

MAINE STATE LEGISLATURE

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



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

Maine
REVISED STATUTES
1964

*Prepared Under the Supervision
of the
Committee on Revision of Statutes*

Being the Tenth Revision of the
Revised Statutes of the State
of Maine, 1964

Volume 4
Titles 21 to 25



Boston, Mass.
Boston Law Book Co.

Orford, N. H.
Equity Publishing Corporation

St. Paul, Minn.
West Publishing Co.

Text of Revised Statutes
Copyright © 1964
by
State of Maine

This is a historical version of the Maine Revised Statutes that may not reflect the current state of the law. For the most current version, go to:

<http://legislature.maine.gov/legis/statutes/>

CHAPTER 137
COURTS-MARTIAL

Sec.

- 1211. Classification and jurisdiction.
- 1212. General courts-martial.
- 1213. Special courts-martial.
- 1214. Summary courts-martial.
- 1215. Rules of evidence; right of accused to testify.
- 1216. Process; rights of accused.
- 1217. Summoning and attendance of witnesses.
- 1218. Confinement in lieu of fine; approval of sentence.
- 1219. Confinement; payment of fines.
- 1220. Jurisdiction presumed.
- 1221. Oaths.
- 1222. Report to Adjutant General.
- 1223. Application to all state armed forces.

§ 1211. 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.1954, c. 14, § 56.

§ 1212. 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.

R.S.1954, c. 14, § 57.

§ 1213. 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 non-commissioned 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.

R.S.1954, c. 14, § 58.

§ 1214. 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. When but one 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 one month's pay and allowances and to sentence to reduction of noncommissioned officers to the ranks, or any 2 or more of such punishments may be combined in the sentence imposed by such court.

R.S.1954, c. 14, § 59.

§ 1215. 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 com-

petent witness, and his failure to make such request shall not create any presumption against him.

R.S.1954, c. 14, § 60.

§ 1216. 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.1954, c. 14, § 61.

§ 1217. 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. 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. Every person not belonging to the military service of the State

who, being duly subpoenaed to appear as a witness before a court-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. Such witness may plead as a defense that he was not tendered one day's fee and mileage for the journey to and from the place of trial. 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. No witness shall be compelled to incriminate himself or to answer any question which may tend to incriminate or degrade him.

R.S.1954, c. 14, § 62.

§ 1218. 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. Such sentence of confinement shall not exceed one 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.1954, c. 14, § 63.

§ 1219. 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. 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 one 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 shall 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 chapters 121 to 139, except as otherwise provided for by law.

R.S.1954, c. 14, § 64.

§ 1220. Jurisdiction presumed

The jurisdiction of the courts and boards established under chapters 121 to 139 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.1954, c. 14, § 65.

§ 1221. 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.1954, c. 14, § 66.

§ 1222. Report 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.1954, c. 14, § 67.

§ 1223. Application to all state armed forces

The provisions in regard to courts and boards established under chapters 121 to 139 shall apply, so far as applicable, to the State Guard and all other authorized state military or naval forces.

R.S.1954, c. 14, § 68.