

# REVISED LAWS

# MINNESOTA

## 1905

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EDITED AND ANNOTATED BY  
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and thereupon may pay into the state treasury a sum equal to three cents per net ton of such registered tonnage, and the treasurer shall issue his receipt therefor. Such payment shall be received in lieu of other taxes on such craft, state or municipal, for the year in which such payment is made. On or before December 1 following, such treasurer shall pay one-half of such sum to the treasurer of the county wherein the port of hail of such craft is located. ('95 c. 224)

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## CHAPTER 12

### MILITARY CODE

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#### MILITIA

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**1039. How constituted—Exemptions—**All able-bodied male residents of the state between the ages of eighteen and forty-five years shall constitute the militia thereof, and be required to perform military duty in case of war, invasion, rebellion, or riot, except:

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

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

3. Indians not taxed, insane persons, and persons who have been convicted of an infamous crime, all of whom are excluded. ('97 c. 118 ss. 2, 3)

**1040. Enrolment by census takers—**Whenever a state census is taken, each enumerator, in addition to his other duties, shall designate upon his returns all persons enumerated by him who are subject to military duty under this chapter. As soon as the returns are complete, the superintendent of the census shall make and certify to the adjutant general lists of the names, alphabetically arranged and consecutively numbered, of all persons so designated in each town, village, and city, arranged by counties, and showing the age, occupation, and address of each person. And he shall accompany such lists with a table showing the number of enumerated militiamen in each town, village, city, and county. The adjutant general shall prescribe blanks therefor. ('97 c. 118 s. 5)

**1041. Enrolment by assessors—**Whenever the governor shall so direct by his proclamation issued in an even-numbered year, and at least thirty days before the day the assessment books are required by law to be delivered to the assessors, such assessors shall make, at the time of the assessment, and upon blanks prescribed by the adjutant general, duplicate lists of the names, alphabetically arranged and consecutively numbered, of all militiamen living in their respective districts, with the age, occupation, and postoffice address of each. One of said lists shall be filed with the county auditor, and one with the clerk of the town, village, or city in which the assessor resides; and no compensation shall be allowed for any services of an assessor until he has filed with such clerk an affidavit showing full compliance on his part with the foregoing requirements. ('97 c. 118 s. 4)

**1042. Auditor to correct lists, furnish copies, etc.—**Each auditor shall add to the list so filed with him the names of all militiamen omitted, and erase the names of those shown to be improperly enrolled, giving notice of such changes to the proper clerks. On or before October 1 in such year, he shall transmit to the adjutant general a certified copy of the rolls so filed and corrected. In addition thereto, or in lieu thereof, the adjutant may require of the auditor a statement showing the numbers so enrolled in each town, village, and city of his county. ('97 c. 118 s. 4)

**1043. Information required—Penalties—**Every householder shall disclose, upon the application of assessors and enumerators authorized to make such enrolment, the names of all militiamen residing in his house; and every person, upon like application, shall give his name, age, and address. Every person who shall wilfully refuse such information, or give false answers to the proper inquiries of any such enrolling officer, and every enrolling officer who shall neglect any duty imposed by this chapter, shall be deemed guilty of a misdemeanor. ('97 c. 118 s. 6)

**1044. Calling out militia—Draft, etc.—**The governor, whenever he shall deem it necessary to call out the enrolled militia for military duty, shall require the mayors of the several municipalities and the chairmen of the several town boards to appoint a time and place for the assembling of such militia; and they shall forthwith give notice, by public proclamation, or by written or oral notice to each person, of such assemblage. At the appointed time and place, they shall accept volunteers to the number designated by the governor's order, supplying any deficiency by draft. The names of the militia-men so accepted or drafted shall be forwarded to the governor forthwith. The governor shall prescribe and enforce uniform rules for the conduct of drafts, appoint all officers necessary therefor, and fix the amount of their pay. ('97 c. 118 s. 7)

**1045. Muster—Organization—Command—**The men whose names are so forwarded shall be mustered at once into the service of the state for such period as the governor shall direct, not exceeding three years. They shall be organized by companies, which may be arranged in new battalions or regiments, or assigned to existing organizations of the national guard. If the former, elections therein shall be ordered forthwith, but the governor may detail officers to command them until the officers-elect shall have been examined and commissioned. Such new organizations shall be officered, equipped, trained, and commanded according to the laws governing the national guard. ('97 c. 118 s. 9)

**1046. 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. ('97 c. 118 s. 8)

**1047. Commander-in-chief—Powers and duties—Staff—**The governor shall be commander-in-chief of the militia, except so much thereof as may be in the actual service of the United States, and may employ the same for the defence or relief of the state, the enforcement of its laws, and the protection of life and property therein. He shall make and publish regulations, not inconsistent with law, for the government of the national guard, and enforce all the provisions of this chapter. He shall appoint a staff, consisting of an adjutant general, who shall be or has been an officer of the national guard, of at least three years' prior service as such, or an honorably discharged soldier of the United States in the Civil War; a surgeon general, who shall be a licensed physician, of at least five years' practice; a judge advocate general, who shall be an attorney at law of at least five years' experience; an inspector general; a quartermaster general; and a commissary general—all with the rank of brigadier general; a chaplain and three aides-de-camp, all with the rank of colonel; a military storekeeper, with the rank of captain; and the officer of the United States army, if any, detailed for service with the national guard, to be designated the inspecting officer; also, when the service requires it, one assistant to each of the first six staff officers above mentioned, each to rank as major. The commissions of such staff shall expire with the term of the governor, unless before removed for cause, except that the adjutant general shall serve until his successor qualifies. ('97 c. 118 ss. 11-13)

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

### NATIONAL GUARD

**1048. How constituted—Peace strength—**The active militia, organized, uniformed, and equipped as hereinafter provided, shall be known as the "Minnesota National Guard." In time of peace, it shall consist of the governor; the adjutant general, as chief of staff; the other staff officers appointed under § 1047; and one brigade, officered as prescribed in this chapter. ('97 c. 118 s. 14; '03 c. 52)

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**1049. Staff officers—Qualification for command—Changes, increase, etc.—**No appointment on the staff of the governor shall qualify the appointee for the actual command of troops, without the examination and qualifications prescribed by law. For the purpose of conforming the national guard more closely to the organization of the United States army, and not otherwise, the governor, by orders issued from time to time, may fix the number and grade of brigade staff officers, regimental and company officers, non-commissioned officers, and enlisted men. And in case of war, invasion, insurrection, riot, or imminent danger of either, the governor may temporarily increase such force, and organize and equip the same as the exigency may require. ('97 c. 118 ss. 14, 15; '03 c. 52)

**1050. Brigade—How composed—Minimum numbers—**The brigade shall consist of one brigadier general, one assistant adjutant general, ranking as major; one assistant inspector general, one brigade quartermaster, one brigade judge advocate, one commissary of subsistence, one inspector of small-arms practice, one ordnance officer, and one aide-de-camp, all ranking as captains; three regiments of infantry; and may also include one corps of artillery, consisting of two batteries and one company of engineers. The minimum membership of a company or battery shall be forty-six officers and enlisted men. ('97 c. 118 s. 14; '03 c. 52)

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**1051. Regiments—How made up—Band—**Each infantry regiment shall be composed of one colonel; one lieutenant colonel; one major for each battalion; one regimental surgeon, ranking as major; one regimental adjutant, one regimental quartermaster, and one regimental commissary of subsistence, each with the rank of captain; two assistant surgeons and one judge advocate, each with the rank of first lieutenant; one regimental sergeant major; one quartermaster sergeant; one commissary sergeant; one hospital steward; two acting hospital stewards; two color sergeants; not less than two nor more than three battalions; and a regimental band, consisting of one chief and one principal musician, one drum major, four sergeants, eight corporals, one cook, and twelve privates. ('97 c. 118 s. 16)

See 1905 c. 225 s. 1

**1052. Same—Battalions and companies—**Each infantry battalion shall consist of the major assigned thereto; one battalion adjutant, with the rank of first lieutenant; one battalion sergeant major; and not less than two nor more than four companies, each with a captain, a first and a second lieutenant, a first sergeant, a quartermaster sergeant, four sergeants, six corporals, two cooks, two musicians, one artificer, and not more than fifty-six privates. ('97 c. 118 ss. 17, 18; '03 c. 52)

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**1053. Artillery corps—Batteries—Engineers—**The corps of artillery shall be made up of a major; an adjutant, ranking as captain; a quartermaster and commissary, an assistant surgeon, and one ordnance officer, each with the rank of first lieutenant; one sergeant major; one quartermaster sergeant; one commissary sergeant; one hospital steward and one acting hospital steward; one chief trumpeter; two batteries; and one company of engineers. Each battery shall consist of one captain, two first lieutenants, one second lieutenant, one first sergeant, one stable sergeant, one quartermaster sergeant, five sergeants, eight corporals, four artificers, two cooks, two musicians, and not more than sixty privates. The company of engineers shall be composed of the same officers as a battery, except that there shall be one first lieutenant only, no stable sergeant, four sergeants instead of five, six

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corporals instead of eight, no artificers, so designated, and not more than fifty-seven privates. ('97 c. 118 ss. 19-21; '03 c. 52)

See 1905 c. 225 s. 2

**1054. Enlistment and muster—Re-enlistment—**Every person enlisting in the guard shall sign a muster roll, furnished by the adjutant general in book form, and kept by the company or battery, which signing shall be a legal enlistment and muster in the service of the state for three years, unless sooner discharged. He shall also sign an enlistment paper in a form prescribed by the governor, which shall contain an oath of allegiance to the state and United States, and be filed with the adjutant general. Any enlisted man at the close of his term of service may re-enlist, if his commanding officer approves, for not more than three years. If discharged by reason of his organization being disbanded or consolidated, he may re-enlist for remainder of his term. ('97 c. 118 ss. 68, 69)

**1055. Non-commissioned officers and staff—Appointment, etc.—**Non-commissioned officers shall be appointed by the commanding officer of the regiment or artillery corps, on the recommendation of their captain. Non-commissioned staff officers shall be appointed by the commanding officer from the enlisted men of his regiment or corps. Either may be reduced to the ranks by like authority, and a staff officer returned to his company or battery or discharged at the commander's option. ('97 c. 118 ss. 70, 71)

**1056. Line and field officers—How elected—**Commissioned officers of companies and batteries shall be elected by the officers and men thereof, subject to the approval of the governor. If any officer so elected be not approved, he shall not be again chosen to fill the same vacancy without the governor's permission. Field officers of the regiments and artillery corps shall be elected by the field and line officers of their respective commands. ('97 c. 118 ss. 72, 73)

**1057. Brigade commander—Brigade and regimental staff—Promotion—**The commander of the brigade shall be elected by its field officers. He shall appoint his staff officers, subject to the governor's approval, and may remove any of them at pleasure. The staff officers of the regiments and artillery corps shall be appointed, with like approval, by their respective commanders, who may supersede any of them at pleasure. Any assistant surgeon who has served as such for five consecutive years, upon application approved by his regimental or corps commander, may be promoted to the rank of captain. ('97 c. 118 ss. 73, 74)

**1058. Terms and elections—Re-election—**The field and general officers of the brigade shall hold office for ten years from and after their election, and until their successors are commissioned. Any of them may be re-elected, in which case the fact shall be indorsed on the original commission. Elections for line officers shall be ordered by the commanding officer of the regiment or artillery corps, for field officers by the brigade commander, and for a general officer by the commander-in-chief. In all cases the order shall be promulgated at least five days before the day fixed for the election. ('97 c. 118 ss. 73, 75; '03 c. 182)

**1059. Presiding officer—Majority—Commissions—Warrants—**The officer ordering an election shall preside over the same, or designate another to act in his place. If the presiding officer be absent, the senior officer present shall take the chair, but no officer shall preside over an election at which he is a candidate. All voting shall be by ballot, a majority of those voting shall be necessary to a choice, and a majority of those entitled to vote must be present. Officers of the guard shall be commissioned by the governor, with rank from date of election or appointment, and warrants to non-commissioned officers shall be issued by the commanders of their respective regiments or corps. The acceptance of a second commission in the guard shall be deemed a resignation of the first. ('97 c. 118 ss. 76-78, 80)

**1060. Examining boards—Commissions withheld or revoked—**The governor, in his discretion, may appoint an examining board of three or five

officers to report upon the competency of any appointed or elected officer to fill the place for which he has been chosen; and, if such board find and report such officer incompetent, he may annul the election or appointment. A like board may also be appointed, upon the application of the commanding officer of a regiment, battalion, or corps, to inquire into the capability of any officer sent before it by such commander, and, upon an unfavorable report, the officer's commission may be canceled. ('97 c. 118 s. 79)

### RESIGNATIONS AND DISCHARGES

**1061. Commissioned officers**—Resignations of commissioned officers shall be in writing, addressed to the adjutant general, and be transmitted by and through all intermediate officers, who shall indorse their approval or disapproval thereon; and the same shall not take effect until accepted by the governor. Acceptance of a resignation after five years' service, or on account of physical disability, shall entitle the officer to a certificate of honorable discharge; but, if tendered while the guard is on active duty, such certificate may be refused. Any commissioned officer may be discharged, but only upon sentence of a court-martial or finding of an examining board, for failure to appear before either when ordered, or for absence without leave for a period of thirty days. ('97 c. 118 ss. 81-83)

**1062. Enlisted men**—Honorable discharges shall be granted to enlisted men only upon expiration of term of service, for disability resulting from disease or wounds honorably contracted or received in the service, or by order of the governor. Discharges may be given for disease or wounds otherwise incurred, for the good of the service, upon permanent removal from the company station after twenty days' written notice to the commander of intended removal, or by order of the governor. The commanding officer of each regiment and of the artillery corps shall pass upon all discharges for enlisted men of his command, and sign all certificates of honorable discharge properly submitted to him by company commanders. ('97 c. 118 s. 84; '99 c. 231 s. 5)

**1063. Dishonorable discharge—Its effect**—A dishonorable discharge shall operate as a complete expulsion from the guard, a forfeiture of all exemptions and privileges acquired through membership therein, and a disqualification for any military office under the state. The names of all persons dishonorably discharged in any month shall be published by the adjutant general at the end of each month, and a complete list thereof shall be kept posted in all the armories. No person so discharged shall be admitted to any armory or other meeting place of the guard, or to the immediate vicinity of any encampment, drill, or parade of troops. All commanding officers are hereby required to enforce these prohibitions. ('97 c. 118 s. 85)

**1064. Officers, when and how retired—Marks for long service**—Any commissioned officer of the guard belonging to either of the following named classes may be retired by order of the governor, upon his own request, and have his name placed on a roll of retired officers kept in the adjutant general's office:

1. Having served as such officer ten years or longer.
2. Having so served five or more years, and being so disabled as to be incapable of active duty.
3. Having so served five or more years, and holding an honorable discharge from the Union army after not less than ninety days' service in the Civil War.

And by general orders the governor may prescribe marks of distinction for officers and men who have served in the guards for periods of ten, fifteen, and twenty years, respectively. Officers so retired may wear the uniform of the last rank held by them in the guard, and such marks of distinction may be worn or displayed by those entitled thereto. ('97 c. 118 s. 140; '01 c. 162 s. 4)

See 1905 c. 225 s. 6

### PRIVILEGES

**1065. 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. ('97 c. 118 ss. 97, 99, 100)

**1066. Protection for official acts—Firing on mobs—**The commanding officer of any militia force engaged in the suppression of an insurrection, the dispersion of a mob, or the enforcement of the laws shall exercise his discretion as to the propriety of firing upon or otherwise attacking any mob or other unlawful assembly; and, if he exercise his honest judgment thereon, he shall not be liable in either a civil or a criminal action for any act done while on such duty. But no officer, under any pretence or in compliance with any order, shall direct or permit his men, or any of them, to fire blank cartridges upon any mob or unlawful assemblage, under penalty of dishonorable dismissal from the service. ('97 c. 118 s. 101)

**1067. 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. ('97 c. 118 s. 102)

### INCORPORATION

**1068. What bodies may incorporate—Names—**The brigade officers, the field and staff officers of the artillery corps, the like officers of the several regiments, and the officers and men of each battery and company of the guard may incorporate, and in that case shall have power to acquire, hold, sell, lease, mortgage, and convey such property, real and personal, as may be necessary or proper for carrying out the purposes of their organization. Any of them may sue and be sued by such name as it shall have adopted with the approval of the adjutant general, but no member of such corporation shall be personally liable for its acts, omissions, or debts. ('97 c. 118 ss. 134, 135)

**1069. Officers and directors—Powers—By-laws—**The commanding officer of the several organizations shall be president of such corporation, the next in command its vice-president, and the second lieutenant, secretary. The board of directors of such corporation shall consist of said officers and the first sergeant, and a treasurer who shall be elected by ballot and a majority vote at the annual meeting of the corporation. Each company or battery may also adopt a constitution and by-laws for the government of its affairs, which shall be consistent with this chapter, and, with any amendments thereof, must have the approval of the regimental commander and be filed with the adjutant general before taking effect. All contracts shall be signed by the president and secretary, and no money shall be expended except upon the order of the president; but the vice-president may act in place of the president when the latter is absent or disabled. ('97 c. 118 s. 135)

**1070. Existing corporations continued—Property—By-laws—**All corporations heretofore formed under the military code shall continue as such, but their organization, powers, duties, and by-laws shall be conformed to the provisions of this chapter. The by-laws of a company or battery shall fix the membership dues and provide that its commanding officer shall be president, its first lieutenant vice-president, its second lieutenant secretary, and said officers with its first sergeant and a treasurer elected by the organization at

its annual meeting in December, shall be ex-officio its board of directors; that a majority of the organization shall constitute a quorum for the purposes of election, and that all elections shall be by ballot and a majority vote of those voting; that the following fines shall be imposed—for absence at regular drill meeting or parade, fifty cents; for tardiness or appearance thereat without full uniform and equipments, twenty-five cents; for absence or tardiness at drill or parade specially ordered, or meeting for election of officers, one dollar; for absence or tardiness at annual inspection, seven dollars; for disobedience of standing orders or conduct prejudicial to military discipline, not more than two dollars in the discretion of the board of directors; that immediately after every drill meeting or parade the first sergeant shall report those delinquent to the board of directors with date and nature of the offence; that the secretary shall then give the delinquent at least two days' notice by mail to appear before such board at a time stated and show cause why he shall not be fined for the offence stated in such notice; that said board at the time noticed shall pass upon any excuse offered, and if it finds a fine should be imposed assess the same against the delinquent; that the secretary shall at once charge any fine imposed against the account of such delinquent; that the treasurer shall immediately deposit all the funds of the organization in a bank to be designated by it, and in its name; that such funds shall be withdrawn from such bank only upon resolution of the organization, or upon order of its president, when approved by the regimental commander, and then by warrant of the secretary approved by the president and countersigned by the treasurer; or by a draft of the president, approved by the regimental commander; that the treasurer shall give bonds of not less than five hundred dollars, conditioned for the faithful discharge of his duties, with two sureties 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 semiannual reports of receipts and disbursements of the organization showing balance on hand shall be made by the secretary and treasurer, approved by the board and certified by the president to the regimental commander before June 10 and December 10; that all books and records shall at all times be open for inspection by the president, regimental commander and adjutant and said commander and adjutant may attend all meetings of the organization or its board or committees. Upon the dissolution of any such corporation, by muster out or otherwise, all its property shall vest in the state; but the whole or any part thereof may be conveyed by the adjutant general, acting for the state, to a similar organization of the guard formed in the same locality. ('97 c. 118 ss. 135-139)

#### UNIFORM—ARMS—ACCOUTREMENTS

1071. United States uniform adopted—Changes—Issued by state—The uniform of the national guard shall be the same as that prescribed for the United States army, except that the letters "U. S." shall be omitted from buttons and collar, and the insignia of the state substituted therefor. Changes in such uniform may be made by order of the governor upon the recommendation of five officers appointed by him to consider and report thereon. Uniforms, overcoats, and other clothing and equipage necessary or proper for any required service shall be provided by the state for all organizations

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of the guard having the required minimum of enlisted men. They shall be issued annually by the adjutant general in proportion to the number of officers and men reported by the inspecting officer as entitled to the per capita allowance in each organization. ('97 c. 118 ss. 122, 123)

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 1072. **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 direction 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. ('97 c. 118 s. 125)

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 1073. **Purchase of clothing, etc.—Commission—Limitation—**The governor, adjutant general, and brigade commander shall constitute a commission for the purchase of clothing and equipage for the guard. Proposals shall be invited, upon two weeks' published notice given at the seat of government, and all bids shall be accompanied by samples of the articles offered. No money shall be paid for any such articles until they have been inspected and approved by the adjutant general and brigade commander. No more than ten thousand dollars shall be expended under this section in any one year. ('97 c. 118 s. 124) See 1905 c. 225 s. 5

1074. **Issue and distribution of arms, etc.—**Arms, accoutrements, ammunition and stores shall be issued to the quartermasters of the regiments and artillery corps, respectively, upon requisition of the commanding officers thereof, under such regulations as the governor may prescribe. Such commanders shall cause the same to be issued to the company commanders under suitable directions. The adjutant general may require of the quartermasters such bonds as he deems necessary for securing the care and safety of property so issued, and may allow them sufficient money to establish and maintain regimental depots, approved by him, and to pay for the transportation, handling, and care of such property, which allowances shall be paid out of the moneys appropriated for the purchase of supplies for the guard. ('97 c. 118 s. 112; '01 c. 162 s. 3)

1075. **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. (1770-1774)

#### DUTIES OF OFFICERS

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

charge. The present seal of his office shall be continued in use until altered by direction of the governor. ('97 c. 118 ss. 87-89)

**1077. Surgeon general—Powers and duties—**The surgeon general shall have general charge of all matters affecting the health of the troops, give directions to the medical officers, provide hospital accommodations, take measures to prevent or suppress epidemics, and exercise such other powers as the sanitary welfare of the men may render necessary. ('97 c. 118 s. 90)

**1078. Judge advocate general—Powers and duties—**The judge advocate general shall be the legal adviser of the several staff departments upon all questions arising therein. He shall examine all charges and specifications, and all proceedings of courts-martial properly referred to him, and promptly report thereon. Whenever the governor shall so order, or the public interests shall require it, he shall act as judge advocate of any court-martial. And he shall perform such other duties as may be imposed upon him by law or by order of the governor. ('97 c. 118 s. 91)

**1079. Inspections—**Whenever so ordered by the governor, the inspecting officer shall inspect every branch of the service, and report the results thereof, giving the number of troops present, the condition of their arms, accoutrements, and clothing, their proficiency in drill, and such other information as may be required of or deemed proper by him. There shall be at least one inspection annually, at such time and place as the governor shall designate, at which the regiments, companies, and batteries shall be exercised by their several commanders in the manual of arms and the drill regulations of the United States army, and be carefully counted by the inspection officer. A roll of each company and battery, certified by the captain thereof, shall be furnished prior to the inspection, showing the number of drills in which each member has participated during the preceding twelve months. The assistant adjutant general of the brigade, the adjutants of the regiments and artillery corps, and the medical director shall in like manner furnish a roster of the field, staff, and non-commissioned officers, and of the several bands of the brigade, regiments, or corps. The forms and mode of inspection shall be prescribed by the adjutant general, and all directions given by him in reference to the inspection shall be obeyed by the several officers of the guard. ('97 c. 118 ss. 92, 103)

**1080. Military storekeeper—Duties—**The military storekeeper shall be the armorer and ordnance officer of the state. He shall preserve and keep in order the arms and other public property of the ordnance department, and any camp equipage that may be placed in his care, and shall account for the same to the adjutant general. ('97 c. 118 s. 95)

**1081. Other officers—Duties—Federal laws—Oaths—**The quartermaster and commissary generals shall perform such duties in connection with their respective departments as may be required of them by the governor or by law. During the absence or disability of a staff officer, his assistant shall perform his duties. Except as otherwise provided in this chapter, all officers of the guard shall have the same powers and perform the same duties as officers of similar rank and position in the army of the United States. Commissioned officers of the guard may administer oaths in all matters connected with the service. ('97 c. 118 ss. 93, 94, 96)

### INSTRUCTION

**1082. Drill or parade required—**Every company and battery of the guard shall have at least thirty company drills or parades each year, exclusive of camp and active service. In addition thereto the commanding officer of any organization therein may require his officers and men to meet for instruction at such times and places as he shall appoint. ('97 c. 118 s. 104)

**1083. Rifle and gun practice—Competing teams, etc.—**The governor may establish special camps for advanced instruction in rifle and gun practice, to be attended not more than six days in any year by officers and men who have attained a prescribed standard of marksmanship, and who are selected for

the purpose under suitable rules. From the participants who develop unusual proficiency therein, rifle and gun teams may be formed, which, with the approval of the adjutant general, may compete with like teams in or from other states under rules approved by him. The pay and allowances of officers and men while attending such practice or competition shall be at the rate prescribed for actual service. But no more than three thousand dollars shall be expended in any one year for all the purposes of this section. ('03 c. 52 s. 4)

**1084. Encampments—Parades, etc.**—The governor shall order the national guard into camp each year for such period as he may deem proper. Until and including the year 1921, such annual encampment shall be held on the grounds heretofore donated to the state for that purpose at Lake City. The governor may also direct any organization of the guard to parade for drill, review, or escort duty, and prescribe regulations therefor. (1769; '97 c. 118 s. 105)

See 1905 c. 225 s. 4

**1085. 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. ('97 c. 118 s. 106; '03 c. 52 s. 12)

**1086. Molestation of guard, etc.**—Any person who interrupts, molests or insults by abusive words or behavior, or obstructs any officer or soldier of the national guard while on duty, either parade, drill or meeting for military improvement, may be immediately put and kept under guard until said duty is concluded, by the officer in command. Such officer may turn him over to any peace officer of the city or place where such drill, parade or meeting is being held and such peace officer shall thereupon deliver such offender for examination and trial before a justice of the peace having jurisdiction. Any person violating the provisions of this section shall be guilty of a misdemeanor. ('97 c. 118 s. 109)

**1087. Right of way.**—Organizations of national guard parading or on any authorized duty shall have the right of way on any street or highway through which they may pass against all, except carriers of United States mail, fire engines, and the police. ('97 c. 118 s. 108)

#### PAY AND ALLOWANCES

**1088. 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 the required minimum, or which had been mustered within thirty days before the inspection, or had held fewer than the required number of drills; nor on account of any company officer or man not mustered at least thirty days before the inspection, or who has not drilled on an average of at least twice a month during his membership, exclusive of camp duty and active service. Such payments on account of a company or battery shall be made to its commanding officer; on account of the brigade commander and his staff, to the general in com-

mand; on account of the field and staff, non-commissioned staff, band, and medical corps, to the respective commanding officers of the regiments and artillery corps. All such payments shall be made upon the requisition of the officer entitled to receive the same, approved by the adjutant general. Any balance of said funds shall be paid over by the officer receiving it to his successor. ('97 c. 118 ss. 113-115)

**1089. For hire of artillery horses**—To the commanding officer of each battery of artillery there shall also be paid by the state, annually, at or before the encampment, six hundred dollars for horse hire; and, if the battery be composed of more than two mounted sections, three hundred and fifty dollars additional shall be so paid, and one hundred dollars to the corps commander for horse hire. ('97 c. 118 s. 116; '99 c. 231 s. 8; '03 c. 52 s. 13)

**1090. Camp allowances—Non-commissioned officers and privates**—For each day's attendance at an encampment ordered by the governor, including the time necessarily consumed in travel, the following payments shall be made by the state: To each regimental non-commissioned officer and first sergeant, two dollars and twenty-five cents; to each sergeant and regimental musician, two dollars; to each corporal, one dollar and seventy-five cents; and to each other enlisted man, one dollar and fifty cents. But such payments shall be made only to the men present in full uniform and on duty at least five days. In addition to the pay allowance aforesaid, free transportation and shelter shall be furnished by the state. If subsistence be furnished by the state, fifty cents per day shall be deducted from the pay of each enlisted man: Provided, that, for each period of five years' service in the guard, the foregoing pay shall be increased ten per cent. for each five-year period. The value of articles issued to any member of a company or battery, and not returned in good order on demand, may be deducted from his pay. ('97 c. 118 ss. 117, 118; '03 c. 52 s. 10)

**1091. Pay for active service—How audited and paid**—When called into active service by the governor, each enlisted man shall be paid by the state two dollars for each day of such service, and be furnished with transportation and shelter. If subsistence be also furnished by the state, fifty cents per day shall be deducted. 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. ('97 c. 118 ss. 119, 120)

**1092. Pay of officers—Allowances**—Every commissioned officer of the guard, not salaried, shall receive from the state, while engaged in any service ordered by the governor, the same rate of pay and commutation 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 the incidental expenses of their respective commands, the following sums: To the brigade commander, one hundred dollars; to the commanding officer of each regiment, two hundred and fifty dollars; of the artillery corps, one hundred and fifty dollars; and of each company and battery, one hundred dollars. ('97 c. 118 s. 121; '03 c. 52 s. 5)

**1093. Payments, how made—None for federal service**—All payments provided for in §§ 1089-1092 shall be made to the adjutant general by auditor's warrant issued upon his requisition, approved by the governor. The adjutant general shall immediately pay and distribute the same to and among the several officers and commands entitled thereto; and the receipt of the commanding officer of a regiment or of the artillery corps for the aggregate due to the various organizations, officers, and men thereof shall discharge him from liability. Any officer receiving such payments from the adjutant general shall be responsible for their proper distribution or use. ('97 c. 118 s. 115)

**1094. Standing appropriation—Expenditure, how made**—The sum of seventy-five thousand five hundred dollars, or so much thereof as may be necessary, is hereby appropriated annually for the purpose of carrying out the pro-

visions of this chapter, relating to the national guard, other than salaries and contingent fund, and there is further annually appropriated the sum of five thousand five hundred dollars for the salaries stated in § 1096, besides four hundred and fifty dollars for the adjutant general's contingent fund. And no such appropriation shall lapse at the end of any fiscal year, but all unexpended balances shall be added to the appropriation made for the ensuing year. All disbursements from such appropriation shall be made upon auditor's warrants issued upon vouchers approved by the adjutant general. (1758-1762; '97 c. 118 s. 141; '03 c. 52 ss. 11, 14)

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**1095. Civil War muster rolls**—The adjutant general shall compile, from the original muster rolls in his office and such additional sources as he can command, a complete alphabetical list of the Minnesota volunteers in the Civil War, and shall include therein the military history of each man as shown by such rolls. Thereafter the original rolls shall be placed in suitable metal boxes for safe-keeping, and the compilation so made shall be used in their place for all practicable purposes. ('01 c. 211)

**1096. Salaries, etc.—Assistants**—The adjutant general shall receive a yearly salary of two thousand dollars, and may employ a stenographer at the cost of the state of not more than eight hundred dollars per year. He may appoint an assistant at a salary of not exceeding fifteen hundred dollars per year, who shall perform such duties as he may prescribe. He may also employ, from time to time, other necessary office assistants, for whose compensation provision shall have been made by law. The salary of the military storekeeper shall be twelve hundred dollars per year. All salaries and compensation herein referred to shall be paid by the state in monthly instalments. (7956, 7961; '01 c. 289)

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### MILITARY OFFENCES AND TRIALS

**1097. Commissioned officers—Offences and penalties**—A military offence includes any delinquency or violation of the laws, rules, regulations, or orders governing the militia or national guard, as well as those governing the army and navy of the United States, applicable to the militia or national guard and the offences in this chapter enumerated, and shall be defined as similar offences are in the articles of war and laws and regulations governing the United States army. Upon conviction of a military offence, any commissioned officer of the national guard may be dismissed from the service, cashiered, fined not more than one hundred dollars and the costs of prosecution, or reprimanded, or any or all of said punishments may be inflicted. If sentenced to be cashiered, he shall be disqualified thereby from holding any military commission. If fined, he may be imprisoned in a county jail until the fine is paid, not exceeding sixty days. Any such officer may be tried by court-martial for the following offences:

1. Wilful disobedience of orders, or aiding or abetting others therein.
2. Insult or disrespect to superiors.
3. Mutiny, desertion, or cowardice.
4. Drunkenness on duty.
5. Neglect of duty, or leaving post or command.
6. Making a false report, muster, account, certificate, or return.
7. Conduct to the prejudice of good order and military discipline.
8. Oppression of any under his command.
9. Embezzlement or misappropriation of military or company funds, or wrongful conversion of military property.
10. Wasting or destroying any such property.
11. Conduct unbecoming an officer and a gentleman.
12. Wrongfully disclosing or making improper use of a watchword or parole.
13. Any other violation of the laws, regulations, or orders governing the national guard, as well as articles of war governing United States army, consistent with this chapter. ('97 c. 118 ss. 23, 24)

**1098. Non-commissioned officers and privates—Offences and penalties—** Upon conviction of an enlisted man for a military offence, he may be dishonorably discharged, or, if a non-commissioned officer, reduced to the ranks, or fined not more than fifty dollars and the costs of prosecution, or reprimanded. If fined, upon default of payment he may be imprisoned in a county jail not more than thirty days. Any or all of said penalties may be inflicted upon a single sentence. Any such enlisted man may be tried by court-martial for:

1. Any of the first seven offences mentioned in § 1097.
2. Fraudulent enlistment.
3. Injuring or destroying state or government property, or wearing uniform or equipments while not on duty without permission.
4. Violation of any provision of this chapter, or of any rule or regulation of the guard. ('97 c. 118 s. 26)

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

**1099. Absence or tardiness—Officers—** Any officer may also be tried by court-martial and fined not exceeding ten dollars and costs of prosecution, or in default be imprisoned in the county jail not exceeding five days, for non-attendance or tardiness at any drill, parade, encampment, inspection or other duty ordered by competent authority, each day being a separate offence. ('97 c. 118 s. 25)

**1100. Same—Privates—** Any enlisted man may be tried by court-martial or summary court for non-attendance or tardiness at any drill, parade, encampment, inspection, or other duty ordered by competent authority; and, in case of absence, each day thereof shall be a separate offence. Upon conviction, he shall be fined not exceeding ten dollars and costs, or be imprisoned not more than five days. ('97 c. 118 ss. 25, 27)

**1101. 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. ('97 c. 118 ss. 28, 29)

**1102. Military courts—** The military courts of this state shall be:

1. Courts of inquiry.
2. General courts-martial.
3. Regimental courts-martial.
4. Summary courts, which are of two kinds: (a) field officer's courts; (b) company courts. ('97 c. 118 s. 30)

Trial by court-martial in time of peace constitutional (74-518, 77-424).

**1103. 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. ('97 c. 118 s. 31)

**1104. General courts-martial—** General courts-martial shall be ordered by the governor, or by the brigade commander, and shall consist of seven officers, any four of whom shall constitute a quorum, but at all times a majority of the court, if possible, must be of a grade at least equal to that of the accused. Such courts shall have jurisdiction in all cases arising under the military laws, rules, regulations, or orders in force in this state, and may inflict any punishment authorized by the provisions of this act. ('97 c. 118 s. 32)

**1105. Regimental courts-martial—** Regimental courts-martial to consist of three officers, any two of whom shall constitute a quorum, shall be ordered by the commanding officer of a regiment of infantry or battalion of artillery,

for the trial of officers and enlisted men in his command. The jurisdiction of a regimental court-martial shall extend to all military offences, but it shall not inflict a punishment exceeding a fine of fifty dollars, or imprisonment for a period exceeding thirty days, besides the costs of prosecution and dishonorable discharge, with loss of time served, if an enlisted man, or dismissal, if an officer, all or either of which the court may impose at its discretion. ('97 c. 118 s. 33)

**1106. Summary courts**—Summary courts to consist of one officer for the trial of enlisted men are hereby established and may be designated as field officer's courts and company courts respectively, as hereinafter provided. Their jurisdiction shall extend to all offences cognizable before regimental courts-martial, and they shall have power to inflict any punishment not exceeding a fine of ten dollars and costs of prosecution, or imprisonment not exceeding five days, besides dishonorable discharge with loss of time served, at the discretion of the court: Provided, however, that, if the accused is a non-commissioned officer of the grade of sergeant, the court shall, upon his demand in writing, refer the charges to the regimental commander for trial and determination by a regimental court-martial. ('97 c. 118 s. 34)

**1107. Field officer's courts**—The officer second in rank present for duty with each regiment of infantry or battalion of artillery shall constitute the field officer's court for the trial of enlisted men in such regiment or battalion. ('97 c. 118 s. 35)

See 1905 c. 225 s. 3

**1108. Company courts**—The officer second in rank present for duty with each company or battery shall constitute the company court for the trial of enlisted men in such company or battery. ('97 c. 118 s. 36)

**1109. Courts-martial in time of war**—All laws, rules and regulations governing the army of the United States, relating to courts-martial and the trial and punishment of military offences, shall apply to and in all things govern the militia and national guard of this state when in actual service, in time of war, insurrection, invasion, riot or public danger; otherwise, they shall be in force as far as consistent with the provisions of this chapter. ('97 c. 118 s. 37)

**1110. Disposition of fines**—The proceeds of all fines shall be paid to the captain of the company or battery of which the accused is a member, and if the accused is a regimental officer or non-commissioned officer, to the commanding officer of such organization, for the benefit of the military fund of such company, regiment or organization. And all costs of prosecution shall, in the first instance, be paid out of such fund; and regimental commanders may, by an order, compel such payment, when the company fails or neglects to do so within a reasonable time. ('97 c. 118 s. 38)

**1111. Charges**—Charges shall be preferred in writing by a commissioned officer, and shall contain the name of the offence charged and a reference to the particular section of the military code claimed to have been violated. ('97 c. 118 s. 39)

**1112. Specifications**—Charges shall be accompanied by specifications, containing a brief statement of the facts constituting the offence together with the date and place of its commission. ('97 c. 118 s. 40)

**1113. Charges to be approved**—No charges shall be acted upon until approved by the commanding officer of the regiment of infantry or battalion of artillery of which the accused is a member. ('97 c. 118 s. 41)

**1114. Arrest**—Officers and enlisted men against whom charges may be preferred or contemplated, may be placed in arrest and if enlisted men, in confinement, at the discretion of their commanding officer. Provided, however, that such arrest shall cease at the expiration of twenty days unless a copy of the charges is served as hereinafter provided, and that no enlisted man shall be placed in confinement, before trial, except in camp, or in active service. ('97 c. 118 s. 42)

**1115. Summons**—Upon approval of the charges and specifications, a copy thereof, together with a summons signed by the presiding officer of the court

or the commanding officer of the accused, and requiring said accused to appear before said court at the time and place therein designated, and answer the charges thereto annexed, shall be served upon him, by delivering to him, or leaving at his last known place of abode or business, a true copy thereof. The appearance of the accused shall waive any irregularity in the service of such papers. ('97 c. 118 s. 43)

**1116. Warrant**—Upon proof of service of such summons, and default of appearance of such accused at the time and place designated for trial, the president or officer of the court shall issue his warrant for the arrest of the delinquent, directed to the sheriff or any constable of the county, who shall forthwith execute said warrant and make proper return thereof, and produce to the said court the body of the accused, if within said county, and retain the custody thereof until the conclusion of the trial, unless sooner discharged by order of the court. The court, in its discretion, may also appoint some other suitable person to execute said warrant. ('97 c. 118 s. 44)

**1117. Procedure**—The forms, practice and procedure of courts of inquiry, general and regimental courts-martial, as well as of summary courts, shall conform as nearly as consistent with the provisions of this act to the procedure of similar courts in the army of the United States. In summary courts the evidence or statements will not be recorded, and a judge advocate may be dispensed with. ('97 c. 118 s. 45)

**1118. Disqualifications**—When the officer presiding at a summary court is the accuser in any case therein pending, the commanding officer shall try the case and exercise all the powers vested in such court by law. ('97 c. 118 s. 46)

**1119. Powers**—All military courts shall have power to administer oaths; to subpoena witnesses and compel their attendance; to hear and determine cases; and, when satisfied of the guilt of the accused, to adjudge the punishment to be inflicted, and when approved enforce the sentence as hereinafter provided. ('97 c. 118 s. 47)

**1120. Contempts**—Any person who shall be guilty of disorderly, contemptuous or insolent behavior, or use any insulting or contemptuous or indecorous language or expressions to or before any military court, or any member of either of such courts in open court, intending to interrupt the proceedings or to impair the authority of such court, may be committed to the jail of the county in which said court shall sit, by warrant under the hand of the president of such court. The warrant shall be directed to the sheriff, or any constable or marshal of any such county, or any marshal of the court, and shall briefly state the offence adjudged to have been committed, and shall command the officer to whom it is directed to take the body of such person and commit him to the jail of the county, there to remain without bail in close confinement for a time to be limited, not exceeding three days and until the officer's fees for committing and the jailer's fees be paid. Such sheriff shall obey such warrant and keep the person committed thereby until the expiration of the time mentioned in the warrant, and until the officer's and jailer's fees be paid, or until the offender shall be discharged by due course of law, unless sooner discharged by a judge of a court of record in the same manner and under the same rules as in cases of imprisonment under process of contempt from a civil court of record. ('97 c. 118 s. 48)

**1121. 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. ('97 c. 118 s. 49)

**1122. 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. ('97 c. 118 s. 50)

**1123. Evidence**—Military courts are not bound by the technical rules of evidence prevailing in civil tribunals, and may depart therefrom when in their opinion the exigencies of the case, the best interests of the service or the ends of justice demand it. Copies of all general and special orders may be received in evidence when attested by the signature of any officer having custody of an official copy of such order; and in case a written copy of such order cannot be procured without delay or inconvenience, oral testimony as to its contents may be received, and all military courts may take judicial notice of the signature and handwriting of any commissioned officer of the national guard. ('97 c. 118 s. 51)

**1124. Judge advocates**—The powers and duties which are conferred upon judge advocates by the laws and regulations governing the United States army are hereby conferred upon officers of the national guard of this state appointed or detailed for similar duty. Unless otherwise ordered the judge advocate may remain in attendance throughout the deliberations, findings and sentence of the court. ('97 c. 118 s. 52)

**1125. 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." ('97 c. 118 s. 53)

**1126. Sentence of officers**—Courts-martial in time of peace may sentence an officer to a fine or forfeiture of pay, not exceeding one hundred dollars, and costs of prosecution, to a reprimand, suspension from command, suspension from rank and pay, and to be dismissed or cashiered, or all or either of said fines and penalties. ('97 c. 118 s. 54)

**1127. Sentence of enlisted men**—Military courts in time of peace may sentence enlisted men to a fine or a forfeiture of pay, due or to become due, not exceeding one hundred dollars, and costs of prosecution to be taxed by the court, to a reprimand, reduction to the ranks (if a non-commissioned officer), or dishonorable discharge with loss of time served, or all or either of said fines and penalties. ('97 c. 118 s. 55)

**1128. Imprisonment**—In default of payment of any fine, forfeiture of costs, imposed by any military court, after approval of sentence by the reviewing authority, the offender shall be committed to any county jail designated by said court for a period equal to one day for every two dollars remaining unpaid, not exceeding, however, sixty days when sentenced by a general court-martial, thirty days when sentenced by a regimental court-martial, and five days when sentenced by a summary court. ('97 c. 118 s. 56)

**1129. 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. ('97 c. 118 s. 57)

**1130. Review and approval**—The record and sentence of all cases tried by court-martial shall be transmitted for review to the officer convening such court, and in the case of summary courts to the commanding officer of the regiment of infantry or battalion of artillery of which the accused is a member. No sentence of dismissal affecting a commissioned officer shall be car-

ried into execution until approved by the governor. The reviewing officer shall approve or disapprove the sentence, and may modify, mitigate or remit the same, or may return the record for revision, to correct defects or supply omissions. His final action shall be indorsed on the record or expressed in orders, a copy of which shall be annexed thereto. If further action by the court is necessary to enforce the sentence, or any part thereof, the record and sentence with the action of the reviewing officer thereon shall be returned to the court for further proceedings. ('97 c. 118 s. 58).

**1131. Warrant of commitment**—If the fine and costs imposed by the court are not paid to the presiding officer, judge advocate or other officer authorized to receive the same within five days after notice to the accused or publication of the orders approving the sentence, the president or other officer of the court shall issue his warrant of commitment of such delinquent offender, commanding the sheriff or any constable to whom such warrant is delivered to forthwith take the body of said offender and convey him to the common jail of the county designated in said warrant, there to remain confined during the term of said sentence as set forth in said commitment, or until sooner discharged by competent authority, and to make a due return of his doings thereon. Such warrant of commitment may be substantially in the following form:

The State of Minnesota :

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

Greeting :

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

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

Dated at ..... this day of ....., 19....

.....

Presiding at said Court.  
( '97 c. 118 s. 59)

**1132. 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. ('97 c. 118 s. 60)

**1133. Duties of civil officers**—Any sheriff, constable, jailer, marshal or other civil officer named in this act, who shall neglect or refuse to obey, execute or return the lawful warrant or other mandate of a military court, or make a false return thereon, shall be guilty of a misdemeanor, and, in addition to the penalties attaching thereto, shall forfeit fifty dollars for each offence or neglect of duty, the same to be recovered in a civil action against such officer and his official sureties by the regimental or battalion commander in whose jurisdiction the court warrant or mandate has been disobeyed, for the benefit of the military fund of such regiment or battalion. ('97 c. 118 s. 61)

**1134. Fees of civil officers**—Civil officers executing the warrants or process of a military court shall receive, as compensation therefor, the fees allowed by law for like services in the civil courts, the same to be taxed by such court and paid out of the military fund of the company of which the accused is a member. But no fees shall be allowed or paid to such officer unless an itemized statement thereof is indorsed on and forthwith returned with such warrant or process to the court issuing the same. ('97 c. 118 s. 62)

**1135. Appeal—Notice—Bond**—Any party who may feel aggrieved by the decision of a summary court, may appeal therefrom to the regimental court-martial of his regiment or battalion within ten days after the promulgation of the sentence, and, if personally notified of such sentence, within ten days after such notice, by filing with said summary court a written notice of the grounds of such appeal, together with a bond, to the state of Minnesota, in the penal sum of one hundred dollars with two sureties to be approved by said summary court, conditioned that he shall appear and prosecute said appeal with effect, abide by the decision of the appellate court and faithfully pay and discharge all fines and penalties which may be imposed upon him by said court. ('97 c. 118 s. 63)

**1136. Stay on appeal**—Upon compliance with all the requirements of § 1135, the summary court shall allow said appeal, discharge the prisoner pending the hearing on appeal, and forthwith return the record and papers to the reviewing authority with a statement of the facts indorsed thereon. But no stay of sentence or execution shall be granted by said court until an appeal has been perfected as hereinbefore provided. ('97 c. 118 s. 64)

**1137. Hearing of appeal**—The appellate court when convened shall hear and determine the case in the same manner as other cases originally tried therein. The appellant shall have at least three days' notice of the time and place of hearing, which may be done by mailing to him a copy of the order convening said court. If he fails to appear at the appointed time and place, the sentence of the summary court shall be affirmed, with costs of appeal, including the per diem of the members of the court and other officers and witnesses necessarily in attendance, all of which shall be taxed by the appellate court, and judgment entered thereon against the appellant and his sureties, and in favor of the commanding officer of the appellant's company, or his successor in command, for the use of said company. A transcript of said judgment, certified by the presiding officer of said court, may be filed in the office of the clerk of the district court of any county in this state, there to be entered and docketed in the same manner and with all the force and effect of a judgment originally entered and docketed in said district court, and thereafter executions thereon shall issue from said district court as in other civil cases. If the appellant appears and, after trial, is found guilty and sentenced, the court may also enter judgment against his sureties for the amount of the fine, costs and disbursements, and proceed as hereinbefore provided in case of default. ('97 c. 118 s. 65)

**1138. Return of record**—In all cases military courts shall return the record of their proceedings after sentence to the reviewing authority within thirty days after promulgation of said sentence. And upon final determination of the case such record shall be transmitted to the adjutant general for safe keeping. ('97 c. 118 s. 66)

**1139. 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. ('97 c. 118 s. 67)

## ARMORIES

**1140. Counties may erect**—Whenever a regiment, battalion, or artillery corps of the national guard shall be located in any county, wherein no armory has otherwise been provided for its use, the commanding officer of such organization, the chairman of the county board, and the county treasurer

shall constitute an armory commission, with power, in their discretion, to purchase, erect, or rent a suitable building, and to furnish and keep the same in repair for use as such armory, all at the cost of such county. (1763; '03 c. 52 s. 7)

**1141. Cities and villages may erect**—Whenever a company or battery of the guard shall be located in any city or village wherein no suitable armory has been provided for its use, the commanding officer of the regiment or corps to which such company or battery is attached, the mayor or the president of the village council, and the city or village treasurer shall constitute an armory commission, with power, in its discretion, to purchase, erect, or rent a suitable building as such armory, and to furnish and keep the same in repair, all at the cost of the city or village. (1763, 1764; '03 c. 52 s. 7)

**1142. Expenditures, how made**—All expenditures under §§ 1140, 1141, shall be paid as other charges against the county or municipality are paid, upon itemized vouchers approved by at least two members of the armory commission; and all sums so expended, or estimated in advance by the commission as necessary for the purpose, shall be included in the tax levy and collected with the other county or municipal taxes: Provided that, in cities of the first class, no such armory shall be erected or otherwise required or provided unless the same be recommended by the armory commission to the council, and such recommendation be approved. (1764; '03 c. 52 s. 7)

**1143. Bond issues for armory purposes**—The council of any city of the first class which has not already issued bonds for the acquisition of an armory may issue and sell, in its discretion, the bonds of such city for the cost of such armory, not exceeding one hundred and fifty thousand dollars in amount, notwithstanding any charter or other limitation upon the total of its bonded indebtedness, or upon the powers of the council in reference thereto. Said bonds shall be in such denominations, and payable at such places and at such times, not exceeding thirty years from the date of issue, as the council may determine, with interest not exceeding four per cent. per annum, payable semiannually, according to interest coupons attached. ('03 c. 83)

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

**1144. Same—Other cities, villages, and towns**—In like manner, any other city or any village or town not already provided with a suitable armory, and having authority to erect or otherwise acquire the same for the use of the guard, may issue and sell its bonds for the necessary cost thereof, to run not more than twenty years, at a rate of interest not exceeding four per cent., payable semiannually. But no bonds shall issue under this section that would increase the municipal indebtedness beyond the total limited by law. ('97 c. 118 s. 110; '99 c. 231 s. 6; '02 c. 33; '03 c. 52 s. 8)

87-381, 92+328.

**1145. Donations—Leases—Conditions and terms**—Any city, village, county, or town may accept any grant or donation of real or personal property for the purposes of an armory, or for the improvement or repair thereof, and may meet and fulfil any reasonable condition of such grant or donation not inconsistent with the proper use of the property for armory purposes; and they may enter into a contract for the leasing of property for such purposes for any term not exceeding twenty years. ('97 c. 118 s. 110; '02 c. 33; '03 c. 52 s. 8)

**1146. Control of armories, etc.**—Each armory shall be under the immediate charge of the commanding officer of the organization quartered therein. If more than one organization of the guard occupy the same, the senior field or line officer present from each shall have joint control, and a majority of them shall govern. A record of their actions shall be kept, and all resolutions offered, whether seconded or not, shall be put to vote, and the result recorded. In case of a tie, the brigade commander, upon the request of any member, shall decide, subject to an appeal to the governor. The governor may make and alter rules and regulations for the government of all officers and persons having charge of armories, arsenals, or other military property of the state. ('03 c. 52 ss. 7, 9)

**1147. Control during drill, etc.—Penalties—**The commanding officer of any organization assembling at an armory for drill shall have control of the drill hall during such occupancy, subject to the rules prescribed for its use, and the orders of his superiors. And any person who intrudes contrary to his orders, or who interrupts, molests, or insults any troops so assembled, or who refuses to leave the premises when properly requested so to do, shall be guilty of a misdemeanor. But nothing in this section shall prevent reasonable inspection of the premises by the proper municipal officer, or by the lessor thereof in accordance with the terms of the lease. ('97 c. 118 s. 110; '99 c. 231 s. 6; '02 c. 33)

**1148. Armorers, janitors, engineers—**The commander of each regiment, company, and battery may appoint an armorer, who, under his direction, shall have charge of the armory or place where the uniforms, arms, accoutrements, and other property of the command are kept. In cities, the officer or officers in control of the armory may appoint a janitor thereof, and, if it be heated by steam, an engineer. The duties of all such appointees shall be prescribed by the officers appointing them, who shall also fix their compensation, not to exceed two dollars each per day for time necessarily spent in the performance of such duties, and may dismiss any of them at pleasure. Such compensation shall be paid monthly by the town, county, city, or village, as the case may be, upon vouchers approved by the appointing officers. ('03 c. 52 s. 7)

**1149. Offences at armories—Penalties—**Every person who shall wilfully injure any armory or arsenal, or any property therein lawfully kept or deposited, and every person who shall introduce any spirituous, vinous, or malt liquor into any such armory or arsenal, except for medicinal purposes, upon the prescription of a medical officer of the guard, shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of twenty-five dollars, or imprisonment for ten days in the county jail. ('03 c. 52 s. 7)

#### NAVAL RESERVE

**1150. Organization—Commander and staff—**The naval reserve shall consist of its commander and his staff, and two ships' crews, of not less than two nor more than four divisions each, which divisions, besides the commissioned officers thereof, shall each consist of at least thirty-five and not more than one hundred petty officers and men. The chief officer of the reserve shall rank as commander, and shall appoint as staff officers a lieutenant commander, to be chief of staff; a navigating officer, with the rank of lieutenant; a signal officer, with the rank of lieutenant, junior grade; an aide, ranking as ensign; and a surgeon, a paymaster, a chief engineer, a chaplain, and a judge advocate, each with the rank of lieutenant. The commander and his staff shall be commissioned by the governor, but the following petty officers shall be appointed by the commander and attached to his staff: A master at arms, who shall be chief petty officer of the reserve, a gunner's mate, an equipment yeoman, an apothecary, a ship's armorer, two torpedo electricians, four machinists, one chief quartermaster, one coxswain, and one chief bugler. ('99 c. 355 ss. 1-3)

See 1905 c. 34

**1151. Ship's crew and divisions—Officers—**Each ship's crew shall be commanded by a lieutenant commander, who shall appoint as his staff two lieutenants, one to be executive officer, and one to be navigating, ordnance, and signal officer; one aide, to rank as ensign; and one assistant surgeon, one assistant paymaster, and one assistant engineer, each with the rank of lieutenant, junior grade; all to be commissioned by the governor. For each division there shall be a lieutenant, a lieutenant, junior grade, and an ensign, all to be elected by the crew and commissioned by the governor, and such petty officers as the lieutenant may appoint with the approval of the commander of his crew. ('99 c. 355 ss. 3, 4)

**1152. Appointment, how conditioned—Vacancies—**All officers below the grade of commander shall serve for ninety days as acting officers in the grade

to which they are commissioned, within which time they shall be examined as to their mental and physical fitness by a board consisting of the officers of the next higher grade. If any fail to pass such examination, their appointment shall cease to be effective. In case of a vacancy, the officer next below in rank shall succeed to the vacant position. ('99 c. 355 ss. 5, 6)

**1153. Rules of United States navy to apply—Exceptions—**Except as otherwise expressly provided, the organization and system of discipline of the naval reserve shall conform as nearly as may be to those of the United States navy; but the reserve shall be under the control of the governor, and all reports shall be made to him through the proper channels. The pay, subsistence and equipment of the naval reserve shall be such as may be provided by law. Whenever the navy department of the United States shall offer or be willing to supply means and opportunity for naval instruction and drill, the governor may co-operate for the accomplishment thereof; but while in the service of the United States, either actively or for purposes of naval instruction, officers and men of the reserve shall not be entitled to allowances or pay from the state. ('99 c. 355 ss. 7, 8)

05 1153 34

## CHAPTER 13

### ROADS

**1154. Scope of chapter—Town and county roads—**The provisions of this chapter shall be construed as relating solely to highways, cartways, and bridges thereon, not wholly included within the limits of a city, village, or borough. All such highways established by town boards shall be known as "town roads," and all others as "county roads." And the term "road," as used herein, shall extend to all public ways.

1154-1170  
09 - - 196  
09 - - 405  
1154-1278  
09 - - 7  
09 - - 34  
09 - - 40  
09 - - 41  
09 - - 88  
09 - - 91  
09 - - 135  
09 - - 141  
10 - - 176  
09 - - 216  
09 - - 281  
09 - - 425

### COUNTY ROADS

**1155. Altering, vacating, etc.—Damages—Record book—**County roads shall be altered or vacated only by county boards. Damages resulting from establishing, altering, or vacating such roads shall be determined in the manner hereinafter provided, and shall be paid by the counties through which they pass. All proceedings in establishing, altering, or vacating such roads shall be recorded in a public record book, designated as the "Book of County Roads." (1844; '97 c. 199 s. 7)

27-119, 124, 6+457.

05 1155 116

**1156. Roads in more than one county—**Whenever a petition for the establishment, alteration, or vacation of a road running into or through two or more counties, or on, or partly on, the line dividing two or more counties, in the same or in two or more judicial districts, signed by twenty voters, freeholders of said counties, shall be presented to a judge of the district court of one of said districts, said judge may appoint three commissioners, who shall immediately proceed to establish, alter, or vacate such road as directed by the order of appointment: Provided, that no such road shall extend more than six miles outside the judicial district where the application is made, and then only for the purpose of connecting with some village, or some existing road. (1883; '01 c. 213 s. 1)

07 1156 173  
07 - 399

See 1905 c. 245

26-445, 4+1107; 81-443, 84+301; 84-308, 87+921.

**1157. If in more than one district—**Where such road, or the part thereof to be altered or vacated, runs into or through two or more judicial districts, the judge to whom the petition is presented shall act thereon in conjunction with a judge of each of the other districts; and, in such case, if they deem such road necessary or advisable, they shall appoint five commissioners from the several counties affected. (1883; '01 c. 213 s. 1)

See 1905 c. 245