before whom, or on whose accounts the same
 5 are assessed, or incurred, shall have process from any
 6 courts in the state within the proper county, and of compe-
 7 tent jurisdiction, to enforce the same to final judgment and
 8 execution, and in all cases the records of such company,
 9 regiment, brigade or court-martial, shall be received as

C. S. p. 810; Sect. 25. c120

10 *prima facie* evidence; *Provided*, That in all cases the de-
 11 fendant on trial may prove in evidence any irregularity in
 12 the assessing of such fines, or any other lawful matter of
 13 defense not reaching back of the organization of such com-
 14 pany, or the enrollment of defendant.

c120 C. S. p. 811, Sect. 26.
 1 SECT. 24. All costs made by virtue of any action
 2 brought to recover fines of any description, where the state
 3 fails, shall be paid out of the military fund of the brigade
 4 or brigades, if any more than one brigade is interested in
 5 such action.

CALLING OUT MILITIA FOR SPECIAL RIOTS.

c120 C. S. p. 811, Sect. 27.
 1 SECT. 25. In cases of riot or insurrection, if any com-
 2 mandant of an independent or volunteer company, or any
 3 commandant of a squadron, battalion, regiment, brigade or
 4 division, refuses or neglects to appear with such military
 5 force at such time and place as the sheriff of the county, or
 6 mayor of the city shall direct, such officer shall be fined not
 7 exceeding one hundred dollars, on complaint of said sheriff
 8 or mayor, before any court having competent jurisdiction;
 9 every non-commissioned officer, musician or private who re-
 10 fuses or neglects to turn out and appear immediately on being
 11 notified by any proper officer of his brigade, shall be fined
 12 not exceeding ten dollars; *provided*, that in all cases of
 13 demand, or requisition for a military force by the sheriff or
 14 mayor, it shall be by application to the superior commis-
 15 sioned officer in rank at the time present in the city, town
 16 or county where such service is required.

c120 C. S. p. 811, Sect. 28.
 1 SECT. 26. Commandants of divisions, brigades, regi-
 2 ments, battalions, squadrons, or companies, have power
 3 and are required to call out their respective commands for
 4 the suppression of riots, or to assist civil officers in the ex-
 5 ecution of the laws, when called upon to do so by the prop-
 6 er authorities, and shall be furnished with ammunition, to
 7 be paid for out of the county treasury, on the order of the
 8 commanding officer of such military force.

c120 C. S. p. 812, Sect. 29.
 1 SECT. 27. All commissioned and non-commissioned of-
 2 ficers, and each and every member of any independent com-
 3 pany, or volunteer company, shall receive one dollar and
 4 fifty cents per day, or one dollar and fifty cents per night,
 5 or three dollars for each day and night together, when serv-
 6 ing under the order of a sheriff or mayor, to suppress riots,
 7 mobs, or to enforce the civil laws, to be paid out of the
 8 county treasury, on the order of said sheriff or mayor.

MUSTERS IN EACH YEAR.

1 SECT. 28. There shall be three company musters in each
 2 year, from nine o'clock A. M., until 4 P. M., of each day, C. S. p. 812, Sect. 30. *C/20*
 3 between the first of April and the first of September at
 4 such time and place as the commandant of such company
 5 directs, and whenever there is not a sufficient number of
 6 companies in any brigade to be organized into squadrons,
 7 battalions, or brigades, so as to perform camp duty, such
 8 company shall muster, two days in each year, between the
 9 first of September and the first of November, and each day's
 10 muster the commandant of each company shall have the roll
 11 called by one of the sergeants of his company at ten o'clock
 12 A. M., and note all delinquents.

ENCAMPMENT MUSTER.

1 SECT. 29. There shall be held once in each year in the
 2 month of July, August or September, a brigade muster and
 3 encampment of all the volunteer militia in each brigade, C. S. p. 812, Sect. 31. *C/20*
 4 commencing at ten o'clock, A. M., and continuing not more
 5 than six nor less than two days, at a time and place, to be
 6 selected by the brigade-quarter-master, under the direction
 7 of the commandant of the brigade, and the officers and sol-
 8 diers forming such encampment shall be drilled in accord-
 9 ance with the rules and usages of the United States' army ;
 10 the commandant of each brigade shall give thirty days'
 11 notice of the time and place of such muster.

1 SECT. 30. The commandant of division, during the en- C. S. p. 813, Sect. 32. *C/20*
 2 campment aforesaid, shall review and cause to be inspected,
 3 each brigade of volunteer militia within his division.

BRIGADE COURT—HOW ORGANIZED.

1 SECT. 31. . A brigade court for the assessment of fines,
 2 consisting of the commandant of brigade, and the comman-
 3 dants of regiments, battalions or squadrons, and such other C. S. p. 813, Sect. 33. Amended. *C/20*
 4 commissioned officers as the commandant of brigade may
 5 designate or of the officers of his staff or of any volunteer
 6 company, in case there are no regimental or squadron offi-
 7 cers within his brigade, shall be held fourteen days from the
 8 first day of the encampment muster, and the commandant
 9 of brigade shall give notice to all present at the time of en-
 10 campment muster, at what time and place said brigade court
 11 will be held.

1 SECT. 32. The officers constituting said brigade courts C. S. p. 813, Sect. 34. Amended. *C/20*
 2 shall sit to assess fines upon all brigade, commissioned and
 3 staff officers, returned to the said court by the brigade in-

4 spectors. Said officers shall also act as a board of appro-
5 priation, distribute and apply the fund as they shall deem
6 best calculated to promote the efficiency and thorough dis-
7 cipline of the volunteer militia.

1 SECT. 33. The brigade inspector shall attend brigade
2 court, and keep an accurate record of the proceedings, and
3 also of the appropriation of the military fund, and shall
4 make a list of all fines by the brigade court including also
5 the fines assessed on delinquent brigade commissioned
6 staff officers, a copy of which list, signed by the com-
7 mandant of brigade, as president of said court, and at-
8 tested by himself as inspector of brigade, he shall forthwith
9 transmit to the treasurer of each county in said brigade, and
10 another attested copy to every justice of the peace of the
11 township wherein each delinquent resides, and the justice
12 shall then proceed according to the provisions of this chap-
13 ter, and any person interested can attend to prosecute said
14 actions. And said justice shall render judgment, and pay
15 over all moneys collected by him to the county treasurer of
16 said county for the use of said military fund in the proper
17 brigade.

C120
C. S. p. 814, Sect.
35. Amended.

CAMP EQUIPAGE AND COLORS TO BE FURNISHED.

1 SECT. 34. Every volunteer company and every field
2 officer shall be furnished with camp equipage, and every
3 volunteer company, regiment, squadron, and battalion, shall
4 be furnished with suitable colors, to be paid for out of the
5 military fund, as in other cases, and each company shall be
6 entitled to and receive from such unexpended military fund
7 in their respective counties, the sum of ten dollars for the
8 purchase of musical instruments.

C120
C. S. p. 814, Sect. 36.

COMPENSATION OF OFFICERS.

1 SECT. 35. Brigade inspectors shall be allowed such
2 compensation by the board of appropriation, as they shall
3 decree just and reasonable, and members of brigade courts,
4 at the rate of three dollars a day for their services, for the
5 period aforesaid. The quarter master general, for the
6 prompt and full discharge of all the duties enjoined upon
7 him, shall receive an annual salary of one hundred dollars,
8 and the adjutant general, for a full discharge of his duties,
9 shall receive an annual salary of one hundred dollars, both
10 to be paid semi-annually out of the state treasury, on the
11 order of the auditor of state, approved by the commander-
12 in-chief.

C120
C. S. p. 814, Sect. 37.

1 SECT. 36. If, after paying all drafts upon the military

2 fund, hereinbefore specified, there remains a surplus in any
 3 division or brigade, it shall be appropriated to procure or
 4 build a suitable armory, in which to preserve and safely
 5 keep the arms and equipments of the state, under the di-
 6 rection of the commandant of the brigade.

C. S. p. 815, Sect. 38.

C 120

RESIGNATION.

1 SECT. 37. For good cause shown, the commander-in-
 2 chief may accept the resignation of major generals; major
 3 generals may accept the resignation of brigadier generals,
 4 within their respective divisions; brigadier generals may
 5 accept the resignation of colonels, or the commandants of
 6 regiments, lieutenant colonels, majors, captains and lieu-
 7 tenants; and for good cause shown, the commandant of
 8 any regiment, squadron or battalion, shall accept the resig-
 9 nation of any regimental squadron or battalion staff officer:
 10 Brigadier and major generals may accept the resignation of
 11 their staff officers; and in all cases, when a resignation is
 12 accepted, the cause of such resignation shall be indorsed by the
 13 officer accepting the same, on the back of the commission,
 14 but the command of such officer shall not cease until the
 15 officer accepting such resignation has indorsed his accep-
 16 tance.

C. S. p. 816, Sect. 42.

C 120

NUMBER OF OFFICERS.

1 SECT. 38. The commander-in-chief may appoint, ac-
 2 cording to the provisions of section four of this chapter,
 3 to each division of the militia of this state, one major gene-
 4 ral; to each brigade, one brigadier general; to each regi-
 5 ment of volunteer militia, there shall be one colonel, one
 6 lieutenant colonel and one major; to each battalion of ar-
 7 tillery, infantry, light infantry or riflemen, and to each
 8 squadron of cavalry volunteer militia, there shall be one
 9 lieutenant colonel and one major, and to each company of
 10 volunteer militia, there shall be one captain, one first lieu-
 11 tenant, one second lieutenant, one third lieutenant, and one
 12 ensign, four sergeants, four corporals, and, with the excep-
 14 tion of cavalry companies, there shall be two fifers and two
 15 drummers; but all cavalry companies shall have one or
 16 more buglers; *provided*, that whenever the proper com-
 17 mandants of the several divisions, brigades, regiments,
 18 squadrons, battalions or companies are not present at any
 19 muster, drill or parade, the highest officer in rank who is
 20 present, shall take command, and be commandant of
 21 the same for the time being, and if two officers of the
 22 same rank are present, the oldest in appointment or com-
 23 mission, shall take command.

C. S. p. 816, Sect. 43.

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STAFF OFFICERS.

1 SECT. 39. There shall be attached to the commander-
 2 in-chief, and to the several divisions, brigades, regiments,
 3 squadrons and battalions, the following staff officers, to
 4 wit: the staff of the commander-in-chief shall consist of
 5 one adjutant general, who shall discharge the duties of in-
 6 spector general; one quarter master general, one pay-
 7 master general, two aid-de-camps, one engineer-in-chief,
 8 and one judge advocate general, who shall be appointed by
 9 the commander-in-chief. To each division there shall be
 10 one division inspector, who shall discharge the duties of
 11 assistant adjutant general, one assistant quarter master gen-
 12 eral, two aids-de-camp, one assistant engineer-in-chief, and
 13 one assistant judge advocate general. To each brigade,
 14 there shall be one brigade major, to serve as brigade in-
 15 spector, two aids-de-camp, one brigade quartermaster, one
 16 brigade engineer, one brigade judge advocate, one brigade
 17 surgeon, and one brigade chaplain, which brigade staff shall
 18 be appointed by the commander-in-chief. To each regi-
 19 ment or battalion of artillery, rifle, infantry, or light infan-
 20 try, there may be one chaplain, and there shall be one ad-
 21 jutant, one quarter master, one surgeon, one surgeon's
 22 mate, one sergeant major, one quartermaster sergeant, one
 23 drum major, and one fife major, to be appointed by the
 24 commandant of such regiment or battalion, and it shall be
 25 the duty of the drum major to examine and report to the
 26 commandants of regiments or battalions, upon all instru-
 27 ments of music which shall be purchased for the use of the
 28 regiment or battalion, and no such instruments of music
 29 shall be paid for out of the funds of the regiment or squad-
 30 ron until approved by them. To each regiment or battal-
 31 ion of cavalry, there shall be one adjutant, one quarter-
 32 master, one paymaster, one surgeon, one surgeon's mate,
 33 one quarter master sergeant, one sergeant major, and two
 34 regimental or squadron buglers, which shall be appointed
 35 by the commandant of such regiment or squadron.

RANK OF STAFF OFFICERS.

1 SECT. 40. The staff officers herein enumerated shall
 2 rank as follows, viz: the quarter-master-general and adju-
 3 tant general, as brigadier generals; the pay-master-general,
 4 engineer-in-chief, judge-advocate-general, and aids-de-camp
 5 to the commander-in-chief, as colonels; the division-inspec-
 6 tors, division-engineers, division-judge-advocate, and divi-
 7 sion-quartermasters, as lieutenant colonels; the aids-de-
 8 camp to the major-generals, the brigade-inspectors, brigade
 9 engineers, brigade-judge-advocate, as majors; the brigade
 10 quarter-master and aids-de-camp to brigadier-generals,

11 chaplains and surgeons, as captains; company-ensigns, ad-
 12 jutants, quarter-masters, pay-masters, surgeon's-mates of
 13 regiments, battalions and squadrons, as lieutenants; and all
 14 other regimental, battalion or squadron staff, as non-com-
 15 missioned officers.

1 SECT. 41. All staff officers of the rank of lieutenant and
 2 upwards, shall be commissioned as other officers, and (ex- C. S. p. 818, Sect. 46.
 3 cept chaplains,) shall attend muster of the divisions, brig- Amended.
 4 ades, regiments, squadrons, or battalions. c / 20

PUBLIC ARMS.

1 SECT. 42. The governor shall appoint a keeper of the New.
 2 state arsenal, who shall attend to the preservation, clean-
 3 ing, and repairing of all arms, equipments and munitions of
 4 war belonging to the state.

1 SECT. 43. All the public arms, ammunition, accoutre-
 2 ments, camp equipage and military stores belonging to any
 3 division of the militia of this state, shall be under the care
 4 and superintendence of the assistant quarter-master-general C. S. p. 818, Sect. 47.
 5 of such division, who may employ suitable persons to clean
 6 and repair any arms or articles which may require it, and
 7 certify any reasonable and just account which may be ren-
 8 dered for cleaning and repairing; and for transporting such
 9 arms and military stores, to any place where they may be
 10 ordered by the commandant of division, which account thus
 11 certified, shall be allowed by the auditor of state, and paid
 12 as other accounts against the state are paid; and such as-
 13 sistant quarter-master-general shall receipt for all articles
 14 delivered to his charge, and account for the same at any
 15 time when called on by the commandant of division, or
 16 quarter-master-general of the state. c / 20

1 SECT. 44. Upon the organization of any company and
 2 a due report of the same by the colonel of the regiment to 1860-p. 142, Sect. 3
 3 the adjutant general of the state, the governor shall make
 4 out and deliver to the officers thereof, their commissions,
 5 and forward to the commandant of the regiment the arms
 6 and accoutrements necessary for the complete organization
 7 of the company c / 6

1 SECT. 45. Colonels may issue orders for the organiza- 1860-p. 142, Sect. 2.
 2 tion of companies and report the same to the adjutant gen- c / 6
 3 eral of the state; and if the companies so organized fail to
 4 uniform within the time prescribed in section fifteen of this
 5 chapter, the colonel shall take and hold the arms and ac-
 6 coutrements of said company, subject to the order of the
 7 adjutant general.

1 SECT. 46. Whoever is found guilty of selling, disposing
 2 of, secreting, detaining or refusing to deliver upon demand
 3 of any officer entitled to make the same, any arms, accoutre-
 4 ments, or any camp equipage, belonging to the state of
 5 Minnesota, shall forfeit and pay for every musket, sword,
 6 sabre, pistol, or cannon, double the contract price for such
 7 article, as estimated at or by the ordnance department at
 8 Washington, with costs of suit, and if said sum is not paid
 9 by such person within ten days after judgment rendered
 10 against him, or bail put in for stay of execution, an execu-
 11 tion shall issue, and such person may be confined in the
 12 county jail by order of the commandant of brigade, for any
 13 time not exceeding thirty days, at the expense of the proper
 14 brigade, or at the expense of the state, if then paid, to be
 15 paid out of the military fund, and any justice of the peace
 16 of the township where the person resides shall have juris-
 17 diction to try all cases under one hundred dollars, but all
 18 actions brought for one hundred dollars or more, shall be
 19 tried in any court having competent jurisdiction for the col-
 20 lection of such fines. When such fine is paid over by the
 21 defendant, it shall be paid into the state treasury, after pay-
 22 ing the costs of confining any one in jail. All actions shall
 23 be brought in the name of the state of Minnesota, and may
 24 be prosecuted by the commandant of brigade, or any per-
 25 son he may authorize to do so. Persons claiming to have a
 26 legal right to hold any of the articles named in this section,
 27 on demand of the proper officer, shall show a written au-
 28 thority, signed by the quarter master general, or comman-
 29 dants of divisions, brigades, regiments, squadrons or bat-
 30 talions.

C120
 C. S. p. 819, Sect. 48.
 Amended.

ARRESTS.

1 SECT. 47. On complaint of a commissioned officer,
 2 made in writing, to a superior officer, touching the conduct
 3 of any officer, such superior shall, if he thinks the complaint
 4 a sufficient one for an arrest, cause the officer against whom
 5 such complaint is made to be arrested, and when any officer
 6 is arrested as aforesaid, the officer whose duty it is to arrest,
 7 shall notify the officer arrested, in writing, that he is sus-
 8 pended from command until acquitted from such arrest,
 9 stating the ground of arrest and time and place of trial.

C120
 C. S. p. 820, Sect. 40.

1 SECT. 48. In all cases where an officer is arrested, the
 2 officer who orders the arrest shall issue any summons that
 3 may be applied for by either of the parties, and parties so
 4 applying, or any person whom the officers granting such
 5 summons may appoint, may serve the same and endorse the
 6 time of service, which shall be at least three days previous
 7 to the sitting of the court martial, and shall make return

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 C. S. p. 821, Sect. 60.

8 thereof, and any person who refuses or neglects to attend a
 9 court martial after being duly summoned, shall be fined in
 10 any sum not exceeding fifty dollars, which fines shall be col-
 11 lected and applied as other fines under the provisions of
 12 this chapter, and any court martial has power to issue com-
 13 pulsory process to compel the attendance of witnesses.

COURT MARTIAL.

1 SECT. 49. Major generals shall be tried by court mar-
 2 tial appointed by the commander-in-chief, where a major
 3 general shall preside; brigadier generals shall be tried by
 4 court martial appointed by a major general, where a briga-
 5 dier general shall preside; and all staff officers ranking as
 6 brigadier generals, shall be tried by the same courts as
 7 brigadier generals; colonels, lieutenant colonels, majors,
 8 captains, and lieutenants, or any staff officer ranking as
 9 such, shall be tried by a court martial appointed by a brig-
 10 adier general, where a colonel shall preside, if there is any
 11 within the bounds of the brigade, and if not, then a lieu-
 12 tenant colonel, or major shall preside; but if there is neither
 13 lieutenant colonel nor major, then a captain or lieutenant
 14 shall preside; each court martial shall consist of not less
 15 than five nor more than thirteen members, and to be of rank
 16 as near as may be, to the rank of the officer to be tried, if
 17 such can be found within the bounds of any brigade; all
 18 courts martial have power to punish any officer for neglect
 19 of duty, disobedience of orders, or any other conduct unbe-
 20 coming an officer, by suspension, fining, cashiering, or dis-
 21 qualification to hold any office in the volunteer militia of
 22 this state, and in all cases the president of such court mar-
 23 tial shall cause two certified copies of the sentence to be
 24 made out, which shall be signed by the president and at-
 25 tested by the judge advocate, one of which the president
 26 shall forward to the officer who ordered said court martial,
 27 and the other shall be delivered to the brigade inspector of
 28 his brigade, but a record of the proceedings shall remain in
 29 the hands of such court martial for the purpose of collect-
 30 ing fines, or any other purpose; where fines may be assess-
 31 ed against any person by the sentence of a court martial,
 32 and the sentence has been approved by the officer order-
 33 ing the court martial, he shall certify the same, and cause
 34 the same to be collected as is provided by this chapter.

C. S. p. 820, Sect. 51.

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1 SECT. 50. When any court martial meets agreeably to
 2 the provisions of this chapter, the president of such court
 3 shall administer to the judge advocate the following oath; C. S. p. 821, Sect. 52.
 4 and after being sworn the judge advocate shall administer
 5 to the president and other members of the court, the same
 6 oath, viz: "You, and each of you, do solemnly swear (or

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7 affirm) that you will well and truly try and determine, accord-
 8 ing to evidence, the matter now before you, between the
 9 United States, (or the state of _____, as the case may
 10 be,) and the person to be tried, and that you will truly ad-
 11 minister justice according to law, without partiality, favor,
 12 or affection, according to your conscience, and the best of
 13 your understanding, and the custom of war in such cases;
 14 you do further swear (or affirm) that you will not divulge
 15 the sentence of the court until it shall be published by prop-
 16 er authority, neither will you disclose the opinion of any
 17 particular member of the court, unless required to give ev-
 18 idence thereof, in a court of justice, in the name of the
 19 United States, (or of the state of _____, as the case may
 20 be),” the judge advocate shall so far consider himself as
 21 counsel for the person accused as to object to any illegal
 22 question put to the person accused, or any witness, the an-
 23 swer to which might tend to criminate himself. He shall
 24 also see right and justice done to the defendant on all ques-
 25 tions which may arise in a court martial; the youngest in
 26 commission and the lowest in rank shall vote first, and so on
 27 in succession, to the oldest and highest in rank, and every
 28 person giving evidence before a court martial, shall be ex-
 29 amined on oath or affirmation, and all officers composing a
 30 court martial shall be in uniform.

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C. S. p. 822, Sect. 53.

1 SECT. 51. The party tried by a court martial shall be
 2 entitled to a copy of the sentence and proceedings thereof,
 3 after the decision, where demanded by him, or any person
 4 in his behalf; the commanding officer for the time being,
 5 has full power to pardon or mitigate any penalty ordered to
 6 be inflicted on any non-commissioned officer, musician or
 7 private, for a breach of the provisions of this chapter, by
 8 court martial; and every officer convicted as aforesaid, by
 9 any court martial, may be pardoned, or the penalty may be
 10 mitigated by the officer ordering said court martial.

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C. S. p. 822, Sect. 54.

1 SECT. 52. The rules and articles of war, and the rules
 2 and customs which govern a court martial composed of offi-
 3 cers of the army of the United States, shall, in all respects,
 4 govern all courts martial held under the provisions of this
 5 chapter, and the commander-in-chief, major generals and
 6 brigadier generals have power to order a court martial, to
 7 be held at a time and place fixed by them when the same
 8 is necessary to carry into effect any of the provisions of this
 9 chapter not herein expressly provided for, and in all cases,
 10 the officer ordering the court martial, may confirm or dis-
 11 approve the sentence thereof.

1 SECT. 53. Any superior may immediately after he has
 2 arrested any officer, appoint not less than three nor more

3 than five officers, as near the rank of the officer arrested as
 4 he can conveniently get for that purpose, and shall summon
 5 them to meet at a certain time and place, and when met,
 6 they shall constitute a court of inquiry, whose duty it shall
 7 be to inquire into the charges on which such officer was ar-
 8 rested, and if a majority of said court are satisfied that such
 9 charges are not sufficient to cause a court martial to assem-
 10 ble in said case, or if they are satisfied the charges are suf-
 11 ficient, they shall, in either case, forthwith report the same,
 12 under seal, to the officer who ordered the arrest, and such
 13 officer ordering the arrest shall, immediately after receiving
 14 the report of said court, either discharge the officer arrest-
 15 ed, or summon a court martial forthwith to try him. The
 16 officer ordering the arrest shall be governed by the court of
 17 inquiry, and the members and witnesses attending a court
 18 of inquiry shall be paid as the members and witnesses of a
 19 court martial are paid; and the officer who orders the arrest
 20 shall designate what officer is to preside over the court of
 21 inquiry, which court shall have the same power to compel
 22 the attendance of witnesses as courts martial, and either
 23 party may serve any process allowed by court martial, and
 24 all officers composing a court of inquiry shall be in full
 25 uniform.

C. S. p. 822, Sect. 55.

c/20

COMMISSARIES, ADJUTANTS, SURGEONS AND OTHER OFFICERS.

1 SECT. 54. The commander-in-chief, whenever in his
 2 opinion it becomes necessary, may organize a subsistence
 3 or commissary department, [by appointing a commissary
 4 general, or a general of subsistence department,] with the
 5 rank of brigadier-general, and such other assistant commis-
 6 saries as he deems necessary, with such rank as is conferred
 7 on officers of the same station in the army of the United
 8 States; and may also appoint such number of storekeepers
 9 and other officers as the good of the service requires, and
 10 may order any or all such officers into actual service when
 11 their services become necessary.

C. S. p. 822, Sect. 56.

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1 SECT. 55. The commander-in-chief, whenever in his
 2 opinion it becomes necessary, may complete the organiza-
 3 tion of the medical department, by appointing a surgeon-
 4 general, with the rank of colonel, and for each division a
 5 hospital surgeon with the rank of lieutenant colonel, and
 6 for each brigade a hospital surgeon with the rank of major,
 7 and may call any or all of said officers into actual service,
 8 when their services are found necessary.

C. S. p. 822, Sect. 57.

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1 SECT. 56. The adjutants of regiments, squadrons and
 2 battalions, shall attend to and record all returns from the
 3 commandants of regiments, squadrons and battalions, and

C. S. p. 823, Sect. 58.

c/20

4 record the same in a book to be provided for that purpose,
5 and shall perform such other duties as may from time to
6 time be required of them by the commandants of their regi-
7 ments, squadrons and battalions; *Provided*, That when
8 any adjutant is absent, the commanding officer shall appoint
9 a suitable person to do the duty of the adjutant.

c120 C. S. p. 823, Sect. 61.
1 SECT. 57. There shall be allowed to the officers compos-
2 ing any division, brigade, regimental, squadron or battal-
3 ion court martial, and to the judge-advocates thereof, one
4 dollar and fifty cents each day they may be necessarily en-
5 gaged in traveling to and from, and attending at such court;
6 the provost marshal shall have such compensation as is al-
7 lowed to sheriffs for similar services in civil cases; the fees
8 of witnesses are twenty-five cents for each day they attend
9 under a summons, and for each day in traveling to and from
10 the same, which compensation shall be paid out of the state
11 treasury, on the order of the president of the court martial,
12 indorsed by the state auditor.

c120 C. S. p. 823, Sect. 62.
1 SECT. 58. If, after paying all drafts upon the military
2 fund hereinbefore specified, there remain no funds, the
3 commander-in-chief is hereby authorized to rent or pur-
4 chase a suitable armory for any division or brigade, the
5 same to be paid out of the treasury of the city, county, or
6 counties which form such division or brigade.

c120 C. S. p. 824, Sect. 63.
1 SECT. 59. The adjutant general of the state shall fur-
2 nish to the commandants of divisions, for the use of their
3 brigades, blank forms of rolls, bonds, and of the different
4 returns that may be required from time to time by this
5 chapter, and explain the principles on which they should
6 be made.

CHAPTER XIII.

ROADS, CARTWAYS AND BRIDGES.

c40 1860—p. 80, Sect. 1.
1 SECTION 1. The supervisors in the several towns in
2 this state, shall have the care and superintendence of roads
3 and bridges therein, shall give directions for the repairing
4 of the roads and bridges in their respective towns, regulate
5 the roads already laid out, and alter each of them, as they,
6 or a majority of them, deem proper, as hereinafter pro-
7 vided; cause the roads and the bridges erected over streams
8 intersecting roads to be kept in repair; divide the respect-