

been committed or that any dangerous wound has been given, and shall have reasonable ground to believe that any particular person is guilty and shall apprehend that such person may escape if not immediately arrested, shall arrest him without a warrant, Section 4544, C. S. N. C., also every person present at any riot, rout, affray, or other breach of peace, shall endeavor to suppress and prevent the same, and if necessary for that purpose shall arrest the offenders. C. S. 4542 N. C.

(c) Without a warrant for a misdemeanor committed in his presence, in his sight or hearing, when the arrest is made immediately or after a "hot or fresh pursuit." Every person arrested without a warrant shall be either taken immediately before some magistrate having jurisdiction to issue a warrant in the case or else committed to the county prison, and as soon as may be, taken before such magistrate, who on proper proof, shall issue a warrant, etc. Sec. 4548, C. S., N. C.

2d. *When may a peace officer shoot or take life?*

(a) A police officer may take life to prevent the commission of a felony or "if an officer is resisted in making an arrest he may use that degree of force which is necessary to the proper performance of his duty, and, after an accused person is arrested, the officer is justified in the use of such force as may be necessary, even to take life, to prevent his escape, whether the offense charged is a felony or a misdemeanor. *State v. Sigmon*, 106 N. C. 728., and *State v. Dunning*, 177 N. C. 559. This does not mean that in attempting to make an arrest for a misdemeanor, an officer has the right to take life, for he does not, if the person whom he is attempting to arrest is merely fleeing from him. If the officer uses excessive force maliciously or to such a degree as to amount to a wanton abuse of authority criminal liability will be imputed to him. It is only in making the arrest where the defendant resists the officer that the officer is justified in taking life, *if necessary*, and as it has been stated, "the law does not require an officer with a warrant for an arrest for an offense to retreat or retire but he must stand his ground and perform his duty." *State v. Dunning (supra)*. But the officer must not use force in excess of what a reasonably prudent man would under like circumstances use.

(b) One is justified in taking the life of another in reasonable apprehension that the other is about to take his life or do him great bodily harm.

3d. *Distinction between a felony and a misdemeanor.*

A felony is a crime which is or may be punishable by either death or imprisonment in the State prison. Any other crime is a misdemeanor. Sec. 4171 C. S. of N. C. To illustrate, a few of the felonies are: murder, arson, robbery, burglary, rape, wilful destruction or attempt of building (residence or business) with explosive, assault with deadly weapon with intent to kill resulting in serious injury, etc. Some misdemeanors are: affray, assault, disorderly conduct, drunk, carrying a concealed weapon, cursing in a public place, etc.

The writer would advise that no one take the life of an accused while making an arrest for a misdemeanor, unless in self defense. The idea of the law being that a misdemeanor is a trivial offense for which an accused can be arrested another day and after arrest, if one charged with a misdemeanor attempts to escape it is better to let him go, if necessary, than to take the life of one charged only with a minor crime.

4th. *Right of search.*

Without a warrant no right of search exists. An officer has the right to arrest a person whom he has reasonable grounds to believe has committed a felony or is committing a misdemeanor in his presence, and after he has arrested him then he has the right to search him, but in this case the prisoner should be immediately taken before a magisterial officer and a warrant issued for him. Sec. 4548, C. S. of N. C.

5th. *Right of forcible entry.*

(a) To prevent a felony about to be committed therein, C. S. 4545.

(b) If a felony or other infamous crime has been committed or a dangerous wound has been given, and there is reasonable ground to believe that the guilty person is concealed in a house, admittance demanded and refused, right of forcible entry exists. C. S. 4546.

In conclusion, it will be recalled that when troops are called out on strike or riot duty, it is as it were the reserves being thrown into action by the majesty of the law to uphold and protect the dignity of the law. It is the state's last recourse and if that fails no reserve exists except the federal government. Grave responsibility rests on the military forces and at such times law and order must be preserved. A soldier acting without malice within the rule of what a reasonable prudent man would do under similar circumstances will not have his conduct weighed in golden scales. In a crisis, fine distinctions cannot be

made, and a soldier must do his duty and leave the verdict with God and his country.

Lady visiting an army hospital: "My poor, dear fellow, did a shell explode and hit you?"

Sgt. Jacoby: "Naw, lady, it crept up and bit me."—*Iowa Guardsman*.

COLONEL OF ENGINEER REGIMENT BELIEVES PUBLICATION WILL BE OF VALUE

"I am very glad indeed to note that the publication of THE NORTH CAROLINA NATIONAL GUARDSMAN will soon begin.

"This publication should be of inestimable value to the National Guard of our State, and I certainly hope to see it become very successful.

"I would be glad to have you indicate from time to time any specific way in which any of the 105th Engineers can help. In the meantime you can count on us to send to you any news that we may have.

"Yours sincerely,

CLARENCE E. BOESCH,
Col. Engrs. N.C.N.G."

**Percentage of Attendance at Drill
105th Engineers, March, 1930**

Medical Detachment	94.64
Company C	77.46
Hdqrs. & Service Co.	70.00
Company A	65.00
Company B	63.16
Band	61.53

Won The Mug

Recruit: Well, what's the matter? Didn't I do all right in the parade?

Top Sergeant (sweetly): Sure you did all right! Didn't you win it by half a yard?—*Brooklyn Eagle*.

Historical Note

Paul Revere (shouting at window): "Husband at home?"

Lady: "Yes."

P. R.: "Tell him the British are coming."

P. R.: (shouting at another window): "Husband at home?"

Lady: "Yes."

P. R.: "Tell him the British are coming."

P. R.: (shouting at another window): "Husband at home?"

Lady: "No."

P. R. (dismounting): "To hell with the British."—*California Guardsman*.