

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949

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ENROLLED

SENATE BILL No. 108

(By Mr. Mitchell)

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PASSED February 24 1949

In Effect July 1, 1949 Passage



108

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(By MR. MITCHELL)

[Passed February 24, 1949; in effect July 1, 1949.]

AN ACT to amend and reenact article one, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the national guard.

*Be it enacted by the Legislature of West Virginia:*

That article one, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. *Reorganization of National Guard.*—The  
2 governor of this state is authorized to reorganize the  
3 national guard of West Virginia under the provisions of  
4 the National Defense Act of June third, nineteen hun-  
5 dred and sixteen, and amendments thereto. He is author-  
6 ized to appoint an adjutant general under whose direc-

7 tion the national guard shall be reorganized and main-  
8 tained.

Sec. 2. *Commander-in-Chief; Appointment of Officers.*

2 —The governor shall be commander-in-chief of all mili-  
3 tary forces of the state except those which may be in  
4 the service of the United States and during such service.  
5 It shall be the duty of the governor to appoint and com-  
6 mission all officers of the military forces of the state, who  
7 shall be selected from the classes prescribed in the Na-  
8 tional Defense Act, and to issue necessary regulations  
9 for the government of such forces.

Sec. 3. *National Guard; Service Within or Without*

2 *State.*—The organized militia of the state shall constitute  
3 and be known as the West Virginia national guard, and  
4 shall be liable at all times to be ordered into active serv-  
5 ice, and all, or any part thereof, may be turned over by  
6 the governor into the service of the United States, on  
7 requisition by the President, for service without the  
8 state: *Provided,* That no officer or enlisted man shall  
9 be held to such service for a period longer than that of  
10 the remaining time to be served by such officer or en-

11 listed man under the term of his commission or enlist-  
12 ment. When the national guard of this state, or any part  
13 thereof, is called for under the constitution and laws of  
14 the United States, the governor shall order out for serv-  
15 ice the national guard or such part thereof as may be  
16 necessary. During the absence of organizations of the  
17 national guard in the service of the United States, their  
18 state designation shall not be given to new organizations,  
19 and all organizations and officers on return from such  
20 service shall be given their former standing and rank,  
21 providing it can be feasibly done.

Sec. 4. *Federal Laws and Regulations.*—The duty of  
2 maintaining and governing the national guard not in  
3 the service of the United States rests upon the state,  
4 subject to the constitutional authority of Congress. The  
5 purpose of the force is national defense. Its efficiency as  
6 an agent for national defense necessarily depends upon  
7 systematic uniformity in the organization, composition,  
8 arms, equipment, training and discipline of its component  
9 parts. The attainment of such uniformity and efficiency  
10 requires on the part of each state a rigid adherence to

11 federal laws and regulations relating to the national  
12 guard. Therefore, the governor shall cause the national  
13 guard of this state always to conform to all such federal  
14 laws and regulations as are now or may hereafter from  
15 time to time become operative and applicable, notwith-  
16 standing anything in the laws of this state to the con-  
17 trary.

Sec. 5. *How National Guard Constituted and Organ-*

2 *ized.*—The national guard of West Virginia shall be or-  
3 ganized and equipped in accordance with the provisions  
4 of the national military establishment regulations gov-  
5 erning same. The governor shall at all times have the  
6 power to create new organizations whenever, in his judg-  
7 ment, the efficiency of the state force will thereby be  
8 increased, except insofar as such action would be con-  
9 trary to the provisions of the regulations of the national  
10 military establishment governing the national guard; and  
11 he is hereby directed to organize a unit or units and equip  
12 same, composed of negro troops which unit or units shall  
13 be organized and equipped in accordance with the pro-  
14 visions of the U. S. Army regulations governing same, and

15 he shall at any time have power to change the organiza-  
16 tion of departments, organizations and units so as to con-  
17 form to any organization, system of drill, or instruction  
18 now or hereafter adopted for the Army of the United  
19 States, and for that purpose the number of officers of the  
20 organizations and units may be increased or diminished  
21 and their rank increased or reduced to the extent made  
22 necessary by such change. The officers of the foregoing  
23 departments shall be of like rank as officers of similar  
24 departments of the national military establishment of  
25 the United States and shall perform like duties. The  
26 number of such officers shall be determined by the gov-  
27 ernor, but this number shall be limited to the actual  
28 requirements of the different departments and the gov-  
29 ernor may designate one officer as chief of a number of  
30 different departments, unless such action would be con-  
31 trary to the regulations provided by the national mili-  
32 tary establishment for the government of the national  
33 guard. The governor shall have the power, in case of  
34 war, insurrection, invasion or imminent danger thereof,  
35 to increase the force beyond the maximum now estab-

36 lished by law and to organize the same with the proper  
37 officers as the exigencies of the service may require. In  
38 the event of the formation of any such new organiza-  
39 tions, officers holding commissions in the national guard  
40 as organized at such time shall be eligible for commis-  
41 sion in such new organizations and units with like or  
42 higher grade and rank, if found capable, after examina-  
43 tion by an authorized board, and shall be given prefer-  
44 ence over the one not holding commission at the time.

Sec. 6. *Composition of Units.*—The number and grades  
2 of officers and enlisted men of the state staff shall be as  
3 prescribed by federal law and regulations thereunder  
4 issued by direction of the secretary of defense. In case  
5 of emergency, line officers of the national guard, active  
6 or reserve, may be temporarily detailed by the governor  
7 for staff duty.

8 All officers of the staff and subordinate units shall be  
9 appointed by the governor from officers or ex-officers  
10 who have had previous military experience of not less  
11 than two years, or as provided in section eight, and shall  
12 hold their respective grades until they reach the retire-

13 ment age as established and prescribed by currently con-  
14 trolling federal regulations, unless they resign or are  
15 discharged for disability, or by reason of the findings of  
16 a court-martial legally convened for the trial of such  
17 officer, and vacancies shall be filled by appointment of  
18 persons fulfilling the above requirements of this section.

Sec. 7. *Governor's Staff; Adjutant General.*—The  
2 staff of the governor shall consist of one adjutant general  
3 with rank of brigadier general, an assistant adjutant gen-  
4 eral with rank not above that of colonel, and, in addition  
5 thereto, such other officers as may be currently prescribed  
6 by existing tables of organization as established by federal  
7 authority. The governor may also appoint and commis-  
8 sion an honorary staff to serve during his term of office, of  
9 such number as he may deem advisable, with such rank  
10 as he may fix, which honorary staff will not be held to  
11 be a part of the regularly organized militia.

12 The adjutant general shall be appointed and commis-  
13 sioned by the governor, but no person shall be appointed  
14 adjutant general unless such person has had at least six  
15 years' service in the national guard of this or some other

16 state, or in the armed forces of the United States, or in all  
17 combined.

18 In time of peace he shall perform the duties of chief of  
19 the pay, quartermaster and ordnance departments unless  
20 otherwise ordered by the governor, and shall give bond  
21 in such sum as the governor may require, such bond to  
22 be provided in like manner as the bonds of other officers.

23 He shall receive a compensation of six thousand dollars  
24 per annum, which shall be paid to him in equal monthly  
25 installments, and his term of office shall be for four years.

26 He shall attest, record, and seal with the seal of the state  
27 all commissions issued by the governor, and keep a regis-  
28 ter of all commissioned officers, with dates of commission,  
29 and all changes occurring in the commissioned force, and  
30 shall keep a full and complete record at all times of the  
31 organized militia of the state. He shall, as soon as possible  
32 after the first day of July in even years, make a biennial  
33 report to the governor of the transactions and the expendi-  
34 tures of his department and the condition of the national  
35 guard. Such report shall show all receipts into the mili-  
36 tary or militia fund of the state from every source, includ-

37 ing fines, appropriations from the state, and all money  
38 received from the federal government and from every  
39 other source. All such funds and moneys shall be paid  
40 into the state treasury as soon as received, and shall be  
41 credited to the military fund. Such report shall also  
42 show in detail all expenditures made from each fund, and  
43 the purpose of the expenditures, and shall state such  
44 other details as the governor may order; and the report  
45 shall be communicated by the governor to the next session  
46 of the legislature. He shall also make such other reports  
47 and returns as may be required by the governor from time  
48 to time. He shall cause to be procured, prepared and issued  
49 to the different organizations of the national guard all  
50 necessary books and blanks for reports, records, returns  
51 and general administration, and shall, at the expense of the  
52 state, cause the military laws, military code, and rules and  
53 regulations in force to be printed, bound in proper form,  
54 and distributed, one copy to each commissioned officer, and  
55 one each to all the circuit, intermediate and criminal court  
56 judges, sheriffs, assessors, and justices of the peace in the  
57 state requiring them; and shall procure and supply all

58 necessary text books of drill and instruction. He shall keep  
59 in his office an accurate account of all state and United  
60 States property issued to the state. He shall keep on file in  
61 his office all official bonds, except the bond of the adjutant  
62 general, which shall be filed with the auditor of the  
63 state; the reports and returns of troops and heads of mili-  
64 tary departments; and all other writings and papers which  
65 are required to be transmitted to and preserved at the  
66 general headquarters of the state militia. He shall em-  
67 ploy such clerical force and assistants as may be required  
68 in the military department, in addition to the assistant  
69 adjutant general herein authorized, which assistant ad-  
70 jutant general shall receive a compensation of four thou-  
71 sand, eight hundred dollars per annum, payable in equal  
72 monthly installments. He shall keep records of all service  
73 personnel from the state of West Virginia, commissioned  
74 or enlisted, in any of the wars of the United States, and of  
75 individual claims of citizens of West Virginia for service  
76 rendered in such wars. He shall assist all persons residing  
77 in this state having claims against the United States for  
78 pension, bounty or back pay, or such claims as have arisen

79 out of, or by reason of, service in any of said wars. To this  
80 end he shall cooperate with the agents or attorneys of such  
81 claimants, furnish to claimants only all necessary certifi-  
82 cates or certified abstracts from, or copies of, records or  
83 documents in his office, and shall in all practicable ways  
84 seek to secure speedy and just action in all claims now  
85 pending or which may hereafter be filed: *Provided*, That  
86 any and all of the above services shall be rendered with-  
87 out charge to the claimant. He shall establish and main-  
88 tain as a part of his office a bureau of records of the ser-  
89 vices of the West Virginia troops during such wars, and  
90 shall keep arranged in proper and convenient form all  
91 records and papers pertaining thereto.

Sec. 8. *Promotion of Officers.*—Appointment and pro-  
2 motion of officers shall be made in conformity with cur-  
3 rently existing rules and regulations of the federal mili-  
4 tary establishment governing eligibility and procedure,  
5 but nothing herein shall be construed to limit the power  
6 of the governor to appoint, commission, and promote an  
7 officer in the national guard for state service only.

Sec. 9. *Oath of Commissioned Officers.*—Every officer

2 duly commissioned shall, within ten days after his com-  
3 mission is tendered to him, or within ten days after he  
4 shall be personally notified that the same is held in read-  
5 iness for him by any superior officer, take and subscribe  
6 to the constitutional oath of office. In case of neglect  
7 or refusal to take and subscribe to such oath within the  
8 time mentioned, he shall be deemed to have resigned  
9 such office. Such oath shall be taken and subscribed be-  
10 fore any officer authorized to take acknowledgments of  
11 deeds in this state, or some officer who has taken it him-  
12 self and who is hereby authorized to administer the same.  
13 All military officers attesting oaths required by the pro-  
14 visions of this article shall do so without fee.

Sec. 10. *Surplus Officers.*—Commissioned officers who  
2 shall be rendered surplus by reduction, consolidation, or  
3 disbandment of organizations, or in any manner provided  
4 by law, may be transferred to the inactive national guard  
5 in conformity with currently existing rules and regula-  
6 tions prescribed by Federal authority, or may be dis-  
7 charged.

Sec. 11. *Resignation of Officers; Removal.*—No resig-

2 nation shall be accepted unless the officer tendering the  
3 same shall furnish to the adjutant general a certificate  
4 from each property accounting officer that he has deliv-  
5 ered all books and other property of the state in his pos-  
6 session to the officer authorized to receive the same, and  
7 that his accounts for money or public property are cor-  
8 rect, and that he is not indebted to the state or federal  
9 military authorities. No commissioned officer shall be  
10 removed from office, unless by the senate on recommen-  
11 dation of the governor, stating the grounds on which such  
12 removal is recommended, or by the decision of a court-  
13 martial, or an examining board, or pursuant to law.

Sec. 12. *Reserve List; Dismissal of Officers.*—Any com-  
2 missioned officer who shall have served for a continuous  
3 period of ten years may, upon his own request, be placed  
4 upon the reserve list and withdrawn from active service  
5 and command by order of the governor, and the vacancy  
6 thereby created shall be filled in the same manner as  
7 other vacancies. Any commissioned officer who has be-  
8 come or shall become disabled, and thereby incapable of  
9 performing the duties of his office, shall be withdrawn

10 from service and command and placed on the reserve  
11 list, and any commissioned officer who has, or shall  
12 hereafter become unfit or incompetent, and thereby in-  
13 capable of performing the duties of his office, shall be  
14 dismissed. Such transfer or dismissal shall be by order  
15 of the governor, and, before making such order, the gov-  
16 ernor shall appoint a board of not less than three nor  
17 more than five commissioned officers, one of whom shall  
18 be a medical officer, whose duty it shall be to determine  
19 the facts as to the nature and cause of incapacity of such  
20 officer as appears disabled, unfit or incompetent from  
21 any cause to perform military service, and whose case  
22 shall be referred to it by the governor. No officer whose  
23 rank or promotion would be affected by the decision of  
24 such board, in any case that may come before it, shall  
25 participate in the examination or decision of the board  
26 in such case. Such board is hereby invested with the  
27 powers of courts of inquiry and courts-martial, and, when-  
28 ever it finds an officer incapacitated for active service,  
29 shall report such facts to the governor, stating the cause  
30 of incapacity, whether from disability, unfitness or in-

31 competency, and if he approves such findings, such officer  
32 shall be placed on the reserve list or dismissed as pro-  
33 vided in this section. The members of the board shall,  
34 before entering upon the discharge of their duties, be  
35 sworn to an honest and impartial performance of their  
36 duties as members of such board. No officer shall be  
37 placed upon the reserve list or dismissed by the action  
38 of such board without having had a fair and full hearing  
39 before the board, if upon due notice he shall demand it.  
40 It shall not be necessary to refer any case arising under  
41 this section for the action of such board, unless the offi-  
42 cers designated by the governor to be placed on the re-  
43 serve list or dismissed shall, within twenty days after  
44 being notified that they will be so transferred or dismissed,  
45 serve on the adjutant general notice in writing that they  
46 demand a hearing and examination before such board.

Sec. 13. *Noncommissioned Officers; Appointment.*—All  
2 noncommissioned officers of the staff, corps, departments  
3 and other organizations of the national guard shall be  
4 appointed by the appointing authority prescribed by fed-

5 eral law and regulations which are now or may hereafter  
6 from time to time become operative and applicable.

Sec. 14. *Reduction of Noncommissioned Officers.*—The  
2 officer warranting noncommissioned officers shall have  
3 power to reduce, or reduce to the ranks, on the applica-  
4 tion of the immediate commanding officer of the organ-  
5 ization to which he belongs, for good and sufficient rea-  
6 sons, the noncommissioned officers of his command: *Pro-*  
7 *vided, however,* That in active service for the state, in  
8 cases requiring immediate example, a noncommissioned  
9 officer may be reduced to the ranks by his immediate  
10 commander, subject to appeal to, and review and ap-  
11 proval by, the officer warranting him.

Sec. 15. *Enlistments.*—Able-bodied men of good char-  
2 acter who conform in all respects to the qualifications pre-  
3 scribed by federal law and regulations now in force, or  
4 that may hereafter become operative and applicable, gov-  
5 erning enlistment in the national guard, may be enlisted  
6 in the national guard of West Virginia under the same  
7 conditions and the same enlistment period as are now,  
8 or may hereafter be, prescribed by federal law for the

9 national guard of the United States. Every enlisted man,  
10 if in active service, may continue to be held for duty for  
11 a period not exceeding three months after the expiration  
12 of his term of enlistment or reenlistment, and shall re-  
13 tain rank and be eligible to promotion until he is actual-  
14 ly discharged. When an organization is consolidated or  
15 disbanded, its enlisted men discharged by reason there-  
16 of who shall hereafter reenter the service shall have al-  
17 lowed to them as part of their term of service the time  
18 already served. An enlisted man may be transferred from  
19 one organization to another upon such regulations as the  
20 governor may prescribe.

Sec. 16. *Enlistment Papers.*—Every person recruited for  
2 the national guard shall sign an enlistment paper, which  
3 shall be forwarded to the adjutant general, of such form  
4 as may be prescribed, which shall contain an oath of al-  
5 legiance to the state and the United States. Such oath  
6 of allegiance may be taken before any commissioned of-  
7 ficer of the national guard, who is hereby authorized to  
8 administer the same, or before any civil officer duly au-  
9 thorized to administer oaths.

Sec. 17. *Discharge of Enlisted Men.*—Whenever any en-  
2 listed man of the national guard shall have performed  
3 service therein for the term of his enlistment or reenlist-  
4 ment, and has turned in to the proper officer all state or  
5 military property for which he is responsible, his com-  
6 manding officer shall grant him a full and honorable dis-  
7 charge, except in time of insurrection or invasion. Dis-  
8 charge for physical disability shall be granted pursuant  
9 to applicable rules and regulations. The governor may  
10 authorize for sufficient reason, and in his discretion, the  
11 discharge of enlisted men, with or without their consent,  
12 at any time, upon the recommendation of the command-  
13 ing officer of the unit, organization or squadron to which  
14 they belong. An enlisted man who cannot, after due dili-  
15 gence, be found, or who shall remove his residence from  
16 the state, or to such a distance from the armory of his  
17 organization, as to render it impracticable for him to  
18 perform properly military duties, or who shall be con-  
19 victed of a felony, may be discharged by order of the  
20 governor.  
21 Enlisted men may be honorably discharged, discharged,

22 or discharged dishonorably; but in no case may an en-  
23 listed man be dishonorably discharged unless by sentence  
24 of a general court-martial, except as hereinafter provided.  
25 No enlisted man shall be honorably discharged from serv-  
26 ice unless he produces the certificate of his immediate  
27 commanding officer that he has turned over or satisfac-  
28 torily accounted for all property issued to him.

Sec. 18. *Dishonorable Discharge*.—A dishonorable dis-  
2 charge from service in the national guard shall operate  
3 as a complete expulsion from the guard; a forfeiture of all  
4 exemptions and privileges acquired through membership  
5 therein, and disqualification for any military office under  
6 the state. The names of all persons dishonorably dis-  
7 charged shall be published in orders by the adjutant gen-  
8 eral at the time of such discharge, and in two newspapers  
9 of opposite politics and general circulation, if such there  
10 be in the locality in which such dishonorably discharged  
11 person resides, and a complete list of all such dishonor-  
12 ably discharged persons shall be kept posted in all the  
13 armories in the state. No persons so discharged shall be  
14 admitted to any armory or other meeting place of the

15 national guard or to the immediate vicinity of any en-  
16 campment, drill or parade of troops. All commanding  
17 officers are hereby required to enforce these prohibitions.

Sec. 19. *Unlawful Military Organizations; Penalty.*—It  
2 shall be unlawful for any body of men whatever, other  
3 than the regularly organized national guard or the troops  
4 of the United States, to associate themselves together as  
5 a military company or organization in this state: *Pro-*  
6 *vided*, That the governor may grant permission to public  
7 or private schools of the state to organize themselves  
8 into companies of cadets, and may furnish such cadets,  
9 under proper restrictions, such obsolete ordnance stores  
10 and equipment owned by the state as are not in use by  
11 the national guard. Whosoever offends against the provi-  
12 sions of this section, or belongs to or parades with any  
13 such unauthorized body of men with arms, shall be pun-  
14 ished with a fine of not exceeding one hundred dollars  
15 or imprisoned for a term not exceeding six months.

Sec 20. *Uniforms, Arms, Equipment and Supplies.*—

2 The uniforms, arms, equipment and military supplies  
3 necessary for the proper performance of the duties re-

4 quired by this article shall be similar to those prescribed  
5 for the army of the United States. Commissioned officers  
6 shall provide themselves with the uniform, arms and  
7 equipment lawfully prescribed and approved, and there  
8 shall be allowed annually, to aid them in procuring and  
9 maintaining same in condition for service, the sum of  
10 seventy-five dollars each, providing, however, that on  
11 and after July one, one thousand nine hundred fifty-one,  
12 the annual sum of one hundred dollars shall be allowed.  
13 All uniforms, arms equipment and other property shall  
14 be issued to organizations of the national guard, and  
15 accounted for under such regulations as the governor may  
16 prescribe.

Sec. 21. *Military Property*.—All officers shall be respon-  
2 sible for the safe keeping and return of all military prop-  
3 erty committed to their charge, but no such property shall  
4 be issued until suitable bond shall be given by such offi-  
5 cers, in an amount and with security approved by the  
6 governor, for the safe keeping and return of the same.  
7 Whenever property is ordered transferred by the gov-  
8 ernor from one unit to another, the officer turning the

9 property over shall be held responsible for the same until  
10 he has received a receipt from the officer to whom the  
11 transfer is ordered to be made. In case of state property  
12 worn out and become worthless in the service of the state,  
13 an inspector shall have power to condemn the same and  
14 authorize the officer responsible to drop it from his re-  
15 turns, but no inspecting officer shall exercise this power  
16 except when inspecting such property under authority of  
17 the governor. Any officer who shall neglect or refuse to  
18 properly account for any military property he shall have  
19 received shall be guilty of a misdemeanor, and, upon con-  
20 viction thereof, shall be punished as provided in section  
21 eighty-four.

22 *Sec. 22. Offenses Concerning Property; Penalty.*—Who-  
23 ever shall secrete, sell or dispose of, or offer for sale,  
24 or purchase, knowing the same to be such, retain after  
25 proper demand is made, or in any manner pawn or pledge,  
26 any military property, which shall have been issued  
27 under the provisions of this article, shall be guilty of a  
28 misdemeanor, and, in addition to the punishment pro-  
29 vided for misdemeanors in this article, shall forfeit to

9 the state twice the cost of the property so secreted, sold,  
10 disposed of, offered for sale, or purchased, retained after  
11 proper demand has been made, pawned or pledged.

Sec. 23. *Unlawful Wearing of Uniforms; Penalty.*—Any  
2 person who shall wear any uniform or any device, strap,  
3 knot, or insignia of any design or character, used as a  
4 designation of grade, rank or office, such as are by law  
5 or regulations, duly promulgated, prescribed for the use of  
6 the national guard, or similar thereto, except members  
7 of the army or navy of the United States or the national  
8 guard of this or any other state, members of associations  
9 wholly composed of soldiers honorably discharged from  
10 the service of the United States, or the members of the  
11 Order of Sons of Veterans, shall be guilty of a misde-  
12 meanor, and, on conviction thereof, shall be fined not  
13 less than ten nor more than one hundred dollars, and any  
14 member of the national guard who shall, when not on  
15 duty, wear any such uniform or equipment issued by the  
16 state without the permission of his commanding officer,  
17 shall be subject to a fine of not more than fifty dollars.

Sec. 24. *Annual Inspection and Muster.*—An annual

2 inspection and muster of each organization of the national  
3 guard shall be made by an inspector at such time and place  
4 as the governor shall order and direct.

Sec. 25. *Drills; Target Practice.*—Organization and unit  
2 commanders may in their discretion order drills of such  
3 portion of their command as may be deemed necessary;  
4 and may in their discretion order target practice for their  
5 command: *Provided*, That if any expense is to be in-  
6 curred, authority must be obtained from the adjutant  
7 general.

Sec. 26. *Camp or Maneuver Duty.*—The governor, ex-  
2 cept as provided in section forty-six, shall cause the na-  
3 tional guard to perform at least five consecutive days of  
4 camp or maneuver duty in each calendar year, exclusive  
5 of the time consumed by troops in going to and returning  
6 from camp, and shall designate the time and place there-  
7 for. The commanding officer of an encampment may fix  
8 certain bounds within the limits of the camp ground, not  
9 including any public road, within which no spectator shall  
10 enter without leave, and whoever does enter within such  
11 boundary, either with or without permission, may be

12 expelled therefrom by the commanding officer, or by  
13 his order, and whoever intrudes within such limits when  
14 forbidden to do so, or, after entering by permission, con-  
15 ducts himself in a disorderly manner, or whoever resists  
16 a sentry or guard acting under orders to prevent such  
17 entry, or to prevent disorderly conduct, or to expel any  
18 person or persons ordered to leave such boundary, may  
19 be arrested by the commanding officer, or by his order,  
20 and taken before a justice of the peace of the county in  
21 which such camp is located, and, upon conviction, shall  
22 be fined not less than ten nor more than one hundred  
23 dollars, and the costs of prosecution, and committed to the  
24 jail of the county until such fine and costs are paid.

Sec. 27. *Warning for Duty; Exemption from Arrest.*—

2 Officers and enlisted men shall be warned for duty in  
3 the manner prescribed by the governor in orders or regu-  
4 lations. No person belonging to the military forces of  
5 the state, while performing military duty under proper  
6 orders of his superior officers, shall be arrested on civil  
7 process, nor shall any person belonging to the military  
8 forces of the state, while performing military duty under

9 proper order of his superior officer, be arrested on crim-  
10 inal process, except upon process from a circuit or crim-  
11 inal court or a judge thereof in vacation.

Sec. 28. *Absence from Drill, Parade or Other Duty;*  
2 *Penalty.*—Organization and unit commanders of the na-  
3 tional guard, upon receiving information as to the where-  
4 abouts of any officer or enlisted man of their organization  
5 who is absent from any drill, parade or other prescribed  
6 duty without having been properly excused, may cause  
7 such officer or enlisted man to be taken into custody and  
8 forthwith conveyed to the organization rendezvous to be  
9 there kept until such duty is completed or until relieved  
10 by the organization commander; and said organization  
11 commander is hereby authorized to direct any or all  
12 members of his command at his discretion to apprehend  
13 such officer or enlisted man and convey him to the organ-  
14 ization rendezvous.

15 Enlisted men who shall, without proper excuse, be ab-  
16 sent from or in any other respect be delinquent at, any  
17 drill, parade, encampment, meeting for instruction, or  
18 other duty ordered by competent authority, may be fined

19 by a summary court not more than five dollars, and im-  
20 prisoned not more than five days in jail for each offense  
21 or delinquency.

22 The aggregate punishment under this section shall not  
23 exceed thirty days' jail sentence at any one time.

24 Sec. 29. *Calling out National Guard by Governor.*—In  
25 event of war, insurrection, rebellion, invasion, tumult,  
26 riot, mob or body of men acting together by force with  
27 intent to commit a felony or to offer violence to persons  
28 or property, or by force and violence to break and resist  
29 the laws of this state or the United States, or in case of  
30 the imminent danger of the occurrence of any of said  
31 events, or in event of public disaster, the governor shall  
32 have power to order the West Virginia national guard, or  
33 any part thereof, into the active service of the state, and  
34 to cause them to perform such duty as he shall deem  
35 proper.

36 Sec. 30. *Calling on Governor or Commander for Aid;*  
37 *Summons.*—In case of any breach of the peace, tumult,  
38 riot, unlawful assemblage, or resistance of law, or immin-  
39 ent danger thereof, which cannot be speedily suppressed

5 or effectually prevented by the ordinary posse comi-  
6 tatus and peace officer, it shall be the duty of the judge of  
7 any court of record, sheriff of any county, or mayor of any  
8 city, town or village to call upon the governor for aid,  
9 and in cases where the emergency is such as not to admit  
10 of this delay, upon the commander of any organization or  
11 unit, and it shall be the duty of the organization or unit  
12 commander upon whom such call is made, to order out,  
13 in aid of the civil authorities, the military force or any  
14 part thereof under his command. Such call for aid shall  
15 be by means of a summons issued by such judge, sheriff,  
16 or mayor, directed to the commander of any such unit  
17 or organization, directing him to order his command, or  
18 such part thereof as in the judgment of such commanding  
19 officer may be necessary, to appear at a time and place  
20 therein specified to aid the civil authority in supporting  
21 the laws; which summons shall be in substance, as fol-  
22 lows:

23 The State of West Virginia,

24 To (insert the officer's title) A.B.,

25 Commanding (insert his command), Greetings:

26 Whereas, It has been made to appear to (the sheriff or  
27 mayor, as the case may be), of (the county, city or town),  
28 of \_\_\_\_\_, that (here state one or  
29 more of the causes above mentioned), in our \_\_\_\_\_  
30 \_\_\_\_\_ of \_\_\_\_\_, and that military  
31 force is necessary to aid the civil authority in suppressing  
32 the same, and the urgency is such as not to admit of the  
33 delay necessary in calling upon the governor for military  
34 aid; Now, therefore, we command you that you cause  
35 your command, or such part thereof as may be necessary,  
36 armed and equipped with ammunition, and with proper  
37 officers, to parade at \_\_\_\_\_ on \_\_\_\_\_,  
38 then and there to obey such orders as may be given ac-  
39 cording to law. Hereof fail not at your peril and have you  
40 there this summons, with your doings returned thereof.

41 This summons shall be signed and properly attested  
42 as the act of such judge, sheriff or mayor, and may  
43 be varied to suit the circumstances of the case; and a  
44 copy of the same shall be immediately forwarded to the  
45 governor by the civil officer issuing the same. The offi-  
46 cer to whom the order of the governor or such summons

47 is directed shall forthwith order the troops therein called  
48 for to parade at the time and place appointed; and shall  
49 immediately, by telegraph or most expeditious means, no-  
50 tify the governor and adjutant general of the receipt of  
51 such summons and also by letter through the usual mili-  
52 tary channels. Such troops shall appear at the time and  
53 place appointed, armed, equipped and with ammunition,  
54 and shall obey and execute such orders as they may then  
55 and there receive according to law. All orders from civil  
56 officers to military commanders must be in writing and  
57 attested by two witnesses; but such orders shall contain  
58 only the specific act to be performed by the military offi-  
59 cer. The manner of performing such act shall be left to  
60 the discretion of the military officer. Military command-  
61 ers shall transmit a copy of such orders at once through  
62 channels to the governor.

Sec. 31. *When Order by Civil Officers to be in Writing;*  
2 *Compliance with Written Orders.*—Any officer whose  
3 command is called out under the provisions of this article,  
4 and reporting to any civil officer may require such civil  
5 officer to make such order in writing and prescribe there-

6 in the outline of the duties required of him and his com-  
7 mand, and may decline to obey such orders until put in  
8 writing; and while such commanding officer must obey all  
9 lawful written orders of such civil officer, such military  
10 officer may use his discretion as to the manner of carrying  
11 out such orders, so long as he complies with their spirit.

Sec. 32. *Command to Assembly or Mob to Disperse.*—

2 Before using any military force in the dispersion of any  
3 riot, rout, tumult, mob or unlawful assembly, or combi-  
4 nation mentioned in this article, it shall be the duty of  
5 the civil officer calling out such military force or some  
6 conservator of the peace, or if none be present, then of  
7 the officer in command of the troops, or some person by  
8 him deputed, to command the persons composing such  
9 riotous, tumultuous or unlawful assembly or mob to dis-  
10 perse and retire peaceably to their respective abodes and  
11 business; but in no case shall it be necessary to use any  
12 set or particular form of words in ordering the dispersion  
13 of any riotous, tumultuous or unlawful assembly; nor  
14 shall any such command be necessary where the officer  
15 or person, in order to give it, would necessarily be put

16 in imminent danger of loss of life or great bodily harm, or  
17 where such unlawful assembly or mob is engaged in the  
18 commission or perpetration of any forcible or atrocious  
19 felony, or in assaulting or attacking any civil officer or  
20 person lawfully called to aid in the preservation of the  
21 peace, or is otherwise engaged in actual violence to per-  
22 sons and property.

Sec. 33. *Penalty for Failure to Disperse.*—Any person  
2 or persons composing or taking part in any riot, rout,  
3 tumult, mob or lawless combination or assembly men-  
4 tioned in this article, who, after being duly commanded  
5 to disperse, as provided in the preceding section, wilfully  
6 and intentionally fails to do so as soon as practicable,  
7 shall be guilty of a felony, and, on conviction thereof,  
8 shall be imprisoned in the penitentiary for not less than  
9 one or more than two years.

Sec. 34. *Power of Officers.*—After any person or per-  
2 sons, composing or taking part, or about to take part, in  
3 any riot, mob, rout, tumult, or unlawful combination or  
4 assembly mentioned in this article shall have been duly  
5 commanded to disperse, or when the circumstances are

6 such that no such command is requisite under the pro-  
7 visions of this article, and civil officer to whom such mili-  
8 tary force is ordered to report, or if there be no civil  
9 officer present, then such military officer (or if such  
10 command is acting under the direct order of the governor,  
11 then such officer within the limits provided in his instruc-  
12 tions) shall take such steps for the arrest, dispersion, or  
13 quelling of the persons composing or taking part in any  
14 such mob, riot, tumult, outbreak, or unlawful combina-  
15 tion or assembly mentioned in this article, as may be  
16 required, and if, in doing so, any person is killed, wounded,  
17 or otherwise injured, or any property injured or de-  
18 stroyed, by the civil officer, or officer or member of the  
19 National Guard, or other persons lawfully aiding them,  
20 such officer, member or person shall be held guiltless.

Sec. 35. *Assaults on National Guard or Persons Aiding*  
2 *Them; Penalty.*—It shall be unlawful for any person to  
3 assault, fire upon, or throw any missile at, against or  
4 upon any member or body of the national guard, or civil  
5 officer or other person lawfully aiding them, when going  
6 to, returning from, or assembled for performing any duty

7 under the provisions of this article; and any person so  
8 offending shall be guilty of a felony, and, on conviction,  
9 shall be imprisoned in the penitentiary for not less than  
10 two nor more than five years.

Sec. 36. *Repelling Assault.*—If any portion of the Na-  
2 tional Guard, or any person lawfully aiding them in the  
3 performance of any duty, under the provisions of this  
4 article, is assaulted, attacked or in imminent danger there-  
5 of, the commanding officer of such national guard need  
6 not await any orders from any civil magistrate, but may  
7 at once proceed to quell such attack and disperse the at-  
8 tacking parties, and take all other needful steps for the  
9 safety of his command.

Sec. 37. *Failure to Retire from Unlawful Assembly;*  
2 *Penalty.*—Whenever any shot is fired or missile thrown  
3 at, against or upon any body of national guard, or upon  
4 any officer or member thereof, assembling or assembled  
5 for the performance of any duty under the provisions of  
6 this article, it shall forthwith be the duty of every person  
7 in the assembly from which such shot is fired, or missile  
8 thrown, to immediately disperse and retire therefrom,

9 without awaiting any order to do so; and any person  
10 knowing or having reason to believe that a shot has been  
11 fired, or missile thrown from any assembly of which such  
12 person forms a part or with which he is present, and  
13 failing without lawful excuse to retire immediately from  
14 such assembly, shall be guilty of a misdemeanor; and any  
15 person so remaining in such assembly, after being duly  
16 commanded to disperse, shall be guilty of a felony and  
17 on conviction, shall be imprisoned in the penitentiary not  
18 less than one nor more than two years.

Sec. 38. *National Guard to Have Right of Way.*—Any  
2 portion of the national guard parading or performing any  
3 duty according to law shall have the right of way in any  
4 street or highway through which they may pass: *Pro-*  
5 *vided*, That the carriage of United States mails and opera-  
6 tion of fire engines and fire departments shall not be in-  
7 terfered with thereby.

Sec. 39. *Regulation of Occupancy of Streets for Passage*  
2 *of National Guard.*—Whenever any rout, riot, or mob has  
3 occurred or is progressing, or is so imminent that any  
4 portion of the national guard is or has been called out

5 for the performance of any duty under the provisions of  
6 this article, it shall be lawful for the civil officer under  
7 whose orders the national guard is acting or the com-  
8 manding officer of such national guard, if it be deemed  
9 advisable in subduing or preventing such mob, or riot,  
10 or the outbreak thereof, to prohibit all persons from oc-  
11 cupying or passing on any street, road, or place, or where  
12 the national guard may be for the time being, and other-  
13 wise to regulate the passage and occupancy of such  
14 streets and places. Any person, after being duly informed  
15 of such regulations, who wilfully and intentionally, with-  
16 out any lawful excuse, attempts to go or remain on such  
17 street, road, or place, and fails to depart after being warned  
18 to do so, shall be guilty of a misdemeanor, and, on con-  
19 viction thereof, shall be fined not less than ten nor more  
20 than one hundred dollars, or imprisoned in the county  
21 jail not less than ten nor more than sixty days, or both;  
22 and in such case the officer in command of the national  
23 guard may forthwith arrest persons so offending and turn  
24 them over to some civil magistrate.

Sec. 40. *Transportation of Officers and Men.*—The sev-

2 eral railroads and other transportation companies in this  
3 state shall furnish transportation for all officers and en-  
4 listed men in the national guard, together with the stores,  
5 ammunition and equipment, when traveling on duty un-  
6 der orders from competent authority, on request of the  
7 officer desiring transportation, which request shall state  
8 the number of persons to be carried, and their destina-  
9 tion, and for such transportation said companies shall be  
10 entitled to receive compensation from the state at the  
11 rate specified.

Sec. 41. *Suits Against Officers or Persons Acting Under*  
2 *Military Authority; Security for Costs.*—When a suit or  
3 proceeding shall be commenced in any court by any per-  
4 son, against any military officer of the state, for any act  
5 done by such officer in his official capacity in the discharge  
6 of any duty under this article, or against any person act-  
7 ing under the authority or order of any such officer, or  
8 by virtue of any warrant issued by him pursuant to law,  
9 the court shall, upon motion of the defendant, when it  
10 has been made to appear to the court by affidavit, or  
11 otherwise, that the act done is such as hereinbefore set

12 forth, require the person prosecuting or instituting the  
13 suit or proceeding to file security for the payment of  
14 costs that may be incurred by the defendant therein. This  
15 security shall be by bond payable to the state, with surety  
16 to be approved by the clerk of the court, in a penalty  
17 equal to six times the costs incurred and likely to be  
18 incurred by the defendant, but in no case shall such bond  
19 be for a penalty less than five hundred dollars. The court  
20 before whose clerk such bond is given, may, on motion  
21 by a defendant, give judgment for so much as he is en-  
22 titled to by virtue of such bond under the provisions of  
23 this section. If such security for costs be not given within  
24 sixty days from the time the same is required by the court  
25 to be given, the suit or proceedings shall, by order of the  
26 court, be dismissed. In case the plaintiff in any suit or  
27 proceeding shall be nonsuited, or shall have a verdict or  
28 judgment rendered against him, or in case any suit or  
29 proceeding shall be dismissed for failure to give security  
30 for costs, then the defendant shall recover three times  
31 the amount of the costs incurred by him. In all such cases

32 as are referred to in this section the defendant may make  
33 a general denial and give the special matter in evidence.

34 Sec. 42. *Change of Venue of Prosecutions or Suits*  
35 *Against Members of National Guard.*—Any civil or mili-  
36 tary officer or member of the national guard, or any per-  
37 son lawfully aiding them in the performance of any duty  
38 required under the provisions of this article, who is in-  
39 dicted or sued for any injury to person or property in en-  
40 deavoring to perform such duty, shall have the right, and  
41 it is hereby made the duty of the court in which such  
42 indictment or suit is pending, upon the application of any  
43 person so indicted or sued, to remove the trial of the in-  
44 dictment or suit to some county free from exception.

45 Sec. 43. *Pay and Allowances.*—The pay for officers and  
46 enlisted men of the West Virginia national guard for serv-  
47 ice at camps of instruction, rifle practice, practice marches  
48 and maneuvers, or other duties ordered by the President  
49 of the United States, shall be such as are provided in the  
50 national defense act and amendments thereto. Officers  
51 and enlisted men, when employed in the actual service  
52 of the state, as defined and provided in this article, be-

9 ginning on the day they assemble at their armories or  
10 other designated places, until the day they have returned  
11 thereto and been properly relieved, inclusive, fractional  
12 parts of a day counting as a full day, shall receive pay and  
13 allowances at the rate which are currently applicable for  
14 federal service. Transportation for all military personnel,  
15 and subsistence for enlisted men, shall be provided by the  
16 state when the national guard is engaged in state duty.

17 *Sec. 44. Command Pay; Inspection; Compensation for*  
18 *Clerical Services and Care of Property.*—There shall be  
19 paid to each regimental commander one hundred dollars  
20 per month, and to each battalion commander fifty dollars  
21 per month, payable quarterly, to be known as command  
22 pay. The governor may, by order, direct such organiza-  
23 tion commanders to make certain inspections of the or-  
24 ganizations in their command, and file reports thereon,  
25 not exceeding four visits to each of such organizations  
26 in any one year, and for which such commanding officer  
27 shall receive no other compensation than that mentioned  
28 herein, but may be reimbursed his actual traveling ex-  
29 penses.

14 There shall be allowed to each regimental headquarters  
15 for clerical service the sum of one hundred and fifty dol-  
16 lars per month; to each separate battalion or similar  
17 organization, not a part of a regiment or group within  
18 the state, the sum of fifty dollars per month for clerical  
19 service; and to each company, or corresponding unit, the  
20 sum of twenty dollars per month for like services, payable  
21 quarterly.

22 In the discretion of the adjutant general, there may be  
23 paid to the enlisted man who is directly responsible for  
24 the care and custody of the federal and state property of  
25 each organization or unit, the sum of ten dollars per  
26 month, payable quarterly, upon the certificate of his com-  
27 manding officer that he has faithfully and satisfactorily  
28 performed the duties assigned him and accounted for all  
29 property intrusted to his care.

Sec. 45. *Injury While in Service.*—A member of the  
2 national guard who shall, when on duty or assembled  
3 therefor, in case of riot, tumult, breach of the peace, in-  
4 surrection, or invasion, or whenever ordered by the gov-  
5 ernor, commanding officer of the national guard, or called

6 in aid of the civil authorities by proper military order,  
7 receive an injury, or incur or contract any disability or  
8 disease, by reason of such duty or assembly therefor, or  
9 who shall without fault or neglect on his part be wound-  
10 ed or disabled while performing any lawfully ordered  
11 duty, which shall temporarily incapacitate him from pur-  
12 suing his usual business or occupation, shall, during the  
13 period of such incapacity, receive the pay provided by  
14 this article and actual necessary expenses for care and  
15 medical attendance. All claims arising under this sec-  
16 tion shall be inquired into by a board of three officers,  
17 at least one being a medical officer, to be appointed, upon  
18 the application of the member claiming to be so incapaci-  
19 tated, by the commanding officer of the organization or  
20 unit to which such member is attached or assigned. Such  
21 board shall have the same power to take evidence, ad-  
22 minister oaths, issue subpoenas and compel witnesses to  
23 attend and testify and produce books and papers, and  
24 punish their failure to do so, as is possessed by a general  
25 court-martial. The findings of the board shall be subject  
26 to the approval of the officer convening it, and also to the

27 approval of the governor, either of whom may return the  
28 proceedings of the board for revision and for the taking  
29 of further testimony. The amount found due such mem-  
30 ber by such board, to the extent that its findings are ap-  
31 proved by the reviewing officers thereof, shall be paid by  
32 the treasurer of the state out of any moneys in the mili-  
33 tary fund unexpended. The widow and children of every  
34 officer or soldier killed, while in the service of the state,  
35 shall be suitably provided for by the legislature.

Sec. 46. *Military Fund.*—The sums of money which may  
2 be appropriated by the legislature for carrying into effect  
3 any provisions of this article, and the fines and penalties  
4 required thereby to be paid to the treasurer of the state,  
5 shall constitute the military fund of the state for the uses  
6 and purposes set forth in this article. The state treasurer  
7 shall, at the end of each quarter, render to the adjutant  
8 general a statement of the condition of the military fund,  
9 showing the amount on hand at the beginning of the  
10 quarter, the amount received and expended during the  
11 quarter, and the balance on hand at the end of the quarter.  
12 The adjutant general shall furnish the governor a copy

13 of this quarterly report, and if the sum appropriated by  
14 the legislature for any year shall not be sufficient to pay  
15 for duty at the annual encampment for the number of  
16 days provided in this article, then either such encamp-  
17 ment shall not be held for that year, or held without pay,  
18 or held for less number of days than provided in this arti-  
19 cle, as the governor may determine, so that no deficiency  
20 shall be created by reason of the holding of such encamp-  
21 ment.

Sec. 47. *Military Expenses.*—All payments made under  
2 the provisions of this article, except for active service,  
3 shall be paid out of the military fund, and all expenses  
4 incurred in active service shall be paid out of any moneys  
5 in the treasury not otherwise appropriated. The military  
6 fund shall be disbursed on warrant of the adjutant gen-  
7 eral, properly drawn, and in such manner as the governor  
8 may order, or as may be required by law, but no warrant  
9 for funds signed by him shall be honored by the auditor  
10 until such adjutant general shall have executed and filed  
11 such bond as may be required by the governor. Pay-  
12 ments shall be made on proper vouchers, which vouch-

13 ers shall show the authority under which the expendi-  
14 tures are made, contain an itemized statement of the  
15 transaction, and be filed for record in the office of the  
16 adjutant general. All claims for services rendered or  
17 material furnished shall be approved by the officer order-  
18 ing the work or material, and shall be over his certificate  
19 to the effect that the amount is just and reasonable, and  
20 that it has not been previously paid. No expenditures  
21 shall be made by any officer until an estimate of the  
22 amount and a statement of the necessity therefor shall  
23 have been laid before the adjutant general and his ap-  
24 proval received.

181       Sec. 48. *Military Courts; Jurisdiction.*—Military courts  
2 of this state shall be: (a) General courts-martial; (b)  
3 Special courts-martial; (c) Summary courts-martial; (d)  
4 Courts of inquiry; and shall have jurisdiction over any  
5 officer, warrant officer, or enlisted man of the West Vir-  
6 ginia national guard and other persons subject to military  
7 law for any crime made punishable by this article. The  
8 jurisdiction of the courts established by this article shall  
9 be presumed and the burden of proof shall rest with the

10 person seeking to oust any such court of jurisdiction in  
11 any matter or proceeding.

12 Sec. 49. *Courts-Martial; General.*—Officers shall be tri-  
2 able only by general courts-martial and special courts-  
3 martial, and in no case, whether officer or enlisted man,  
4 shall a person be tried by persons inferior in rank or  
5 grade when it can feasibly be avoided. An enlisted man  
6 may request that at least one-third of a general or special  
7 court-martial total membership consist of enlisted men.

8 Sec. 50. *Appointment and Composition of Military*  
9 *Courts.*—(a) General courts-martial shall be appointed  
10 by the governor, and shall consist of not less than five  
11 members. (b) Special courts-martial may be appointed  
12 by the governor, or as provided in the manual for courts-  
martial, U. S. army, and shall consist of not less than  
three members. (c) Summary courts-martial may be ap-  
pointed by the governor, or as provided in the manual  
for courts-martial, U. S. army, and shall consist of one  
officer. (d) Courts of inquiry may be appointed by the  
governor, or as provided in the manual for courts-martial,  
U. S. army, and shall consist of from one to three officers.

Sec. 51. *Forms; Practice; Procedure.*—The practice and  
2 procedure of courts-martial and courts of inquiry shall  
3 conform to the procedure of similar courts in the army  
4 of the United States, except as otherwise specially pro-  
5 vided herein. Such forms as are necessary for carrying  
6 into effect the provisions of this article shall be prescribed  
7 by the governor. The president of any military court au-  
8 thorized herein shall have authority to appoint and dis-  
9 miss required clerks and reporters and the compensation  
10 therefor shall be taxed as costs in such case. The clerk  
11 of a summary court shall receive a reasonable compensa-  
12 tion to be fixed by the court, not to exceed one dollar for  
13 each man tried.

Sec. 52. *Courts-Martial; Personnel.*—The senior in rank  
2 among the members present is the president and presiding  
3 officer of the court. The person ordering a general court-  
4 martial may appoint a judge advocate for the same.

Sec. 53. *Secrecy of Proceedings.*—The proceedings and  
2 sentence of a court-martial shall be kept secret until the  
3 same shall have been approved by proper authority. In  
4 any event, the vote and opinion of any member of a court

5 shall be kept secret unless such is required to be revealed  
6 in a court of justice.

Sec. 54. *Powers of President; Witnesses; Oaths.*—The  
2 president of a court-martial shall have power to issue  
3 subpoenas for the arrest of accused persons and to bring  
4 them before the court for trial whenever such persons  
5 shall have disobeyed an order in writing from the con-  
6 vening authority to appear before such court, a copy of  
7 the charge or charges having been delivered to the ac-  
8 cused with such order, and to issue subpoenas and sub-  
9 poenas duces tecum and to enforce attendance of wit-  
10 nesses and the production of books and papers and to  
11 sentence for a refusal to be sworn or to answer as pro-  
12 vided in actions before civil courts. All military courts  
13 shall have power to administer oaths as required by the  
14 manual for courts-martial, U. S. army.

Sec. 55. *Charges; Trial.*—When an officer or enlisted  
2 man is put under arrest for the purpose of trial, a copy  
3 of the charges and specifications upon which he is to be  
4 tried shall be delivered to him or left at his last known  
5 place of abode or business, within twenty days after ar-

6 rest, and a court shall be ordered for his trial within  
7 thirty days after the notice of arrest is received by the  
8 officer authorized to order the court. He may be held in  
9 any jail or other place of detention or released upon his  
10 own recognizance or upon such bail as is deemed neces-  
11 sary by the circuit court of the county in which he is de-  
12 tained. If a copy of the charges and specifications be not  
13 served, or a court be not ordered within the time herein  
14 limited, then arrest shall cease; but such charges and  
15 specifications may be served, a court ordered and the  
16 officer or enlisted man brought to trial within twelve  
17 months after such release from arrest. The appearance  
18 of the accused, without objection, and pleading to the  
19 charges, shall be deemed a waiver of any defect or irreg-  
20 ularity of such service of any of the papers mentioned  
21 in this section. If an officer or enlisted man who has been  
22 ordered or duly summoned to appear before a military  
23 court for trial fail to appear, the court may enter a plea  
24 of not guilty for him and proceed to trial in his absence.

Sec. 56. *General Court-Martial; Offenses by Commis-*  
2 *sioned Officers; Penalties.*—Commissioned officers may be

3 tried by a general court-martial for the following offenses:

4 (a) For unmilitary or unofficer-like conduct;

5 (b) For drunkenness on duty;

6 (c) For neglect of duty;

7 (d) For disobedience of orders or any act contrary to

8 the provisions of this article, or to the provisions of the

9 regulations for the government of the national guard;

10 (e) For refusing to grant a discharge to an enlisted man

11 when entitled to the same;

12 (f) For oppression or injury of any one under his com-

13 mand;

14 (g) For a combination or attempt to break, resist or

15 evade the laws or lawful orders, given to a person, or

16 advising any person so to do;

17 (h) For insult to a superior officer;

18 (i) For presuming to exercise his command while under

19 arrest or suspension;

20 (j) For neglect or refusal when commanding officer to

21 order out the troops under his command when required

22 by law or lawfully ordered by his superior officers;

23 (k) For neglect or refusal to make a draft or detach-

24 ment when lawfully ordered to do so;

25 (l) For parading the troops under his command on days  
26 of election contrary to law;

27 (m) For receiving any fee or gratuity for any certifi-  
28 cate;

29 (n) For neglect, when detailed to drill or instruct a  
30 command, to make complaint for neglect or violation of  
31 duty as provided by law, or for any other neglect for  
32 which a commanding officer would be liable;

33 (o) For making a false certificate, account or muster  
34 or parade or property return;

35 (p) For conduct unbecoming an officer or a gentleman,  
36 or for conduct to the prejudice of good order and military  
37 discipline.

38 On conviction of any of the above-named offenses, offi-  
39 cers may be sentenced to be dismissed, and shall thereby  
40 become incapacitated from holding any military com-  
41 mission, may be fined to any amount not exceeding two  
42 hundred dollars, and in addition may be confined for a  
43 period not exceeding sixty days in the county jail of any  
44 county in the state, except, however, that the maximum

45 penalties herein set forth shall not be regarded as affect-  
46 ing or limiting such penalties as may be imposed under  
47 other sections of this article. The order of the general  
48 court martial directed to the jailer of such jail shall be  
49 sufficient authority for said jailer to receive and confine  
50 said prisoner.

Sec. 57. *Special Court-Martial; Offenses by Commis-*  
2 *sioned Officers; Penalties.*—Commissioned officers may be  
3 tried by a special court-martial for the same offenses list-  
4 ed under section fifty-six, except that upon conviction of  
5 any of the named offenses, officers may be fined to any  
6 amount not exceeding one hundred dollars, and in addi-  
7 tion may be confined for a period not exceeding thirty  
8 days in the county jail of any county in the state, except,  
9 however, that the maximum penalties herein set forth  
10 shall not be regarded as affecting or limiting such penalties  
11 as may be imposed under other sections of this article.  
12 The order of the special court-martial directed to the  
13 jailer of such jail shall be sufficient authority for said  
14 jailer to receive and confine said prisoner.

Sec. 58. *General Court-Martial; Offenses by Enlisted*

2 *Men; Penalties.*—Enlisted men, in time of peace, may be  
3 tried by a general court-martial:

4 (a) For disobedience of orders;

5 (b) For disrespect to his superior;

6 (c) For mutiny;

7 (d) For desertion;

8 (e) For drunkenness on duty;

9 (f) For conduct prejudicial to good order and military  
10 discipline;

11 (g) For any act contrary to the military code, or to the  
12 provisions of the regulations for the government of the  
13 national guard.

14 On conviction, such enlisted man may be sentenced to  
15 be dishonorably discharged with loss of time served, rep-  
16 rimanded, reduced to the ranks, or may be fined not to  
17 exceed one hundred dollars, and in addition thereto may  
18 be confined in the county jail for a period of not exceed-  
19 ing sixty days in any county within the state, except,  
20 however, that the maximum penalties herein set forth  
21 shall not be regarded as affecting or limiting such penal-

22 ties as may be imposed under other sections of this arti-  
23 cle. The order of the general court-martial directed to  
24 the jailer of such jail shall be sufficient authority to re-  
25 ceive and confine such prisoner in such jail.

Sec. 59. *Special Court-Martial; Summary Court-Mar-*  
2 *tial; Offenses by Enlisted Men; Penalties.*—Enlisted men  
3 may be tried by a special court-martial or a summary  
4 court-martial for the same offenses listed under section  
5 fifty-eight, except that on conviction by a special court-  
6 martial such enlisted man may be reprimanded, reduced  
7 to the ranks, or may be fined not to exceed fifty dollars,  
8 and in addition thereto may be confined in the county jail  
9 for a period of not exceeding thirty days in any county  
10 in the state, except, however, that the maximum penalties  
11 herein set forth shall not be regarded as affecting or limit-  
12 ing such penalties as may be imposed under other sec-  
13 tions of this article. In the case of a summary court-  
14 martial, on conviction, such enlisted man may be reprim-  
15 anded, fined not to exceed twenty-five dollars, and in  
16 addition thereto may be confined in the county jail for a  
17 period of not exceeding fifteen days in any county in the

18 state, except, however, that the maximum penalties here-  
 19 in set forth shall not be regarded as affecting or limiting  
 20 such penalties as may be imposed under other sections of  
 21 this article. The order of the court-martial directed to  
 22 the jailer of such jail shall be sufficient authority for said  
 23 jailer to receive and confine said prisoner.

Sec. 60. *Form of Summons.*—The form of summons is-  
 2 sued by summary courts provided by this article shall be  
 3 substantially as follows, the blanks being properly filled  
 4 in:

SUMMONS

6 The State of West Virginia:

7 To....., who is hereby  
 8 designated and directed to serve this summons:

9 You are commanded to summon.....  
 10 to personally appear before the summary court for the  
 11 trial of himself, which will meet pursuant to the laws of  
 12 the State of West Virginia, at (address).....  
 13 (city)....., West Virginia, on the  
 14 ..... day of....., 19....., at..... o'clock  
 15 ..... M., by virtue of..... Orders No.

16 ..... from headquarters.....

17 to answer delinquencies for offenses against.....

18 ..... (herein describe briefly the offense

19 charged) .....

20 .....

21 Given under my hand this the..... day of.....

22 19.....

23 (Signed) .....

24 (Signature and rank of presiding officer)

25 West Virginia National Guard

26 President of the Court.

Sec. 61. *Service of Summons; Penalty for Failure.*—

2 The president of a court-martial shall designate and di-

3 rect a fit person or persons to summon all delinquents

4 to appear before the court. Service of the summons shall

5 be made by the person so designated in the same manner

6 as service or process in civil cases. The person serving

7 the summons shall receive a fee of one dollar for such

8 service, together with five cents per mile in necessary

9 travel, and such fee of one dollar together with mileage,

10 shall be taxed as a part of the costs in such proceeding.

11 The summons may be directed by the president of the  
12 court-martial to the sheriff, or his deputy, or any con-  
13 stable, or member of the department of public safety, or  
14 to any individual, in the county where such delinquent  
15 resides or may be found for service; and it shall be the  
16 duty of such person in whose custody the summons has  
17 been placed for service forthwith to serve same, if the  
18 delinquent be found, and make due return thereof,  
19 before the return day of such summons, to the president  
20 of the court-martial. The return of service of such sum-  
21 mons shall be in form and effect the same as is custom-  
22 arily used by officers in making returns in civil process.  
23 Any member of the department of public safety, sheriff,  
24 or his deputy, constable or individual, who shall refuse,  
25 fail or neglect to serve such summons and make his return  
26 thereon to the president of the court-martial before the  
27 return day thereof, shall be deemed guilty of a misde-  
28 meanor, and, on conviction thereof, shall be fined not to  
29 exceed fifty dollars.

*Sec. 62. Trial; Judgment; Duties of Sheriff; Penalty.--*

2 On the return day of the summons the court shall hear

3 the evidence and render judgment thereon as the case  
4 may be. If, however, on the return day of the summons  
5 the accused shall fail to appear, after having been duly  
6 served with summons, the court shall proceed to hear  
7 the evidence and try the accused in his absence and render  
8 judgment thereon as the case may be and the facts warranted.  
9 If such judgment be for a fine and costs solely, the  
10 court shall forthwith issue an execution in form and  
11 effect as hereafter set forth, and place it in the hands of  
12 the sheriff of the county wherein the accused may be  
13 found. If, however, the judgment of the court against  
14 the accused is for confinement in the county jail, the  
15 court shall forthwith issue an order directed to the sher-  
16 iff of the county wherein the accused may be found,  
17 directing said sheriff to take into custody the body of the  
18 accused and confine him in the county jail. Such order  
19 so delivered by the court shall be coextensive with the  
20 state, and shall be sufficient evidence and authority for  
21 the jailer of such county jail to receive the body of the  
22 accused and confine him therein pursuant to said judg-

23 ment. No prescribed form of order for confinement of the  
24 accused shall be required.

25 Any sheriff who fails, neglects or refuses to perform  
26 any duty required of him by this section by reason of any  
27 order of confinement directed by any court, shall be guilty  
28 of a misdemeanor, and, upon conviction thereof, shall  
29 be fined not less than fifty nor more than one hundred  
30 dollars for each offense.

~~Sec. 63. Form of Execution, Presumption of Jurisdic-~~

~~tion of Military Courts. Execution for the purpose of~~

~~neither collecting the fine and costs of imprisoning the~~

~~delinquent for failure to pay the same shall be substan-~~

~~tially in the following form; blanks being properly filled~~

~~in:~~

7 The State of West Virginia:

8 To the Sheriff of \_\_\_\_\_ County, Greeting:

9 Whereas, pursuant to the laws of the State of West

10 Virginia, by an order duly issued by (name and rank of

11 officer ordering court) \_\_\_\_\_

12 of the West Virginia National Guard, and dated on the

13 \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, a court was

14 duly appointed, for (state object of court) .....;

15 and,

16 Whereas, the said court was duly and regularly con-

17 vened and from time to time duly adjourned; and

18 Whereas, (name and rank of accused) .....

19 ..... in (organization) .....

20 of the West Virginia National Guard, was duly and regu-

21 larly returned to said court, as required by law, charged

22 with (state whether accused was charged with delinquen-

23 cies of offenses against the military code, without speci-

24 fying character thereof) as appears by (either summons

25 or charges and specifications, as the case may be) duly

26 filed with said court, and was duly summoned and noti-

27 fied to appear before said court; and it satisfactorily ap-

28 pearing to the court that such .....

29 was and is a ..... of the West

30 Virginia National Guard and subject to the jurisdiction

31 of the court; and after due deliberation of the evidence

32 offered by the state and the accused, the court did find and

33 adjudge the said .....

34 (state finding) .....

35 and did sentence him to pay a fine of .....  
36 dollars, and did also sentence him to pay costs of .....  
37 ..... dollars, making a total fine of .....  
38 dollars; and,

39 Whereas, the proceedings, findings and sentences of  
40 such court were thereafter duly approved by .....  
41 ....., the officer ordering said court.

42 These are therefore in the name of the State of West  
43 Virginia to command you to levy and collect said fines,  
44 together with your costs, according to law, of the goods and  
45 chattels of ....., and in default of  
46 sufficient goods and chattels of such .....,  
47 to satisfy the same; then, within five days, to take the  
48 body of such delinquent to the common jail of .....  
49 county, and deliver him to the jailer thereof; and the  
50 said jailer is hereby directed and requested to receive  
51 the body of such ..... conveyed  
52 to the jail aforesaid, and to keep such .....  
53 closely confined in the manner and during the time re-  
54 quired by law, and until discharged according to law,  
55 for which this shall be his warrant; and of your doings

56 by virtue thereof to make return to me within forty  
57 days after the execution of these presents.

58 Given under my hand at \_\_\_\_\_, and  
59 State of West Virginia, on the \_\_\_\_ day of \_\_\_\_\_,  
60 19\_\_\_\_\_.

61 (Signed) \_\_\_\_\_

62 (Rank and organization of presiding officer.)

63 West Virginia National Guard,

64 President of the court.

Sec. 64. *Courts of Inquiry.*—Courts of inquiry shall be  
2 ordered for the same purposes as provided in the manual  
3 for courts-martial, U. S. army, which are applicable to  
4 this state. Such courts of inquiry shall, without delay,  
5 report the evidence adduced, a statement of the facts,  
6 and, when required, an opinion thereof, to the appointing  
7 authority.

Sec. 65. *Disorderly Conduct Before Military Court;*

2 *Penalty.*—Any person other than a member of the na-  
3 tional guard who shall resort to disorderly, contemptuous  
4 or insolent behavior in, or use any insulting or indecor-  
5 ous language or expressions to or before, any military

6 court, or any member of either of such courts, in open  
7 court, to interrupt the proceedings or to impair the au-  
8 thority of such courts, shall be guilty of a misdemeanor  
9 and may be arrested by the order of the president of the  
10 court, and at once delivered to the civil authorities; and  
11 such person, if found guilty, shall be fined not less than  
12 five nor more than fifty dollars, or imprisoned in the  
13 county jail not exceeding thirty days, or both fined and  
14 imprisoned.

15 *Sec. 66. Record and Approval of Court-Martial Sent-*  
16 *ence.*—The record of the proceedings and sentence of  
17 every court-martial shall, without delay, be delivered to  
18 the appointing authority, who shall approve or disapprove  
19 thereof. A court may proceed with the execution of a  
20 sentence pending approval by the appointing authority.

21 *Sec. 67. Reconvening Court-Martial.*—A court-martial  
22 appointing authority is authorized to direct a court-mar-  
23 tial to reconvene, and send back its proceedings for re-  
24 vision, and to remit, commute, or investigate any  
25 punishment awarded by the court.

26 *Sec. 68. Collection and Disposition of Fines.*—All fines

2 under the provisions of this article not collectible by the  
3 court may be levied or collected by the sheriff of any  
4 county of the state, and shall be transmitted to the  
5 adjutant general of the state who shall deposit the same  
6 to the military fund of the state. Whenever process of  
7 law is necessary for collection of fines, the sheriff shall  
8 collect in addition thereto his usual fees.

9       *Sec. 69. Execution in Aid of Collection of Fines and*  
10 *Penalties.*—For the purpose of collecting any fines or pen-  
11 alties imposed by any courts-martial, the president of  
12 the court shall issue execution, or executions, for the  
13 collection thereof, and deliver the same to the sheriff of  
14 any county for levy on the goods and chattels of the de-  
15 linquent, and, in addition to such fine, shall collect the  
16 necessary costs of such proceedings, as provided in civil  
17 cases. On failure, within fifteen days from the time of de-  
18 livery of such execution into his hands, to satisfy such  
19 execution from the goods and chattels of the delinquent,  
20 the sheriff shall forthwith take the body of the delinquent  
21 to the county jail and therein confine him to serve the  
22 execution at the space and rate of one day's confinement

15 for each two dollars of fine and the costs: *Provided,*  
16 *however,* That the delinquent may furnish a bond with  
17 good and sufficient surety to the sheriff to stay such  
18 execution and costs for a period of thirty days, either  
19 before confinement or during confinement; and if at the  
20 expiration of said thirty days such delinquent fails to  
21 pay the execution and costs, the sheriff may apprehend  
22 the delinquent and confine him in the county jail, as in  
23 the original proceeding; and if the accused be not found,  
24 the sureties on such bond shall be liable to the State of  
25 West Virginia for the amount of said execution and the  
26 costs thereof.

27 The sheriff shall be entitled to such commissions and  
28 fees as provided in civil cases.

Sec. 70. *Failure of Sheriff to Execute Process or Return*

2 *Fines.*—Any sheriff failing to execute any process, or to  
3 make proper return of all fines and penalties collected,  
4 shall be guilty of a misdemeanor, and, upon conviction  
5 thereof, be fined not less than fifty nor more than one  
6 hundred dollars for each offense.

Sec. 71. *Actions Against Members of Military Courts.*—

2 No action shall be maintained against any member of a  
3 military court, or officer or agent acting under its au-  
4 thority, on account of the imposition of a fine or penalty  
5 or for the execution of a sentence on any person.

Sec. 72. *Trial by Civil Authorities.*—For any offense  
2 enumerated in this article which is also cognizable under  
3 civil law, the offender may, in the discretion of his su-  
4 perior officer, be delivered over to the civil authorities  
5 for such action and disposition as may be warranted.

Sec. 73. *Armory Board; How Constituted; Duties.*—The  
2 governor, the secretary of state and the auditor shall  
3 constitute the state armory Board, whose duties it shall  
4 be to approve the selection of all armory sites and plans  
5 and specifications, to contract for the erection of all ar-  
6 mories, for the purchase of buildings suitable, or which  
7 can be made suitable, for armory purposes and the ac-  
8 quisition of armories already constructed, to audit and  
9 approve all bills, claims and accounts in connection with  
10 the construction or purchase of all armories before such  
11 bills, claims and accounts shall be paid, and to perform  
12 such other duties as this article may require, but without

13 compensation except that their actual and necessary trav-  
14 eling expenses shall be paid; an allowance shall be made  
15 for the necessary clerical assistance, printing, stationery  
16 and postage, which shall be paid out of the fund appro-  
17 priated for the maintenance of the national guard.

18       *Sec. 74. Control of Armories; Acquisition of Sites; Ap-*  
19 *ropriations and Expenditures Therefor; Consent to Ac-*  
20 *ceptance of Federal Funds.*—The state armory board  
21 shall have control of any arsenal, armory, or other quart-  
22 ers of the national guard, camp ground and rifle range  
23 owned by the state, and shall cause the same to be kept  
24 in good repair, and all money which may be appropriated  
25 or otherwise made available for the purchase, erection,  
26 acquisition or repair of such buildings, grounds or ranges  
27 may be expended and shall be accounted for by the arm-  
28 ory board. The armory board may procure by purchase  
29 or condemnation sufficient ground for armories, arsenals,  
30 quarters, camp grounds or rifle ranges, when funds are  
31 available for the purpose, the title of same to be in the  
32 name of the state, and may, when the state shall be re-  
33 imbursed for its expenditures, transfer title of such

17 grounds and rifle ranges to the United States, but may  
18 provide for the retention by the state of civil and police  
19 jurisdiction through such ranges and camp grounds and  
20 a right to tax persons residing thereon.

21 Authorization is hereby given to acceptance by the  
22 state armory board of any Federal or other funds to  
23 assist or match state appropriations for the purposes of  
24 this article. Nothing herein contained shall be construed  
25 as limiting the authority of the adjutant general to enter  
26 into leases for armory, camp, and rifle range facilities on  
27 behalf of the national guard.

*Sec. 75. Control of New Armories; Rules and Regula-*

2 *tions.*—Upon the completion of any new state-owned  
3 armory building or the purchase of any armory building  
4 property, the control and use of such armory shall vest in  
5 the armory board as provided in this article: *Provided,*  
6 That the proceeds of rentals and other revenue derived  
7 from such armories may be devoted and applied by the  
8 armory board to the maintenance, extension, improve-  
9 ment and equipment thereof. The armory board may  
10 make and alter rules and regulations for the government

11 of all officers and persons having charge of armories,  
12 arsenals, or other military property of this state.

13 Sec. 76. *Municipal Aid for Armory Purposes; Issuance*  
14 *of Bonds.*—Any city or village, or two or more cities or  
15 villages jointly, in which an armory has heretofore been,  
16 is now, or may hereafter be, erected or authorized under  
17 the provisions of this article, may raise and appropriate  
18 money and funds in the aid of the construction, repair  
19 and improvement thereof, and to that end may issue  
20 bonds payable not more than thirty years after their  
21 issue and bearing interest at a rate not exceeding six per  
22 cent per annum, and may deposit such money and funds  
23 and the proceeds of the sale of such bonds with the state  
24 treasurer to the credit of the proper construction fund,  
25 and may make such further provisions for the mainten-  
26 ance and improvements of such armory as may be deemed  
27 necessary: *Provided*, That whenever the board deems it  
28 expedient and in furtherance of the purposes of this ar-  
29 ticle, it may purchase and finish armories already built  
30 or partly built.

31 Sec. 77. *Funds for Armory Purposes.*—All moneys

2 raised for the building of any armory shall be paid to the  
3 state treasurer, who shall keep separate account with  
4 each organization or unit which shall avail itself of the  
5 provisions of this article, and credit the same with the  
6 amount of money deposited by such organization, to-  
7 gether with the appropriation made under the provisions  
8 of this article; and all bills for the construction or pur-  
9 chase of armories shall, after being approved by such  
10 board, be paid out of said account or fund, and charged  
11 to the proper organization, upon the warrant of the  
12 state auditor, and the state auditor shall issue his war-  
13 rant upon such fund upon the certificate of the board.

14 All money returned and repaid to the state treasury  
15 from armory property sold, damaged or destroyed, or  
16 otherwise, shall be credited to a general armory fund,  
17 and may be expended for the building and construction  
18 or the purchase of armories for military organizations  
19 not having armory accommodations under the provisions  
20 and limitations of this article.

Sec. 78. *Disposition of Abandoned or Unsuitable Arm-*  
2 *ories.*—Whenever any such military organization which

3 has availed itself of the provisions of this article, and  
4 has received the appropriation provided herein, shall  
5 be called or drafted into the federal service or shall be  
6 mustered out of the service of this state, and it shall  
7 appear probable that no new military organization will  
8 be organized in the city or village in which the armory  
9 is located, and there is no other military organization oc-  
10 cupying said armory, the adjutant general shall imme-  
11 diately take possession of and close the same, and not  
12 permit its use for other than military purposes, but the  
13 armory board shall have the authority and it is hereby  
14 expressly empowered to sell, transfer and convey such  
15 property to the municipality or municipalities in which  
16 the same is located, for public purposes, upon the repay-  
17 ment to the state, for credit to the general armory fund,  
18 of the appropriation expended thereon, without interest:  
19 *Provided*, That if such municipality shall not purchase  
20 such property, the board shall then be authorized to sell,  
21 transfer and convey the same to any individual, firm or  
22 corporation, repaying to the state at least the full appro-  
23 priation expended therefor: *Provided further*, That if

24 the armory can not be sold in this manner, the armory  
25 board may lease it to the municipality for public pur-  
26 poses at an annual rental which shall not be less than  
27 ten per cent of the amount invested by the state in such  
28 armory: *And provided further*, That the armory board is  
29 hereby authorized and empowered to sell, transfer and  
30 convey on behalf of the state any state armory site or  
31 building which in the judgment of the board is unsuit-  
32 able for military purposes or which has been condemned  
33 by the state fire marshal. The moneys so received from  
34 the sale of such armories shall be paid into the state  
35 treasury and by the treasurer credited to the general  
36 armory fund.

Sec. 79. *Regulations While Military Forces on Duty.*--

2 When any portion of the military forces of this state  
3 shall be on duty, under or pursuant to the orders of the  
4 governor, or whenever any part of such forces shall be  
5 ordered to assemble for duty in time of war, insurrection,  
6 invasion, public danger, any breach of the peace, tumult,  
7 riot or resistance to process in this state, or imminent  
8 danger thereof, the rules and articles of war and the gen-

9 eral regulations for the government of the Army of the  
10 United States shall be considered in force and regarded  
11 as a part of this article until such forces shall be duly  
12 relieved from such duty. No punishment under such  
13 rules and articles which shall extend to the taking of  
14 life shall, in any case, be inflicted except in time of actual  
15 war, invasion, or insurrection, declared by proclamation  
16 of the governor to exist, and then only after the approval  
17 of the governor of the sentence inflicting such punish-  
18 ment. In the event of invasion, insurrection, rebellion  
19 or riot, the governor may in his discretion declare a state  
20 of war in the towns, cities, districts or counties where  
21 such disturbances exist.

Sec. 80. *Governor to Make Rules and Regulations.*—

2 The governor is hereby authorized to make such rules  
3 and regulations, from time to time, as he may deem ex-  
4 pedient; but such rules and regulations shall conform to  
5 this article and as nearly as practicable to those govern-  
6 ing the United States army, and, when promulgated,  
7 shall have the same force and effect as the provisions of  
8 this article. But the rules and regulations now in force

9 shall remain in force until new rules and regulations are  
10 approved and promulgated.

Sec. 81. *United States Army Regulations.*—All matters  
2 relating to the organization, discipline and government of  
3 the national guard, not otherwise provided for in this  
4 article or in regulations, shall be decided by custom and  
5 usage of the United States army.

Sec. 82. *Leave of Absence for Public Officials and Em-*  
2 *ployees.*—All officers and employees of the state, or sub-  
3 divisions or municipalities thereof, who shall be members  
4 of the national guard, shall be entitled to leave of absence  
5 from their respective offices or employments without loss  
6 of pay, status, or efficiency rating, on all days during  
7 which they shall be engaged in drills or parades during  
8 business hours ordered by proper authority, or for field  
9 training or active service for a maximum period of thirty  
10 days in any one calendar year ordered or authorized under  
11 the provisions of state law. The term “without loss of  
12 pay” shall mean that the officer or employee shall con-  
13 tinue to receive his normal salary or compensation, not-  
14 withstanding the fact that such officer or employee may

15 have received other compensation from federal sources  
16 during the same period. Benefits of this section shall not  
17 accrue to individuals ordered or called to active duty by  
18 the president.

Sec. 83. *Contributing Members.*—In time of peace the  
2 officers commanding organizations and units may enlist  
3 contributing members not to exceed one hundred and fifty.  
4 Such members shall be subject to such contributions, dues  
5 and services as may be ordered by the respective organi-  
6 zations, but the dues of such members shall in no case  
7 be less than five dollars each, per annum, and the whole  
8 number of active and contributing members belonging to  
9 the active militia in any county shall not exceed five per  
10 centum of the voting population of such county.

Sec. 84. *General Penalty; Jurisdiction.*—A person con-  
2 victed of a crime declared by this article to be a mis-  
3 demeanor shall, unless otherwise provided, be punished  
4 by a fine of not more than five hundred dollars, or by im-  
5 prisonment in the county jail for not more than one year,  
6 or by both. Any circuit, intermediate, criminal court, or

7 justice of the peace shall have jurisdiction over offenses  
8 enumerated in this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Joseph H. Mencer*

Chairman Senate Committee

*W. S. Matthews*

Chairman House Committee

Originated in the Senate.

Takes effect July 1, 1949 passage.

*Howard Meyer*  
Clerk of the Senate

*J. Rapp*  
Clerk of the House of Delegates

*A. Broughton*  
President of the Senate

*W. E. Johnson*  
Speaker House of Delegates

The within approved this the 1st  
day of March, 1949.

*Okey L. Patton*  
Governor.



Filed in the Office of the Secretary of State  
of West Virginia

**MAR 2 1949**  
D. PITT O'BRIEN,  
SECRETARY OF STATE