

MAINE STATE LEGISLATURE

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Wm. F. Hill
DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1856.

PART SECOND.

Augusta:

FULLER & FULLER, PRINTERS TO THE STATE.

1856.

THIRTY-FIFTH LEGISLATURE.

SENATE.

No. 18.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND FIFTY-SIX.

AN ACT to organize and discipline the Militia.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

*Exemptions, enrollments, ununiformed and uniformed or
active militia, organization, duties of.*

SECT. 1. There shall be exempted from military
2 duty under the laws of this state, all persons exempted
3 from such duty by the laws of the United States.
4 Also the judges of the supreme judicial court, judges
5 of any court of record, judges of the probate, municipi-
6 pal and police courts, the clerks of all courts of record,
7 registers of deeds, and registers of probate ; all min-
8 isters of the gospel regularly ordained according to

9 the usages of their denomination so long as they sus-
10 tain that relation in their denomination ; the superin-
11 tendent and other officers and assistants employed in
12 the Insane Hospital at Augusta, and at the State Re-
13 form School at Cape Elizabeth ; also the officers and
14 guards employed in the State Prison at Thomaston ;
15 all officers who have held military or naval commis-
16 sions and who have been regularly discharged, or
17 have in accordance with military or naval usage,
18 without fault on their part, been discharged, or ceased
19 to act as such ; all quakers and shakers, so long as
20 they continue members of such denominations ; all
21 members of engine companies, while they continue to
22 do duty in such companies ; all mariners, unless they
23 have been discharged, and have done no service on
24 board any vessel for more than three months at the
25 time they shall be warned ; all persons unable from
26 bodily infirmity to do military duty ; all idiots, lunatics,
27 common drunkards, vagabonds, paupers and persons
28 convicted of infamous crimes. When any person en-
29 rolled shall exhibit to the enrolling officers proof that
30 he is exempted by any part of this section, they shall
31 strike his name from the roll.

SECT. 2. All other white male citizens of the United

2 States, residing within this state, between the ages of
3 eighteen and forty-five years, shall be enrolled by the
4 assessors of the cities, towns and plantations in which
5 they reside. They shall make such enrollment annu-
6 ally, on the first day of May, of all such persons then
7 residing within their limits, and make a list of their
8 names and seasonably deliver the same to the clerk
9 of their city, town or plantation, to be by him pre-
10 served on file in his office. He shall annually, in the
11 month of May or June, transmit a certified copy of
12 such list to the office of the adjutant general. Persons
13 so enrolled shall constitute the ununiformed militia of
14 the state.

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

SECT. 4. If necessary, the order of the commander-

2 in-chief, calling out the ununiformed militia, may be
3 made and directed to the municipal officers of any
4 town within the state. And it shall be the duty of
5 such officers to appoint a time and place of parade
6 for the ununiformed militia in such city, town or
7 plantation, and to order them to appear at such time
8 and place, either by leaving a written notice or orally,
9 and then and there to proceed to draft so many there-
10 of, or to accept so many volunteers as may be required
11 by the order of the commander-in-chief; and such
12 municipal officers shall notify the commander-in-chief
13 forthwith, that they have performed the duty afore-
14 said, by returning to him an alphabetical list of the
15 names of the persons so drafted or volunteered; and
16 such ununiformed militia shall thereupon be formed
17 into companies and placed under the command of
18 such officers as the commander-in-chief may desig-
19 nate; and whenever any person thus detached or
20 drafted, or any such volunteer, shall neglect or refuse
21 to appear at the time and place designated by the
22 municipal officers aforesaid, and shall not, within
23 twenty-four hours after he shall be notified, pay to
24 the municipal officers the sum of fifty dollars, or pro-
25 cure an able-bodied, white male person in his stead,

26 such person, on being ordered to march to the place
27 of rendezvous, shall be considered a soldier belonging
28 to the detachment, and shall be dealt with accord-
29 ingly.

SECT. 5. Any civil officer named in this chapter,
2 who shall neglect or refuse at any time to obey the
3 provisions thereof, shall forfeit and pay not less than
4 twenty dollars, nor more than five hundred dollars,
5 for each and every offense, to be recovered in any
6 court of competent jurisdiction, for the use and bene-
7 fit of the state.

Volunteer Militia.

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

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

Articles furnished.

SECT. 8. Each company of uniformed volunteer
2 militia, raised at large, shall, whenever the state may

3 have on hand for distribution, arms and equipments
4 suitable to its corps of service, be furnished therewith.
5 Each company, so raised, and the officers of divisions,
6 brigades and regiments, shall be provided with the
7 requisite books of tactics, and with such tents and
8 other articles of camp equipage as the commander-
9 in-chief may direct. All companies shall also be fur-
10 nished with suitable musical instruments whenever the
11 state may have them on hand for distribution. Each
12 regiment and battalion shall be furnished by the state
13 with the state and regimental colors, and their staffs,
14 belts, sockets, and suitable coverings for the same; and
15 the commanding officer of such regiment or battalion
16 shall be responsible for the safe keeping of the same.

SECT. 9. It shall be the duty of the adjutant gen-
2 eral to furnish all company and other officers all such
3 blanks, blank books, rolls and notifications, as may
4 be required to be used by the provisions of this chap-
5 ter. It shall also be his duty to arrange so much of
6 the militia laws as shall at any time be in force, and
7 cause the same to be printed in proper form from time
8 to time, and to distribute one copy thereof to each
9 commissioned officer and to the clerk of every city
10 and town in this state.

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

Armories.

SECT. 11. Suitable armories shall be provided in
2 advance, by companies making requisition for arms
3 and equipments, or by the town within the limits of
4 which said companies shall have been chiefly raised,
5 or shall have voted to establish said armories; and all
6 arms, equipments and camp equipage furnished to
7 said companies, shall be regularly deposited in said
8 armories, subject to withdrawal for the military uses
9 and purposes only of said companies, in body, and
10 under the proper officer or officers. The several
11 cities and towns within this state are hereby author-
12 ized to raise money to be expended in providing
13 armories or places of deposit for military property
14 issued to any company. The evidence that the armo-
15 ries named in this section have been duly provided
16 for, shall be the certificate to the acting quartermaster
17 general, of the mayor, or two or more aldermen,

18 selectmen or assessors, as the case may be, of the
19 locality in which such armories are established.

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

SECT. 13. It shall be the duty of the brigade in-
2 spector of each brigade, or in case of a vacancy in
3 that office then it shall be the duty of the division in-
4 spector of each division as often as shall be required
5 by the commander-in-chief, to examine any armory
6 within the limits of each brigade or division provided
7 for the use of any company in which any military
8 property of the state may be deposited, who shall re-
9 port to the commander-in-chief the condition thereof

10 and of the property therein deposited; and for his
11 services he shall be allowed a reasonable compensa-
12 tion to be paid by the acting quartermaster general
13 after his account for said service shall have been
14 audited and allowed by the governor and council.

SECT. 14. No resignation of any officer of a com-
2 pany of volunteers shall be accepted, nor shall such
3 officer be by any form of discharge relieved from his
4 responsibility for arms, equipments or other articles of
5 military property furnished to said company, until it
6 shall be made to appear by certificate of not less than
7 two of the officers thereof, that the said arms, equip-
8 ments and other articles of military property, are, at
9 the time of date of such certificate, undiminished in
10 quantity, and unimpaired in value, reasonable use and
11 wear and losses by fire excepted.

SECT. 15. The commander-in-chief, with the ad-
2 vice of the council, may grant petitions for raising
3 companies at large, not to exceed the total number
4 stated in this chapter, for all the divisions, inclusive of
5 companies now raised and organized.

SECT. 16. Whenever forty-eight men are enlisted
2 according to the provisions of this chapter
3 tion of officers may be ordered upon

4 being given by one or more of the petitioners, ap-
5 proved by the commanding officer of the division or
6 brigade in which such company may be raised to the
7 commander-in-chief; and in case there be no officer
8 of the volunteer corps conveniently located to preside
9 at such election, the major general, or other officer,
10 whose duty it shall be to cause an election to take
11 place, may authorize the members so enlisted to
12 choose some suitable person to preside at the election,
13 and to make return thereof to the major general, or
14 other officer commanding the division.

SECT. 17. For his services in issuing arms, equip-
2 ments, and other military property, under the provi-
3 sions of this chapter, the acting quartermaster general
4 shall be annually allowed and paid, in quarterly pay-
5 ments, the sum of one hundred dollars.

SECT. 18. The several volunteer companies of cav-
2 alry, artillery, light infantry, and riflemen in each
3 division, shall be numbered, and a record made of
4 such numbers in the adjutant general's office; and
5 when they exist in sufficient numbers in any one divi-
6 sion, they shall compose battalions and regiments,
7 and be put under the command of such regimental,
8 brigade and division officers, as the commander-in-

9 chief may designate, and, when not attached to any
10 battalion or regiment, shall remain under the com-
11 mand of the captain, or commanding officer of the
12 company, subject to the orders of the brigadier
13 general of the brigade to which the company is at-
14 tached.

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

SECT. 20. Any commander of any volunteer com-
2 pany who shall knowingly enlist or permit to be
3 enlisted into his company, any non-commissioned
4 officer, musician or private, belonging to any other
5 company, or who shall retain the name of any such
6 non-commissioned officer, musician or private, upon
7 the rolls of his company after being duly notified of
8 the fact of such previous enlistment, shall be liable to
9 court martial.

SECT. 21. The commanding officers of all volun-
2 teer companies, shall, on or before the first day of

3 July annually, make out and certify through the
4 proper officers to the adjutant general, a list of all
5 persons belonging to their respective companies, de-
6 scribing the duties performed by each individual in
7 his company throughout the year.

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

SECT. 23. Whenever any volunteer company which
2 has received any arms and equipments from the act-
3 ing quartermaster general, shall be disbanded, it shall
4 be the duty of the acting quartermaster general forth-
5 with to take possession of said arms and equipments
6 and other military property belonging to the state
7 which shall have been issued to said company, and to
8 cause the same to be deposited in one of the state
9 arsenals, and in case of the neglect or refusal of the
10 officers of said company on demand to re-deliver said
11 property or any part thereof, it shall be the duty of

12 the acting quartermaster general to cause an action
13 of replevin in his name to be commenced against such
14 officer or person having possession of the same for
15 the recovery of said arms, equipments or other mili-
16 tary property.

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

SECT. 25. Each brigadier general, with his own

2 brigade, upon application of a majority of the mem-
3 bers of any company of cavalry, artillery, light infantry,
4 or riflemen, expressed by their vote at any regular
5 meeting, 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
10 enrolled in the ununiformed militia, within the bounds
11 of which he resides; and every non-commissioned
12 officer so discharged shall be considered as reduced
13 to the ranks.

SECT. 26. Every commanding officer of a company
2 may enlist as musicians for his company, not exceed-
3 ing two drummers and two fifers, or one fifer and one
4 bugler, for and during the term of five years, unless
5 sooner discharged by removal to such distance from
6 the said company as to render it inconvenient for the
7 said musician to perform the duties required of him,
8 or by reason of some other good and legal excuse.
9 Any musician, so enlisted, who, after having been
10 duly notified and warned, shall refuse to perform his
11 duty as a musician at any legal meeting of said com-
12 pany, shall forfeit and pay for every such offense, the

13 same sum as would be forfeited by any non-commis-
14 sioned officer or private for non-appearance at any
15 such meeting; and in case of removal or discharge
16 of any such musician, the said commanding officer
17 may, from time to time, enlist other musicians to fill
18 such vacancy.

SECT. 27. Each colonel of a regiment may raise by
2 voluntary enlistment and organize within his regi-
3 ment, and for the use thereof, a band of musicians,
4 not to exceed twenty in number, including one master
5 and one deputy master, and may grant to the master,
6 deputy master, and members, warrants as such; and
7 such band shall be under the direction of the com-
8 manding officer of the regiment; and when the regi-
9 ment shall be encamped, the commanding officer
10 thereof shall order on duty his regimental band for
11 the time that the troops are to remain in camp, and
12 when on duty all regimental bands and other music
13 shall be under the direction of the drum major, sub-
14 ject to the order of the senior officer in command.

SECT. 28. When any regimental band or company
2 of music shall be ordered on duty as is prescribed in
3 section twenty-seven, there shall be paid to each
4 musician the sum of two dollars, for each days ser-
5 vice performed by them, by the acting quartermaster
6 general.

Rosters, rolls and returns.

SECT. 29. The aid-de-camp to 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 5 correct roster of the division, brigade, regiment, 6 battalion or corps to which they respectively belong, 7 and an orderly book, and record therein all orders and 8 other official communications received or issued by 9 their respective commanding officers, and copy, dis- 10 tribute and transmit all such orders and other papers, 11 as they may be directed by said officers, and attend 12 them while on military duty.

SECT. 30. The adjutant general shall record an 2 abstract of the returns made to him in a book to be 3 kept for the purpose. The brigade inspectors shall 4 make the annual returns of their inspection of their 5 respective brigades to the adjutant general, and trans- 6 mit abstracts thereof to the major generals of their 7 divisions, on or before the last day of November an- 8 nually.

SECT. 31. If any captain or commanding officer 2 shall refuse or neglect to make the return of the state 3 of his company as required by this chapter, and con- 4 tinues to neglect or refuse to make such return for 5 fifteen days after being notified by the adjutant gen-

6 eral that such return has not been received, he shall
7 forfeit and pay a fine of ten dollars; one-half thereof
8 to the use of the state, and the remainder to the adju-
9 tant, who shall be required to collect said fine by an
10 action of debt in any court proper to try the same.

SECT. 32. 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 commander-
4 in-chief, and one to the President of the United States,
5 on or before the first day of January, annually.

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

SECT. 34. No officer, non-commissioned officer or
2 private shall be arrested on any civil process during
3 his going unto, returning from, or his performance of
4 military duty, nor during his going unto, remaining
5 at, or returning from any place, at which he may be
6 ordered to meet for the election of any officer or offi-
7 cers. And no officer shall be arrested in any civil pro-
8 cess while going to, serving upon, or returning from
9 any court martial, court of inquiry, or board of offi-

10 cers, upon which it may be the duty of such officer to
11 attend.

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

Officers, appointment, election and qualification of.

SECT. 36. The commissioned officers of the militia,
2 named in the laws of the United States, shall be chosen
3 and appointed in the manner following :
4 The major generals shall be chosen by the senate
5 and house of representatives, each having a negative
6 on the other. The secretary of state, as soon as may
7 be after any such election, shall notify the person
8 elected thereof ; and if such person shall not signify
9 his acceptance of the office within thirty days after
10 such notice, he shall be considered as declining.
11 The adjutant general and quarter master general
12 shall be chosen as provided by the constitution, with

13 the rank of brigadier general, and shall keep their
14 offices at the seat of government.

15 The division inspectors shall be appointed by the
16 major generals of their respective divisions, with the
17 rank of lieutenant colonel.

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

21 The division quarter masters shall be appointed by
22 the major generals of their respective divisions, with
23 the rank of major.

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

26 The brigade majors shall be appointed by their re-
27 spective brigadier generals, with the rank of major.

28 The aids-de-camp of the brigadier generals, and
29 quarter masters of brigades, shall be appointed by the
30 brigadier generals of their respective brigades, with
31 the rank of captain.

32 The field officers of regiments and battalions shall be
33 chosen by the written votes of the captains and sub-
34 alterns of their respective regiments and battalions.

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

38 The adjutants, the quarter masters and the pay mas-
39 ters of regiments, shall be appointed by the colonels
40 of their respective regiments, with the rank of lieu-
41 tenant.

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

45 There shall also be a division engineer appointed by
46 the major generals of the respective divisions, with
47 the rank of major.

48 The aforementioned officers shall be commissioned by
49 the governor. *

SECT. 37. Sergeants and corporals shall be ap-
2 pointed by, and receive their warrants from the cap-
3 tains of their companies.

SECT. 38. In addition to the officers specified in
2 the laws of the United States, there shall be the fol-
3 lowing, who shall receive commissions from the gov-
4 ernor, 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 governør.

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 ap-
14 pointed by the commander-in-chief.

15 An adjutant and quarter master to each battalion of
16 artillery and cavalry, to be appointed by the command-
17 ing officers of their respective battalions, with the
18 rank of lieutenant.

19 And the following non-commissioned officers, viz :

20 To each regiment, a quarter master 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 quarter master 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.

SECT. 39. To each company of cavalry, artillery,
2 light infantry, grenadiers or riflemen, there shall be
3 one captain, one first, one second, one third and one
4 fourth lieutenant, five sergeants, four corporals, two
5 fifers and two drummers, and to each company of
6 artillery there shall be three drivers, and to each com-

7 pany of cavalry one saddler, one farrier, and one or
8 more trumpeters, who shall be respectively chosen as
9 provided in the 36th section.

SECT. 40. 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 until
9 a majority of all the electors qualified by law to vote
10 in such choice, counting all the existing vacancies in
11 the offices of such electors, shall be present at such
12 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 writing,
17 shall be considered as declining to serve, and a new
18 election shall be had.

SECT. 41. The commission of every officer shall
2 designate the division, brigade, regiment or battalion,
3 and the corps in which he shall be commissioned, and

4 the day of his election or appointment ; and he shall
5 take rank from that day ; and whenever an officer is
6 transferred from one corps or station to another
7 in the same grade, the day of the date of his original
8 appointment or election shall be expressed in his new
9 commission, and that day be considered the date of
10 his commission.

SECT. 42. 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 a
6 new commission of the same tenor and date as the
7 one so lost.

SECT. 43. 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 their rank, then their rela-
5 tive rank with each other shall be determined by lot
6 to be drawn, by them before the commanding officer
7 present ; and when on a court martial, before the
8 president thereof.

SECT. 44. 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
 13 18—, personally appeared, and took and subscribed
 14 the oaths, required by the constitution of this state,
 15 to qualify him to discharge the duties of his office.

16 Before me, — — —, ———.”

SECT. 45. To every company there shall be a
 2 clerk, who shall be one of the sergeants, and he shall
 3 be 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 author-
12 ized 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,
20 certify on the back of the warrant of the sergeant
21 appointed to be clerk, that he was duly qualified by
22 taking the oath required by law.

SECT. 46. 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 may be required to be sued for in this
14 chapter ; and keep accounts in the orderly book of
15 all fines and forfeitures, and all other moneys collected
16 by him, with the persons' names of whom they were
17 collected, and of the times when, and for what
18 offense ; 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.

SECT. 47. In case of the sickness, absence, or
2 other disability of the clerk of any company, the
3 commanding officer thereof may appoint a clerk pro
4 tempore, who shall be duly sworn before he enters on
5 the duties of the office ; and shall, for the time ex-
6 pressed in his appointment, or until specially dis-
7 charged, have all the powers, and be subject to all the
8 duties, and liable to all the penalties of the clerk in
9 whose place he is put.

SECT. 48. In case of such sickness, absence or
2 other disability, or whenever the office of clerk in any
3 company shall become vacant, and it shall satisfac-
4 torily appear to the commanding officer that no per-
5 son will accept the same, temporarily or permanently,
6 as the case may be, he may issue his order in writing to
7 any non-commissioned officer or private in said com-

pany, requiring him to perform all the duties of the clerk of said company, except keeping the records, until the clerk shall be able to perform the same, or some other person be appointed, for a term not exceeding three months; and if any non-commissioned officer or private so appointed, and who shall not have been, within one year previous, required to perform the same duties, shall refuse or neglect to perform all or any of the duties of said office, during said term, except keeping the records, he shall forfeit and pay not less than ten, nor more than twenty dollars, to be recovered by indictment, or by action on the case, by any person whatever; one half to the use of the state, and the other half to the use of the prosecutor.

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

SECT. 50. When the office of major general, brigadier general, colonel, lieutenant colonel, major commandant or of captain shall be vacant, or in case of

4 the absence of any such officer, the officer next in
5 grade and in commission in the division, brigade, regi-
6 ment, battalion or company, on due notice thereof
7 from the proper superior officer, shall exercise the
8 command, and perform the duties thereof, until the
9 vacancy shall be supplied.

SECT. 51. When a company shall have neither
2 commissioned nor non-commissioned officers, the com-
3 manding officer of the regiment or battalion, to which
4 such company belongs, shall appoint suitable persons
5 within said company, to be non-commissioned officers
6 of the same, and grant them warrants accordingly ;
7 one of which non-commissioned officers he shall ap-
8 point clerk, and endorse his warrant and administer
9 the oath to him, as directed in the forty-eighth section ;
10 and the senior non-commissioned officer of a com-
11 pany, while there are no commissioned officers in of-
12 fice, shall command the same ; and all the powers
13 of commanding officer shall be vested in him, until
14 some commissioned officer shall be appointed, or
15 chosen and qualified.

SECT. 52. When any company shall have remained
2 without any commissioned officers for the term of
3 three months, the commanding officer of the regiment

4 to which said company belongs shall detail some suit-
5 able officer of the staff, or of the line, not above the
6 rank of lieutenant, to train and discipline said com-
7 pany, until some officer shall be elected, or appointed
8 by the commander-in-chief, as provided in the second
9 section of the seventh article of the constitution, and
10 commissioned ; and such officer so detailed shall have
11 the same power and authority, and be subject to the
12 same liabilities, as if he were captain of such com-
13 pany ; and he shall keep the records of the company,
14 and prosecute for all fines and forfeitures, in such
15 manner as he may be authorized and required to do,
16 by virtue of the eighteenth section of this chapter ;
17 one half of the amount recovered to be to the use of
18 the regiment, and the other half to the use of the officer.
19 The officer so prosecuting shall be a competent wit-
20 ness in the case.

SECT. 53. When the officer, so detailed to com-
2 mand such company, or, where no officer shall
3 have been detailed, whenever the commanding officer
4 of 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 duty in such
7 company to appear for any duty required by law, at y

8 non-commissioned officer or private who shall neglect
9 or refuse to notify such persons to meet at the time
10 and place and for the purposes mentioned in such or-
11 der, as aforesaid, shall forfeit and pay not less than
12 twenty, nor more than one hundred dollars, to be re-
13 covered by indictment, or by an action on the case,
14 by any person whatever ; one half to the use of the
15 state, and the other half to the prosecutor.

SECT. 54. The adjutant general and quarter master
2 general shall receive compensation for their services
3 to be allowed by the legislature.

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

Officers, how discharged.

SECT. 56. All military officers, who have been or
2 may hereafter be commissioned, shall hold their re-
3 spective offices for a term not longer than seven years
4 from the date of their commissions, unless re-ap-
5 pointed or re-elected : and the commander-in-chief

6 shall discharge all such officers accordingly, provided,
7 that in case of vacancy of major general in any division,
8 the commissions of the brigadier generals in such divi-
9 sions shall not terminate by the limitation aforesaid, till
10 the office of major general shall be filled. But no offi-
11 cer shall be discharged within the term of five years,
12 otherwise than in pursuance of the sentence of a
13 court martial, except by the commander-in-chief, on
14 request of such officer in writing; by actual removal
15 of residence out of the bounds of his command, and
16 to such distance that the major general shall think it
17 inconvenient for him to discharge the duties of his
18 office; by twelve months absence without leave of
19 the commanding officer of his division, or by the legal
20 disbanding of the corps to which he belongs; and
21 whenever any division, brigade, regiment or battalion
22 shall be divided, and the residence of any staff officer
23 attached thereto shall be without the bounds of the
24 corps in which he was commissioned, such staff officer
25 shall be entitled to an honorable discharge, and shall
26 cease to do duty in such office, after such division is
27 made; and the commanding officer may proceed to
28 fill the vacancy occasioned thereby.

SECT. 57. 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 No-
5 vember, unless the reasons offered by the officer wish-
6 ing to resign within those days be very urgent.

SECT. 58. 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.

SECT. 59. 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 said
5 successor any property in his possession belonging to
6 the state, said person shall forfeit and pay a sum not
7 less than twenty dollars, nor more than one hundred
8 dollars, to the use of the state, to be recovered by
9 indictment before the court.

SECT. 60. 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 fifty-

5 seven, or shall have received a certificate of discharge
6 from the commander-in-chief.

SECT. 61. 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 he shall be removed by the governor
5 and council.

SECT. 62. No idiot, lunatic, common drunkard,
2 vagabond, pauper, nor any person convicted of any
3 infamous 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, that any person, thus ineligible, has
7 received a majority of votes cast at any election
8 of officers, he shall not commission him; but, with
9 the advice and consent of the council, shall declare
10 said election null and void, and appoint some person
11 to fill the vacancy. And when it shall appear to the
12 commander-in-chief, that any person commissioned as
13 an officer in the militia of this state has become an
14 idiot, lunatic, common drunkard or vagabond, he
15 shall, with the advice of the council, forthwith remove
16 him from office, and a new election shall be ordered
17 to fill such vacancy.

Discipline, trainings, reviews, uniform.

SECT. 63. No officer, non-commissioned officer or
2 private shall be held to perform any military duty on
3 any day, except on days which are or may be specially
4 prescribed by law, on which the selectmen of the
5 town in which such officer, non-commissioned officer
6 or private resides, shall appoint a meeting for the
7 election of a representative to the legislature; nor
8 shall there be any military parade on the day pointed
9 out by the constitution of this state for the election of
10 governor and senators; nor on any day which may
11 be appointed for the choice of electors of president
12 and vice-president of the United States, or represent-
13 atives to congress; and it shall not be lawful for any
14 officer to parade his men on either of said days, unless
15 in case of invasion made, or threatened, or in obedi-
16 ence to the orders of the commander-in-chief, except
17 as provided for in this chapter, and if any officer,
18 contrary to the provisions aforesaid, shall parade his
19 men on either of said days of election, he shall be
20 liable to be tried by a court martial; and shall more-
21 over forfeit a sum not less than fifty, nor more than
22 three hundred dollars, to be sued for and recovered, in
23 an action on the case, before any court of competent

24 jurisdiction; one moiety thereof to the use of the
25 person who may prosecute for the same, the other to
26 the use of the state.

SECT. 64. 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 offense, forfeit and pay a fine not
9 less than twenty, nor more than one hundred dollars,
10 to be recovered by indictment, to the use of the state.

SECT. 65. At all regimental and battalion parades,
2 the several companies shall form in regiment or bat-
3 talion, according to the rank of the officers present
4 actually commanding them; and the same rule shall
5 apply in all cases, excepting those in which artillery,
6 cavalry, light infantry and riflemen may, by usage and
7 necessity, be detached from the regiments and bat-
8 talions.

SECT. 66. When different corps shall parade, join,
2 or do duty together, the senior officer present, accord-
3 ing to rank, shall command without regard to corps.

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

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

SECT. 69. Encampments or camps of instruction, in bodies of not less than one regiment, may be

3 ordered by the major general of each division, to
4 take place between the middle of July and the middle
5 of October, and at points convenient to the troops
6 ordered to be encamped; and in all cases of ordering
7 of such encampments or camps of instruction, reason-
8 able compensation for transportation of arms and
9 equipage shall be paid by the acting quartermaster
10 general, the accounts having first been audited and
11 allowed by the governor and council.

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

SECT. 71. Troops so encamped shall be carefully
2 and thoroughly exercised in the whole routine of
3 camp and field duty, according to the tactics pre-
4 scribed from time to time, as shall be ordered by the
5 officers in chief command; and the troops shall also
6 be inspected by the brigade major and inspector,

7 whose duty it shall be to attend such encampments,
8 and shall be reviewed and manœuvred in company
9 and battalion, by the commanders of brigades if in
10 regiments, and by the major general if in brigades,
11 in presence of such general and other officers as
12 may be present.

SECT. 72. The notice for such encampment shall
2 be issued at least thirty days before the time ap-
3 pointed for the same ; and said troops, whenever
4 thus ordered out, shall continue to perform duty for
5 at least two days, unless sooner discharged by the
6 senior officer in command.

SECT. 73. The mayor and aldermen of any city, or the
2 selectmen of any town, upon complaint made to them
3 under oath, that the complainant has reason to believe
4 that any booth, shed, or other temporary erection, sit-
5 uated within one mile of any muster field, is used and
6 occupied for the sale of spirituous or fermented liquors,
7 or for the purpose of gaming for money, or other
8 property, may if they consider the complaint well
9 founded, order the owner or occupant thereof to va-
10 cate and close the same immediately ; and if the owner
11 or occupant shall refuse or neglect so to do, the
12 said mayor and aldermen or selectmen may forthwith
13 abate such booth, shed or other temporary erection,

14 as a nuisance, and pull down or otherwise destroy
15 the same in any manner they may choose, or through
16 the agency of any force, civil or military, which they
17 may see fit to employ.

SECT. 74. 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 offense, according to the
12 degree and aggravation thereof.

SECT. 75. The system of discipline and field exer-
2 cise which is ordered to be observed by the regular
3 army of the United States in the different corps of
4 cavalry, artillery, light infantry and riflemen, or such
5 other system as may at any time hereafter be directed
6 for the volunteers and militia, by the laws of the
7 United States, shall be observed by the companies
8 raised at large in this state, in the discipline and
9 exercise of said corps respectively.

SECT. 76. Every commanding officer of a company
2 raised at large, shall parade his company on the sec-
3 ond Wednesday in May, annually, at one o'clock in
4 the afternoon, for the purpose of inspecting, examin-
5 ing and taking account of all equipments of his men,
6 in order that a thorough inspection may be made of
7 all volunteer companies in the state. Every com-
8 manding officer of a company shall exercise and dis-
9 cipline as well as inspect his company on said day.
10 Every commanding officer as aforesaid, shall, in addi-
11 tion thereto, parade his company for exercise and dis-
12 cipline on two other days, at the hour aforesaid, by
13 his own order.

SECT. 77. 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
6 opinion of the commander-in-chief, any of the exigen-
7 cies are likely to happen upon which the militia
8 could, by the constitution of the United States, be
9 called into actual service, he shall have power to
10 order such other and further training and disciplining
11 of the militia, or any part thereof, as he may deem
12 necessary.

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

SECT. 79. Whenever the commander-in-chief shall
2 direct any corps to perform escort duties, the com-
3 manding officer of such corps shall present his ac-
4 count for necessary music to the quartermaster gen-
5 eral, by whom the same shall be audited and paid.

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

Notifications, excuses, by-laws and regulations.

SECT. 81. When the commanding officer of a com-
2 pany shall order out his company for inspection or
3 training, or for any battalion, regimental, brigade or
4 division inspection or review, he shall issue orders
5 to some one or more of the non-commissioned offi-

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6 cers or privates of his company, requiring him or
7 them to notify the men belonging to his company to
8 appear at the time and place appointed; and it shall
9 be the duty of the non-commissioned officer or officers,
10 private or privates, so ordered as aforesaid, to give
11 notice of the time and place appointed for the parade
12 of said company to each and every man he or they shall
13 have been ordered to notify, either verbally, or by de-
14 livering to each man in person, or by leaving at his
15 usual place of abode, a written or printed order; but
16 no private shall be obliged thus to notify more than
17 once in the same year.

SECT. 82. 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
7 the election of officers. *Provided always*, that in
8 case of invasion, insurrection or other emergency,
9 any notice, however short, shall be legal and binding.
10 And whenever any company shall be paraded, the
11 commanding officer thereof may verbally notify the
12 men, so paraded, to appear on some future day, not

13 exceeding thirty days from the time of such notifica-
14 tion, for any military duty required by law, and such
15 notice shall be legal as it respects the men present.

SECT. 83. 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
6 shall be the duty of such non-commissioned officer or
7 private to give every person he is so ordered to warn,
8 verbal notice, or to leave him a written or printed
9 notification, at his usual place of abode, specifying
10 the time, place and purpose of said meeting.

SECT. 84. 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 delinquent's
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 pre-
16 vented therefrom by severe sickness or other inevita-
17 ble accident within the said twenty days, shall forfeit
18 and pay the penalty by law provided for such non-
19 appearance. And if a warrant be issued to an indi-
20 vidual who may have held a commission in this state,
21 or 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 provided,
25 or such commission shall not exempt him from such
26 fine as would otherwise be imposed upon him for non-
27 appearance. All commanding officers of companies
28 shall inform, or cause their clerks to be informed, of
29 all excuses for non-appearances which they may allow
30 as good and sufficient.

SECT. 85. Every company of the ununiformed
2 militia may by their by-laws provide for the payment
3 of such fines and penalties, not inconsistent with the
4 provisions of this chapter or of the laws of the state,
5 for non-appearance at any company trainings and

6 drills, for deficiency in arms and equipments, for
7 neglect of any duty required by law, for disobedience
8 of orders, or disorderly behavior when on duty, as
9 the good of the service shall require. If such by-
10 laws are submitted to, and approved by the com-
11 mander-in-chief, the fines and penalties thereby im-
12 posed may be sued for and recovered in an action
13 of debt, or any other proper action, by the clerk of
14 the company.

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

Compensation.

SECT. 87. The following shall be the annual allow-
2 ance to be paid by the acting quartermaster general,
3 to the officers named in this chapter, for all services
4 they may render in the official discharge of their du-
5 ties respectively :

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

- 8 To the brigade inspector of each brigade, twenty-
9 five dollars ;
- 10 To the aid-de-camp of each brigadier general,
11 twenty dollars ;
- 12 To the adjutant of each regiment, twenty-five dol-
13 lars ;
- 14 To the adjutant of each battalion of cavalry or artil-
15 lery, ten dollars ;
- 16 To the clerk of each company, fifteen dollars ;
- 17 if said officers shall promptly and faithfully perform
18 the duties belonging to them respectively ; *and pro-*
19 *vided, also*, that the said service shall be duly certified
20 by the proper officers.

Riots, &c.

SECT. 88. Whenever there shall be in any county,
2 any tumult, riot, mob, or any body of men acting
3 together by force with intent to commit any felony,
4 or to offer violence to persons or property, or by force
5 and violence to break and resist the laws of the state,
6 and the fact be made to appear to the commander-
7 in-chief, if in the immediate vicinity, or to any court of
8 record sitting in said county, or if no such court be
9 sitting therein, then to any justice of any such court,
10 or if no such justice be within the county, then to the

11 sheriff thereof if in the immediate vicinity, otherwise
 12 to the mayor of any city, or the selectmen of any
 13 town where such riot, tumult or mob may occur, the
 14 commander-in-chief may issue his order, or such
 15 court, justice, sheriff, mayor or selectmen may issue
 16 his or their precept, directed to any commanding offi-
 17 cer of any division, brigade, regiment, battalion or
 18 corps, to order his command, or any part thereof,
 19 (describing the kind and number of troops,) to appear
 20 at a time and place therein specified, to aid the civil
 21 authority in suppressing such violence and supporting
 22 the laws, which precept, if issued by a court, shall be
 23 in substance as follows :

24 “ STATE OF MAINE.

25 “ ——— ss.

26 “[L.S.] To [insert the officer’s title] A. B. command-
 27 ing [insert his command.] Whereas it has been made
 28 to appear to our justices of our ——— now holden
 29 at ———, within and for the county of ——— that [here
 30 state one or more of the causes above mentioned] in
 31 our county of ———, and that military force is neces-
 32 sary to aid the civil authority in suppressing the same :
 33 Now, therefore, we command you that you cause

34 [here state the number and kind of troops required]
35 armed, equipped, and with ammunition as the law di-
36 rects, and with proper officers, either attached to the
37 troops or detailed by you, to parade at —, on —,
38 then and there to obey such orders as may be given
39 them according to law. Hereof fail not at your peril,
40 and have you there this writ, with your doings re-
41 turned thereon.

42 “Witness, L. S. Esq., at —, on the — day of
43 —, in the year —. — C. D., Clerk.”

44 And if said precept be issued by any mayor, justice
45 or sheriff, it shall be under his hand and seal, and
46 otherwise varied to suit the circumstances of the case.

SECT. 89. Whenever any such tumult, riot or mob
2 shall be threatened, and the fact be made to appear
3 to either of the officers in the manner before describ-
4 ed, then the commander-in-chief may issue his order,
5 or such court, justice, sheriff, mayor or selectmen,
6 may issue his or their precept, directed to any com-
7 manding officer as aforesaid, to order his command,
8 or any part thereof, (describing the kind and number
9 of troops,) to appear at a time and place specified
10 therein, to aid the civil authorities in preventing and
11 suppressing such violence, and in supporting the laws,

12 and said precept shall be in substance similar to that
13 provided for in section eighty-eight, but the same may
14 be varied to suit the circumstances of the case.

SECT. 90. The officer to whom the order of the
2 commander-in-chief, or such precept, shall be directed,
3 shall forthwith order the troops therein mentioned to
4 parade at the time and place appointed, and if he shall
5 neglect or refuse to obey an order issued in pursuance
6 thereof he shall be cashiered, and be further pun-
7 ished by fine, or imprisonment not exceeding six
8 months, as a court martial may sentence. And any
9 non-commissioned officer or soldier who shall neglect
10 or refuse to appear at the place of parade, to obey
11 an order issued in such case, or any person who shall
12 advise, or endeavor to persuade any officer or soldier
13 to refuse or neglect to appear at such place, or to obey
14 such order, shall be punished by a fine of fifty dollars,
15 to be recovered by indictment to the use of the state,
16 or by an action in the case, by any person whatever,
17 one half of the sum recovered in such case, to accrue
18 to the use of the state, and the other half to the use
19 of the prosecutor.

SECT. 91. Such troops shall appear at the time and
2 place appointed, armed and equipped and with amu-

3 nition, as for inspection of arms, and shall obey and
4 execute such orders as they may then and there re-
5 ceive according to law.

SECT. 92. The city or town in which such riot,
2 tumult or mob shall occur or be threatened, shall, at
3 the expense of such city or town, cause suitable pro-
4 visions, quarters and amunition, to be furnished to
5 such troops as may be called out, pursuant to the
6 foregoing section.

SECT. 93. There shall be paid out of the moneys
2 of the state to each person who shall perform the
3 duties required of him by the ninety-first section of
4 this act, the following sums, to wit: to each commis-
5 sioned officer, five dollars per day, and to each non-
6 commissioned officer, musician and private, three
7 dollars per day, for each day's service so performed
8 by him, from the time he may be ordered out until he
9 shall be legally discharged from duty by the proper
10 officer.

Courts martial.

SECT. 94. All courts martial shall consist of three
2 members, to be detailed in the manner hereinafter
3 directed.

4 One of the members of each court shall be desig-

5 nated, in the order under which they shall act, as the
6 president thereof, and in case of his absence at the
7 trial of any cause within their jurisdiction, the senior
8 officer of such court, who shall be present, shall offi-
9 ciate as president pro tempore.

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

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

SECT. 95. When any such court shall be in session,
2 the president thereof shall appoint a marshal, whose
3 duty it shall be to preserve order therein, and with the
4 concurrence of either of the associate members, he
5 may also appoint a warrant officer to attend upon the
6 same.

SECT. 96. When the commander-in-chief shall
2 deem it necessary to assemble any general court
3 martial, for the trial of any officer above the rank of
4 captain, it shall be lawful for him to appoint the pres-
5 ident and members thereof from any division or
6 divisions of the militia, which the circumstances of

7 the case and the ends of justice may, in his opinion,
8 require.

SECT. 97. Every court martial for the trial of offi-
2 cers of, and under, the rank of captain, including the
3 regimental staff, shall be ordered by the major general
4 of the division to which the officer to be tried belongs,
5 to be held within the limits thereof, and he shall regu-
6 larly detail the members thereof from the roster of
7 his division, according to rank; *provided, however,*
8 that it shall be the duty of the major general to pass
9 such officer or officers as in his opinion may be inter-
10 ested, or implicated, in the result of the trial; and all
11 officers so detailed, shall, while in the same office, be
12 ineligible to serve on such court martial a second
13 time, until all other officers in the division, who are
14 not legally disqualified, shall have been detailed as
15 aforesaid.

SECT. 98. Summary inquiry may be made into the
2 truth and circumstances of any matter contained in
3 any complaint or allegation against the conduct of
4 any officer or corps of the militia, by an officer spec-
5 ially appointed for that purpose.

6 If the complaint be made against any officer above
7 the rank of captain, or corps of militia greater than

8 the command of a captain, the appointment shall be
9 made by the commander-in-chief; if against any other
10 officers or corps, the inquiry shall be made by ap-
11 pointment of the major general of the division to
12 which those complained against belong; and it shall
13 be the duty of any officer appointed to make such
14 inquiry to report the result of his inquiry and investi-
15 gation as soon as may be after he shall have completed
16 the same, to the adjutant general's office, if ordered
17 by the commander-in-chief; and to the major general,
18 if directed by him.

19 In either of the above cases, the officer making and
20 reporting such summary inquiry, shall file his account
21 for such services in the adjutant general's office, to be
22 presented to the legislature for allowance.

SECT. 99. There shall be appointed and commis-
2 sioned by the governor, a division advocate for the
3 militia, of suitable learning in the law, for each divi-
4 sion, with the rank of major, to continue in office for
5 the term of five years, whose duty shall be as follows:
6 To reduce to proper form the charges and specifica-
7 tions of charges contained in every written complaint
8 of any person aggrieved, or of any commissioned
9 officer, which may be lodged with him, against any
10 military officer within his division, upon any alleged

11 offense by such officer committed, and cognizable
12 by the court martial within his division.

13 When the officer against whom complaint is made,
14 shall be above the rank of captain, he shall transmit
15 the same, so reduced to form, to the adjutant general's
16 office, within fifteen days next after the receipt of such
17 complaint, for the consideration of the commander-
18 in-chief.

19 When the officer so complained against shall be of
20 the rank of captain and under, including regimental
21 staff officers, he shall transmit in like manner the
22 complaint, so reduced to form, to the major general
23 of the division to which the officer belongs, for his
24 consideration.

SECT. 100. When a court martial is ordered by the
2 commander-in-chief, or by the major general of any
3 division, for the trial of any officer on charges and
4 specifications of charges preferred against him, the
5 division advocate shall prosecute the same; and in
6 all cases the division advocate shall be furnished by
7 the adjutant general, if the court be ordered by the
8 commander-in-chief, and by the major general, if the
9 court be ordered by him, forty days at least before
10 the time of trial, with a copy of the general division
11 order convening the court, and of the charges and

12 specifications preferred, and cause the respondent to
13 be served with a copy thereof twenty days at least
14 before the trial.

SECT. 101. The courts martial hereby authorized
2 shall be convened from time to time, according to the
3 appointment and order of the commander-in-chief, or
4 of the major generals of the several divisions, for the
5 trial of such officers as are, by the provisions of this
6 chapter, made amenable to the jurisdiction of said
7 courts respectively.

SECT. 102. All persons summoned to testify in any
2 cause ordered for trial, or pending before either of
3 said courts, by virtue of a subpœna issued by the
4 division advocate, if for the state, or by any justice
5 of the peace, if for the respondent, shall be held to
6 obey such subpœna under the same penalties and
7 liabilities for neglect as are provided in other public
8 prosecutions: all oaths required of persons testifying
9 in said courts may be administered by any member
10 thereof; depositions may be taken and used in like
11 manner as in cases pending in courts of common law.

SECT. 103. If the respondent shall be found guilty
2 by said court, either upon admission, trial or default,
3 of any charge preferred against him, involving an

4 offense against military law, or the principles of duty
5 and usage, attached to his office, the court shall sen-
6 tence him to be reprimanded in orders, and to pay a
7 fine of not less than ten, nor exceeding fifty dollars,
8 together with part or all of the costs of court, or to
9 either, according to the nature of the offense; or to
10 be removed from office with or without the payment
11 of such fine and costs, at the discretion of the court;
12 and in addition thereto, if the court think proper, to
13 be disqualified for, and incapable of holding any
14 military office under this state for life or for a term of
15 years. And the judgment or sentence of the court
16 shall, as soon as may be, be certified by the presi-
17 dent, under seal of the court, to the commander-in-
18 chief, to be promulgated and carried into effect.

SECT. 104. The division advocate shall keep a
2 summary record of the proceedings of each court,
3 from day to day, under the direction of the court.

SECT. 105. A copy of the record of any court
2 martial, certified by the president of any such court,
3 together with a duly authenticated copy of the order
4 convening said court, shall be sufficient and conclu-
5 sive evidence to sustain, in any court, any action
6 commenced for the recovery of any fine, or costs, or

7 part of costs, or either, agreeably to the provisions of
8 the two following sections.

SECT 106. In the order of the commander-in-chief
2 promulgating the sentence of any court martial, as
3 herein directed, if such sentence shall include the
4 payment, by any officer, of any fine and costs, or
5 either, the division advocate of such division shall be
6 directed, and it shall be his duty, to enforce the pay-
7 ment of such fine and costs, by an action of debt to
8 be commenced in his own name, within thirty days
9 next succeeding such order, unless the same shall be
10 sooner paid to him by such officer.

SECT. 107. The court before whom such action
2 shall be commenced, shall render judgment therein,
3 and issue execution accordingly, against the property
4 and body of the defendant, in accordance with the
5 provisions of law, for the amount of such fine and
6 costs, including the costs of such action, upon proof
7 that the same has been awarded by the sentence of a
8 court martial in the manner herein provided ; and no
9 action for such fine and costs, or either, shall abate in
10 consequence of the death, resignation, removal or
11 expiration of the term of office of the division advo-
12 cate who may have commenced the same ; but such

13 action may be prosecuted afterwards to final judgment
14 by his successor, and the court before which the same
15 may be pending, may order such continuances and
16 amendments and notices to the successor as may be
17 necessary, and render such judgment as the rights of
18 the parties may require. The fine and costs which
19 shall be included in such sentence, shall be paid over
20 by the division advocate, when collected, to the
21 treasurer of the state, for the use of the state.

SECT. 108. The compensation of the officers and
2 witnesses shall be as follows :

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

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

11 For drawing charges and specifications and filing
12 the same, three dollars ;

13 For preparing the case for trial, three dollars ;
14 subpoenas, ten cents each ; copies of the case for ser-

15 vice on the respondent, one dollar ; recording the
16 case, two dollars ;

17 To the marshal, two dollars a day ;

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

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

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

SECT. 109. It shall be the duty of the president
2 of every court held as aforesaid, to prepare compen-
3 dious reports of all questions of law arising and ad-
4 judged in trials had before him, and of the decisions
5 made thereon, stating in substance so much of the

6 evidence as may be necessary for a correct under-
7 standing thereof, and deposit the same in the office
8 of the adjutant general.

SECT. 110. Every officer to be tried by a court
2 martial, shall be put in arrest, so as to be suspended
3 from the exercise of his office, and shall have a copy
4 of the charges exhibited against him, and notice of
5 the time and place of trial, twenty days at least before
6 his trial is commenced, but the time of such trial shall,
7 in all cases, be within sixty days from the time of such
8 arrest.

SECT. 111. If any officer, for the trial of whom a
2 court martial is appointed, shall neglect to appear
3 and make defense, or, if appearing, shall afterwards
4 withdraw in contempt of court, or being arraigned
5 before a court martial, shall, from obstinacy or delib-
6 erate design, stand mute, or answer foreign to the
7 purpose, the court may proceed to trial and judgment
8 as if he had regularly pleaded not guilty.

SECT. 112. Every commissioned officer shall be
2 liable to be tried by a court martial for the following
3 offenses:

4 For any unmilitary conduct, neglect of duty, or dis-
5 obedience of orders, or behaving in an unofficerlike
6 manner when on duty;

- 7 For neglect of any of the duties required by this
8 chapter ;
- 9 For disobedience of orders or any act contrary to
10 the provisions of this chapter ;
- 11 For willfully oppressing or injuring any under his
12 command ;
- 13 For setting on foot or joining in any combination
14 to resist or evade the lawful orders of any commis-
15 sioned officer ;
- 16 For presuming to exercise any command, while
17 under arrest, in which case, if convicted, he shall be
18 removed from office ;
- 19 For neglect or refusal, as commanding officer, to
20 call out his company at the times required in this
21 chapter, or by any other law, or at any other time
22 when lawfully required thereto by his superior officer.
- 23 For excusing any under his command for unneces-
24 sary absence or deficiency ;
- 25 For neglect or refusal to make a draft or detach-
26 ment when legally ordered under the authority of the
27 commander-in-chief ;
- 28 For parading his men on either of the days of elec-
29 tion mentioned in section sixty-six, contrary to the
30 provisions thereof ;
- 31 For neglecting or refusing, after receiving his com-

32 mission, forthwith to take and subscribe the oaths
33 required by the constitution to qualify him to dis-
34 charge the duties of his office.

SECT. 113. No officer shall be tried by a court
2 martial for any offense which shall have been com-
3 mitted more than one year previous to the time when
4 a complaint shall have been made in writing therefor,
5 unless he shall have repeated such offense in two or
6 more successive years; or by reason of having ab-
7 sented himself, or some other manifest impediment,
8 he shall not have been amenable to justice within
9 that period.

SECT. 114. No arrest on the field for offenses com-
2 mitted on parade, shall be legal, unless made by the
3 commanding officer, present, in writing; and unless
4 such commanding officer shall within fifteen days
5 exhibit to the competent authority his complaint in
6 writing, setting forth the cause of arrest.

Proceedings on drafts for actual service.

SECT. 115. When, in case of actual or threatened
2 invasion, insurrection, or other public danger or
3 emergency, the militia shall be ordered out, or any
4 part thereof shall be ordered to be detached, or
5 drafted, by the commander-in-chief, any person who
6 shall be ordered out, detached or drafted, in pursu-

7 ance of, and obedience to, such orders, and shall not
8 within twenty-four hours after he shall be notified
9 thereof pay a fine of fifty dollars to the commanding
10 officer of the company to which he belongs, or pro-
11 cure an able bodied man in his stead, such person, on
12 being ordered to march to the place of rendezvous,
13 shall be considered as a soldier belonging to the
14 detachment, and be dealt with accordingly.

SECT. 116. All fines paid as aforesaid shall be ap-
2 propriated to the hire of men to complete the detach-
3 ment.

SECT. 117. The officers of any detachment ordered
2 to be made as aforesaid, shall be regularly detailed
3 from the rosters; and the non-commissioned officers
4 and privates, by lot, from the company rolls.

SECT. 118. When any company shall not be organ-
2 ized, the officer commanding the brigade, or regiment,
3 shall, either by himself or some officer under him,
4 proceed to make and complete the detachment from
5 such unorganized company.

SECT. 119. When the militia or any part thereof,
2 after having been ordered out or detached as afore-
3 said, shall be ordered to march for the service of the
4 state, each non-commissioned officer and private so
5 ordered to march, shall provide and take with him
6 three days' provisions, if so ordered.

SECT. 120. The selectmen of every town, and
2 aldermen of every city, and the assessors of every
3 plantation to which the men detached as aforesaid,
4 and ordered to march for the service of the state,
5 belong, shall provide and cause carriages to attend
6 them with further supplies of provisions, and also the
7 necessary camp equipage and camp utensils, until
8 notice shall be given them by the commanding officer
9 of the detachment to desist; and the selectmen, alder-
10 men and assessors shall present their accounts for
11 supplies to the legislature for allowance.

SECT. 121. When the selectmen of any town, alder-
2 men of any city, or assessors of any plantation from
3 which a detachment or part thereof, as aforesaid, shall
4 march, being notified by the commanding officer of
5 such detachment or part thereof belonging to such
6 town, city or plantation, shall neglect or refuse to
7 furnish the necessary supplies, camp equipage, and
8 camp utensils, the town, city or plantation to which
9 the selectmen, aldermen or assessors neglecting or
10 refusing as aforesaid belong, shall forfeit not less than
11 two hundred, nor more than five hundred dollars, to
12 be sued for and recovered by any person who may
13 prosecute for the same, in an action on the case, in
14 any court of competent jurisdiction; one moiety to
15 the prosecutor, and the other to the use of the state.

SECT. 122. The officer by whom or to whose order
2 any camp equipage or camp utensils shall be deliv-
3 ered, shall be accountable for the same, unless injured
4 or lost by some accident not in his power to prevent.

SECT. 123. When any draft or detachment shall be
2 made from any company of cavalry for actual service,
3 the men drafted or detached shall march with their
4 own horses ; and before they march, if there be time,
5 the horses shall be appraised by three impartial men,
6 to be appointed by the commanding officer of the
7 brigade to which the company belongs from which the
8 draft or detachment is made.

SECT. 124. When any officer, neglecting or re-
2 fusing to make a draft or detachment, when ordered
3 as aforesaid, shall be arrested, the officer next in
4 command shall be ordered to make the draft or de-
5 tachment.

SECT. 125. If any non-commissioned officer or
2 private shall be killed, or die of wounds received,
3 when on any military duty required by this act, his
4 widow, child or children shall receive from the legis-
5 lature such relief as shall be just and reasonable. And
6 if any officer, non-commissioned officer or private
7 shall be wounded, or otherwise disabled when on such

8 duty, he shall receive from the state just and reasona-
9 ble relief.

*Rules and articles for governing the troops stationed in
forts and garrisons within this state ; and also the militia,
or any part thereof, when called into actual service.*

SECT. 126. The following rules and articles are
2 hereby established and declared to be in force for
3 governing all troops stationed in forts and garrisons
4 within this state ; and also the militia, any part
5 thereof, when called into actual service, viz :

1. All officers and soldiers shall diligently attend
2 divine service ; all officers and soldiers who shall un-
3 necessarily absent themselves from, or behave inde-
4 cently or irreverently at any place of divine worship,
5 shall, if commissioned officers, be brought before a
6 general court martial, there to be publicly reprimanded
7 by the president ; if non-commissioned officers or soldiers,
8 every person so offending shall, for
9 the first offense, forfeit twenty cents, to be deducted
10 out of his next pay ; for the second offense, he shall
11 not only forfeit a like sum, but be confined twenty-
12 four hours ; and, for every like offense, shall suffer
13 and pay in like manner ; which money, so forfeited.

14 shall be applied to the use of the sick soldiers of the
15 troop or company to which the offender belongs.

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

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

iv. Any officer or soldier, who shall behave himself
2 with contempt or disrespect towards the commander-
3 in-chief, or any general or commanding officer of the
4 troops or militia of this state, or shall speak words
5 tending to his hurt or dishonor, shall be punished
6 according to the nature of his offense, by the judg-
7 ment of a court martial.

v. Any officer or soldier, who shall begin, excite,
2 or join in any mutiny or sedition in the troop, com-

3 pany or regiment to which he belongs, or in any
4 other troop or company in the service of the state, or
5 in any party, post, detachment or guard, on any pre-
6 tence whatsoever, shall suffer such punishment as by
7 a court martial shall be inflicted.

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

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

VIII. Any non-commissioned officer or soldier who
2 shall desert, or without leave from his commanding
3 officer, absent himself from the troop or company to
4 which he belongs, or from any detachment of the

5 same, shall, upon conviction thereof, suffer death, or
6 such other punishment as shall be inflicted by the
7 sentence of a general court martial.

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

x. No officer or soldier shall use any reproachful
2 or provoking speeches or gestures to another; nor
3 shall any officer or soldier presume to send a chal-
4 lenge to any person to fight a duel, upon pain, if a
5 commissioned officer, of being cashiered; if a non-
6 commissioned officer or soldier, of suffering punish-
7 ment at the discretion of a court martial.

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

xii. All officers, of what condition soever, shall
2 have power to part and quell all quarrels, frays and
3 disorders, though the persons concerned should be-
4 long to another regiment, troop or company; and

5 either to order officers into arrest, or non-commis-
6 sioned officers or soldiers to prison, until their proper
7 superior officer shall be acquainted therewith; and
8 whosoever shall refuse to obey such officer, though
9 of an inferior rank, or shall draw his sword upon him,
10 shall be punished at the discretion of a general court
11 martial.

XIII. Any officer or soldier who shall upbraid an-
2 other for refusing a challenge, shall be considered a
3 challenger, and punished accordingly.

XIV. Every officer commanding in quarters, garrি-
2 son, or on a march, shall keep good order, and, to the
3 utmost of his power, redress all such abuses or disor-
4 ders, as may be committed by any officer or soldier
5 under his command; and if, upon complaint made to
6 him, of officers or soldiers beating or otherwise ill
7 treating any person, or of committing any kind of
8 riots to the disquieting the good citizens of this or
9 either of the United States, he shall refuse or omit to
10 see justice done on the offender or offenders, and
11 reparation made to the party or parties injured, so far
12 as the offender's pay shall enable him or them, he
13 shall, upon proof thereof, be punished by a general
14 court martial, as if he himself had committed the
15 crimes or disorders complained of.

xv. If any officer shall think himself to be wronged
2 by his colonel, or the commanding officer of his regi-
3 ment, and shall, upon due application made to him,
4 be refused to be redressed, he may complain to the
5 general, or commander-in-chief of the forces in ser-
6 vice, in order to obtain justice; who shall examine
7 into the complaint, and see that justice be done.

xvi. If any inferior officer or soldier shall think
2 himself wronged by his captain, or other officer com-
3 manding the troop or company to which he belongs,
4 he may complain thereof to the commanding officer
5 of the regiment, who shall summon a regimental court
6 martial, for the doing justice to the complainant;
7 from which regimental court martial either party, if
8 he think himself still aggrieved, may appeal to a gen-
9 eral court martial. Bnt if, upon a second hearing,
10 the appeal shall appear to be vexatious and ground-
11 less, the person, so appealing, shall be punished at
12 the discretion of the said general court martial.

xvii. Any non-commissioned officer or soldier, who
2 shall be convicted at a court martial of having sold,
3 or, designedly or through neglect, waisted the ammu-
4 nition delivered out to him, to be employed in the
5 service of the state, shall, if a non-commissioned

6 officer, be reduced to a private, and, if a soldier, shall
7 suffer such punishment as shall be inflicted upon him
8 by a court martial.

xviii. No officer or soldier shall be out of his quar-
2 ters or camp, without leave from his commanding
3 officer, upon penalty of being punished according to
4 the nature of his offense, by the sentence of a court
5 martial.

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

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

xxi. No officer, non-commissioned officer or sol-
2 dier shall fail to repair, at the time fixed, to the place
3 of parade or exercise, or other rendezvous appointed
4 by his commanding officer, if not prevented by sick-
5 ness or some other evident necessity; nor shall go
6 from the said place of rendezvous, or from the guard,

7 without leave from his commanding officer, before he
8 shall be regularly dismissed or relieved ; on the pen-
9 alty of being punished according to the nature of his
10 offense, by sentence of a court martial.

xxii. Any commissioned officer who shall be found
2 drunk on his guard, party or other duty, under arms,
3 shall be cashiered for it ; and any non-commissioned
4 officer or soldier so offending, shall suffer such pun-
5 ishment as shall be inflicted by the sentence of a
6 court martial.

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

xxiv. Any person, belonging to the forces employed
2 in the service of this state, who, by discharging fire
3 arms, drawing of swords, beating of drums, or by any
4 other means whatsoever, shall occasion false alarms
5 in camp, garrison or quarters, shall suffer such pun-
6 ishment as shall be ordered by the sentence of a
7 general court martial.

xxv. Any officer or soldier who shall, without
2 urgent necessity, or without the leave of his superior

3 officer, quit his platoon or division, shall be punished
4 according to the nature of his offense, by the sentence
5 of a court martial.

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

xxvii. Any officer or soldier who shall abandon
2 any post committed to his charge, or shall speak
3 words inducing others to do the like, in time of an
4 engagement, shall suffer death, or such other punish-
5 ment as shall be inflicted by the sentence of a general
6 court martial.

xxviii. Any person belonging to the forces in the
2 service of this state, who shall make known the watch-
3 word to any person not entitled to receive it, accord-
4 ing to the rules and discipline of war, or shall presume
5 to give the parole or watchword different from what
6 he received it, shall suffer death, or such other punish-
7 ment as shall be ordered by the sentence of a general
8 court martial.

xxix. If any person, belonging to the forces in

2 the service of this state, shall relieve the enemy with
3 money, victuals or ammunition, or shall knowingly
4 harbor and protect an enemy, he shall suffer such
5 punishment as by the sentence of a court martial shall
6 be inflicted.

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

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

xxxII. If any officer or soldier shall leave his post
2 or colors to go in search of plunder, he shall, upon
3 conviction thereof before a general court martial, suf-
4 fer such punishment as by the sentence of the said
5 court martial shall be inflicted.

xxxIII. If any commander of any garrison, fortress,
2 or post shall be compelled, by the officers or soldiers
3 under his commaud, to give up to the enemy or
4 abandon it, the commissioned officers, non-commis-
5 sioned officers or soldiers, who shall be convicted of

6 having so offended, shall suffer death, or such other
7 punishment as shall be inflicted upon them by the
8 sentence of a court martial.

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

xxxv. If, upon marches, guards or in quarters, dif-
2 ferent corps shall happen to join or do duty together,
3 the eldest officer, by commission, then on duty or in
4 quarters, shall command the whole, and give out
5 orders for what is needful for the service, regard being
6 always had to the several ranks of those corps, and
7 the posts they usually occupy.

xxxvi. If any regiments, troops or detachment of
2 horse or foot shall happen to march with, or be en-
3 camped or quartered with any bodies or detachments
4 of other troops, the eldest officer, without respect to
5 corps, shall take upon him the command of the whole,
6 and give the necessary orders to the service.

xxxvii. A general court martial shall not consist of
2 less than seven commissioned officers, and the presi-
3 dent of such court martial shall not be the commander-
4 in-chief nor commanding officer of the troops in

5 service or garrison where the offender shall be tried,
6 nor under the degree of a field officer.

xxxviii. The members of courts martial shall, when
2 belonging to different corps, take rank as hereinbe-
3 fore directed, when on other duty.

xxxix. Some person shall be appointed by the
2 commanding officer, who shall order the court mar-
3 tial, to prosecute in the name of the state of Maine ;
4 and in trials of offenders, such person shall administer
5 to each member the following oath :

6 “ You swear that you will well and truly try and
7 determine, according to your evidence, the matter
8 now before you between the state of Maine and the
9 prisoner to be tried ; that you will duly administer
10 justice according to the rules and articles for govern-
11 ing the troops of the said state, without partiality,
12 favor or affection ; and if any doubt shall arise which
13 is not explained by the said articles, according to
14 your conscience, the best of your understanding, and
15 the custom of war in like cases ; that you will not
16 divulge the sentence of the court until it shall be
17 approved of by the commanding officer ; and that
18 you will not upon any account at any time whatso-

19 ever, disclose or discover the vote or opinion of any
20 particular member of the court martial, unless re-
21 quired to give evidence as a witness by a court of
22 justice in a due course of law. So help you God.”

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

26 “You, A. B., do swear that you will not upon any
27 account at any time whatsoever, disclose or discover
28 the vote or opinion of any particular member of the
29 court martial, unless required to give evidence thereof
30 as a witness by a court of justice in a due course of
31 law. So help you God.”

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

xLI. All persons who give evidence before a court
2 martial shall be examined upon oath ; which oath
3 shall be administered by the president of the court
4 martial in the following form :

5 “You swear the evidence you shall give in the cause
6 now in hearing, shall be the truth, the whole truth,
7 and nothing but the truth. So help you God.”

XLII. No sentence of death shall be given against
2 any offender by any general court martial, unless two
3 thirds of the members shall concur therein.

XLIII. All persons called to give evidence in any
2 cause before a court martial, who shall refuse to give
3 evidence, shall be punished for such refusal at the
4 discretion of such court martial.

XLIV. No field officer shall be tried by any person
2 under the degree of a captain ; nor shall any pro-
3 ceedings or trials be carried on, excepting between the
4 hours of sunrise and sunset.

XLV. No sentence of a court martial shall be put in
2 execution until after report shall be made to the com-
3 manding officer where the court martial shall be held ;
4 and his orders to be issued for carrying such sentence
5 into execution.

XLVI. The commissioned officers in any regiment
2 may, by the appointment of their colonel or com-
3 manding officer, hold regimental courts martial for
4 the inquiring into such disputes, or criminal matters,
5 as may come before them, and for inflicting punish-
6 ment for small offenses ; and shall give judgment by the
7 majority of voices ; but no sentence shall be executed

8 till the commanding officer, not being a member of
9 the court martial, shall have confirmed the same.

XLVII. No regimental court martial shall consist of
2 less than five officers, excepting in cases where that
3 number cannot be conveniently assembled, when
4 three may be sufficient; who shall likewise deter-
5 mine upon the sentence by a majority of voices.

XLVIII. Any officer, commanding in a fort, castle,
2 barrack or elsewhere, where the corps under his com-
3 mand consists of detachments from different regi-
4 ments, or of any independent company or companies,
5 may assemble courts martial for the trial of offenders,
6 in the same manner as if they were regimental;
7 whose sentence shall not be executed until it shall be
8 confirmed by the said commanding officer.

XLIX. No person whatsoever shall use menacing
2 words, signs or gestures in the presence of a court
3 martial then sitting, or shall cause any disorder or
4 riot so as to disturb their proceedings, on the penalty
5 of being punished at the discretion of the said court
6 martial.

L. To the end that offenders may be brought to
2 justice, whenever any officer or soldier shall commit

3 a crime deserving punishment, he shall, by his com-
4 manding officer, if an officer, be put in arrest ; if a
5 non-commissioned officer or soldier, be imprisoned
6 until he shall be either tried by a court martial or
7 shall be lawfully discharged by proper authority.

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

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

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

LIV. Every officer or provost martial, to whose
2 charge prisoners shall be committed, is hereby re-

3 quired, within twenty-four hours after such commit-
4 ment, or as soon as he shall be released from his
5 guard, to give in writing to the colonel of the regi-
6 ment to which the prisoner belongs, when the pris-
7 oner is confined upon the guard belonging to the said
8 regiment, and his offense only relates to the neglect
9 of duty in his own corps, or to the commander-in-
10 chief, their names, their crimes, and the names of the
11 officers who committed them, on the penalty of his
12 being punished for disobedience or neglect, at the
13 discretion of a court martial.

LV. If any officer, under arrest, shall leave his con-
2 finement before he shall be set at liberty by the officer
3 who confined him, or by a superior power, he shall
4 be cashiered for such offense.

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

LVII. All officers, conductors, gunners, matrosses,
2 drivers, or any other person whatsoever, receiving pay
3 or hire in the service of the state artillery, shall be
4 governed by the aforesaid rules and articles, and shall

5 be subject to be tried by courts martial, in like man-
6 ner with other officers and soldiers.

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

LIX. No person shall be sentenced to suffer death,
2 except in the cases expressly mentioned in the fore-
3 going articles.

LX. The field officers of each and every regiment
2 shall appoint some suitable person belonging to such
3 regiment, to receive such fines as may arise within
4 the same for any breach of any of the foregoing arti-
5 cles, and shall direct the same to be properly applied
6 to the relief of such sick or necessitous soldiers as be-
7 long to such regiment ; and such persons shall account
8 with such officer for all fines received and the appli-
9 cation thereof.

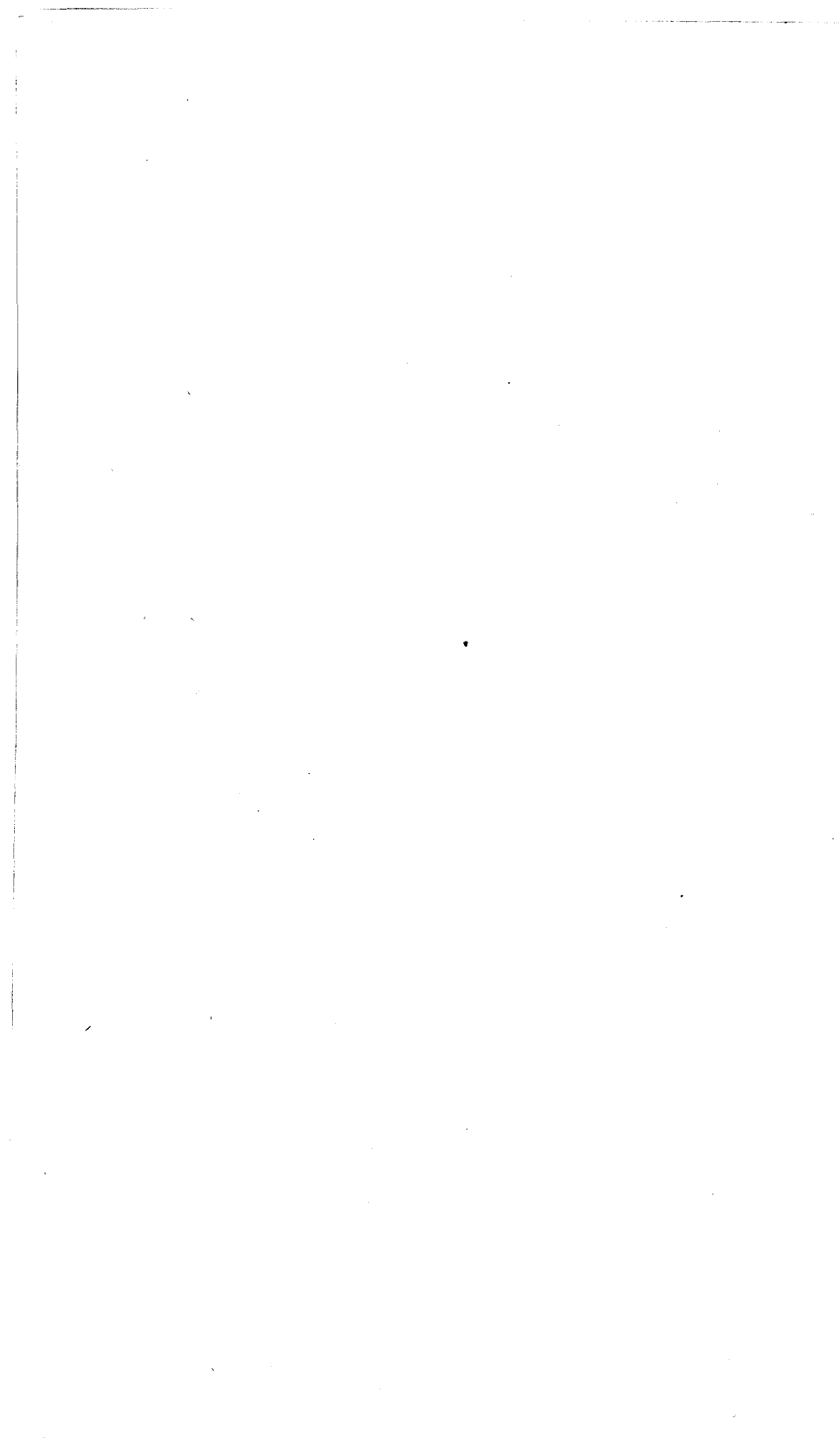
LXI. All crimes, not capital, and all disorders and
2 neglects which officers and soldiers may be guilty of,
3 to the prejudice of good order and military discipline,

4 though not mentioned in the foregoing articles, are to
5 be taken cognizance of by a general or regimental
6 court martial, according to the nature and degree of
7 the offense, and be punished at their discretion.

LXII. When any officer or soldier shall be accused
2 of a capital crime, or having used violence or com-
3 mitted any offense against the person or property of
4 the good people of this or either of the United States,
5 such as is punishable by the known laws of the land,
6 the commanding officer or officers of every regiment,
7 troop or party, to which the person or persons so ac-
8 cused shall belong, are hereby required, upon appli-
9 cation duly made by or in behalf of the party or par-
10 ties injured, to use his utmost endeavors to deliver
11 over such accused person or persons to the civil mag-
12 istrate; and likewise to be aiding and assisting the of-
13 ficers of justice in apprehending and securing the
14 person or persons so accused, in order to bring them
15 to trial. And if any commanding officer or officers
16 shall willfully neglect or shall refuse, upon the applica-
17 tion aforesaid, to deliver over such accused person or
18 persons to the civil magistrate, or to be aiding and as-
19 sisting the officers of justice in apprehending such
20 person or persons, such officer or officers so offending
21 shall be cashiered.

SECT. 127. All other acts in relation to the militia
2 of this state are hereby repealed.

SECT. 128. This act shall take effect from and
2 after its approval by the governor.



STATE OF MAINE.

IN SENATE, February 29, 1856.

ORDERED, That 1000 copies of this bill be printed for the use of the Legislature.

N. C. REED, *Secretary pro tem.*