

Acts of the General Assembly

OF THE

Commonwealth of Kentucky

PASSED AT

The Regular Session of the General Assembly, which was begun
in the City of Frankfort, Kentucky, on Tuesday, January
the Second, 1912, and ended on Tuesday,
March the Twelfth, 1912.



Frankfort
The Kentucky State Journal Pub. Co.
1912

CHAPTER 142.

AN ACT to provide for the organization, armament, equipment, discipline, and government of the militia, and amending Chapter 86, Sections 2652 to 2711, inclusive, of the Kentucky Statutes, Carroll's 1909 edition, being an act of March 13th, 1893, entitled, "An Act Concerning the Militia of the Commonwealth of Kentucky," and amendatory acts thereto.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the act, entitled "An Act Concerning the Militia of the Commonwealth of Kentucky," approved March 13, 1893, and amendatory acts thereto, being Chapter 86, Sections 2652 to 2711, inclusive, of the Kentucky Statutes, Carroll's 1909 edition, be and the same is hereby, amended and re-enacted, so as to read as follows:

THE EXECUTIVE, AND PROVISIONS APPLICABLE TO THE
EXECUTIVE DEPARTMENT.

COMMANDER-IN-CHIEF. The Governor shall be Commander-in-Chief of the army and navy of this Commonwealth, and of the militia thereof, except when they shall be called into the service of the United States; but he shall not command personally in the field, unless advised so to do by a resolution of the General Assembly. (Constitutional provision.)

AUTHORITY TO CONTROL. The Governor shall exercise the authority of issuing the lawful orders to organize, equip, and discipline the militia, so that it may conform as nearly as practicable, to the reg-

ulations for the government of the armies of the United States.

GOVERNOR MAY DISBAND AND MUSTER-OUT. The Governor may disband and muster out of the service, any organization, or part of same, falling below the proper standard of efficiency, which shall be determined by him from inspections and reports thereon.

CODE. The Governor is authorized to make and publish a code of regulations for the government of the militia, which shall, so far as consistent, contain Articles of War and the regulations governing the United States Army, or such modifications as may be applicable

ADJUTANT GENERAL'S OFFICE.

THE ADJUTANT GENERAL'S OFFICE. The personnel of the Adjutant General's Office shall consist of one brigadier general, who shall be the Adjutant General and Chief of Staff; one colonel of the Adjutant General's Department; one captain of the Ordnance Department, who shall be the Arsenal Superintendent; all of whom shall be appointed by the Governor; and such officers as may be necessary, who shall be detailed by the Adjutant General from the Kentucky National Guard, and such stenographers and other assistants as may be necessary to be employed by the Adjutant General. The Adjutant General, the colonel in the Adjutant General's Department, and the Arsenal Superintendent, shall hold office for a term of four years, or at the pleasure of the Governor.

DUTIES OF THE ADJUTANT GENERAL. The Adjutant General shall perform such duties as are prescribed by law and such other military duties consistent with the regulations and customs of the United

States Army, as may be required by the Governor. The Adjutant General is charged with the duty of supervising all troops of the line and all departments, arms and branches of the Kentucky National Guard. Such supervisory power covers, primarily, duties pertaining to the command, discipline, training and recruitment of the militia, military operations, distribution of troops, inspections, armament, military education and instruction, and kindred matters connected with fiscal administration and supplies. The Adjutant General shall, from time to time, prepare and publish by the order of the Governor, such orders and regulations, consistent with law, as are necessary to bring the organization, armament, equipment, and discipline of the Kentucky National Guard to a state of efficiency as nearly as possible approaching that of the United States Army. The Adjutant General shall also prepare returns to the Secretary of War at such times, and in such form as the Secretary of War shall prescribe, of the strength of the militia, and such reports as may, from time to time, be required by the Secretary of War.

The State Arsenal, all military store houses, places for encampments, and rifle ranges, owned by the State, or leased by the State or the United States for the State and all military property of the United States issued to the Governor of Kentucky, shall be immediately under the control of the Adjutant General, under the general direction of the Governor.

The Adjutant General shall establish and maintain, as part of his office, a bureau of war records in which all records relating to wars, and relics shall be kept. He shall be the custodian of all such records, relics, colors and standards, and battle flags,

now the property of the State, or in its possession, or which the State may hereafter secure or become possessed of.

LAW TO BE INDEXED, PRINTED AND DISTRIBUTED. It shall be the duty of the Adjutant General to index and properly prepare this law and such regulations as the Governor may add thereto and have the same printed and distributed for the information and guidance of the officers and enlisted men of the Kentucky National Guard.

IN THE ABSENCE OF THE ADJUTANT GENERAL—OFFICER TO ACT. In the absence or inability to perform the duties of the Adjutant General, the senior officer on duty in the Adjutant General's office, shall perform the duties prescribed for the Adjutant General.

MILITARY ESTABLISHMENT—GENERAL PROVISIONS OF ORGANIZATION.

PERSONS WHO CONSTITUTE—DIVIDED INTO TWO CLASSES. The militia of the State of Kentucky shall consist of all able bodied male residents of the State between the ages of eighteen and forty-five years, except such persons as may be exempted by the laws of the State or of the United States, and shall be divided into two classes:

1. The Organized Militia, to be known as the Kentucky National Guard.

2. The Reserve Militia, consisting of all other persons liable to military service.

MILITARY DUTY—PERSONS EXEMPT FROM. The members of the Kentucky National Guard who serve, or have served, two consecutive terms, all civil officers, except notaries public, while holding office, and those persons having conscientious scruples against bearing arms, who pay such equiv-

alent for the service as may be prescribed in the proclamation of the Governor calling them into active service, as part of the reserve militia, shall be exempt from military duty, but the enlistment, or re-enlistment, of any persons in this section mentioned, shall be deemed a waiver of their exception.

OFFICERS—SOLDIER—DEFINITION **CONVICTION BY CIVIL COURTS.** The word officer, as used in this act, shall be understood to designate commissioned officers; the word soldier shall be understood to include non-commissioned officers, musicians, artificers and privates, and other enlisted men, and the convictions mentioned therein shall be understood to be convictions by civil courts, except when military courts are specified.

NATIONAL GUARD UNITS—HOW ORGANIZED. When it is desired to organize a unit of the Kentucky National Guard in any county, a written application, signed by the minimum number of eligible persons, which minimum number shall be prescribed by the Governor, in orders, shall be submitted to the county judge for his written approval. If approved by the county judge, the application shall be forwarded to the Adjutant General. Should the Governor approve the application he shall direct that proper steps be taken to muster the unit into the State service as part of the Kentucky National Guard. After a unit has been mustered into the service, recruits may be enlisted by such officer as the Governor may designate.

COUNCIL OF ADMINISTRATION—POWERS AND DUTIES OF. Each regiment and separate battalion may have a council of administration composed of its officers, which shall be charged with the care and control of the fiscal affairs of the organization, may adopt suitable by-laws, effective on the approval of the Governor, and may elect not more than

twenty-five honorary members for each company, battery, troop, or equivalent unit; said honorary members to be exempt from jury service, upon their payment annually, or oftener, as the council shall so determine, of a sum not less than ten dollars; and the money thus obtained shall be for the use of the regimental, or battalion fund, to be expended by the commanding officer in such manner as, in his judgment, the interests of the organization require. Each unit not under the control of a regimental, or battalion council of administration, may also have a council of administration, composed of its officers, and it shall have the same power as prescribed herein for a regiment and separate battalion.

TEMPORARY ABSENCE OF NATIONAL GUARD FROM STATE. When the Kentucky National Guard shall be called into the service of the United States to serve without the State, the Governor shall have power to organize and muster into the service, such a force as may be necessary in the temporary absence of the National Guard, but such force so organized shall be disbanded upon the return of the National Guard to the State.

GENERAL OFFICERS, STAFF AND DEPARTMENTS.

ORGANIZATION OF THE KENTUCKY NATIONAL GUARD. —The Kentucky National Guard shall consist of the general officers commanding the divisions and brigades, where such units are organized; the staff corps and departments necessary to provide staff officers and enlisted men, viz., chief of staff, an adjutant general's department, an inspector general's department, a judge advocate general's department, a quartermaster's department, a subsistence department, a medical department, a pay department, a corps of engineers, an ordinance de-

partment, a signal corps, and such bodies of infantry, field artillery, cavalry and other arms of the service as may be provided by the laws of the State of Kentucky, as prescribed by the Governor in orders.

STAFF CORPS AND DEPARTMENTS. Officers of the staff corps and departments shall be appointed from the Kentucky National Guard by the Governor, and, except as hereinafter provided, shall hold office for a term of three years, or at the will and pleasure of the Governor.

STAFF OF THE GOVERNOR. The staff of the Governor shall consist of the Adjutant General and such other officers and honorary members as the Governor may designate.

STAFF OFFICERS MUST BELONG TO STAFF CORPS OR DEPARTMENTS. Officers appointed on the staff of a division, or brigade, must belong to some staff corps or department, or to the line, and be detailed for such duty on such staff by order of the Governor.

COMMISSIONED OFFICERS—ELIGIBILITY FOR APPOINTMENT OR ELECTION TO COMMISSIONED OFFICE. All appointed and elected officers, except those of the Judge Advocate General's Department, Medical Department, Engineer Corps and chaplains, shall be appointed, or elected, from the officers and enlisted men of the Kentucky National Guard.

COMMISSIONED STAFF—APPOINTMENT AND REMOVAL. The appointment or removal of staff officers by division, brigade, regimental or battalion commanders, shall become effective when confirmed by orders of the Governor.

MEDICAL OFFICERS. Medical officers shall be commissioned with rank of first lieutenant, and on completing three consecutive years of service, may be promoted to the grade of captain, and on comple-

tion of five consecutive years in that grade, may be promoted to the grade of major.

CHAPLAINS. Chaplains shall be commissioned with the rank of first lieutenant, and on completing seven consecutive years of service, may be promoted to the grade of captain.

ELECTION OF OFFICERS. Elections shall be ordered by the Governor, reasonable notice being given, to fill vacancies that may occur by the expiration of term of office, or otherwise. All officers, except staff corps, departments, and staff officers, shall be elected by a majority of the votes cast by their respective commands, a majority of the members of their respective commands being present and voting.

Elections shall be held by officers designated in orders by the Governor, and a certified statement concerning the result shall be made by such officers, on a form furnished by the Adjutant General, which certified statement shall be immediately forwarded to the Adjutant (General), who shall, without delay, cause an order to be issued announcing the name, or names, of the officer or officers, elected.

FAILURE TO FURNISH BOND. Should any officer appointed, or elected, fail to qualify by furnishing the prescribed bond, within ten days after his appointment, or election, the office shall be deemed vacant.

EXAMINATIONS. Before receiving a commission, by reason of an appointment, or election, or before being commissioned to a higher grade by result of promotion, every officer in the Kentucky National Guard must have passed a satisfactory physical examination before a designated medical examiner, and a satisfactory examination before a board of examining officers of the Kentucky National Guard as to his knowledge of military affairs and general

knowledge and fitness for the service, and anyone failing to pass such examination shall be dropped from the roster of officers, and shall not, within the period of one year, be eligible for an office in the Kentucky National Guard, or for promotion; Provided, that general officers and officers of the staff of the Commander in Chief, chiefs of departments and corps, and colonels commanding regiments, who have been previously commissioned, after examination, engineer officers, judge advocates, chaplains, and medical officers shall be exempt from any examination, other than the physical examination.

TERM OF OFFICE—DATE OF RANK. Except as hereinafter provided, all officers shall be appointed, or elected, for a period of three years, and, in the event of re-appointment, or re-election, in the same grade, an officer's rank shall date from the original date of appointment or election.

SENIORITY. Seniority in rank shall be determined by the length of continuous service in the same grade, whether by appointment or election.

HOLDOVERS. When a term of office expires without an appointment having been made, or an election having been held, the officer shall continue to hold office until his successor has been appointed or elected and has qualified by furnishing the prescribed bond.

COMMISSIONS—OATH OF OFFICE. When an officer has been fully qualified, he shall be issued a commission signed by the Governor, which shall date from the time of his last appointment, or election. Each officer shall, on receiving his commission, take the oath of office prescribed in the Constitution of the State of Kentucky, and in addition thereto, the following: "And I further swear that I will well and truly execute and obey the lawful orders of all officers legally placed over me, when on

duty." The oath of office and the obligations prescribed herein shall be administered by any civil officer, competent to administer oaths, who shall endorse on the commission the fact of qualification, and, in addition shall furnish the officer with a certificate on a form furnished by the Adjutant General, that the oath has been administered and the obligation taken. The certificate shall be immediately forwarded to the Adjutant General of Kentucky.

OFFICERS' UNIFORMS, ARMS AND EQUIPMENTS. Upon being commissioned, officers shall provide themselves with proper uniforms, arms and equipments, prescribed by regulations, and shall maintain same in a state of serviceable condition during their term of office. The uniform or insignia of rank prescribed for the officers of The Kentucky National Guard, shall be worn only by persons entitled thereto, by commission under the laws of the State or of the United States, or of another State of the United States. Any person violating any provision of this section shall be punished by a fine of not more than one hundred dollars.

RECORD OF UNASSIGNED OFFICERS TO BE KEPT.— There shall be kept in the office of the Adjutant General a book or other proper record upon which shall be kept the names of certain officers, as hereinafter provided, to be known as the "Unassigned Officers of the Kentucky *State* Guard." Any officer of the Kentucky *State* Guard, having served honorably therein for at least three years and whose company or other command has been, or is about to be, mustered out, or who, for any other reason, is without any active command or position in the Guard, or who may desire to retire from regular service in the *State* Guard, may apply to the Adjutant General that he be relieved of regular par-

icipation in duties of the Guard and that he be retained in the service thereof with his rank as a commissioned officer. He may file with his application a statement of his reasons for his request and such recommendations and endorsements of other officers as he may wish. If the Adjutant General be of opinion that the applicant has been a good and efficient officer and that the request is otherwise meritorious, he may place the name of the applicant upon the list of unassigned officers above provided for, together with the age, address, rank, date of commission and the last active command or other position of the applicant and the date of his last active or regular service in the *State* Guard. Said applicant shall have the right, at any time, to have his name stricken from said list and the Adjutant General shall, at any time, have the right to strike the name of such applicant from said list, but shall endorse the reason therefor on said record opposite the name of such officer. His commission shall expire whenever his name is stricken from said list.

The officers thus placed upon the unassigned list, and not stricken off, shall be subject, at any time, to any special or temporary duty or active service to which the Governor may assign them. They shall remain in commission with the same rank as when placed on said unassigned list, and whenever any such unassigned officer shall be assigned to any special or temporary duty or active service, or shall re-enter the regular duty and service of the *State* Guard with the same rank as when placed on the unassigned list, his seniority shall be determined as of the date he was placed on said list.

GOVERNOR'S POWER TO VACATE COMMISSION. The Governor shall have power to vacate a commission of any officer who absents himself from his com-

mand without leave, for thirty days, and to discharge in the interests of the service, any enlisted man, who absents himself from his command for thirty days, without leave, or who absents himself from four consecutive drills without proper authority.

DISMISSAL OF ELECTIVE OFFICERS. The Governor may dismiss any officer who has been convicted of a crime, but in no other case, except as provided herein, shall an elective officer be dismissed from the service without his consent, except on the sentence of a general court-martial, or the findings of a board of examination.

RESIGNATION. Resignation of officers must be in writing, addressed to the Adjutant General, and the reasons for tendering such resignation shall be specifically stated. Resignations shall be transmitted through immediate commanding officers, who shall make endorsements thereon. Resignations shall take effect when accepted by the Governor and announced in orders.

CERTIFICATE OF DISCHARGE. Officers discharged from the service of the State, shall be entitled to a certificate of discharge, in such form as the Governor may prescribe.

ENLISTED MEN.

NATIONAL GUARD—WHO ELIGIBLE TO MEMBERSHIP—TERM OF ENLISTMENT. Any able-bodied man of good character, who can read and write the English language, who is between the ages of eighteen and forty-five years, who has passed the required physical examination, which physical examination shall be the same as that required for enlistment in the United States Army, and who is a resident of the State of Kentucky, may be enlisted, or re-enlisted,

in the Kentucky National Guard for a term of not less than three years. A man who has been dishonorably discharged, or discharged without honor, from the United States Army, Navy, or Marine Corps, the organized militia of any other State, or from the organized militia of this State, shall not be eligible for enlistment, or re-enlistment, except he produce the written consent to such enlistment or re-enlistment of the commanding officer of the organization from which he was dishonorably discharged, or discharged without honor, and of the officer who approved such discharge.

OBLIGATION OF ENLISTMENT. No person shall become a soldier in the Kentucky National Guard except on making oath to, or affirming, an obligation of enlistment of the following form:

STATE OF KENTUCKY.

(STATE SEAL.)

City or Town.

.....

I,, born in
in the State of aged.....
years and months, and by occupation a
Do HEREBY ACKNOWLEDGE to have voluntarily.....
enlisted this day of191...,
as a soldier in the Kentucky National Guard, for a period of three years, unless sooner discharged by proper authority; and do also agree to accept from the United States and the State of Kentucky such bounty, pay, rations and clothing as are, or may be, established by law. And I do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America and the State of Kentucky, and 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 the Governor of Kentucky, and the orders of the officers appointed over me, according to the rules and articles of war and the laws of the State of Kentucky.

..... (SEAL)

Subscribed and sworn to before me this
day of..... A. D. 191....

.....
.....

Recruiting Officer.

I certify that I have minutely inspected the above-named man,, previous to his..... enlistment, and that he was entirely sober when enlisted; that, to the best of my judgment and belief, he fulfills all legal requirements; and that I have accepted and enlisted him into the service of the State of Kentucky, under this contract of enlistment as duly qualified to perform the duties of an able-bodied soldier, and, in doing so, have strictly observed the regulations which govern the recruiting service. This soldier has..... eyes, hair, complexion, is feet inches high.

..... (SEAL)
.....

Recruiting Officer.

NOTE—This enlistment shall be executed in duplicate, one copy to be retained in the records of the organization and the other to be immediately forwarded to the Adjutant General of Kentucky.

NON-COMMISSIONED STAFF. The appointment or removal of non-commissioned staff officers by division, brigade, regimental, or battalion commanders, shall become effective when confirmed by orders of the Governor.

NON-COMMISSIONED OFFICERS—APPOINTMENT. The requisite number of non-commissioned officers,

cooks, musicians, and artificers shall be appointed by their immediate commanding officer, subject to the approval of the next higher authority, and they shall be issued warrants, properly certified, on a form prescribed by the Adjutant General. All such non-commissioned officers may be reduced in rank by an order of their immediate commanding officer, approved by the next higher authority. Provided, that first sergeants and company quartermaster sergeants of companies shall be designated from among the sergeants, and may be returned to duty as sergeants, by order of the company commander.

BANDS. Bands shall be under the command of the regimental adjutants. An officer shall be designated by the Governor as accountable officer for the military property issued for the use of a band.

TRANSFER OF ENLISTED MEN. The transfer of an enlisted man from one unit to another, shall be authorized when approved by order of the Governor.

SOLDIER CAN NOT ELIST. Any soldier whose term of service in one organization has not expired, shall not enlist in any other organization of the militia, the United States Army, Navy or Marine Corps, except he be discharged, in accordance with law, from the Kentucky National Guard.

ISSUE OF COMMISSION TERMINATES ENLISTMENT. The enlistment of an enlisted man shall terminate on the issue to him of a commission as an officer.

DISCHARGE OF ENLISTED MEN.

AUTHORITY FOR DISCHARGE. An enlisted man shall not be discharged before the expiration of his term of service, except: 1. By order of the Governor. 2. By sentence of court-martial, approved by the Governor.

EXPIRATION OF SERVICE. When an enlisted man is discharged for expiration of service, his discharge shall take effect on the last day thereof, i. e., if enlisted on the second day of the month, his term will expire on the first day of the same month, in the third year of his term of enlistment.

DISCHARGE CERTIFICATE. A soldier, on his discharge from service, will be given a certificate of discharge signed by his commanding officer and by the Adjutant General.

CHARACTER. The character given on the discharge, will be signed by the company or detachment commander, and great care will be taken that no injustice is done the soldier. If the soldier's service has been honest and faithful, he will be entitled to such character as will warrant his re-enlistment; i. e., to character, at least "good." Where the company commander deems the service not honest and faithful he shall, if practicable, so notify the soldier at least thirty days prior to discharge, and shall, at the same time, notify the Adjutant General, who will in every such case, convene a board of officers, three if practicable to determine whether the soldier's service has been honest and faithful. The soldier shall, in every case, be given a hearing before a board. The findings of the board, when approved by the convening authority, shall be final. Discharge without honor on account of "service not honest and faithful" shall be given only on the approved findings of a board of officers as herein provided.

CLASSES. Discharge of enlisted men shall be of four classes: Honorable, in the interests of the service, without honor, and dishonorable.

HONORABLE DISCHARGE. An enlisted man may be honorably discharged from the service upon his own

application, approved by his commanding officer and the Adjutant General.

INTERESTS OF THE SERVICE. An enlisted man may be discharged in the interests of the service, upon proof that the interests of the service require such discharge.

DISCHARGE WITHOUT HONOR. An enlisted man may be discharged without honor:

(a) Without trial, on account of fraudulent enlistment.

(b) Without trial, on account of having been disqualified for service physically, or in character, through his own misconduct.

(c) On account of imprisonment under sentence of civil courts.

(d) Where the service has not been honest and faithful.

(e) When especially ordered by the Governor for any other reason.

DISHONORABLE DISCHARGE. A dishonorable discharge shall be given only by sentence of a general court-martial approved by the Governor.

CERTIFICATE OF SERVICE. Upon satisfactory proof of the loss of a discharge certificate, or of its destruction without the fault of the person entitled to it, the Adjutant General may cause to be issued to such person, a certificate of service, showing date of enlistment and discharge from the Kentucky National Guard, and character given on the original discharge certificate.

DISCHARGE TAKES EFFECT. The discharge of an enlisted man takes effect on date of notice to him of such discharge, either actual, by delivery of the certificate of discharge, or constructive, as where such delivery can not be made, owing to his absence for his own convenience, or through his own fault, in which case the receipt of the discharge certificate at its proper station, will be deemed proper notice.

MILITARY FUND, SALARIES, PAY AND ALLOWANCES.

MILITARY FUND—WHAT CONSTITUTES—DISBURSEMENT OF. There is hereby appropriated the sum of twenty thousand dollars per annum and this sum shall constitute the State Military Fund. Thirteen thousand dollars of said fund shall be paid annually out of any funds in the treasury, not otherwise appropriated, and the remaining seven thousand dollars of said fund shall be paid annually out of the funds heretofore appropriated for the benefit of the Kentucky State Guard by a resolution entitled "Resolution appropriating money to reorganize, extend the organization and equip the State Guard, and to recover possession of State's munitions of war," which was approved March 13, 1900, until the funds appropriated by said resolution, or so much thereof, as may not have heretofore been expended, shall be exhausted, and no part of said fund appropriated by said resolution, shall be used except as provided by this act, and thereafter the entire appropriation made by this section, shall be paid out of any funds in the treasury not otherwise appropriated. The State Military Fund shall be disbursed from time to time, by the authority of the Governor and under such regulations as he shall prescribe for the organization, administration, equipping and uniforming the Kentucky National Guard; for the purchase of tactics, laws and regulations of the United States; for instruction of the Kentucky National Guard; for the publishing of regulations for their government; for the renting of armories; and for the care and preservation of public property; for the purchase of such camp and garrison equipage and military stores as may be necessary; and, generally, as,

in his judgment, may best promote the interests of the Kentucky National Guard.

SALARIES—HOW PAID. The Adjutant General shall receive an annual salary of two thousand dollars to be paid in monthly installments out of the treasury from the general fund; the colonel in the Adjutant General's Department shall receive an annual salary of fifteen hundred dollars to be paid in like manner as the salary of the Adjutant General; the captain in the Ordinance Department shall receive an annual salary of six hundred dollars, to be paid in like manner as the salary of the Adjutant General; and in addition to said salary of six hundred dollars per year, he shall be paid four hundred dollars in equal monthly installments out of the State Military Fund. Compensation of other officers and employes in the Adjutant General's office, when on duty, shall be fixed by the Adjutant General and the Governor, and paid out of the State Military Fund, and shall not be a charge against the general fund of the State.

ACTIVE SERVICE PAY—HOW PAID. Officers and enlisted men when employed in active service, as defined and as provided in this act, beginning with the day they assemble at their armories, or other designated place, until the day they have returned thereto and properly relieved, inclusive; fractional parts of a day counting a full day, a day beginning immediately after midnight and ending the following midnight, shall receive pay and allowances at the following daily rates: officers, major general, twelve dollars; brigadier general, ten dollars; colonel, eight dollars; lieutenant colonel, seven dollars; major, six dollars, captain, five dollars, first lieutenant, four dollars and fifty cents; second lieutenant, four dollars; and in addition the cost of hire or rental of quarters, and the cost of hire of

one horse and one forage ration when required to be mounted; officers shall provide their own subsistence; enlisted men—Chief musician, three dollars; regimental sergeant major, regimental quartermaster sergeant, regimental commissary sergeant, first sergeant, and principal musician, two dollars and fifty cents; battalion sergeant major, color sergeant, and drum major, two dollars and twenty-five cents; company quartermaster sergeants, sergeants first-class, sergeants and cooks, two dollars; corporal and artificer, one dollar and seventy-five cents; musicians, privates, first-class and privates, one dollar and fifty cents. Each enlisted man shall be entitled to one ration per day, or commutation of same, at actual cost of subsistence not exceeding seventy-five cents per day. The pay and allowances authorized by this section shall be paid out of the treasury on warrant of the Auditor of Public Accounts, upon organization pay rolls, or vouchers for individuals, as may be required, accompanied by copies of the orders authorizing the service; approved pay rolls and vouchers shall be certified by the Adjutant General and approved by the Governor by their own signatures.

OFFICERS AND ENLISTED MEN NOT ENTITLED TO PAY FOR ACTIVE SERVICE. Officers and enlisted men employed in the Adjutant General's office, or in the military service, and who receive a salary for such services from the State, shall not be entitled to additional pay from the State for active service, or active duty, but shall be entitled to actual cost of subsistence and quarters and proper expenses when serving under orders of the Governor, beyond the limits of the city of Frankfort.

SALARIED OFFICERS AND ENLISTED MEN ENTITLED TO UNITED STATES PAY. The provisions of the preceding section shall not prohibit an officer or enlist-

ed man from receiving pay from the United States, for participation in encampments or field service.

COMPANY ALLOWANCE. Each company and equivalent unit shall be allowed fifty dollars per annum from the State Military Fund for expenses incidental to cleaning and repairing clothing and equipment; said amount to be placed to the credit of the organization at the commencement of the fiscal year, and the commanding officer shall certify all vouchers for such service and supplies and forward same to the Adjutant General for payment; any unexpended balance remaining to the credit of the organization, at the close of the fiscal year, shall be carried over and placed to the credit of the organization for the succeeding year. The expenditure for any fiscal year shall not exceed the amount on hand to the credit of the organization for that fiscal year.

ALLOWANCE FOR ARMORER. There shall annually be allowed and paid from the State Military Fund, to each company and equivalent organization, for the services of an armorer, who shall devote all necessary attention to the care of the arms, equipments, uniforms and quarters of the company, the sum of one hundred and twenty dollars, to be paid on vouchers certified by the Company commander.

INCURRING OF UNAUTHORIZED EXPENSE. No officer or enlisted man of the militia shall incur any expenses whatsoever, to be paid by the State, except such as are authorized by this act, without first obtaining the authority of the Governor; in extreme emergencies, however, the commanding officer of any organization or detachment of the organized militia may make purchases of such necessities as are absolutely required for the immediate use and care of his command; a report of such action, containing a statement of the articles purchased, and

the prices thereof, shall be made forthwith to the Adjutant General. Such accounts shall be audited by the Adjutant General and he may allow or disallow same, as he shall so determine.

RECEIPTS FOR MONEY EXPENDED—REQUIRED. The original receipts, written with ink or indelible pencil, shall be required for any expenditure in the military service, of one dollar or more, where payment is made from State funds. Provided, that if it is impracticable to secure a receipt, a certificate shall be attached to the claim setting forth the facts.

PUBLIC PROPERTY.

MILITARY PROPERTY PROVIDED. Except as hereinafter provided, organizations of the Kentucky National Guard shall be furnished, at public expense, with sufficient serviceable uniforms, arms, equipments, colors, musical instruments, books of instruction and of record, supplies, camp and garrison equipage, and horses and wagons necessary for their proper training and instruction, and for the proper performance of military duty. Such expense as is not borne by the United States, may be paid from the State Military Fund, but shall not be made a charge against the general fund of the State.

BONDS. Such officers as may be designated by the Governor, shall execute proper bond to the State of Kentucky, in such sum as the Governor may prescribe, and no officer shall be relieved of any bond he may have executed, nor shall his surety be relieved, nor shall his estate be affected in any way, by resignation, discharge, change in official position, or death, until final settlement of all of his accounts have been made and a certificate of such settlement issued by the Adjutant General.

RETURNS OF PROPERTY. An officer accountable for military property shall make returns of same in such form and at such times as the Governor may prescribe.

PROPERTY TO BE KEPT IN ARMORY. All arms, equipments, and military property furnished for the use of the several organizations of the Kentucky National Guard, shall be kept in the armory of the command, except when in use for authorized military purposes.

USE OF MILITARY PROPERTY—UNAUTHORIZED. No article of military (property) shall be used for other than authorized military purposes.

WEARING OF UNIFORM—UNAUTHORIZED—DISCRIMINATION AGAINST—PENALTIES. The uniform of the Organized Militia of the United States, or of the United States Army, Navy, or Marine Corps, or any part thereof, shall not be worn by persons other than members thereof, nor shall the owner, proprietor, manager, or employee of any hotel, opera house, skating rink, or any other place of public amusement or entertainment deny admission to, or in any way, discriminate against, any member of the Organized Militia of the United States, or of the United States Army, Navy, or Marine Corps, on account of his being in the uniform of his rank and service. Provided, however, that nothing in this act shall apply to persons of the theatrical profession while actually engaged in their profession, or veterans of a soldier's home while actually in such a home, or veterans of the Civil War. Any person violating any provision of this section shall, upon conviction, be punished, by a fine not exceeding three hundred dollars.

UNAUTHORIZED USE OF MILITARY PROPERTY. No soldier shall wear, or use, or have in his possession, except for military purposes, or by special permis-

sion of his commanding officer, any uniform, or part thereof, or other article of military property belonging to the State or the United States. Any person violating any provision of this section shall, upon conviction, be punished by a fine not exceeding fifty dollars.

PRIMA FACIE EVIDENCE OF EMBEZZLEMENT. Every officer and enlisted man shall, immediately after use, return thereto all military property of the State and of the United States, issued to him for military service or duty, and the possession by him when not in active service, or on active duty, or without permission of his commanding officer, of any such property, elsewhere than in the armory, shall be prima facie evidence of embezzlement.

MONEY VALUE OF PROPERTY TO BE CHARGED. Every officer and enlisted man of the Kentucky National Guard, who may lose through carelessness or neglect, carry away or unlawfully dispose of arms, equipments, or other military property belonging to the United States, or to the State, shall be charged with the money value thereof, as determined by an approved report of survey, by a surveying officer, designated by the Governor.

OFFICER LIABLE FOR PROPERTY. Officers shall exercise the strictest care and vigilance for the protection of uniforms, arms, equipments, and military property furnished for the use of the several commands, and in case of any loss thereof, or damage thereto, by their neglect or default, they and their surety shall be liable on their bonds to the State. They shall also be liable to punishment by sentence of a court-martial for neglect of duty.

UNAUTHORIZED LOAN OR TRANSFER OF PROPERTY. An officer shall be accountable for all public property, funds and papers received by him for military use; and shall not dispose of, loan, or transfer the

same, or any part thereof, without the authority of the Governor.

TRANSFER OF PROPERTY. An officer of the Kentucky National Guard vacating an office, shall transfer to his successor, or other officer designated by the Governor, all records, funds, papers, and military property in his possession belonging, or in any way pertaining, to such office.

OFFICERS RESPONSIBLE FOR PROPERTY. Upon disbandment by muster out of service of any organization, the officers thereof shall be responsible for the safe return to the Adjutant General, or to an officer designated by the Governor, of all military property in his possession.

SUITS FOR RECOVERY OF PROPERTY. Suits for the recovery of any property mentioned in this act, or for the value thereof, or damage thereto, may be brought in any court of competent jurisdiction in this State, in the name of the State of Kentucky, to the use of the officer, or soldier, entitled to recover the same; any amount so recovered in money, shall be paid into the treasury of the State, and be credited to the State Military Fund.

COURTS-MARTIAL.

GENERAL COURT-MARTIAL—OFFICERS. General courts-martial for the trial of commissioned officers shall be ordered and appointed by the Governor, and shall consist of not less than five, nor more than thirteen officers. Such courts shall be governed by the regulations and procedure prescribed by the Governor, and the findings of same shall be forwarded to the Adjutant General of the State by the Judge Advocate of the court, and when approved by the convening authority, shall be final. Such courts shall have authority to try commis-

sioned officers for disobedience of orders, violations of the laws, rules and regulations governing the Kentucky National Guard; for desertion, absence without leave, embezzlement, conduct unbecoming an officer and a gentleman, and conduct to the prejudice of good order and military discipline. The senior officer of the court shall act as president, and one member designated as such by the convening authority, shall act as Judge Advocate, and shall prosecute in the name of the State. Such courts shall have power to administer oaths, hear and determine cases, and when satisfied of the guilt of the accused party, shall have power, subject to approval by the convening authority, to inflict the following punishments: Reprimand, suspension, fine, forfeiture of pay, dismissal from the service, dishonorable discharge from the service, and confinement; Provided, however, that no forfeiture of pay shall exceed the sum of two hundred dollars, and no period of confinement shall exceed eight months.

GENERAL COURTS-MARTIAL—ENLISTED MEN. General courts-martial for the trial of enlisted men shall be appointed by the Governor, and shall consist of not less than three, nor more than thirteen, officers. Such courts shall be governed by the regulations prescribed by the Governor, and the findings of same, when approved by the convening power, shall be final. Such courts shall have authority to try enlisted men for the following offenses: Disobedience of orders, violations of the laws, rules and regulations governing the Kentucky National Guard; for absence from drills, instruction, encampments, or other duties; for the loss, destruction, or misuse of uniform or equipment; for desertion, and for conduct to the prejudice of good order and military discipline. At a general court-martial appointed for the trial of enlisted men, the senior

officer shall act as president of such court-martial, and one officer designated as such by the convening authority, shall act as Judge Advocate, and shall prosecute and conduct the case in the name of the State. Such courts shall have power to inflict the following punishments: Fine, forfeiture of pay, reduction to ranks, confinement, dishonorable discharge from the service: Provided, however, that no forfeiture of pay shall exceed fifty dollars, and no period of confinement shall exceed one month.

PRESIDENT OF A GENERAL COURT-MARTIAL. The highest officer in rank present will act as president of the court-martial. Besides his duties and privileges as a member, the president is the organ of the court to maintain order and to conduct its business; he speaks and acts for the court in every instance where a rule of action has been prescribed by law, regulations, or its own resolutions; he administers the oath to the Judge Advocate, and authenticates by his signature, all acts, orders, and the proceedings of the court requiring it.

JUDGE ADVOCATE. The Judge Advocate shall prosecute in the name of the State of Kentucky, but when the prisoner has made his plea, he shall so far consider himself counsel for the prisoner as to object to any leading question to any of the witnesses, and to any question to the prisoner, the answers to which might tend to criminate him. In conjunction with the president of the court, he shall authenticate the record by his signature, and at the end of the trial, transmit the same to the convening authority, through the Adjutant General. He shall take no part in the deliberations, findings, or sentence of the court, and shall bear the same relation to the court as a Commonwealth's Attorney would to judge and jury in a criminal case under the laws of Kentucky.

ORDER APPOINTING A GENERAL COURT-MARTIAL. The order appointing a general court-martial will name its members in order of rank, and they will sit according to rank as announced. A decision of the appointing authority, as to the number that may be assembled, so long as it is more than five, for the trial of an officer and three for the trial of enlisted men, shall not be questioned. The place of holding the court is designated by the authority appointing it.

ORDER PROMULGATING PROCEEDINGS. The order promulgating the proceedings of a general court-martial, or summary court, and the action of the reviewing authority will, when practicable, be of the same date; when this is not practicable, the order will give the date of the action of the reviewing authority and the date of the beginning of the sentence or forfeiture. The order will also include so much of the proceedings as will give the charges and specifications, pleadings, findings and sentence, and the actions and remarks of the reviewing authority. An officer or enlisted man awaiting the result of trial will not be paid before the result is known.

SENTENCES—WHEN OPERATIVE. A sentence to confinement, with or without forfeiture of pay, can not become operative prior to the date of confirmation by the reviewing authority.

RECORD.—Every court-martial shall keep a complete and accurate record of its proceedings, which will be authenticated, in each case, by the signatures of the president and Judge Advocate. The form of this record and the method of procedure may be prescribed, from time to time, by the Governor in such rules and regulations as he shall see fit to issue. Whenever, by reason of the death, or disability, of the Judge Advocate occurring after the

court has decided on the sentence, the record can not be authenticated by his signature, it must show that it has been formally approved by the court and must be authenticated by the signature of the president. . The Judge Advocate shall affix his signature to each day's proceedings.

When records of trial by a general court-martial are written on the typewriter, a copyable ribbon will be used and, at least, two copies of the record will be made, one of which will be furnished the accused.

RECORD—HOW TRANSMITTED. The Judge Advocate will transmit the record and proceedings without delay to the Adjutant General of the State, who shall transmit same to the convening authority.

ERRORS IN PREPARATION OF RECORD OR CONCLUSIONS OF COURT. When the record of a court exhibits error in preparation, or seemingly erroneous conclusion, the reviewing authority may reconvene the court for reconsideration of its action, pointing out defects. Should the court concur in the views submitted, it will proceed by amendment to correct its error and may modify, or completely change, its findings. A reopening of the case by calling, or recalling witnesses is illegal.

POWER TO REMIT OR MITIGATE. The power to remit or mitigate punishment imposed by a court-martial, is vested in the authority who convened the court. While the convening authority may remit, or mitigate, a sentence, he shall not change it so as to impose a punishment of a different nature.

REPORTER. The employment of a stenographer reporter may be authorized by the convening authority for all general courts-martial. When a reporter is so employed, he shall be paid upon the voucher of the Judge Advocate from the Military Fund, a sum not to exceed one dollar an hour for the time

occupied in court by himself, or a competent assistant, and ten cents per hundred words for transcribing the notes and five cents *per word* for copying exhibits and two cents *per word* for the carbon copy.

INTERPRETERS. Interpreters shall be paid in like manner as the reporter, on vouchers prepared by the Judge Advocate, on certificate by the Judge Advocate that they were employed by the order of the court; they shall be allowed pay and allowances of civilian witnesses appearing before a criminal court of the State.

EXTRA PAY NOT ALLOWED PERSONS IN THE MILITARY SERVICE. No person in the military service of the State can lawfully receive extra pay, or compensation, for clerical duties performed for a military court, or for acting as an interpreter.

WITNESSES OTHER THAN THOSE BELONGING TO THE NATIONAL GUARD. Witnesses other than those belonging to the National Guard of the State, who appear before a general court-martial, shall receive the same pay and allowances as a witness appearing before a criminal court of the State.

WITNESSES REFUSING TO APPEAR. In case a witness, other than one belonging to the National Guard of the State, who has been duly subpoenaed to appear as a witness, or testify, or produce documentary evidence before a general court-martial, refuses to appear he shall subject himself to the same fines and penalties as one failing to appear before a Circuit Court of the State.

SUBPOENA—HOW SERVED. Subpoena shall be made out in the name of the State of Kentucky, and shall notify the witness of the hour and place at which he is to appear. It shall be signed by the Judge Advocate of the court and shall be served upon him by the Judge Advocate of the court, or

any peace officer of the State. The Judge Advocate, or a peace officer, shall make his return of service in the same manner as is provided for the return on a subpoena in the State courts.

OATH TAKEN BY MEMBERS OF A GENERAL COURT-MARTIAL. The following oath shall be taken by all members of a general court-martial for officers and general court-martial for enlisted men:

You, do swear that you will well and truly try and determine, according to the evidence, the matter now before you, between the State of Kentucky and the prisoner to be tried, and that you will duly administer justice without partiality, favor or affection; and you further swear that you will not divulge except to the Judge Advocate, the sentence of the court until it shall be published by the proper authority; neither will you disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof as a witness, by a court of justice, in the due course of law. So help you God!

The above oath shall be administered by the Judge Advocate to every member of a court-martial.

OATH OF JUDGE ADVOCATE. The following oath shall be administered to the Judge Advocate of every court-martial at the trial of an officer or enlisted man, by the president of the court:

You, swear that you will not disclose the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof, as a witness, by a court of justice in the due course of law, nor divulge the sentence of the court to any but the proper authorities, until it shall be duly disclosed by the same. So help you God!

OATH OF WITNESS. You, swear that the evidence you shall give, in the case

now in hearing, shall be the truth, the whole truth, and nothing but the truth. So help you God!

OATH OF REPORTER. You swear that you will faithfully perform the duties of reporter to this court. So help you God!

OATH OF INTERPRETER. You swear that you will truly interpret in the case now in hearing. So help you God!

OATHS—HOW ADMINISTERED. Witnesses, reporter and interpreter shall be sworn by the Judge Advocate.

EXAMINATION OF A MEMBER OF THE COURT AS TO HIS COMPETENCY. Whenever a question arises under such rules and regulations as may be hereafter prescribed by the Governor, governing the procedure of courts-martial, touching the competency of any member of the court to sit as such, the member shall take the following oath, upon being examined as to his competency to act as a member of said court:

You swear that you will true answers make to questions touching your competency as a member of this court. So help you God!

This oath shall be administered by the Judge Advocate.

CHARGES AND SPECIFICATIONS. All persons brought before a general court-martial or summary court for trial, shall be tried on properly prepared charges and specifications. A military charge shall correspond to a civil indictment and will consist of two parts: A technical charge which shall designate the alleged offense in general terms, and a specification, which shall set forth and describe the facts constituting same. The charge shall be laid under a statute of Kentucky, or any article, rule, or regulation prescribed by the Governor for the maintenance of military discipline. The specification

shall set forth sufficient facts to constitute a particular offense.

CHARGES AND SPECIFICATIONS—BY WHOM PREFERRED. Charges and specifications can only be preferred against officers and enlisted men of the Kentucky National Guard, by the Governor, or by commissioned officers of the Kentucky National Guard. Charges against officers and enlisted men, forwarded to the authority competent to appoint a general court-martial for their trial, will be accompanied by statement of service, properly filled out, proper evidence of previous conviction, if any, and a brief statement of the evidence expected from each witness, together with the statement of any other available evidence in the case.

SUMMARY COURT—COMPOSITION. A summary court shall consist of one officer designated by the commanding officer of the regiment, separate battalion, company or other detachment. When more than one officer is present with the command, the commanding officer shall not designate himself as a summary court.

LIMITS OF PUNISHING POWER—JURISDICTION AS REGARDS PERSONS. A summary court can not legally try officers, but it shall have authority to try all enlisted men of the Kentucky National Guard.

POWERS. A summary court shall have power to administer oaths, hear and determine cases, and when satisfied of the guilt of the accused party, to judge the punishment to be inflicted for the following offenses: Disobedience of orders, violations of the laws, rules and regulations governing the Kentucky National Guard; absence from drills, instruction encampments, or other duties; loss or destruction or damaging of uniform or equipments; for desertion and for conduct to the prejudice of good order and military discipline. Such courts shall

have power to inflict the following punishments: Fine, forfeiture of pay, reduction to ranks, and confinement. Provided, however, that no fine, or forfeiture of pay, shall exceed the sum of fifteen dollars and no period of confinement shall exceed a period of fifteen days. A summary court, as soon as the trial is concluded, shall record its findings and sentence, and submit the same to the officer appointing the court, who shall, upon his approval of the same, forward same with his approval to the Governor, and upon approval by the Governor, same shall be carried into force and effect. Provided, however, that at or during encampments, or when on active duty or on active service, the convening authority shall have power to approve and carry into effect all sentences of summary courts relating to fines, forfeitures and confinements, and that the confinement shall be in the guard tent, or guard house, of such regiment, battalion, company or detachment.

The record of a summary court and its procedure shall be prescribed by the rules and regulations issued by the Adjutant General on the approval of the Governor.

PLACE OF CONFINEMENT. Any jail or prison of the State designated by the Governor shall be used as a place of imprisonment, or detention, of any person convicted and sentenced to imprisonment by a general court-martial, or a summary court, and every jailer or warden shall, upon notification by the Governor, receive and confine such person so convicted, and shall carry into execution the sentence of such court-martial, or summary court, as if they were the directions and orders of properly constituted civil authorities, ordering the confinement of persons for criminal offenses. The cost of imprisonment, or detention, shall be a proper

charge against the county in which the prisoner is confined, and shall be paid for at the same rates as those prescribed for the detention of other prisoners in the county jail. The authority which has designated the place of confinement, may change the place of confinement of any prisoner under the jurisdiction of such authority.

COLLECTION OF FINES. All fines and penalties laid and found by general courts-martial, or summary courts, shall be collectable from pay and allowances due persons so convicted, from the State or the United States, and in case it is found that the person so convicted has not to his credit sufficient funds to meet such fines and forfeitures, they shall be collectable in the same manner and by the same means as fines assessed in any other misdemeanor case by a county judge or magistrates. All fines collected on account of trial by courts-martial and summary courts shall revert to, and be paid into, the treasury of the State, and be credited to the Military Fund.

TESTIMONY. Testimony taken before a summary court will not be reduced to writing.

COURTS-MARTIAL, EXPENSES OF. All expenses of a general court-martial shall, not otherwise provided for herein be payable out of the general fund upon properly certified vouchers, approved by the Judge Advocate of said court, the Adjutant General and the Governor.

ACCUSED HAVE RIGHT TO COUNSEL. An accused appearing before a general court-martial, or summary court, shall have the right to be represented by counsel; such counsel may be a commissioned officer of the Kentucky National Guard or any duly licensed lawyer in the State of Kentucky.

BOARDS OF EXAMINATION. The Governor may, whenever he may deem that the good of the service

requires it, order any commissioned officer before a board of examination, to consist of not less than three, nor more than five, general staff and field officers. Such boards shall have the power of courts of inquiry and courts-martial, and shall examine into the moral character, capacity, and general fitness for service of such commissioned officers, and record and return the testimony taken and a record of its proceedings. If the findings of such board be unfavorable to such officers and be approved by the Governor, he shall be discharged from the service. No officer whose grade, or promotion would, in any way, be affected by the decision of such board, in any case that may come before it, shall participate in the examination or decision of the board in such case. Failure to appear, when ordered, before a board constituted under this section, shall be sufficient ground for a finding by such board, that the officer ordered to appear, be discharged, unless sufficient reason be known to the board to account for such failure.

MILITARY SUBORDINATE TO CIVIL POWER. The military shall be, at all times, and in all cases, in strict subordination to the civil power.

ACTIVE SERVICE—EMPLOYMENT OF MILITARY FORCE—AUTHORITY TO CALL INTO SERVICE. It shall be the duty of the Governor, whenever he may deem it necessary, for the safety or welfare of the Commonwealth, or when any actual or threatened invasion, insurrection, domestic violence, or other danger to the public interests, make it necessary to employ military force in aid of the civil power of the Government, for the enforcement of the law, or to preserve the peace, and the security of the rights and lives, or property of the citizens, to order into active service, so much of the Kentucky National Guard, or military force of the Commonwealth, as

he may deem necessary, and he may by his order, prescribe the duty to be performed by the troops, thus called into active service. The Governor may direct the commanding officer of such military force, thus ordered into service, to report to any of the following named civil officers of the district, county, city or town: Circuit Judge, County Judge, or Mayor; and such civil officers may direct the specific object to be accomplished by such military force, but the tactical direction, and disposition of the troops, and the particular means to be employed to accomplish the object, shall be left solely to the officers of the militia.

CIVIL OFFICERS HAVE AUTHORITY. Civil officers have authority in case of breach of the peace, riots, mobs, great calamity, resistance to the process of the State, or imminent danger thereof, or imminent danger of violence to life or property, any one of the civil officers named in the next preceding section may, by written order to the commanding officer of any division, brigade, regiment, battalion, or company, or other unit of the Kentucky National Guard, order into active service such part of the National Guard to be specified in his written order, as such civil officer may deem necessary to assist the civil authorities to enforce the law, and to prevent violence to persons or property. Provided, that such civil officer shall have such authority only in case of emergency, when in his judgment, it is impossible or impracticable, to communicate with the Governor, in time to prevent threatened violation of law or damage to person or property. Such civil officer and the commanding officer of the troops ordered into service by him, shall, as soon as possible, report said facts and circumstances relating thereto, to the Governor, and the Governor shall take such action as he may deem necessary. Troops

shall not be relieved from active service except by order of the Governor.

USE OF ARMS—SELF-DEFENSE ONLY. In all cases where the militia is ordered into active service, it will use every reasonable and proper endeavor to accomplish the purpose for which it is called into active service, without resorting to violence or the use of arms, and the commanding officer will resort to the use of arms only in self-defense of the troops, or as the final and only means of maintaining the law, and preventing violation thereof.

BOUNDS — SELLING LIQUOR — PENALTIES. Whenever any portion of the militia shall be ordered into active service, or active duty, under this law, the commanding officer may fix certain bounds within which no person shall enter without leave; and whoever intrudes within such limits, when forbidden to do so, or after entering by permission, conducts himself in a disorderly manner, or whoever resists a sentry or soldier acting under orders to prevent such entry, or to prevent disorderly conduct, may be arrested by the commanding officer, or by his order, and turned over to the civil authorities for trial, and, upon conviction of the offense, shall be punished by a fine of not more than one hundred dollars, and committed until such fine is paid, or, if any person shall temporarily erect any stand, booth or other structure for the purpose of exposing for sale, giving, bartering or otherwise disposing of, any spirituous or intoxicating liquors whatsoever, at or within the distance of two miles from any encampment, or place of assembly or other military service or duty, he may be placed immediately under guard and kept at the discretion of the commanding officer, and such commanding officer may turn over such person to any police officer or constable of the city or county, wherein such duty,

service, encampment, or other assembly is held, for examination or trial before any court of justice having jurisdiction of the place, and upon the conviction of the offense, he shall be punished by a fine of not more than one hundred dollars, and be committed until such fine is paid.

MILITARY FORCES TO HAVE RIGHT OF WAY—EXCEPTIONS. United States forces or troops, or any organization of the Kentucky National Guard, parading or performing any duty according to law, may have the right of any highway or street through which they may pass: Provided, the carriage of the United States mail, the legitimate functions of the police, and the progress and operation of fire engines and fire departments, shall not be unnecessarily interfered with thereby.

OFFICERS REFUSING TO OBEY ORDERS. Any militia officer who shall refuse or neglect to obey any order, lawfully issued, provided in this act, or who shall hinder, interfere with, or prevent any of the men of his command from performing such duty, or in any manner, by neglect prevent the due execution of the law, shall be deemed guilty of a misdemeanor, and on conviction, be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.

ENLISTED MEN REFUSING TO OBEY ORDERS. Any non-commissioned officer, cook, musician, artificer, or private, who shall refuse, or neglect to obey the orders of his commanding officer, issued, as provided in this act, or who shall hinder, interfere with, or prevent, any other non-commissioned officer, cook, musician, artificer, or private from performing any duty under such order, shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by a fine not exceeding one hundred

dollars, or by imprisonment in the county jail for not exceeding thirty days, or by both fine and imprisonment.

ACTIVE SERVICE DEFINED. Troops ordered into service as prescribed in this act, for the enforcement of the law and for the preservation of the peace and the security of the rights and lives, or property, of citizens, shall be deemed to be in active service. Officers employed under orders of the Governor in making tours of instruction, inspection of troops, armories, store houses, camp sites, rifle ranges, and military property; in holding elections, mustering in, or mustering out troops; making surveys on military property; sitting on general courts-martial, boards of examination, courts of inquiry, or boards of officers, shall be deemed to be in active service. Orders in every case shall specify if pay and travel are allowed, and the expenses allowed.

RESERVE MILITIA—WHEN MAY BE CALLED OUT—DUTY OF SHERIFF CONCERNING. Whenever it would be lawful, under the provisions of this law, for the Governor to call into active service, the Kentucky National Guard, he may, if in his judgment, the services of the Kentucky National Guard would be, or are unequal to the emergency, call out the reserve militia, and shall, by public proclamation, summon all, or any number of them, to be assembled by the sheriff at any point, or points, within the county or respective counties that may be designated by the proclamation; and thereupon the sheriff, on pain of a fine of one thousand dollars for refusal or neglect, shall summon the members of the reserve militia within his county, as he would summon a civil posse, and under similar penalties against those who fail to obey his summons. But should the Governor's proclamation call for only a part of the reserve militia of any county, the sheriff

may first call for volunteers therefor, and if that should appear to be inexpedient, he shall summon the members of the reserve militia to assemble in their magisterial districts, and there determine, under the supervision and control of a justice of the peace, by lot, who shall be selected to fill the quota of that magisterial district.

ASSESSORS TO ENROLL PERSONS LIABLE TO DUTY WHEN REQUIRED. When the Governor, by public proclamation, so commands, it shall be the duty of the assessor to enroll the names of all persons liable to duty in the reserve militia, and by such time as said proclamation may prescribe, shall transmit said rolls to the Adjutant General of the State.

ASSESSOR—COMPENSATION OF—PENALTY. When such service is required of the assessor, he shall be allowed one cent for each name returned by him, to be paid out of the State Treasury. And if the assessor neglects or refuses to render said service when so required, he shall be subject to a fine of not more than five hundred and not less than one hundred dollars.

RESERVE MILITIA ORGANIZATION—ELECTION OF OFFICERS—LAWS THAT GOVERN. Whenever the whole or any part of the reserve militia shall be called out in any county, and it has been determined by summons, or by lot, or by volunteering, who shall perform duty, those from each magisterial district shall, at once, under the supervision of the magistrate, or, in his absence, under the supervision of the presiding officer chosen by themselves, proceed to organize themselves into one or more companies of not less than fifty men, unless there be fewer than that number all told, and shall elect officers provided for in the Kentucky National Guard organization, and the captain shall appoint the usual non-com-

missioned officers. When so organized, they shall be conducted to a general place of rendezvous, where such other organization shall be made and officers elected as may be necessary under the militia law, or as may be directed by the Governor.

REGULATIONS THAT GOVERN. The reserve militia so called into service shall become subject to the same laws and regulations as the members of the Kentucky National Guard.

NOT LIABLE TO CIVIL OR CRIMINAL ACTION. Officers and enlisted men of the militia ordered into active service of the State by proper authority, shall not be liable civilly, or criminally, for any act, or acts, done by them in pursuance of duty in such service.

ACTIVE DUTY.

ACTIVE DUTY DEFINED. Troops engaged in drill at their home station, or participating in any camps of instruction, camps of rifle practice, practice marches, parades, reviews, expositions, celebrations, or other public exercises, or engaged in escort duty, or other duties not hereinbefore specified, shall be deemed to be on active duty, and no expenses that may arise through such active duty shall, except as hereinafter provided, be made a charge against the general fund of the State.

GOVERNOR MAY AUTHORIZE PARADES—VOLUNTARY SERVICE. The Governor may authorize all, or any part, of the Kentucky National Guard to participate in any parade, review, exposition, celebration, or other public exercises, or to serve for escort duty, and such expenses incidental thereto, as he may authorize, may be paid from the State Military Fund, and shall not be made a charge against the general fund of the State.

DRILLS, ENCAMPMENTS AND PRACTICE MARCHES. The Kentucky National Guard shall, except when excused by the Governor, perform not less than five consecutive days of camp or field service, or in practice marches, in each year, at such times and at such places as may be designated by the Governor, and such expenses, as he may authorize, as are not a proper charge against the United States, may be paid from the State Military Fund. Each officer and enlisted man shall assemble for and participate in drill, or other instruction, at the armory, or other designated place, for the organization of which he is a member, at least once in each week, unless excused by competent authority.

INSPECTION.

INSPECTION TO BE MADE EACH YEAR. The Inspector General, or such other officers as the Governor may designate, shall inspect, at least once in each year, and oftener, if the Governor shall deem it necessary, all headquarters, arsenals, store houses, armories, organizations, and all military property belonging to the State, and military property that has been issued to the State by the United States, and such inspector, or inspectors, shall render a detailed report to the Adjutant General of the condition of same.

ARMORIES.

ARMORIES—HOW PROVIDED. Where militia organizations have been or may hereafter be, organized and furnished with arms and equipments, in any county of this State, the Fiscal Court of said county shall provide, at the cost of the county, an armory for drill, and safe place for keeping such public

arms and equipments, where they will be at all times accessible to the organization.

NO MILITARY PROPERTY TO BE ISSUED. No organization shall be furnished with arms, equipments or any public property until safe and adequate facilities for the keeping of arms, equipments and public property has been provided and accepted, subsequent to inspection by an officer designated by the Governor.

FISCAL COURTS TO PROVIDE. The Fiscal Courts shall provide for each command of the Kentucky National Guard, or detachment thereof, permanently stationed within the limits of their respective counties, a suitable hall for the purpose of drill, and suitable rooms annexed thereto, for the meetings of the command for administrative work, for the assembling of the officers and non-commissioned officers for instruction, and for the safekeeping of military property; and they shall provide for every such armory the necessary fuel and necessary improved modern lights, water, telephone service and necessary repairs, or shall make a reasonable allowance therefor.

ARMORY UNDER CONTROL OF COMMANDING OFFICER. Every armory, drill hall, or parts of buildings occupied, or used by the Kentucky National Guard for military purposes, shall, during the period of its occupancy for such purpose, be under the control of the commanding officer so using same, and any person who intrudes or enters therein, contrary to his orders, or who molests or obstructs the troops, or any of them, so occupying such premises, shall be deemed guilty of a misdemeanor and shall, upon conviction, be punished by a fine not exceeding one hundred dollars; and it shall be lawful for such officer to arrest such person and turn him over to the civil authorities for trial.

ARMORY RENTAL—ALLOWANCES. For each armory used by a company of infantry, or the equivalent of other troops, provided and maintained by a county in compliance with the provisions of this act, there shall annually be allowed to the county, and paid from the State Military Fund, not to exceed three hundred dollars, which shall be in full for rental and for all other charges of maintenance.

For each additional company quartered therein, not to exceed one hundred dollars; for a detachment, or other troops, such amount as may be determined by the Adjutant General.

Payment shall be made on vouchers certified by the commanding officer of the organization, receiving the use of the armory, and subsequent to the receipt of a satisfactory report, by the Adjutant General, from the Inspector General, or such officer as may be designated by the Governor to inspect armories.

GENERAL PROVISIONS.

FREE PASSAGE THROUGH TOLL GATES, BRIDGES AND FERRIES. Any person belonging to the Kentucky National Guard, going to, or returning from, any parade, encampment, drill or meeting, which he may be required by law to attend, shall, together with his conveyance and the military property of the State in his charge, be allowed to pass free through all toll gates and over all toll-bridges and ferries, if he be in uniform, or presents an order for duty or certificate of membership in the organized militia.

EXEMPTION FROM JURY SERVICE. The officers and enlisted men of the Kentucky National Guard are exempt from jury service.

EXEMPTION FROM ARREST. No officer or enlisted man shall be arrested on civil process, except in case of felony, while going to, remaining at, or returning from, a place where he is ordered to attend for election of officers or for military service or duty.

SOLDIERS MAY BE ARRESTED AND CONFINED. The commanding officer of any brigade, regiment, battalion, company, troop, battery or detachment, may arrest, or cause to be arrested by other members of the militia, any member of his command for the violation of any order, regulation or law for the government of the Kentucky National Guard, and may authorize and direct, in writing, any constable, police officer, sheriff or deputy sheriff, of the city or county wherein such violation occurs, to arrest such delinquent member; and such commanding officer may turn over to any constable, police officer, sheriff, deputy sheriff or jailer, any member of his command so arrested or caused to be arrested by him, and such constable, police officer, sheriff, deputy sheriff or jailer shall hold such man so arrested by him or turned over to him as aforesaid, in his custody or in confinement in the county jail until he has been tried by the proper court-martial, or has been discharged by the proper authority, and for a period not exceeding five days. Any member so arrested may be confined awaiting court-martial, as prisoners are held charged with misdemeanor, or may be admitted to bail by the officer holding him in arrest or custody, upon giving good surety, to be approved by such officer, in the sum of fifty dollars, or less, if his commanding officer consent thereto, conditioned that the arrested member will appear at the time and place fixed for the trial of his case, and, in the event of his failure to so appear, the amount of said bond to be forfeited, to be recoverable as the penalties in other bonds, and to be paid

into the treasury of the State. The cost of confinement of such member of the militia, so arrested, shall be paid by the county in the same manner as other misdemeanor cases.

FAILURE OF CIVIL OFFICERS TO ACT. It is hereby made the duty of all justices of the peace, police judges, constables, police officers, sheriffs, deputy sheriffs, jailers, and other civil officers to perform the duties herein required of and imposed upon them, whenever so requested by an officer of the Kentucky National Guard having the authority so to do as herein provided, and any civil officer above named, who shall wilfully fail or refuse to perform any duty required of him pursuant to this act, shall be guilty of a misdemeanor, and upon conviction, in any court of competent jurisdiction, shall be fined not less than one hundred dollars and not exceeding five hundred dollars.

PENALTY FOR ASSEMBLING OR DRILLING WITH ARMS WITHOUT LICENSE—EXCEPTIONS. It shall be unlawful for any body of men whatsoever other than the regularly organized militia of this State and the troops of the United States, to associate themselves together as a military company, or other armed organization, or to drill or parade with arms anywhere within the State without the license of the Governor thereof, which license may, at any time, be revoked; Provided, that nothing herein contained shall be construed to prevent benevolent or social organizations from wearing swords, or students in educational institutions, chartered under the laws of the State, wherein military science is part of the course of instruction, from drilling and parading with arms in public, under the superintendence of their instructors. Whoever offends against the provisions of this section, or belongs to or parades with any such unauthorized

body of men with arms, shall be punished by a fine of not less than ten nor more than fifty dollars, nor imprisoned in the county jail for a term not exceeding six months or both.

DUTY OF COMMONWEALTH ATTORNEYS AND COUNTY ATTORNEYS. It is hereby made the duty of the Commonwealth Attorneys and County Attorneys, upon the request of any commanding officer of the Kentucky National Guard to render legal advice and assistance to such commanding officer, with reference to his powers and duties, under this act, and assist in prosecutions under this act.

UNAUTHORIZED PARADES—VOLUNTARY SERVICE. No parade or voluntary service shall be performed by any company or part thereof, under arms, or in uniform, without the approval of the regimental commander, or higher authority.

DISABLED IN ACTIVE SERVICE OR ON ACTIVE DUTY. An officer or enlisted man becoming disabled while in active service, or on active duty, shall be furnished, under the direction of the commanding officer, with medicines and proper medical attendance until he has been returned to his residence; the cost of such medicines and medical attendance shall be a proper charge against the State, and shall be paid from the General Fund, on properly certified and approved vouchers.

DYING IN ACTIVE SERVICE OR ON ACTIVE DUTY. The body of an officer or enlisted man, who dies while in active service, or on active duty, while his command is absent from its home station, shall, under the direction of his commanding officer, be properly prepared for burial, enclosed in a suitable casket, and escorted to his late residence, by a proper escort; Provided, That the total cost of embalming and preparing the body for burial, and cost of the casket, combined, shall not exceed the sum of one

hundred dollars. The cost of such preparation for burial and casket shall be a proper charge against the State, and shall be paid from the General Fund, on properly certified and approved vouchers.

CONFEDERATE RECORDS. The Adjutant General of the State of Kentucky is hereby directed to gather all the data obtainable concerning the different organizations, who enlisted or served in the Army of the Confederate States in the War of the Rebellion, compiling the same by regiment, battery, troops and company in the usual form of reports of Adjutants General made heretofore in this Commonwealth in regard to other similar organizations, and adding thereto such other information as he may deem best; and he will enter same upon a book to be kept in his office as a public record, giving regiments, etc., in their consecutive number, and he will cause same to be printed in a book to be well bound in cloth and furnish one copy to each county clerk of this Commonwealth and one copy to each Adjutant General of the several Commonwealths of these United States, preserve a reasonable number for his office and the State Library, and cause a suitable number to be printed and placed with the State Librarian for—a price to be agreed upon by and between the said Adjutant General and Librarian. The book containing a list of Confederate Volunteers shall be labeled on the title page and on the outside cover, “Confederate Kentucky Volunteers, War 1861-’65.” In compiling this record, the Adjutant General shall be allowed actual expenses in gathering data of the Confederate Veterans and expense of copies of the War Department, and the assistance of a clerk or stenographer in compiling same, at a salary to be agreed upon by the Governor and Adjutant General. The printing made necessary under this resolution shall be done by the

Public Printer, and he shall receive the same pay therefor and be paid in the same manner as other printing is paid for. Any and all expenses arising under this resolution shall be paid out of the General Expense Fund, and the Auditor shall draw his warrant in favor of the person to whom same is due, upon accounts approved by the Adjutant General and Governor. (This section is a part of a joint resolution of March 27, 1902.)

FLAGS—MEXICAN CIVIL AND SPANISH AMERICAN WAR. The sum of two hundred dollars is hereby appropriated out of any funds in the General Fund not otherwise appropriated for the purpose of cleaning, mounting and preserving seventy-two flags of the Mexican War, Civil War and Spanish-American War, which amount will be expended by the Governor and will be paid on his warrant drawn upon the Treasurer.

§ 2. All acts and parts of acts inconsistent with this act, shall be, and are hereby, repealed.

Approved by the Governor, March 19, 1912.
