AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

share of any such allottee and expend the same for the payment or partial payment of the sum found by such drainage district to be due from such allottee for the purpose of protecting his lands embraced in the drainage district from overflow. Such payment shall be credited on any assessment which may be made on the allotment of said Indian after the termination of the trust by expiration of the period, issuance of a fee-simple patent, or by a conveyance under existing law, duly approved by the Secretary of the Interior.

Payment for protection from overflow.

Credited on assessments.

SEC. 3. That any such drainage district be, and is hereby, authorized to assess the cost of reclaiming the tribal lands of the Omaha and Winnebago Indians and all lands allotted to the Indians in severalty and held by patents containing restrictions as to alienation and taxation within such districts, subject to the limitation contained in the preceding section, and to condemn any of said lands necessary for the purpose of reclamation in the same manner as such district may condemn other lands: *Provided*, That the payments to be made or the taking of lands under the provisions of this section shall be subject to the approval of the Secretary of the Interior.

Reclamation of tribal lands.

Proviso.
Approval of payments.

SEC. 4. That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, upon application of the allottee, or his heirs, to issue a fee-simple patent to any Omaha and Winnebago Indian for the lands allotted to him within any such drainage district, and the issuance of such patent shall operate as a removal of all restrictions as to the sale, incumbrance, and taxation of the lands covered thereby.

Patent in fee simple.

Approved, February 18, 1909.

CHAP. 146.—An Act For the organization of the militia in the District of Columbia.

February 18, 1909.
[H. R. 21926.]

[Public, No. 240.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following amendments are hereby made to an Act of Congress entitled "An Act to provide for the organization of the militia of the District of Columbia, and for other purposes," approved March first, eighteen hundred and eighty-nine:

District of Columbia.
Militia organization.

Strike out the whole of section ten and insert in lieu thereof the following:

Vol. 25, p. 774, amended.

"SEC. 10. That the organized militia shall be composed of volunteers, and shall be designated the National Guard of the District of Columbia."

Designated National Guard.

Strike out the whole of section eleven and insert in lieu thereof the following:

"SEC. 11. That the land forces of the National Guard shall consist of one brigadier-general (the commanding general of the militia of the District of Columbia), an adjutant-general's department, an inspector-general's department, a judge-advocate-general's department, a quartermaster's department, a subsistence department, a department of small arms practice, a medical department and hospital corps, a pay department, a corps of engineers, an ordnance department, a signal corps, a coast artillery corps, two regiments and one separate battalion of infantry, four companies of coast artillery, a troop of cavalry, and one battery of field artillery, all to be organized by the President as now provided for the Regular Army or the organized militia by law or regulation: *Provided*, That the President of the United States, the Commander in Chief, shall have power to alter, divide, annex, consolidate, disband, or reorganize the same whenever in his judgment the efficiency of the forces will be thereby increased, and he shall at any time have power to change the organi-

Composition.

Proviso.
Powers of the President to change.
Vol. 25, p. 775 amended.

zation of departments, staff corps, regiments, battalions, companies, troop, and battery so as to conform to any organization, system of drill, or instruction now or hereafter adopted for the Army of the United States or the organized militia, and for that purpose the number of officers and enlisted men of any grade in departments, staff corps, regiments, battalions, companies, troop, and battery may be increased to the extent made necessary by the new positions thus created."

Vol. 25, p. 774, amended.

Strike out all of sections twelve, thirteen, fourteen, fifteen, sixteen, and seventeen; change the number of section eighteen to twelve; and amend section nineteen to read as follows:

Officers. Commissions on recommendation by commanding general.

"SEC. 13. That all officers shall be commissioned by the President of the United States, on the recommendation of the commanding general. That they shall be nominated as herein provided. No person commissioned as an officer shall assume such rank or enter upon the duties of the office to which he may be commissioned until he has accepted such commission and taken such oaths or affirmation as may be prescribed."

Oath.

Vol. 25, p. 775, amended.

Strike out all of sections twenty and twenty-one and insert in lieu thereof the following:

Nominations of staff, etc., officers.

"SEC. 14. That the officers of the staff departments, staff corps, and the organizations created by this Act when organized shall be nominated by the commanding general, subject to the examination required by law."

Strike out all of section twenty-two and insert in lieu thereof the following:

Line officers, promotion.

"SEC. 15. That vacancies existing or hereafter occurring in the cavalry, coast artillery corps, field artillery, and infantry above the grade of second lieutenant shall, subject to the examination required by law, be filled by promotion according to seniority from the next lower grade in the troop, the separate company, the field battery, the separate battalion, and the regiment in which the vacancy occurred."

Following section twenty-two and between that section and section twenty-three insert the following additional section:

Second lieutenants from enlisted men.

"SEC. 16. That hereafter all appointments to the grade of second lieutenant shall be from the enlisted men, under regulations prescribed by the commanding general, and subject to the examination required by law."

Strike out all of section twenty-three and insert in lieu thereof the following:

Examinations for promotion.

"SEC. 17. That the commanding general be, and he is hereby, authorized to prescribe a system of examination to be conducted at such times anterior to the accruing of the right to promotion as may be best for the interest of the service. If any officer fails to appear for examination within thirty days after notification to so appear or 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 the 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 ninety days, when he shall be reexamined, and in case of failure on such reexamination he shall be honorably discharged."

Proviso. Retirement for physical disability.

Suspension, etc.

Following section twenty-three and between that section and section twenty-four insert the following additional sections:

Examinations for second lieutenancies.

"SEC. 18. That the commanding general be, and he is hereby, authorized to prescribe a system of examination of enlisted men to determine their fitness for promotion to the grade of second lieutenant.

Physical, etc., examination of officers.

"SEC. 19. That whenever, in the opinion of the commanding general of the militia of the District of Columbia, an officer of the said militia has become incapacitated for the performance of duty for any reason, the commanding general shall submit the name of such officer to the Secretary of War, with a view to his being ordered before a board of examination, to be appointed by the Secretary of War, which board shall examine said officer as to his physical, mental, and military qualifications.

Certificate to President.

"If any officer shall fail to appear before a board of examination so appointed within thirty days after being notified, or shall fail to pass a satisfactory examination, the fact shall be certified by the board to the commanding general, who shall forward the record of examination to the Secretary of War, with his recommendation thereon, for submission to the President.

Retirement after ten years' service.

"SEC. 20. That any commissioned officer in the National Guard of the District of Columbia who shall have served as such in the National Guard of the District of Columbia for the continuous period of ten years may, upon his own application, be placed by the President of the United States upon a retired list, which is hereby authorized, with the rank held by him at the time such application is made: *Provided, however*, That an officer so retired who at the time of making such application has remained in the same grade for the continuous period of ten years, or whose services have been especially meritorious, may be retired with increased rank of one grade and shall, before being so retired, receive from the President of the United States the commission of the new grade: *Provided further*, That whenever any officer on the active list reaches the age of sixty-four years he shall be retired; with or without increase of rank in the discretion of the President of the United States. Retired officers on occasions of ceremony may, and when acting under orders, as hereinafter provided, shall wear the uniform of the highest rank attained by them in the military service of the United States, the militia of the States or Territories, or the National Guard of the District of Columbia. Retired officers shall be eligible to perform any military duty to the same extent as if not retired, and the commanding general may, in his discretion, by order, require them to serve upon military boards, courts of inquiry, and courts-martial, or to perform any other special or temporary duty, and for such service they shall receive the same pay and allowances as are provided by law for like service by officers on the active list of the National Guard of the District of Columbia. All retired officers shall be amenable to court-martial for military offenses to the same extent as if upon the active list of the National Guard of the District of Columbia. The names of all officers of retired rank shall be borne upon a separate roster, kept under the supervision of the adjutant-general. The commanding general may at any time recommend to the President of the United States and the President may retire any commissioned officer who shall have been ordered before a medical board consisting of at least three commissioned medical officers and upon whom such a board shall have made report showing such officer to be physically unable to properly perform the duties of his office."

Provisos.
Increased rank.

Retirement at sixty-four years of age.

Retired officers may wear uniforms, etc.

Service on military boards, etc.

Pay and allowances.

Amenable for military offenses.

Commanding general may recommend retirement.

Section number changed.

Change the number of section twenty-four to "twenty-one."

Vol. 25, p. 775, amended.

Strike out the whole of section twenty-five and insert in lieu thereof the following:

Noncommissioned officers, appointments.

"SEC. 22. That the commanding officers of regiments and battalions not part of regiments shall appoint and warrant the noncommissioned staff officers of their respective regiments or battalions, and they shall, in their discretion, warrant the noncommissioned officers of the companies of their respective regiments and battalions from the members thereof, upon the written nomination of the commanding officers of the companies, respectively. In troop, battery,

and companies not part of a regiment or battalion and in the hospital corps the noncommissioned officers shall be warranted by the commanding officer of the brigade, in his discretion, from the members thereof, upon the written nomination of the commanding officer of the troop, battery, company, or hospital corps. The officer warranting a noncommissioned officer shall have power to reduce to the ranks, for good and sufficient reasons, the noncommissioned officers named in this section, but such as were enlisted as noncommissioned officers shall be discharged. Noncommissioned officers who shall be dropped vacate their positions."

Reduction to ranks, etc.

Vol. 25, p. 775, amended.

Strike out the whole of section twenty-six and insert in lieu thereof the following:

Term of enlistment.

"SEC. 23. That enlistment in the National Guard of the District of Columbia shall be for the term of three years: *Provided, however,* That any soldier who may have received an honorable discharge by reason of the expiration of his term of service may within thirty days thereafter reenlist for a term of three years, to date from the expiration of his previous term."

Proviso. Reenlistment.

Section number changed.

Change the number of section twenty-seven to "twenty-four."

Vol. 25, p. 776, amended.

Strike out the whole of section twenty-eight and insert in lieu thereof the following:

Discharges of enlisted men. Honorable.

"SEC. 25. That no enlisted man shall be honorably discharged before the expiration of his term of service, except by order of the commanding general and for the following reasons:

"Upon his own application, for good and sufficient reason, approved by the commanding officer of his company and by superior commanders.

"Upon removal from the District of Columbia.

"Upon disability, established by certificate of a medical officer.

"To accept promotion by commission."

Following section twenty-eight and between that section and section twenty-nine insert the following additional section:

Without honor.

"SEC. 26. That an enlisted man may be discharged without honor at any time by order of the commanding general on account of fraudulent enlistment, or on account of his being continuously absent without leave from his command for a period of not less than three months.

Dishonorable.

"SEC. 27. That an enlisted man shall be dishonorably discharged by order of the commanding general upon conviction of felony in a civil court; upon discovery of reenlistment after previous dishonorable discharge; or to carry out a sentence of a court-martial."

Section numbers changed.

Change the number of section thirty to "twenty-eight."

Change the number of section thirty-one to "twenty-nine."

Change the number of section thirty-two to "thirty."

Following section thirty-two and between that section and section thirty-three insert the following additional section:

Public property. Personal responsibility for.

"SEC. 31. That every officer and enlisted man to whom property of the United States has been issued shall be personally responsible to the United States for such property, and no one shall be relieved from such responsibility except it be shown to the satisfaction of the commanding general that the loss or destruction of such property was unavoidable and in no way the fault of the person responsible for the same; and in all other cases the value of the property lost or destroyed shall be charged against the person at fault or to the organization to which it has been issued, and such person or organization, if not relieved from such charge by the commanding general, shall pay the value of such property to the Quartermaster-General within one year after such loss or destruction. The value of lost or destroyed property and the person or organization to be charged therewith shall be determined by a board to consist of an inspector of the staff of the commanding general of the militia and the commanding

Determining value of lost, etc.

officer of the organization in which such property is lost. In case of disagreement such value shall be fixed by the commanding general of the militia."

Section numbers changed.

Change the number of section thirty-three to "thirty-two."

Change the number of section thirty-four to "thirty-three."

Vol. 25, p. 777, amended.

Strike out the whole of section thirty-five and insert in lieu thereof the following sections:

Transfer of, on promotion, etc.

"SEC. 34. That upon the promotion, tender of resignation, retirement, or dismissal of any officer who is responsible or accountable for public property, the commanding general of the militia shall designate an officer to accept and receipt for such property, and direct the officer responsible or accountable therefor to make prompt transfer of all property remaining on hand; and it shall be the duty of the officer responsible or accountable to proceed at once to complete such transfer and close his accounts without delay.

Failure to transfer.

"SEC. 35. That should any officer responsible or accountable for public property, after receiving instructions to transfer the same as aforesaid, fail to make proper transfer as directed within thirty days or any authorized extension of that period, the heads of the respective staff departments exercising supervision over or control of said property shall report the facts to the adjutant-general for the action of the commanding general of the militia. Upon receiving such a report the commanding general may, in his discretion, direct that a surveying officer be appointed, and it shall be the duty of such surveying officer to ascertain and verify all public property which the delinquent officer had on hand and certify the same to the officer designated to receive it, who will immediately take up all property so certified and receipt for the same to the head of the proper staff department. The surveying officer will then proceed to determine and fix the responsibility for the loss or destruction of any of the foregoing property which is not found or transferred as directed.

Defective accounts.

"SEC. 36. That should any officer responsible or accountable for public property, after receiving instructions to transfer the same and close his accounts as aforesaid, fail to close his accounts to the satisfaction of the commanding general, the heads of the respective staff departments exercising supervision over or control of said property will report the facts to the adjutant-general for the action of the commanding general of the militia. Upon receiving such a report, the commanding general may, in his discretion, direct that a surveying officer be appointed to determine and fix the responsibility for the loss or destruction of any public property for which said officer is responsible or accountable and which he has failed to transfer to the officer designated to receive the same.

Determining responsibility.

Survey of, in case of death, etc.

"SEC. 37. That in the event of the death or desertion of any officer accountable for public property the commanding general shall direct that a surveying officer be appointed, and also designate an officer to receive such property. Said surveying officer shall ascertain and verify all public property which the deceased or deserting officer had on hand at the time of his death or desertion and certify the same to the officer designated to receive it, who will immediately take up all property so certified and receipt for the same to the heads of the proper staff departments. The surveying officer will then proceed to determine and fix the responsibility for the loss or destruction of any of the foregoing property which is not found or transferred as directed.

Liability until notice of correctness of account.

"SEC. 38. That until an officer or his legal representative shall have received notice that the property accounts of such officer have been examined and found correct the liability of such officer or of his estate for public property for which he is or may have been responsible or accountable shall be in no way affected by resignation, discharge,

Payment for loss, etc.

change in official position, desertion, or death. Compensation for any public property defaced, injured, lost, or destroyed through the neglect or default of a deceased officer may be recovered from his estate in the manner provided in section thirty-two."

Section numbers changed.

Vol. 25, p. 779.

Change the number of section thirty-six to "thirty-nine."
Change the number of section thirty-seven to "forty."
Change the number of section thirty-eight to "forty-one."
Change the number of section thirty-nine to "forty-two."
Change the number of section forty to "forty-three."
Change the number of section forty-one to "forty-four."
Change the number of section forty-two to "forty-five."
Change the number of section forty-three to "forty-six."
Change the number of section forty-four to "forty-seven."
Change the number of section forty-five to "forty-eight."
Change the number of section forty-six to "forty-nine."
Change the number of section forty-seven to "fifty."
Change the number of section forty-eight to "fifty-one."
Change the number of section forty-nine to "fifty-two."

Pay for active service. Enlisted men.

Following section forty-nine insert the following additional section:

"SEC. 53. That whenever the National Guard of the District of Columbia shall be ordered to duty in case of riot, tumult, breach of the peace, or whenever called in aid of the civil authorities, all enlisted men who do duty shall be paid at the rate equivalent to two times the pay of enlisted men of the Regular Army of like grade. Commissioned officers who do duty shall be entitled to and shall receive the same pay and allowances as commissioned officers of like grade of the Regular Army. Each mounted officer and enlisted man shall be paid a reasonable per diem compensation for each horse actually furnished and used by him: *Provided*, That when the National Guard of the District of Columbia is called into the actual service of the United States the officers and enlisted men 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."

Commissioned officers.

Mounts.

Proviso. Service in Army.

Vol. 25, p. 779, amended.

Strike out the whole of section fifty and insert in lieu thereof the following sections:

Military courts.

"SEC. 54. That the military courts of the District of Columbia shall be: General courts-martial, garrison courts-martial, the summary court, and courts of inquiry, as now or hereafter provided by law.

Courts of inquiry.

"SEC. 55. That courts of inquiry, to consist of not more than three officers, may be ordered by the commanding general for the purpose of investigating the conduct of any officer, either at his own request or on complaint or charge of conduct unbecoming an officer. Such court of inquiry shall report the evidence adduced, a statement of facts, and an opinion thereon, when required, to the commanding general, who may, in his discretion, thereupon order a court-martial for the trial of the officer whose conduct has been inquired into."

Report.

Section numbers changed.

Change number of section fifty-one to "fifty-six."

After section fifty-one insert the following additional sections:

Constitution, jurisdiction, etc., of.

"SEC. 57. That the constitution and jurisdiction of military courts, the form and manner in which their proceedings shall be conducted and reported, and the forms of oaths and affirmations taken in the administration of military law by such courts, the limits of punishment and the proceedings in revision shall be governed by the Articles of War and the law and procedure of the military courts of the United States."

Prosecutions of members of, prohibited.

"SEC. 58. That no action or proceeding shall be prosecuted or maintained against a member of a military court, or officer or person acting under its authority or reviewing its proceedings on account of the approval or imposition or execution of any sentence, or the imposition or collection of fine or penalty, or the execution of any warrant, writ, execution, process, or mandate of a military court,

nor shall any officer or enlisted man be liable to civil or criminal prosecution for any act done while in the discharge of his military duty.

"SEC. 59. That the jurisdiction of the courts and boards established by this Act shall be presumed, and the burden of proof shall rest on any person asking to oust such courts or boards of jurisdiction in any action or proceedings. Jurisdiction to be presumed.

"SEC. 60. That every person not belonging to the National Guard of the District of Columbia who, being duly subpœnaed to appear as a witness before the military courts herein provided for, willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or produce documentary evidence which such person may have been legally subpœnaed to produce, shall be guilty of a misdemeanor, for which such person shall be punished on information in the criminal courts of the District of Columbia, and it shall be the duty of the United States attorney for the District of Columbia, on certification of the facts to him by any military court herein provided for, to file an information against and prosecute the person so offending and the punishment of such person on conviction shall be by a fine of not more than one hundred dollars, or imprisonment not exceeding thirty days, or both, at the discretion of the court: *Provided*, That this section shall not apply to persons residing beyond the limits of the District of Columbia, and that the fees of such witness and his mileage at the rate provided for witnesses in the United States district court in said District shall be duly paid or tendered said witness: *And provided*, That no witness shall be compelled to incriminate himself or to answer any questions which may tend to criminate or degrade him. Witnesses. Refusal to qualify, etc. Penalty. *Provisos.* Nonresidents. Incriminating testimony.

"SEC. 61. That the sentences of said courts, whether of fine or imprisonment, shall be executed by the United States marshal for the District of Columbia in the same manner as are sentences of the criminal courts of said District. Sentences.

"SEC. 62. That whenever it shall appear to a regularly constituted court-martial convened under the provisions of this Act that the accused, having been duly ordered or summoned to appear before such court-martial for trial, has refused or neglected so to appear, such court-martial shall issue a warrant or attachment for the arrest of the accused, directed to the United States marshal for the District of Columbia, who shall forthwith execute said warrant or attachment, make proper return thereof to such court-martial, and produce to such court-martial the body of the accused, if within the District of Columbia, and to retain the custody thereof and continue so to produce said body during the sessions of such court-martial until the conclusion of the trial, unless sooner discharged by said court-martial." Warrants for arrest of accused.

Strike out all of sections fifty-two, fifty-three, and fifty-four. Vol. 25, pp. 779, 780, amended.

Change number of section fifty-five to "sixty-three."

Change the number of section fifty-six to "sixty-four," and amend it to read as follows: Section numbers changed.

"SEC. 64. That during the annual encampment, and on every duty on parade ordered by the commanding general, there shall be allowed and paid for each day of service: To each member of the regularly enlisted bands, four dollars; to the chief musicians, eight dollars; and to the principal musicians, six dollars. In event there is no enlisted band or field music, or not a sufficient number of either, the commanding general may authorize the employment of such as he may deem necessary for the occasion: *Provided*, That the total pay of enlisted musicians shall not in any event exceed the rates authorized by this section." Musicians' pay. Annual encampments, etc. Vol. 25, p. 780, amended. *Proviso.* Limit.

Change the number of section fifty-seven to "sixty-five." Section number changed.

Vol. 25, p. 780, amended.

Strike out all of section fifty-eight, and insert in lieu thereof the following:

Annual estimates.

"SEC. 66. That the commanding general shall annually transmit to the Commissioners of the District of Columbia an estimate of the amount of money required for the next ensuing fiscal year to pay the expenses authorized by this Act, and the said Commissioners shall include the same in their annual estimates of appropriations for the District; and all money appropriated to pay the expenses authorized by this Act shall be disbursed in accordance with law."

Disbursements.

Section numbers changed.
Vol. 25, p. 780.

Change the number of section fifty-nine to "sixty-seven."

Change the number of section sixty to "sixty-eight."

Change the number of section sixty-one to "sixty-nine."

Change the number of section sixty-two to "seventy."

Change the number of section sixty-three to "seventy-one."

Following section sixty-three insert the following additional sections:

Reserve corps organized.
Composition of.

"SEC. 72. That a reserve corps of the National Guard of the District of Columbia is hereby organized, to consist of honorably discharged officers and men of the Army, the Navy, and the Marine Corps of the United States, honorably discharged officers and men of the organized militia of any State or Territory who are residents of the District of Columbia, and honorably discharged members of the National Guard of the District of Columbia whose military training and physical condition shall conform to the standard determined by regulations to be promulgated by the President of the United States:

Provisos.
Term of enlistment.

Provided, That the term of enlistment in the reserve and the military duties and obligations required of reservists shall be determined by regulations to be promulgated by the President of the United States:

Pay.

Provided further, That when called out for military duty, reservists shall receive the same pay and allowances as officers and men of like grade on the active list of the National Guard of the District of Columbia.

Exempt from jury duty.

"SEC. 73. Tha all officers and enlisted men of the National Guard of the District of Columbia, both active and retired, shall be exempt from jury duty.

District of Columbia included in militia law.
Vol. 32, p. 775.

"SEC. 74. That whenever the words 'State or Territory' are used in the 'Act to promote the efficiency of the militia, and for other purposes,' approved January twenty-first, nineteen hundred and three, as amended, they shall be held to apply to and include the District of Columbia.

Naval battalion not affected.

"SEC. 75. That nothing herein contained shall be held to alter the status or organization of the naval battalion as now provided for by law.

Date of commissions.

"SEC. 76. That any commission issuing under the provisions of this Act shall, where the rank remains unchanged, bear the date of the commission now held; and that any officer who has served continuously in the same grade may be recommissioned with rank from date of his original commission to that grade."

Approved, February 18, 1909.

February 18, 1909.
[S. 8510.]

[Public, No. 241.]

CHAP. 147.—An Act To extend the time of payments on certain homestead entries in Oklahoma.

Oklahoma.
Time extended for payments on certain homestead entries in.
Vol. 34, pp. 213, 550, amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time within which all unpaid payments which have heretofore, or may hereafter, become due and payable under the Act entitled "An Act to open to settlement five hundred and five thousand acres of land in Kiowa-Comanche and Apache Indian reservations in Oklahoma Territory," approved June