

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1844.

AUGUSTA:
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1844.

TWENTY-FOURTH LEGISLATURE.

No. 30.]

[SENATE.

AN ACT

TO ORGANIZE, GOVERN AND DISCIPLINE

THE MILITIA .

[W. R. SMITH & Co....Printers.]

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND
FORTY-FOUR.

AN ACT to organize, govern and discipline the Militia.

*Be it enacted by the Senate and House of Represen-
tatives in Legislature assembled*—as follows :

SECTION 1. That all the provisions of this act shall
be considered as subordinate to and intended to carry
into effect, the provisions of the several acts of the
Congress of the United States, hereinafter mentioned
by their titles, viz: "An act more effectually to pro-
vide for the national defence, by establishing an uni-
form militia throughout the United States," passed
May 8, 1792. Also "an act in addition to the fore-
going act, passed March 2, 1803. Also an act in
further addition to the said first mentioned act, passed
April 18, 1814. Also "an act, concerning field offi-
cers of the militia," passed April 20, 1816. Also
"an act to establish an uniform mode of discipline
and field exercise for the militia of the United States,"
passed May 12, 1820, being the same acts as are
recited in the first article of chapter sixteen of the
Revised Statutes of this State.

SEC. 2. In addition to the exemptions made by the laws of the United States, referred to in the foregoing section, the following described persons shall be absolutely exempted from military duty, notwithstanding their ages may be more than eighteen, and less than forty five years, viz: The justices of the Supreme Judicial Court; all regularly ordained ministers of the gospel, of every denomination, while they shall ordinarily officiate as such, and continue in regular standing; all officers who have heretofore held, or may hereafter hold, commissions in the Militia of this State, or any of the United States, or in the army or navy of the United States, for the term of five years, or who shall have been superceded, or whose corps or company, shall have been disbanded, and who shall have been honorably discharged.

SEC. 3. The persons named in this section, shall be exempted from military duty, upon producing certificates as hereinafter prescribed. Every person, of the religious denominations of quakers or shakers, who shall, on or before the first Monday of April annually, produce a certificate to the commanding officer, within whose bounds such quaker or shaker resides; which certificate, signed by two or more of the elders or overseers, as the case may be, and countersigned by the clerk of the society, with which such quaker or shaker meets for religious worship, shall be in substance as follows; "We the subscribers, of the society of the people called ——, in the town of

14 ———, in the county of ———, do hereby certify
 15 that ———, is a member of our society, and that
 16 he frequently and usually attends with said society for
 17 religious worship, and conforms to the usages of the
 18 same, and, we believe, is conscientiously scrupulous
 19 of bearing arms.

20
 A. B. } Elders, (or overseers,
 C. D. } as the case may be.)

21 E. F. *Clerk.*

22 All enginemen upon the conditions specified in the
 23 acts, under which they have been, or may be hereafter
 24 appointed, *provided*, that such enginemen shall be
 25 still liable to be called forth, as members of the com-
 26 pany, within the limits of which they reside, to exe-
 27 cute the laws of the United States, or of this State,
 28 to suppress insurrection or repel invasion, but shall
 29 not vote in the choice of company officers, so long as
 30 they claim exemption from other military duty; *pro-*
 31 *vided*, that no person shall be exempted from the
 32 performance of any military duty by virtue of his
 33 being a member of any engine company, unless he
 34 shall, on or before the second Tuesday of April,
 35 annually, produce to the commanding officer of the
 36 military company to which he belongs, the certificate
 37 of the selectmen, or other officers by whom he is
 38 appointed, that he has been duly appointed an engine-
 39 man, and that he faithfully performs the duty thereof.
 40 But it shall be the duty of the clerk of each engine
 41 company to return to the commanding officers of

42 military companies, a list of all the members of said
43 engine companies, and such list so returned, shall
44 avail each member in the same manner, as though he
45 had personally returned his certificate of membership.

46 No person liable to the performance of military duty
47 who may be discharged from any engine company,
48 for being negligent or remiss in any of the duties
49 required of him as an engineman, shall be again ap-
50 pointed as an engineman, and be thereby exempted
51 from military duty, until one year from the time he
52 may be so discharged.

53 No mariner shall be required to perform military
54 duty, unless at the time of his being warned, he shall
55 have been discharged from some vessel three months.

56 No member of any company of artillery, cavalry,
57 light infantry or riflemen, shall be appointed an en-
58 gineman during the time for which he may have
59 enlisted into said company, and be thereby exempted
60 from military duty.

61 Any non-commissioned officer or private may be
62 exempted from military duty, on account of bodily
63 infirmity, *provided* he shall obtain a certificate
64 thereof, in the manner provided in this section, that
65 is to say.

66 It shall be the duty of the surgeon or surgeon's
67 mate, who shall in all cases be regular practising phy-
68 sicians and surgeons, upon application made to either
69 of them for a certificate of exemption from military
70 duty on account of bodily infirmities, to receive the

71 declaration of such applicant in writing, stating con-
72 cisely the nature of the disease or infirmity, made
73 under oath, which oath may be administered by such
74 surgeon or surgeon's mate, and make a critical exam-
75 ination into the degree of such infirmity, and if he
76 shall be of opinion, upon such examination, that the
77 person so applying, is unable to perform the duties
78 required by law of soldiers in the militia, they shall
79 give to the person so applying, a certificate thereof,
80 which, being recorded in the orderly book of the
81 company, in which such applicant would otherwise
82 be liable to do military duty, or presented by the per-
83 son holding the same to be recorded, shall exempt
84 him from the performance of military duty, for such
85 term as they may think such disability may continue,
86 not exceeding one year. *Provided*, that if such sur-
87 geon or surgeon's mate shall be of opinion, that the
88 infirmity of any person is incurable, and of such a
89 nature that he can never be able to perform military
90 duty, he may give to such person a certificate thereof,
91 which being recorded as aforesaid, shall absolutely
92 exempt such person from military duty until revoked
93 by the same authority.

94 It shall be the duty of the surgeon and surgeon's
95 mate, to file with the adjutant of the regiment, as
96 soon as practicable, all the original applications made
97 to either of them, with a minute thereon, whether a
98 certificate was granted or not, and if granted, for
99 what period; and it shall be the duty of the com-

100 manding officer of the regiment, as soon as may be
101 thereafter, to cause notice to be given to the com-
102 manding officer of the respective companies, of all
103 certificates of exemptions thus obtained, by persons
104 otherwise liable to do military duty in their compa-
105 nies.

106 If any surgeon or surgeon's mate shall demand or
107 receive of any non-commissioned officer or private,
108 any fee or reward for any certificate or examination,
109 he shall forfeit and pay a fine equal to four times
110 the amount of the fee so received or demanded, to
111 be recovered in an action of debt before any court
112 of competent jurisdiction, in the name of the com-
113 manding officer of the company, in which such
114 person so paying or causing to be paid such fee,
115 would be liable to do duty, to be appropriated in the
116 same manner as other military fines.

117 If there be no surgeon nor surgeon's mate in com-
118 mission in any regiment, any person otherwise liable
119 to do military duty therein, may be exempted there-
120 from on account of bodily infirmity, on obtaining a
121 certificate from some respectable physician, living
122 within the bounds of the regiment, that he is unable
123 to do duty by such infirmity, for such term, not
124 exceeding one year, as the officer commanding the
125 company shall judge reasonable.

SEC. 4. Any staff officer, who, after having served
2 three years, has ceased to act as such, in conse-
3 quence of his own resignation, or of the resignation,

4 promotion or removal of the officer, who appointed
5 him, may be honorably discharged; and any such
6 officer who has ceased to act as such as aforesaid not
7 having served three years, may be exempted from
8 military duty, by paying two dollars per year to the
9 treasurer of the city, town or plantation, and deposit-
10 ing with the commandant of the company, within the
11 limits of which he resides, a receipt for the same, on
12 or before the first Tuesday of May, annually.

SEC. 5. All persons liable by law to the perform-
2 ance of military duty, who are or may be, between
3 the ages of eighteen and twenty one years, and be-
4 tween thirty three and forty five years, and all persons
5 who have done or shall hereafter do duty for the term
6 of seven years in any company of artillery, cavalry,
7 light infantry or riflemen, shall be exempted from
8 all military duty, except that of being detached or
9 called forth to execute the laws of the United States,
10 or of this State, to suppress insurrections and repel
11 invasions, and of keeping themselves constantly furn-
12 ished with arms and equipments as required by the
13 laws of the United States, and the duty of carrying
14 or sending them, on the first Tuesday of May annu-
15 ally, to the place of inspection or view of arms of the
16 company within the bounds of which they may reside,
17 and in which they may be enrolled, and the duty of
18 attending the election of company officers: *provided*,
19 that nothing herein contained shall be construed as
20 affecting the liability of officers in commission or

21 hereafter to be commissioned, or members of volun-
22 teer companies who may be between the ages of eigh-
23 teen and twenty one, or thirty three and forty five
24 years of age.

25 All persons liable to do military duty, shall be allow-
26 ed six months after their first enrolment to procure
27 equipments, *provided* they are not more than twenty
28 one years of age and have not had an enrolment in
29 any military company in this State.

SEC. 6. It shall be the duty of the clerk of every
2 company to assist the officer commanding the same,
3 in the enrolment, without partiality or favor, of all
4 persons, liable to do any military duty within the lim-
5 its thereof, so soon as their residence or their liability
6 to do such duty therein shall come to his knowledge.

SEC. 7. In all cases of doubt respecting the age of
2 any person intended to be enrolled, the party ques-
3 tioned as to his age, shall prove the same, to the sat-
4 isfaction of the enrolling officer: and if any person,
5 liable to do military duty, upon application to him
6 personally by the commanding officer of the company
7 within the bounds of which such person resides, or
8 upon application by any person acting under such
9 commanding officer, shall either refuse to give his
10 name or age, or not give either truly, every such per-
11 son shall forfeit twelve dollars for such offence, to be
12 sued for by the clerk of the company in an action of
13 the case, before any justice of the peace of the county
14 where such offender resides.

SEC. 8. It shall be the duty of the mayor and al-
2 dermen of each city, the selectmen of each town, and
3 the assessors of each plantation, to ascertain, define
4 and establish the limits of every company of infantry
5 in their respective cities, towns and plantations, where
6 the same has not been correctly defined in pursuance
7 of an act providing for the defining and establishing
8 the limits of companies, approved March 5th, 1836,
9 in the manner provided in said act. And it shall be
10 the duty of the clerk of every city, town and planta-
11 tion, at the expense thereof, on the request of the
12 commanding officer of any company of infantry there-
13 in, to furnish him with a copy of the records of the
14 limits of his company, established under said act, and
15 recorded on the books of such city, town or plantation,
16 certified by the clerk. In all prosecutions for the
17 non-performance of military duty, such certified copy
18 or a copy of the records of the Adjutant General's
19 office, certified by him, shall be conclusive evidence
20 of the bounds of such company.

SEC. 9. When it shall appear to the commanding
2 officer of a regiment, that any company within his
3 command is without a commissioned officer, he shall
4 issue orders to the clerk of such company, to enrol
5 all persons liable to do duty therein, and to return the
6 roll thereof to him forthwith; and if there be no clerk
7 of such company, then such commanding officer shall
8 require in writing, the assessors of cities, towns or
9 plantations, in which such company is situated, or

10 some other person or persons, to make out and return
11 to him, within ten days, a list of the names of all the
12 persons liable by law to do military duty in such com-
13 pany; and if any such clerk, assessors or other per-
14 sons, shall fail to comply, they shall forfeit and pay not
15 less than twenty, nor more than one hundred dollars,
16 to be recovered by indictment or by action on the
17 case, by any person whatever, one half to the use of
18 the State, and the other half to the use of the prose-
19 cutor.

SEC. 10. It shall be [the] duty of selectmen of towns,
2 and the assessors of plantations, in which no company
3 of infantry has been organized, upon a request in
4 writing, made to them by the commanding officer of
5 the regiment within the limits of whose command they
6 reside, to make out at the expense of said town or
7 plantation, and return to him within thirty days, a list
8 of all the citizens thereof liable by law to be enrolled
9 in the militia, which list shall be certified by them in
10 their official capacity; and if it shall appear that
11 there are forty persons residing in said town or plan-
12 tation liable to be enrolled as aforesaid, the said com-
13 manding officer shall forthwith report the same to the
14 commander-in-chief, who shall thereupon issue an
15 order for the organization of a company of infantry
16 in said town or plantation; the list of citizens fur-
17 nished as aforesaid being, for the purposes of organi-
18 zation, considered as a roll of said company, which
19 company shall be subject to the same provisions of

20 law in relation to the choice or appointment of offi-
21 cers, as are standing companies without officers, by
22 the terms of this act.

SEC. 11. If any non-commissioned officer or pri-
2 vate, shall in due course of law be convicted of any
3 infamous crime, he shall forthwith be disenrolled from
4 the militia.

SEC. 12. The governor is authorized, with advice
2 of the council, to organize and arrange the militia of
3 this State into divisions, brigades, regiments, battal-
4 ions and companies, conformably to the laws of the
5 United States, and make such alterations therein, as
6 from time to time, may be necessary; and each divis-
7 ion, brigade and regiment shall be numbered at the
8 formation thereof and a record made of such number-
9 ing in the adjutant general's office. And every new
10 division, brigade and regiment shall be designated by
11 the number next higher than that of the division next
12 before it, and the divisions, brigades and regiments
13 shall take rank, according to their numbers, the first
14 being highest in rank. *Provided however*, that the
15 governor, with advice of the council, may organize
16 independent battalions of infantry with a battalion
17 staff, where the local situation of the troops is such
18 that they cannot be conveniently connected with a
19 regiment.

SEC. 13. All applications or petitions for raising
2 companies at large, and for alterations in the arrange-
3 ment of the militia, shall be made to the governor,

4 who with the advice of the council, may grant such
5 petitions or applications as may appear proper.

SEC. 14. No company of cavalry, artillery, light
2 infantry or riflemen shall be raised at large, when any
3 of the standing companies shall thereby be reduced to
4 a less number than forty effective privates, exclusive
5 of conditional exempts, and two musicians, and in-
6 cluding corporals; and if any officer of cavalry, ar-
7 tillery, light infantry or riflemen, shall enlist any men
8 belonging to a standing company, or residing within
9 the bounds thereof, for the purpose of forming or re-
10 cruting his company, when, by means thereof, such
11 standing company would be reduced to a less number
12 than forty effective privates borne on the roll, exclu-
13 sive of those between the ages of eighteen and twenty
14 one, and between thirty three and forty five years, such
15 enlistment shall be void; and whenever any person
16 shall enlist into any such company, raised at large, the
17 commanding officer of the company into which he
18 may enlist, shall give notice thereof in writing to the
19 commanding officer of the standing company, in
20 which such person is liable to do duty, within five
21 days from the time of such enlistment, and state in
22 such notice the date of enlistment; otherwise the
23 same shall be void, although the standing company
24 shall not thereby be reduced to a less number than
25 forty effective privates. If any company raised at
26 large shall be reduced to a less number than thirty
27 privates, and remain so for six months, then such com-

28 pany shall be disbanded, and the men that belonged
29 to such delinquent company shall be enrolled in the
30 standing company, within the bounds of which they
31 shall respectively reside. All companies raised at
32 large and not annexed to any particular regiment,
33 shall be subject to the orders of the commanding of-
34 ficer of the brigade, in which they have been raised ;
35 and shall make their elections of officers in the same
36 manner as other companies, but shall make their re-
37 turns of elections to the commanding officer of the
38 brigade. At all parades of regiments, the companies
39 commanded by the two senior captains shall act as
40 light infantry companies, except when companies of
41 light infantry or riflemen have been or may hereafter
42 be raised, and annexed to the regiment.

SEC. 15. Where there are now or may hereafter be
2 two companies of artillery or cavalry in a brigade,
3 they shall form a battalion and be entitled to a major,
4 an adjutant and a quartermaster ; and if there are
5 three companies, they shall still form a battalion ; if
6 there are four companies, they shall form a regiment,
7 and be entitled to a colonel, lieutenant colonel, and
8 major, and an appropriate regimental commissioned
9 and non-commissioned staff.

SEC. 16. If any non-commissioned officer or pri-
2 vate of any company of cavalry, shall be destitute of
3 a suitable horse and furniture for more than two
4 months at a time, it shall be the duty of the com-
5 manding officer of the company, immediately to apply

6 to the brigadier general, who may forthwith discharge
7 such delinquent from such company, and cause him
8 to be enrolled in the standing company within whose
9 bounds he resides ; and if he be a non-commissioned
10 officer, he shall be considered as reduced to the ranks.

SEC. 17. Every person who shall lawfully enlist in
2 any volunteer company, whether such person be ex-
3 empted by law or not, shall be holden to do duty
4 therein for the term of seven years, unless such per-
5 son be sooner discharged by order of the commanding
6 officer of the brigade. And whenever any person,
7 who has performed duty in any volunteer company
8 for the term of seven years, shall present to the com-
9 manding officer of the regiment to which such com-
10 pany belongs, a certificate from the commanding
11 officer of such company, stating that he is entitled to
12 a discharge as specified in the sixth section of this
13 act, it shall be the duty of such commanding officer
14 of such regiment, to forthwith give him a discharge
15 from such company.

SEC. 18. Each brigadier general within his own
2 brigade, upon application of a majority of the mem-
3 bers of any company of cavalry, artillery, light infan-
4 try or riflemen, expressed by their vote at any regular
5 training, and such application being communicated
6 by the commanding officer of such company, may
7 discharge any non-commissioned officer or private
8 from any of the aforesaid companies ; and such non-
9 commissioned officer or private, shall forthwith be en-

10 rolled in the standing company, within the bounds of
11 which he resides ; and every non-commissioned offi-
12 cer so discharged, shall be considered as reduced to
13 the ranks.

SEC. 19. Where, by the division of any corps, a
2 new division or brigade shall be so formed as to leave
3 but three companies of any regiment of cavalry or
4 artillery, or where by the disbanding of any company
5 such regiment of cavalry or artillery shall be reduced
6 to three companies, such three companies shall con-
7 stitute a regiment, and all the officers thereof shall
8 retain their command and rank, the same as if said
9 corps had not been reduced.

SEC. 20. The commanding officer of each compa-
2 ny of artillery may enlist three men to serve as drivers,
3 who shall be exempted from other military duty,
4 except that of keeping the harnesses and apparatus
5 of the carriages belonging to the company in good
6 order.

SEC. 21. Each colonel or commanding officer of
2 infantry may raise by voluntary enlistment, within his
3 own regiment, or in any adjoining regiment with the
4 written consent of the commanding officer thereof,
5 and organize and establish within his own regiment,
6 a band of music, not to exceed twenty musicians, in-
7 cluding one master and one deputy master ; and the
8 colonel or commanding officer shall grant the musi-
9 cians and their officers warrants as such ; and each
10 band shall be under the direction of the commanding

11 officer of the regiment in which it is organized. It
12 shall be the duty of the master and deputy master, to
13 teach, lead and command such band, and to issue all
14 such orders as they may be, by their colonel or com-
15 manding officer, authorized to do, for these purposes.
16 Each master, deputy master and musician, shall con-
17 stantly keep themselves provided with the uniform of
18 the band, to which he belongs; which uniform is to
19 be prescribed in the same manner as the uniform of
20 the regiment, to which the band belongs; and shall
21 also keep himself constantly provided with such in-
22 strument or instruments, as may be directed by the
23 commanding officer of the regiment. The bands
24 belonging to the regiments, shall also be under the
25 [command of] the brigadier general, or the command-
26 ing officer of the brigade, the senior master having
27 the direction of said bands, whenever the said regi-
28 ments shall meet in brigade.

SEC. 22. If any master, deputy master or musician,
2 shall be guilty of any neglect of duty, disobedience
3 of orders, disorderly or other unmilitary conduct, he
4 shall forfeit not less than five, nor more than twenty
5 dollars for each offence, one half thereof to the use
6 of the officer suing therefor, and the other half to the
7 colonel of the regiment, to which the offender may
8 belong, for the purchase and repair of musical instru-
9 ments for said band; to be sued for by the adjutant
10 of the regiment, or brigade major of the brigade, if
11 assembled in brigade, in an action of the case, before

12 any justice of the peace in the county where the of-
13 fender resides; and no appeal shall be allowed to
14 either party; and such master, deputy or musician,
15 shall moreover be liable to be removed from the band
16 at the discretion of the commanding officer of the
17 regiment, in which the band is organized, and forth-
18 with enrolled as a private in the standing company,
19 within the bounds of which he resides. Each master,
20 deputy master and musician, shall be exempted from
21 all military duty while belonging to the band, except
22 such as shall be required of him by the colonel or
23 commanding officer of the regiment, or by the com-
24 manding officer of the brigade, when the regiments
25 are assembled in brigade.

SEC. 23. Every commanding officer of a company
2 may enlist, as musicians, for his company and within
3 the bounds of the same, not exceeding two drummers,
4 and two fifers or one fifer and one bugler, for and
5 during the term of seven years, unless sooner dis-
6 charged by removal to such distance from the said
7 company, as to render it inconvenient for the said
8 musician to perform the duties required of him, or by
9 reason of some other good and legal excuse. Any
10 musician so enlisted, who, after having been duly no-
11 tified and warned, shall refuse to perform his duty as
12 musician, at any legal meeting of said company, shall
13 forfeit and pay for every such offence, the same sum
14 as would be forfeited by any non-commissioned officer
15 or private for non-appearance at any such meeting;

16 and in case of removal or discharge of any such mu-
17 sician, the said commanding officer may, from time
18 to time, enlist other musicians to fill such vacancy.

SEC. 24. The aid-de-camp of each major general,
2 by him appointed to be orderly officer, the aid-de-
3 camp of each brigade, and the adjutant of each regi-
4 ment, battalion or corps, shall constantly keep a cor-
5 rect roster of the division, brigade, regiment, battalion
6 or corps, to which they respectively belong; and an
7 orderly book, and record therein all orders and other
8 official communications, received or issued by their
9 respective commanding officers, and copy, distribute,
10 and transmit all such orders and other papers, as they
11 may be directed by said officers, and attend them
12 while on military duty.

SEC. 25. The captain or commanding officer of
2 each company shall make, or cause the clerk of his
3 company to make, a return of the state of his compa-
4 ny on the day of the annual inspection, to the com-
5 manding officer of his regiment or battalion, on or
6 before the first day of June, annually; and the com-
7 manding officer of each regiment or battalion shall
8 cause his adjutant to record an abstract of the returns
9 made to him, in a book to be kept for that purpose,
10 and to transmit a copy thereof to the office of the
11 adjutant general, on or before the first day of August,
12 annually. And it shall be the duty of the several
13 commanding officers of regiments, to cause said ab-
14 stracts and returns to be made, within the several

15 times aforesaid, in all cases of absence or inability of
16 their adjutants, or of vacancies in the office.

SEC. 26. If any captain or commanding officer
2 shall neglect or refuse to make, or cause to be made,
3 a return of the state of his company, as it existed on
4 the day of the annual inspection in May, to the com-
5 manding officer of the regiment, on or before the first
6 day of June, annually, and shall so continue to neg-
7 lect, for fifteen days thereafter, being notified by the
8 adjutant of the regiment, to which such company be-
9 longs, that said return has not been received, he shall
10 forfeit and pay a fine of ten dollars, one half thereof
11 to the use of the State, and the remainder to the ad-
12 jutant of the same regiment, who shall be required to
13 collect said fine by an action of debt, in any court
14 proper to try the same.

SEC. 27. The commanding officer of each company
2 of artillery or cavalry, not attached to any regiment
3 or battalion, shall cause the clerk of his company to
4 make an abstract return of the state of his company on
5 the day of annual inspection, to the office of the ad-
6 jutant general, on or before the first day of June, an-
7 nually.

SEC. 28. The returns herein named shall be con-
2 veyed by mail, and the certificate of the post master
3 of the office where the same is deposited, that the
4 adjutant, or clerk, or other officer as aforesaid, did
5 deposit for transmission to the office of the adjutant
6 general, copies of returns as aforesaid, shall be con-

7 clusive evidence of his performing the duties required
8 of him, in transmitting the returns aforesaid.

SEC. 29. The captain or commanding officer of
2 every company raised at large, shall annually in the
3 month of August, make out a list of the names of the
4 men belonging to his company, and deliver the same
5 to the commanding officer of the regiment, within
6 whose bounds such men reside.

SEC. 30. The adjutant general shall form and sign
2 correct abstracts of all the returns, as before herein
3 required, and transmit one of them to the command-
4 er-in-chief, and one to the president of the United
5 States, on or before the first day of January annually.
6 And it shall be the duty of the adjutant general to
7 furnish the officers, from whom returns are required,
8 with proper books, and, from time to time, with
9 blanks containing proper forms of the abstracts and
10 returns aforesaid, and for rendering military accounts
11 and other purposes, and the form shall be uniform
12 throughout the State.

SEC. 31. Every officer, non-commissioned officer
2 and private of infantry, cavalry, artillery and riflemen,
3 shall constantly keep himself furnished with arms and
4 equipments, required by the laws of the United States,
5 referred to in the first section, except such privates as
6 shall not be able so to provide themselves.

SEC. 32. The officers of the militia, chaplains and
2 surgeons excepted, while on duty or whenever or-
3 dered out for elections, drills or courts martial, by

4 their superiors, shall wear a uniform dress, to consist
5 of a blue coat with such trimmings, and other articles
6 of dress of such color and fashion, and with such
7 equipments as shall be prescribed by the commander-
8 in-chief, except where the same is regulated by the
9 laws of the United States.

SEC. 33. The arms, ammuniton, accoutrements
2 and uniform of every officer, non-commissioned offi-
3 cer and private, and the uniform and musical instru-
4 ments of such musicians, as are mentioned in the
5 twenty second and twenty third sections of this chap-
6 ter, shall be exempted from attachment, execution and
7 distress.

SEC. 34. No private shall be considered as unable
2 to provide himself with the arms and equipments
3 required in the preceding section, unless he shall pro-
4 duce after the first day of April, and before the first
5 Tuesday of May, annually, to the commanding offi-
6 cer of the company to which he belongs, a certificate
7 of such inability from the overseers of the poor of
8 the town or plantation where he resides. And the
9 commanding officer of the company to which such
10 private belongs, shall forthwith lay such certificate
11 before the selectmen of the town, or assessors of the
12 plantation, where such private resides. And it shall
13 be the duty of such selectmen or assessors, forthwith,
14 at the expense of their respective towns or planta-
15 tions, to provide for every such private, the arms and
16 equipments required as aforesaid; and they shall de-

17 posit the same in some safe and convenient place,
18 and shall permit the commanding officer of the com-
19 pany, to which such private, unable to provide himself
20 as aforesaid, belongs, to deliver such arms and equip-
21 ments to such private, whenever his company shall
22 be ordered out for any military duty. The said com-
23 manding officer shall be responsible for the safe return
24 of such arms and equipments to the place of deposit.
25 If any town or plantation shall neglect to furnish
26 arms and equipments to such privates as are unable
27 as aforesaid, to equip themselves, such town or plan-
28 tation shall forfeit and pay not less than twenty nor
29 more than fifty dollars, to be recovered by indictment
30 to the use of the State. But no person so furnished
31 with arms and equipments, shall, for that reason be
32 considered a pauper.

Sec. 35. All parents, masters or guardians shall
2 furnish all minors under their care, who shall be en-
3 rolled in the militia, with the arms and equipments
4 required by law ; and if any parent, master or guar-
5 dian, having any minor under his care enrolled as
6 aforesaid, shall neglect to provide such minor with
7 the arms and equipments required by this act, the said
8 master, parent or guardian is hereby subjected to the
9 same forfeitures as such minor would be liable to for
10 a like deficiency if such minor were of age. *Provi-*
11 *ded, however,* that such parents, masters or guardians,
12 as shall produce on or before the first Tuesday of
13 May, annually, certificates from the overseers of the

14 poor of the town or plantation in which they reside,
15 of their inability to provide arms and equipments as
16 aforesaid, to the commanding officer of the company
17 in which the minor under his care is enrolled, shall be
18 exempted from the forfeitures aforesaid.

SEC. 36. No officer, non-commissioned officer or
2 private, shall be arrested on any civil process, during
3 the going unto, remaining at, or returning from any
4 place, at which he may be ordered to meet for the
5 election of any officer or officers, nor during his go-
6 ing unto, returning from, or his performance of mili-
7 tary duty. And no officer shall be arrested in any
8 civil process, while going to, serving upon, or return-
9 ing from any court martial, court of inquiry, or board
10 of officers, upon which it may be the duty of such
11 officer to attend.

SEC. 37. Each regiment of infantry, and each bat-
2 talion of cavalry and artillery, shall be furnished with
3 the State colors, and each company of infantry,
4 artillery, light infantry and riflemen, shall be furnished
5 with a drum and fife, or bugle horn; and each brig-
6 adier general is hereby authorized to draw orders
7 upon the quartermaster general, in favor of the com-
8 manding officers of regiments, battalions and com-
9 panies for the above purposes, whenever the several
10 regiments, battalions and companies, may not be
11 supplied as aforesaid. The commanding officers of
12 regiments and battalions shall be responsible for the
13 safe keeping of their colors; and the commanding

14 officers of companies shall be responsible for the safe
15 keeping of the drums, fifes, bugle horns and trumpets,
16 delivered to them for the use of their companies ;
17 and it shall be the duty of the quartermaster general
18 to furnish such colors and musical instruments, and
19 to present his accounts therefor to the Legislature for
20 allowance.

SEC. 38. The adjutant general shall furnish blank
2 orders for the commanding officers of companies, to
3 order their non-commissioned officers or privates to
4 notify their men to attend all the inspections, trainings
5 and reviews, and meetings for the choice of officers,
6 which shall be ordered, also blank notifications or
7 orders to be left with the men, by the non-commis-
8 sioned officers or privates, ordered to notify as afore-
9 said ; and it shall not be necessary that seals be affixed
10 to any orders whatever.

SEC. 39. Each company of artillery shall be pro-
2 vided with two good brass or iron field pieces, of such
3 calibre as the commander-in-chief may direct, with
4 carriages and apparatus complete, a caisson, forty
5 round shot and forty rounds of cannister shot ; also
6 tumbrel harness, implements, laboratory and ordnance
7 stores, which may from time to time be necessary for
8 their complete equipment for the field. The com-
9 mander-in-chief shall order to be issued to each com-
10 pany of artillery, annually, a quantity of powder not
11 exceeding seventy five pounds to those companies
12 which have two six pounders, fifty pounds to those

13 which have two four pounders, and forty pounds to
14 those which have two three pounders, which shall be
15 expended on days of inspection and in experimental
16 gunnery. The commanding officer of each company
17 of artillery shall be accountable for the careful pre-
18 servation of the pieces, and all the apparatus afore-
19 said, appertaining to their equipment, and for the
20 proper expenditure of the ammunition supplied by
21 the government; and he shall lay before the commit-
22 tee on accounts of the Legislature, for allowance,
23 his accounts of money actually expended in providing
24 horses to draw the field pieces and the tumbrel of
25 the company; *provided, however*, no allowance shall
26 be made, unless such company is ordered to appear
27 at a battalion, regimental, brigade or division inspec-
28 tion or review, or unless such company is ordered on
29 duty by the commander-in-chief.

SEC. 40. Whenever the governor on account of
2 any public exigency, shall issue his proclamation to
3 that effect, every town and plantation within this
4 State shall provide and deposit, and constantly keep
5 provided and deposited, in some suitable and con-
6 venient place, within said town or plantation, one
7 hundred pounds of musket balls, each of the eigh-
8 teenth part of a pound; one hundred and twenty
9 eight flints, suitable for muskets, for every sixty four
10 soldiers enrolled within said town or plantation except
11 artillerists; and also three copper, iron or tin camp
12 kettles; with powder at the rate of thirty two pounds

13 for every sixty four soldiers, enrolled within said town
14 or plantation, and the same proportion of the afore-
15 said articles for a greater or less number of soldiers
16 enrolled as aforesaid. Every town or plantation,
17 which shall neglect to keep constantly provided with
18 the articles aforesaid, and in the proportions afore-
19 said, shall forfeit and pay to the use of the State, a
20 sum not exceeding five hundred nor less than twenty
21 dollars, according to the nature and degree of the
22 neglect, to be recovered by indictment in any court
23 of competent jurisdiction. It shall be the duty of
24 each quartermaster of regiments of infantry to cause
25 to be prosecuted, every town or plantation within the
26 bounds of his regiment, which he shall, upon his in-
27 spection, find to be deficient either in quality or quan-
28 tity of military stores, required to be provided as
29 aforesaid, which he shall find to have neglected to
30 make the provisions, or any part thereof, required as
31 aforesaid. It shall be the duty of each town or plan-
32 tation treasurer, when such town or plantation by
33 virtue of this section, shall make any expenditure, to
34 make out an account thereof, and present the same,
35 verified by his oath, to the Legislature, who shall
36 examine and allow such sum, as shall appear to be
37 properly vouched and expended.

SEC. 41. Upon the requisition of any commanding
2 officer of a company for that purpose, at five days no-
3 tice, the treasurer of each city, town and plantation,
4 shall pay at the place of inspection and review, to each

5 officer and member of such company, including mu-
6 sicians, belonging to such city, town or plantation,
7 who shall then and there appear duly equipped, and in
8 the uniform of the company to which they severally be-
9 long, and shall faithfully perform military duty, the sum
10 of one dollar in lieu of rations; *provided* such officer or
11 member shall have appeared duly armed and equip-
12 ped, and performed military duty at each of the train-
13 ings mentioned in the seventy seventh section; but if
14 he shall have failed to appear at either of said train-
15 ings, as aforesaid, the sum of twenty five cents shall
16 be deducted for each of said trainings at which he
17 shall have so failed to appear; but nothing shall be
18 paid to any person who shall not appear, and perform
19 military duty at the review aforesaid. And it shall be
20 the duty of the clerk or commanding officer of each
21 company, on the said day of inspection and review,
22 and before the payments to be made as aforesaid, to
23 submit to the examination of the treasurer of the town
24 to which it belongs, the roll of said company, as kept
25 at the said several trainings mentioned in the seventy
26 seventh section, as well as on the day of inspection and
27 review, on which all absences and delinquences shall
28 have been noted; and the treasurer shall upon exami-
29 nation of said roll, kept as aforesaid, pay to each offi-
30 cer, soldier and musician, such sum as shall appear to
31 belong to him according to the tenor of this act. Every
32 city, town or plantation, which shall fail to pay such
33 sums as aforesaid, shall forfeit to the use of the com-

34 pany, a sum equal to one dollar and fifty cents, for
35 every such person, who shall do duty on such inspec-
36 tion and review, to be sued for and recovered by the
37 clerk of said company, before any court of competent
38 jurisdiction. The treasurer of said city, town or
39 plantation, shall annually present his bill for so much
40 as he has actually paid to the officers and soldiers
41 aforesaid, to the legislature for allowance.

SEC. 42. The treasurer of every city, town or plan-
2 tation, shall supply, at the expense of the State, or
3 cause the commanding officer of each company of in-
4 fantry, light infantry, cavalry and riflemen, to be sup-
5 plied, with a quarter of a pound of good gun powder,
6 made into suitable blank cartridges, for each and ev-
7 ery non-commissioned officer and private, borne on
8 the company roll of such commander, exclusive of
9 conditional exempts, whenever such commanding of-
10 ficer's company is ordered to parade for review. Such
11 commanding officer shall make a written application
12 therefor, four days before such review, and shall re-
13 turn to, or account with said treasurer, for all the
14 powder he may receive, over and above one quarter
15 of a pound for each man actually on parade, at the
16 muster for which said powder was drawn; and the
17 treasurer aforesaid, shall annually present his account
18 for the expense of such powder, to the legislature for
19 allowance. *Provided* that when the commanding of-
20 ficer of a company raised at large, shall make requi-
21 sitions to the selectmen of a town, mayor of a city,

22 or the assessors of a plantation, for rations in money
23 and powder, directed by law, they shall designate the
24 number and names of the members of such company,
25 belonging to such town, city or plantation, and certify
26 their performance of military duty.

SEC. 43. The commander-in-chief is hereby author-
2 ized to cause all necessary repairs to be made upon
3 all the carriages and apparatus of the artillery, and all
4 the gun houses belonging to the State ; and also to
5 cause gun houses to be erected for the safe keeping
6 of the public property, as aforesaid, where such have
7 not been erected ; good and sufficient deeds of land
8 being first given, free of expense to the State.

SEC. 44. Whenever either or any of the gun houses,
2 used for the protection and preservation of guns, gun
3 carriages, tumbrels, munitions of war, or any other
4 apparatus, provided for the use of the artillery of the
5 State, shall be so far injured or decayed, as that in
6 the opinion of the commanding officer of any division
7 of the militia, in which said gun houses are situated,
8 it is inexpedient to repair the same, such commanding
9 officer may authorize the captain of the artillery com-
10 pany having the immediate superintendence of the
11 gun house thus injured or decayed, to dispose of the
12 same, either at public or private sale, as he may judge
13 most advantageous, and deposit the proceeds thereof
14 in the treasury of the State for the use thereof.

SEC. 45. The commissioned officers of the militia,
2 named in the aforesaid laws of the United States,

3 shall be chosen in the manner following: the major
4 generals to be chosen by the senate and house of rep-
5 resentatives, each having a negative upon the other.
6 The secretary of State, as soon as may be after any
7 such election, shall notify the person elected thereof;
8 and if such person shall not signify his acceptance of
9 the office within thirty days after such notice, he shall
10 be considered as declining.

11 The adjutant general and quartermaster general, to
12 be appointed by the governor, with advice of the
13 council, with the rank of brigadier general.

14 The division inspectors, to be appointed by the ma-
15 jor generals of their respective divisions, with the rank
16 of lieutenant colonel.

17 The aids-de-camp of the major generals, to be ap-
18 pointed by their respective major generals, with the
19 rank of major.

20 The division quartermasters, to be appointed by the
21 major generals of their respective divisions, with the
22 rank of major.

23 The brigadier generals, to be chosen by the written
24 votes of the field officers of their respective brigades.

25 The brigade majors, quartermasters of brigades, and
26 aids-de-camp to the brigadier generals, to be appoint-
27 ed by their respective brigades, the first with the rank
28 of major and the two last with the rank of captain.

29 The field officers of regiments and battalions, to be
30 chosen by the written votes of the captains and sub-
31 alterns of their respective regiments and battalions.

32 The captains and subalterns of companies, to be
33 chosen by the written votes of the members of their
34 respective companies, and no person shall be eligible
35 to either of said offices unless he be a member of said
36 company.

37 The adjutants, the quartermasters, and the paymas-
38 ters of regiments to be appointed by the colonels of
39 their respective regiments, with the rank of lieutenant.

40 The chaplains, the surgeons and the surgeons' mates
41 of regiments, to be appointed by the colonels of their
42 respective regiments.

43 The aforementioned officers shall be commissioned by
44 the governor.

SEC. 46. The non-commissioned officers, named in
2 the aforesaid laws of the United States, shall be ap-
3 pointed in the manner following: the sergeants of
4 companies to be appointed by the captains of their
5 respective companies, who shall forthwith make return
6 thereof to the commanding officer of their respective
7 regiments or battalions; and they shall grant them
8 warrants accordingly. If there be but one company
9 of cavalry or artillery in any brigade, the warrant shall
10 be granted by the captain of such company; corpo-
11 rals shall be appointed by, and receive warrants from
12 the captains of their respective companies.

SEC. 47. In addition to the officers specified in the
2 laws of the United States, there shall be the following,
3 who shall receive commissions from the governor,
4 viz:

5 Aids-de-camp to the commander-in-chief, not to ex-
6 ceed four in number, with the rank of lieutenant col-
7 onel, to be appointed by the governor.

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

13 A division advocate for each division, to be appoint-
14 ed by the commander-in-chief.

15 An adjutant and quartermaster to each battalion of
16 artillery and cavalry, to be appointed by the com-
17 manding officers of their respective battalions, with
18 the rank of lieutenant.

19 And the following non-commissioned officers, viz :

20 To each regiment a quartermaster sergeant and a
21 sergeant major, a drum and fife major, master, deputy
22 master and musicians of the regimental bands, to be
23 appointed by the colonels of their respective regi-
24 ments, who shall grant them warrants accordingly.

25 A quartermaster sergeant to each separate battalion
26 of artillery and cavalry, to be appointed by the com-
27 manding officers of their respective battalions, who
28 shall grant them warrants accordingly.

SEC. 48. Each major general is authorized, and it
2 shall be his duty, from time to time, to give all such
3 orders, as may be necessary for filling, by election,
4 any vacancy of brigadier general, field officer, captain
5 or subaltern, existing within his division. Previously

6 to any such election, the electors shall have ten days
7 notice thereof, at least, and no election for the choice
8 of brigadier general or field officer, shall be valid,
9 until a majority of all the electors, qualified by law to
10 vote in such choice, counting all the existing vacan-
11 cies in the offices of such electors, shall be present at
12 such election.

13 Every person, who shall have been elected to any
14 office as aforesaid, and shall not within one hour after
15 he shall be declared so elected, signify his acceptance
16 to the presiding officer thereof in person, or in writ-
17 ing, shall be considered as declining to serve, and a
18 new election shall be had.

SEC. 49. All returns of elections, or of neglects or
2 refusals to elect, shall be made to the commander-in-
3 chief by the major generals, in whose divisions such
4 elections shall have been ordered; and all commis-
5 sions shall be transmitted to the major generals, to be
6 regularly passed down to the persons entitled to re-
7 ceive them.

SEC. 50. Whenever from any cause a company
2 shall neglect or fail, to fill any existing vacancy that
3 may have occurred by the death, removal, promotion
4 or discharge of the captain or any subaltern thereof,
5 after two separate meetings of said company duly or-
6 dered for that purpose, it shall be the duty of the
7 commanding officer of the regiment to which such
8 company belongs, to communicate said neglect or
9 failure forthwith to the commander-in-chief and at the

10 same time recommend some suitable person or per-
11 sons, members of said company, to fill the vacancy or
12 vacancies that may exist therein as aforesaid. And
13 the commander-in-chief is hereby authorized and em-
14 powered by and with the advice of his council to ap-
15 point and commission such person or persons to fill
16 said existing vacancy or vacancies.

SEC. 51. Whenever any individual so appointed,
2 having been duly commissioned as an officer in the
3 militia of this State, shall for the space of more than
4 two months, after notice thereof, neglect to take and
5 subscribe the oath required by the Constitution, as is
6 hereinafter provided, to qualify him to enter upon the
7 duties of his office, he shall forfeit and pay not less
8 than one hundred dollars, nor more than two hundred
9 dollars to the use of the State, to be recovered by in-
10 dictment before the district court.

SEC. 52. In case of neglect or refusal by any com-
2 pany to do duty, as prescribed by law, or to elect offi-
3 cers when duly notified and ordered thereto, the gov-
4 ernor may immediately disband the said company, and
5 order the non-commissioned officers, musicians and
6 privates thereof, to be enrolled in the oldest, adjoining
7 standing company, and they shall be held to do there-
8 in all the duties required by law.

SEC. 53. The commission of every officer shall
2 designate the division, brigade, regiment or battalion
3 and the corps, in which he shall be commissioned,
4 and the day of his election or appointment; and he

5 shall take rank from that day ; and whenever an offi-
6 cer is transferred from one corps or station, to ano-
7 ther in the same grade, the day of the date of his origi-
8 nal appointment, or election, shall be expressed in his
9 new commission, and that day be considered the date
10 of his commission.

SEC. 54. When an officer shall by any casualty
2 lose his commission, upon his making affidavit thereof,
3 before any justice of the peace of the county wherein
4 he resides, and on filing such affidavit in the office of
5 the adjutant general, he shall be entitled to receive
6 a new commission of the same tenor and date, as the
7 one so lost.

SEC. 55. When two or more officers of the same
2 grade are on duty together, and their commissions
3 bear an equal date, and former pretensions of some
4 commission do not decide, then their relative rank
5 with each other shall be determined by lot, to be
6 drawn by them before the commanding officer pres-
7 ent ; and when on a court martial, before the presi-
8 dent thereof.

SEC. 56. Every officer duly commissioned shall,
2 before he enters upon the discharge of the duties of
3 his office, take and subscribe the oaths, required by
4 the Constitution, before some justice of the peace, or
5 before some superior field or general officer, or staff
6 officer of the rank of field officer, who has previously
7 taken and subscribed them, himself. And on the back

8 of every military commission, the following form of
9 certificate of qualification shall be printed :

10 STATE OF MAINE.

11 This may certify, that — — — commissioned as
12 within, on this — — — day of — — —, in the year 18—,
13 personally appeared, and took and subscribed the
14 oaths, required by the Constitution of this State, to
15 qualify him to discharge the duties of his office.

SEC. 57. To every company there shall be a clerk,
2 who shall be one of the sergeants, and he shall be
3 appointed by the captain or commanding officer
4 thereof, and on the back of his warrant as sergeant,
5 the captain or commanding officer shall in writing
6 certify, that he does thereby appoint him to be clerk
7 of the company. And, before such clerk enters upon
8 the duties of his clerkship, he shall be sworn to the
9 faithful discharge of his duty, by taking the following
10 oath before the captain or commanding officer of the
11 company to which he belongs, who is hereby autho-
12 rized to administer the same, viz :

13 “I, A. B., do solemnly swear, that I will faithfully
14 and impartially perform all the duties incumbent on
15 me, as clerk of the company to which I belong, ac-
16 cording to the best of my abilities and understanding.
17 So help me God.”

18 And the captain or commanding officer of the com-
19 pany shall, at the time of administering said oath, cer-
20 tify on the back of the warrant of the sergeant ap-

21 pointed to be clerk, that he was duly qualified by tak-
22 ing the oath required by law.

SEC. 58. The clerk shall keep a fair and exact
2 roll of the company, together with the state of the
3 arms and equipments belonging to each man, which
4 roll he shall annually revise on the first Tuesday of
5 May, and correct the same from time to time, as the
6 state of the company may require. He shall register
7 all orders and proceedings of the company in the
8 orderly book ; keep exact details of all drafts and
9 detachments ; distribute all company orders and noti-
10 fications, which he may be required to do ; examine
11 the equipments of the men, when ordered ; note all
12 delinquencies, sue for and recover all fines, and for-
13 feitures, which he may be required to be sued for, in
14 this chapter ; and keep accounts in the orderly book
15 of all fines and forfeitures, and all other monies col-
16 lected by him, with the person's names, of whom they
17 were collected, and of the times when, and for what
18 offence ; which book shall not be alienated from the
19 company, and shall always be open to the inspection
20 of any officer or private of the company.

SEC. 59. In case of the sickness, absence or other
2 disability of the clerk of any company, the command-
3 ing officer thereof may appoint a clerk pro tempore,
4 who shall be duly sworn before he enters on the duties
5 of the office ; and shall for the time expressed in his
6 appointment or until specially discharged, have all

7 the powers and be subject to all the duties, and liable
8 to all the penalties of the clerk in whose place he is
9 put.

SEC. 60. In case of such sickness, absence or other
2 disability, or whenever the office of clerk in any com-
3 pany shall become vacant and it shall satisfactorily
4 appear to the commanding officer, that no person will
5 accept the same, temporarily or permanently, as the
6 case may be, he may issue his order in writing to any
7 non-commissioned officer or private in said company,
8 requiring him to perform all the duties of clerk of said
9 company, except keeping the records, until the clerk
10 shall be able to perform the same, or some other person
11 be appointed, for a term not exceeding three months ;
12 and if any non-commissioned officer or private, so
13 appointed, and who shall not have been, within one
14 year previous, requested to perform the same duties,
15 shall refuse or neglect to perform all or any of the
16 duties of said office, during said term, except keeping
17 the records, he shall forfeit and pay not less than ten,
18 nor more than twenty dollars, to be recovered by in-
19 dictment, or by action on the case, by any person
20 whatever ; one half to the use of the State and the
21 other half to the use of the prosecutor.

SEC. 61. In all such cases, the records of the com-
2 pany shall be kept by the commanding officer, so
3 long as such vacancy, absence, sickness or other dis-
4 ability shall continue ; and the records, so kept, shall

5 be competent evidence of such orders and temporary
6 appointments, as well as of all matters, of which such
7 records would be evidence, if kept by the clerk.

SEC. 62. Whenever the office of major general,
2 brigadier general, colonel, lieutenant colonel, major
3 commandant, or of captain, shall be vacant; or in
4 case of the absence of any such officer, the officer
5 next in grade and in commission, in the division, brig-
6 ade, regiment, battalion, or company, on due notice
7 thereof from the proper superior officer, shall exercise
8 the command and perform the duties thereof, until the
9 vacancy shall be supplied.

SEC. 63. Whenever a company shall have neither
2 commissioned nor non-commissioned officers, the
3 commanding officer of the regiment or battalion, to
4 which such company belongs, shall appoint suitable
5 persons within said company, to be non-commissioned
6 officers of the same, and grant them warrants accord-
7 ingly; one of which non-commissioned officers he
8 shall appoint clerk, and indorse his warrant and ad-
9 minister the oath to him as directed in the fifty sev-
10 enth section; and the senior non-commissioned offi-
11 cer of a company, while there are no commissioned
12 officers in office, shall command the same; and all
13 the powers of commanding officer shall be vested in
14 him, until some commissioned officer shall be appoint-
15 ed, or chosen and qualified.

SEC. 64. Whenever any company shall have re-
2 mained without any commissioned officers for the term

3 of three months, the commanding officer of the regi-
4 ment, to which said company belongs, shall detail
5 some suitable officer of the staff, or of the line, not
6 above the rank of lieutenant, to train and discipline
7 said company, until some officer shall be elected, or
8 appointed by the commander-in-chief, as provided in
9 the second section of the seventh article of the con-
10 stitution, and commissioned; and such officer, so de-
11 tailed, shall have the same power and authority, and
12 be subject to the same liabilities, as if he were cap-
13 tain of such company; and he shall keep the records
14 of the company, and prosecute for all fines and for-
15 feitures, in like manner as clerks of companies are
16 authorized and required to do, by virtue of the fifty
17 eighth section of this chapter; one half of the amount
18 so recovered to be to the use of the regiment, and the
19 other half to the use of the officer. The officer so
20 prosecuting shall be a competent witness in the case.

SEC. 65. Whenever the officer, so detailed to com-
2 mand such company, or when no officer shall have
3 been detailed, whenever the commanding officer of
4 the regiment, to which such company belongs, shall
5 in writing, order any non-commissioned officer or
6 private to notify the persons liable to do military duty
7 in such company, to appear for any duty required by
8 law, any non-commissioned officer or private, who
9 shall neglect or refuse to notify such persons to meet
10 at the time and place and for the purposes mentioned
11 in such order, as aforesaid, shall forfeit and pay not

12 less than twenty, nor more than one hundred dollars,
13 to be recovered by indictment, or by an action on the
14 case, by any person whatever ; one half to the use of
15 the State, and the other half to the prosecutor.

SEC. 66. The adjutant general and quartermaster
2 general shall receive compensation for their services,
3 to be allowed by the legislature.

SEC. 67. The following shall be the annual allow-
2 ance to the officers named in this section, for all ser-
3 vices they may render in the official discharge of their
4 duties, respectively :

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

7 To the brigade inspector of each brigade, twenty
8 five dollars ;

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

11 To the adjutant of each regiment, twenty five dol-
12 lars ;

13 To the adjutant of each battalion of cavalry or ar-
14 tillery, ten dollars ; *provided* said officers shall promptly
15 and faithfully perform the duties belonging to them,
16 respectively.

SEC. 68. It shall be incumbent on all officers and
2 non-commissioned officers, whose duties are not here-
3 in fully defined, to do and perform all such duties, as
4 by law and military principles and usages are attached
5 to their offices, respectively ; *provided* such duties
6 shall be required of them by their senior and com-
7 manding officer.

SEC. 69. All military officers, who have been or
2 may hereafter be commissioned, shall hold their res-
3 pective offices for a term not longer than five years
4 from the date of their commissions, unless re-appoint-
5 ed or re-elected; and the commander-in-chief shall
6 discharge all such officers accordingly: *provided*, that
7 in case of vacancy of major general in any division,
8 the commissions of the brigadier generals in such
9 divisions shall not terminate by the limitation afore-
10 said, till the office of major general shall be filled.
11 But no officer shall be discharged within the said
12 term of five years, otherwise than in pursuance of the
13 sentence of a court martial, except by the command-
14 er-in-chief, on request of such officer in writing, or
15 by actual removal of residence out of the bounds of
16 his command, and to such distance, that the major
17 general shall think it inconvenient for him to dis-
18 charge the duties of his office, or by twelve month's
19 absence without leave of the commanding officer of
20 his division, or by the corps to which he belongs, be-
21 ing disbanded by law; and whenever any division,
22 brigade, regiment or battalion shall be divided, and
23 the residence of any staff officer attached thereto,
24 shall be without the bounds of the corps in which he
25 was commissioned, such staff officer shall be entitled
26 to an honorable discharge, and shall cease to do duty
27 in such office, after such division is made; and the
28 commanding officer may proceed to fill the vacancy
29 occasioned thereby.

SEC. 70. No officer shall be permitted to resign,
2 while under arrest; and no resignation of any officer
3 shall be approved, if such resignation be offered
4 between the first day of May and the first day of
5 November, unless the reasons, offered by the officer
6 wishing to resign within those days, be very urgent.

SEC. 71. No general or field officer shall approve
2 a resignation, until the orderly and other books and
3 property of the State, in possession of the resigning
4 officer, are taken care of for the use of the corps, to
5 which such officer belongs, in order that such books
6 and property may be delivered to his successor.

SEC. 72. If any person, having held an office in
2 the militia, shall after his discharge or removal from
3 office, neglect or refuse, after demand made upon
4 him by his successor in office, to deliver over to his
5 said successor, any property in his possession, belong-
6 ing to the State, said person shall forfeit and pay a
7 sum not less than twenty dollars, nor more than one
8 hundred dollars, to the use of the State, to be recov-
9 ered by indictment before the district court.

SEC. 73. No officer shall be considered, as exempt-
2 ed from the duties of his station, except when under
3 arrest, until he shall have been discharged by one of
4 the methods or causes pointed out in section sixty
5 nine, or shall have received a certificate of discharge
6 from the commander-in-chief.

SEC. 74. If any officer shall, in due course of law,
2 be convicted of any infamous crime, he shall be

3 forthwith put in arrest and deprived of all military
4 command, until an opportunity shall be had for both
5 houses of the legislature to address the governor for
6 his removal.

SEC. 75. No idiot, lunatic, common drunkard, vag-
2 abond, pauper nor any person convicted of any infa-
3 mous crime, nor any other than white, able bodied,
4 male citizens, shall be eligible to any office in the
5 militia; and whenever it shall appear to the com-
6 mander-in-chief by a report from the commanding
7 officer of the regiment that any person thus ineligible,
8 has received a majority of votes cast at any election
9 of officers, he shall not commission him; but with the
10 advice and consent of the council, shall declare said
11 election null and appoint such person to fill the va-
12 cancy as shall be recommended by said commanding
13 officer of the regiment to which said officer belongs.
14 And whenever it shall appear to the commander-in-
15 chief, that any person commissioned as an officer in
16 the militia of this State, has become an idiot, lunatic,
17 common drunkard or vagabond, he shall with the
18 advice of the council, forthwith remove him from
19 office, and a new election shall be ordered to fill such
20 vacancy.

SEC. 76. The colonels or commanding officers of
2 regiments, shall assemble the officers of their respec-
3 tive regiments, at some convenient and central place,
4 within the same, once at least in each year, armed
5 with swords, muskets and bayonets, and it shall be

6 the duty of the commanding officer aforesaid to in-
7 struct or cause said officers to be instructed by some
8 person qualified therefor, in the school of the soldier,
9 the company and the battalion ; the orders for such
10 meeting shall be issued in the same manner as for
11 regimental inspection and review ; and said drill shall
12 be continued two days. The commanding officer
13 shall give to each officer present, a certificate of his
14 attendance at said drill, which certificate, when pre-
15 sented to the treasurer of the town in which such
16 officer resides, shall entitle him to receive from said
17 treasurer fifty cents, for each day of attendance so
18 certified.

SEC. 77. Every commanding officer of a company
2 shall parade his company on the first Tuesday of May,
3 annually, at one of the clock in the afternoon, for the
4 purpose of inspecting, examining and taking an exact
5 account of all the equipments of his men, and for
6 noting all delinquencies of appearance and deficien-
7 cies of equipment, and for correcting his company
8 roll, in order that a thorough inspection of each com-
9 pany in the State may be made. And it shall be the
10 duty of every commanding officer of a company, to
11 parade his company, by his own order, one other day
12 in the afternoon, for company discipline, between
13 said day of inspection, and the review provided for, in
14 section eighty ; and on the two several days of train-
15 ing and inspection, to use his best exertions, in in-
16 structing and perfecting his men in their company
17 exercise and evolutions.

SEC. 78. Such sections of this act as the commander-in-chief may from time to time order, shall be read at the head of each company on the day of inspection.

SEC. 79. The troops of each division shall be paraded for review in division, brigades, regiments or battalions, at such times, from the first of September to the fifteenth of October, annually, days of State elections excepted, as the commanding officer of the division may order; but no non-commissioned officer or private, belonging to any company of militia, shall be compelled to attend muster, inspection or review, when, by so doing, he would be obliged to cross any body of water, exceeding one mile in width, at the usual place of crossing the same, unless there be a bridge over the same; and when, by reason of the residence of any part of the troops on any of the islands in the State, it may be deemed expedient by the major general of the division, to which such troops belong, they may be reviewed in less bodies than battalions.

SEC. 80. When a brigade review or inspection is ordered, the commanding officer of the brigade shall appoint the place and give notice thereof to the commanding officer of the division; when a regimental review or inspection is ordered, the commanding officer of the regiment shall appoint the place, and give notice thereof to the commanding officer of the brigade; and when the review or inspection of a regimental battalion or part of a battalion is ordered, the

10 commanding officer of the regiment, shall appoint the
11 place and give notice thereof to the commanding offi-
12 cer of the brigade. And the places to be appointed
13 for reviews or inspections, as aforesaid, shall always
14 be as central, as in the judgment of the officer point-
15 ing out the place, convenience will admit: and the
16 cavalry and other troops, raised at large, and not
17 annexed to any particular regiment, shall be reviewed
18 and inspected, once in each year, either by themselves,
19 or with the brigades, regiments or battalions of regi-
20 ments, as the commanding officer of the respective
21 divisions may direct. *Provided*, that no officer, non-
22 commissioned officer or private shall be obliged to
23 travel more than fifteen miles to any review.

SEC. 81. No officer, non-commissioned officer or
2 private, shall be held to perform any military duty,
3 except on days which are or may be prescribed by
4 law, on which the selectmen of the town in which
5 such officer, non-commissioned officer or private re-
6 sides, shall appoint a meeting for the election of a
7 representative to the legislature, nor shall there be
8 any military parade on the day, pointed out by the
9 Constitution of this State, for the election of governor
10 and senators, nor on the day which may be appointed
11 for the choice of electors of president and vice presi-
12 dent of the United States, or representatives to con-
13 gress; and it shall not be lawful for any officer to
14 parade his men on either of said days, unless in case
15 of invasion made, or threatened, or in obedience to

16 the orders of the commander-in-chief, except as is
17 herein before excepted; and if any officer contrary
18 to the provisions aforesaid, shall parade his men on
19 either of said days of election, he shall be liable to be
20 tried by a court martial; and shall moreover forfeit a
21 sum, not less than fifty nor more than three hundred
22 dollars, to be sued for and recovered, in an action on
23 the case, before any court of competent jurisdiction;
24 one moiety thereof to the use of the person who may
25 prosecute for the same, the other to the use of the
26 State.

SEC. 82. If the commanding officer of any com-
2 pany, battalion, regiment or brigade of the militia of
3 this State, shall parade, march or exercise the same
4 within the distance of fifty rods from any court house
5 of any county, whilst any judicial court shall be in
6 session therein, unless when called out to suppress
7 insurrection, repel invasion, or enforce the laws, he
8 shall for every such offence, forfeit and pay not less
9 than twenty, nor more than one hundred dollars, to
10 be recovered by indictment to the use of the State.

SEC. 83. At all regimental or battalion parades, the
2 several companies shall form in regiment or battalion,
3 according to the rank of the officers present, actually
4 commanding them; and the same rule shall apply in
5 all cases, excepting those in which cavalry, artillery,
6 light infantry and riflemen may, by usage and neces-
7 sity be detached from the regiments and battalions.

SEC. 84. Whenever different corps shall parade,

2 join, or do duty together, the senior officer present,
3 according to rank, shall command without regard to
4 corps.

SEC. 85. When a company destitute of commis-
2 sioned officers, shall parade with other troops, the
3 commanding officer present shall assign some com-
4 missioned officer or officers to such destitute com-
5 pany, to command the same while on parade.

SEC. 86. Every commanding officer, when on duty,
2 is hereby authorized to ascertain and fix necessary
3 limits and bounds to his parade, no road in which the
4 people usually travel, to be included; within which
5 no spectator shall have a right to enter, without liberty
6 from such commanding officer; and in case any per-
7 son shall intrude upon the limits of the parade, after
8 once being forbidden, he shall be subject to be put
9 under guard, during the time of parade, or a shorter
10 time at the discretion of the officer.

SEC. 87. It shall be the duty of each commanding
2 officer, drawing cartridges in pursuance of the forty-
3 second section of this act, to cause them to be dis-
4 tributed equally among his men on the parade, and
5 to be used in teaching his men precision in firing.

SEC. 88. Any non-commissioned officer or private,
2 who shall, while under arms or when on duty, behave
3 himself with contempt to an officer, or shall conduct
4 in a disorderly manner, or excite or join in any tumult
5 or riot, or be guilty of any other unmilitary conduct,
6 may be put under guard, and so kept for a longer or

7 shorter time, at the discretion of the commanding offi-
8 cer of the company, not beyond the time, when the
9 company to which he belongs is dismissed, and shall
10 moreover forfeit a sum not less than five, nor more
11 than twenty dollars for each offence, according to the
12 degree and aggravation thereof.

SEC. 89. All companies raised at large by volunta-
2 ry enlistment, may establish by-laws and regulations,
3 not repugnant to the laws of the State, for perfecting
4 themselves in military knowledge and discipline, in
5 which they may determine what number of company
6 trainings they will have in each year, and may estab-
7 lish penalties and forfeitures to enforce the observance
8 thereof, to be recovered by action of debt in any
9 court of competent jurisdiction; for assessing and
10 collecting funds and for any other purposes necessary
11 for the good order and government of such compa-
12 nies; which by-laws and regulations shall be binding
13 on such of the members thereof, as subscribe their
14 names to the same.

SEC. 90. No private shall be compelled to perform
2 any other military [duty] in one year, than is herein
3 provided, except in time of war, or public danger,
4 and for choice of officers, nor after sunset. But on
5 the approach of any public danger, when in the opin-
6 ion of the commander-in-chief, any of the exigencies
7 are likely to happen, upon which the militia could by
8 the constitution of the United States, be called into
9 actual service, he shall have power to order such oth-

10 er and further trainings and disciplining of the militia,
11 or any part thereof, as he may deem necessary.

SEC. 91. Whenever the commanding officer of a
2 company shall order out his company for inspection
3 or training, or for any battalion, regimental, brigade
4 or division review, or inspection, he shall issue orders
5 to some one or more of the non-commissioned officers
6 or privates of his company, requiring him or them to
7 notify the men belonging to his company, whose
8 names shall be contained therein or annexed thereto,
9 to appear at the time and place appointed; and it
10 shall be the duty of the non-commissioned officer or
11 officers, private or privates, so ordered as aforesaid,
12 to give notice of the time and place appointed for
13 the parade of said company, to each and every man,
14 he or they shall have been ordered to notify, either
15 verbally, or by delivering to each man in person, or
16 by leaving at his usual place of abode, a written or
17 printed order; but no private shall be obliged thus to
18 notify more than once in the same year.

SEC. 92. No notice shall be legal for any company
2 inspection or training, or for any battalion, regimen-
3 tal, brigade or division inspection or review, unless
4 the same shall be given four days at least previous to
5 the time appointed therefor; and ten days previous
6 notice shall be given if the meeting be ordered for the
7 election of officers. *Provided always*, that in case of
8 invasion, insurrection or other emergency, any notice,
9 however short, shall be legal and binding. And

10 whenever any company shall be paraded, the com-
11 manding officer thereof may verbally notify the men,
12 so paraded, to appear on some future day, not exceed-
13 ing thirty days from the time of such notification, for
14 any military duty required by law, and such notice
15 shall be legal as respects the men present.

SEC. 93. When any non-commissioned officer or
2 private in any company shall receive orders from the
3 commanding officer of such company, to notify and
4 warn such company, or any part thereof, to meet for
5 the purpose of choosing any officer or officers, it shall
6 be the duty of such non-commissioned officer or pri-
7 vate, to give every person he is so ordered to warn,
8 verbal notice, or leave a written or printed notification
9 at his usual place of abode, specifying the time, place
10 and purpose of said meeting.

SEC. 94. All excuses for non-appearance of non-
2 commissioned officers and privates, must be made
3 within twenty days after any training, view of arms
4 or other military duty, to the commanding officers of
5 their respective companies; and on the delinquents
6 producing, or causing to be produced, satisfactory
7 evidence of his inability to appear, his commanding
8 officer may excuse him; but all commanding officers
9 of companies are hereby forbidden from receiving
10 any excuse for non-appearance, under any pretence
11 whatever, after the expiration of the twenty days
12 allowed. Any such non-commissioned officer or pri-
13 vate, who shall neglect to give, or cause to be given,

14 to his commanding officer, such satisfactory evidence
15 of his inability to appear, provided he is not prevent-
16 ed therefrom by severe sickness, or other inevitable
17 accident, within said twenty days, shall forfeit and
18 pay the penalty by law provided for such non-appear-
19 ance. And if a warrant be issued to an individual,
20 who may have held a commission in this State, or
21 any other of the United States, which may not be
22 within the knowledge of the commanding officer of
23 the company in which he is so warned, it shall be his
24 duty to give notice thereof, in manner above provi-
25 ded, or such commission shall not exempt him from
26 such fine as would otherwise be imposed upon him
27 for non-appearance. All commanding officers of
28 companies shall inform, or cause the clerk to be in-
29 formed, of all excuses for non-appearances, which
30 they may allow as good and sufficient.

SEC. 95. Every non-commissioned officer, musi-
2 cian or private, who being duly ordered to appear at
3 any time and place, appointed for military duty, ac-
4 cording to law, shall unnecessarily neglect to appear
5 at such time and place, shall forfeit for every such
6 neglect the sums hereinafter mentioned.

7 For unnecessarily neglecting to appear at the com-
8 pany inspection and view of arms on the first Tues-
9 day of May, five dollars; unless permitted by law to
10 send his arms and equipments on that day for inspec-
11 tion.

12 At any company training, four dollars.

13 At any inspection or review, four dollars.

14 At any meeting for choice of officers, two dollars,
15 in none of which cases in time of peace, shall any
16 substitute be received.

SEC. 96. Every non-commissioned officer or private, who shall appear at the company inspection on the first Tuesday of May, or at any company training, or for any battalion, regimental or brigade inspection or review, and shall not be armed and equipped, as the law directs, shall, for each article in which he is deficient, or which shall be of bad quality or in bad condition, forfeit as follows :

9 If deficient of a good musket, in good order, of a
10 bore sufficient for balls of the eighteenth part of a
11 pound, a sufficient bayonet and belt, and an iron or
12 steel ramrod, all of which articles are to be considered as one, and for a deficiency in either, a deficiency
13 of the whole, he shall forfeit two dollars.

15 If deficient of a cartridge box, capable of containing twenty four cartridges, suited to the bore of his
17 musket, or if deficient of a serviceable knapsack, he
18 shall forfeit sixty cents.

19 If deficient of two spare flints and priming wire and
20 brush, or either of them, he shall forfeit forty cents,
21 *provided nevertheless*, that none of the above forfeitures shall be incurred by any private, in case he appears with a good rifle, knapsack, shot pouch and
24 powder horn.

25 In any company raised at large, for appearing without the uniform of the company, three dollars.

SEC. 97. Every non-commissioned officer or private, who is permitted to carry, or send, his arms and equipments for inspection, on the day and in the manner provided in this act, who shall neglect so to do, or shall on said day, lend or sell them, so that they may be inspected as the property of another, shall forfeit two dollars and fifty cents.

SEC. 98. If any non-commissioned officer, musician or private in any military company, shall, on any day of parade, appear with such company in a fantastic or improper dress, or with any article attached to his dress, arms or equipments, calculated or intended to excite ridicule, such non-commissioned officer, musician or private, shall forfeit a sum not less than ten, nor more than twenty dollars for each offence.

SEC. 99. Every non-commissioned officer or private, guilty of any of the offences or neglects hereinafter mentioned, shall forfeit and pay for each offence or neglect, the sums severally prescribed therefor.

For quitting his guard, section, platoon or company, without leave of his officer, or for not returning after a temporary leave of absence from any parade, not less than two nor more than ten dollars.

For unnecessarily and without orders, discharging his musket, rifle or pistol, in going to, or returning from, or while on the place of parade, or while under arms, not less than five, nor more than twenty dollars, for each offence, for the benefit of any person, who may prosecute therefor, in an action of debt.

16 For being on the place of parade with his musket,
17 rifle or pistol, loaded with ball, slugs or shot, not less
18 than five, nor more than twenty dollars ;

19 For refusing, or neglecting, to give any notice or
20 warning, when ordered thereto by the commanding
21 officer of the company to which he belongs, not less
22 than one, nor more than four dollars, for each mem-
23 ber of the company, whom he shall neglect or refuse
24 to notify or warn ; to be recovered by indictment in
25 the district court, or complaint before some justice
26 of the peace, one half to the complainant, and the
27 other half to the State.

SEC. 100. Every non-commissioned company offi-
2 cer, who shall be guilty of any disobedience of orders,
3 neglect of duty, or unmilitary conduct, may be reduc-
4 ed to the ranks by the commanding officer of the
5 regiment, by and with the advice of the commanding
6 officer of the company, to which such non-commis-
7 sioned officer belongs.

SEC. 101. Every sergeant major, quartermaster
2 sergeant, drum major or fife major, who shall be guil-
3 ty of neglect, or disobedience of orders of the com-
4 manding officers of their respective regiments or bat-
5 talions, shall for each offence, forfeit not less than five
6 nor more than twenty dollars, to be recovered by the
7 adjutants of their respective regiments, or battalions,
8 in an action of debt, in the same manner that fines
9 are recovered by clerks of companies ; one half there-
10 of to said adjutant, for his own use, and the other

11 half to be expended by him under the direction of the
12 field officers, in the repair of the regiment and battal-
13 ion colors, and of the musical instruments furnished
14 by the State for the use of the companies of his said
15 regiment or battalion, and the purchase of camp col-
16 ors ; and every such non-commissioned officer, who
17 shall be guilty of any disobedience of orders, neglect
18 of duty, or other unmilitary conduct, may be reduced
19 to the ranks by their brigadier general, by and with
20 the advice of the commanding officer of the regiment
21 or battalion, to which such non-commissioned officer
22 may belong.

SEC. 102. All fines and forfeitures, incurred by non-
2 commissioned officers and privates under the provisions
3 of this act, the recovery, and the mode of recovery
4 of which are not herein and hereby specially provided
5 for, shall be prosecuted for, and recovered by, the
6 respective clerks of companies, to which such non-
7 commissioned officer or privates, incurring any fine or
8 forfeiture as aforesaid, belong, in an action of debt,
9 in any court proper to try the same ; and such action
10 may be brought before any justice of the peace for
11 the county where the company is located, or where
12 the non-commissioned officer or private, parent, mas-
13 ter or guardian, who may be liable therefor may re-
14 side ; and such action shall not be commenced till
15 after twenty days, and shall be commenced within
16 forty days, after such penalty, fine or forfeiture shall
17 have been incurred.

SEC. 103. If the said clerk shall unreasonably neglect, or refuse, to prosecute for any of the fines aforesaid, he shall pay a fine of five dollars, for each and every such neglect, for the use of the company to which he belongs; to be recovered by an action of debt, to be brought by the commanding officer thereof, before any justice of the peace in the county where such clerk resides.

SEC. 104. If there be no clerk to prosecute as aforesaid, the captain or commanding officer of the company shall prosecute for said fines, for the use of the company; and upon neglect, so to do, shall be subjected to trial by a court martial; and if found guilty, shall be removed from office.

SEC. 105. The clerk or commanding officer, in any action by him commenced or prosecuted for any fines or penalties, provided in this act, may amend his writ in any stage of the process, before the rendition of final judgment therein, without payment of costs.

SEC. 106. No clerk shall be liable to pay any costs in any case in which the commanding officer of the company has endorsed his approval upon the writ of such clerk.

SEC. 107. When the commanding officer is, by virtue of any of the provisions of this act, required to prosecute for any fine or penalty, he shall in no case be liable to pay any costs to the defendant, if he should not recover in any action or suit by him commenced.

SEC. 108. In all suits brought by the clerk or com-

2 manding officer, for any fines or penalties, provided
3 in this act, the commission of the captain shall be suf-
4 ficient evidence of the organization of such company,
5 and a copy of the doings of the aldermen of cities,
6 selectmen of towns, or the assessors of plantations,
7 defining the limits of said company, certified by the
8 clerk of such city, town or plantation, shall be suffi-
9 cient evidence of the limits thereof. Any credible
10 person, shall be a competent witness of the residence
11 of the defendant within the limits of the company.
12 The roll of the company as used at the last training
13 of said company, preceding that, at which the absence
14 or delinquency of the defendant is alleged, shall be
15 sufficient evidence of his enrolment and liability to do
16 military duty therein. The absence or delinquency
17 of the defendant, shall be proved by the roll of said
18 company used at the training declared upon, verified
19 by the oath of the clerk or other person by whom the
20 same shall have been kept. The company order shall
21 be evidence of authority for warning the defendant,
22 and the fact that the defendant was duly notified, shall
23 be shown by the testimony of the non-commissioned
24 officer or private, who warned him, or by any other
25 person who may have knowledge thereof. The war-
26 rant of the clerk shall if demanded be produced to
27 show his authority to maintain such suit, but no other
28 evidence shall in any case be necessary to be produc-
29 ed, than as above detailed, to entitle the clerk or

30 commanding officer to maintain his action as afore-
31 said.

SEC. 109. All commanding officers, subaltern offi-
2 cers, and all clerks of companies, and other non-com-
3 missioned officers and privates, are hereby made com-
4 petent witnesses in law to testify to all, or any facts
5 within their knowledge, in any suit commenced by said
6 clerks or commanding officers, for the collection of any
7 fines or forfeitures, incurred or imposed, by any provi-
8 sions in this chapter, notwithstanding any interest
9 which they or their respective companies may have
10 therein.

SEC. 110. Whenever any action shall have been
2 commenced for any fine or forfeiture, by any clerk of
3 any company, and said clerk shall die, resign, or re-
4 fuse, or in any other way, be disqualified to prosecute
5 said suit, so commenced, it shall be lawful, and it is
6 hereby made the duty of the commanding officer of
7 the company, to assume and prosecute said suit to
8 final judgment and execution.

SEC. 111. Whenever any fine or forfeiture shall
2 have been incurred by any member of any company,
3 and there be no clerk, or he shall resign, or die, or be
4 disqualified, it shall be lawfull, for any clerk, appoint-
5 ed after said fine or forfeiture has been incurred, to
6 sue for and recover the same; *provided* said action
7 shall be commenced within the time prescribed by
8 law.

SEC. 112. The clerk of each company, may retain,
2 to his own use, one fourth part of all fines and forfeit-
3 ures collected, or recovered, by him, and the residue
4 he shall faithfully pay over to the commanding officer
5 of the company on demand; and the commanding
6 officer of the company shall give his receipt to the
7 clerk for all money paid over to him as aforesaid.
8 And it shall be the duty of every commanding officer
9 of a company, to expend such part of the money
10 paid him by the clerk, for defraying such company
11 expenses as a majority of the commissioned officers
12 of the company shall judge necessary.

SEC. 113. Every judge of a municipal, or police
2 court, within the limits of his general jurisdiction, shall
3 have and execute all the powers of a justice of the
4 peace, under any of the provisions of this chapter.

SEC. 114. All acts or parts of acts inconsistent with
2 the provisions of this act are hereby repealed.

STATE OF MAINE.

IN SENATE, February 21, 1844.

ORDERED, That 1,000 copies of the foregoing Bill, be printed for the use of the Legislature.

JERE HASKELL, *Secretary.*