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Land excepted.

be subject to disposal, to actual settlers thereon, according to the provisions of the homestead laws only, with the exception of the land reserved by Executive order of May twenty-second, eighteen hundred and seventy-seven, one mile square for town site purposes, which shall not be affected by this act.

Approved, October 1, 1890.

October 1, 1890.

CHAP. 1241.—An act to provide for the examination of certain officers of the Army and to regulate promotions therein.

Examination of certain officers of the army, and regulation of promotions.

Grades below brigadier-general in each arm.

Examination.

Seniority.

Proviso.

Line officers now above second-lieutenant.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter promotion to every grade in the Army below the rank of brigadier-general, throughout each arm, corps, or department of the service, shall, subject to the examination hereinafter provided for, be made according to seniority in the next lower grade of that arm, corps, or department: *Provided*, That in the line of the Army all officers now above the grade of second lieutenant shall, subject to such examination, be entitled to promotion in accordance with existing laws and regulations.

Assignment and transfer of officers of grades.

SEC. 2. That officers of grades in each arm of the service shall be assigned to regiments, and transferred from one regiment to another, as the interests of the service may require, by orders from the War Department, and hereafter all appointments in the line of the Army shall be by commission in an arm of the service and not by commission in any particular regiment.

Line appointments to arm, and not to regiment.

Examination for fitness for promotion of all below major.

SEC. 3. That the President be, and he is hereby, authorized to prescribe a system of examination of all officers of the Army below the rank of major to determine their fitness for promotion, such an examination to be conducted at such times anterior to the accruing of the right to promotion as may be best for the interests of the service: *Provided*, That the President may waive the examination for promotion to any grade in the case of any officer who in pursuance of existing law has passed a satisfactory examination for such grade prior to the passage of this act: *And provided*, That if any officer fails to pass a satisfactory examination and is reported unfit for promotion, the officer next below him in rank, having passed said examination, shall receive the promotion: *And provided*, That should the officer fail in his physical examination and be found incapacitated for service by reason of physical disability contracted in line of duty he shall be retired with the rank to which his seniority entitled him to be promoted; but if he should fail for any other reason he shall be suspended from promotion for one year, when he shall be re-examined, and in case of failure on such re-examination he shall be honorably discharged with one year's pay from the Army: *And provided further*, That the examination of officers appointed in the Army from civil life, or of officers who were officers of volunteers only, or were officers of the militia of the several States called into the service of the United States, or were enlisted men in the regular or volunteer service, either in the Army, Navy, or Marine Corps, during the war of the rebellion, shall be conducted by boards composed entirely of officers who were appointed from civil life or of officers who were officers of volunteers only during said war, and such examination shall relate to fitness for practical service and not to technical and scientific knowledge; and in case of failure of any such officer in the re-examination hereinbefore provided for, he shall be placed upon the retired list of the Army; and no act now in force shall be so construed as to limit or restrict the retirement of officers as herein provided for.

Provisos.

Where officer passed examination under existing law.

Failure to pass, etc.

Retirement on physical disability contracted in line of duty.

Failure for other reason.

Failure on re-examination.

Examination of officers appointed from civil life, etc.

Composition of boards.

Practical fitness.

Failure.

No existing law to limit retirement.

Approved, October 1, 1890.