

1944 Supplement
To
Mason's Minnesota Statutes, 1927
and
Mason's 1940 Supplement

Containing the text of the acts of the 1941 and 1943 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

Edited by
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subdivision 1, are hereby extended, with respect to the same individuals, and for the same period, as provided in said subdivision, and for a further period of six months; and the limitations of time for the commencement of action to collect any tax, penalty or interest from such individuals are hereby extended for a period ending six months after the expiration of the time for assessment as herein provided. For the purpose of this subdivision the period of six months after termination of service in the Armed Forces, as provided in Subdivision 1, shall not begin to run until written notice of such termination is filed with the Commissioner of Taxation.

Subdivision 4. Construction of act.—Nothing in this section shall be construed as reducing any period of time provided by the laws set forth in subdivision 1, within which any act is required or permitted to be done.

Subdivision 5. Limitation of act.—The provisions of subdivision 1 shall not extend the time for performing any of the acts therein set forth beyond the expiration of three months after the appointment of an executor, administrator, or guardian, in this state, for any individual described therein.

Subdivision 6. Application of act.—This section shall apply to all periods of limitation which expire after the passage of this act. If any such period has expired prior to the passage of this act, and subsequent to December 7, 1941, and the right of any individual described in subdivision 1 of this section is barred thereby, the said period of limitation is hereby revived and extended as provided in this section, and any taxes, penalty or interest assessed contrary to the provisions of subdivision 2 of this section shall be abated. (Act Mar. 6, 1943, c. 107, §3.) [290.65]

CHAPTER 12

Military Code

Editorial note:—Remedies against soldiers and sailors, including draftees, are affected by the Selective Training and Service Act of 1940, §13, and the new Soldiers' and Sailors' Civil Relief Act of 1940. See page I of this Supplement.

MILITIA

2395. Military code.

Acquisition of land for military or naval training purposes. Laws 1941, c. 496.

2397. What are Military Forces.—Subdivision 1. **Definitions.**—The term "military forces" shall include the National Guard, the Naval Militia, and any other organizations or components of the organized militia.

Subdivision 2. Definitions.—The designation "company," as used in this act, shall be understood and construed to include a company of infantry, engineers, signal corps, a flight of the air service, a battery of field artillery, a troop of cavalry, or any similar organization in any branch of the military service authorized by federal law for this state, including a permanent detachment of the medical department attached to a line or staff organization, a field hospital, or a headquarters detachment. The designation, "battalion," applies in like manner to squadron of cavalry and air service.

Subdivision 3. Definitions.—"Active service" shall be understood and construed to be service on behalf of the state, in case of public disaster, war, riot, tumult, breach of the peace, resistance of process, or whenever the same is threatened, whenever called upon in aid of civil authorities, at encampments whether ordered by state or federal authority, or upon any other duty requiring the entire time of the organization or person. "On duty" shall include periods of drill and such other training and service as may be required under state or federal law, regulations or orders.

Subdivision 4. Definitions.—The terms, "in the service of the United States" and "not in the service of the United States," used herein shall be understood to mean and be the same as such terms are used in the National defense act of congress approved June third, nineteen hundred sixteen and amendments thereto. (As amended Act Mar. 6, 1943, c. 108, §1.)

2399. Militia—Who compose—Exemptions.—Subdivision 1. 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, when so authorized by federal law, who shall be 18 or more years of age, and, except as otherwise provided, not more than 45 years of age; provided,

that the governor may, when he deems it necessary for the defense of the state, extend the maximum age for militia service to not more than 64 years.

Subdivision 2. Classes.—The militia shall be divided into two classes, the organized militia and the unorganized militia. The organized militia shall consist of the following:

- (1) the national guard;
- (2) the naval militia;
- (3) the state guard, which shall comprise all organized components of the militia except the national guard and the naval militia.

The unorganized militia shall consist of all other members of the militia.

Subdivision 3. May enlist female citizens.—The governor may authorize the appointment or enlistment of female citizens of the state in the medical corps, nurse corps, and other noncombatant branches and services of the organized militia, and while so serving they shall have the same status as male members of the military forces.

Subdivision 4. Exemptions from military duty.—The officers, judicial and executive, of the government of the United States and of the states; persons in the military or naval service of the United States; custom house 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 and mariners actually employed in the sea service of any citizen or merchant within the United States, shall all be exempt from militia duty without regard to age, and all persons who because of religious beliefs 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 non-combatant. (As amended Mar. 6, 1943, c. 108, §2.)

Subdivision 5. Exemptions from military duty.—The officers, judicial and executive, of the government of the United States and of the states; persons in the military or naval service of the United States; custom house 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 and mariners actually employed in the sea service of any citizen or merchant within the United States, shall all be exempt from militia duty without regard to age, and all persons who because of religious beliefs 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 non-combatant. (As amended Mar. 6, 1943, c. 108, §2.)

Purchase of materials. State v. Gravlin, 209M136, 295 NW654. See Dun. Dig. 6118.

After a Filipino not born in the United States has declared his intention to become a citizen of the United States, he may enlist in the service of the state, but not in the service of the United States. Op. Atty. Gen. (310), Aug. 26, 1942.

City employees who are members of state guard are entitled to military leave with pay while attending field training activities under orders issued by Adjutant General. Op. Atty. Gen. (319h-1-a), June 30, 1943.

2400 to 2403. [Repealed.]

Repealed. Laws 1943, c. 108, §44.

2404. Governor may call Militia.—The governor, whenever he deems it necessary for any purpose authorized by the state constitution or by law, may be [sic] public proclamation call out the militia or such part or number thereof as he may designate for military duty in the service of the state, and may provide for the enrollment, assembly, and muster into service by voluntary enlistment or by draft, as he may determine, of the militiamen so called out. For that purpose the governor may make orders and regulations and enforce the same, appoint all necessary officers and fix their compensation, and may require all proper public officers to perform such duties as he may direct. (As amended Mar. 6, 1943, c. 108, §3.)

Purchase of materials. *State v. Gravlin*, 209M136, 295 NW654. See Dun. Dig. 6119.

2405. Service — Duration — Organization — Age.—Subdivision 1. **Enlistment, period of.**—Militiamen called out for duty shall be mustered at once into the service of the state for such period as the governor shall direct, not exceeding the duration of the war or other occasion for which they were called out and for six months thereafter.

Subdivision 2. **Laws and regulations of National Guard to apply.**—Except as otherwise expressly provided, all the military forces shall be organized as prescribed for organization of the national guard at the time, and shall be officered, equipped, trained, and commanded according to the laws and regulations governing the national guard, as nearly as practicable, and all laws relating to the national guard or to the duties, rights, privileges, or immunities of the members thereof shall apply to and govern the other military forces and the members thereof, so far as applicable; provided, that the age limits for initial appointment of officers in the federally recognized national guard shall not apply to officers of the other military forces.

Subdivision 3. **Pay and allowances.**—Except as otherwise expressly provided, the pay and allowances of the officers and enlisted personnel of all branches of the military forces on active duty in the service of the state shall be the same as provided for the national guard when on such duty.

Subdivision 4. **May receive arms, equipment, etc., from federal government.**—The governor may receive from the federal government any arms, equipment, munitions, supplies, and other grants for the use of the military forces of the state that may be available.

Subdivision 5. **Uniform.**—The military forces shall be uniformed in such manner as the governor may prescribe, subject to federal laws or regulations.

Subdivision 6. **Governor may organize forces.**—Without limiting any power otherwise conferred on the governor, whenever any part of the national guard of this state has been or is about to be called or ordered into active federal service, and until such service or the occasion therefor has terminated and all units of the national guard engaged therein have been relieved therefrom and have returned and become available for duty within the state, the governor may organize from the militia and maintain within the state such forces as he deems necessary. (As amended Mar. 6, 1943, c. 108, §4.)

Laws governing the National Guard are applicable to the Minnesota Defense Board organized by order of governor when National Guard was called into training service by the United States so far as may be necessary to enable that force to perform its proper function, which comprised defense or relief of the state, enforcement of its law, and protection of life and property, under the command of the governor. *Op. Atty. Gen.* (310h), May 9, 1941.

2406. Deserter.—Every militiaman who, being accepted as a volunteer or duly drafted, fails without reasonable excuse to report for muster as lawfully required, shall be considered and treated as a deserter. (As amended Act Mar. 6, 1943, c. 108, §5.)

2406-1. Construction of act.—Nothing in this act shall be construed as authorizing the military forces

of the state or any part thereof to be called, ordered, or in any manner inducted as such into the military service of the United States, except the national guard and other forces expressly made subject to such service by state or federal law; but no person shall by reason of his enlistment or commission in the military forces of the state be thereby exempted from military service under any law of the United States. (Act Mar. 6, 1943, c. 108, §6.)

[191.08]

2406-2. To include all military forces.—All organized components of the militia existing at the time of the passage of this act, except the national guard and the naval militia, shall be included in and become part of the state guard, and shall be subject to the provisions hereof, so far as applicable. (Act Mar. 6, 1943, c. 108, §7.)

[191.09]

2406-3. May enter other states in pursuit of duties.

—Subdivision 1. In case the United States is at war or in case of any other emergency declared by the president or the congress of the United States or by the governor or the legislature of this state, any organization, unit, or detachment of the military forces of this state, by direction of the governor and upon order of the officer in immediate command thereof, may continue in fresh pursuit of insurrectionists, saboteurs, enemies, or enemy forces beyond the borders of this state into another state until they are apprehended or captured by such organization, unit, or detachment, or until the military or police forces of such other state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture the persons pursued, provided such other state shall have given authority by law for such pursuit by such forces of this state. Except as otherwise provided by law, any person who shall be apprehended or captured in another state by any of the forces of this state shall without unnecessary delay be surrendered to the military or police forces of the state in which he is taken or to the United States, but such surrender shall not constitute a waiver by this state of its right to extradite or prosecute such person for any crime committed in this state.

Subdivision 2. **Military forces of other states may enter state.**—Any military forces of another state who are in fresh pursuit of insurrectionists, saboteurs, enemies, or enemy forces may continue such pursuit into this state until the military or police forces of this state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture the persons pursued, and the pursuing forces may arrest or capture such persons within this state while in fresh pursuit. Any such person who shall be captured or arrested by the military forces of such other state while in this state shall without unnecessary delay be surrendered to the military or police forces of this state to be dealt with according to law.

Subdivision 3. **Construction of act.**—This section shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful, nor to repeal or prevent the application of any of the provisions of the uniform act on the fresh pursuit of criminals. (Act Mar. 6, 1943, c. 108, §8.)

[190.025]

2407. Governor to be commander-in-chief of military forces; etc.

Purchase of materials. *State v. Gravlin*, 209M136, 295 NW654. See Dun. Dig. 6118.

2408. Adjutant General—Appointment—Qualifications.—There shall be an adjutant general of the state who shall be appointed by the governor, who shall be a staff officer, who at time of appointment shall be a commissioned officer of the national guard of this state, with not less than ten years' military service in the armed forces of this state or of the United

States, at least three of which shall have been commissioned, and who shall have reached the grade of a field officer. He shall hold office as provided in Section 110, Act of Congress approved June 3, 1916, and shall not be removed from office except as provided by the military laws of this state. (As amended Mar. 6, 1943, c. 108, §9.)

2409. Minnesota National Guard—Who compose.—The Minnesota National Guard shall consist of the regularly enlisted militia within the ages prescribed by federal law and regulations, organized, armed, and equipped as hereinafter provided, and of commissioned officers and warrant officers within the ages and having the qualifications prescribed by federal law and regulations. The term, "national guard," shall apply only to militia organized as a land force. The number of officers and enlisted men of the national guard shall be fixed from time to time and organized so as to meet the requirements of the federal laws. (As amended Act Mar. 6, 1943, c. 108, §10.)

2413. Officers and enlisted men of staff corps and departments—Numbers and grade.—The number and grades of officers and enlisted men in the state staff and detachment shall be as prescribed by federal law, but in case of war, invasion, insurrection, riot or imminent danger of either, the governor may temporarily increase such force to meet such emergency, and retired officers who are physically qualified may be assigned to such duty. All officers appointed to the state staff shall have had previous military experience and shall hold their positions until they shall have reached the age of 64 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 national guard. (As amended Mar. 6, 1943, c. 108, §11.)

2414. Staff corps—Officers—How appointed.—The officers of the state staff and detachment shall be selected and appointed by the adjutant general and commissioned by the governor. The enlisted men shall be recruited and warranted by their respective chiefs. (As amended Mar. 6, 1943, c. 108, §12.)

2414-1. Periods of enlistment—Form of enlistment contract—Units. Subdivision 1: **Period of enlistments.**—Except as otherwise provided herein or by federal law, original enlistments in the military forces shall be for a period of three years and subsequent enlistments for periods of one or three years. The governor may by order fix shorter periods of enlistment or re-enlistment for any of the military forces so far as not inconsistent with federal law. In the event of an emergency wherein the governor has called out any of the military forces, he may by order extend for not exceeding the duration of the emergency and 60 days thereafter the period of any enlistment in the forces called out which would otherwise expire.

Subdivision 2. **Form of enlistment contract.**—Every person enlisting in the military forces shall sign an enlistment contract in the form prescribed by the adjutant general, and shall subscribe to the following oath or affirmation: "I hereby acknowledge to have voluntarily enlisted this..... day of, 19....., as a soldier in the..... for the period of three (or one) year.. under the conditions perscribed by law, unless sooner discharged by proper authority. And I do solemnly swear that I will bear true faith and allegiancé to the United States of America and the State of Minnesota; that I will serve them honestly and faithfully against all their enemies whomsoever; and that I will obey the orders of the President of the United States and of the Governor of the State of Minnesota and the officers appointed over me, according to law and the rules and articles of war"; pro-

vided, that the words "the President of the United States and of" shall be omitted in the case of persons enlisting in forces not subject to federal service.

Subdivision 3. **Societies, etc., not to be enlisted as unit.**—No civil association, society, club, post, order, fraternity, brotherhood, union, league, or other organized body shall be enlisted in the military forces as a unit. (Act Mar. 6, 1943, c. 108, §13.) [192.205]

2422. Dishonorable discharges.—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 shall be published in orders by the adjutant general quarterly. (As amended Act March 6, 1943, c. 108, §14.)

2423. Retirement of commissioned officers. Subdivision 1. **Federal law to regulate vacations of commissions.**—Commissions of national guard officers shall be vacated as provided by federal law.

Subdivision 2. **Retired or disabled officers may wear uniform in certain cases.**—Any commissioned officer of the national guard who resigns or is retired and 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 90 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, shall, upon his retirement 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 when not in conflict with federal law, on state or other occasions of ceremony, the uniform of the rank last held by him.

Subdivision 3. **Service medals.**—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 thereafter; and medals to be awarded for valor, for distinguished service, and for good conduct. He may also authorize the issuance, under regulations to be prescribed by him, of suitable service ribbon bars to be awarded to officers and enlisted men who have served in the military forces of the state during periods of war or other declared emergencies, provided, that such bars shall not be awarded for service for which service medals or bars are authorized by federal authority. (Act Mar. 6, 1943, c. 108, §15.)

2424. Exempt from jury duty. Members of Minnesota Defense Board are exempt from jury duty during their terms of service, the same as members of the National Guard, but this does not extend to the lifetime exemption from jury duty granted to members of the National Guard who are honorably discharged after five years of service. Op. Atty. Gen. (310h), May 3, 1941.

2425. State and municipal officers; etc. [Repealed.]

Repealed. Laws 1941, c. 120, §6. Said chapter 120 prescribes conditions for leaves of absences to public officers and employees serving in the military or naval forces of the government.

A teacher under contract called into active service in national guard or officers' reserve corps is entitled to a military leave of absence without pay, and to be reinstated within a reasonable time after termination of active military service, and another teacher may be hired as a substitute in the interim. Op. Atty. Gen. (172c-2), Sept. 6, 1940.

Absence for military service is a leave of absence without pay and upon employee's restoration to status, he may continue his membership in the retirement fund, as

provided by law and rules thereunder. Op. Atty. Gen. (331a-9), Sept. 20, 1940.

2431. Compensation—How paid.—Compensation, payable quarterly, may be paid, under orders of the governor, to either the dependent widow, minor children, or parent of any member of the military forces who may die from disease contracted or injuries received or who may be killed while in active service. All claims for compensation under this section shall be acted on by the adjutant general. In all cases arising under this section, the amount allowed and the duration of the payment shall be that provided by the Workmen's Compensation Law as now or hereafter in force based on the member's usual earnings in civil life. If there be no evidence of previous occupation or earnings, compensation shall be based on the member's earnings as a soldier. (As amended Act Mar. 6, 1943, c. 108, §16.)

2438a. State Guard and Auxiliaries to retain uniforms, etc., in certain cases.—The Adjutant General is authorized to permit members of the State Guard and its Auxiliaries who have served a term of enlistment of two years or more, and at the conclusion of the present war, to retain the articles of the uniform normally issued to such personnel, provided, however, that such articles of the uniform shall not include field equipment, arms, or ammunition. The Adjutant General at his discretion may sell to personnel of the State Guard at cost price, less fair wear and tear, such arms and ammunition as is not required for other purposes. (Act Apr. 1, 1943, c. 244, §1.)

[192.435]

2438b. Same—Adjutant General to be relieved of responsibility.—When such articles of the uniform and items of equipment and arms have been so issued or sold, as the case may be, the Adjutant General shall stand relieved of further accountability and responsibility in connection therewith and such articles and items shall be dropped from the stock record account of the State Quartermaster. (Act Apr. 1, 1943, c. 244, §2.)

[192.435]

2441. Records of Veterans' War Service.—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 compile and maintain individual records of every Minnesota resident who served or participated in the Civil War, Spanish-American War, Philippine War, Mexican Border service, Indian Wars, the first World War, and subsequent wars, and shall include therein the military history of each man, as may be obtainable. For the purpose of collecting the data herein provided for, the adjutant general may expend not to exceed five thousand dollars (\$5,000) for the appropriation for the maintenance of the national guard for the fiscal years 1919-1920 and 1920-1921, provided that none of this money shall be used for salaries. Thereafter, the records shall be placed in suitable metal boxes for safekeeping, and the compilation so made shall be used in their place for all practical purposes. (As amended Act Mar. 6, 1943, c. 108, §17.)

2441-1. Muster rolls legalized. [Repealed.]

Repealed. Laws 1943, c. 108, §44.

2446. Training, Assembly for.—Each organization shall assemble for drill and instruction, including indoor target practice, and shall 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 state or federal law. (As amended Act Mar. 6, 1943, c. 108, §18.)

2447. Rifle practice—Competition.—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 national, interstate or state competitions under rules approved by him. The pay and allowance of officers while attending such practice or competition shall be at the rate prescribed for active service. In order to make it possible for enlisted men of the national guard to attend interstate and national rifle competitions, the adjutant general may pay to such enlisted men detailed as members of any such team the same pay as is allowed for second lieutenants of the national guard for duty at encampments. But no more than five thousand dollars shall be expended in any one year for all the purposes of this section. (As amended Mar. 6, 1943, c. 108, §19.)

2448. Encampments, Drills.—The commander-in-chief may order the military forces or any part thereof into camp each year for such period as he may direct, and shall also provide for their participation in encampments or field maneuvers at such places as may be designated by the federal government pursuant to any act of congress. He may, in his discretion, order such organization as he may deem proper, to parade for purposes of drill, review, or escort duty and prescribe all regulations and requirements therefor. (As amended Act Mar. 6, 1943, c. 108, §20.)

2448-1. May lease or lend military camp grounds.—The adjutant general, with the approval of the governor, may in time of war or other declared emergency lease or lend to the federal government any or all of the military camp grounds or reservations of the state together with such buildings and installations thereon as may be agreed upon, for a period not to exceed the duration of the war or emergency and six months thereafter. In such case the adjutant general may lease for a like period other suitable property for the use of the state quartermaster's department and for camp or maneuver grounds, as may be necessary for the supply and training of the military forces of the state. (Act Mar. 6, 1943, c. 108, §21.)

[190.115]

2452. Military forces not to be restricted by traffic regulations.—The military forces of the United States and of the state, the adjutant general and general officers of such forces with official insignia displayed, while on any authorized duty, shall not be restricted by state or municipal traffic regulations, and 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 police vehicles. (As amended Mar. 6, 1943, c. 108, §22.)

2453. Pay of enlisted men for active duty.—In all cases where any of the military forces are called into active service by the governor and where no funds otherwise appropriated are available therefor, or where the appropriated funds, if any, are insufficient, the pay rolls of officers and enlisted men and expense bills shall be audited by the state auditor, the commissioner of administration and the adjutant general, and paid upon their certificate out of the general revenue fund, and the necessary sums are hereby appropriated. (As amended Mar. 6, 1943, c. 108, §23.)

2454. Pay of officers. Subdivision 1. Pay and allowances of officers and organizations.—Every commissioned officer of the military forces 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 and length of service in the United States Army.

Subdivision 2. Uniforms to be supplied.—Every commissioned officer of the military forces at the time when he is first commissioned shall receive an initial uniform clothing allowance of not to exceed \$100.00 for authorized articles of uniform and equipment. Subsequent thereto, he shall receive an annual maintenance clothing allowance of \$25.00. The adjutant general may also issue to such officers from time to time any available articles of uniform and equipment suitable for field work, when he believes it expedient. Articles so issued shall be charged to the officer and shall be accounted for by him as provided in regulations.

Subdivision 3. Adjutant General to pay necessary expenses.—The necessary military expenses of all organizations, units, or detachments of the military forces, including clerk hire, office supplies, postage, and other actual outlay, shall be paid by the adjutant general out of the funds appropriated for the maintenance of the military forces on vouchers duly sworn to by the commanding officer or the officer charged with the payment of such expenses, such expenses in no event to exceed \$500.00 a year for each brigade headquarters, \$2,000.00 per year for each division headquarters and each regimental headquarters, \$500.00 for each battalion headquarters not a part of a regiment with headquarters within the state, and \$100.00 for incidental expenses of each company, battery or detachment, and at the time of the annual encampment or maneuvers, for each division or camp headquarters mess \$200.00, for each brigade headquarters mess \$100.00, for each regimental mess \$200.00, and for each separate battalion or squadron headquarters mess \$100.00. A record of all disbursements under this section shall be kept and audited as prescribed by the commander-in-chief in orders or regulations. (As amended Mar. 6, 1943, c. 108, §24.)

2455. Organizations to receive state aid. **Subdivision 1. Inspection and muster allowance.**—The state shall pay annually to the organizations hereinafter specified seven dollars for each officer and enlisted man reported by the inspecting officer as present and fully uniformed and equipped (so far as equipment has been issued) at the annual inspection authorized by law; but no such payment shall be made on account of any company whose number present or satisfactorily accounted for as absent with leave, on furlough, or sick on medical officer's certificate, was below 60 per cent, of the officers and enlisted men, or which has received federal recognition within 30 days before the inspection, nor [on] account of any officer or man, enlisted within 30 days before the inspection, nor on account of any company which has had less than the minimum number of drills required by state or federal law. All such payments shall be paid to the immediate commander of each headquarters or company on his requisition, approved by the adjutant general.

Subdivision 2. Shall be known as military fund.—Such money shall be known as the military fund and shall be used only for the necessary military expenses of the organization. Any balance shall be paid over by the officer receiving it to his successor. Receipts and disbursements of the military fund shall be kept and audited as prescribed by the commander-in-chief in orders or regulations. (As amended Mar. 6, 1943, c. 108, §25.)

2456. Camp pay for enlisted men. **Subdivision 1. Camp pay for enlisted men.**—For each day's attendance at an encampment, or maneuver ordered by the governor, or required by federal law, 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, rating, 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, shelter, and subsistence. But when any part of the pay or

allowances above authorized is paid by the federal government, the state shall only pay to each man the difference between what he receives from the government and the pay authorized by this section. The value of articles issued to any member of a company or battery and not returned in good order on demand and 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 one-third of the period of the camp or maneuver.

Subdivision 2. Additional pay.—When called into active service by the governor, other than encampments or maneuvers, each enlisted man of the national guard shall be paid by the state the sum of 50 cents per day in addition to the pay and allowances provided by law for encampments and maneuvers. (As amended Mar. 6, 1943, c. 108, §26.)

2458. Horse and motor car hire and expense.—The hire and expense of horses, motor vehicles, and other means of transportation required for the military forces when in active service, including camps of instruction, practice marches, parades, maneuvers, and other authorized purposes, when ordered by the governor as commander-in-chief, shall be paid by the adjutant general out of the funds appropriated for the maintenance of the military forces. (As amended Mar. 6, 1943, c. 108, §27.)

2459. Payments to be made through Adjutant General.—All pay and allowances for any of the military forces shall, when approved by the adjutant general, be paid by auditor's warrants issued to the several officers and enlisted men entitled thereto; provided, that upon the request of the adjutant general, approved by the governor, the sum required for any such pay or allowances shall be paid by auditor's warrant to the adjutant general, who shall immediately pay and distribute the same to the several officers or enlisted men entitled thereto or to their commanding officers or to a finance officer designated by the adjutant general. The receipt of any such commanding officer or finance officer for any such payment shall discharge the adjutant general from liability therefor. Every commanding officer or finance officer receiving any such payment shall, as soon as practicable, pay and distribute the same to the several officers or enlisted men entitled thereto. The officer making final payment shall, as evidence thereof, secure the signature of the person receiving the same upon a payroll or other proper voucher. (As amended Mar. 6, 1943, c. 108, §28.)

2459-1. Army regulations to apply.—All moneys and property received from any source for the military forces shall be kept, disbursed, and accounted for as prescribed by army regulations, where applicable, otherwise as prescribed by state regulations. All such accounts shall be examined and audited at least once annually by officers of the military forces detailed by the adjutant general as military auditors. The adjutant general shall file a copy of the report of every such examination with the public examiner. This shall not preclude other examinations of such accounts by the public examiner as authorized by law. The public examiner may appoint any military auditor as an assistant public examiner, with all the powers incident thereto, in connection with the examination of such accounts. The provisions of the state civil service act shall not be applicable to such appointments. (Act Mar. 6, 1943, c. 108, §29.)
[192.551]

2460. Pay and allowance of Adjutant General and employees.—The adjutant general shall receive the pay and allowances of a brigadier general as provided by the Act of Congress approved June 10, 1922, as amended. He may appoint an assistant adjutant general, a state quarter-master, and necessary administrative and clerical assistants. In case of war, riot, in-

surrection, or other emergency, or when authorized by the governor, he may employ such additional temporary assistants as are necessary, to be paid from the amounts appropriated for the maintenance of the military forces. (As amended Mar. 6, 1943, c. 108, §30.)

2462. Appropriations—Not to lapse, etc. [Repealed.]

Repealed. Laws 1943, c. 108, §44.

2463. Courts-Martial.—Courts-martial in the military forces shall be as prescribed by federal law for troops not in the service of the United States, so far as applicable, otherwise as provided by the laws of this state. (As amended Mar. 6, 1943, c. 108, §31.)

2467. Military offenses defined.—The following delinquencies as defined by the articles of war referred to, are hereby declared to be military offenses, and the delinquents shall be punished as provided by law and as a court-martial shall direct:

1. Fraudulent enlistment. (A.W.54.)
 2. Making fraudulent enlistment by officer. (A.W.55.)
 3. Making false muster. (A.W.56.)
 4. Making a false return or omission to render return. (A.W.57.)
 5. Absence without leave. (A.W.61.)
 6. Insult or disrespect towards national or state officials. (A.W.62.)
 7. Disrespect towards superior officer in the execution of his office. (A.W.63.)
 8. Assaulting or disobeying superior officer in the execution of his office. (A.W.64.)
 9. Insubordinate conduct towards a noncommissioned officer in the execution of his office. (A.W.65.)
 10. Mutiny or sedition. (A.W.66.)
 11. Releasing prisoner without proper authority. (A.W.73.)
 12. Drunkenness on duty. (A.W.85, 86.)
 13. Conduct unbecoming an officer and a gentleman. (A.W.95.)
 14. Conduct to the prejudice of good order and military discipline. (A.W.96.)
 15. Any other violation of the laws, regulations or orders governing the military forces consistent with this act. (A.W.96.)
- (As amended Mar. 6, 1943, c. 108, §32.)

2482. Default in appearance.

It is duty of army commanders to turn violators of state laws over to civil authority in peace time, but they are not required to do so in time of war. Op. Atty. Gen. (310), Jan. 13, 1943.

2493. County Armory Commission.—Whenever a company or other unit of the national guard shall be located in any county, wherein no armory has otherwise been provided for its use, the commanding officer of such company or unit, or if more than one unit is stationed at such place then the senior officer of the units at such station, the chairman of the county board, and the county treasurer shall constitute an armory commission, with power, in their discretion, to purchase, erect, or rent a suitable building, and to furnish and keep the same in repair for use as such armory, all at the cost of such county. The purchase, erection, or rental of any new armory under this section shall from and after May 1, 1943, be subject to the approval of the adjutant general. (As amended Mar. 6, 1943, c. 108, §33.)

2494. City or Village Armory Commission.—Whenever a company or other unit of the guard shall be located in any city or village wherein no suitable armory has been provided for its use, the commanding officer of such company or unit, or if more than one unit is stationed at such place then the senior resident line officer of the national guard organization having at least one company permanently quartered at such station, the mayor or the president of the village council, and the city or village treasurer

shall constitute an armory commission, with power, in its discretion, to purchase, erect, or rent a suitable building as such armory, and to furnish and keep the same in repair, all at the cost of the city or village. The purchase, erection, or rental of any new armory under this section shall from and after May 1, 1943, be subject to the approval of the adjutant general. (As amended Mar. 6, 1943, c. 108, §34.)

2496 to 2499-1. [Repealed.]

Repealed. Laws 1943, c. 108, §43.

2500. Cities and villages may accept donations. [Repealed.]

Repealed. Laws 1943, c. 108, §43.

2502. State to assist in building armories. [Repealed.]

Repealed. Laws 1943, c. 108, §43.

City may furnish a site for an addition to armory without vote of electors, and pay for it out of any funds available. Op. Atty. Gen. (59B-1), Aug. 13, 1940.

2503. State treasurer to keep accounts, etc. [Repealed.]

Repealed. Laws 1943, c. 108, §43.

2503-1. Laws repealed—Saving clause.—Mason's Minnesota Statutes of 1927, Sections 2496, 2497, 2498, 2499, 2499-1, 2500, 2502, 2503, and 2504 are hereby repealed; provided that the provisions thereof respecting existing contracts and the payment of outstanding bonds and other obligations heretofore contracted and the levying of taxes therefor shall remain in force until such contracts are fulfilled and such bonds and obligations and interest thereon are paid in full. (Act Mar. 6, 1943, c. 108, §43.)

2504. Refundment to be credited to armory fund. [Repealed.]

Repealed. Laws 1943, c. 108, §43.

2505. Adjutant General to take possession of unused armories.—Subdivision 1. Control and disposition of unused armories.—Whenever the unit or units of the military forces of the state which are quartered in an armory acquired or erected in whole or in part by state funds have been called or drafted into federal service or have been mustered out of the service of the state, and there is no immediate prospect that a new military unit will be organized in the place where the armory is located, the adjutant general shall immediately take possession of and close the same, and shall not permit its use for other than military purposes except as otherwise provided by law.

Subdivision 2. May sell and convey such property in certain cases.—In any such case when there is no prospect that the armory will ever again be used for military purposes, the adjutant general may sell and convey such property to the municipality in which the same is located for public purposes at a price to be determined by a board of three appraisers to be selected by the adjutant general, the commissioner of administration, and the state auditor, and the money so received shall be credited to the general revenue fund. If the municipality shall not purchase such property after a reasonable opportunity the adjutant general may sell and convey the same to any individual, firm, or corporation at the price set by the board of appraisers. The adjutant general may lease any such armory remaining unsold to the municipality for public purposes at an annual rental which shall not be less than ten per cent of the appraised value of the property.

Subdivision 3. May dispose of unsuitable armory sites and buildings.—The adjutant general with the approval of the governor, may sell and convey on behalf of the state any state armory sites and buildings which in the judgment of the adjutant general are unsuitable for military purposes or which have been condemned by proper authority as unsafe. Money received from the sale of such armories shall be paid into the state treasury and credited to the general revenue fund. (As amended Mar. 6, 1943, c. 108, §35.)

2506. Control of new armory.—Subdivision 1. **Control of new armory to vest in commanding officer or armory board.**—The control, operation, and use of such armory building and grounds occupied by any of the military forces of the state shall be vested in an armory board consisting of officers representing the organization or organizations quartered therein, as hereinafter provided, except that the commission-owned armories which have been or may be constructed or acquired and operated under the provisions of Mason's Supplement 1940, Sections 2517-2 to 2517-15, inclusive, and acts amendatory thereof or supplementary thereto shall be controlled and operated as provided therein.

Subdivision 2. **Composition of board.**—For each armory occupied by a single company or other unit the armory board shall consist of the three senior officers of the unit quartered therein, provided, in the case of a unit having less than three officers, the armory board shall consist of such officers or officer as the adjutant general may designate.

Subdivision 3. **Same.**—In all cases in which more than one company or other unit of the military forces shall occupy the same armory, the armory board shall consist of three officers assigned to the units or organizations quartered therein. The adjutant general shall designate by order from time to time the representatives of each unit quartered therein to comprise the armory board for each armory, and he may change the membership of the board from time to time, in his discretion, so as to give the several organizations quartered therein proper representation on the board.

Subdivision 4. **Disposition of proceeds.**—The proceeds of rentals and other revenue derived from each armory shall be applied by the armory board to the maintenance, extension, improvement, and equipment thereof. (As amended Mar. 6, 1943, c. 108, §36.)

2507. Joint armories and municipal buildings may be erected.—Whenever a company of the national guard shall be located in a city or village wherein no suitable armory has been provided for its use, an armory may be constructed for use jointly by such company or battery and by such city or village. The mayor or president of the council of such city or village and the commanding officer of the company or other unit stationed at such place, or if there be more than one company then the senior officer of the troops of such station, shall constitute a joint armory commission, with power to purchase, erect or rent a suitable site or building for such armory and to furnish and keep the same in repair. No new armory shall be purchased, erected, or rented under the provisions of this section from and after May 1, 1943, without the approval of the adjutant general. (As amended Mar. 6, 1943, c. 108, §37.)

2508. Joint armories—Uses, etc.—Subdivision 1. **May receive state aid.**—Whenever such joint armory commission shall have deposited with the state treasurer at least one thousand dollars as evidence of good faith and shall have caused to be conveyed to the state of Minnesota by warranty deed, free of encumbrances, the title to the site for an armory, which site shall have been first approved by the adjutant general, such joint armory commission shall be entitled to receive the same amount of state aid as is prescribed by law for other armories, which state aid shall be paid to such joint armory commission in the manner prescribed by the military code for state armories.

Subdivision 2. **Adjutant General to designate uses.** The adjutant general shall designate the place needed for drill hall, office, locker rooms, storage and rifle range, and the immediate control of the portions of the armory so designated shall be vested in the armory board provided for by law, and such portion of such armory shall be subject to the laws of this state relating to armories. The control of the other por-

tions of such armory shall be vested in the municipal authorities.

Subdivision 3. **General control of building.**—The general control of the building as a whole shall be vested in a committee consisting of two persons, one the commanding officer of the military organization in control of a portion of the armory and the other appointed by the municipality upon such terms as may be agreed upon, provided, any agreement for general control of such armory shall be first approved by the adjutant general. In case such an agreement is made the state shall furnish the regular appropriation provided for armory maintenance and all other expenses of keeping up the building shall be paid by the municipality. (As amended Mar. 6, 1943, c. 108, §38.)

2509. Commanding officers of armory board—Governor may make rules.—The senior officer on each armory board shall be the chairman, and the junior officer thereof shall be the recorder. A record of the proceedings of the board shall be kept, and all motions offered, whether seconded or not, shall be put to a vote and the result recorded. In the case of a tie vote the adjutant general, upon the request of any member, shall decide. The governor may make and alter rules and regulations for the government of armory boards, officers, and other persons having charge of armories, arsenals, or other military property of the state. (As amended Mar. 6, 1943, c. 108, §39.)

2510. Senior officer to control drill hall.—The senior officer of any company or other organization assembling at an armory for drill or instruction shall have control of the drill hall or other portion of the premises used therefor during such occupancy, subject to the rules prescribed for its use and the orders of his superior. Any person who intrudes contrary to his orders, or who interrupts, molests, or insults any troops so assembled, or who refuses to leave the premises when properly requested so to do, shall be guilty of a misdemeanor. But nothing in this section shall prevent reasonable inspection of the premises by the proper municipal officer, or by the lessor thereof in accordance with the terms of the lease. (As amended Mar. 6, 1943, c. 108, §40.)

2511. Armorers—Janitor.—The adjutant general shall upon the recommendation of the officer or armory board in charge of any armory, appoint one or more caretakers who shall under the direction of the officer or armory board be responsible for the care and safety of the armory building and its contents. Every caretaker shall be an enlisted member of an organization stationed therein, unless no such member or person eligible for membership is available, and while serving as caretaker shall receive compensation on the basis prescribed by the adjutant general; provided, that when any part of the pay of a caretaker is paid by the federal government, the state shall pay only the difference between what he receives from the government and the authorized pay; provided further that in cities where the armory has been erected or otherwise acquired without state aid and is exclusively owned by the municipality, janitors and engineers, and if deemed necessary a superintendent of such armory, shall be appointed, and their compensation shall be fixed by the armory commission provided for in Section 2494. (As amended Mar. 6, 1943, c. 108, §41.)

2513. State aid for maintenance.

City may appropriate \$250 for maintenance of armory though it is occupied only by Minnesota Home Defense Force. Op. Atty. Gen. (59B-1), Aug. 25, 1941.

2517-5. City shall provide site.

Act Apr. 4, 1941, c. 121, §1, authorizes conveyance to City of St. Cloud of site of present armory in said city.

2517-13. Construction in municipalities having national guard units; etc.

Laws 1941, c. 73, authorizes conveyance of the old capitol building site to the state armory building commission for armory purposes, and revokes prior authorization for conveyance of said site.

2517-14. Corporation created—Commission.—Subdivision 1. For the purpose of constructing armories as provided by Section 12 of this act, there shall be created a corporation to be known as the "Minnesota State Armory Building Commission." The persons holding the following offices and their respective successors in office shall be, ex officio, the members and governing body of such corporation, namely: The adjutant general and the general officers of the line of the National Guard of the state. The adjutant general shall be chairman of such commission. Such commission shall elect a secretary and treasurer from the members thereof other than the adjutant general. The officers of such commission shall have like powers and duties as are vested in or imposed upon the corresponding officers of the commission referred to in Section 2 of this act.

Subdivision 2. Upon the filing with the secretary of state of a certificate by the adjutant general reciting the existence in any such municipality of the conditions specified in Section 12 of this act, naming the persons authorized to compose such commission and corporation as provided in this section, and declaring them to be constituted a commission and corporation hereunder, such persons shall forthwith become and be such commission and corporation without further proceeding. In case of a vacancy in the membership of such commission and corporation, the remaining members, provided there be not less than two, shall have power to act and to elect such temporary acting officers as may be necessary during the existence of the vacancy. In case at any time there shall not be at least two qualified officers of the National Guard in addition to the adjutant general eligible to serve ex officio as members of such commission as provided by Subdivision 1 of this section, the adjutant general may appoint a member or members of such commission from the colonels of the line of the National Guard of the state so as to provide not more than two members of such commission in addition to himself. The membership of the member last so appointed shall automatically terminate upon the appointment and qualification of an officer of the National Guard eligible to serve ex officio as a member of such commission as provided by Subdivision 1 of this section, providing the total membership of such commission be not thereby reduced to less than three. All officers of the National Guard eligible to be members of such commission as provided by Subdivision 1 of this section shall automatically become such members forthwith upon their appointment and qualifica-

tion as such officers. In case of a vacancy in the office of adjutant general, or in case of the incapacity of the adjutant general to act as a member and chairman of such commission, the officer who is appointed or authorized according to law to exercise the powers of the adjutant general for the time being shall, during the existence of such vacancy or incapacity, act as a member and chairman of such commission and have all the powers and duties herein vested in or imposed upon the adjutant general as a member and chairman of such commission. The adjutant general shall certify to the secretary of state all changes in the membership of the commission, but failure on his part so to do shall not affect the authority of any new member of the commission or the validity of any act of the commission after accession of a new member.

Subdivision 3. In case at any time all or all but one of the line officers of the National Guard who are members of the commission or who are eligible to serve as such are in active service outside the state, or where for any other reason there are not at least two qualified line officers of the National Guard available within the state to serve as members of the commission, the adjutant general, or in case of his incapacity or of a vacancy in that office, the officer who is appointed or authorized according to law to exercise the powers of the adjutant general for the time being, shall become trustee of the commission and shall have all the powers and perform all the duties of the commission and its officers so long as such conditions exist. Upon the occurrence of such conditions the officer becoming trustee shall file with the secretary of state a certificate reciting the circumstances and declaring that he assumes office as such trustee, and thereupon he shall be deemed to have qualified as such, with all the authority hereby conferred. Any change in such office shall be likewise certified by the officer succeeding as trustee. Upon the termination of such conditions the adjutant general or his authorized substitute shall certify the circumstances in like manner, with the names of the officers then authorized by law to compose the commission, and thereupon such officers shall constitute the commission, and the authority of the trustee shall terminate. (As amended Act Mar. 5, 1941, c. 44, §1.)

Laws 1941, c. 73, authorizes conveyance of the old capitol building site to the state armory building commission for armory purposes, and revokes prior authorization for conveyance of said site.

2517-15. Same—Powers of corporation and municipalities; etc.

Laws 1941, c. 73, authorizes conveyances of the old capitol building site to the state armory building commission for armory purposes, and revokes prior authorization for conveyance of said site.

2517-16 to 2517-25. [Repealed.]

Repealed. Laws 1943, c. 660, §49.

CHAPTER 13

Roads

GENERAL HIGHWAY ACT

2542. Scope of act.**4. "Town roads."**

Op. Atty. Gen., (642a-12), April 2, 1940; note under § 2552.

2543. "Road" and "Highway" defined.

Op. Atty. Gen., (642a-12), April 2, 1940; note under § 2552.

2544. Width of roads.

Failure of commissioners appointed in a judicial proceeding to establish a county line road to state width of proposed road rendered their report and order confirming the same invalid and ineffective. Highway between Sibley and Renville Counties, 213M314, 6NW(2d)626. See Dun. Dig. 8474.

2545. Width of bridges and culverts.—All bridges, culverts, and approaches thereto, on any trunk highway or state aid road hereafter established, constructed or improved, shall be at least twenty-four (24) feet wide; and all bridges and culverts, and approaches thereto, on any road other than a trunk highway or state aid road hereafter established, constructed or improved, except cartways, shall be at least twenty (20) feet wide. (As amended Act Feb. 25, 1943, c. 82, §1.)

2550. State aid roads.

Where county constructs a new section in a state aid road, it may not by resolution transfer the old section of the road to a township and thus impose burden upon