

H. F. No. 89.

CHAPTER 118.

Military code.

An act to amend chapter seventy-four (74) of the general laws of one thousand eight hundred and eighty-three (1883), entitled the military code, and the several acts amendatory thereof, being an act to increase the efficiency of the National Guard of the State of Minnesota.

Be it enacted by the Legislature of the state of Minnesota:

THE MILITARY CODE.

PART I.—Organization.

Article 1—Militia.

Article 2—Commander-in-Chief.

Article 3—National Guard.

PART II.—Discipline.

Article 1—Military Offenses.

Article 2—Military Courts.

Article 3—Procedure.

Article 4—Sentence.

PART III.—Service.

Article 1—Membership.

Article 2—Discharges.

Article 3—Duties of Officers.

Article 4—Exemptions.

Article 5—Service and Instruction.

Article 6—Pay and Allowances.

Article 7—Medical Corps.

Article 8—General Provisions.

THE MILITARY CODE OF THE STATE OF
MINNESOTA.

PART I.—ORGANIZATION.

ARTICLE 1—Militia.

SECTION 1. Military Code—This act shall be known as the Military Code.

SEC. 2. Militia: How Constituted—All able-bodied male persons residing in the state of Minnesota, between the ages of eighteen (18) and forty-five (45) years, not expressly exempted by law, shall constitute and be designated as the militia, and be liable to perform military duty in case of war, invasion, rebellion or riot,

Militia, how
constituted.

whenever required by the order or proclamation of the governor pursuant to law.

SEC. 3. Exemptions—Shall be exempt from military duty: Exemptions.

First—All persons exempted by the laws of the United States.

Second—All persons in the army or navy or volunteer force of the United States.

Third—Ministers of the gospel, regularly ordained, and whose credentials, or a copy thereof, have been filed in the office of the clerk of the district court in the county of their residence.

Fourth—Indians not taxed, idiots, lunatics and persons who have been convicted of infamous crimes.

SEC. 4. Enrollment—It shall be the duty of all assessors of personal property for taxation, in every even numbered year hereafter, to enroll all persons in their respective districts liable to do military duty under the provisions of this act, which enrollment shall be made in duplicate, according to the forms to be prescribed by the adjutant general, and shall contain in alphabetical order and consecutively numbered the name and surname, age, occupation or profession and postoffice address of each person so enrolled. Assessors shall return, under oath, one copy of such rolls to the clerks of their respective cities, villages and towns, who shall place it on file with the records of such city, village or town, and another to the county auditor, at the same time the returns of personal property in their districts is made; and no pay or compensation shall be allowed by any township, city, village or county for any services performed by any assessor until said assessor files with the clerk of such township, city or village, or the auditor of such county, an affidavit under oath, showing a full compliance with the provisions of this section. Enrollment
by assessors.

The county auditor of each county shall, upon receipt of such rolls, add thereto the names of any persons who may have been omitted therefrom, and may erase therefrom the name of any one, on satisfactory proof, who has been improperly enrolled, giving notice of such changes to the clerks of the respective towns, cities and villages affected thereby, and he shall then file and safely preserve said corrected rolls in his office.

On or before the first day of October in such year said county auditor shall make, certify and return to the adjutant general a true copy of said corrected rolls, and in addition thereto, or in lieu thereof, as the adjutant general may direct, an abstract or statement showing County audit-
or to certify
rolls to Adj't
Gen'l.

the number of persons enrolled in each town, city and village, and in said county.

Provided, however, that enrollment shall not be made except by proclamation of the governor, made at least thirty (30) days before assessment books are required by law to be delivered to the assessors (the last Saturday in April of each year).

Census enumerators to make enrollment.

SEC. 5. Enrollment of Census Enumerators—Whenever a census is taken by authority of this state it shall be the duty of all enumerators, in addition to their other duties, to classify and so designate all persons subject to military duty under the provisions of this act; and the superintendent of census shall, as soon as said returns are complete, make, certify and return to the adjutant general a roll or list containing, in alphabetical order and consecutively numbered, the name and surname, age, occupation or profession and postoffice address of all persons liable to military duty in each town, city or village in the state, arranged by counties, together with a statement of the total number in each town, city or village and county.

Information of persons liable to enrollment.

SEC. 6. Means of Information—Keepers of taverns or boarding houses, and masters and mistresses of dwelling houses, shall, upon application of the assessors within whose bounds their houses are situated, or of persons acting under them, give information of the names of persons residing in their houses, liable to enrollment or to do military duty, and every such person shall, upon like application, give his name and age; and all assessors and enrolling officers may require the persons examined by them to testify under oath, and may administer such oath.

And any person knowingly refusing information, or giving false information, to any officer making such enrollment, and any assessor neglecting his duty under this article, shall be deemed guilty of a misdemeanor and punished accordingly.

When drafts may be made and how.

SEC. 7. Drafts—When it is necessary to call out any portion of the enrolled militia for active duty the commander-in-chief shall direct his order to the mayor of cities or villages or to the chairman of the board of supervisors of towns, who, upon receipt of the same, shall forthwith, by written order or oral notice to each individual, or by proclamation, appoint a time and place for the assembling of the enrolled militia in their city or town, and shall then and there proceed to accept as many volunteers as is required by the order of the commander-in-chief, and supply any deficiency by draft, and shall forthwith forward to the commander-in-chief a list of the persons so drafted or accepted as

volunteers; and the commander-in-chief is hereby authorized to form, adopt and prescribe such rules and regulations, and appoint such officers and fix their compensation, for the purpose of drafting the militia, when such process may be required, as to him may seem best and most expedient in the premises.

SEC. 8. Deserters—Every member of the enrolled militia who fails to appear at the time and place designated by the mayor of his city or village or chairman of the board of supervisors of his town, or who, being drafted or having volunteered, fails to appear and report for muster at the time and place designated by the commander-in-chief, shall be taken to be a deserter and dealt with accordingly.

Deserters.

SEC. 9. Muster—The portion of the enrolled militia so accepted shall be immediately mustered into the service of the state for three (3) years, or such less period as the commander-in-chief may direct, and shall be organized into companies, which may be arranged in battalions or regiments, or assigned to organizations of the national guard already existing.

Muster into service.

Such new organization shall be officered, equipped, trained and governed according to the laws for the government of the national guard.

Elections shall forthwith be ordered in such new organizations, by the commander-in-chief, who may detail officers to train and command them until the officers elect shall have qualified and shall have passed a satisfactory examination, or shall have been commissioned.

Election of officers.

ARTICLE 2—COMMANDER-IN-CHIEF.

SEC. 10. National Guard—The active militia organized, uniformed and equipped as hereinafter prescribed shall be known as the National Guard of the state of Minnesota.

National guard.

SEC. 11. Commander-in-Chief—The governor shall be commander-in-chief of the militia, except when it is called into actual service of the United States, and may employ it for the defense or relief of the state, the enforcement of its laws and the protection of life and property within its territory.

Commander-in-chief.

He shall make and publish regulations for the government of the national guard and shall have all the powers necessary to carry into full effect the provisions of this act.

SEC. 12. Staff—The staff of the commander-in-chief shall consist of one adjutant general, one surgeon general, one judge advocate general, one inspector general, one quartermaster general and one commissary general,

Staff.

each with the rank of brigadier general, three aides-de-camp, each with the rank of colonel, a military store-keeper with the rank of captain, and the officer of the United States army detailed for duty with the national guard, who shall be known as the inspecting officer, provided such an officer is detailed as aforesaid.

Adj't General.

The adjutant general shall be an officer of the National Guard of the state of Minnesota who has held a commission therein for at least three (3) years prior to his appointment, or who shall have served in the army of the United States for at least one year during the war of the rebellion and shall have been honorably discharged therefrom.

Surgeon-General.

The surgeon general shall be a graduate of some incorporated school of medicine and of at least five (5) years' practice; the judge advocate general shall be a counselor at law of at least five (5) years' standing.

The staff of the commander-in-chief shall be appointed by him, and their commissions shall expire with his term of office, except that the adjutant general shall continue to hold office until his successor has been appointed and commissioned.

SEC. 13. Staff Assistants—When the service requires the commander-in-chief may appoint one assistant, with the rank of major, to each of the six (6) staff officers first named in the preceding section, said assistant to hold office during the term of his chief.

ARTICLE 3—NATIONAL GUARD.

Organization of national guard.

SEC. 14. National Guard; How Constituted—In time of peace, the National Guard of the state of Minnesota shall consist of the commander-in-chief and staff, three (3) regiments of infantry and one (1) battalion of artillery formed into one brigade, and one (1) medical corps.

Brigade formation.

The brigade shall consist of one (1) brigadier general and staff, three (3) regiments of infantry and one (1) battalion of artillery.

The brigadier general may appoint the following staff officers, who shall hold office during his pleasure.

One assistant adjutant general, one assistant inspector general, one brigade quartermaster, one brigade judge advocate, one commissary of subsistence, one inspector of small arms practice and one aide-de-camp, each with the rank of captain.

War strength.

SEC. 15. War Strength—The commander-in-chief shall have power, in case of war, invasion, insurrection, riot or imminent danger thereof, to increase said force,

and organize and equip the same as the exigencies of the case may require.

SEC. 16. Regiments of Infantry—Each regiment of infantry shall consist of one colonel and one lieutenant colonel, one chaplain and one regimental adjutant, each with the rank of captain, one quartermaster, one commissary of subsistence, one inspector of small arms practice and one judge advocate, each with the rank of first lieutenant, one sergeant major, one quartermaster sergeant, one commissary sergeant, one chief musician, two color sergeants, not less than two (2) nor more than three (3) battalions, and one band of not more than twenty (20) musicians. Infantry regiments.

SEC. 17. Battalions of Infantry—Each battalion of infantry shall consist of one major, one battalion adjutant with the rank of first lieutenant, one battalion sergeant major, and not less than two (2) nor more than five (5) companies. Infantry battalions.

SEC. 18. Companies—Each company of infantry shall consist of one captain, one first lieutenant and one second lieutenant, five sergeants, six corporals, two musicians, and not less than thirty (30) nor more than sixty (60) privates. Companies.

SEC. 19. Battalion of Artillery—The battalion of artillery shall consist of one major, one adjutant with the rank of captain, one quartermaster with the rank of first lieutenant, one sergeant major, one quartermaster sergeant, one chief trumpeter, and two (2) batteries of artillery. Artillery.

SEC. 20. Batteries—Each battery shall consist of one captain, one first lieutenant, one second lieutenant, seven sergeants, eight corporals, two musicians, and not less than twenty-six (26), nor more than fifty-six (56) privates. Batteries.

SEC. 21. Medical Corps—The medical corps shall be under the direction of the surgeon general and shall consist of one medical director with the rank of lieutenant colonel, three surgeons with the rank of major, seven assistant surgeons with the rank of first lieutenant, and three hospital stewards with the rank of sergeants. Men shall be detailed from each company to act as litter bearers, whose duty it shall be to render first aid to the injured, transportation of the sick and wounded, etc. Medical corps.

SEC. 22. Reserved Companies—The commander-in-chief may, in his discretion, organize reserve companies and commission their officers; provided, however, that no such reserve company or member thereof shall receive any pay, compensation, supplies or other allowance from the state. Reserves.

Discipline.

PART II.—DISCIPLINE.

ARTICLE 1.—MILITARY OFFENSES.

Offenses de-
fined.

SEC. 23. Military Offenses Defined—A military offense, within the meaning of this act, includes any delinquency or violation of the laws, rules, regulations or orders governing the militia or national guard of this state, as well as of the laws or regulations governing the army and navy of the United States, so far as applicable to the militia or national guard of this state, and the offenses hereinafter enumerated shall be defined as similar offenses are defined in the articles of war, laws and regulations governing the United States army.

Offenses of
officers.

SEC. 24. Offenses of Officers—Commissioned officers may be tried by court martial for the following offenses, and on conviction thereof may be sentenced to be cashiered, and shall thereby become incapacitated from holding any military commission; dismissed, fined to any amount not exceeding one hundred (100) dollars and costs of prosecution, or, in default of payment thereof, imprisoned in a county jail not exceeding sixty (60) days, or reprimanded, or to all or either of said fines and penalties.

First—Conduct unbecoming an officer and a gentleman.

Second—Drunkenness on duty.

Third—Neglect of duty, or leaving his post or command.

Fourth—Disobedience of orders.

Fifth—Oppression of any under his command.

Sixth—Conspiracy or attempt to resist or evade lawful orders, or advising any person so to do.

Seventh—Insult or disrespect to a superior officer in the line of military duty.

Eighth—Making a false certificate, account, muster or return.

Ninth—Conduct to the prejudice of good order and military discipline.

Tenth—Embezzlement or misappropriation of military or company funds, or wrongful conversion of company, state or government property.

Eleventh—Wrongfully disclosing, or making improper use of a watchword or parole.

Twelfth—Desertion or cowardice.

Thirteenth—Wasting or destroying company, state or government property.

Fourteenth—Any other violation of the laws, rules, regulations and orders governing the national guard,

as well as the articles of war governing the United States army as far as consistent with this act.

SEC. 25. Officers' Delinquencies—Officers may be tried by court martial and fined, not exceeding ten (10) dollars, and costs of prosecution, or, in default of payment thereof, imprisoned in a county jail not exceeding five (5) days for non-attendance or tardiness at any drill, parade, each day of encampment, inspection, or other duty ordered by competent authority.

Officers' delinquencies.

SEC. 26. Triable Offenses of Enlisted Men—Enlisted men may be tried by court martial for the following offenses:

Offenses of enlisted men.

First—Wilfull disobedience of orders.

Second—Disrespect to his superiors.

Third—Mutiny.

Fourth—Desertion.

Fifth—Drunkenness on duty.

Sixth—Neglect of duty.

Seventh—Making false report, certificate or return.

Eighth—Fraudulent enlistment.

Ninth—Conduct prejudicial to good order and military discipline.

Tenth—Violation of any provision of the military code or rules and regulations of the national guard.

On conviction such enlisted man may be sentenced to be dishonorably discharged with loss of time served, reprimanded, and if a non-commissioned officer, reduced to the ranks, or fined to an amount not exceeding fifty (50) dollars and costs of prosecution, or in default of payment thereof, imprisoned in a county jail not exceeding thirty (30) days, or all or either of such fines and penalties.

Punishment.

SEC. 27. Delinquencies of Enlisted Men—Enlisted men may be tried by court martial, or summary court, for the following offenses:

Enlisted men's delinquencies.

First—Absence without leave from or tardiness at any drill, parade, encampment (each day), meeting for instruction, or other duty ordered by competent authority.

Second—Disobedience of standing orders.

Third—Neglect of duty.

Fourth—Absence from inspection.

Fifth—Injuring or destroying uniforms, arms, equipments or other company, state or government property; wearing same when not on duty, without permission of his commanding officer.

Sixth—Conduct unbecoming a soldier, or prejudicial to good order or military discipline.

Seventh—Disrespect to his superiors.

On conviction, such enlisted man may be sentenced to

be dishonorably discharged, reprimanded, reduced or fined not exceeding ten (10) dollars and costs of prosecution, or, in default of payment thereof, imprisoned in a county jail not exceeding five (5) days, or all or either of such fines and penalties.

Selling, disposing of, or wilfully injuring property.

Court martial and penalty.

SEC. 28. Selling Equipments—Every arm, uniform and equipment issued by the state, shall be used only in the discharge of military duty; and any non-commissioned officer or private who shall wilfully or wantonly injure or destroy any uniform, arm or equipment, or other military property belonging to the state, or to the regiment, battalion or company, and refuse to make good such injury or loss, or who shall sell, dispose of, secrete or remove the same, with intent to sell or dispose thereof, or who shall fail within five (5) days after being notified to return the same to the state or his commanding officer, shall be tried by court martial and sentenced to pay a fine of not less than ten (10) nor more than one hundred (\$100) dollars and costs, or, in default of payment of the same undergo an imprisonment in the county jail of not less than five (5) nor more than thirty (30) days, and all clothing, camp and garrison equipage, ordnance, ordnance stores and quartermaster stores, issued by the state, or fabricated from material issued by the state, and charged against the company allowance, or for which commutation has been paid, shall be the property of the state of Minnesota.

Improper use of property by others.

SEC. 29. Selling or Wearing Uniforms by Others—Whoever shall secrete, sell, dispose of, offer for sale, purchase or retain after proper demand made, or in any manner pawn or pledge any uniform, overcoat, clothing or equipage, or any part thereof, which shall have been issued by the state or purchased with company funds, and any person not a member of the national guard who shall wear any uniform, or any part thereof, similar to those in use by the national guard, shall be deemed guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not less than one (1) nor more than three (3) months, or by fine of not more than one hundred (100) dollars, nor less than fifty (50) dollars.

Military courts.

ARTICLE 2—MILITARY COURTS.

SEC. 30. Military Courts—The military courts of this state shall be:

First—Courts of inquiry.

Second—General courts martial.

Third—Regimental courts martial.

Fourth—Summary courts, which are of two (2) kinds:

(A) Field officers courts.

(B) Company courts.

SEC. 31. Courts of Inquiry—Courts of inquiry, to consists of from one (1) to three (3) officers, may be instituted by the commander-in-chief for the purpose of investigating the conduct of any officer, or any facts made the subject of military complaint.

Courts of inquiry.

Such court of inquiry shall, without delay, report a statement of facts and, when required, the evidence adduced and an opinion thereon to the commander-in-chief, who may, in his discretion, thereupon order a court martial for the trial of the officer whose conduct has been inquired into.

SEC. 32. General Courts Martial—General courts martial shall be ordered by the commander-in-chief, or by the brigade commander, and shall consist of seven (7) officers, any four (4) 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.

General courts martial.

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.

SEC. 33. Regimental Courts Martial—Regimental courts martial to consist of three (3) officers, any two (2) 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.

Regimental courts martial.

The jurisdiction of a regimental court martial shall extend to all military offenses, but it shall not inflict a punishment exceeding a fine of fifty (50) dollars or imprisonment for a period exceeding thirty (30) 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.

SEC. 34. 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.

Summary courts.

Their jurisdiction shall extend to all offenses cognizable before regimental courts martial; and they shall have power to inflict any punishment not exceeding a fine of ten (10) dollars and costs of prosecution, or imprisonment not exceeding five (5) days, besides dishon-

orable 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.

Field officers' courts.

SEC. 35. Field Officer's Courts—The officer second in rank present for duty with each regiment of infantry or battalion of artillery shall constitute the field officer's court for the trial of enlisted men in such regiment or battalion.

Company courts.

SEC. 36. 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.

In time of war.

SEC. 37. 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 offenses, 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 act.

Fines, how disposed.

SEC. 38. 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.

ARTICLE 3—PROCEDURE.

Charges.

SEC. 39. Charges—Charges shall be preferred in writing by a commissioned officer, and shall contain the name of the offense charged and a reference to the particular section of the military code claimed to have been violated.

Specifications

SEC. 40. Specifications—Charges shall be accompanied by specifications, containing a brief statement of the facts constituting the offense together with the date and place of its commission.

To be approved.

SEC. 41. 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.

SEC. 42. 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. Arrest.

Provided, however, that such arrest shall cease at the expiration of twenty (20) 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.

SEC. 43. 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. Summons.

The appearance of the accused shall waive any irregularity in the service of such papers.

SEC. 44. 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. Warrant.

SEC. 45. 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. Procedure.

In summary courts the evidence or statements will not be recorded, and a judge advocate may be dispensed with.

SEC. 46. 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. Disqualifications.

SEC. 47. Powers—All military courts shall have power to administer oaths; to subpoena witnesses and Powers.

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.

Contempts.

SEC. 48. 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 offense 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 (3) 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.

Rules of military Court.

SEC. 49. 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.

Irregularities.

SEC. 50. 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 af-

firmatively 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.

SEC. 51. 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.

Evidence.

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.

SEC. 52. 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.

Judge advocates.

ARTICLE 4—SENTENCE.

Sentence.

SEC. 53. 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."

Findings.

SEC. 54. Sentence of Officers—Courts martial in time of peace may sentence an officer to a fine or forfeiture of pay, not exceeding one hundred (100) 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.

Sentence of Officers.

SEC. 55. 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 (100) dollars, and costs of prosecution to

Of Enlisted Men.

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.

Imprison-
ment.

SEC. 56. 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 (60) days when sentenced by a general court martial, thirty (30) days when sentenced by a regimental court martial, and five (5) days when sentenced by a summary court.

Guard House.

SEC. 57. 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.

Review and
approval.

SEC. 58. 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 commander-in-chief.

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 endorsed 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.

Fines, Com-
mitment.

SEC. 59. Fines—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 (5) 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: Form of
Commitment.

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) (batallion 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 _____ 189—, 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 _____, 189—.

Presiding at said Court.

SEC. 60. 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. Jailers.

SEC. 61. 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 mili- Civil officers.

tary court, or make a false return thereon, shall be guilty of a misdemeanor, and, in addition to the penalties attaching thereto, shall forfeit the sum of fifty dollars for each offense 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.

Fees of civil officers.

SEC. 62. 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 endorsed on and forthwith returned with such warrant or process to the court issuing the same.

Appeals.

SEC. 63. Appeals—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 (100) 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.

Stay on appeal.

SEC. 64. Stay on Appeal—Upon compliance with all the requirements of the preceding section 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 endorsed thereon. But no stay of sentence or execution shall be granted by said court until an appeal has been perfected as hereinbefore provided.

Hearing of appeal.

SEC. 65. 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.

SEC. 66. 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.

Return of
record.

SEC. 67. 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.

Immunity of
court.

PART III—SERVICES.

Services.

ARTICLE 1—MEMBERSHIP.

Membership.

SEC. 68. Enlistments—Every person who shall enlist in the national guard shall be mustered in the service of the state for the term of three years, unless sooner discharged by competent authority. Recruits shall sign their names in a book of enlistment or muster roll, furnished by the adjutant general and kept by the company for that purpose, which signing shall be a legal enlistment and muster. Every recruit shall sign an enlistment paper which shall be forwarded to the adjutant general, of such form as may be prescribed by the commander-in-chief, which shall contain an oath of allegiance to the state and the United States.

Enlistments.

Re-Enlistment.

SEC. 69. Re-enlistment—Enlisted men may, at the expiration of their term of service, be re-enlisted for such additional terms, of one or more and not exceeding three years each, as their commanding officer may elect.

When an organization is consolidated or disbanded, its enlisted men, discharged by reason thereof, who shall within thirty days thereafter re-enter the service, shall have allowed to them, as part of their terms of service, the time already served.

Non-commissioned officers.

SEC. 70. Non-commissioned Officers—Non-commissioned officers will, on the recommendation of their captain, be appointed by the commanding officers of their regiments and battalions of artillery respectively, and may be reduced to the ranks by the same authority.

Non-commissioned staff.

SEC. 71. Non-commissioned Staff Officers—Non-commissioned staff officers shall be appointed by the commanding officers of the regiments and battalion of artillery respectively from among the enlisted men of their command, and may be reduced to the ranks by the same authority, and returned to the companies or batteries from which they were promoted or may be discharged, at the option of the regimental commander.

Line officers.

SEC. 72. Line Officers—Commissioned officers of companies and batteries shall be elected by the officers, non-commissioned officers and enlisted men of their respective companies and batteries, subject to the approval of the commander-in-chief. If the candidate elected fails to receive the approval of the commander-in-chief, his name shall not again be presented to fill the same vacancy, except by permission of the commander-in-chief.

Field officers.

SEC. 73. Field Officers—The field officers of the regiments of infantry and battalion of artillery shall be elected by the field and line officers of their respective regiments and battalion.

Brigade commander.

The brigade commander shall be elected by the field officers of the brigade.

Staff Officers.

SEC. 74. Staff Officers—The staff officers of each regiment of infantry and of the battalion of artillery shall be appointed by the commanding officer thereof, and shall hold office during his pleasure, subject to the approval of the commander-in-chief.

Elections for line officers.

SEC. 75. Elections—Elections for line officers shall be ordered by the commanding officer of the respective regiments of infantry and battalion of artillery. Elections for general officers shall be ordered by the commander-in-chief; and elections for field officers shall be ordered by the commanding officer of the brigade.

Notice of elections.

Five days' notice of the holding of any election must be given, by promulgation of the order calling such election.

Ballots.

SEC. 76. Ballots—The officer ordering an election shall preside thereat in person, or shall designate some other officer to perform the duty. In the absence of the presiding officer, the chair shall be taken by the senior officer present; but no officer shall preside at any election at which he is a candidate. All voting shall be by ballot, and a majority of all the votes cast shall be necessary to a choice; *provided, however*, that a majority of those entitled to a vote at such election are present.

Commissions.

SEC. 77. Commissions—Officers of the national guard shall be commissioned by the commander-in-chief, with rank from date of their election or appointment. The commander-in-chief may, at his discretion, withhold the commission of any officer until he can determine the qualifications of such officer for the office to which he may have been elected or appointed; and for the purpose of so determining, the commander-in-chief shall convene a board of three or five officers of the national guard, who shall examine into the qualifications of said officer, and report thereon to the commander-in-chief. Should the said board report that the person so elected or appointed is incompetent to perform the duties of the office to which he shall have been elected or appointed, the commander-in-chief shall have power to annul said election or appointment.

Warrants.

SEC. 78. Warrants—Warrants to non-commissioned officers shall be issued by the commanding officer of their respective regiment or battalion of infantry.

Examining boards.

SEC. 79. Examining Board—On the application of the colonel of any regiment or the major of the battalion, the commander-in-chief is authorized to appoint an examining board of three or five officers, who shall inquire into the capability of any subordinate officer who may be sent before said board by the officer making the application; and should said board find the officer thus sent before him [them] to be incompetent to fill the position held by him, the commander-in-chief shall cancel the commission of the officer thus found incompetent.

Second commission.

SEC. 80. Effect of Second Commission—No officer shall hold two commissions in the national guard at the same time, and the acceptance of a second commission by any officer shall be considered as a resignation of the first.

Discharges.

ARTICLE 2—DISCHARGES.

Resignations.

SEC. 81. Resignations—Resignations of officers shall be in writing, directed to the adjutant general and transmitted immediately through and by all intermediate

commanders, who will endorse the same with their approval or disapproval. No officer shall be considered out of the service until his resignation is accepted by the commander-in-chief.

Discharge of officers.

SEC. 82. Discharge of Officers—Commissioned officers of the national guard who shall have served therein for five years shall, upon the acceptance of their resignations by the commander-in-chief, be granted a full and honorable discharge from service in the state forces, except in case of insurrection or invasion. They may be discharged, upon tender of their resignation or for physical disability, prior to the expiration of said term of five years, or at any time on sentence of a court martial, or upon a finding of an examining board, or for failure to appear before the same when ordered, or for absence without leave for a period of thirty days or more; but in such cases they shall not thereafter be exempt from jury duty. All officers discharged from the service of the state shall receive a certificate of discharge in such form as the commander-in-chief shall direct.

Removal or dismissal.

SEC. 83. Removal or Dismissal—No commissioned officer shall be cashiered, dismissed or removed except by the decision of a court martial or an examining board, or pursuant to law.

Discharge of enlisted men.

SEC. 84. Discharge of Enlisted Men—Honorable discharges shall be granted upon expiration of term of service, permanent removal from company station after thirty days' notice in writing of intended removal to the company commander, or for physical disability. Discharges may be given for the good of the service, or by order of the commander-in-chief. Dishonorable discharges shall be given only upon sentence of a military court.

The commanding officer of each regiment of infantry and of the battalion of artillery shall pass upon and order all discharges for enlisted men of his command, and sign all certificates of discharge when properly made and submitted to him by company commanders.

Dishonorable discharges.

SEC. 85. Dishonorable Discharges—A dishonorable discharge from the service is a complete expulsion from the national guard; it forfeits all exemptions and privileges acquired through membership in the guard, and disqualifies the person so discharged from holding any military office in the state. The names of all persons dishonorably discharged by sentence of a military court during the month shall be published monthly by the commander-in-chief, and a complete list thereof shall be kept posted in all armories and other buildings used as armories in the state; and no person so discharged shall

be admitted to any such armory or building or in the immediate vicinity of any place of encampment or parade, when troops are there assembled. It shall be the duty of the commanding officer in charge of such armory, building, encampment or parade, to enforce these provisions, and to forcibly eject any person attempting to violate the same.

SEC. 86. Transfers—Transfers of enlisted men may be made under such rules as may be promulgated by the commander-in-chief.

Transfers.

ARTICLE 3—DUTIES OF OFFICERS.

SEC. 87. Adjutant General—The adjutant general, by virtue of his office, is the custodian of all records, books, papers and accounts of the military department of the state, and, under the commander-in-chief, shall have general supervision of all property belonging thereto; he shall issue all requisitions (to be countersigned by the governor) for arms and ammunitions, keep accounts with the military storekeeper and supervise his accounts, and perform all other duties required of him by the commander-in-chief; and shall keep his office at the capitol of the state.

Adj't. general.

SEC. 88. Seal—The seal now used in the office of the adjutant general shall continue to be the seal of his office, and all copies of orders, records or papers in his office, duly certified and authenticated under said seal, shall be evidence in all cases, in like manner as if the originals were produced.

Seal.

SEC. 89. Adjutant General to be Claim Agent—It is hereby made the duty of the adjutant general of this state to act as claim agent for all persons having claims against the government of the United States for pensions, bounty or back pay, where such claims have arisen out of or by reason of the late war, and he shall prosecute such claims without pay or compensation from the party seeking such pension, bounty or back pay, or from any other source other than that provided by law for the salary of the adjutant general.

Adj't general to be claim agent.

SEC. 90. Surgeon General—The surgeon general shall administer all matters affecting the health of the troops, issue instructions to medical officers, provide hospital accommodations, direct the mode of treatment of the sick or wounded, take measures to prevent epidemics, and exercise such other powers as the wants and necessities of the troops may require.

Surgeon General.

SEC. 91. Judge Advocate General—The judge advocate general, as chief of his department, shall be the legal adviser of the several staff departments upon all

Judge advocate general.

questions which may arise therein. Under the orders of the commander-in-chief he shall act as judge advocate at any court martial where the public interests shall require his attendance. He shall diligently scrutinize and examine all charges and specifications, and all proceedings of courts martial which may be referred to him by reviewing officers, and promptly report thereon. And he shall perform such other duties as the commander-in-chief may require of him.

Inspecting
officer.

SEC. 92. Inspecting Officer—The inspecting officer shall, annually and as often as may be deemed necessary by the commander-in-chief, inspect every branch of the service at a time and place designated by the commander-in-chief, to whom he shall report the result of said inspections, and shall certify to the number of troops present, the condition of their uniforms, arms, accoutrements, and as to their proficiency in and attendance at drill, and such other information as the commander-in-chief may require.

Q. M. and
com. generals.

SEC. 93. Quartermaster and Commissary Generals—The quartermaster and commissary generals shall perform such duties connected with their respective departments as the commander-in-chief may impose upon them.

Ass't staff
officers.

SEC. 94. Assistant Staff Officers—During the absence or disability of a staff officer, his chief assistant shall perform all the duties pertaining to the office.

Military store
keeper.

SEC. 95. Military Storekeeper—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 connected with the ordnance department, and camp equipage that may be placed under his care, and shall account for the same to the adjutant general.

Other officers.

SEC. 96. Duties of Other Officers—Unless otherwise provided in this act, all officers of the national guard shall have all the powers and perform the duties of officers of the army of the United States of similar rank and position. Commissioned officers of the national guard are authorized to administer oaths in all matters connected with the service.

Exemptions.

ARTICLE 4—EXEMPTIONS.

Jury duty.

SEC. 97. Jury Duty—Every officer and enlisted man of the national guard shall, during his time of service, be exempt from duty as a jurymen in any court of this state, and from any poll or road tax; and any person who shall have received an honorable discharge from the national guard, after a continuous service of not less

than five years, shall be forever thereafter exempt from jury duty in any court of this state.

SEC. 98. Personal Tax—The uniforms, arms and equipments, and in addition thereto other personal property to the amount of two hundred dollars, of any member of the national guard, shall be exempt from taxation; and such uniforms, arms and equipments shall not be liable to attachment or sale on any final process of any court of this state.

Personal tax.

SEC. 99. Exemption of Armories—Armories, drill halls and other buildings and grounds used exclusively for the benefit of any company, regiment or incorporated military organization, shall be exempt from all taxes or assessments.

Exemption of armories.

SEC. 100. Civil Process—No member of the national guard shall be arrested or served with any civil process, summons, order, warrant or other civil proceeding, while going to, remaining at or returning from any place at which he may be required to attend for the performance of military duty, but nothing contained herein shall be construed to prevent an arrest by order of a military officer, or for felony or for breach of the peace.

Civil process.

SEC. 101. Protection for Official Acts—Whenever any portion of the national guard or enrolled militia shall have been called into active service to suppress an insurrection or rebellion, to disperse a mob, or to enforce the execution of the laws of the United States, the commanding officer shall use his own discretion with respect to the propriety of attacking or firing upon any mob or unlawful assembly; and his honest and reasonable judgment in the exercise of his duty shall be full protection, civilly and criminally, for any act or acts done while on duty. No officer who has been called out to sustain the civil authorities shall, under any pretense, or in compliance with any order, fire blank cartridges upon any mob or unlawful assemblage, under penalty of being cashiered by sentence of a court martial.

Official acts.

SEC. 102. Security for Costs—When a suit or proceeding shall be commenced in any court by any person against any military officer of the state for any act done by such officer in his official capacity in the discharge of any duty under this chapter, or against any person acting under the authority or order of any such officer, or by virtue of any warrant issued by him pursuant to law, the defendant may require the person prosecuting or instituting the suit or proceeding to file security or a bond, with sufficient sureties in the sum of at least one hundred and fifty dollars, for the payment of costs and reasonable counsel fees to be fixed by the court, that may be incurred by the defendant therein; and the de-

Security for costs.

defendant in all cases may make a general denial and give the special matter in evidence; and in case the plaintiff shall be non-suited, or have a verdict or judgment rendered against him, the defendant shall recover costs, together with such counsel fees, the same to be taxed and entered against the plaintiff and his sureties on said bond.

Service and
instruction.

ARTICLE 5—SERVICE AND INSTRUCTION.

Inspection.

SEC. 103. Inspection—There shall be an annual inspection of the national guard, at such time and place as may be directed by the commander-in-chief. At such inspection the regiments, companies, or batteries, as the case may be, shall be exercised, by their respective commanders, in the manual of arms, and the drill regulations of the United States, and shall be carefully counted by the inspecting officer. A roll of each company or battery, certified to by the captain thereof, and showing the number of drills each member has participated in for twelve months next preceding said inspection, shall be delivered to the inspecting officer, prior to such inspection. The assistant adjutant general of the brigade and the adjutant of each regiment and of the battalion of artillery and the medical director, shall deliver to the inspecting officer, prior to such inspection, a roster of the field, staff and non-commissioned officers, and of the band of said brigade, regiment, battalion or corps.

Minimum
drills.

SEC. 104. Minimum Drills—Every company or battery of the national guard shall make at least thirty company drills or parades in each year, exclusive of camp and actual service. In addition to such drills and parades the commanding officer of any organization may require the officers and enlisted men of his organization to meet for parade drill or instruction at such times and places as he may appoint.

Encamp-
ment.

SEC. 105. Encampment—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 shall deem proper, to parade for purposes of drill, review or escort duty, and prescribe all the regulations and requirements therefor.

Real proper-
ty.

SEC. 106. Acquisition of Real Property—Where real property shall be required for the purpose of a state camping ground, or for rifle practice, or other military purpose, which is deemed necessary by the adjutant general, and the adjutant general is unable to agree with the owners for the purchase thereof, title thereto shall be acquired by the attorney general and in the

name of the people of the state by condemnation, on the written application of the adjutant general. The cost of all real property so taken shall be paid for by the state. Upon the certificate of the adjutant general, the state treasurer, upon warrant of the state auditor, is authorized and empowered to pay the costs, damages and expenses incurred by and awarded in any proceedings for the condemnation of any such property, out of the unexpended balances remaining to the credit of the general military fund in his hands, after compliance with all the other provisions of this act.

SEC. 107. *Unauthorized Bodies*—It shall not be lawful for any body of men whatever, other than the regularly organized national guard of this state, and the troops of the United States, to associate themselves together as a military company or organization, to drill or parade with arms in any city or town of this state, except the regular organization known as the Sons of Veterans; *provided*, that students in educational institutions where military science is a part of the course of instruction, may, with the consent of the governor, drill and parade with arms in public under the superintendence of their instructor; *provided, further*, that nothing herein contained shall be construed so as to prevent benevolent or social organizations from wearing swords. And any person violating any of the provisions of this section shall be guilty of a misdemeanor, and on conviction thereof shall be sentenced to a fine of not less than ten nor more than one hundred dollars, or imprisonment of not less than ten nor more than ninety days.

Unauthorized
bodies.

SEC. 108. *Right of Way*—United States forces or troops, or any portion of the national guard or militia parading or performing any duty according to law, shall have the right of way in any street or highway through which they may pass; *provided*, the carriage of the United States mails, the legitimate functions of the police, and the progress and operation of fire engines and fire departments shall not be interfered with thereby.

Right of way.

SEC. 109. *Disturbers*—If any person interrupts or molests or insults, by abusive words or behavior, or obstructs any officer or soldier while on duty, or at any parade, drill or meeting for military improvement, he may be put immediately under guard and kept at the discretion of the commanding officer of the brigade, regiment, battalion, corps, company or detachment, as the case may be, until the duty, drill, parade or meeting is concluded; and such commanding officer may turn over such person to any police officer or constable of

Disturbers.

the city or town wherein such duty, parade, drill or meeting is held; and said police officer or constable shall detain him in custody for examination or trial before a court of justice or trial justice having jurisdiction; and any person found guilty of either of the offenses enumerated in this or the next section, or of obstructing or interfering with United States forces or troops, or any portion of the militia in the exercise or enjoyment of the right of way granted by the preceding section, shall be punished by imprisonment, not less than five days and not exceeding three months, or by fine not less than ten (10) and not exceeding one hundred (100) dollars.

Control of
armory.

SEC. 110. Control of Armory—Every officer whose command occupies, assembles or drills in any armory, drill hall or building allowed according to law for such purpose, shall have control of such premises during the period of occupation, subject to the orders of his superior commanders; and any person who intrudes contrary to his orders, or the orders of his superior commanders, or who interrupts, molests, obstructs or insults the troops or any of them so occupying such premises, may be dealt with as prescribed in the preceding section for like offenses, at the discretion of the officer in charge of the troops, or his superior commanders; *providing*, that nothing in this section shall be construed to prevent reasonable inspection of the premises by the mayor and aldermen or selectmen of a city or town, or by the owners of the premises, according to the terms which may have been specified therefor in a lease.

Company or
battery.

SEC. 111. Company or Battery—Unless otherwise provided, all the provisions of this act relating to companies shall include batteries and troops, the word[s] "enlisted men" shall include musicians and non-commissioned officers, and the word "regimental" shall include the battalion of artillery.

Arms and
ammunition.

SEC. 112. Arms and Ammunition—Arms, accoutrements and ammunition shall be issued to the regiments and to the battalion on the order of the commander-in-chief, subject to such regulations as he may make.

Pay and
allowances.

ARTICLE 6—PAY AND ALLOWANCES.

Allowance for
inspection.

SEC. 113. Inspection Allowance—There shall be paid annually to the brigade commander and staff, to each regiment of infantry and battalion of artillery and to the medical corps, the sum of seven dollars for each officer, non-commissioned officer, musician and private, as shall be inspected by the inspecting officer at the annual inspection provided for in this act, and shall be

found to be fully uniformed, armed and equipped according to law. But no allowance or payment shall be made to any company or battery which, at said annual inspection, shall not in members present and members accounted for to the satisfaction of the inspecting officer, *muster at least the minimum number of men, or which shall not have held the minimum number of drills or parades provided for in this act.* *Provided, further,* that no such allowance or payment shall be made for any company, officer or enlisted man mustered within thirty days prior to such inspection, or who, during the twelve months previous to said inspection, has not made an average of two drills or parades per month that he has been a member of the company, exclusive of camp duty and active service.

SEC. 114. To Whom Paid—The per capita money thus due to each company or battery upon said inspection shall be paid to the commander thereof, and the money thus due the brigade commander and staff, and to the field and staff, and non-commissioned staff officers, and the band of each regiment and battalion of artillery and to the members of the medical corps, shall be paid to the commanding officer of said brigade, regiment, battalion and corps respectively, upon his requisition upon the adjutant general. The money so paid shall be used only for the purchase of uniforms, the expense of armory and care of arms, and for other necessary expenses of said regiments, companies and batteries.

To whom paid.

SEC. 115. How Drawn—Upon receipt of said requisition, the adjutant general shall certify to the state auditor the amount of money which such brigade, regiment, battalion, company or battery is entitled to receive under the provisions of this act, and said auditor shall thereupon draw his warrant on the state treasurer for said amount, in favor of said brigade, regiment, battalion, company or battery, or the person designated in said requisition, and the same shall be paid by said state treasurer upon presentation of said warrant, properly endorsed.

How drawn.

SEC. 116. Artillery Horses—In addition to the allowances herein provided, there shall be paid annually to the commanding officer of each battery of artillery, at or before the time annual encampments are usually held, the sum of four hundred and fifty dollars, to be used by said battery for horse hire, the same to be drawn in the same manner as the annual allowance provided for in the preceding section of this article.

Artillery horses.

SEC. 117. Camp Allowance—For each day's services in complete uniform at the annual encampment, when

Camp allowance.

ordered by the commander-in-chief, including the time of going to and returning from the place of such encampment, there shall be paid to each regimental non-commissioned officer and each first sergeant, two dollars and twenty-five cents; each sergeant and each regimental musician, two dollars; each corporal, one dollar and seventy-five cents; and each other enlisted man, one dollar and fifty cents; *provided, however*, that such payment shall only be made to the men present at and doing at least five days' duty in such camp. In addition thereto, free transportation and shelter shall be furnished by the state. A deduction of fifty cents per day from the pay of each enlisted men shall be made for subsistence, if furnished by the state. The pay herein granted shall be drawn in the same manner as the annual allowance on inspection provided for in this act.

Lost prop-
erty.

SEC. 118. Deduction for Lost Property—Commanders of companies and batteries are hereby authorized to retain from the pay of any of the members of their command, the amount and value of any article issued to such member by the company or by the state, which said member has lost, materially injured or destroyed, or has failed to return on demand, besides each member's proportionate share of the company's subsistence and expenses at camp.

Actual ser-
vice.

SEC. 119. Pay in Actual Service—Whenever the national guard of this state, or any portion thereof, shall be called into actual service by the commander-in-chief, each and every enlisted man so called into such service and who shall respond thereto, shall have and receive for each day he shall be engaged in such service, two dollars, besides transportation and shelter. And, if a force of artillery, the necessary expense of horse hire and forage shall, in addition thereto, be paid by the state. A deduction of fifty cents per day from the pay of each enlisted man shall be made for subsistence, if furnished by the state.

How drawn.

SEC. 120. How Drawn—In such emergency, the adjutant general, the state auditor and the attorney general shall constitute a board to audit the pay rolls and other necessary expenses incident to such service. Said board shall certify to the state auditor the amount of money necessary to pay the officers and men engaged in said service and to defray the expenses thereof, and the state auditor shall thereupon draw his warrant on the state treasurer for said amount, in favor of the adjutant general, and the same shall be paid by the state treasurer upon presentation of said warrant properly endorsed, out of any moneys in the state treasury, not otherwise appropriated, but in no case shall the same be

paid out of any fund or annual appropriation of the national guard.

SEC. 121. Officers' Pay—Each and every officer of the national guard, while in any service under orders of the commander-in-chief, 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 army, except officers whose salaries are otherwise provided by law.

Officers' pay.

SEC. 122. Uniform—The uniform of the national guard shall be the same as that now prescribed for the United States army, except that the state button shall be substituted for the U. S. button, and the letters "Minn." for the letters "U. S." on the collar of the service uniform.

Uniform.

Whenever he deems it necessary, the commander-in-chief may appoint a board of five officers to examine into and report any proposed change in the uniform of the national guard, and the uniform so reported shall, when approved by the commander-in-chief, be the uniform of the national guard of this state.

SEC. 123. Uniforms Issued—Every organization shall be provided, at the expense of the state, with uniforms, overcoats and such other clothing and equipage as may be necessary and proper for the performance and duty required of the national guard by law. But no uniforms, overcoats or other clothing or equipage, provided by this act, shall be issued to or for the use of any organization unless the said organization shall have at least the minimum number of enlisted men prescribed by law. All such uniforms, overcoats and such other clothing and equipage shall be issued to the several organizations, companies, and batteries each year by the adjutant general in proportion to the number of officers and men in such organizations, companies and batteries, inspected and entitled to the per capita allowance of the state, based on the inspecting officer's report.

Issue of uniforms.

SEC. 124. Purchase of Uniforms—The commander-in-chief, the adjutant general and the brigade commander are hereby appointed commissioners for the purpose of purchasing the uniforms, overcoats and other clothing and equipage as provided in this act, for the members of the national guard.

Purchase of uniform.

All proposals for the furnishing of any of the articles provided for in this act shall be publicly advertised in one or more newspapers of general circulation, published and printed at the city of St. Paul, Ramsey county, Minnesota, and all bids shall be accompanied by sample of the article or articles to be furnished. No money shall be paid out to any person so furnishing

Proposals.

any of the articles herein provided for until the same have been inspected and approved by the adjutant general and the brigade commander; but the total sum to be expended under the provisions of this act for such uniforms, overcoats and such other clothing and equipage shall not exceed the sum of ten thousand dollars in any one fiscal year.

Distribution
of uniforms.

SEC. 125. Distribution of Uniforms—The commanding officer of any company and battery who shall have received, according to the provisions of this act, any uniforms, overcoats other clothing or equipage from the state for the use of his command shall distribute the same to his command as he shall deem proper, taking vouchers therefor, and he shall require those to whom they are distributed to return them at such time and place as he shall order or direct, and any one who shall neglect or refuse to comply with such order shall forfeit a sum not to exceed double the price of the uniform, overcoats, clothing and equipage he shall have received, to be sued for and collected in the name of the company or battery of which such party shall have been a member, and the sum so recovered shall be forwarded to the state treasurer to be by him placed to the credit of the fund for the furnishing of the articles provided for in this act, and the state treasurer's receipt therefor shall relieve the company commander of any further liability on account thereof.

Medical
corps.

ARTICLE 7—MEDICAL CORPS.

Vacancies.

SEC. 126. Vacancies—Vacancies above the rank of captain in the medical corps shall be filled by seniority. Whenever a vacancy occurs in the rank of first lieutenant the surgeon general shall appoint a board consisting of three (3) members of the corps, who shall examine any candidates who may present themselves and who are graduates of a recognized medical college and not over forty-five years of age. The board shall report to the surgeon general the names of all candidates examined, with their relative standing, and the surgeon general shall report to the commander-in-chief the name of the candidate passing the best examination, and said candidate shall thereupon be commissioned by the commander-in-chief as an assistant surgeon, with the rank of first lieutenant; *provided*, that the surgeon general reports that said candidate is fully qualified.

Promotions.

SEC. 127. Promotions—Whenever an assistant surgeon has served as such for five consecutive years he may apply to the surgeon general to be examined for promotion. On receipt of such application the surgeon gen-

eral shall appoint a board, consisting of three (3) members of the corps, who shall examine the applicant, and if said board shall report that the applicant is a graduate of a medical college recognized by the state medical examining board and is fully qualified, the surgeon general shall recommend the applicant for promotion to the rank of captain, and the commander-in-chief shall commission him as such.

SEC. 128. Duties of Medical Director—The duties of the medical director shall be to receive the reports from all senior medical officers, see that the hospitals are established at suitable places, recommend the best mode of transportation of troops and such other duties as may be delegated to him by the surgeon general. The requisitions of medical officers for supplies must be submitted to him for his approval and examination before issued. The medical director shall exercise the functions of medical purveyor and medical storekeeper, or may detail some medical officer for this purpose.

Duties of med.
director.

SEC. 129. Medical Purveyor—The medical purveyor shall purchase all medical stores and hospital supplies, and shall direct the distribution of drugs, instruments, litters, books, stationery, etc.

Medical
purveyor.

SEC. 130. Medical Storekeeper—The medical storekeeper shall have the immediate custody of everything belonging to the medical department, keep an exact report of everything on hand, how and when it has been distributed, and furnish periodical reports to the medical director, who will in turn send it to the surgeon general for permanent hospital records and as a guide to the proper administration of the department.

Medical store-
keeper.

SEC. 131. Hospital and Ambulance Corps—There shall be an ambulance corps and hospital corps, consisting of three hospital stewards with the rank of sergeants, who shall be appointed by the medical director, and shall hold their warrants during his pleasure, and men detailed from each company to act as litter bearers, whose duty it shall be to render first aid to the injured, transportation of the sick and wounded, etc.

Ambulance
corps.

SEC. 132. Hospital Stewards—Hospital stewards shall serve as apothecaries, head nurses in hospitals and assist the surgeons in keeping records of their department.

Hospital
steward.

SEC. 133. Details—The medical director shall make such detail for service of members of the medical corps as he may deem necessary.

Details.

General provisions.

ARTICLE 8—GENERAL PROVISIONS.

Regimental by-laws.

SEC. 134. Regimental By-Laws—The brigade officers and likewise the field and staff officers of each regiment and of the battalion of artillery may become incorporated and adopt a constitution and by-laws for such brigade, regiment or battalion; *provided*, the same shall not be in conflict with the military code of this state, or with any rules or regulations governing the national guard. Such constitution and by-laws, properly attested by the commandant of such brigade, regiment or battalion, shall be filed with the adjutant general, and a copy thereof, when attested by the adjutant general, shall be competent evidence of the provisions thereof and of the corporate existence of such organization in any action or proceeding in any court of this state. Such brigade, regiment or battalion may sue and recover as a corporation in any court of civil tribunal, and no individual liability shall attach to the members of such brigade, regiment or battalion for the corporate acts or omissions of such organization.

Company may make by-laws.

SEC. 135. Company By-Laws—Each company or battery of the national guard may, with the approval of the regimental commander, make and adopt a constitution and by-laws for its government, which shall be binding on its members; *provided*, the same shall not be in conflict with the military code of this state, or with any rules or regulations governing the national guard. Such constitution and by-laws, properly attested by the commandant of such company or battery, when approved by the regimental commander, shall be filed in the office of adjutant general; and such company or battery shall thereupon become incorporated with power to sue in any court or civil tribunal. No individual liability shall attach to the members of such company or battery for the corporate acts or omissions thereof. No amendments to such constitution or by-laws shall become operative until approved and filed as aforesaid. A copy of said constitution and by-laws, attested by the adjutant general, shall be competent evidence of the provisions thereof, and of the corporate existence of such company or battery in any action or proceeding in any court in this state, and such constitution and by-laws may be rescinded and said corporation dissolved in the manner provided for their adoption.

Provisions of Co. by-laws.

SEC. 136. Provisions of Company By-Laws—The following provisions shall be incorporated in the by-laws of companies, if any by-laws are adopted, and shall then be in full force and effect:

First—No company or battery shall adopt a name different from that assigned to it in the laws and regulations governing the national guard.

Second—The civil officers of each company or battery shall consist of a president, vice-president, secretary and treasurer. The management of its affairs shall be vested in a board of five directors, consisting of the four officers above named and the first sergeant.

Third—The captain of each company or battery shall be, ex-officio, president, the first lieutenant vice-president, the second lieutenant secretary, and the first sergeant one of the directors thereof.

Fourth—The treasurer shall be elected annually at the first meeting in December from among the members of the company or battery, and shall hold office for one year and until his successor is elected and qualified.

Fifth—All elections shall be by ballot, and a majority of all the votes cast shall be necessary to a choice; *provided*, that a majority of those entitled to a vote at such election are present.

Sixth—Such constitution and by-laws shall prescribe the amount of dues to be paid by each member, and the following fines and penalties, to-wit:

Dues, fines
and penalties.

A. Absence from any regular drill, company meeting or parade, fifty cents.

B. Tardiness at any regular drill, company meeting or parade, or appearing thereat without uniform, equipments or any part thereof, twenty-five cents.

C. Absence from, or tardiness at, any drill or parade especially ordered, or at any meeting for the election of officers, one dollar.

D. Absence from, or tardiness at, the annual inspection, seven dollars.

E. Disobedience of standing orders or any conduct prejudicial to military discipline, from fifty cents to two dollars, at the discretion of the board of directors.

Seventh—Immediately after every drill, meeting, or parade, the first sergeant or the secretary, as the case may be, shall return to the board of directors the names of all delinquents, together with the date and nature of such offense. The secretary shall thereupon give each delinquent at least two days' notice by mail, requiring him to appear before said board at its meeting next following such notice, and show cause why a fine should not be imposed upon him for such offense. At said meeting the board of directors shall hear and pass upon such excuses as may be offered in defense or mitigation of the delinquencies charged, and proceed to assess the fines and penalties against the members found delinquent, and the secretary shall enter said fines and penalties against said members on his book of account.

Returns of
delinquents
after drills
and parades.

Funds to be deposited in a bank.

Eighth—The treasurer shall immediately deposit all funds received by him in some reliable bank previously designated by the company. The funds of the company shall be deposited in its company or battery name, subject to withdrawal only upon the warrant of the secretary approved by the commanding officer and countersigned by the treasurer, or upon the draft of the company or battery commander, when approved by the regimental commander. The treasurer shall give bond to the company in a sum not less than five hundred dollars, to be fixed by the company, with two sufficient sureties, to be approved by the board of directors, conditioned upon the faithful discharge of his duties as such treasurer.

How moneys appropriated.

Ninth—No moneys shall be appropriated from the treasury, except by resolution of the company, by order of the company or battery commander when approved by the regimental commander, or pursuant to law.

Disposition of moneys.

Tenth—The company or battery commander, the secretary and any other officer or member receiving any moneys from any source for such company or battery, or for any member or members thereof as such, shall forthwith pay and turn over the same to the treasurer, or, if directed by the company commander, to the bank designated by the company as depository to the credit of such company or battery; *provided*, that at the annual encampment, or in actual service, the company commander may, in his discretion, incur and pay the company's proportionate expense of such service and return to the treasurer the balance in his hands due the enlisted men of his command, and to the secretary, a statement of the amount due each enlisted man after deducting his share of the company's expense in such service. The secretary shall thereupon credit each member with the amount so due him, and, after deducting all fines, dues and other charges for lost property, shall draw his warrant in favor of such member for the balance due him, the same to be approved and countersigned as hereinbefore provided. No part of the annual allowance received at inspection shall be credited to the account of any individual member, but the same shall be turned into the general fund of the company.

Itemized statements.

Eleventh—A full and itemized statement of all receipts and disbursements of the company, and the balance on hand, attested by the secretary and treasurer, as approved by the board of directors at its preceding meeting and certified to by the company commander, shall be forwarded semi-annually to the regimental commander on or before the tenth day of June and December in each year.

Twelfth—All records, books of account, minutes and all other books, kept by the company or its officers, shall at all times be open for the inspection of the company commander or the regimental commander or adjutant, and said officers shall be admitted at all meetings and deliberations of the company, its board of directors or any of its committees.

Records for inspection.

SEC. 137. Military Government—Nothing herein contained shall be construed to impair the power or authority of the company commander in any matter relating to the military government of his command.

Company commanders, power unimpaired.

SEC. 138. Payment of Fines—Effect—The imposition of any fine or penalty under this article shall not be a bar to prosecution before a military court for the same offense, unless the same is paid and received before charges have been preferred thereon; and when charges have been so preferred, and the accused has been ordered before a military court, the fines imposed by the board of directors of a company or battery for said offense shall be cancelled. The payment of such fine shall be a matter of defence or mitigation, and need not be negatived in the charges or specifications.

Effect of fines and penalties.

SEC. 139. Recovery of Dues and Fines—A copy of the resolution of the board of directors of any company or battery, properly attested by the commanding officer of said company or battery, or the books of accounts of the secretary in which fines and dues are entered, shall be prima facie evidence of the delinquent member's indebtedness to the company in an action for the recovery thereof in any court of this state.

Recovery of dues and fines.

SEC. 140. Roll of Retired Officers—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, 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.

Roll of retired officers.

Repealing
clause.

SEC. 141. Repealing Clause—Exceptions—All acts and parts of acts inconsistent with this act are hereby repealed, excepting, however, the fourteenth subdivision, relating to adjutant general's clerk, of section one of chapter one hundred and one, general laws of 1867; chapter one hundred and fourteen, general laws of 1874, and the several acts amendatory thereof; chapter one hundred and forty-nine, general laws of 1883; section ten, except the last sentence thereof, of chapter one hundred and sixteen, general laws of 1881; section three in article ten of chapter seventy-four, except all after the words "provisions of this act," where they occur in said section three, and section two of chapter seventy-five, general laws of 1883; section seven of chapter ninety-one, general laws of 1885; section nine of chapter ninety-five, chapter two hundred and thirteen, and subdivisions ten, eleven and fifteen in section one of chapter two hundred and twenty-two, general laws of 1887; section two, except the proviso thereof, of chapter one hundred and fifteen, and subdivision eight in section one of chapter two hundred and eighty-seven, general laws of 1889; chapters fifty-four and fifty-five, and subdivisions four and ten in section four of chapter one hundred and sixty-three, general laws of 1891; section eight of chapter seventy and section nine of chapter one hundred and ninety-seven, general laws of 1895; and the acts and parts of acts hereinbefore enumerated shall apply to this act and are hereby respectively declared to be and remain in full force and effect.

SEC. 142. When to Take Effect—This act shall take effect and be in force from and after its passage.

Approved April 14, 1897.

H. F. No. 814.

CHAPTER 119.

Prevention of
sale of un-
healthy or
adulterated
dairy prod-
ucts.

An act to amend chapter 247, general laws of 1889, an act to prevent deception in the sale of dairy products, and to preserve the public health; being supplementary to and in aid of chapter 149 of the laws of 1885, entitled "An act to prohibit and prevent the sale or manufacture of unhealthy or adulterated dairy products."

Be it enacted by the Legislature of the state of Minnesota:

Amendment.

SECTION 1. That section one (1) of chapter two hundred and forty-seven (247) of the general laws of