

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1864.



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1864.

FORTY-THIRD LEGISLATURE.

HOUSE.

No. 18.

STATE OF MAINE.

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

AN ACT to enroll, organize and discipline the militia.

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

Enrolment and organization of companies.

SECTION 1. Every able-bodied male citizen of the
2 age of eighteen years and under the age of forty-five
3 years, residing within this state, shall be enrolled
4 annually as of the first day of April, unless he is then in
5 the military or naval service of the United States or
6 except as hereinafter provided. Every person thus
7 enrolled shall be liable to do the military duty herein-
8 after specified, until the first day of April next after
9 he shall become forty-five years of age, and until the

10 end of any term for which he may be called into actual
11 service. The enrolment shall be *prima facie* evidence
12 of the liability of those enrolled to perform the military
13 duty herein provided for, and in all proceedings the
14 burden of proof shall be upon those enrolled to show
15 that they are not thus liable.

SECT. 2. The adjutant general shall forthwith divide
2 the state into enrolment districts, using the rolls in his
3 office as a basis, in such manner that each district shall
4 contain not less than seventy-five nor more than one
5 hundred and fifty persons, according to his estimate,
6 liable to do military duty as provided in this act; and
7 may annually create new districts or change the limits
8 of districts. He shall appoint an enrolling officer for
9 each district, resident therein, and in case of vacancy
10 fill the same by a new appointment, who shall be sworn
11 and hold his office during the pleasure of the adjutant
12 general.

SECT. 3. Such enrolling officers shall, on or before
2 the tenth day of April annually, make four rolls of all
3 persons in their respective districts liable to do military
4 duty as provided in this act, omitting none on account
5 of not being able-bodied, except those having a man-
6 ifest permanent disability, and on or before the twen-
7 tieth day of April annually, transmit to the adjutant

8 general two of said rolls properly attested. The roll
9 shall contain the name written in full of each person
10 enrolled, his residence, his age in years, and the year,
11 month and day of the month on which he was born ;
12 and either of such rolls certified by the enrolling officer
13 or by the adjutant general shall in all proceedings be
14 received as evidence of the enrolment. If the adju-
15 tant general finds such rolls to be in proper form, he
16 shall transmit to the enrolling officer a certificate stat-
17 ing the number of names on the roll from each town
18 or plantation in his district, and upon receipt thereof
19 the enrolling officer shall be entitled to receive of each
20 town or plantation in his district, eight cents for every
21 person by him enrolled in such town or plantation as
22 shown by the certificate.

SECT. 4. All persons inquired of by any enrolling
2 officer shall give the names of all persons residing in
3 their houses liable to enrolment; and if any person
4 applied to by an enrolling officer for such information,
5 or as to his own, or another's name, residence, age or
6 citizenship, refuses to give the same, if known to him,
7 or knowingly gives false information, shall be punished
8 by a fine of ten dollars.

SECT. 5. The persons enrolled in each district shall
2 constitute a company. Immediately upon the comple-

3 tion of the first enrolment in any district, the comman-
4 der-in-chief shall fix a day for the organization of the
5 company and direct the enrolling officer of such district
6 by himself and such persons upon his roll as may be
7 detailed by him for the purpose, to warn the persons
8 enrolled to meet at some suitable place in the district
9 for the election of company officers; and shall order
10 the major general of the divisions to detail or appoint
11 some suitable person to preside at such election, who
12 shall make due return of the officers elected to the
13 adjutant general through the major general of the
14 division. The enrolling officer shall be present at such
15 election with his roll.

SECT. 6. As soon as may be after the completion of
2 each annual enrolment, the enrolling officer shall
3 deliver to the commanding officer of the company, one
4 of his rolls, properly certified, which shall be the roll
5 of the company until the next enrolment.

Exemptions.

SECT. 7. The commanding officer of each company
2 is hereby authorized to examine the claims of all per-
3 sons in his company claiming to have their names
4 struck from the roll, and, on satisfactory proof that
5 the claimant is exempted from military duty under the

6 laws of the United States, or is not liable to do military
7 duty under the provisions of this act, may strike his
8 name from the roll, and make report thereof to the
9 adjutant general. But no name shall be struck from
10 the roll on account of disability, unless the person
11 claiming exemption shall produce to the commanding
12 officer a certificate from the surgeon or assistant sur-
13 geon of his regiment, battalion, or detached company,
14 or if there be none, or if he resides more than fifteen
15 miles from the residence of such surgeon or assistant
16 surgeon, a certificate verified by oath from some re-
17 spectable physician, that such person is unable to do
18 the military duty required of him on account of disa-
19 bility, the nature of which is described in such certifi-
20 cate.

SECT. 8. All officers who may be honorably dis-
2 charged after having held commissions for five years
3 under this act, shall thereafter be exempted from mili-
4 tary duty except in case of invasion or insurrection,
5 or upon call of the president of the United States as
6 provided in section fifty-nine of this act. No enrolling
7 officer shall enroll any idiot, lunatic, vagabond, pauper,
8 or person convicted of any infamous crime. No per-
9 son shall be allowed to furnish a substitute to do any
10 military service herein required except when called

11 into actual service, and then he may procure a substi-
12 tute under such regulations as the commander-in-chief
13 shall prescribe.

Organization.

SECT. 9. The commander-in-chief shall organize the
2 companies into battalions, regiments and brigades,
3 within the divisions now existing, make from time to
4 time such changes in the limits thereof as he may
5 deem necessary, and upon the organization of any bat-
6 talion, regiment or brigade, shall fix a day for the
7 election of the officers, and order the major general of
8 the division to appoint some suitable person to give the
9 requisite notices and preside at such election. The
10 person thus appointed shall make return of his doings
11 and of the officers elected, to the adjutant general,
12 through the major general of the division. Each
13 division, brigade, regiment and battalion, shall be
14 numbered, and a record thereof made in the adjutant
15 general's office. They shall take rank according to
16 their number, the lowest number being highest in rank.

SECT. 10. Nothing herein provided shall vacate the
2 commissions of the existing major generals and their
3 staff, the adjutant general, or the aids to the com-
4 mander-in-chief.

SECT. 11. In case of a vacancy or the absence of

2 any officer, the officer next in rank present shall per-
3 form the duties.

SECT. 12. Independent companies of infantry, sharp-
2 shooters and cavalry, not comprising more than six
3 thousand men in the whole, and three batteries of
4 mounted artillery, may be organized under the direc-
5 tion of the governor and council. Such companies
6 and batteries shall be subject to all the provisions of
7 this act, except when otherwise specially provided,
8 and to such further rules and regulations as they shall
9 adopt and the commander-in-chief shall approve.

SECT. 13. Any able-bodied male citizen between
2 the ages of eighteen and forty-five years may enlist in
3 such independent organizations until they are filled,
4 and to fill any vacancies occurring therein, and be en-
5 titled to have his name struck from the roll of the
6 company in whose district he may reside, provided he
7 furnishes himself with the uniform by this act required,
8 and conforms to the law in regard to such organiza-
9 tions. Every person so enlisting into independent
10 organizations, shall be holden to do duty therein for
11 five years, unless sooner discharged. Any member of
12 such organization may be discharged by the comman-
13 der-in-chief upon application to him. Every person
14 so discharged, if still liable under the provisions of

15 this act to do military duty, shall be enrolled in the
16 general militia in his district ; but if enrolled prior to
17 such discharge, and while a member of such indepen-
18 dent organization, upon showing that fact to the
19 commanding officer of the company in his district, his
20 name shall be struck from the rolls.

SECT. 14. Every officer whose appointment is here-
2 in provided for, and every member of independent
3 organizations, shall provide himself with a uniform,
4 namely, hat, coat and trowsers, such as those pre-
5 scribed for the same grade and service in the army
6 regulations of the United States, with the same dis-
7 tinguishing badges of rank and arm of service, except
8 epaulettes, and substituting the state button for the
9 United States button. But any company now exist-
10 ing, which shall reorganize under this act, may use
11 the uniform which they now have, by consent of the
12 commander-in-chief.

SECT. 15. The officers and non-commissioned officers
2 of the militia shall be as follows :

3 A commander-in-chief.

4 An adjutant general, who shall be the inspector gen-
5 eral of the militia, and a quartermaster general, each
6 with the rank of brigadier general.

- 7 Aids to the commander-in-chief, with the rank of
8 lieutenant colonel, not exceeding four in number.
- 9 To each division there shall be one major general ;
10 one division inspector with the rank of lieutenant col-
11 onel ; two aids-de-camp, one division quartermaster,
12 one division engineer and one judge advocate, each
13 with the rank of major.
- 14 To each brigade there shall be one brigadier general,
15 one brigade inspector with the rank of major to serve
16 as brigade major, one brigade quartermaster, one brig-
17 ade engineer and one aid-de-camp, each with the rank
18 of captain.
- 19 To each regiment there shall be one colonel, one lieu-
20 tenant colonel and one major ; one adjutant, one quar-
21 termaster, one paymaster, one surgeon, one assistant
22 surgeon and one chaplain, each with the rank of
23 lieutenant ; one sergeant major, one quartermaster
24 sergeant and one drum major or fife major.
- 25 To each separate battalion there shall be one major ;
26 one adjutant, one quartermaster and one surgeon, each
27 with the rank of lieutenant ; one sergeant major and a
28 quartermaster sergeant.
- 29 To each company of infantry and sharpshooters there
30 shall be one captain ; one first and second lieutenant ;
31 five sergeants, eight corporals and two musicians.

32 To each battery of mounted artillery there shall be
33 one captain ; one first, second, third and fourth lieu-
34 tenant ; eight sergeants, twelve corporals and one
35 bugler.

SECT. 16. The officers of the militia shall be elected
2 as follows, viz :

3 Major generals by the senate and house of represent-
4 atives ; the person so elected shall forthwith be noti-
5 fied of such election by the secretary of state ; and if
6 such person shall not signify his acceptance within ten
7 days after such notice, he shall be considered as hav-
8 ing declined.

9 The adjutant general and quartermaster general shall
10 be chosen annually by joint ballot of the senators and
11 representatives in convention, and shall keep their offi-
12 ces at the seat of government.

13 Brigadier generals, by the written votes of the field
14 officers of the respective brigades.

15 Field officers of regiments and battalions, by the
16 written votes of the captains and subalterns of the
17 companies of the respective regiments or battalions.

18 Captains and subalterns of batteries and companies,
19 by the written votes of the non-commissioned officers
20 and privates of the respective organizations.

SECT. 17. The staff officers shall be appointed in the
2 following manner :

3 The aids to the commander-in-chief, by the comman-
4 der-in-chief.

5 The division inspectors, division quartermasters, the
6 aids-de-camp of major generals, and division engineers,
7 by the respective major generals.

8 The brigade majors and inspectors, brigade quarter-
9 masters, brigade engineers, and aids-de-camp to brig-
10 adier generals, by the respective brigadier generals.

11 Adjutants, quartermasters, chaplains, surgeons and
12 assistant surgeons of regiments, by the respective
13 colonels.

14 Adjutants, quartermasters, and surgeons of battalions,
15 by the respective majors.

16 All the aforesaid officers shall be commissioned by the
17 governor.

SECT. 18. The non-commissioned officers shall be
2 appointed in the following manner, viz :

3 Sergeant majors and quartermaster sergeants, drum
4 majors and fife majors of regiments, by the respective
5 colonels.

6 Sergeant majors and quartermaster sergeants of bat-
7 talions, by the respective majors.

8 Non-commissioned officers of batteries and companies,
9 by the respective captains.

10 The non-commissioned officers shall receive warrants
11 from the officers appointing them.

12 The commanding officers of batteries and companies
13 shall appoint one of the sergeants clerk, and fill any
14 vacancy that may occur, the appointment to be in
15 writing on the back of his warrant.

SECT. 19. Major generals shall, from time to time,
2 give all such orders as may be necessary for filling, by
3 election, any vacancy of brigadier general, field officer,
4 captain or subaltern, existing within their division.
5 Except in the organization of companies called into
6 the actual service of the United States, electors shall
7 have at least seven days previous notice of such elec-
8 tion. No election of brigadier general, or field officer,
9 shall be valid, unless a majority of all the electors,
10 including all the existing vacancies in the offices of
11 such electors, shall be present at such election. Every
12 person so elected, shall within one hour after notice
13 signify his acceptance to the presiding officer at such
14 election, or be considered as declining, whereupon a
15 new election shall be had.

SECT. 20. Commissions shall designate the division,
2 brigade, regiment, battalion, company or battery, and

3 the arm of service in which the person commissioned
4 belongs, together with the day of election or appoint-
5 ment; and he shall take rank from that day. When
6 an officer is transferred from one corps or station to
7 another in the same grade, the date of his original
8 election or appointment shall be expressed in his new
9 commission and be considered its date.

SECT. 21. When two or more officers of the same
2 grade are on duty together, and their commissions
3 bear the same date, and former commissions do not
4 decide their rank, their relative rank shall be deter-
5 mined by lot drawn before the commanding officer
6 present; and when on a court martial, before the
7 president thereof.

SECT. 22. Every commissioned officer shall take and
2 subscribe the oaths required by the constitution before
3 some magistrate, or some superior officer, who has
4 taken and subscribed them himself; and a certificate
5 of the oath, together with the date of its administra-
6 tion, shall be made and signed by the qualifying officer
7 upon the back of the commission. Clerks of compa-
8 nies and batteries shall be sworn before their com-
9 manding officer or a magistrate, who shall certify the
10 fact on the back of their warrants. In case of the
11 absence or inability of the clerk, the commanding

12 officer of the company or battery shall appoint a clerk
13 *pro tempore*, who shall be sworn, whose record of his
14 appointment and qualification shall be competent evi-
15 dence thereof.

SECT. 23. Officers ordering elections may preside,
2 or detail some officer of suitable rank to preside. At
3 all elections the presiding officer shall keep a true
4 record of the proceedings, and make return thereof to
5 the commanding officer of the battalion, regiment,
6 brigade, division or adjutant general, as may be proper.
7 Elections may be adjourned, not exceeding twice, and
8 each adjournment not exceeding two days. The roster
9 of the brigade, regiment or battalion, or the roll of the
10 company, as the case may be, shall be produced at
11 such elections by the persons having the legal custody
12 thereof. When an officer holding a military commis-
13 sion, is appointed or elected to another commissioned
14 office in the militia, and accepts the same, such accept-
15 ance shall constitute part of the return of the presiding
16 officer, and shall vacate the office previously held.

SECT. 24. Commissions shall be transmitted to the
2 commanding officers of divisions, and by them, through
3 the proper officers, to the officers elect. When a per-
4 son elected or appointed to office, refuses to accept his
5 commission, or take and subscribe the oath of office

6 at the time of acceptance, the major general shall cer-
7 tify the fact on the back thereof, and return it to the
8 adjutant general; and if the office is elective, a new
9 election shall be ordered.

Officers, how discharged.

SECT. 25. When any officer requests, in writing,
2 his discharge from office, with the written approval of
3 the commander of the regiment or battalion, brigade
4 and division to which he belongs, the commander-in-
5 chief may discharge him; but no commanding officer
6 shall approve such resignation, if the same is offered
7 between the first day of May and the first day of No-
8 vember, unless the reasons for such resignation are
9 urgent and proved to his entire satisfaction; and the
10 rolls, orderly-book, roster and documents in the cus-
11 tody of the officer resigning, shall, before his discharge
12 is delivered to him, be deposited with the officer hav-
13 ing a right to the custody of the same. If an officer
14 unreasonably refuses to approve an application for a
15 discharge, and it is so made to appear to the com-
16 manding officers above him, they may approve the
17 same, and the commander-in-chief may discharge the
18 applicant.

SECT. 26. Military officers shall hold their respec-
2 tive offices not longer than five years from the date of

3 their commissions, unless re-appointed or re-elected,
4 and the commander-in-chief shall discharge all officers
5 accordingly ; and no officer shall be discharged within
6 the term of five years, otherwise than in accordance
7 with the preceding section ; by actual removal of his
8 residence out of the bounds of his command ; by twelve
9 months absence, without leave of the commanding offi-
10 cer of the division ; by the legal disbanding of the
11 corps to which he belongs ; in pursuance of the sen-
12 tence of a court martial ; or by having been convicted
13 of an infamous crime. Whenever any division, brigade,
14 regiment or battalion shall be divided, and the resi-
15 dence of any staff officer attached thereto shall be
16 without the bounds of the corps to which he was com-
17 missioned, he shall be entitled to an honorable dis-
18 charge, and shall cease to do duty in such office ; and
19 the vacancy shall forthwith be filled.

SECT. 27. No officer shall resign while under arrest ;
2 but while under arrest, he shall be exempted from
3 performing the duties of his office. If any officer shall
4 be convicted of an infamous crime, he shall forthwith
5 be put in arrest, and so continue until he shall be re-
6 moved by the governor with the advice of the council.
7 The commissions of staff officers appointed by the
8 commanding officer, shall expire as soon as the suc-

7 proach of any public danger, when, in the opinion of
8 the commander-in-chief, any of the exigencies are
9 likely to happen upon which the militia could, by the
10 constitution and laws of the United States, be called
11 into actual service, he may order such other and furth-
12 er training and disciplining of the militia, or any part
13 thereof, as he may deem necessary.

SECT. 44. Every non-commissioned officer or pri-
2 vate who appears at a parade required by law, defi-
3 cient in any arm or equipment required by this act,
4 or with such arms unserviceable or in bad condition,
5 shall be punished by fine not less than one nor more
6 than six dollars.

SECT. 45. A soldier who unnecessarily, or without
2 order from a superior officer, comes to any parade with
3 his musket, rifle or pistol loaded with ball, slug or
4 shot, or so loads the same while on parade, or unnec-
5 essarily, or without order from a superior officer, dis-
6 charges the same when going to, returning from, or
7 upon parade, shall be punished by fine not more than
8 twenty dollars.

SECT. 46. A soldier behaving with contempt towards
2 an officer, or conducting in a disorderly manner, or
3 exciting or joining in a tumult or riot, or being guilty
4 of unmilitary conduct, disobedience of orders, or neg-

5 lect of duty when under arms or on duty, shall be
6 punished by fine not less than five nor more than twen-
7 ty dollars.

SECT. 47. A soldier quitting his guard, section,
2 platoon or company, without permission of his com-
3 manding officer, shall be punished by fine not less than
4 five not more than ten dollars. For any offence men-
5 tioned in this and the two preceding sections, the
6 offender may be put and kept under guard by the com-
7 manding officer, for a time not extending beyond the
8 time of service for which he is then ordered. A non-
9 commissioned officer, for an offence mentioned in this
10 act, besides incurring the fine prescribed, may be re-
11 duced to the ranks by the commanding officer of his
12 regiment or battalion.

SECT. 48. Every non-commissioned officer, musician
2 or private, who being duly ordered to appear at any
3 time and place appointed for military duty, according
4 to law, shall neglect to appear at such time and place,
5 shall be punished by a fine of ten dollars. Any non-
6 commissioned officer or private who shall refuse or neg-
7 lect to give notice or warning, when ordered by the
8 commanding officer of the company or battery to which
9 he belongs, shall be punished by fine not exceeding
10 five dollars for each member of the company or bat-
11 tery whom he shall neglect or refuse to notify or warn.

SECT. 49. All excuses for non-appearance of non-
2 commissioned officers and privates, must be made in
3 writing and within twenty days after any training,
4 review or other military duty, to the commanding offi-
5 cers of their respective companies and batteries ; and
6 on satisfactory evidence being produced of their ina-
7 bility to appear, such officer may excuse the delin-
8 quent ; but no such excuse shall be received after the
9 expiration of said twenty days. Any such non-com-
10 missioned officer or private, who shall neglect the ren-
11 dering of such excuse, unless prevented by severe
12 sickness or inevitable accident, within said twenty
13 days, shall pay the fine provided for such non-appear-
14 ance.

SECT. 50. Independent organizations authorized by
2 section twelve of this act, may make constitutional
3 articles of agreement, not inconsistent with the laws
4 of the state, and nothing contained in this act shall
5 be construed to impair the obligation arising therefrom ;
6 and all fines and assessments incurred by officers or
7 soldiers of such organizations under such articles of
8 agreement signed by them, and approved by the com-
9 mander-in-chief, may in addition to any other remedy
10 thereon, be recovered as provided in section sixty-six.

Notifications.

SECT. 51. When the commanding officer of a company or battery shall order out his company or battery for inspection, training or review, he shall issue orders to one or more of the non-commissioned officers or privates of his company or battery, requiring him or them to notify the men belonging thereto, to appear at the time and place appointed ; and the persons so ordered as aforesaid, shall give notice of the time and place appointed for parade, to each and every man he or they shall have been ordered to notify, either verbally, or by delivering to each man in person, or by leaving at his last and usual place of abode a written or printed order ; but no private shall be obliged thus to notify more than once in the same year.

SECT. 52. Notices for any inspection, training or review, shall be given four days at least previous to the time appointed therefor ; *provided*, that in case of invasion, insurrection or other public emergency, any notice however short, shall be legal and binding.

Rosters, Rolls and Returns.

SECT. 53. The aid-de-camp to each major general, by him appointed to be orderly officer ; the aid-de-camp to each brigade, and the adjutant of each regiment, battalion or corps, shall constantly keep a cor-

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

SECT. 54. The commanding officer of each company
2 and battery, shall make or cause the clerk of his com-
3 pany or battery to make a return of the condition of
4 his company or battery, on the day of the May inspec-
5 tion, to the commanding officer of his regiment or bat-
6 talion on or before the first day of June annually, who
7 shall cause his adjutant to record an abstract of the
8 returns made to him, in a book to be kept for that pur-
9 pose, and to transmit a copy thereof to the adjutant
10 general, through his superior officers, on or before the
11 first day of August annually.

SECT. 55. Any commanding officer neglecting to
2 make or cause to be made the returns specified in the
3 preceding section, and at the time therein specified,
4 shall pay a fine of twenty dollars, one half to the use
5 of the state and one half to the adjutant. The com-
6 manding officer of any organization, not attached to

7 any regiment or battalion, shall make such an abstract
8 return, as the adjutant is required to make in the pre-
9 ceding section, and transmit the same to the adjutant
10 general.

SECT. 56. Clerks of independent companies and bat-
2 teries shall keep fair and exact rolls of their organiza-
3 tions, which rolls they shall annually revise on the day
4 of the May inspection. All clerks shall record a state-
5 ment of the condition of the arms and equipments be-
6 longing to each of their respective organizations; reg-
7 ister all orders and proceedings of their companies in
8 the orderly books; keep exact records of all drafts and
9 detachments; distribute all orders and notifications
10 which may be required of them; note all delinquencies;
11 prosecute to recover all fines not otherwise herein
12 provided for; keep correct accounts in the orderly
13 book of all fines and moneys collected by them, the
14 offence for which they were paid, the times when paid,
15 and the names of persons paying the same; which
16 book shall not be alienated from the organization, and
17 shall always be open to the inspection of any officer or
18 private thereof.

Adjutant General.

SECT. 57. The adjutant general shall distribute all
2 orders from the commander-in-chief; shall obey all

3 orders relative to executing and perfecting any system
4 of military discipline established by law ; and shall be
5 in attendance when the commander-in-chief reviews
6 the militia. He shall furnish the proper officers with
7 the blanks, books, rolls and returns that may be re-
8 quired, giving instructions and explaining the princi-
9 ples upon which they should be filled ; orders for the
10 commanders of companies and batteries to order the
11 non-commissioned officers and privates to notify their
12 men to attend the inspections, trainings, reviews and
13 elections of officers, which may be ordered ; and noti-
14 fications or orders to be left with the men.

SECT. 58. He shall annually make a return, in
2 duplicate, of the militia of the state, with their arms,
3 equipments and ammunition, according to such direc-
4 tions as he may receive from the secretary of war of
5 the United States ; one copy of which he shall deliver
6 to the commander-in-chief, and transmit the other to
7 the president of the United States on or before the
8 first Monday in January.

Invasion, insurrection, tumults, or riots.

SECT. 59. When an invasion of, or insurrection in,
2 the state is made or threatened, or a requisition is
3 made upon the governor and commander-in-chief, by
4 the president of the United States by virtue of the

5 constitution and laws thereof, the commander-in-chief
6 shall call upon the militia to repel, suppress or answer
7 the same ; and may order out divisions, brigades, regi-
8 ments, battalions, companies or batteries ; or may
9 order to be detached parts, or companies thereof, or
10 any number of men to be drafted therefrom, in such
11 manner as he may prescribe and order, and may cause
12 officers to be detailed to organize the forces, and shall
13 furnish all necessary arms, equipments, equipage and
14 ammunition for active service ; and upon such requis-
15 tion upon the governor and commander-in-chief by the
16 president of the United States, under the constitution
17 and laws thereof ; the officers and soldiers thus de-
18 tailed, detached or drafted shall be subject to be mus-
19 tered into the service of the United States for the term
20 specified in such requisition.

SECT. 60. Every officer or soldier so called upon,
2 ordered out, detailed, detached or drafted, who does
3 not appear armed and equipped as the law directs, at
4 the appointed time and place, or provide a substitute
5 when by law he may do so, shall be taken to be in
6 actual service and absent without leave, and be liable
7 to be dealt with accordingly.

SECT. 61. When there is in any county a tumult,
2 riot, mob, or any body of men acting together by force

7 proach of any public danger, when, in the opinion of
8 the commander-in-chief, any of the exigencies are
9 likely to happen upon which the militia could, by the
10 constitution and laws of the United States, be called
11 into actual service, he may order such other and furth-
12 er training and disciplining of the militia, or any part
13 thereof, as he may deem necessary.

SECT. 44. Every non-commissioned officer or pri-
2 vate who appears at a parade required by law, defi-
3 cient in any arm or equipment required by this act,
4 or with such arms unserviceable or in bad condition,
5 shall be punished by fine not less than one nor more
6 than six dollars.

SECT. 45. A soldier who unnecessarily, or without
2 order from a superior officer, comes to any parade with
3 his musket, rifle or pistol loaded with ball, slug or
4 shot, or so loads the same while on parade, or unnee-
5 ssarily, or without order from a superior officer, dis-
6 charges the same when going to, returning from, or
7 upon parade, shall be punished by fine not more than
8 twenty dollars.

SECT. 46. A soldier behaving with contempt towards
2 an officer, or conducting in a disorderly manner, or
3 exciting or joining in a tumult or riot, or being guilty
4 of unmilitary conduct, disobedience of orders, or neg-

5 lect of duty when under arms or on duty, shall be
6 punished by fine not less than five nor more than twen-
7 ty dollars.

SECT. 47. A soldier quitting his guard, section,
2 platoon or company, without permission of his com-
3 manding officer, shall be punished by fine not less than
4 five not more than ten dollars. For any offence men-
5 tioned in this and the two preceding sections, the
6 offender may be put and kept under guard by the com-
7 manding officer, for a time not extending beyond the
8 time of service for which he is then ordered. A non-
9 commissioned officer, for an offence mentioned in this
10 act, besides incurring the fine prescribed, may be re-
11 duced to the ranks by the commanding officer of his
12 regiment or battalion.

SECT. 48. Every non-commissioned officer, musician
2 or private, who being duly ordered to appear at any
3 time and place appointed for military duty, according
4 to law, shall neglect to appear at such time and place,
5 shall be punished by a fine of ten dollars. Any non-
6 commissioned officer or private who shall refuse or neg-
7 lect to give notice or warning, when ordered by the
8 commanding officer of the company or battery to which
9 he belongs, shall be punished by fine not exceeding
10 five dollars for each member of the company or bat-
11 tery whom he shall neglect or refuse to notify or warn.

SECT. 49. All excuses for non-appearance of non-
2 commissioned officers and privates, must be made in
3 writing and within twenty days after any training,
4 review or other military duty, to the commanding offi-
5 cers of their respective companies and batteries ; and
6 on satisfactory evidence being produced of their ina-
7 bility to appear, such officer may excuse the delin-
8 quent ; but no such excuse shall be received after the
9 expiration of said twenty days. Any such non-com-
10 missioned officer or private, who shall neglect the ren-
11 dering of such excuse, unless prevented by severe
12 sickness or inevitable accident, within said twenty
13 days, shall pay the fine provided for such non-appear-
14 ance.

SECT. 50. Independent organizations authorized by
2 section twelve of this act, may make constitutional
3 articles of agreement, not inconsistent with the laws
4 of the state, and nothing contained in this act shall
5 be construed to impair the obligation arising therefrom ;
6 and all fines and assessments incurred by officers or
7 soldiers of such organizations under such articles of
8 agreement signed by them, and approved by the com-
9 mander-in-chief, may in addition to any other remedy
10 thereon, be recovered as provided in section sixty-six.

Notifications.

SECT. 51. When the commanding officer of a company or battery shall order out his company or battery for inspection, training or review, he shall issue orders to one or more of the non-commissioned officers or privates of his company or battery, requiring him or them to notify the men belonging thereto, to appear at the time and place appointed; and the persons so ordered as aforesaid, shall give notice of the time and place appointed for parade, to each and every man he or they shall have been ordered to notify, either verbally, or by delivering to each man in person, or by leaving at his last and usual place of abode a written or printed order; but no private shall be obliged thus to notify more than once in the same year.

SECT. 52. Notices for any inspection, training or review, shall be given four days at least previous to the time appointed therefor; *provided*, that in case of invasion, insurrection or other public emergency, any notice however short, shall be legal and binding.

Rosters, Rolls and Returns.

SECT. 53. The aid-de-camp to each major general, by him appointed to be orderly officer; the aid-de-camp to each brigade, and the adjutant of each regiment, battalion or corps, shall constantly keep a cor-

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

SECT. 54. The commanding officer of each company
2 and battery, shall make or cause the clerk of his com-
3 pany or battery to make a return of the condition of
4 his company or battery, on the day of the May inspec-
5 tion, to the commanding officer of his regiment or bat-
6 talion on or before the first day of June annually, who
7 shall cause his adjutant to record an abstract of the
8 returns made to him, in a book to be kept for that pur-
9 pose, and to transmit a copy thereof to the adjutant
10 general, through his superior officers, on or before the
11 first day of August annually.

SECT. 55. Any commanding officer neglecting to
2 make or cause to be made the returns specified in the
3 preceding section, and at the time therein specified,
4 shall pay a fine of twenty dollars, one half to the use
5 of the state and one half to the adjutant. The com-
6 manding officer of any organization, not attached to

7 any regiment or battalion, shall make such an abstract
8 return, as the adjutant is required to make in the pre-
9 ceding section, and transmit the same to the adjutant
10 general.

SECT. 56. Clerks of independent companies and bat-
2 teries shall keep fair and exact rolls of their organiza-
3 tions, which rolls they shall annually revise on the day
4 of the May inspection. All clerks shall record a state-
5 ment of the condition of the arms and equipments be-
6 longing to each of their respective organizations; reg-
7 ister all orders and proceedings of their companies in
8 the orderly books; keep exact records of all drafts and
9 detachments; distribute all orders and notifications
10 which may be required of them; note all delinquencies;
11 prosecute to recover all fines not otherwise herein
12 provided for; keep correct accounts in the orderly
13 book of all fines and moneys collected by them, the
14 offence for which they were paid, the times when paid,
15 and the names of persons paying the same; which
16 book shall not be alienated from the organization, and
17 shall always be open to the inspection of any officer or
18 private thereof.

Adjutant General.

SECT. 57. The adjutant general shall distribute all
2 orders from the commander-in-chief; shall obey all

3 orders relative to executing and perfecting any system
4 of military discipline established by law ; and shall be
5 in attendance when the commander-in-chief reviews
6 the militia. He shall furnish the proper officers with
7 the blanks, books, rolls and returns that may be re-
8 quired, giving instructions and explaining the princi-
9 ples upon which they should be filled ; orders for the
10 commanders of companies and batteries to order the
11 non-commissioned officers and privates to notify their
12 men to attend the inspections, trainings, reviews and
13 elections of officers, which may be ordered ; and noti-
14 fications or orders to be left with the men.

SECT. 58. He shall annually make a return, in
2 duplicate, of the militia of the state, with their arms,
3 equipments and ammunition, according to such direc-
4 tions as he may receive from the secretary of war of
5 the United States ; one copy of which he shall deliver
6 to the commander-in-chief, and transmit the other to
7 the president of the United States on or before the
8 first Monday in January.

Invasion, insurrection, tumults, or riots.

SECT. 59. When an invasion of, or insurrection in,
2 the state is made or threatened, or a requisition is
3 made upon the governor and commander-in-chief, by
4 the president of the United States by virtue of the

5 constitution and laws thereof, the commander-in-chief
6 shall call upon the militia to repel, suppress or answer
7 the same; and may order out divisions, brigades, regi-
8 ments, battalions, companies or batteries; or may
9 order to be detached parts, or companies thereof, or
10 any number of men to be drafted therefrom, in such
11 manner as he may prescribe and order, and may cause
12 officers to be detailed to organize the forces, and shall
13 furnish all necessary arms, equipments, equipage and
14 ammunition for active service; and upon such requis-
15 tion upon the governor and commander-in-chief by the
16 president of the United States, under the constitution
17 and laws thereof; the officers and soldiers thus de-
18 tailed, detached or drafted shall be subject to be mus-
19 tered into the service of the United States for the term
20 specified in such requisition.

SECT. 60. Every officer or soldier so called upon,
2 ordered out, detailed, detached or drafted, who does
3 not appear armed and equipped as the law directs, at
4 the appointed time and place, or provide a substitute
5 when by law he may do so, shall be taken to be in
6 actual service and absent without leave, and be liable
7 to be dealt with accordingly.

SECT. 61. When there is in any county a tumult,
2 riot, mob, or any body of men acting together by force

3 with intent to commit a felony, or to offer violence to
4 persons or property, or by force and violence, to break
5 and resist the laws of the state, or when such tumult,
6 riot or mob is threatened, and the fact is made known
7 to the commander-in-chief, or mayor of a city, or to a
8 court of record sitting in said county; or if no such
9 court is sitting therein, then to a justice of such court;
10 or if no such justice is within the county, then to the
11 sheriff thereof; the commander-in-chief may issue his
12 order, or such mayor, court, justice or sheriff may
13 issue a precept directed to any commander of a divis-
14 ion, brigade, regiment, battalion or company, directing
15 him to order his command, or a part thereof, (describ-
16 ing the kind and number of troops,) to appear at a
17 time and place therein specified, to aid the civil au-
18 thority in suppressing such violence and supporting
19 the laws; which precept, if issued by a court, shall be
20 in substance as follows:

21

STATE OF MAINE.

22 [L. s.] To (insert the officer's title) A. B., com-
23 manding (insert his command): Whereas, it has been
24 made to appear to our justices of our ——, now
25 holden at ——, within and for the county of ——,
26 that (here state one or more of the causes above men-
27 tioned), in our county of ——, and that military force

11 persuade an officer or soldier to refuse or neglect to
12 appear at such time and place, or to obey such order,
13 shall be punished by fine of one hundred dollars.

SECT. 63. Such troops shall appear at such time
2 and place appointed, armed and equipped, and with
3 ammunition, as for inspection of arms, and shall obey
4 and execute such orders as they may then and there
5 receive according to law.

SECT. 64. The city or town in which such riot,
2 tumult or mob shall occur, or be threatened, shall pay
3 as hereinafter provided, and cause suitable provisions,
4 quarters and ammunition to be furnished such troops
5 as are called out pursuant to the foregoing sections,
6 and the expenditures thereof shall be reimbursed by
7 the state.

SECT. 65. Each person who shall perform the duties
2 required of him by the two preceding sections of this
3 act, shall receive the following sums respectively, to
4 wit:—to each commissioned officer, three dollars per
5 day; and to each non-commissioned officer, musician
6 and private, one dollar and fifty cents per day, for
7 each day's service so performed by him.

Prosecutions.

SECT. 66. Municipal and police courts and trial
2 justices within their respective jurisdictions, shall have

3 jurisdiction in all prosecutions under this act, in which
4 the fine does not exceed twenty dollars, by complaint,
5 as in other criminal cases ; and shall impose, in addi-
6 tion to the fine, the costs of prosecution upon any per-
7 son adjudged guilty. All fines exceeding twenty
8 dollars, may be recovered by indictment in the
9 supreme judicial court, together with the costs of
10 prosecution. All forfeitures, except in cases other-
11 wise specially provided, shall be recovered, one-half
12 to the use of the prosecutor, and one-half to the use of
13 the state or county.

SECT. 67. In all prosecutions under this act, the
2 court or magistrate shall take judicial notice of the
3 limits of the several divisions, brigades, regiments and
4 company and enrolling districts ; of the numbers and
5 designations of the divisions, brigades, regiments and
6 companies ; of the name and signature of the major
7 generals, the adjutant general, and the enrolling officer
8 of each district ; and of all general orders issued by
9 the commander-in-chief. The commission of any offi-
10 cer, or a copy thereof certified by the secretary of
11 state, shall be received as conclusive evidence of his
12 appointment and authority to act, unless it shall be
13 shown that he has legally vacated the office. Any
14 order to a company for the performance of any military

15 duty, or for an election, may be proved by a copy
16 thereof certified by the clerk of the company to which
17 it was issued ; and it shall be held to be binding on
18 the company and the members thereof, unless it shall
19 be shown that it was issued without legal authority.
20 The return of any sworn officer, or that of any member
21 of a company verified by oath, of the service of any
22 notice provided for in this act, shall be received as
23 evidence of the facts stated therein ; and such return
24 may at any time be amended according to the facts by
25 the person making it, who shall verify the amendment
26 by his oath.

SECT. 68. Any non-commissioned officer or private
2 who has failed to appear at any inspection, parade or
3 review, and who within twenty days thereafter shall
4 obtain from his commanding officer an excuse as pro-
5 vided in section forty-nine, or shall pay to the clerk
6 of his company [or battery] the fine provided in sec-
7 tion forty-eight, shall not be liable to prosecution for
8 such absence. Immediately after the expiration of
9 twenty days from any such absence, which has not
10 within that time been excused, or for which the for-
11 feiture has not been paid, it shall be the duty of the
12 clerk to prosecute for the penalty provided in section
13 forty-eight ; and if the clerk neglects to do so, or to

14 prosecute for any other fine or forfeiture required of
15 him, it may be done by any commissioned officer. In
16 addition to any other legal defence, the respondent
17 may show that his absence for which he is prosecuted
18 was necessary, and that he was prevented by severe
19 sickness or inevitable accident, from rendering his ex-
20 cuse to the commanding officer within twenty days
21 after such absence, as provided in section forty-nine.

Compensation.

SECT. 69. 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, twen-
11 ty dollars ;

12 To the adjutant and quartermaster of each regiment,
13 fifteen dollars each ;

14 To the adjutant of each battalion of infantry and
15 cavalry, ten dollars ;

16 To the clerk of each independent company and bat-
17 tery, ten dollars ;

18 And each clerk of other companies, five dollars :
19 *Provided*, said officers shall promptly and faithfully
20 perform the duties belonging to them respectively ;
21 *and provided also*, that said services shall be duly cer-
22 tified by the proper officers.

SECT. 70. Upon the requisition of any commanding
2 officer of a company or battery, for that purpose, at
3 five days notice, the treasurer of each city, town and
4 plantation, shall pay, at the place of the annual review,
5 after all the duties of the day have been performed, to
6 each officer and member of such company or battery,
7 including musicians, belonging to their respective pla-
8 ces, and who has faithfully performed military duty
9 during the day, the sum of fifty cents in lieu of ra-
10 tions, but all mounted men belonging to cavalry com-
11 panies and batteries shall be paid one dollar each in
12 lieu of rations and forage ; *provided* such officer or
13 member shall have appeared duly armed and equipped,
14 and performed military duty at each of the trainings
15 mentioned in the thirty-eighth section of this act, un-
16 less he shall have been duly excused ; but if he shall
17 not have been duly excused as aforesaid, the sum of
18 twenty-five cents shall be deducted for each of said

19 trainings at which he shall have so failed to appear ;
20 but nothing shall be paid to any person who shall not
21 appear and perform military duty at said review. The
22 amount actually paid by said treasurers to the officers
23 and soldiers as aforesaid, shall be reimbursed by the
24 state. Every city, town or plantation which shall fail
25 to pay such sums as aforesaid, shall forfeit to the use
26 of the company or battery, a sum equal to one dollar
27 for every such person, whom they shall neglect to pay,
28 that has done duty at such review, to be recovered in
29 an action of debt, in the name of the clerk thereof.

Miscellaneous.

SECT. 71. All military accounts, except as otherwise
2 herein provided, shall annually, on or before the fifth
3 day of January, be transmitted to the adjutant general
4 and examined, and if found correct, certified by him ;
5 they shall then be presented to the governor and coun-
6 cil for allowance, and upon such allowance shall be
7 paid to the persons to whom they are severally due or
8 to their order, by the acting quartermaster general ;
9 and no such military accounts shall be certified by the
10 adjutant general or allowed by the governor and coun-
11 cil, unless presented to the adjutant general within the
12 time prescribed by law.

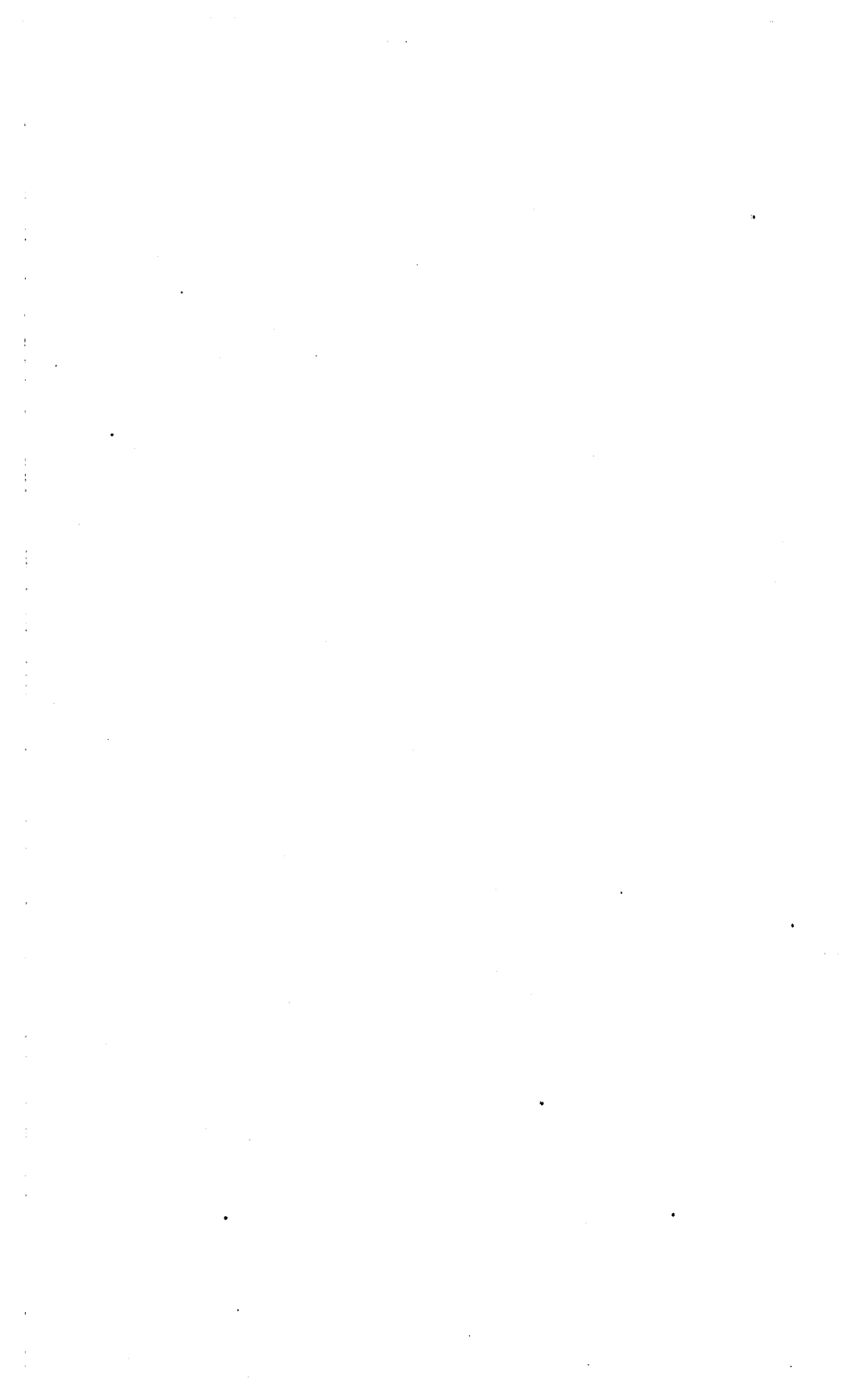
SECT. 72. The system of discipline for the militia

2 shall be the same as is now or may hereafter be di-
3 rected to be observed by the laws of the United States.

SECT. 73. If any officer, non-commissioned officer or
2 private shall be killed or die of wounds received when
3 on military duty required by this act, his widow, child
4 or children shall receive from the legislature such relief
5 as shall be just and reasonable. And if any officer,
6 non-commissioned officer or private shall be wounded
7 or otherwise disabled when on such duty, he shall
8 receive from the state just and reasonable relief.

SECT. 74. Chapter two hundred and eight of the
2 laws of eighteen hundred and sixty-three, chapter one
3 hundred and thirty-four of the laws of eighteen hun-
4 dred and sixty-two, chapters sixty-two and sixty-four
5 of the laws of eighteen hundred and sixty-one, and
6 chapter ten of the revised statutes, except sections
7 numbered ninety-four to one hundred and thirteen
8 inclusive and section one hundred and twenty-five, are
9 hereby repealed.

SECT. 75. This act shall take effect when approved.



STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
March 2, 1864. }

Reported by Mr. LARRABEE, from the Committee on Military Affairs, and on his motion laid on the table, and 350 copies ordered to be printed for the use of the Legislature.

HORACE STILSON, *Clerk.*