

NATIONAL GUARDS

CHAPTER 187.

[S. B. No. 260—Mudgett.]

NATIONAL GUARD.

AN ACT to Amend Sections 2348, 2352, 2358, 2358a, 2366, 2402, and 2411 of the Compiled Laws of North Dakota for the Year 1913, Relating to the National Guard, Defining Military Offenses and Prescribing the Penalties Therefor, Making it a Misdemeanor to Show Discrimination Against any Person Wearing a Uniform of the Army, Navy, Marine Corps or Revenue Cutter Service of the United States or of the National Guard of this State, Making it a Misdemeanor to Injure or Destroy Government Property and Exempting Members of the National Guard from the Payment of Poll Tax.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2348 of the Compiled Laws of North Dakota for the year 1913 is hereby amended to read as follows:

§ 2348. HOW MILITIA SHALL BE ENROLLED. PENALTY FOR FAILURE TO MAKE OUT LIST.] It shall be the duty of the assessor in each assessor's district in this state, when making the assessment, to make out a list containing the names of all persons in the respective districts liable to perform military duty, and to file a copy of such list with the County Auditor when he makes his assessment returns. Such list shall state the names, residence, age and occupation of the persons enrolled and their previous or existing military or naval service. Any assessor who shall fail to make out such list and file it with the County Auditor, as herein provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars nor more than fifty dollars, in the discretion of the court.

§ 2. AMENDMENT.] That Section 2352 of the Compiled Laws of North Dakota for the year 1913 is hereby amended to read as follows:

§ 2352. STAFF OF THE GOVERNOR.] The staff of the Governor shall consist of one adjutant general, with the rank of brigadier general, who shall perform the duties of quartermaster general; one judge advocate general with the rank of major, who shall perform the duties of inspector general; one chief of supply, with the rank of colonel, who shall perform the duties of paymaster-general and commissary-general, and, when a vacancy shall occur in the office of chief of supply, by reason of death, resignation or promotion of the present chief of supply, the title of this office shall thereafter be paymaster-general, with the rank of major, and the said paymaster-general shall thereafter perform the duties of commis-

sary-general and chief of supply. The personal staff of the Governor shall consist of nine aides-de-camp. Three of such number shall be detailed by him from the commissioned officers of the national guard holding commissions on the active list of the grade below that of colonel, and shall have the rank of colonel, and their appointment shall operate as commission as aides-de-camp, but shall not add to the actual grade in the guard of the officers so appointed. Such aides-de-camp shall not be relieved from duty with their respective organizations when such organizations shall be performing any ordered duty. The Governor is also authorized to appoint additional aides-de-camp, with the rank of lieutenant-colonel, not to exceed six in number, and without restriction as to the source of selection. All of these staff officers shall be appointed by the Governor, shall hold office during his pleasure, and their commissions or detail, as staff officers shall expire with the term of office of the Governor appointing them; *provided*, however, that whenever any officer mentioned in this Section shall be in the service of the United States government his rank in such service shall correspond with the rank prescribed by the United States War Department for the national guard in which he is serving as such officer.

§ 3. AMENDMENT.] That Section 2358 of the Compiled Laws of North Dakota for the year 1913 is hereby amended to read as follows:

§ 2358. COMMISSIONED OFFICERS. OFFENSES AND PENALTIES.] A military offense includes any delinquency or violation of the laws, rules, regulations, or orders governing the militia or national guard, as well as those governing the army and navy of the United States, applicable to the militia or national guard and the offenses in this Chapter enumerated, and shall be defined as similar offenses are in the articles of war and laws and regulations governing the United States army. Upon conviction of a military offense, any commissioned officer of the national guard may be dismissed from the service, cashiered, fined not more than one hundred dollars and costs of prosecution, or reprimanded, or any or all of said punishments may be inflicted. If sentenced to be cashiered, he shall be disqualified thereby from holding any military commission. If fined, he may be imprisoned in a county jail until the fine is paid, not exceeding sixty days, and shall forthwith be committed to the custody of the Sheriff in execution of the judgment. Any such officer may be tried by court-martial for the following offenses in time of peace:

1. Willful disobedience of orders, or aiding or abetting others therein.
2. Insult or disrespect to superiors.
3. Mutiny, desertion, or cowardice.
4. Drunkenness on duty.
5. Neglect of duty, or leaving post or command.
6. Making a false report, muster, account, certificate, or return.

7. Conduct to the prejudice of good order and military discipline.

8. Oppression of any under his command.

9. Embezzlement or misappropriation of military or company funds, or wrongful conversion of military property.

10. Willfully wasting or destroying any such property.

11. Conduct unbecoming an officer and a gentleman.

12. Wrongfully disclosing or making improper use of a watchword or parole.

13. Any other violation of the laws, regulations, or orders governing the national guard, as well as articles of war governing United States army, consistent with this Chapter.

§ 4. AMENDMENT.] That Section 2358a of the Compiled Laws of North Dakota for the year 1913 is hereby amended to read as follows:

§ 2358a. HOW GOVERNED.] The militia while in active service shall be governed by the military law of the state, and the rules and articles of war of the United States; and when any troops are in the field, or are assembled for the purpose of taking the field, for the purposes aforesaid, the senior ranking officer of the troops present shall take command; *provided*, that no person shall be eligible to a command in the militia of this state except citizens of the United States or persons who have declared their intention to become such.

(b) NON-COMMISSIONED OFFICERS AND PRIVATES. OFFENSES AND PENALTIES.] Upon conviction of an enlisted man for a military offense, he may be dishonorably discharged or, if a non-commissioned officer, reduced to the ranks, or fined not more than fifty dollars and costs of prosecution, or reprimanded. If fined, upon default of payment he may be imprisoned in a county jail not more than thirty days. Any or all of said penalties may be inflicted upon a single sentence. Any such enlisted man may be tried by court-martial in time of peace, for:

1. Any of the first seven offenses mentioned in Section 2358.

2. Fraudulent enlistment.

3. Willfully injuring or destroying state or government property, or wearing uniform or equipments while not on duty without permission.

4. Violation of any provision of this Chapter, or of any rule or regulation of the guard.

(c) ABSENCE OR TARDINESS. OFFICERS.] Any officer may also be tried by court-martial and fined not exceeding ten dollars and costs of prosecution, or in default be imprisoned in the county jail not exceeding five days, for non-attendance or tardiness at any drill, parade, encampment, inspection or other duty ordered by authority each day being a separate offense.

(d) SAME—PRIVATES.] Any enlisted man may be tried by court-martial or summary court for non-attendance or tardiness at

any drill, parade, encampment, inspection, or other duty ordered by competent authority; and, in case of absence, each day thereof shall be a separate offense. Upon conviction, he shall be fined not exceeding ten dollars and costs, or be imprisoned not more than five days, and shall be forthwith committed to the custody of the Sheriff in execution of the judgment.

(e) INJURY, ETC., OF MILITARY PROPERTY.] Arms, uniforms, and accoutrements issued by the state, or purchased with military funds, shall be used only by members of the guard, and by them only in the discharge of military duty. Every person, whether a member of the guard or not, who shall willfully or wantonly injure, destroy, withhold, sell, or dispose of any article so issued, or refuse to deliver or pay for the same upon lawful demand, shall be guilty of a misdemeanor.

§ 5. AMENDMENT.] That Section 2366 of the Compiled Laws of North Dakota for the year 1913 is hereby amended to read as follows:

§ 2366. ORGANIZATION.] The strength and organization of units of the militia shall be as prescribed by such regulations and orders of the War Department of the United States as are now in force or shall be promulgated by proper authority from time to time.

§ 6. AMENDMENT.] That Section 2402 of the Compiled Laws of North Dakota for the year 1913 is hereby amended to read as follows:

§ 2402. MILITARY COURTS.] The military courts of this state shall be:

1. General Courts-martial.
2. Special Courts-martial.
3. The Summary Court.
4. Courts of Inquiry.

The constitution and jurisdiction of courts-martial, the form and manner in which the proceedings of military courts shall be conducted and recorded and the forms of oath and affirmations taken in the administration of military law by such courts, the limits of punishment and the proceedings in revision shall be governed by the articles of war and by such other laws, orders and customs as are now in force or as shall be promulgated from time to time for the government and procedure of like courts-martial of the United States, except as hereinafter provided.

§ 7. AMENDMENT.] That Section 2411 of the Compiled Laws of North Dakota for the year 1913 is hereby amended to read as follows:

§ 2411. PURCHASE OF UNIFORMS AND EQUIPMENTS.] All uniforms and equipments used by the national guard of this state shall be procured by the adjutant-general from the United States government, or other sources, and shall conform to those in use by the regular army of the United States; and it shall be unlawful for

any common carrier, inn-keeper or proprietor or lessee of any place of public amusement or entertainment, or any agent, servant, or representative of any such common carrier, inn-keeper, proprietor or lessee as aforesaid, to debar from the full and equal enjoyment of the accommodations, advantages, facilities or privileges of any public conveyance on land or water or any inn or any place of public amusement or entertainment, any person in service of the army, navy, marine corps or revenue cutter service of the United States, or of the national guard, or otherwise in the military or naval service of the United States, or of this state, wearing the uniforms prescribed for him by law, regulation of the service, or custom, on account of his wearing such uniform, or of his being in such service. Any person, corporation or association violating the provisions of this Section shall be guilty of a misdemeanor and on conviction thereof shall be fined not less than fifty dollars nor more than one hundred dollars in the discretion of the court.

§ 8. The first payment of the officers' clothing allowance as provided for in Section 2422 shall be made to each officer immediately upon his acceptance of his first commission.

§ 9. EXEMPT FROM POLL TAX.] Each member of the North Dakota national guard shall be exempt from the payment of poll tax and any person who has served at least ten years as member of the national guard and who has an honorable discharge shall be forever exempt from the payment of poll tax.

§ 10. EMERGENCY.] Whereas, an emergency exists in that the national guard of North Dakota is in a large measure deprived of federal aid until the provisions of this Act are enacted into law, therefore this Act shall take effect and be in force from and after its passage and approval.

Approved, March 12, 1915.