

CHAPTER 192

NATIONAL GUARD

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ORGANIZATION

192.01 MINNESOTA NATIONAL GUARD. The Minnesota National Guard consists of the regularly enlisted militia within the ages prescribed by federal law and regulations, organized, armed, and equipped as hereinafter provided, and of commissioned officers and warrant officers within the ages and having the qualifications prescribed by federal law and regulations. "National guard" applies only to militia organized as provided for in the military code and authorized by federal law and regulations relating to the national guard. The number of officers and enlisted men of the national guard shall be fixed from time to time and organized so as to meet the requirements of the federal laws.

[1921 c 506 s 15; 1943 c 108 s 10; 1947 c 125 s 3] (2409)

192.02 INACTIVE NATIONAL GUARD. The inactive national guard shall be organized and maintained under such rules and regulations as may be prescribed in accordance with the federal law.

[1921 c. 506 s. 18; 1939 c. 175 s. 4] (2412)

192.03 ORGANIZATION. The organization of the National Guard, including the composition of all units thereof, shall be such as is or may hereafter be prescribed for this state by federal law.

[1921 c. 506 s. 16] (2410)

192.04 LOCATION OF UNITS. The location of units, including headquarters shall, when not otherwise prescribed by federal law, be fixed by the governor on the recommendation of the adjutant general.

[1921 c. 506 s. 17; 1927 c. 339 s. 3] (2411)

192.05 STATUS OF INDIVIDUALS AND UNITS OF NATIONAL GUARD IN NATIONAL EMERGENCY AND AFTERWARDS. When congress shall have declared a national emergency or shall have authorized the use of armed land forces of the United States for any purpose requiring the use of troops in excess of those of the regular army, and the president has ordered into the active military service of the United States, to serve therein for the period of the war or emergency, any or all units and members of the National Guard of this state, all forces so ordered into the active military service of the United States shall from the date thereof stand relieved from duty in the National Guard of this state so long as they shall remain in the active military service of the United States, when so provided by the federal law. Upon being relieved from such duty in the military service of the United States, all such individuals and units shall revert to their national guard status.

[1921 c. 506 s. 24; 1939 c. 175 s. 7] (2418)

192.06 OFFICERS AND ENLISTED MEN OF STATE STAFF AND DETACHMENT; NUMBER AND GRADES. The number and grades of officers and enlisted men in the state staff and detachment shall be as prescribed by federal law, but in case of war, invasion, insurrection, riot or imminent danger of either, the governor may temporarily increase such force to meet such emergency, and retired officers who are physically qualified may be assigned to such duty. All officers appointed to the state staff shall have had previous military experience and shall hold their positions until they shall have reached the age of 64 years, unless retired prior to that time by reason of resignation, disability, or for cause to be determined by a court martial legally convened for that purpose, and vacancies among said officers shall be filled by appointment from the officers of the national guard.

[1921 c. 506 s. 19; 1939 c. 175 s. 5; 1943 c. 108 s. 11] (2413)

192.07 STAFF CORPS; OFFICERS, HOW APPOINTED. The officers of the state staff and detachment shall be selected and appointed by the adjutant general and commissioned by the governor. The enlisted men shall be recruited and warranted by their respective chiefs.

[1921 c. 506 s. 20; 1927 c. 339 s. 4; 1943 c. 108 s. 12] (2414)

192.08 QUALIFICATIONS OF OFFICERS. Officers of the National Guard shall not be commissioned as such unless they shall have been selected from the classes of persons having the qualifications prescribed by federal law and shall have taken and subscribed to the oath of office prescribed by congress.

[1921 c. 506 s. 22] (2416)

192.09 LINE AND FIELD OFFICERS; SELECTION OF. Line officers and field officers below the grade of colonel in the regiments and lesser separate organizations shall be selected and recommended by the commanders thereof respectively. Officers above the grade of lieutenant-colonel shall be selected and appointed by the governor upon the recommendation of the adjutant general.

[1921 c. 506 s. 23; 1927 c. 339 s. 5; 1939 c. 175 s. 6] (2417)

192.10 EXAMINATION FOR COMMISSIONS; ASSIGNMENTS OF OFFICERS. Any person hereafter appointed, promoted, and commissioned as officer of the National Guard shall successfully pass such tests as to his physical, moral, and professional fitness as are prescribed by federal law. The examination to determine such qualifications for commissions shall be as prescribed by federal law. Officers shall be commissioned by the governor, and the commission shall designate the arm, staff corps or department in which they are appointed. Officers

will be assigned to the division and to non-divisional separate organizations by the adjutant general. They will be assigned to duty within each organization by the immediate commander thereof.

[1921 c 506 s 24; 1939 c 175 s 7; 1947 c 125 s 4] (2418)

192.11 OFFICERS TO HAVE POWERS AND DUTIES OF UNITED STATES OFFICERS. In addition to the powers and duties prescribed in the Military Code, all officers of the guard shall have the same powers and perform the same duties as officers of similar rank and position in the army of the United States insofar as may be authorized by federal law. They are authorized to administer oaths in all matters connected with the service.

[1921 c. 506 s. 50] (2444)

192.12 IN COMPUTING COMMISSIONED SERVICE, THAT IN THE UNITED STATES ARMY SHALL BE CONSIDERED. Service by any person in the United States volunteers, or in the United States army or navy, in the time of war, insurrection, or rebellion, shall be considered as continuous service in the National Guard for any and all purposes regarding privileges and exemptions provided by law for members of the National Guard by enlistment or commission; provided, that the continuous service for an officer shall include only the time he was commissioned as such.

[1921 c. 506 s. 38] (2432)

192.13 SUPPLIES, HOW ISSUED; BOND. Arms, accoutrements, ammunition and stores shall be issued to the proper officers of each organization, upon requisition as prescribed by federal law. The governor may require of the accountable officers, such bonds as he deems necessary, not to exceed \$5,000, for securing the care and safety of property so issued and shall allow them sufficient money to insure such property against fire when so required by the federal government. He may also allow them sufficient money to establish and maintain regimental depots, approved by him and to pay for the transportation, handling and care of such property which allowance shall be paid out of the moneys appropriated for the purchase of supplies for the guard. The adjutant general, with the approval of the governor, shall obtain and pay for, out of the annual military appropriation, an adequate indemnity bond covering all of the officers of the National Guard responsible for moneys and military property.

[1921 c. 506 s. 43] (2437)

192.14 OFFICERS MAY RESIGN. Commissioned officers may resign in such manner and under such circumstances as may be prescribed by federal regulations.

[1921 c. 506 s. 26] (2420)

192.15 COMMISSIONS MAY BE VACATED; FEDERAL REGULATIONS. At any time the moral character, capacity, and general fitness for the service of any National Guard officer may be determined by an efficiency board as provided by federal law. Commissions of officers of the National Guard may be vacated, upon resignation, absence without leave for three months, upon the recommendation of an efficiency board, or pursuant to sentence of a court martial.

[1921 c. 506 s. 25] (2419)

192.16 SURPLUS OFFICERS. Officers of the guard rendered surplus by the disbandment of their organizations shall be disposed of as provided by federal law.

[1921 c. 506 s. 25] (2419)

192.17 OFFICERS MAY BE PLACED IN INACTIVE NATIONAL GUARD. Officers may, upon their own application, be placed in the Inactive National Guard as may be authorized by federal law.

[1921 c. 506 s. 25] (2419)

192.18 VACATION OF COMMISSIONS. Subdivision 1. **Termination of or continuance in service.** Commissions of national guard officers shall be terminated as provided by federal law; provided, that in time of war or other declared emergency, brigade and regimental commanders who reach the retirement age of 64 years, may, in the discretion of the commander-in-chief, on the recommendation of the adjutant general, be continued in the active service of the state guard, in their then grade and assignment, for the duration of the war or emergency and for six months thereafter.

Subd. 2. **Retired or disabled officers may wear uniform in certain cases.** Any commissioned officer of the national guard who resigns or is retired and who has served or shall have served as such officer for a period of not less than ten years

and any commissioned officer of the national guard who has been honorably discharged from the army of the United States after serving therein for a period of 90 days or more during any war and who shall have served as such officer of the national guard for a period of not less than five years and any commissioned officer of the national guard who has become or who shall hereafter become disabled and thereby incapable of performing the duties of his office, shall, upon his retirement have his name placed on a roll in the office of the adjutant general to be known as the "roll of retired officers," and shall thereby be entitled to wear when not in conflict with federal law, on state or other occasions of ceremony, the uniform of the rank last held by him.

[1921 c 506 s 29; 1943 c 108 s 15; 1945 c 13 s 1; 1947 c 125 s 5] (2423)

192.19 RETIRED OFFICERS MAY BE ORDERED TO ACTIVE DUTY. The commander-in-chief may assign officers on the retired list, with their consent, to active duty in recruiting, upon courts-martial, courts of inquiry and boards, to staff duty not involving service with troops, or in charge of a military reservation left temporarily without officers. Such officers while so assigned shall receive the full pay and allowances of their grades at time of retirement.

[1921 c. 506 s. 24; 1939 c. 175 s. 7] (2418)

192.20 BREVET RANK. General and field officers of the National Guard who have, after ten years active service, resigned or retired for physical disability or otherwise, may in the discretion of the commander-in-chief, on the recommendation of the adjutant general, be commissioned by brevet, in the next higher grade than that held by them at the time of their resignation or retirement, but not above the grade of major-general. Brevet rank shall be considered strictly honorary and shall confer no privilege of precedence or command, nor pay any emoluments. Brevet officers may wear the uniform of their brevet grade on occasions of ceremony.

[1921 c. 506 s. 24; 1939 c. 175 s. 7] (2418)

192.205 ENLISTMENTS. Subdivision 1. **Period of enlistments.** Except as otherwise provided herein or by federal law, original enlistments in the military forces shall be for a period of three years and subsequent enlistments for periods of one or three years. The governor may by order fix shorter periods of enlistment or re-enlistment for any of the military forces so far as not inconsistent with federal law. In the event of an emergency wherein the governor has called out any of the military forces, he may by order extend for not exceeding the duration of the emergency and 60 days thereafter the period of any enlistment in the forces called out which would otherwise expire.

Subd. 2. **Form of enlistment contract.** Every person enlisting in the military forces shall sign an enlistment contract in the form prescribed by the adjutant general, and shall subscribe to the following oath or affirmation: "I hereby acknowledge to have voluntarily enlisted this.....day of..... 19....., as a soldier in the..... for the period of three (or one) year.... under the conditions prescribed by law, unless sooner discharged by proper authority. And I do solemnly swear that I will bear true faith and allegiance to the United States of America and the State of Minnesota; that I will serve them honestly and faithfully against all their enemies whomsoever; and that I will obey the orders of the President of the United States and of the Governor of the State of Minnesota and the officers appointed over me, according to law and the rules and articles of war"; provided, that the words "the President of the United States and of" shall be omitted in the case of persons enlisting in forces not subject to federal service.

Subd. 3. **Organizations not to be enlisted as unit.** No civil association, society, club, post, order, fraternity, brotherhood, union, league, or other organized body shall be enlisted in the military forces as a unit.

[1943 c. 108 s. 13]

192.21 DISCHARGES FOR ENLISTED MEN. An enlisted man discharged from service in the National Guard shall receive a discharge in writing in such form and with such classification as is or shall be prescribed by federal law and in time of peace discharges may be given prior to the expiration of terms of enlistment under such regulations as the federal authorities may prescribe.

[1921 c. 506 s. 27] (2421)

192.22 DISHONORABLE DISCHARGES. A dishonorable discharge from service in the National Guard shall operate as a complete expulsion from the guard, a forfeiture of all exemptions and privileges acquired through membership therein

and disqualification for any military office under the state. The names of all persons dishonorably discharged shall be published in orders by the adjutant general quarterly.

[1921 c. 506 s. 28; 1943 c. 108 s. 14] (2422)

192.23 SERVICE MEDALS. The commander-in-chief may, by general order, provide a suitable mark of distinction for all officers and enlisted men who have served in the military forces for an aggregate period of five, ten, fifteen, and twenty years, respectively, and for like service thereafter; and medals to be awarded for valor, for distinguished service, and for good conduct. He may authorize the issuance, under regulations to be prescribed by him, of suitable marks of distinction to be awarded to officers and enlisted men who have served in the military forces of the state during periods of war or other declared emergencies, provided that these shall not be awarded for service for which service medals or bars are authorized by federal authority.

[1921 c. 506 s. 29; 1943 c. 108 s. 15; 1947 c. 125 s. 6] (2423)

192.24 EXEMPT FROM JURY DUTY. Owing to liability to call for military duty during his term of service, every officer and enlisted man of the National Guard shall be exempt from duty as juror and if honorably discharged after five years of service he shall be forever exempt.

[1921 c. 506 s. 30] (2424)

192.25 EXEMPTION FROM PROCESS. No member of the guard shall be arrested, or served with any summons, order, warrant or other civil process after having been ordered to any duty or while going to, attending or returning from any place to which he is required to go for military duty; but nothing herein shall prevent his arrest by order of a military officer or for a felony or breach of the peace committed while not in the actual performance of his duty. The articles of equipment personally owned by such members shall be exempt from seizure or sale for debt.

[1921 c. 506 s. 30] (2424)

192.26 STATE AND MUNICIPAL OFFICERS AND EMPLOYEES NOT TO LOSE PAY WHILE ON MILITARY DUTY. Subdivision 1. **Pay allowance while on leave.** Subject to the conditions hereinafter prescribed, any officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state who shall be a member of the national guard, the naval militia, or any other component of the militia of the state now or hereafter organized or constituted under state or federal law, or who shall be a member of the officers' reserve corps, the enlisted reserve corps, the naval reserve, the marine corps reserve, or any other reserve component of the military or naval forces of the United States now or hereafter organized or constituted under federal law, shall be entitled to leave of absence from his public office or employment without loss of pay, seniority status, efficiency rating, vacation, sick leave, or other benefits for all the time when he is engaged with such organization or component in training or active service ordered or authorized by proper authority pursuant to law, whether for state or federal purposes, but not exceeding a total of 15 days in any calendar year. Such leave shall be allowed only in case the required military or naval service is satisfactorily performed, which shall be presumed unless the contrary is established. Such leave shall not be allowed unless the officer or employee (1) returns to his public position immediately on being relieved from such military or naval service and not later than the expiration of the time herein limited for such leave, or (2) is prevented from so returning by physical or mental disability or other cause not due to his own fault, or (3) is required by proper authority to continue in such military or naval service beyond the time herein limited for such leave.

Subd. 2. **Not to receive pay for additional leave.** In case any such officer or employee shall be required by proper authority to continue in such military or naval service beyond the time for which leave with pay is allowed, he shall be entitled to leave of absence from his public office or employment without pay for all such additional service, with right of reinstatement thereafter upon the same conditions as hereinafter provided for reinstatement after active service in time of war or other emergency.

[1921 c. 506 s. 31; 1939 c. 175 s. 8; 1941 c. 120 s. 1] (2425)

192.261 LEAVE OF ABSENCE. Subdivision 1. **Leave of absence without pay.** Subject to the conditions hereinafter prescribed, any officer or employee of the state

or of any political subdivision, municipal corporation, or other public agency of the state who engages in active service in time of war or other emergency declared by proper authority in any of the military or naval forces of the state or of the United States for which leave is not otherwise allowed by law shall be entitled to leave of absence from his public office or employment without pay during such service, with right of reinstatement as hereinafter provided. This shall not be construed to preclude the allowance of leave with pay for such service to any person entitled thereto under section 192.26.

Subd. 2. Reinstatement. Except as otherwise hereinafter provided, upon the completion of such service such officer or employee shall be reinstated in the public position, which he held at the time of entry into such service, or a public position of like seniority, status, and pay if such is available at the same salary which he would have received if he had not taken such leave, upon the following conditions: (1) that the position has not been abolished or that the term thereof, if limited, has not expired; (2) that he is not physically or mentally disabled from performing the duties of such position; (3) that he makes written application for reinstatement to the appointing authority within 90 days after termination of such service, or 90 days after discharge from hospitalization or medical treatment which immediately follows the termination of, and results from, such service; provided such application shall be made within one year and 90 days after termination of such service notwithstanding such hospitalization or medical treatment; (4) that he submits an honorable discharge or other form of release by proper authority indicating that his military or naval service was satisfactory. Upon such reinstatement the officer or employee shall have the same rights with respect to accrued and future seniority status, efficiency rating, vacation, sick leave, and other benefits as if he had been actually employed during the time of such leave. No officer or employee so reinstated shall be removed or discharged within one year thereafter except for cause, after notice and hearing; but this shall not operate to extend a term of service limited by law.

Subd. 3. Shall file certificate. Any public officer elected or appointed for a definite term who, before the expiration of such term, returns from military or naval service under leave of absence without pay under chapters 190 to 194, in lieu of making written application for reinstatement as hereinbefore provided, shall file in the same office where his official oath is filed within 45 days after termination of such military or naval service a verified certificate that he has complied with the conditions for reinstatement hereinbefore prescribed, and he shall thereupon be deemed to have resumed his office, with all the rights and privileges granted by chapters 190 to 194; provided, that any false statement in such certificate shall be ground for his removal.

Subd. 4. Persons engaged in active service not disqualified for being candidate for public office. No person who is engaged in active service in any of the military or naval forces of the state or of the United States within or without the state shall thereby be disqualified from being a candidate for or from being elected or appointed to any public office within the state if he is otherwise eligible therefor. A person who is elected or appointed to any such office who at the commencement of the term thereof is engaged in any such active military or naval service shall not thereby be disqualified from assuming and holding such office if he is otherwise eligible therefor and if his military or naval service is not constitutionally or legally incompatible therewith. Such person, if prevented by his military or naval duties from taking office in person, may file his oath of office, also his bond, if required, by mail or other means of transmittal, and shall thereupon be deemed to have assumed office, subject to all the provisions of sections 192.26 to 192.264, so far as applicable.

[1941 c. 120 s. 2; 1945 c. 489 s. 1]

192.262 OFFICERS AND EMPLOYEES TO PRESERVE PENSION AND RETIREMENT RIGHTS. Any public officer or employee receiving leave of absence under sections 192.26 to 192.264 and having rights in any state, municipal, or other public pension, retirement, or relief system shall retain all such rights accrued up to the time of taking such leave, and shall have all rights subsequently accruing under such system as if he had been actually employed during the time of such leave; provided, that so far as any increase in the amount of money benefits accruing with respect to the time of such leave is dependent upon the payment of any

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contributions or assessments, the right to such increase shall be conditioned upon the payment of such contributions or assessments within such reasonable time after the termination of such leave and upon such terms as the authorities in charge of such system may prescribe.

[1941 c. 120 s. 3]

192.263 VACANCIES TO BE FILLED TEMPORARILY. In any case where a public officer or employee is absent with leave under the provisions of sections 192.26 to 192.264 and where it is necessary in the public interest to provide for the performance of the duties of his position during such absence, the authority having power to fill a vacancy in the position may appoint a substitute, to be known as acting incumbent, who shall qualify as required for the regular incumbent, shall receive the same compensation as fixed by law, otherwise such compensation as may be fixed by proper authority, and shall have all the powers and perform all the duties of the position until the return of the regular incumbent; provided, that this shall not preclude the making of any other provision for the discharge of the duties of the position which may be otherwise authorized by law.

[1941 c. 120 s. 4]

192.264 SUPPLEMENTARY. The rights and privileges granted by sections 192.26 to 192.264 shall be supplementary to and not exclusive of any other rights or privileges conferred by law on public officers or employees, but shall not obtain in any case where the military or naval service is constitutionally or legally incompatible with the public office or employment.

[1941 c. 120 s. 5]

192.265 STATUS WHILE IN MILITARY TRAINING. Subdivision 1. **Period of training deemed absence with leave and without pay.** Any person who is a duly qualified member of the Organized Reserve Corps of the United States, or of the Enlisted Reserve Corps of the United States, Minnesota National Guard, Naval, Coast Guard, Marine Reserve, who, in order to receive military training with the Armed Forces of the United States, not to exceed two weeks in any one calendar year, leaves a position, other than a temporary position, in the employ of any employer, and who shall give evidence of the satisfactory completion of such training, and who is still qualified to perform the duties of such position, shall be entitled to be restored to his previous or a similar position, in the same status, pay, and seniority, and such period of absence for military training shall be construed as an absence with leave and without pay.

Subd. 2. **Not to affect normal vacation and other privileges.** Such absence for military training will in nowise affect the employee's right to receive normal vacation, sick leave, bonus, advancement, and other advantages of his employment normally to be anticipated in his particular position.

Subd. 3. **Choice of relief in case of disobedience.** In the event of the failure of any employer to comply with the foregoing, the employee may, at his election, bring an action at law for damages for such non-compliance, or apply to the District Court for such equitable relief as may be just and proper under the circumstances.

[1947 c 350 s 1-3]

192.27 NOT LIABLE FOR ACTS PERFORMED UNDER ORDERS. The commanding officer of any of the military forces engaged in the suppression of an insurrection, the dispersion of a mob or the enforcement of the laws shall exercise his discretion as to the propriety of firing upon or otherwise attacking any mob or other unlawful assembly; and, if he exercises his honest judgment thereon, he shall not be liable in either a civil or a criminal action for any act done while on such duty. No officer or enlisted man shall be held liable in either a civil or a criminal action, for any act done under lawful orders and in the performance of his duty.

[1921 c. 506 s. 32] (2426)

192.28 PROHIBITING THE FIRING OF BLANK CARTRIDGES UPON ANY UNLAWFUL ASSEMBLAGE. No officer, under any pretense or in compliance with any order, shall direct or permit his men, or any of them, to fire blank cartridges upon any mob or unlawful assemblage, under penalty of dishonorable dismissal from the service.

[1921 c. 506 s. 32] (2426)

192.29 GOVERNOR TO APPOINT COUNSEL. If a suit or proceeding shall be commenced in any court by any person against any officer of the military forces

for any act done by such officer in his official capacity in the discharge of any duty under the Military Code, or against any soldier acting under the authority or order of any such officer, or by virtue of any warrant, issued by him pursuant to law, it shall be the duty of the governor, upon the recommendation of the attorney general, to appoint counsel to defend such person. The costs and expenses of any such defense shall be paid out of the appropriation for the maintenance of the National Guard.

[1921 c. 506 s. 33] (2427)

192.30 SECURITY FOR COSTS. Any person bringing an action or proceeding against a military officer of the state for any act done in the course of his official duty, or against any person acting under the order or authority of such officer, shall give security for the costs, disbursements and reasonable attorney's fees incurred by the state or defendant in defending the same, in the same manner and subject to the same regulations, so far as applicable, as in the case of a non-resident plaintiff. And if the plaintiff fails to recover, such attorney's fees may be taxed with the costs and disbursements and judgment therefor be entered against him and his sureties on the bond.

[1921 c. 506 s. 34] (2428)

192.31 MILITARY FORCES NOT TO BE RESTRICTED BY TRAFFIC REGULATIONS. The military forces of the United States and of the state, the adjutant general and general officers of such forces with official insignia displayed, while on any authorized duty, shall not be restricted by state or municipal traffic regulations, and shall have the right of way on any street or highway through which they may pass against all except carriers of the United States mail, fire engines, and police vehicles.

[1921 c. 506 s. 58; 1927 c. 339 s. 10; 1943 c. 108 s. 22] (2452)

192.32 NO DISCRIMINATION AGAINST PERSONS WEARING UNIFORM. It shall be unlawful for any common carrier, innkeeper or proprietor or lessee of any place of public amusement or entertainment, or any agent, servant, or representative of any such common carrier, innkeeper, 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 of any place of public amusement or entertainment, any person in the service of the army, navy, marine corps or revenue cutter service of the United States, or of the National Guard or naval service of this state, or otherwise in the military or naval service of the United States, or of this state, wearing the uniform prescribed for him at that time or place by law, regulation of the service, or custom, on account of his wearing such uniform, or of his being in such service.

[1911 c. 261 s. 1] (4390)

192.33 ACTION FOR DAMAGES. Any person who is debarred from such enjoyment contrary to the provisions of section 192.32 shall be entitled to recover in an action on the case from any corporation, association or person guilty of such violation, his actual damages and \$100 in addition thereto; and evidence that such person debarred was at the time sober, orderly and willing to pay for such enjoyment in accordance with rates fixed therefor for civilians, shall be prima facie evidence that he was debarred on account of his wearing such uniform or of his being in such service. Any person violating any provision of section 192.32 shall be guilty of a misdemeanor.

[1911 c. 261 ss. 2, 3] (4391, 4392)

192.34 DISCRIMINATION AGAINST SOLDIERS. No person shall discriminate against any officer or enlisted man of the military forces of the state because of his membership therein. No person shall prohibit or refuse entrance to any officer or enlisted man of the army or navy of the United States, or of the military forces of this state, into any public entertainment or place of amusement because such officer or enlisted man is wearing the uniform of the organization to which he belongs. No employer or officer or agent of any corporation, company, or firm or other person shall discharge any person from employment because of being an officer or enlisted man of the military forces of the state, or hinder or prevent him from performing any military service he may be called upon to perform by proper authority, or dissuade any person from enlistment in the said National Guard by

threat or injury to him, in case he shall so enlist, in respect to his employment, trade or business. Any person violating any of the provisions of this section shall be deemed guilty of a gross misdemeanor.

[1921 c. 506 s. 35] (2429)

192.35 INTERFERENCE WITH PERFORMANCE OF MILITARY DUTIES.

Any person who interrupts, molests, or insults by abusive words or behavior, or obstructs any officer or soldier of the National Guard while on duty, either parade, drill meeting for military improvement or other military duty may be immediately put and kept under guard until the duty is concluded, by the officer in command. Such officer may turn him over to any peace officer of the city or place where such drill parade or meeting is being held and such peace officer shall thereupon deliver such offender for examination and trial before any court having jurisdiction. Any person violating the provisions of this section shall be guilty of a misdemeanor.

[1921 c. 506 s. 57] (2451)

192.36 CERTAIN ACTS FELONIES. Any officer or soldier who refuses to account for and to surrender up any moneys or any uniforms or equipment or other military property for which he is responsible or accountable, or who shall appropriate the same to his own use, or who shall knowingly make a false pay-roll or sign a false certificate which is the basis for the payment of moneys under the military code, or who shall aid or abet another in any of these acts, shall be guilty of a felony and punished as the criminal laws of the state may direct.

[1921 c. 506 s. 67] (2461)

192.37 DISPOSING OF PROPERTY. Every person, whether a member of the military forces or not, who shall wilfully sell or dispose of or buy or receive any arms, equipment or accoutrements issued by the United States or the state for the use of the military forces, or refuses to deliver or pay for the same upon lawful demand, shall be guilty of a misdemeanor.

[1921 c. 506 s. 76] (2470)

192.38 COMPENSATION FOR INJURIES. If any officer or enlisted man of the National Guard is wounded, or otherwise disabled, while doing duty as a member of the military force, he shall receive from the commonwealth just and reasonable relief, in amount to be determined by the adjutant general and approved by the governor. All such payments under this or the next following section shall be made from the appropriation for the maintenance of the National Guard.

[1921 c. 506 s. 36; 1927 c. 339 s. 6] (2430)

192.39 COMPENSATION; HOW PAID. Compensation, payable quarterly, may be paid, under orders of the governor, to either the dependent widow, minor children, or parent of any member of the military forces who may die from disease contracted or injuries received or who may be killed while in active service. All claims for compensation under this section shall be acted on by the adjutant general. In all cases arising under this section, the amount allowed and the duration of the payment shall be that provided by the workmen's compensation law as now or hereafter in force based on the member's usual earnings in civil life. If there be no evidence of previous occupation or earnings, compensation shall be based on the member's earnings as a soldier.

[1921 c. 506 s. 37; 1927 c. 339 s. 7; 1943 c. 108 s. 16] (2431)

192.40 GOVERNOR TO APPOINT U. S. PROPERTY AND DISBURSING OFFICER. The governor, pursuant to federal authority, shall appoint, designate, or detail subject to the approval of the secretary of war, the adjutant general, or an officer of the national guard who shall be regarded as property and disbursing officer for the United States. He shall receipt and account for all funds and property belonging to the United States in possession of the National Guard of this state and shall make such returns and reports concerning the same as may be required by the secretary of war. He shall render, through the war department, such accounts of federal funds entrusted to him for disbursement as may be required by the treasury department.

Before entering upon the performance of his duties as property and disbursing officer he shall be required to give good and sufficient bond to the United States,

the amount thereof to be determined by the secretary of war, for the faithful performance of his duties and for the safe-keeping and proper disposition of the federal property and funds entrusted to his care.

This property and disbursing officer may also be the quartermaster of the state.

[1921 c. 506 s. 48] (2442)

192.41 STATE QUARTERMASTER AND PROPERTY OFFICER. The senior officer of the quartermaster corps may be the quartermaster and property officer of the state and as such shall have charge of and be accountable for, under the adjutant general, all the state military property and shall make such property returns and reports on the same as the governor may direct. He shall be under bond to the state to such amount as the governor may deem necessary.

[1921 c. 506 s. 49; 1927 c. 339 s. 8] (2443)

192.42 ARMS AND UNIFORMS. The National Guard shall be uniformed, armed and equipped as provided by federal law. Such uniforms, arms and equipment shall be procured and issued by the proper officers as the needs of the service may require and shall be accounted for as the regulations may prescribe.

[1921 c. 506 s. 42] (2436)

192.43 DISTRIBUTION OF EQUIPMENT. Subdivision 1. The commanding officer of a company receiving clothing or equipment for the use of his command shall distribute the same to the members of his command, taking receipts and requiring the return of each article at such time and place as he shall direct.

Subd. 2. Legal fines or forfeitures and the value of any articles of uniform, arms or equipment, whether state or federal, issued to any officer or enlisted man which he fails to return on demand by proper authority and for the loss of or damage to which he has been held responsible by a report of survey or other proper proceeding, shall be deducted from such officer's or enlisted man's pay in the manner provided for in federal or state orders or regulations. Deduction from federal pay and allowances may only be made in the manner prescribed by federal law or regulation.

[1921 c. 506 s. 44; 1947 c. 125 s. 9] (2438)

192.435 UNIFORM RETAINED, WHEN. Subdivision 1. **Authorization to adjutant general.** The adjutant general is authorized to permit members of the State Guard and its Auxiliaries who have served a term of enlistment of two years or more, and at the conclusion of the present war, to retain the articles of the uniform normally issued to such personnel. Such articles of the uniform shall not include field equipment, arms, or ammunition. The Adjutant General at his discretion may sell to personnel of the State Guard at cost price, less fair wear and tear, such arms and ammunition as is not required for other purposes.

Subd. 2. **Adjutant General to be relieved of responsibility.** When such articles of the uniform and items of equipment and arms have been so issued or sold, as the case may be, the Adjutant General shall stand relieved of further accountability and responsibility in connection therewith and such articles and items shall be dropped from the stock record account of the State Quartermaster.

[1943 c. 244 ss. 1, 2]

192.44 DISCIPLINE. The discipline (which includes training) of the National Guard shall conform to the system which is now or may hereafter be prescribed by the congress of the United States.

[1921 c. 506 s. 51] (2445)

192.45 TRAINING, ASSEMBLY FOR. Each organization shall assemble for drill and instruction, including indoor target practice, and shall participate in encampments, maneuvers, and other exercises, including outdoor target practice, at such times and places and for such periods as may be prescribed by the governor in accordance with the requirements of the state or federal law.

[1921 c. 506 s. 52; 1943 c. 108 s. 18] (2446)

192.46 RIFLE PRACTICE; COMPETITION. The governor may establish special camps for advanced instructions in rifle and gun practice to be attended by officers and men who have attained a prescribed standard of marksmanship and who are selected for the purpose under suitable rules. From the participants who develop unusual proficiency therein, rifle and gun teams may be formed, which, with the approval of the adjutant general, may compete with like teams in national, interstate or state competitions under rules approved by him. The pay and allowance of officers while attending such practice or competition shall be at the rate prescribed for active service. In order to make it possible for enlisted men of the na-

tional guard to attend interstate and national rifle competitions, the adjutant general may pay to such enlisted men detailed as members of any such team the same pay as is allowed for second lieutenants of the national guard for duty at encampments. No more than \$5,000 shall be expended in any one year for all the purposes of this section.

[1921 c. 506 s. 53; 1943 c. 108 s. 19] (2447)

192.47 ENCAMPMENTS, DRILLS. The commander-in-chief may order the military forces or any part thereof into camp each year for such period as he may direct, and shall also provide for their participation in encampments or field maneuvers at such places as may be designated by the federal government pursuant to any act of congress. He may, in his discretion, order such organization as he may deem proper, to parade for purposes of drill, review, or escort duty and prescribe all regulations and requirements therefor.

[1921 c. 506 s. 54; 1943 c. 108 s. 20] (2448)

192.48 INSPECTION. When so ordered by the governor, the inspecting officer shall inspect every branch of the service and report the result thereof, giving the number of troops present, the condition of their arms, accoutrements and clothing, their proficiency in drill and such other information as may be required of or deemed proper by him. There shall be at least one inspection annually, at such time and place as the governor shall designate at which the several organizations shall be exercised by their several commanders and be carefully counted by the inspection officer. A roll of each company, certified by the commander thereof shall be furnished prior to the inspection, showing the number of drills and other exercises in which each member has participated during the preceding 12 months. The forms and mode of inspection shall be prescribed by the adjutant general and all directions given by him in reference to the inspection shall be obeyed by the several officers of the guard.

[1921 c. 506 s. 55] (2449)

192.49 PAY AND ALLOWANCES OF OFFICERS AND ORGANIZATIONS.

Subdivision 1. **Officers.** Every commissioned officer of the military forces not salaried as such shall receive from the state, while engaged in any service ordered by the governor, pay and allowances at the rate now or hereafter paid or allowed by law to officers of similar rank and length of service in the Regular Army of the United States.

Subd. 2. **Uniforms to be supplied.** The adjutant general may issue to commissioned officers from time to time any available articles of uniform and equipment suitable for field work, when he believe it expedient. Articles so issued shall be charged to the officer and shall be accounted for by him as provided in regulations.

Subd. 3. **Allowances for military expense.** Allowances for the necessary military expenses of all organizations, units, or detachments of the military forces, including clerk hire, office supplies, postage, and other actual outlay, shall be paid by the adjutant general out of the funds appropriated for the maintenance of the military forces, such allowances in no event to exceed \$500 a year for each brigade headquarters, \$2,000 per year for the division headquarters when located in this state; \$3,000 a year for the commanding general of troops, when he is an officer of the Minnesota National Guard; \$2,000 per year for each regimental headquarters or the military equivalent thereof; \$500 for each battalion headquarters not a part of a regiment with headquarters within the state; and \$200 for incidental expenses of each company, battery, or detachment; and at the time of the annual encampment or maneuvers, for each division or camp headquarters mess \$200; for each brigade headquarters mess \$100; for each regimental officers mess \$200, and for each separate battalion or squadron headquarters mess \$100. Allowances authorized under this section shall be expended and accounted for as prescribed by the commander-in-chief in orders or regulations.

[1921 c 506 s 60; 1939 c 175 s 10; 1943 c 108 s 24; 1947 c 125 s 7] (2454)

192.50 [Repealed, 1947 c 125 s 22]

192.51 CAMP PAY FOR ENLISTED MEN. Subdivision 1. **Amount.** For each day's attendance at an encampment, or maneuver ordered by the governor, or required by federal law, including the time necessarily consumed in travel, the enlisted men of the military forces shall be paid at the rate now or hereafter provided for enlisted men of similar grade, rating, and length of service in the regular army of the United States, and in addition thereto transportation, shelter, and

subsistence, but the minimum to be paid to any enlisted man is \$2 a day. When any part of the pay or allowances above authorized is paid by the federal government, the state shall only pay to each man the difference between what he received from the federal government and the pay authorized by this section. Such payment under this section shall only be made to men present in uniform and on duty at least the minimum period of the camp or maneuver provided by law for qualification for federal pay.

Subd. 2. Additional pay. When called into active service by the governor, other than for encampment or maneuvers, including the time necessarily consumed in travel, each enlisted man of the Military Forces shall be paid by the State the pay and the allowances, when not furnished in kind, provided by law for enlisted men of similar grade, rating and length of service in the Regular Army of the United States, and in addition thereto, the sum of \$2.50 a day. The minimum pay of any enlisted man while on such active service shall be not less than \$5.00 a day.

[1921 c 506 s 62; 1943 c 108 s 26; 1947 c 125 s 8; 1949 c 459 s 1] (2456)

192.52 PAY OF ENLISTED MEN FOR ACTIVE DUTY. In all cases where any of the military forces are called into active service by the governor and where no funds otherwise appropriated are available therefor, or where the appropriated funds, if any, are insufficient, the pay rolls of officers and enlisted men and expense bills shall be audited by the state auditor, the commissioner of administration and the adjutant general, and paid upon their certificate out of the general revenue fund, and the necessary sums are hereby appropriated.

[1921 c. 506 s. 59; 1943 c. 108 s. 23] (2453)

192.53 [Repealed, 1947 c 125 s 22]

192.54 TRANSPORTATION HIRE AND EXPENSE. The hire and expense of horses, motor vehicles, and other means of transportation required for the military forces when in active service, including camps of instruction, practice marches, parades, maneuvers, and other authorized purposes, when ordered by the governor as commander-in-chief, shall be paid by the adjutant general out of the funds appropriated for the maintenance of the military forces.

[1921 c. 506 s. 64; 1943 c. 108 s. 27] (2458)

192.55 PAYMENTS TO BE MADE THROUGH ADJUTANT GENERAL. All pay and allowances and necessary expenses for any of the military forces shall, when approved by the adjutant general, be paid by auditor's warrants issued to the several officers and enlisted men entitled thereto; provided, that upon the request of the adjutant general, approved by the governor, the sum required for any such pay or allowances and necessary expenses shall be paid by auditor's warrant to the adjutant general, who shall immediately pay and distribute the same to the several officers or enlisted men entitled thereto or to their commanding officers or to a finance officer designated by the adjutant general. The receipt of any such commanding officer or finance officer for any such payment shall discharge the adjutant general from liability therefor. Every commanding officer or finance officer receiving any such payment shall, as soon as practicable, pay and distribute the same to the several officers or enlisted men entitled thereto. The officer making final payment shall, as evidence thereof, secure the signature of the person receiving the same upon a payroll or other proper voucher.

[1921 c 506 s 65; 1943 c 108 s 28; 1949 c 459 s 5] (2459)

192.551 ARMY REGULATIONS TO APPLY. All moneys and property received from any source for the military forces shall be kept, disbursed, and accounted for as prescribed by army regulations, where applicable, otherwise as prescribed by state regulations. All such accounts shall be examined and audited at least once annually by officers of the military forces detailed by the adjutant general as military auditors. The adjutant general shall file a copy of the report of every such examination with the public examiner. This shall not preclude other examinations of such accounts by the public examiner as authorized by law. The public examiner may appoint any military auditor as an assistant public examiner, with all the powers incident thereto, in connection with the examination of such accounts. The provisions of the state civil service act shall not be applicable to such appointments.

[1943 c. 108 s. 29]

192.56 COMPANY, A CORPORATE BODY. Each company, when such organization is federally recognized, shall, without any further proceeding other than the filing with the secretary of state of a certificate by the adjutant general to that

effect constitute a corporate body to be known by the name by which such company is officially designated under the military laws and regulations of the state, and shall possess all the powers necessary and convenient to accomplish the objects and perform the duties prescribed by law.

The members of such military company in good standing and no others shall constitute the members of such corporation, and shall elect three trustees who together with the commanding officer shall manage and administer the civil business of such corporation. The commanding officer shall be ex officio president, and the trustees shall elect one of their number vice president, one treasurer, and one secretary.

Each such company may take by purchase, devise, gift, or otherwise and hold, so long as such company is an existing company and a part of the National Guard, any property, real or personal. All such property shall be in the custody and control of the trustees hereinbefore provided for.

Such companies may sell, exchange or otherwise dispose of property so acquired, with the written approval of the adjutant general.

When any such company has been constituted a corporate body as provided in this section and thereafter becomes inactive for any reason whatsoever and is thereafter reactivated, reorganized, or redesignated pursuant to proper authority, such reactivated, reorganized or redesignated company shall succeed to all the rights, privileges and property of the original company constituting a corporate body without any further proceeding other than the filing with the secretary of state of a certificate by the adjutant general reciting the facts of such succession and attesting thereto. Whenever the adjutant general executes a certificate as provided in this paragraph, such certificate shall describe any and all real estate of such successor company and a certified copy thereof may be filed and recorded in any county in which such property is situated. Such recorded certified copy of such certificate shall constitute notice that the reactivated, reorganized or redesignated company named therein is the owner of the real estate therein described.

When any such company shall be disbanded by proper authority such corporation shall cease to exist, and all property belonging to it shall become the property of the State of Minnesota, and be devoted to such military uses as the adjutant general shall determine.

Nothing in this section shall limit the authority vested in the officers of the company by state or federal law.

[1921 c 506 s 39; 1953 c 192 s 1] (2433)

192.57 CORPORATIONS TO CONTINUE. All corporations heretofore formed under the military code shall continue as such, but their organization, powers, duties, and by-laws shall be conformed to its provisions.

[1921 c. 506 s. 41] (2435)

192.58 AFFAIRS TO BE ADMINISTERED ACCORDING TO UNITED STATES ARMY RULES. The military affairs of the company shall be administered as provided for in army or National Guard regulations, subject to such exceptions as may be made by the military code or regulations made by the governor not inconsistent with federal law.

[1921 c. 506 s. 40] (2434)

MILITARY COURTS

192.59 COURTS OF INQUIRY. Courts of inquiry, to consist of one or more officers, may, and on the request of the officer involved shall, be instituted by the governor for the purpose of investigating the conduct of any officer, or any accusation or imputation against him, or any acts made the subject of military complaint. Such court of inquiry shall, without delay, report a statement of facts and, when required, the evidence adduced and an opinion thereon to the governor, who may, in his discretion, thereupon order a court-martial for the trial of the officer whose conduct has been inquired into.

[1921 c. 506 s. 98] (2492)

192.60 COURTS-MARTIAL. Courts-martial in the military forces shall be as prescribed by federal law for troops not in the service of the United States, so far as applicable, otherwise as provided by the laws of this state.

[1921 c. 506 s. 69; 1943 c. 108 s. 31] (2463)

192.61 FORMS, PRACTICE, AND PROCEDURE. The forms, practice, and procedure of courts of inquiry, and courts-martial shall conform to the procedure of similar courts in the army of the United States.

[1921 c. 506 s. 70] (2464)

192.62 ARTICLES OF WAR TO GOVERN WHEN. When any portion of the National Guard shall be on "active service," as defined by section 190.05, the articles of war governing the army of the United States, as now or hereafter in effect, shall be in force and regarded as a part of the military code, so far as this force is concerned, until these forces shall be relieved from this duty; except that confinement in the penitentiary shall be in the penitentiary of this state. Offenses committed while on active duty may be tried and punished by a court martial lawfully appointed, after this active duty has terminated, and if found guilty the accused shall be punished according to articles of war and the rules and regulations governing the United States army, but within the limits prescribed by federal law for courts-martial in the National Guard. In any case when the offense charged is also made an offense by the civil law of this state, the officer whose duty it is to approve the charge may, in his discretion, order the person charged to be turned over to the civil authorities for trial. If such offense is committed upon a military reservation of the United States within this state, the accused may be turned over for trial to the civil authorities of the county or city in which the accused is a legal resident, unless otherwise provided by federal law.

[1921 c. 506 s. 71] (2465)

192.63 MILITARY OFFENSES, HOW PUNISHED. At such times as organizations, officers, and men of the National Guard shall be "on duty," as referred to in section 190.05, or when ordered on duty, as therein defined, the provisions of the military code relating to "military offenses" shall be in force, and all such offenses shall be tried and punished by court-martial as provided by law for "National Guard not in the service of the United States," as defined by section 190.05; provided, that "charges and specifications" shall be laid in the form prescribed for the United States army, except that the charges shall be brought under the appropriate section and clause of the military code with reference as well to the corresponding article of war, as herein indicated; but nothing in the above shall be construed as enlarging the punishments authorized for "National Guard not in the service of the United States"; provided, that men committing offenses against the laws of the state while "on duty," or while within the armories within the state, shall be promptly arrested by the military authorities, and turned over to the civil authorities of the county or city in which the offense was committed.

[1921 c. 506 s. 72] (2466)

192.64 MILITARY OFFENSES DEFINED. The following delinquencies as defined by the articles of war referred to, are hereby declared to be military offenses, and the delinquents shall be punished as provided by law and as a court-martial shall direct:

1. Fraudulent enlistment. (A.W.54.)
2. Making fraudulent enlistment by officer. (A.W.55.)
3. Making false muster. (A.W.56.)
4. Making a false return or omission to render return. (A.W.57.)
5. Absence without leave. (A.W.61.)
6. Insult or disrespect towards national or state officials. (A.W.62.)
7. Disrespect towards superior officers in the execution of his office. (A.W.63.)
8. Assaulting or disobeying superior officer in the execution of his office. (A.W.64.)
9. Insubordinate conduct toward a noncommissioned officer in the execution of his office. (A.W.65.)
10. Mutiny or sedition. (A.W.66.)
11. Releasing prisoner without proper authority. (A.W.73.)
12. Drunkenness on duty. (A.W.85, 86.)
13. Conduct unbecoming an officer and a gentleman. (A.W.95.)
14. Conduct to the prejudice of good order and military discipline. (A.W.96.)
15. Any other violation of the laws, regulations, or orders governing the military forces consistent with chapters 190 to 194. (A.W.96.)

[1921 c. 506 s. 73; 1943 c. 108 s. 32] (2467)

192.65 WEARING UNIFORM WHILE NOT ON DUTY. Any member of the National Guard who shall wear the uniform or equipment while not on duty without permission from competent authority shall be punished as a court martial shall direct.

[1921 c. 506 s. 74] (2468)

192.66 DESERTION. Desertion in the military forces shall be as defined in the regulations made by the federal government for the government of the National Guard. But if any soldier is known to have removed from the state, and, through ignorance or neglect, has failed to apply for discharge, his discharge may be requested by his immediate commanding officer.

[1921 c. 506 s. 75] (2469)

192.67 OFFENDERS TO BE TURNED OVER BY SUPERIOR OFFICER, WHEN. When any felony is committed by any officer or soldier of the military forces while on duty, he shall be turned over by his superior officers to the proper civil authorities of the county or municipality in which the offense occurred for punishment for such crime, but such trial and punishment by the civil authorities shall not preclude trial and additional punishment or dismissal from the service by court-martial for any military offense resulting from the commission of said crime.

[1921 c. 506 s. 77] (2471)

192.68 TRANSPORTATION AND PAY OF COURTS. Members of general and special courts-martial and courts of inquiry shall be allowed transportation in kind, and per diem pay as per military grade for time actually employed in the duties assigned them. Transportation in kind shall be furnished to all prosecutors, prisoners, witnesses, sheriffs, and constables, to and from the place or places designated for meetings of these courts. The per diem pay of military and civilian witnesses shall be the same as in civil courts of law, and be paid by the adjutant general out of the appropriation for the maintenance of the National Guard.

[1921 c. 506 s. 78] (2472)

192.69 POWERS. All courts-martial of the National Guard including summary courts, shall have power to sentence to confinement in lieu of fines authorized to be imposed; provided, that such sentence of confinement shall not exceed one day for each dollar of fine authorized.

[1921 c. 506 s. 79] (2473)

192.70 PENALTIES. When the National Guard, or any part thereof, is on active duty, all military courts may, in lieu of or in addition to any of the fines and penalties provided in the military code, sentence offenders to confinement in any guard-house or other place of confinement to be designated by the reviewing authority, for a period not to exceed the limit of such service, encampment, or duty.

[1921 c. 506 s. 80] (2474)

192.71 SENTENCES TO BE APPROVED BY GOVERNOR. No sentence of dismissal from the service or dishonorable discharge, imposed by a National Guard court martial, shall be executed until approved by the governor.

[1921 c. 506 s. 81] (2475)

192.72 FINES; DISPOSITION OF. The proceeds of all fines in summary, general and special court-martial cases shall be paid to the adjutant general and paid into the maintenance fund of the National Guard, and all costs of prosecution shall be paid out of the same fund.

[1921 c. 506 s. 82; 1927 c. 339 s. 14] (2476)

192.73 POWERS OF PRESIDENTS OF COURTS-MARTIAL. Presidents of courts-martial and summary court officers shall have power to issue warrants to arrest accused persons and to bring them before the court for trial whenever such persons shall have disobeyed an order in writing from the convening authority to appear before such court, a copy of the charge or charges having been delivered to the accused with such order, and to issue subpoenas and subpoenas duces tecum and to enforce by attachment attendance of witnesses and the production of books and papers, and to sentence for a refusal to be sworn or to answer as provided in actions before civil courts. All military courts shall have power to administer oaths; to hear and determine cases; and, when satisfied of the guilt of the accused, to adjudge the punishment to be inflicted and, when approved, to enforce the sentence as hereinafter provided.

[1921 c. 506 s. 83] (2477)

192.74 CHARGES; HOW PREFERRED. Charges shall be preferred in writing by a commissioned officer, and contain the name of the offense charged, and a reference to the particular section of the military code and corresponding articles of war claimed to have been violated.

[1921 c. 506 s. 85] (2479)

192.75 OFFICERS AND MEN MAY BE ARRESTED; WHEN. When on active service, officers and men who have committed offenses in violation of the articles of war may be immediately placed in arrest, and, if enlisted men, in confinement, at the discretion of their commanding officer; provided, however, that at the time of such arrest a general statement of the charges to be preferred shall be made, and that charges and specifications as provided by law shall be filed within 36 hours of the arrest or confinement, otherwise the arrest or confinement shall cease.

For offenses committed by officers and enlisted men while on duty, or when ordered to duty, they may not be placed in arrest or confinement prior to trial, unless the offense is one involving a serious lapse of military discipline, or a violation of the criminal laws of the state, and in the judgment of the officer preferring the charge the arrest before trial is necessary to preserve discipline or to secure the presence of the prisoner for trial.

[1921 c. 506 s. 86] (2480)

192.76 ACCUSED SHALL BE SUMMONED. Upon approval of the charges and specifications, a copy thereof, together with a summons signed by the presiding officer of the court or the commanding officer of the accused, and requiring said accused to appear before the court at the time and place therein designated, and answer the charges thereto annexed, shall be served upon him, by delivering to him, or leaving at his last known place of abode or business, a true copy thereof, or by mailing the same to him at least five days before the date set for his appearance. The appearance of the accused shall waive any irregularity in the service of such papers.

[1921 c. 506 s. 87] (2481)

192.77 DEFAULT IN APPEARANCE. Upon proof of service of such summons or of mailing the same, and default of the appearance of such accused at the time and place designated for trial, the president or officer of the court shall issue his warrant for the arrest of the delinquent, directed to the sheriff or any constable of the county, who shall forthwith execute said warrant and make proper return thereof, and produce to the court the body of the accused, if within the county and retain the custody thereof until the conclusion of the trial, unless sooner discharged by the order of the court. The court, in its discretion, may also appoint some other suitable person to execute the warrant.

[1921 c. 506 s. 88] (2482)

192.78 DISTURBING COURT. Any person who shall be guilty of disorderly, contemptuous or insolent behavior, or use any insulting or contemptuous or indecorous language or expression to or before any military court or any member of any of such courts in open court, intending to interrupt the proceedings or to impair the authority of such court, may be committed to the jail of the county in which the court shall sit, by warrant under the hand of the president of such court. The warrant shall be directed to the sheriff, or any constable or marshal of any such county, or any marshal of the court, and briefly state the offense adjudged to have been committed, and command the officer to whom it is directed to take the body of such person and commit him to the jail of the county, there to remain without bail in close confinement for a time to be limited, not exceeding five days. Such officer shall obey such warrant and keep the person committed thereby until the expiration of the time mentioned in the warrant, or until the offender shall be discharged by due course of law, unless sooner discharged by a judge of the court of record in the same manner and under the same rules as in cases of imprisonment under process of contempt from a civil court of record.

[1921 c. 506 s. 89] (2483)

192.79 RANKING OFFICER SHALL PRESIDE. The president of every military court shall be the member of the court highest in grade and rank. When any military court consists of one person, he shall be deemed the president thereof within the meaning of the military code. In the absence of the president of any military court, the senior officer shall preside, with all the powers of president. All the members of such court shall, when on duty, be in uniform. The court may sit

without regard to hours and may adjourn from time to time, as may be necessary for the transaction of business. Any vacancy in any military court may be filled by the officer who ordered the court, or his successor in command.

[1921 c. 506 s. 90] (2484)

192.80 REGULARITY OF PROCEEDINGS PRESUMED. The proceedings of military courts shall not be vitiated by reason of mere irregularity, want of form or other technical defect, unless it is affirmatively made to appear, upon review or appeal, that the accused has been denied a fair hearing and has been materially injured thereby. In all cases where the sentence of a military court has been approved by the reviewing authority, the jurisdiction of the court and the legality of all its proceedings shall be presumed and on approval of such sentence, or in any civil proceedings, the burden of rebutting such presumption by competent evidence shall rest with the appellant or contestant in any such appeal or civil proceedings.

[1921 c. 506 s. 91] (2485)

192.81 COURTS NOT BOUND BY TECHNICAL RULES. Military courts are not bound by technical rule of evidence prevailing in civil tribunals and may depart therefrom when in their opinion the exigencies of the case, and the best interests of the service or the ends of justice demand it. Copies of all general and special orders may be received in evidence when attested by the signature of any officer having custody of an official copy of such order; and in case a written copy of such order cannot be procured without delay or inconvenience, oral testimony as to its contents may be received and all military courts may take judicial notice of the signature and handwriting of any commissioned officer of the National Guard.

[1921 c. 506 s. 92] (2486)

192.82 OFFENDERS MAY BE COMMITTED TO JAIL. In default of payments of any fine, forfeiture, or costs, imposed by any military court after approval of sentence by the reviewing authority, the offender shall be committed to any county jail designated by the court for a period equal to one day for each dollar of fine imposed and unpaid.

[1921 c. 506 s. 93] (2487)

192.83 ACCUSED TO RECEIVE COPY OF ORDER; FORM OF ORDER. A copy of the order approving the sentence shall be handed to the accused or mailed to his last known address, and if the fine and costs imposed by the court are not paid to the presiding officer, judge advocate or other officer authorized to receive the same, within five days after the time specified in the order, the president or other officer of the court shall issue his warrant of commitment of such delinquent offender, commanding the sheriff or any constable to whom such warrant is delivered to forthwith take the body of the offender and convey him to the common jail of the county designated in the warrant, there to remain confined during the term of said sentence as set forth in said commitment or until sooner discharged by competent authority and to make a due return of his doing thereon. Such warrant of commitment may be substantially in the following form:

The State of Minnesota:

To the sheriff or any constable and to the keeper of the common jail of the county of.....

Greetings:

Whereas.....of (company or battery).....
 (regiment) of Minnesota National Guard, has been duly tried by.....
court-martial organized according to law and upon such trial
 was found guilty of.....(charge), and was, on the
day of.....19.....duly sentenced to
(sentence).....and said sentence hav-
 ing been approved by competent authority and said offender having failed
 to pay said fine:

Now, therefore, you, the said sheriff or constable, are hereby commanded by authority of the State of Minnesota, to forthwith take the body of the offender hereinbefore named and convey him to the common jail of your county and deliver him to the keeper thereof and said keeper is hereby commanded to receive the said offender into his custody within said jail and to keep him in confinement therein for the period of.....

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days from the date of receipt or until sooner discharged by competent authority; and each of said officers is further required to forthwith make due return of this warrant and of his doings thereunder.

Dated at.....this.....day of....., 19.....

Presiding at said Court.

[1921 c. 506 s. 94] (2488)

192.84 PRISONERS TO BE KEPT IN COUNTY JAILS. The keepers and wardens of all county jails are required to receive and confine all military offenders when delivered by such sheriff or constable, under the proper certificate of commitment of a military court, for and during the term of sentence as set forth in the commitment.

[1921 c. 506 s. 95] (2489)

192.85 CIVIL OFFICERS SHALL BE GUILTY OF MISDEMEANORS FOR REFUSAL TO ACT. Any sheriff, constable, jailer, marshal or other civil officer named in the military code, who shall neglect or refuse to obey, execute or return the lawful warrant or other process of a military court, or make a false return thereon, shall be guilty of a misdemeanor and in addition to the penalties attaching thereto, shall forfeit \$50 for each offense or neglect of duty, the same to be recovered in civil action against such officer and his official sureties by the adjutant general for the benefit of the maintenance fund of the National Guard.

[1921 c. 506 s. 96] (2490)

192.86 COMPENSATION OF CIVIL OFFICERS. Civil officers and guardsmen executing the warrants or process of a military court shall receive, as compensation therefor, the fees allowed by law for like service in the civil courts, the same to be taxed by such court; and, in summary cases, paid out of the military fund of the company of which the accused is a member. All fees and expenses of trial in general and special courts-martial cases and the fees of jailors in all cases for the keep of prisoners shall be paid by the adjutant general out of the funds appropriated for the maintenance of the National Guard. No fees shall be allowed or paid to such officers unless an itemized statement thereof is endorsed on and forthwith returned with such warrant or process to the court issuing the same.

[1921 c. 506 s. 97] (2491)

192.87 NO ACTION MAINTAINED AGAINST MEMBERS OF COURTS. No action or proceeding shall be maintained against any officer by whom a military court is ordered or against any member of a military court, officer, or agent acting under its authority or reviewing its proceedings, on account of the imposition of a fine or penalty or for the execution of a sentence on any person.

[1921 c. 506 s. 84] (2478)