

# MAINE STATE LEGISLATURE

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NEW DRAFT

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EIGHTY-FOURTH LEGISLATURE

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House Document

No. 772

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H. P. 1719      House of Representatives, March 28, 1929.

Reported by Mr. Burkett of Portland from Committee on  
Military Affairs and laid on table to be printed under joint rules.

CLYDE R. CHAPMAN, Clerk.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND TWENTY-NINE

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AN ACT Amending the Military Law.

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

Section 1. That the first paragraph of section nine of  
2 chapter one hundred and seventy-four, public laws of nine-  
3 teen hundred and twenty-three, as amended by chapter  
4 ninety, public laws of nineteen hundred and twenty-five be  
5 amended by adding after the word "called" in the four-  
6 tenth line thereof the words 'or drafted,' so that said  
7 paragraph as amended shall read as follows:

'Sect. 9. *Active Service, National Guard.* In case of  
2 insurrection, invasion, tumult, riot, mob, or body of men  
3 acting together by force with intent to commit a felony or

4 to offer violence to persons or property, or by force and  
5 violence to break and resist the laws of this state, or the  
6 United States, or of imminent danger thereof, or in the  
7 event of public disaster resulting from flood, conflagration,  
8 or tempests, the governor shall have the power to order  
9 into the active service of the state any part of the national  
10 guard that he may deem proper. And whenever the national  
11 guard of this state or a part thereof is called forth under  
12 the constitution and laws of the United States, the governor  
13 shall, unless the order for the call specifies otherwise, order  
14 out for service the national guard or such part thereof as  
15 may be required; and if the number available be insufficient  
16 he shall order out the unorganized militia or such part as  
17 may be necessary. The designation of organizations called  
18 or drafted into the service of the United States shall not,  
19 during such service, be given to new organizations.'

Sect. 2. *Adjutant General.* That section fifteen of chap-  
2 ter one hundred and seventy-four, public laws of nineteen  
3 hundred and twenty-three, as amended by chapter ninety,  
4 public laws of nineteen hundred and twenty-five be amended  
5 by striking out the first paragraph thereof and inserting  
6 the following paragraph, so that said paragraph as amended  
7 shall read as follows:

'Sect. 15. *Adjutant General.* The adjutant general of the  
2 state shall have the rank of brigadier general, shall be ap-  
3 pointed by the governor, and shall be ex-officio, chief of  
4 staff, quartermaster general and paymaster general of the

5 state. For the purpose of establishing the relation between  
6 the war department and the various staff departments of  
7 the state, he shall be the chief of said departments; and the  
8 requisitions, purchases, and issues to be made by the senior  
9 officer on duty in certain of said departments, as hereinafter  
10 prescribed, shall be made by them pursuant and in obedience  
11 to his directions and instructions.'

Sect. 3. That section seventeen of chapter one hundred  
2 and seventy-four, public laws of nineteen hundred and  
3 twenty-three, as amended by chapter ninety, public laws of  
4 nineteen hundred and twenty-five be amended by striking  
5 out all of said section and inserting in place thereof the  
6 following:

'Sect. 17. *State Inspector.* The governor, on the recom-  
2 mendation of the adjutant general shall designate an officer  
3 as state inspector. Whenever ordered by the governor, the  
4 state inspector shall make an inspection and a detailed report  
5 upon the armories, property, books, records, financial con-  
6 dition and general efficiency of the organizations of the  
7 national guard, and shall perform such other duties as the  
8 adjutant general may direct or the law require, and he shall  
9 submit to the adjutant general a report of the transactions  
10 of his office by the fifteenth of June annually.'

Sect. 4. That section eighteen of chapter one hundred  
2 and seventy-four, public laws of 1923, as amended by chap-  
3 ter ninety, public laws of nineteen hundred and twenty-five  
4 be amended by striking out the first paragraph of said sec-

tion and inserting in place thereof the following:

‘Sect. 18. *State Ordnance Officer.* The governor, on the recommendation of the adjutant general, shall designate an officer from the active, retired or reserve list who shall be the state ordnance officer, the salary to be fixed by the governor and council. The state ordnance officer shall, from time to time, submit to the adjutant general requisitions for ordnance property, equipment and accoutrements and range and target material; which requisitions, when approved by the adjutant general and submitted to and signed by the United States property and disbursing officer, shall, if they be for material issued to the state by the ordnance department, be forwarded to that department for supply. If they be for material not so issued, then by direction of the adjutant general and in the manner prescribed in section twenty-six, the ordnance officer shall purchase and direct the issue of such ordnance property and range material, certify all bills therefor as correct, and transmit them to the adjutant general.’

Sect. 5. That section twenty of chapter one hundred and twenty-four, public laws of nineteen hundred and twenty-three, as amended by chapter ninety, public laws of nineteen hundred and twenty-five be amended by striking out all of said section and inserting in place thereof the following:

‘Sect. 20. *State Quartermaster.* The governor, on the recommendation of the adjutant general, shall designate an officer from the active, retired or reserve list, who shall be

4 the state quartermaster, the salary to be fixed by the gov-  
5 ernor and council. The state quartermaster shall be the  
6 military storekeeper and, under the direction of the adjutant  
7 general, he shall purchase and issue in the manner pre-  
8 scribed in section twenty-six such subsistence stores and  
9 property as are not issued by the United States, certify  
10 all bills therefor as correct and transmit them to the adju-  
11 tant general. He shall make a detailed report of the trans-  
12 actions of his office to the adjutant general on the fifteenth  
13 day of June annually.'

Sect. 6. That section twenty-one, chapter one hundred  
2 and seventy-four, public laws of nineteen hundred and  
3 twenty-three as amended by chapter ninety, public laws of  
4 nineteen hundred and twenty-five be amended by adding  
5 after the word "standing" in the second and third lines  
6 thereof the words 'he shall be the legal adviser of the adju-  
7 tant general, and of the armory commission;' so that said  
8 section as amended shall read as follows:

'Sect. 21. *State Judge Advocate.* The judge advocate  
2 shall be an attorney-at-law of the supreme judicial court of  
3 this state, of at least five years' standing; he shall be the  
4 legal adviser of the adjutant general, and of the armory  
5 commission; 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  
13 legal adviser of the military department, and to him may be  
14 referred 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 fif-  
18 teenth day of June annually.'

Sect. 7. That section twenty-two of chapter one hundred  
2 and seventy-four, public laws of nineteen hundred and twen-  
3 ty-three, as amended by chapter ninety, public laws of nine-  
4 teen hundred and twenty-five be amended by striking out  
5 section twenty-two entire.

Sect. 8. That section thirty-seven, chapter one hundred  
2 and seventy-four, public laws of nineteen hundred and twen-  
3 ty-three, as amended by chapter ninety, public laws of nine-  
4 teen hundred and twenty-five be amended by inserting after  
5 the words "following manner" in the seventeenth line thereof  
6 the following: 'Vacancies in the grade of second lieutenant  
7 shall be filled in the following manner: First, upon the  
8 recommendation of the commanding officer of the regiment,  
9 corps or other separate battalion, from enlisted men of the  
10 unit, commissioned in the officers' reserve corps or from  
11 enlisted men of the unit holding state certificates of eligi-  
12 bility for commissions as second lieutenants; second, if no  
13 such personnel holding reserve commissions or certificates  
14 of eligibility is available and recommended for promotion

15 in the unit;' so that said section as amended shall read as  
16 follows:

'Sect. 37. *Appointment of Commissioned Officers.* Sub-  
2 ject to the regulations prescribed by the war department all  
3 officers shall be appointed and commissioned by the gov-  
4 ernor. Except as hereinafter provided all vacancies shall  
5 be filled as follows: Vacancies in the grade of colonel or  
6 lieutenant-colonel of a regiment or corps shall be filled by  
7 promoting the senior officer of the regiment or corps of the  
8 next lower grade; vacancies in the grade of major in a  
9 regiment, corps or separate battalion shall be filled by pro-  
10 moting the senior officer of the next lower grade in the  
11 organization in which the vacancy occurs; vacancies in the  
12 grade of captain or lieutenant shall be filled by promoting  
13 the senior officer of the next lower grade in the organization  
14 in which the vacancy occurs; when it appears to the gov-  
15 ernor to be for the best interest of the service that vacancies  
16 be otherwise filled, such vacancies, if they be within a regi-  
17 ment, corps or other separate organization, shall be filled by  
18 the governor upon the recommendation of the commanding  
19 officer of such organization, or upon the recommendation  
20 of the adjutant general. Vacancies in the grade of second  
21 lieutenant shall be filled in the following manner: First,  
22 upon the recommendation of the commanding officer of the  
23 regiment, corps or other separate battalion, from enlisted  
24 men of the unit, commissioned in the officers' reserve corps  
25 or from enlisted men of the unit holding state certificates



26 of eligibility for commissions as second lieutenant; second,  
27 if no such personnel holding reserve commissions or cer-  
28 tificates of eligibility is available and recommended for pro-  
29 motion in the unit; all enlisted men of any company and  
30 any non-commissioned staff officer shall, if physically sound,  
31 be eligible for appointment and shall be permitted to appear  
32 before an examining board for a physical and competitive  
33 practical and theoretical examination. The enlisted man  
34 whom the board considers, after the competitive examina-  
35 tion, to be best qualified shall be appointed to fill the vacancy.  
36 The governor shall prescribe the scope and manner of con-  
37 ducting such examination, and if no enlisted man appears  
38 or if none satisfactorily passes said examination, then the  
39 governor upon the recommendation of the commanding  
40 officer of the regiment, corps or other separate battalion,  
41 shall fill the vacancy by making an appointment of any  
42 person eligible under the law to hold a commission in the  
43 national guard. Every officer duly commissioned shall with-  
44 in ten days accept the same and take the constitutional oath  
45 of office; such oath may be taken and subscribed before any  
46 officer authorized by law to administer an oath; and in case  
47 of neglect or refusal to accept the commission or to take  
48 and subscribe the oath within the time mentioned, such  
49 commission shall be cancelled by the governor and a new  
50 appointment made to fill the vacancy.'

Sect. 9. That section thirty-eight of chapter one hundred  
2 and seventy-four, public laws of nineteen hundred and

3 twenty-three as amended by chapter ninety, public laws of  
4 nineteen hundred and twenty-five be amended by striking  
5 out all of last paragraph of said section and inserting in  
6 place thereof the following:

‘Sect. 38. *Discharge and Retirement of Officers.* Any  
2 person who has served as a commissioned officer in the  
3 Maine national guard for a period of not less than nine  
4 years may, upon personal request, be placed upon the re-  
5 tired list. When placed upon the retired list an officer shall  
6 be given the highest rank held by him during his term of  
7 service provided, that if at the time of his retirement he  
8 shall have served as a commissioned officer in the Maine  
9 national guard or federal military service for a period of  
10 fifteen years or more he may be retired with a rank one  
11 grade higher than the highest rank held by him during his  
12 service, except that in no case shall a rank higher than that  
13 of brigadier general be granted an officer under these pro-  
14 visions, upon retirement. Retired officers shall be entitled  
15 to wear the uniform of the rank with which they were  
16 retired. Except as provided above no commissioned officer  
17 in the national guard or naval militia shall be removed from  
18 office without his consent, except by sentence of a general  
19 court-martial or by an efficiency board, in a manner pre-  
20 scribed by law. Whenever the occasion may require, the  
21 governor, with their consent, may order to active duty any  
22 retired officer, warrant officer or enlisted man and they shall

23 be entitled to pay and emoluments of their grade while  
24 performing such service.'

Sect. 10. That section forty of chapter one hundred and  
2 seventy-four, public laws of nineteen hundred and twenty-  
3 three, as amended by chapter ninety, public laws of nineteen  
4 hundred and twenty-five be amended by striking out the  
5 words "now or hereafter" in the fifteenth line thereof, so  
6 that said section as amended shall read as follows:

'Sect. 40. *United States Army Regulations to Govern.*  
2 Matters of military courtesy and discipline; precedence of  
3 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;  
8 honors, courtesies and ceremonies; guards; practical and  
9 theoretical instruction; care, accountability and responsi-  
10 bility for public property; surveys of property; staff ad-  
11 ministration and general duties of the staff corps; military  
12 correspondence; orders; muster rolls; return of troops and  
13 battle reports; arrest and confinement; and field service shall,  
14 in general and so far as practicable and consistent with this  
15 chapter, be as prescribed in the regulations for the armies  
16 of the United States.'

Sect. 11. That section forty-five of chapter one hundred  
2 and seventy-four, public laws of nineteen hundred and  
3 twenty-three, as amended by chapter ninety, public laws of

4 nineteen hundred and twenty-five be amended by adding  
5 after the word "man" in the first line thereof the words 'of  
6 the Maine national guard,' and by adding after the word  
7 "state" in the third line the words 'or federal military serv-  
8 ice,' so that said section as amended shall read as follows:

'Sect. 45. *Medal for Honorable Service.* Every officer  
2 and enlisted man of the Maine national guard who has  
3 rendered honorable service for nine years in the national  
4 guard of the state or federal military service, shall receive  
5 a service medal therefor and an additional bar or clasp for  
6 each additional three years' service.'

Sect. 12. That section fifty-one of chapter one hundred  
2 and seventy-four, public laws of nineteen hundred and  
3 twenty-three, as amended by chapter ninety, public laws of  
4 nineteen hundred and twenty-five be amended by adding the  
5 following: 'Provided, however, that any member of the  
6 national guard who suffers injury or contracts disease, not  
7 the result of his own misconduct, while in attendance at a  
8 camp of instruction authorized by the war department and  
9 ordered by the governor of Maine, shall receive the pay  
10 provided in section forty-seven of this act, while he remains  
11 in a federal pay status in lieu of the compensation provided  
12 for in this section,' so that said section as amended shall  
13 read as follows:

'Sect. 51. *Compensation for Disability.* Any member of  
2 the national guard or naval 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  
5 active service of the state by order of the governor, or called  
6 in aid of the civil authorities, or when participating by  
7 order of the governor in any encampment, maneuvers or  
8 field instruction of any part of the regular army at or near  
9 any military post or camp or lake or sea coast defenses of  
10 the United States, or when participating by order of the  
11 governor in practice marches or camps of instruction, or  
12 when assembled for any regular or special drill or other  
13 duty under the command of a superior officer, receive any  
14 injury, or incur or contract any disability or disease by  
15 reason of such duty or assembly, or who shall without wilful  
16 negligence on his part receive any wound, injury or disease  
17 incident thereto while performing any lawfully ordered  
18 duty which shall incapacitate him from his usual business or  
19 occupation, shall receive compensation according to the pro-  
20 visions of chapter two hundred and thirty-eight of the pub-  
21 lic laws for nineteen hundred and nineteen, and any amend-  
22 ments thereto, as an employee of the state of Maine, and  
23 the average weekly wage in such cases shall be taken to be  
24 the earning capacity of the injured in the occupation in  
25 which he is regularly engaged, and in case of death his  
26 dependents, if any, shall be entitled to compensation as  
27 provided in said act; provided, however, that any member of  
28 the national guard who suffers injury or contracts disease,  
29 not the result of his own misconduct, while in attendance  
30 at a camp of instruction authorized by the war department

31 and ordered by the governor of Maine, shall receive the pay  
32 provided in section forty-seven of this act, while he remains  
33 in a federal pay status in lieu of the compensation provided  
34 for in this section.'

Sect. 13. That section fifty-five of chapter one hundred  
2 and seventy-four, public laws of nineteen hundred and  
3 twenty-three, as amended by chapter ninety, public laws of  
4 nineteen hundred and twenty-five be amended by striking  
5 out all of said section and inserting in place thereof the  
6 following:

'Sect. 55. *Armory Commission.* The adjutant general,  
2 together with four officers of the line of the national guard  
3 of or above the grade of captain, detailed by the governor,  
4 in addition to their other duties, shall constitute an armory  
5 commission of which the adjutant general shall be the chair-  
6 man, whose duty it shall be to exercise general supervision  
7 and control over all armories, drill rooms, headquarters  
8 offices and stables, to consult and cooperate with the munic-  
9 ipal authorities and to devise effective means of obtaining  
10 and maintaining such armories, and to fix, subject to the  
11 approval of the governor, the compensation to be allowed  
12 to the municipalities as rent for them; they shall have the  
13 power, after consulting and hearing the responsible munic-  
14 ipal officers, to determine the administrative question of  
15 military suitability and adequate maintenance of all armo-  
16 ries, drill rooms, offices, headquarters offices and stables,  
17 and it shall be their duty to notify the responsible officers

18 of all deficiencies in these respects, and should such officers  
19 fail, refuse or neglect to take effective measures for provid-  
20 ing such suitable buildings and their maintenance, the chair-  
21 man of the commission shall initiate the prosecution pre-  
22 scribed by section fifty-two. The armory commission is  
23 authorized where towns or municipalities have been relieved  
24 from compliance with the provisions of this act to provide  
25 armories, target ranges or stables by reason of any agree-  
26 ment or agreements entered into between such towns or  
27 cities and the state of Maine, to hire or lease suitable build-  
28 ings for drill halls, quarters, headquarters offices or stables  
29 as may be necessary to adequately house the national guard.  
30 For each day actually employed in the transaction of the  
31 business of the armory commission the members other than  
32 the adjutant general shall receive as compensation base pay  
33 of their grade and all members shall be reimbursed for  
34 actual traveling expenses, such accounts to be paid from  
35 the armory fund.'

Sect. 14. That section fifty-six of chapter one hundred  
2 and seventy-four, public laws of nineteen hundred and  
3 twenty-three, as amended by chapter ninety, public laws of  
4 nineteen hundred and twenty-five be amended by striking  
5 out in the seventh and eighth lines thereof the words "as  
6 now or shall be hereafter," so that said section as amended  
7 shall read as follows:

'Sect. 56. *Courts-Martial*. Courts-martial in the national  
2 guard shall be of three kinds, namely, general courts- mar-

3 tial, special courts-martial and summary courts-martial.  
4 They shall be constituted, and have cognizance of the same  
5 subjects and possess like powers, except as to punishment,  
6 as similar courts provided for by the laws and regulations  
7 governing the army of the United States, and the proceed-  
8 ings of courts-martial of the national guard shall follow the  
9 forms and modes of procedure prescribed for similar courts.'

Sect. 15. That section sixty-seven, chapter one hundred  
2 and seventy-four, public laws of nineteen hundred and  
3 twenty-three, as amended by chapter ninety, public laws of  
4 nineteen hundred and twenty-five be amended by striking  
5 out all of said section and inserting in place thereof the  
6 following:

'Sect. 67. *Uniform Not to be Worn by Unauthorized*  
2 *Persons*. It shall be unlawful for any person not an officer  
3 or enlisted man of the United States Army, Navy, Marine  
4 Corps, or the national guard of the United States and the  
5 state of Maine, to wear the duly prescribed uniform of the  
6 United States Army, Navy, Marine Corps or national guard,  
7 or any distinctive part of such uniform, or a uniform any  
8 part of which is similar to a distinctive part of the duly  
9 prescribed uniform of the United States Army, Navy, Mar-  
10 ine Corps or national guard: Provided, that the foregoing  
11 provisions shall not be construed so as to prevent such per-  
12 sons as may be authorized by the laws and regulations of  
13 the United States from wearing such uniform as they may  
14 be authorized to wear under the above mentioned laws and



15 regulations. Provided further, that the term “distinctive  
16 part of the uniform” in this act, shall be construed to mean  
17 such parts of the uniform as may be at this time or shall  
18 be hereafter designated as “distinctive” by the army regu-  
19 lations of the United States. Any person who offends  
20 against the provisions of this act, shall, on conviction, be  
21 punished by a fine not exceeding three hundred dollars or  
22 by imprisonment in the county jail not exceeding six months,  
23 or by both such fine and imprisonment.’

Sect. 16. That section ninety, chapter one hundred and  
2 seventy-four, public laws of nineteen hundred and twenty-  
3 three, as amended by chapter ninety, public laws of nineteen  
4 hundred and twenty-five be amended by striking out all of  
5 said section and inserting in place thereof the following:

‘Sect. 90. *Articles of War and Courts-Martial.* Except  
2 as provided in the preceding sections the national guard of  
3 the state of Maine shall at all times and in all places, and  
4 the unorganized militia shall whenever called into service,  
5 be governed by the articles of war and manual of courts-  
6 martial as adapted to the use of the national guard by the  
7 war department, militia bureau, in the national guard regu-  
8 lations,’ as the same were in effect on March twenty-six,  
9 nineteen hundred and twenty-nine.