

MAINE STATE LEGISLATURE

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SEVENTY-SECOND LEGISLATURE

SENATE.

No. 54

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND FIVE.

AN ACT to amend chapter two hundred and sixty-six of the Public Laws of eighteen hundred and ninety-three, as amended by chapters one hundred and twenty-eight of the Public Laws of eighteen hundred and ninety-nine, one hundred and fifty-nine and one hundred and sixty-seven of the Public Laws of nineteen hundred and one, and seventy-three and two hundred and twelve of the Public Laws of nineteen hundred and three, relating to the Militia.

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

Section 1. Section nine of said act is hereby amended by
2 adding thereto the following words, viz: 'And whenever
3 the United States is invaded, or in danger of invasion from
4 any foreign nation, or of rebellion against the authority of the
5 Government of the United States, or the President is unable,

6 with the other forces at his command, to execute the laws of
7 the Union in any part thereof, the President may call out
8 such number of the enrolled militia, or such portion of the
9 National Guard, as he may deem necessary to repel such
10 invasion, suppress such rebellion, or to enable him to execute
11 such laws, for a period not exceeding nine months, in any
12 part of the United States. He may specify in his call the
13 period for which such service is required, not exceeding nine
14 months, and the militia so called shall continue to serve dur-
15 ing the term so specified, unless sooner discharged by order
16 of the President,' so that said section, as amended, shall read
17 as follows:

'Section 9. The enrolled militia shall be subject to active
19 duty, only, in case of war, or to prevent or repel invasion, or
20 to suppress insurrection or riot, or to aid civil officers in the
21 execution of the law. And whenever the United States is
22 invaded, or in danger of invasion from any foreign nation, or
23 of rebellion against the authority of the Government of the
24 United States, or the President is unable, with the other
25 forces at his command, to execute the laws of the Union in
26 any part thereof, the President may call out such number of
27 the enrolled militia, or such portion of the National Guard,
28 as he may deem necessary to repel such invasion, suppress
29 such rebellion, or to enable him to execute such laws for a
30 period not exceeding nine months, in any part of the United
31 States. He may specify in his call the period for which such
32 service is required, not exceeding nine months, and the militia
33 so called shall continue to serve during the term as specified,
34 unless sooner discharged by order of the President.'

Sect. 2. Section seventeen of said act is hereby amended by
2 striking out all after the word "annually" in the seventeenth
3 line thereof and inserting the following: 'He shall make
4 returns to the secretary of war at such times and in such form

5 as he shall from time to time prescribe, of the strength of the
6 organized militia and also make such report as may from time
7 to time be required by the secretary of war.' So that said
8 section, as amended, shall read as follows:

'Section 17. The adjutant general shall distribute all orders
10 from the commander-in-chief, attend all public reviews when
11 the commander-in-chief shall review the troops or any part
12 thereof, obey all orders from him relative to carrying into
13 execution and perfecting the system of military discipline
14 established by the laws of the State and of the United States,
15 prepare and furnish blank forms for the different returns and
16 rolls that may be required and explain how such returns and
17 rolls should be made, distribute all books required to be fur-
18 nished at the public expense, receive from the several officers
19 in the military force the reports they are required to make,
20 and from such reports he shall make proper abstracts and lay
21 the same, together with a full report of the business of his
22 department, and a statement of the strength, condition and
23 efficiency of the military forces of the State, before the com-
24 mander-in-chief on or before the thirty-first day of December
25 annually. He shall make returns to the secretary of war at
26 such times and in such form as he shall from time to time
27 prescribe, of the strength of the organized militia and also
28 make such report as may from time to time be required by the
29 secretary of war.'

Sect. 3. Section twenty-six of said act is hereby amended
2 by striking out the words "an ambulance corps, and," and
3 adding the words 'and a naval reserve,' so that said section,
4 as amended, shall read as follows:

'Section 26. The active militia shall be known and desig-
6 nated as the National Guard of the State of Maine, and on a
7 peace footing shall consist of not more than twenty-four
8 companies of infantry, one battery of light artillery, two
9 troops of cavalry, a signal corps and a naval reserve.'

Sect. 4. Section thirty-one of said act is hereby amended
2 by inserting after the word "miles" in the fifth line thereof,
3 the words 'provided, however, that any member of the
4 National Guard, who is otherwise eligible, may be permitted
5 to re-enlist within thirty days after the expiration of the term
6 of his previous enlistment, provided he is less than sixty
7 years of age,' so that said section, as amended, shall read as
8 follows:

'Section 31. No enlistment shall be allowed in the National
10 Guard of other than able bodied citizens of this State,
11 between the ages of sixteen and forty years, residing in the
12 town where the armory of the organization in which they
13 enlist is situated, or within a radius of seven miles; provided,
14 however, that any member of the National Guard, who is
15 otherwise eligible, may be permitted to re-enlist within thirty
16 days after the expiration of the term of his previous enlist-
17 ment, provided he is less than sixty years of age. In time of
18 peace, no minor shall be enlisted in the National Guard with-
19 out the written consent of his parent or guardian, which shall
20 appear on the enlistment paper.'

Sect. 5. Sections thirty-five to forty-five inclusive are here-
2 by amended by striking out the entire sections and substitut-
3 ing others so that said sections, as amended, shall read as fol-
4 lows:

'Section 35. The organizations of the National Guard may
6 be arranged by the commander-in-chief into squadrons, bat-
7 talions, regiments and brigades, and he may change the
8 arrangement thereof at his pleasure.

Section 36. Each organization shall be assigned to its
10 respective squadron, battalion or regiment and be numbered
11 or lettered at its formation.

Section 37. The several organizations of the National
13 Guard shall be constituted the same as is now or may be here-
14 after prescribed for the regular or volunteer armies of the

15 United States, provided that in time of peace, or until
16 changed by order of the commander-in-chief, the organiza-
17 tions of the National Guard shall be constituted as follows :

Section 38. A company of infantry shall consist of one cap-
19 tain, one first lieutenant, one second lieutenant, one first ser-
20 geant, one quartermaster sergeant, four sergeants, six cor-
21 porals, one cook, two musicians and not less than thirty-five
22 privates.

Section 39. A battalion of infantry shall consist of one
24 major, one battalion adjutant (first lieutenant), one battalion
25 sergeant major and four companies.

Section 40. A regiment of infantry shall consist of one
27 colonel, one lieutenant colonel, one adjutant, one quartermas-
28 ter, and one commissary, each with the rank of captain, one
29 surgeon (major), one assistant surgeon (captain), one assist-
30 ant surgeon (first lieutenant), one chaplain, one sergeant
31 major, one quartermaster sergeant, one commissary sergeant,
32 two color sergeants, a band to consist of one chief musician,
33 one principal musician, one drum major, four sergeants, eight
34 corporals, one cook and ten privates ; a hospital corps to con-
35 sist of one sergeant (first class), three sergeants, six privates
36 (first class), and three privates ; and three battalions.

Section 41. A troop of cavalry shall consist of one captain,
38 one first lieutenant, one second lieutenant, one first sergeant,
39 one quartermaster sergeant, four sergeants, six corporals, one
40 cook, one farrier, one saddler, one wagoner, two trumpeters
41 and not less than thirty-three privates.

Section 42. A battery of field artillery shall consist of one
43 captain, two first lieutenants, one second lieutenant, one first
44 sergeant, one quartermaster sergeant, one stable sergeant, six
45 sergeants, twelve corporals, one cook, one artificer, two
46 musicians and not less than twenty-eight privates.

Section 43. A signal company shall consist of one captain,
48 one first lieutenant, one second lieutenant, two first class ser-
49 geants, four sergeants, five corporals, not less than eleven
50 first class privates and eight privates.

Section 44. Each colonel of a regiment may enlist and
52 muster a band of musicians, not to exceed twenty-six, to be
53 constituted as provided in section forty of this act; provided,
54 that the members of such band shall furnish their own uni-
55 forms and instruments. They may be recommended for dis-
56 charge by the colonel at his pleasure.

Section 45. A brigade shall consist of one brigadier general
58 with a staff to be constituted the same as now or may be here-
59 after provided for the regular or volunteer army of the
60 United States, and not less than two regiments of infantry.
61 At camps of instruction, maneuvers or field exercises, or
62 when called into active service for the State in case of riot,
63 insurrection, tumult or invasion, actual or impending, the
64 commander-in-chief may attach to a brigade such troops of
65 cavalry, batteries of artillery and organizations of special
66 troops, as may appear to him advisable.

Sect. 6. Section sixty of said act is hereby amended by
2 inserting after the word "service" in the tenth line thereof
3 the following:

'Provided, that an officer having successfully passed an
5 examination before said board and being commissioned in the
6 rank of major shall be exempt from further examination in
7 case of election or appointment to a higher rank;' by strik-
8 ing out the word "enlarge" in the eighteenth line and substi-
9 tuting therefor the word 'extend'; by adding thereto the fol-
10 lowing: 'Whenever in the opinion of the commander-in-
11 chief the necessity exists, any commissioned officer may be
12 ordered before the board of examination who may inquire into
13 his moral character, general knowledge of military affairs,
14 and fitness for the service. Said board to report its findings

15 to the commander-in-chief for such further action as he may
16 deem advisable.' So that said section as amended, shall read
17 as follows:

'Section 60. The commander-in-chief shall appoint a mili-
19 tary board of three officers to inquire into the qualifications of
20 all persons elected or appointed to any office below the grade
21 of brigadier general and claiming a commission under this
22 act, except upon the staff of the commander-in-chief, and no
23 commission shall issue until the person so elected or
24 appointed shall have passed a satisfactory examination before
25 such board, as to his moral character, his general knowledge
26 of military affairs proportionate to the office to be held, and
27 his fitness for the service, provided, that an officer having suc-
28 cessfully passed an examination before said board and being
29 commissioned in the rank of major shall be exempt from fur-
30 ther examination in case of election or appointment to a
31 higher rank. If he fails to appear before the board when
32 notified or is adjudged unqualified, a new election shall be
33 ordered or appointment made; and no person who has failed
34 to pass such examination shall be eligible to election or
35 appointment to an office of equal or higher grade in the
36 National Guard, for the period of one year thereafter. Such
37 examination shall be made within thirty days after the elec-
38 tion or appointment, unless the commander-in-chief shall for
39 good cause extend the time. At least two members of said
40 board shall be of a grade equal or superior to that of the
41 office to be filled. In case said office shall be of the medical
42 staff or naval reserve, then, for the former, there shall be
43 added to and become a member of the board, the surgeon
44 general, and for the latter, an officer of the naval reserve,
45 other than the person to be so examined. In case of the
46 absence of any member of the board, or of disability to sit by
47 reason of rank, or if for other cause the board is not of the

48 required number, the commander-in-chief may detail an
49 officer for the time being. Whenever in the opinion of the
50 commander-in-chief the necessity exists, any commissioned
51 officer may be ordered before the board of examination who
52 may inquire into his moral character, general knowledge of
53 military affairs, and fitness for the service. Said board to
54 report its findings to the commander-in-chief for such further
55 action as he may deem advisable.'

Sect. 7. Section one hundred and twelve of said act is here-
2 by amended by inserting between the words "witnesses" and
3 "and" in the fourth line thereof, the words 'or to forfeiture
4 of pay and allowance due for military service, or both,' so
5 that said section, as amended, shall read as follows:

'Section 112. Courts martial may, when no other punish-
7 ment is fixed by law, sentence an officer or enlisted man con-
8 victed by them, to pay a fine of not exceeding two hundred
9 dollars and costs of witnesses, or to forfeiture of pay and
10 allowances due for military services, or both; and all fines
11 and costs imposed by them may be recovered by the adjutant
12 general in an action of debt in the name of the State. They
13 may in addition to the foregoing or any other punishment
14 fixed by law, sentence an officer convicted by them to be
15 cashiered, dishonorably discharged, discharged without
16 honor, discharged, or reprimanded in orders, and if sentenced
17 to be cashiered or dishonorably discharged the court shall
18 adjudge him disqualified for life or for any term of years
19 according to the aggravation of the offence, for holding any
20 military office. And they may also in addition to the fore-
21 going, or any other punishment fixed by law, sentence any
22 enlisted man convicted by them to be dishonorably dis-
23 charged, discharged without honor, or discharged, or may
24 adjudge him disqualified for life or for any term of years
25 according to the aggravation of the offence for re-enlistment
26 or for holding any military office.'

Sect. 8. Section one hundred and fourteen of said act is
2 hereby amended by striking out the word “and” in the sixth
3 line, and inserting in place thereof the word ‘or’ so that said
4 section, as amended, shall read as follows:

‘Section 114. The commander-in-chief may, from time to
6 time, appoint military boards of inquiry to consist of one or
7 more officers, not exceeding five, and a recording officer to
8 reduce the proceedings and evidence in writing, whose duty
9 it shall be to examine into any military transaction, or into
10 the qualification, efficiency or propriety of conduct of any
11 officer or soldier who may be ordered before them for such
12 examination; or for the purpose of settling any military ques-
13 tion, or for establishing good order and discipline; the mem-
14 bers thereof and witnesses examined by them shall be sworn,
15 the board shall report to the commander-in-chief, who may
16 take such action by order or otherwise as he may deem advis-
17 able, but if the report is adverse to any officer or soldier, and
18 is approved by the commander-in-chief, he may in his discre-
19 tion dishonorably discharge, discharge without honor or
20 vacate the commission of such officer, or dishonorably dis-
21 charge, discharge without honor or discharge such soldier,
22 but the commander-in-chief shall have power to remit or
23 reduce after conviction, all forfeitures and penalties and to
24 grant reprieves, commutations and pardons, or order a
25 re-hearing or new trial in any case tried or heard under the
26 provisions of this act.’

Sect. 9. Section one hundred and fifteen of said act is here-
2 by amended by inserting between the words “officers” and
3 “reported” in the first line, the words ‘and enlisted men,’
4 so that said section, as amended, shall read as follows:

‘Section 115. Officers and enlisted men reported under the
6 preceding section shall be notified, permitted to cross examine
7 witnesses, and introduce evidence.’

Sect. 10. Section one hundred and twenty-one of said act
2 is hereby amended by adding thereto the following: 'The
3 system of discipline and exercises of the National Guard shall
4 conform generally to that of the army of the United States as
5 is now or may hereafter be prescribed by Congress, and to all
6 provisions of the laws of the United States, except as other-
7 wise provided, or may be hereafter provided, by the laws of
8 this State,' so that said section, as amended, shall read as fol-
9 lows:

'Section 121. The commander-in-chief shall cause to be
11 prepared regulations for the enrollment, government and
12 instruction of the military forces of the State, and to carry
13 into full force and effect the provisions of this act. Such
14 regulations when approved by the commander-in-chief shall
15 be published with the military law of the State together with
16 extracts from the constitution relating thereto and distributed
17 to the commissioned officers of the National Guard and be by
18 them held as the property of the State to be accounted for.

The commander-in-chief is authorized to make changes in
20 and additions to such regulations from time to time as the
21 service may in his judgment require, but all such regulations,
22 changes and additions shall be in conformity with the laws of
23 this State and of the United States, and when so approved
24 and promulgated shall have the same force and effect as the
25 provisions of this law. Any rules, orders and regulations
26 now in force shall remain in force until such new regulations
27 are approved and promulgated.

The system of discipline and exercises of the National
29 Guard shall conform generally to that of the army of the
30 United States as is now or may hereafter be prescribed by
31 Congress, and to all provisions of the laws of the United
32 States, except as otherwise provided, or may be hereafter
33 provided, by the laws of this State.'

STATE OF MAINE.

IN SENATE, February 3, 1905.

Presented by Mr. STETSON of Penobscot, and on motion by the same Senator, laid on table to be printed pending reference to the Committee on Military Affairs.

KENDALL M. DUNBAR, *Secretary*.