Publication No. 4

THE "DICK" BILL
AND
COMMENTS

H. R. 11,654
"A Bill to Promote the Efficiency of the Militia and for Other Purposes"

TO SUPERSEDE THE ARCHAIC MILITIA LAWS
ENACTED IN

1792

Published by
THE EXECUTIVE COMMITTEE
OF THE INTERSTATE NATIONAL GUARD ASSOCIATION
February, 1902

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"I cannot help plead to my countrymen, at every opportunity, to cherish all that is manly and noble in the military profession, because Peace is enervating and no man is wise enough to foretell when soldiers may be in demand again."
—SHERMAN.

COMMENTS

The United States militia law, which it is now sought to supersede, has remained on the statute books since 1792, despite urgent messages for its repeal by a score of Presidents.

Its musty provisions for compulsory enrollment of every able-bodied citizen; that he shall "be constantly provided with a good musket or firelock, of a bore sufficient for balls the 18th part of a pound, a sufficient bayonet and belt, two spare flints and a knapsack, a pouch with a box therein to contain not less than twenty-four cartridges" or a "good rifle, knapsack, shot pouch and powder horn, twenty balls and a quarter pound of powder," and that "each commissioned officer shall be armed with a sword or hanger and spontoon;" have made the term militia a byword for two generations.

While the old law exists the National Guard can have no legal status nor recognition as an organized national military force. When it is repealed and a new law enacted, the likelihood will be avoided of a repetition of the confusion which occurred at the outbreak of and continued well into the war with Spain, and there will be diminished materially, through proper uniform training in times of peace, the losses caused by bad camp sanitation and faulty distribution of supplies, resulting from inexperience of officers and men in practical field work.

At the convention of the Interstate National Guard Association, held at Washington, D. C., January 20th–23d, the general sentiment which prevailed among the delegates from the different States

and Territories was, that in view of the affirmatively favorable attitude towards reformatory legislation held by the President of the United States and the Secretary of War, it needed only agreement between the States as to their desires and requirements, to launch a measure which, with the approval and support of the administration and a clear understanding of its provisions by Congress and the public, should finally become a law.

The result is the bill introduced in the House of Representatives by Gen. Charles Dick (Ohio), Chairman of the House Militia Committee, and in the Senate by Gen. Joseph R. Hawley (Connecticut), Chairman of the Senate Military Committee. This bill varies in some minor details from the bill adopted by the Convention.

It was afterward found necessary to specifically repeal certain sections of the old law and to re-enact others, to insure the validity of the new law and in the interest of increased efficiency of the militia forces.

It will be seen that the bill provides for the recognition, in case of war, of the National Guard as the second line, after the Regular Army, as National Guard for a limited period of service, as organized in the various States. In the event of the requirement of volunteer forces, organizations of the National Guard are given the preference as volunteers or they may remain National Guard, as they may elect. It provides for arming the Guard with the latest pattern army rifle; gives officers the opportunity of regular army instruction and examination; provides for field maneuvres under service conditions either with or without regular troops, at the cost of the United States; and generally raises the National Guard to the dignity of a homogeneous and efficient body of high-class citizen soldiery, which will be recognized as in contrast with the indefinite and miscellaneous position as a military force held to be occupied by the National Guard of the various States.

57TH CONGRESS, 1ST SESSION

H. R. 11,654.

IN THE HOUSE OF REPRESENTATIVES

February 21, 1902.

Mr. DICK (by instruction of the Committee on Militia) introduced the following bill; which was referred to the Committee on Militia and ordered to be printed.

A BILL

To promote the efficiency of the militia, and for other purposes.

[NOTE.—Existing law appears in small type after its corresponding section in the proposed bill, and is all repealed by section 26 of this bill.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the militia shall consist of every able-bodied male citizen of the respective States, Territories, and the district of Columbia, and every able-bodied male of foreign birth who has declared his intention to become a citizen, who is more than eighteen and less than forty-five years of age, and shall be divided into two classes—the organized militia, to be known as the National Guard of the State, Territory, or District of Columbia, or by such other designations as may be given them by the laws of the respective States or Territories, and the remainder to be known as the Enrolled Militia.

SEC. 1625. Every able-bodied male citizen of the respective States, resident therein, who is of the age of eighteen years and under the age of forty-five years, shall be enrolled in the militia.

SEC. 1626. It shall be the duty of every captain or commanding officer of a company to enroll every such citizen residing within the bounds of his company, and all those who may, from time to time, arrive at the age of eighteen years, or who, being at the age of eighteen years and under the age of forty-five years, come to reside within his bounds.

SEC. 1627. Each captain or commanding officer shall, without delay, notify every such citizen of his enrollment by a proper noncommissioned officer of his company, who may prove the notice. And any notice or warning to a citizen enrolled to attend a company, battalion, or regimental muster, which is according

to the laws of the State in which it is given for that purpose, shall be deemed a legal notice of his enrollment.

SEC. 1628. Every citizen shall, after notice of his enrollment, be constantly provided with a good musket or firelock, of a sufficient bore for balls of the eighteenth part of a pound, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch with a box therein to contain not less than twenty-four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball; or with a good rifle, knapsack, shot pouch, and powderhorn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder, and shall appear so armed, accoutered, and provided when called out to exercise or into service, except that when called out on company days to exercise only he may appear without knapsack; and all arms, ammunition, and accouterments so provided and required shall be held exempted from all suits, distresses, executions, or sales for debt or for the payment of taxes. Each commissioned officer shall be armed with a sword or hanger and spontoon.

SEC. 2. That the Vice-President of the United States, the officers, judicial and executive, of the Government of the United States, the members and officers of each House of Congress, persons in the military or naval service of the United States, all custom-house officers, with their clerks, postmasters and persons employed by the United States in the transmission of the mail, ferrymen employed at any ferry on a post road, artificers and workmen employed in the armories and arsenals of the United States, pilots, mariners actually employed in the sea service of any citizen or merchant within the United States, and all persons who are exempted by the laws of the respective States or Territories, shall be exempted from militia duty, without regard to age.

SEC. 1629. The Vice-President of the United States; the officers, judicial and executive, of the Government of the United States; the members of both Houses of Congress, and their respective officers; all custom-house officers, with their clerks; all postmasters and persons employed in the transportation of the mail; all ferrymen employed at any ferry on post roads; all inspectors of exports; all artificers and workmen employed in the armories and arsenals of the United States; all pilots; all mariners actually employed in the sea service of any citizen or merchant within the United States; and all persons who now are or may hereafter be exempted by the laws of the respective States, shall be exempted from militia duty, notwithstanding their being above the age of eighteen and under the age of forty-five years.

SEC. 3. That the regularly enlisted, organized, and uniformed active militia in the several States and Territories and the District of Columbia who have heretofore participated or shall hereafter participate in the apportionment of the annual appropriation provided by section sixteen hundred and sixty-one of the Revised Statutes of the United States, as amended, whether known and designated as national guard, militia, or otherwise, shall consti-

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tute the organized militia. The organization, armament, and discipline of the organized militia in the several States and Territories and in the District of Columbia shall be the same as that which is now or may hereafter be prescribed by law for the Regular and Volunteer Armies of the United States: *Provided*, That the President of the United States, in time of peace, may by order fix the minimum number of enlisted men in each company, troop, battalion, signal corps, engineer corps, and hospital corps.

SEC. 1630. The militia of each State shall be arranged into divisions, brigades, regiments, battalions, and companies, as the legislature of the State may direct. Each brigade may consist of four regiments, each regiment of two battalions, each battalion of five companies, each company of sixty-four privates. Each division, brigade, and regiment shall be numbered at the formation thereof, and a record of such numbers shall be made in the adjutant-general's office of the State. When in the field, or in service in the State, each division, brigade, and regiment shall, respectively, take rank according to its number, reckoning the first or lowest number highest in rank.

SEC. 1631. The militia shall be officered by the respective States as follows: To the militia of each State, one quartermaster-general; to each division, one major-general, two aids-de-camp with the rank of major, one division inspector with the rank of lieutenant-colonel, and one division quartermaster with the rank of major; to each brigade, one brigadier-general, one brigade inspector, to serve also as brigade major, with the rank of major, one quartermaster of brigade with the rank of captain, and one aid-de-camp with the rank of captain: to each regiment of two battalions, one colonel, one lieutenant-colonel, one major, and one chaplain; to only one battalion a major, who shall command the same; to each company, one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer, and one fifer or bugler. And there shall be a regimental staff, to consist of one adjutant and one quartermaster, to rank as lieutenants, one paymaster, one surgeon, one surgeon's mate, one sergeant-major, one drummer, and one fife-major.

SEC. 1632. There shall be formed for each battalion at least one company of grenadiers, light infantry, or riflemen, and for each division at least one company of artillery and one troop of horse, For each company of artillery there shall be one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer, and one fifer. The officers shall be armed with a sword or hanger, a fusee, bayonet, and belt, with a cartridge box to contain twelve cartridges; and each private shall furnish himself with all the equipments of a private in the infantry, until proper ordnance and field artillery is provided. For each troop of horse there shall be one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, and one trumpeter. The commissioned officers shall furnish themselves with good horses of at least fourteen hands and a half high, and shall be armed with a sword and a pair of pistols, the holsters to be covered with bearskin caps. Each dragoon shall furnish himself with a serviceable horse at least fourteen hands and a half high, a good saddle, bridle, mail-pillion, and valise, holsters, and a breastplate and crupper, a pair of boots and spurs, a pair of pistols, a saber, and a cartridge box to contain twelve cartridges for pistols, Each company of artillery and troop of horse shall be formed of volunteers from the brigade, at the discretion of the commander in

chief of the State, not exceeding one company of each to a regiment, nor more in number than one-eleventh part of the infantry, and shall be uniformly clothed in regimentals, to be furnished at their own expense, the color and fashion to be determined by the brigadier commanding the brigade to which they belong.

SEC. 1633. Each battalion and regiment shall be provided with the State and regimental colors by the field officers, and each company with a drum and fife or bugle horn by the commissioned officers of the company, in such manner as the legislature of the respective States may direct.

SEC. 1637. The system of discipline and field exercise which is ordered to be observed in the different corps of infantry, artillery, and riflemen of the Regular Army shall also be observed in such corps, respectively, of the militia.

SEC. 1641. All corps of artillery, cavalry, and infantry now existing in any State which, by any law, custom, or usage thereof, have not been incorporated with the militia, or are not governed by the general regulations thereof, shall be allowed to retain their accustomed privileges, subject, nevertheless, to all other duties required by law in like manner as the other militia.

SEC. 4. That whenever the United States is invaded, or in danger of invasion from any foreign nation, or of rebellion against the authority of the Government of the United States, or the President is unable with the other forces at his command to execute the laws of the Union in any part thereof, it shall be lawful for the President to call forth, for a period not exceeding nine months, such number of the organized militia of the State or of the States or Territories or of the District of Columbia as he may deem necessary to repel such invasion, suppress such rebellion, or to enable him to execute such laws, and to issue his orders for that purpose to such officers of the militia as he may think proper.

SEC. 1642. Whenever the United States are invaded, or are in imminent danger of invasion from any foreign nation or Indian tribe, or of rebellion against the authority of the Government of the United States, it shall be lawful for the President to call forth such number of the militia of the State or States most convenient to the place of danger or scene of action as he may deem necessary to repel such invasion or to suppress such rebellion, and to issue his orders for that purpose to such officers of the militia as he may think proper.

SEC. 5. That whenever the President calls forth the militia of any State or Territory or of the District of Columbia to be employed in the service of the United States, he may specify in his call the period for which such service is required, not exceeding nine months, and the militia so called shall continue to serve during the term so specified, unless sooner discharged by order of the President.

SEC. 1648. Whenever the President calls forth the militia of the States, to be employed in the service of the United States, he may specify in his call the period for which such service will be required, not exceeding nine months, and the militia so called shall be mustered in and continue to serve during the terms so specified unless sooner discharged by command of the President.

SEC. 6. That when the militia of more than one State is called into the actual service of the United States by the President he may, in his discretion, apportion them among such States or Territories or to the District of Columbia according to representative population.

SEC. 1643. When the militia of more than one State is called into the actual service of the United States by the President he shall apportion them among such States according to representative population.

SEC. 7. That every officer and enlisted man of the militia called into the service of the United States in the manner hereinbefore prescribed shall be held to be in such service from the date of the publication of such call; and any officer or man who shall refuse or neglect to obey such call shall be subject to trial by court-martial, and shall be punished as such court-martial may direct.

SEC. 1649. Every officer, noncommissioned officer, or private of the militia who fails to obey the orders of the President when he calls out the militia into the actual service of the United States shall forfeit of his pay a sum not exceeding one year's pay and not less than one month's pay, to be determined and adjudged by a court-martial; and such officer shall be liable to be cashiered by a sentence of court-martial, and be incapacitated from holding a commission in the militia for a term not exceeding twelve months; and such noncommissioned officer and private shall be liable to imprisonment, by a like sentence, on failure to pay the fines adjudged against him, for one calendar month for every twenty-five dollars of such fine.

SEC. 1659. All fines assessed under the provisions of law, concerning the militia or volunteer corps, when called into the actual service of the United States, shall be certified by the presiding officer of the court-martial before whom they are assessed to the marshal of the district in which the delinquent resides, or to one of his deputies, and to the Comptroller of the Treasury, who shall record the certificate in a book to be kept for that purpose. The marshal or his deputy shall forthwith proceed to levy the fines, with costs, by distress and sale of the goods and chattels of the delinquent, which cost and manner of proceeding, with respect to the sale of the goods distrained, shall be agreeable to the laws of the State in which the same may be in other cases of distress. And where any noncommissioned officer or private is adjudged to suffer imprisonment, there being no goods or chattels to be found whereof to levy the fines, the marshal of the district or his deputy shall commit such delinquent to jail, during the term for which he is so adjudged to imprisonment, or until the fine is paid, in the same manner as other persons condemned to fine and imprisonment at the suit of the United States may be committed.

SEC. 1660. That the marshal shall pay all fines collected by him or his deputy, under the authority of the preceding section, into the Treasury of the United States within two months after he has received the same, deducting five per centum for his compensation; and, in case of failure, it shall be the duty of the Comptroller of the Treasury to give notice to the district attorney of the United States, who shall proceed against the marshal in the district court, by attachment, for the recovery of the same.

SEC. 8. That courts-martial for the trial of officers or men of the militia, when in the service of the United States, shall be composed of militia officers only; but such officers need not be residents of the same State or Territory as the accused.

SEC. 1658. Courts-martial for the trial of the militia shall be composed of militia officers only.

SEC. 9. That the militia, when called into the actual service of the United States, shall be subject to the same Rules and Articles of War as the regular troops of the United States.

SEC. 1644. The militia, when called into the actual service of the United States for the suppression of the rebellion against and resistance to the laws of the United States, shall be subject to the same Rules and Articles of War as the regular troops of the United States.

SEC. 1645. The militia, when called into actual service, shall be organized as prescribed in the two following sections.

SEC. 1646. They shall be formed by the President into regiments of infantry, with the exception of such numbers for cavalry and artillery as he may direct, not to exceed the proportion of one company of each of those arms to every regiment of infantry, and to be organized as in the regular service.

Each regiment of infantry shall have one colonel, one lieutenant-colonel, one major, one adjutant (a lieutenant), one quartermaster (a lieutenant), one surgeon, and two assistant surgeons, one sergeant-major, one regimental quartermaster-sergeant, one regimental commissary-sergeant, one hospital steward, and two principal musicians, and shall be composed of ten companies, each company to consist of one captain, one first lieutenant, one second lieutenant, one first sergeant, four sergeants, eight corporals, two musicians, one wagoner, and from sixty-four to eighty-two privates.

SEC. 1647. They shall be further organized into divisions of three or more brigades each, and each division shall have a major-general, three aids-de-camp, and one assistant adjutant-general with the rank of major. Each brigade shall be composed of four or more regiments and shall have one brigadier-general, two aids-de-camp, one assistant adjutant-general with the rank of captain, one surgeon, one assistant quartermaster, one commissary of subsistence, and sixteen musicians as a band.

SEC. 10. That the militia, when called into the actual service of the United States, shall, during their time of service, be entitled to the same pay and allowances as are or may be provided by law for the Regular Army.

SEC. 1650. The militia, when called into the actual service of the United States, shall, during their time of service, be entitled to the same pay, rations, clothing, and camp equipage as may be provided by law for the Army of the United States.

SEC. 1653. The officers of all mounted companies in the militia called into the service of the United States shall each be entitled to receive forage, or money in lieu thereof, for two horses, when they actually keep private servants, and for one horse when without private servants, and forty cents per day shall be allowed for the use and risk of each horse, except horses killed in battle or dying of wounds received in battle. Each noncommissioned officer, musician, artificer,

and private of such mounted companies shall be entitled to receive forage in kind for one horse, with forty cents per day for the use and risk thereof, except horses killed in battle or dying of wounds received in battle, and twenty-five cents per day in lieu of forage and subsistence when the same is furnished by himself, or twelve and a half cents per day for either, as the case may be.

SEC. 1655. When the militia in the military service of the United States are employed on the Western frontiers, there shall be allowed two ounces of flour or bread, and two ounces of beef or pork, in addition to each of their rations, and half a pint of salt in addition to every hundred of their rations.

SEC. 11. That when the militia is called into the actual service of the United States, or any portion of the militia is accepted under provisions of this Act, their pay shall commence from the day of their appearing at the place of company rendezvous. But this provision shall not be construed to authorize any species of expenditure previous to arriving at such places of rendezvous which is not provided by existing laws to be paid after their arrival at such places of rendezvous.

SEC. 1651. Whenever the militia is called into the actual service of the United States their pay shall be deemed to commence from the day of their appearing at the place of battalion, regimental, or brigade rendezvous.

SEC. 1652. The officers, noncommissioned officers, musicians, artificers, and privates shall be entitled to one day's pay, subsistence, and allowances for every twenty miles' travel from their places of residence to the place of general redezvous, and from the place of discharge back to their residence.

SEC. 1654. The expenses incurred by marching the militia of any State or Territory to their places of rendezvous, in pursuance of a requisition of the President, or of a call made by the authority of any State or Territory, and approved by him, shall be adjusted and paid in like manner as the expenses incurred after their arrival at such places of rendezvous, on the requisition of the President; but this provision does not authorize any species of expenditure, previous to arriving at the place of rendezvous, which is not provided by existing laws to be paid for after their arrival at such place of rendezvous.

SEC. 12. That the adjutant-general of each State, Territory, and the District of Columbia shall perform such duties as may be prescribed by the laws of such State, Territory, and District, respectively, and make returns to the Secretary of War at such times and in such form as he shall from time prescribe of the strength of the enlisted, organized, and uniformed active militia, and also make such reports as may from time to time be required by the Secretary of War. That the Secretary of War shall, with his annual report of each year, transmit to Congress an abstract of the returns and reports of the adjutants-general of the States, Territories, and the District of Columbia, with such observations thereon as he may deem necessary for the information of Congress.

SEC. 232. The Secretary of War shall lay before Congress on or before the

first Monday in February of each year an abstract of the returns of the adjutants-general of the several States of the militia thereof.

SEC. 1634. There shall be appointed in each State an adjutant-general, whose duty it shall be to distribute all orders from the commander in chief of the State to the several corps; to attend all musters when the commander in chief of the State reviews the militia, or any part thereof, to obey all orders from him relative to the carrying into execution and perfecting the system of military discipline established by law; to furnish blank forms of returns that may be required, and to explain the principles on which they should be made; to receive from the several officers of the different corps throughout the State returns of the militia under their command, and to make proper abstracts from such returns, and lay the same annually before the commander in chief of the State.

SEC. 1635. The several officers of the divisions, brigades, regiments, and battalions shall report, in their returns of the corps under their command, the actual condition of their arms, accouterments, and ammunition, their delinquencies, and every other particular relating to the general advancement of good order and discipline, and shall make the same in the usual manner.

SEC. 1636. It shall be the duty of the adjutant-general in each State to make return of the militia of the State, with their arms, accouterments, and ammunition, agreeably to the provisions of law, to the President of the United States, annually, on or before the first Monday in January; and it shall be the duty of the Secretary of War from time to time to give such directions to the adjutants-general of the militia as may, in his opinion, be necessary to produce a uniformity in such returns.

SEC. 1640. It shall be the duty of the brigade inspector to attend the regimental and battalion meetings of the militia composing the several brigades during the time when they are under arms, to inspect their arms, ammunition, and accouterments; to superintend their exercise and maneuvres, and to introduce throughout the brigade the system of military discipline prescribed by law, and such orders as they receive from the commander in chief of the State.

SEC. 13. That the Secretary of War is hereby authorized to issue, on the requisitions of the governors of the several States and Territories, or of the commanding general of the militia of the District of Columbia, such number of the United States service magazine rifles and carbines, with bayonets, bayonet scabbards, gun slings, web belts, and such other accouterments and equipments as are required for the Army of the United States, for arming all of the organized militia in said States and Territories and District of Columbia, without charging the same, or the cost or value thereof, against the allotment to said State, Territory, or District of Columbia, out of the annual appropriation provided by section sixteen hundred and sixty-one of the Revised Statutes, as amended, or requiring payment therefor, and to exchange, without receiving any money credit therefor, ammunition, or parts thereof, suitable to the new arms, round for round, for corresponding ammunition suitable to the old arms theretofore issued to said State, Territory, or District by the United States: *Provided*, That said

rifles and carbines and other property shall be receipted for and shall remain the property of the United States and be annually accounted for by the governors of the States and Territories as now required by law, and that each State, Territory, and District shall, on receipt of the new arms, turn in to the Ordnance Department of the United States Army, without receiving any money credit therefor, all United States rifles and carbines now in its possession.

To provide means to carry into effect the provisions of this section, the necessary money to cover the cost of exchanging the arms, accouterments, equipments, and ammunition to be used hereunder is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

SEC. 14. That whenever it shall appear by the report of inspections, which it shall be the duty of the Secretary of War to cause to be made at least once in each year by officers detailed by him for that purpose, that the organized militia of a State or Territory or of the District of Columbia is sufficiently armed, uniformed, and equipped for active duty in the field, the Secretary of War is authorized, on the requisition of the governor of such State or Territory, to pay to the quartermaster-general thereof, or to such other officer of the militia of said State as the said governor may designate and appoint for the purpose, so much of its allotment out of the said annual appropriation under section sixteen hundred and sixty-one of the Revised Statutes as amended as shall be necessary for the payment, subsistence, and transportation of such portion of said organized militia as shall engage in actual field or camp service for instruction, and the officers and enlisted men of such militia while so engaged shall beentitled to the same pay, subsistence, and transportation or travel allowances as officers and enlisted men of corresponding grades of the Regular Army are or may hereafter be entitled by law, and the officer so designated and appointed shall be regarded as a disbursing officer of the United States, and shall render his accounts through the War Department to the proper accounting officers of the Treasury for settlement, and he shall be required to give good and sufficient bonds to the United States, in such sums as the Secretary of War may direct, faithfully to account for the safekeeping and payment of the public moneys so intrusted to him for disbursement.

SEC. 15. That the Secretary of War is hereby authorized to provide for participation by any part of the organized militia of any State or Territory on the request of the governor thereof in

the encampment, maneuvers, and field instruction of any part of the Regular Army at or near any military post or camp or lake or seacoast defenses of the United States. In such case the organized militia so participating shall receive the same pay, subsistence, and transportation as is provided by law for the officers and men of the Regular Army, to be paid out of the appropriation for the pay, subsistence, and transportation of the Army: *Provided*, That the command of such military post or camp and of the officers and troops of the United States there stationed shall remain with the regular commander of the post without regard to the rank of the commanding or other officers of the militia temporarily so encamped within its limits or in its vicinity.

SEC. 16. That whenever any officer of the organized militia shall, when authorized by the President, attend and pursue a regular course of study at any military school or college of the United States such officer shall receive from the annual appropriation for the support of the Army the same travel allowances, subsistence, and quarters, or commutation of quarters, to which an officer of the Regular Army would be entitled if attending such school or college under orders from proper military authority.

SEC. 17. That the annual appropriation made by section sixteen hundred and sixty-one, Revised Statutes, as amended, shall be available for the purpose of providing any stores and supplies or publications which are supplied to the Army by any staff department shall be provided for issue to the organized militia: any State, Territory, or the District of Columbia may, with the approval of the Secretary of War, purchase for cash from the War Department, for the use of its militia, stores, supplies, material of war, or military publications, such as are furnished to the Army, in addition to those issued under the provisions of this Act, at the price at which they are listed for issue to the Army, with the cost of transportation added, and funds received from such sales shall be credited to the appropriations to which they belong and shall not be covered into the Treasury, but shall be available until expended to replace therewith the supplies sold to the States and Territories and to the District of Columbia in the manner herein provided.

SEC. 18. That each State or Territory furnished with material of war under the provision of this or former Acts of Congress shall, during the fiscal year next preceding each annual allotment of funds, in accordance with section sixteen hundred and sixty-one of the Revised Statutes, as amended, have required every company,

troop, and battery in its organized militia not excused by the governor of such State or Territory to participate in practice marches or go into camp of instruction at least five consecutive days, or to assemble for drill and instruction at company, battalion or regimental armories or rendezvous or for target practice not less than twenty-four times, and shall also have required during such year an inspection of each such company, troop, and battery to be made by an officer of such militia or an officer of the Regular Army.

SEC. 19. That upon the application of the governor of any State or Territory furnished with material of war under the provisions of this Act or former laws of Congress, the Secretary of War may detail one or more officers of the Army to attend any encampment of the organized militia, and to give such instruction and information to the officers and men assembled in such camp as may be requested by the governor. Such officer or officers shall immediately make a report of such encampment to the Secretary of War, who shall furnish a copy thereof to the governor of the State or Territory.

SEC. 20. That upon application of the governor of any State or Territory furnished with material of war under the provisions of this Act or former laws of Congress, the Secretary of War may, in his discretion, detail one or more officers of the Army to report to the governor of such State or Territory for duty in connection with the organized militia. All such assignments may be revoked at the request of the governor of such State or Territory or at the pleasure of the Secretary of War.

SEC. 21. That the troops of the militia encamped at any military post or camp of the United States may be furnished such amounts of ammunition for instruction in firing and target practice as may be prescribed by the Secretary of War, and such instruction in firing shall be carried on under the direction of an officer selected for that purpose by the proper military commander.

SEC. 22. That when any officer, noncommissioned officer, or private of the militia is disabled by reason of wounds or disabilities received or incurred in the service of the United States he shall be entitled to all the benefits of the pension laws existing at the time of his service, and in case such officer, noncommissioned officer, or private dies in the service of the United States or in returning to his place of residence after being mustered out of such service, or at any time, in consequence of wounds or disabilities received in such service, his widow and children, if any, shall be entitled to all the benefits of such pension laws.

SEC. 1638. All commissioned officers shall take rank according to the date of their commissions; and when two of the same grade bear an equal date, their rank shall be determined by lot, to be drawn by them before the commanding officer of the brigade, regiment, battalion, company, or detachment.

SEC. 1639. If any person, whether officer or soldier, belonging to the militia of any State, and called out into the service of the United States, be wounded or disabled while in actual service, he shall be taken care of and provided for at the public expense.

SEC. 1656. When any officer, noncommissioned officer, artificer, or private of the militia or volunteer corps dies in the service of the United States, or in returning to his place of residence after being mustered out of service, or at any time, in consequence of wounds received in service, and leaves a widow, or if no widow, a child or children under sixteen years of age, such widow, or if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time of his death, during the term of five years; and in the case of death or intermarriage of such widow before the expiration of five years, the half pay for the remainder of the time shall go to the child or children of the decedent; and the Secretary of the Interior shall adopt such forms of evidence in application under this section as the President may prescribe.

SEC. 1657. The volunteers or militia who have been received into the service of the United States to suppress Indian depredations in Florida shall be entitled to all the benefits which are conferred on persons wounded or otherwise disabled in the service of the United States.

SEC. 23. That for the purpose of securing a list of persons specially qualified to hold commissions in any volunteer force which may hereafter be called for and organized under the authority of Congress, other than a force composed of organized militia, the Secretary of War is authorized from time to time to convene boards of officers at suitable and convenient army posts in different parts of the United States, who shall examine as to their qualifications for the command of troops or for the performance of staff duties all persons who shall have served in the Regular Army of the United States, in any of the volunteer forces of the United States, or in the organized militia of any State or Territory or District of Columbia, or who, being a citizen of the United States, shall have attended or pursued a regular course of instruction in any military school or college of the United States Army, or shall have graduated from any educational institution to which an officer of the Army or Navy has been detailed as superintendent or professor pursuant to law. Such examinations shall be under rules and regulations prescribed by the Secretary of War, and shall be especially directed to ascertain the practical capacity of the applicant. The record of previous service of the applicant shall be considered as a part of the examination. Upon the conclusion of each examination the board shall certify to the War Department its judgment as to the fitness

of the applicant, stating the office, if any, which it deems him qualified to fill, and, upon approval by the President, the names of the persons certified to be qualified shall be inscribed in a register to be kept in the War Department for that purpose. The persons so certified and registered shall, subject to a physical examination at the time, be entitled to receive commissions pursuant to such certificates in any volunteer force hereafter called for and organized under the authority of Congress, other than a force composed of organized militia: *Provided,* That no such person shall be entitled to receive a commission as a second lieutenant after he shall have passed the age of thirty; as first lieutenant after he shall have passed the age of thirty-five; as captain after he shall have passed the age of forty; as major after he shall have passed the age of forty-five; as lieutenant-colonel after he shall have passed the age of fifty, or as colonel after he shall have passed the age of fifty-five; *And provided further*, That such appointments shall be distributed proportionately, as near as may be, among the various States contributing such volunteer force: *And provided*, That the appointments in this section provided for shall not be deemed to include appointments to any office in any company, troop, battalion, battery, or regiment of the organized militia which volunteers as a body, or the officers of which are appointed by the governor of a State or Territory.

SEC. 24. That for the purpose of providing a reserve force of trained men which shall be ready for immediate service whenever called for and organized under authority of Congress, the Secretary of War is authorized to enroll not exceeding one hundred thousand men, who shall have served in the Regular or Volunteer armies of the United States or in the organized militia. Such enrollment shall in each case continue for a period of five years. The persons so enrolled shall report for drill, inspection, and instruction at such times and places to be specified and under rules and regulations to be prescribed by the Secretary of War, and each person so reporting shall, during the time of such service, be subject, as far as practicable, to the regulations and discipline governing the military establishment and shall be entitled to the same pay and allowances as are or may be provided by law for the Army of the United States, to be paid out of the appropriation for the pay of the Army. Whenever a volunteer force shall be called for by authority of Congress, and the members of any troops, batteries, battalions, or regiments of the organized militia shall enlist in the Volunteer Army in bodies, such companies, troops, batteries, bat-

talions, or regiments shall be received as the first organizations of such volunteer force. Whenever a volunteer force shall be called for by authority of Congress, exceeding in numbers the companies, troops, battalions, batteries, and regiments of the organized militia which shall enlist in bodies pursuant to the provisions of section six of the Act entitled "An Act to provide for temporarily increasing the military establishment of the United States in time of war, and for other purposes," approved April twenty-second, eighteen hundred and ninety-eight, the persons so enrolled as a reserve force of trained men, or so many thereof as shall be required, shall be organized in the manner provided for the organization of the volunteer force by section twelve of the Act entitled "An Act for increasing the efficiency of the Army of the United States, and for other purposes," approved March second, eighteen hundred and ninety-nine: *Provided*, That the President of the United States, in time of peace, may by order fix the minimum number of enlisted men in each company, troop, battery, signal corps, engineer corps, and hospital corps: *Provided further*, That no person shall belong to both organizations at the same time.

SEC. 25. That all the volunteer forces of the United States called for by authority of Congress shall, except as hereinbefore provided, be organized in the manner provided by the Act entitled "An Act to provide for temporarily increasing the military establishment of the United States in time of war, and for other purposes," approved April twenty-second, eighteen hundred and ninety-eight.

SEC. 26. That sections sixteen hundred and twenty-five to sixteen hundred and sixty, both included, of title sixteen of the Revised Statutes and section two hundred and thirty-two thereof, relating to the militia, are hereby repealed.

SEC. 27. That this Act shall take effect upon the date of its approval.

EXTRACTS FROM MESSAGES OF PRESIDENTS RELATIVE TO THE MILITIA

PRESIDENT WASHINGTON, 1789.

"Along with this object (the preservation of peace and tranquilify on the frontiers) I am induced to suggest another, with the national importance and necessity of which I am deeply impressed; I mean some uniform and effective system for the mititia of the United States. It is unnecessary to offer arguments in recommendation of a measure on which the honor, safety and well being of our country so evidently and so essentially depend; but it may not be amiss to observe that I am particularly anxious it should receive as early attention as circumstances will admit, because it is now in our power to avail ourselves of the military knowledge disseminated throughout the several States by means of the many well instructed officers and soldiers of the late army, a resource which is daily diminishing by death and other causes. To suffer this peculiar advantage to pass away unimproved would be to neglect an opportunity * * *."

PRESIDENT WASHINGTON, 1790.

"Among the many interesting objects which will engage your attention, that of providing for the common defense will merit particular regard. To be prepared for war is one of the most efficient means of preserving peace."

"A free people ought not only to be armed, but disciplined, to which end a uniform and well digested plan is requisite."

PRESIDENT WASHINGTON, 1791.

"The first (militia) is certainly an object of primary importance, whether viewed in reference to the national security, to the satisfaction of the community, or to the preservation of order."

PRESIDENT WASHINGTON, 1793.

"They are incapable of abuse in the hands of the militia, who ought to possess a pride in being the depository of the force of the Republic, and may be trained to a degree of energy equal to every military exigency of the United States. But it is an inquiry which cannot be too solemnly pursued, whether the act more effectually to provide for the national defense by establishing a uniform militia throughout the United States, has organized them so as to produce their full effect; whether your own experience in the several States has not detected some imperfections in the scheme; and whether a material feature in an improvement of it ought not to be to afford an opportunity for the study of those branches of the military art which can scarcely ever be attained by practice alone."

PRESIDENT WASHINGTON, 1794.

"The devising and establishing of a well-regulated militia would be a genuine source of legislative honor, and a perfect title to public gratitude. I therefore entertain a hope that the present session will not pass without carrying to its full energy the power of organizing, arming, and disciplining the militia; and thus providing, in the language of the Constitution, for calling them forth to execute the laws of the Union, suppress insurrections and repel invasions."

PRESIDENT WASHINGTON, 1795.

"With the review of our army establishment is naturally connected that of the militia. It will merit inquiry, what imperfections in the existing plan further experience may have unfolded. The subject is of so much moment, in my estimation, as to excite a constant solicitude that the consideration of it may be renewed until the greatest attainable perfection shall be accomplished. Time is wearing away some advantages for forwarding the object, while none better deserves the persevering attention of the public councils."

PRESIDENT JEFFERSON, 1801.

"These considerations render important that we should, at every session, continue to amend the defects which from time to

time show themselves in the laws for regulating the militia, until they are sufficiently perfect. Nor should we now, or at any time, separate until we can say we have done everything for the militia which we could do were an enemy at our door."

PRESIDENT JEFFERSON, 1802.

"Considering that our regular troops are employed for local purposes, and that the militia is our general reliance for great and sudden emergencies, you will doubtless think this institution worthy of a review, and give it those improvements of which you find it susceptible."

PRESIDENT JEFFERSON, 1804.

"Should any improvement occur in the militia system, that will be always seasonable."

PRESIDENT JEFFERSON, 1805.

"I cannot, then, but earnestly recommend to your early consideration, the expediency of so modifying our militia system as, by a separation of the more active part from that which is less so, we may draw from it, when necessary, an efficient corps fit for real and active service, and to be called to it in regular rotation."

PRESIDENT JEFFERSON, 1806.

"A militia so organized that its effective portions can be called to any point in the Union, or volunteers instead of them to serve a sufficient time, are means which may always be ready, yet never preying on our resources until actually called into use. They will maintain the public interests while a more permanent force shall be in course of preparation. But much will depend on the promptitude with which these means can be brought into activity."

PRESIDENT JEFFERSON, 1808.

"For a people who are free, and who mean to remain so, a well organized and armed militia is their best security. It is therefore incumbent on us at every meeting to revise the condition of the militia, and to ask ourselves if it is prepared to repel a powerful enemy at every point of our territories exposed to invasion. Some of the States have paid a laudable attention to this subject; but

every degree of neglect is to be found among others. Congress alone has power to produce a uniform state of preparation in this great organ of defense; the interest which they so deeply feel in their own and their country's security will present this as among the most important objects of their deliberation."

PRESIDENT MADISON, 1809.

"Whatever may be the course of your deliberations on the subject of our military establishments, I should fail in my duty in not recommending to your serious attention the importance of giving to our militia, the great bulwark of our security and resource of our power, an organization the best adapted to eventual situations for which the United States ought to be prepared."

PRESIDENT MADISON, 1810.

"These preparations for arming the militia having thus far provided for one of the objects contemplated by the power vested in Congress with respect to that great bulwark of the public safety, it is for their consideration whether further provisious are not requisite for the other contemplated objects of organization and discipline. To give to this great mass of physical and moral force the efficiency which it merits, and is capable of receiving, it is indispensable that they should be instructed and practiced in the rules by which they are to be governed. Toward an accomplishment of this important work I recommend for the consideration of Congress the expediency of instituting a system which shall in the first instance call into the field, at the public expense and for a given time, certain portions of the commissioned and non-commissioned officers. The instruction and discipline thus acquired would gradually diffuse through the entire body of the militia that practical knowledge and promptitude for active service which are the great ends to be pursued. Experience has left no doubt either of the necessity or of the efficacy of competent military skill in those portions of an army in fitting it for the final duties which it may have to perform."

PRESIDENT MADISON, 1812.

"A revision of the militia laws, for the purpose of rendering

them more systematic and better adapting them to emergencies of war, is at this time particularly desirable."

PRESIDENT MADISON, 1813.

"The militia being always to be regarded as the great bulwark of defense and security for free States, and the Constitution having wisely committed to the national authority a use of that force, as the best provision against an unsafe military establishment, as well as a resource peculiarly adapted to a country having the extent and the exposure of the United States, I recommend to Congress a revision of the militia laws for the purpose of securing more effectually the services of all detachments called into the employment and placed under the Government of the United States."

PRESIDENT MADISON, 1814.

"I earnestly renew, at the same time, a recommendation of such changes in the system of the militia, as by classing and disciplining for the most prompt and active service the portions most capable or it, will give to that great resource for the public safety all the requisite energy and efficiency."

PRESIDENT MADISON, 1815.

"And I cannot press too much on the attention of Congress such a classification and organization of the militia as will most effectually render it the safeguard of a free State. If experience has shown in the recent splendid achievements of militia the value of this resource for public defense, it has shown also the importance of that skill in the use of arms, and that familiarity with the essential rules of discipline, which cannot be expected from the regulations now in force. With this subject is intimately connected the necessity of accommodating the laws, in every respect, to the great object of enabling the political authority of the Union to employ promptly and effectually the physical power of the Union in the cases designated by the Constitution."

PRESIDENT MADISON, 1816.

"An efficient militia is authorized and contemplated by the Constitution and required by the spirit and safety of free government. The present organization of our militia is universally regarded as

less efficient than it ought to be made, and no organization can be better calculated to give to it its due force than a classification which will assign the foremost place in the defense of the country to that portion of its citizens whose activity and animation best enable them to rally to its standard. Besides the consideration that a time of peace is the time when the change can be made with the most convenience and equity, it will now be aided by the experience of a recent war, in which the militia bore so interesting a part."

PRESIDENT MONROE, 1817.

"An improvement in the organization and discipline of the militia is one of the great objects which claims the unremitted attention of Congress."

PRESIDENT MONROE, 1822.

"I have to add, that in proportion as our regular force is small, should the instruction and discipline of the militia, the great resource on which we rely, be pushed to the utmost extent that circumstances will admit."

PRESIDENT MONROE, 1823.

"As the defense and even the liberties of the country must depend in times of imminent danger on the militia, it is of the highest importance that it be well organized, armed, and disciplined, throughout the Union."

PRESIDENT ADAMS, 1825.

"The organization of the militia is yet more indispensable to the liberties of the country. It is only by an effective militia that we can at once enjoy the repose of peace, and bid defiance to foreign aggression; it is by the militia that we are constituted an armed nation, standing in perpetual panoply of defense, in the presence of all the other nations of the earth. To this end it would be necessary so to shape its organization as to give it a more united and active energy. There are laws for establishing a uniform militia throughout the United States, and for arming and equipping its whole body. But it is a body of dislocated members, without the vigor of unity, and having little of uniformity but the name. To infuse into this most important institution the power of which it is

susceptible, and to make it available for the defense of the Union, at the shortest notice, and at the smallest expense of time, of life, and of treasure are among the benefits to be expected from the persevering deliberations of Congress."

PRESIDENT ADAMS, 1826.

"The occasion was thought favorable for consulting the same board, aided by the results of a correspondence with the governors of the several States and Territories, and other citizens of intelligence and experience, upon the acknowledged defective condition of our militia system, and of the improvements of which it is susceptible. The report of the board upon this subject is also submitted for your consideration."

PRESIDENT JACKSON, 1832.

"If in asserting rights, or in repelling wrongs, war should come upon us, our regular force should be increased to an extent proportioned to an emergency, and our present small army is a nucleus around which such force could be formed and embodied. But for purposes of defense, under ordinary circumstances, we must rely upon the electors of the country. Those, by whom, and for them, the Government was instituted and is supported, will constitute its protection in the hour of danger. as they do its check in the hour of safety.

"But it is obvious that the militia system is imperfect. Much time is lost, much unnecessary expense incurred, and much public property wasted under the present arrangement. Little useful knowledge is gained by the musters and drills now established, and the whole subject evidently requires a thorough examination. Whether a plan of classification, remedying these defects and providing for a system of instruction, might not be adopted, is submitted to the consideration of Congress. The Constitution has vested in the General Government an independent authority upon the subject of the militia, which renders its action essential to the establishment or improvement of the system, and I recommend the matter to your consideration, in the conviction that the state of this important arm of the public defense requires your attention."

PRESIDENT JACKSON, 1835.

"Occurrences to which we, as well as other nations, are liable, both in our internal and external relations, point to the necessity of an efficient organization of the militia. I am again induced by the importance of the subject to bring it to your attention. To suppress domestic violence, and to repel foreign invasion, should these calamities overtake us, we must rely in the first instance upon the great body of the community whose will has instituted and whose power must support the Government.

PRESIDENT JACKSON, 1836.

"In this connection it is also proper to remind you that the defects in our present militia system are every day rendered more apparent. The duty of making further provision by law for organizing, arming, and disciplining this armed defense has been so repeatedly presented to Congress, by myself and my predecessors, that I deem it sufficient on this occasion to refer to the last annual message and to former executive communications in which the subject has been discussed."

PRESIDENT VAN BUREN, 1837.

"It is not, however, compatible with the interests of the people to maintain, in time of peace, a regular force adequate to the defense of our extensive frontiers. In periods of danger and alarm we must rely principally upon a well-organized militia, and some general arrangement that will render this description of force more efficient has long been a subject of anxious solicitude. It was recommended to the first Congress by General Washington, and has since been frequently brought to your notice, and recently its importance strongly urged by my immediate predecessor. The provision in the Constitution that renders it necessary to adopt a uniform system of organization for the militia throughout the United States presents an insurmountable obstacle to an effective arrangement by the classification heretofore proposed, and I invite your attention to the plan which will be submitted by the Secretary of War, for the organization of volunteer corps, and the instruction of the militia officers, as more simple and practicable, if not equally ad-

vantageous as a general arrangement of the whole militia of the United States."

PRESIDENT VAN BUREN, 1838.

"I would again call your attention to the subjects connected with and essential to the military defenses of the country, which were submitted to you at the last session, but which were not acted upon, as is supposed, for want of time. The most important of them is the organization of the militia on the maritime and inland frontiers. This measure is deemed important, as it is believed that it will furnish an effective volunteer force in aid of the regular army, and may form the basis for a general system of organization for the entire militia of the United States."

PRESIDENT VAN BUREN, 1839.

"The present condition of the defenses of our principal seaports and navy yards, as represented by the accompanying report of the Secretary of War, calls for the early and serious attention of Congress, and, as connecting itself intimately with this subject, I cannot recommend too strongly to your consideration the plan submitted by that officer for the organization of the militia of the United States."

PRESIDENT TYLER, 1843.

"In all cases of emergency the reliance of the country is properly placed in the militia of the several States, and it may well deserve the consideration of Congress whether a new and more perfect organization might not be introduced, looking mainly to the volunteer companies of the Union for the present, and of easy application to the great body of the militia in time of war."

PRESIDENT LINCOLN, 1861.

"The recommendation of the Secretary (of War) for the organization of the militia on a uuiform basis, is a subject of vital importance to the future safety of the country, and is commended to the serious attention of Congress."

PRESIDENT HAYES, 1880.

"Attention is asked to the necessity of providing by legislation for organizing, arming, and disciplining the active militia of the

country, and liberal appropriations are recommended in this behalf."

PRESIDENT ARTHUR, 1882 AND 1883.

"I invite the attention of Congress to the propriety of making more adequate provision for arming and equipping the militia."

"From the reports of these (U.S. Army) officers I am induced to believe that the encouragement of the State militia organizations by the National Government would be followed by very gratifying results and would afford it in sudden emergencies, the aid of a large body of volunteers educated in the performance of military duties."

PRESIDENT HARRISON, 1890.

"The encouragement that has been extended to the militia of the States, should be continued and enlarged. These military organizations constitute in a large sense the army of the United States, while about five-sixths of the annual cost of their maintenance is defrayed by the States."

PRESIDENT CLEVELAND, 1896.

"The appropriations for its (organized militia) support by the several States approximate $2,800,000 annually, and $400,000 is contributed by the General Government. Investigation shows these troops to be usually well drilled and inspired with much military interest, but in many instances they are so deficient in proper arms and equipment that a sudden call to active duty would find them inadequately prepared for field service. I therefore recommend that prompt measures be taken to remedy this condition and that every encouragement be given to this deserving body of unpaid voluntary citizen soldiers, upon whose assistance we must largely rely in time of trouble.

PRESIDENT ROOSEVELT, 1901.

"Our militia law is obsolete and worthless. The organization and armanent of the National Guard of the several States * * * should be made identical with those provided for the regular forces. The obligations and duties of the Guard in time of war should be carefully defined. * * * It is utterly impossible in the excitement and haste of impending war to do this satisfactorily if the arrangements have not been made long beforehand."

EXTRACTS FROM REPORTS, 1898.

INSPECTOR GENERAL U. S. ARMY.

"Recent experiences have shown that our militia system could advantageously be reconstructed and a more intimate relation established between it and the National Government."

"The great number of volunteer regiments moving to the centres of concentration without arms or uniforms, and the subsequent difficulties in meeting their needs promptly, suggest the establishment of reserve or supply depots at convenient points, in order that each State, on call, can put its quota in the field in condition for service, at least as far as arms and equipments go."

"To secure better cohesion between the National Guard and regulars and the greatest efficiency of the troops in the field, funds should be provided for combined encampments and periodical military manœuvres and experimental mobilization in times of peace, as is customary with all first-class European powers. One of the most serious defects noted during the Spanish-American war was the inexperience and utter disregard for the most elementary principles of military life in large camps."

SURGEON GENERAL, U. S. ARMY.

"Considerations of domestic economy and sanitation in the companies and regiments were not given proper attention, and men who were being taught to meet the enemy in battle succumbed to the hardships and unsanitary conditions of life in their camps of instruction."

CHIEF OF ORDNANCE, U. S. ARMY.

"When the first call for volunteers from the States for the war with Spain was made, it was decided to take as many of the regiments of the National Guard as possible already armed and equipped by the States. * * * The supposition was that

* * * the State troops, being already armed and equipped, would be ready for immediate service. This was based on the supposition that the arms and equipments were in good condition, an expectation not generally realized during the war. It is probable that the troops would have been ready for service as quickly by being equipped anew."

"As these troops (volunteer, first call) were mainly from the National Guards of the different States, it was understood that they were well equipped, * * * which supposition was not realized."

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