

MAINE STATE LEGISLATURE

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SEVENTY-FOURTH LEGISLATURE

SENATE.

No. 145

STATE OF MAINE.

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

AN ACT to consolidate and revise the Military Laws of the
State of Maine.

Be it enacted by the People of the State of Maine, as follows:

Section 1. *Persons subject to militia duty; exemptions.—*

2 The militia of the state shall consist of every able-bodied
3 male citizen, and every able-bodied male of foreign birth who
4 has declared his intention to become a citizen, who is a resi-
5 dent of this state, and who is more than eighteen and less
6 than forty-five years of age, subject to the following excep-
7 tions:

Persons exempted by the laws of the United States,

Persons exempted by the laws of the state, to wit:

Justices of the supreme judicial court ; ministers of the gospel ; persons of the denomination of Quakers and Shakers ; and officers of the militia who have been honorably discharged.

Sect. 2. *Enrollment.*—All male citizens who are more than eighteen and less than forty-five years of age, excepting idiots, lunatics, paupers, vagabonds, habitual drunkards, and persons convicted of infamous crimes, and who are resident in this state, shall, quadrennially in April, be enrolled by the assessors in the several cities, towns and plantations in which they reside, in such manner and according to such regulations as the Governor shall prescribe. On such enrollment and opposite the name of each person who is exempt from duty under section one, or who is serving in the active militia, or who is unable by reason of physical disability to perform military duty, the assessor shall write the word "exempt" and state in each case the cause of exemption. The assessors shall subscribe said list and make oath that the same is true to the best of their knowledge and belief ; and shall file the same with the clerk of the city, town or plantation on or before the first day of May of the year when made ; and each clerk shall, on or before the tenth day of said May, make a certified copy of said list and forward the same to the office of the Adjutant General.

Sect. 3. *Exemption claims.*—Any person claiming exemption shall satisfy the enrolling officer of his right thereto, and in case of doubt the burden of proof shall be upon the person

4 claiming exemption, and the enrolling officer may require him
5 to submit to examination on oath, and may administer such
6 oath.

Sect. 4. *Penalty for refusing or giving false information*
2 *to assessor.*—Any person knowingly and willfully refusing
3 information or giving false information to an assessor or
4 other authorized person making the enrollment, respecting
5 the name, age, residence, occupation, military service, physi-
6 cal or mental condition, or other proper subject of inquiry, of
7 himself or any person within his knowledge liable to be en-
8 rolled, shall for each such concealment, refusal, or giving of
9 false information be guilty of a misdemeanor. The officer
10 making the enrollment shall, within ten days, report all per-
11 sons violating this section to the Adjutant General.

Sect. 5. *Neglect of assessor and clerk.*—Any assessor ne-
2 glecting or refusing faithfully to perform the duties of en-
3 rolling officer as required by law, or making any false entry
4 upon said rolls, or committing any other fraud therein, and
5 any clerk neglecting to make and forward the copy required
6 by section two, shall be guilty of a misdemeanor. Upon the
7 failure of the assessors to make the enrollment of the militia
8 as required by law, the Governor may appoint some person to
9 make it at the expense of the city, town, or plantation, and
10 the person so appointed shall have all the powers and be sub-
11 ject to the same duties as are prescribed in the case of as-
12 sessors.

Sect. 6. *Classification of Militia.*—The militia shall be
2 divided into two classes—the active and the reserve militia.
3 The active militia of this state shall consist of the regularly
4 enlisted, organized, and uniformed military forces, who have
5 heretofore participated or shall hereafter participate in the
6 apportionment of the annual appropriation provided by sec-
7 tion sixteen hundred and sixty-one of the Revised Statutes
8 of the United States, as amended, and shall be known as the
9 National Guard; and of the regularly enlisted, organized, and
10 uniformed naval forces, which shall be known as the Naval
11 Reserve. The reserve militia shall consist of all those liable
12 to service in the militia, but not serving in the active militia
13 of the state.

Sect. 7. *Commander-in-chief.*—The Governor is the con-
2 stitutional commander-in-chief of the militia, except of such
3 portions as may be at times in the service of the United
4 States. When he is unable to perform his duties as such, ex-
5 cept in cases when the president of the senate or the speaker
6 of the house of representatives under the constitution would
7 perform them, the senior line officer of the National Guard,
8 present for duty in the state shall command the militia.

Sect. 8. *Staff of the Governor.*—The staff of the Governor
2 shall consist of the Adjutant General, the senior officer on
3 duty with each of the staff departments when not engaged in
4 the actual performance of duty as the brigade staff, and four
5 aides who shall be detailed by the Governor from the com-
6 missioned officers of the active militia in active service,

7 whose appointment shall operate as a commission as aid-de-
8 camp during the term of office of the Governor appointing
9 them, or at his pleasure, but shall not add to the actual grade
10 of the officers so appointed. Officers so detailed shall not be
11 relieved from their military duties, except when actually on
12 duty with the Governor.

Sect. 9. *Power of Governor in case of insurrection, etc.*—

2 In case of insurrection, invasion, tumult, riot, mob, or body
3 of men acting together by force with intent to commit a
4 felony or to offer violence to persons or property, or by force
5 and violence to break and resist the laws of this state, or the
6 United States, or of imminent danger thereof, or in the event
7 of public disaster resulting from flood, conflagration, or tem-
8 pest, the Governor shall have the power to order into the
9 active service of the state any part of the militia that he may
10 deem proper. And whenever the militia of this state or a part
11 thereof is called forth under the constitution and laws of the
12 United States, the Governor shall, unless the order for the
13 call specifies otherwise, order out for service the active militia
14 or such part thereof as may be required; and if the number
15 available be insufficient he shall order out the reserve militia
16 or such part as may be necessary. The designations of or-
17 ganizations called into the service of the United States shall
18 not, during such service, be given to new organizations.

Sect. 10. *Drafts or volunteers from militia.*—Whenever it

2 shall be necessary to call into active service the reserve
3 militia, or any part thereof, the Governor shall direct his

4 order to the chief municipal officer of any city, town, or plan-
5 tation, who, upon the receipt of the same, shall proceed to
6 draft, by lot, as many of the reserve militia or accept as many
7 volunteers as are required by the Governor, and shall forth-
8 with forward to the Adjutant General a list of the persons so
9 drafted or accepted as volunteers.

Sect. 11. *Punishment for failure to appear.*—Every mem-
2 ber of the militia ordered out, and every member of the
3 reserve militia who volunteers or who is drafted and notified
4 thereof, under the provisions of the preceding section, who
5 does not appear at the time and place designated by his com-
6 manding officer, or the chief municipal officer, within twenty-
7 four hours from such time, or who does not produce from a
8 physician in good standing a sworn certificate of physical dis-
9 ability to so appear, shall be deemed a deserter and dealt with
10 as prescribed in the articles of war of the United States.

Sect. 12. *Period of service of reserve militia when called*
2 *out; organization.*—Whenever any portion of the reserve
3 militia is called forth under the constitution and laws of the
4 United States, the members thereof shall be immediately
5 mustered into the service for three years, or such other period
6 as the call may prescribe; and whenever any portion of such
7 militia shall be ordered into the service of the state they shall
8 be mustered into the service for such period, not exceeding
9 three years, as the Governor may direct. Such reserve
10 militia, when so ordered into active service shall have, as far
11 as practicable, the same system of organization, equipment,

12 training and discipline as are or may thereafter be prescribed
13 for the National Guard. The Governor shall have the power
14 to appoint the officers for any new organizations formed out
15 of said reserve militia; he may, at his discretion, transfer and
16 promote officers of the National Guard to the organizations
17 thus formed and order into active service for this purpose
18 such retired officers of the National Guard as may be efficient
19 and available and in such number as he may deem necessary.

Sect. 13. *Proclamation of state of insurrection.*—When-
2 ever any portion of the militia is employed in aid of the civil
3 authority, the Governor, if in his judgment the maintenance
4 of law and order will thereby be promoted, may by proclama-
5 tion declare the county, town, city or plantation in which the
6 troops are serving or any specified portion thereof, to be in a
7 state of insurrection.

Sect. 14. *Duty of officer receiving orders calling out active*
2 *militia not transmitted through the Governor.*—Whenever the
3 reserve militia or the National Guard, or both, or any num-
4 ber of them or either of them, shall be called forth under the
5 constitution and laws of the United States, and the orders
6 for that purpose shall not be issued to or transmitted through
7 the Governor of the state, any officer or officers of the militia
8 or National Guard receiving such orders not so issued or
9 transmitted shall communicate the same to the governor as
10 soon as practicable.

Sect. 15. *National Guard, called into United States service,*
2 *to go beyond the territory of the United States, and to serve*
3 *till expiration of enlistment.*—Whenever the President shall

4 call forth the National Guard, or any number of them, to be
5 employed in the service of the United States, and specifies in
6 his call the period for which such service is required, the
7 National Guard so called shall continue to serve during the
8 term so specified, either within or without the territory of the
9 United States, unless sooner relieved by order of the Presi-
10 dent: PROVIDED, That no commissioned officer or en-
11 listed man of the National Guard shall be liable to service
12 beyond the term of his existing commission or enlistment.

Sect. 16. *Relief from civil or criminal liability.*—No mem-
2 ber of the militia ordered into the active service of the state
3 shall be liable civilly or criminally for any act done, or caused,
4 ordered, or directed to be done, by him in furtherance of and
5 while in the performance of his military duty. When an ac-
6 tion or proceeding of any nature shall be commenced in any
7 court by any person against any officer or enlisted man of the
8 militia for any act so done, or caused, ordered, or directed to
9 be done, all the expenses of the defence of such proceeding or
10 action, civil or criminal, including fees of witnesses for the
11 defence, defendant's court costs, and all costs for transcripts
12 of records and abstracts thereof on appeal, shall be paid by
13 the state, out of the military fund; and it shall be the duty of
14 the attorney general either personally or by one or more as-
15 sistants to defend such officer or soldier; provided that where
16 the action or proceeding is criminal the Adjutant General
17 shall designate a judge-advocate of the National Guard to
18 conduct the defense of such member, or, if the services of a

19 judge-advocate be not available, then he shall select some
20 other competent attorney to conduct such defense, and the
21 judge-advocate or other attorney so selected shall receive and
22 be paid out of the military fund a reasonable compensation
23 for his professional services. In any such action or pro-
24 ceeding the defendant may require the person instituting or
25 prosecuting the same to file security for payment of costs that
26 may be awarded the defendant, which costs if recovered in an
27 action the costs whereof have been paid out of the military
28 fund shall be paid into the state treasury for the benefit of
29 the military fund; and the defendant may, in every such ac-
30 tion or proceeding, make a general denial and give the special
31 matter in evidence.

Sect. 17. *Title and rank of departmental staff officers.*—

2 The staff officers now designated the Adjutant General and
3 ex-officio chief of staff, quartermaster general and paymaster
4 general, with the rank of major general; an inspector gen-
5 eral, with the rank of brigadier general; a commissary gen-
6 eral, a surgeon general, a judge-advocate general, chief of
7 ordnance and inspector general of rifle practice, each with the
8 rank of colonel, shall on and after the passage of this act be
9 designated and known respectively, as the Adjutant General
10 of the State of Maine, with the rank of brigadier general;
11 major and inspector general; major and commissary; lieuten-
12 ant-colonel medical corps; major and judge-advocate, and
13 major, ordnance department, of the National Guard., The
14 present incumbents shall, as soon as practicable after the

15 passage of this act, be recommissioned with the new rank and
16 title and shall perform the duties herein prescribed. The Ad-
17 jutant General, the major and inspector general, the major
18 and commissary, and the major and judge-advocate, shall
19 hold office during the pleasure of the Governor who made
20 their present appointments and shall not be eligible to reap-
21 pointment unless the Adjutant General and the inspector gen-
22 eral possessed at the time of their present appointments the
23 qualifications prescribed in section twenty-one, in which case
24 they shall hold office and be eligible to reappointment as pre-
25 scribed in section fifty-three, and unless the major and com-
26 missary was at the time of his present appointment a com-
27 missioned officer of the National Guard on the active list and
28 unless the major and judge-advocate possessed at the time
29 of his present appointment the professional qualifications
30 hereafter prescribed, in which cases the major and commis-
31 sary and the major and judge-advocate shall be eligible to
32 reappointment as prescribed in section fifty-three and shall
33 hold office as prescribed in sections fifty-three and fifty-four.

The assistant to the chief of ordnance and the military secre-
35 tary shall each hold office during the pleasure of the Governor
36 who made their present appointments, and each shall be re-
37 commissioned with the rank of captain; upon the expiration
38 of said commissions these offices shall cease to exist.

The aides-de-camp to the Governor shall hold office during
40 the pleasure of the Governor who made their present ap-
41 pointments, and shall be recommissioned with the rank of

42 captain; thereafter aides-de-camp shall be chosen as directed
43 in section eight.

Sect. 18. *The Adjutant General of the state; his relation
2 to the war department; and his duties.*—The Adjutant Gen-
3 eral of the state shall possess the qualifications hereinafter
4 prescribed; shall have the rank of brigadier general, and shall
5 be, ex-officio, chief of staff, quartermaster general, and pay-
6 master general, of the state. For the purpose of establishing
7 the relation between the war department and the various staff
8 departments of the state, he shall be the chief of said de-
9 partments; and the requisitions, purchases, and issues to be
10 made by the senior officer on duty in certain of said depart-
11 ments, as hereinafter prescribed, shall be made by them
12 pursuant and in obedience to his directions and instructions.

(a) He shall control the military department subordinate
14 only to the governor, and may adopt such methods of ad-
15 ministration, not inconsistent with the laws, regulations, and
16 customs of the service of the regular army so far as the same
17 may be applicable, as he may deem necessary to render the
18 department efficient.

(b) He will superintend the preparation of all returns,
20 reports, plans, and estimates required of the state by the war
21 department; and, on or before the 31st day of December of
22 each year, shall make a report to the governor of the strength
23 and condition of the active militia and of the business tran-
24 sactions of the department, including a detailed statement of
25 expenditures for all military purposes.

(c) He shall be responsible for the care, preservation, and
27 repair of all military property belonging or issued to the
28 state for the arming and equipping of the militia; and he
29 shall dispose of all military property of the state found un-
30 serviceable after a proper inspection, account for the pro-
31 ceeds thereof, and expend the same in the purchase of other
32 military property, in such manner as the governor may direct.

(d) He shall turn in, in such manner as the war depart-
34 ment may require, such ordnance, accoutrements and equip-
35 ments belonging to the United States and receive in substi-
36 tution therefor such prescribed regulation ordnance and equip-
37 ment, as may be necessary to conform to the standard re-
38 quired by the laws and regulations of the United States.

(e) He shall, under the direction of the governor, prepare
40 requisitions for, and make purchases and issues of, such mili-
41 tary property as is necessary to equip the organizations of the
42 active militia according to the standard that is now or may be
43 hereafter prescribed by the laws and regulations of the
44 United States, except such purchases and issues as are here-
45 inafter required to be made by the senior officers on duty in
46 the other staff departments; he shall approve the bills of all
47 purchases by whomsoever made and all issues; but no such
48 property shall be issued, or otherwise disposed of, to per-
49 sons or organizations other than those of the active militia
50 and portions of the reserve militia called into active service.

(f) He shall keep a just and true account of all ex-
52 penses necessarily incurred, including pay, transportation and

53 subsistence of officers and enlisted men of the militia and of
54 all military property; and shall render annually to the gover-
55 nor a statement in detail showing the disposition of all cloth-
56 ing, ordnance, arms, ammunition, and other military property
57 on hand and issued.

(g) He may, upon approval of the governor, sell for cash
59 to officers of the active militia, for their official use, and to
60 organizations of the active militia, any military or naval
61 property which is an article of issue by the state; and shall
62 with his annual report render to the governor a true account
63 of the sales so made, and shall expend the proceeds of the
64 same in the purchase of other military or naval property, as
65 the governor may direct.

Whenever the Adjutant General is absent from the state or
67 is unable from any cause to perform his duties the Governor
68 shall during his absence or disability designate an officer of
69 the National Guard present for duty in the state to perform
70 the duties of the Adjutant General.

Sect. 19. *Bond of the Adjutant General.*—The Adjutant
2 General shall give a bond to the state, approved by the gov-
3 ernor and council, in the sum of ten thousand dollars, condi-
4 tioned on the faithful performance of his duties as herein
5 prescribed; and the costs and expenses incurred by entering
6 into such bond shall be paid out of the military fund.

Sect. 20. *Duties of the Inspector General.*—The Inspector
2 General shall make an annual inspection of and a detailed
3 report upon the armories, property, and various organizations

4 of the active militia, and such other inspections as the adjutant general may direct or the law require; he shall perform 5 such other duties as are herein prescribed, and submit to the 6 adjutant general a report of the transactions of his office by 7 the fifteenth of December annually.

Sect. 21. *Term of office and qualifications of the Adjutant General of the state and the Inspector General.*—The Adjutant General of the state and the Inspector General shall hold 3 office at the pleasure of the governor; they shall be at the 4 time of their appointments commissioned officers of the National Guard on the active or retired list, of or above the 5 grade of captain; but no officer shall be appointed from the 6 retired list as adjutant general, who shall have had less than 7 eight years of service as a commissioned officer in the National Guard of this state, the last year of which shall have 8 been within the ten years immediately preceding the appointment.

Sect. 22. *Senior ordnance officer.*—The senior officer on 2 duty in the ordnance department shall from time to time submit to the adjutant general requisitions for all ordnance 3 property, equipment, and accoutrements and all range and 4 target material, which requisitions when approved by the 5 adjutant general, and submitted to and signed by the governor shall if they be for material issued to the state by the 6 ordnance department be forwarded to that department for 7 supply, and if they be for material not so issued, then, by 8 direction of the adjutant general and in the manner pre-

11 scribed in section twenty-nine, the senior ordnance officer
12 shall purchase and direct the issue of such ordnance property
13 and range material, certify all bills therefor as correct, and
14 transmit them to the adjutant general.

He shall, when required or whenever he deems it necessary
16 report to the adjutant general upon the condition of the
17 ordnance, arms, and accoutrements on hand or issued to the
18 National Guard; he shall point out all deficiencies and, so
19 far as he is vested with authority, he shall be responsible that
20 all organizations are armed and equipped as prescribed or as
21 may hereafter be prescribed by the war department.

He shall be the inspector of and shall exercise general super-
23 vision over the small-arms practice of the National Guard.
24 No target, range or shooting gallery for the National Guard
25 shall be acquired, constructed, maintained or equipped, ex-
26 cept upon his recommendation, unless the governor shall ex-
27 pressly order otherwise. It shall be his duty to make or
28 cause to be made by the regimental inspectors of small-arms
29 practice an annual inspection of all target ranges and shoot-
30 ing galleries used by the National Guard, to submit a re-
31 port to the adjutant general of the condition and necessities
32 of each; and to make a detailed report of the transaction of
33 his office to the adjutant general on the fifteenth day of De-
34 cember annually.

Sect. 23. *The senior officer of the medical department.—*

2 The senior surgeon on duty in the medical department shall,
3 under the direction of the adjutant general and in the man-

4 ner prescribed in section twenty-nine, purchase and direct
5 the issue of all medical supplies and equipment, certify all
6 bills therefor as correct and transmit them to the adjutant
7 general. It shall be his duty to make or cause to be made
8 by an officer of the medical department an annual inspection
9 and inventory of the stock of medical supplies on hand at
10 general headquarters, to make a list of the articles and quali-
11 ties needed to equip the National Guard in the manner pre-
12 scribed by the war department, and transmit the same to the
13 adjutant general for authority to supply the same; and he
14 shall make to the adjutant general a detailed report of the
15 transactions of his office and of the condition and quantity
16 of medical supplies on hand, on the fifteenth day of Decem-
17 ber annually.

Sect. 24. *The major and commissary of the National*
2 *Guard.*—The major and commissary of the National Guard,
3 or the senior officer on duty in the subsistence department,
4 shall, under the direction of the adjutant general, purchase
5 and issue in the manner prescribed in section twenty-nine, all
6 subsistence stores and property, certify all bills therefor as
7 correct and transmit them to the adjutant general; he shall
8 make a detailed report of the transactions of his office to the
9 adjutant general on the fifteenth day of December annually.

Sect. 25. *The major and judge-advocate of the National*
2 *Guard.*—The major and judge-advocate shall be appointed
3 by the governor; he shall be an attorney-at-law of the su-
4 preme judicial court of this state of at least five years' stand-

5 ing. He shall be, under the direction of the governor,
6 charged with the supervision of all things relating to the
7 administration of justice in the military forces of the state;
8 he shall diligently scrutinize and examine the proceedings
9 of all courts-martial and courts of inquiry which are sub-
10 mitted to him for review and report thereon to the adjutant
11 general; he shall when directed act as judge-advocate or
12 recorder of any military court or board; he shall be the legal
13 adviser of the military department, and to him may be re-
14 ferred for supervision all contracts, agreements, or other
15 instruments to be drawn or executed in the course of the
16 business thereof. He shall make a detailed report of the
17 transactions of his office to the adjutant general on the
18 fifteenth day of December annually.

Sect. 26. *Legal adviser of the commander-in-chief, adju-*
2 *tant general, and armory commission.*—The attorney gen-
3 eral of the State shall be the legal adviser of the governor,
4 of the adjutant general, and of the armory commission.

Sect. 27. *When governor may appoint additional staff*
2 *officers and chiefs of staff departments.*—In time of war,
3 insurrection, invasion, or rebellion, or of imminent danger
4 thereof, the governor may appoint such staff officers and
5 create such chiefs of staff departments as may be necessary
6 to provide for an increased active militia or to fill the vacan-
7 cies caused by absence in active service, or for both pur-
8 poses; provided, that appointments in a staff department,
9 or corps shall be made from officers of the existing staff

10 department or corps as promotions so far as such officers
11 are available; provided also, that promotion in each staff
12 department or corps and appointments to fill vacancies thus
13 created shall be made as hereinafter prescribed.

Sect. 28. *Duties of staff officers when not herein pre-*
2 *scribed.*—Officers of all staff departments and corps shall
3 perform the duties required of them by law, and such others,
4 not inconsistent with the laws of the State, as correspond
5 to those which are now or may hereafter be required, of the
6 corresponding staff departments or corps of the regular
7 army, by the customs of the service, the orders of the war
8 department, and the laws and regulations of the United
9 States.

Sect. 29. *Purchases of military property, how made.*—
2 Purchases of military property not exceeding one hundred
3 dollars in value may be made in such manner as the pur-
4 chasing officer may deem best. For other purchases not
5 exceeding five hundred dollars, the purchasing officer shall
6 procure written proposals from at least two parties, and
7 shall purchase from the lowest responsible bidder. For
8 purchases exceeding five hundred dollars in value the pur-
9 chasing officer shall publicly advertise, for not less than
10 ten days, for sealed proposals, to be opened at the place,
11 day, and hour designated in such advertisement, and shall
12 contract with the lowest bidder who accompanies his bid
13 with a certified check for ten per centum of the amount of
14 his bid to furnish such property; and he may require such

15 person so contracting to give bond in such sum and surety
16 as he may direct, conditioned for faithful performance, in
17 default of which such bond shall be prosecuted by the attor-
18 ney general, and all moneys recovered turned in to the State
19 treasury for the benefit of the military fund: Provided,
20 That in case of emergency occasioned by war, invasion,
21 riot, insurrection, resistance to the laws, or imminent danger
22 thereof, or by flood, conflagration, or tempest, the governor
23 may direct that such property as may be urgently required
24 be purchased in open market.

Sect. 30. *Officers making purchases and sales represent*
2 *the State.* No officer herein authorized to make purchases
3 or sales of military property shall be concerned, directly or
4 indirectly, in the purchase or sale of any such property,
5 except for and on account of the State; nor shall any such
6 officer take or apply to his own use any gain or emolument
7 for negotiating or transacting any business of his office
8 other than what is allowed by law.

Sect. 31. *All property purchased for military purposes*
2 *to be inspected before acceptance.*—All property purchased
3 under the authority herein granted shall be inspected by
4 the inspector or an officer of the active militia detailed by
5 the adjutant general for that purpose, and no payment shall
6 be made therefor until it shall appear by the certificate of
7 such inspecting officer that the property is of the kind and
8 quality specified in the agreement.

Sect. 32. *Indebtedness not to be contracted, except by authorized person.*—No officer or enlisted man shall contract, or presume to authorize the contracting of any indebtedness on behalf of the State, unless especially authorized to do so by this chapter or by the express order of the governor; and any person in the military service who shall violate the provisions of this section shall be dishonorably discharged, and suffer such other punishment as a court-martial may direct.

Sect. 33. *Composition and organization.*—The National Guard of the State shall consist of the necessary staff departments, a medical department, a coast artillery corps, the commissioned officers heretofore or hereafter retired, the organizations forming the National Guard at this date, and such others as may be organized hereafter and such persons as are or may be enlisted and commissioned therein. The governor shall have power to alter, divide, consolidate, disband or reorganize any organizations or corps and create new organizations and corps whenever required by the provisions of this chapter or whenever in his judgment the efficiency of the State forces will be thereby increased, and he shall have power and it shall be his duty to change the organization of the State forces so as to conform to any organization, system of drill or instruction now or hereafter prescribed by the laws and regulations of the United States for the organization and government of the militia; and for that purpose the number of the officers and non-commis-

19 sioned officers of any grade may be increased or diminished,
20 or their grades may be altered, whenever necessary to secure
21 such uniformity. Whenever the National Guard is organ-
22 ized, by order of the governor, into a brigade, a brigadier
23 general shall be selected as prescribed in section fifty-two,
24 to command the same.

Sect. 34. *New organizations, how raised.*—New organ-
2 izations may be raised on petition to the governor, or by his
3 order; and when the minimum number of persons required
4 by law has been enlisted and notice thereof given to the
5 governor, he may issue an order for the election of the com-
6 missioned officer; but whenever the governor shall have the
7 authority to appoint officers of the line, he may raise new
8 organizations and appoint the officers thereof whenever and
9 in such manner as he may deem best for the service.

Sect. 35. *Strength of active militia on peace and war*
2 *footing.*—The aggregate forces in the active militia in time
3 of peace, fully armed, uniformed, and equipped, shall not
4 exceed three thousand men; but in case of war, insurrec-
5 tion, invasion, or rebellion, or imminent danger thereof, the
6 governor shall have power to increase the forces beyond the
7 said three thousand and organize them as is required by law.

Sect. 36. *Organization, discipline, and armament.*—The
2 organization, armament, and discipline of the National
3 Guard of this State and of the military units thereof shall
4 be the same as that which is now or may hereafter be pre-

5 scribed or provided by the laws and regulations of the
6 United States for the organized militia; and the governor
7 is hereby authorized and it shall be his duty to issue and
8 prescribe from time to time such orders and regulations,
9 and to adopt such other means of administration, as shall
10 maintain the prescribed standard of organization, armament
11 and discipline; and it shall be the further duty of the gov-
12 ernor to prescribe such regulations and to adopt such meth-
13 ods of administration, for the care, preservation, disposition
14 of and accountability for all military property issued to the
15 active militia and belonging to the United States; for pro-
16 curing, disbursing, and accounting for all military funds
17 allotted to the State; for arming, equipping, and supplying
18 the active militia; and for arranging for such camps of
19 instruction, field service, and rifle practice as shall meet the
20 requirements that are now or may hereafter be prescribed
21 by the laws and regulations of the United States. And
22 such orders, regulations, and means adopted shall have the
23 full force and effect of law.

Sect. 37. *May constitute a brigade; staff of brigade com-*
2 mander.—The regiments and all other military units of the
3 National Guard shall, when so ordered by the governor,
4 constitute a brigade, which shall be commanded by the brig-
5 adier general, or, in case of his absence or disability, by the
6 senior line officer of the National Guard. The staff of the
7 brigade commander shall consist of officers detailed from

8 the various staff corps, and departments, and from the com-
9 missioned officers of the National Guard as follows: one
10 surgeon, one adjutant general, one ordnance officer, one
11 commissary, one quartermaster, and one judge-advocate,
12 majors; and two aides, lieutenants, detailed from the Na-
13 tional Guard. In addition to the above the governor may,
14 upon the recommendation of the brigadier commander, detail
15 from the National Guard for duty on the brigade staff such
16 other officers as may be necessary, but no officer shall be so
17 detailed except to a position authorized by the orders of the
18 war department or by the laws and regulations governing the
19 regular army or the organized militia.

Sect. 38. *The several staff departments of the National*
2 *Guard.*—There shall be the following departments consist-
3 ing of officers of number and rank specified necessary for
4 the staff of the brigade and for the maintenance of the staff
5 corps and departments, of the National Guard; viz: an
6 adjutant general's department, one adjutant general, major;
7 inspector general's department, one inspector general, major;
8 a judge-advocate general's department, one judge-advocate,
9 major; a quartermaster's department, one quartermaster,
10 major; a subsistence department, one commissary, major;
11 paymaster general's department, the duties of which shall
12 be performed by the adjutant general of the State and his
13 assistant; an ordnance department, one major; and a medical
14 department, organized as prescribed in the following section.

Sect. 39. *The Medical Department, and the Medical Corps.*

2 —That from and after the approval of this act the medical
3 department of the National Guard shall consist of a Medical
4 Corps, a Medical Reserve Corps and the Hospital Corps.
5 The Medical Corps shall consist of the officers necessary for
6 the brigade staff, for service with the regiment, separate
7 battalions and artillery corps of the National Guard, and
8 for the organization of such ambulance companies, field
9 hospitals, and supply depots, as may be authorized or re-
10 quired as the proper complement for the National Guard by
11 the orders of the war department, or the laws and regu-
12 lations of the United States governing the organized militia;
13 and such officers shall have the same titles as those of cor-
14 responding grades in the United States Army, and shall be
15 of the same grades and numbers as are authorized or pre-
16 scribed by the laws and regulations of the United States
17 for service with the corresponding organizations of the
18 regular army, or as authorized or prescribed by the said
19 laws and regulations or orders of the war department for the
20 government of the organized militia.

Immediately following the approval of this act officers of
22 the medical department then on the active list shall be
23 recommissioned in the corresponding grades in the Medical
24 Corps established by this act in the order of seniority, as
25 follows: Surgeon general, with the rank of colonel, as
26 lieutenant colonel; surgeons with the rank of major, as

27 majors; assistant surgeons, who at the time of this act shall
28 have served three years or more, as captains; and assistant
29 surgeons, with the rank of first lieutenant, who at the time
30 of the approval of this act shall have served less than three
31 years as such, as first lieutenants; and hereafter first lieu-
32 tenants shall be promoted to the grade of captain after three
33 years' service as first lieutenants in the Medical Corps.

All promotions in the Medical Corps to fill vacancies in the
35 several grades created or caused by this act, or hereafter
36 occurring, shall be made according to seniority and no per-
37 son shall receive an appointment as first lieutenant in the
38 Medical Corps unless he shall have been examined and ap-
39 proved by a medical board of the National Guard as herein-
40 after prescribed.

Sect. 40. *Medical Reserve Corps.*—For the purpose of
2 securing competent medical practitioners to conduct the
3 physical examination of applicants for enlistment and to
4 render medical service to any organization called out by the
5 governor to suppress insurrection, riot, or resistance to the
6 laws, the governor of the State is authorized to issue com-
7 missions as first lieutenants of the Medical Reserve Corps
8 to such contract surgeons as shall be favorably recommended
9 by the senior officer of the Medical Corps, not to exceed
10 one for each company or other organization so situated that
11 the services of an officer of the Medical Corps cannot be
12 effectively available. Such officers are not members of the

13 National Guard nor entitled to retirement, but the com-
14 missions so given shall confer upon the holders all the
15 authority, rights, and privileges of commissioned officers
16 of like grade in the Medical Corps of the National Guard,
17 except promotions, but only when engaged in active duty
18 as examining surgeon of recruits or in rendering services
19 to any command to which they may be attached in time of
20 insurrection, riot, or resistance to the laws. They shall
21 have rank in said corps according to the date of their com-
22 missions therein, and when employed on active duty shall
23 rank next below all officers of like grade in the National
24 Guard: Provided, That contract surgeons now in the mili-
25 tary service who receive the favorable recommendation of
26 the company commander at the station where such contract
27 surgeon resides and of the senior officer of the Medical
28 Corps, shall be given preference in appointment over all
29 other applicants; and provided further that any officer of
30 the Medical Reserve Corps who fails to perform his duty
31 as herein prescribed shall forfeit his commission and not be
32 eligible to reappointment.

Officers of the Medical Reserve Corps when called into
34 or engaged in active duty shall be subject to the laws, reg-
35 ulations, and orders for the government of the National
36 Guard; and for conducting the physical examination of
37 applicants for enlistment shall be entitled to such compen-
38 sation as the governor in regulations may prescribe, and

39 for all other services to the pay and allowances of first lieu-
40 tenants of the Medical Corps.

Sect. 41. *Hospital Corps*.—The Hospital Corps shall con-
2 sist of the sergeants first class, sergeants, corporals, privates
3 first class and privates, required for service with the sev-
4 eral organizations of the National Guard, ambulance com-
5 pany, or field hospital; and such non-commissioned officers
6 and privates shall be of the same grades and numbers as are
7 authorized or prescribed for service with the corresponding
8 organizations of the regular army or as authorized or pre-
9 scribed by the orders of the war department, or laws and
10 regulations of the United States for the government of the
11 organized militia.

Enlistments in the Hospital Corps and the appointment of
13 non-commissioned officers therein shall be as prescribed in
14 regulations by the governor.

Sect. 42. *Coast Artillery Corps*.—The governor is hereby
2 authorized to organize a coast artillery corps which shall
3 belong to the line of the National Guard, and which shall
4 consist of such number of companies as the governor may
5 determine. The number of field officers and sergeant-
6 majors of coast artillery shall be in approximately the same
7 proportion to the number of companies as obtains in the
8 coast artillery corps of the regular army, and the number
9 of master electricians, engineers, electrician sergeants first
10 and second class, master gunners, firemen and other expert

11 enlisted men shall be determined by the governor; but the
12 minimum strength in the different grades for a coast artil-
13 lery company of the National Guard shall be as prescribed
14 by the orders of the war department and the laws and regu-
15 lations of the United States. After the organization of the
16 first company, no other company shall be raised until the
17 company or companies previously organized shall have
18 reached the minimum strength prescribed. The governor
19 has the power to transfer to the coast artillery corps, under
20 such regulations as he may prescribe, such existing com-
21 panies or such officers and men thereof as he may deem for
22 the best interest of the service.

Sect. 43. *Civilian Cooks.*—The governor may authorize
2 the employment of cooks to the number fixed in this chapter
3 in organizations in which there are vacancies in enlisted
4 cooks when such organizations are on duty under his orders
5 or are called upon in aid of the civil authorities. The gov-
6 ernor may authorize the employment and prescribe the num-
7 ber of cooks for all headquarters and organizations for
8 which the enlistment of cooks is not authorized by this
9 chapter. Cooks during such employment shall be subject
10 to the laws and regulations for the government of the Na-
11 tional Guard and shall receive the same pay as enlisted cooks.

Sect. 43½. *Composition and strength.*—The organizations
2 forming the naval reserve at this date, such others as may be
3 organized hereafter and such persons as may be enlisted or

4 as may be appointed or commissioned therein, shall consti-
5 tute the Naval Reserve of this State. The strength of the
6 naval reserve in time of peace shall not exceed three hun-
7 dred officers and men, but in time of war, invasion, insurrec-
8 tion, or imminent danger thereof, the governor shall have
9 power to increase this force to double the authorized peace
10 strength and organize it as the exigencies of the service may
11 require, provided that in time of peace the total strength of
12 the active militia shall not exceed the limits prescribed in
13 section thirty-five.

Sect. 44. *Organization.* The governor may organize the
2 forces prescribed in the preceding section as he may deem
3 proper; and when in his judgment the efficiency of the Naval
4 Reserve will be increased thereby, or whenever public inter-
5 est may demand it, he may alter, reorganize, or disband any
6 or all of the organizations therein; and he shall have power
7 at any time to change the organization of the Naval Reserve
8 so as to conform to any organization, system of drill or in-
9 struction which may be adopted for the Navy of the United
10 States, and to increase and decrease for that purpose the
11 number of officers, warrant officers, chief petty officers, petty
12 officers and enlisted men and to change their grades, titles,
13 and designations.

The system of administration, drill and instruction of the
15 Naval Reserve shall conform, as nearly as practicable, to that
16 of the Navy of the United States; and the discipline and gov-

ernment thereof when not otherwise prescribed shall be according to the laws and regulations now or hereafter governing the National Guard. No part of the Naval Reserve shall be attached to any organization of the National Guard except when especially ordered by the governor, in which case the officer commanding the National Guard shall command the whole, unless the governor shall direct otherwise.

Sect. 45. *Rank of officers and men.*—The relative rank between officers of the National Guard and of the Naval Reserve shall be the same as that now or hereafter existing between officers of the Army and the Navy of the United States; and the relative rank between petty officers in the Naval Reserve and non-commissioned officers in the National Guard will be as prescribed by the governor; seamen shall correspond to privates of infantry.

Sect. 46. *Pay and allowances.*—The pay of officers and petty officers of the Naval Reserve shall be the same as that of officers and non-commissioned officers of the same relative rank in the National Guard; and seamen shall receive the pay of privates of infantry. The commanding officer of the ship's company shall be allowed the sum of fifty dollars per annum for the care and custody of such government property as he may be responsible for; each division commander shall be allowed the sum of twenty-five dollars for the care of public property for which he is accountable; the executive officer of the ship's company shall be allowed the sum of

12 twenty-five dollars per annum ; and the first class yeoman of
13 each division shall receive for his services the sum of ten
14 dollars per annum.

Sect. 47. *Qualifications of commissioned officers.*—Com-
2 missioned officers of the Naval Reserve shall have the same
3 authority, rights, privileges, and qualifications, grade for
4 grade, as commissioned officers of the National Guard, and,
5 if not otherwise prescribed, shall be elected or appointed in
6 the same manner ; but the board of examination, in the case
7 of the election or appointment of an officer of the Naval Re-
8 serve shall consist of at least one commissioned officer of the
9 Naval Reserve, active or retired. The commanding officer
10 of the ship's company shall be elected by the division com-
11 manders, and the election of division commanders shall be as
12 prescribed for the election of company officers of the National
13 Guard ; but whenever the governor shall have authority to
14 appoint regimental officers of the National Guard he shall
15 have the power to appoint commissioned officers of the
16 Naval Reserve in like manner.

Sect. 48. *Commissions.*—All officers shall be commissioned
2 by the governor at his discretion, but no one shall be com-
3 missioned unless the conditions and qualifications set forth
4 in the following sections have been complied with, and no
5 one shall be recognized as an officer unless he shall have been
6 duly commissioned and shall have taken the constitutional
7 oath of office. The acceptance of a commission in the militia
8 of this State shall be deemed a resignation by the person ac-

cepting the same of all other commissions held by him in such militia. In no case shall any officer in the active militia be commissioned to a higher grade than that prescribed for the corresponding command by the laws and regulations for the government of the regular army and navy of the United States or of the organized militia.

Sect. 49. *Eligibility for a commission.*—Commissioned officers must be citizens of the United States and twenty-one years of age or over. No person who has been expelled or dishonorably discharged from any military or naval organization of this or any other state or of the United States shall be commissioned unless he has re-enlisted and served as provided in this chapter, and no person shall be commissioned unless he shall possess the additional requirements prescribed in this chapter for the particular office to which he is to be commissioned; provided that in time of war, insurrection, invasion, rebellion, or imminent danger thereof, the governor shall have the power to fill any vacancy in any field grade by the appointment thereto of any officer on the active list of the army, navy or marine corps of the United States.

Sect. 50. *Rank.*—Rank and precedence of officers and non-commissioned officers of the National Guard of this State, the relative rank between officers thereof and of the Naval Reserve, the power of command and the commands appropriate to each grade, shall be as determined by the laws and regulations for the government of the regular army and navy

7 of the United States; except that when an officer is commis-
8 sioned to fill a vacancy caused by the expiration of his own
9 term of service he shall take rank from the date of his origi-
10 nal commission in that grade.

Sect. 51. *Election and promotion of line officers.*—Gen-
2 eral, field, and company officers, of the line, shall be elected as
3 follows: brigadier generals by the written votes of the field
4 officers of their respective brigades; field officers by the writ-
5 ten votes of the captains and subalterns of their respective
6 regiments or corps; captains and subalterns by the written
7 votes of the members of their respective companies; but,
8 brigadier generals, colonels, and lieutenant-colonels shall be
9 elected from officers of the line of their respective brigades,
10 regiments, or corps, of or above the grade of major; and
11 majors from captains of the regiment or corps; subject in
12 each case to the age limit prescribed in section fifty-three:
13 Provided that any officer now in active service and holding a
14 commission in the active militia shall be eligible to re-elec-
15 tion: Provided also, that if section 1, article VII of the con-
16 stitution of the State shall be hereafter amended in such man-
17 ner as to permit the legislature to prescribe the mode of se-
18 lecting officers for the grades herein specified, then, on and
19 after the first day of July next succeeding the adoption of
20 such amendment, the said officers shall be promoted and ap-
21 pointed by the governor as follows and the elective system
22 prescribed in this chapter shall cease to exist, otherwise to
23 remain in full force and effect: Vacancies in the grade of
24 brigadier general shall be filled by promoting the senior

25 colonel of infantry; vacancies in the field grades of a regi-
26 ment or corps by promoting the senior officer of the regi-
27 ment or corps, of the next lower grade; vacancies in the
28 grade of captain and lieutenant by promoting the senior of-
29 ficer of the company, of the next lower grade. Vacancies in
30 the grade of second lieutenant shall be filled in the following
31 manner: All the non-commissioned officers of the company,
32 and any battalion and regimental non-commissioned staff of-
33 ficer who was appointed from said company, shall if physi-
34 cally sound be eligible for appointment, and shall be per-
35 mitted to appear before an examining board, for a physical
36 and a competitive practical and theoretical examination; the
37 non-commissioned officer whom the board considers, after
38 the competitive examination, to be the best qualified shall be
39 appointed to fill the vacancy. The governor shall prescribe
40 regulations as to the scope and the manner of conducting
41 such examination, and if no such non-commissioned officer
42 appears or if none satisfactorily passes said examination,
43 then the governor shall fill the vacancy by making an ap-
44 pointment from the enlisted men of the organization in which
45 the vacancy occurred.

Sect. 52. *Elections.*—The adjutant general shall issue or-
2 ders for an election, shall detail a suitable officer other
3 than a candidate to preside thereat, and shall give or
4 cause to be given by commissioned officers notification
5 to all qualified voters when, where, and for what office
6 the election is to be held, by written or printed notice
7 given in hand, sent by mail, or left at the last and usual

8 place of abode at least four days before the date of the
9 election. The officer or officers serving such notice
10 shall make a certified written return of the persons noti-
11 fied and of the manner of service, and present the same
12 to the presiding officer before the polls are open. At
13 the time fixed for the election the officer ordered to preside
14 thereat, or in his absence a qualified officer authorized by
15 him to act for him, or in the absence of such officer the com-
16 missioned officer highest in rank of those present not being a
17 candidate, shall require the return of the service of notice,
18 the roster of the brigade, regiment, or company from the
19 legal custodian, and shall then open the polls. A majority
20 of the votes of all persons present voting at an election shall
21 be necessary for a choice. The presiding officer shall be the
22 judge of the election, shall canvass the result, forthwith
23 notify in writing the successful candidate of his election, and
24 report the proceedings in writing to the adjutant general.

If it shall appear at any election that legal notice has not
26 been given in the manner aforesaid to all persons entitled to
27 vote, the presiding officer shall adjourn the meeting, cause
28 such notice to be given, set another date for an election not
29 less than seven days later, and notify the adjutant general;
30 but the presence of a person entitled to vote shall be a waiver
31 of his right to legal notice.

If the electors neglect, refuse, or after the election shall
33 have been in progress for three hours, fail to elect, then this
34 fact shall be certified by the presiding officer to the adjutant

35 general, and the governor shall promote or appoint an of-
36 ficer in accordance with the preceding section, and if any
37 person so elected or appointed neglect, refuse, or fail with-
38 out cause to appear, when notified, for examination, or fail to
39 pass the examination, a new election shall be held or appoint-
40 ment made.

Every officer duly commissioned shall within ten days ac-
42 cept the same and take the constitutional oath of office; such
43 oath may be taken and subscribed before any officer author-
44 ized by law to administer an oath or before any military of-
45 ficer who has taken the oath himself; and in case of neglect
46 or refusal to accept the commission or to take and subscribe
47 the oath within the time mentioned, such commission shall be
48 cancelled by the governor, and a new election ordered or ap-
49 pointment made to fill the vacancy.

Sect. 53. *Age limit prescribed for each grade of the line and*
2 *staff.*—No person shall be elected, appointed or commis-
3 sioned to any of the following grades, who is over the age
4 limit prescribed for each of the several grades, viz: brigadier
5 general, sixty-four years; colonel and lieutenant colonel,
6 sixty-one years; major, fifty-six years; captain, fifty years;
7 first lieutenant, forty-five years; and second lieutenant, forty
8 years. Any officer who shall, while serving in any of the
9 above grades, reach the age limit prescribed for said grade,
10 shall, if eligible, be retired; otherwise, honorably discharged.
11 This section shall not apply to the Adjutant General of the
12 State of Maine, but shall not serve to vacate any commission
13 now in force; nor shall it, upon the expiration of his present

14 commission, prevent the re-election or re-appointment of any
15 officer to the office he now holds for the same period of time
16 and under the same conditions as obtained heretofore and up
17 to the passage of this act: nor shall it apply to chaplains of
18 the National Guard.

Sect. 54. *Time limit of service in each grade of the line
2 and staff.*—No officer, except the Adjutant General and the
3 inspector, as specified in section twenty-one, shall be permit-
4 ted to serve in any of the following grades, viz: brigadier
5 general, five years; colonel, six years; lieutenant colonel,
6 seven years; major, eight years; captain, nine years; first
7 lieutenant, ten years; and second lieutenant, ten years. But
8 should any officer be re-elected or re-appointed to the office
9 he now hold, the time limit of service in that grade shall be
10 reckoned from the date of the approval or passage of this act.
11 When an officer shall have served the prescribed time in any
12 one grade he shall be placed on the retired list.

Sect. 55. *Vacancies in the several staff departments and
2 corps, how filled.*—Vacancies occurring in the various grades,
3 excepting the lowest, of the several staff departments' and
4 corps, shall be filled by promoting and appointing the senior
5 officer in the next lower grade of said department or corps.
6 Vacancies occurring in the lowest grades thereof shall be
7 filled in the following manner:

In the medical department all commissioned officers of the
9 National Guard, all non-commissioned officers of the hospital
10 corps, and all officers of the Medical Reserve Corps, who are
11 active licensed practioners of medicine and surgery in this

12 State of at least five years standing as such, and who are
13 physically sound shall be permitted to appear before a board
14 of examination consisting of officers of the medical depart-
15 ment, and the applicant whom the board considers, after pro-
16 fessional and general examination, to be the best qualified for
17 the position shall be appointed to fill the vacancy. In the
18 ordnance department, the vacancy shall be filled by promot-
19 ing thereto, in order of seniority, the regimental assistant in-
20 spectors of small-arms practice; in the adjutant general's de-
21 partment, by promoting thereto, in order of seniority, the
22 regimental adjutants; in the subsistence department, by pro-
23 moting thereto, in order of seniority, the regimental com-
24 missaries; in the quartermaster's department, by promoting
25 thereto, in order of seniority, the regimental quartermasters,
26 and if, for any reason, a vacancy occurring in the lowest
27 grade of any of said departments be not filled by this method
28 of promotion, then the governor may fill such vacancy in
29 such manner as he deems best.

Sect. 56. *Vacancies in the regimental and battalion staffs;*
2 *how filled.*—Vacancies occurring among the officers of the
3 regimental staff shall be filled by the promotion of a battalion
4 staff officer of the regiment of the next lower grade; vacan-
5 cies occurring among second lieutenants of the battalion staff
6 shall be filled by the appointment of a second lieutenant of
7 the line of the regiment. The regimental assistant inspec-
8 tor of small-arms practice shall be appointed from the regi-
9 mental line officers of or below the grade of captain: should

10 a captain be chosen, he may hold his office for eight years as
11 though it were a different grade.

Sect. 57. *Chaplains and their qualifications.*—The gover-
2 nor is authorized to appoint, upon the recommendation of the
3 several regimental commanders, chaplains in the National
4 Guard at the rate of one for each regiment, with the rank of
5 captain; no person shall hereafter be appointed a chaplain
6 who is more than fifty-five years of age, and until he has
7 furnished proof that he is a regularly ordained minister of
8 some religious denomination in good standing.

Sect. 58. *Competitive examination.*—The governor shall
2 prescribe a system of examination to determine the non-com-
3 missioned officer best qualified for appointment to the grade
4 of second lieutenant as prescribed in section fifty-one and the
5 best qualified applicant for appointment to the lowest grade
6 in the Medical Corps as prescribed in section fifty-three.

Sect. 59. *Examination upon original appointment or elec-*
2 *tion.*—The governor shall prescribe a system of examina-
3 tion to determine the fitness for commission consequent on
4 an original appointment or election of all persons other than
5 those provided for in the preceding section; and no person
6 shall be commissioned consequent upon an original appoint-
7 ment or election until he shall have passed a satisfactory
8 examination as to his physical, moral, educational, and gen-
9 eral fitness for the service.

Sect. 60. *Examination for promotion or appointment to*
2 *higher grade.*—The governor shall prescribe a system of

3 examination of all officers of the active militia below the
4 grade of brigadier general to determine their physical,
5 moral, professional and general fitness for promotion or
6 for appointment other than the first, such examination to
7 be conducted, if practicable, at such time anterior to the
8 accruing of the right to promotion or to the issuing of the
9 commission as may be best for the interest of the service;
10 provided that the governor may waive the examination for
11 promotion or appointment to any grade in the case of any
12 officer who in pursuance of existing laws has passed a
13 satisfactory examination for such grade prior to the passage
14 of this act; and provided that if any officer fails to pass a
15 satisfactory examination and is reported unfit for promo-
16 tion or appointment, the officer next below him in rank or
17 standing next in the line of promotion, having passed said
18 examination, shall receive the promotion, or if the office is
19 elective the governor shall order another election; and pro-
20 vided that should the officer be found incapacitated for ser-
21 vice by reason of physical disability he shall be retired with
22 the rank to which his seniority entitled him to be promoted,
23 and should he fail for any other reason, other than moral
24 fitness, he shall be suspended from promotion or appoint-
25 ment to any office in the active militia for one year, and
26 should he fail the second time to pass such examination he
27 shall be honorably discharged, but should he be found lack-
28 ing in moral fitness, he shall, if the governor approve of
29 such finding, be discharged for the good of the service;

30 provided also that the examination into the professional fit-
31 ness of a judge-advocate and a chaplain shall extend no
32 farther than to the special qualifications required of them.
33 The board of examination under this and the two preceding
34 sections shall have the same power to take evidence, admin-
35 ister oaths, and compel witnesses to attend and testify and
36 produce books and papers and punish their failure to do
37 so, as is possessed by a general court-martial.

Sect. 61. *Examination and discharge of officer.*—The gov-
2 ernor shall, whenever he may deem the good of the service
3 requires it, order any commissioned officer before a board
4 of examination, to consist of not less than three nor more
5 than five general or field officers, which is hereby invested
6 with the powers of courts of inquiry and courts-martial, and
7 such board shall examine into the moral character, capacity,
8 and general fitness for the service of such commissioned
9 officer, and record and return the testimony taken and a
10 record of its proceedings; and if the finding of such board
11 be unfavorable to such officer and be approved by the gov-
12 ernor, he shall be discharged for the good of the service.
13 Failure to appear when ordered before a board constituted
14 under this section shall be sufficient ground for a finding
15 by such board that the officer ordered to appear be so dis-
16 charged.

Sect. 62. *Brevet Commissions.*—The governor may, upon
2 the recommendation of his commanding officer, confer a
3 brevet commission of a grade next higher than that actually

4 held by the officer so recommended, upon any officer of the
5 National Guard or Naval Reserve in active service, for dis-
6 tinguished gallantry. Such commissions shall carry with
7 them only such privileges or rights as are allowed in like
8 cases in the military and naval service of the United States.

Sect. 63. *Honorable discharge*.—Any officer who shall
2 reach the age limit prescribed in section fifty-three, or who
3 shall fail in a second examination as prescribed in section
4 sixty, or who shall be rendered surplus by reduction or
5 disbandment of his organization in any manner provided
6 for in this chapter, or who accepts an appointment in the
7 army, navy or marine corps of the United States, if in each
8 case he is ineligible for retirement, or who tenders and has
9 accepted his resignation, shall receive an honorable dis-
10 charge, provided he shall not be under arrest or returned to
11 a military court for any deficiency or delinquency and pro-
12 vided he be not indebted to the State in any manner, and
13 that all his accounts for money and public property be cor-
14 rect.

Sect. 64. *Discharge for the good of the service*.—Any offi-
2 cer who shall be discharged under the provisions of section
3 sixty-one, or who shall be found lacking in moral fitness
4 under the provisions of section sixty, or who, being under
5 arrest or returned to a military court for any deficiency or
6 delinquency or refusing or failing after notification to liqui-
7 date his indebtedness to the State or to render correct ac-
8 counts for public funds and property entrusted to his care

9 tenders and has accepted his resignation, shall be discharged
10 for the good of the service; and any officer so discharged
11 shall not again be eligible to receive a commission unless he
12 first re-enlist, as provided in this chapter in the case of
13 enlisted men dishonorably discharged, and until he shall
14 have performed at least seventy-five per centum of duty in
15 each year under such enlistment for three successive years.

Sect. 65. *Retirement.*—Any officer who is sixty-four years
2 old, or who is found incapacitated for service by reason of
3 physical disability under the provisions of section sixty, or
4 who hereafter shall serve in any one grade the time limit
5 as prescribed in section fifty-four, or who shall while serv-
6 ing in any grade reach the age limit prescribed for that
7 grade in section fifty-three and be eligible for retirement
8 due to length of service or other cause specified in this
9 section, shall be withdrawn from active service and placed
10 on the retired list.

Any officer who has served as a commissioned officer in
12 the active militia of this State eight consecutive years, or as
13 such eleven years not necessarily consecutive, or eleven years
14 either as an officer or soldier in which shall be counted hon-
15 est and faithful service in the military or naval service of
16 the United States, or both, provided eight years of which
17 have been service as a commissioned officer in the active
18 militia of the State, shall, if he make application to the
19 governor, be withdrawn from active service and placed on
20 the retired list.

Any officer who has served twenty-five years as a commissioned officer in the active militia of the State, or who is sixty years old, may be withdrawn from active service and placed by the governor on the retired list.

Retired officers shall be entitled to wear the uniform of the rank with which they were retired; they shall continue to be borne on the National Guard Register, shall be subject to military law, and may, in the discretion of the governor, be assigned to active duty in time of war, insurrection, invasion, or imminent danger thereof.

Sect. 66. *Board for retirement and discharge.*—Any commissioned officer who has become or who shall hereafter become disabled and thereby incapable of performing the duties of his office shall be withdrawn from active service and placed on the retired list; and any commissioned officer who has become or who shall hereafter become unfit or incompetent, and thereby incapable of performing the duties of his office, shall upon the recommendation of his commanding officer or of an inspecting officer, be discharged for the good of the service, honorably discharged, or, if eligible thereto, retired, in the discretion of the governor. Such retirement or discharge shall be by order of the governor, who, before making such order, shall convene a board of not less than five commissioned officers, one of whom shall be an officer of the medical corps, who before entering upon the discharge of their duties shall be sworn to an honest and impartial performance of the same, whose duty it shall

18 be to determine the facts as to the nature and cause of
19 incapacity of such officer as appears disabled or unfit or
20 incompetent, from any cause, to perform military duty and
21 whose case shall be referred to it. The board, excepting
22 the officer or officers of the medical corps, shall be com-
23 posed, as far as may be, of seniors in rank to the officer
24 whose incapacity is inquired of; it shall be invested with
25 the powers of courts-martial and courts of inquiry, and
26 whenever it finds an officer incapacitated for active service,
27 shall report such fact to the governor stating the cause of
28 incapacity, whether from disability, unfitness, or incom-
29 petency, and if he approve such finding such officer shall
30 be placed on the retired list or discharged, as provided in
31 this article: Provided that it shall not be necessary to refer
32 any case for the action of such board arising under this
33 section, unless the officer designated to be placed upon the
34 retired list or discharged shall, within twenty days after
35 being notified that he will be so retired or discharged, serve
36 on the adjutant general of the State a notice in writing that
37 he demands a hearing and examination before such board;
38 and provided that no officer shall be so retired or discharged
39 without having had a full and fair hearing before the board
40 if upon due notice he shall demand it.

Sect. 67. *Dismissal*.—An officer who shall have been ab-
2 sent without leave for a period of six months shall upon the
3 recommendation of his immediate commanding officer be
4 dismissed the service by order of the governor.

Sect. 68. *Removal*.—No officer shall be removed from
2 office without his consent, except by sentence of a general
3 court-martial or as provided in this chapter.

Sect. 69. *Enlistments*.—Recruits enlisting in the active
2 militia must be able-bodied men, free from disease, of good
3 character and temperate habits, between the ages of eighteen
4 and forty-five years, except that men may be enlisted as
5 musicians if more than sixteen years of age; and in time
6 of peace no person who is not a citizen of the United States
7 and of this State, or who has not made legal declaration of
8 his intention to become a citizen, or who cannot speak, read,
9 and write the English language or who does not reside
10 within a town where an organization of the active militia
11 is stationed, or within a radius of twelve miles, shall be
12 enlisted in the active militia; provided that the character
13 and the standard of the physical examination required for
14 enlistment in the National Guard shall be as prescribed in
15 the regulations of the War Department and the laws of the
16 United States for the government of the organized militia,
17 and provided that no person under the age of twenty-one
18 years, having parents or guardian entitled to his custody,
19 shall be enlisted or mustered into the active militia of the
20 State without the written consent of such parent or guar-
21 dian.

No person not of the age specified above, no insane or
23 intoxicated person, no deserter from the military or naval

24 service of the United States or of this State, and no person
25 who has been convicted of a felony shall be enlisted in the
26 active militia.

Hereafter all enlistments in the active militia shall be for
28 a term of not less than three years, and no person shall
29 again be enlisted whose service during the last enlistment
30 in the active militia was not honest and faithful, or who
31 has been dishonorably discharged or discharged without
32 honor from any military or naval organization of the State
33 or of the United States, unless he produces the written con-
34 sent to such enlistment of the commanding officer of the
35 organization in which he last served or from which he was
36 dishonorably discharged or discharged without honor and
37 unless such enlistment be approved by the brigade com-
38 mander or, if there be no brigade commander, by the adju-
39 tant general.

Men who have been discharged by reason of disbandment
41 may be enlisted and shall then receive credit for the period
42 served at the time of disbandment; and a man discharged
43 for physical disability shall if such disability cease and he
44 again enlists, or a man discharged upon his own request
45 shall if he again enlists, receive credit for the period served
46 prior to such discharge.

Chief and principal musicians, musicians, and privates of
48 the hospital corps may be enlisted as such.

Sect. 70. *Reenlistment and continuous service.*—When a
2 soldier reenlists within ninety days from the expiration of
3 his last preceding enlistment, his service shall be considered
4 as continuous and the reenlistment shall be dated as of the
5 day following such expiration; and when the term of ser-
6 vice of any enlisted man expires during a period of fur-
7 lough and while he is serving in the military or naval forces
8 of the United States, should be reenlist in the active militia
9 within ninety days of his muster out of the service of the
10 United States, his service shall be considered as continuous,
11 and shall in like manner commence on the day following
12 such expiration, and the reenlistment shall be dated as of
13 the day following such expiration.

No man of forty-five years of age or over shall be reen-
15 listed unless he has served the full period of his last pre-
16 ceding enlistment, has the permission of the commanding
17 officer of the organization in which he desires to enlist, and
18 of the brigade commander or, if there be no brigade com-
19 mander, of the adjutant general and has passed the physical
20 examination prescribed by regulations; nor shall any such
21 man be again reenlisted.

Sect. 71. *Enlistment papers.*—Every person who enlists
2 or reenlists shall sign and make oath to an enlistment paper
3 which shall contain an oath of allegiance to the State and
4 the United States, and be in such form as may be prescribed
5 in the regulations issued under this chapter. Such oath

6 shall be taken and subscribed to before a commissioned
7 officer of the active militia, and all such commissioned offi-
8 cers are hereby authorized to administer such oaths and,
9 when designated by the commanding officer of the company
10 or other organization or by other proper military superior,
11 to make and complete valid enlistments in the active militia.
12 A person making a false oath as to any statement contained
13 in such enlistment paper shall upon conviction be deemed
14 guilty of perjury.

Sect. 72. *Transfers.*—The governor shall have the power
2 to make and cause to be made such transfers of officers and
3 enlisted men within a regiment, corps, or separate organiza-
4 tion, between regiments, corps or separate organizations, and
5 between the line and the hospital corps, as may be for the
6 best interests of the service, and to provide regulations there-
7 for.

Sect. 73. *Non-commissioned officers.*—General, post, regi-
2 mental and battalion non-commissioned staff officers, and
3 non-commissioned officers of companies and bands, shall be
4 appointed, promoted, reduced, and warranted in accordance
5 with, and their duties defined by, the regulations under this
6 chapter, which shall be the same, so far as may be, as the cor-
7 responding regulations governing the regular army. Chief
8 petty officers and petty officers of the Naval Reserve shall be
9 appointed, promoted, reduced, and warranted in such man-
10 ner as the governor may prescribe.

Sect. 74. *Dropping from the rolls.*—Any enlisted man, who shall remove his residence to such distance from the armory of his organization or the armory, post, or district at which he is detailed to serve, or enter into such employment as will render it impracticable for him to perform his duties properly, or who, after due diligence, cannot be found, may be dropped from the rolls by authority of the brigade commander or, if there be no brigade commander, by the adjutant general; an enlisted man, dropped from the rolls by reason of removal or character of employment, may upon change in residence or employment be taken up at any time, upon his own application approved by the brigade commander or, if there be no brigade commander, by the adjutant general. A man shall not be taken up from dropped until he has passed the physical examination required upon enlistment, and men thus taken up shall receive credit for the time served before having been dropped.

Sect. 75. *Discharges.*—No enlisted man shall be discharged from the service without a discharge in writing signed by his regimental or corps commander and no discharge shall be given to any enlisted man before his term of service has expired, except by order of the governor or adjutant general, by sentence of a general court-martial or military commission, on certificate of disability by direction of the adjutant general, and in compliance with an order of a court of com-

9 petent jurisdiction, or a judge or justice thereof, on a writ of
10 habeas corpus.

Discharges shall be of the following kinds :

1. Honorable discharge, which shall be given to every sol-
13 dier whose service has been honest and faithful, his conduct
14 having been such as to warrant his reenlistment.

2. Discharge without honor, which shall be given to a sol-
16 dier discharged.

(a) Without trial, on account of fraudulent enlistment.

(b) Without trial, on account of having become disquali-
19 fied for service, physically or in character, through his own
20 misconduct.

(c) On account of imprisonment under sentence of a civil
22 court.

(d) Where discharge without honor is specially ordered
24 by the governor for any other reason.

(e) Where upon expiration of the enlistment the service
26 has not, in the opinion of the company commander con-
27 curred in by a board of officers, been honest and faithful. The
28 company or detachment commander who deems the service
29 not honest and faithful shall, if practicable, so notify the sol-
30 dier at least thirty days prior to discharge, and shall at the
31 same time notify the regimental commander or senior officer
32 of the corps, who will in every case upon the written request
33 of the enlisted man convene a board consisting, if practicable,
34 of three officers one of whom the convening officer may be, to
35 determine whether the soldier's service has been honest and

36 faithful. The soldier shall be given a hearing and the de-
37 cision of the board shall be final.

3. Dishonorable discharge, which may be given to a sol-
39 dier ;

(a) Sentenced to be so discharged by a court-martial or
41 military commission.

(b) Fined by a court-martial or military commission and
43 who fails to pay such fine within thirty days after it was im-
44 posed.

(c) Convicted of felony.

(d) Whose commanding officer makes application to the
47 adjutant general for his discharge for the good of the ser-
48 vice, stating briefly the misconduct relied upon as a ground
49 for the discharge ; if the adjutant general, after investigation
50 in which the soldier complained of shall be given a full and
51 fair hearing, concur in the application, he may issue his or-
52 ders for dishonorable discharge.

Sect. 76. *Certificate of merit.*—Hereafter when any en-
2 listed man of the active militia shall have distinguished him-
3 self in the service for gallantry or for long and meritorious
4 service in the active militia for a continuous period of fifteen
5 years or for a period of twenty years not necessarily con-
6 tinuous, the governor may upon the recommendation of the
7 commanding officer of the regiment or the senior officer of
8 the corps to which such enlisted man belongs, grant him a
9 certificate of merit ; and a holder of such certificate shall be
10 borne on the Military Register of the State for the re-

11 mainder of his life; provided that meritorious service here-
12 after in time of actual war, insurrection, or rebellion, shall
13 count double toward procuring such certificate.

Sect. 77. *Military courtesy, command, and administration.*

2 —Matters of military courtesy and discipline; precedence
3 of regiments and corps; details and working parties; special
4 duty; official designation and duties of officers; records;
5 flags, colors and standards; instruction and administration
6 of regiments, battalions, and companies; interior economy
7 of companies; rosters, detachments, and daily service; hon-
8 ors, courtesies, and ceremonies; guards; practical and theo-
9 retical instruction; care, accountability, and responsibility
10 for public property; surveys of property; staff administra-
11 tion and general duties of the staff corps; military corre-
12 spondence; orders; muster rolls; return of troops and battle
13 reports; arrest and confinement; and field service, shall, in
14 general and so far as practicable and consistent with this
15 chapter, be as now or hereafter prescribed in the regulations
16 for the armies of the United States.

Sect. 78. *Inspections.*—Unless the governor shall direct
2 otherwise it shall be the duty of each colonel commanding
3 a regiment, or, in case of his disability or when designated
4 by him, of the lieutenant colonel, and of each major com-
5 manding a battalion, to parade, inspect, and report upon
6 the general military efficiency of the several companies under
7 his command at least once each year at such times and under
8 such regulations as the governor may prescribe; and it shall

9 likewise be the duty of the brigadier general commanding
10 the brigade to make such inspections and reports of the
11 National Guard, or of any part or organization thereof, as
12 the governor may from time to time prescribe. In addi-
13 tion to the inspections provided for in this section, the
14 inspector general shall make the inspection prescribed in
15 section twenty of this chapter; and the governor may, when-
16 ever he deems it necessary, order an inspection by a medical
17 officer of the officers and men, armories, clothes, and equip-
18 ment of the active militia.

Sect. 79. *Schools, instruction, and encampment.*—The gov-
2 ernor shall prescribe for the officers and men of the regi-
3 ment, corps and staff departments of the National Guard
4 and for the officers and men of the Naval Reserve courses
5 of theoretical and practical military instruction, and shall
6 organize such schools, designate such instructors, and make
7 such regulations, as may be required to accomplish such
8 instruction.

He shall have the power to order all or any part of the
10 National Guard to participate in any encampment, maneu-
11 vers, and field instruction of any part of the regular army
12 at or near any military post or camp or lake or seacoast
13 defenses of the United States, whenever such participation
14 shall have been provided for by the Secretary of War; and
15 he shall, during the year next preceding each annual allot-
16 ment in accordance with section sixteen hundred and sixty-
17 one of the Revised Statutes of the United States, as amend-

18 ed, required every company, troop and battery in the Na-
19 tional Guard, to participate in practice marches or go into
20 camps of instruction at least five consecutive days, and to
21 assemble for drill and instruction at company, battalion, or
22 regimental armories or rendezvous or for target practice not
23 less than twenty-four times, and shall also during the same
24 period require an inspection of each such company, troop,
25 and battery to be made by an officer of such National Guard
26 or an officer of the regular army. No parade or drill of the
27 active militia shall be ordered on any day during which any
28 election shall be held, except in cases of riot, invasion or
29 insurrection, or imminent danger thereof, or of public dan-
30 ger resulting from flood, conflagration, or tempest.

Sect. 80. *The military instructor.*—Whenever the Secre-
2 tary of War shall be able to provide for such detail, the
3 governor shall keep assigned to his staff for duty in con-
4 nection with the National Guard one or more officers of
5 the regular army on the active list, the senior of whom shall
6 be known and designated as the military instructor, and all
7 others as military instructors, of the National Guard of this
8 State. Such officer or officers, while so assigned, shall have
9 such authority to give directions and issue orders to the
10 officers and men of the National Guard as is possessed by
11 an officer on the military staff of a commander in the reg-
12 ular army, and such other military authority as may be
13 necessary for him in the performance of his duty as such

14 military instructor, or as may be conferred on him by the
15 governor.

Sect. 81. *Decorations and prizes for small arms practice.*

2 —To encourage marksmanship the governor is authorized
3 to offer annually a State decoration to those who shall excel
4 in small arms practice, and prizes for competition among
5 the organizations and corps of the National Guard and Naval
6 Reserve armed with rifle and carbine. He may also in his
7 discretion provide suitable decorations and prizes for pro-
8 ficiency in practice with light and heavy guns. All such
9 prizes shall be competed for under regulations prescribed
10 by the inspector of small arms practice, approved by the
11 governor. Members of any staff corps or department as-
12 signed to duty with any command shall be considered a part
13 of such command for the purposes of the competition herein
14 authorized.

Sect. 82. *Civil officers may call on commanding officer*

2 *for aid.*—In case of a tumult, riot, mob, or body of men
3 acting together by force with intent to commit felony or to
4 offer violence to persons or property, or by force and vio-
5 lence to break and resist the laws of the State or the United
6 States, or of imminent danger thereof, a justice of the
7 supreme judicial court in term time or vacation or the sheriff
8 of a county, may call for aid upon a commanding officer of
9 the National Guard or Naval Reserve, and such call shall
10 be in writing. The commanding officer upon whom the call
11 is made shall order out in aid of the civil authorities the

12 military or naval force or any part thereof under his com-
13 mand, and shall make an immediate report of the case to
14 the adjutant general and to the brigade commander. He
15 shall receive only general directions from the civil authority
16 requesting the aid, and shall remain strictly responsible to
17 his military superiors for the manner in which the troops
18 shall be used to accomplish the desired end.

Sect. 83. *In case of public disaster command may be or-*
2 *dered out.*—In the event of public danger resulting from
3 flood, conflagration, or tempest, the senior officer of a com-
4 mand may, upon request of the mayor of a city or the
5 selectmen of a town, order out for the defense or protec-
6 tion of the community the forces under his command, or
7 any part thereof, and immediately report his action and the
8 circumstances of the case to the adjutant general and to the
9 brigade commander, if there be one.

Sect. 84. *Commanding officer may close certain places and*
2 *prohibit certain sales.*—Whenever any part of the active
3 militia is on active duty, pursuant to the order of the gov-
4 ernor or call of civil authority, to aid in the enforcement of
5 the laws, the commanding officer of such troops may order
6 the closing of any place where intoxicating liquors, arms,
7 ammunition, dynamite or other explosives are sold, and for-
8 bid the selling, bartering, lending, or giving away any of
9 said articles so long as any of the troops remain on duty in
10 such place, or in the vicinity thereof, whether any civil offi-
11 cer has forbidden the same or not.

Sect. 85. *Notices for duty.*—Notices for duty at encampments, maneuvers and field instruction shall be given at least ten days prior thereto, and for other duty at such time as the officer issuing the order shall prescribe. Such notices may be given orally or by written or printed notice in hand or left at the last and usual place of abode, provided that the posting of the copy of an order in a conspicuous place in the drill or business room of the company, at a regular meeting held not less than four days before the time fixed in such order for the performance of any duty shall be sufficient notice to all members of the company not excused from such meeting; and provided that when the days upon which stated drills provided by law, orders, or regulation are to be held have been fixed, no further notice thereof shall be required to the members of the company.

Sect. 86. *The service medal.*—Every officer and soldier who has rendered honorable service for nine years in the active militia of the State shall receive a service medal therefor and an additional bar or clasp for each additional three years' service.

Sect. 87. *Articles of War of the United States to be in force in time of war.*—Whenever any portion of the militia not being in the service of the United States shall be on duty or ordered to assemble for duty by the governor in time of actual war, insurrection, invasion or rebellion, the articles of war governing the army of the United States, the articles for the government of the United States navy,

8 and the regulations prescribed for the army and navy of the
9 United States, so far as consistent with this chapter and
10 the regulations issued thereunder, shall be in force and re-
11 garded as a part of this chapter until said forces shall duly
12 be relieved from such duty during such state of actual war,
13 insurrection, invasion, or rebellion; but no punishment un-
14 der such rules and articles which shall extend to the taking
15 of life, shall in any case be inflicted until the approval by
16 the governor of the sentence inflicting such punishment.

Sect. 88. *Articles for the government of the military forces*
2 *in time of peace.*—Whenever any portion of the militia shall
3 be on duty or ordered to assemble for duty in the service
4 of this State in accordance with this chapter, except as pro-
5 vided in the preceding section, the following rules and arti-
6 cles, being modifications of the corresponding rules and
7 articles of war of the United States, shall govern:

Article 2. Enlistment in the active militia of this State
9 shall be voluntary, and every person who enlists therein
10 shall take and subscribe an oath (or affirmation) in the fol-
11 lowing form:

I, —————, do solemnly swear (or affirm) that I will
13 bear true faith and allegiance to the State of Maine and to
14 the United States of America; that I will serve them hon-
15 estly and faithfully against all their enemies whomsoever,
16 and that I will obey the orders of the Governor of Maine
17 and the orders of the officers appointed over me, according

18 to the laws, rules and articles for the government of the
19 military forces of the State of Maine.

Article 3. Every officer who knowingly enlists or musters
21 into the military service of this State any minor over the
22 age of eighteen years without the written consent of his
23 parent or guardian, or any minor under the age of eighteen
24 years, or any insane or intoxicated person, or any deserter
25 from the military service of this State or of the United States,
26 or any person who has been convicted of any infamous crime,
27 shall suffer such punishment as a court-martial may direct.

Article 4. No enlisted man, duly sworn, shall be discharged
29 from service without a discharge in writing, signed by a
30 field officer of the regiment to which he belongs, or by
31 the commanding officer when no field officer is present;
32 and no discharge shall be given to any enlisted man before
33 his term of service has expired except by order of the gov-
34 ernor, the adjutant general or by sentence of a general court-
35 martial.

Article 5. Any officer who knowingly musters as a soldier
37 a person who is not a soldier shall be deemed guilty of know-
38 ingly making a false muster and punished as a court-martial
39 may direct.

Article 6. Any officer who takes money or other thing,
41 by way of gratification, on mustering any regiment, or com-
42 pany, or on signing muster rolls, shall be dismissed from
43 the service, and shall thereby be disabled to hold any office
44 or employment, civil or military, in the service of the State

45 of Maine, or suffer such other punishment as a court-martial
46 may direct.

Article 7. Every commanding officer shall, in the begin-
48 ning of December and June of each year, and oftener if
49 required by the governor, transmit to the adjutant general
50 an exact return of the troops under his command, specify-
51 ing the names of the officers absent from their posts, with
52 the reasons for and the time of their absence. And any
53 such officer who, through neglect or design, omits to send
54 such return, shall be punished as a court-martial may direct.

Article 8. Every officer who knowingly makes a false re-
56 turn to the adjutant general or to any of his superior offi-
57 cers authorized to call for such returns, of the state of the
58 regiment or company under his command; or of any arms,
59 ammunition, clothing or other stores thereunto belonging,
60 shall be punished as a court-martial may direct.

Article 10. Every officer commanding a troop, battery, or
62 company, is charged with the arms, accoutrements, ammu-
63 nition, clothing, or other military stores belonging to his
64 command, and is accountable to the governor in case of
65 their being lost, spoiled or damaged otherwise than by un-
66 avoidable accident, or on actual service.

Article 13. Every officer who signs a false certificate
68 relating to the absence or pay of any officer or soldier shall
69 be discharged from the service or suffer such other punish-
70 ment as a court-martial may direct.

Article 14. Any officer who knowingly makes a false muster of man or horse, or who signs, or directs, or allows the signing of any muster roll, knowing the same to contain a false muster, shall, upon proof thereof, by two witnesses, before a court-martial, be dismissed from the service, and shall thereby be disabled to hold any office or employment, civil or military, in the service of the State of Maine.

Article 15. Any officer who, wilfully or through neglect, suffers to be lost, damaged or spoiled any military stores or supplies belonging to this State or to the United States which have been received for use of the military forces of this State, shall make good the loss or damage and suffer such punishment as a court-martial may direct.

Article 16. Any soldier who sells, or wilfully or through neglect wastes, the ammunition delivered out to him, shall make good the loss and suffer such punishment as a court-martial may direct.

Article 17. Any soldier who sells or through neglect loses or spoils his horse, arms, clothing, or accoutrements or any other military stores or supplies issued to him for his use or in his charge, shall make good the loss or damage, and suffer such punishment as a court-martial may direct.

Article 20. Any officer or soldier who behaves himself with disrespect toward his commanding officer shall be punished as a court-martial may direct.

Article 21. Any officer or soldier who, on any pretense whatsoever, strikes his superior officer, or draws or lifts

98 up any weapon, or offers any violence against him, being
99 in the execution of his office, or disobeys any lawful com-
100 mand of his superior officer, shall suffer such punishment
101 as a court-martial may direct.

Article 22. Any officer or soldier who begins, excites,
103 causes, or joins in any mutiny or sedition, in any troop,
104 battery, company, party, post, detachment, or guard, shall
105 suffer such punishment as a court-martial may direct.

Article 23. Any officer or soldier who, being present at
107 any mutiny or sedition, does not use his utmost endeavor
108 to suppress the same, or having knowledge of any intended
109 mutiny or sedition, does not, without delay, give infor-
110 mation thereof to his commanding officer, shall suffer such
111 punishment as a court-martial may direct.

Article 24. All officers, of what condition soever, whether
113 among persons belonging to his own or to another corps,
114 regiment, troop, battery, or company, and to order officers
115 into arrest, and non-commissioned officers and soldiers into
116 confinement, who take part in the same, until their proper
117 superior officer is acquainted therewith. And whosoever,
118 being so ordered, refuses to obey such officer or non-com-
119 missioned officer, or draws a weapon upon him, shall be
120 punished as a court-martial may direct.

Article 26. No officer or soldier shall send a challenge to
122 another officer or soldier to fight a duel, or accept a chal-
123 lenge so sent. Any officer who so offends shall be dis-

124 missed from the service. Any soldier who so offends shall
125 suffer such punishment as a court-martial may direct.

Article 32. Any soldier who absents himself from his
127 troop, battery, company, or detachment, without leave from
128 his commanding officer, shall be punished as a court-martial
129 may direct.

Article 33. Any officer or soldier who fails, except when
131 prevented by sickness or other necessity, to repair, at the
132 fixed time, to the place of parade, exercise or other ren-
133 dezvous appointed by his commanding officer, or goes from
134 the same, without leave from his commanding officer, be-
135 fore he is dismissed or relieved, shall be punished as a
136 court-martial may direct.

Article 34. Any soldier who is found one mile from camp,
138 without leave in writing from his commanding officer, shall
139 be punished as a court-martial may direct.

Article 36. No soldier belonging to any regiment, troop,
141 battery, or company shall hire another to do his duty for
142 him, or be excused from duty, except in cases of sickness,
143 disability, or leave of absence. Every such soldier found
144 guilty of hiring his duty, and the person so hired to do
145 another's duty, shall be punished as a court-martial may
146 direct.

Article 37. Every non-commissioned officer who connives
148 at such hiring of duty shall be reduced. Every officer who
149 knows and allows such practices shall be punished as a
150 court-martial may direct.

Article 38. Any officer who is found drunk on his guard,
152 party, or other duty, shall be dismissed from the service.
153 Any soldier who so offends shall suffer such punishment
154 as a court-martial may direct.

Article 39. Any sentinel who is found sleeping upon his
156 post, or who leaves it before he is regularly relieved, shall
157 suffer such punishment as a court-martial may direct.

Article 40. Any officer or soldier who quits his guard,
159 platoon, or division, without leave from his superior offi-
160 cer, except in case of urgent necessity, shall be punished
161 as a court-martial may direct.

Article 41. Any officer who, by any means whatsoever,
163 occasions false alarms in camp, command or quarters shall
164 suffer such punishment as a court-martial may direct.

Article 42. Any officer or soldier who misbehaves himself
166 before the enemy, or shamefully abandons any place, post
167 or guard, which he is commanded to defend, or speaks
168 words inducing others to do the like, or casts away his
169 arms or ammunition, quits his post or colors to plunder
170 or pillage, shall suffer such punishment as a court-martial
171 may direct.

Article 47. Any officer or soldier who, having been duly
173 enlisted or drafted in the military service of this State,
174 deserts the same, shall suffer such punishment as a court-
175 martial may direct.

Article 48. Every soldier who deserts the military service
177 of this State shall be liable to serve for such period as shall,

178 with the time he may have served previous to his desertion,
179 amount to the full term of his enlistment; and such soldier
180 shall be tried by a court-martial and punished, although the
181 term of his enlistment may have elapsed previous to his
182 being apprehended and tried.

Article 49. Any officer who, having tendered his resigna-
184 tion, quits his post or proper duties without leave and with
185 intent to remain permanently absent therefrom, prior to
186 due notice of the acceptance of the same, shall be deemed
187 and punished as a deserter.

Article 50. No soldier shall enlist himself in any other
189 regiment or company, without a regular discharge from
190 the regiment or company in which he last served, on a
191 penalty of being reputed a deserter and suffering accord-
192 ingly. And in case any officer shall knowingly receive and
193 entertain such soldier, or shall not, after his being discov-
194 ered to be a deserter, immediately give notice thereof to
195 the command in which he last served, the said officer shall,
196 by court-martial, be dismissed.

Article 59. When any officer or soldier is accused of a
198 capital crime, or of any offense against the person or
199 property of any citizen of this State, which is punishable
200 by the laws of this State, the commanding officer and the
201 officers of the regiment, company, or detachment to which
202 the person so accused belongs are required, except in time
203 of war, upon application duly made by or in behalf of the
204 party injured, to use their utmost endeavors to deliver him

205 over to the civil magistrate, and to aid the officers of jus-
206 tice in apprehending and securing him, in order to bring
207 him to trial. If, upon such application, any officer refuses
208 or wilfully neglects, except in time of war, to deliver over
209 such accused person to the civil magistrates, or to aid the
210 officers of justice in apprehending him, he shall be dis-
211 missed from the service.

Article 60. Any person in the military service of this
213 State who makes or causes to be made any claim against
214 this State or the United States, or any officer thereof, know-
215 ing such claim to be false or fraudulent; or

Who presents or causes to be presented to any person in
217 the civil or military service thereof, for approval or pay-
218 ment, any claim against this State or the United States,
- 219 or any officer thereof, knowing such claim to be false or
220 fraudulent; or

Who enters into any agreement or conspiracy to defraud
222 this State or the United States by obtaining, or aiding
223 others to obtain, the allowance or payment of any false or
224 fraudulent claims; or

Who, for the purpose of obtaining or aiding others to
226 obtain, the approval, allowance, or payment of any claim
227 against this State or the United States, or against any offi-
228 cer thereof, makes or uses or procures or advises the mak-
229 ing or use of any writing, or other papers, knowing the
230 same to contain any false or fraudulent statements; or

Who, for the purpose of obtaining, or aiding others to
232 obtain, the approval, allowance, or payment of any claim
233 against this State or the United States or any officer there-
234 of, makes or procures or advises the making of, any oath
235 to any fact or to any writing or other paper, knowing such
236 oath to be false; or

Who for the purpose of obtaining, or aiding others to
238 obtain, the approval, allowance, or payment of any claim
239 against this State or the United States or any officer there-
240 of, forges or counterfeits, or procures or advises the forg-
241 ing or counterfeiting of, any signature upon any writing
242 or other paper, or uses, or procures or advises the use of,
243 any such signature, knowing the same to be forged or
244 counterfeited; or

Who, having charge, possession, custody, or control of any
246 money or other property of this State or the United States,
247 furnished or intended for the military service of this State,
248 knowingly delivers, or causes to be delivered, to any per-
249 son having authority to receive the same, any amount there-
250 of less than that for which he receives a certificate, or re-
251 ceipt; or

Who, being authorized to make or deliver any papers cer-
253 tifying the receipt of any property of this State or the
254 United States, furnished or intended for the military ser-
255 vice of this State, makes or delivers to any person such
256 writing without having full knowledge of the truth of the

257 statements therein contained, or with intent to defraud
258 this State or the United States; or

Who steals, embezzles, knowingly and wilfully misappro-
260 priates, applies to his own use, or benefit, or wrongfully
261 or knowingly sells or disposes of any ordnance, arms,
262 equipments, ammunition, clothing, subsistence stores, money,
263 or other property of this State or the United States, fur-
264 nished or intended for the military service of this State; or

Who knowingly purchases, or receives in pledge for any
266 obligation or indebtedness, from any soldier, officer, or
267 other person who is a part of or employed in said forces
268 or service, any ordnance, arms, equipments, ammunition,
269 clothing, subsistence stores or other property of this State
270 or of the United States, such soldier or officer or other
271 person not having lawful right to sell or pledge the same
272 shall, on conviction thereof, be punished by fine or impris-
273 onment or by such other punishment as a court-martial
274 may adjudge; or by any or all of said penalties. And if
275 any person, being guilty of any of the offenses aforesaid,
276 while in the military service of this State receives his dis-
277 charge, or is dismissed from the service, he shall continue
278 to be liable to be arrested and held for trial and sentenced by
279 a court-martial, in the same manner and to the same extent
280 as if he had not received such discharge or been dismissed.

Article 61. Any officer who is convicted of conduct un-
282 becoming an officer and a gentleman shall be dismissed
283 from the service.

Article 62. All crimes not capital, and all disorders and
285 neglects, which officers and soldiers may be guilty of, to
286 the prejudice of good order and military discipline, though
287 not mentioned in the foregoing articles, are to be taken
288 cognizance of by a general, or a regimental, garrison, or
289 summary court-martial, according to the nature and degree
290 of the offense, and punished at the discretion of such court.

Article 63. All retainers to the camp, and all persons serv-
292 ing with the military forces of this State in the field, though
293 not enlisted soldiers, shall be subject to these rules and
294 articles in the same manner as enlisted men.

Article 64. The officers and soldiers of any troops, whether
296 active or reserve militia of this State or otherwise, ap-
297 pointed, enlisted, mustered or drafted into the military
298 forces of this State, shall, at all times, and in all places,
299 be governed by these articles, and shall be subject to be
300 tried by courts-martial.

Article 65. Officers charged with crime may be arrested
302 and confined in their quarters or tents, or other place, and
303 shall be deprived of their swords and command by the
304 commanding officer. And any officer who leaves his con-
305 finement before he is set at liberty by his commanding
306 officer shall be dismissed from the service, or suffer such
307 other punishment as a court-martial may direct.

Article 66. Soldiers charged with crime may be confined
209 until tried by courts-martial, or released by proper au-
310 thority.

Article 67. Any provost marshal or any officer commanding a guard who shall refuse to receive or keep any prisoner committed to his charge by an officer belonging to the military forces of the State, shall suffer such punishment as a court-martial may direct; provided the officer committing shall, at the same time, deliver a statement in writing, signed by himself, of the crime charged against the prisoner.

Article 68. Every officer to whose charge a prisoner is committed shall, within twenty-four hours after such commitment, or as soon as he is relieved from his guard, report in writing, to the commanding officer, the name of such prisoner, the crime charged against him, and the name of the officer committing him; and if he fails to make such report, he shall be punished as a court-martial may direct.

Article 69. Any officer who presumes, without proper authority, to release a prisoner committed to his charge, or suffers any prisoner so committed to escape, shall be punished as a court-martial may direct.

Article 70. No officer or soldier put in arrest shall be continued in confinement more than five days, or until such time as a court-martial can be assembled.

Article 71. When an officer is put in arrest for the purpose of trial, except at remote stations, the officer by whose order he is arrested shall see that a copy of the charges on which he is to be tried is served upon him within five days after his arrest, and that he is brought

338 to trial within ten days thereafter, unless the necessities
339 of the service prevent such trial; and then he shall be
340 brought to trial within thirty days after the expiration of
341 said ten days. If a copy of the charges be not served,
342 or the arrested officer be not brought to trial, as herein
343 required, the arrest shall cease.

Article 72. The governor, or any general or other officer
345 commanding a division or brigade may appoint general
346 courts-martial whenever necessary. But when any such
347 general or other officer is the accuser or prosecutor of any
348 officer under his command, the court shall be appointed
349 by the governor; and its proceedings and sentence shall
350 be sent directly to the adjutant general, by whom they
351 shall be laid before the governor for his approval or orders
352 in the case.

Article 74. Officers who may appoint a court-martial,
354 excepting summary courts, shall be competent to appoint
355 a judge advocate for the same.

Article 75. General courts-martial may consist of any
357 number of officers from five to thirteen inclusive.

Article 79. Officers shall be tried only by general courts-
359 martial; and no officer shall, when it can be avoided, be
360 tried by officers inferior to him in rank.

Article 80. The commanding officer of each camp, station,
362 or other place, regiment or corps, detached battalion, or
363 company, or other detachment in the military forces of
364 this State, shall have power to appoint for such place,

365 command, or station, a summary court to consist of one
366 officer to be designated by him, before whom enlisted men
367 who are to be tried, shall be brought to trial within twen-
368 ty-four hours of the time of the arrest, or as soon there-
369 after as practicable, except when the accused is to be tried
370 by general court-martial; but such summary court may
371 be appointed and the officer designated by superior au-
372 thority when by him deemed desirable; and the officer hold-
373 ing the summary court shall have power to administer
374 oaths and to hear and determine such cases, and when
375 satisfied of the guilt of the accused adjudge the punish-
376 ment to be inflicted, which said punishment shall not ex-
377 ceed ten days' confinement, forfeiture of ten dollars pay,
378 or a fine of ten dollars, or any or all of such confinement,
379 forfeiture of pay and fine, and, in the case of a non-com-
380 missioned officer, reduction to the ranks in addition there-
381 to; that there shall be a summary court record kept at
382 the headquarters of the proper command in the field, each
383 regiment, or corps, detached battalion, or company at its
384 home station, in which shall be entered a record of all
385 cases heard and determined and the action had thereon;
386 and no sentence adjudged by said summary court shall
387 be executed until it shall have been approved by the offi-
388 cer appointing the court, or by the officer commanding
389 for the time being: Provided, That when but one com-
390 missioned officer is present with a command he shall hear
391 and finally determine such cases: And provided further,

392 that non-commissioned officers shall not, if they object
393 thereto, be brought to trial before summary courts with-
394 out the authority of the officer competent to order their
395 trial by general court-martial, but shall in such cases be
396 brought to trial before garrison, regimental, or general
397 courts-martial, as the case may be.

Article 81. Every officer commanding a regiment or corps
399 shall, subject to the provisions of Article 80, be competent
400 to appoint, for his own regiment or corps, courts-martial,
401 consisting of three officers, to try offenses not capital.

Article 82. Every officer commanding a garrison, fort,
403 or other place, where the troops consist of different corps,
404 shall, subject to the provisions of Article 80, be competent
405 to appoint, for such garrison or other place, courts-mar-
406 tial, consisting of three officers, to try offenses not capital.

Article 83. Regimental and garrison courts-martial and
408 summary courts shall not have power to try commissioned
409 officers, but shall have power to award punishment not
410 to exceed confinement for a month, forfeiture of thirty
411 dollars pay, or a fine of thirty dollars, or any or all of
412 such confinement, forfeiture of pay and fine, and in addi-
413 tion thereto, in the case of non-commissioned officers, re-
414 duction to the ranks, and in the cases of first class privates
415 reduction to second class privates: Provided, That a sum-
416 mary court shall not adjudge confinement, forfeiture or
417 fine in excess of ten days' confinement, forfeiture of ten
418 dollars pay, or a fine of ten dollars, or any or all of such

419 confinement, forfeiture, and fine unless the accused shall
420 before trial consent in writing to trial by said court; but
421 in any case of refusal to so consent the trial may be had
422 either by general, regimental, or garrison court-martial,
423 or by said summary court, but in case of trial by said
424 summary court without consent as aforesaid the court
425 shall not adjudge more than ten days' confinement, for-
426 feiture of ten dollars pay, or a fine of ten dollars, or any
427 or all of such confinement, forfeiture and pay.

Article 84. The judge advocate shall administer to each
429 member of the court, before they proceed upon trial, the
430 following oath (or affirmation) which shall also be taken
431 by all members of regimental and garrison courts-martial:
432 "You, A. B., do swear (or affirm) that you will well and
433 truly try and determine according to evidence, the matter
434 now before you, between the State of Maine and the
435 prisoner to be tried, and that you will duly administer
436 justice, without partiality, favor, or affection, according
437 to the provisions of the rules and articles for the govern-
438 ment of the military forces of this State, and if any doubt
439 should arise, not explained by said articles, then accord-
440 ing to your conscience, the best of your understanding,
441 and the customs of war in like cases, and you do further
442 swear (or affirm) that you will not divulge the sentence
443 of the court until it shall be published by the proper au-
444 thority, except to the judge advocate; neither will you

445 disclose or discover the vote or opinion of any particular
446 member of the court-martial, unless required to give evi-
447 dence thereof, as a witness, by a court of justice in due
448 course of law. So help you God.”

Article 85. When the oath (or affirmation) has been
450 administered to the members of a court-martial, the presi-
451 dent of the court shall administer to the judge advocate,
452 or person officiating as such, an oath (or affirmation) in
453 the following form: “You, A. B., do swear (or affirm)
454 that you will not disclose or discover the vote or opinion
455 of any particular member of the court-martial, unless
456 required to give evidence thereof as a witness by a court
457 of justice in due course of law; nor divulge the sentence
458 of the court to any but the proper authority, until it shall
459 be duly disclosed by the same. So help you God.”

Article 86. A court-martial may punish, at discretion, any
461 person who uses any menacing words, signs, or gestures
462 in its presence, or who disturbs its proceedings by any
463 riot or disorder.

Article 87. All members of a court-martial are to behave
465 with decency and calmness.

Article 88. Members of a court-martial may be chal-
467 lenged by a prisoner, but only for causes stated to the
468 court. The court shall determine the relevancy and valid-
469 ity thereof, and shall not receive a challenge to more than
470 one member at a time.

Article 89. When a prisoner, arraigned before a court-
472 martial, from obstinacy and deliberate design, stands mute
473 or answers foreign to the purpose, the court may proceed
474 to trial and judgment as if the prisoner had pleaded not
475 guilty.

Article 90. The judge advocate or some person deputed
477 by him, or by the governor, or general, or officer com-
478 manding the division, brigade, camp or other place, regi-
479 ment, separate squadron or battery shall prosecute in the
480 name of the State of Maine, but when the prisoner has
481 made his plea he shall so far consider himself counsel for
482 the prisoner as to object to any leading question to any
483 of the witnesses and to any question to the prisoner the
484 answer to which might tend to criminate himself.

Article 91. The depositions of witnesses residing beyond
486 the limits of this State, may be taken and read in evidence
487 as provided by the laws of this State.

Article 92. All persons who give evidence before a court-
489 martial shall be examined on oath, or affirmation, which
490 shall be administered by the judge advocate in the follow-
491 ing form: "You swear (or affirm) that the evidence you
492 shall give in the case now in hearing shall be the truth,
493 the whole truth, and nothing but the truth. So help you
494 God."

Article 93. A court-martial shall, for reasonable cause,
496 grant a continuance to either party for such time and as

497 often as may appear to be just; provided, that if the pris-
498 oner be in close confinement the trial shall not be delayed
499 for a period longer than thirty days.

Article 95. Members of a court-martial, in giving their
501 votes, shall begin with the youngest in commission.

Article 99. No officer shall be discharged or dismissed
503 from the service except by order of the governor or by
504 sentence of a general court-martial.

Article 100. When an officer is dismissed from the ser-
506 vice for cowardice or fraud, the sentence shall direct that
507 the crime, punishment, name and place of abode of the
508 delinquent shall be published in the newspapers in and
509 about the State and in the county in which the offender
510 lives or where he usually resides; and after such publi-
511 cation it shall be scandalous for an officer to associate
512 with him.

Article 101. When a court-martial suspends an officer
514 from command, it may also suspend his pay and emolu-
515 ments for the same time, according to the nature of his
516 offense.

Article 102. No person shall be tried a second time for
518 the same offense.

Article 103. No person shall be liable to be tried and
520 punished by a general court-martial for any offense which
521 appears to have been committed more than one year before
522 the issuing of the order for such trial, unless, by reason

523 of having absented himself, or of some other manifest im-
524 pediment, he shall not have been amenable to justice within
525 that period.

No person shall be tried or punished by a court-martial
527 for desertion in time of peace and not in the face of an
528 enemy, committed more than one year before the arraign-
529 ment of such person for such offense, unless he shall mean-
530 while have absented himself from the State, in which case
531 the time of his absence shall be excluded in computing
532 the period of the limitation: Provided, That said limita-
533 tion shall not begin until the end of the term for which
534 said person was mustered into the service.

Article 104. No sentence of a court-martial shall be car-
536 ried into execution until the same shall have been approved
537 by the officer ordering the court, or by the officer com-
538 manding for the time being.

Article 106. No sentence of a court-martial respecting a
540 general officer, and no sentence of a court-martial direct-
541 ing the dismissal of any officer, shall be carried into execu-
542 tion until it shall have been confirmed by the governor.

Article 109. All sentences of a court-martial may be con-
544 firmed and carried into execution by the officer ordering
545 the court, or by the officer commanding for the time being,
546 where confirmation by the governor is not required by
547 these articles.

Article 112. Any officer who is authorized to confirm and
549 carry into execution the sentence of a court-martial shall
550 have power to pardon or mitigate any punishment ad-
551 judged by it, except the punishment of dismissal of an
552 officer; and the governor shall have power to pardon or
553 mitigate any punishment adjudged by any court-martial.

Article 115. A court of inquiry to examine into the nature
555 of any transaction of or accusation or imputation against
556 any officer or soldier may be ordered by the governor or
557 by any commanding officer; but such courts of inquiry
558 shall never be ordered by any commanding officer except
559 upon a demand by the officer or soldier whose conduct is
560 to be inquired of.

Article 116. A court of inquiry shall consist of one or
562 more officers, not exceeding three, and a recorder to reduce
563 the proceedings to writing.

Article 117. The recorder of a court of inquiry shall
565 administer to the members the following oath: "You shall
566 well and truly examine and inquire, according to the evi-
567 dence, into the matter now before you, without partiality,
568 favor, affection, prejudice or hope of reward. So help
569 you God." After which the president of the court shall
570 administer to the recorder the following oath: "You, A.
571 B., do swear that you will, according to your best abilities,
572 accurately and impartially record the proceedings of the

573 court and the evidence to be given in the case in hearing.
574 So help you God.”

Article 118. A court of inquiry and the recorder thereof
576 shall have the same power to summon and examine wit-
577 nesses as is given to courts-martial and the judge advo-
578 cate thereof. Such witnesses shall take the same oath
579 which is taken by witnesses before courts-martial, and the
580 party accused shall be permitted to examine and cross-
581 examine them so as fully to investigate the circumstances
582 in question.

Article 119. A court of inquiry shall not give an opinion
584 on the merits of the case inquired of unless specially or-
585 dered to do so.

Article 120. The proceedings of a court of inquiry must
587 be authenticated by the signature of the recorder and the
588 president thereof, and delivered to the commanding officer.

Article 121. The proceedings of a court of inquiry may
590 be admitted as evidence by a court-martial in cases not
591 extending to the dismissal of an officer; provided, that the
592 circumstances are such that oral testimony can not be
593 obtained.

Article 122. The foregoing articles shall be read once
595 in every twelve months to every company in the military
596 service of this State, and shall be duly observed and obeyed
597 by all officers and soldiers in said service.

Section 89. *Rules of evidence.*—The rules of evidence
2 in all courts-martial shall follow in general, so far as appo-
3 site, the common law rules of evidence as observed by the
4 courts of this State in criminal cases, but a certain latitude
5 in the introduction of evidence and the examination of wit-
6 nesses by an avoidance of restrictive rules is permissible
7 when it is in the interest of the administration of military
8 justice. The accused shall, at his own request but not other-
9 wise, be a competent witness; and his failure to make such
10 request shall not create any presumption against him.

Sect. 90. *Rights of the accused.*—In all trials before
2 courts-martial the accused shall have the right to demand the
3 nature and cause of the accusation against him, and to be
4 presented with a copy of the charges. He shall have the
5 right of being heard by himself or counsel or both; and shall
6 have compulsory process for obtaining witnesses in his favor.
7 The officer ordering a general, regimental, or garrison court-
8 martial will, at the request of any prisoner who is to be ar-
9 raigned, detail as his counsel a suitable officer who shall per-
10 form such duties as devolve upon counsel for defendant be-
11 fore civil courts in criminal cases.

Sect. 91. *Power of judge-advocate to issue necessary*
2 *process.*—The judge-advocate of any court-martial, and any
3 summary court, will summon the necessary witnesses for the
4 trial, and for that purpose shall have authority to issue in the
5 name of the State the necessary subpoenas; and every judge-

6 advocate of a court-martial shall have power to issue the like
7 process to compel witnesses to appear and testify which
8 courts of criminal jurisdiction within this State may lawfully
9 issue. Such writs and process may be served and executed
10 by a military person or persons designated to do so by the
11 judge-advocate, or they may be directed to any sheriff, con-
12 stables, or other officer, whose duty it shall be to serve or ex-
13 ecute the same in the same manner in which like writs and
14 process are served and executed when issued by the civil
15 courts of criminal jurisdiction in this State.

The attendance of witnesses in the military service of the
17 State may be procured by the service of formal subpoena, or
18 by the order of competent military authority; and every per-
19 son in the military service of the State who being duly sub-
20 poenaed or ordered to appear as a witness before a court-
21 martial willfully neglects or refuses to appear, or refuses to
22 qualify as a witness, or to testify or produce documentary
23 evidence, shall be deemed guilty of disobedience of orders
24 and punished by a court-martial accordingly; and every per-
25 son not belonging to the military service of the State who
26 being duly subpoenaed to appear as a witness before a court-
27 martial willfully neglects or refuses to appear or refuses so
28 to qualify, testify, or produce documentary evidence, shall be
29 deemed guilty of a misdemeanor, and prosecuted like other
30 misdemeants in any court of competent jurisdiction and pun-
31 ished by a fine not exceeding one hundred dollars; provided

32 that such witness may plead as a defense that he was not ten-
33 dered one day's fee and mileage for the journey to and from
34 the place of trial; and provided that all witnesses shall re-
35 ceive the fees prescribed in the supreme judicial court, such
36 amounts to be paid by the adjutant general; and provided
37 that no witness shall be compelled to incriminate himself or
38 to answer any questions which may tend to incriminate or
39 degrade him.

Sect. 92. *Subpoenas and other process to extend through-*
2 *out the State.*—Subpoenas and all other writs and process
3 when issued by general courts-martial shall extend to every
4 part of the State, but when issued by other military courts
5 cannot be executed in any county other than the one in which
6 issued, except they be indorsed by the governor, or an officer
7 authorized to order a general court-martial, in which case
8 they can be executed anywhere in this State. The indorse-
9 ment shall be, in substance, "Let this process be executed in
10 any county of the State of Maine," and shall be dated and
11 signed by the officer making it.

Sect. 93. *Maximum limits of punishment.*—Whenever by
2 any of the articles of section eighty-eight, the punishment
3 on conviction of any military offense is left to the discretion
4 of the court-martial, the punishment shall not exceed, in the
5 case of officers, dismissal from the service, a forfeiture of all
6 pay and allowances, and a fine of two hundred dollars and
7 costs of witnesses, and, in the case of enlisted men thirty
8 days confinement, dishonorable discharge, forfeiture of all
9 pay and allowances, and a fine of fifty dollars and costs of

10 witnesses. Within such maximum limit the governor may
11 prescribe in the case of enlisted men a lesser limit which a
12 court-martial shall not exceed, and if no such limit be pre-
13 scribed any fine awarded shall not exceed the amount of for-
14 feiture prescribed in the Executive Order establishing maxi-
15 mum limits of punishment for enlisted men in the regular
16 army. But confinement shall in no case be awarded as a
17 punishment except for an offense committed when on duty in
18 any encampment, maneuvers, and field instruction ordered
19 for at least five consecutive days, or when called out by the
20 governor in case of insurrection, invasion, tumult, riot, mob,
21 resistance to the laws of the State, or of imminent danger
22 thereof, or when called out in aid of the civil power.

Sect. 94. *Warrants of commitment.*—When the sentence
2 of a court-martial adjudges a fine and cost against any per-
3 son, and such fine and cost has not been fully paid within
4 thirty days after the confirmation thereof, or whenever a
5 person in the military service is ordered confined to await
6 trial or is sentenced to confinement by a court-martial, or
7 whenever any person is ordered into confinement under the
8 eighty-sixth article, at a place or station not provided with
9 a guard-house or military prison, the governor, the court or
10 officer ordering the court, or the officer commanding for the
11 time being, as the case may be, shall issue a warrant of com-
12 mitment directed to the sheriff of the county in which the
13 court-martial was held, directing him to take the body of the
14 person so convicted and confine him in the county jail; and it

15 shall be the duty of the sheriff to take the body of the person
16 convicted and confine him in the county jail for the time
17 specified in the sentence, or for one day for any fine not ex-
18 ceeding one dollar, and one additional day for every dollar
19 above that sum, and one additional day for each dollar of
20 cost.

Sect. 95. *Jurisdiction presumed; immunity of court.*—The
2 jurisdiction of the courts and boards established by this act
3 shall be presumed, and the burden of proof shall rest on any
4 person seeking to oust such courts or boards of jurisdiction
5 in any action or proceeding.

No action or proceeding shall be prosecuted or maintained
7 against a member of the military forces of this State or of-
8 ficer or person acting under its authority or reviewing its
9 proceedings on account of the approval or imposition or ex-
10 ecution of any sentence, or the imposition or collection of any
11 fine or penalty, or the execution of any warrant, writ, execu-
12 tion, process or mandate of a military court.

Sect. 96. *Judge advocates may administer oaths in mili-
2 tary administration.*—Officers of the judge advocate gen-
3 eral's department, judge advocates of courts-martial, and the
4 trial officers of summary courts, are hereby authorized to ad-
5 minister oaths for the purpose of military administration,
6 and shall charge no fee for the same.

Sect. 97. *Report of trials.*—Each summary court and the
2 judge advocate of each regimental and each garrison court
3 shall, at the end of each month, make a report to the adjutant

4 general of the cases tried, setting forth the offense com-
5 mitted and penalty awarded, which reports may be destroyed
6 when no longer of use.

Sect. 98. *Naval Reserve*.—The provisions of this article
2 shall apply, so far as apposite, to the Naval Reserve.

Sect. 99. *Pay for drills*.—There shall be designated in ad-
2 vance by the commanding officer, for each company of the
3 National Guard, for the Naval Reserve, and for each de-
4 tachment of the Hospital Corps authorized by the adjutant
5 general, twenty-four regular drill periods in each calendar
6 year, and each officer and enlisted man belonging to such
7 company, Naval Reserve, or detachment, and each officer
8 and enlisted man attached thereto for purposes of instruc-
9 tion, who attends and performs his full duty at each such
10 designated drill, shall receive the following pay:

Major or captain medical corps, commanding detachment,
12 and captain, two dollars; first lieutenant, one dollar and
13 twenty-five cents; second lieutenant, one dollar; first ser-
14 geants and all other enlisted men, who, according to the rate
15 of pay obtaining in the regular army, receive the pay of first
16 sergeant, or more, seventy-five cents; sergeants of infantry
17 and artillery and all other enlisted men who, according to the
18 rate of pay obtaining in the regular army, receive the pay of
19 sergeants of infantry and artillery, or more, and not includ-
20 ed in the preceding class, forty-five cents; corporal of in-
21 fantry and artillery, and all other enlisted men who, accord-
22 ing to the rate of pay obtaining in the regular army, receive

23 the pay of corporal of infantry or artillery, or more, and not
24 included in the preceding two classes, thirty-five cents; all
25 other enlisted men, twenty-five cents; such amounts to be due
26 and payable semi-annually, and shall be allowed and paid by
27 the adjutant general out of the military fund; Provided, that
28 not less than one hour and a half actual instruction be consid-
29 ered a drill; and provided, that if any officer or enlisted men
30 belonging to and not on furlough from such company, Naval
31 Reserve, or detachment, or any officer or enlisted man at-
32 tached thereto for purposes of instruction, and not being on
33 furlough, shall fail, except when prevented by sickness evi-
34 denced by a surgeon's certificate, to repair at the fixed time
35 to the place appointed for such drill, or goes from the same
36 without leave from his commanding officer before he is dis-
37 missed or relieved, he shall for each such delinquency have
38 stopped against any amount due or to become due him an
39 amount equal to the pay herein provided for attendance;
40 provided also, that nothing contained in this section shall bar
41 or affect any trial had under the thirty-third article for the
42 government of the military forces of this State.

Sect. 100. *Duty pay*.—Each officer and enlisted man or-
2 dered for duty by the governor, or under his authority, shall
3 receive for every day actually on duty, except when so or-
4 dered to be inspected or mustered, or for small arms prac-
5 tice, drill, parade, review, or field service not extending be-
6 yond one day, the following pay:

Commissioned officers of whatsoever grade shall receive the
8 pay proper of officers of the same grade in the regular army,
9 and the necessary transportation; all non-commissioned of-
10 ficers, one dollar and fifty cents; privates, one dollar and
11 twenty-five cents; members of the band, three dollars; and in
12 addition thereto enlisted men shall receive the necessary
13 transportation and subsistence; provided, that when the ac-
14 tive militia shall remain on such duty for a longer period
15 than ten days the officers and men thereof shall receive for
16 time over ten days the same pay and allowances as the regu-
17 lar troops of the United States; and provided, that when the
18 ative militia, or any portion thereof, shall be called forth in
19 aid of the civil authority, or assembled in obedience to such
20 call, as provided for in section eighty-two, all officers and
21 men thereof shall receive the pay set forth in this section;
22 and such compensation and the necessary expenses incurred
23 in quartering, caring for, transporting, and subsisting the
24 troops, as well as the expense incurred for pay, care and
25 subsistence of officers and enlisted men temporarily disabled
26 in the line of duty, while on such duty, shall be paid by the
27 county where such service is rendered. The treasurer of
28 such county shall, upon presentation to him of vouchers and
29 pay rolls for such expenses and compensation, certified by
30 the commanding officer of the organization or corps on duty
31 in aid of the civil authority in such county or counties, and
32 approved by the adjutant general, forthwith execute in be-
33 half of and in the name of such county a certificate or certi-

34 ficates of indebtedness for the money required to pay such
35 vouchers and pay rolls; such certificates shall bear interest at
36 the rate of not to exceed six per centum per annum, and
37 shall be made payable on the first day of January following
38 the expiration of two months from their issue, and the
39 amount thereof shall be raised in the next tax budget of said
40 county succeeding their issue, and applied to the payment of
41 such certificates. Said county treasurer shall sell such
42 certificates at public or private sale, and apply the proceeds
43 thereof to the payment of such expenses and compensation.
44 Any county treasurer or public officer, who shall neglect or
45 refuse to perform any of the duties required by this section,
46 shall be personally charged with the costs and all necessary
47 disbursements of any action or proceeding brought to compel
48 such performance, together with a reasonable additional al-
49 lowance to the plaintiff or relator in such action or proceed-
50 ing, to be fixed by the court.

Sect. 101. *Additional pay and allowances.*—The adjutant
2 general shall allow in addition to all other pay and allow-
3 ances herein provided, to the adjutant general on the staff of
4 the brigade commander and to each regimental adjutant, the
5 sum of one hundred dollars per annum, to each company
6 commander the sum of fifty dollars per annum, and to each
7 company clerk and to each company quartermaster sergeant
8 the sum of twenty-five dollars per annum; such sums to be
9 due and payable semi-annually.

He shall provide, in such manner as he may deem best,
11 suitable mounts for all officers and enlisted men required to
12 perform mounted duty, and shall allow therefor a sum not
13 to exceed three dollars per day, and forage, for each suitable
14 mount, for such time as may be actually necessary.

He shall be paid all the actual and necessary expenses in-
16 curred in the performance of his duties; and he may allow
17 to officers ordered to make inspections or other journeys
18 necessary in the military service such incidental expenditures,
19 excepting subsistence, as are allowed by law and regulations
20 to officers of the regular army inspecting the organized mili-
21 tia.

He may authorize, whenever he deems it necessary, the
23 commutation of rations for enlisted men, which shall be at
24 the rate fixed by the regulations of the United States in force
25 at the time; and shall allow all other just and reasonable
26 claims, payments, and expenditures, legally made on behalf
27 of the military service of the State.

Sect. 102. *Payment of military accounts.*—All military ac-
2 counts, unless otherwise specially provided by law, shall be
3 approved by the person authorized to contract the same and
4 transmitted to the adjutant general for his examination and
5 approval. They shall then be presented to the governor and
6 council, and if found correct shall be certified to the paymas-
7 ter general for payment, and a warrant shall be drawn for
8 the amount thereof on the State treasurer in favor of the
9 paymaster general; accounts so allowed shall be paid by him

10 to the persons to whom they are severally due, or to their or-
11 der; provided that no payment whatever shall be made or
12 allowed except for duty actually performed or services ac-
13 tually rendered; and provided that no payment of any sum
14 authorized by this chapter shall be made to any person until
15 there shall have been first deducted therefrom all amounts
16 due by him to the State on any military account whatsoever.

Sect. 103. *The military fund.*—For the purpose of raising
2 revenue to defray the current expenses of the active militia
3 there shall be assessed and collected as other State taxes are,
4 a tax of one-tenth of one mill upon all property in the State
5 subject to taxation, for the present fiscal year and for each
6 fiscal year hereafter. The revenue thus raised shall be paid
7 into the State treasury and be converted into a special and
8 continuous military fund, from which special fund only, ex-
9 cept where herein otherwise specified, shall be paid the ex-
10 penses authorized by this act; and so much thereof as may
11 be necessary is hereby appropriated to carry out the provi-
12 sions of this article, to be paid upon vouchers approved as
13 provided in section one hundred and two; provided, that
14 should the military fund become inadequate to meet the pay
15 and expenses at the rate prescribed in this article, then the
16 Governor may make and publish in orders such pro rata re-
17 duction in the rate of pay and expenses prescribed as shall
18 render such fund sufficient; such reduced rate shall apply
19 only to services rendered and duty performed subsequent to
20 the publication of such order, and shall remain in force for

21 only such time as is necessary to accomplish the purpose.

Sect. 104. *Pay and care when injured or disabled in service.*

2 —Any member of the active militia who shall, when on duty
3 or assembled therefor, in case of riot, tumult, breach of the
4 peace, insurrection or invasion, or whenever called into ac-
5 tive service of the State by order of the governor, or called
6 in aid of the civil authorities, or when participating by order
7 of the governor in any encampment, maneuvers, and field
8 instruction of any part of the Regular Army at or near any
9 military post or camp or lake or sea coast defenses of the
10 United States, or when participating by order of the gover-
11 nor in practice marches or camps of instruction for at least
12 five consecutive days, receive any injury, or incur or con-
13 tract any disability or disease, by reason of such duty or
14 assembly therefor, or who shall without fault or negligence
15 on his part receive any wound or injury incident to and
16 while performing any lawfully ordered duty, which shall
17 temporarily incapacitate him from his usual business or
18 occupation, shall during the period of such incapacity, receive
19 pay provided by section one hundred and actual and nec-
20 essary expenses for care and medical attendance. No claim
21 shall be allowed under this section unless the claimant within
22 thirty days after receiving the injury or contracting the dis-
23 ease or disability upon which the claim is based, notifies in
24 writing the adjutant general of his intention to make such
25 claim. Under this section no disability shall be considered
26 temporary which continues more than ninety days after the

27 date of receiving the injury or of contracting or incurring
28 the disease or disability, and pay and expenses for care and
29 medical attendance for more than the said ninety days shall
30 not be allowed. Where a claim is made under this section,
31 the claimant shall, within thirty days after receiving the
32 injury or contracting the disease or disability upon which
33 the claim is made, or such further time as the adjutant gen-
34 eral shall grant, submit to the adjutant general his proof by
35 affidavits or otherwise as the adjutant general may direct.
36 On examination thereof the adjutant general may allow or
37 disallow the whole or any part of said claim, or he may refer
38 the same to a medical examiner or to a board of three offi-
39 cers, at least one being a medical officer, to be appointed by
40 the adjutant general, and such medical examiner or board
41 shall have the same power to take evidence, administer oaths,
42 issue subpoenas and compel witnesses to attend and testify
43 and produce books and papers, and punish their failures to
44 do so, as is possessed by a general court-martial. The find-
45 ing of the medical examiner or board shall be subject to the
46 approval of the adjutant general, who may approve the whole
47 or any part thereof, or he may return the proceedings for
48 revision or for taking further testimony. The adjutant gen-
49 eral may cause the examination of the claimant to be made
50 from time to time by a medical officer or officers designated
51 for the purpose, and may direct the removal of a claimant to,
52 and his treatment in, any hospital designated by the adju-
53 tant general, and if the claimant refuse to permit any exam-

54 ination herein provided for, or if he refuse to go to such hos-
55 pital, or to follow the advice given or treatment prescribed
56 for him therein, he shall thereby forfeit and be barred from
57 all right to any claim or allowance under this section.

The amount found due such member by the adjutant gen-
59 eral, either on his own investigation or on the report of a
60 medical examiner or board to the extent approved by him,
61 shall be a charge against and be paid in the manner provided
62 in section one hundred by the county in which such duty was
63 rendered, in every case where a county is by said section
64 made liable to pay for the performance of military duty;
65 and in all other cases such sums shall be a claim against the
66 State of Maine, and the adjutant general shall so certify to
67 the governor and council who will cause their warrant to be
68 drawn for the amount so certified, and the treasurer of the
69 State shall pay said amount to the claimant from any moneys
70 in the treasury not otherwise appropriated.

Sect. 105. *Relief when killed or permanently disabled in*
2 *service.*—If any member of the active militia when on duty
3 or assembled therefor in case of riot, tumult, breach of the
4 peace, insurrection or invasion, or whenever called into ac-
5 tive service of the State by order of the governor, or called
6 in aid of the civil authorities, or when participating by order
7 of the governor in any encampment, maneuvers, and field
8 instruction of any part of the regular army at or near any
9 military post or camp or lake or sea coast defenses of the
10 United States, or when participating by order of the gov-

11 error in practice marches or camps of instruction for at
12 least five consecutive days, or when performing any law-
13 fully ordered duty, is killed, dies of wounds received, or be-
14 comes permanently injured or disabled, while doing such
15 military duty, without fault or negligence on his part and by
16 reason of such duty, he, or his dependent widow or children,
17 shall receive from the State just and reasonable relief.

Sect. 106. *Duty of municipal officers to provide and main-
2 tain armories.*—It shall be the duty of municipal officers to
3 provide and maintain for each company of the active mil-
4 itia located within the limits of their respective towns a suit-
5 able drill-room, offices, and armory, or place of deposit of all
6 military equipment, and for the headquarters of each sep-
7 arate battalion, corps, regiment, and brigade established
8 within such municipal limits suitable headquarters offices;
9 and the suitability of the necessary military purposes, of such
10 drill-rooms, armories, and headquarters offices, shall be de-
11 termined by the armory commission. A reasonable compen-
12 sation to be fixed by the armory commission, after hearing
13 and consulting with the responsible municipal officers, not
14 to exceed three hundred dollars per annum for each com-
15 pany, other organization, band, or separate headquarters
16 shall be allowed as rent for such suitable building or build-
17 ings to the municipality providing and maintaining them, and
18 paid by the State out of the military fund.

Sect. 107. *Duty of municipal officers to provide and main-
2 tain target ranges.*—It shall be the duty of municipal officers

3 to provide for each company of the active militia located
4 within the limits of their respective towns a suitable target
5 range, except where such range shall be provided out of the
6 military fund appropriated by the Congress of the United
7 States and apportioned to the State for that purpose; and it
8 shall be the duty of such municipal officers to maintain and
9 keep in good repair such target range for the use of the
10 company or companies located within the limits of their
11 municipality, irrespective of the method in which such range
12 may have been obtained. The suitability of such target
13 range for the necessary military purposes shall be as deter-
14 mined by the inspector of small arms practice of the National
15 Guard and approved by the Adjutant General.

Sect. 108. *Any municipal officer who fails, refuses, or*
2 *neglects to perform his duty as prescribed in the two pre-*
3 *ceding sections guilty of a misdemeanor.*—Any municipal
4 officer who fails, refuses, or neglects to take effective meas-
5 ures for providing and maintaining such suitable drill-rooms,
6 offices, armories, or headquarters as prescribed in section
7 one hundred and six, and any municipal officer who fails,
8 refuses, or neglects to take effective measures for providing
9 and maintaining a suitable target range as prescribed in
10 section one hundred and seven, shall be guilty of a misde-
11 meanor, prosecuted by complaint or indictment before a
12 court of competent jurisdiction, and upon conviction shall
13 be fined not less than one hundred dollars nor more than
14 four hundred dollars, or imprisoned for not less than three

15 months nor more than six months, or shall suffer both such
16 fine and imprisonment, which fine shall be paid into the State
17 treasury and credited to the military fund.

Sect. 109. *Necessary authority granted to municipali-*
2 *ties.*—All municipalities in this State are hereby given power
3 and authority to build or acquire by purchase, lease, gift, or
4 otherwise, suitable armories, drill-rooms, headquarters of-
5 fices, and the land necessary therefor and for target ranges
6 for such organizations of the active militia as may be sta-
7 tioned or located therein, and to provide for the maintenance
8 and repair of the same; and all municipalities are hereby
9 authorized, and it shall be the duty of the officers thereof,
10 to raise money by taxation or otherwise for the purpose of
11 providing suitable armories, drill-rooms, headquarters offices
12 and target ranges for such organizations of the active militia
13 as may be stationed and located therein, in such manner as is
14 by law provided for the erection and maintenance of all
15 municipal public buildings and improvements.

Sect. 110. *Armories and target ranges exempt from tax-*
2 *ation.*—All armories, drill-rooms, offices, headquarters offi-
3 ces, and target ranges, owned by the State or by any muni-
4 cipality, or by any organization of the active militia, and all
5 buildings and lands leased by the State, or by any municipal-
6 ity, or by any officer or organization of the active militia, to
7 be used as an armory, drill-room, headquarters office, target
8 range, or for other military purposes shall be exempt from

9 taxation for all purposes during the period of such owner-
10 ship, lease, and use.

Sect. 111. *Armory commission.*—The Adjutant General,
2 together with two officers of the line of the active militia of
3 or above the grade of captain appointed by the governor for
4 a term of four years unless sooner relieved by proper author-
5 ity and eligible to reappointment for a like period, shall con-
6 stitute an armory commission of which the Adjutant Gen-
7 eral shall be the chairman, whose duty it shall be to exercise
8 general supervision and control over all armories, drill-
9 rooms, and headquarters offices, to consult and co-operate
10 with the municipal authorities and to devise effective means
11 of obtaining and maintaining such armories, and to fix, sub-
12 ject to the approval of the governor, the compensation to be
13 allowed to the municipalities as rent for them; they shall
14 have the power, after consulting and hearing the responsible
15 municipal officers, to determine the administrative question
16 of military suitability and adequate maintenance of all
17 armories, drill-rooms, offices, and headquarters offices; and
18 it shall be their duty to notify the responsible municipal offi-
19 cers of all deficiencies in these respects, and should such offi-
20 cers fail, refuse, or neglect to take effective measures for
21 providing such suitable buildings and their maintenance, the
22 chairman of the commission shall initiate the prosecution
23 prescribed by section one hundred and eight.

Sect. 112. *Armories for exclusive use of the active mil-
2 itia, except when otherwise authorized.*—All armories, drill-

3 rooms, offices, and headquarters offices, shall be subject al-
4 ways to the provisions of law and the regulations prescribed
5 by proper authority; and said armories, drill-rooms, offices,
6 and headquarters offices, shall be held for the exclusive use
7 of the active militia unless otherwise authorized by the gen-
8 eral regulations for the government of armories prescribed
9 by the armory commission, or by special authority of the
10 chairman of said commission after application in special
11 cases by the municipal authorities in writing. Should any
12 municipal officer use such buildings without authority, or
13 abuse the authority or privilege so granted, they and each
14 of them shall, in each such case, be deemed guilty of a mis-
15 demeanor and shall be punished as prescribed in section one
16 hundred and eight.

Sect. 113. *Governor may accept donations of lands and*
2 *buildings for military use.*—The governor is authorized to
3 accept in the name of the State donations of lands and build-
4 ings to be used for military purposes by the organized
5 militia under such conditions as the donors may nominate;
6 lands and buildings so donated shall be subject to the rules
7 and regulations prescribed by the governor.

Sect. 114. *State may erect armories.*—Whenever the mili-
2 tary fund shall be sufficient to warrant such expenditures,
3 the armory commission may, with the approval and by the
4 direction of the Governor, erect, upon lands donated to the
5 State for the purpose either by municipalities, corporations
6 or individuals, armories, drill-rooms, headquarters offices or

7 other buildings for military purposes; provided, that should
8 such buildings cease to be held, used, or occupied for mili-
9 tary purposes the buildings and improvements thereupon
10 erected out of the military fund shall revert to the original
11 donor, or donors, his or their successors, heirs, and assigns.

Sect. 115. *Exemption from arrest.*—Every person belong-
2 ing to the active militia of the State shall in all cases, except
3 felony and breach of the peace, be privileged from arrest
4 while going to, remaining at, or returning from any place
5 at which he may be required to attend for the election of offi-
6 cers or other military duty.

Sect. 116. *Exemption from jury duty.*—Every member of
2 the active militia, every retired officer, and every enlisted
3 man holding the certificate of merit shall be exempt from all
4 jury duty; production of a certificate from the claimant's
5 commanding officer showing that the holder is a member of
6 the active militia, or of a certificate of retirement, or of a
7 certificate of merit, or the sworn statement of the claimant
8 that he is such member, retired officer, or holder of a certifi-
9 cate of merit, shall be prima facie proof that the claimant
10 is entitled to the exemption.

Sect. 117. *No voluntary service allowed.*—No organiza-
2 tion of the active militia shall perform any voluntary military
3 service except as authorized by this act or by the express
4 orders of the governor.

Sect. 118. *Military organizations not to leave or enter the*
2 *State except by permission of the governor.*—No organiza-

3 tion of the active militia shall leave the State, and no military
4 organization of another state, unless acting under the author-
5 ity of the United States, shall enter the State, except in each
6 case by permission of the governor.

Sect. 119. *Military parades by unauthorized bodies pro-*
2 *hibited.*—No body of men, other than the active militia and
3 the troops of the United States, shall associate themselves
4 together as a military company or organization, or parade
5 in public with firearms in any city or town of this State;
6 nor shall any city or town raise or appropriate any money
7 toward arming, equipping, uniforming or in any other way
8 supporting, sustaining or providing drill-rooms or armories
9 for any such body of men; but associations wholly composed
10 of soldiers and soldiers honorably discharged from the ser-
11 vice of the United States and the order known as order of
12 the Sons of Veterans may parade at any time in public with
13 firearms, having first obtained the written permission of the
14 city or municipal officers of the town or city in which they
15 reside to parade, and students in educational institutions
16 where military science is taught as a prescribed part of the
17 course of instruction, may, with the consent of the governor,
18 drill and parade with firearms in public under the superin-
19 tendence of their military instructors. Any person violating
20 any provisions of this section shall be deemed guilty of a
21 misdemeanor and punished by a fine not exceeding ten dol-
22 lars, or by imprisonment not exceeding six months, or by
23 both such fine and imprisonment.

Sect. 120. *Uniform.*—The uniform, arms, and equipment
2 of the active militia shall be the same as those of the regular
3 army and navy of the United States, except that on articles
4 of uniform and equipment the distinguishing letters “Me”
5 shall be substituted for the letters “U. S.”; each organization
6 of the National Guard and every enlisted man thereof shall
7 be uniformed, armed, and equipped by the State, as is or
8 may hereafter be prescribed or provided by the laws and
9 regulations of the United States for the organized militia,
10 and no member or organization of the active militia, shall
11 adopt, use or wear in the military service of the State any
12 other uniform, arms, or equipment.

All commissioned officers shall provide themselves with
14 such uniforms, arms, and equipment as are required of com-
15 missioned officers of the regular army; and the adjutant
16 general may purchase and issue as State property on mem-
17 orandum receipt to commissioned officers such articles of
18 arms and equipment as he may deem necessary.

The clothes, arms, military outfit, and accoutrements fur-
20 nished by or through the State to a member of the active
21 militia, and the uniforms, arms, and equipment required of
22 commissioned officers shall not be subject to any suit, dis-
23 tress, execution, or sale for debt or payment of taxes.

Sect. 121. *Unlawful wearing of the uniform.*—Every per-
2 son, other than an officer or enlisted man of the activt militia
3 of this State, or of any other state, or of the United States
4 Army, Navy, Marine Corps, or Revenue or Forest Service,

5 or a member of any service of the United States for whom
6 such uniform has been prescribed by proper authority, or
7 inmate of any veterans' or soldiers' home, or a member of
8 the Grand Army of the Republic, who at any time wears
9 the uniform of the United States Army or Navy or active
10 militia of this State, or any part of such uniform, or a uni-
11 form or a part of a uniform similar thereto, within the limits
12 of this State, shall be guilty of a misdemeanor, and shall
13 upon conviction be punished by a fine not exceeding one hun-
14 dred dollars, or by imprisonment in the county jail not ex-
15 ceeding thirty days, or by both such fine and imprisonment;
16 provided, that nothing in this act shall be construed as pro-
17 hibiting persons of the theatrical profession from wearing
18 such uniform in any playhouse or theatre while actually en-
19 gaged in following said profession, and provided, that noth-
20 ing in this act shall be construed as prohibiting the uniform
21 rank of civic societies parading or traveling in a body or
22 assembling in a lodge room; and provided further, that
23 whenever the active militia, or any part thereof is in active
24 service, or is called into active service, no civic organization
25 or member thereof shall parade or appear in uniform in the
26 locality where said active militia is in service.

Sect. 122. *Member of active militia to suffer no injury in*
2 *his employment because of being such member.*—Any person
3 who, either by himself or with another, wilfully deprives a
4 member of the National Guard or Naval Reserve of his em-
5 ployment, or prevents his being employed by himself or an-

6 other, or obstructs or annoys said member of said National
7 Guard or Naval Reserve or his employer in respect of his
8 trade, business, or employment, because said member of said
9 National Guard or Naval Reserve is such member, or dis-
10 suades any person from enlisting in the said National Guard
11 or Naval Reserve by threat of injury to him in case he shall
12 so enlist, in respect of his employment, trade, or business,
13 shall be deemed guilty of a misdemeanor and upon convic-
14 tion thereof shall be punished by a fine not exceeding five
15 hundred dollars, or by imprisonment not exceeding six
16 months, or by both such fine and imprisonment.

Sect. 123. *No association or organization to discriminate
2 in its eligibility rules for membership against a member of
3 the active militia.*—No association or corporation, constituted
4 or organized for the purpose of promoting the success of the
5 trade, employment, or business of the members thereof, shall
6 by any constitution, rule, by-laws, resolution, vote, or regu-
7 lation, discriminate against any member of the National
8 Guard or Naval Reserve because of such membership, in
9 respect of the eligibility of such member of the National
10 Guard or Naval Reserve to membership in such association
11 or corporation, or in respect to his rights to retain said last
12 mentioned membership; and any person who aids in enforce-
13 ing any such provisions against a member of the said Na-
14 tional Guard or Naval Reserve with intent to discriminate
15 against him because of such membership, shall be guilty of
16 a misdemeanor and upon conviction thereof shall be punished

17 by a fine not exceeding five hundred dollars, or by imprison-
18 ment not exceeding six months, or by both such fine and
19 imprisonment.

Sect. 124. *Member of active militia in the performance of*
2 *his duty not to be molested, insulted or abused.*—Whoever
3 shall unlawfully molest, insult, or abuse any member of the
4 National Guard or Naval Reserve, while in the performance
5 of his military duty, shall be deemed guilty of a misdemeanor
6 and on conviction thereof, shall be punished by a fine not to
7 exceed five hundred dollars, or by imprisonment not exceed-
8 ing six months, or by both such fine and imprisonment.

Sect. 125. *Military equipment not to be disposed of.*—
2 The clothes, arms, military outfits, and accoutrements fur-
3 nished by or through the State to any member of the active
4 militia shall not be sold, bartered, exchanged, pledged, loaned,
5 or given away and no person not a member of the military
6 forces of this State or of the United States, or duly author-
7 ized officer or agent of the State or of the United States,
8 who has possession of any such clothes, arms, military out-
9 fits, or accoutrements, so furnished, and which have been
10 the subject of any such unlawful disposition, shall have any
11 right, title, or interest therein; but the same shall be seized
12 and taken wherever found by any officer of the State, civil
13 or military, and shall thereupon be delivered to any com-
14 manding officer or other officer authorized to receive the
15 same, who shall make an immediate report to the adjutant

16 general. The possession of any such clothes, arms, military
17 outfits, or accoutrements by any person not a member of the
18 military forces of the State or of the United States shall be
19 presumptive evidence of such sale, barter, exchange, pledge,
20 loan, or gift.

Sect. 126. *Unlawful disposition of military equipment.*

2 Any person who shall sell, or offer for sale, barter, exchange,
3 pledge, loan, or give away, secrete or retain after demand
4 made by any officer of the State, civil or military, any clothes,
5 arms, military outfits, or accoutrements furnished by or
6 through the State to a member of the active militia, or who
7 shall receive by purchase, barter, exchange, pledge, loan, or
8 gift, any such clothes, arms, military outfits, or accoutre-
9 ments, shall be guilty of a misdemeanor and punished by a
10 fine not exceeding one hundred dollars or by imprisonment
11 not exceeding six months, or by both such fine and imprison-
12 ment.

Sect. 127. *Repair and renovation of military property.*—

2 The adjutant general shall, whenever it may be necessary,
3 make arrangements for the repair, cleansing, and renovation
4 of all clothes, arms, military outfits, or accoutrements on
5 hand or issued to any organization of the active militia; and
6 when the necessity of such repair, cleansing, or renovation
7 is due to the fault or negligence of any member of the active
8 militia, the cost thereof shall be charged against any pay due
9 or to become due such member or recovered in the same man-

ner as a fine, forfeiture, or penalty, as prescribed by this chapter.

Sect. 128. *Sales of condemned military property.*—The inspector or such other officer as the adjutant general may designate, shall inspect and condemn public military property which has become unfit for use; no property shall be sold until it has been so inspected and condemned, and such condemnation approved by the governor; and the proceeds of sales of condemned material, stores, supplies, or other public military property of every kind shall be deposited with the adjutant general, paid into the State treasury, and credited to the military fund.

Sect. 129. *Property responsibility and accountability.*—All property furnished by the State shall remain and continue to be the property of the State, to be used for military purposes only, and when not so in use shall be kept in the armories or designated places of deposit. Every officer receiving public property for military use shall be held responsible for the safe-keeping and return of the same when called for; he shall account for and make such returns thereof as may be prescribed whenever called upon so to do by the governor or other proper authority, and every such officer shall, when required by the governor, give bond payable to the governor of the State in such sum as he may direct, with good and sufficient sureties, conditioned to account for, safely keep, and return all military property of the State and the United

15 States for which such officer may be accountable and re-
16 sponsible.

Sect. 130. *Right of way.*—The commanding officer of any
2 portion of the active militia parading or performing any mil-
3 itary duty in any street or highway, may require any or all
4 persons in such street or highway, to yield the right of way
5 to such militia, provided the carriage of the United States
6 mail, the legitimate functions of the police and the progress
7 and operation of the hospital ambulances, fire engines and
8 fire departments, and apparatus of the insurance patrol shall
9 not be interfered with thereby. All others who shall hinder,
10 delay, or obstruct any portion of the active militia where-
11 ever parading or performing any military duty, or who shall
12 attempt so to do, shall be guilty of a misdemeanor.

Sect. 131. *Authority of commanding officer over camp,
2 armory and place of parade.*—Every commanding officer,
3 when on duty as such, may fix necessary bounds and limits
4 to his camp, or parade, not including a road so as to prevent
5 passing, within which no person shall enter without leave
6 from such commanding officer. Whoever intrudes within
7 the limits of the parade, camp, or armory, after being for-
8 bidden, or resists a sentinel who attempts to put him or keep
9 him out of such limits, or in any manner interrupts or molests
10 the orderly discharge of duty by those under arms, or dis-
11 turbs, hinders, or prevents the passage of troops going to or
12 returning from any duty, may, at the discretion of the com-
13 manding officer, be confined under guard not exceeding

14 twenty-four hours. Such authority of an officer command-
15 ing a camp may be extended by order of the governor to a
16 distance not exceeding one-half mile around such camp;
17 provided, that the owner or owners of the external space
18 within such distance of the camp, and their agents or ser-
19 vants, shall not be hindered or prevented from entering upon
20 such space for the purpose of using, occupying, and improv-
21 ing the same, in the same manner in which they used, occu-
22 pied, and improved the same at the time when the camp was
23 established. The commanding officer of any camp or
24 armory shall prohibit the introduction or sale of, or dealing
25 in, beer, wine, or any intoxicating liquor, within the limits
26 or extended limits of the camp or within the armory, and he
27 may abate as common nuisance all such sales and introduc-
28 tions.

Sect. 132. *Penalty for neglect or refusal of civil officers.*—
2 Civil officers named in this chapter, neglecting or refusing to
3 obey its provisions, shall be guilty of misdemeanor.

Sect. 133. *Offenses against this chapter punishable crim-
2 inally when not otherwise provided for.*—Offenses against
3 the provisions of this chapter, except when they are purely
4 military and committed by a person subject to military juris-
5 diction, may, unless a different remedy is specially provided,
6 be prosecuted by complaint or indictment before a court of
7 competent criminal jurisdiction; and all fines and forfeitures
8 collected under the provisions of this chapter, the disposition
9 whereof is not otherwise specially provided for, shall be paid

10 into the State treasury and credited to the military fund.

Sect. 134. *Company by-laws.*—Companies of the active
2 militia may make by-laws, subject to the written approval
3 of the brigade commander, or of the adjutant general if
4 there be no brigade commander, not repugnant to law, orders,
5 or regulations, and fix a sum to be paid by any member of
6 such company for non-compliance therewith not exceeding
7 five dollars. Any member who fails to pay such sum so
8 fixed, within thirty days after notification that the same is
9 due, shall be deemed guilty of conduct to the prejudice of
10 good order and military discipline, and punished by a court-
11 martial accordingly; and all forfeitures resulting therefrom
12 shall be paid into the company treasury.

Sect. 135. *The National Guard Association.*—The com-
2 missioned officers of the active militia may organize them-
3 selves into an association the name of which shall be "The
4 National Guard Association of the State of Maine." Such
5 association may adopt a constitution and by-laws not repug-
6 nant to law, orders, or regulations, and alter and amend the
7 same, and may take and hold such real and personal property
8 as may be necessary for the purposes of the association.

Sect. 136. *Rules and Regulations.*—The governor is here-
2 by authorized to make such rules and regulations as he may
3 deem expedient, but such rules and regulations shall conform
4 to this chapter, and, as nearly as practicable, to those govern-
5 ing the United States army and navy and when promulgated,
6 shall have the same force and effect as the provisions of this

STATE OF MAINE.

IN SENATE,

February 5, 1909.

Came from the House referred to the Committee on Military Affairs and on motion by Mr. BAXTER of Cumberland tabled for printing pending reference in concurrence.

F. G. FARRINGTON, *Secretary*.