

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

EIGHTY-FOURTH LEGISLATURE

House Document

No. 503

H. P. 1436 House of Representatives, February 27, 1929.

Referred to Committee on Military Affairs and 500 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Mansfield of Jonesport.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-NINE

AN ACT Amending the Military Law.

Be it enacted by the People of the State of Maine, as follows:

Section 1. That the first paragraph of section nine of
2 chapter one hundred seventy-four, public laws of nineteen
3 hundred twenty-three, as amended by chapter ninety, public
4 laws of nineteen hundred twenty-five, be amended by
5 adding after the word "called" in the fourteenth line thereof
6 the words 'or drafted,' so that said paragraph as amended
7 shall read as follows:

'Sect. 9. *Active service, national guard.* In case of insur-
2 rection, invasion, tumult, riot, mob, or body of men act-
3 ing together by force with intent to commit a felony or to

4 offer violence to persons or property, or by force and vio-
5 lence to break and resist the laws of this state, or the United
6 States, or of imminent danger thereof, or in the event of
7 public disaster resulting from flood, conflagration, or tem-
8 pests, the governor shall have the power to order into the
9 active service of the state any part of the national guard
10 that he may deem proper. And whenever the national guard
11 of this state or a part thereof is called forth under the con-
12 stitution and laws of the United States, the governor shall,
13 unless the order for the call specifies otherwise, order out
14 for service the national guard or such part thereof as may
15 be required; and if the number available be insufficient he
16 shall order out the unorganized militia or such part as may
17 be necessary. The designation of organizations called or
18 drafted into the service of the United States shall not, dur-
19 ing such service, be given to new organizations.'

Sect. 2. That section fifteen of chapter one hundred and
2 seventy-four, public laws of nineteen hundred and twenty-
3 three, as amended by chapter ninety, public laws of nine-
4 teen hundred and twenty-five, be amended by striking out
5 the first paragraph thereof and inserting the following para-
6 graph, so that said paragraph as amended shall read as
7 follows:

'Sect. 15. *Adjutant General.* The adjutant general of the
2 state shall have the rank of brigadier general, shall be ap-
3 pointed by the governor, and shall be ex-officio, chief of
4 staff, quartermaster general and paymaster general of the

5 state. For the purpose of establishing the relation between
6 the war department and the various staff departments of
7 the state, he shall be the chief of said departments; and the
8 requisitions, purchases, and issues to be made by the senior
9 officer on duty in certain of said departments, as herein-
10 after prescribed, shall be made by them pursuant and in
11 obedience to his directions and instructions.'

Sect. 3. That section seventeen of chapter one hundred
2 and seventy-four, public laws of nineteen hundred and
3 twenty-three, as amended by chapter ninety, public laws of
4 nineteen hundred and twenty-five, be amended by striking
5 out all of said section and inserting in place thereof the fol-
6 lowing:

'Sect. 17. *State Inspector.* The governor, on the recom-
2 mendation of the adjutant general, shall designate an officer
3 as state inspector. Whenever ordered by the governor, the
4 state inspector shall make an inspection and a detailed re-
5 port upon the armories, property, books, records, financial
6 condition and general efficiency of the organizations of the
7 national guard, and shall perform such other duties as the
8 adjutant general may direct or the law require, and he shall
9 submit to the adjutant general a report of the transactions
10 of his office by the fifteenth of June annually.'

Sect. 4. That section eighteen of chapter one hundred and
2 seventy-four, public laws of nineteen hundred and twenty-
3 three, as amended by chapter ninety, public laws of nine-
4 teen hundred and twenty-five, be amended by striking out

5 the first paragraph of said section and inserting in place
6 thereof the following:

'Sect. 18. *State ordnance officer.* The governor, on the
2 recommendation of the adjutant general, shall designate an
3 officer from the active, retired or reserve list who shall be
4 the state ordnance officer, the salary to be fixed by the gov-
5 ernor and council. The state ordnance officer shall, from
6 time to time, submit to the adjutant general requisitions for
7 ordnance property, equipment and accoutrements and
8 range and target material; which requisitions, when ap-
9 proved by the adjutant general and submitted to and signed
10 by the United States property and disbursing officer, shall,
11 if they be for material issued to the state by the ordnance
12 department, be forwarded to that department for supply.
13 If they be for material not so issued, then by direction of
14 the adjutant general and in the manner prescribed in section
15 twenty-six, the ordnance officer shall purchase and direct
16 the issue of such ordnance property and range material,
17 certify all bills therefor as correct, and transmit them to
18 the adjutant general.'

Sect. 5. That section twenty of chapter one hundred and
2 seventy-four, public laws of nineteen hundred and twenty-
3 three, as amended by chapter ninety, public laws of nine-
4 teen hundred and twenty-five, be amended by striking out
5 all of said section and inserting in place thereof the fol-
6 lowing:

'Sect. 20. *State Quartermaster.* The governor, on the

2 recommendation of the adjutant general, shall designate an
3 officer from the active, retired or reserve list, who shall
4 be the state quartermaster, the salary to be fixed by the
5 governor and council. The state quartermaster shall be the
6 military storekeeper and, under the direction of the adju-
7 tant general, he shall purchase and issue in the manner
8 prescribed in section twenty-six, such subsistence stores and
9 property as are not issued by the United States, certify all
10 bills therefor as correct and transmit them to the adjutant
11 general. He shall make a detailed report of the transactions
12 of his office to the adjutant general on the fifteenth day of
13 June annually.'

Sect. 6. That section twenty-one, chapter one hundred
2 and seventy-four, public laws of nineteen hundred and
3 twenty-three, as amended by chapter ninety, public laws of
4 nineteen hundred and twenty-five, be amended by adding
5 after the word "standing" in the second and third lines
6 thereof the words 'he shall be the legal adviser of the ad-
7 jutant general, and of the armory commission;' so that said
8 section as amended shall read as follows:

'Sect. 21. *State Judge-Advocate.* The judge-advocate
2 shall be an attorney-at-law of the supreme judicial court
3 of this state, of at least five years' standing; he shall be the
4 legal adviser of the adjutant general, and of the armory
5 commission; he shall be, under the direction of the gov-
6 ernor, charged with the supervision of all things relating
7 to the administration of justice in the military forces of

8 the state; he shall diligently scrutinize and examine the pro-
9 ceedings of all courts martial and courts of inquiry which
10 are submitted to him for review and report thereon to the
11 adjutant general; he shall, when directed, act as judge-
12 advocate or recorder of any military court or board; he
13 shall be the legal adviser of the military department, and
14 to him may be referred for supervision all contracts, agree-
15 ments, or other instruments, to be drawn or executed in
16 the course of the business thereof. He shall make a de-
17 tailed report of the transactions of his office to the adjutant
18 general on the fifteenth day of June annually.'

Sect. 7. That section twenty-two of chapter one hundred
2 and seventy-four, public laws of nineteen hundred and
3 twenty-three, as amended by chapter ninety, public laws of
4 nineteen hundred and twenty-five, be amended by striking
5 out section twenty-two entire.

Sect. 8. That section thirty-seven, chapter one hundred
2 and seventy-four, public laws of nineteen hundred and
3 twenty-three, as amended by chapter ninety, public laws
4 of nineteen hundred and twenty-five, be amended by adding
5 after the words "following manner" in the seventeenth line
6 thereof the words 'First, from enlisted men of the unit,
7 commissioned in the officers' reserve corps, in the order of
8 seniority, as established by the date of qualification as re-
9 serve officers; second, enlisted men of the unit holding state
10 certificates of eligibility for commissions as second lieuten-
11 ants in the order established by date of examination; third,

12 if no such personnel holding reserve commissions or certifi-
13 cates of eligibility are available in the unit;' so that said
14 section as amended shall read as follows:

'Sect. 37. *Appointment of commissioned officers.* Subject
2 to the regulations prescribed by the war department, all
3 officers shall be appointed and commissioned by the gov-
4 ernor. Except as hereinafter provided all vacancies shall
5 be filled as follows: Vacancies in the grade of colonel or
6 lieutenant-colonel of a regiment or corps shall be filled by
7 promoting the senior officer of the regiment or corps of the
8 next lower grade; vacancies in the grade of major in a reg-
9 iment, corps or separate battalion shall be filled by promot-
10 ing the senior officer of the next lower grade in the organ-
11 ization in which the vacancy occurs; vacancies in the grade
12 of captain or lieutenant shall be filled by promoting the
13 senior officer of the next lower grade in the organization
14 in which the vacancy occurs; when it appears to the gov-
15 ernor to be for the best interest of the service that vacancies
16 be otherwise filled, such vacancies, if they be within a reg-
17 iment, corps or other separate organization, shall be filled
18 by the governor upon the recommendation of the command-
19 ing officer of such organization, or upon the recommenda-
20 tion of the adjutant general. Vacancies in the grade of
21 second lieutenant shall be filled in the following manner:
22 First, from enlisted men of the unit, commissioned in the
23 officers' reserve corps, in the order of seniority, as estab-
24 lished by the date of qualification as reserve officers; sec-

25 ond, enlisted men of the unit holding state certificates of
26 eligibility for commissions as second lieutenants in the order
27 established by date of examination; third, if no such per-
28 sonnel holding reserve commissions or certificates of eligibil-
29 ity are available in the unit; all enlisted men of any company
30 and any non-commissioned staff officer shall, if physically
31 sound, be eligible for appointment and shall be permitted to
32 appear before an examining board for a physical and com-
33 petitive practical and theoretical examination. The enlisted
34 man whom the board considers, after the competitive exam-
35 ination, to be best qualified shall be appointed to fill the va-
36 cancy. The governor shall prescribe the scope and manner
37 of conducting such examination, and if no enlisted man
38 appears or if none satisfactorily passes said examination,
39 then the governor upon the recommendation of the com-
40 manding officer of the regiment, corps or other separate
41 battalion, shall fill the vacancy by making an appointment
42 of any person eligible under the law to hold a commission
43 in the national guard. Every officer duly commissioned
44 shall within ten days accept the same and take the consti-
45 tutional oath of office; such oath may be taken and sub-
46 scribed before any officer authorized by law to administer
47 an oath; and in case of neglect or refusal to accept the com-
48 mission or to take and subscribe the oath within the time
49 mentioned, such commission shall be cancelled by the gov-
50 ernor and a new appointment made to fill the vacancy.'

Sect. 9. That section thirty-eight of chapter one hundred

2 and seventy-four, public laws of nineteen hundred and
3 twenty-three, as amended by chapter ninety, public laws of
4 nineteen hundred and twenty-five, be amended by striking
5 out all of last paragraph of said section and inserting in
6 place thereof the following:

'Sect. 38. *Discharge and retirement of officers.* Any per-
2 son who has served as a commissioned officer in the Maine
3 National Guard for a period of not less than nine years
4 may, upon personal request, be placed upon the retired list.
5 When placed upon the retired list an officer shall be given
6 the highest rank held by him during his term of service
7 provided, that if at the time of his retirement he shall have
8 served as a commissioned officer in the Maine National
9 Guard or Federal Military Service for a period of fifteen
10 years or more he may be retired with a rank one grade
11 higher than the highest rank held by him during his service,
12 except that in no case shall a rank higher than that of
13 brigadier general be granted an officer under these provi-
14 sions, upon retirement. Retired officers shall be entitled to
15 wear the uniform of the rank with which they were retired.
16 Except as provided above, no commissioned officer in the
17 national guard or naval militia shall be removed from office
18 without his consent, except by sentence of a general court-
19 martial or by an efficiency board, in a manner prescribed by
20 law. Whenever the occasion may require, the governor,
21 with their consent, may order to active duty any retired
22 officer, warrant officer or enlisted man and they shall be

23 entitled to pay and emoluments of their grade while per-
24 forming such service.'

Sect. 10. That section forty-five of chapter one hundred
2 and seventy-four, public laws of nineteen hundred and
3 twenty-three, as amended by chapter ninety, public laws
4 of nineteen hundred and twenty-five, be amended by adding
5 after the word "man" in the first line thereof the words
6 'of the Maine National Guard,' and by adding after the
7 word "state" in the third line the words 'or Federal Mili-
8 tary Service,' so that said section as amended shall read as
9 follows:

'Sect. 45. *Medal for honorable service.* Every officer and
2 enlisted man of the Maine National Guard who has rendered
3 honorable service for nine years in the national guard of
4 the state or Federal Military Service, shall receive a service
5 medal therefor and an additional bar or clasp for each addi-
6 tional three years' service.'

Sect. 11. That section fifty-five of chapter one hundred
2 and seventy-four, public laws of nineteen hundred and
3 twenty-three, as amended by chapter ninety, public laws of
4 nineteen hundred and twenty-five, be amended by striking
5 out all of said section and inserting in place thereof the fol-
6 lowing:

'Sect. 55. *Armory commission.* The adjutant general,
2 together with four officers of the line of the national guard
3 of or above the grade of captain, detailed by the governor,
4 in addition to their other duties, shall constitute an armory

5 commission, of which the adjutant general shall be the
6 chairman, whose duty it shall be to exercise general super-
7 vision and control over all armories, drill rooms, headquar-
8 ters offices, stables, to consult and cooperate with the mu-
9 nicipal authorities and to devise effective means of obtain-
10 ing and maintaining such armories, and to fix, subject to
11 the approval of the governor, the compensation to be al-
12 lowed to the municipalities as rent for them; they shall
13 have the power, after consulting and hearing the responsible
14 municipal officers, to determine the administrative question
15 of military suitability and adequate maintenance of all
16 armories, drill rooms, offices, headquarters offices, stables,
17 and it shall be their duty to notify the responsible officers
18 of all deficiencies in these respects, and should such officers
19 fail, refuse or neglect to take effective measures for pro-
20 viding such suitable buildings and their maintenance, the
21 chairman of the commission shall initiate the prosecution
22 prescribed by section fifty-two. The armory commission
23 is authorized where towns or municipalities have been re-
24 lieved from compliance with the provisions of this act to
25 provide armories, target ranges or stables by reason of any
26 agreement or agreements entered into between such towns
27 or cities and the State of Maine, to hire or lease suitable
28 buildings for drill halls, quarters, headquarters offices or
29 stables as may be necessary to adequately house the national
30 guard. For each day actually employed in the transaction
31 of the business of the armory commission the members oth-

er than the adjutant general shall receive as compensation
base pay of their grade and all members shall be reimbursed
for actual traveling expenses, such accounts to be paid from
the armory fund.'

Sect. 12. That section fifty-six of chapter one hundred
and seventy-four of the public laws of nineteen hundred
and twenty-three, as amended by chapter ninety, public
laws of nineteen hundred and twenty-five, be amended by
striking out in the seventh and eighth lines thereof the words
"as now or shall be hereafter," so that said section as amend-
ed shall read as follows :

'Sect. 56. *Courts-martial.* Courts-martial in the national
guard shall be of three kinds, namely, general courts-mar-
tial, special courts-martial and summary courts-martial.
They shall be constituted, and have cognizance of the same
subjects and possess like powers, except as to punishments,
as similar courts provided for by the laws and regulations
governing the army of the United States, and the proceed-
ings of courts-martial of the national guard shall follow the
forms and modes of procedure prescribed for similar courts.'

Sect. 13. That section sixty-seven of chapter one hun-
dred seventy-four, public laws of nineteen hundred twenty-
three, as amended by chapter ninety, public laws of nine-
teen hundred twenty-five, be amended by striking out all
of said section and inserting in place thereof the following :

'Sect. 67. *Uniform not to be worn by unauthorized per-
sons.* It shall be unlawful for any person not an officer or

3 enlisted man of the United States army, navy, marine corps,
4 or the national guard of the United States and of the state
5 of Maine, to wear the duly prescribed uniform of the United
6 States army, navy, marine corps or national guard, or any
7 distinctive part of such uniform, or a uniform any part
8 of which is similar to a distinctive part of the duly pre-
9 scribed uniform of the United States army, navy, marine
10 corps or national guard: Provided, that the foregoing pro-
11 visions shall not be construed so as to prevent such per-
12 sons as may be authorized by the laws and regulations of
13 the United States from wearing such uniform as they may
14 be authorized to wear under the above mentioned laws and
15 regulations. Provided further, that the term "distinctive
16 part of the uniform" in this act, shall be construed to mean
17 such parts of the uniform as may be at this time or shall
18 be hereafter designated as "distinctive" by the army regu-
19 lations of the United States. Any person who offends
20 against the provisions of this act, shall, on conviction, be
21 punished by a fine not exceeding three hundred dollars or
22 by imprisonment in the county jail not exceeding six months,
23 or by both such fine and imprisonment.'

Sect. 14. That section ninety of chapter one hundred
2 seventy-four, public laws of nineteen hundred twenty-three,
3 as amended by chapter ninety, public laws of nineteen hun-
4 dred twenty-five, be amended by striking out all of said
5 section and inserting in place thereof the following:

'Sect. 90. *Articles of war and courts-martial.* Except as

2 provided in the preceding sections the national guard of
3 the state of Maine shall at all times and in all places, and
4 the unorganized militia whenever called into service, be gov-
5 erned by the articles of war and manual of courts-martial
6 as adapted to the use of the national guard by the war de-
7 partment, militia bureau, in the national guard regulations,
8 when this act becomes effective.'