

MAINE STATE LEGISLATURE

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PUBLIC ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

FOURTEENTH LEGISLATURE,

At its Session, held in January, 1834.

PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 28, 1820.

AUGUSTA :

I. BERRY & CO., PRINTERS TO THE STATE.

1834.

Chapter 121.

AN ACT to organize, govern and discipline the Militia of this State.

LAWS OF THE UNITED STATES, RELATING TO THE MILITIA,
NOW IN FORCE.

WHEREAS, Congress on the eighth day of May, in the year of our Lord one thousand seven hundred and ninety two, passed the following law, entitled "An Act more effectually to provide for the national defence, by establishing an uniform Militia throughout the United States:—"

Preamble
United States
Militia Law
May 8, 1792.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That each and every free, able bodied, white male citizen of the respective States, resident therein, who is or shall be of the age of eighteen years, and under the age of forty five, (except as is hereinafter excepted,) shall severally and respectively be enrolled in the militia, by the captain or commanding officer of the company, within whose bounds such citizen shall reside, and that within twelve months after the passing of this act. And it shall at all times hereafter be the duty of every such captain or commanding officer of a company, to enrol every such citizen as aforesaid, and also those who shall, from time to time, arrive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty five years, (except as before excepted,) shall come to reside within his bounds, and shall without delay notify such citizen of the said enrolment, by a proper non-commissioned officer, of the company, by whom such notice may be proved. That every citizen so enrolled and notified, shall, within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch, with a box therein to contain not less than twenty four cartridges, suited to the bore of his musket or firelock,

Persons to be
enrolled.

Duty of Cap-
tains, &c. as to
enrolling.

Notice of enrol-
ment.

Arms and e-
quipments.

or with a good rifle, knapsack, shot pouch and powder horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder; and shall appear so armed and accoutred and provided, when called out to exercise, or into service, except that when called out on company days to exercise only, he may appear without a knapsack. That the Commissioned Officers shall severally be armed with a sword or hanger, an esponton; and that from and after five years from the passing of this act, all muskets for arming the Militia, as herein required, shall be of bores sufficient for balls of the eighteenth part of a pound. And every citizen so enrolled, and providing himself with the arms, ammunition, and accoutrements required as aforesaid, shall hold the same exempt from all suits, distresses, executions of sales for debt, or the payment of taxes.

Arms, &c. exempt from attachment.

SECT. 2. *And be it further enacted,* That the Vice-President of the United States, the officers, Judicial and Executive of the Government of the United States, the Members of both Houses of Congress, and their respective officers; all Custom House Officers, with their Clerks; all Post Officers and Stage Drivers, who are employed in the care and conveyance of the Mail of the Post Office of the United States; all Ferrymen, employed at any ferry on the post road; all Inspectors of Exports; all Pilots; all Mariners actually employed in the sea service of any citizen or merchant, within the United States; and all persons who now are, or may hereafter be exempted by the laws of the respective States, shall be, and are hereby exempted from military duty notwithstanding their being above the age of eighteen, and under the age of fortyfive years.

Exempts.

SECT. 3. *And be it further enacted,* That within one year after the passing of this act, the Militia of the respective States, shall be arranged into Divisions, Brigades, Regiments, Battalions and Companies, as the Legislature of each State shall

Arrangement of the Militia.

direct; and each Division, Brigade and Regiment, shall be numbered at the formation thereof; and a record made of such numbers, in the Adjutant General's office, in the State; and when in the field, or in service in the State, each Division, Brigade and Regiment, shall respectively take rank according to their numbers, reckoning the first or lowest number, highest in rank. That if the same be convenient, each Brigade shall consist of four Regiments, each Regiment of two Battalions, each Battalion of five Companies, each Company of sixty four Privates. That the said Militia shall be officered by the respective States, as follows: To each Division, one Major General and two Aids-de-Camp, with the rank of Major; to each Brigade, one Brigadier General, with one Brigade Inspector, to serve also as Brigade Major, with the rank of a major; to each regiment, one Lieutenant Colonel Commandant; and to each battalion, one Major; to each company, one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and fifer or bugler. That there shall be a regimental staff to consist of one adjutant, and one quarter master, to rank as lieutenants, one pay master, one surgeon, and one surgeon's mate, one sergeant major, one drum major, and one fife major.

How officered.
[See Laws of Congress April 20, 1816, altering this Section.]

SECT. 4. *And be it further enacted,* That out of the militia enrolled as herein directed, there shall be formed for each battalion at least one company of grenadiers, light infantry or riflemen; and that to each division there shall be at least one company of artillery, and one troop of horse; there shall be to each company of artillery, one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer and one fifer. The officers to be armed with a sword or hanger, a fusee, bayonet and belt, with a cartridge box, to contain twelve cartridges; and each private or matross shall furnish himself with all the equipments of a private

Grenadiers,
Light Infantry,
and Riflemen.

Officers of
Artillery.

in the infantry, until proper ordnance and field artillery is provided. There shall be to each troop of horse, one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier and one trumpeter. The commissioned officers to furnish themselves with good horses, of at least fourteen hands and a half high, and to be armed with a sword and a pair of pistols, the holsters of which to be covered with bear skin caps. Each dragoon to furnish himself with a serviceable horse, at least fourteen hands and a half high, a good saddle, bridle, mail pillion and valise, holsters and a breastplate and crupper, a pair of boots and spurs, a pair of pistols, a sabre and cartouch box, to contain twelve cartridges for pistols. That each company of artillery and troop of horse, shall be formed of volunteers from the brigade, at the discretion of the Commander in Chief of the State, not exceeding one company of each to a regiment, nor more in number than one eleventh part of the infantry, and shall be uniformly clothed in regimentals, to be furnished at their own expense; the color and fashion to be determined by the brigadier commanding the brigade to which they belong.

Officers of
Cavalry.

How to be fur-
nished with
horses.

Artillery and
Cavalry how
raised.

Uniform.

Colors, drums,
bugles, &c. how
furnished.

Adjutant Gen-
eral—his duty.

SECT. 5. *And be it further enacted,* That each battalion and regiment shall be provided with the State and regimental colors, by the field officers, and each company with a drum and fife, or bugle horn, by the commissioned officers of the company, in such manner as the Legislature of the respective States shall direct.

SECT. 6. *And be it further enacted,* That there shall be an Adjutant General appointed in each State, whose duty it shall be to distribute orders from the Commander in Chief of the State to the several corps; to attend all public reviews, when the Commander in Chief of the State shall review the militia, or any part thereof; to obey all orders from him relative to carrying into execution and

perfecting the system of military discipline, established by this act; to furnish blank forms of different returns that may be required, and to explain the principles on which they should be made; to receive from the several officers of the different corps throughout the States, returns of the militia under their command, reporting the annual situation of their arms and accoutrements and ammunition, their delinquencies, and every other thing that relates to the general advancement of good order and discipline: all which the several officers of the divisions, brigades, regiments, and battalions, are hereby required to make, in the usual manner, so that the said Adjutant General may be duly furnished therewith; from all which returns he shall make proper abstracts, and lay the same annually before the Commander in Chief of the State.

Returns to be made to Adjutant General.

SECT. 7. *And be it further enacted,* That all commissioned officers shall take rank according to the date of their commissions, and when two of the same grade, bear an equal date, then their rank to be determined by lot, to be drawn by them before the commanding officer of the brigade, regiment, battalion, company or detachment.

Rank of officers.

SECT. 8. *And be it further enacted,* That if any person, whether officer or soldier, belonging to the militia of any State, and called into the service of the United States, be wounded or disabled while in actual service, he shall be taken care of, and provided for, at the public expense.

Disabled officers and soldiers.

SECT. 9. *And be it further enacted,* That it shall be the duty of the brigade inspector, to attend the regimental and battalion meetings of the militia composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition and accoutrements; superintend their exercises and manœuvres, and introduce the system of military discipline before described, throughout the brigade, agreeably to law, and such orders as they

Brigade Inspector's duty.

shall from time to time receive from the Commander in Chief of the State; to make returns to the Adjutant General of the State, at least once in every year, of the militia of the brigade to which he belongs, reporting therein the actual situation of the arms, accoutrements and ammunition, of the several corps, and every other thing, which in his judgment, may relate to the government and general advancement of good order and military discipline; and the Adjutant General shall make a return of all the militia of the State to the Commander in Chief of the said State, and a duplicate of the same to the President of the United States. And whereas, sundry corps of artillery, cavalry and infantry, now exist in several of the said States, which, by the laws, customs, or usages, thereof, have not been incorporated with or subject to, the general regulations of the militia :

Adjutant General to make return to Governor and President United States.

SECT. 10. *Be it further enacted*, That such corps retain their accustomed privileges, subject nevertheless to all other duties required by this act, in like manner with the other militia.

Privileges to certain corps confirmed.

And whereas, Congress on the second day of March, in the year of our Lord one thousand eight hundred and three passed the following additional law, entitled,

Additional Act of Congress March 2, 1803.

“An Act in addition to an Act entitled an Act more effectually to provide for the National Defence, by establishing an uniform Militia throughout the United States.”

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the Adjutant General of the Militia in each State to make return of the Militia in each to which he belongs, with their arms, accoutrements and ammunition, agreeably to the directions of the act, to which this is in addition, to the President of the United States, annually, on or before the first Monday in

Adjutant General to make annual returns to President U. S.

January in each year; and it shall be the duty of the Secretary of War from time to time to give such directions to the Adjutant Generals of the Militia, as shall in his opinion be necessary to produce an uniformity in the said returns, and he shall lay an abstract of the same before Congress on or before the first Monday of February annually.

SECT. 2. *And be it further enacted*, That every citizen duly enrolled in the militia, shall be constantly provided with arms, accoutrements and ammunition, agreeably to the direction of the said act, from and after he shall be duly notified of his enrolment; and any notice or warning to the citizens so enrolled to attend a company, battalion or regimental muster or training, which shall be according to the laws of the State in which it is given for that purpose, shall be deemed a legal notice of his enrolment.

Duty of persons enrolled.

Legal notice of enrolment.

SECT. 3. *And be it further enacted*, That in addition to the officers provided by said act, there shall be to the militia of each State one quarter master general; to each brigade one quarter master of brigade; and to each regiment one chaplain.

Quarter Master General, Brigade Quarter Master and Chaplain to Regiment.

Whereas Congress on the 18th day of April, in the year of our Lord one thousand eight hundred and fourteen passed the following law, entitled an Act in further addition to an Act, entitled "An Act more effectually to provide for the national defence, by establishing an uniform militia through the United States."

Additional act of Congress April 18, 1834.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to the officers of militia provided for by the act entitled an act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States, approved May the eighth, one thousand seven hundred and ninety two, and by an act in addition to said recited act, approved March the second, one thousand eight hundred and three,

Division In-
specter, Divis-
ion Quarter
Master, Brigade
Aid de Camp.

there shall be to each division one division inspector, with the rank of lieutenant colonel, and one division quarter master, with the rank of major; to each brigade one aid-de-camp, with the rank of captain; and the quarter masters of brigades heretofore provided for by law, shall have the rank of captain. And it shall be incumbent on the said officers to do and perform all the duties which by law and military principles are attached to their offices respectively.

Their duties.

Act of Congress
April 20, 1816.

Whereas Congress on the twentieth day of April, in the year of our Lord one thousand eight hundred and sixteen, passed the following law, entitled "An Act concerning the field officers of the militia."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of May next, instead of one lieutenant colonel commandant to each regiment, and one major to each battalion of the militia, as is provided by the act, entitled "An Act more effectually to provide for the national defence by establishing an uniform militia throughout the United States," approved May the eighth one thousand seven hundred and ninety two, there shall be one colonel, one lieutenant colonel, and one major, to each regiment of the militia, consisting of two battalions; where there shall be only one battalion, it shall be commanded by a major: *Provided,* That nothing contained herein shall be construed to annul any commission in the militia which may be in force as granted by the authority of any State or Territory, in pursuance of the act herein recited, and bearing date prior to the said first day of May next.

One Colonel,
Lieut. Colonel
and Major to
each Regiment.

Proviso.

Act of Congress
May 12, 1820.

And whereas, Congress on the twelfth day of May, in the year of our Lord one thousand eight hundred and twenty, passed the following additional law, entitled, "An Act to establish an uniform mode of discipline and field exercise, for the militia of the United States :"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the system of discipline and field exercise which is and shall be ordered to be observed by the regular army of the United States in the different corps of infantry, artillery and riflemen, shall also be observed by the militia in the exercises and discipline of the said corps respectively, throughout the United States.

Discipline, system of established.

SECT. 2. *And be it further enacted,* That so much of the Act of Congress approved the eighth day of May one thousand seven hundred and ninety two, as approves and establishes the rules and discipline of the Baron de Steuben, and requires them to be observed by the militia throughout the United States, be and the same is hereby repealed.

Repeal of part of Act of Congress of May 8, 1792.

MILITIA LAW.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That in addition to the exemptions made by the foregoing laws of the United States, the Justices of the Supreme Judicial Court, all regularly ordained Ministers of the Gospel, of every denomination, while they shall ordinarily officiate as such, and continue in regular standing; all officers, who have heretofore held, or may hereafter hold commissions in the militia of this State for the term of five years, or shall have been superseded, or whose corps or company shall have been disbanded, and who have been honorably discharged; and every person of the religious denominations of Quakers and Shakers who shall on or before the first Monday of April annually, produce a certificate to the commanding officer of the company within whose bounds such Quaker or Shaker resides; which certificate signed by two or more of the elders or overseers, (as the

Militia Law of the State.

Absolute exempts.

case may be,) and countersigned by the clerk of the society with which such Quaker or Shaker meets for religious worship, shall be in substance as follows :—

“We, the subscribers, of the Society of the people called — in the town of — in the county of — do hereby certify that — is a member of our society, and that he frequently and usually attends with said society, for religious worship and conforms to the usages of the same, and we believe is conscientiously scrupulous of bearing arms.

E. F., Clerk.

A. B. } Elders or Overseers.”
C. D. } [as the case may be.]

notwithstanding their being above the age of eighteen and under the age of forty five years, be, and they hereby are exempted from the performance of military duty ; but no other able bodied white male citizen between those ages shall be exempted from military duty except such as are hereinafter excepted.

SECT. 2. *Be it further enacted,* That each of the persons, hereinafter mentioned, may be exempted from the performance of military duty, notwithstanding their being of the age of eighteen years and under the age of forty five years, viz : all Enginemen, upon the conditions specified in the acts under which they have been, or may hereafter be appointed ; all officers, who may have held or may hereafter hold commissions in the army or navy of the United States ; or in the militia of any of the United States, for the term of five years and have been honorably discharged ; and all officers, who have held or may hereafter hold commissions in the militia of this State for a less term than five years, and have been discharged otherwise than in pursuance of any sentence of a Court Martial ; and all staff officers, who shall have ceased to act as such, in consequence of the resignation, promotion, or removal of the officers, who appointed them: *Provided,* that each person so exempted, excepting enginemen, shall pay to the Treasurer of the town or plantation,

Conditional
exempts.

Proviso for pay-
ment of two dol-
lars annually.

within which such exempt resides, two dollars annually, and produce his receipt therefor to the commanding officer of the company within the bounds of which he resides, on or before the first day of May, in each year: *Provided also*, Nothing contained in this section shall be construed to prevent the conditional exempts, therein named, from being called forth to execute the laws of the United States or of this State, to suppress insurrection and repel invasion.

Conditional exempts may in certain cases be called forth.

SECT. 3. *Be it further enacted*, That all persons liable by law to the performance of military duty, who are or may be between the ages of thirty five and forty five years be, and they are exempted from all military duty, except that of being detached or called forth to execute the laws of the United States, or of this State, to suppress insurrections and repel invasions, and of keeping themselves constantly furnished with the arms and equipments required by the laws of the United States, and the duty of carrying or sending them on the first Tuesday of May annually, to the place of inspection or view of arms of the company within the bounds of which they may reside and in which they may be enrolled, and the duty of attending the election of company officers. And every non-commissioned officer or private who is permitted to send his arms and equipments for inspection, on the day and in the manner provided in this section, shall neglect so to do, or shall on said day lend or sell them so that they may be inspected as the property of another, shall forfeit two dollars and fifty cents, to be sued for and appropriated according to the provisions of this act.

Persons between 40 and 45 years exempted except in cases of insurrection or invasion.—

Obliged to keep arms and equipments.

Prohibited from lending or selling them so as, &c.

SECT. 4. *Be it further enacted*, That the said Treasurers shall severally keep a fair account of all moneys by them received by virtue of this act, subject at all times to the inspection of any of the commanding officers of the company or companies in the towns,

Town Treasurers to keep account of all money received by virtue of this act.—

or plantations, to which they belong; and shall annually, on or before the second Wednesday of January, transmit to the Treasurer of the State, a fair account of all moneys so by them received; and shall within thirty days thereafter pay the amount thereof into the Treasury of this State, and the same shall there constitute a fund to be appropriated and disposed of as the Legislature shall, from time to time direct, for the sole purpose of arming, equipping and uniforming the Militia.

and pay the same to State Treasurer.

Students of Colleges, &c. to be enrolled in the towns where their residence is established.

SECT. 5. *Be it further enacted*, That all students of any College, Theological Seminary or Academy shall be enrolled and held to do duty only in the towns and plantations, wherein their residence is established according to law.

Governor and Council to organize militia.

SECT. 6. *Be it further enacted*, That the Governor be and he hereby is authorized and empowered, by and with the advice of the Council, to organize and arrange the militia of this State, conformably to the laws of the United States, and to make such alterations therein, as from time to time, may be deemed necessary. And that all applications or petitions for raising companies at large, and for alterations in the arrangement of the militia, shall be made to the Governor, and he, by and with the advice and consent of the Council, is hereby authorized to grant such petitions or applications as to him may appear proper. And all companies raised at large, by voluntary enlistment, may establish by-laws, and regulations, not repugnant to the laws of the State, for perfecting themselves in military knowledge and discipline, in which they may determine what number of company trainings they will have in each year; and may establish penalties and forfeitures to enforce the observance thereof, to be recovered by action of debt in any court of competent jurisdiction, for assessing and collecting funds, and for any other purposes necessary to the good order and government of such companies; which by-

Authorized to grant petitions for alterations, &c.

Companies raised at large may establish by-laws, penalties, forfeitures, &c.

laws and regulations shall be binding on such of the members thereof as subscribe their names to the same.

SECT. 7. *Be it further enacted,* That the commissioned officers of the militia, named in the aforesaid laws of the United States, shall be chosen and appointed in the manner following:—

Commissioned officers how chosen and appointed.

The major generals to be chosen by the Senate and House of Representatives, each having a negative on the other, and to be commissioned by the Governor.

The adjutant general and quarter master general to be appointed by the Governor, with the advice of Council, with the rank of brigadier general.

The division inspectors to be appointed by the major generals of their respective divisions, with the rank of lieutenant colonel.

The aids-de-camp of the major generals to be appointed by their respective major generals, with the rank of major.

The division quarter masters to be appointed by the major generals of their respective divisions, with the rank of major.

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

The brigade majors to be appointed by their respective brigadier generals, with the rank of major.

The aids-de-camp and quarter masters of brigades to be appointed by the brigadier generals of their respective brigades, with the rank of captain.

The field officers of regiments and battalions to be chosen by the written votes of the captains and subalterns of their respective regiments and battalions.

The captains and subalterns of companies to be chosen by the written votes of the members of their respective companies.

The adjutants, the quarter masters, and the pay masters of regiments to be appointed by the colonels of their respective regiments, with the rank of lieutenant.

The chaplains, the surgeons, and the surgeons' mates, of regiments to be appointed by the colonels of their respective regiments. And the aforesaid officers shall be commissioned by the Governor.

Non-commissioned officers how appointed.

SECT. 8. *Be it further enacted*, That the non-commissioned officers, named in the aforesaid laws of the United States, shall be appointed in the manner following :

The non-commissioned officers of companies to be appointed by the captains of their respective companies, who shall forthwith make return thereof to the commanding officer of their respective regiments or battalions, and they shall grant them warrants accordingly. And in case there shall be but one company of cavalry or artillery in any brigade, then the warrant shall be granted by the captain of such company.

Additional officers.

SECT. 9. *Be it further enacted*, That in addition to the commissioned and non-commissioned officers above enumerated, the following officers and non-commissioned officers shall be appointed in the manner following :

Governor's Aids.

Aids-de-camp to the Commander in Chief not to exceed four in number, to be appointed and commissioned by the Governor with the rank of lieutenant colonel.

Division Advocate.

A division advocate for each division to be appointed by the Commander in Chief.

Adjutant and Quarter Master of Artillery and Cavalry.

An adjutant and a quarter master to each battalion of artillery and cavalry to be appointed by the commanding officers of their respective battalions, and to be commissioned by the Governor, with the rank of lieutenant.

Non-commissioned Regimental Staff officers.

A quarter master sergeant and a sergeant major to each regiment, and a drum and fife major, master, deputy master, and musicians of the regimental bands to be appointed by the colonels of their respective regiments, who shall grant them warrants accordingly.

A quarter master sergeant to each battalion of artillery and cavalry to be appointed by the commanding officers of their respective battalions, who shall grant them warrants accordingly.

SECT. 10. *Be it further enacted,* That each major general be and he hereby is authorized, and it shall be his duty, from time to time to give all such orders, as may be necessary, for filling by election any vacancy or vacancies of brigadier general, field officer, captain or subaltern, which does now or may hereafter exist within his division. And previous to any such election, the electors shall have ten days notice thereof at least, and no election for the choice of brigadier general or field officer shall be valid, until a majority of all the electors qualified by law to vote in such choice, (counting all existing vacancies in the offices of such electors,) shall be present at such election; and all returns of elections, or of neglects, or refusals to elect, shall be made to the Commander in Chief, by the major generals in whose divisions such elections shall have been ordered; and in case of neglect or refusal by any company to do duty as prescribed by law, or to elect officers when duly notified and ordered thereto, the Governor shall immediately disband said company, and order the non-commissioned officers, musicians and privates thereof to be enrolled in the oldest adjoining standing company, and they shall be held to do therein all the duties required by law. And all commissions shall be transmitted to the major generals and be regularly passed down to the persons entitled to receive them. And every person, who shall be elected to any office as aforesaid, and shall not within one hour after he shall have been notified of his election, by the officer who presided thereat, (excepting in case of the choice of major general, who shall be allowed thirty days after he shall be notified by the secretary of this State) signify his acceptance thereof, shall be considered as declining to serve.

Quarter Master Sergeant of Artillery.

Major General to give orders for choice of officers.

Electors to have 10 days notice.

Majority of electors to be present.

Returns of elections, neglects and refusal to elect to be made to Commander in Chief.

Governor to disband company refusing, &c.

Commissions to be sent to Major Generals and sent down.

Person elected to signify his acceptance within one hour.

and orders shall be forthwith issued for a new choice.

Commissions to take rank from the day of election.

And the commission of every officer shall designate the division, brigade, regiment or battalion, and the corps in which he shall be commissioned, and all officers shall take rank from the day of their elections or appointments respectively, which shall be designated in their commissions. And whenever an

Officers transferred how to rank.

officer is transferred from one corps or station to another in the same grade, the day of the date of his original appointment or election shall be expressed in his new commission, and that day be considered the date of his commission. And when an officer

Loss of commission how supplied.

shall by any casualty lose his commission, upon his making an affidavit thereof, before any Justice of the Peace, for the county in which he resides, and on filing such affidavit in the office of the adjutant general, he shall be entitled to receive a new commission of the same tenor and date as the one so lost as aforesaid. And all officers when on duty shall take

Rank of officers on duty.

rank by the dates of their commissions as above defined. And when two or more officers of the same

When of equal grade and date how settled.

grade are on duty together, and their commissions bear an equal date, and former pretensions of some commission do not decide, then their relative rank with each other shall be determined by lot, to be drawn by them before the commanding officer present, and when on court martial before the president thereof.

Commissioned officers' oaths of office—before whom taken.

SECT. 11. *Be it further enacted,* That every officer, duly commissioned in pursuance of the provisions of this act, shall, before he enters upon the discharge of the duties of his office, take and subscribe the oaths required by the constitution, before some Justice of the Peace, or before some superior field, or general officer, or staff officer of the rank of field officer, who has previously taken and subscribed them himself. And on the back of every military commission the following form of certificate of qualification shall be printed.

"STATE OF MAINE.

This may certify, that _____, commissioned as within, on this _____ day of _____, A. D. 18____, personally appeared and took and subscribed the oaths required by the constitution of this State to qualify him to discharge the duties of his office.

Certificate of oath.

Before me, _____, _____, _____."

SECT. 12. *Be it further enacted,* That to every company there shall be a clerk, who shall be one of the sergeants, and he shall be appointed by the captain or commanding officer of the company, and on the back of his warrant as sergeant, the captain or commanding officer of the company, shall in writing certify, that he does thereby appoint him to be clerk of the company. And before such clerk enters upon the duties of his clerkship, he shall be sworn to the faithful discharge of his duty, by taking the following oath before the captain or commanding officer of the company to which he belongs, who is hereby authorized to administer the same, viz :

Appointment of company clerk.

"I, A. B. do solemnly swear, that I will faithfully and impartially perform all the duties incumbent on me, as clerk of the company to which I belong according to the best of my abilities and understanding. So help me God."

Oath of Clerk.

And the captain or commanding officer of the company shall at the time of his administering said oath, certify on the back of the warrant of the sergeant appointed to be clerk, that he was duly qualified, by taking the oath required by law. And it shall be the duty of the clerk to keep a fair and exact roll of the company, together with the state of the arms and equipments, belonging to each man, which roll he shall annually revise, on the first Tuesday of May, and correct the same from time to time as the state of, and alterations in, the company may require ; to register all orders and proceedings of the company, in the orderly book ; to keep exact details of all drafts and detachments ; to assist the commanding officer of the company in the enrolment thereof, and also in enrolling of all such persons without partiality or favor, liable to any military

Captain to certify qualification of Clerk.

Duties of Clerk.

duty, coming to live within his company bounds, as he may from time to time be informed thereof ; to distribute all company orders and notifications, which he may be required to do ; to examine the equipments of the men, when ordered ; to note all delinquencies, to sue for and recover all fines and forfeitures, which are required by this act to be sued for, and recovered by him ; to keep accounts in the orderly book of all fines and forfeitures, and all other moneys collected by him with the persons' names, of whom they were collected, and of the times when, and for what offence, neglect, default or deficiency ; which book shall not be alienated from the company, and shall always be open to the inspection of any officer of the company.

Uniform of Militia officers.

SECT. 13. *Be it further enacted,* That the officers of the militia (chaplains excepted,) while on duty, shall wear a uniform dress, to consist of a blue cloth coat, and other articles of dress of such color and fashion and with such equipments as shall be prescribed by the Commander in Chief ; except where the same is regulated by the laws of the United States.

Uniform of officers and privates exempt from attachment.

SECT. 14. *Be it further enacted,* That every officer, non-commissioned officer and private, shall hold his uniform exempted from all suits, distresses, executions or sales for debt, or the payment of taxes. And no officer, non-commissioned officer, nor private shall be arrested on any civil process, during his going unto, returning from, or his performance of military duty ; nor during his going unto, remaining at, or returning from any place, at which he may be ordered to meet for the election of any officer or officers. And no officer shall be arrested on any civil process while going unto, serving upon, or returning from any court martial, court of inquiry, or board of officers, upon which it may be the duty of such officer to attend.

Officers and privates exempt from arrest on civil process while on duty.

Officers while serving on Courts Martial, &c.

SECT. 15. *Be it further enacted,* That every officer, non-commissioned officer and private of infantry, light infantry, cavalry, artillery, grenadiers and riflemen, shall constantly keep himself furnished and provided with arms and equipments required by the laws of the United States before recited, except such private as shall not be able so to provide himself. And no private shall be considered unable to provide himself with the arms and equipments required as aforesaid, unless he shall produce, after the first day of April, and before the first Tuesday in May annually, to the commanding officer of the company to which he belongs a certificate of such inability from the overseers of the poor, of the town or district where he resides. And the commanding officer of the company to which such private belongs, shall forthwith lay such certificate before the selectmen of the town or district where such private resides. And it shall be the duty of such selectmen, forthwith, at the expense of their respective towns or districts, to provide for every such private, the arms and equipments required as aforesaid, and they shall deposit the same in some safe and convenient place, and shall permit the commanding officer of the company, to which such private, unable to provide himself, as aforesaid, belongs, to deliver such arms and equipments to such private, whenever his company shall be ordered out for any military duty. And the said commanding officer shall be responsible for the safe return of such arms and equipments to the place of deposit. And if any town shall neglect to furnish arms and equipments to such privates as are unable, as aforesaid, to equip themselves, such town shall forfeit and pay not less than twenty dollars, nor more than fifty dollars, to be recovered by indictment, to the use of the State.

Officers and privates to be armed and equipped.

Selectmen to provide arms and equipments in case of inability of privates to furnish themselves.

Commanding officers responsible for such arms. *

Penalty for neglect to furnish arms, &c.

Vacancies of superior officers how to be filled.

SECT. 16. *Be it further enacted,* That whenever the office of major general, brigadier general, colonel, lieutenant colonel, major commandant, or of

captain, shall be vacant, the officer next in grade and in commission, in the division, brigade, regiment, battalion or company, shall exercise the command, and perform the duties thereof, until the vacancy shall be supplied. And in case of the sickness, absence, or other inability of the clerk of any company, the commanding officer thereof is hereby authorized to appoint a clerk pro tempore, who shall be duly sworn before he enters on the duties of the office ; and shall for the time expressed in his appointment or until specially discharged, have all the powers, and be subject to all the duties, and be liable to all the penalties of the clerk, in whose place he is put. And whenever a company shall have neither officers, nor non-commissioned officers, the commanding officer of the regiment or battalion, to which such company belongs, shall appoint suitable persons within said company to be non-commissioned officers of the same, and grant them warrants accordingly, one of which non-commissioned officers he shall appoint clerk, and shall endorse the warrant of the non-commissioned officer appointed clerk, and administer the oath to him, as required by the commanding officers of companies, in the twelfth section of this act, and the senior non-commissioned officer of a company, while there are no commissioned officers in office, shall command the same ; and all the authorities and powers of commanding officer shall be vested in him, until some commissioned officer shall be chosen or appointed and has qualified himself: *Provided however,* That when a company, destitute of commissioned officers, shall parade with other troops, the commanding officer present shall assign some commissioned officer or officers to such destitute company, to command the same while on parade.

Sickness or absence of the Clerk.

Vacancies of company officers how to be filled.

Company paraded without commissioned officers, &c.

Artillery how arranged and equipped.

SECT. 17. *Be it further enacted,* That in each brigade, where there are now, or may hereafter be two companies of artillery, they shall form a battal-

ion, and be entitled to a major, an adjutant and a quarter master; that in each brigade, where there are now, or shall hereafter be, three companies of artillery, they shall still form one battalion; and that in each brigade, where there are now, or may hereafter be, four companies of artillery, they shall form a regiment of two battalions, and be entitled to a colonel, lieutenant colonel, and major. *Provided however,* That the Governor with advice and consent of Council, may organize independent battalions of infantry, with a battalion staff, where the local situation of the troops is such that they cannot be conveniently connected to a regiment. And where by the division of any corps, a new division or brigade shall be so formed as to leave but three companies of any regiment of cavalry or artillery, or where by the disbanding of any company, such regiment of cavalry or artillery shall be reduced to three companies, such three companies shall still constitute a regiment, and all the officers thereof shall retain their command and rank, the same as though said corps had not been reduced. And each company of artillery shall be provided by the quarter master general with two good brass field pieces, of such calibre as the Commander in Chief may direct, with carriages and apparatus complete; an ammunition cart, forty round shot, and forty rounds of cannister shot; also tumbrils, harness, implements, laboratory, and ordnance stores, which may from time to time be necessary for their complete equipment for the field. And the Commander in Chief shall order to be issued, to each company of artillery, annually, a quantity of powder not exceeding forty pounds, which shall be expended on days of inspection or review, and in experimental gunnery. And the commanding officer of every company of artillery shall be accountable for the careful preservation of the pieces, and all the apparatus aforesaid, appertaining to their equipment, and for the proper

Proviso.

Three companies in certain cases may constitute a regiment.

Field pieces, number of, and how provided.

Powder to be furnished by order of Commander in Chief.

Commanding officer responsible for preservation of pieces, &c.

To lay before committee of accounts his account for money expended.

Proviso.

Drivers exempt from military duty except, &c.

Cavalry how arranged and equipped.

Non-commissioned officer or private destitute of suitable horse and furniture.

expenditure of the ammunition supplied by the government. And the commanding officer of every company of artillery shall lay before the committee on accounts for allowance, his accounts of money actually expended in providing horses to draw the field pieces and tumbril of his company: *Provided however*, no allowance shall be made, unless such company is ordered to appear at a battalion, regimental, brigade or division inspection or review, or unless such company is ordered on duty by the Commander in Chief. And each commanding officer of a company of artillery is hereby authorized to enlist three drivers, who when enlisted, shall be exempted from other military duty, except that of keeping the harnesses and apparatus of the carriages, belonging to the company, in good order.

SECT. 18. *Be it further enacted*, That where there are now, or may hereafter be, two companies of cavalry in a brigade, they shall form a battalion, and be entitled to a major, an adjutant, and a quarter master. And in those brigades, where there are now, or may hereafter be, three companies of cavalry, they shall still form a battalion; and in each brigade, where there are now, or may hereafter be, four companies of cavalry, they shall form a regiment of two battalions, and be entitled to a colonel, lieutenant colonel and major. And if any non-commissioned officer or private of any company of cavalry shall be destitute of a suitable horse and furniture for more than two months at one time, it shall be the duty of the commanding officer of the company immediately to apply to the brigadier general of the brigade, who may discharge such non-commissioned officer or private from such company, and cause him to be enrolled in the standing company, within whose bounds he resides; and if he be a non-commissioned officer, he shall be considered as reduced to the ranks. And when any draft or detachment shall be made from any company of cavalry for actual

service, the men drafted or detached shall march with their own horses, and before they march, if there be time, the horses shall be appraised by three impartial men, to be appointed by the commanding officer of the brigade, to which the company belongs, from which the draft or detachment is ordered.

Men drafted from cavalry to have their horses appraised.

SECT. 19. *Be it further enacted,* That no company of cavalry, artillery, light infantry, grenadiers, or riflemen, shall be raised at large when any of the standing companies shall thereby be reduced to a less number than forty effective privates, exclusive of conditional exempts and two musicians, and including corporals; and if any officer of cavalry, artillery, light infantry, grenadiers, or riflemen, shall enlist any men, belonging to a standing company, or residing within the bounds thereof, for the purpose of forming or recruiting his company, when by means thereof such standing company would be reduced to a less number than forty effective privates borne on the company roll, exclusive of those between the ages of thirty-five and forty-five years, such enlistment shall be void. And whenever any person shall enlist into any company of cavalry, artillery, light infantry, grenadiers or riflemen, the commanding officer of the company, into which such person may enlist shall give notice thereof, in writing, to the commanding officer of the standing company, in which such person is liable to do duty, within five days from the time of such enlistment, and state in such notice, the date of enlistment, otherwise the same shall be void, although the standing company should not thereby be reduced to a less number than forty effective privates. And if any company, raised at large, shall be reduced to a less number than twenty privates, and remain so for three months, then such company shall be disbanded, and the men which belonged to such delinquent company shall be enrolled in the standing company within the bounds of which they respectively reside. And all companies, raised

Cavalry, artillery, &c. not to be raised by reducing standing companies below 40 privates.

Enlistment void in such case.

Notice in writing to be given in case of enlistment into cavalry or artillery.

Companies raised at large, may be disbanded.

Companies raised at large, to make their elections as other companies, and returns to commanding officers of brigades.

at large, and not annexed to any particular regiment, shall be subject to the orders of the commanding officer of the brigade in which they have been raised ; and shall make their elections of officers in the same manner as other companies, but shall make their returns of elections to the commanding officer of the brigade. And at all parades of regiments, the companies commanded by the two senior captains shall act as light infantry companies, except where companies of light infantry, grenadiers or riflemen, have been or may be hereafter raised and annexed to the regiment.

Regimental bands of music may be raised. Their organization.

SECT. 20. *Be it further enacted,* That each colonel or commanding officer of a regiment, be and he hereby is authorized to raise by voluntary enlistment, within his own regiment, or any adjoining regiment, with the written consent of the commanding officer of such regiment, and organize and establish within his regiment a band of music not to exceed twenty musicians, including one master and one deputy master, and the colonel or commanding officer shall grant the musicians, deputy master, and master of such band, warrants as such. And each band shall be under the direction of the commanding officer of the regiment in which it is organized. And it shall be the duty of the master and deputy master to teach, lead and command such band, and to issue all such orders as they may be, by their colonel or commanding officer, authorized to do for these purposes. And each master, deputy master and musician shall constantly keep himself provided with the uniform of the band to which he belongs, which uniform is to be prescribed in the same manner as the uniform of the regiment to which the band belongs—and shall also keep himself constantly provided with such instrument or instruments, as may be directed by the commanding officer of the regiment. And the bands belonging to the regiments shall also be under the brigadier general or the commanding officer of the

To be under direction of commanding officer.

Duties of Master, &c.

Uniform.

Instruments.

To be under brigadier general.

brigade (the senior master present, having the direction of said bands,) wherever the said regiments shall meet in brigade. And if any master or deputy master or musician shall be guilty of any neglect of duty, disobedience of orders, disorderly or other unmilitary conduct, he shall forfeit not less than five nor more than twenty dollars, for each offence, one half thereof to the use of the officer, suing therefor, and the other half to the colonel of the regiment, to which the offender may belong, for the purchase and repair of musical instruments for said band, to be sued for by the adjutant of the regiment, or by the brigade major of the brigade, if assembled in brigade, in an action on the case, before any justice of the peace in the county where the offender resides, and no appeal shall be allowed to either party; and such master, deputy master or musician, shall moreover be liable to be removed from the band at the discretion of the colonel or commanding officer of the regiment, within which such band is organized, and shall forthwith be enrolled as a private in the standing company, within the bounds of which he resides. And each master, deputy master and musician of a band, shall be exempted from all military duty while belonging to the band, excepting such as shall be required of him by the colonel or commanding officer of the regiment, or by the brigadier general or commanding officer of the brigade when the regiments are assembled in brigade.

Punishment of musicians for disorderly conduct, &c.

Forfeiture—

How recovered.

Musicians exempted from other military duty.

SECT. 21. *Be it further enacted,* That every commanding officer of a company shall parade his company on the first Tuesday of May annually, at one of the clock in the afternoon, for the purpose of inspecting, examining, and taking an exact account of all the equipments of his men, and for noting all delinquencies of appearance and deficiencies of equipment, and for correcting his company roll, in order that a thorough inspection of each company in the State may be made. And it shall be the duty of

Companies to be paraded on first Tuesday of May annually—

every commanding officer of a company to parade his company by his own order, on one other day in the afternoon, for company discipline, between said day of inspection and the review herein provided for ; and on the two several days of training and inspection to use his best exertions in instructing and perfecting his men in their company exercise and evolutions. And the troops of each division shall also be paraded for review in brigades, regiments, or battalions, on some day in the month of September annually. And when by reason of the residence of any part of the troops on any of the Islands in this State, it may be deemed expedient by the major general of the division to which such troops belong, they may be reviewed in less bodies than battalions. And whenever the commanding officer of a company shall order out his company for inspection or training, or for any battalion, regimental, brigade or division inspection or review, he shall issue his orders to some one or more of the non-commissioned officers or privates of his company, requiring him or them, to notify the men belonging to his company to appear at the time and place appointed ; and it shall be the duty of the non-commissioned officer or officers, private or privates so ordered as aforesaid, to give notice of the time and place appointed for the parade of said company, to each and every man, he or they shall have been ordered to notify, either verbally, or by delivering to each man in person, or by leaving it at his usual place of abode, a written or printed order. And no notice shall be legal, for any company inspection or training, or for any battalion, regimental, brigade, or division inspection or review, unless the same shall be given four days at least previous to the time appointed therefor. *Provided always*, that in case of invasion, insurrection, or other emergency, any notice, however short, shall be legal and binding. And in all cases the testimony of the clerk, or any other non-commissioned officer

and one other day for company discipline—

and for review in brigades, &c. one day in September.

Mode of notifying men to appear.

Legal notice.

Proviso.

or private, who shall have received orders to notify the whole or any part of the men of any company to appear at a time and place appointed for any military duty, shall be conclusive to prove that due notice was given to the party prosecuted, unless such testimony be invalidated by other evidence; and the commission of the captain or commanding officer of any company shall in all cases, be deemed sufficient evidence of the organization of such company. And whenever any company shall be paraded, the commanding officer of such company is hereby authorized verbally to notify the men so paraded, to appear on some future day for company discipline, preceding the day of the annual review, as provided herein, and such notice shall be legal as it respects the men present. *Provided*, That no private shall be compelled to perform any other military duty in one year, than is herein provided, except in time of war or public danger, and for choice of officers, nor after sunset. But on the approach of any public danger, when in the opinion of the Commander in Chief, any of the exigencies are likely to happen upon which the militia could by the constitution of the United States, be called into actual service, he shall have power to order such other and further training and disciplining the militia, or any part thereof, as he may deem necessary.

Proof of notice

—of organiza-
tion of company.Verbal notice,
when sufficient.

Proviso.

Commander in
Chief may order
further training
in case, &c.

SECT. 22. *Be it further enacted*, That every commanding officer, when on duty, is hereby authorized to ascertain, and fix necessary limits and bounds to his parade, (no road in which people usually travel to be included) within which no spectator shall have a right to enter, without liberty from such commanding officer; and in case any person shall intrude within the limits of parade, after being once forbidden, he shall be subject to be confined under guard during the time of the parade, or a shorter time, at the discretion of the commanding officer.

Commanding
officers to fix
limits to their
parade.

Age, how proved.

Penalty for refusal to give name or giving false name.

SECT. 23. *Be it further enacted,* That in all cases of doubt respecting the age of any person intended to be enrolled, the party questioned as to his age shall prove the same to the satisfaction of the enrolling officer ; and if any person liable to military duty, upon application to him personally by the commanding officer of the company within the bounds of which such person resides, or upon application by any person acting under such commanding officer, shall either refuse to give his name, or not give his name truly, every such person, so offending, shall forfeit twelve dollars to be sued for by the clerk of the company in an action on the case before any Justice of the Peace of the county where such offender resides.

Notice for choice of officers.

SECT. 24. *Be it further enacted,* That when any non-commissioned officer or private in any company, shall receive orders from the commanding officer of such company to notify and warn such company, or any part thereof, to meet for the purpose of choosing any officer or officers, it shall be the duty of such non-commissioned officer or private to give every person he is so ordered to warn, verbal notice, or to leave him a written or printed notification at his usual place of abode, specifying the time, place and purpose of said meeting ; and no election of a company officer shall be valid in future, unless a majority of the voters of the company are present at the election.

Company musicians may be enlisted.

SECT. 25. *Be it further enacted,* That each and every commanding officer of any company is hereby empowered to enlist, as musicians for his company, and within the bounds of the same, not exceeding two drummers and two fifers, or one fifer and one bugler, for and during the term of seven years, unless sooner discharged by removal to such distance from the said company, as to render it inconvenient for said musician to perform the duties required of him, or by reason of some other good

and legal excuse. And any such musician, so enlisted, who after having been duly notified and warned shall refuse to perform his duty as musician at all legal meetings of said company, shall forfeit and pay for every such offence the same sum, as would be forfeited by any non-commissioned officer or private for non appearance at any of said meetings; and in case of removal or discharge of any such musician, the said captain or commanding officer may from time to time enlist other musicians to fill such vacancy or vacancies.

Penalty for neglect of duty.

SECT. 26. *Be it further enacted,* That whenever the Governor on account of any public exigency shall issue his proclamation to that effect; every town and plantation within this State shall provide and deposit, and constantly keep provided and deposited in some suitable and convenient place within said town or plantation, one hundred pounds of musket balls, each of the eighteenth part of a pound; one hundred twenty eight flints, suitable for muskets; three copper, iron, or tin camp kettles, for every sixty four soldiers enrolled within said town or plantation, except artillerists; and also with powder, at the rate of thirty two pounds for every sixty four soldiers enrolled within said town or plantation, and the same proportion of the aforesaid articles for a greater or less number of soldiers enrolled as aforesaid. And every town or plantation, which shall neglect to keep constantly provided with the articles aforesaid, and in the proportions aforesaid, shall forfeit and pay to the use of the State, a sum not exceeding five hundred dollars, nor less than twenty dollars, according to the nature and degree of the neglect, to be recovered by indictment or information in any court of competent jurisdiction. And it shall be the duty of each quarter master of regiments of infantry to cause every town or plantation within the bounds of his regiment, to be prosecuted or presented, which town or plantation

Towns to provide themselves with ammunition whenever, &c.

Penalty for neglect.

Quarter masters of infantry to prosecute delinquent towns.

he shall find upon his inspection to be deficient, either in the quality or quantity of military stores, required to be provided as aforesaid, or which he shall find to have neglected to make the provisions, or any part thereof, required as aforesaid. And it shall be the duty of each town treasurer, when such town by virtue of this section shall make any expenditure, to make out an account of such expenditures, verified by his oath, and the same to present to the Legislature of this State, who shall examine and allow such sum as shall appear to be properly vouched and expended.

SECT. 27. *Be it further enacted,* That the captain or commanding officer of each company, shall cause the clerk of his company to make a return of the state of his company on the day of the annual inspection, to the commanding officer of his regiment or battalion, on or before the first day of June annually; and the commanding officer of each regiment or battalion, shall cause his adjutant to record an abstract of the returns made to him, in a book to be kept for that purpose, and to transmit a copy thereof to the commanding officer of the brigade, on or before the first day of August annually; and the commanding officer of each brigade shall cause his brigade inspector to transmit the brigade returns to the office of the adjutant general; also to transmit abstracts thereof to the major general and to the division inspector of his division, in the month of October annually; and the major general shall cause the division inspector to transmit an aggregate abstract of such brigade returns to the office of the adjutant general, in the month of November annually. And it shall be the duty of the adjutant general to form, sign and transmit one correct return of all such division returns to the Commander in Chief, and one to the President of the United States on or before the first day of January annually. And it shall be the duty of the several commanding

Town Treasurer to make out account of expenditures.

Clerk to make annual returns of state of his company.

Brigade Inspector to transmit brigade returns to Adjutant General and abstracts to the Major General, and Division Inspector to transmit abstracts to the Adjutant General and be to the Commander in Chief.

officers of regiments, brigades and divisions, to cause such abstracts and returns to be made and transmitted within the several times aforesaid, in all cases of absence or inability of the several staff officers aforesaid, or of vacancy in their offices. And it shall be the duty of each such staff officer to record the returns by him made, in a book, to be kept for that purpose, and which shall not be alienated from the corps, to which such officers respectively belong. And it shall be the duty of the adjutant general to furnish such officers with proper books, and from time to time, with blanks, containing proper forms of the abstracts and returns aforesaid.

Adjutant General to furnish blanks.

SECT. 28. *Be it further enacted,* That upon the requisition of any commanding officer of a company for that purpose, at five days [notice,] the selectmen of towns, and the assessors of plantations, shall pay at the place of inspection and review to each officer and member of such company, belonging to such town or plantation, who shall then and there appear duly equipped and perform military duty, the sum of fifty cents in lieu of rations. And every town or plantation, which shall fail to pay said sums as aforesaid, shall forfeit to the use of said company, a sum equal to fifty cents, for every such person, who shall do duty on such inspection and review, to be sued for and recovered by the clerk of said company, before any court of competent jurisdiction. And the treasurer of each town, city and plantation in this State, shall annually present his bill for such sum of money actually paid to the officers and soldiers aforesaid to the Legislature for allowance. And the treasurer of every town or plantation shall supply at the expense of [the] State, or cause the commanding officer of each company of infantry, light infantry, cavalry and riflemen, to be supplied with a quarter of a pound of good gun powder made into suitable blank cartridges, for each and every non-commissioned officer and private borne on the company roll

Selectmen and Assessors to pay fifty cents to officers and privates in lieu of rations.

Penalty for neglect.

Bill to be presented to Legislature.

Town Treasurer to furnish powder, &c.

Commanding officer to make written application therefor.

Proviso.

Persons detached or drafted refusing to march, penalty for.

Substitutes.

Fines, how appropriated.

Officers, how detailed.

of such commanding officer, exclusive of conditional exempts, whenever such commanding officer's company is ordered to parade for review. And such commanding officer shall make a written application therefor four days previous to such review, and shall return to, or account with said treasurer, for all powder he may receive over and above one quarter of a pound for each man actually on parade at the muster for which said powder was drawn; and the treasurer aforesaid shall annually present his account for the expense of such powder to the Legislature for allowance. *Provided*, That when the commanding officer of a company raised at large, shall make requisitions to the selectmen of a town, aldermen of a city, or the assessors of a plantation, for rations and powder directed by law, they shall designate the number and names of the members of such company, belonging to such town, city or plantation, and certify their performance of militia duty.

SECT. 29. *Be it further enacted*, That whenever in case of threatened or actual invasion, insurrection, or other public danger or emergency, the militia shall be ordered out, or any part thereof shall be ordered to be detached or drafted by the Commander in Chief, any person who shall be ordered out, detached, or drafted in pursuance of, and obedience to such orders, and being notified thereof and ordered to march to the place of rendezvous, shall neglect or refuse to obey such orders, and shall not within twenty four hours, after he shall have been notified as aforesaid, pay a fine of fifty dollars to the commanding officer of the company to which he belongs, or procure an able bodied man in his stead, such person shall be considered as a soldier, belonging to the detachment, and be dealt with accordingly. And all fines paid as aforesaid, shall be appropriated to the hire of men to complete the detachment. And the officers of any detachment, ordered to be made as aforesaid, shall be regularly detailed from the ros-

ters, and the non-commissioned officers and privates by lot from the company rolls: And when any company shall not be organized, the officer commanding the brigade or regiment, shall either by himself or some officer under him proceed to make and complete the detachment, from such unorganized company. And whenever the militia or any part thereof, after having been ordered out or detached as aforesaid, shall be ordered to march for the service of this State, each non-commissioned officer and private, so ordered to march, shall provide and take with him three days' provisions, unless otherwise ordered. And the selectmen of every town, and aldermen of every city, and the assessors of every plantation to which the men detached as aforesaid, and ordered to march for the service of this State, belong, shall provide and cause carriages to attend them with further supplies and provisions, and also the necessary camp equipage and camp utensils, until notice shall be given them by the commanding officer of the detachment to desist, and the selectmen, aldermen and assessors shall present their accounts for supplies to the Legislature for allowance. And whenever the selectmen of any town, aldermen of any city, or assessors of any plantation, from which a detachment or part thereof as aforesaid shall march, being notified by the commanding officer of such detachment or part thereof belonging to such town or plantation, shall neglect or refuse to furnish the necessary supplies, camp equipage and camp utensils, the town, city or plantation to which the selectmen, aldermen or assessors, neglecting or refusing as aforesaid, belong, shall forfeit not less than two hundred dollars, nor more than five hundred dollars, to be sued for and recovered by any person who may prosecute for the same, in any action on the case, in any court of competent jurisdiction, one moiety to the prosecutor, and the other to the use of the State. And the officer to whom or by whose order any

Three days provision for men drafted.

Selectmen to furnish supplies,

and to present their accounts to Legislature.

Penalty for neglect to furnish supplies.

camp equipage, or camp utensils, shall be delivered, shall be accountable for the same, unless injured or lost by some accident not in his power to prevent.

Annual review in September.

Notice to be given.

Places to be central.

Artillery, cavalry, &c. to be inspected once a year as commanding officer may order.

Proviso.

SECT. 30. *Be it further enacted*, That the annual review of the troops of each division, in brigades, regiments, or battalions of regiments, provided for in the twenty first section of this act, shall be at such times in the month of September, as the commanding officer of the divisions may order. And when a brigade review or inspection is ordered, the commanding officer of the brigade shall appoint the place, and give notice thereof to the commanding officer of the division ; when a regimental review or inspection is ordered, the commanding officer of the regiment shall appoint the place and give notice thereof to the commanding officer of the brigade ; and when a review or inspection of a regimental battalion or part of battalion is ordered, the commanding officer of the regiment shall appoint the place and give notice thereof to the commanding officer of the brigade. And the places to be appointed for reviews or inspections as aforesaid, shall always be as central as, in the judgment of the officer pointing out the place, convenience will admit. And the artillery, cavalry, and other troops raised at large, and not annexed to any particular regiment, shall be reviewed and inspected once in each year, either by themselves, or with the brigades, regiments, or battalions of regiments, as the commanding officer of the respective divisions may order and direct : *Provided*, That no officer, non-commissioned officer or private, shall be obliged to travel more than fifteen miles to any brigade review.

SECT. 31. *Be it further enacted*, That no officer, non-commissioned officer or private shall be holden to perform any military duty on any day (except on days which are or may be specially prescribed by law) on which the selectmen of the town in which such officer, non-commissioned officer or pri-

No military duty on days of election of certain officers.

vate resides, shall appoint a meeting for the election of a representative to the Legislature, nor shall there be any military parade on the day pointed out by the constitution of this State for the election of Governor and Senators, nor on any day which may be appointed for the choice of Electors of President and Vice President of the United States, or Representatives to Congress. And it shall not be lawful for any officer to parade his men on either of said days, unless in case of invasion made or threatened, or in obedience to the orders of the Commander in Chief, except as is herein before excepted.

No company to be paraded on such days unless, &c.

SECT. 32. *Be it further enacted,* That each regiment of infantry and each battalion of cavalry or artillery shall be furnished with the State colors; and each company of infantry, artillery, light infantry, grenadiers and riflemen, shall be furnished with a drum and fife, or bugle horn, and each company of cavalry with a trumpet; and each brigadier general after the first day of August next ensuing, is hereby authorized to draw orders upon the quarter master general, in favor of the commanding officers of regiments, battalions and companies for the above purposes, that the several regiments, battalions, and companies may be supplied as aforesaid. And the commanding officers of regiments and battalions shall be responsible for the safe keeping of their colors; and the commanding officers of companies shall be responsible for the safe keeping of the drums, fifes, bugle horns and trumpets, delivered to them for the use of their companies; and it shall be the duty of the quarter master general to furnish such colors and musical instruments, and to present his accounts therefor to the Legislature for allowance. And the adjutant general shall furnish blank orders for the commanding officers of companies to order their non-commissioned officers and privates to notify their men to attend all the inspections, trainings and reviews, and meetings for the choice of officers, which

State colors, drums, fifes, &c. to be furnished by State.

Commanding officers responsible therefor.

Adjutant General to furnish blank orders, &c.

shall be ordered; also blank notifications or orders, to be left with the men by the non-commissioned officers or privates, ordered to notify as aforesaid; said [and] clerk's complaints to Justices of the Peace; and it shall not be necessary that seals be affixed to any orders whatever.

SECT. 33. *Be it further enacted,* That all parents, masters or guardians, shall furnish all minors enrolled in the militia, who shall be under their care respectively, with the arms and equipments, required by this act; and if any parent, master or guardian, having any minor under his care, enrolled as aforesaid, shall neglect to provide such minor with the arms and equipments, required by this act; or if said minor shall absent himself from any meeting of the company, to which he belongs, required by law, without sufficient excuse, the said parent, master, or guardian is hereby subjected and made liable to the same forfeitures as such minor would be liable to, for a like deficiency, neglect or non-appearance, if such minor were of age; and all persons liable by this act to do military duty, shall be allowed six months, immediately from and after their arrival at the age of eighteen years, and not afterwards, within which to furnish themselves with the arms and equipments required by law: *Provided however,* That such parents, masters or guardians as shall produce, on or before the first Tuesday of May annually, certificates from the overseers of the poor of the town or district in which they reside, of their inability to provide arms and equipments as aforesaid, to the commanding officer of the company in which the minor under their care is enrolled, shall be exempted from the forfeitures aforesaid.

Parents, guardians and masters to furnish minors with arms and equipments.

Penalty for neglect.

Six months allowed for providing arms and equipments.

Proviso in case of inability.

No invalid exemptions allowed without surgeon's certificate.

SECT. 34. *Be it further enacted,* That no non-commissioned officer or private of any company shall be exempted from military duty on account of bodily infirmity, unless he shall obtain from the surgeon or surgeon's mate of the regiment to which

he belongs, if either of those officers are commissioned in such regiment, if not, from some respectable physician, living within the bounds of the same, a certificate that he is unable to perform military duty on account of bodily infirmity, the nature of which infirmity is to be described in said certificate, and the commanding officer of the company may, on the back of such certificate, discharge the non-commissioned officer or private, named therein, from performing military duty, for such a term of time, as he shall judge reasonable, not exceeding one year, which certificate, if approved and countersigned by the commanding officer of the regiment or battalion, to which the disabled non-commissioned officer or private belongs, shall entitle him to exemption from military duty for the time specified. And any non-commissioned officer or private, having obtained a certificate as aforesaid, and who may be refused a discharge, may apply to the commanding officer of the regiment for further examination of his case, and if on such examination, the commanding officer of the regiment shall be well satisfied that the bodily infirmity of such non-commissioned officer or private is such that he ought to be discharged, he is hereby authorized to discharge him from military duty for such time as he shall judge reasonable, not exceeding one year, which being certified by the commanding officer of the regiment on the back of the certificate, shall discharge the non-commissioned officer, or private from military duty, for the time specified by the commanding officer of the regiment.

Certificates to be countersigned.

Persons refused a discharge may apply to commanding officer.

SECT. 35. *Be it further enacted,* That if any non-commissioned officer or private shall be killed, or die of wounds received when on any military duty required by this act, his widow, child or children, shall receive from the Legislature such relief as shall be just and reasonable. And if any officer, non-commissioned officer, or private, shall be wounded, or otherwise disabled when on such

Pensions to be allowed in case of death or wounds when on duty.

duty, he shall receive from the State just and reasonable relief.

COURTS MARTIAL.

Courts martial,
how detailed
and organized.

SECT. 36. *Be it further enacted,* That all courts martial shall consist of three members, to be detailed by the Commander in Chief, from the division to which the officer to be tried belongs. The senior of said officers to be the President. To every such court there shall be a marshal and orderly officer, appointed by the President. One of the members of each court shall be designated in the order under which they shall act, as the President thereof; and in case of his absence at the trial of any cause within their jurisdiction, the senior officer of such court who shall be present, shall officiate as President pro tempore. And any two members of said court shall constitute a quorum for the trial of all causes coming before them in the manner hereinafter provided. And any one member of said court may and it shall be his duty to adjourn the proceedings thereof from time to time, as to him may appear just, in the absence of the other members.

Number neces-
sary to a quo-
rum.

One member
may adjourn.

Division Advoca-
te to be ap-
pointed with
rank of Major.

His duty.

SECT. 37. *Be it further enacted,* That there shall be appointed and commissioned by the Governor, a division advocate for the militia, of suitable learning in the law, for each division, with the rank of major, to continue in office for the term of five years, whose duty it shall be to reduce to proper form the charges and specifications of charges contained in every written complaint which may be lodged with him against any military officer within his division upon any alleged offence by such officer committed, and cognizable by the court martial within his division; and to transmit the same, when so reduced to form, to the adjutant general's office, within fifteen days next after the receipt of such complaint, for the consideration of the Commander in Chief. And whenever a court martial is ordered

by the Commander in Chief, for the trial of any officer on charges and specifications preferred against him, the division advocate for such division shall prosecute the same; and in all such cases the division advocate shall be furnished by the adjutant general, forty days at least before the time of trial, with a copy of the general order convening the court, and of the charges and specifications preferred, and cause the respondent to be served with a copy of each twenty days at least before the day of trial. And it shall further be the duty of the division advocate to collect all fines for military offences which shall be adjudged by the court within his division, as hereinafter is provided.

To be furnished with copy of orders and charges and cause the same to be served on respondent.

To collect fines.

SECT. 38. *Be it further enacted*, That the courts martial hereby authorized shall be convened from time to time within their respective divisions, according to the appointment and order of the Commander in Chief, for the trial of such officers as are by the provisions of this act made amenable to the jurisdiction of said courts respectively. And all persons summoned to testify, in any cause ordered for trial or pending before either of said courts, by virtue of a subpoena issued by the division advocate, if for the State, or by any Justice of the Peace, if for the respondent, shall be held to obey such subpoena, under the same penalties and liabilities for neglect as are provided in other public prosecutions: And all oaths required of persons testifying in said courts, may be administered by either member thereof. And depositions may be taken and used in like manner as in cases pending in courts of common law, by consent of the division advocate and respondent. And if the respondent shall be found guilty by said court either upon admission, trial or default, of any charge preferred against him, involving an offence against military law, or the principles of duty and usage attached to his office, the court shall sentence him to be reprimanded in orders, and to pay a fine

Courts Martial to be convened according to appointment of Commander in Chief.

Division Advocate or Justice of Peace may summon witnesses.

Depositions may be taken.

Respondent found guilty may be reprimanded or fined,

of not less than ten dollars nor exceeding fifty dollars together with part or all the costs of court, or to either, according to the nature of the offence; or to be removed from office, with or without the payment of such fine and costs, at the discretion of the court, and in addition thereto, if the court think proper, to be disqualified for and incapable of holding any military office under this State for life or for a term of years. And the judgment or sentence of the court, shall, as soon as may be, be certified by the President under the seal of the court to the Commander in Chief, to be promulgated and carried into effect.

or removed
from office.

Judgment to be
certified to com-
mander in chief.

Division Advocate
to enforce
payment of fine
and costs.

Execution to
issue against
property and
body of Re-
spondent.

Fine to be paid
over to State
Treasurer.

Marshal, how
appointed, and
his duty.

SECT. 39. *Be it further enacted,* That in the order of the Commander in Chief, promulgating the sentence of any court martial as provided in the thirty eighth section of this act, if such sentence shall include the payment by any officer of any fine and costs, or either, the division advocate of such division shall be directed to enforce the payment of such fine and costs by an action of debt to be commenced in his own name within thirty days next succeeding such order, unless the same shall be sooner paid to him by such officer. And the court, before whom such action shall be commenced, shall render judgment therein, and issue execution accordingly against the property and body of the defendant, for the amount of such fine and costs, including the costs of such action, upon proof that the same has been awarded by the sentence of a court martial in the manner provided by this act. And the fine and costs, which shall be included in such sentence, shall be paid over by the division advocate, when collected, to the treasurer of the State, for the use of the State.

SECT. 40. *Be it further enacted,* That at any session of said court, the president thereof shall appoint a marshal, whose duty it shall be to preserve order therein; and the president thereof, by ad-

vice of either of the associate members, may also appoint a warrant officer to attend upon the same. And a summary record of the proceedings of each court shall be kept from day to day by the division advocate in attendance, under the direction of the court, for which additional service he shall receive such compensation in each case, as the court shall adjudge reasonable, to be made up in the pay roll of the court.

Record to be kept by Division Advocate.

SECT. 41. *Be it further enacted,* That each member of said courts, and each division advocate, shall receive two dollars for each day spent in holding a session of said court, by order of the Commander in Chief, and four cents a mile for travel; each division advocate shall also be allowed such fees for reducing such charges and specifications of charges into form, and filing the same in the adjutant general's office, and for preparing each case for trial, as the respective courts shall deem reasonable, to be made up in the pay roll of the court. And all witnesses duly summoned and attending any court as aforesaid, shall be allowed one dollar a day, for attendance, and four cents a mile for travel to and from the court; but no witness shall be taxed against the State, until he has certified his travel and attendance, and unless summoned by direction of the division advocate. And a pay roll shall be made up including all of said fees and reasonable expenses, at the close of each session of said courts, by them respectively, and certified by the President and division advocate, and filed in the office of the adjutant general, and the same shall be paid out of the Treasury of the State.

Compensation of members and Division Advocate.

Compensation of witnesses.

Pay roll to be made and certified.

SECT. 42. *Be it further enacted,* That it shall be the duty of the President of each of said courts to prepare compendious reports of all questions of law arising and adjudged in trials had before them respectively, and of the decisions made thereon, stating in substance so much of the evidence as may

Duty of President to prepare Reports.

be necessary for a correct understanding thereof, and as nearly as may be in conformity with the "Reports of Decisions in the Circuit Courts Martials," prepared and published agreeably to a Resolve of the Legislature of Maine, passed the thirty first day of March, in the year eighteen hundred and thirty one; and annually in the month of April, deposits such reports in the office of the adjutant general, that the same may be published as the Legislature may from time to time determine.

Same to be published.

Commander in Chief may appoint officer to make summary enquiry into the truth of charges.

SECT. 43. *Be it further enacted,* That the Commander in Chief shall have power to appoint any officer to make a summary inquiry into the truth and circumstances of any matter contained in any complaint or allegation against the conduct of any officer or corps of the militia, whose duty it shall be to report the result of such inquiry and investigation to the Commander in Chief, as soon as may be after he shall have completed such investigation, and file his account for such service in the Adjutant General's office, to be presented to the Legislature for allowance and payment.

RULES AND ARTICLES,

Governing the Militia when not in actual service.

SECT. 44. *Be it further enacted,* That the following shall be the Rules and Articles, by which the militia of this State shall be governed when not in actual service.

Rules, &c. for government of militia when not in actual service.

Article I. Every commissioned officer who shall be guilty of any unmilitary conduct, neglect of duty, or disobedience of orders, or who shall, when on duty, appear or behave himself in an unofficer-like manner, or who shall wilfully oppress or injure any under his command, or who shall at any time set on foot, or join in any combination to resist or evade the lawful orders of any commissioned officer, shall be liable to be tried by a court martial.

Neglect of duty in commissioned officers, disobedience of orders, &c.

Article 2. If any officer shall, in due course of law, be convicted of any infamous crime, he shall be forthwith put in arrest, and deprived of all military command, until an opportunity shall be had for both houses of the Legislature to address the government [Governor] for his removal.

Officer convicted of infamous crime to be deprived of command.

Article 3. Every officer to be tried by a court martial, shall be put in arrest, so as to be suspended from the exercise of his office, and shall have a copy of the charges exhibited against him, and notice of the time and place appointed for his trial; which copy and notice shall be given twenty days at least before his trial is commenced.

Officer to be tried to be arrested, &c. and have copy of charges.

Article 4. In case any officer, for the trial of whom a court martial is appointed shall neglect to appear and make defence, or, if appearing, shall afterwards withdraw in contempt of the court, or being arraigned before a court martial, shall, from obstinacy or deliberate design, stand mute, or answer foreign to the purpose, the court may proceed to trial and judgment as if he had regularly pleaded not guilty.

Officer refusing to appear, guilty of contempt, or standing mute, may be tried as if he had pleaded not guilty.

Article 5. If any officer, after having been put in arrest shall presume to exercise any military command, until he is discharged from his arrest, he shall be liable to be tried by a court martial, and if convicted, he shall be removed from office.

Penalty for officer arrested presuming to exercise command.

Article 6. No officer shall be tried by a court martial for any offence which shall have been committed more than one year, previous to the time when a complaint shall have been made in writing therefor, unless he shall have repeated such offence in two or more successive years, or by reason of having absented himself, or some other manifest impediment, shall not have been amenable to justice within that period.

No officer to be tried for offences committed more than one year before complaint unless, &c.

Article 7. Every captain or commanding officer who shall either neglect or refuse to call out his company as often as, and at the times required by this act, or at

Captains neglecting to call out their companies to be tried by court martial.

any other time, when lawfully thereto required by his superior officer, or who shall at any time excuse any under his command for unnecessary absence or deficiency, shall be liable to be tried by court martial.

No officer to resign while under arrest, nor between 1st May and November, unless.

Article 8. No officer shall be permitted to resign while under arrest: and no resignation of any officer shall be approved, if such resignation be offered between the first day of May and the first day of November, unless the reasons offered by the officer wishing to resign within those days be very urgent. And no arrest for offences committed on parade shall be legal unless made by order of the commanding officer present in writing; and unless such commanding officer shall within fifteen days exhibit to the competent authority his complaint in writing setting forth the cause of such arrest.

No arrest legal unless.

Article 9. No officer shall be discharged, except by the Commander in Chief, on request of such officer, in writing, or by actual removal of residence, out of the bounds [of] his command, and to such distance that his Major General shall think it inconvenient for him to discharge the duties of his office, or by twelve months' absence, without leave of the commanding officer of his division, or by the corps to which he belongs being disbanded by law. And whenever any division, brigade, regiment or battalion shall be divided, and the residence of any staff officer attached thereto, shall be without the bounds of the corps in which he was commissioned, such staff officer shall be entitled to an honorable discharge, and shall cease to do duty after such division is made, and the commanding officer of such corps may proceed to fill the vacancy occasioned thereby.

No officer to be discharged unless by Commander in Chief, or actual removal out of the bounds of command.

Staff officers entitled to an honorable discharge in case, &c.

Article 10. No officer shall consider himself as exempted from the duties of his station, except when under arrest, until he shall have been discharged by one of the methods or causes pointed out in the preceding article, or shall have received a certificate of his discharge from the Commander in Chief.

No officer exempted from duty except when under arrest or discharged.

Article 11. No general or field officer shall approve a resignation, until the orderly and other books and property of the State, in the possession of the resigning officer, are taken care of for the use of the corps to which such officer belongs, in order that such books and property may be delivered to his successor.

No resignation to be approved till books and State property are properly taken care of.

Article 12. The captain or commanding officer of every company raised at large, shall annually, in the month of August, make out a list of the names of the men belonging to his company, and deliver the same to the commanding officer of the regiment or regiments, within whose bounds such men reside.

Commanding officers of companies raised at large to make returns, in August.

Article 13. Every person who shall lawfully enlist in any volunteer company, (whether such person be exempted by this act from any military duty or not) shall be holden to do duty therein for the term of seven years, unless such person be sooner discharged by the order of the commanding officer of the brigade.

Persons enlisting in volunteer companies holden seven years.

Article 14. Each brigadier general or commanding officer of brigade, within his own brigade, upon application of the commanding officer of any company of artillery, cavalry, light infantry, grenadiers, or riflemen, may discharge any non-commissioned officer or private from any of the aforesaid companies; and such non-commissioned officer or private shall forthwith be enrolled in the standing company, within the bounds of which he resides; and every non-commissioned officer so discharged shall be considered as reduced to the ranks.

Brigadier general may in certain cases discharge privates, &c. from the aforesaid companies.

Article 15. Whenever different corps shall parade, join, or do duty together, the senior officer present, according to rank, shall command without regard to corps.

Senior officer to command when different corps are present.

Article 16. Any officer neglecting or refusing to make a draft or detachment, when ordered in pursuance of the thirtieth section of this act, shall be arrested, and be liable to be tried by a court martial,

Officer refusing to make draft, may be tried by court martial.

and the officer next in command, shall be ordered to make the draft or detachment.

Cartridges drawn, how distributed.

Article 17. It shall be the duty of each commanding officer of a company drawing cartridges in pursuance of the twenty ninth section of this act, to cause them to be distributed equally among his men on the parade, and to be used in teaching his men precision in their firings. And if any non-commissioned officer or private shall come on to any parade with his musket rifle or pistol, loaded with ball, slugs, or shot, he shall for such offence forfeit not less than Five nor more than Twenty Dollars.

Penalty for coming on parade with musket, &c. loaded with ball, slugs or shot.

Article 18. If any officer contrary to the provision of the thirty-first section of this act, shall parade his men on either of the days of election in said section pointed out, he shall be liable to be tried by court martial; and moreover shall forfeit a sum not less than Fifty nor more than Three Hundred Dollars, to be sued for and recovered in any action on the case, before any court of competent jurisdiction, one moiety thereof to the use of the person who may prosecute for the same, the other to the use of the State.

Penalty for parading men on days of election.

Article 19. At all regimental and battalion parades, the several companies shall form in regiment or battalion, according to the rank of the officers present, actually commanding them; and the same rule shall apply in all cases, excepting those in which artillery, cavalry, light infantry, grenadiers, and riflemen, may by usage and necessity, be detached from the regiments and battalions.

Companies in regiment, how to be formed.

Article 20. Any non-commissioned officer or private, who shall, while under arms, or when on duty, behave himself with contempt to an officer, or shall conduct in a disorderly manner, or excite or join in any tumult or riot, or be guilty of any other unmilitary conduct, may be put under guard, and so kept for a longer or shorter time at the discretion of the commanding officer of the company; not

Punishment for disorderly behaviour of privates, &c. when on duty.

exceeding however, the time when the company to which he belongs is dismissed; and shall moreover forfeit a sum not less than Five, nor more than Twenty Dollars for each offence, according to the degree and aggravation of the same.

Article 21. Any non-commissioned officer or private, who shall, without leave of his officer, quit his guard, section, platoon or company; shall for each offence forfeit not less than Two nor more than Ten Dollars.

Penalty for quitting company, &c. without leave.

Article 22. Any non-commissioned officer or private, who shall, in going to, or returning from, or while on the place of parade, or while under arms, unnecessarily, and without orders, discharge his musket, rifle, or pistol, shall forfeit not less than Five, nor more than Twenty Dollars for each offence, and the same may be recovered in an action of debt by and for the benefit of any person who may commence such action before any court competent to try the same.

Penalty for disorderly firing.

Article 23. Any non-commissioned officer or private, who shall refuse or neglect to give any notice or warning when ordered thereto by the commanding officer of the company to which he belongs, shall for such offence forfeit not less than One, nor more than Four Dollars, for each non-commissioned officer or private, whom he shall neglect or refuse to warn or notify, to be recovered on indictment in the court of Common Pleas, or on complaint before some Justice of the Peace, one half thereof to the complainant, and the other half thereof to the State.

Penalty for refusing to give notice when required.

How recovered.

Article 24. If any non-commissioned officer or private, shall in due course of law be convicted of any infamous crime, he shall be forthwith disenrolled from the militia.

Officer or private convicted of infamous crime to be disenrolled.

Article 25. Every non-commissioned officer, who shall be guilty of any disobedience of orders, neglect of duty, or other unmilitary conduct may be

Non commissioned officers guilty of disobedience to be

reduced to the ranks.

reduced to the ranks by the commanding officer of the regiment to which he belongs, by and with the advice of the commanding officer of the company to which such non-commissioned officer belongs.

Penalty for neglect to appear on first Tuesday of May.

Article 26. Every non-commissioned officer or private (excepting those, who by the third section of this act are permitted to send their arms and equipments on that day for inspection,) who being duly ordered to appear at the company inspection and view of arms on the first Tuesday of May, and shall unnecessarily neglect to appear at the time and place appointed, shall forfeit Four Dollars.

Penalty for absence from company training.

Article 27. Every non-commissioned officer or private, who being duly ordered, shall unnecessarily neglect to appear at any company training, at the time and place appointed, shall forfeit *three dollars*.

Penalty for absence from battalion, regimental or brigade inspection.

Article 28. Every non-commissioned officer or private, who being duly ordered, shall unnecessarily neglect to appear for any battalion, regimental or brigade inspection or review, at the time and place appointed, shall forfeit Three Dollars. And in no case in time of peace shall any substitute be received.

—for deficiency in arms or equipments at May inspection or company trainings.

Article 29. Every non-commissioned officer or private, who shall appear at the company inspection, on the first Tuesday of May, or at any company training, or for any battalion, regimental or brigade inspection or review, and shall not be armed and equipped as the law directs, shall for each article in which he is deficient, or which shall be of bad quality, or in bad condition, forfeit as follows: If deficient of a good musket, in good order, of a bore sufficient for balls of the eighteenth part of a pound, a sufficient bayonet and belt, and an iron or steel ramrod; all of which articles are to be considered as one, and a deficiency in either shall be considered a deficiency of the whole, he shall forfeit Two Dollars; if deficient of a cartridge box, capable of containing twenty four cartridges suited to the bore of his musket, or if deficient of a serviceable knapsack,

he shall forfeit Sixty Cents; if deficient of two spare flints and priming wire and brush, or either of them, he shall forfeit Forty Cents: *Provided nevertheless*, that none of the above forfeitures shall be incurred by any private in case he appears with a good rifle, knapsack, shot pouch and powder horn.

Article 30. If any non-commissioned officer or private of any company of artillery, cavalry, light infantry, grenadiers or riflemen, shall appear on any of the occasions mentioned in the preceding article, without the uniform of the company to which he belongs, he shall forfeit Three Dollars.

Article 31. All excuses for non-appearance of non-commissioned officers and privates, must be made within twenty days of any training, view of arms, or other military duty, to the commanding officers of their respective companies; and on the delinquent's producing, or causing to be produced, satisfactory evidence of his inability to appear, his commanding officer may excuse him; but all commanding officers of companies are hereby forbidden from receiving any excuse, for non-appearance, under any pretence whatever, after the expiration of the twenty days allowed. And any such non-commissioned officer or private, who shall neglect to give or cause to be given, to his commanding officer, such satisfactory evidence of his inability to appear, (provided he is not prevented therefrom by severe sickness) within the said twenty days, shall forfeit and pay the penalty by law provided for such non-appearance. And all commanding officers of companies shall inform or cause their clerks to be informed, of all excuses for non-appearances, which they may allow as good and sufficient. And all prosecutions for the recovery of any fine or forfeiture shall be commenced before some Justice of the Peace residing in the county where the company to which such delinquent belongs usually parades, and within forty days from the time when the same accrued; and

—for appearing without uniform.

Excuses to be made within 20 days.

Prosecution to be commenced within 40 days.

no clerk shall be compelled to commence a prosecution against any delinquent, who in the opinion of a majority of the commissioned officers of his company, is unable to pay the fine or forfeiture incurred by him.

Penalty for absence from meeting for choice of officers.

Article 32. Any non-commissioned officer or private, being a legal voter of a company, who after being duly notified, shall unnecessarily neglect to appear at any meeting for the choice of any officer or officers of the company to which he belongs, shall, for every such neglect, forfeit **One Dollar**.

Surgeons and surgeons' mates to take no fee for certificate.

Article 33. All surgeons and surgeons' mates are prohibited from taking any fee or gratuity whatever, under any pretence whatsoever, from any man to whom they may give a certificate of inability to perform military duty on account of bodily infirmity. And it shall be their duty critically to examine the case of any applicant for such certificate, and not to grant a certificate unless the infirmity or disability be such, beyond all doubt, as to render him unable to perform military duty. And if any surgeon or surgeon's mate, shall in violation of this article, take any fee or gratuity, or if any surgeon or physician not commissioned as surgeon or surgeon's mate, shall without good and sufficient cause, grant such certificate in violation of this article, he shall for every such offence, forfeit and pay not less than **Twenty** nor more than **One Hundred Dollars**, to be recovered by indictment in the Court of Common Pleas; one half thereof to the complainant and the other half to the State.

Penalty for so doing.

Rosters and orderly books to be kept in each division, brigade, regiment, battalion and corps.

Article 34. The aid-de-camp to each major general, by him appointed orderly officer; the aid-de-camp of each brigade, and the adjutant of each regiment, battalion, or corps, shall constantly keep a correct roster of the division, brigade, regiment, battalion, or corps, to which they respectively belong; and an orderly book, and record therein all orders and other official communications, received or issued

by their respective commanding officers, and copy, distribute, and transmit, all such orders and other papers, as they may be directed by said officers, and attend them while on the performance of military duty.

Article 35. Every sergeant major, quarter master sergeant, drum major, or fife major, who shall be guilty of neglect or disobedience of the orders of the commanding officers of their respective regiments or battalions, shall, for each offence, forfeit not less than five dollars, nor more than twenty dollars, to be recovered by the adjutants of their respective regiments or battalions, on complaint, in the same manner, that fines are recovered by clerks of companies; one half thereof to said adjutant, for his own use, and the other half to be expended by him, under the direction of the field officers, in the repair of the regimental and battalion colors, and of the musical instruments furnished by the State for the use of the companies of his said regiment or battalion, and the purchase of camp colors. And every such non-commissioned officer who shall be guilty of any disobedience of orders, neglect of duty, or other unmilitary conduct, may be reduced to the ranks by their brigadier general, by and with the advice of the commanding officer of the regiment or battalion to which such non-commissioned officer may belong.

Article 36. These rules and articles shall be read at the head of each company on the first Tuesday of May annually.

SECT. 45. *Be it further enacted,* That all fines and forfeitures incurred by non-commissioned officers and privates, under the provisions of this act, the recovery of which, and the mode of the recovery of which, are not in and by this act otherwise provided for, shall be prosecuted for and recovered by the respective clerks of the companies to which such non-commissioned officer or officers, private or privates, incurring any fine or forfeiture as aforesaid,

Penalties for neglect or disobedience of regimental non-commissioned staff officers.

How recovered and disposed of.

Rules and articles to be read annually.

Fines, &c. to be recovered by action of debt when mode of recovery is not otherwise provided for.

belong, in an action of debt, before any court proper to try the same. And such action shall not be commenced till after twenty days, and shall be commenced within forty days, after the day of any parade of the company to which such clerk belongs. And in every case in which it is made the duty of any clerk to prosecute for any fines incurred by virtue of this act, if said clerk shall unreasonably refuse to prosecute for the same, he shall pay a fine of Five Dollars for each and every such neglect, to be recovered by complaint before any Justice of the Peace for the county in which said clerk resides, for the use of the company. And if there be no clerk to prosecute, as aforesaid, the captain or commanding officer of the company shall prosecute for said fines, for the use of the company, and upon neglect so to do, shall be subjected to trial by a court martial; and if found guilty, shall be removed from office. And it shall be lawful for any clerk or commanding officer in any action or complaint by him commenced or prosecuted for any fine or fines, penalty or penalties by this act provided, to amend his writ or complaint in any stage of the process before the rendition of final judgment therein, without paying costs. And no clerk shall be liable to pay any defendant costs, in any case in which the commanding officer of the company has endorsed his approval on the writ of such clerk. And no appeal shall be allowed from any judgment of any Justice of the Peace, when the forfeiture by him adjudged does not exceed ten dollars, exclusive of costs. *Provided however,* that all suits or complaints for any fine or fines, penalty or penalties by virtue of this act, (not otherwise provided for,) arising within the city of Portland or any other city hereafter created, shall be had or made before the Municipal court of such city, and in no case when the commanding officer is by virtue of this act required to prosecute for any fine or penalty, shall he be liable to pay any cost to

To be commenced after twenty and within forty days.

Fine for neglect of clerk to prosecute.

Captain to prosecute if no clerk.

Clerk or commanding officer may amend his writ

Clerk not liable for cost in case, &c.

No appeal allowed when forfeiture does not exceed \$10.

Proviso as to Municipal court of Portland and other cities.

the defendant, provided he should not recover in any such action or suit by him commenced.

SECT. 46. *Be it further enacted,* That the clerk of each company shall retain to his own use, one fourth part of all fines and forfeitures collected or recovered by him, and the residue he shall faithfully pay over to the commanding officer of the company, on demand ; and the commanding officer of the company shall give his receipt to the clerk for all money paid over to him as aforesaid. And it shall be the duty of every commanding officer of a company to expend such part of the money paid him by the clerk as may be necessary for defraying such company expenses, as a majority of the commissioned officers of the company shall judge to be necessary.

Clerk to retain one fourth part of all fines collected and pay over residue.

To be expended for company expenses.

SECT. 47. *Be it further enacted,* That the adjutant general and quarter master general, shall receive compensation for their services to be allowed by the Legislature.

Adjutant general and quarter master general to be compensated.

SECT. 48. *Be it further enacted,* That the following shall be the annual allowance to the officers hereinafter named, as a full compensation for all the services they may render in the official discharge of their duties respectively : To the aid-de-camp acting as orderly officer to the major general of each division, twenty dollars ; to the brigade inspector of each brigade, twenty five dollars ; to the aid-de-camp of each brigadier general, twenty dollars ; to the adjutant of each regiment, twenty five dollars ; to the adjutant of each battalion of cavalry or artillery, fifteen dollars : *Provided,* the said officers shall promptly and faithfully perform the duties belonging to them respectively.

Compensation of commissioned staff officers.

SECT. 49. *Be it further enacted,* That it shall be incumbent on all officers and non-commissioned officers, whose duties are not herein fully defined, to do and perform all such duties as by law and military principles and usage are attached to their offices,

Duties of officers whose duties are not herein fully defined.

Proviso.

respectively: *Provided*, such duties shall be required of them by their senior and proper commanding officer.

Adjutant general to issue blanks for use of officers.

SECT. 50. *Be it further enacted*, That the Adjutant General is hereby authorized to issue blank forms, to be uniform throughout the State, for the use of the officers of the militia, and for the auditing of military accounts of every description.

Commander in Chief authorized to repair carriages and apparatus of artillery, gun houses, &c.

SECT. 51. *Be it further enacted*, That the Commander in Chief is hereby authorized to cause all necessary repairs to be made in all the carriages and apparatus of the artillery, and in all the gun houses belonging to the State ; and also to cause gun houses to be erected for the safe keeping of the public property as aforesaid, where such have not been erected, good and sufficient deeds of land therefor being first given free of expense to the State.

Commanding officer in certain cases may cause guns, carriages, gun houses, &c. to be disposed of.

And whenever any or either of the gun houses, used for the protection and preservation of guns, gun carriages, tumbrils, munitions of war, or any other apparatus provided for the use of the artillery of this State, shall be so far injured or decayed, as that in the opinion of the commanding officer of any division of the militia, in which said gun houses are situated, it is inexpedient to repair the same, such commanding officer may authorize the captain of the artillery company having the immediate superintendence of the gun house, thus injured or decayed, to dispose of the same, either at public or private sale, as he may judge most advantageous, and deposit the proceeds thereof in the Treasury of the State for the use thereof.

Divisions, how designated.

SECT. 52. *Be it further enacted*, That every new division shall be designated by the number, next higher than that of the division established next before it, and the divisions shall take rank according to the numbers by which they are severally designated, the first being highest in rank.

RULES AND ARTICLES,

For governing the Troops stationed in Forts and Garrisons, within this State ; and also the Militia, or any part thereof, when called into actual service.

SECT. 53. *Be it further enacted,* That the following rules and articles, be, and they hereby are, established, and declared to be in force, for governing all troops stationed in forts and garrisons within this State ; and also the militia or any part thereof, when called into actual service, viz :

Rules and articles for governing the militia when in actual service.

Article 1. All officers and soldiers shall diligently attend divine service: all officers and soldiers who shall unnecessarily absent themselves from, or behave indecently or irreverently at any place of divine worship, shall, if commissioned officers, be brought before a general Court Martial, there to be publicly and severely reprimanded by the President ; if non-commissioned officers or soldiers, every person so offending, shall, for the first offence, forfeit twenty cents, to be deducted out of his next pay ; for the second offence, he shall not only forfeit a like sum, but be confined twenty four hours ; and for every like offence, shall suffer and pay in like manner ; which money, so forfeited, shall be applied to the use of the sick soldiers of the troop or company to which the offender belongs.

Officers and soldiers to attend divine service.

Penalty for irreverent behaviour and unnecessary absence.

How disposed of.

Article 2. Whatsoever non-commissioned officer or soldier shall use any profane oath or execration, shall incur the penalties expressed in the foregoing article ; and if a commissioned officer be thus guilty of profane cursing or swearing, he shall forfeit and pay, for each and every such offence, sixty seven cents.

Punishment for profanity:

Article 3. Whatsoever officer or soldier shall presume to use traitorous or disrespectful words, against the authority of the United States in Congress assembled, or the Legislature of this State ; if a commissioned officer, he shall be cashiered ; if a non-commissioned officer or soldier, he shall suffer

—for traitorous and disrespectful words:

such punishment as shall be inflicted upon him by the sentence of a court martial.

—for contempt
or disrespect to-
wards officers:

Article 4. Any officer or soldier who shall behave himself with contempt or disrespect towards the Commander in Chief, or any general or commanding officer of the troops or militia of this State, or shall speak words tending to his hurt or dishonor, shall be punished according to the nature of his offence, by the judgment of a court martial.

—for mutiny
and sedition:

Article 5. Any officer or soldier who shall begin, excite, or join in any mutiny or sedition, in the troop, company or regiment to which he belongs, or in any other troop or company in the service of the State, or in any party, post, detachment or guard, on any pretence whatsoever, shall suffer such punishment as by a court martial shall be inflicted.

—for not en-
deavoring to
suppress mu-
tiny:

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

—for striking or
offering violence
to superior offi-
cers:

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

—for desertion:

Article 8. Any non-commissioned officer or soldier, who shall desert, or without leave from his commanding officer, absent himself from the troop or company to which he belongs, or from any detachment of the same, shall upon conviction thereof, suffer death or such other punishment as shall be inflicted by the sentence of a general court martial.

Article 9. Whatever officer or soldier shall be convicted of having advised or persuaded any other officer or soldier to desert, shall suffer such punishment as shall be inflicted by the sentence of a court martial. —for advising or persuading to desert:

Article 10. No officer or soldier shall use any reproachful or provoking speeches or gestures to another; nor shall any officer or soldier presume to send a challenge to any person to fight a duel, upon pain, if a commissioned officer, of being cashiered; if a non-commissioned officer or soldier, of suffering punishment at the discretion of a court martial. —for provoking speeches or challenges:

Article 11. If any commissioned, or non-commissioned officer commanding a guard, shall knowingly and willingly suffer any person whatsoever to go forth to fight a duel, he shall be punished as a challenger; and likewise all seconds, promoters and carriers of challenges, in order to duels, shall be deemed as principals, and punished accordingly. —for officers suffering others to fight duels.

Article 12. All officers, of what condition soever, shall have power to part and quell all quarrels, frays and disorders, though the persons concerned should belong to another regiment, troop or company; and either to order officers into arrest, or non-commissioned officers or soldiers to prison, until their proper superior officers shall be acquainted therewith; and whosoever shall refuse to obey such officer, (though of an inferior rank) or shall draw his sword upon him, shall be punished at the discretion of a general court martial. Officers to quell all frays and disorders.

Article 13. Whatsoever officer or soldier shall upbraid another for refusing a challenge, shall be considered a challenger and punished accordingly. Punishment for resistance:

Article 14. Every officer commanding in quarters, garrisons, or on a march, shall keep good order, and to the utmost of his power redress all such abuses or disorders as may be committed by any officer or soldier under his command; and if, upon complaint made to him of officers or soldiers beating —for upbraiding another for refusing challenge. Officers to keep good order and redress abuses.

or otherwise ill treating any person, or of committing any kind of riots to the disquieting the good citizens of this or either of the United States, he shall refuse or omit to see justice done on the offender or offenders, and reparation made to the party or parties injured, so far as the offenders' pay shall enable him or them, he shall, upon proof, thereof, be punished by a general court martial, as if he himself had committed the crimes or disorders complained of.

Officer wronged
may complain to
Commander in
Chief.

Article 15. If any officer shall think himself to be wronged by his colonel or the commanding officer of his regiment, and shall, upon due application made to him, be refused to be redressed, he may complain to the general or Commander in Chief of the forces in service, in order to obtain justice, who shall examine into the complaint and see that justice be done.

Inferior officer
or soldier may
complain to
commanding
officer of regi-
ment.

Article 16. If any inferior officer or soldier shall think himself wronged by his captain, or other officer commanding the troop or company to which he belongs, he may complain thereof to the commanding officer of the regiment, who shall summon a regimental court martial, for the doing justice to the complainant ; from which regimental court martial either party, if he think himself still aggrieved, may appeal to a general court martial. But if, upon a second hearing, the appeal shall appear to be vexatious and groundless, the person so appealing shall be punished at the discretion of the said general court martial.

Penalty for
wasting or sell-
ing ammunition.

Article 17. Whatsoever non-commissioned officer or soldier shall be convicted at a court martial of having sold, or designedly, or through neglect, wasted the ammunition delivered out to him to be employed in the service of this State, shall, if a non-commissioned officer, be reduced to a private, and if a soldier, shall suffer such punishment as shall be inflicted upon him by a court martial.

Article 18. No officer or soldier shall be out of his quarters or camp, without leave from his commanding officer, upon penalty of being punished according to the nature of his offence, by the sentence of a court martial.

Punishment for absence without leave:

Article 19. All non-commissioned officers and soldiers who shall be found one mile from the camp without leave in writing, from their commanding officer, shall suffer such punishment as shall be inflicted on them by the sentence of a court martial.

—for being found one mile from camp without leave:

Article 20. Every non-commissioned officer and soldier shall retire to his quarters or tent, at the beating of the tattoo, in default of which he shall be punished according to the nature of his offence, by the sentence of a court martial.

—for not returning to quarters at beating of tattoo.

Article 21. No officer, non-commissioned officer or soldier shall fail to repair, at the time fixed, to the place of parade or exercise, or other rendezvous, appointed by his commanding officer, if not prevented by sickness or some other evident necessity; nor shall go from the said place of rendezvous or from the guard, without leave from his commanding officer, before he shall be regularly dismissed or relieved, on the penalty of being punished according to the nature of his offence, by sentence of a court martial.

Officers and soldiers to repair to parade at time fixed.

Article 22. Whatsoever commissioned officer shall be found drunk on his guard, party or other duty, under arms, shall be cashiered for it; and any non-commissioned officer or soldier, so offending, shall suffer such punishment as shall be inflicted by the sentence of a court martial.

Penalty for being found drunk:

Article 23. Whatsoever sentinel shall be found sleeping upon his post, or shall leave it before he shall be regularly relieved, shall suffer such punishment as shall be inflicted by the sentence of a general court martial.

—for sentinel sleeping on his post:

Article 24. Any person belonging to the forces employed in the service of this State, who, by discharging of fire arms, drawing of swords, beating of

—for occasioning false alarms:

drums, or by any other means whatsoever, shall occasion false alarms in camp, garrison or quarters, shall suffer such punishment as shall be ordered by the sentence of a general court martial.

--for quitting
platoon or di-
vision without
leave:

Article 25. Any officer or soldier, who shall, without urgent necessity or without the leave of his superior officer, quit his platoon or division, shall be punished according to the nature of his offence, by the sentence of a court martial.

--for insult or
abuse to persons
bringing provis-
ions:

Article 26. No officer or soldier shall do violence or offer any insult or abuse to any person who shall bring provisions or other necessaries to the camp, garrison, or quarters, of the forces of this State, on pain of suffering such punishment as a court martial shall direct.

--for abandon-
ing post during
an engagement:

Article 27. Whatsoever officer or soldier shall abandon any post committed to his charge, or shall speak words inducing others to do the like, in time of an engagement, shall suffer death, or such other punishment as shall be inflicted by the sentence of a general court martial.

--for making
known watch
word:

Article 28. Any person belonging to the forces of the service of this State who shall make known the watch word to any person not entitled to receive it according to the rules and discipline of war, or shall presume to give the parole or watch-word different from what he received, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court martial.

--for relieving
enemy with mo-
ney, &c.:

Article 29. Whosoever belonging to the forces in the service of this State shall relieve the enemy with money, victuals or ammunition ; or shall knowingly harbor and protect an enemy, shall suffer such punishment as by the sentence of a court martial shall be inflicted.

--for holding
correspondence
with, or giving
intelligence to
enemy.

Article 30. Whosoever belonging to the main forces shall be convicted of holding correspondence with, or giving intelligence to the enemy, either directly or indirectly, shall suffer such punishment

as by the sentence of a court martial shall be inflicted.

Article 31. All public stores taken from the enemy by the forces in the service of this State, shall be secured for the use of the State.

Public stores to be secured.

Article 32. If any officer or soldier shall leave his post or colors to go in search of plunder, he shall, upon conviction thereof, before a general court martial, suffer such punishment as by the sentence of the said court martial shall be inflicted.

Punishment for leaving post or colors to go for plunder:

Article 33. If any commander of any garrison, fortress, or post shall be compelled, by the officers or soldiers under his command, to give up to the enemy or to abandon it, the commissioned officers, non-commissioned officers or soldiers, who shall be convicted of having so offended, shall suffer death, or such other punishment as shall be inflicted upon them by the sentence of a court martial.

—for soldiers compelling commander to abandon post to enemy.

Article 34. All suttlers and retailers to the camp, and all persons serving with the troops of the State in the field, shall be subject to orders according to the rules and discipline of war.

Suttlers and retailers subject to orders, &c.

Article 35. If, upon marches, guards or in quarters, different corps shall happen to join or do duty together, the eldest officer by commission there on duty, or in quarters, shall command the whole, and give out orders for what is needful for the service, regard being always had to the several ranks of those corps, and the posts they usually occupy.

When different corps are joined, eldest officer to command.

Article 36. If any regiments, troops or detachments of horse or foot shall happen to march with, or be encamped or quartered with, any bodies or detachments of other troops, the eldest officer, without respect to corps, shall take upon him the command of the whole, and give the necessary orders to the service.

Different corps of troops quartered or marching together, eldest officer to command.

Article 37. A general court martial shall not consist of less than thirteen commissioned officers, and the President of such court martial shall not

General Court Martial, how organized.

be the Commander in Chief, nor commanding officer of the troops in service or garrison, where the offender shall be tried, nor under the degree of a field officer.

Rank of members.

Article 38. The members of courts martial, shall, when belonging to different corps, take rank as is herein before directed when on other duty.

Prosecutor in behalf of State to administer oath.

Article 39. Some person shall be appointed by the commanding officer, who shall order the court martial to prosecute in the name of the State of Maine; and in trials of offenders, such persons shall administer to each member the following oath :

Form of oath.

“YOU swear that you will well and truly try and determine, according to your evidence, the matter now before you, between the State of Maine and the prisoner to be tried; that you will duly administer justice according to the rules and articles for governing the troops of the said State, without partiality, favor or affection; and if any doubt shall arise which is not explained by the said articles, according to your conscience, the best of your understanding, and the custom of war in like cases; that you will not divulge the sentence of the court until it shall be approved of by the commanding officer; and that you will not, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court martial, unless required to give evidence as a witness by a court of justice, in a due course of law. So HELP YOU GOD.”

Prosecutor to be sworn.

Which oath being administered to the members of the Court, the President shall administer the following oath to the person prosecuting as aforesaid.

Form of oath.

“YOU A. B. do swear, that you will not, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court martial, unless required to give evidence thereof as a witness, by a court of justice, in a due course of law. So HELP YOU GOD.”

Mode of giving votes.

Article 40. All members of a court martial are to behave with calmness and decency; and in the giving their votes, are to begin with the youngest in commission.

Witnesses to be examined on oath.

Article 41. All persons who give evidence before a court martial, shall be examined upon oath, which oath shall be administered by the President of the court martial, in the form following :

“YOU swear, the evidence you shall give in the cause now in hearing, shall be the truth, the whole truth, and nothing but the truth. So HELP YOU GOD.” Form of oath.

Article 42. No sentence of death shall be given against any offender by any general court martial, unless two thirds of the members shall concur therein. Two thirds required for sentence of death.

Article 43. All persons called to give evidence in any cause before a court martial, who shall refuse to give evidence, shall be punished for such refusal at the discretion of such court martial. Punishment for refusing to testify.

Article 44. No field officer shall be tried by any person under the degree of a captain; nor shall any proceedings or trials be carried on excepting between the hours of sunrise and sunset. Trials, how carried on.

Article 45. No sentence of a court martial shall be put in execution, until after report shall be made to the commanding officer where the court martial shall be held, and his orders to be issued for carrying such sentence into execution. Sentences to be reported to commanding officer.

Article 46. The commissioned officers in any regiment, may, by the appointment of their colonel or commanding officer, hold regimental courts martial for the inquiring into such disputes or criminal matters as may come before them, and for inflicting punishment for small offences, and shall give judgment by the majority of voices; but no sentence shall be executed till the commanding officer (not being a member of the court martial) shall have confirmed the same. Regimental courts martial:

Article 47. No regimental court martial shall consist of less than five officers, excepting in cases where that number cannot be conveniently assembled, when three may be sufficient; who shall likewise determine upon the sentence by the majority of voices. —to consist of not less than five members.

Article 48. Any officer commanding in a fort, castle, barrack or elsewhere, where the corps under his command consists of detachments from different regiments, or of any independent company or com- Commanders of forts, &c. may order courts martial.

panies, may assemble courts martial for the trial of offenders, in the same manner as if they were regimental, whose sentence shall not be executed until it shall be confirmed by the said commanding officer.

Punishment for disturbing courts martial.

Article 49. No person whatsoever shall use menacing words, signs or gestures in the presence of a court martial then sitting, or shall cause any disorder or riot so as to disturb their proceedings, on the penalty of being punished at the discretion of the said court martial.

Offenders, how proceeded with previous to trial.

Article 50. To the end that offenders may be brought to justice, whenever any officer or soldier shall commit a crime, deserving punishment, he shall, by his commanding officer, if an officer be put in arrest ; if a non-commissioned officer or soldier, be imprisoned until he shall be either tried by a court martial, or shall be lawfully discharged by proper authority.

Not to continue in confinement more than eight days.

Article 51. No officer or soldier who shall be put in arrest or imprisonment, shall continue in his confinement more than eight days, or until such time as a court martial can be conveniently assembled.

Account of crime charged to be given in writing at time of commitment.

Article 52. No officer commanding a guard or provost-martial shall refuse to receive or keep any prisoner committed to his charge by any any officer belonging to the forces of this State ; which officer shall at the time of commitment, deliver an account, in writing, signed by himself, of the crime with which the prisoner is charged.

Punishment for releasing prisoner.

Article 53. No officer commanding a guard or provost-martial, shall presume to release any prisoner committed to his charge without proper authority for so doing, nor shall he suffer any prisoner to escape, on the penalty of being punished for it by the sentence of a court martial.

Provost-martial &c. required to give command-

Article 54. Every officer or provost-martial to whose charge prisoners shall be committed, is hereby required within twenty four hours after such com-

mitment, or as soon as he shall be released from his guard, to give in writing to the colonel of the regiment to which the prisoner belongs, (where the prisoner is confined upon the guard belonging to the said regiment, and his offence only relates to the neglect of duty in his own corps,) or to the Commander in Chief, their names, their crimes, and the names of the officers who committed them, on the penalty of his being punished for disobedience or neglect, at the discretion of a court martial.

ing officer list of prisoners and charges against them.

Article 55. If any officer under arrest, shall leave his confinement before he shall be set at liberty by the officer who confined him, or by a superior power, he shall be cashiered for such his offence.

Punishment for leaving confinement before set at liberty.

Article 56. Whatsoever commissioned officer shall be convicted before a general court martial of behaving in a scandalous, infamous manner, such as is unbecoming the character of an officer and gentleman, shall be discharged from the service.

—for behaving in a scandalous or infamous manner.

Article 57. All officers, conductors, gunners, matrosses, drivers, or any other person whatsoever receiving pay or hire in the service of the State artillery, shall be governed by the aforesaid rules and articles; and shall be subject to be tried by courts martial in like manner with other officers and soldiers.

Artillery officers &c. subject to these rules.

Article 58. For differences arising amongst themselves, or in matters relating to their own corps, the courts martial may be composed of their own officers; but where a sufficient number cannot be assembled, or in matters wherein their corps are interested, the officers of artillery shall sit in courts martial with the officers of other corps.

Courts martial may consist of their own officers in certain cases.

Article 59. No person shall be sentenced to suffer death, except in the cases expressly mentioned in the foregoing articles.

No sentence of death except in cases expressly mentioned.

Article 60. The field officers of each and every regiment shall appoint some suitable person belonging to such regiment to receive such fines as may

Field officers to appoint persons to receive fines.

arise within the same for any breach of any of the foregoing articles; and shall direct the same to be properly applied to the relief of such sick or necessitous soldiers as belong to such regiment; and such persons shall account with such officer for all fines received and the application thereof.

Crimes not capital, &c. may be taken cognizance of.

Article 61. All crimes not capital, and all disorders and neglects, which officers and soldiers may be guilty of, to the prejudice of good order and military discipline, though not mentioned in the foregoing articles, are to be taken cognizance of by a general or regimental court martial, according to the nature and degree of the offence, and be punished at their discretion.

Officer or soldier accused of crime against State laws, &c.

Article 62. Whenever any officer or soldier shall be accused of a capital crime or having used violence or committed any offence against the person or property of the good people of this or either of the United States, such as is punishable by the known laws of the land, the commanding officer or officers of every regiment, troop or party, to which the person or persons so accused shall belong, are hereby required, upon application duly made by or in behalf of the party or parties injured, to use his utmost endeavors to deliver over such accused person or persons, to the civil magistrate, and likewise to be aiding and assisting the officers of justice in apprehending and securing the person or persons so accused, in order to bring them to trial. And if any commanding officer or officers shall wilfully neglect, or shall refuse, upon the application aforesaid, to deliver over such accused person or persons to the civil magistrate, or to be aiding and assisting the officers of justice in apprehending such person, or persons, such officer or officers so offending, shall be cashiered.

to be delivered over to Civil Magistrate.

No member of any company of artillery, &c. to

SECT. 54. *Be it further enacted,* That no member of any company of artillery, cavalry, light infantry or riflemen, shall be appointed an engineman,

during the time for which he may have enlisted into such company, and when by such appointments any such company would be reduced below forty eight effective privates.

be appointed an
engineman in
case &c.

SECT. 55. *Be it further enacted*, That an act entitled "An Act to organize, govern and discipline the militia of this State" passed the twenty first day of March, eighteen hundred and twenty one, and all acts in addition thereto, and all acts inconsistent with the provisions of this act, be, and hereby are repealed: *Provided however*, That the present organization of the Militia shall continue until conformed to the provisions of this act, or the Governor by and with the advice of Council, shall otherwise order. And nothing contained in this act shall be construed to repeal or in any way affect the twenty sixth section of an act, entitled "An Act providing for the government of the State prison, and for the punishment of convicts," passed the twenty fifth day of February, in the year of our Lord, one thousand eight hundred and twenty four.

Former act
repealed.
Chap. 164, vol.
2, p. 687.

Proviso.

Not to repeal
act 25th Feb.
1824.
Chap. 282, vol.
3, p. 110.

[Approved by the Governor, March 8, 1834.]

Chapter 122.

AN ACT to restrain the taking of excessive Usury.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled*, That the legal rate of interest upon the loan or forbearance of any money, goods, or any kind of merchandize or things in action, shall continue to be six dollars upon one hundred dollars for one year, and at that rate for a greater or less sum, or for a longer or shorter time.

Six per cent.
per annum es-
tablished the le-
gal rate of in-
terest.

SECT. 2. *Be it further enacted*, That if any person or persons, upon any contract hereafter made, shall take, directly or indirectly, for loan of any mo-