

MAINE STATE LEGISLATURE

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NINTH REVISION

REVISED STATUTES

OF THE

STATE OF MAINE

1954

FIRST ANNOTATED REVISION

Effective December 31, 1954

IN FIVE VOLUMES

VOLUME 1



THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA

Chapter 14.

The Military Law.

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Cross Reference.—See Const. of Me., Art. VII, re military.

Commander in Chief.

Sec. 1. Commander in chief.—The governor is the constitutional commander in chief of the militia, except of such portions as may be at times in the service of the United States. (R. S. c. 12, § 1.)

See §§ 19-33, re composition of state military forces.

Emergency Powers of Governor.

Sec. 2. Active service national guard or other authorized state military or naval forces.—In case of insurrection, invasion, tumult, riot, mob or body of men acting together by force with intent to commit a felony, or to offer violence to persons or property, or by force and violence to break and resist the laws of this state or the United States, or of imminent danger thereof, or in the event of public disaster resulting from flood, conflagration or tempests, the governor shall have the power to order into the active service of the state or in aid of any civil authority the national guard or other authorized state military or naval forces or any part thereof that he may deem proper. Whenever the national guard of this state or a part thereof is called forth or drafted into federal service under the constitution and laws of the United States, the governor shall, unless the order for the call or draft specifies otherwise, order out for service the national guard or other authorized state military or naval forces or such part thereof as may be required; and if the number available be insufficient he shall order out the unorganized militia or such part as may be necessary. The designation of organizations called or drafted into the service of the United States shall not, during such service, be given to new organizations.

In case of a sudden and unexpected tumult, riot, mob or body of men acting together by force with intent to commit felony or to offer violence to persons or property, or by force and violence to break and resist the laws of the state or the United States, or of imminent danger thereof, a justice of the supreme judicial

court or of the superior court, in term time or vacation, or the sheriff of a county may call for aid upon a commanding officer of the national guard or other authorized state military or naval forces, and such call shall be in writing. The commanding officer upon whom the call is made shall order out in aid of the civil authorities the military or naval force or any part thereof under his command, and shall make an immediate report of the case to the adjutant general and to his immediate commanding officer. He shall receive only general directions from the civil authority requesting the aid, and shall remain strictly responsible to his military superior for the manner in which the troops shall be used to accomplish the desired end.

In the event of an emergency so imminent as to require immediate action the senior officer of a command may, upon request in writing of the mayor of a city or the selection of a town, order out for the defense or protection of the community the forces under his command, or any part thereof, and immediately report his action and the circumstances of the case to the adjutant general and to his immediate commanding officer. (R. S. c. 12, § 2.)

Sec. 3. Active service unorganized militia.—Whenever it shall be necessary to call into active service the unorganized militia, or any part thereof, the governor shall direct his order to the chief municipal officer of any city, town or plantation, who, upon receipt of the same, shall proceed to draft by lot as many of the unorganized militia or accept as many volunteers as are required by the governor, and shall forthwith forward to the adjutant general a list of the persons so drafted or accepted as volunteers. (R. S. c. 12, § 3.)

Sec. 4. Members failing to appear deemed deserters.—Every member of the national guard or other authorized state military or naval forces ordered out, and every member of the unorganized militia who volunteers or who is drafted and notified thereof, under the provisions of the preceding section, who does not appear at the time and place designated by his commanding officer, or the chief municipal officer, within 24 hours from such time, or who does not produce from a physician in good standing a sworn certificate of physical disability to so appear, shall be deemed a deserter and dealt with as prescribed in the uniform code of military justice of the United States. (R. S. c. 12, § 4. 1953, c. 308, § 6.)

Sec. 5. Unorganized militia to be mustered into service.—Whenever any portion of the unorganized militia is called forth under the constitution and laws of the United States or of the state of Maine, the members thereof shall be immediately mustered into the service for such period as the call may prescribe; and whenever any portion of such unorganized militia shall be ordered into the service of the state they shall be mustered into the service for such period as the governor may direct. Such unorganized militia when so ordered into active service shall have, as far as practicable, the same system of organization, equipment, training and discipline as are or may thereafter be prescribed for the national guard or other authorized state military or naval forces. The governor shall have the power to appoint the officers for any new organizations formed out of said unorganized militia. (R. S. c. 12, § 5.)

Sec. 6. Governor may proclaim state of insurrection.—Whenever any portion of the national guard or other authorized state military or naval forces is employed in aid of the civil authority, the governor, if in his judgment the maintenance of law and order will thereby be promoted, may by proclamation declare the county, city, town or plantation in which the troops are serving or any specified portion thereof, to be in a state of insurrection. (R. S. c. 12, § 6.)

Sec. 7. Members of militia not civilly or criminally liable; defense.—No member of the militia ordered into the active service of the state shall be liable civilly or criminally for any act done, or caused, ordered or directed to be

done, by him in furtherance of and while in the performance of his military duty. When an action or proceeding of any nature shall be commenced in any court by any person against any officer or enlisted man of the militia for any act so done, or caused, ordered or directed to be done, all the expenses of the defense of such proceeding or action, civil or criminal, including fees of witnesses for the defense, defendant's court costs, and all costs for transcripts of records and abstract thereof on appeal, shall be paid by the state, out of the military fund; and it shall be the duty of the attorney general, either personally or by one or more assistants, to defend such officer or soldier; provided that where the action or proceeding is criminal the adjutant general shall designate a judge advocate of the national guard or other authorized state military or naval forces to conduct the defense of such member, or if the services of a judge advocate be not available, then he shall select some other competent attorney to conduct such defense, and the judge advocate or other attorney so selected shall receive and be paid out of the military fund a reasonable compensation for his professional services. In any such action or proceeding the defendant may require the person instituting or prosecuting the same to file security for payment of costs that may be awarded the defendant, which costs if recovered in action, the costs whereof have been paid out of the military fund, shall be paid into the state treasury for the benefit of the military fund; and the defendant may, in every such action or proceeding, make a general denial and give the special matter in evidence. (R. S. c. 12, § 7.)

Sec. 8. Power of governor to organize staff.—The governor may create, organize, abolish or reorganize such staff departments as he may deem necessary or appropriate to provide for the national guard or other authorized state military or naval forces, and appoint such staff officers as may be necessary to provide for the operation of such staff departments. (R. S. c. 12, § 8. 1949, c. 326, § 1.)

Staff.

Sec. 9. Staff.—The staff of the commander in chief shall consist of the adjutant general, who shall be ex officio chief of staff, quartermaster general and paymaster general with rank of brigadier general; the senior officer on duty with each of the staff departments; and such aides-de-camp not to exceed 9 in number, one of whom may be a naval aide with rank of captain and one of whom may be an air force aide, as may be appointed by the governor. All staff officers, except in the medical department and chaplains, must be at the time of their appointment commissioned officers of the Maine national guard, or of the Maine state guard, or other authorized state military or naval forces, or of the officers' reserve corps of the army or air force of the United States, or on the retired list of the army or air force of the United States and residents of the state of Maine, on the active or retired list of or above the grade of captain but no staff officer shall be appointed from the retired list who shall have had less than 5 years of service in the Maine national guard, or in the officers' reserve corps of the army of the United States, or in the regular army of the United States the last year of which shall be within 5 years immediately preceding the appointment.

Aides-de-camp, except as hereinafter provided, may be detailed by the commander in chief from commissioned officers of the Maine national guard, or of the Maine state guard, or other authorized state military or naval forces, of the grades above specified, but officers so detailed shall not be relieved thereby from their regular duties except when on duty with the commander in chief. Honorably discharged officers or enlisted personnel who served in the United States army, air force, navy or marine corps during any foreign war, who are not members of the Maine national guard, or of the Maine state guard, or other authorized state military or naval forces, may be appointed by the governor as aides-de-camp with the rank of colonel. The aides-de-camp authorized by this chapter shall be appointed by the governor and, except those detailed from the active list, shall

be commissioned by him and shall serve only during the term of the governor making the appointment; provided that the governor may detail additional aides from the officers of the Maine national guard or of the Maine state guard, or other authorized state military or naval forces, for temporary duty, subject to the provisions of this section. (R. S. c. 12, § 9. 1945, c. 132, § 1. 1947, c. 253, § 1. 1949, c. 326, §§ 2, 3.)

Sec. 10. Duties of staff officers.—Officers of all staff departments shall perform the duties required of them by law, and such others, not inconsistent with the laws of the state, as correspond to those which are now or may hereafter be required, of the corresponding staff departments of the national military establishment. (R. S. c. 12, § 10. 1949, c. 326, § 4.)

Adjutant General.

Sec. 11. Adjutant general, rank, powers and duties; salary; assistant.—The adjutant general of the state shall have the rank of brigadier general, shall be appointed by the governor, and shall be ex officio, chief of staff, quartermaster general and paymaster general of the state. For the purpose of establishing the relation between the national military establishment and the various staff departments of the state, he shall be the chief of said departments; and the requisitions, purchases and issues to be made by the senior officer on duty in certain of said departments, as hereinafter prescribed, shall be made by them pursuant and in obedience to his directions and instructions.

He shall control the military department subordinate only to the governor, and may adopt such methods of administration, not inconsistent with the laws, regulations and customs of the service of the national military establishment, so far as the same may be applicable, as he may deem necessary to render the department efficient.

He shall superintend the preparation of all returns, reports, plans and estimates required of the state by the national military establishment; and, on or before the 30th day of June of each year, shall make a report to the governor of the strength and condition of the militia and of the business transactions of the department, including a detailed statement of expenditure for all military purposes.

He shall be responsible for the care, preservation and repair of all military property belonging or issued to the state for the arming and equipping of the militia; and he shall dispose of all military property of the state found unserviceable after a proper inspection, account for the proceeds, and deposit the same into the state treasury, to the credit of the military fund.

He shall cause to be turned in, in such manner as the national military establishment may require, such ordnance, accoutrements and equipments belonging to the United States and receive in substitution therefor such prescribed regulation ordnance and equipment, as may be necessary to conform to the standard required by the laws and regulations of the United States.

He shall, under the direction of the governor, prepare and submit to the state purchasing agent requisitions for, and make issues of, such military property as is necessary to equip the organizations of the national guard or other state military or naval forces according to the standard that is now or may be hereafter prescribed by the laws and regulations of the United States; he shall approve all issues; but no such property shall be issued, or otherwise disposed of, to persons or organizations other than those of the national guard or other state military or naval forces.

He shall keep a just and true account of all expenses necessarily incurred, including pay, transportation and subsistence of officers and enlisted men of the national guard or of any other authorized state military or naval forces, and of all military property; and shall render annually to the governor a statement in

detail showing the disposition of all clothing, ordnance, arms, ammunition and other military property on hand and issued.

He may sell for cash to officers of the national guard or other authorized state military or naval forces, for their official use, and to organizations of the national guard or other authorized state military or naval forces, any military or naval property which is the property of the state; and he shall, with his annual report, render to the governor a true account of the sales so made, and shall deposit the proceeds of the same in the state treasury to the credit of the military fund.

The adjutant general shall receive an annual salary of \$7,000; he shall receive no other fee, emolument or perquisite.

The adjutant general may appoint, subject to the approval of the governor, an officer, who shall meet the same requirements as officers for appointment to the staff as provided for in section 9, as assistant adjutant general, who shall assist the adjutant general in the performance of his duties, and who shall, whenever the adjutant general is absent or unable from any cause to perform his duties, or whenever a vacancy shall exist in the office of adjutant general, perform the duties of the adjutant general during such absence and disability, and who, in the case of vacancy in the said office, shall be acting adjutant general until such vacancy shall have been filled by the commander in chief, as provided for by law.

Subject to the approval of the governor, the adjutant general may appoint a property officer and a plans and training officer both of whom shall meet the requirements for appointment of staff officers provided in section 9, hold office at the pleasure of the adjutant general and receive salaries to be fixed by the governor and council.

The property officer shall perform such duties relative to the care, preservation and repair of military property belonging or issued to the state as the adjutant general may from time to time direct and shall receipt and account for all property allotted to his custody and make such returns and reports concerning the same as may be required by the adjutant general. He shall give a good and sufficient bond to the state in an amount to be determined by the governor for the faithful performance of his duties and for the safekeeping and proper distribution of all property entrusted to his care.

The plans and training officer shall perform such duties relative to the instruction and training of the national guard or other state military or naval forces as the adjutant general may from time to time direct and he shall make such returns and reports concerning the same as may be required by the adjutant general. (R. S. c. 12, § 12. 1945, c. 363. 1947, c. 388. 1949, c. 326, §§ 6, 7. 1951, c. 161; c. 412, § 2. 1953, c. 308, § 7.)

See Me. Const., Art. 7, § 3, re appointment of property officer; c. 113, § 148; re certificate of adjutant general as evidence; c. 1, § 25, re model of state flag in possession of adjutant general.

Property and Disbursing Officer.

Sec. 12. Property and disbursing officer.—The governor shall designate, subject to the approval of the secretary of the army, an officer of the national guard or other authorized state military or naval forces who shall be regarded as property and disbursing officer for the United States. The property and disbursing officer shall give a bond to the United States, the amount thereof to be determined by the secretary of the army, for the faithful performance of his duties and for the safekeeping and proper disposition of federal property and funds entrusted to his care, and the costs and expenses incurred by entering into such bond shall be paid out of the military fund. (R. S. c. 12, § 13. 1949, c. 326, § 8.)

Sec. 13. Disposal of confiscated ammunition and small arms.—The state police, the department of inland fisheries and game, the sheriff of any county and the police department of any city are empowered to loan, without charge, to the adjutant general's department of the state for the use of the state's military

or naval forces all small arms and ammunition which have been or may be confiscated for violation of law. (R. S. c. 12, § 15.)

Sec. 14. Officer not to be personally interested.—No officer herein authorized to make purchases or sales of military property shall be concerned, directly or indirectly, in the purchase or sale of any such property, except for and on account of the state; nor shall any such officer take or apply to his own use any gain or emolument for negotiating or transacting any business of his office, other than what is allowed by law. (R. S. c. 12, § 16.)

Sec. 15. Property purchased to be inspected.—All property purchased under the authority herein granted shall be inspected by an officer designated for that purpose by the adjutant general, and no payment shall be made therefor until it shall appear by the certificate of the inspecting officer that the property is of the kind and quality specified in the contract of purchase. (R. S. c. 12, § 17.)

Sec. 16. Contracting indebtedness on behalf of state without authorization.—No officer or enlisted man shall contract or presume to authorize the contracting of, any indebtedness on behalf of the state, unless especially authorized to do so by this chapter or by the express order of the adjutant general; and any person in the military service who shall violate the provisions of this section shall be dishonorably discharged and suffer such other punishment as a court-martial may direct. (R. S. c. 12, § 18.)

State Military Defense Commission.

Sec. 17. State military defense commission.—The state military defense commission, as heretofore established, shall consist of 8 members. The governor and adjutant general and their successors shall be ex officio members during their respective terms of office. The governor for the time being shall be the chairman. The other 6 members who shall be citizens of the state shall be appointed by the governor, as follows: 2 for a term of 3 years annually. In the case of any vacancy caused by death, resignation or otherwise, the governor shall appoint a citizen for the unexpired term. It shall be the duty of the commission to exercise general supervision and control over all armories, drill rooms, headquarters offices, stables and state owned or controlled realty used for military purposes, to consult and cooperate with the municipal authorities and to devise effective means of obtaining and maintaining such armories, and to fix, subject to the approval of the governor, the compensation to be allowed to the municipalities as rent for them; they shall have the power, after consulting and hearing the responsible municipal officers, to determine the administrative question of military suitability and adequate maintenance of all armories, drill rooms, offices, headquarters offices and stables, and it shall be their duty to notify the responsible officers of all deficiencies in these respects, and should such officers fail, refuse or neglect to take effective measures for providing such suitable buildings and their maintenance, the chairman of the commission shall initiate the prosecution prescribed by section 18. The commission is authorized where towns or municipalities have been relieved from compliance with the provisions of this section to provide armories, target ranges or stables by reason of any agreement or agreements entered into between such towns or cities and the state of Maine, to hire or lease suitable buildings for drill halls, quarters, headquarters offices or stables as may be necessary to adequately house the national guard. The commission is further authorized and directed to cooperate with the federal government or municipalities in establishing and coordinating national defense in this state, especially in the providing of equipment, training, facilities, suitable quarters for troops and supplies, and buildings and lands for military purposes. The commission may acquire real property by right of eminent domain in the manner prescribed by law for the taking of land for highway purposes, and both real

and personal property by purchase, gift or otherwise, for the purpose of construction or maintenance of armories, airports, shipyards and other military facilities, including the building or improvement and maintenance of railroads or roads necessary for the more efficient use of such facilities, for military purposes and the procuring of equipment and supplies for military purposes. The members of the commission shall be reimbursed for their actual expenses incurred in the performance of their duties. The judge advocate shall be the legal adviser of the commission. (R. S. c. 12, § 24. 1949, c. 326, § 10.)

See § 101, re definition of "military purposes"; c. 91, §§ 130-133 re armories.

Sec. 18. Drill rooms, offices, armories, stables, etc.; duty of municipal officers to provide use of same; erection of armories.—It shall be the duty of the municipal officers to provide and maintain for each platoon or company, battery, band or detachment of the national guard or other authorized state military or naval forces located within the limits of their respective towns, suitable drill rooms, offices, armories, stables, or place of deposit of all military property, and for the headquarters of each separate battalion, corps, regiment or brigade established within such municipal limits, suitable headquarters offices; and the suitability for the necessary military purposes of such drill rooms, armories, headquarters offices or stables shall be determined by the state military defense commission. A reasonable compensation shall be fixed by the state military defense commission, after hearing and consulting with the responsible municipal officers, for each company, other organization, band or separate headquarters or stables, and shall be allowed as rent for such building or buildings to the municipality providing and maintaining them, and paid by the state out of the appropriation for armory rental. To carry out the provisions of this section there shall be appropriated biennially such sums as are deemed necessary, said sums to be known as the armory fund, payment to be made therefrom by the treasurer of state upon vouchers manifested by the state military defense commission to the state controller, said armories, drill rooms, offices, headquarters offices or stables shall be subject always to the provisions of law and to the regulations prescribed by the proper authorities, and said armories, drill rooms, offices, headquarters offices or stables shall be held for the exclusive use of the national guard unless otherwise authorized by the general regulations for the government of armories prescribed by the state military defense commission, or by special authority of the chairman of said commission after application in special cases by the municipal authorities in writing. Should any municipal officer use such buildings or stables without authority, or abuse the authority or privilege so granted, they and each of them shall in each case, be guilty of a misdemeanor and shall be punished as prescribed in this section. The governor is authorized to accept in the name of the state donations of lands and buildings to be used for military purposes by the national guard or other authorized state military or naval forces under such conditions as the donors may nominate; lands and buildings so donated shall be subject to the rules and regulations prescribed by the governor; and provided further that when any building is turned over to the state for use as an armory or drill shed the state military defense commission shall be authorized to approve for payment from the appropriation for armory rentals such sums as may be necessary for the upkeep of such building, including repairs, furnishings, light, heat, water and janitor service.

Whenever the military fund shall be sufficient to warrant such expenditure, the state military defense commission may, with the approval and by direction of the governor, erect upon lands donated to the state for the purpose either by municipalities, corporations or individuals, armories, drill rooms, headquarters offices, stables or other buildings for military purposes.

It shall be the duty of municipal officers to provide for organizations of the national guard located within the limits of their respective towns a suitable target

range, except where such range shall be provided out of the funds appropriated by the congress of the United States and apportioned to the state for that purpose; and it shall be the duty of such municipal officers to maintain and keep in good repair such target range for the use of the company or companies located within the limits of their municipality, irrespective of the method in which such range may have been obtained. The suitability of such target range for the necessary military purposes shall be as determined by the senior officer in the ordnance department of the national guard and approved by the adjutant general. All ranges shall be open for the use of members of the national guard at any time, including Sundays, subject to the approval of the adjutant general.

Any municipal officer who fails, refuses or neglects to take effective measures for providing and maintaining such suitable drill rooms, offices, armories, headquarters or stables as prescribed in this section, and any municipal officer who fails, refuses or neglects to take effective measures for providing and maintaining a suitable target range as prescribed in this section shall be guilty of a misdemeanor, prosecuted by complaint or indictment before a court of competent jurisdiction, and upon conviction shall be punished by a fine of not less than \$100, nor more than \$400, or by imprisonment for not less than 3 months, nor more than 6 months, or by both such fine and imprisonment, which fine shall be paid into the state treasury and credited to the military fund. (R. S. c. 12, § 25. 1953, c. 308, § 8.)

See § 101, re definition of "military purposes"; c. 91, §§ 130-133, re providing for armories, etc.

Composition of Militia, National Guard and Other State Military Forces.

Sec. 19. Composition of militia, etc.—The militia of the state of Maine shall consist of all able-bodied male citizens of the state and all other able-bodied males who have or shall have declared their intention to become citizens of the United States, who shall be more than 18 years of age and, except as hereinafter provided, not more than 45 years of age, and said militia shall be divided into these classes: the national guard, the naval militia, other organized militia units and the unorganized militia. (R. S. c. 12, § 26.)

See c. 5, § 118, re penalty for military governor may call out militia to suppress parades on election day; c. 11, § 10, re insurrection.

Sec. 20. Exemption from military duty. — The vice-president of the United States; the officers, judicial and executive, of the government of the United States and of the several states and territories; persons in the military or naval service of the United States; customhouse clerks; persons employed by the United States in the transmission of the mail; artificers and workmen employed in the armories, arsenals and navy yards of the United States; pilots; mariners actually employed in the sea service of any citizen or merchant within the United States, shall be exempt from militia duty without regard to age, and all persons who because of religious belief shall claim exemption from militia service, if the conscientious holding of such belief by such person shall be established under such regulations as the president shall prescribe, shall be exempted from militia service in a combatant capacity; but no person so exempted shall be exempt from militia service in any capacity that the president shall declare to be noncombatant. (R. S. c. 12, § 27.)

Sec. 21. Enrollment.—All male citizens who are more than 18 and less than 45 years of age, excepting idiots, lunatics, paupers, vagabonds, habitual drunkards and persons convicted of infamous crimes, and who are resident in this state, shall, whenever the governor may deem necessary, be enrolled by the assessors in the several cities, towns and plantations in which they reside, in such manner and according to such regulations as the governor shall prescribe. On such enrollment and opposite the name of each person who is exempt from duty

under the provisions of section 20, or who is serving in the active militia, or who is unable by reason of physical disability to perform militia duty, the assessors shall write the word "exempt" and state in each case the cause of exemption. The assessors shall subscribe said list and make oath that the same is true to the best of their knowledge and belief; and shall file the same with the clerk of the city, town or plantation forthwith; and each clerk shall, within 10 days, make a certified statement of the total number enrolled, the number marked exempt, the number belonging to the active militia and the number marked disabled, and forward the same to the office of the adjutant general. Any person claiming exemption shall satisfy the enrolling officer or officers of his right thereto and in case of doubt the burden of proof shall be upon the person claiming exemption, and the enrolling officer or officers may require him to submit to examination on oath and may administer such oath. (R. S. c. 12, § 28.)

Sec. 22. Refusal to give information a misdemeanor.—Any person knowingly and willfully refusing information or giving false information to an assessor or other authorized person making the enrollment, respecting the name, age, residence, occupation, military or naval service, physical or mental condition or other proper subject of inquiry, of himself or any person within his knowledge liable to be enrolled, shall for each such concealment, refusal or giving of false information be guilty of a misdemeanor. The officer making the enrollment shall, within 10 days, report all persons violating the provisions of this section to the adjutant general. (R. S. c. 12, § 29.)

Sec. 23. Failure of assessors and clerks to perform duty; governor may appoint other person to act.—Any assessor neglecting or refusing faithfully to perform the duties of enrolling officer as required by law, or making any false entry upon said rolls or committing any other fraud therein, and any clerk neglecting to make and forward the statement required by section 21 shall be guilty of a misdemeanor. Upon the failure of the assessors to make the enrollment of the militia as required by law, the governor may appoint some person to make it at the expense of the city, town or plantation, and the person so appointed shall have all the powers and be subject to the same duties as are prescribed in the case of assessors. (R. S. c. 12, § 30.)

Sec. 24. Composition of national guard.—The national guard shall consist of regularly enlisted personnel between the ages of 17 and 45 years, and warrant officers and commissioned officers between the ages of 21 and 64 years, organized, armed and equipped as provided by national guard regulations and recognized by the national military establishment as national guard. (R. S. c. 12, § 31. 1949, c. 326, § 11.)

Sec. 25. Flag to be carried by national guard.—The flag of the state to be carried by the Maine national guard shall be the same as the flag described in section 25 of chapter 1, with the addition of a scroll in red below the coat of arms of the state bearing the inscription, Maine National Guard. (R. S. c. 12, § 32. 1949, c. 326, § 12.)

See c. 1, § 25, re description of state flag.

Sec. 26. Organization and regulations of national guard.—The organization of the national guard of Maine, including enlistments, appointments, promotions, transfers, discharges, equipment, uniforms, reductions and warrants of noncommissioned officers, instruction and training, armament, discipline and elimination and disposition of officers, shall be the same as that which is now or may hereafter be prescribed or provided by the laws and regulations of the United States for the national guard; and the commander in chief is authorized, and it shall be his duty, to issue and prescribe from time to time such orders and regulations, and to adopt such other means of administration as shall maintain

the prescribed standard of organization, armament and discipline; and it shall be the further duty of the commander in chief to prescribe such regulations and to adopt such methods of administration for the care, preservation, disposition of and accountability for all military property issued to the national guard and belonging to the United States; for procuring, disbursing and accounting for all military funds allotted to the state; for arming, equipping and supplying the national guard; and for arranging for such camps of instruction, field service and rifle practice as shall meet the requirements that are now or may hereafter be prescribed by the laws and regulations of the United States, and such orders, regulations and means adopted shall have the full force and effect of law. (R. S. c. 12, § 33.)

Sec. 27. New organizations.—When authorized by the national military establishment, new organizations may be raised on petition to the governor, or by his order; and when the minimum number of persons required by law has been enlisted and notice thereof given to the governor, he shall order an inspection to be made by an officer of the national guard, and if it is found that the conditions contemplated by law for federal recognition can be met by the new organization, the governor shall appoint commissioned officers therefor and request an inspection to be made by an officer of the national military establishment with a view to federal recognition. (R. S. c. 12, § 34. 1949, c. 326, § 13.)

Sec. 28. National guard organizations, state guard or other authorized state military or naval force may be filled by draft from unorganized militia in time of peace, war or other emergency; men having prior service exempt; penalty for contempt.—If in time of peace, war or other emergency, any company, troop, battery or detachment of the national guard, state guard or other authorized military or naval force shall have failed by voluntary enlistment to obtain the minimum strength required by the laws of the United States, or of this state, the commanding officer of such company, troop, battery or detachment of the national guard, state guard or other authorized state military or naval force shall report to the adjutant general the number of enlisted men required and in addition thereto a number equal to the loss expected during the succeeding 3 months, of enlisted men whose terms of active service expire during that period and who have signified their intention of not continuing in active service or reenlisting. The adjutant general shall, upon receipt of such report, inform the governor of the facts, and the governor shall then draft from the unorganized militia of the town or city where such company, troop, battery or detachment is located, or from adjacent towns or cities, the number of men required to maintain such minimum strength, and in addition such number as he may deem necessary to allow for possible rejections. Such drafts shall be made by order of the governor directed to the selectmen of the town or the mayor of the city where such company, troop, battery or detachment is located, or to the selectmen of adjacent towns or the mayors of adjacent cities, who shall, within 5 days, transmit to the adjutant general a list containing the names of all persons in such towns or cities between the ages of 18 and 45, who are subject by law to military enrollment. The adjutant general or some officer detailed by him shall prepare slips upon which shall be placed the names of all persons on such list and within 5 days after the receipt of such list, the adjutant general or some officer detailed by him shall, in the presence of one of the selectmen or some other official of such towns or the mayors or other officials of such cities, place such slips in a box and draw therefrom the number required by said draft. All men whose names are so drawn shall be ordered by the adjutant general to report to the commanding officer of such company, troop, battery or detachment at a certain time and place and submit to the necessary physical examination. Such orders shall be in writing and a copy thereof shall be served upon each man so drafted, by a sheriff, other proper officer or indifferent person, at least 6 days before the time designated for reporting to such commanding officer. From those who have

passed such physical examination, a sufficient number of names shall be selected to fill all vacancies existing or expected at the date of draft, the method of selection being the same as hereinbefore provided, except that the adjutant general shall be represented by the commanding officer of the company, troop, battery or detachment concerned and the drawing shall be made in the presence of those present subject to draft. All men so selected who do not volunteer to enlist shall thereupon be enrolled as members of the national guard, state guard or other authorized military or naval force for a period of 1 enlistment or for such time as the governor may direct. All men so enrolled shall be considered as regularly enlisted and shall be subject to all federal and state laws, regulations and discipline governing the national guard, state guard or other authorized state military or naval force. Any person so drafted, in any order to report, as hereinbefore provided, who, having been personally served with a copy of such order, shall fail to appear at the time and place designated by such order or who shall fail to present to such commanding officer a sworn certificate from a physician in good standing, of physical disability, shall be punished by a fine of not less than \$10, nor more than \$50, for each day he shall fail to appear. The courts of this state shall have jurisdiction of all prosecutions under the provisions of this section. Provided, however, that all men having an honorable record of prior service in the United States army, air force, navy, marine corps or in the national guard of the United States may be exempt from compulsory service under the provisions of this section. Provided further, that nothing under the provisions of this section shall be construed as authorizing a change in the status of any person registered under the federal selective service law. (R. S. c. 12, § 35. 1945, c. 132, § 2. 1949, c. 326, § 13-A.)

Sec. 29. Civilian cooks.—The commander in chief may authorize the employment of cooks, to the number fixed in this chapter, in organizations in which there are vacancies in enlisted cooks when such organizations are on duty under his orders or are called upon in aid of the civil authorities. The commander in chief may authorize the employment and prescribe the number of cooks for all headquarters and organizations for which the enlistment of cooks is not authorized by this chapter. Cooks during such employment shall be subject to the laws and regulations for the government of the national guard and shall receive the same pay as enlisted cooks. (R. S. c. 12, § 36.)

Naval Militia.

Sec. 30. Naval militia; composition.—Such persons as may be enlisted or as may be appointed or commissioned therein shall constitute the naval militia of the state of Maine. (R. S. c. 12, § 37.)

Sec. 31. Organization and administration. — The commander in chief may organize the forces prescribed in the preceding section as he may deem proper; and when in his judgment the efficiency of the naval militia will be increased thereby, or whenever public interest may demand it, he may alter, reorganize or disband any or all of the organizations therein; and he shall have power at any time to change the organization of the naval militia so as to conform to any organization, or system of drill or instruction which may be adopted for the navy of the United States, and to increase and decrease for that purpose the number of officers, warrant officers, chief petty officers, petty officers and enlisted men and to change their grades, titles and designations.

The system of administration, drill and instruction of the naval militia shall conform, as nearly as practicable, to that of the navy of the United States; and the discipline and government thereof when not otherwise prescribed shall be according to the laws and regulations now or hereafter governing the national guard. No part of the naval militia shall be attached to any organization of the national guard except when especially ordered by the governor, in which case

the senior officer present shall command the whole, unless the commander in chief shall direct otherwise. (R. S. c. 12, § 38.)

Sec. 32. Pay and allowances.—The pay of personnel of the naval militia shall be the same as that of personnel of the same relative rank in the national guard. The commanding officer of a battalion shall be allowed a sum not exceeding \$50 per year for the care and responsibility of state and United States property for which he may be accountable; each company commander shall be allowed a sum not exceeding \$50 per year for the care and responsibility of public property for which he is accountable; the executive officer of a battalion, each company yeoman, and the storekeeper of each company shall receive for their services a sum not exceeding \$25 per year. (R. S. c. 12, § 39. 1949, c. 326, § 14.)

Sec. 33. Authority, privileges and qualifications of officers.—Commissioned officers of the naval militia shall have the same authority, rights, privileges and qualifications, grade for grade, as commissioned officers in the national guard, and, if not otherwise prescribed, shall be appointed in the same manner; but the board of examination, in the case of the appointment of an officer of the naval militia, shall consist of at least 1 commissioned officer of the naval militia, active or retired. (R. S. c. 12, § 40.)

Commissioned Officers.

Sec. 34. Appointments, commissions, vacancies, examinations, oaths.—Subject to the regulations prescribed by the national military establishment, all officers shall be appointed and commissioned by the governor. Except as hereinafter provided all vacancies in the state guard and other state military or naval forces shall be filled as follows: vacancies in the grade of colonel or lieutenant colonel of a regiment or corps shall be filled by promoting the senior officer of the regiment or corps of the next lower grade; vacancies in the grade of major in a regiment, corps or separate battalion shall be filled by promoting the senior officer of the next lower grade in the organization in which the vacancy occurs; vacancies in the grade of captain or lieutenant shall be filled by promoting the senior officer of the next lower grade in the organization in which the vacancy occurs; when it appears to the governor to be for the best interest of the service that vacancies be otherwise filled, such vacancies, if they be within a regiment, corps or other separate organization, shall be filled by the governor upon the recommendation of the commanding officer of such organization or upon the recommendation of the adjutant general. Vacancies in the grade of second lieutenant shall be filled in the following manner: 1st, upon the recommendation of the commanding officer of the regiment, corps or other separate battalion, from enlisted men of the unit, commissioned in the officers' reserve corps or from enlisted men of the unit holding state certificates of eligibility for commissions as second lieutenants; 2nd, if no such personnel holding reserve commissions or certificate of eligibility is available and recommended for promotion in the unit, all enlisted men of any company and any noncommissioned staff officer shall, if physically sound, be eligible for appointment and shall be permitted to appear before an examining board for a physical and competitive practical and theoretical examination. The enlisted man whom the board considers, after the competitive examination, to be best qualified shall be appointed to fill the vacancy. The governor shall prescribe the scope and manner of conducting such examination, and if no enlisted man appears or if none satisfactorily passes said examination, then the governor upon the recommendation of the commanding officer of the regiment, corps or other separate battalion shall fill the vacancy by making an appointment of any person eligible under the law to hold a commission in the national guard or other authorized state military or naval forces. Every officer duly commissioned shall within 10 days accept the same and take the constitutional oath of office; such oath may be taken and subscribed before any officer authorized by law to administer an

oath; and in case of neglect or refusal to accept the commission or to take and subscribe the oath within the time mentioned, such commission shall be canceled by the governor and a new appointment made to fill the vacancy. (R. S. c. 12, § 41. 1949, c. 326, § 15.)

Sec. 35. Discharge and retirement of officers.—Any officer who accepts an appointment in the army, air force, navy or marine corps of the United States, or who tenders his resignation and the same having been accepted, shall receive an honorable discharge, provided he shall not be under arrest or returned to a military court for any deficiency or delinquency and provided he shall not be indebted to the state in any manner and provided all of his accounts for money and public property shall be correct.

Any officer who shall reach the age of 64 years shall be retired.

Any officer who is found incapacitated for service by reason of physical disability shall be withdrawn from active service and placed on the retired list.

Any person who has served as a commissioned officer in the Maine national guard or other authorized state military or naval forces for a period of not less than 9 years may, upon personal request, be placed upon the retired list. When placed upon the retired list an officer shall be given the highest rank held by him during his term of service, provided that if at the time of his retirement he shall have served as a commissioned officer in the Maine national guard or other authorized state military or naval forces or federal military service for a period of 15 years or more, he may be retired with a rank one grade higher than the highest rank held by him during his service. Retired officers shall be entitled to wear the uniform of the rank with which they were retired. Except as provided above no commissioned officer in the national guard or other authorized state military or naval forces shall be removed from office without his consent, except by sentence of a general court-martial or by an efficiency board, in a manner prescribed by law. Whenever the occasion may require, the governor, with their consent, may order to active duty any retired officer, warrant officer or enlisted man, and they shall be entitled to pay and emoluments of their grade while performing such service. (R. S. c. 12, § 42. 1949, c. 326, § 16.)

Enlisted Men.

Sec. 36. Certificate of merit.—Hereafter when any enlisted man of the national guard or other authorized state military or naval forces shall have distinguished himself in the service for gallantry or for long and meritorious service in the national guard or other authorized state military or naval forces for a continuous period of 15 years or for a period of 20 years not necessarily continuous, the governor may, upon the recommendation of the commanding officer of the regiment or of the senior officer of the organization to which such enlisted man belongs, grant him a certificate of merit; and a holder of such certificate shall be borne on the military register of the state for the remainder of his life; provided that meritorious service hereafter in time of actual war, insurrection or rebellion, shall count double toward procuring such certificate. (R. S. c. 12, § 43.)

Sec. 37. Special inspection.—The commander in chief may in his discretion at such times and under such regulations as he may prescribe order each colonel commanding a regiment or corps, or, in case of his disability or when designated by him, the lieutenant colonel, and each officer commanding a battalion, to parade, inspect and report upon the general military efficiency of the several companies under his command at least once each year; and the commander in chief may, whenever he deems it necessary, order an inspection by a medical officer of the officers and men, armories, clothes and equipment of the national guard or other authorized state military or naval forces. (R. S. c. 12, § 44.)

Sec. 38. Certain places may be closed when national guard on duty.—Whenever any part of the national guard or other authorized state military or naval forces is on active duty, pursuant to the order of the governor or call of civil authority, to aid in the enforcement of the laws, the commanding officer of such troops may order the closing of any place where intoxicating liquors, arms, ammunition, dynamite or other explosives are sold, and forbid the selling, bartering, lending or giving away any of said articles so long as any of the troops remain on duty in such places or in the vicinity thereof, whether any civil officer has forbidden the same or not. (R. S. c. 12, § 45.)

Sec. 39. Notices for duty.—Notices for duty at encampments, maneuvers and field instruction shall be given at least 10 days prior thereto, and for other duty at such time as the officer issuing the order shall prescribe. Such notices shall be given orally or by written or printed notice in hand, sent by mail or left at the last and usual place of abode, provided that the posting of the copy of an order in a conspicuous place in the drill or business room of the unit, at a regular meeting held not less than 4 days before the time fixed in such order for the performance of any duty, shall be sufficient notice thereof; and provided that when the days upon which the stated drills provided by law, orders or regulations are to be held have been fixed, no further notice thereof shall be required to the members of the unit. (R. S. c. 12, § 46. 1949, c. 326, § 18.)

Sec. 40. Prizes for efficiency and markmanship.—To encourage general military efficiency among organizations in the national guard or other authorized state military or naval forces, the adjutant general is authorized to offer annually a suitable reward. He may also provide suitable rewards for proficiency in small arms practice and practice with light and heavy guns. All such rewards shall be competed for under such regulations as may be approved by the adjutant general. Members of any staff, corps or detachments assigned or attached for duty with any command shall be considered a part of such command for the purpose of the competitions herein authorized. (R. S. c. 12, § 47.)

Sec. 41. Medal for honorable service.—Every officer and enlisted man of the Maine national guard or other authorized state military or naval forces who has rendered honorable service for 9 years in the national guard or other authorized state military or naval forces or federal military service shall receive a service medal therefor and an additional bar or clasp for each additional 3 years' service. (R. S. c. 12, § 48.)

Sec. 42. Medal for perfect attendance.—Every officer or enlisted man in the national guard or other authorized state military or naval forces who has a perfect record of attendance at every military duty for 1 year shall receive a suitable medal therefor, and a bar or clasp for each additional year of perfect attendance, either continuous or otherwise. (R. S. c. 12, § 49.)

Sec. 43. Discharge of enlisted persons.—An enlisted person discharged from service in the national guard or other state military or naval forces shall receive a discharge in such form and with such classification as is or shall be prescribed for the national military establishment and discharges may be given prior to the expiration of periods of enlistment under such regulations, not inconsistent with those established by the national military establishment for the government of the national guard, as the governor may prescribe. (1949, c. 326, § 17. 1951, c. 266, § 1.)

Uniform and Equipment.

Sec. 44. Uniform of commissioned officers; exemption from attachment and distress.—All commissioned officers and warrant officers shall provide themselves with such uniforms, arms and equipment as are required of

commissioned officers or warrant officers in their respective arms of service in the national military establishment, and the adjutant general may purchase and issue as state property on memorandum receipt or sell for cash to commissioned officers and warrant officers such articles of arms, uniforms and equipment as he may deem necessary.

The clothes, arms, military outfit and accoutrements furnished by or through the state to a member of the active militia and the uniforms, arms and equipment required of commissioned officers and warrant officers shall not be subject to any suit, distress, execution or sale for debt or payment of taxes. (R. S. c. 12, § 50. 1949, c. 326, § 19. 1951, c. 266, § 2.)

Sec. 45. Uniform not to be worn by unauthorized persons.—It shall be unlawful for any person not an officer or enlisted man of the United States army, air force, navy, marine corps or the national guard of the United States and the state of Maine, to wear the duly prescribed uniform of the United States army, air force, navy, marine corps or national guard, or any distinctive part of such uniform, or a uniform any part of which is similar to a distinctive part of the duly prescribed uniform of the United States army, air force, navy, marine corps or national guard; provided that the foregoing provisions shall not be construed so as to prevent such persons as may be authorized by the laws and regulations of the United States from wearing such uniforms as they may be authorized to wear under the above-mentioned laws and regulations. Provided further, that the term “distinctive part of the uniform” in this section, shall be construed to mean such parts of the uniform as may be at this time or shall be hereafter designated as “distinctive” by the regulations of the national military establishment. Any person who offends against the provisions of this section shall, on conviction, be punished by a fine of not more than \$300, or by imprisonment for not more than 6 months, or by both such fine and imprisonment. Trial justices and municipal courts within their counties shall have original and concurrent jurisdiction with the superior court in all prosecutions for the violations of the provisions of this section. (R. S. c. 12, § 51. 1947, c. 253, § 2. 1949, c. 326, § 20.)

Sec. 46. Equipment not to be sold.—The clothes, arms, military outfits and accoutrements furnished by or through the state to any member of the national guard or other authorized state military or naval forces shall not be sold, bartered, exchanged, pledged, loaned or given away; and no person not a member of the military forces of this state or the United States, or duly authorized officer or agent of the state or of the United States, who has possession of any such clothes, arms, military outfits or accoutrements so furnished and which have been the subject of any such unlawful disposition, shall have any right, title or interest therein; but the same shall be seized and taken wherever found by any officer of the state, civil or military, and shall thereupon be delivered to any commanding officer or other officer authorized to receive the same, who shall make an immediate report to the adjutant general. The possession of any such clothes, arms, military outfits or accoutrements by any person not a member of the military forces of the state or of the United States shall be presumptive evidence of such sale, barter, exchange, pledge, loan or gift. (R. S. c. 12, § 52.)

Sec. 47. Sale of equipment.—Any person who shall sell, or offer for sale, barter, exchange, pledge, loan or give away, secrete or retain after demand made by any officer of the state, civil or military, any clothes, arms, military outfits or accoutrements furnished by or through the state to a member of the national guard or other authorized state military or naval forces, or who shall receive by purchase, barter, exchange, pledge, loan or gift, any such clothes, arms, military outfits or accoutrements, shall be guilty of a misdemeanor and punished by a fine of not more than \$100, or by imprisonment for not more than 6 months, or by both such fine and imprisonment. (R. S. c. 12, § 53.)

Sec. 48. Repair of equipment.—The adjutant general shall, whenever it may be necessary, make arrangements for the repair, cleansing and renovation of all clothes, arms, military outfits or accoutrements on hand or issued to any organization of the national guard or other authorized state military or naval forces; and when the necessity of such repair, cleansing or renovation is due to the default or negligence of any member of the national guard or other authorized state military or naval forces, the cost thereof shall be charged against any pay due or to become due such member or recovered in the same manner as a fine, forfeiture or penalty, as prescribed by this chapter. (R. S. c. 12, § 54.)

Sec. 49. Inspection and condemnation.—The inspector general or such other military officer as the adjutant general may designate shall inspect and condemn public military property which has become unfit for use; no property shall be sold until it has been so inspected and condemned and such condemnation approved by the adjutant general, and the proceeds of sales of condemned material, stores, supplies or other public military property of every kind shall be deposited with the adjutant general, paid into the state treasury, and credited to the military fund. (R. S. c. 12, § 55.)

Sec. 50. State equipment; obsolete patterns may be issued to municipalities.—All property furnished by the state shall remain and continue to be the property of the state, to be used for military purposes only, and when not so in use shall be kept in the armories or designated places of deposit; provided, however, that upon order of the governor and council, the quartermaster general is authorized to issue to the municipal officers of any city or town, field ordnance of obsolete pattern under such regulations as the governor and council may prescribe. Every officer receiving public property for military use shall be held responsible for the safekeeping and the return of the same when called for; he shall account for and make such returns thereof as may be prescribed whenever called upon to do so by the governor or other proper authority. (R. S. c. 12, § 56.)

Sec. 51. Destruction of equipment.—Any officer, enlisted man or other person, who shall willfully or maliciously destroy, injure or deface any article of military property belonging to the state or United States, or shall use it for other than military purposes, or shall have or retain the same in violation of law or regulations, shall be punished by a fine of not more than \$50. In case any officer or enlisted man of the national guard or other authorized state military or naval forces who has at any time through carelessness or inattention lost, destroyed or suffered to be lost or destroyed, any state or government property which has been issued for his use, the paymaster general shall retain out of the pay or allowances or moneys due such officer or enlisted man for any military services whatsoever, an amount of money equal to the value of the property so lost or destroyed, and money so retained shall be credited to the account of such officer of the national guard or other authorized state military or naval forces as may be accountable to the state for said property. Such portion of said money as shall be for state property shall be turned in to the treasurer of state, to be credited to the military fund, and such portion as may be for United States property shall be turned into the United States treasury to be credited to the state on its property returns. (R. S. c. 12, § 57.)

See § 101, re definition of "military purposes."

Compensation.

Sec. 52. Pay and allowance.—Each officer and enlisted man of the national guard or other authorized state military or naval forces ordered by the commander in chief or under his authority for duty at encampments, maneuvers, field exercises, small arms competitions or other special duties or when called forth in

aid of the civil authorities, shall, unless otherwise stated in specific orders relative to said duty, receive for every day actually on duty the same pay and allowances as officers, warrant officers and enlisted men of the same arm of service, grade and classification in the national military establishment, and no more, provided that all band musicians shall be paid not less than \$6 per day and there shall be allowed the necessary transportation, but no pay or compensation shall be allowed except as otherwise provided by law when ordered for inspection, muster, small arms practice, drill, parade, review, field service or practice marches or other special duties unless expressly authorized in the order for such duties.

When the national guard, or other authorized state military or naval forces, or any portion thereof, shall be called forth in aid of the civil authorities, or assembled in obedience to such calls, as provided for in section 2, all officers and men thereof shall receive the pay set forth in this section.

When ordered on special duty, or authorized to go on special duty, officers and enlisted men of the national guard, state guard or other authorized state military or naval forces shall receive compensation for their expenses while on such duty at an allowance based on the allowance allowed by the federal government to officers and enlisted men of the same grades while traveling on special duty. (R. S. c. 12, § 58. 1947, c. 253, § 3. 1949, c. 326, § 21.)

Sec. 53. Special allowances.—In addition to all other pay and allowances herein provided there shall be allowed each company commander or other officer who in the opinion of the adjutant general is entitled to remuneration for care and responsibility of military property and satisfactory performance of military duties, not exceeding \$50 per year; each company clerk, and each company supply sergeant, not exceeding \$25 per year, when certified by the company commander.

To all officers ordered to make inspection or other journeys necessary in the military service, there shall be allowed all actual and necessary expenses incident to the performance of said service, including such incidental expenditures as are allowed by law and regulations to officers of the regular army when inspecting the organized militia.

Whenever deemed necessary, the adjutant general may authorize the commutation of rations for enlisted men, which shall be at the rate fixed by the regulations of the United States army in force at the time. He shall also approve all other just and reasonable claims, payments and expenditures, legally made in behalf of the military service of the state. (R. S. c. 12, § 59. 1949, c. 326, § 22.)

Military Accounts.

Sec. 54. Approval of military accounts; military fund.—All military accounts, unless otherwise specially provided by law, shall be approved by the person authorized to contract the same and transmitted to the adjutant general for his examination and approval. They shall then be presented to the state controller.

For the current expenses of the national guard, state guard and other authorized state military or naval force, there shall be appropriated biennially such sums as may be necessary for the proper administration of the military law, which shall be herein designated as the "military fund." (R. S. c. 12, § 60.)

Compensation for Disability.

Sec. 55. Compensation to members disabled in active service.—Any member of the national guard or other authorized state military or naval forces who shall, when on duty or assembled therefor, in case of riot, tumult, breach of the peace, insurrection or invasion, or whenever called into active service of the state by order of the governor, or called in aid of the civil authorities, or when participating by order of the governor in any encampment, maneuvers or field

instruction of any part of the regular army or air force at or near any military post or camp or lake or seacoast defenses of the United States, or when participating by order of the governor in practice marches or camps of instruction, or when assembled for any regular or special drill or other duty under the command of a superior officer, receive any injury, or incur or contract any disability or disease by reason of such duty or assembly, or who shall without willful negligence on his part receive any wound, injury or disease incident thereto while performing any lawfully ordered duty which shall incapacitate him from his usual business or occupation, shall receive compensation according to the provisions of chapter 31, and any amendments thereto, as an employee of this state, and the average weekly wage in such cases shall be taken to be the earning capacity of the injured in the occupation in which he is regularly engaged, and in case of death his dependents, if any, shall be entitled to compensation as provided in said chapter 31, provided, however, that any member of the national guard or other authorized state military or naval forces who suffers injury or contracts disease, not the result of his own misconduct, while in attendance at a camp of instruction authorized by the national military establishment and ordered by the governor, shall receive the pay provided in section 52, while he remains in a federal pay status in lieu of the compensation provided for in this section. (R. S. c. 12, § 61. 1949, c. 326, § 23.)

See c. 27, § 117, re care of mentally ill members of armed forces.

Courts-Martial.

Sec. 56. Courts-martial; classification and jurisdiction. — Courts-martial in the national guard or other authorized state military or naval forces shall be of 3 kinds, namely, general courts-martial, special courts-martial and summary courts-martial. They shall be constituted, and have cognizance of the same subjects and possess like powers, except as to punishments, as similar courts provided for by the laws and regulations governing the army of the United States, and the proceedings of courts-martial of the national guard or other authorized state military or naval forces shall follow the forms and modes of procedure prescribed for similar courts. (R. S. c. 12, § 62.)

Sec. 57. General courts-martial.—General courts-martial may be convened by order of the governor and shall have the power to impose fines not exceeding \$200, to sentence, to forfeiture of pay and allowances, to reprimand, to order dismissal, dishonorable discharge or bad-conduct discharge from the service, to order reduction of noncommissioned officers to the ranks, or any 2 or more such punishments may be combined in the sentence imposed by such courts. (1949, c. 326, § 24.)

Sec. 58. Special courts-martial.—The commanding officer of a post, camp, station or other place where troops are on duty, and the commanding officer of a brigade, regiment, detached battalion, or corresponding unit of ground or air forces, and the commanding officer of any other detached command or group of detached units placed under a single commander for this purpose may appoint special courts-martial for his command, but such special courts-martial may in any case be appointed by superior authority when by the latter deemed desirable. Such courts-martial shall have power to impose fines not exceeding \$100; to sentence to reduction of noncommissioned officers to the ranks; to forfeiture of 6 months' pay and allowances; or any 2 or more of such punishments may be combined in the sentence imposed by such courts. (1949, c. 326, § 24.)

Sec. 59. Summary courts-martial.—The commanding officer of a post, camp or other place where troops are on duty, and the commanding officer of a regiment, detached battalion, detached company, or corresponding unit of ground or air forces, or other detachment may appoint summary courts-martial; but such courts-martial may in any case be appointed by superior authority when by the

latter deemed desirable; provided, that when but 1 officer is present with a command he shall be the summary courts-martial of that command and shall hear and determine cases brought before him. Such courts-martial shall have power to impose fines not exceeding \$25 for any single offense; to sentence to forfeiture of 1 month's pay and allowances and to sentence to reduction of non-commissioned officers to the ranks; or any 2 or more of such punishments may be combined in the sentence imposed by such court. (1949, c. 326, § 24.)

Sec. 60. Rules of evidence; right of accused to testify.—The rules of evidence in all courts-martial shall follow in general, so far as applicable, the common law rules of evidence as observed by the courts of this state in criminal cases, but a certain latitude in the introduction of evidence and the examination of witnesses by an avoidance of restrictive rules is permissible when it is in the interest of the administration of military justice. The accused shall at his own request, but not otherwise, be a competent witness; and his failure to make such request shall not create any presumption against him. (R. S. c. 12, § 63.)

Sec. 61. Process; rights of accused.—Presidents of courts-martial and summary court officers shall have power to issue, in the name of the state, warrants directing any sheriff or constable to arrest accused persons and bring them before the court for trial, and the accused shall have the right to demand the nature and cause of the accusation against him, and to be presented with a copy of the charges. He shall have the right of being heard by himself or counsel, or both; and shall have compulsory process for obtaining witnesses in his favor.

All processes, warrants and sentences of courts-martial shall be executed by civil officers in this state the same as like precepts of the superior court are executed in the state, and all such processes, warrants or sentences, when issued by any courts-martial, shall extend to any part of the state. (R. S. c. 12, § 64. 1949, c. 326, § 25.)

Sec. 62. Summoning and attendance of witnesses. — Presidents of courts-martial and any summary court officer shall have power to summon the necessary witnesses for the trial of cases and for that purpose shall have power to issue, in the name of the state, all necessary subpoenas and subpoenas duces tecum. They shall have power to issue the like processes to compel witnesses to appear and testify which courts of criminal jurisdiction within this state may lawfully issue. Such writs and processes may be directed to any sheriff or constable whose duty it shall be to serve or execute such writ and process when issued by the civil courts of criminal jurisdiction in this state.

The attendance of witnesses in the military service of the state may be procured by the service of formal subpoena, or by the order of competent military authority; and every person in the military service of the state who being duly subpoenaed or ordered to appear as a witness before the courts-martial willfully neglects or refuses to appear to qualify as a witness, or to testify or produce documentary evidence, shall be deemed guilty of disobedience of orders and punished by a court-martial accordingly; and every person not belonging to the military service of the state who being duly subpoenaed to appear as a witness before a courts-martial willfully neglects or refuses to appear or refuses so to qualify, testify or produce documentary evidence, shall be deemed guilty of a misdemeanor and prosecuted like other misdemeanors in any court of competent jurisdiction and punished by a fine of not more than \$100; provided that such witness may plead as a defense that he was not tendered 1 day's fee and mileage for the journey to and from the place of trial; and provided that all witnesses shall receive the fees prescribed by statute for witnesses in the superior court, such amounts to be paid by the adjutant general out of the military fund; and provided that no witness shall be compelled to incriminate himself or to answer any question which may tend to incriminate or degrade him. (R. S. c. 12, § 65.)

Sec. 63. Confinement in lieu of fine; approval of sentence. — All

courts-martial of the national guard or other authorized state military or naval forces, including summary courts, shall have power to sentence to confinement in lieu of fines authorized to be imposed; provided that such sentence of confinement shall not exceed 1 day for each dollar of fine and costs authorized.

No sentence of a court-martial shall be carried into execution until approved by the officer ordering the court or by the officer commanding at the time the sentence is presented for approval.

No sentence of dismissal, dishonorable discharge or bad-conduct discharge shall be executed until approved by the governor. (R. S. c. 12, § 66. 1949, c. 326, § 26.)

Sec. 64. Confinement; payment of fines. — When the sentence of a court-martial adjudges a fine and costs against any person, and such fine and costs have not been fully paid within 10 days after approval thereof, or whenever a person in the military service is ordered confined to await trial or is sentenced to confinement by a court-martial, or whenever any person is ordered into confinement at a place or station not provided with a guardhouse or military prison, the governor, the court or officer ordering the court, or the officer commanding for the time being, as the case may be, shall issue a warrant of commitment directed to the sheriff of the county in which the court-martial was held, directing him to take the body of the person so convicted and confine him in the county jail; and it shall be the duty of the sheriff to take the body of the person convicted and confine him in the county jail for the time specified in the sentence, or for 1 day for any fine not exceeding \$1, and one additional day for every dollar above that sum, and one additional day for each dollar of cost. The costs of arrest and commitment in all court-martial proceedings shall be the same as is prescribed in the revised statutes of this state for such service in the courts of this state and shall be paid by the adjutant general from the military fund on presentation of all papers or copies of papers showing the service thereon; such papers and copies to be certified as correct by the judge advocate or summary court.

All fines and forfeitures imposed by courts-martial shall be paid to the officer ordering such courts, or to the officer commanding for the time being, and by said officer within 5 days from the receipt thereof paid to the adjutant general who shall pay the same into the state treasury, and the same are appropriated for the purposes of this chapter except as otherwise provided for by law. (R. S. c. 12, § 67. 1949, c. 326, § 27.)

Sec. 65. Jurisdiction presumed. — The jurisdiction of the courts and boards established under this chapter shall be presumed, and the burden of proof shall rest on any person seeking to oust such courts or boards of jurisdiction in any action or proceeding.

No action or proceeding shall be prosecuted or maintained against a member of the military forces of this state or an officer acting under its authority or reviewing its proceedings on account of the approval or imposition or execution of any sentence, or the imposition or collection of any fine or penalty, or the execution of any warrant, writ, execution, process or mandate of a military court. (R. S. c. 12, § 68. 1949, c. 326, § 28.)

Sec. 66. Oaths.—Officers of the judge advocate general's department, judge advocates of courts-martial, summary court officers and the recorders of a board, are authorized to administer oaths for the purpose of military administration, and shall charge no fee for the same. (R. S. c. 12, § 69.)

Sec. 67. Report made to adjutant general.—Each summary court and the judge advocate of each special court shall, at the end of each month, make a report to the adjutant general of the cases tried, setting forth the offense committed and the penalty awarded, which reports may be destroyed when no longer of use. (R. S. c. 12, § 70.)

Sec. 68. Applicable to other state military or naval forces. — The provisions hereof in regard to courts and boards established under this chapter shall apply, so far as applicable, to the state guard and all other authorized state military or naval forces. (R. S. c. 12, § 71, 1949, c. 326, § 29.)

General Provisions.

Sec. 69. United States army, air force and national guard regulations to govern.—Matters of military courtesy and discipline; precedence of regiments and corps; details and working parties; special duty; official designation and duties of officers; records; flags, colors and standards; instruction and administration of regiments, battalions and companies; interior economy of companies; rosters, detachments and daily service; honors, courtesies and ceremonies; guards; practical and theoretical instruction; care, accountability and responsibility for public property; surveys of property; staff administration and general duties of the staff corps; military correspondence; orders; muster rolls; return of troops and battle reports; arrest and confinement; and field service shall, in general and so far as practicable and consistent with the provisions of this chapter, be as prescribed in United States army, air force and national guard regulations. (R. S. c. 12, § 72, 1947, c. 253, § 4, 1949, c. 326, § 30.)

Sec. 70. Exemption from arrest. — Every person belonging to the national guard or other authorized state military or naval forces shall in all cases, except felony and breach of the peace, be privileged from arrest while going to, remaining at or returning from any place at which he may be required to attend for military duty.

No person shall be arrested in a civil action, on mesne process, or execution, or on a warrant for taxes, on the day of annual Thanksgiving, the 19th day of April, the 30th day of May, the 4th day of July, the 1st Monday of September, Armistice Day, November 11th or Christmas; and on the day of any military training, inspection, review or election, no officer or soldier required by law to attend the same shall be arrested on any such processes. (R. S. c. 12, § 73.)

Sec. 71. Exemption from jury duty. — Every member of the national guard or other authorized state military or naval forces, every retired officer and every enlisted man holding the certificate of merit shall be exempt from all jury duty; production of a certificate from the claimant's commanding officer showing that the holder is a member of the national guard or other authorized state military or naval forces, or a certificate of retirement, or a certificate of merit, or the sworn statement of the claimant that he is such member, retired officer or holder of a certificate of merit shall be prima facie proof that the claimant is entitled to the exemption. (R. S. c. 12, § 74.)

Sec. 72. Voluntary service forbidden unless authorized.—No organization of the national guard or other authorized state military or naval forces shall perform any voluntary military service except as authorized by this chapter or by the express orders of the governor. (R. S. c. 12, § 75.)

Sec. 73. Permission to leave or enter state.—No organization of the national guard or other authorized state military or naval forces shall leave the state, and no military organization of another state, unless acting under the authority of the United States, shall enter the state, except in each case by permission of the governor. (R. S. c. 12, § 76.)

Sec. 74. Other military organizations prohibited.—No body of men, other than the national guard or other authorized state military or naval forces and the troops of the United States, shall associate themselves together as a military company or organization or parade in public with firearms in any city or

town of this state; nor shall any city or town raise or appropriate any money toward arming, equipping, uniforming, or in any other way supporting, sustaining or providing drill rooms or armories for any such body of men; but associations wholly composed of soldiers and sailors honorably discharged from the service of the United States and the order known as the Sons of Veterans may parade at any time in public with firearms, having first obtained the written permission of the city or municipal officers of the town or city in which they reside to parade, and students in educational institutions where military science is taught as a prescribed part of the course of instruction, may, with the consent of the governor, drill and parade with firearms in public under the superintendence of their military instructors. Any person violating any provision of this section shall be deemed guilty of a misdemeanor and punished by a fine of not more than \$100, or by imprisonment for not more than 6 months, or by both such fine and imprisonment. (R. S. c. 12, § 77.)

Sec. 75. Right of way.—The commander of any portion of the national guard or other authorized state military or naval forces parading or performing any military duty in any street or highway may require any or all persons in such street or highway to yield the right of way to such national guard or other authorized state military or naval forces, provided the carriage of the United States mail, the legitimate functions of the police, and the progress and operations of the hospital ambulances, fire engines and fire departments, and apparatus of the insurance patrol shall not be interfered with thereby. All others who shall hinder, delay or obstruct any portion of the national guard or other authorized state military or naval forces whenever parading or performing any military duty, or who shall attempt to do so, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$500, or by imprisonment for not more than 6 months, or by both such fine and imprisonment. (R. S. c. 12, § 78.)

Sec. 76. Bounds and limits of camps.—Every commanding officer, when on duty as such, may fix necessary bounds and limits to his camp or parade, not including a road so as to prevent passing. Whoever intrudes within the limits of the parade, camp or armory, after being forbidden, or resists a sentinel who attempts to put him or keep him out of such limits, or in any manner interrupts or molests the orderly discharge of duty by those under arms, or disturbs, hinders or prevents the passage of troops going to or returning from any duty, may, at the discretion of the commanding officer, be confined under guard not exceeding 24 hours. Such authority of an officer commanding a camp may be extended by order of the commander in chief to a distance not exceeding $\frac{1}{2}$ mile around such camp; provided that the owner or owners of the external space within such distance of the camp, and their agents or servants, shall not be hindered or prevented from entering upon such space for the purpose of using, occupying and improving the same in the same manner in which they used, occupied and improved the same at the time when the camp was established. The commanding officer of any camp or armory may prohibit the introduction or sale of, or dealing in, wine or any intoxicating liquor within the limits or extended limits of the camp or within the armory, and he may abate as common nuisances all such sales and introductions. (R. S. c. 12, § 79. 1947, c. 253, § 5.)

Sec. 77. Depriving members of employment; leave of absence from duties.—Any person who either by himself or with another, willfully deprives a member of the national guard or other authorized state military or naval forces of his employment, or prevents his being employed by himself or another, or obstructs or annoys said member of said national guard or other authorized state military or naval forces or his employer in respect to his trade, business or em-

ployment, because said member of said national guard or other authorized state military or naval forces is such member, or dissuades any person from enlisting in the said national guard or other authorized state military or naval forces by threat of injury to him in case he shall so enlist, in respect to his employment, trade or business, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500, or by imprisonment for not more than 6 months, or by both such fine and imprisonment.

All officials and employees of this state who shall be members of the national guard or other authorized state military or naval forces thereof and army, air force, marine, coast guard and naval reservists shall be entitled to leave of absence from their respective duties, without loss of pay or time, on all days during which they shall be engaged in field, naval, air, or coast defense training ordered or authorized by the governor or under the provisions of the national defense act or Armed Forces Reserve Act of 1952. (R. S. c. 12, § 80. 1953, c. 108.)

Sec. 78. Discrimination against members.—No association or corporation, constituted or organized for the purpose of promoting the success of the trade, employment or business of the members thereof, shall by any constitution, rule, by-law, resolution, vote or regulation discriminate against any member of the national guard or other authorized state military or naval forces because of such membership, in respect to the eligibility of such member of the national guard or other authorized state military or naval forces to membership in such association or corporation, or in respect to his rights to retain said last mentioned membership; and any person who aids in enforcing any such provisions against a member of the said national guard or other authorized state military or naval forces with intent to discriminate against him because of such membership shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500, or by imprisonment for not more than 6 months, or by both such fine and imprisonment. (R. S. c. 12, § 81.)

Sec. 79. Molestation of members. — Whoever shall unlawfully molest, insult or abuse any member of the national guard or other authorized state military or naval forces while in the performance of his duty shall be deemed guilty of misdemeanor, and on conviction thereof shall be punished by a fine of not more than \$500, or by imprisonment for not more than 6 months, or by both such fine and imprisonment. (R. S. c. 12, § 82.)

Sec. 80. Prosecution of offenses before civil courts. — Offenses against the provisions of this chapter, except when they are purely military and committed by a person subject to military jurisdiction, may, unless a different remedy is specially provided, be prosecuted by complaint or indictment before a court of competent criminal jurisdiction; and all fines and forfeitures collected under the provisions of this chapter, the disposition whereof is not otherwise specially provided for, shall be paid into the state treasury and credited to the military fund. (R. S. c. 12, § 83.)

Sec. 81. Neglect of civil officers to perform duties imposed on them.—Civil officers named in this chapter, neglecting or refusing to obey its provisions, shall be guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not more than \$500, or by imprisonment for not more than 6 months, or by both such fine and imprisonment. (R. S. c. 12, § 84.)

See c. 27, § 117, re care of mentally ill members of armed forces.

Sec. 82. Enlistment of minors into the army.—Whoever in this state enlists or causes to be enlisted into the armed forces of the United States, a minor under the age of 17 years, knowing him to be such, without the written consent of his parent, master or guardian, or persuades him to leave the state with

intent thus to enlist him, shall be punished by a fine of not more than \$500, or by imprisonment for less than 1 year. (R. S. c. 12, § 85. 1949, c. 326, § 31.)

Sec. 83. Discrimination without cause against soldiers or sailors in public places.—Whoever makes any distinction, discrimination or restriction against any soldier or sailor duly enlisted in the service of the United States or of the state relative to admission to, or treatment in, a theatre, skating rink or other public place of amusement, or in any public conveyance or public meeting, or in an inn or hotel, or other public place kept for gain or hire, while wearing the uniform of said United States or of said state, except for good cause, shall be punished by a fine of not more than \$100, or by imprisonment for not more than 3 months. (R. S. c. 12, § 86.)

Sec. 84. Unauthorized use of badge of certain organizations. — Whoever willfully wears the badge, button or other insignia of the Grand Army of the Republic, of the Sons of Union Veterans of the Civil War, of the United Spanish War Veterans, of the Veterans of Foreign Wars or of the American Legion, or the official discharge button of the army, air force, navy or marine corps, or of any other military, naval or patriotic organization legally incorporated, or uses or wears the same to obtain aid or assistance thereby within the state, unless he shall be entitled to use or wear the same under the rules and regulations respectively of the Department of Maine of the Grand Army of the Republic, of the Sons of Union Veterans of the Civil War, of the United Spanish War Veterans, of the Veterans of Foreign Wars, or of the American Legion or under the regulations of the army, air force, navy or marine corps or of any other military, naval or patriotic organization legally incorporated, shall be punished by a fine of not more than \$20, or by imprisonment for not more than 30 days, or by both such fine and imprisonment. (R. S. c. 12, § 87. 1949, c. 326, § 32.)

See c. 54, § 14, re unauthorized wearing, etc., of badge, emblem, etc., of certain organizations.

Rules and Regulations.

Sec. 85. National Guard Association; organization and powers. — The commissioned officers of the national guard may organize themselves into an association the name of which shall be "The National Guard Association of the State of Maine." Such association may adopt a constitution and by-laws not repugnant to law, orders or regulations, and alter and amend the same, and may take and hold such real and personal property as may be necessary for the purposes of the association. (R. S. c. 12, § 89.)

Sec. 86. Regulations.—The governor is authorized to make such rules and regulations as he may deem expedient, but such rules and regulations shall conform to the provisions of this chapter and regulations published by the national military establishment for the government of the national guard of the United States, as nearly as practicable to those governing the United States army, air force and navy, and when promulgated, shall have the same force and effect as the provisions of this chapter. The rules and regulations as heretofore established, and not inconsistent with the provisions of this chapter, shall remain in force until new rules and regulations are approved and promulgated. (R. S. c. 12, § 90. 1949, c. 326, § 33.)

Sec. 87. Rules governing militia not in federal service when called out by governor.—Whenever any portion of the militia not being in the service of the United States shall be on duty or ordered to assemble for duty by the governor in time of actual war, insurrection, invasion or rebellion, or emergency due to fire, flood or other distaster, the articles of war governing the army and

air force of the United States, the articles for the government of the United States navy and the regulations prescribed for the army, air force and navy of the United States, so far as consistent with this chapter and the regulations issued thereunder, shall be in force and regarded as a part of this chapter until said forces shall duly be relieved from such duty during such state of actual war, insurrection, invasion or rebellion; but no punishment under such rules and articles which shall extend to the taking of life shall in any case be inflicted until the approval by the governor of the sentence inflicting such punishment. (R. S. c. 12, § 91. 1949, c. 326, § 33-A.)

Sec. 88. Uniform code of military justice applicable.—Except as provided in this chapter, the national guard or other authorized state military or naval forces of the state of Maine shall at all times and in all places, and the unorganized militia shall whenever called into service, be governed by the uniform code of military justice and manual for courts-martial, United States, 1951. (R. S. c. 12, § 92. 1949, c. 326, § 34. 1953, c. 212, § 1.)

Maine State Guard.

Sec. 89. Authority and name.—Whenever any part of the national guard of this state is in active federal service, the governor is authorized to organize and maintain within this state during such period, under such regulations as the secretary of the army of the United States may prescribe for the organization, standard of training, instruction and discipline, such military forces as the governor, as commander in chief, may deem necessary to defend this state and protect its sovereignty.

Such forces shall be composed of officers commissioned or assigned, and such able-bodied male citizens of the state and such other able-bodied men who have or shall have declared their intention to become citizens of the United States as shall volunteer therein, who shall be more than 17 years of age; provided the restriction as to citizenship shall not apply to soldiers and sailors who have previously served honestly and faithfully in the United States army, air force, navy, marine corps, the organized militia or the national guard; and provided further, that youths not less than 16 years of age, if written consent thereto is given by parents or guardian, may be enrolled in the state guard or other authorized state military or naval units.

Such forces shall be replacements of and distinct from the national guard and shall be known as the "Maine State Guard."

Such forces shall be uniformed and the expense thereof shall be paid by the state. (R. S. c. 12, § 93. 1949, c. 326, § 35.)

Sec. 90. Organization; rules and regulations. — The governor is authorized from time to time to prescribe in rules and regulations not inconsistent with the provisions of sections 89 to 100, inclusive, the enlistment, designation and location of units, the organization, administration, equipment, maintenance, training and discipline of such forces; provided that the organization shall not conflict with the laws of the United States; and further provided, such rules and regulations, in so far as he deems practicable and desirable, shall conform to existing laws governing and pertaining to the national guard of the state and the rules and regulations promulgated thereunder.

He shall, subject to the rules and regulations prescribed by the department of the army, appoint officers for such units and organizations of the state guard as he may establish and such officers shall, subject to removal by the commander in chief, exercise the same military authority over their several commands as specified by the statutes of Maine for officers of the national guard of the state. (R. S. c. 12, § 94. 1949, c. 326, § 36.)

Sec. 91. Active service Maine state guard; pay and allowances; disability compensation.—All of the provisions of sections 2, 7 and 52 not inconsistent with the provisions of sections 89 to 100, inclusive, shall apply to and govern the Maine state guard whenever such guard has been organized.

No pay will be allowed the officers and enlisted men of the Maine state guard for drill and inspections, but nothing in this section shall be construed as to invalidate the provisions of section 52 which are applicable to the Maine state guard.

Any member of the Maine state guard who, while in such active service as defined in section 2, shall receive any injury, or incur or contract any disability or diseases by reason of such active duty, or who shall without willful negligence on his part receive any wound, injury or disease incident thereto while performing any lawfully ordered duty in connection therewith, which shall incapacitate him from his usual business or occupation, shall receive compensation therefor in accordance with the provisions of chapter 31, as an employee of this state, and the average weekly wage in such cases shall be taken to be the earning capacity of the injured in the occupation in which he is regularly engaged, and in case of death his dependents, if any, shall be entitled to compensation as provided in said chapter 31. (R. S. c. 12, § 95.)

Sec. 92. Requisitions; armories; other buildings. — For the use of such forces, the governor is authorized to requisition from the secretary of the army such arms, ammunition, clothing and equipment as the secretary of the army in his discretion, and under regulations determined by him, is authorized to issue; and to make available to such forces the facilities of state armories and their equipment and such other state premises and property as may be available. (R. S. c. 12, § 96. 1949, c. 326, § 37.)

Sec. 93. Use of the Maine state guard outside of this state.—The Maine state guard shall not be required to serve outside the boundaries of this state except:

Any organization, unit or detachment of such forces, upon order of the officer in immediate command thereof, may continue in fresh pursuit of insurrectionists, saboteurs, enemies or enemy forces beyond the borders of this state into another state until they are apprehended or captured by such organization, unit or detachment or until the military or police forces of the other state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons; provided such other state shall have given authority by law for such pursuit by such forces of this state. Any such person who shall be apprehended or captured in such other state by an organization, unit or detachment of the forces of this state shall without unnecessary delay be surrendered to the military or police forces of the state in which he is taken or to the United States, but such surrender shall not constitute a waiver by this state of its right to extradite or prosecute such person for any crime committed in this state. (R. S. c. 12, § 97.)

Sec. 94. Permission to forces of other states.—Any military forces or organization, unit or detachment thereof of another state who are in fresh pursuit of insurrectionists, saboteurs, enemies or enemy forces may continue such pursuit into this state until the military or police forces of this state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons and are authorized to arrest or capture such persons within this state while in fresh pursuit. Any such person who shall be captured or arrested by the military forces of such other state while in this state shall without unnecessary delay be surrendered to the military or police forces of this state to be dealt with according to law. This section shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful. (R. S. c. 12, § 98.)

Sec. 95. Federal service.—Nothing in sections 89 to 100, inclusive, shall be construed as authorizing such forces, or any part thereof, to be called, ordered or in any manner drafted, as such into the military service of the United States, but no person shall by reason of his enlistment or commission in any such forces be exempted from military service under any law of the United States. (R. S. c. 12, § 99.)

Sec. 96. Civil groups.—No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league or other combination of persons or civil group shall be enlisted in such forces as an organization or unit. (R. S. c. 12, § 100.)

Sec. 97. Disqualifications.—No person shall be commissioned or enlisted in such forces who has been expelled or dishonorably discharged from any military or naval organization of this state, or of another state or of the United States, or who has been convicted of a felony in any court of this state, or of another state or of the United States. (R. S. c. 12, § 101.)

Sec. 98. Oath of officers; enlisted men.—The oath to be taken by officers commissioned and men enlisted in such forces shall be substantially in the form prescribed for officers and enlisted men of the national guard, substituting the words "Maine State Guard" where necessary. (R. S. c. 12, § 102.)

Sec. 99. Period of service.—All officers and enlisted men shall be commissioned or enlisted for the period of the emergency, hereinafter defined, unless sooner discharged for the convenience of the state; provided that such commission or enlistment, without the consent of such officer or enlisted man, shall in no event exceed 3 years.

The emergency shall be considered terminated upon the return to the state of the military units heretofore designated as the Maine national guard and the resumption by such units or personnel thereof to their national guard status at the time of induction into the federal service, whereupon the personnel of the Maine state guard, by order of the governor, shall be discharged within 30 days after the resumption of such units of the national guard to their status as before its induction. (R. S. c. 12, § 103.)

Sec. 100. Articles of war; freedom from arrest.—

I. Whenever such forces or any part thereof shall be ordered out for active service under the provisions of section 2, the uniform code of military justice of the United States applicable to members of the national guard of this state in relation to courts-martial, their jurisdiction, the limits of punishment and the rules and regulations prescribed thereunder shall be in full force and effect with respect to Maine state guard. (1953, c. 212, § 2.)

II. Every person belonging to such forces shall in all cases, except felony and breach of the peace, be privileged from arrest while going to, remaining at or returning from any place at which he may be required to attend for military duty. (R. S. c. 12, § 104. 1953, c. 212, § 2.)

Military Purposes Defined.

Sec. 101. "Military purposes," definition.—Wherever in this chapter the words "military purposes" appear, they shall mean any purposes that will aid in facilitating the preparation for or conduct of war whether for defense or offense or whether on land, sea or in the air. (R. S. c. 12, § 105.)