

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

BANGOR:
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CHAP. 10.

CHAPTER 10.

THE MILITIA.

EXEMPTIONS, ENROLLMENTS, UNUNIFORMED AND UNIFORMED OR ACTIVE MILITIA,
ORGANIZATION, DUTIES OF.

- Sbc. 1. Persons exempted from military duties.
2. Assessors of towns to enroll all other male white citizens between ages of eighteen and forty-five, annually, on May first.
3. This ununiformed militia subject to no active duty.
4. May be called out by governor by order directed to municipal officers of towns. Proceedings in such cases.
5. Penalties for neglect by civil officer.

VOLUNTEER MILITIA.

6. Active militia consists of volunteers first to be called into active service.
7. Not to exceed four thousand men.

ARTICLES FURNISHED.

8. Articles to be furnished by state.
9. Adjutant general to furnish blanks and copy of laws.
10. All officers responsible for safe keeping, and return of articles furnished.

ARMORIES.

11. Armories to be provided for deposit of equipments. Proceedings.
12. Penalty for injury of arms, equipments, or military property.
13. Brigade inspectors to examine armories and report to governor.
14. Officer not discharged till it appears that articles are uninjured.

ORGANIZATION AND DUTIES OF ACTIVE MILITIA.

15. Governor may grant petitions for raising volunteer companies.
16. Officers of companies may be elected, when forty-eight men are enlisted.
17. Quartermaster general's compensation.
18. Independent companies to be numbered and record made. Their organization.
19. Officers and soldiers to do duty five years.
20. Enlistments into another company forbidden.
21. Returns to adjutant general annually on July first.
22. Penalty for non-appearance of soldier.
23. Quartermaster general to take possession of articles furnished, when company is disbanded.
24. Governor to organize militia. Proceedings.
25. Brigadier general on application of a majority of independent companies may discharge an officer and reduce him to the ranks.
26. Captains may enlist four musicians.
27. Colonel may enlist a band not exceeding twenty.
28. Musicians paid, when regiment encamped.

ROSTERS, ROLLS AND RETURNS.

29. Rosters to be kept by aids and adjutants; orders recorded and distributed.
30. Adjutant general to record abstract of returns made by brigade inspectors.
31. Penalty for neglect of captains to make returns.
32. Adjutant general to transmit abstract of returns to governor and president.
33. Equipments exempt from attachment.
34. Officers and soldiers exempted from arrest.
35. Governor to erect gun houses, repair them, and gun carriages.

OFFICERS, APPOINTMENT, ELECTION, AND QUALIFICATION OF.

36. Officers; how elected, appointed, and commissioned.
37. Sergeants and corporals appointed by captains.

- SEC. 38. Officers not required by laws of United States, how appointed.
 39. Officers of companies; their number, rank and appointment.
 40. Major general to cause vacancies to be filled. Elections, how made.
 41. Rank and commission of officers.
 42. Loss of commission supplied.
 43. Rank determined by lot, when not otherwise.
 44. Officers to be sworn. Form of oath.
 45. Clerk of company, how appointed and sworn. Form of oath.
 46. Clerk's duties.
 47. Clerk, pro tem.; appointment, duties.
 48. Captain may designate a soldier to do duties of clerk in certain cases.
 49. Captain in such cases to keep records.
 50. When superior absent, or a vacancy, next in rank commands.
 51. Company without officers, how to be provided.
 52. Company without commissioned officers for three months, subject to discipline of an officer appointed by colonel.
 53. Penalty for neglect of soldier to warn, when ordered.
 54. Compensation of adjutant and quartermaster generals.
 55. Officers to perform all duties attached to their offices.

OFFICERS, HOW DISCHARGED.

56. Remain in office five and not more than seven years; exceptions.
 57. Not to resign, while under arrest, nor between May first and November first.
 58. Resignations not approved, till books and property delivered.
 59. Penalty for neglect to deliver.
 60. Officers' duties to continue till certificate of discharge received.
 61. Arrested on conviction of crime.
 62. Persons not eligible to office; if elected not commissioned, if in commission may be removed.

DISCIPLINE, TRAININGS, REVIEWS, UNIFORM.

63. Days on which no military duty is to be required under penalty.
 64. No parade, or march within fifty rods of a court under penalty.
 65. Companies parade according to rank of captains; exceptions.
 66. Senior officer present commands.
 67. Officers to be assigned to a company destitute.
 68. Officer commanding may fix limits of parade ground, arrest transgressors.
 69. Major general may order camps of instruction.
 70. Governor may order them beyond limits of division.
 71. Exercise of troops, when encamped.
 72. Encampment on notice of thirty days; service two days.
 73. Booths and sheds may be removed on complaint.
 74. Soldiers may be arrested and fined for misconduct.
 75. System of discipline and exercise of United States to be observed.
 76. Parade of each company for inspection second Monday of May.
 77. Military duty not required by law not to be exacted; exceptions.
 78. Governor may prescribe uniform.
 79. Escort duties.
 80. Boards of officers may be called.

NOTIFICATIONS, EXCUSES, BY-LAWS AND REGULATIONS.

81. Company trainings, how warned.
 82. Notice of them four days; for election ten days.
 83. Soldier receiving orders, to warn company.
 84. Excuses must be made within twenty days. Officers to inform clerks of excuses accepted.
 85. Company may prescribe penalties by by-laws for non-appearance and defects of equipment.
 86. Governor may prescribe rules for active service.

CHAP. 10.

COMPENSATION.

SEC. 87. Compensation of certain officers.

RIOTS, &c.

- 88. Governor may order militia out to support the laws.
- 89, 90. Same; penalties prescribed.
- 91. Troops to assemble and obey orders.
- 92. Towns to furnish provisions and quarters.
- 93. Compensation when so called out.

COURTS MARTIAL.

- 94. Courts martial to consist of three members; proceedings.
- 95. The president appoints a martial; his duties.
- 96. Governor appoints president and members; when called by him.
- 97. He may make summary inquiry by an officer, who is to report.
- 98. Division advocates appointed by governor for five years.
- 99. Copy of order convening court, and copy of charges to be furnished accused.
- 100. Governor may order courts martial.
- 101. Witnesses required to attend.
- 102. Officers found guilty may be removed and fined.
- 103. Record of proceedings to be kept by division advocate.
- 104. Copy of record made evidence in courts.
- 105. Division advocate to enforce payment of fines.
- 106. Actions for recovery of fines; proceedings in them.
- 107. Courts martial, compensation for members and witnesses; fees of advocate.
- 108. Presidents of them to prepare reports and deposit them with adjutant general.
- 109. Officers tried to be arrested and have copy of charges.
- 110. Refusing to appear, or to answer, trial may proceed.
- 111. Offences, for which officers may be tried.
- 112. Limitation of one year for time of making charges.
- 113. Arrests on parade made only by written order.

PROCEEDINGS ON DRAFTS FOR ACTUAL SERVICE.

- 114. Proceedings on drafts; person drafted, must appear, procure substitute or pay fifty dollars.
- 115. Appropriation of fines.
- 116. Officers to be detailed, privates drafted by lot.
- 117. When company without officers, drafts how made.
- 118. Soldiers ordered to march, take provisions for three days.
- 119. Municipal officers of towns to make further provision.
- 120. Penalty for neglect of towns to do so.
- 121. Officers accountable for camp equipage.
- 122. Horses of cavalry to be appraised before marching.
- 123. Senior officers neglecting, junior to make a draft.
- 124. Provision to be made by state, for killed or wounded.

RULES AND ARTICLES FOR GOVERNING THE TROOPS STATIONED IN FORTS AND GARRISONS WITHIN THIS STATE; AND ALSO THE MILITIA OR ANY PART THEREOF WHEN CALLED INTO ACTUAL SERVICE.

SEC. 125. Rules, and penalties for violation thereof.

Art. I. Attendance on divine worship. Behavior.

- II. Profanity.
- III. Seditious or disrespectful words.
- IV. Contempt towards superior officers.
- V. Mutiny.
- VI. Not endeavoring to suppress mutiny.
- VII. Assaulting superior officer, or disobedience of orders.
- VIII. Desertion.
- IX. Advising to desert.

- Art. X. Provocations or challenges forbidden.
- XI. Officers suffering others to fight duels.
- XII. Officers to quell affrays and disorders.
- XIII. Upbraiding others for refusing challenges.
- XIV. Officers to keep good order, and redress abuses.
- XV. Officer wronged, may complain to the commander-in-chief.
- XVI. Inferior officer wronged, may complain to colonel.
- XVII. Selling or wasting ammunition.
- XVIII. Absence without leave.
- XIX. Absence one mile from camp without leave.
- XX. Not retiring to quarters at beating of tattoo.
- XXI. Officers and soldiers to repair to parade at time fixed.
- XXII. Intoxication.
- XXIII. Sentinel sleeping on his post.
- XXIV. Making false alarms.
- XXV. Quitting platoon or division without leave.
- XXVI. Insulting or abusing persons bringing provisions.
- XXVII. Abandoning post in time of engagement.
- XXVIII. Making known the watch word.
- XXIX. Relieving the enemy.
- XXX. Corresponding with the enemy.
- XXXI. Public stores taken from the enemy, to be secured.
- XXXII. Leaving post for plunder.
- XXXIII. Compelling commanding officer to abandon post.
- XXXIV. Sutlers and retailers subject to military orders.
- XXXV. When different corps do duty together, the oldest officers to command.
- XXXVI. Same rule, when different corps march or encamp together.
- XXXVII. General courts martial, how constituted.
- XXXVIII. Rank of members.
- XXXIX. Appointment of prosecuting officer; oath of members and prosecutor.
- XL. Department of members; mode of giving votes.
- XLI. Witnesses to be examined under oath. Form of oath.
- XLII. No sentence of death, without concurrence of two-thirds of the members.
- XLIII. Punishment for refusal of witnesses to testify.
- XLIV. Rank of officers for trial of a field officer. Proceedings to be between sunrise and sunset.
- XLV. Sentence to be reported to commanding officer.
- XLVI. Regimental courts martial.
- XLVII. How constituted; majority to decide.
- XLVIII. Commanders of forts may order courts martial.
- XLIX. Disturbance of courts martial.
- L. Offenders to be arrested previous to trial.
- LI. Confinement limited to eight days, or until a court martial can be convened.
- LII. By whom prisoner shall be kept. Notice of accusation.
- LIII. Punishment for releasing prisoner.
- LIV. Officers having prisoners in custody to report to colonel or commander-in-chief.
- LV. Officer under arrest leaving his confinement, penalty.
- LVI. Punishment for disgraceful conduct in an officer.
- LVII. Officers, gunners, matrosses, and others connected with artillery, subject to these rules.
- LVIII. To be tried by their own officers, if practicable.
- LIX. No sentence of death, except as expressly provided.
- LX. Fines to be appropriated to sick or necessitous soldiers.
- LXI. Offences not capital, though not herein specified, to be tried by general or regimental courts martial.
- LXII. Officers or soldiers accused of certain crimes, to be surrendered to the civil authority.

CHAP. 10. EXEMPTIONS, ENROLLMENTS, UNUNIFORMED AND UNIFORMED OR ACTIVE MILITIA, ORGANIZATION, DUTIES OF.

Persons exempted from military duties.

Act of April 9, 1856.

SEC. 1. There shall be exempted from military duty under the laws of this state, in addition to the persons exempted by the laws of the United States, the judges of the supreme judicial court, judges of any court of record, judges of the probate, municipal and police courts, the clerks of all courts of record, registers of deeds, and registers of probate; all ministers of the gospel regularly ordained according to the usages of their denomination, so long as they sustain that relation in their denomination; the superintendent and other officers and assistants employed in the Insane Hospital at Augusta, and at the State Reform School at Cape Elizabeth; also the officers and guards employed in the State Prison at Thomaston:— all officers who have held military or naval commissions, and who have been regularly discharged, or have in accordance with military or naval usage without fault on their part been discharged, or ceased to act as such; all quakers and shakers, so long as they continue members of such denominations; all members of engine companies, while they continue to do duty in such companies; all mariners, unless they have been discharged and have done no service on board any vessel for more than three months at the time they shall be warned; all persons unable from bodily infirmity to do military duty; all idiots, lunatics, common drunkards, vagabonds, paupers, and persons convicted of infamous crimes. When any person enrolled shall exhibit to the enrolling officers proof that he is exempted by any part of this section, they shall strike his name from the roll.

Assessors of towns to enroll all other male white citizens between ages of 18 and 45, annually, on May 1.

SEC. 2. All other white male citizens of the United States residing within this state, between the ages of eighteen and forty-five years, shall be enrolled by the assessors of the cities, towns, and plantations in which they reside. They shall make such enrollment annually on the first day of April of all such persons then residing within their limits, and make a list of their names and seasonably deliver the same to the clerk of their city, town, or plantation, to be by him preserved on file in his office. He shall annually, in the month of May or June, transmit a certified copy of such list to the office of the adjutant general. Persons so enrolled shall constitute the ununiformed militia of the state.

This ununiformed militia subject to no active duty.

SEC. 3. The ununiformed militia thus constituted shall be subjected to no active duty whatever, except in case of insurrection, war, invasion, or to prevent invasion; in such case the governor and commander-in-chief is authorized and required to order out from time to time by draft or otherwise so many of the militia, as the necessity of the case may demand. The militia, when called into active service, shall be governed and trained according to the laws of the United States and of this state.

May be called out by governor by order directed to municipal officers of towns.

SEC. 4. If necessary the order of the commander-in-chief calling out the ununiformed militia may be made and directed to the municipal officers of any town within the state. And it shall be the duty of such officer to appoint a time and place of parade

for the ununiformed militia in such city, town, or plantation, and to order them to appear at such time and place, either by leaving a written notice or orally, and then and there to proceed to draft so many thereof or to accept so many volunteers as may be required by the order of the commander-in-chief, and such municipal officers shall notify the commander-in-chief forthwith, that they have performed the duty aforesaid by returning to him an alphabetical list of the names of the persons so drafted or volunteered; and such ununiformed militia shall thereupon be formed into companies, and shall proceed to elect officers thereof in the same manner as is provided for the election of officers of companies in the 16th and 36th sections of this act; and whenever any person thus detached or drafted, or any such volunteer, shall neglect or refuse to appear at the time and place designated by the municipal officers aforesaid, and shall not, within twenty-four hours after he shall be notified, pay to the municipal officers the sum of fifty dollars, or procure an able-bodied white male person in his stead, such person, on being ordered to march to the place of rendezvous, shall be considered a soldier belonging to the detachment, and shall be dealt with accordingly.

SEC. 5. Any civil officer named in this chapter, who shall neglect or refuse at any time to obey the provisions thereof, shall forfeit and pay not less than twenty dollars, nor more than five hundred dollars, for each and every offence, to be recovered in any court of competent jurisdiction for the use and benefit of the state.

CHAP. 10.
Proceedings in
such cases.

Penalty for
neglect by civil
officer.

VOLUNTEER MILITIA.

SEC. 6. The uniformed or active militia of this state shall consist of volunteers, or companies raised at large; and shall in all cases be first ordered into service to suppress riots, to repel invasions, or to aid civil officers in the execution of the laws of the state.

SEC. 7. The whole number of volunteers shall not exceed four thousand men, and shall be apportioned to the several divisions of the militia throughout the state, as the governor and council may determine.

Active militia
consists of
volunteers,
first to be called
into active
service.

Not to exceed
four thousand
men.

ARTICLES FURNISHED.

SEC. 8. Each company of uniformed volunteer militia raised at large shall, whenever the state may have on hand for distribution arms and equipments suitable to its corps of service, be furnished therewith. Each company so raised and the officers of divisions, brigades, and regiments, shall be provided with the requisite books of tactics, and with such tents and other articles of camp equipage as the commander-in-chief may direct. All companies shall also be furnished with suitable musical instruments, whenever the state may have them on hand for distribution. Each regiment and battalion shall be furnished by the state with the state and regimental colors, and their staffs, belts, sockets, and suitable coverings for the same; and the commanding

Articles to be
furnished them
by state.

CHAP. 10. officer of such regiment or battalion shall be responsible for the safe keeping of the same.

Adjutant general to furnish blanks and copy of laws.

SEC. 9. It shall be the duty of the adjutant general to furnish all company and other officers all such blanks, blank books, rolls, and notifications, as may be required to be used by the provisions of this chapter. It shall also be his duty to arrange so much of the militia laws as shall at any time be in force, and cause the same to be printed in proper form, from time to time, and to distribute one copy thereof to each commissioned officer and to the clerk of every city and town in this state.

All officers responsible for safe keeping and return of articles furnished.

SEC. 10. Division, brigade and regimental officers, and commissioned officers of every company receiving arms, equipments, or other military property in virtue of this act, shall, from the time of their qualification, be held jointly and severally responsible for the safe keeping and return thereof to the state.

ARMORIES.

Armories to be provided for deposit of equipments.

SEC. 11. Suitable armories shall be provided in advance by companies making requisition for arms and equipments, or by the town within the limits of which said companies shall have been chiefly raised, or shall have voted to establish said armories; and all arms, equipments, and camp equipage, furnished to said companies shall be regularly deposited in said armories subject to withdrawal for the military uses and purposes only of said companies in body and under the proper officer or officers. The several cities and towns within this state are hereby authorized to raise money to be expended in providing armories or places of deposit for military property issued to any company. The evidence that the armories named in this section have been duly provided for, shall be the certificate to the acting quartermaster general, of the mayor, or two or more aldermen, selectmen, or assessors, as the case may be, of the locality in which such armories are established.

Proceedings.

Penalty for injury of arms, equipments or military property.

SEC. 12. Any person, who shall willfully mar or injure any of the arms, equipments or other military property issued to any company of volunteer militia, or the armory, or any portion thereof, or of its fixtures, provided for the deposit of arms, equipments, or other military property, shall be subject to a fine of not more than fifty dollars, said fine to be recovered in any court of competent jurisdiction in the name of the clerk or commanding officer of the company legally in charge or possession, and to be paid into the treasury of the company for appropriation to its military purposes by a vote of the commissioned officers.

Brigade inspector to examine armories and report to governor when required.

SEC. 13. It shall be the duty of the brigade inspector of each brigade, or in case of a vacancy in that office, then it shall be the duty of the division inspector of each division, as often as shall be required by the commander-in-chief, to examine any armory within the limits of each brigade or division provided for the use of any company in which any military property of the state may be deposited, who shall report to the commander-in-chief the condition thereof and of the property therein deposited; and for his services he shall be allowed a reasonable

compensation, to be paid by the acting quartermaster general, after his account for said service shall have been audited and allowed by the governor and council.

CHAP. 10.

SEC. 14. No resignation of any officer of a company of volunteers shall be accepted, nor shall such officer be by any form of discharge relieved from his responsibility for arms, equipments, or other articles of military property furnished to said company, until it shall be made to appear by certificate of not less than two of the officers thereof, that the said arms, equipments, and other articles of military property, are at the time of date of such certificate undiminished in quantity, and unimpaired in value, reasonable use and wear and losses by fire excepted.

No officer discharged till made to appear that articles are uninjured.

ORGANIZATION AND DUTIES OF ACTIVE MILITIA.

SEC. 15. The commander-in-chief, with the advice of the council, may grant petitions for raising companies at large, not to exceed the total number stated in this chapter for all the divisions inclusive of companies now raised and organized.

Governor may grant petitions for raising volunteer companies.

SEC. 16. Whenever forty-eight men are enlisted according to the provisions of this chapter, an election of officers may be ordered upon notification being given by one or more of the petitioners, approved by the commanding officer of the division or brigade, in which such company may be raised, to the commander-in-chief; and in case there be no officer of the volunteer corps conveniently located to preside at such election, the major general, or other officer, whose duty it shall be to cause an election to take place, may authorize the members so enlisted to choose some suitable person to preside at the election, and to make return thereof to the major general, or other officer commanding the division.

Officers of companies may be elected when forty-eight men are enlisted.

SEC. 17. For his services in issuing arms, equipments, and other military property under the provisions of this chapter, the acting quartermaster general shall be annually allowed and paid, in quarterly payments, the sum of one hundred dollars.

Quartermaster general's compensation.

SEC. 18. The several volunteer companies of cavalry, artillery, light infantry, and riflemen, in each division, shall be numbered and a record made of such numbers in the adjutant general's office; and when they exist in sufficient numbers in any one division, they shall compose battalions and regiments, and be put under the command of such regimental, brigade, and division officers, as the commander-in-chief may designate, and, when not attached to any battalion or regiment, shall remain under the command of the captain or commanding officer of the company, subject to the orders of the brigadier general of the brigade to which the company is attached.

Independent companies to be numbered and record made. Their organization.

SEC. 19. Every non-commissioned officer and soldier of any company raised at large shall be holden to do duty therein for the term of five years from his enlistment, unless disability after enlistment should absolutely incapacitate him to perform such duty, or he should be regularly discharged by the proper officer.

Officers and soldiers to do duty five years.

SEC. 20. Any commander of any volunteer company, who shall knowingly enlist or permit to be enlisted into his company,

Enlistments into another company forbidden.

CHAP. 10.

any non-commissioned officer, musician, or private, belonging to any other company, or who shall retain the name of any such non-commissioned officer, musician, or private, upon the rolls of his company after being duly notified of the fact of such previous enlistment, shall be liable to court martial.

Captains to make returns to adjutant general annually, on July 1.

SEC. 21. The commanding officers of all volunteer companies, shall, on or before the first day of July annually, make out and certify through the proper officers to the adjutant general a list of all persons belonging to their respective companies, describing the duties performed by each individual in his company throughout the year.

Penalty for non-appearance of soldier.

SEC. 22. Every non-commissioned officer, musician, or private, who shall unnecessarily neglect to appear on the days and at the times and places appointed for such duty, agreeably to the provisions of this chapter, shall pay two dollars for each and every such neglect, to be collected in an action of debt, one-half of which shall go to the prosecutor, and the other half to the clerk of the company for the use of said company.

Quartermaster general to take possession of articles furnished, when company is disbanded.

SEC. 23. Whenever any volunteer company, which has received any arms and equipments from the acting quartermaster general, shall be disbanded, it shall be the duty of the acting quartermaster general forthwith to take possession of said arms and equipments and other military property belonging to the state, which shall have been issued to said company, and to cause the same to be deposited in one of the state arsenals, and in case of the neglect or refusal of the officers of said company, on demand, to re-deliver said property or any part thereof, it shall be the duty of the acting quartermaster general to cause an action of replevin, in his name, to be commenced against such officer or person having possession of the same for the recovery of said arms, equipments, or other military property.

Governor to organize militia.

SEC. 24. The governor is authorized, with advice of the council, to organize and arrange the militia of this state into divisions, brigades, regiments, battalions, and companies, conformably to the laws of the United States, and make such alterations therein as from time to time may be necessary. Each division, brigade, and regiment, shall be numbered at the formation thereof, and a record made of such numbering in the adjutant general's office. Every new division, brigade, and regiment, shall be designated by the number next higher than that of the division established next before it, and the divisions, brigades, and regiments, shall take rank according to their numbers, the first being highest in rank. The governor, with advice of the council, may organize independent battalions of infantry with a battalion staff, where the local situation of the troops is such that they cannot be conveniently connected with a regiment.

Proceedings.

Brigadier general on application of a majority of the independent companies may discharge an officer and reduce him to the ranks.

SEC. 25. Each brigadier general within his own brigade, upon application of a majority of the members of any company of cavalry, artillery, light infantry, or riflemen, expressed by their vote at any regular meeting, and such application being communicated by the commanding officer of such company, may discharge any non-commissioned officer or private from any of the

aforesaid companies; and such non-commissioned officer or private shall forthwith be enrolled in the ununiformed militia within the bounds of which he resides; and every non-commissioned officer so discharged shall be considered as reduced to the ranks.

SEC. 26. Every commanding officer of a company may enlist as musicians for his company, not exceeding two drummers and two fifers, or one fifer and one bugler, for and during the term of five years, unless sooner discharged by removal to such distance from the said company as to render it inconvenient for the said musician to perform the duties required of him, or by reason of some other good and legal excuse. Any musician so enlisted, who after having been duly notified and warned shall refuse to perform his duty as a musician at any legal meeting of said company, shall forfeit and pay for every such offence the same sum as would be forfeited by any non-commissioned officer or private for non-appearance at any such meeting; and in case of removal or discharge of any such musician, the said commanding officer may from time to time enlist other musicians to fill such vacancy.

Captains may enlist musicians not exceeding four.

SEC. 27. Each colonel of a regiment may raise by voluntary enlistment, and organize within his regiment, and for the use thereof, a band of musicians not to exceed twenty in number, including one master and one deputy master, and may grant to the master, deputy master, and members, warrants as such; and such band shall be under the direction of the commanding officer of the regiment; and when the regiment shall be encamped, the commanding officer thereof shall order on duty his regimental band for the time that the troops are to remain in camp, and when on duty all regimental bands and other music shall be under the direction of the drum major, subject to the order of the senior officer in command.

Colonel may enlist a band not exceeding twenty.

Proceedings.

SEC. 28. When any regimental band or company of music shall be ordered on duty as is prescribed in section twenty-seven, there shall be paid to each musician the sum of two dollars for each day's service performed by them, by the acting quartermaster general.

Quartermaster general to pay them when regiment is encamped.

ROSTERS, ROLLS AND RETURNS.

SEC. 29. The aid-de-camp to each major general by him appointed to be orderly officer, the aid-de-camp of each brigade, and the adjutant of each regiment, battalion, or corps, shall constantly keep a correct roster of the division, brigade, regiment, battalion, or corps to which they respectively belong, and an orderly book, and record therein all orders and other official communications received or issued by their respective commanding officers, and copy, distribute and transmit, all such orders and other papers, as they may be directed by said officers, and attend them while on military duty.

Rosters to be kept by aids and adjutants, orders recorded and distributed.

SEC. 30. The adjutant general shall record an abstract of the returns made to him in a book to be kept for the purpose. The brigade inspectors shall make the annual returns of their inspection of their respective brigades to the adjutant general, and

Adjutant general to record abstracts of returns made by brigade inspectors.

CHAP. 10.

Penalty for neglect to make return by captain.

transmit abstracts thereof to the major generals of their divisions, on or before the last day of November annually.

SEC. 31. If any captain or commanding officer shall refuse or neglect to make the return of the state of his company as required by this chapter, and continues to neglect or refuse to make such return for fifteen days after being notified by the adjutant general that such return has not been received, he shall forfeit and pay a fine of ten dollars, one half thereof to the use of the state, and the remainder to the adjutant, who shall be required to collect said fine by an action of debt in any court proper to try the same.

Adjutant general to transmit abstract of returns to governor and to president, on January 1.

SEC. 32. The adjutant general shall form and sign correct abstracts of all the returns as before herein required, and transmit one of them to the commander-in-chief, and one to the President of the United States, on or before the first day of January annually.

Equipments exempt from attachment.

SEC. 33. The arms, ammunition, accoutrements and uniform of every officer, non-commissioned officer, and private, and the uniform and musical instruments of the musicians of such companies, shall be exempted from attachment, execution, or distress.

Officers and soldiers exempted from arrest.

SEC. 34. No officer, non-commissioned officer, or private, shall be arrested on any civil process during his going unto, returning from, or his performance of military duty, nor during his going unto, remaining at, or returning from any place, at which he may be ordered to meet for the election of any officer or officers. And no officer shall be arrested in any civil process while going to, serving upon, or returning from, any court martial, court of inquiry, or board of officers, upon which it may be the duty of such officer to attend.

Governor to erect gun houses, repair them, and carriages.

SEC. 35. The commander-in-chief is hereby authorized to cause all necessary repairs to be made upon all the carriages and apparatus of the artillery, and all the gun houses belonging to the state; and also to cause gun houses to be erected for the safe keeping of the public property as aforesaid, where such have not been erected; good and sufficient deeds of land therefor being first given free of expense to the state.

OFFICERS, APPOINTMENT, ELECTION, AND QUALIFICATION OF.

Officers, how elected, appointed and commissioned.

SEC. 36. The commissioned officers of the militia named in the laws of the United States shall be chosen and appointed in the manner following:

The major generals shall be chosen by the senate and house of representatives, each having a negative on the other. The secretary of state, as soon as may be after any such election, shall notify the person elected thereof; and if such person shall not signify his acceptance of the office within thirty days after such notice, he shall be considered as declining.

The adjutant general and quartermaster general shall be chosen as provided by the constitution, with the rank of brigadier general, and shall keep their offices at the seat of government.

The division inspectors shall be appointed by the major gen-

erals of their respective divisions with the rank of lieutenant colonel. CHAP. 10.

The aids-de-camp of the major generals shall be appointed by their respective major generals with the rank of major.

The division quartermasters shall be appointed by the major generals of their respective divisions with the rank of major.

The brigadier generals shall be chosen by the written votes of the field officers of their respective brigades.

The brigade majors shall be appointed by their respective brigadier generals with the rank of major.

The aids-de-camp of the brigadier generals and quartermasters of brigades shall be appointed by the brigadier generals of their respective brigades with the rank of captain.

The field officers of regiments and battalions shall be chosen by the written votes of the captains and subalterns of their respective regiments and battalions.

The captains and subalterns of companies shall be chosen by the written votes of the members of their respective companies.

The adjutants, the quartermasters and the paymasters of regiments shall be appointed by the colonels of their respective regiments with the rank of lieutenant.

The chaplains, the surgeons and the surgeons' mates of regiments shall be appointed by the colonels of their respective regiments.

The aforementioned officers shall be commissioned by the governor.

SEC. 37. Sergeants and corporals shall be appointed by, and receive their warrants from the captains of their companies.

SEC. 38. In addition to the officers specified in the laws of the United States there shall be the following, who shall receive commissions from the governor, viz.:

Aids-de-camp to the commander-in-chief, not to exceed four in number, with the rank of lieutenant colonel to be appointed by the governor.

One or more hospital surgeons to be appointed by the governor; and said surgeons, while in actual service, shall be at the head of the medical department within the district, assigned them by the commander-in-chief with advice of the council.

A division advocate for each division to be appointed by the commander-in-chief.

An adjutant and quartermaster to each battalion of artillery and cavalry to be appointed by the commanding officers of their respective battalions with the rank of lieutenant.

And the following non-commissioned officers, viz.:

To each regiment a quartermaster sergeant and a sergeant major, a drum and fife major, master, deputy master of musicians of the regimental bands, to be appointed by the colonels of their respective regiments, who shall grant them warrants accordingly.

A quartermaster sergeant to each separate battalion of artillery and cavalry to be appointed by the commanding officers of their respective battalions, who shall grant them warrants accordingly.

SEC. 39. To each company of cavalry, artillery, light infantry,

Sergeants and corporals appointed by captains.
Officers not required by laws of United States, how appointed.

CHAP. 10.

Officers of companies, their number, rank and appointment.

Major general to cause vacancies to be filled.

Elections, how made.

Rank and commission of officers.

Loss of commission supplied.

Rank determined by lot when not otherwise.

Officers to be sworn.

infantry, or riflemen, there shall be one captain, one first, one second, one third, and one fourth lieutenant, five sergeants, four corporals, two fifers and two drummers, and to each company of artillery there shall be three drivers, and to each company of cavalry one saddler, one farrier, and one or more trumpeters, who shall be respectively chosen or appointed as provided in the thirty-sixth section.

SEC. 40. Each major general is authorized and it shall be his duty, from time to time, to give all such orders as may be necessary for filling by election any vacancy of brigadier general, field officer, captain or subaltern, existing within his division. Previously to any such election, except in the organization of companies of ununiformed militia called into actual service under section four, the electors shall have ten days notice thereof at least, and no election for the choice of brigadier general or field officer shall be valid until a majority of all the electors, qualified by law to vote in such choice, counting all the existing vacancies in the offices of such electors, shall be present at such election. Every person, who shall have been elected to any office as aforesaid and shall not within one hour after he shall be declared so elected signify his acceptance to the presiding officer thereof in person or in writing, shall be considered as declining to serve, and a new election shall be had.

SEC. 41. The commission of every officer shall designate the division, brigade, regiment, or battalion, and the corps in which he shall be commissioned and the day of his election or appointment; and he shall take rank from that day;—and whenever an officer is transferred from one corps or station to another in the same grade, the day of the date of his original appointment or election shall be expressed in his new commission, and that day be considered the date of his commission.

SEC. 42. When an officer shall by any casualty lose his commission, upon his making affidavit thereof before any justice of the peace of the county wherein he resides, and on filing such affidavit in the office of the adjutant general, he shall be entitled to receive a new commission of the same tenor and date as the one so lost.

SEC. 43. When two or more officers of the same grade are on duty together, and their commissions bear an equal date, and former pretensions of some commission do not decide their rank, then their relative rank with each other shall be determined by lot to be drawn by them before the commanding officer present; and when on a court martial before the president thereof.

SEC. 44. Every officer, duly commissioned, shall, before he enters upon the discharge of the duties of his office, take and subscribe the oaths required by the constitution before some justice of the peace, or before some superior field or general officer, or staff officer of the rank of field officer, who has previously taken and subscribed them himself. And on the back of every military commission the following form of certificate of qualification shall be printed.

"STATE OF MAINE.

CHAP. 10.

"This may certify that ———, commissioned as within, on this ——— day of ———, in the year 18—, personally appeared and took and subscribed the oaths required by the constitution of this state to qualify him to discharge the duties of his office.

Before me, ———, ———."

Form of oath.

SEC. 45. To every company there shall be a clerk, who shall be one of the sergeants, and he shall be appointed by the captain or commanding officer thereof, and on the back of his warrant as sergeant the captain or commanding officer shall in writing certify that he does thereby appoint him to be clerk of the company. And before such clerk enters upon the duties of his clerkship, he shall be sworn to the faithful discharge of his duty by taking the following oath before the captain or commanding officer of the company to which he belongs, who is hereby authorized to administer the same, viz.:

Clerk of company, how appointed and sworn.

"I, A. B., do solemnly swear, that I will faithfully and impartially perform all the duties incumbent on me, as clerk of the company to which I belong, according to the best of my abilities and understanding. So help me God."

Form of oath.

And the captain or commanding officer of the company shall, at the time of administering said oath, certify on the back of the warrant of the sergeant appointed to be clerk, that he was duly qualified by taking the oath required by law.

SEC. 46. The clerk shall keep a fair and exact roll of the company together with the state of the arms and equipments belonging to each man, which roll he shall annually revise on the first Tuesday of May, and correct the same from time to time as the state of the company may require. He shall register all orders and proceedings of the company in the orderly book; keep exact details of all drafts and detachments; distribute all company orders and notifications which he may be required to do; examine the equipments of the men, when ordered; note all delinquencies; sue for and recover all fines and forfeitures which may be required to be sued for in this chapter; and keep accounts in the orderly book of all fines and forfeitures, and all other moneys collected by him, with the persons' names of whom they were collected, and of the times when, and for what offence; which book shall not be alienated from the company, and shall always be open to the inspection of any officer or private of the company.

Clerk's duties.

SEC. 47. In case of the sickness, absence, or other disability of the clerk of any company, the commanding officer thereof may appoint a clerk pro tempore, who shall be duly sworn before he enters on the duties of the office; and shall for the time expressed in his appointment, or until specially discharged, have all the powers, and be subject to all the duties, and liable to all the penalties, of the clerk in whose place he is put.

Clerk pro tempore, appointment and duties.

SEC. 48. In case of such sickness, absence, or other disability, or whenever the office of clerk, in any company shall become

Captain may designate a soldier to per-

CHAP. 10.

form duties of clerk in certain cases.

vacant, and it shall satisfactorily appear to the commanding officer that no person will accept the same, temporarily or permanently as the case may be, he may issue his order in writing to any non-commissioned officer or private in said company requiring him to perform all the duties of the clerk of said company, except keeping the records, until the clerk shall be able to perform the same, or some other person be appointed, for a term not exceeding three months; and if any non-commissioned officer or private so appointed, and who shall not have been within one year previous required to perform the same duties, shall refuse or neglect to perform all or any of the duties of said office during said term, except keeping the records, he shall forfeit and pay not less than ten, nor more than twenty dollars, to be recovered by indictment, or by action on the case, by any person whatever; one-half to the use of the state, and the other half to the use of the prosecutor.

Captain in such cases to keep records.

SEC. 49. In all such cases the records of the company shall be kept by the commanding officer, so long as such vacancy, absence, sickness or other disability shall continue; and the records so kept shall be competent evidence of such orders and temporary appointments, as well as of all matters of which such records would be evidence if kept by the clerk.

In case of vacancy or absence of superior, next in rank to command.

SEC. 50. When the office of major general, brigadier general, colonel, lieutenant colonel, major commandant, or of captain shall be vacant, or in case of the absence of any such officer, the officer next in grade and in commission in the division, brigade, regiment, battalion or company, on due notice thereof from the proper superior officer, shall exercise the command and perform the duties thereof, until the vacancy shall be supplied.

Company without officers, how to be provided.

SEC. 51. When a company shall have neither commissioned nor non-commissioned officers, the commanding officer of the regiment or battalion, to which such company belongs, shall appoint suitable persons within said company to be non-commissioned officers of the same, and grant them warrants accordingly; one of which non-commissioned officers he shall appoint clerk, and endorse his warrant and administer the oath to him, as directed in the forty-eighth section; and the senior non-commissioned officer of a company, while there are no commissioned officers in office, shall command the same; and all the powers of commanding officer shall be vested in him, until some commissioned officer shall be appointed or chosen and qualified.

Company without commissioned officers for three months, subjected to discipline of an officer appointed by colonel.

SEC. 52. When any company shall have remained without any commissioned officers for the term of three months, the commanding officer of the regiment to which said company belongs shall detail some suitable officer of the staff or of the line not above the rank of lieutenant to train and discipline said company, until some officer shall be elected or appointed by the commander-in-chief, as provided in the second section of the seventh article of the constitution, and commissioned; and such officer so detailed shall have the same power and authority and be subject to the same liabilities, as if he were captain of such company; and he shall keep the records of the company, and

prosecute for all fines and forfeitures, in such manner as he may be authorized and required to do by virtue of section forty-eight; one half of the amount recovered to be to the use of the regiment, and the other half to the use of the officer. The officer so prosecuting shall be a competent witness in the case.

CHAP. 10.

SEC. 53. When the officer so detailed to command such company, or where no officer shall have been detailed, whenever the commanding officer of the regiment to which such company belongs shall in writing order any non-commissioned officer or private to notify the persons liable to do duty in such company to appear for any duty required by law, any non-commissioned officer or private, who shall neglect or refuse to notify such persons to meet at the time and place and for the purposes mentioned in such order as aforesaid, shall forfeit and pay not less than twenty, nor more than one hundred dollars, to be recovered by indictment, or by an action on the case, by any person whatever; one half to the use of the state, and the other half to the prosecutor.

Penalty for neglect of soldier to warn when ordered by such officer or by colonel.

SEC. 54. The adjutant general and quartermaster general shall receive compensation for their services to be allowed by the legislature.

Compensation of adjutant and quartermaster general.

SEC. 55. It shall be incumbent on all officers and non-commissioned officers, whose duties are not herein fully defined, to do and perform all such duties as by law and military principles and usages are attached to their offices respectively; *provided* such duties shall be required of them by their senior and commanding officer.

Officers to perform all other duties attached to their offices.

OFFICERS, HOW DISCHARGED.

SEC. 56. All military officers, who have been or may hereafter be commissioned, shall hold their respective offices for a term not longer than seven years from the date of their commissions, unless re-appointed or re-elected; and the commander-in-chief shall discharge all such officers accordingly, *provided*, that in case of vacancy of major general in any division, the commissions of the brigadier generals in such divisions shall not terminate by the limitation aforesaid, till the office of major general shall be filled. But no officer shall be discharged within the term of five years, otherwise than in pursuance of the sentence of a court martial, except by the commander-in-chief, on request of such officer in writing; by actual removal of residence out of the bounds of his command and to such distance that the major general shall think it inconvenient for him to discharge the duties of his office; by twelve months absence without leave of the commanding officer of his division, or by the legal disbanding of the corps to which he belongs; and whenever any division, brigade, regiment, or battalion shall be divided, and the residence of any staff officer attached thereto shall be without the bounds of the corps in which he was commissioned, such staff officer shall be entitled to an honorable discharge, and shall cease to do duty in such office, after such division is made; and the commanding officer may proceed to fill the vacancy occasioned thereby.

Officers to remain in office for five and not more than seven years; exceptions thereto.

SEC. 57. No officer shall be permitted to resign while under

Officers not to

CHAP. 10.

resign while
under arrest
nor between
May 1, and
November 1.

Resignations
not approved
till books and
property de-
livered.

Penalty for
neglect to de-
liver.

Officer's duties
continued till
certificate of
discharge re-
ceived.

Arrested on
conviction of
crime.

Persons not
eligible to
office.

If elected, not
commissioned
—such in com-
mission may
be removed.

Days on which
no military
duty is to be
required.

arrest; and no resignation of any officer shall be approved, if such resignation be offered between the first day of May and the first day of November, unless the reasons offered by the officer wishing to resign within those days be very urgent.

SEC. 58. No general or field officer shall approve a resignation, until the orderly and other books and property of the state in possession of the resigning officer are taken care of for the use of the corps to which such officer belongs, in order that such books and property may be delivered to his successor.

SEC. 59. If any person, having held an office in the militia, shall, after his discharge or removal from office, neglect or refuse, after demand made upon him by his successor in office, to deliver over to his said successor any property in his possession belonging to the state, said person shall forfeit and pay a sum not less than twenty dollars, nor more than one hundred dollars, to the use of the state, to be recovered by indictment before the court.

SEC. 60. No officer shall be considered as exempted from the duties of his station, except when under arrest, until he shall have been discharged by one of the methods or causes pointed out in section fifty-six, or shall have received a certificate of discharge from the commander-in-chief.

SEC. 61. If any officer shall in due course of law be convicted of any infamous crime, he shall be forthwith put in arrest, and deprived of all military command, until he shall be removed by the governor and council.

SEC. 62. No idiot, lunatic, common drunkard, vagabond, pauper, nor any person convicted of any infamous crime, nor any other than white able bodied male citizens, shall be eligible to any office in the militia; and whenever it shall appear to the commander-in-chief, that any person thus ineligible has received a majority of votes cast at any election of officers, he shall not commission him; but with the advice and consent of the council shall declare said election null and void, and appoint some person to fill the vacancy. And when it shall appear to the commander-in-chief, that any person commissioned as an officer in the militia of this state, has become an idiot, lunatic, common drunkard, or vagabond, he shall, with the advice of the council forthwith remove him from office, and a new election shall be ordered to fill such vacancy.

DISCIPLINE, TRAININGS, REVIEWS, UNIFORM.

SEC. 63. No officer, non-commissioned officer, or private, shall be held to perform any military duty on any day, except on days which are or may be specially prescribed by law, on which the selectmen of the town in which such officer, non-commissioned officer, or private resides, shall appoint a meeting for the election of a representative to the legislature; nor shall there be any military parade on the day pointed out by the constitution of this state for the election of governor and senators; nor on any day which may be appointed for the choice of electors of president and vice president of the United States, or representatives to congress; and it shall not be lawful for any officer to

parade his men on either of said days, unless in case of invasion made, or threatened, or in obedience to the orders of the commander-in-chief, except as provided for in this chapter; and if any officer, contrary to the provisions aforesaid, shall parade his men on either of said days of election, he shall be liable to be tried by a court martial; and shall moreover forfeit a sum not less than fifty, nor more than three hundred dollars, to be sued for and recovered in an action on the case before any court of competent jurisdiction; one moiety thereof to the use of the person who may prosecute for the same, the other to the use of the state.

CHAP. 10.

Penalty.

SEC. 64. If the commanding officer of any company, battalion, regiment, or brigade of the militia of this state shall parade, march, or exercise the same within the distance of fifty rods from any court house of any county, whilst any judicial court shall be in session therein, unless when called out to suppress insurrection, repel invasion, or enforce the laws, he shall, for every such offence, forfeit and pay a fine not less than twenty, nor more than one hundred dollars, to be recovered by indictment, to the use of the state.

No parade or march within fifty rods of a court, under penalty.

SEC. 65. At all regimental and battalion parades the several companies shall form in regiment or battalion, according to the rank of the officers present actually commanding them; and the same rule shall apply in all cases, excepting those in which artillery, cavalry, light infantry, and riflemen may by usage and necessity be detached from the regiments and battalions.

Parades of companies according to rank of captains, exceptions.

SEC. 66. When different corps shall parade, join or do duty together, the senior officer present according to rank, shall command without regard to corps.

Senior officer present to command.

SEC. 67. When a company destitute of commissioned officers shall parade with other troops, the commanding officer present shall assign some commissioned officer or officers to such destitute company to command the same while on parade.

Officer, to be assigned to company destitute.

SEC. 68. Every commanding officer when on duty is hereby authorized to ascertain and fix necessary bounds and limits to his parade (not including any road on which people travel so as to prevent their passing) within which no spectator shall have a right to enter without leave from such commanding officer, and in case any person shall intrude within the limits of the parade after being once forbidden he may be confined under guard during the time of parade or a shorter time, at the discretion of the commanding officer; and any person who shall resist any sentry who attempts to put him out of such limits, or keep him out of the same, may be arrested by order of such commanding officer and carried before some court or magistrate to be examined or tried for such assault or disturbance and breach of the peace upon complaint thereof.

Officer commanding may fix limits of parade ground, arrest transgressors.

SEC. 69. Encampments or camps of instruction in bodies of not less than one regiment may be ordered by the major general of each division, to take place between the middle of July and the middle of October, and at points convenient to the troops ordered to be encamped; and in all cases of ordering of such

Major general may order camps of instruction.

CHAP. 10.

Governor may order them beyond limits of division.

encampments or camps of instruction reasonable compensation for transportation of arms and equipage shall be paid by the acting quartermaster general, the accounts having first been audited and allowed by the governor and council.

SEC. 70. The commander-in-chief may designate any body of troops beyond the limits of the division which may have been ordered into encampment as provided for in the preceding section, to attend such encampment and perform duty therein subject to the order of the commanding officer of said encampment; and when the troops thus designated shall do duty as aforesaid, compensation for transportation of arms and equipage shall be allowed as is before provided for.

Exercise of troops when encamped.

SEC. 71. Troops so encamped shall be carefully and thoroughly exercised in the whole routine of camp and field duty according to the tactics prescribed from time to time, as shall be ordered by the officers in chief command; and the troops shall also be inspected by the brigade major and inspector, whose duty it shall be to attend such encampments, and shall be reviewed and manœuvred in company and battalion by the commanders of brigades if in regiments, and by the major general if in brigades, in presence of such general and other officers as may be present.

Encampment notified thirty days. Service two days.

SEC. 72. The notice for such encampment shall be issued at least thirty days before the time appointed for the same; and said troops, whenever thus ordered out, shall continue to perform duty for at least two days, unless sooner discharged by the senior officer in command.

Booths and sheds may be removed by municipal officers on complaint.

SEC. 73. The mayor and aldermen of any city, or the selectmen of any town upon complaint made to them under oath, that the complainant has reason to believe that any booth, shed, or other temporary erection, situated within one mile of any muster field, is used and occupied for the sale of spirituous or fermented liquors, or for the purpose of gaming for money, or other property, may, if they consider the complaint well founded, order the owner or occupant thereof to vacate and close the same immediately; and if the owner or occupant shall refuse or neglect so to do, the said mayor and aldermen or selectmen may forthwith abate such booth, shed, or other temporary erection as a nuisance, and pull down or otherwise destroy the same in any manner they may choose, or through the agency of any force, civil or military, which they may see fit to employ.

Soldiers may be arrested for misconduct and fined.

SEC. 74. Any non-commissioned officer or private, who shall, while under arms or when on duty, behave himself with contempt to an officer, or shall conduct in a disorderly manner, or excite or join in any tumult or riot, or be guilty of any other unmilitary conduct, may be put under guard, and so kept for a longer or shorter time at the discretion of the commanding officer of the company, not beyond the time when the company to which he belongs is dismissed; and shall moreover forfeit a sum not less than five nor more than twenty dollars for each offence according to the degree and aggravation thereof.

System of dis-

SEC. 75. The system of discipline and field exercise which is

ordered to be observed by the regular army of the United States in the different corps of cavalry, artillery, light infantry, and riflemen, or such other system as may at any time hereafter be directed for the volunteers and militia by the laws of the United States, shall be observed by the companies raised at large in this state, and by the ununiformed militia when called into actual service, in the discipline and exercise of said corps respectively.

CHAP. 10.
discipline and exercise of the United States to be observed.

SEC. 76. Every commanding officer of a company raised at large shall parade his company on the second Wednesday in May, annually, at one o'clock in the afternoon, for the purpose of inspecting, examining and taking account of all equipments of his men, in order that a thorough inspection may be made of all volunteer companies in the state. Every commanding officer of a company shall exercise and discipline as well as inspect his company on said day. Every commanding officer as aforesaid shall, in addition thereto, parade his company for exercise and discipline on two other days, at the hour aforesaid, by his own order.

Parade of each company for inspection second Monday of May.

SEC. 77. No private shall be compelled to perform any other military duty in one year than is herein provided, except in time of war or public danger, and for choice of officers, nor after sunset. But on the approach of any public danger, when, in the opinion of the commander-in-chief, any of the exigencies are likely to happen upon which the militia could, by the constitution of the United States, be called into actual service, he shall have power to order such other and further training and disciplining of the militia, or any part thereof, as he may deem necessary.

No military duty, not required by law, to be exacted, except in times of public danger.

SEC. 78. The commander-in-chief may prescribe a style of uniform which shall be the state uniform, and shall be worn by the volunteers when on duty at the annual or other reviews, when so ordered by the brigadier or major general; *provided, however*, that all volunteer companies which have heretofore adopted a different uniform may for the present, and until otherwise ordered by the commander-in-chief, be permitted to appear in their present uniform.

Governor may prescribe uniform.

SEC. 79. Whenever the commander-in-chief shall direct any corps to perform escort duties, the commanding officer of such corps shall present his account for necessary music to the quartermaster general, by whom the same shall be audited and paid.

Escort duties.

SEC. 80. The commander-in-chief, whenever in his opinion it shall be necessary, may call boards of officers for settling military questions, or for other purposes relative to good order and discipline.

Boards of officers may be called.

NOTIFICATIONS, EXCUSES, BY-LAWS AND REGULATIONS.

SEC. 81. When the commanding officer of a company shall order out his company for inspection or training, or for any battalion, regimental, brigade, or division inspection or review, he shall issue orders to some one or more of the non-commissioned officers or privates of his company, requiring him or them to notify the men belonging to his company to appear at the time and place appointed; and it shall be the duty of the non-com-

Company trainings, how warned.

CHAP. 10.

missioned officer or officers, private or privates, so ordered as aforesaid, to give notice of the time and place appointed for the parade of said company, to each and every man he or they shall have been ordered to notify, either verbally, or by delivering to each man in person, or by leaving at his usual place of abode, a written or printed order; but no private shall be obliged thus to notify more than once in the same year.

Notice four days; for elections, ten days.

SEC. 82. No notice shall be legal for any company inspection or training, or for any battalion, regimental, brigade, or division inspection or review, unless the same shall be given four days at least previous to the time appointed therefor; and ten days previous notice shall be given, if the meeting be ordered for the election of officers. *Provided, always,* that in case of invasion, insurrection, or other emergency, any notice, however short, shall be legal and binding. And whenever any company shall be paraded, the commanding officer thereof may verbally notify the men so paraded, to appear on some future day, not exceeding thirty days from the time of such notification, for any military duty required by law, and such notice shall be legal as it respects the men present.

Soldiers receiving orders, to warn company.

SEC. 83. When any non-commissioned officer or private in any company shall receive orders from the commanding officer of such company to notify and warn such company, or any part thereof, to meet for the purpose of choosing any officer or officers, it shall be the duty of such non-commissioned officer or private to give every person he is so ordered to warn, verbal notice, or to leave him a written or printed notification, at his usual place of abode, specifying the time, place and purpose of said meeting.

All excuses must be made within twenty days. Officers to inform clerks of excuses accepted.

SEC. 84. All excuses for non-appearance of non-commissioned officers and privates must be made within twenty days after any training, view of arms, or other military duty, to the commanding officers of their respective companies; and on the delinquent's producing, or causing to be produced, satisfactory evidence of his inability to appear, his commanding officer may excuse him; but all commanding officers of companies are hereby forbidden from receiving any excuse for non-appearance, under any pretence whatever, after the expiration of the twenty days allowed. Any such non-commissioned officer or private, who shall neglect to give, or cause to be given, to his commanding officer such satisfactory evidence of his inability to appear, provided he is not prevented therefrom by severe sickness or other inevitable accident, within the said twenty days, shall forfeit and pay the penalty by law provided for such non-appearance. And if a warrant be issued to an individual who may have held a commission in this state, or any other of the United States, which may not be within the knowledge of the commanding officer of the company in which he is so warned, it shall be his duty to give notice thereof in manner above provided, or such commission shall not exempt him from such fine as would otherwise be imposed upon him for non-appearance. All commanding officers of companies shall inform, or cause their clerks to be informed,

of all excuses for non-appearances which they may allow as good and sufficient. CHAP. 10.

SEC. 85. Every company of the uniformed militia may by their by-laws provide for the payment of such fines and penalties, not inconsistent with the provisions of this chapter or of the laws of the state, for non-appearance at any company trainings and drills, for deficiency in arms and equipments, for neglect of any duty required by law, for disobedience of orders, or disorderly behavior when on duty, as the good of the service shall require. If such by-laws are submitted to, and approved by the commander-in-chief, the fines and penalties thereby imposed may be sued for and recovered in an action of debt, or any other proper action, by the clerk of the company.

Company may by by-laws prescribe penalties for non-appearance and defects of equipment.

SEC. 86. When the militia shall be called into actual service, the commander-in-chief may prescribe such rules and regulations as the good of the same shall require, to be enforced by suitable fines and penalties to be prescribed by him, and enforced and collected in such manner as he may order.

Governor may prescribe rules for active service.

COMPENSATION.

SEC. 87. The following shall be the annual allowance to be paid by the acting quartermaster general to the officers named in this chapter for all services, they may render in the official discharge of their duties respectively:

Compensation of certain officers.

To the aid-de-camp acting as orderly officer to the major general of each division twenty dollars;

To the brigade inspector of each brigade twenty-five dollars;

To the aid-de-camp of each brigadier general twenty dollars;

To the adjutant of each regiment twenty-five dollars;

To the adjutant of each battalion of cavalry or artillery ten dollars;

To the clerk of each company ten dollars;

if said officers shall promptly and faithfully perform the duties belonging to them respectively; *and provided, also*, that the said service shall be duly certified by the proper officers.

RIOTS, &c.

SEC. 88. Whenever there shall be in any place within this state any tumult, riot, mob, or any body of men acting together by force with intent to commit any felony, or to offer violence to persons or property, or by force and violence to break and resist the laws of the state, and the fact be made to appear to the commander-in-chief, he may issue his order to any commanding officer of any division, brigade, regiment, battalion, or corps, to order his command or any part thereof, (describing the kind and number of troops,) to appear at a time and place therein specified to aid civil authority in suppressing such violence and supporting the laws.

Governor may order militia out to support the laws.

SEC. 89. Whenever any such tumult, riot, or mob, shall be threatened, and the fact be made to appear, then the commander-in-chief may issue his order directed to any commanding officer

Same.

CHAP. 10.

as aforesaid to order his command, or any part thereof, (describing the kind and number of troops) to appear at a time and place specified therein to aid the civil authorities in preventing and suppressing such violence and in supporting the laws.

Same, and penalties prescribed.

SEC. 90. The officer to whom the order of the commander-in-chief shall be directed shall forthwith order the troops therein mentioned to parade at the time and place appointed, and if he shall neglect or refuse to obey an order issued in pursuance thereof, he shall be cashiered, and be further punished by fine or imprisonment not exceeding six months, as a court martial may sentence. And any non-commissioned officer or soldier, who shall neglect or refuse to appear at the place of parade to obey an order issued in such case, or any person who shall advise or endeavor to persuade any officer or soldier to refuse or neglect to appear at such place or to obey such order, shall be punished by a fine of fifty dollars to be recovered by indictment to the use of the state, or by an action on the case by any person, one-half of the sum recovered in such case, to accrue to the use of the state, and the other half to the use of the prosecutor.

Troops to assemble and obey orders.

SEC. 91. Such troops shall appear at the time and place appointed, armed and equipped, and with ammunition, as for inspection of arms, and shall obey and execute such orders as they may then and there receive according to law.

Towns to furnish provisions and quarters.

SEC. 92. The city or town, in which such riot, tumult, or mob shall occur or be threatened, shall cause suitable provisions, quarters, and ammunition, to be furnished to such troops as may be called out pursuant to the foregoing section, and the expenditures therefor shall be reimbursed by the state.

Compensation when so called out.

SEC. 93. There shall be paid out of the moneys of the state to each person, who shall perform the duties required of him by the ninety-first section of this act, the following sums, to wit: to each commissioned officer, three dollars per day, and to each non-commissioned officer, musician, and private, one dollar and fifty cents per day for each day's service so performed by him, from the time he may be ordered out until he shall be legally discharged from duty by the proper officer.

COURTS MARTIAL.

Courts martial to consist of three members.

SEC. 94. All courts martial shall consist of three members to be detailed in the manner hereinafter directed.

Proceedings.

One of the members of each court shall be designated in the order, under which they shall act, as the president thereof, and in case of his absence at the trial of any cause within their jurisdiction, the senior officer of such court, who shall be present, shall officiate as president pro tempore.

Any two members of said court shall constitute a quorum for the trial of all causes coming before them in the manner hereinafter provided.

Any one member of said court may, and it shall be his duty to adjourn the proceedings thereof from time to time, as to him may appear just in the absence of the other members.

President ap-

SEC. 95. When any such court shall be in session, the presi-

dent thereof shall appoint a marshal, whose duty it shall be to preserve order therein, and with the concurrence of either of the associate members he may also appoint a warrant officer to attend upon the same.

CHAP. 10.

points marshal, duties.

SEC. 96. When the commander-in-chief shall deem it necessary to assemble any court martial for the trial of any officer, it shall be lawful for him to appoint the president and members thereof from any division or divisions of the militia, which the circumstances of the case and the ends of justice may in his opinion require.

Governor may appoint president and members when called by him.

SEC. 97. Summary inquiry may be made into the truth and circumstances of any matter contained in any complaint or allegation against the conduct of any officer or corps of the militia by an officer specially appointed for that purpose by the commander-in-chief; and it shall be the duty of any officer appointed to make such inquiry, to report the result of his inquiry and investigation, as soon as may be after he shall have completed the same, to the adjutant general's office; the officer making and reporting such summary inquiry shall file his account for such services in the adjutant general's office to be presented to the legislature for allowance.

He may make summary inquiry by an officer, who is to report.

SEC. 98. There shall be appointed and commissioned by the governor a division advocate for the militia, of suitable learning in the law, for each division, with the rank of major, to continue in office for the term of five years, whose duty shall be as follows:

Division advocates appointed by governor for five years, their duties.

To reduce to proper form the charges and specifications of charges contained in every written complaint of any person aggrieved, or of any commissioned officer, which may be lodged with him against any military officer within his division, upon any alleged offence by such officer committed and cognizable by the court martial within his division, and transmit the same to the adjutant general within fifteen days for the consideration of the commander-in-chief.

SEC. 99. When a court martial is ordered by the commander-in-chief for the trial of any officer on charges and specifications of charges preferred against him, the division advocate shall prosecute the same; and in all cases the division advocate shall be furnished by the adjutant general, forty days at least before the time of trial, with a copy of the general order convening the court, and of the charges and specifications preferred, and cause the respondent to be served with a copy thereof twenty days at least before the trial.

Copy of order convening court and copy of charges to be furnished.

SEC. 100. The courts martial hereby authorized shall be convened from time to time, according to the appointment and order of the commander-in-chief, for the trial of such officers as are by the provisions of this chapter made amenable to the jurisdiction of said courts.

Governor may order courts martial.

SEC. 101. All persons summoned to testify in any cause ordered for trial, or pending before either of said courts, by virtue of a subpoena issued by the division advocate if for the state, or by any justice of the peace if for the respondent, shall

Witnesses required to attend.

CHAP. 10.

be held to obey such subpoena under the same penalties and liabilities for neglect as are provided in other public prosecutions; all oaths required of persons testifying in said courts may be administered by any member thereof; depositions may be taken and used as in cases pending in courts of common law.

Officers found guilty subject to removal and fines.

SEC. 102. If the respondent shall be found guilty by said court, either upon admission, trial, or default, of any charge preferred against him involving an offence against military law, or the principles of duty and usage attached to his office, the court shall sentence him to be reprimanded in orders, and to pay a fine of not less than ten nor exceeding fifty dollars, together with part or all of the costs of court, or to either, according to the nature of the offence; or to be removed from office with or without the payment of such fine and costs, at the discretion of court; and in addition thereto, if the court think proper, to be disqualified for and incapable of holding any military office under this state for life or for a term of years. And the judgment or sentence of the court shall, as soon as may be, be certified by the president under seal of the court to the commander-in-chief to be promulgated and carried into effect.

Record of proceedings to be kept by division advocates.

SEC. 103. The division advocate shall keep a summary record of the proceedings of each court, from day to day, under the direction of the court.

Copy of record is evidence in courts.

SEC. 104. A copy of the record of any court martial, certified by the president of any such court together with a duly authenticated copy of the order convening said court, shall be sufficient and conclusive evidence to sustain in any court any action commenced for the recovery of any fine, or costs, or part of costs, agreeably to the provisions of the two following sections.

Division advocate to enforce payment of fines.

SEC. 105. In the order of the commander-in-chief promulgating the sentence of any court martial, as herein directed, if such sentence shall include the payment by any officer of any fine and costs, or either, the division advocate of such division shall be directed, and it shall be his duty, to enforce the payment of such fine and costs by an action of debt to be commenced in his own name within thirty days next succeeding such order, unless the same shall be sooner paid to him by such officer.

Actions for recovery of fines, proceedings in them.

SEC. 106. The court before whom such action shall be commenced shall render judgment therein, and issue execution accordingly against the property and body of the defendant, in accordance with the provisions of law, for the amount of such fine and costs including the costs of such action, upon proof that the same has been awarded by the sentence of a court martial in the manner herein provided; and no action for such fine and costs, or either, shall abate in consequence of the death, resignation, removal, or expiration of the term of office of the division advocate who may have commenced the same; but such action may be prosecuted afterwards to final judgment by his successor, and the court before which the same may be pending may order such continuances, and amendments, and notices to the successors as may be necessary, and render such judgment as the rights of the parties may require. The fine and costs which shall be included

in such sentence shall be paid over by the division advocate, when collected, to the treasurer of the state for the use of the state. CHAP. 10.

SEC. 107. The compensation of the officers and witnesses shall be as follows:

Courts martial,
compensation
for members
and witnesses;
and fees of
advocate.

To each member of the court and to the division advocate for each day spent in holding a session of said court two dollars, and for every mile's travel four cents;

In addition to his pay for travel and attendance at the session of the court the division advocate in each case may charge in the pay roll as follows and no more:

For drawing charges and specifications and filing the same three dollars;

For preparing the case for trial three dollars; subpoenas ten cents each; copies of the case for service on the respondent one dollar; recording the case two dollars;

To the marshal two dollars a day;

To the warrant officer attending upon the court one dollar a day.

All witnesses duly summoned and attending any court as aforesaid shall be allowed one dollar a day for attendance, and four cents a mile for travel to and from court; but no witness' fees shall be taxed against the state until he has certified his travel and attendance, and unless summoned by the direction of the division advocate.

A pay roll shall be made up, including all said fees and reasonable expenses for room and stationery, at the close of each session of said courts and certified by the president and division advocate, and filed in the office of the adjutant general; and the same shall be paid out of the treasury of the state to the several persons entitled thereto.

SEC. 108. It shall be the duty of the president of every court held as aforesaid, to prepare compendious reports of all questions of law arising and adjudged in trials had before him, and of the decisions made thereon, stating in substance so much of the evidence as may be necessary for a correct understanding thereof, and deposit the same in the office of the adjutant general.

Presidents to
prepare reports
and deposit
with adjutant
general.

SEC. 109. Every officer to be tried by a court martial shall be put in arrest, so as to be suspended from the exercise of his office, and shall have a copy of the charges exhibited against him and notice of the time and place of trial twenty days at least before his trial is commenced, but the time of such trial shall in all cases be within sixty days from the time of such arrest.

Officers tried to
be arrested and
have copy of
charges.

SEC. 110. If any officer, for the trial of whom a court martial is appointed, shall neglect to appear and make defence, or if appearing shall afterwards withdraw in contempt of court, or being arraigned before a court martial shall from obstinacy or deliberate design stand mute or answer foreign to the purpose, the court may proceed to trial and judgment as if he had regularly pleaded not guilty.

Refusing to
appear or to
answer, trial
to proceed.

CHAP. 10.

Offences, for which officers may be tried, enumerated.

SEC. 111. Every commissioned officer shall be liable to be tried by a court martial for the following offences :

For any unmilitary conduct, neglect of duty, or disobedience of orders, or behaving in an unofficerlike manner when on duty;

For neglect of any of the duties required by this chapter;

For disobedience of orders or any act contrary to the provisions of this chapter;

For willfully oppressing or injuring any under his command;

For setting on foot or joining in any combination to resist or evade the lawful orders of any commissioned officer;

For presuming to exercise any command while under arrest, in which case if convicted he shall be removed from office;

For neglect or refusal as commanding officer to call out his company at the times required in this chapter, or by any other law, or at any other time when lawfully required thereto by his superior officer;

For excusing any under his command for unnecessary absence or deficiency;

For neglect or refusal to make a draft or detachment when legally ordered under the authority of the commander-in-chief;

For parading his men on either of the days of election mentioned in section sixty-six contrary to the provisions thereof;

For neglecting or refusing after receiving his commission forthwith to take and subscribe the oaths required by the constitution to qualify him to discharge the duties of his office.

Limitation of one year, for time of making charges.

SEC. 112. No officer shall be tried by a court martial for any offence, which shall have been committed more than one year previous to the time when a complaint shall have been made in writing therefor, unless he shall have repeated such offence in two or more successive years; or by reason of having absented himself, or some other manifest impediment, he shall not have been amenable to justice within that period.

Arrests on parade to be made only by written order.

SEC. 113. No arrest on the field for offences committed on parade shall be legal, unless made by the commanding officer present in writing; and unless such commanding officer shall within fifteen days exhibit to the competent authority his complaint in writing setting forth the cause of arrest.

PROCEEDINGS ON DRAFTS FOR ACTUAL SERVICE.

Proceedings on drafts, person drafted must appear, procure substitute or pay fifty dollars.

SEC. 114. When in case of actual or threatened invasion, insurrection, or other public danger or emergency, the militia shall be ordered out or any part thereof shall be ordered to be detached or drafted by the commander-in-chief, any person who shall be ordered out, detached, or drafted in pursuance of and obedience to such orders, and shall not within twenty-four hours after he shall be notified thereof pay a fine of fifty dollars to the commanding officer of the company to which he belongs or procure an able-bodied man in his stead, such person on being ordered to march to the place of rendezvous shall be considered as a soldier belonging to the detachment, and be dealt with accordingly.

SEC. 115. All fines paid as aforesaid shall be appropriated to the hire of men to complete the detachment.

CHAP. 10.

SEC. 116. The officers of any detachment ordered to be made as aforesaid shall be regularly detailed from the rosters; and the non-commissioned officers and privates by lot from the company rolls.

Appropriation of fines.
Officers to be detailed; privates by lot.

SEC. 117. When any company shall not be organized, the officer commanding the brigade or regiment shall, either by himself or some officer under him, proceed to make and complete the detachment from such unorganized company.

Company without officers, drafts how made.

SEC. 118. When the militia or any part thereof, after having been ordered out or detached as aforesaid, shall be ordered to march for the service of the state, each non-commissioned officer and private so ordered to march shall provide and take with him three days' provisions if so ordered.

Soldiers ordered to march, take provisions for three days.

SEC. 119. The selectmen of every town and aldermen of every city and the assessors of every plantation, to which the men detached as aforesaid and ordered to march for the service of the state belong, shall provide and cause carriages to attend them with further supplies of provisions, and also the necessary camp equipage and camp utensils, until notice shall be given them by the commanding officer of the detachment to desist; and the selectmen, aldermen, and assessors shall present their account for supplies to the legislature for allowance.

Municipal officers of towns to provide further.

SEC. 120. When the selectmen of any town, aldermen of any city, or assessors of any plantation, from which a detachment or part thereof as aforesaid shall march, being notified by the commanding officer of such detachment or part thereof belonging to such town, city, or plantation, shall neglect or refuse to furnish the necessary supplies, camp equipage, and camp utensils, the town, city, or plantation to which the selectmen, aldermen, or assessors neglecting or refusing as aforesaid belong, shall forfeit not less than two hundred nor more than five hundred dollars, to be sued for and recovered by any person, who may prosecute for the same in an action on the case in any court of competent jurisdiction; one moiety to the prosecutor and the other to the use of the state.

Penalty for neglect of towns to do so.

SEC. 121. The officer by whom or to whose order any camp equipage or camp utensils shall be delivered shall be accountable for the same, unless injured or lost by some accident not in his power to prevent.

Officer to be accountable for camp equipage.

SEC. 122. When any draft or detachment shall be made from any company of cavalry for actual service, the men drafted or detached shall march with their own horses; and before they march if there be time the horses shall be appraised by three impartial men to be appointed by the commanding officer of the brigade to which the company belongs from which the draft or detachment is made.

Horses of cavalry to be appraised before marching.

SEC. 123. When any officer neglecting or refusing to make a draft or detachment when ordered as aforesaid shall be arrested, the officer next in command shall be ordered to make the draft or detachment.

Senior officer neglecting, junior to make draft.

CHAP. 10.

Provision to be made, when killed or wounded, by the state.

SEC. 124. If any non-commissioned officer or private shall be killed or die of wounds received when on military duty required by this act, his widow, child, or children shall receive from the legislature such relief as shall be just and reasonable. And if any officer, non-commissioned officer, or private shall be wounded or otherwise disabled when on such duty, he shall receive from the state just and reasonable relief.

RULES AND ARTICLES FOR GOVERNING THE TROOPS STATIONED IN FORTS AND GARRISONS WITHIN THIS STATE; AND ALSO THE MILITIA, OR ANY PART THEREOF, WHEN CALLED INTO ACTUAL SERVICE.

Rules, and penalties for violation thereof. 1834, c. 121, § 53. R. S., c. 16, § 125.

Attendance on divine worship. Behavior.

SEC. 125. The following rules and articles are hereby established and declared to be in force for governing all troops stationed in forts and garrisons within this state; and also the militia or any part thereof when called into actual service, viz.:

I. All officers and soldiers shall diligently attend divine service; all officers and soldiers who shall unnecessarily absent themselves from, or behave indecently or irreverently at any place of divine worship, shall, if commissioned officers, be brought before a general court martial there to be publicly reprimanded by the president; if non-commissioned officers or soldiers, every person so offending shall for the first offence forfeit twenty cents to be deducted out of his next pay; for the second offence he shall not only forfeit a like sum but be confined twenty-four hours; and for every like offence shall suffer and pay in like manner; which money so forfeited shall be applied to the use of the sick soldiers of the troop or company to which the offender belongs.

Profanity.

II. Any non-commissioned officer or soldier who shall use any profane oath or execration shall incur the penalties expressed in the foregoing article, and if a commissioned officer be thus guilty of profane cursing or swearing he shall forfeit and pay for each and every such offence sixty-seven cents.

Seditious or disrespectful words.

III. Any officer or soldier who shall presume to use traitorous or disrespectful words against the authority of the United States in congress assembled, or the legislature of this state, if a commissioned officer he shall be cashiered; if a non-commissioned officer or soldier he shall suffer such punishment as shall be inflicted upon him by the sentence of a court martial.

Disrespect to superiors.

IV. Any officer or soldier, who shall behave himself with contempt or disrespect towards the commander-in-chief or any general or commanding officer of the troops or militia of this state, or shall speak any words tending to his hurt or dishonor, shall be punished according to the nature of his offence by the judgment of a court martial.

Exciting mutiny.

V. Any officer or soldier, who shall begin, excite, or join in any mutiny or sedition in the troop, company, or regiment to which he belongs, or in any other troop or company in the service of the state, or in any party, post, detachment, or guard, on any pretence whatsoever, shall suffer such punishment as by a court martial shall be inflicted.

VI. Any officer, non-commissioned officer, or soldier, who being present at any mutiny or sedition doth not use his utmost endeavors to suppress the same, or coming to the knowledge of any intended mutiny doth not without delay give information thereof to his commanding officer, shall be punished by sentence of a court martial according to the nature of his offence.

CHAP. 10.

Not endeavoring to suppress mutiny.

VII. Any officer or soldier who shall strike his superior officer or draw or lift up any weapon or offer any violence against him, being in the execution of his office, on any pretence whatsoever, or shall disobey any lawful commands of his superior officer, shall suffer such punishment as shall, according to the nature of his offence, be inflicted upon him by the sentence of a court martial.

Assaulting superior officer, or disobedience of orders.

VIII. Any non-commissioned officer or soldier, who shall desert, or without leave from his commanding officer absent himself from the troop or company to which he belongs or from any detachment of the same, shall upon conviction thereof suffer death, or such other punishment as shall be inflicted by the sentence of a general court martial.

Desertion.

IX. Any officer or soldier, who shall be convicted of having advised or persuaded any other officer or soldier to desert, shall suffer such punishment as shall be inflicted by the sentence of a court martial.

Aiding deserters.

X. No officer or soldier shall use any reproachful or provoking speeches or gestures to another; nor shall any officer or soldier presume to send a challenge to any person to fight a duel, upon pain, if a commissioned officer, of being cashiered; if a non-commissioned officer or soldier, of suffering punishment at the discretion of a court martial.

Challenges forbidden.

XI. If any commissioned or non-commissioned officer commanding a guard shall knowingly and willingly suffer any person whatsoever to go forth to fight a duel, he shall be punished as a challenger; and likewise all seconds, promoters, and carriers of challenges in order to duels shall be deemed as principals and punished accordingly.

Knowingly suffering one to fight.

XII. All officers, of what condition soever, shall have power to part and quell all quarrels, frays, and disorders, though the persons concerned should belong to another regiment, troop, or company; and either to order officers into arrest, or non-commissioned officers or soldiers to prison, until their proper superior officer shall be acquainted therewith; and whosoever shall refuse to obey such officer, though of inferior rank, or shall draw his sword upon him, shall be punished at the discretion of a general court martial.

Officers' duty to quell affrays.

XIII. Any officer or soldier, who shall upbraid another for refusing a challenge, shall be considered a challenger and punished accordingly.

Not upbraid for refusing a challenge.

XIV. Every officer commanding in quarters, garrison, or on a march, shall keep good order and to the utmost of his power redress all such abuses or disorders, as may be committed by any officer or soldier under his command; and if upon complaint made to him of officers or soldiers beating or otherwise ill-treat-

Officers to keep order and redress abuses.

CHAP. 10.

ing any person, or of committing any kind of riots to the disquieting the good citizens of this or either of the United States, he shall refuse or omit to see justice done on the offender or offenders, and reparation made to the party or parties injured, so far as the offender's pay shall enable him or them, he shall upon proof thereof be punished by a general court martial, as if he himself had committed the crimes or disorders complained of.

Officer may complain to commander-in-chief.

XV. If any officer shall think himself to be wronged by his colonel, or the commanding officer of his regiment, and shall upon due application made to him be refused to be redressed, he may complain to the general or commander-in-chief of the forces in service to obtain justice; who shall examine into the complaint and see that justice be done.

Officer inferior, may to colonel. Proceedings.

XVI. If any inferior officer or soldier shall think himself wronged by his captain or other officer commanding the troop or company to which he belongs, he may complain thereof to the commanding officer of the regiment, who shall summon a regimental court martial for the doing justice to the complainant; from which regimental court martial either party, if he feel himself still aggrieved, may appeal to a general court martial. But if upon a second hearing the appeal shall appear to be vexatious and groundless, the person so appealing shall be punished at the discretion of the said general court martial.

Waste of ammunition.

XVII. Any non-commissioned officer or soldier who shall be convicted at a court martial of having sold, or designedly or through neglect, wasted the ammunition delivered out to him to be employed in the service of the state, shall, if a non-commissioned officer, be reduced to a private, and if a soldier shall suffer such punishment as shall be inflicted upon him by a court martial.

Absence without leave.

XVIII. No officer or soldier shall be out of his quarters or camp without leave from his commanding officer upon penalty of being punished according to the nature of his offence by the sentence of a court martial.

Absent from camp one mile.

XIX. All non-commissioned officers and soldiers, who shall be found one mile from the camp without leave in writing from their commanding officer, shall suffer such punishment as shall be inflicted on them by the sentence of a court martial.

Retire to quarters.

XX. Every non-commissioned officer and soldier shall retire to his quarters or tent at the beating of the tattoo, in default of which he shall be punished according to the nature of his offence by the sentence of a court martial.

Repair to place of parade.

XXI. No officer, non-commissioned officer, or soldier, shall fail to repair at the time fixed to the place of parade, or exercise or other rendezvous appointed by his commanding officer, if not prevented by sickness or some other evident necessity; nor shall go from the said place of rendezvous or from the guard without leave from his commanding officer, before he shall be regularly dismissed or relieved; on the penalty of being punished according to the nature of his offence by sentence of a court martial.

Intoxication.

XXII. Any commissioned officer, who shall be found drunk

on his guard party or other duty under arms, shall be cashiered for it; and any non-commissioned officer or soldier so offending shall suffer such punishment as shall be inflicted by the sentence of a court martial.

XXIII. Any sentinel, who shall be found sleeping upon his post, or shall leave it before he shall be regularly relieved, shall suffer such punishment as shall be inflicted by the sentence of a general court martial.

Sleeping on post.

XXIV. Any person belonging to the forces employed in the service of this state, who by discharging fire arms, drawing of swords, beating of drums, or by any other means whatsoever, shall occasion false alarms in camp, garrison, or quarters, shall suffer such punishment as shall be ordered by the sentence of a general court martial.

Making false alarms.

XXV. Any officer or soldier, who shall without urgent necessity or without the leave of his superior officer quit his platoon or division, shall be punished according to the nature of his offence by the sentence of a court martial.

Leaving platoon.

XXVI. No officer or soldier shall do violence or offer any insult or abuse to any person, who shall bring provisions or other necessaries to the camp, garrison or quarters of the forces of this state, on pain of suffering such punishment as a court martial shall direct.

Treatment of persons bringing supplies.

XXVII. Any officer or soldier, who shall abandon any post committed to his charge, or shall speak words inducing others to do the like in time of an engagement shall suffer death or such other punishment as shall be inflicted by the sentence of a general court martial.

Abandonment of post.

XXVIII. Any person belonging to the forces in the service of this state, who shall make known the watch word to any person not entitled to receive it according to the rules and discipline of war, or shall presume to give the parole or watch word different from what he received, shall suffer death or such other punishment as shall be ordered by the sentence of a general court martial.

Revealing watchword.

XXIX. If any person belonging to the forces in the service of this state shall relieve the enemy with money, victuals, or ammunition, or shall knowingly harbor and protect an enemy, he shall suffer such punishment as by the sentence of a court martial shall be inflicted.

Relieving the enemy.

XXX. If any person belonging to the main forces shall be convicted of holding correspondence with or giving intelligence to the enemy, either directly or indirectly, he shall suffer such punishment as by the sentence of a court martial shall be inflicted.

Corresponding with the enemy.

XXXI. All public stores taken from the enemy by the forces in the service of this state shall be secured for the use of the state.

Stores taken from enemy.

XXXII. If any officer or soldier shall leave his post or colors to go in search of plunder, he shall upon conviction thereof before a general court martial suffer such punishment as by the sentence of the said court martial shall be inflicted.

Leaving post for plunder.

XXXIII. If any commander of any garrison, fortress or post

Causing post

CHAP. 10.

to be abandoned.

Sutlers subject to military rules.

Senior officer commands.

Does so without respect to corps.

General courts martial, how constituted.

Rank of members.

Prosecuting officer to be appointed.

Oath of the members.

Oath of prosecutor.

shall be compelled by the officers or soldiers under his command to give up to the enemy or abandon it, the commissioned officers, non-commissioned officers, or soldiers, who shall be convicted of having so offended, shall suffer death or such other punishment as shall be inflicted upon them by the sentence of a court martial.

XXXIV. All sutlers and retailers to the camp, and all persons serving with the troops of the state in the field, shall be subject to orders according to the rules and discipline of war.

XXXV. If upon marches, guards, or in quarters, different corps shall happen to join or do duty together, the eldest officer by commission then on duty or in quarters shall command the whole, and give out orders for what is needful for the service, regard being always had to the several ranks of those corps, and the posts they usually occupy.

XXXVI. If any regiments, troops, or detachment of horse or foot shall happen to march with or be encamped or quartered with any bodies or detachments of other troops, the eldest officer without respect to corps shall take upon him the command of the whole and give the necessary orders to the service.

XXXVII. A general court martial shall not consist of less than seven commissioned officers, and the president of such court martial shall not be the commander-in-chief nor commanding officer of the troops in service or garrison, where the offender shall be tried, nor under the degree of a field officer.

XXXVIII. The members of courts martial shall when belonging to different corps take rank as herein before directed when on other duty.

XXXIX. Some person shall be appointed by the commanding officer, who shall order the court martial, to prosecute in the name of the State of Maine; and in trials of offenders such person shall administer to each member the following oath:

"You swear that you will well and truly try and determine according to your evidence the matter now before you between the State of Maine and the prisoner to be tried; that you will duly administer justice according to the rules and articles for governing the troops of the said state without partiality, favor, or affection; and if any doubt shall arise which is not explained by the said articles, according to your conscience, the best of your understanding, and the custom of war in like cases; that you will not divulge the sentence of the court until it shall be approved of by the commanding officer; and that you will not upon any account at any time whatsoever disclose or discover the vote or opinion of any particular member of the court martial, unless required to give evidence as a witness by a court of justice in a due course of law. So help you God."

Which oath being administered to the members of the court, the president shall administer the following oath to the person prosecuting as aforesaid:

"You A. B. do swear that you will not at any time disclose or discover the vote or opinion of any particular member of the court martial, unless required to give evidence thereof as a wit-

ness by a court of justice in a due course of law. So help you God." CHAP. 10.

XI. All members of a court martial are to behave with calmness and decency; and in the giving their votes are to begin with the youngest in commission. Department of members.

XII. All persons who give evidence before a court martial shall be examined upon oath; which oath shall be administered by the president of the court martial in the following form: Witnesses examined under oath.

"You swear the evidence you shall give in the cause now in hearing shall be the truth, the whole truth, and nothing but the truth. So help you God." Form of oath.

XIII. No sentence of death shall be given against any offender by any general court martial, unless two-thirds of the members shall concur therein. Two-thirds required for sentence of death.

XIV. All persons called to give evidence in any cause before a court martial, who shall refuse to give evidence, shall be punished for such refusal at the discretion of such court martial. Punishment for refusing to testify.

XV. No field officer shall be tried by any person under the degree of a captain; nor shall any proceedings or trials be carried on excepting between the hours of sunrise and sunset. Rank required to try field officer.

XVI. No sentence of a court martial shall be put in execution until after report is made to the commanding officer, where the court martial is held; and his orders are issued for carrying such sentence into execution. Sentence reported to commander.

XVII. The commissioned officers in any regiment may, by the appointment of their colonel or commanding officer, hold regimental courts martial for the inquiring into such disputes or criminal matters as may come before them and for inflicting punishment for small offences; and shall give judgment by the majority of voices; but no sentence shall be executed till the commanding officer, not being a member of the court martial, shall have confirmed the same. Regimental courts martial.

XVIII. No regimental court martial shall consist of less than five officers, excepting in cases where that number cannot be conveniently assembled, when three may be sufficient; who shall likewise determine upon the sentence by a majority of voices. How constituted. Majority to decide.

XIX. Any officer commanding in a fort, castle, barrack, or elsewhere, where the corps under his command consists of detachments from different regiments or of any independent company or companies, may assemble courts martial for the trial of offenders in the same manner as if they were regimental; whose sentence shall not be executed, until it shall be confirmed by the said commanding officer. Commanders of forts and posts may order them.

XX. No person shall use menacing words, signs, or gestures, in the presence of a court martial then sitting, or shall cause any disorder or riot so as to disturb their proceedings, on the penalty of being punished at the discretion of the said court martial. Disturbance of them.

XXI. To the end that offenders may be brought to justice, whenever any officer or soldier shall commit a crime deserving Crimes, those committing to be arrested.

CHAP. 10.

punishment he shall by his commanding officer, if an officer, be put in arrest; if a non-commissioned officer or soldier, be imprisoned until he shall be either tried by a court martial or shall be lawfully discharged by proper authority.

Not detained more than eight days before trial.

LI. No officer or soldier, who shall be put in arrest or imprisonment, shall continue in his confinement more than eight days or until such time as a court martial can be conveniently assembled.

Duty to keep prisoners.

LII. No officer commanding a guard or provost marshal shall refuse to receive or keep any prisoner committed to his charge by any officer belonging to the forces of this state; which officer shall at the time of commitment deliver an account in writing signed by himself of the crime with which the prisoner is charged.

Not to release them. Penalty.

LIII. No officer commanding a guard or provost marshal shall presume to release any prisoner committed to his charge without proper authority for so doing, nor shall he suffer any prisoner to escape on the penalty of being punished for it by the sentence of a court martial.

Report to colonel those imprisoned.

LIV. Every officer or provost marshal to whose charge prisoners shall be committed is hereby required within twenty-four hours after such commitment, or as soon as he shall be released from his guard, to give in writing to the colonel of the regiment to which the prisoner belongs, when the prisoner is confined upon the guard belonging to the said regiment and his offence only relates to the neglect of duty in his own corps or to the commander-in-chief, their names, their crimes, and the names of the officers who committed them, on the penalty of his being punished for disobedience or neglect at the discretion of a court martial.

Officer under arrest, not leave place of confinement.

LV. If any officer under arrest shall leave his confinement, before he shall be set at liberty by the officer who confined him, or by a superior power, he shall be cashiered for such offence.

Officer dismissed from service for disgraceful conduct.

LVI. Any commissioned officer who shall be convicted before a general court martial of behaving in a scandalous, infamous manner, such as is unbecoming the character of any officer and gentleman, shall be discharged from the service.

Those connected with the service governed by its rules.

LVII. All officers, conductors, gunners, matrosses, drivers, or any other person receiving pay or hire in the service of the state artillery, shall be governed by the aforesaid rules and articles, and shall be subject to be tried by courts martial in like manner with other officers and soldiers.

To be tried by those of their own corps.

LVIII. For differences arising amongst themselves, or in matters relating to their own corps, the courts martial may be composed of their own officers; but where a sufficient number cannot be assembled or in matters wherein their corps are interested, the officers of artillery shall sit in courts martial with the officers of other corps.

Sentence of death only in cases named. Fines for use of sick and needy.

LIX. No person shall be sentenced to suffer death except in the cases expressly mentioned in the foregoing articles.

LX. The field officers of each regiment shall appoint some suitable person belonging to such regiment to receive such fines, as may arise within the same for any breach of any of the

foregoing articles, and shall direct the same to be properly applied to the relief of such sick or necessitous soldiers as belong to such regiment; and such persons shall account with such officer for all fines received and the application thereof.

CHAP. 10.

LXI. All crimes, not capital, and all disorders and neglects, which officers and soldiers may be guilty of, to the prejudice of good order and military discipline, though not mentioned in the foregoing articles, are to be taken cognizance of by a general or regimental court martial, according to the nature and degree of the offence, and be punished at their discretion.

Courts martial,
cognizance of
all other of-
fences.

LXII. When any officer or soldier shall be accused of a capital crime, or having used violence or committed any offence against the person or property of the people of this or either of the United States, such as is punishable by the known laws of the land, the commanding officer or officers of every regiment, troop, or party, to which the person or persons so accused shall belong, are hereby required upon application duly made by or in behalf of the party or parties injured, to use his utmost endeavors to deliver over such accused person or persons to the civil magistrate; and likewise to be aiding and assisting the officers of justice in apprehending and securing the person or persons so accused in order to bring them to trial. And if any commanding officer or officers shall willfully neglect or shall refuse upon the application aforesaid to deliver over such accused person or persons to the civil magistrate or to be aiding and assisting the officers of justice in apprehending such person or persons, such officer or officers so offending shall be cashiered.

Those accused
of capital
crimes surren-
dered to civil
authorities.