

denomination, having as such, any peculiar mode of performing that ceremony.

Husband must
make return to
clerk in such
cases.

SECT. 16. But where any mode is thus pursued, which dispenses with the services of a clergyman or magistrate, the husband is responsible for the return directed to be made to the clerk of the board of county commissioners, and is liable to the above-named penalty if the return is not made.

Illegitimate
children made
legitimate by
marriage.

SECT. 17. Illegitimate children become legitimate by the subsequent marriage of their parents, and all marriages heretofore contracted are hereby declared legalized and in full force and effect.

Take effect,
when.

SECT. 18. This act shall take effect and be in force from and after its passage, and approval by the governor.

Approved May 7, 1862.

W. JAYNE, *Governor.*

MILITIA.

CHAPTER 60.

AN ACT TO ORGANIZE AND DISCIPLINE THE MILITIA OF THE TERRITORY OF DAKOTA.

Be it enacted by the Legislative Assembly of the Territory of Dakota:

Who compose
militia.

SECTION 1. That all able-bodied white male citizens, residents of this territory, being eighteen years of age and under the age of forty-five years, excepting persons exempt by law, shall be enrolled in the militia, and perform military duty, in such manner, not incompatible with the constitution and laws of the United States, as hereinafter prescribed.

Territory forms
one division,
under whose
command.

SECT. 2. That the territory shall constitute but one division, and shall be under the command of one brigadier-general

and colonels, as the commander-in-chief may see proper, according to the census returns taken from time to time under the authority of law.

SECT. 3. The governor of the territory shall be commander-in-chief, and shall have power to appoint the brigadier-general, colonels, majors, and all the commissioned officers necessary for the several regiments and companies, and the captains of the several companies shall have power to appoint all non-commissioned officers of their respective companies.

Governor commander-in-chief. Officers, how appointed.

SECT. 4. It shall be the duty of the sheriff of each of the counties of this territory, when taking the census of their respective counties, to make out a list containing the names of all the persons in their respective counties, liable to perform military duty, and file a copy of such list with the register of deeds of the county, to be by him kept as a matter of reference, and also to transmit to the secretary of the territory a copy, to be by him kept as a matter of reference in his office; which copies shall be filed in the offices of the persons aforementioned, on or before the first day of January in each year.

Sheriff to make out list of persons liable to military duty, &c.

SECT. 5. The sheriff shall take a list of the persons liable to perform military duty at the time of making the assessment.

List, when taken.

SECT. 6. The militia thus enrolled shall be subject to perform no active military duty, save and except in case of war, invasion, or to prevent invasion, riot, or insurrection. In such case, the commander-in-chief is hereby authorized to order out, from time to time, for actual service, as many of the militia thus enrolled as necessity may require, and to provide for their organization in the manner hereinafter prescribed for the organization of volunteer militia: *Provided*, That, in all such cases, the enrolled volunteer militia shall first be ordered into service. The militia, while in active service, shall be governed by the military law of the territory, and the rules and articles of war of the United States; and when any troops are in the field for the purposes aforesaid in this section, the senior ranking officer of the troops present shall take command: *Provided*, That no person shall be eligible to a command in the militia of this territory except citi-

When and how militia liable to do duty.

Proviso.

Governed by what rules.

Proviso.

zens of the United States, or persons having declared their intention to become such.

Of volunteer militia.

SECT. 7. The active militia of this territory shall be composed of volunteer companies, raised by order of the commander-in-chief within the limits of this territory. The volunteer militia shall, in all cases of war, invasion, riot, or insurrection, be the first military force ordered into the field.

First in the field.

How composed. Proviso.

SECT. 8. Volunteer companies shall consist of men between the ages of eighteen and forty-five: *Provided*, No minor shall be enrolled as a member of such volunteer company, without the consent of his parent or guardian.

Companies, battalions, and regiments, how formed.

SECT. 9. Whenever, according to the provisions of this act, forty men shall be enrolled as members of a volunteer company of artillery, infantry, light-infantry, or rifle, or whenever thirty men shall be enrolled as members of a volunteer company of cavalry, such companies shall be officered by the commander-in-chief, as provided for in the third section of this act. No company shall be increased to more than one hundred members; and whenever a company becomes reduced to less than twenty members, it may be attached to another company or disbanded, by order of the commander-in-chief: *Provided*, That whenever twenty men shall be enrolled as members of a light artillery company, they may proceed as provided in this act (section 3). When two such light artillery companies are organized in any brigade, they may be formed into a battalion, under the command of a major and such subordinate officers as the commander-in-chief shall direct; and whenever three such companies of light artillery are organized in any brigade, they may be formed into a battalion, under the command of a lieutenant-colonel and major, with such subordinate officers as the commander-in-chief may direct; and, whenever five such light artillery companies exist in any one brigade, they may, by order of the commander-in-chief, be formed and organized into a regiment, with a full complement of regimental officers. All such companies, battalions, and regiments of light artillery, when organized, shall be armed and drilled as near as practicable in accordance with the system of the United States army, for like organization.

Proviso.

Armed and drilled as in U. S. A.

SECT. 10. The several volunteer companies of cavalry, artillery, infantry, light infantry, and riflemen in this territory shall be numbered by the proper commandant of [the] brigade, and a record made of such numbers in his office, and in the adjutant-general's office, and when they exist in sufficient numbers, and are conveniently located for the purpose, shall be organized into battalions and regiments, and officered as provided in section three of this act. And in all cases of the same description of arms and the oldest organized uniform company, [those] first commissioned shall be first and senior in rank, the next uniform company commissioned second in rank, and so on to the junior organized and commissioned company, dating from the first commissions issued to the officers of the company.

Companies numbered, how, &c.

Of rank.

SECT. 11. That every commandant of any volunteer independent company shall make a return of all non-commissioned officers, musicians, and privates under his command, belonging to his company, and all the arms and accoutrements belonging thereto, to the commandant of his regiment, squadron, or battalion; but, if his company does not form a part of any regiment, squadron, or battalion, then he shall make return to the commandant of his brigade; but in either case, shall make his return on or before the first day of October in each year; and the commandants of each and every regiment, squadron, or battalion shall make return to the commandant of brigade, on or before the first day of November, annually; and the commandant of brigade shall return to commander-in-chief, on or before the first day of December, in each year. All commandants named in this act shall make return of all commissioned and staff-officers, non-commissioned staff-officers, all members of volunteer or independent companies, all arms and accoutrements belonging to or in possession of their commandants, and all such returns shall be preserved by the adjutant-general, in a book of records in his office; and an abstract thereof, showing the number of uniform volunteer militia, or active military of the territory, shall be by him forwarded to the war department, at Washington city.

Return required of commandants of companies.

Commandant of regiment same.

Returns contain what, and how preserved.

SECT. 12. Every non-commissioned officer and soldier of any volunteer company, shall be held to duty therein for two years, unless some absolute disability shall occur after form-

Of term of service.

ing such company, or shall be discharged by the proper officer; and every such person, after the expiration of said term, and every commissioned officer, after serving a similar term in conformity with the provisions of this act, shall be entitled to a certificate of such service; and such certificate shall be given to all such persons under the rank of brigadier-general, by general of brigade, and, if there be no brigadier, by officers of any brigade in command; and the holders of such certificates shall be exempt from military duty in time of peace: *Provided*, That if any officer or person shall knowingly grant, issue, or use any illegal certificate under the provisions of this act, such officer or person shall be deemed guilty of misdemeanor, and subject to pay a penalty in amount not less than five nor more than fifty dollars for each offence, to be collected before any court having competent jurisdiction, and when collected, to be paid into the military fund in the county where the offence was committed.

Proviso.

Companies may
adopt constitu-
tion and by-laws.

SECT. 13. Each volunteer company, organized under the provisions of this act, may adopt such constitution and by-laws as a majority of such company may approve, which shall be binding on all who sign the same; and when any fines are assessed, by reason of any infraction of such constitution and by-laws, such company may have process before any competent court of jurisdiction, in the name of the United States, for the use of such company, and prosecute to final judgment and execution all such fines and penalties, provided for by such constitution or by-laws: *Provided*, That said constitution and by-laws are not inconsistent with this act, or the constitution of the United States, or the organic act organizing the Territory of Dakota: *Provided, also*, That in no case will the territory pay any costs of such prosecution.

Proviso.

Proviso.

Of military
commissions.

SECT. 14. That all the military commissions issued, except the quartermaster-general, adjutant-general, paymaster-general, and aide-de-camp to the commander-in-chief shall expire in two years from the date thereof: *Provided*, That any officer holding a commission under the provisions of this act, who may be reappointed to the same office, shall retain the same rank as he was entitled to under his former commission: *Provided, also*, That nothing in this act shall be so construed as to disqualify any staff-officer or any officer of

Proviso.

Proviso.

the line from holding a commission after he may have arrived at the age of forty-five years: and further *Provided*, That every officer who shall remove out of the bounds of his command, or who shall be absent from his command without leave of the commanding officer of his brigade, shall be considered as having vacated his office, and a new appointment shall be made without delay, to fill the vacancy so created: *Provided*, That nothing in this act shall be [so] construed or understood as to prevent any appointed officer from being removed from his office whenever, in the opinion of the officer appointing him, he shall deem it advisable to remove him.

Proviso.

Proviso.

SECT. 15. There shall be held, once in each year, a brigade muster and encampment of all the volunteer militia in the territory, commencing at ten o'clock, A. M., and continuing not more than four nor less than two days. Said muster and encampment shall be held at the most suitable place, to be selected by the commandant of brigade, and the officers and soldiers forming such encampment shall be drilled in accordance with the requirements of the rules and usages of the United States army: and the commandant of the brigade shall give thirty days' public notice of the time and place of such muster, which shall be held in the month of July, August, or September.

Annual muster, when and where held.

SECT. 16. All officers appointed according to the provisions of this act shall be entitled to a certificate from the officer making such appointment, which certificate and taking the necessary oath shall entitle such officer to command, and to perform such other duties as may pertain to the office to which he is appointed, until the commission can be procured; and in all cases, the officers giving such certificate shall administer to such officer the necessary oath of office, and indorse the same upon the back of his certificate with the day and date on which such oath was administered: *Provided*, also, That every staff-officer who may be appointed shall also be entitled to a certificate in like manner.

What entitles officer to command.

Proviso.

SECT. 17. For good cause shown, the commander-in-chief may accept the resignation of brigadier-generals, and the brigadier-general may accept the resignation of colonels, or the commandants of regiments, lieutenant-colonels, majors, captains, and lieutenants; and for good cause shown, the

Of resignations.

commandant of any regiment, squadron, or battalion shall accept the resignation of any regimental, squadron, or battalion staff-officer: *Provided, also,* That the brigadier-general may accept the resignation of his staff-officers; and in all cases when a resignation is accepted, the cause of such resignation shall be indorsed by the officer accepting the same, on the back of the commission so resigned; but the command of such officer shall not cease until the officer accepting such resignation shall have indorsed his acceptance.

Proviso.

Staff-officers of
brigades and regi-
ments, and how
appointed.

SECT. 18. To each brigade there shall be one brigade-major — to serve as brigade inspector — two aides-de-camp, one brigade quartermaster, one brigade engineer, one brigade judge advocate, one brigade surgeon, and one brigade chaplain, which brigade staff shall be appointed by the commander-in-chief. To each regiment or battalion of artillery, rifle, light infantry, or infantry, there may be one chaplain, one adjutant, one quartermaster, one surgeon, one surgeon's mate, one sergeant major, one quartermaster-sergeant, one drum-major, and one fife-major, to be appointed by the commandant of such regiment or battalion. To each regiment or battalion of cavalry there shall be one adjutant, one quartermaster, one paymaster, one surgeon, one surgeon's mate, one quartermaster-sergeant, one sergeant-major, and two regimental or squadron buglers, which shall be appointed by the commandant of such regiment or squadron.

Staff-officers
rank, how.

SECT. 19. The staff-officers herein enumerated shall rank as follows, namely, the quartermaster-general and adjutant-general as brigadier-generals; the paymaster-general, engineer in chief, judge advocate general, and aides-de-camp to the commander-in-chief, as colonels; the aides-de-camp to brigadier-generals, chaplains, and surgeons, as captains; company ensign, adjutants, quartermasters, paymasters, surgeon's mates of regiments, battalions, and squadrons, as lieutenants; and all other regimental or squadron staff, as non-commissioned officers.

Officer's uni-
form.

SECT. 20. The uniform of the respective officers herein mentioned shall be the same as the uniform of the officers in the United States army.

Of company.

SECT. 21. Each company shall muster as often as twice in each year, independent of the general muster.

SECT. 22. Each officer, before he enters upon the discharge of his duty, shall take and subscribe an oath to support the constitution of the United States, the provisions of this act, and the act organizing the Territory of Dakota, and to faithfully and impartially discharge his duty, to the best of his ability.

Officer to take oath.

SECT. 23. Officers and privates shall be tried for misdemeanors and offences in the same manner as provided in the army regulations of the United States.

Officers and privates tried, how.

SECT. 24. This act to take effect from and after its passage, and approval by the governor.

Take effect, when.

Approved May 8, 1862.

W. JAYNE, Governor.

M O R T G A G E S .

CHAPTER 61.

AN ACT TO PROVIDE FOR THE FILING OF CHATTEL MORTGAGES.

Be it enacted by the Legislative Assembly of the Territory of Dakota :

SECTION 1. Any mortgage of personal property, or a copy thereof, may be filed in the office of the register of deeds of any county where the mortgagor executing the same resides; or, in case he is a non-resident of the territory, then in the office of the register of the county where the property mortgaged may be at the time of executing such mortgage; and such register shall indorse on such instrument or copy the time of receiving the same, and shall record the same in a book kept for the purpose of recording chattel mortgages.

Chattel mortgage filed, where.

SECT. 2. Such register of deeds shall also enter, in a book to be provided by him for that purpose, the names of all the parties to such instruments, arranging the names of

Record names of parties, and note time of filing.