

GENERAL STATUTES

OF

MINNESOTA

1913

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upon such county auditor shall levy a tax upon the taxable property in the assessment district or districts wherein such reassessment was made sufficient to pay the same and when collected the proceeds thereof shall be forthwith paid into the state treasury in the same manner as other state taxes. ('09 c. 294 § 4)

CHAPTER 12

MILITARY CODE

MILITIA

2351. How constituted—Exemptions—All able-bodied male residents of the state between the ages of eighteen and forty-five years shall constitute the militia thereof, and be required to perform military duty in case of war, invasion, rebellion, or riot, except:

1. Those in the army or navy of the United States, or exempted from military duty by the laws thereof.

2. Ministers of the gospel, whose credentials as such, or a copy thereof, have been filed with the clerk of the district court in the county of their residence.

3. Indians not taxed, insane persons, and persons who have been convicted of an infamous crime, all of whom are excluded. (1039)

2352. Enrolment by census takers—Whenever a state census is taken, each enumerator, in addition to his other duties, shall designate upon his returns all persons enumerated by him who are subject to military duty under this chapter. As soon as the returns are complete, the superintendent of the census shall make and certify to the adjutant general lists of the names, alphabetically arranged and consecutively numbered, of all persons so designated in each town, village, and city, arranged by counties, and showing the age, occupation, and address of each person. And he shall accompany such lists with a table showing the number of enumerated militiamen in each town, village, city, and county. The adjutant general shall prescribe blanks therefor. (1040)

2353. Enrolment by assessors—Whenever the governor shall so direct by his proclamation issued in an even-numbered year, and at least thirty days before the day the assessment books are required by law to be delivered to the assessors, such assessors shall make, at the time of the assessment, and upon blanks prescribed by the adjutant general, duplicate lists of the names, alphabetically arranged and consecutively numbered, of all militiamen living in their respective districts, with the age, occupation, and postoffice address of each. One of said lists shall be filed with the county auditor, and one with the clerk of the town, village, or city in which the assessor resides; and no compensation shall be allowed for any services of an assessor until he has filed with such clerk an affidavit showing full compliance on his part with the foregoing requirements. (1041)

2354. Auditor to correct lists, furnish copies, etc.—Each auditor shall add to the list so filed with him the names of all militiamen omitted, and erase the names of those shown to be improperly enrolled, giving notice of such changes to the proper clerks. On or before October 1 in such year, he shall transmit to the adjutant general a certified copy of the rolls so filed and corrected. In addition thereto, or in lieu thereof, the adjutant may require of the auditor a statement showing the numbers so enrolled in each town, village, and city of his county. (1042)

2355. Information required—Penalties—Every householder shall disclose, upon the application of assessors and enumerators authorized to make such enrolment, the names of all militiamen residing in his house; and every person, upon like application, shall give his name, age, and address. Every person who shall wilfully refuse such information, or give false answers to the proper inquiries of any such enrolling officer, and every enrolling officer

who shall neglect any duty imposed by this chapter, shall be deemed guilty of a misdemeanor. (1043)

2356. Calling out militia—Draft, etc.—The governor, whenever he shall deem it necessary to call out the enrolled militia for military duty, shall require the mayors of the several municipalities and the chairmen of the several town boards to appoint a time and place for the assembling of such militia; and they shall forthwith give notice, by public proclamation, or by written or oral notice to each person, of such assemblage. At the appointed time and place, they shall accept volunteers to the number designated by the governor's order, supplying any deficiency by draft. The names of the militiamen so accepted or drafted shall be forwarded to the governor forthwith. The governor shall prescribe and enforce uniform rules for the conduct of drafts, appoint all officers necessary therefor, and fix the amount of their pay. (1044)

2357. Muster—Organization—Command—The men whose names are so forwarded shall be mustered at once into the service of the state for such period as the governor shall direct, not exceeding three years. They shall be organized by companies, which may be arranged in new battalions or regiments, or assigned to existing organizations of the national guard. If the former, elections therein shall be ordered forthwith, but the governor may detail officers to command them until the officers-elect shall have been examined and commissioned. Such new organizations shall be officered, equipped, trained, and commanded according to the laws governing the national guard. (1045)

2358. Desertion—Every enrolled militiaman who fails, without reasonable excuse, to appear at the appointed time and place of assemblage, or, being accepted as a volunteer or duly drafted, fails to report for muster as lawfully required, shall be considered and treated as a deserter. (1046)

2359. Commander-in-chief—Powers and duties—Staff—The governor shall be commander-in-chief of the militia, except so much thereof as may be in the actual service of the United States, and may employ the same for the defence or relief of the state, the enforcement of its laws, and the protection of life and property therein. He shall make and publish regulations, not inconsistent with law, for the government of the national guard, and enforce all the provisions of this chapter. He shall appoint a staff, consisting of an adjutant general, who shall be or has been an officer of the national guard, of at least three years' prior service as such, or an honorably discharged soldier of the United States in the Civil War; a surgeon general, who shall be a licensed physician, of at least five years' practice; a judge advocate general, who shall be an attorney at law of at least five years' experience; an inspector general; a quartermaster general; and a commissary general—all with the rank of brigadier general; a chaplain and three aides-de-camp, all with the rank of colonel; a military storekeeper, with the rank of captain; and the officer of the United States army, if any, detailed for service with the national guard, to be designated the inspecting officer; also, when the service requires it, one assistant to each of the first six staff officers above mentioned, each to rank as major. The commissions of such staff shall expire with the term of the governor, unless before removed for cause, except that the adjutant general shall serve until his successor qualifies. (1047)

See following section.

Jurisdiction of courts to review orders of commander-in-chief (34-526, 26+729).

2360. Adjutant general—Term—Vacancy—Removal—The adjutant general shall be appointed and commissioned for a term of six years and until his successor has qualified. The first term hereunder shall commence the first Monday in January, 1907. Vacancy may be caused by resignation, or he may be removed for disability or for cause, to be determined by court martial under the provision of section 1097, Revised Laws of Minnesota for 1905 [2410]. ('07 c. 443 § 4)

NATIONAL GUARD

2361. How constituted—Peace—Strength—The active militia, organized, armed and equipped as required by law, shall be known as the "Minnesota National Guard." In time of peace it shall consist of three regiments of in-

fantry, organized into a brigade, and one regiment of field artillery which may be attached to the brigade for the purpose of administration and instruction: also the several staff corps and departments, similar to the staff corps and departments prescribed for the regular army of the United States, which are hereby authorized to the extent that the same may be necessary to provide proper staff officers and enlisted men for the national guard as herein established. The term "National Guard" shall apply only to the militia organized as a land force. The provisions of this chapter relating to the corps of artillery or battalion of field artillery shall apply to the regiment of field artillery; provided, that three batteries of the regiment of field artillery may have a skeleton organization to consist of the officers and non-commissioned officers only, with or without complete armament or equipment, and provided further that the expenditure of state funds for the inspection, camp pay and equipment of the enlisted strength of the regiment of field artillery shall be limited to the appropriations available for the authorized strength of one battalion of field artillery. (R. L. § 1048, amended '09 c. 56; '13 c. 44 § 3)

2362. Staff officers—Qualifications for command—Changes—No appointment on the staff of the governor shall qualify the appointee for the actual command of troops, without the examination and qualifications prescribed by law. For the purpose of conforming the national guard more closely to the organization of the United States army, and not otherwise, the governor may, by orders issued from time to time, fix the number and grade of officers and enlisted men in the staff corps and departments. And in case of war, invasion, insurrection, riot or imminent danger of either, the governor may temporarily increase such force to meet such emergency. (R. L. § 1049, amended '09 c. 56 § 1)

2363. Organization—Armament—The organization, armament and discipline of the Minnesota guard shall be the same as that which is now or may hereafter be prescribed for the regular army of the United States, subject in time of peace to such general exceptions as may be authorized by the secretary of war. Provided, that in peace and in war each organized division of militia may have one inspector of small arms practice with the rank of lieutenant colonel; each organized brigade of militia, one inspector of small arms practice with the rank of major; each regiment of infantry or cavalry of organized militia one inspector of small arms practice with the rank of captain, and each separate or unassigned battalion of infantry or engineers or squadron of cavalry of organized militia, one assistant inspector of small arms practice with the rank of first lieutenant. (R. L. § 1050, amended '07 c. 443 § 1; '09 c. 56 § 1)

Historical—1907 c. 443 § 1, amended R. L. §§ 1050, 1052, and 1053 [2363, 2365, 2366] "as amended by" 1905 c. 225. By section 2 of 1907 c. 443, R. L. §§ 1071, 1072, 1088, and 1092 [2384, 2385, 2401, and 2405] were amended; and by section 3 R. L. § 1073 was repealed. Section 5 repealed inconsistent acts. By 1905 c. 225, sections 17, 20, 35, 105, 124, and 140 of the Military Code (1897 c. 118), as amended, were further amended. The above sections were incorporated in R. L. §§ 1052 [2365], 1053 [2366], 1064 [superseded by 2377], 1084 [2396], 1107 [superseded by 2420]. 1897 c. 118 is not included among the laws of that year repealed by § 9452.

2364. Staff departments—The adjutant general's department shall consist of the adjutant general, with the rank of brigadier general, one adjutant general with the rank of lieutenant colonel, each of whom shall be appointed or detailed and shall perform the duties and receive pay as now provided by law for the adjutant general and assistant adjutant general, respectively; and two majors, one of whom shall be available for detail on the staff of the brigade. The inspector general's department and the judge advocate general's department shall consist each of one major, for detail on the staff of the brigade. The quartermaster's department and the subsistence department shall each consist of the adjutant general, ex-officio, acting as quartermaster general and commissary general, and one major in each of said departments for detail on the staff of the brigade. The medical department shall consist of the surgeon general and the assistant surgeon general, with rank and duties as now provided by law; four surgeons, with the rank of major; eleven assistant surgeons, with the rank of first lieutenant, eligible to

promotion as provided by law; one veterinarian, and one hospital corps to be composed of three sergeants first class, seven sergeants, twenty privates, first class, and ten privates. The officers and enlisted men of the medical department will be detailed to the line as follows: To the brigade staff, one surgeon; to each regiment of infantry, one surgeon, three assistant surgeons, one sergeant, first class, two sergeants, six privates, first class, and three privates; to the battalion of field artillery, two assistant surgeons, one veterinarian, one sergeant, two privates, first class, and one private. The pay department shall consist of the adjutant general, ex-officio acting as paymaster general. The corps of engineers and signal corps shall consist of one captain for detail to the battalion of field artillery. The ordnance department shall consist of the adjutant general, ex-officio acting as chief of ordnance; one major for detail on the staff of the brigade; one captain for general detail and one captain and military storekeeper who shall be appointed, perform the duties and receive pay as now provided by law for the military storekeeper; and one first lieutenant and one sergeant for detail to the battalion of field artillery. (R. L. § 1051, amended '09 c. 56 § 1)

2365. Staff departments—Appointments—The officers and enlisted men of the staff corps and departments, designated for detail to the several organizations of the line, shall be appointed or enlisted by, and hold office during the pleasure of the commanding officers of such organizations, respectively, subject, in the case of officers, to the approval of the governor. (R. L. § 1052, amended '07 c. 443 § 1; '09 c. 56 § 1)

See note under § 2363.

2366. Military board—The brigade commander and the regimental commanders, including the commanding officer of the battalion of field artillery, shall constitute a military board, and meet quarterly at such stated time and place as they may fix, and at such other times as they may be convened by the adjutant general. The board shall consider the status and needs of the national guard and such other matter as may be referred to them, and make suitable recommendation thereon to the adjutant general. The members shall receive no compensation or allowance for expenses beyond transportation and pay for one day's attendance at each session of the board. (R. L. § 1053, amended '07 c. 443 § 1; '09 c. 56 § 1)

See note under § 2363.

2367. Enlistment and muster—Re-enlistment—Every person enlisting in the guard shall sign a muster roll, furnished by the adjutant general in book form, and kept by the company or battery, which signing shall be a legal enlistment and muster in the service of the state for three years, unless sooner discharged. He shall also sign an enlistment paper in a form prescribed by the governor, which shall contain an oath of allegiance to the state and United States, and be filed with the adjutant general. Any enlisted man at the close of his term of service may re-enlist, if his commanding officer approves, for not more than three years. If discharged by reason of his organization being disbanded or consolidated, he may re-enlist for remainder of his term. (1054)

2368. Non-commissioned officers and staff—Appointment, etc.—Non-commissioned officers shall be appointed by the commanding officer of the regiment or artillery corps, on the recommendation of their captain. Non-commissioned staff officers shall be appointed by the commanding officer from the enlisted men of his regiment or corps. Either may be reduced to the ranks by like authority, and a staff officer returned to his company or battery or discharged at the commander's option. (1055)

2369. Line and field officers—How elected—Commissioned officers of companies and batteries shall be elected by the officers and men thereof, subject to the approval of the governor. If any officer so elected be not approved, he shall not be again chosen to fill the same vacancy without the governor's permission. Field officers of the regiments and artillery corps shall be elected by the field and line officers of their respective commands. (1056)

2370. Brigade commander—Brigade and regimental staff—Promotion—The commander of the brigade shall be elected by its field officers. He shall appoint his staff officers, subject to the governor's approval, and may remove any of them at pleasure. The staff officers of the regiments and artillery corps shall be appointed, with like approval, by their respective commanders, who may supersede any of them at pleasure. Any assistant surgeon who has served as such for five consecutive years, upon application approved by his regimental or corps commander, may be promoted to the rank of captain. (1057)

2371. Terms and elections—Re-election—The field and general officers of the brigade shall hold office for ten years from and after their election, and until their successors are commissioned. Any of them may be re-elected, in which case the fact shall be indorsed on the original commission. Elections for line officers shall be ordered by the commanding officer of the regiment or artillery corps, for field officers by the brigade commander, and for a general officer by the commander-in-chief. In all cases the order shall be promulgated at least five days before the day fixed for the election. (1058)

2372. Presiding officer—Majority—Commissions—Warrants—The officer ordering an election shall preside over the same, or designate another to act in his place. If the presiding officer be absent, the senior officer present shall take the chair, but no officer shall preside over an election at which he is a candidate. All voting shall be by ballot, a majority of those voting shall be necessary to a choice, and a majority of those entitled to vote must be present. Officers of the guard shall be commissioned by the governor, with rank from date of election or appointment, and warrants to non-commissioned officers shall be issued by the commanders of their respective regiments or corps. The acceptance of a second commission in the guard shall be deemed a resignation of the first. (1059)

2373. Examining boards—Commissions withheld or revoked—The governor, in his discretion, may appoint an examining board of three or five officers to report upon the competency of any appointed or elected officer to fill the place for which he has been chosen; and, if such board find and report such officer incompetent, he may annul the election or appointment. A like board may also be appointed, upon the application of the commanding officer of a regiment, battalion, or corps, to inquire into the capability of any officer sent before it by such commander, and, upon an unfavorable report, the officer's commission may be canceled. (1060)

RESIGNATIONS AND DISCHARGES

2374. Commissioned officers—Resignations of commissioned officers shall be in writing, addressed to the adjutant general, and be transmitted by and through all intermediate officers, who shall indorse their approval or disapproval thereon; and the same shall not take effect until accepted by the governor. Acceptance of a resignation after five years' service, or on account of physical disability, shall entitle the officer to a certificate of honorable discharge; but, if tendered while the guard is on active duty, such certificate may be refused. Any commissioned officer may be discharged, but only upon sentence of a court-martial or finding of an examining board, for failure to appear before either when ordered, or for absence without leave for a period of thirty days. (1061)

2375. Enlisted men—Honorable discharges shall be granted to enlisted men only upon expiration of term of service, for disability resulting from disease or wounds honorably contracted or received in the service, or by order of the governor. Discharges may be given for disease or wounds otherwise incurred, for the good of the service, upon permanent removal from the company station after twenty days' written notice to the commander of intended removal, or by order of the governor. The commanding officer of each regiment and of the artillery corps shall pass upon all discharges for enlisted men of his command, and sign all certificates of honorable discharge properly submitted to him by company commanders. (1062)

2376. Dishonorable discharge—Its effect—A dishonorable discharge shall operate as a complete expulsion from the guard, a forfeiture of all exemptions and privileges acquired through membership therein, and a disqualification for any military office under the state. The names of all persons dishonorably discharged in any month shall be published by the adjutant general at the end of each month, and a complete list thereof shall be kept posted in all the armories. No person so discharged shall be admitted to any armory or other meeting place of the guard, or to the immediate vicinity of any encampment, drill, or parade of troops. All commanding officers are hereby required to enforce these prohibitions. (1063)

2377. Officers, when and how retired—Marks for long service—Any commissioned officer of the national guard who has served or shall have served as such officer for a period of not less than ten years, and any commissioned officer of the national guard who has been honorably discharged from the army of the United States after serving therein for a period of ninety days or more during the war of the Rebellion or during the war with Spain, and who shall have served as such officer of the national guard for a period of not less than five years, and any commissioned officer of the national guard who has become, or who shall hereafter become disabled, and thereby incapable of performing the duties of his office, may, upon his own request in writing, stating the grounds therefor, and by order of the commander-in-chief, be withdrawn from active service and have his name placed on a roll in the office of the adjutant general, to be known as the "Roll of Retired Officers," and shall thereby be entitled to wear, on state or other occasions of ceremony, the uniform of the rank last held by him. The commander-in-chief may, by general order, provide a suitable mark of distinction for all officers, and enlisted men who have served in the national guard for an aggregate period of ten, fifteen and twenty years, respectively, and for like service hereafter. ('97 c. 118 § 140, amended '01 c. 162 § 4; '05 c. 225 § 6)

Historical—Section 140 of the Military Code (1897 c. 118) as amended, was further amended, as above set forth, by 1905 c. 225 § 6. See note under § 2363. Section 140 of the Military Code was amended by 1901 c. 162 § 4. The last act was repealed by § 9454; the provisions of said section as amended being incorporated in R. L. § 1064. By virtue of 1905 c. 225 § 7, repealing inconsistent acts, and of § 9398, R. L. § 1064 appears to be repealed.

PRIVILEGES

2378. Exemptions from jury duty, poll tax, civil process, execution, etc.—During his term of service every officer and enlisted man of the national guard shall be exempt from poll or road taxes and from duty as a juror; and, if honorably discharged after five years of continuous service therein, he shall be exempt from jury duty forever. No member of the guard shall be arrested, or served with any summons, order, warrant, or other civil process while going to, attending, or returning from any place to which he is required to go for military duty; but nothing herein shall prevent his arrest by order of a military officer, or for a felony or breach of the peace. And the uniforms, arms, and equipments of such members shall be exempt from seizure or sale for debt. (1065)

2379. Protection for official acts—Firing on mobs—The commanding officer of any militia force engaged in the suppression of an insurrection, the dispersion of a mob, or the enforcement of the laws shall exercise his discretion as to the propriety of firing upon or otherwise attacking any mob or other unlawful assembly; and, if he exercise his honest judgment thereon, he shall not be liable in either a civil or a criminal action for any act done while on such duty. But no officer, under any pretence or in compliance with any order, shall direct or permit his men, or any of them, to fire blank cartridges upon any mob or unlawful assemblage, under penalty of dishonorable dismissal from the service.

No officer or enlisted man shall be held liable, in either a civil or a criminal action, for any act done under lawful orders and in the performance of his duty. (R. L. § 1066, amended '11 c. 303 § 4)

2380. Security for costs, etc.—Any person bringing an action or proceeding against a military officer of the state for any act done in the course of his official duty, or against any person acting under the order or authority of such officer, shall give security for the costs, disbursements, and reasonable attorney's fees

incurred by the defendant in defending the same, in the same manner and subject to the same regulations, so far as applicable, as in the case of a non-resident plaintiff. And if the plaintiff fails to recover, such attorney's fees may be taxed with the costs and disbursements, and judgment therefor be entered against him and his sureties on the bond. (1067)

INCORPORATION

2381. What bodies may incorporate—Names—The brigade officers, the field and staff officers of the artillery corps, the like officers of the several regiments, and the officers and men of each battery and company of the guard may incorporate, and in that case shall have power to acquire, hold, sell, lease, mortgage, and convey such property, real and personal, as may be necessary or proper for carrying out the purposes of their organization. Any of them may sue and be sued by such name as it shall have adopted with the approval of the adjutant general, but no member of such corporation shall be personally liable for its acts, omissions, or debts. (1068)

2382. Officers and directors—Powers—By-laws—The commanding officer of the several organizations shall be president of such corporation, the next in command its vice-president, and the second lieutenant, secretary. The board of directors of such corporation shall consist of said officers and the first sergeant, and a treasurer who shall be elected by ballot and a majority vote at the annual meeting of the corporation. Each company or battery may also adopt a constitution and by-laws for the government of its affairs, which shall be consistent with this chapter, and, with any amendments thereof, must have the approval of the regimental commander and be filed with the adjutant general before taking effect. All contracts shall be signed by the president and secretary, and no money shall be expended except upon the order of the president; but the vice-president may act in place of the president when the latter is absent or disabled. (1069)

2383. Existing corporations continued—Property—By-laws—All corporations heretofore formed under the military code shall continue as such, but their organization, powers, duties, and by-laws shall be conformed to the provisions of this chapter. The by-laws of a company or battery shall fix the membership dues and provide that its commanding officer shall be president, its first lieutenant vice-president, its second lieutenant secretary, and said officers with its first sergeant and a treasurer elected by the organization at its annual meeting in December, shall be ex-officio its board of directors; that a majority of the organization shall constitute a quorum for the purposes of election, and that all elections shall be by ballot and a majority vote of those voting; that the following fines shall be imposed—for absence at regular drill meeting or parade, fifty cents; for tardiness or appearance thereat without full uniform and equipments, twenty-five cents; for absence or tardiness at drill or parade specially ordered, or meeting for election of officers, one dollar; for absence or tardiness at annual inspection, seven dollars; for disobedience of standing orders or conduct prejudicial to military discipline, not more than two dollars in the discretion of the board of directors; that immediately after every drill meeting or parade the first sergeant shall report those delinquent to the board of directors with date and nature of the offence; that the secretary shall then give the delinquent at least two days' notice by mail to appear before such board at a time stated and show cause why he shall not be fined for the offence stated in such notice; that said board at the time noticed shall pass upon any excuse offered, and if it finds a fine should be imposed assess the same against the delinquent; that the secretary shall at once charge any fine imposed against the account of such delinquent; that the treasurer shall immediately deposit all the funds of the organization in a bank to be designated by it, and in its name; that such funds shall be withdrawn from such bank only upon resolution of the organization, or upon order of its president, when approved by the regimental commander, and then by warrant of the secretary approved by the president and countersigned by the treasurer; or by a draft of the president, approved by the regimental commander; that the treasurer shall give bonds of not less than five hundred dollars, conditioned for the faithful discharge of his duties, with two sureties ap-

proved by the board; that any member of the organization receiving any moneys for it or for any member thereof shall forthwith pay the same to the treasurer or (if so directed by the president), deposit the same to the credit of the organization in a bank designated to receive its funds, except that at the annual encampment, or in actual service the president may from the camp allowance of members incur and pay the organization's share of expense of such encampment or service, and pay the balance only due the members respectively to the treasurer; that the president shall also give the secretary a statement of the balance due each member after deducting such expense; that the secretary shall credit each member with such balance, and after deducting all dues and fines and charges for lost property, draw his warrant in favor of such member for the balance remaining, to be approved and countersigned as in other cases; that itemized semi-annual reports of receipts and disbursements of the organization showing balance on hand shall be made by the secretary and treasurer, approved by the board and certified by the president to the regimental commander before June 10 and December 10; that all books and records shall at all times be open for inspection by the president, regimental commander and adjutant and said commander and adjutant may attend all meetings of the organization or its board or committees. Upon the dissolution of any such corporation, by muster out or otherwise, all its property shall vest in the state; but the whole or any part thereof may be conveyed by the adjutant general, acting for the state, to a similar organization of the guard formed in the same locality. (1070)

UNIFORM—ARMS—ACCOUTREMENTS

2384. Uniform—Equipments—The uniform and equipment of the national guard shall be the same as that which is now or may hereafter be prescribed for the regular army of the United States, except that the state designation shall be substituted for the letters "U. S." on the collar. Uniforms and equipments for any required service shall be provided for all organizations having the minimum membership required in section 2401. They shall be issued by the adjutant general as the needs of the service may require on the basis of the federal clothing allowance and shall be accounted for or dropped from the returns in like manner. (R. L. § 1071, amended '07 c. 443 § 2; '09 c. 56 § 1)

See note under § 2363.

2385. Same—Distribution and return—Forfeiture—The commanding officer of a company or battery receiving clothing or equipage so issued for the use of his command shall distribute the same as he deems proper, taking receipts, and requiring the return of each article at such time and place as he shall direct. Every person failing to comply with such directions shall forfeit not to exceed double the price of the article withheld, which forfeiture the commanding officer may recover in a civil action. All sums so collected shall be paid into the state treasury, and added to the current appropriation for the support of the guard. The proceeds of the sale or transfer of condemned and other military property shall be turned over to the state auditor and by him placed to the credit of the national guard fund to be used, under the direction of the adjutant general, in the purchase of similar property, or for other necessary expenses of the service. (R. L. § 1072, amended '07 c. 443 § 2)

Historical—By 1907 c. 443 § 2, R. L. "sections 1071, 1088, and 1902 [2384, 2401, and 4050], * * * are amended to read as follows": The section above set forth, numbered 1072, follows, though not previously mentioned.

See note under § 2363.

2386. Issue and distribution of arms, etc.—Arms, accoutrements, ammunition and stores shall be issued to the quartermasters of the regiments and artillery corps, respectively, upon requisition of the commanding officers thereof, under such regulations as the governor may prescribe. Such commanders shall cause the same to be issued to the company commanders under suitable directions. The adjutant general may require of the quartermasters such bonds as he deems necessary for securing the care and safety of property so issued, and may allow them sufficient money to establish and maintain regimental depots,

approved by him, and to pay for the transportation, handling, and care of such property, which allowances shall be paid out of the moneys appropriated for the purchase of supplies for the guard. (1074)

2387. **Same—To Sons of Veterans**—The adjutant general, in his discretion, may issue to any camp of the military organization known as the "Sons of Veterans, U. S. A.," arms and accoutrements not in use, to a number not exceeding the active membership of such camp. Some member of the camp shall give bond to the state in the sum of at least twenty dollars for each rifle, conditioned for the return in good order, on demand, of all property so issued. No such issue shall be made except on requisition of the captain of such camp, approved by the division colonel. Any member of such camp who shall wilfully destroy or injure military property so issued, or shall withhold the same for more than five days after its return has been requested, shall be guilty of a misdemeanor. (1075)

DUTIES OF OFFICERS

2388. **Adjutant general—Powers and duties**—The adjutant general shall be provided with an office in the capitol, where he shall keep his official records and all accounts and papers pertaining to the militia. He shall have general supervision, under the governor, of all military property of the state, and keep accounts with, and supervise the accounts of, all officers having the immediate control thereof. All requisitions for arms and ammunition shall be issued by him when signed by the governor. And in addition to all other duties imposed upon the adjutant general by law or by the lawful directions of the governor, he shall act as the agent of all residents of the state having claims against the United States for pensions, bounty, or back pay, arising out of or by reason of the Civil War, and prosecute such claims without charge. The present seal of his office shall be continued in use until altered by direction of the governor. (1076)

2389. **Surgeon general—Powers and duties**—The surgeon general shall have general charge of all matters affecting the health of the troops, give directions to the medical officers, provide hospital accommodations, take measures to prevent or suppress epidemics, and exercise such other powers as the sanitary welfare of the men may render necessary. (1077)

2390. **Judge advocate general—Powers and duties**—The judge advocate general shall be the legal adviser of the several staff departments upon all questions arising therein. He shall examine all charges and specifications, and all proceedings of courts-martial properly referred to him, and promptly report thereon. Whenever the governor shall so order, or the public interests shall require it, he shall act as judge advocate of any court-martial. And he shall perform such other duties as may be imposed upon him by law or by order of the governor. (1078)

2391. **Inspections**—Whenever so ordered by the governor, the inspecting officer shall inspect every branch of the service, and report the results thereof, giving the number of troops present, the condition of their arms, accoutrements, and clothing, their proficiency in drill, and such other information as may be required of or deemed proper by him. There shall be at least one inspection annually, at such time and place as the governor shall designate, at which the regiments, companies, and batteries shall be exercised by their several commanders in the manual of arms and the drill regulations of the United States army, and be carefully counted by the inspection officer. A roll of each company and battery, certified by the captain thereof, shall be furnished prior to the inspection, showing the number of drills in which each member has participated during the preceding twelve months. The assistant adjutant general of the brigade, the adjutants of the regiments and artillery corps, and the medical director shall in like manner furnish a roster of the field, staff, and non-commissioned officers, and of the several bands of the brigade, regiments, or corps. The forms and mode of inspection shall be prescribed by the adjutant general, and all directions given by him in reference to the inspection shall be obeyed by the several officers of the guard. (1079)

2392. **Military storekeeper—Duties**—The military storekeeper shall be the armorer and ordnance officer of the state. He shall preserve and keep in order

the arms and other public property of the ordnance department, and any camp equipage that may be placed in his care, and shall account for the same to the adjutant general. (1080)

2393. Other officers—Duties—Federal laws—Oaths—The quartermaster and commissary generals shall perform such duties in connection with their respective departments as may be required of them by the governor or by law. During the absence or disability of a staff officer, his assistant shall perform his duties. Except as otherwise provided in this chapter, all officers of the guard shall have the same powers and perform the same duties as officers of similar rank and position in the army of the United States. Commissioned officers of the guard may administer oaths in all matters connected with the service. (1081)

INSTRUCTION

2394. Drill or parade required—Every company and battery of the guard shall have at least thirty company drills or parades each year, exclusive of camp and active service. In addition thereto the commanding officer of any organization therein may require his officers and men to meet for instruction at such times and places as he shall appoint. (1082)

2395. Rifle and gun practice—Competing teams, etc.—The governor may establish special camps for advanced instruction in rifle and gun practice, to be attended not more than six days in any year by officers and men who have attained a prescribed standard of marksmanship, and who are selected for the purpose under suitable rules. From the participants who develop unusual proficiency therein, rifle and gun teams may be formed, which, with the approval of the adjutant general, may compete with like teams in or from other states under rules approved by him. The pay and allowances of officers and men while attending such practice or competition shall be at the rate prescribed for actual service. But no more than three thousand dollars shall be expended in any one year for all the purposes of this section. (1083)

2396. Encampments—Parades, etc.—The governor shall order the national guard into camp each year for such period as he may deem proper. Until and including the year 1921, such annual encampment shall be held on the grounds heretofore donated to the state for that purpose at Lake City. The governor may also direct any organization of the guard to parade for drill, review, or escort duty, and prescribe regulations therefor. (1084)

This section seems to be superseded. See § 2397.

2397. Encampments—Field maneuvers—Additional pay—The commander-in-chief shall order the national guard into camp each year for such period as he may direct. He may, in his discretion, order such organizations as he may deem proper, to parade for purposes of drill, review, or escort duty, and prescribe all regulations and requirements therefor. The commander-in-chief may also provide for the participation of the national guard, or any portion thereof, in encampments or field maneuvers at such places as may be designated by the war department pursuant to any act of congress; and in such case the officers and enlisted men attending the same shall receive, in addition to the pay and subsistence provided by the federal laws and regulations, the difference between such federal pay and state pay as provided by the military code for active service. Whenever the entire military forces of the state participate in such maneuvers the same shall be mobilized at the state encampment grounds, Lake City, except that portion of said troops as may be stationed on the way to the place of maneuvers. ('97 c. 118 § 105, amended '05 c. 225 § 4)

Historical—Section 105 of the Military Code (1897 c. 118) was amended as above set forth, by adding thereto the words which begin with the third sentence in the above, by section 4 of 1905 c. 225. 1897 c. 118 is not included in the acts of that year repealed by § 9452, but the provisions of section 105 thereof are incorporated in the preceding section. By virtue of 1905 c. 225 § 7, repealing inconsistent acts, and of § 9398, the preceding section appears to be repealed.

2398. Care of camp grounds, etc.—Eminent domain—The adjutant general shall have charge of the camp grounds and military reservations of the state, keeping in repair all state buildings and other improvements thereon,

including water pipes laid by the state on highways leading thereto, and of all military property of the state connected with said grounds. He may make such further improvements thereon as the good of the service requires, but the expenditure of the state for all the purposes aforesaid shall not exceed three thousand dollars in any one year. Private property may be acquired by condemnation, upon the application of the adjutant general, for camp grounds, rifle ranges, and other military purposes. All damages, cost and expense incurred in condemning such property shall be paid by the state treasurer, upon certificate of the adjutant general and warrant of the state auditor, from any unexpended balance of the military fund after meeting the demands of the national guard. (1085)

2399. Molestation of guard, etc.—Any person who interrupts, molests or insults by abusive words or behavior, or obstructs any officer or soldier of the national guard while on duty, either parade, drill or meeting for military improvement, may be immediately put and kept under guard until said duty is concluded, by the officer in command. Such officer may turn him over to any peace officer of the city or place where such drill, parade or meeting is being held and such peace officer shall thereupon deliver such offender for examination and trial before a justice of the peace having jurisdiction. Any person violating the provisions of this section shall be guilty of a misdemeanor. (1086)

2400. Right of way—Organizations of national guard parading or on any authorized duty shall have the right of way on any street or highway through which they may pass against all, except carriers of United States mail, fire engines, and the police. (1087)

PAY AND ALLOWANCES

2401. Per capita allowance—Military fund—The state shall pay annually to the officers hereinafter specified, seven dollars for each officer, non-commissioned officer, musician and other enlisted man of their respective organizations reported by the inspecting officer as fully uniformed and equipped. Said money shall be known as the military fund, and shall be used only for the purchase of uniforms, care of armories, and other necessary expenses of the regiment, company or battery. But no such payments shall be made on account of any company or battery whose number, present at the inspection or satisfactorily accounted for, was below forty-six officers and enlisted men, or which had been mustered within thirty days before the inspection, or had held fewer than the required number of drills; nor on account of any company, officer or man not mustered at least thirty days before the inspection, or who has not drilled or performed other military duty on an average of at least twice a month during his membership, exclusive of camp duty and active service. Such payments on account of a company or battery shall be made to its commanding officer; on account of the brigade commander and his staff, to the general in command; on account of the field and staff, non-commissioned staff, band and medical corps, to the respective commanding officers of the regiments. All such payments shall be made upon the requisition of the officer entitled to receive the same, approved by the adjutant general. Any balance of said funds shall be paid over by the officer receiving it to his successor.

There shall be paid to each quartermaster sergeant and chief mechanic, including quartermaster sergeants of bands, machine gun companies, headquarters' detachments and hospital corps, in charge of state or government property, the sum of ten dollars per month upon the certificate of his commanding officer that he has faithfully performed the duties of his office and accounted for all property entrusted to his care. Such payments shall be made quarterly upon vouchers approved by the adjutant general. (R. L. § 1088, amended '07 c. 443 § 2; '13 c. 44 § 1)

2402. For hire of artillery horses—To the commanding officer of each battery of artillery there shall also be paid by the state, annually, at or before the encampment; six hundred dollars for horse hire; and, if the battery be composed of more than two mounted sections, three hundred and fifty

dollars additional shall be so paid, and one hundred dollars to the corps commander for horse hire. (1089)

2403. Camp allowances—For each day's attendance at an encampment or maneuver ordered by the governor, including the time necessarily consumed in travel, the enlisted men of the national guard shall receive pay at the rate now or hereafter provided for enlisted men of similar grade and term of enlistment in the regular army of the United States, and in addition thereto the sum of one dollar per day besides transportation and shelter. If subsistence is furnished by the state, the cost thereof, not to exceed fifty cents per day, shall be deducted from the pay of each enlisted man. The value of articles issued to any member of a company or battery, and not returned in good order on demand, as well as his proportionate share of the subsistence of the company and other legal fines or forfeitures may be deducted from the member's pay by his commanding officer. Provided, that such payment shall be made only to the men present in full uniform and on duty at least five days. (R. L. § 1090, amended '11 c. 303 § 3)

2404. Pay for active service—How audited and paid—When called into active service by the governor, each enlisted man shall be paid by the state the sum of fifty cents per day in addition to the pay and allowances provided in the preceding section for encampments and maneuvers, together with subsistence. If an artillery force be so employed, the necessary cost of horse hire and forage shall be paid by the state. In all such cases the pay rolls and expense bills shall be audited by the state auditor, attorney general and adjutant general, and paid upon their certificate out of the general revenue fund. (R. L. § 1091, amended '11 c. 303 § 3)

2405. Pay of officers—Allowances—Every commissioned officer of the national guard, not salaried, shall receive from the state, while engaged in any service ordered by the governor, pay and allowances at the rate paid or allowed by law to officers of similar rank in the United States army. There shall also be paid annually to officers in actual command of troops, for incidental expenses the following sums: To the brigade commander, and to the commanding officer of each regiment, two hundred and fifty dollars; to the commanding officer of a separate battalion, one hundred and fifty dollars; to the commanding officer of each battalion, company or battery, the assistant adjutant general of the brigade, each regimental adjutant and the adjutant of a separate battalion, one hundred dollars.

Where the officers of the national guard are convened by the governor at an annual meeting of instruction, other than camp or active service, or where they are detailed under orders from regimental headquarters for the purpose of holding an election outside of their own station, they shall be allowed for traveling and incidental expenses, the sum of three dollars per day, not to exceed two days, in addition to transportation. (R. L. 1092, amended '07 c. 443 § 2; '11 c. 303 § 2; '13 c. 44 § 2)

2406. Payments, how made—None for federal service—All payments provided for in §§ 2402–2405 shall be made to the adjutant general by auditor's warrant issued upon his requisition, approved by the governor. The adjutant general shall immediately pay and distribute the same to and among the several officers and commands entitled thereto; and the receipt of the commanding officer of a regiment or of the artillery corps for the aggregate due to the various organizations, officers, and men thereof shall discharge him from liability. Any officer receiving such payments from the adjutant general shall be responsible for their proper distribution or use. (1093)

2407. Standing appropriation—Expenditure, how made—The sum of seventy-five thousand five hundred dollars, or so much thereof as may be necessary, is hereby appropriated annually for the purpose of carrying out the provisions of this chapter, relating to the national guard, other than salaries and contingent fund, and there is further annually appropriated the sum of five thousand five hundred dollars for the salaries stated in § 2409, besides four hundred and fifty dollars for the adjutant general's contingent fund. And no such appropriation shall lapse at the end of any fiscal year, but all unexpended balances shall be added to the appropriation made for the ensuing

year. All disbursements from such appropriation shall be made upon auditor's warrants issued upon vouchers approved by the adjutant general. (1094)

2408. **Civil War muster rolls**—The adjutant general shall compile, from the original muster rolls in his office and such additional sources as he can command, a complete alphabetical list of the Minnesota volunteers in the Civil War, and shall include therein the military history of each man as shown by such rolls. Thereafter the original rolls shall be placed in suitable metal boxes for safe-keeping, and the compilation so made shall be used in their place for all practicable purposes. (1095)

2409. **Salaries, etc.—Assistants**—The adjutant general shall receive a yearly salary of two thousand dollars, and may employ a stenographer at the cost of the state of not more than eight hundred dollars per year. He may appoint an assistant at a salary of not exceeding fifteen hundred dollars per year, who shall perform such duties as he may prescribe. He may also employ, from time to time, other necessary office assistants, for whose compensation provision shall have been made by law. The salary of the military storekeeper shall be twelve hundred dollars per year. All salaries and compensation herein referred to shall be paid by the state in monthly instalments. (1096)

MILITARY OFFENSES AND TRIALS

2410. **Commissioned officers—Offences and penalties**—A military offence includes any delinquency or violation of the laws, rules, regulations, or orders governing the militia or national guard, as well as those governing the army and navy of the United States, applicable to the militia or national guard and the offences in this chapter enumerated, and shall be defined as similar offences are in the articles of war and laws and regulations governing the United States army. Upon conviction of a military offence, any commissioned officer of the national guard may be dismissed from the service, cashiered, fined not more than one hundred dollars and the costs of prosecution, or reprimanded, or any or all of said punishments may be inflicted. If sentenced to be cashiered, he shall be disqualified thereby from holding any military commission. If fined, he may be imprisoned in a county jail until the fine is paid, not exceeding sixty days. Any such officer may be tried by court-martial for the following offences:

1. Wilful disobedience of orders, or aiding or abetting others therein.
2. Insult or disrespect to superiors.
3. Mutiny, desertion, or cowardice.
4. Drunkenness on duty.
5. Neglect of duty, or leaving post or command.
6. Making a false report, muster, account, certificate, or return.
7. Conduct to the prejudice of good order and military discipline.
8. Oppression of any under his command.
9. Embezzlement or misappropriation of military or company funds, or wrongful conversion of military property.
10. Wasting or destroying any such property.
11. Conduct unbecoming an officer and a gentleman.
12. Wrongfully disclosing or making improper use of a watchword or parole.

13. Any other violation of the laws, regulations, or orders governing the national guard, as well as articles of war governing United States army, consistent with this chapter. (1097)

2411. **Non-commissioned officers and privates—Offences and penalties**—Upon conviction of an enlisted man for a military offence, he may be dishonorably discharged, or, if a non-commissioned officer, reduced to the ranks, or fined not more than fifty dollars and the costs of prosecution, or reprimanded. If fined, upon default of payment he may be imprisoned in a county jail not more than thirty days. Any or all of said penalties may be inflicted upon a single sentence. Any such enlisted man may be tried by court-martial for:

1. Any of the first seven offences mentioned in § 2410.
2. Fraudulent enlistment.
3. Injuring or destroying state or government property, or wearing uniform or equipments while not on duty without permission.
4. Violation of any provision of this chapter, or of any rule or regulation of the guard. (1098)

The provisions of this chapter as to military offences are exclusive. An officer cannot punish a private summarily at his pleasure, at least when the company is not acting as a military force (65-159, 67+989, 33 L. R. A. 506).

2412. Absence or tardiness—Officers—Any officer may also be tried by court-martial and fined not exceeding ten dollars and costs of prosecution, or in default be imprisoned in the county jail not exceeding five days, for non-attendance or tardiness at any drill, parade, encampment, inspection or other duty ordered by competent authority, each day being a separate offence. (1099)

2413. Same—Privates—Any enlisted man may be tried by court-martial or summary court for non-attendance or tardiness at any drill, parade, encampment, inspection, or other duty ordered by competent authority; and, in case of absence, each day thereof shall be a separate offence. Upon conviction, he shall be fined not exceeding ten dollars and costs, or be imprisoned not more than five days. (1100)

2414. Injury, etc., of military property—Arms, uniforms, and accoutrements issued by the state, or purchased with military funds, shall be used only by members of the guard, and by them only in the discharge of military duty. Every person, whether a member of the guard or not, who shall wilfully or wantonly injure, destroy, withhold, sell, or dispose of any article so issued, or refuse to deliver or pay for the same upon lawful demand, shall be guilty of a misdemeanor. (1101)

2415. Military courts—The military courts of this state shall be:

1. Courts of inquiry.
2. General courts-martial.
3. Regimental courts-martial.
4. Summary courts, which are of two kinds: (a) field officer's courts; (b) company courts. (1102)

Trial by court-martial in time of peace constitutional (74-518, 77+424, 42 L. R. A. 749, 73 Am. St. Rep. 369).

2416. Courts of inquiry—Courts of inquiry, to consist of from one to three officers, may be instituted by the governor for the purpose of investigating the conduct of any officer, or any facts made the subject of military complaint. Such court of inquiry shall, without delay, report a statement of facts and, when required, the evidence adduced and an opinion thereon to the governor, who may, in his discretion, thereupon order a court-martial for the trial of the officer whose conduct has been inquired into. (1103)

2417. General courts-martial—General courts-martial shall be ordered by the governor, or by the brigade commander, and shall consist of seven officers, any four of whom shall constitute a quorum, but at all times a majority of the court, if possible, must be of a grade at least equal to that of the accused. Such courts shall have jurisdiction in all cases arising under the military laws, rules, regulations, or orders in force in this state, and may inflict any punishment authorized by the provisions of this act. (1104)

2418. Regimental courts-martial—Regimental courts-martial to consist of three officers, any two of whom shall constitute a quorum, shall be ordered by the commanding officer of a regiment of infantry or battalion of artillery, for the trial of officers and enlisted men in his command. The jurisdiction of a regimental court-martial shall extend to all military offences, but it shall not inflict a punishment exceeding a fine of fifty dollars, or imprisonment for a period exceeding thirty days, besides the costs of prosecution and dishonorable discharge, with loss of time served, if an enlisted man, or dismissal, if an officer, all or either of which the court may impose at its discretion. (1105)

2419. Summary courts—Summary courts to consist of one officer for the trial of enlisted men are hereby established and may be designated as field

officer's courts and company courts respectively, as hereinafter provided. Their jurisdiction shall extend to all offences cognizable before regimental courts-martial, and they shall have power to inflict any punishment not exceeding a fine of ten dollars and costs of prosecution, or imprisonment not exceeding five days, besides dishonorable discharge with loss of time served, at the discretion of the court: Provided, however, that, if the accused is a non-commissioned officer of the grade of sergeant, the court shall, upon his demand in writing, refer the charges to the regimental commander for trial and determination by a regimental court-martial. (1106)

2420. Field officers' courts—The officers second in rank present for duty with each regiment of infantry or battalion of artillery, or such other field, staff or line officer as may be designated by the regimental commander, shall constitute the field officers' court for the trial of enlisted men in such regiment or battalion. ('97 c. 118 § 35, amended '05 c. 225 § 3)

Historical—1897 c. 118 is not included in the acts of that year repealed by § 9452. By virtue of 1905 c. 225 § 7, repealing inconsistent acts, and of § 9398, R. L. § 1107 appears to be repealed.

See note under § 2363.

2421. Company courts—The officer second in rank present for duty with each company or battery shall constitute the company court for the trial of enlisted men in such company or battery. (1108)

2422. Courts-martial in time of war—All laws, rules and regulations governing the army of the United States, relating to courts-martial and the trial and punishment of military offences, shall apply to and in all things govern the militia and national guard of this state when in actual service, in time of war, insurrection, invasion, riot or public danger; otherwise, they shall be in force as far as consistent with the provisions of this chapter. (1109)

2423. Disposition of fines—The proceeds of all fines shall be paid to the captain of the company or battery of which the accused is a member, and if the accused is a regimental officer or non-commissioned officer, to the commanding officer of such organization, for the benefit of the military fund of such company, regiment or organization. And all costs of prosecution shall, in the first instance, be paid out of such fund; and regimental commanders may, by an order, compel such payment, when the company fails or neglects to do so within a reasonable time. (1110)

2424. Charges—Charges shall be preferred in writing by a commissioned officer, and shall contain the name of the offence charged and a reference to the particular section of the military code claimed to have been violated. (1111)

2425. Specifications—Charges shall be accompanied by specifications, containing a brief statement of the facts constituting the offence together with the date and place of its commission. (1112)

2426. Charges to be approved—No charges shall be acted upon until approved by the commanding officer of the regiment of infantry or battalion of artillery of which the accused is a member. (1113)

2427. Arrest—Officers and enlisted men against whom charges may be preferred or contemplated, may be placed in arrest and if enlisted men, in confinement, at the discretion of their commanding officer. Provided, however, that such arrest shall cease at the expiration of twenty days unless a copy of the charges is served as hereinafter provided, and that no enlisted man shall be placed in confinement, before trial, except in camp, or in active service. (1114)

2428. Summons—Upon approval of the charges and specifications, a copy thereof, together with a summons signed by the presiding officer of the court or the commanding officer of the accused, and requiring said accused to appear before said court at the time and place therein designated, and answer the charges thereto annexed, shall be served upon him, by delivering to him, or leaving at his last known place of abode or business, a true copy thereof. The appearance of the accused shall waive any irregularity in the service of such papers. (1115)

2429. Warrant—Upon proof of service of such summons, and default of appearance of such accused at the time and place designated for trial, the president or officer of the court shall issue his warrant for the arrest of the delinquent, directed to the sheriff or any constable of the county, who shall forthwith execute said warrant and make proper return thereof, and produce to the said court the body of the accused, if within said county, and retain the custody thereof until the conclusion of the trial, unless sooner discharged by order of the court. The court, in its discretion, may also appoint some other suitable person to execute said warrant. (1116)

2430. Procedure—The forms, practice and procedure of courts of inquiry, general and regimental courts-martial, as well as of summary courts, shall conform as nearly as consistent with the provisions of this act to the procedure of similar courts in the army of the United States. In summary courts the evidence or statements will not be recorded, and a judge advocate may be dispensed with. (1117)

2431. Disqualifications—When the officer presiding at a summary court is the accuser in any case therein pending, the commanding officer shall try the case and exercise all the powers vested in such court by law. (1118)

2432. Powers—All military courts shall have power to administer oaths; to subpoena witnesses and compel their attendance; to hear and determine cases; and, when satisfied of the guilt of the accused, to adjudge the punishment to be inflicted, and when approved enforce the sentence as hereinafter provided. (1119)

2433. Contempts—Any person who shall be guilty of disorderly, contemptuous or insolent behavior, or use any insulting or contemptuous or indecorous language or expressions to or before any military court, or any member of either of such courts in open court, intending to interrupt the proceedings or to impair the authority of such court, may be committed to the jail of the county in which said court shall sit, by warrant under the hand of the president of such court. The warrant shall be directed to the sheriff, or any constable or marshal of any such county, or any marshal of the court, and shall briefly state the offence adjudged to have been committed, and shall command the officer to whom it is directed to take the body of such person and commit him to the jail of the county, there to remain without bail in close confinement for a time to be limited, not exceeding three days and until the officer's fees for committing and the jailer's fees be paid. Such sheriff shall obey such warrant and keep the person committed thereby until the expiration of the time mentioned in the warrant, and until the officer's and jailer's fees be paid, or until the offender shall be discharged by due course of law, unless sooner discharged by a judge of a court of record in the same manner and under the same rules as in cases of imprisonment under process of contempt from a civil court of record. (1120)

2434. Presiding officer of military court—Vacancies—Members to be in uniform—Sittings of court—The president of every military court shall be the member of the court highest in grade and rank. Whenever any military court consists of one person, he shall be deemed the president thereof within the meaning of this chapter. In the absence of the president of any military court, the senior officer shall preside, with all the powers of president. All the members of such court shall, when on duty, be in uniform. The court may sit without regard to hours and may adjourn from time to time, as may be necessary for the transaction of business. Any vacancy in any military court may be filled by the officer who ordered the court, or his successor in command. (1121)

2435. Irregularities—The proceedings of military courts shall not be vitiated by reason of mere irregularity, want of form or other technical defect, unless it is affirmatively made to appear, upon review or appeal, that the accused has been denied a fair hearing and has been materially injured thereby. In all cases where the sentence of a military court has been approved by the reviewing authority, the jurisdiction of said court and the legality of all its proceedings shall be presumed, and on approval of such sentence, or in

any civil proceedings, the burden of rebutting such presumption by competent evidence shall rest with the appellant or contestant in any such appeal or civil proceedings. (1122)

2436. Evidence—Military courts are not bound by the technical rules of evidence prevailing in civil tribunals, and may depart therefrom when in their opinion the exigencies of the case, the best interests of the service or the ends of justice demand it. Copies of all general and special orders may be received in evidence when attested by the signature of any officer having custody of an official copy of such order; and in case a written copy of such order cannot be procured without delay or inconvenience, oral testimony as to its contents may be received, and all military courts may take judicial notice of the signature and handwriting of any commissioned officer of the national guard. (1123)

2437. Judge advocates—The powers and duties which are conferred upon judge advocates by the laws and regulations governing the United States army are hereby conferred upon officers of the national guard of this state appointed or detailed for similar duty. Unless otherwise ordered the judge advocate may remain in attendance throughout the deliberations, findings and sentence of the court. (1124)

2438. Findings—The findings and other rulings of a military court are decided by a majority vote. When the court is equally divided the vote will be recorded as "Not guilty." (1125)

2439. Sentence of officers—Courts-martial in time of peace may sentence an officer to a fine or forfeiture of pay, not exceeding one hundred dollars, and costs of prosecution, to a reprimand, suspension from command, suspension from rank and pay, and to be dismissed or cashiered, or all or either of said fines and penalties. (1126)

2440. Sentence of enlisted men—Military courts in time of peace may sentence enlisted men to a fine or a forfeiture of pay, due or to become due, not exceeding one hundred dollars, and costs of prosecution to be taxed by the court, to a reprimand, reduction to the ranks (if a non-commissioned officer), or dishonorable discharge with loss of time served, or all or either of said fines and penalties. (1127)

2441. Imprisonment—In default of payment of any fine, forfeiture of costs, imposed by any military court, after approval of sentence by the reviewing authority, the offender shall be committed to any county jail designated by said court for a period equal to one day for every two dollars remaining unpaid, not exceeding, however, sixty days when sentenced by a general court-martial, thirty days when sentenced by a regimental court-martial, and five days when sentenced by a summary court. (1128)

2442. Confinement in guard house—Whenever the national guard, or any part thereof, is assembled for instruction, encampment or other duty, in time of peace, all military courts may, in lieu of or in addition to any of the fines and penalties provided in this act, sentence offenders to confinement in any guard house or other place of confinement to be designated by the reviewing authority, for a period not to exceed the limit of such service, encampment or duty. (1129)

2443. Review and approval—The record and sentence of all cases tried by court-martial, shall be transmitted for review to the officer convening such court, and in the case of summary courts to the commanding officer of the regiment of infantry or battalion of artillery of which the accused is a member. No sentence of dismissal affecting a commissioned officer shall be carried into execution until approved by the governor. The reviewing officer shall approve or disapprove the sentence, and may modify, mitigate or remit the same, or may return the record for revision, to correct defects or supply omissions. His final action shall be indorsed on the record or expressed in orders, a copy of which shall be annexed thereto. If further action by the court is necessary to enforce the sentence, or any part thereof, the record and sentence with the action of the reviewing officer thereon shall be returned to the court for further proceedings. (1130)

2444. Warrant of commitment—If the fine and costs imposed by the court are not paid to the presiding officer, judge advocate or other officer authorized to receive the same within five days after notice to the accused or publication of the orders approving the sentence, the president or other officer of the court shall issue his warrant of commitment of such delinquent offender, commanding the sheriff or any constable to whom such warrant is delivered to forthwith take the body of said offender and convey him to the common jail of the county designated in said warrant, there to remain confined during the term of said sentence as set forth in said commitment, or until sooner discharged by competent authority, and to make a due return of his doings thereon. Such warrant of commitment may be substantially in the following form:

The State of Minnesota:

To the sheriff or any constable and to the keeper of the common jail of the county of

Greeting:

Whereas, of (company or battery) (regiment of infantry) (battalion of artillery), national guard of the state of Minnesota, has been duly tried by a court, duly organized according to law, and upon such trial was found guilty of (charge), and was, on the day of 19, duly sentenced to (sentence), and said sentence having been approved by competent authority, and said offender having failed to pay said fine:

Now, therefore, you, the said sheriff or constable, are hereby commanded, by authority of the state of Minnesota, to forthwith take the body of the offender hereinbefore named and convey him to the common jail of your county, and deliver him to the keeper thereof, and said keeper is hereby commanded to receive the said offender into his custody, within said jail, and to keep him in confinement therein for the period of days from date of receipt, or until sooner discharged by competent authority; and each of said officers is further required to forthwith make due return of this warrant and of his doings thereunder.

Dated at this day of, 19....
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Presiding at Said Court.
(1131)

2445. Duties of jailers—The keepers and wardens of all county jails are required to receive and confine all military offenders, when delivered by such sheriff or constable, under the proper certificate of commitment of a military court, for and during the term of sentence as set forth in said commitment. (1132)

2446. Duties of civil officers—Any sheriff, constable, jailer, marshal or other civil officer named in this act, who shall neglect or refuse to obey, execute or return the lawful warrant or other mandate of a military court, or make a false return thereon, shall be guilty of a misdemeanor, and, in addition to the penalties attaching thereto, shall forfeit fifty dollars for each offence or neglect of duty, the same to be recovered in a civil action against such officer and his official sureties by the regimental or battalion commander in whose jurisdiction the court warrant or mandate has been disobeyed, for the benefit of the military fund of such regiment or battalion. (1133)

2447. Fees of civil officers—Civil officers executing the warrants or process of a military court shall receive, as compensation therefor, the fees allowed by law for like services in the civil courts, the same to be taxed by such court and paid out of the military fund of the company of which the accused is a member. But no fees shall be allowed or paid to such officer unless an itemized statement thereof is indorsed on and forthwith returned with such warrant or process to the court issuing the same. (1134)

2448. Appeal—Notice—Bond—Any party who may feel aggrieved by the decision of a summary court, may appeal therefrom to the regimental court-

martial of his regiment or battalion within ten days after the promulgation of the sentence, and, if personally notified of such sentence, within ten days after such notice, by filing with said summary court a written notice of the grounds of such appeal, together with a bond, to the state of Minnesota, in the penal sum of one hundred dollars with two sureties to be approved by said summary court, conditioned that he shall appear and prosecute said appeal with effect, abide by the decision of the appellate court and faithfully pay and discharge all fines and penalties which may be imposed upon him by said court. (1135)

2449. **Stay on appeal**—Upon compliance with all the requirements of § 2448, the summary court shall allow said appeal, discharge the prisoner pending the hearing on appeal, and forthwith return the record and papers to the reviewing authority with a statement of the facts indorsed thereon. But no stay of sentence or execution shall be granted by said court until an appeal has been perfected as hereinbefore provided. (1136)

2450. **Hearing of appeal**—The appellate court when convened shall hear and determine the case in the same manner as other cases originally tried therein. The appellant shall have at least three days' notice of the time and place of hearing, which may be done by mailing to him a copy of the order convening said court. If he fails to appear at the appointed time and place, the sentence of the summary court shall be affirmed, with costs of appeal, including the per diem of the members of the court and other officers and witnesses necessarily in attendance, all of which shall be taxed by the appellate court, and judgment entered thereon against the appellant and his sureties, and in favor of the commanding officer of the appellant's company, or his successor in command, for the use of said company. A transcript of said judgment, certified by the presiding officer of said court, may be filed in the office of the clerk of the district court of any county in this state, there to be entered and docketed in the same manner and with all the force and effect of a judgment originally entered and docketed in said district court, and thereafter executions thereon shall issue from said district court as in other civil cases. If the appellant appears and, after trial, is found guilty and sentenced, the court may also enter judgment against his sureties for the amount of the fine, costs and disbursements, and proceed as hereinbefore provided in case of default. (1137)

2451. **Return of record**—In all cases military courts shall return the record of their proceedings after sentence to the reviewing authority within thirty days after promulgation of said sentence. And upon final determination of the case such record shall be transmitted to the adjutant general for safe keeping. (1138)

2452. **Immunity of members of military court**—No action or proceeding shall be maintained against any member of a military court, officer or agent acting under its authority or reviewing its proceedings, on account of the imposition of a fine or penalty or for the execution of a sentence on any person. (1139)

ARMORIES

2453. **Counties may erect**—Whenever a regiment, battalion, or artillery corps of the national guard shall be located in any county, wherein no armory has otherwise been provided for its use, the commanding officer of such organization, the chairman of the county board, and the county treasurer shall constitute an armory commission, with power, in their discretion, to purchase, erect, or rent a suitable building, and to furnish and keep the same in repair for use as such armory, all at the cost of such county. (1140)

2454. **Cities and villages may erect**—Whenever a company or battery of the guard shall be located in any city or village wherein no suitable armory has been provided for its use, the commanding officer of the regiment or corps to which such company or battery is attached, the mayor or the president of the village council, and the city or village treasurer shall constitute an armory commission, with power, in its discretion, to purchase, erect, or rent a suitable building as such armory, and to furnish and keep the same in repair, all at the cost of the city or village. (1141)

2455. Expenditures, how made—All expenditures under §§ 2453, 2454, shall be paid as other charges against the county or municipality are paid, upon itemized vouchers approved by at least two members of the armory commission; and all sums so expended, or estimated in advance by the commission as necessary for the purpose, shall be included in the tax levy and collected with the other county or municipal taxes: Provided that, in cities of the first class, no such armory shall be erected or otherwise required or provided unless the same be recommended by the armory commission to the council, and such recommendation be approved. (1142)

2456. Bond issues for armory purposes—The council of any city of the first class which has not already issued bonds for the acquisition of an armory may issue and sell, in its discretion, the bonds of such city for the cost of such armory, not exceeding one hundred and fifty thousand dollars in amount, notwithstanding any charter or other limitation upon the total of its bonded indebtedness, or upon the powers of the council in reference thereto. Said bonds shall be in such denominations, and payable at such places and at such times, not exceeding thirty years from the date of issue, as the council may determine, with interest not exceeding four per cent. per annum, payable semiannually, according to interest coupons attached. (1143)

93-55, 100+659. See 87-381, 92+328.

2457. Same—Other cities, villages, and towns—In like manner, any other city or any village or town not already provided with a suitable armory, and having authority to erect or otherwise acquire the same for the use of the guard, may issue and sell its bonds for the necessary cost thereof, to run not more than twenty years, at a rate of interest not exceeding four per cent., payable semiannually. But no bonds shall issue under this section that would increase the municipal indebtedness beyond the total limited by law. (1144)

87-381, 92+328.

2458. Donations—Leases—Conditions and terms—Any city, village, county, or town may accept any grant or donation of real or personal property for the purposes of an armory, or for the improvement or repair thereof, and may meet and fulfil any reasonable condition of such grant or donation not inconsistent with the proper use of the property for armory purposes; and they may enter into a contract for the leasing of property for such purposes for any term not exceeding twenty years. (1145)

2459. Control of armories, etc.—Each armory shall be under the immediate charge of the commanding officer of the organization quartered therein. If more than one organization of the guard occupy the same, the senior field or line officer present from each shall have joint control, and a majority of them shall govern. A record of their actions shall be kept, and all resolutions offered, whether seconded or not, shall be put to vote, and the result recorded. In case of a tie, the brigade commander, upon the request of any member, shall decide, subject to an appeal to the governor. The governor may make and alter rules and regulations for the government of all officers and persons having charge of armories, arsenals, or other military property of the state. (1146)

2460. Control during drill, etc.—Penalties—The commanding officer of any organization assembling at an armory for drill shall have control of the drill hall during such occupancy, subject to the rules prescribed for its use, and the orders of his superiors. And any person who intrudes contrary to his orders, or who interrupts, molests, or insults any troops so assembled, or who refuses to leave the premises when properly requested so to do, shall be guilty of a misdemeanor. But nothing in this section shall prevent reasonable inspection of the premises by the proper municipal officer, or by the lessor thereof in accordance with the terms of the lease. (1147)

2461. Armorers, janitors, engineers—The commander of each regiment, company, and battery may appoint an armorer, who, under his directions, shall have charge of the armory or place where the uniforms, arms, accoutrements, and other property of the command are kept. In cities, the officer or officers

in control of the armory may appoint a janitor thereof, and, if it be heated by steam, an engineer. The duties of all such appointees shall be prescribed by the officers appointing them, who shall also fix their compensation, not to exceed three dollars each per day for time necessarily spent in the performance of such duties, and may dismiss any of them at pleasure. Such compensation shall be paid monthly by the town, county, city or village, as the case may be, upon vouchers approved by the appointing officers. (R. L. § 1148, amended '13 c. 472 § 1)

2462. Offences at armories—Penalties—Every person who shall wilfully injure any armory or arsenal, or any property therein lawfully kept or deposited, and every person who shall introduce any spirituous, vinous, or malt liquor into any such armory or arsenal, except for medicinal purposes, upon the prescription of a medical officer of the guard, shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of twenty-five dollars, or imprisonment for ten days in the county jail. (1149)

2463. Board of armory supervisors—Duties—Compensation—The governor, brigade commander, or, if there is no brigade commander, then the adjutant general, and the commanding officers of the several regiments and the battalion of field artillery, the latter within their several commands only, are hereby constituted a board of armory supervisors, whose duty it shall be to approve the selection of all armory sites and plans and specifications, and to contract for the erection of all armories and the acquisition of armories already constructed, under certain conditions; and to audit and approve all bills, claims and accounts in connection with the construction or purchase of all armories before such bills, claims and accounts shall be paid, and to perform such other duties as this act may require, but without compensation except that their actual and necessary traveling expenses shall be paid; and allowance shall be made for the necessary clerical assistance, printing, stationery and postage. ('11 c. 302 § 1, amended '13 c. 226 § 1)

By 1913 c. 226 § 7, 1912 c. 4, is repealed.

2464. Same—Appropriation for armories—Bonds, etc.—To every company and battery of the Minnesota national guard, now or hereafter organized, which shall have first deposited with the state treasurer, at least the sum of one thousand dollars (\$1,000) as evidence of good faith, and shall have conveyed to or caused to be conveyed to the state of Minnesota, by good and sufficient deed of warranty, and free of encumbrances, the title to a site for an armory, which site shall have first been approved by said board, there is hereby appropriated the sum of fifteen thousand dollars (\$15,000), which together with the said deposit shall be used for the purpose of building, erecting and equipping an armory building on said site: Provided, that two or more organizations stationed in one or more cities or villages may combine the appropriations available for each under this act, and erect a joint armory on a common site situated wholly in either or partly in each such city or village, if the board of armory supervisors shall deem it expedient; and provided further, that said board shall designate as near equally as possible from the several military organizations of the national guard, which of them shall receive aid in any one year, taking into consideration the proficiency of the organization asking for aid and its needs, and giving preference to organizations not already provided with a suitable armory.

Any city or village, or two or more cities or villages jointly, in which an armory has been heretofore, is now or may hereafter be erected or authorized under the provisions of this act, may acquire and convey to the state of Minnesota, a site, and raise and appropriate money and funds in aid of the construction, repair or improvement thereof, and to that end may issue bonds payable not more than twenty years after their issue and bearing interest at a rate not exceeding five per cent. per annum, and may deposit such money and funds and the proceeds of the sale of such bonds with the state treasurer to the credit of the proper construction fund, and may make such further provision for the maintenance and improvement of such armory as may be deemed necessary; provided, that, whenever bonds have been heretofore issued by any city or village for any of the foregoing purposes, and the validity

of such bonds is not now in question in the courts, the same are hereby validated and hereby declared to be legal obligations of any city or village issuing the same; and provided further that whenever the board deems it expedient, and in furtherance of the purposes of this act, it may purchase and finish armories already built or partly built, deducting, however, from the purchase price, the appraised value of the site. ('11 c. 302 § 2, amended '13 c. 226 § 2)

2465. Same—Duties of state treasurer and auditor—Certificates of indebtedness—The state treasurer shall keep a separate account with each company or battery which shall avail itself of the provisions of this act, credit the same with the amount of money deposited by such organization together with the appropriation made under the provisions of this act; and all bills for the construction or purchase of armories shall, after being approved by the said board, be paid out of said account or fund, and charged to the proper organization, upon the warrant of the state auditor. And the state auditor shall issue his warrant upon said fund upon the certificate of said board. For the purpose of providing funds to facilitate the purchase, construction and equipment of armories under the provisions of chapter 302, Laws of Minnesota for the year 1911 [2463-2469], as amended, the board of armory supervisors are hereby authorized and empowered to issue certificates of indebtedness bearing interest, in the discretion of said board, at the rate of four per cent, per annum or less, payable semi-annually, such certificates not to exceed in the aggregate; the amount authorized to be expended for all armories constructed or to be constructed under the provisions of said chapter; provided, that the total amount of such certificates, principal and interest, maturing in any one year, shall not exceed the annual appropriation made by this act, and that no such certificate shall mature beyond the period of ten years from date of issue thereof. The said certificates shall be issued upon the following terms and conditions, viz.:

First. Said certificates of indebtedness shall be in such form as the said board and the state auditor may determine, and shall be signed by the president and secretary of said board of armory supervisors, and countersigned by the state auditor, who shall make and keep a proper register thereof, showing the date of each issue, its amount, the rate of interest the same bears, the date of maturity thereof, and a certificate of such registration shall be endorsed thereon.

Second. Said certificates of indebtedness shall plainly show upon their face the purpose for which they are issued, the date when they will mature, and contain a proper reference to this act, and they shall be made payable at the office of the state treasurer.

Third. The said certificates of indebtedness shall be issued in sums of not less than fifty dollars (\$50.00) each and the proceeds thereof shall be deposited in the state treasury to the credit of the board of armory supervisors who shall assign the same to the several funds for the construction of armories for companies who shall have complied with the provisions of chapter 302, General Laws of Minnesota, 1911, as amended, but no part of same shall be paid therefrom except upon warrants issued by the state auditor upon vouchers duly approved by said board, as provided by said chapter.

Fourth. The said certificates of indebtedness shall only be issued from time to time as the work of actual construction progresses and only in such sums as may be required to provide the necessary funds to pay for material and labor actually furnished, and other necessary expenses authorized by this act and after proper action by the said board duly taken.

Fifth. The said certificates of indebtedness when duly prepared and executed in accordance with this act, shall be deposited with the state treasurer and shall be delivered by him to the purchaser or purchasers thereof only upon payment to him of not less than the par value thereof. And shall be an assignment of the proceeds of a levy and the collection of a state tax for the building of armories, to which purposes such proceeds are hereby appropriated, and which tax the state auditor is hereby required to levy and collect annually in an amount exceeding neither thirty thousand dollars (\$30,000), and enough more to pay the interest on such outstanding certifi-

icates of indebtedness, nor the principal and interest due on such certificates for the year next ensuing after the levy, until such certificates and interest thereon are all fully paid.

Sixth. That when any of said certificates shall mature, the said state auditor shall draw his warrant upon the state treasurer and the state treasurer shall pay upon said warrant, the amount due upon any such certificate of indebtedness, said warrants to be drawn in favor of and to the order of the person or persons holding said certificates at the time the same are presented for payment. ('11 c. 302 § 3, amended '13 c. 226 § 4)

2466. **Same—Armories under Laws 1911, c. 302—**The additional sum of five thousand dollars shall be available for the erection and equipment of each of the armories for which the sum of ten thousand dollars (\$10,000) only has been heretofore set aside by the board of armory supervisors under the provisions of chapter 302, Laws of Minnesota for the year 1911 [2463-2469], and the same or any part thereof may be applied to the payment of additional labor and material furnished or to be furnished for the erection and equipment of such armories in excess of the amount first appropriated or deposited under the provisions of said chapter and to the reimbursement of moneys actually advanced and expended in the payment thereof. ('13 c. 226 § 3)

2467. **Same—Annual appropriation—Armory fund—**For the purpose of carrying out the provisions of this act there is hereby appropriated out of the state treasury from any moneys not otherwise appropriated for the current fiscal year, the sum of thirty thousand dollars, and the sum of thirty thousand dollars annually thereafter, which shall remain available until all of such military organizations entitled thereto and complying herewith shall have received their appropriations; provided, that if any of said appropriations be returned and repaid to the state treasury from armory property sold, damaged or destroyed, or otherwise, said sum so returned shall be credited to a general armory fund and may be expended for the building and construction or the purchase of armories for military organizations not having armory accommodations under the provisions and limitations of this act. ('11 c. 302 § 4)

As to standing appropriations, see §§ 48, 49.

2468. **Same—Sale of armories—**Whenever any such military organization which has availed itself of the provisions of this act and has received the appropriation provided herein, shall be mustered out of the service of this state, and it shall appear probable that no new military organization will be organized in the city or village in which the armory is located, and there is no other military organization occupying said armory, then the said board shall have the authority and they are hereby expressly empowered to sell, transfer and convey said property to the municipality in which the same is located, for public purposes, upon the repayment to the state for credit to the general armory fund, of the appropriation expended thereon, without interest; provided, that if such municipality shall not purchase said property the said board shall then be authorized to sell, transfer and convey the same to any individual, firm or corporation, repaying to the state at least the full appropriation expended therefor. ('11 c. 302 § 5)

2469. **Same—Control of armories—**Upon the completion of any new armory building or the purchase of any armory building and property, the control and use of said armory shall vest in the armory board or commanding officer of such armory as now provided by law. Provided, that the proceeds of rentals and other revenue derived from such armories may be devoted and applied by the armory board or commanding officer controlling the same, to the maintenance, extension, improvement and equipment thereof. ('11 c. 302 § 6, amended '13 c. 226 § 5)

2470. **Same—Application to naval militia—**All of the provisions of this act or of any previous act of which this act is amendatory shall be construed to include and apply to any division of naval militia now or hereafter organized in this state. ('13 c. 226 § 6)

NAVAL MILITIA

2471. Naval militia—There shall be allowed in addition to the land military forces of the state now authorized by law a naval force to be known as the Minnesota naval militia. ('99 c. 355, amended '05 c. 34 § 1)

Historical—1899 c. 355 was amended, to read as set forth in sections 1 to 17 thereof, by 1905 c. 34. 1899 c. 355 was repealed by § 9453; its provisions being incorporated in R. L. §§ 1150-1153. So far as the provisions of 1905 c. 34 differ from said sections, they are to be construed as amendatory or supplemental, and their effect is to supersede said sections.

1911 c. 85, made an annual appropriation for the naval militia. As to the repeal of standing appropriations, see §§ 48, 49.

2472. Commanders-in-chief—Regulations—Powers—The governor shall be commander-in-chief of the naval militia, except when it is called into the service of the United States. He shall make and publish through the adjutant general regulations for the government of the naval militia and shall have all the powers necessary to carry into full effect the provisions of this act. ('99 c. 355, amended '05 c. 34 § 1)

2473. Organization—Battalion—The naval militia shall consist of one battalion of not to exceed four divisions (or companies) to be organized with a commander as battalion commander; one executive officer, one navigating officer, one past assistant engineer, each with the rank of lieutenant commander; one ordnance and equipment officer, one assistant surgeon, and one assistant paymaster, each with the rank of lieutenant; one signal officer with the rank of lieutenant (junior grade), and one aide with the rank of ensign; also the following petty officers: one master-at-arms, who shall be chief petty officer; one chief boatswain's mate, one chief quartermaster, one equipment yeoman, one chief bugler and one coxswain. ('99 c. 355, amended '05 c. 34 § 1; '09 c. 389 § 1)

1909 c. 389 § 2 repeals inconsistent acts. See note under § 2471.

2474. Division, how composed—Each division shall consist of one lieutenant, one lieutenant (junior grade), one ensign, and not less than thirty-five nor more than eighty petty officers and men. ('99 c. 355, amended '05 c. 34 § 1)

2475. Number and grade—Changes—For the purpose of conforming the naval militia more closely to the organization of the United States navy, and not otherwise, the governor may, from time to time, fix the number and grade of officers, petty officers and enlisted men therein. ('99 c. 355, amended '05 c. 34 § 1)

2476. Battalion commander—The battalion commander shall be appointed in the first instance by the governor and thereafter elected as hereinafter provided. ('99 c. 355, amended '05 c. 34 § 1)

2477. Officers—How elected or appointed—The battalion commander and the executive officer shall be elected by the line officers of the battalion for the period of ten years; the division officers shall be elected by the officers, petty officers and enlisted men of the division; the other battalion officers shall be appointed by the battalion commander and shall hold office during his pleasure subject to the approval of the governor. ('99 c. 355, amended '05 c. 34 § 1)

2478. Petty officers—Petty officers shall be appointed by the battalion commander upon the recommendation of their commanding officer. ('99 c. 355, amended '05 c. 34 § 1)

2479. Term of service—Enlistments—Men between the ages of eighteen and forty-five years shall be mustered in for the term of three years unless sooner discharged by competent authority. Every recruit shall sign an enlistment paper, the form of which shall be prescribed by the adjutant general, and which shall contain an oath of allegiance to the state and the United States. ('99 c. 355, amended '05 c. 34 § 1)

2480. Officers, how commissioned—Officers shall be commissioned by the governor with rank from date of their election or appointment subject

to such examination as may be prescribed by the governor. ('99 c. 355, amended '05 c. 34 § 1)

2481. Examining board—The governor may appoint an examining board to consist of not less than two or more than five commissioned officers of the naval militia, one of whom may be an officer of the United States navy, whose duty it shall be to determine the qualifications of candidates for commission, and to inquire into the capability of any subordinate officer who may be sent before such board by his superior officer with the approval of the governor. ('99 c. 355, amended '05 c. 34 § 1)

2482. Discipline—When not otherwise provided for the government and discipline of the Minnesota naval militia shall be controlled by the provisions of the military code relating to the government and discipline of the national guard so far as the same may be applicable to the naval forces. The naval forces shall be subject to the articles and regulations for the government of the United States navy to the same extent as members of the national guard are subject to the articles of war and regulations of the United States army. ('99 c. 355, amended '05 c. 34 § 1)

2483. Annual cruise—The governor shall order the naval militia on a tour of duty or cruise each year, within or without the state, for such period as he may direct, such annual cruise not to consume more than 2 weeks in any one year. ('99 c. 355, amended '05 c. 34 § 1)

2484. Pay and allowance—For each day's service in complete uniform at the annual tour of duty or service, when ordered by the governor, there shall be paid to each chief master-at-arms and chief machinist's mate, \$3.00; to each chief boatswain's mate, chief gunner's mate, chief quartermaster, and chief electrician, \$2.75; to each ship's carpenter, hospital steward and apothecary, \$2.50; to petty officers, first class as follows: to each machinist's mate and electrician, \$2.50; to each master-at-arms, boatswain's mate, gunner's mate, quartermaster, water tender and yeoman, \$2.25; to petty officers of second class as follows: to each machinist's mate and electrician's mate, \$2.25; to each master-at-arms, boatswain's mate, gunner's mate, quartermaster, oiler and yeoman, \$2.00; to petty officers, third class, as follows: to coxswain of the gig and coxswain of the steam cutter, each, \$2.00; to each master-at-arms, coxswain, gunner's mate, quartermaster, electrician, yeoman, hospital apprentice, jack of the dust and bugler, \$1.75; to each coal passer, \$2.00; to each enlisted man serving as mess man when not as extra duty, \$0.25 additional; to each enlisted man serving as coal passer when not as extra duty, \$0.50 additional; to each first class signalman, \$2.00; to each second class signalman, \$1.75; to each third class signalman, \$1.60; to each fireman, first class, \$2.25; to each fireman, second class, \$2.00; to any man who has successfully passed a prescribed course in gunnery and has attained the necessary percentage in marksmanship with small arms and heavy guns, \$0.25 additional; to each enlisted man or seaman, \$1.50. Provided, that a deduction of fifty cents per day, or so much thereof as may be necessary, from the pay of each petty or warrant officer and each enlisted man shall be made for subsistence if furnished by the state. Each and every officer of the naval militia while in any service under the orders of the governor shall receive the same rate of compensation and the same allowance or commutation as is paid or allowed officers of similar rank in the United States navy for sea duty. Provided, further, that there shall be allowed annually to the battalion commander and staff and to each division or company of the naval militia the same inspection allowance and the same allowance for incidental expenses as is now paid commanding officers and men of the Minnesota national guard, said allowances to be paid under the same regulations as govern the payment of the like allowances to a regiment or company of infantry of the Minnesota national guard. ('99 c. 355, amended '05 c. 34 § 1; '09 c. 389 § 1)

2485. Purchase of supplies—The governor, the adjutant general, and the commanding officer of the naval militia are hereby appointed commissioners for the purpose of purchasing the clothing which may be necessary for the uniforming of the naval militia. Clothing, ordnance and other stores for the naval militia shall be purchased in the manner prescribed by the military

code for the purchase of stores for the national guard. ('99 c. 355, amended '05 c. 34 § 1)

2486. Other duties—Armory—The naval militia shall perform such other duty as may be required by the governor. The word "armory," as used in the military code, shall be held to include any vessel, anchored, moored or secured to land, or any boat, boathouse or dock, used for the purpose of instruction, drill or defense. ('99 c. 355, amended '05 c. 34 § 1)

2487. Exemptions—The exemptions and privileges granted by law to the officers and enlisted men of the national guard are extended to the members of the naval militia. ('99 c. 355, amended '05 c. 34 § 1)

CHAPTER 13

ROADS

DEFINITIONS—POWERS AND DUTIES OF MUNICIPALITIES

2488. Scope of act—State roads, county roads, and town roads defined—The provisions of this act shall be construed as relating solely to roads, cartways and bridges thereon, not included within the limits of any city, village, or borough, except when highways within villages or cities are specifically specified.

The roads of this state shall for the purposes of this act, be designated and referred to as "state roads," "county roads" and "town roads," and shall be laid out, constructed, improved, repaired and maintained by the authorities hereinafter set forth, as herein provided.

Subdivision (1). The words "state roads" shall be construed to include all roads which have heretofore been designated, or which may hereafter be designated as state roads.

Subdivision (2). The words "county roads" shall be construed to include those established, constructed or improved under the authority of the several county boards, as hereinafter provided, and also all roads lying within the county, established by judicial proceedings.

Subdivision (3). The words "town roads" shall be construed to include those roads and cartways established, constructed and improved under the authority of the several town boards as hereinafter provided. ('13 c. 235 § 1)

Historical—"An act relating to public highways; the powers and duties of counties, towns, villages and cities in relation thereto; the creation of a state highway commission, prescribing its powers and duties, appropriating money therefor, and providing for the payment of state aid for the construction and improvement of roads, and authorizing and directing the levy of taxes for highway purposes," approved April 15, 1913.

For laws repealed, see § 2578.

2489. Subdivision (1). "Road" and "highway" defined—The words "road" or "highway" whenever used in this act shall be construed to include bridges upon or which form a part of the road or highway to be improved or constructed.

Subdivision (2). **Width of road—**All roads established by town or county boards shall be at least four (4) rods wide, and may be six (6) rods wide when all residents of lands adjoining such road shall petition for the same.

Subdivision (3). **Width of bridges and culverts—**All bridges and culverts, and approaches thereto, on any road, hereafter established or improved, shall be at least sixteen (16) feet wide; and when such bridge in its construction or repair shall be raised three feet or more above the level of the bank on either side of any river, stream, gully or ravine, then such bridge and approaches shall be at least eighteen (18) feet wide and provided with substantial railings.

Whenever any steam or electric railroad company shall hereafter construct a bridge over a public highway, the same shall be constructed so as to leave a clear opening for the highway at least twenty-eight feet wide and at least fourteen feet clear space from the surface of the highway to the bottom of the bridge.

Any bridge hereafter constructed on any public highway over the tracks of any steam or electric railroad, shall be at least eighteen feet wide and the approaches thereto shall be at least twenty-four feet wide and the grade of such