

NEW RULES FOR NATIONAL GUARD

Altered Conditions And Requirements For Militia Under Reorganization Law

JUL 31 1916

Without entering into the reasons lying back of them, the following gives a synopsis of some of the more important official decisions and opinions concerning the national guard, under the new army reorganization bill approved by the President on June 3, 1916:

Enlisted men, members of the organized militia at the time of the passage of the national defense act, are not under compulsion to take the obligation prescribed by that act for the National Guard.

Whether or not a man who is excused from encampment may draw pay for the remainder of the year has arisen only in the abstract and no direct answer given.

The State Reserve

An enlisted man having served three years in the National Guard is entitled to be transferred to the State Reserve, notwithstanding his call into service of the United States. However, the Joint Resolution of Congress gives the President authority to subject such men to draft, whether on the active or on the reserve list.

The National Defense Act renders it unnecessary to secure the consent of guardians or parents for the enlistment in the National Guard of minors between the ages of eighteen and twenty-one.

The militia, when mustered into the service of the United States, becomes a part of the force for general war purposes and is subject to being ordered to duty beyond the borders of the country, the same as regular or volunteer forces.

The constitution has not been amended with respect to uses of militia, as such.

What Constitutes Militia

The militia of the United States consists of all able-bodied male citizens of the United States and all able-bodied males who have or shall have declared their intention of becoming citizens of the United States who shall be more than eighteen years of age and not more than forty-five years of age. After passing the eighteenth birthday a man is eligible for militia service, so far as age is concerned, and after his forty-fifth birthday, he is ineligible.

The adjutant general of a state, territory, or district is not an officer of the national guard within the meaning of the National Defense Act, but is to be regarded as an administrative state official.

Law Not Retroactive

The provisions of the national defense act with reference to the loss, damage or destruction of property refers to future determination of losses in accordance with the procedure prescribed therein, and cannot be applied to existing accountability of states, found under the prior statutes.

A retired soldier is not eligible for commission in the national guard under the provisions of the new National Defense Act.

A member of the national guard whose age is less than the minimum prescribed by the state law for enlistment cannot be held for service after muster into the service of the United States if objection is properly made.

Concerning Exemptions

Exemptions from national guard duty contained in section 59 of the National Defense Act are personal exemptions waivable by the persons exempted. A person who is so exempted, if he enlists in the national guard thereby waives the exemption and cannot thereafter, during the enlistment lay claim to it. If it should be found that the retention in the service of officers or employes of the United States who have thus waived their exemptions would cripple the conduct of government or the administration of affairs in any department, it is assumed that it is within the power of the Secretary of War to order discharge.

Since sergeant-instructors on duty with militia at various mobilization camps are stationed with troops, the payment of commutation of rations to them is not permissible, unless it is shown that it is impracticable for them to be subsisted with the troops.

Senate Bill 6503 is an Act to make retired enlisted men and enlisted men of the regular army eligible for appointment as commissioned officers of militia, national guard, and volunteers in the service of the United States, and permit their reenlistment in the army within three months after termination of commissioned service, without loss of enlistment period and continuous service pay.

Under House Joint Resolution 242, for forces drafted into the service of the United States, the President is required to appoint all officers of the national guard not above the grade of colonel, and he is, by and with the advice and consent of the Senate, to appoint all officers of the National Guard, above the grade of colonel, in such drafted

a part of the Army of the United States. Their designation is a matter of administrative convenience, but should not wrongly describe their character. It has been suggested to designate them by the number of the regiment in the State, as Second California Additional Regiment of Infantry, or even, Second California Infantry.

Enlisted men who accept discharge from the Army to take commission in the National Guard for draft into the service, will lose an enlistment period, unless, (their discharge being considered for the convenience of the government) they have served more than two years in their present enlistment period, in which case, under the law of August 24, 1912, their service would be held to be a complete enlistment period.

Naturalized Citizens

An applicant for naturalization who enlisted in the National Guard before taking out his final papers, but who, at the expiration of two years had not taken out final papers, does not lose any of his rights and privileges by so enlisting, and his declaration of intention is not affected by such enlistment. Unless sooner withdrawn or invalidated in some manner, the declaration continues valid for seven years from date of filing.

Enlisted men of the national guard artillery batteries who qualified as first-class and second-class gunners, prior to their draft into the service of the United States, are entitled to the extra compensation provided by law for such qualifications.

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Designation Of Troops

These forces, when called into the service of the United States cease to be militia and become forces "in addition to the Regular Army," forming

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