

Original

IN THE HOUSE

BY MR. HENDRICKSON
BY REQUEST

HOUSE BILL NO. 97

IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

TWENTY-FIRST SESSION

A BILL

For an Act entitled: "An Act for the complete revision and consolidation of the Military Code of Alaska; making an appropriation and declaring an emergency."

BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

SECTION 1. DESIGNATION

This act shall be known as the Military Code of Alaska.

SECTION 2. ALASKA MILITIA

The Militia of Alaska shall consist of all able bodied male citizens of the United States and all other able bodied males who shall have declared their intention to become citizens of the United States, residing within Alaska, of such age as prescribed in existing regulations, and said militia shall be divided into two classes: (1) The organized Militia, to be known as the Alaska National Guard and consisting of the Army National Guard and the Air National Guard; (2) the Unorganized Militia.

SECTION 3. EXEMPT PERSONNEL

The following persons shall be exempt from Militia Service: Members and officers of the Alaska Legislature; persons exempted by the laws of the United States; Judges of the several courts of the Territory.

SECTION 4. COMPOSITION OF ALASKA NATIONAL GUARD

The Alaska National Guard shall consist of Members of the Militia voluntarily enlisted therein, who, upon original

1 enlistment, shall be of such age as prescribed by regulations,
2 organized, armed and equipped and federally recognized accord-
3 ing to the laws of the United States and of commissioned
4 officers and warrant officers who are citizens of the United
5 States of such age as prescribed by regulations and who shall
6 be appointed and commissioned and warranted by the Governor.

7 SECTION 5. AUTHORITY FOR ACTIVATION

8 (1) The Governor as Commander-in-Chief shall have the
9 power to organize units in communities requesting such and
10 specifically to provide for organization of at least two Scout
11 Battalions in the western and northwestern coastal areas of
12 Alaska and northern Arctic regions, in accordance with special
13 authority of the Defense Department to organize Scout Battal-
14 ions. It shall be the mission of this force to constantly
15 exercise surveillance of these areas, reporting by most rapid
16 means any information of a military nature, to augment the
17 activities of the various agencies of the Army engaged in
18 development of techniques, clothing and equipment for use in
19 mountain and winter warfare, particularly as applied to the
20 climatic and terrain peculiarities of the Arctic and Bering
21 Sea coastal regions of Alaska, to assist in rescue of personnel
22 in crashed planes, both military and civilian and also assist
23 in other forms of rescue.

24 (2) Alaska National Guard Revolving Fund. There is
25 hereby created the Alaska National Guard revolving fund in the
26 Territorial Treasury, hereinafter referred to as the Military
27 Fund. All moneys hereinafter appropriated for the National
28 Guard or other moneys derived from sale of surplus or damaged
29 property under jurisdiction of said Guard or obtained by way

1 of gift or otherwise shall be deposited in said fund for
2 expenditure under Territorial vouchering procedure to carry out
3 the purposes and provisions of this Act.

4 SECTION 6. GOVERNOR AS COMMANDER-IN-CHIEF - RULES AND
5 REGULATIONS

6 The Governor of Alaska, as ex officio commander of the
7 Militia of Alaska, shall have like command of the Alaska
8 National Guard while not in active federal service, and is
9 empowered to promulgate all necessary regulations therefor.
10 The Alaska National Guard and its members shall be subject to
11 all Federal laws and regulations as are now or may hereafter
12 from time to time become operative and applicable to the
13 National Guard of the several states and Territories and of
14 the United States.

15 SECTION 7. GOVERNOR MAY ORDER OUT ORGANIZED MILITIA

16 In the event of war, disaster, insurrection, rebellion,
17 tumult, catastrophe, invasion, riot, mob or body of men acting
18 together by force with intent to commit a felony or to offer
19 violence to persons or property, or by force and violence to
20 break and resist the laws of Alaska, or the United States, or
21 in the case of imminent danger of the occurrence of any said
22 events, or whenever responsible civil authorities shall, for
23 any reason, fail to preserve law and order, or protect life
24 or property, or the Governor believes that such failure is
25 imminent, or in the event of public disaster, the Governor
26 shall have the power to order the organized Militia of Alaska,
27 or any part thereof, into active service to execute the laws,
28 and to perform such duties as he shall deem proper. The
29 Governor shall also have the power to order members of the

1 organized Militia to active service with their consent for the
2 purpose of training or full-time duty with the office of the
3 Adjutant General.

4 SECTION 8. GOVERNOR'S DECISION FINAL

5 Whenever any portion of the Militia is ordered to duty by
6 the Governor, the decision of the Governor shall be final.

7 Whenever any portion of the Militia has been ordered out
8 by the Governor, it shall be deemed that local law and order
9 and enforcement thereof has failed, and that the Militia shall
10 become an additional police power, retaining its separate entity
11 and operating at all times as a Military organization under
12 Military Command, to cooperate with and not to supercede the
13 existing civilian law enforcement officers whenever possible,
14 for the reestablishment of law and order and for the protection
15 of life and property.

16 SECTION 9. PROCLAMATIONS OF COMPLETE OR LIMITED MARTIAL
17 LAW

18 The Governor may by proclamation declare any city, town,
19 or village in which troops are serving, or any portion thereof,
20 to be under either complete or limited Martial Law to the extent,
21 in his judgment, that the reestablishment or maintenance of law
22 and order may be promoted. "Complete Martial Law" is the
23 subordination of all civil authority to the Military for a
24 specified and limited period of time.

25 "Limited Military Law" is a partial subordination of
26 civil authority by the setting up of an additional police power
27 vested in the Military force which shall have the right to try
28 all persons apprehended by it in such area by Military Tribunal
29 or turn such offenders over to civil authorities within five

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1 days for further action, during which time the Writ of Habeas
2 Corpus shall be suspended in behalf of such person or persons.

3 SECTION 10. GOVERNOR MAY ORDER OUT UNORGANIZED MILITIA

4 For the same reasons as enumerated in Section 7 supra, if
5 the Governor shall have ordered into active service all of the
6 available organized Militia or if the organized Militia is in
7 active Federal service, he may in addition, order out the un-
8 organized Militia or any portion thereof as he may deem necessary,
9 and cause them to perform such Military duty for the Territory
10 as the circumstances may require.

11 SECTION 11. PENALTY FOR FAILURE TO OBEY CALL

12 Any member of the Militia who shall have been ordered out
13 for service and who shall refuse or willfully or negligently
14 fail to report at the time and place and to the officer
15 designated in the order or his representative thereof shall be
16 deemed guilty of desertion and shall suffer such penalty as a
17 general court-martial may direct, unless he shall produce a
18 sworn certificate from a licensed physician of good standing
19 that he was physically unable to appear at the time and place
20 designated, provided that any person chargeable with desertion
21 under this section may be taken by force and compelled to
22 serve.

23 SECTION 12. PENALTY FOR PHYSICIAN MAKING FALSE CERTIFICATE

24 Any physician who shall knowingly make and deliver a false
25 certificate of physical disability concerning any person who
26 shall have been ordered for active service, shall be guilty of
27 a felony, and upon conviction, shall forever forfeit his license
28 and right to practice his profession in this Territory.

29 SECTION 13. GENERAL DEFINITIONS

1 When used in this Act the following words and phrases
2 shall have the following meaning:

3 (a) The word "Militia" shall mean the Military
4 Forces provided for by the law of Alaska.

5 (b) The phrase "organized Militia" shall mean the
6 "Alaska National Guard" consisting of the Army National Guard
7 and the Air National Guard.

8 (c) The phrase "National Guard" shall mean that part
9 of Alaska's military force that is organized, equipped and
10 federally recognized.

11 (d) The term "Unorganized Militia" shall mean that
12 part of the Alaska Militia not organized.

13 (e) The phrase "Active Service" shall mean active
14 duty for the Territory of Alaska.

15 (f) The phrase "in active duty" shall include the
16 periods of normal weekly drill and such other training and
17 service not requiring the entire time of the organization or
18 persons.

19 (g) The terms "in service of United States" and
20 "not in service of United States" as used therein shall be
21 understood to mean when in active federal service and when not
22 in active federal service.

23 (h) The word "officer" as used in this act means any
24 commissioned or warranted officer of the National Guard, and
25 the words, "enlisted men" as used in the Act, means all other
26 members of the National Guard of the Territory.

27 SECTION 14. SUITS AGAINST OFFICERS AND ENLISTED MEN

28 Members of the Militia ordered into active service for the
29 Territory by proper authority shall not be liable civilly or

1 criminally for any act or acts done by them in their official
2 capacity while on duty. If a suit is commenced in any court
3 against any officer or enlisted man of the Militia as a result
4 of any act done by such officer or enlisted man in his official
5 capacity the defendant may require the person instituting such
6 suit to give security for the payment of all costs. In case
7 judgment is for the defendant treble costs shall be assessed
8 against the plaintiff. The defendant in such action shall be
9 defended by the Attorney General or any of his assistants at
10 the expense of the Territory but private counsel may be employed
11 by the defendant.

12 SECTION 15. NOT LIABLE FOR EXERCISE OF JUDGMENT

13 Any commanding officer of the Alaska's Military forces
14 engaged under proper authority in the suppression of all those
15 acts listed under Section 7 supra shall be afforded reasonable
16 leeway in the exercise of his discretion as to the propriety
17 of the means to be used in controlling or dispersing of any mob
18 or other unlawful assembly and if he exercises his honest
19 judgment thereon, he shall not be liable in either a civil or
20 criminal action for any act done in the line of duty.

21 SECTION 16. APPOINTMENT OF ADJUTANT GENERAL - QUALIFICA-
22 TIONS AND DUTIES

23 The Adjutant General of the Territory of Alaska shall be
24 appointed by the President upon the recommendation of the
25 Governor with the rank of Brigadier General and with such
26 qualifications as the President may prescribe. He shall be
27 a citizen of the Territory and shall make such returns and
28 reports to the Department of Defense and the Governor of the
29 Territory of Alaska or to such officers as each of them may

1 designate, at such times and in such forms as may be prescribed.

2 SECTION 17. GOVERNOR'S INSTRUCTIONS

3 The Governor's command is exercised through the Adjutant
4 General, who is charged with carrying out the policies of the
5 Governor in military affairs. He directly represents the
6 Governor and is bound always to act in conformity to the
7 Governor's instructions. The Adjutant General's acts are the
8 Governor's acts, and his directions and orders are the Governor's
9 directions and orders.

10 SECTION 18. HEADQUARTERS STAFF OF ALASKA NATIONAL GUARD

11 The Adjutant General shall have two assistant adjutants
12 general and such other necessary officers, clerks, employees as
13 may be required to conduct properly the operation of the
14 military department. They shall be appointed and subject to be
15 removed by the Adjutant General. Their salaries shall be payable
16 out of Territorial funds. There shall also be a headquarters
17 staff of the Alaska National Guard which shall consist of such
18 Departments as is prescribed by the laws of the United States
19 and regulations of the Defense Department. The assistant
20 adjutant general for Army National Guard of Alaska and the
21 assistant adjutant general for Air National Guard shall be
22 appointed by the Commander-in-Chief with such rank and qualifi-
23 cations as he may prescribe. The assistant adjutants general
24 shall act as Chiefs of Staff to the Adjutant General for their
25 respective branches.

26 SECTION 19. ADJUTANT GENERAL - GENERAL DUTIES

27 The Adjutant General shall be in control of the Military
28 Department of Alaska, subordinate only to the Governor. He
29 shall perform such duties as are prescribed by law and such

1 other military duties consistent with the customs of the
2 regular army and air force as may be required by the Governor.
3 He is charged with the duty of supervising all troops of the
4 line and all departments and branches of the Military Forces.
5 Such supervisory power covers primarily duties pertaining to
6 the command, discipline, training, and recruitment of the
7 Militia, military operations and other duties commensurate
8 with the attainment of an active and efficient National Guard
9 for Alaska.

10 SECTION 20. ADMINISTRATION

11 The Adjutant General shall make and publish such orders
12 and regulations not contrary to law, as in his judgment, are
13 necessary to bring the organizations, armament, equipment and
14 discipline of the organized Militia to a high degree of
15 efficiency. He shall perform all the administrative functions
16 incident to the efficient operation of the Alaska National
17 Guard. It shall in addition be the duty of the Adjutant
18 General to cause an inventory to be taken at least once each
19 year of all military stores, property and funds under his
20 jurisdiction.

21 On or before the first day of January next preceding the
22 regular session of the Territorial Legislature, the Adjutant
23 General shall make out a full and detailed report of all the
24 transactions of his office, showing the receipts and expendi-
25 tures of the same for the preceding biennium and he shall
26 execute an official bond running to the Territory of Alaska
27 in the penal sum of \$20,000 conditioned upon the faithful
28 performance of his duties, said bond to be submitted to the
29 Attorney General for approval and when approved to be filed

1 in the Auditor's Office, the cost of said bond to be paid by
2 the Territory.

3 The Adjutant General may require a bidder to whom a
4 contract is awarded to give bond running to the Territory in
5 such sums and with such surety as he shall direct, conditioned
6 upon the faithful performance of such contract; in case of
7 breach of the conditions of any such bond, action shall be
8 brought thereon under supervision of the Attorney General,
9 and all moneys recovered shall be turned into the Territorial
10 Military Fund. All stores, supplies or property purchased
11 under contract shall be rigidly inspected by an officer
12 detailed for that purpose by the Commander-in-Chief, and
13 compared with standard supplies and stores of like character,
14 before the same shall be accepted and paid for.

15 SECTION 21. OFFICERS QUALIFICATIONS APPOINTMENT AND
16 TENURE

17 No person shall be appointed and commissioned or warranted
18 in any office of the National Guard of Alaska unless he shall
19 have been examined and adjudged qualified therefor by an
20 examining board, appointed by the Commander-in-Chief, provided
21 that at the discretion of the Adjutant General, the proceedings
22 of Federal Examining Boards may be accepted in lieu of above
23 boards. The composition, appointment and procedure of examin-
24 ing boards and the nature and scope of examination shall be as
25 prescribed by the military laws or regulations of the United
26 States or of this Territory.

27 SECTION 22. REMOVAL OF OFFICERS

28 At any time, the moral character, capacity and general
29 fitness of any National Guard officer may be determined by an

1 efficiency board of three commissioned officers appointed by
2 the Governor, one of whom shall be a medical officer of
3 physician. The officers of the board shall be equal to or
4 senior in rank (except the Medical Officer or physician) to
5 the officer whose fitness shall be under investigation. If
6 the findings of the board are unfavorable and approved by the
7 Governor, such officer shall be discharged. Commissions of
8 officers may be vacated upon resignation, for absence without
9 leave for three months or more, upon recommendation of the
10 efficiency board, pursuant to court martial sentence, for
11 failure to meet federal recognition requirements, or for
12 permanent removal from the Territory of Alaska. Officers
13 rendered surplus by the disbandment of their organizations
14 shall be placed in an inactive status, pending a position
15 vacancy in an active organization of the Alaska National Guard.
16 The Governor may order inactive National Guard officers to
17 active service and when the situation demands it in addition,
18 the Governor may relieve them from active service and transfer
19 them to the Inactive National Guard. Resignations of officers
20 must be in writing, addressed through National Guard channels
21 to the Adjutant General, and shall state the reasons for the
22 resignation. Resignations shall take effect when accepted by
23 the Governor and announced in orders.

24 SECTION 23. RETIRED LIST

25 Every commissioned officer and enlisted man upon reaching
26 the maximum age prescribed for active duty by appropriate
27 regulations and any commissioned officer or enlisted man who
28 has become disabled or incapacitated for active duty through
29 no fault or dereliction of his own, and every commissioned

1 officer or enlisted man who has served honorably with the
2 Alaska National Guard and is unable to perform further active
3 duty due to limitations imposed by appropriate regulations
4 may be placed upon the retired list upon recommendation by the
5 Adjutant General and approval of the Governor.

6 SECTION 24. BONDS

7 Any person may be designated by the Governor to execute
8 Bond for the faithful performance of his duties and when so
9 ordered shall execute proper funds to the Territory in such
10 sums as he shall prescribe.

11 SECTION 25. ARMORIES AND RIFLE RANGES

12 (1) No National Guard organization shall be maintained
13 by the Territory at any station, town or city, unless there
14 be there an available and suitable hall for drills, together
15 with necessary and adequate unit assembly rooms, store rooms
16 and lockers and other rooms as may be required by the Commander-
17 in-Chief, excepting "Scout Battalions" organized and equipped
18 under special authority of the Department of the Army.

19 Buildings and sites for armory purposes may be leased or
20 constructed, based upon location and size of units to be
21 organized, and shall be financed out of the Revolving Fund,
22 it being understood that such facilities may be made available
23 by local communities or by cooperative arrangement between the
24 Territory and the Federal Government and any local community.

25 (2) The armory of each battalion, company or small unit
26 shall be subject to the order of the Adjutant General and be
27 under the charge of its commanding officer, who shall keep
28 therein all property furnished by the Territory. No unit shall
29 be furnished with arms or equipment until a suitable armory

1 shall be provided for their deposit. Subject to such reasonable
2 regulations as may be promulgated by the Adjutant General, the
3 use of armories may be permitted for any reasonable and
4 legitimate civilian activities so long as such activities do
5 not interfere with their use for military purposes. Proceeds
6 received as rental or otherwise at any armory from such non-
7 military use shall be deposited in the Revolving Fund.

8 (3) All target ranges belonging to or leased by the
9 Territory shall be administered by the Adjutant General.
10 Gallery ranges shall be maintained at all armories occupied
11 by Territorial troops and every command shall be given suitable
12 instruction in marksmanship under direction of its commander,
13 and regulations as authorized by the Commander-in-Chief.

14 SECTION 26. ENLISTED MEN

15 Any able bodied man of good character who is a citizen
16 of the United States or has declared his intention of becoming
17 such, shall be eligible for enlistment in the National Guard
18 at such ages and for such periods of time as are prescribed
19 in regulations in effect at time of enlistment.

20 SECTION 27. DISCHARGES

21 An enlisted man discharged from service in the organized
22 militia of Alaska shall receive a notice of discharge in
23 writing in such form and classification as it shall be
24 prescribed by law or regulations, and in time of peace or
25 when there is no declaration of national emergency, discharge
26 may be given prior to the expiration of terms of enlistment
27 under such regulations as may be prescribed by competent
28 authority.

29 SECTION 28. PAY AND ALLOWANCES

1 (1) The Adjutant General is charged with all disbursements
2 of pay and allowances for service of the troops.

3 (2) The Adjutant General shall receive the pay and
4 allowances provided by Federal law for a Colonel of the U. S.
5 Army or Air Force.

6 (3) Commissioned officers for services actually performed
7 when in actual Territorial service under orders of the
8 Governor shall be entitled to and shall receive pay and
9 allowances provided by Federal laws and regulations for
10 commissioned officers of like grades of the United States
11 Army or Air Force.

12 (4) Enlisted Men of the National Guard and Air National
13 Guard in equivalent ranks shall receive per day for services
14 actually performed when in active Territorial service under
15 orders of the Governor, according to their respective grades
16 as follows:

- 17 a. Master Sergeants in the National Guard - \$9.00
- 18 b. Sergeants First Class in the National Guard \$8.00
- 19 c. Sergeants in the National Guard - \$7.31
- 20 d. Corporals in the National Guard - \$6.83
- 21 e. Privates First Class in the National Guard \$6.50
- 22 f. Privates in the National Guard - \$6.17
- 23 g. Recruits in the National Guard - \$6.00

24 (5) Any officer or enlisted man of the National Guard
25 who may be wounded or disabled in any way, while on duty and
26 lawfully performing the same, so as to prevent his working
27 at his profession, trade or other occupation from which he
28 gains his living, shall be entitled to be treated by an officer
29 of the Medical Department detailed by the Surgeon General, or

1 if said medical officer is not available, any duly licensed
2 civilian physician, and to draw one-half of his active service
3 pay, as specified in sub-sections (3) and (4) of this section,
4 for not to exceed thirty days of such disability on the
5 certificate of the attending medical officer or physician; if
6 still disabled at the end of thirty days, he shall be entitled
7 to draw pay at the same rate for such period as board of three
8 medical officers or civilian physicians duly convened by order
9 of the Commander-in-Chief may determine to be right and just,
10 but not to exceed six months.

11 (6) In every case where an officer or enlisted man of the
12 National Guard shall suffer permanent total disability or
13 death while performing his duty as an officer or enlisted man
14 in pursuance of orders from the Commander-in-Chief, said
15 officer or enlisted man, or his heirs or dependents, shall
16 have a claim against the Territory for financial help or
17 assistance, on such terms and in such amount, not exceeding
18 \$7,500.00 as may be determined by a board of three medical
19 officers or three civilian physicians, to be right and just,
20 said board shall be convened for the purpose by order of the
21 Commander-in-Chief.

22 (7) Officers of the Medical Department and civilian
23 physicians who attend cases of injury or illness incurred in
24 the line of duty under sub-section (5) of this Section shall
25 be entitled to such reasonable compensation in each case as
26 the circumstances may warrant, as approved by the Adjutant
27 General and the Commander-in-Chief.

28 (8) Necessary hospital charges incurred in cases stated
29 in sub-section (5) of this Section and for beds in open or

1 general wards shall be paid by the Territorial National Guard
2 by issuance of appropriate vouchers.

3 SECTION 29. PAYMENT OF MILITARY CLAIMS

4 All bills, claims and demands for military purpose shall
5 be certified and audited in the manner prescribed by regulations
6 and shall be paid by the Territorial Treasurer in the normal
7 manner upon submission of the proper voucher by the Adjutant
8 General. PROVIDED, HOWEVER, that in all cases where the
9 organized militia, or any part thereof, is called in the
10 service of the Territory in case of war, disaster, insurrection,
11 rebellion, tumult, riot, insurrection, invasion, breach of the
12 peace, or to execute or enforce the laws, vouchers for legally
13 allowed pay and expenses for such service or compensation for
14 injuries shall be drawn upon the general fund of the Territorial
15 Treasury and paid out of monies in said fund not otherwise
16 appropriated.

17 SECTION 30. TRANSPORTATION AND SUBSISTENCE

18 There shall be provided by the Territory, transportation
19 and subsistence for all officers and enlisted men who shall
20 be ordered out by the Territory for encampment, field duty,
21 or assembled for duty in case of riot, disaster, tumult,
22 breach of the peace, war insurrection, invasion or imminent
23 danger thereof. Necessary transportation, quartermaster's
24 stores and subsistence for troops when ordered on duty shall
25 be contracted by the proper officers and paid for as other
26 military bills.

27 SECTION 31. ALASKA UN-ORGANIZED MILITIA

28 Whenever any part of the regular Alaska National Guard
29 is in active Federal service, the Governor is hereby authorized

1 to organize and maintain during such period under appropriate
2 regulations, such military forces as the Governor may deem
3 necessary to defend and protect the Territory. Such forces
4 shall be additional to and distinct from the regular National
5 Guard and shall be known as the "Alaska Territorial Guard".

6 SECTION 32. ORGANIZATION - RULES AND REGULATIONS

7 The Governor is hereby authorized to promulgate the
8 necessary rules and regulations governing the enlistment,
9 organization, administration, equipment, discipline and train-
10 ing of such forces.

11 SECTION 33. PAY

12 Commissioned officers and enlisted men of the Alaska
13 Territorial Guard while on Territorial active duty shall be
14 paid at the same scale and rates as members of the regular
15 Alaska National Guard.

16 SECTION 34. REQUISITIONS, ARMORIES, OTHER BUILDINGS

17 For use of such forces, the Governor is hereby authorized
18 to requisition from the Secretary of Defense such arms and
19 equipment as may be available; and to make available to such
20 forces the facilities of Territorial armories and their
21 equipment as may be available.

22 SECTION 35. DISQUALIFICATIONS

23 No person shall be commissioned or enlisted in such forces
24 who is not a citizen of the United States or has not declared
25 his intention to become one thereof, or discharged from the
26 United States armed forces, or this Territory's in any manner
27 other than under honorable conditions.

28 SECTION 36. ENLISTMENTS

29 The same rules and regulations pertaining to the regular

1 Alaska National Guard shall likewise apply to the Alaska
2 Territorial Guard when ordered into active service.

3 SECTION 37. STATEMENT OF POLICY - MILITARY JUSTICE

4 That any offense committed by any member of the militia,
5 both organized and unorganized, shall be tried in civil courts
6 and prosecuted by civil authorities save offenses of a purely
7 military nature. That this policy shall be executed and
8 carried into effect at all time and shall apply to all encamp-
9 ments, armory drill periods and parade periods in addition
10 to any duty performed by the militia under the provisions of
11 Section 7 supra.

12 SECTION 38. COURTS MARTIAL FOR THE ALASKA MILITIA

13 Except in organizations in the service of the United
14 States, courts martial in the National Guard shall be of three
15 kinds, namely, General, Special and Summary.

16 They shall, only when practicable in light of finances,
17 personnel and administrative considerations, be constituted like
18 similar courts provided for by the laws and regulations
19 governing the armed forces of the United States, and when
20 practicable, in light of finances, personnel and administrative
21 considerations, the proceedings of courts martial of the Alaska
22 National Guard shall follow the forms and modes of procedure
23 prescribed for said similar courts.

24 SECTION 39. STRUCTURE OF COURTS MARTIAL

25 (1) General Courts Martial - General Courts Martial of
26 the Alaska National Guard shall be convened only by order of the
27 Governor. Such courts shall have the power to try any person
28 subject to the military law for crimes made punishable by the
29 military laws of the United States and Alaska, to impose fines

1 not to exceed \$200.00, to sentence forfeiture of pay and
2 allowances, to reprimand, to give bad conduct discharges, to
3 dismiss or dishonorably discharge from the service, to reduce
4 non-commissioned officer in rank; any two or more of such
5 punishments may be combined in the sentence imposed by such
6 court.

7 The procedure by which said General Court Martial shall
8 function in view of the Territory's lack of manpower, lack of
9 legally qualified personnel and places of confinement and
10 finances, shall be in strict compliance with reasonable rules
11 and regulations, adjusted to the peculiar characteristics
12 of Alaska, PROVIDED, further that such rules and regulations
13 shall be formulated by the Adjutant General, drafted by the
14 Staff Judge Advocate, approved by the Governor and be in
15 accord with basic due process of law as required by the United
16 States Constitution.

17 (2) Special Courts Martial - The Adjutant General or the
18 Commanding Officer of any battalion may appoint a special courts
19 martial but such special courts martial may in any case be
20 appointed by superior authority when by the latter deemed de-
21 sirable. Special Courts Martial shall have the power to try
22 any person subject to military law, except a commissioned or
23 warrant officer, for any crime of a purely military nature made
24 punishable as such by any military law of the United States or
25 Territory, and such special courts martial shall have the same
26 powers of punishment as do general courts martial, except fines
27 cannot exceed \$100.00.

28 (3) Summary Courts Martial - The Commanding Officer of
29 any unit may appoint a summary court to consist of one officer

1 who shall have power to administer oaths and to try enlisted men
2 for breach of the discipline and for the violation of any laws
3 or regulations governing such units; said court when satisfied
4 of the guilt of such soldier, may fine not in excess of \$25.00
5 for any single offense; sentence to a reduction in ranks; declare
6 not in excess of one month forfeiture of pay and allowance. The
7 proceedings shall be informal.

8 (4) Appeal from Convictions - All appeals shall be taken
9 to the Adjutant General. Written notice of appeal must be filed
10 within 20 days of the court's finding of guilty served on the
11 defendant.

12 That the Adjutant General with the assistance of the Staff
13 Judge Advocate, shall review all questions of law and fact and
14 the final decision thereof in all appeals from special and
15 summary courts martial, shall be the sole responsibility of the
16 Adjutant General. An appeal from a general courts martial con-
17 viction shall likewise be reviewed by the Adjutant General as
18 above provided, however, that the defendant within 60 days
19 after being served with written decision of the Adjutant General,
20 affirming in whole or part the conviction, may appeal to the
21 Governor, whose decision in turn shall be final.

22 SECTION 40. EXPENSES OF MILITARY COURTS

23 (1) The expenses incident to and connected with the
24 holding of military courts in the National Guard shall be paid
25 out of the Fund under orders, rules and regulations issued by
26 the Governor.

27 (2) Whenever the sentence of a general courts martial
28 shall include a fine, and such sentence shall have been approved
29 by the officer ordering such court, the Adjutant General shall

1 issue an execution warrant for the collection of such fine,
2 directed to any peace officer of the Judicial Division wherein
3 the person against whom such fine is imposed resides, and such
4 officer shall proceed in the same manner as if he were likewise
5 authorized in a civil suit, and he shall make return within
6 twenty days after receiving the same to the Adjutant General.
7 In default of the payment of such fine, or if the officer
8 carrying out the execution shall certify that there is no property
9 of the defendant out of which to satisfy such fine, the Adjutant
10 General shall issue a commitment for placement of such delinquent
11 in a specified guard house or jail.

12 Such warrant of commitment for such default shall specify
13 the amount in dollars of the said fine or unpaid balance thereof,
14 and such delinquent shall remain in the custody of the keeper
15 or warden of such guard house of the jail one day for each two
16 dollars of said unpaid sum.

17 (3) Whenever the sentence of a general court martial shall
18 be or include imprisonment in a jail or penitentiary, and such
19 sentence shall have been approved by the officer ordering such
20 court, the Adjutant General shall issue an appropriate commit-
21 ment, directed to the authorities in charge of such jail or
22 penitentiary charged with carrying out the sentence and said
23 authorities shall in turn make return thereof to the Adjutant
24 General.

25 If such sentence shall be, or include imprisonment in a
26 military guard house, such sentence shall be executed by order of
27 or arrangement made by the officer approving such sentence.

28 (4) All fines levied and collected under the provisions
29 of this section shall be paid to the Treasurer of the Territory,

1 who shall deposit same in the military fund of the Territory.

2 (5) For each day's duty as a member of a general courts
3 martial, or as a witness for a defendant under summons from the
4 president or Judge Advocate, officers and men shall be paid as
5 provided in sub-section 3 and 4 of Section 28 hereof.

6 (6) The presiding officer, or recorder, or any military
7 board duly appointed to conduct any investigation or survey, or
8 an officer detailed for such purpose may administer oaths to
9 any witness attending to testify in such investigation.

10 (7) All expenses incident to conduct of such boards shall
11 be paid for upon proper vouchers drawn against the Military Fund.

12 (8) If any member of the National Guard shall be
13 prosecuted by civil or criminal action for any act performed or
14 committed by such member, or any acts caused, ordered or directed
15 by such member to be done or performed in furtherance of and
16 while in the performance of his military duty, all the expense
17 of the defense of such action or actions, civil or criminal,
18 including attorney's fees, witnesses' fees for the defense,
19 defendant's court costs and all costs for transcripts of records
20 and abstracts thereof on appeal by the defense, shall be paid
21 out of the Military Fund.

22 SECTION 41. GENERAL PROVISIONS

23 (1) In no case shall any part of this Alaska National
24 Guard as herein defined be used against any labor organization
25 or for the purpose of strike breaking within the Territory of
26 Alaska.

27 (2) No part of the military forces shall leave the
28 Territory with arms and equipment without the consent of the
29 Commander-in-Chief.

1 (3) A person who, either by himself or with another,
2 wilfully deprives a member of the National Guard of his employ-
3 ment, or prevents his being employed by himself or another, or
4 obstructs or annoys said member of the National Guard or his
5 employer in respect of his trade, business or employment,
6 because said member of said National Guard is such member, or
7 dissuades any person from enlisting in the said National Guard
8 by threat of injury to him in case he shall so enlist, in respect
9 of his employment, trade or business, shall be deemed guilty of
10 a misdemeanor, and upon conviction thereof shall be fined in any
11 sum not exceeding \$100.00.

12 (4) All matters relating to the organization, discipline
13 and government of the National Guard of Alaska, not otherwise
14 provided for by the laws of the United States, this Military
15 Code of Alaska, or regulations issued by the President, shall be
16 governed by regulations issued by the Adjutant General and
17 approved by the Governor, and such regulations when so promulgat-
18 ed shall have the same ~~force~~ and effect as though herein enacted.

19 SECTION 42. SAVING CLAUSE

20 If any provisions of this act or the application thereof
21 to any person or circumstances is held invalid for any reason by
22 a court of competent jurisdiction such determination shall not
23 affect other provisions or applications of the act which can be
24 given effect without the invalid provisions, and to this end the
25 provisions of this act are declared to be severable.

26 SECTION 43. APPROPRIATION

27 There is hereby appropriated out of any money in the
28 Territorial Treasury not otherwise appropriated, the sum of
29 \$_____ to carry out the purposes of this Act.

1 SECTION 44. REPEAL OF EXISTING LAWS

2 The following acts, sections and parts of laws are hereby
3 expressly repealed, to-wit:

4 ACLA 1949, Section 44-1-1; 44-1-2; 44-1-3; 44-1-4; 44-1-5;
5 44-1-6; 44-1-7.

6 SLA 1949, Chapter 120, All Sections thereunder, to-wit:
7 Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14.

8 Any other laws in conflict herewith, PROVIDED, HOWEVER,
9 that the repeal of the Acts herein enumerated shall nowise
10 extinguish any liability heretofore incurred or relieve any
11 individual subject thereto from liability thereunder.

12 SECTION 45. A NATIONAL AND TERRITORIAL EMERGENCY NOW
13 EXISTS, and by reason thereof, this Act is necessary for the
14 immediate preservation of the public peace and safety of the
15 Territorial Government and its public institutions, thus this
16 Act shall become effective immediately upon its passage and
17 approval.
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