

## ON THIS DAY IN WEST VIRGINIA HISTORY FEBRUARY 25



Machine gun practice, West Virginia National Guard, 150th Infantry, D Company.  
Probably in Kanawha City. Cramer Bollinger standing second from left.

**An act establishing the West Virginia National Guard was approved on February 25, 1889.**

**CSO: SS.8.24, ELA.8.1**

**Investigate the Document:** (*Acts of the Legislature of West Virginia at its Nineteenth Regular Session, January 9, 1889*)

1. The act passed by the Legislature to establish the National Guard required all male citizens between the ages of \_\_\_\_ and \_\_\_\_ (not expressly exempt by law) would be subject to military duty.
2. According to the act, who could call out the National Guard for active duty during wartime?
3. How many infantry companies (approximately 150 soldiers per company) could the West Virginia National Guard have?
4. How long was the enlistment of a National Guard soldier according to the act of Legislature?
5. Were black troops and white troops integrated?
6. What were National Guard soldiers required to do twice per year (once in May, once in November?)

**Think Critically:** The National Guard is most similar to *what* earlier force that was raised from the civil population to supplement a regular army in an emergency? What efforts were National Guard troops ordered to suppress in southern West Virginia during the early twentieth century? Were National Guard troops federalized during this time as well? For what reason?

may merge or consolidate with or lease its railroad or any part thereof, for a term of years, to any other corporation owning or operating any connecting line of railroad, whose line of railroad is completed or is in process of construction, wholly or partly within this or an adjoining state, in order to make a continuous line of railroad to be run and operated with or without changes of cars, or break of bulk, or exchange or transfer of passengers or freight; and may sell to or purchase such connecting line of railroad; and may adopt another name for their said road thus merged, consolidated or connected, by filing in the office of the secretary of state, a declaration of the adoption of such other name; and shall publish such declaration for sixty days, in all newspapers published along the line of such railroad; but such merger, consolidation or sale, shall be made only upon such terms and conditions as shall be agreed to by a majority of the stockholders in each of the companies so merging, consolidating, purchasing or selling.

May sell, change name etc., when; how.

Terms.

Merger of contemplated lines.

*Provided*, That where two or more railroad companies have been incorporated under and by virtue of the laws of this state, for the construction of two or more lines of railroad, which have been located or surveyed along the same line between any points or places, and each of said corporations have acquired separate and distinct rights and interests under their respective charters, or made or performed any work towards the construction of the improvements contemplated by their respective charters, it shall be lawful for the board of directors of said corporations, with the consent of a majority of the stockholders of each of the corporations interested, to merge or consolidate the capital stock of their respective companies, or to consolidate different interests in the same road, upon such terms as they may agree upon, or for one or more of such corporations to make sale of all their right, title and interest, including the franchise of such corporations to such other corporations, in such manner as may be deemed advisable.

Not to affect pending suits etc.

*Provided, however*, That such merger, or consolidation or purchase, shall not invalidate any action, suit, claim or demand against any or either of the companies, who are parties thereto; and any such action, suit, claim or demand, shall be held to be in full force against the company owning such consolidated or merged line of railroad. And in no case shall any consolidation, or merger or sale take place, except after sixty day's no-

Notice of merger; how given.

tice, which notice shall be given in the manner prescribed in section forty-five of this chapter; and, *provided, further*, That this section shall not apply to the Baltimore and Ohio railroad, and the Northwestern Virginia railroad, so as to enlarge any powers or privileges, which either of said railroads now possess.

J. J. WOODS,  
*Speaker of the House of Delegates.*  
R. S. CARR,  
*President of the Senate.*

STATE OF WEST VIRGINIA, }  
OFFICE OF SECRETARY OF STATE, }  
February 27, 1889.

I certify that the foregoing act having been presented to the Governor for his approval, and not having been returned by him to the house of the Legislature in which it originated within the time prescribed by the constitution of the state, has become a law without his approval.

HENRY S. WALKER,  
*Secretary of State.*

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

### CHAPTER XXIV.

AN ACT to amend, re-enact and reduce into one act chapters 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 of the Code of West Virginia, second edition, relating to the militia.

[Passed February 22, 1889.]

Be it enacted by the Legislature of West Virginia :

1. All male citizens of this state between the ages of eighteen and forty five years, not expressly exempt by

law, shall be subject to military duty and designated as the militia.

National guard.

Who to call out; what service may be required of.

In time of war, etc; duty of com'r in chief.

Regulations and pay.

Apportionment of draft.

Duty of assessors.

Parades; place of.

Notice of.

Number how made up and reported.

When assessor fails, etc.

2. The active militia shall be organized as hereinafter mentioned, and designated as the West Virginia National Guard, and said guard shall be liable at all times to be ordered into active service, and shall first be called out by the commander-in-chief on all occasions for military service and may be by him turned over into the service of the United States, on requisition by the President, for services without the state, not exceeding three months in any one year. In time of war, invasion, rebellion, or riot, or reasonable apprehension thereof, or upon requisition by the President of the United States, the commander-in-chief may order out for active service, such further portion of the militia as he may deem necessary, designating the same by draft, if a sufficient number shall not volunteer, and may organize the same and appoint and commission officers thereof, and when so ordered out for service, the militia shall be subject to like regulations and receive from the state like compensation, as that prescribed for the army of the United States.

3. The Commander-in-chief shall apportion any such draft equitably among the several counties, and the order thereof may be directed to the assessor of each county, who shall thereupon amend the rolls of the militia therein by adding thereto the names of persons subject to enrollment, and by striking therefrom the names of persons exempt by the provisions of this act; and they shall appoint a time and place of parade for the militia in such district or county and order them to appear thereat, either orally or by leaving written or printed notices with them, or at their usual places of abode, or by publishing a notice thereof in some newspaper printed in the county in which they reside, and by posting a like notice at the public cross-roads in said county; and shall then and there proceed to draft such members by lot from such militia, or to accept such numbers of volunteers, as the order of the Commander-in-chief shall require, and shall return to the adjutant general the names of persons drafted, or enlisted under said order, who shall thereupon be subject to the order of the commander-in-chief; and if any assessor of any county shall neglect or refuse to comply with such order, the commander-in-chief may appoint some proper person, to execute the same at the expense of such county, who shall make return of his doings to the adjutant general.

4. No person, except the commander-in-chief, shall call out the militia or National Guard of this state for any duty whatever. But the commander-in-chief may make such regulations for calling out the National Guard, for drill, parade and inspections, as seems to him proper, in conformity with law, and the said Guard may be called out by the proper officers for these purposes, and no other.

Who may call out militia; regulations.

5. In case of riot or civil commotion at any place in this state, any officer whose duty it is to enforce the civil authority at such place, shall, if he consider the force at his disposal is not sufficient, inform the commander-in-chief, who may order out such portion of the National Guard as he thinks proper, and may direct the proper commanding officer of such force, to communicate with such person, making the application and to assist such person in preserving the peace, and to use such portion of his force as may be necessary therefor. But before using this force against any body of men, such preliminary warning shall be given and precautions taken as are provided by law.

Proceedings in case of riot etc.

6. In case it is impossible to immediately communicate with the commander-in-chief, the civil officer making requisition for assistance may, if he deem the danger too imminent to admit of delay, serve a copy of such requisition, together with a statement of his inability to communicate with the commander-in-chief, upon the commanding officer of such portion of the National Guard as may be in his district, who is hereby authorized to exercise, with respect to calling out the troops under his command, the powers herein conferred upon the commander-in-chief; but if the action so taken is disapproved by the commander-in-chief, the troops so called into service shall be immediately discharged from further duty under that call.

In case of imminent danger, etc; how.

If action be disapproved.

7. The enrollment of the reserve militia shall be made by the assessor of each county, when so ordered by the governor, and they shall be allowed for such service the sum of three cents per name of every person so enrolled, and paid for out of any money in the treasury not otherwise appropriated. On such enrollment list, and opposite the name of any person exempt from military duty, or minor, or in the active militia, the assessor shall write "exempt" and the reason of such exemption, or "minor" or "active militia," as the case may be, and shall sign said list and file them in the office of the county clerk, make report to the adju-

Enrollment; pay for.

List to show what; where filed.

under his direction, take charge of the property in his department and perform such other duties therein as he may direct.

Of what guard to consist.

Other militia not to parade etc.; penalty.

13. The West Virginia National Guard shall consist of not exceeding twenty companies of infantry, which divided into regiments, shall constitute the West Virginia National Guard, and it shall not be lawful for anybody of men whatsoever, other than the regularly organized National Guard or militia or the troops of the United States, to associate themselves together as a military company or organization, or to parade in public with arms, in any city or town in the state, without the license of the governor therefor, which may at any time be revoked, nor shall it be lawful for any city or town to raise or appropriate any money towards arming, equipping, uniforming, or in any way supporting or sustaining or providing drill rooms or armories, for any such bodies of men.

Whoever offends against the provisions of this section or belongs to or parades with any such unauthorized body of men, with arms, shall be punished by a fine not exceeding the sum of twenty five dollars, or by imprisonment for a time not exceeding six months.

Enlistments; term of.

14. All enlistments shall be for five years, but any person who has received, or who is entitled to receive an honorable discharge from said Guard, by reason of expiration of term of service, may be re-enlisted for a term of two years.

How made.

All enlistments shall be made by signing duplicate enlistment papers, in such form as may be prescribed by the adjutant-general. One to be forwarded forthwith to him by the enlisting officer, and one to be filed with the records of the company, in which such enlistment is made. Every enlisting officer may administer the oath required upon enlistment. No enlistment shall be allowed of other than able-bodied male citizens of this state, between the ages of eighteen and forty-five years, residing within the county where the armory of the company is situated, or an adjoining county; except musicians and members of regimental bands, may be enlisted between the ages of sixteen and fifty years. No minor shall be enlisted without the written consent of his parent or guardian, and no uniform, allowance, pay or compensation shall be given by the state, to any enlisted man not certified by the surgeon, to be able-bodied, in accordance with the standards prescribed therefor by the surgeon-general.

Only able bodied men to enlist; age.

Exception as to musicians.

Minors; consent of parents, etc.

15. The West Virginia National Guard shall constitute one brigade, under the command of a brigadier general appointed by the commander-in-chief with the consent of the senate. The brigadier general shall nominate on his staff an assistant adjutant general with the rank of lieutenant colonel, a brigade inspector, a brigade quartermaster, a brigade commissary and a brigade inspector of rifle practice, each with the rank of major; a medical director with the rank of lieutenant colonel, an engineer and signal officer with the rank of major, and two aid-de camps, each with the rank of captain. The medical director must be a graduate of a lawfully established medical college and have been in practice for at least five years, prior to date of appointment. The engineer and signal officer must be a civil engineer of at least three years standing, prior to date of appointment.

*Provided*, That if there should be any colored troops organized or in military service under the provisions of this chapter, said colored troops shall be enlisted and kept enrolled separate and apart from other troops, and shall be formed into separate companies and regiments.

The brigadier general may appoint and warrant two orderlies and one trumpeter, each with the rank of sergeant, who shall appear mounted on all days of review and parade, when so ordered by him.

16. Each regiment shall consist of ten companies and a regimental band, and the field officers shall consist of a colonel, lieutenant-colonel and major, all nominated by the line officers. Each colonel shall nominate on his staff an adjutant with the rank of captain, a quartermaster and a paymaster, each with the rank of first lieutenant, a surgeon with the rank of major, an assistant surgeon with the rank of first lieutenant, an inspector of rifle practice with the rank of captain, a signal officer with the rank of first lieutenant, and a chaplain who shall be commissioned without rank, but entitled to pay and allowance of an adjutant. The non-commissioned staff of a regiment shall consist of a sergeant major, a quartermaster sergeant, a commissary sergeant, a hospital steward, a chief trumpeter and a drum major, to be appointed by the colonel, and warranted by him.

17. In case of officers for whose appointment the consent of the senate is required, the commander-in-chief, during any recess of the senate, may make appointments which shall be valid till the further action of the

Brigade; under whose command.

Staff of Brigadier general.

Qualifications

Colored troops enlisted, etc. separately.

Orderlies etc.

Regiments; of what to consist; officers.

Staff officers.

Rank, etc.

Non-commissioned staff.

Temporary appointments and suspensions.

senate thereon, or suspend from office, for cause, until an order of a court martial has been had thereon.

Companies; of what to consist.

Each company shall consist of a captain, a first lieutenant and a second lieutenant, nominated by the company, a first sergeant, four sergeants, four corporals, one trumpeter and two musicians, all appointed by the commandant of the company, and not more than sixty-four nor less than thirty-two enlisted men. Each regimental band shall consist of not more than twenty nor less than twelve members, one of whom shall be appointed and warranted chief musician, with the rank of sergeant.

Bands.

Sergeants and corporals; appointments, etc.

18. The commandant of such company shall, from the enlisted men, appoint its sergeants and corporals, but no warrant shall be issued to any person until he shall have passed a satisfactory examination in the tactics in the school of the soldier. The musicians of each company shall be appointed by its commander.

What service exempts.

19. All persons serving five years consecutively in the active militia, shall be thereby entitled to an honorable discharge, exempting them from military duty thereafter, except in case of war, invasion, rebellion, riot, or reasonable apprehension thereof.

Exception.

Res'gnation of staff officer.

20. The resignation of any staff officer shall be made to his immediate commanding officer, and if approved, shall be forwarded to the commander-in-chief. The commissions of all staff officers shall expire when the successor of the officer nominating or appointing them, shall make new nominations or appointments to their respective offices.

When commissions expire.

Removals; who may make.

21. Unless otherwise expressly provided, every commanding officer may remove any officer on his staff. The adjutant general and quartermaster general may remove their assistants. The commandant of each regiment may reduce to the ranks any non-commissioned staff officer therein; and the commandant of a company may reduce to the ranks any non-commissioned officer of his company; and the commander-in-chief may give an honorable discharge or dismissal to any officer, musician, private, or member of a band in the service; but no resignation, removal, discharge, or dismissal, shall in any way affect the liability of any person for public property in his possession, or for which he is responsible, or for fines and dues due the company to which such person belonged, or for fines for non-performance of military duty, incurred under the provisions of this act.

Discharge etc.

Not to affect what.

22. Each company may make by-laws for its government, which shall be binding on its members when approved by the adjutant-general; and all fines and dues imposed by such by-laws, may be collected in the same manner as is provided for the collection of fines in section 47, except that it shall be legal to notify any delinquent of the incurrence of any fines or dues within three months of the date when the same were incurred, and notice may be given collectively of such fines or dues, or both.

Company by-laws. Fines, etc.

23. The commander-in-chief shall maintain the West Virginia National Guard, by organizing new companies and bands and disbanding inefficient companies and bands, from time to time, as he shall deem expedient. Its system of discipline, exercise and administration, save as otherwise expressly provided in this act, shall conform as nearly as practicable to that prescribed from time to time for the army of the United States.

New companies; disbanding companies.

Discipline.

24. No company of military beyond the number authorized by this act, shall receive from the state any aid or compensation whatever, except as hereinafter provided for the Governor's Guard; but this section shall not affect the loan of arms and equipments made by the quartermaster general when authorized thereto.

No aid to other companies.

25. The quartermaster general shall, upon due requisition therefor, furnish the active militia at the expense of the state, with suitable arms, uniforms, armories, ammunition, equipments, colors, camp equipage and transportation from its armory to the place of parade or encampment, and a regimental headquarter room for each regiment, for the safe keeping of the colors and other state property in charge of the regimental commanders.

Militia to be supplied at state expense.

26. The armory of each company shall, subject to the orders at the quartermaster general, be under the charge of its commanding officer, who shall keep there-in all property furnished his company by the state, and be responsible for it, and execute such bonds therefor as the quartermaster general, from time to time shall require; and no company shall be so furnished until such bonds shall be executed, and approved by the quartermaster general, nor until a suitable armory shall be selected for their deposit.

Armories; how controlled.

Property kept therein.

Bonds required.

latter shall forward the same to the adjutant general with his annual report.

List of members of the company; when returned.

36. The commanding officer of each company shall, annually in October, make a certified return of names of the active members of his command who have performed the duty required by law to the assessor of his district in which such member resides. Other returns of staff officers and regimental bands, shall be made by their regimental commandants, and of other staff officers, by their immediate commandants.

Other returns.

Auditor; to pay what demands.

37. The auditor shall draw his warrants on the treasurer, to the order of the proper disbursing officer, for all payments and expenditures authorized by this act—requisition being made by the officer on the auditor for the sum required—which requisition shall be approved for the adjutant-general and quartermaster-general, by the governor, and for the commissary general and paymaster general, by the adjutant-general. Each officer shall file his vouchers with the auditor, on or before the thirtieth day of November in each year.

Vouchers; where filed.

*Parades and Encampments.*

Parades,

38. The West Virginia National Guard shall parade for drill within this state, one day in the month of May and one day in the month of November of each year, by company or regiment, as ordered by the commander-in-chief, and encamp for drill and instruction six successive days, between the fifteenth day of July and the twentieth day of October, by regiment or brigade annually, as the commander-in-chief shall order.

Encampments.

Places of encampment.

The place of said encampments shall be designated by the commander-in-chief. Orders for encampment shall be given at least fifteen days prior thereto, and for said parades at least three days prior thereto, by depositing the same in the mail, properly addressed to the person to be notified, or leaving the same at his usual place of abode, or reading the same in his hearing.

Notice of.

Who not exempt.

No member of the active militia shall be exempt or relieved from military duty by membership or service in any fire company.

Roll call.

39. Every company while encamped shall have roll call on each day in the morning and at tattoo.

Absence from

Absence without leave from either of the said roll calls, shall be deemed as absence for the entire day, and so reported on the inspection roll.

The commander of the regiment shall detail officers

from his staff, who shall attend the roll calls of the companies, and report to him the names of absentees of such companies, and such report shall be forwarded to the adjutant-general. Detailed officers; duties

40. The commanding officer of any encampment or parade, may cause those under his command to perform any field or camp duty he shall require, and may put under arrest during any such encampment or parade, any member of his command who shall disobey a superior officer, or be guilty of disorderly or unmilitary conduct, and any other person who shall trespass on the parade or encampment grounds or in any way interrupt or molest the orderly discharge of duty by the members of his command. Field duty; arrest.

41. The brigadier general shall direct such target practice at the annual parades or encampments as he may deem expedient, and shall attend each encampment and report the conduct and discipline thereof to the commander-in-chief, who if he shall judge that such encampment has been prejudicial to good morals or military discipline in any regiment or company, shall not permit another encampment of such regiment or company, until its commanding officer has resigned or been removed. Target practice. When encampments to be suspended.

42. The commanding officer of such encampment shall make requisition on the quartermaster-general, at least ten days prior thereto, for the necessary transportation and tents, blankets, camp equipage and supplies therefor, and if approved by the commander-in-chief, the quartermaster-general shall furnish the same. Requisition for supplies.

43. The commander-in-chief, or in his absence from the state, the adjutant-general may call out any portion of the active militia for escort duty, on any special service in the state. Escort duty.

44. The commander-in-chief may direct the commandant of each regiment, to order weekly evening drills, by any company of his command, from November to May, inclusive, of not less than one hour each, and the commandant shall inspect at least one evening drill of each company during said period, or detail a field officer for such inspection. The officer making such inspection shall receive his necessary traveling expenses, to be paid on certificate of the regimental commandant, approved by the adjutant-general. Drills; how ordered etc. Inspection of drills; expenses of officers making.

Encampment of guards. commissioned officers as will conform to army regulations. The governors guard shall encamp for drill and instruction, with one of the regiments or brigade, unless the commander-in-chief shall order otherwise.

Acts repealed 67. All acts and parts of acts inconsistent with this act are hereby repealed.

[Approved February 25, 1889.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage.

### CHAPTER XXV.

AN ACT to amend and re-enact section twenty-six of chapter forty-five of the Code of West Virginia, as revived, amended and re-enacted, by chapter fifteen of the acts of 1881.

[Passed February 22, 1889.]

Be it enacted by the Legislature of West Virginia :

Acts 1881, chap. 15, amended.

1. That section twenty-six of chapter forty-five of the Code of West Virginia, as revived, amended and re-enacted by chapter fifteen of the acts of 1881, be and the same is hereby amended and re-enacted so as to read as follows :

Powers and duties of school directors.

26. The board of directors who have the care and direction of the said school, shall appoint, and may remove the teachers; shall fix their salaries; prescribe the branches of learning to be taught; the time the school shall be kept open; the ages and qualifications of the scholars to be admitted; admit scholars from non-contributing districts, on such terms of tuition as they may deem proper; expel or suspend scholars when necessary; ascertain and certify the expenses of the school, of which they shall cause exact accounts to be kept, and prescribe all needful regulations respecting the school, subject, nevertheless, to any regulations respecting the same that may be prescribed, pursuant to the preceding section. They

shall annually report through their secretary, on or before the 20th day of July, to the superintendent of free schools for the county in which the school house is situated, such particulars respecting the schools as the state superintendent of free school may require; and the county superintendent shall transmit the report, with such remarks and additional information as he deems proper, to the state superintendent. The boards of education of any district may also establish graded schools in the towns, villages and densely populated neighborhoods of their respective districts, employ teachers therefor, and make such special regulations as may be necessary to conduct them. But in every such case involving additional taxation, the matter shall be first submitted to a vote of the people and their consent obtained, as is prescribed in section 24, in case of a high school; *Provided*, That no additional levy for a graded school shall exceed in any one year, fifteen cents on every hundred dollars valuation; *Provided further*, When any sub-district having graded schools, desire a longer term of school than four months, it shall be the duty of the board of education, on the petition of the tax-payers of such sub-district, to submit the question to the voters of said sub-district, at such time and place as they may fix, by posting notices ten days before said election, setting forth the number of months the said school shall be run, including the state fund and their proper share of any district levy that may be levied in the district for the support of the schools of said districts.

Report to county superintendent; when made.

Duty of county superintendent as to report.

Establishment of graded schools.

When to be submitted to voters.

Levy limited.

How term may be extended.

List of property furnished board.

How tax extended and collected.

It shall be the duty of the assessor, with the assistance of the secretary of the board of education, to furnish such board a list of the property, both real and personal, assessed by him in said sub district for state and county purposes. And the said board of education may provide for the extending of the said tax, and provide for the collection of the same, under such rules and regulations as they may provide, and use the fund thus collected for the running of such graded schools.

Approved February 25, 1889.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage.