

## CHAPTER 400—H. F. NO. 1230.

(The figures in parenthesis following each section refer to the sections in G. S. Minn. 1913.)

*An act to conform the organization, discipline and training of the national guard to the requirements of the federal law relating to the militia and to promote its efficiency.*

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

## MILITIA.

Section 1. **Military code.**—This act shall be known as the military code.

Sec 2. **Militia—exemptions.**—The militia shall consist of all able-bodied male citizens of the state and all other able-bodied males resident therein who have or shall have declared their intention to become citizens of the United States, who shall be more than eighteen years of age, and, except as hereinafter provided, not more than forty-five years of age, and said militia shall be divided into three classes, the national guard, the naval militia, and the unorganized militia.

The officers, judicial and executive of the government of the United States and of the states; persons in the military or naval services of the United States; customhouse clerks, persons employed by the United States in the transmission of the mail; artificers and workmen employed in the armories, arsenals, and navy yards of the United States; pilots; mariners actually employed in the sea service of any citizen or merchant within the United States shall be exempt from militia duty without regard to age, and all persons who because of religious belief shall claim exemption from military service if the conscientious holding of such belief by such person shall be established under such regulations as the president of the United States shall prescribe, shall be exempt from militia service in a combatant capacity; but no person so exempted shall be exempt from militia service in any capacity that the president of the United States shall declare to be noncombatant. (2351-57 and 59.)

Sec. 3. **Enrollment by census takers.**—Whenever a state census is taken, each enumerator, in addition to his other duties, shall designate upon his return all persons enumerated by him who are subject to military duty under this chapter. As soon as the returns are complete, the superintendent of the census shall make and certify to the adjutant general lists of the names, alphabetically arranged and consecutively numbered, of all persons so designated in each town, village and city, arranged by counties, and showing the age, occupation and address of each person. And he shall accompany such lists with a table showing the number of enumerated militiamen in each town, village, city and county. The adjutant general shall prescribe blanks therefor. (2352)

**Sec. 4. Enrollment by assessors.**—Whenever the governor shall so direct by his proclamation all such assessors shall make upon blanks prescribed by the adjutant general, duplicate lists of the names, alphabetically arranged and consecutively numbered, of all militiamen living in their respective districts, with the age, occupation, and postoffice address of each. One of said lists shall be filed with the county auditor, and one with the clerk of the town, village, or city in which the assessor resides; and no compensation shall be allowed for any services of an assessor until he has filed with such clerk an affidavit showing full compliance on his part with the foregoing requirements. (2353)

**Sec. 5. Auditor to correct lists, furnish copies, etc.**—Each auditor shall add to the list so filed with him the names of all militiamen omitted, and erase the names of those shown to be improperly enrolled, giving notice of such changes to the proper clerks. On or before October 1st in such year, he shall transmit to the adjutant general a certified copy of the rolls so filed and corrected. In addition thereto, or in lieu thereof, the adjutant general may require of the auditor a statement showing the number so enrolled in each town, village, and city of his county. (2354)

**Sec. 6. Information required—penalties.**—Every householder shall disclose, upon the application of assessors and enumerators authorized to make such enrollment, the names of all militiamen residing in his house; and every person, upon like application, shall give his name, age, and address. Every person who shall wilfully refuse such information, or give false answers to the proper inquiries of any such enrolling officer, and every enrolling officer who shall neglect any duty imposed by this chapter, shall be deemed guilty of a misdemeanor. (2355)

**Sec. 7. Calling out militia—draft, etc.**—The governor, whenever he shall deem it necessary to call out the enrolled militia for military duty, may require the mayors of the several municipalities and the chairmen of the several town boards to appoint a time and place for the assembling of such militia; and they shall forthwith give notice, by public proclamation, or by written or oral notice to each person, of such assemblage. At the appointed time and place they shall accept volunteers to the number designated by the governor's order, supplying any deficiency by draft. The names of the militiamen so accepted or drafted shall be forwarded to the governor forthwith. The governor may prescribe and enforce uniform rules for the conduct of drafts, appoint all officers necessary therefor, and fix the amount of their pay, not exceeding the rate of pay prescribed for the national guard or volunteers in the federal service. (2356.)

**Sec. 8. Muster—organization—command.**—The men whose names are so forwarded shall be mustered at once into the service

of the state for such period as the governor shall direct, not exceeding three years. They shall be organized as prescribed for existing organizations of the national guard. Such new organizations shall be officered, equipped, trained, and commanded according to the laws governing the national guard. (2357)

**Sec. 9. Desertion.**—Every enrolled militiaman who fails, without reasonable excuse, to appear at the appointed time and place of assemblage, or, being accepted as a volunteer or duly drafted, fails to report for muster as lawfully required, shall be considered and treated as a deserter. (2358).

**Sec. 10. Commander-in-chief—powers and duties—staff.**—The governor shall be commander-in-chief of the militia, except so much thereof as may be in the actual service of the United States, and may employ the same for the defense or relief of the state, the enforcement of its laws, and the protection of life and property therein. He shall make and publish regulations, not inconsistent with law, for the government of the national guard, and enforce all the provisions of this chapter. He may appoint a staff, consisting of an adjutant general, with the rank of brigadier general, who shall be or has been an officer of the national guard, of at least three years' prior service as such, or an honorably discharged soldier of the United States in any war; and five aides-de-camp to be detailed from the majors of the line without prejudice to their regular duties. (2359).

**Sec. 11. Adjutant general—term—vacancy—removal.**—The adjutant-general shall be appointed and commissioned for a term of two years and until his successor has qualified, unless sooner removed by the governor. The first term hereunder shall commence the first Monday in January, 1919. (2360).

### NATIONAL GUARD.

**Sec. 12. National guard—how constituted.**—The Minnesota national guard shall consist of the regularly enlisted militia between the ages of eighteen and forty-five years organized, armed, and equipped as hereinafter provided, and of commissioned officers between the ages of twenty-one and sixty-four years. In time of peace it shall consist of three regiments of infantry, organized into a brigade, and one regiment of field artillery which may be attached to the brigade for the purpose of administration and instruction; also the several staff corps and departments, similar to the staff corps and departments prescribed for the regular army of the United States, which are hereby authorized to the extent that the same may be necessary to provide proper staff officers and enlisted men for the national guard as herein established. The term "National Guard" shall apply only to the militia organized as a land force, provided, that the number of

officers and enlisted men of the national guard may be increased from time to time and organized so as to meet the minimum requirements of the federal laws. (2361-58 and 62).

**Sec. 13. Governor to fix number and grades of officers, etc.**—For the purpose of conforming the national guard more closely to the organization of the United States army, and not otherwise, the governor on the recommendation of the military board may by orders issued from time to time, fix the number and grades of officers and enlisted men in the staff corps and departments. And in case of war, invasion, insurrection, riot or imminent danger of either, the governor may temporarily increase such force to meet such emergency. Staff officers, including officers of the pay, inspection, subsistence, and medical departments, hereafter appointed shall have had previous military experience and shall hold their positions until they shall have reached the age of sixty-four years, unless retired prior to that time by reason of resignation, disability, or for cause to be determined by a court-martial legally convened for that purpose, and vacancies among said officers shall be filled by appointment from the officers of the militia. (2362).

**Sec. 14. Organization of national guard units.**—Except as otherwise specifically provided herein, the organization of the national guard, including the composition of all units thereof, shall be the same as that which is or may hereafter be prescribed for the regular army, subject in time of peace to such general exceptions as may be authorized by the secretary of war. (2363-60).

**Sec. 15. Staff corps and departments.**—The staff corps and departments shall consist of such officers and enlisted men respectively as may be prescribed by federal authority for this state. (2364).

**Sec. 16. Staff appointments.**—The officers of the staff corps and departments shall be appointed by the military board, and commissioned by the governor. The enlisted men shall be recruited and warranted by their respective chiefs. Provided, however, that where officers of the staff corps and departments are attached or detailed to regimental or higher units and a vacancy occurs in such detail or detachment, the organization commander will make appointment to fill said vacancy. (2365).

**Sec. 17. Military board.**—The brigade commander or senior officer of the brigade, and the regimental commanders, or senior officer of each regiment not acting as brigade commander, shall constitute a military board, and meet quarterly at such stated time and place as they may fix, and at such other times and places as they may be convened by the adjutant general or the brigade commander. The board shall consider the status and needs of the national guard and such other matters as may be referred to

them, and make suitable recommendation thereon through the adjutant general to the governor. The members shall receive no compensation or allowance for expenses beyond transportation and pay for one day's attendance at each stated session of the board, or when convened by the adjutant general. (2366).

**Sec. 18. Enlistments.**—The period of enlistment in the national guard shall be that which is now or may be hereafter prescribed by congress. Hereafter all men enlisting for service in the national guard shall sign an enlistment contract and take and prescribe to the oath now or hereafter prescribed by congress. (2367-69 and 70).

**Sec. 19. Non-commissioned officers—appointment, etc.**—Non-commissioned officers shall be appointed by the commanding officer of the regiment on the recommendation of the company commander and may be reduced to the ranks by the regimental commander. (2368).

**Sec. 20. Qualifications for national guard officers.**—Officers of the national guard shall not be commissioned as such unless they shall have been selected from the following classes and shall have taken and subscribed to the oath of office prescribed by congress. Officers or enlisted men of the national guard; officers on the reserve or unassigned list of the national guard; officers, active or retired, and former officers of the United States army, navy and marine corps; graduates of the United States military and naval academies and graduates of schools, colleges and universities where military science is taught under the supervision of an officer of the regular army, and, for the technical branches and staff corps or departments, such other civilians as may be especially qualified for duty therein.

**Sec. 21. Officers—how selected.**—Line officers in the regiments will be selected and appointed by the regimental commanders respectively. Field officers and general officers will be selected and appointed by the military board. (2369-2372).

**Sec. 22. Commissions.**—Any person hereafter appointed and commissioned an officer of the national guard shall successfully pass such tests as to his physical, moral and professional fitness as the president shall prescribe. The examination to determine such qualifications for commissions shall be conducted by a board of three commissioned officers appointed by the secretary of war from the regular army or the national guard, or both. Officers shall be commissioned by the governor, and the commission shall designate the arm, staff corps or department, and, in the case of line officers, the regiment in which they are appointed. Officers will be assigned or reassigned to duty in the various organizations by the regimental or higher commander. (2373-75).

**Sec. 23. Elimination and disposition of officers.**—At any time the moral character, capacity, and general fitness for the service

of any national guard officer may be determined by an efficiency board of three commissioned officers, senior in rank to the officer whose fitness for service shall be under investigation, such board to be appointed by the regimental or brigade commander, and if the findings of such board be unfavorable to such officer and be approved by the official authorized to appoint such an officer, he shall be discharged. Commissions of officers of the national guard may be vacated, upon resignation, absence without leave for three months, upon the recommendation of an efficiency board, or pursuant to sentence of a court-martial. Officers of said guard rendered surplus by the disbandment of their organizations shall be placed in the national guard reserve. Officers may, upon their own application, be placed in the said reserve. (2373-77).

### RESIGNATIONS AND DISCHARGES.

**Sec. 24. Commissioned officers.**—Resignations of commissioned officers shall be in writing, addressed to the adjutant general and be transmitted by and through all intermediate officers who shall indorse their approval or disapproval thereon; and the same shall not take effect until accepted by the governor. Acceptance of a resignation after five years' service or on account of physical disability, shall entitle the officer to a certificate of honorable discharge; but, if tendered while the guard is on active duty, such certificate may be refused. (2374).

**Sec. 25. Discharge of enlisted men.**—An enlisted man discharged from service in the national guard shall receive a discharge in writing in such form and with such classification as is or shall be prescribed for the regular army and in time of peace discharges may be given prior to the expiration of terms of enlistment under such regulations as the president may prescribe. (2375-72).

**Sec. 26. Dishonorable discharge—its effect.**—A dishonorable discharge from service in the national guard shall operate as a complete expulsion from the guard, a forfeiture of all exemptions and privileges acquired through membership therein and disqualification for any military office under the state. The names of all persons dishonorably discharged in any month shall be published by the adjutant general at the end of each month and a complete list thereof shall be kept posted in all the armories. No person so discharged shall be admitted to any armory or other meeting place of the guard or to the immediate vicinity of any encampment, drill or parade of troops. All commanding officers are hereby required to enforce these prohibitions. (2376).

**Sec. 27. Officers, when and how retired—marks for long service.**—Any commissioned officer of the national guard who

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

Sec. 28. **The national guard reserve.**—A national guard reserve shall be organized and maintained under such rules and regulations as the president of the United States may prescribe in accordance with the federal law.

#### PRIVILEGES.

Sec. 29. **Exemptions from jury duty—poll tax—civil process—execution, etc.**—During his term of service every officer and enlisted man of the national guard shall be exempt from poll or road taxes and from duty as a juror; and, if honorably discharged after five years of continuous service therein, he shall be exempt from jury duty forever. No member of the guard shall be arrested, or served with any summons, order, warrant or other civil process while going to, attending or returning from any place to which he is required to go for military duty; but nothing herein shall prevent his arrest by order of a military officer or for a felony or breach of the peace. And the uniforms, arms and equipments of such members shall be exempt from seizure or sale for debt. (2378).

Sec. 30. **Leaves of absence for certain state employees.**—All officers and employes of the state or subdivision or municipality thereof who shall be members of the national guard shall be entitled to leave of absence from their respective duties without loss of status, or efficiency rating, on all days during which they shall be engaged in field or coast-defense training or active service ordered or authorized under the provisions of federal or state law and without loss of pay or time for a period not exceeding fifteen days in any one year.

**Sec. 31. Protection for official acts—firing on mobs.**—The commanding officer of any militia force engaged in the suppression of an insurrection, the dispersion of a mob or the enforcement of the laws shall exercise his discretion as to the propriety of firing upon or otherwise attacking any mob or other unlawful assembly; and, if he exercise his honest judgment thereon, he shall not be liable in either a civil or a criminal action for any act done while on such duty. But no officer, under any pretense or in compliance with any order, shall direct or permit his men, or any of them, to fire blank cartridges upon any mob or unlawful assemblage, under penalty of dishonorable dismissal from the service. No officer or enlisted man shall be held liable in either a civil or a criminal action, for any act done under lawful orders and in the performance of his duty. (2379).

**Sec. 32. Security for costs, etc.**—Any person bringing an action or proceeding against a military officer of the state for any act done in the course of his official duty, or against any person acting under the order or authority of such officer, shall give security for the costs, disbursements and reasonable attorney's fees incurred by the defendant in defending the same, in the same manner and subject to the same regulations, so far as applicable, as in the case of a non-resident plaintiff. And if the plaintiff fails to recover, such attorney's fees may be taxed with the costs and disbursements and judgment therefor be entered against him and his sureties on the bond. (2380).

### INCORPORATION.

**Sec. 33. What bodies may incorporate—names.**—Each of the several organizations of the national guard may incorporate by filing with the secretary of state, a copy of its constitution duly adopted and approved by the adjutant general and in that case shall have power to acquire, hold, sell, lease, mortgage and convey such property, real and personal, as may be necessary or proper for carrying out the purposes of their organization. Any of them may sue and be sued by such name as it shall have adopted with the approval of the adjutant general, but no member of such corporation shall be personally liable for its acts, omissions, or debts. (2381).

**Sec. 34. Officers and directors—powers—by-laws.**—The commanding officer of the several organizations shall be president of such corporation, the next in command its vice-president and the junior officer, secretary. The board of directors of such corporation shall consist of said officers and the first sergeant, if a company or battery and a treasurer who shall be elected by a ballot and a majority vote at the annual meeting of the corporation. Each organization may adopt a constitution and by-laws for the government of its affairs, which shall be consistent



with this chapter and, with any amendments thereof, must have the approval of the regimental commander and be filed with the adjutant general before taking effect. All contracts shall be signed by the president and secretary and no money shall be expended except upon the order of the president; but the vice-president may act in place of the president when the latter is absent or disabled. (2382).

**Sec. 35. Existing corporations continued—property—by-laws.**  
—All corporations heretofore formed under the military code, shall continue as such, but their organization, powers, duties, and by-laws shall be conformed to the provisions of this chapter. The by-laws of a company or battery shall fix the membership dues and provide that its commanding officer shall be president, its first lieutenant vice-president, its second lieutenant secretary, and said officers with its first sergeant and a treasurer elected by the organization at its annual meeting in December, shall be ex-officio its board of directors; that a majority of the organization shall constitute a quorum for the purpose of election and that all elections shall be by ballot and a majority vote of those voting; that the following fines shall be imposed—for absence at regular drill meeting or parade, fifty cents; for tardiness or appearance thereat without full uniform and equipments, twenty-five cents; for absence or tardiness at drill or parade especially ordered or meeting for election of officers, one dollar; for absence or tardiness at annual inspection, seven dollars; for disobedience of standing orders or conduct prejudicial to military discipline, not more than two dollars in the discretion of the board of directors; that immediately after every drill meeting or parade the first sergeant shall report those delinquent to the board of directors with date and nature of the offense; that the secretary shall then give the delinquent at least two day's notice by mail to appear before such board at a time stated and show cause why he shall not be fined for the offense stated in such notice; that said board at the time noticed shall pass upon any excuse offered and if it finds a fine should be imposed assess the same against the delinquent; that the secretary shall at once charge any fine imposed against the account of such delinquent; that the treasurer shall immediately deposit all the funds of the organization in a bank to be designated by it, and in its name; that such funds shall be withdrawn from such bank only upon resolution of the organization or upon order of its president when approved by the regimental commander and then by the warrant of the secretary approved by the president and countersigned by the treasurer; or by a draft of the president, approved by the regimental commander; that the treasurer shall give bonds of not less than five hundred dollars, conditioned for the faithful discharge of his duties, with two sureties approved by the board;

that any member of the organization receiving any moneys for it or for any member thereof shall forthwith pay the same to the treasurer or (if so directed by the president), deposit the same to the credit of the organization in a bank designated to receive its funds, except that at the annual encampment, or in actual service the president may from the camp allowance of members incur and pay the organization's share of expense of such encampment or service and pay the balance only due the members respectively to the treasurer; that the president shall also give the secretary a statement of the balance due each member after deducting such expense; that the secretary shall credit each member with such balance and after deducting all dues and fines and charges for lost property, draw his warrant in favor of such member for the balance remaining, to be approved and countersigned as in other cases; that itemized semi-annual report of receipts and disbursements of the organization showing the balance on hand shall be made by the secretary and treasurer, approved by the board and certified by the president to the regimental commander before June 10 and December 10; that all books and records shall at all times be open for inspection by the president, regimental commander and adjutant and said commander and adjutant may attend all meetings of the organization or its board or committees. Upon the dissolution of any such corporation, by muster out or otherwise, all its property shall vest in the state; but the whole or any part thereof may be conveyed by the adjutant general, acting for the state, to a similar organization of the guard formed in the same locality. (2383).

### EQUIPMENTS.

**Sec. 36. Armament, equipment and uniform of the national guard.**—The national guard of the United States shall, as far as practicable, be uniformed, armed and equipped with the same type of uniform, arms and equipments as are or shall be provided for the regular army. They shall be procured and issued by the proper officers as the needs of the service may require and shall be accounted for as the regulations may prescribe. (2384-82).

**Sec. 37. Property and disbursing officer.**—The governor, pursuant to federal authority, shall appoint, designate, or detail subject to the approval of the secretary of war, an officer of the national guard who shall be regarded as property and disbursing officer for the United States. He shall receipt and account for all funds and property belonging to the United States in possession of the national guard of this state and shall make such returns and reports concerning the same as may be required by the secretary of war. He shall render, through the war department, such

accounts of federal funds intrusted to him for disbursement as may be required by the treasury department. Before entering upon the performance of his duties as property and disbursing officer he shall be required to give good and sufficient bond to the United States, the amount thereof to be determined by the secretary of war, for the faithful performance of his duties and for the safe-keeping and proper disposition of the federal property and funds intrusted to his care. The said property and disbursing officer shall also be the military storekeeper of the state. (2392-67).

**Sec. 38. Issue and distribution of arms, etc.**—Arms, accoutrements, ammunition and stores shall be issued to the proper officers of each regiment, upon requisition of the commanding officers thereof, under such regulations as the governor may prescribe. Such commanders shall cause the same to be issued to the company commanders under suitable directions. The governor may require of the accountable officers, such bonds as he deems necessary for securing the care and safety of property so issued and may allow them sufficient money to establish and maintain regimental depots, approved by him and to pay for the transportation, handling and care of such property, which allowance shall be paid out of the moneys appropriated for the purchase of supplies for the guard. (2386).

**Sec. 39. Same—distribution and return—forfeiture.**—The commanding officer of a company or battery receiving clothing or equipage so issued for the use of his command shall distribute the same as he deems proper, taking receipts and requiring the return of each article at such time and place as he shall direct. Every person failing to comply with such directions shall forfeit not to exceed double the price of the article withheld, which forfeiture the commanding officer may recover in a civil action. All sums so collected shall be paid into the state treasury and added to the current appropriation for the support of the guard. The proceeds of the sale or transfer of condemned and other military property shall be turned over to the state auditor and by him placed to the credit of the national guard fund to be used, under the direction of the adjutant general, in the purchase of similar property, or for other necessary expenses of the service. (2385).

**Sec. 40. Same—to sons of veterans.**—The adjutant general, in his discretion, may issue to any camp of the military organization known as the "sons of veterans, U. S. A." arms and accoutrements not in use, to a number not exceeding the active membership of such camp. Some member of the camp shall give bond to the state in the sum of at least twenty dollars for each rifle, conditioned for the return in good order, on demand, of all

property so issued. No such issue shall be made except on requisition of the captain of such camp approved by the division colonel. Any member of such camp who shall wilfully destroy or injure military property so issued or shall withhold the same for more than five days after its return has been requested, shall be guilty of a misdemeanor. (2387).

### DUTIES OF OFFICERS.

**Sec. 41. Adjutant general—powers and duties.**—The adjutant general shall be provided with an office in the capitol, where he shall keep his office records and all accounts and papers pertaining to the militia. He shall have general supervision, under the governor, of all military property of the state and keep accounts with and supervise the accounts of all officers having the immediate control thereof. And in addition to all other duties imposed upon the adjutant general by law or by the lawful directions of the governor, he shall act as the agent of all residents of the state having claims against the United States for pensions, bounty, or back pay, arising out of or by reason of any war or federal service and prosecute such claims without charge. The present seal of his office shall be continued in use until altered by direction of the governor. At the close of each fiscal year or oftener if required by the governor the adjutant general shall render a complete financial report of all state and federal receipts and disbursements, affecting his office. (2388).

**Sec. 42. Reports.**—The adjutant general and the officers of the national guard shall make such returns and reports to the secretary of war, or to such officers as he may designate, at such times and in such form as the secretary of war may from time to time prescribe.

**Sec. 43. Military storekeeper—duties.**—The military storekeeper shall be the armorer and property officer of the state. He shall preserve and keep in order the arms and other public property of the several departments and any camp equipage that may be placed in his care and shall account for the same through the adjutant general to the governor. (2392).

**Sec. 44. Other officers—duties.**—Except as otherwise provided in this chapter, all officers of the guard shall have the same powers and perform the same duties as officers of similar rank and position in the army of the United States. They are authorized to administer oaths in all matters connected with the service. (2393).

### TRAINING.

**Sec. 45. Discipline to conform to that of regular army.**—The discipline (which includes training) of the national guard shall

conform to the system which is now or may hereafter be prescribed by the congress of the United States. (2363-91).

Sec. 46. **Training.**—Each organization shall assemble for drill and instruction, including indoor target practice and participate in encampments, maneuvers and other exercises, including outdoor target practice at such times and places and for such periods as may be prescribed by the governor in accordance with the requirements of the federal law. (2394-2397-92).

Sec. 47. **Rifle and gun practice—competing teams—etc.**—The governor may establish special camps for advanced instructions in rifle and gun practice to be attended by officers and men who have attained a prescribed standard of marksmanship and who are selected for the purpose under suitable rules. From the participants who develop unusual proficiency therein, rifle and gun teams may be formed, which, with the approval of the adjutant general, may compete with like teams in or from other states under rules approved by him. The pay and allowance of officers and men while attending such practice or competition shall be at the rate prescribed for actual service. But no more than three thousand dollars shall be expended in any one year for all the purposes of this section (2395).

Sec. 48. **Encampments—field maneuvers—additional pay.**—The commander-in-chief shall order the national guard into camp each year for such period as he may direct. He may, in his discretion, order such organizations as he may deem proper, to parade for purposes of drill, review, or escort duty and prescribe all regulations and requirements therefor. The commander-in-chief may also provide for the participation of the national guard, or any portion thereof, in encampments or field maneuvers at such places as may be designated by the war department pursuant to any act of congress; and in such case the officers and the enlisted men attending the same shall receive, in addition to the pay and subsistence provided by the federal laws and regulations, the difference between such federal pay and state pay as provided by the military code for active service (2397).

Sec. 49. **Inspections.**—Whenever so ordered by the governor, the inspecting officer shall inspect every branch of the service and report the results thereof, giving the number of troops present, the condition of their arms, accoutrements and clothing, their proficiency in drill and such other information as may be required of or deemed proper by him. There shall be at least one inspection annually, at such time and place as the governor shall designate, at which the several organizations shall be exercised by their several commanders and be carefully counted by the inspection officer. A roll of each company, battery and headquarters, certified by the commander thereof,

shall be furnished prior to the inspection, showing the number of drills and other exercises in which each member has participated during the preceding twelve months. The forms and mode of inspection shall be prescribed by the adjutant general and all directions given by him in reference to the inspection shall be obeyed by the several officers of the guard. (2391).

**Sec. 50. Care of camp grounds, etc.—eminent domain.**—The adjutant general shall have charge of the camp grounds and military reservations of the state, keeping in repair all state buildings and other improvements thereon, including water pipes laid by the state on highways leading thereto and of all military property of the state connected with said grounds. He may make such further improvements thereon as the good of the service requires, but the expenditure of the state for all the purposes aforesaid shall not exceed three thousand dollars in any one year. Private property may be acquired by condemnation, upon the application of the adjutant general, for camp grounds, rifle ranges and other military purposes. All damages, cost and expense incurred in condemning such property shall be paid by the state treasurer, upon certificate of the adjutant general and warrant of the state auditor, from any unexpended balance of the military fund after meeting the demands of the national guard. (2398).

**Sec. 51. Molestation of guard, etc.**—Any person who interrupts, molests or insults by abusive words or behavior, or obstructs any officer or soldier of the national guard while on duty, either parade, drill or meeting for military improvement, may be immediately put and kept under guard until said duty is concluded, by the officer in command. Such officer may turn him over to any peace officer of the city or place where such drill parade or meeting is being held and such peace officer shall thereupon deliver such offender for examination and trial before any court having jurisdiction. Any person violating the provisions of this section shall be guilty of a misdemeanor. (2399).

**Sec. 52. Right of way.**—Organizations of national guard parading or on any authorized duty shall have the right of way on any street or highway through which they may pass against all, except carriers of the United States mail, fire engines and the police. (2400).

#### PAY AND ALLOWANCES.

**Sec. 53. Per capita allowance—military fund.**—The state shall pay annually to the officers hereinafter specified, seven dollars for each officer, non-commissioned officer, musician and other enlisted men of their respective organizations reported by the inspecting officer as fully uniformed and equipped. Said money shall be known as the military fund and shall be used only for

the purchase of uniforms, care of armories and other necessary expenses of the regiment, company or battery. But no such payments shall be made on account of any company or battery whose number, present at the inspection or satisfactorily accounted for, was below forty-six officers and enlisted men, or which has been mustered within thirty days before the inspection, or had held fewer than the required number of drills; nor on account of any company, officer or man not mustered at least thirty days before the inspection or who has not drilled or performed other military duty on an average of at least thirty days before the inspection or who has not drilled or performed other military duty on an average of at least twice a month during his membership, exclusive of camp duty and active service. Such payments on account of a headquarters, company or battery or detachment, shall be made to its commanding officer. All such payments shall be made upon the requisition of the officer entitled to receive the same, approved by the adjutant general. Any balance of said fund shall be paid over by the officer receiving it to his successor. (2401).

**Sec. 54. Allowance for care of property.**—There shall be paid to each quartermaster sergeant and chief mechanic, including quartermaster sergeants of headquarters companies, machine gun companies, supply companies and sanitary detachments, in charge of state or government property, the sum of ten dollars per month upon the certificate of his commanding officer that he has faithfully performed the duties of his office and accounted for all property entrusted to his care. Such payments shall be made quarterly upon vouchers approved by the adjutant general. Provided, however, that where two or more organizations are stationed in the same city and the regimental commander deems it for the best interest of the service, two or more allotments for the pay of quartermaster sergeants and chief mechanics under this section may be combined and paid to one or more men, designated by the regimental commander, whose duties in the care of public property shall be correspondingly increased. (2401).

**Sec. 55. For hire of artillery horses.**—To the commanding officer of each battery of artillery there shall also be paid by the state, annually, at or before the encampment, nine hundred and fifty dollars for horses and stable hire, and for the care and management thereof, including forage, medicines and stable help and one hundred dollars to the regimental commander for the same purposes. Provided, however, that where two or more batteries are stationed in the same city or in contiguous cities and the regimental commander deems it for the best interest of the service, he may designate an officer to supervise the care of the horses of two or more batteries and the management of the

joint stables and the allowances of such batteries under this section will thereupon be paid to the officer so designated and be disbursed by him for the purposes above named with the approval of the regimental commander. (2402).

**Sec. 56. Camp allowances.**—For each day's attendance at an encampment, or maneuver ordered by the governor, including the time necessarily consumed in travel, the enlisted men of the national guard shall receive pay at the rate now or hereafter provided for enlisted men of similar grade and term of enlistment in the regular army of the United States and in addition thereto the sum of one dollar per day besides transportation and shelter. If subsistence is furnished by the state the cost thereof, not to exceed fifty cents per day, shall be deducted from the pay of each enlisted man. The value of articles issued to any member of a company or battery and not returned in good order on demand, as well as his proportionate share of the subsistence of the company and other legal fines or forfeitures may be deducted from the member's pay by his commanding officer. Provided, that such payment shall be made only to the men present in full uniform and on duty at least five days. (2403).

**Sec. 57. Pay for actual service—how audited and paid.**—When called into active service by the governor, each enlisted man of the national guard shall be paid by the state the sum of fifty cents per day in addition to the pay and allowance provided in the preceding section for encampments and maneuvers, together with subsistence. If an artillery force be so employed, the necessary cost of horse hire and forage shall be paid by the state. In all such cases the pay rolls and expense bills shall be audited by the state auditor, attorney general and adjutant general, and paid upon their certificate out of the general revenue fund, and the necessary sum is hereby appropriated. (2404).

**Sec. 58. Pay of officers—allowances.**—Every commissioned officer of the national guard not salaried as such, shall receive from the state, while engaged in any service ordered by the governor, pay and allowance at the rate paid or allowed by law to officers of similar rank in the United States army. There shall also be paid annually to officers in actual command of troops, for incidental expenses, the following sums: to the brigade commander, and to the commanding officer of each regiment, two hundred and fifty dollars; to the commanding officer of a separate battalion, one hundred and fifty dollars; to the commanding officer of (each battalion, company or battery, the assistant adjutant general of the brigade, each regimental adjutant and the adjutant of) a separate battalion, one hundred dollars. Where the officers of the national guard are convened by the governor at an annual meeting of instruction, other than camp or active service, or where they are detailed



under orders from regimental headquarters for the purpose of holding a quarterly inspection outside of their own station, they shall be allowed for traveling and incidental expenses, the sum of three dollars per day, not to exceed two days, in addition to transportation. (2405).

**Sec. 59. Payments—How made.**—All payments provided for in the four preceding sections shall be made to the adjutant general by auditor's warrant issued upon his requisition, approved by the governor, or by like warrant to the officers entitled thereto upon their requisition approved by the adjutant general. The adjutant general, shall immediately pay and distribute the same to and among the several officers and commands entitled thereto; and the receipt of the commanding officer of a regiment, for the aggregate due to the various organizations, officers, and men thereof shall discharge him from liability. Any officer receiving such payments from the adjutant general shall be responsible for their proper distribution or use. (2406).

**Sec. 60. Salaries—etc.—assistants.**—The adjutant general shall receive a yearly salary of thirty-five hundred dollars, and may employ a stenographer at the cost of the state of not more than twelve hundred dollars per year. He may appoint an assistant at a salary of not exceeding sixteen hundred dollars per year, and a clerk at a yearly salary of twelve hundred dollars, who shall perform such duties as he may prescribe. He may also employ, from time to time, other necessary office assistants, for whose compensation provision shall have been specifically made by law. The salary of the military storekeeper shall be thirteen hundred and twenty dollars per year. All salaries and compensation herein referred to shall be paid by the state in monthly installments. In case of war, riot or insurrection such additional office help as is necessary may be employed, same to be paid from the amount appropriated for the maintenance of the national guard. (2409).

**Sec. 61. Appropriations.**—The appropriations made for the purpose of carrying out the provisions of this act shall not lapse at the end of any fiscal year; but all unexpended balances shall be added to the appropriation made for the ensuing year. All disbursements from such appropriation shall be made upon auditor's warrants issued upon vouchers approved by the adjutant general. (2407).

**Sec. 62. Civil war muster rolls.**—The adjutant general shall keep compiled, from the original muster rolls in his office and such additional sources as he can command, a complete alphabetical list of the Minnesota volunteers in the civil war and shall include therein the military history of each man as shown

by such rolls. Thereafter the original rolls shall be placed in suitable metal boxes for safekeeping, and the compilation so made shall be used in their place for all practicable purposes. (2408).

#### MILITARY OFFENSES AND TRIALS.

**Sec. 63. Military offenses defined.**—A military offence includes any delinquency or violation of the laws, rules, regulations or orders governing the militia or national guard, as well as those governing the army and navy of the United States, applicable to the militia or national guard, and the offences herein enumerated shall be defined as similar offenses are defined in the articles of war and laws and regulations governing the United States army. (2410).

**Sec. 64. Military offenses enumerated.**—The following delinquencies are hereby declared to be military offenses and the delinquents will be punished by court-martial as hereinafter provided:

1. Wilful disobedience of orders, or aiding or abetting others therein.
2. Insult or disrespect to superiors.
3. Mutiny, desertion, or cowardice.
4. Drunkenness on duty.
5. Neglect of duty, or leaving post or command.
6. Making a false report, muster, account, certificate, or return.
7. Conduct to the prejudice of good order and military discipline.
8. Oppression of any under his command.
9. Embezzlement or misappropriation of military or company funds, or wrongful conversion of military property.
10. Wasting, injuring or destroying military property.
11. Conduct unbecoming an officer and a gentleman.
12. Wrongfully disclosing or making improper use of a watchword or parole.
13. Disobedience of standing orders.
14. Fraudulent enlistment, or aiding or abetting others therein.
15. Removing or secreting uniform or other military property without permission from competent authority.
16. Wearing uniform or equipment while not on duty without permission from competent authority.
17. Selling or disposing of military property without lawful authority.

18. Non-attendance or tardiness at any drill, parade, encampment, inspection, or other duty ordered by competent authority.

19. Absence, without leave, from company station (each day).

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

21. Any other violation of the laws, regulations, or orders governing the national guard, as well as articles of war governing United States army, consistent with this act. (2410-2413).

**Sec. 65. Injury, etc.—of military property.**—Arms, uniforms, and accoutrements issued by the state, or purchased with military funds, shall be used only by members of the guard, and by them only in the discharge of military duty. Every person, whether a member of the guard or not, who shall wilfully or wantonly injure, destroy, withhold, sell or dispose of any article so issued, or refuse to deliver or pay for the same upon lawful demand; shall be guilty of a misdemeanor. (2414).

**Sec. 66. System of courts-martial for national guard.**—Courts-martial in the national guard shall be of three kinds, namely, general courts-martial, special courts-martial, and summary courts-martial. They shall be constituted like, and have cognizance of the same subject, and possess like powers, except as to punishments, as similar courts provided for by the laws and regulations governing the army of the United States, and the proceedings of courts-martial of the national guard shall follow the forms and modes of procedure prescribed for said similar courts. (2415, 2417, 2421).

**Sec. 67. 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 chapter. (2422).

**Sec. 68. General courts-martial.**—General courts-martial of the national guard may be convened by orders of the President of the United States, or of the governor, and such courts shall have the power to impose fines not exceeding \$200; to sentence to forfeiture of pay and allowances; to a reprimand; to dismissal or dishonorable discharge from service; to reduction of non-commissioned officers to the ranks; or any two or more of such punishments may be combined in the sentences imposed by such courts. (2417, 2439, 2440).

**Sec. 69. Special courts-martial.**—The commanding officer of each garrison, fort, post, camp, or other place, brigade, regiment, detached battalion, or other detached command, may appoint special courts-martial for his command; but such special courts-martial may in any case be appointed by superior authority when by the latter deemed desirable. Special courts-martial shall be power to try any person to military law, except a commissioned officer, for any crime or offense made punishable by the military laws of the state or of the United States, and such special courts-martial shall have the same powers of punishment as do general courts-martial, except that fines imposed by such courts shall not exceed \$100. (2418, 2439, 2440).

**Sec. 70. Summary courts.**—The commanding officer of each garrison, fort, post, or other place, regiment or corps, detached battalion, company, or other detachment of the national guard may appoint for such place or command a summary court to consist of one officer, who shall have power to administer oaths and to try the enlisted men of such place or command for breaches of discipline and violations of laws governing such organizations; and said court, when satisfied of the guilt of such soldier, may impose fines not exceeding \$25 for any single offense; may sentence non-commissioned officer to reduction to the ranks; may sentence to forfeiture of pay and allowances. The proceedings of such court shall be informal, and the minutes thereof shall be the same as prescribed for summary courts of the army of the United States. (2419, 2421, 2439, 2440).

**Sec. 71. Imprisonment.**—All courts-martial of the national guard including summary courts, shall have power to sentence to confinement in lieu of fines authorized to be imposed: Provided, that such sentence of confinement shall not exceed one day for each dollar of fine authorized. (2441).

**Sec. 72. 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. (2442).

**Sec. 73. Dismissal of officers.**—No sentence of dismissal from the service or dishonorable discharge, imposed by a national guard court-martial, shall be executed until approved by the governor. (2443).

**Sec. 74. 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-commissioner 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. (2423).

**Sec. 75. Powers of military courts.**—Presidents of courts-martial and summary court officers shall have power to issue warrants to arrest accused persons and to bring them before the court for trial whenever such persons shall have disobeyed an order in writing from the convening authority to appear before such court, a copy of the charge or charges having been delivered to the accused with such order, and to issue subpoenas and subpoenas duces tecum and to enforce by attachment attendance of witnesses and the production of books and papers, and to sentence for a refusal to be sworn or to answer as provided in actions before civil courts. All military courts shall have power to administer oaths; to hear and determine cases; and, when satisfied of the guilt of the accused, to adjudge the punishment to be inflicted and, when approved, to enforce the sentence as hereinafter provided. (2432).

**Sec. 76. 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. (2452).

**Sec. 77. Courts of inquiry.**—Courts of inquiry, to consist of from one to three officers, may be instituted by the governor for the purpose of investigating the conduct of any officer, or any facts made the subject of military complaint. Such court of inquiry shall, without delay, report a statement of facts and, when required, the evidence adduced and an opinion thereon to the governor, who may, in his discretion, thereupon order a court-martial for the trial of the officer whose conduct has been inquired into. (2416).

#### PROCEDURE OF COURTS-MARTIAL.

**Sec. 78. 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. (2424).

**Sec. 79. 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. (2425).

**Sec. 80. Charges to be approved.**—No charges shall be acted upon until approved by the commanding officer of the regiment of which the accused is a member, or by the brigade commander. (2426).

**Sec. 81. Arrest.**—Officers and enlisted men against whom charges may be preferred or contemplated, may be placed in arrest and if enlisted men, in confinement, at the discretion of their commanding officer. Provided, however, that such arrest shall cease at the expiration of twenty days unless a copy of the charges is served as hereinafter provided. (2427).

**Sec. 82. 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, or by mailing the same to him at least five days before the date set for his appearance. The appearance of the accused shall waive any irregularity in the service of such papers. (2428).

**Sec. 83. Warrant.**—Upon proof of service of such summons or of mailing the same, and default of the 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 the order of the court. The court, in its discretion, may also appoint some other suitable person to execute said warrant. (2429).

**Sec. 84. Procedure.**—The forms, practice and procedure of courts of inquiry, general and special courts-martial, as well as of summary courts, shall conform as nearly as consistent with the provisions of this act to the procedure of similar courts in the army of the United States. In summary courts of evidence of statements will not be recorded, and a judge advocate may be dispensed with. (2430-102).

**Sec. 85. 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 ten days and until the officer's fees for committing and the jailor's fees be paid. Such officer 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 jailor's fees be paid, or until the offender shall be discharged by due course of law, unless sooner discharged by a judge of the 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. (2433).

**Sec. 86. 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. (2434).

**Sec. 87. Irregularities.**—The proceedings of military courts shall not be vitiated by reason of mere irregularity, want of form or other technical defect, unless it is affirmatively made to appear, upon review or appeal, that the accused has been denied a fair hearing and has been materially injured thereby. In all cases where the sentence of a military court has been approved by the reviewing authority, the jurisdiction of said court and the legality of all its proceedings shall be presumed and on approval of such sentence, or in any civil proceedings, the burden of rebutting such presumption by competent evidence shall rest with the appellant or contestant in any such appeal or civil proceedings. (2435).

**Sec. 88. Evidence.**—Military courts are not bound by the technical rule of evidence prevailing in civil tribunals and may depart therefrom when in their opinion the exigencies of the case, the best interests of the service or the ends of justice demand it.

Copies of all general and special orders may be received in evidence when attested by the signature of any officer having custody of an official copy of such order; and in case a written copy of such order cannot be procured without delay or inconvenience, oral testimony as to its contents may be received and all military courts may take judicial notice of the signature and handwriting of any commissioned officer of the national guard. (2436).

**Sec. 89. Judge Advocates.**—The powers and duties which are conferred upon the judge advocates by the laws and regulations governing the United States army, are hereby conferred on 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. (2437).

**Sec. 90. 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." (2438).

**Sec. 91. 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. The reviewing officer shall approve or disapprove the sentence and may modify, mitigate or remit the same or may return the record for revisions 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. (2443).

**Sec. 92. Unpaid fines.**—In default of payments 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 each dollar of fine imposed. (2441).

**Sec. 93. Warrant of commitment.**—If the fine and costs imposed by the court are not paid to the presiding officer, judge advocate or other officer authorized to receive the same, within five days after notice to the accused or promulgation of the orders approving the sentence, the president or other officer of the court shall issue his warrant of commitment of such delinquent offender, commanding the sheriff or any constable to whom such warrant is delivered to forthwith take the body of said offender and convey him to the common jail of the county designated in said warrant, there to remain confined during the term of said sentence as set forth in said commitment or until sooner discharged by competent authority and to make a due



return of his doings thereon. Such warrant of commitment may be substantially in the following form.

The State of Minnesota:

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

Greeting:

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

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

Dated at \_\_\_\_\_ this day of \_\_\_\_\_ 19\_\_\_\_

Presiding at said court, (2444).

**Sec. 94. 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. (2445).

**Sec. 95. 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 process of a military court, or make a false return thereon, shall be guilty of a misdemeanor and in addition to the penalties attaching thereto, shall forfeit fifty dollars for each 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 other commander in whose jurisdiction the court warrant or mandate has been disobeyed, for the benefit of the military fund of such regiment or other unit. (2446).

**Sec. 96. Fees of civil officers.**—Civil officers executing the warrants or process of a military court shall receive, as compen-

sation therefor, the fees allowed by law for like service 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 officers unless an itemized statement thereof is endorsed on and forthwith returned with such warrant or process to the court issuing the same. (2447).

Sec. 97. **Return of record.**—In all cases military courts shall return the records 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. (2451).

Sec. 98. **Repeals.**—All acts and parts of acts inconsistent with this act are hereby repealed. Sections 2351 to 2452, both inclusive of the General Statutes of Minnesota, 1913, are specifically repealed.

Sec. 99. **When to take effect.**—This act shall take effect and be in force from and after its passage.

Approved April 20, 1917.

#### CHAPTER 401—S. F. No. 512.

*An act legalizing as a mortgage or security for debt any instrument relating to real estate made prior to January 1, 1916, which is absolute in form but given and intended as security for a debt and in which the fact that it is so intended and the amount of such debt are not expressed.*

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

Section. 1. **Certain mortgage legalized.**—That any instrument made and recorded prior to January 1, 1916, which is absolute in form but given and intended as a mortgage or security for a debt and in which the fact that it is so intended and the amount of such debt are not expressed and upon which instrument the mortgage registration tax has been paid, is hereby legalized and made as valid and effectual to all intents and purposes and of the same force and effect in all respects, for the purpose of notice, evidence, validity, as a mortgage or security, foreclosure, cancellation or otherwise, as if such instrument had contained a statement that it was intended as security and the amount of the debt thereby secured; provided that nothing in this act shall be held to apply to any action heretofore commenced or now pending in any of the courts of this state.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved April 20, 1917.