

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

FIFTY-NINTH LEGISLATURE

OF THE

STATE OF MAINE.

1880.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
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PUBLIC LAWS
OF THE
STATE OF MAINE.
1880.

Chapter 224.

An act relating to the expenditure of the Public Moneys.

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

Public money to be applied solely to the objects for which appropriated.

SECT. 1. All sums of money appropriated for the various branches of expenditure in the public service, shall be applied solely to the objects for which the appropriations are made.

SECT. 2. This act shall take effect when approved.

Approved March 16, 1880.

Chapter 225.

An act concerning the Militia.

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

Enrollment lists, what to contain, by whom made, when filed, etc.

SECT. 1. The names of all male citizens of this state between the ages of eighteen and forty-five, shall, biennially, in April, be enrolled alphabetically by the assessors of the several cities, towns and plantations in which they respectively reside. On such enrollments, and opposite the name of every person exempt from military duty, or a minor, or in the volunteer militia, the assessors shall write 'exempt,' and the reason of such exemption, or 'minor,' or 'volunteer militia,' as the case may be. Said lists shall contain the whole number enrolled in their respective cities, towns and plantations, and the number exempt on said rolls. They shall subscribe and make oath to said lists, that, in their opinion, and to the best of their knowledge and belief, they are true. They shall file said lists in the offices of the respective city, town or plantation clerks on or before the first day of May, biennially. The city, town or plantation clerks shall forward to the adjutant general, on or before the tenth day of May, biennially, a certified copy of said roll, and copy the same into an enrollment book kept by them for that purpose.

Enrolled militia

SECT. 2. All able bodied male citizens enrolled in this state, not exempt by law, and not belonging to the volunteer or reserve militia, shall be known as the enrolled militia of Maine.

SECT. 3. The following persons, being exempted from military duty by the laws of the United States, shall not be included in said enrollment: that is to say, the vice president of the the United States, the officers, judicial and executive, of the government of the United States; members of the houses of congress and their officers; custom house officers and their clerks; inspectors of exports; pilots and mariners employed in the sea service of a citizen or merchant within the United States; postmasters, assistant postmasters, and their clerks; post officers, post riders, and stage drivers in the care and conveyance of the mail of the United States; telegraph operators, and ferrymen employed at any ferry on a post road.

Persons exempt by U. S. law, not enrolled.

SECT. 4. The following persons are also exempted from military duty, and shall not be included in said enrollment: that is to say, the members of the executive council; judges and clerks of all courts of record; judges and registers of probate; registers of deeds; the attorney general, county attorneys, sheriffs; the secretary, deputy secretary, and treasurer of the state; the attendants upon the insane, employed in the asylum for the insane; keepers of light houses; conductors, engine men, road masters, and superintendents of railroads and railroad trains, necessarily employed in running the same; members and officers of the legislature while in session; persons who, having held commissions in the army or navy of the United States, or in the militia of any state for five years, have been discharged or superseded; persons employed as officers or keepers in the state prison; the officers and keepers of the asylum for the insane; the superintendent of the reform school and his assistants; officers and keepers of jails; common drunkards, idiots, vagabonds, and persons convicted of any infamous crime in this or any other state.

Other persons exempt.

SECT. 5. The reserve and enrolled militia shall not be subject to active duty, except in case of war, or for the purpose of preventing, repelling, or suppressing invasion, insurrection, or riot, or of aiding civil officers in the execution of the law, and then only when the volunteer force shall be insufficient for that purpose.

Reserve and enrolled militia, when subject to active duty.

SECT. 6. When it is necessary for said purposes, the commander-in-chief may order into actual service as many of the reserve and enrolled militia as may be required, by draft or

How called out.

CHAP. 225 otherwise, and if a draft is to be made, shall issue his orders to the municipal officers to return from their towns or cities the number required; and they shall notify the persons enrolled to appear at a time and place of parade appointed by them, and then and there, by draft or voluntary enlistment, procure the required number, and forthwith return their names to the commander-in-chief.

Each town to furnish quota when draft is ordered.

SECT. 7. When a draft is made, each town shall be required to furnish its quota in proportion to the number of its able bodied militia; and members of the volunteer and reserve militia called into active service, and volunteers enlisting from any town, shall be accounted for upon its quota.

Punishment for failure to appear.

SECT. 8. Every person enrolled who is ordered out, or is drafted or volunteers, and fails to appear at the time and place designated by the selectmen for his reporting for duty, or has not then and there an able bodied substitute, shall be dealt with as a soldier absent without leave.

Organization for actual service.

SECT. 9. When in actual service the volunteer, reserve and enrolled militia, shall be organized, by the commander-in-chief, into companies, regiments, brigades and divisions, and proper officers appointed therefor; commissioned officers shall furnish themselves with equipments, and non-commissioned officers and privates shall be armed and equipped by the state.

Equipments and arms

Governments and pay.

SECT. 10. Officers and soldiers in actual service shall be governed and trained in accordance with the laws and regulations of the United States for governing the militia when in actual service, and shall receive the same pay as similar grades and arms of the service in the army of the United States.

Penalty for giving false information to assessors.

SECT. 11. Any person knowingly and wilfully refusing information, or giving false information to assessors making such enrollment, respecting the name, age, residence, occupation, military service, or physical or mental disability of himself, or of his son or ward, or person in his employ, or boarding with him, shall be fined twenty dollars; and, if the person incurring such forfeiture is a minor, his parent or guardian shall be liable therefor. In case of doubt as to exemption from military duty, the burden of proving such exemption shall be on the person claiming it; and all enrolling officers may require the persons examined by them to testify under oath, and may administer such oath.

SECT. 12. Any assessor neglecting or refusing to faithfully perform the duty of enrolling officer required by this chapter, or making any false entry upon said roll, or committing any other fraud in making said roll, shall be fined not exceeding two hundred dollars, or imprisoned not exceeding one year. When the adjutant general shall find, from the returns of the assessors in any city, town or plantation, that they have not made a true report of the number of persons liable to do military duty under the provisions of this title, he shall notify them by mail that they have failed to make such report; and if they shall not make true report of the number of such persons, as nearly as the same can be ascertained, within twenty days after such notice, he shall notify the state's attorney in the county in which said assessors reside, who shall proceed at once to collect such fine or enforce such penalty.

Penalty for delinquency of assessors.

Adjutant General to notify officers.

SECT. 13. Any town clerk or other officer required to forward a copy of the roll to the adjutant general shall forfeit twenty dollars, and any selectman or other officer required to make any draft or return the names of persons drafted or enlisted to the commander-in-chief, who neglects to make such draft or return, shall forfeit one hundred dollars for each neglect, to be recovered by the adjutant general in a special action on the case, and credited to the account of the volunteer militia.

Penalty for delinquency of town clerk and other officers.

SECT. 14. The commander-in-chief may make all further rules and regulations necessary for the complete enrollment of the militia, under the provisions of this act, and in accordance with the laws of the United States.

Commander-in-chief to make further necessary rules and regulations.

SECT. 15. The active militia shall be known and designated as the Maine volunteer militia; and on a peace footing, shall consist of not more than three regiments of infantry, one battery of light artillery and one squadron of cavalry. All enlistments therein shall be for five years, and made by signing such enlistment books as may be prescribed by the adjutant general and approved by the commander-in-chief. An attested copy of such enlistment book in the same form shall be made by the clerk and forwarded forthwith to the adjutant general. Also, when a new enlistment is made in any troop of cavalry, platoon or battery of light artillery, or company of infantry, the commanding officer thereof shall cause the clerk to forward the name of such man or men so enlisted

Designation of active militia, strength of force, term and manner of enlistment.

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to the adjutant general. The commanding officer of every troop of cavalry, platoon or battery of light artillery, or company of infantry, or any field or commissioned staff officer of the Maine volunteer militia, may, and is hereby qualified to administer the oath required upon enlistment. No enlistment shall be allowed in the Maine volunteer militia of other than able bodied citizens of this state, between the ages of eighteen and forty-five years, residing in the town or city, or an adjoining town or city, where the armory of the troop of cavalry, platoon or battery of light artillery, or company of infantry is situated. In time of peace, no minor shall be enlisted into the Maine volunteer militia without the written consent of his parent or guardian. The written consent of the parent or guardian shall be copied into the orderly-book of the organization into which said minor enlists, and the original kept on file. No uniform, allowance, pay, or compensation shall be given by the state to any enlisted man or officer not certified to by the surgeon or assistant surgeon of the regiment, to be able bodied and capable of doing military duty. The Maine volunteer militia, herein mentioned, shall be liable at all times to be ordered into active service for the purpose of repelling, preventing, or suppressing invasion, insurrection, or riot, or for aiding civil officers in the execution of the law; and shall first be called out by the commander-in-chief on all occasions for military service. If such invasion, insurrection or riot, or imminent danger thereof, in any part of the state be so sudden that the commander-in-chief cannot be informed and his orders received and executed in season to resist or suppress the same, any commander of division in such part of the state may order out his division, or any part thereof, as the commander-in-chief might do.

Enlistments of minors.

Liability to active service.

Proceedings in case of invasion, etc.

Cavalry and artillery force, how raised.

Order may be issued on petition of sixty citizens.

SECT. 16. Troops of cavalry, platoons and batteries of light artillery, and companies of infantry shall be raised on petition to the commander-in-chief, or by his order.

SECT. 17. When a petition for raising such troop, platoon, battery or company has been signed by not less than sixty citizens of the town where such organization is to be raised, the order for raising the same may be issued, and the adjutant general, on application therefor, shall furnish the petitioners with an enlistment book and roll.

SECT. 18. Such book and roll shall be prepared by the adjutant general, in form and with heading to be approved by the commander-in-chief, and of a uniform character for all branches of the service. The signing said book, and taking the oath required upon enlistment, shall constitute a valid enlistment for five years into the troop, platoon, battery or company mentioned therein; and no person shall be considered entitled or enlisted to pay or compensation until he is so enlisted.

Method of enlistment.

SECT. 19. When an order has been issued for raising a troop of cavalry or a company of infantry, and fifty persons have been enlisted, or thirty-six men enlisted for a platoon of light artillery, as is required, the petitioners may give notice thereof to the commander-in-chief, who shall issue an order for calling a meeting of the persons who have so enlisted for the election of officers.

Order for election of officers.

SECT. 20. A commissioned officer of the volunteer militia shall be designated to attend and preside at such meeting. Such commissioned officer shall cause seasonable notice to be given to each person who has so enlisted, and at said meeting such officer shall preside.

Officer to preside.—notice.

SECT. 21. At said meeting, the persons present who have so enlisted, may, by ballot, and major vote, nominate suitable persons to be commissioned as captain and subaltern officers of the troop, platoon, battery or company; and the person presiding at said meeting shall within five days thereafter, file in the office of the adjutant general his certificate of such election.

Nomination of officers.

—certificate to be filed.

SECT. 22. As soon as said troop of cavalry, platoon or battery of light artillery, or company of infantry is fully organized, the commanding officer shall cause the clerk of said organization to forward an attested copy of its enlistment-book to the adjutant general.

Copy of enlistment-book to be forwarded to adjutant general.

SECT. 23. On a peace footing, each troop of cavalry, company of infantry or heavy artillery, shall be limited to sixty enlisted men; and each platoon of a light battery to thirty-five enlisted men; and each full battery, to one hundred and five enlisted men; but, in actual service, when the exigency of the case requires it, the commander-in-chief may, by proclamation, authorize enlistments to the maximum standard of similar organizations in the army of the United States; and when the exigency ceases, he shall, by proclamation,

Number of men to a company on peace footing.

—when in actual service.

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Date of organiza-
tion.

order the reduction of such organizations in the most expedient way, to the limit on a peace footing.

SECT. 24. The date of the organization of a troop of cavalry, platoon or battery of light artillery, or company of infantry, shall be the day of the meeting first held under an order for the election of its officers.

Arrangement of
the command.

SECT. 25. The volunteer militia shall be arranged by the commander-in-chief into battalions, squadrons, regiments, brigades and divisions; and the commander-in-chief may, from time to time, change the organizations at pleasure.

Assignment of
each organiza-
tion.

SECT. 26. Each of said organizations shall be assigned to its respective squadron, battalion, or regiment, and be numbered and lettered at its formation; and the order for its organization and number and for any alterations therein shall be recorded in the office of the adjutant general.

Squadron, battery
and regiment, of
what they shall
consist.

SECT. 27. The squadron of cavalry shall consist of two troops; the battery of light artillery, of not less than three platoons; and regiments of infantry, of not less than eight nor more than ten companies.

Regimental band.

SECT. 28. Each colonel of a regiment may enlist a band of musicians, not exceeding twenty-four, including one master and one deputy-master, to be attached to his regiment, and may issue his warrant to the master, deputy-master and musicians, *provided* that the members of such band shall furnish their own uniforms and instruments, and shall be held to duty until discharged by the colonel of the regiment.

Proviso.

Term of service
and discharge.

SECT. 29. Every non-commissioned officer and private, enlisted into the Maine volunteer militia, shall be held to duty therein for the term of five years unless disability after enlistment shall incapacitate him to perform such duty, and he shall be regularly discharged in consequence thereof, by the proper authority. The commander of a regiment may, upon the written application of the commander of a company in his regiment, accompanied by a request in writing, signed by a non-commissioned officer or private, discharge such non-commissioned officer or private from the company; and the commander of a battery or separate company may, upon an application in writing, signed by a member thereof, discharge such member; *provided, however*, that the commander-in-chief may, for sufficient reasons and in his discretion, discharge enlisted men, at any time.

Proviso.

SECT. 30. If a troop of cavalry, platoon or battery of light artillery, or company of infantry, fails to comply with the law in regard to uniform, equipments, or discipline, so that it is incapacitated to discharge its duties, or if a troop of cavalry, or company of infantry, is reduced below forty enlisted men, and a platoon of light artillery below twenty enlisted men, or a battery below sixty enlisted men, such organizations so deficient in numbers may be disbanded by order of the commander-in-chief.

When organization may be disbanded, by order of commander-in-chief.

SECT. 31. The commander-in-chief may, by special order to that effect, accept as a part of the active force any troop of cavalry, platoon or battery of light artillery, or company of infantry, raised without previous order therefor, commission officers elected by them or otherwise appointed, as he may elect, and attach such organization to any existing regiment or other organization at his discretion.

Independent organizations may be attached.

SECT. 32. The same laws, rules and regulations applying to companies of infantry shall be applicable to companies of heavy artillery.

Application of laws to heavy artillery.

SECT. 33. The staff of the commander-in-chief shall consist of the adjutant general, who shall be, ex-officio, chief of staff, quartermaster general, and paymaster general, with the rank of brigadier general; an inspector general, with the rank of brigadier general; a commissary general, a surgeon general, a judge advocate general, each with the rank of colonel, and four aides-de-camp, each with the rank of lieutenant colonel; a military secretary, with the rank of major, and such other staff officers as the public service may require, with such rank as the commander-in-chief may designate. All staff officers of the commander-in-chief, except the adjutant general and quartermaster general, shall be appointed and commissioned by him, and shall hold office during the term of office of the governor, unless otherwise removed by him, which he may do at his pleasure. The adjutant general and quartermaster general shall be chosen as provided by the constitution.

Staff of commander-in-chief.

Appointment and term of office.

SECT. 34. The adjutant general shall distribute all orders from the commander-in-chief, attend all public reviews when the commander-in-chief shall review the militia, or any part thereof, obey all orders from him relative to carrying into execution and perfecting the system of military discipline established by the laws of the state and of the United States,

Duties of adjutant general.

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furnish blank forms of the different returns and rolls that may be required, and explain the principles on which they should be made, distribute all books required to be furnished at the public expense, receive from the several officers of the different corps throughout the state, returns of the militia under their command, reporting the actual situation of their arms, accoutrements and ammunition, their delinquencies, and every other thing which relates to the general advancement of good order and discipline, all of which the several officers of the divisions, brigades and regiments are hereby required to make in the usual manner, so that the adjutant general may be furnished therewith, and from all said returns he shall make proper abstracts and lay the same annually before the commander-in-chief; and he shall annually, on or before the first Monday in January, make a return in duplicate of the militia of the state, with their arms, accoutrements and ammunition, according to such directions as he may receive from the secretary of war of the United States, one copy of which he shall deliver to the commander-in-chief, and the other of which he shall transmit to the president of the United States.

Duties of quartermaster general.

SECT. 35. The quartermaster general, under the direction and supervision of the commander-in-chief, shall purchase and issue all ordnance stores, artillery, arms and accoutrements, clothing, camp equipage, and military stores generally, except such as are expressly directed by law to be purchased by other officers. He shall, under the orders of the commander-in-chief, procure and provide means of transportation for the militia, and for all its implements, munitions of war and military supplies, and shall be the keeper of the public magazines and of all military property of the state, excepting such as is by law expressly entrusted to the keeping of other officers. He shall give bond to the state in the penal sum of twenty thousand dollars, with two sureties at least, to be approved by the governor and council, conditioned faithfully to discharge the duties of his office; to use all necessary diligence and care in the safe keeping of military stores and property of the state committed to his custody; to account for the same and deliver over to his successor, or to any other person authorized to receive the same, such stores and property. And any other officer to whom any arms, equipments, stores or other property of the state shall at any

Official bond.

Bond may be required of other officers.

time be issued, may be required to give a bond to the satisfaction of the governor and council, with the like condition.

SECT. 36. The inspector general shall attend at the encampments provided in this act, and witness the instruction, drill and manœuvres practiced at the encampments, critically observe the same, and make a written detailed report thereon, independent of the report of the commanding officer. Said report shall state the amount and kind of duty performed by the troops on each day, the manner of its performance, the state and condition of each regiment, battery, troop, and company, the degree of order maintained, and the general police of the encampment; and shall also contain such suggestions as are deemed important upon the working and efficiency of the system of instruction, drill and discipline prescribed, and of the necessity of further regulation and legislation in order to perfect the military system of the state, and be transmitted to the commander-in-chief within thirty days from the breaking up of such encampments. He shall also make an annual inspection of each troop of cavalry, platoon or battery of light artillery, and company of infantry, and of all other organizations belonging to the volunteer militia, at such time as the commander-in-chief may order; *provided, however*, that such inspections shall be made on or before the first day of December in each year. He shall also inspect all armories, books, records, and military property in possession of each organization, and report to the commander-in-chief, through the adjutant general, within thirty days of such inspection, the condition thereof.

Duties of inspector general.

SECT. 37. The commissary general, under the direction and supervision of the commander-in-chief, shall purchase and issue all military subsistence supplies.

Duties of commissary general.

SECT. 38. The surgeon general, under the direction and supervision of the commander-in-chief, shall purchase and issue all medical, surgical and hospital supplies.

Duties of surgeon general.

SECT. 39. The judge advocate general is charged with the supervision, care and management of all things relating to the administration of justice among the military forces of the state. He shall diligently scrutinize and examine the proceedings of all courts martial and report thereon, for the information of the commander-in-chief. Under the orders of the commander-in-chief the judge advocate general shall act as judge advocate at any court martial where the public

Duties of judge advocate general.

CHAP. 225 interests shall require his attendance. He shall be the legal adviser of the military department upon all legal questions which may arise therein, and to him may be referred for supervision all contracts, agreements, or other instruments to be drawn or executed in the course of the business of this department.

Officers to account for property and money.

SECT. 40. The adjutant general, quartermaster general, paymaster general, surgeon general, and commissary general shall account, as often as may be required by the commander-in-chief, and at least once yearly to the commander-in-chief, in such manner as he shall prescribe, for all property which shall have passed through their hands, or the hands of the subordinate officers of their respective departments, or that shall be in their care and possession, and for all moneys which they shall expend in discharging their respective duties; and they shall annually, on or before the first day of January, lay before the governor and council, accounts with vouchers, of their expenditures during the previous year.

Officers not to have personal interest in property purchased or sold by them.

SECT. 41. Neither the adjutant general, quartermaster general, paymaster general, surgeon general, or commissary general, nor any assistant of either of them, nor any subordinate officer of their departments, shall be concerned, directly or indirectly, in the purchase or sale of any article intended for, making a part of, or appertaining to, their respective departments, except for and on account of the state, nor shall they or either of them take or supply to his or their own use any gain or emolument for negotiating or transacting any business in their respective departments, other than what is or may be allowed by law.

Duties of certain officers may be assigned to others.

*SECT. 42. The commander-in-chief may, at his discretion, whenever the office of commissary general or inspector general shall be vacant, assign the duties of such officer to some officer already in commission, until the commander-in-chief shall deem it necessary to fill such office by special appointment.

Election of officers.

SECT. 43. The officers of the line shall be elected as follows: Major generals by the senate and house of representatives, each having a negative upon the other; brigadier generals by the written votes of the field officers of their respective brigades; field officers of regiments by the written votes of the captains and subalterns of the companies of the respective regiments; captains and subalterns of companies

by the written votes of the non-commissioned officers and privates of the respective companies. Major generals shall be notified of their elections by the secretary of state, and, unless within thirty days after such notice, they signify to the secretary their acceptance of office, shall be taken to have refused the same. Major generals shall order elections to fill all vacancies which occur in their respective divisions, in the office of brigadier general, field officer, captain or subaltern.

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Secretary of state to notify major generals of election.

Major generals to order elections to fill vacancies.

SECT. 44. To each division there shall be one major general, one assistant adjutant general, one division inspector, each with the rank of lieutenant colonel; one quartermaster, one commissary, one judge advocate, one aide-de-camp, each with the rank of major, and two aides-de-camp, each with the rank of captain.

Division officers.

SECT. 45. To each brigade there shall be one brigadier general, one assistant adjutant general, one brigade inspector, each with the rank of major; one quartermaster, one commissary and one aide-de-camp, each with the rank of captain, and one aide-de-camp, with the rank of first lieutenant.

Brigade officers.

SECT. 46. To each regiment of infantry there shall be one colonel, one lieutenant colonel, and one major; one adjutant and one quartermaster, each with the rank of first lieutenant; one surgeon with the rank of major, two assistant surgeons with the rank of first lieutenant, one sergeant major, one quartermaster sergeant, one commissary sergeant, one hospital steward, and two principal musicians, and not less than eight nor more than ten companies; each company to consist of one captain, one first lieutenant, one second lieutenant, one first sergeant, four sergeants, six corporals, two musicians, one wagoner, and not less than forty nor more than sixty privates.

Infantry, regimental and company officers and number of privates.

SECT. 47. To each regiment of cavalry there shall be one colonel, one lieutenant colonel, three majors; one adjutant, one quartermaster, each with the rank of first lieutenant; one surgeon with the rank of major, two assistant surgeons with the rank of first lieutenant, one sergeant major, one quartermaster sergeant, one commissary sergeant, one hospital steward, and two principal musicians, and not less than ten nor more than twelve companies; each company to consist of one captain, one first lieutenant, one second lieutenant, one first sergeant, one quartermaster sergeant, four sergeants, four corporals, two trumpeters, one wagoner, one farrier, one

Cavalry, regimental and company officers and number of privates.

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Artillery, regimental and company officers and number of privates.

blacksmith, and one saddler, and not less than forty nor more than sixty privates.

SECT. 48. To each regiment of artillery there shall be one colonel, one lieutenant colonel, three majors; one adjutant and one quartermaster, each with the rank of first lieutenant; one surgeon with the rank of major, two assistant surgeons with the rank of first lieutenant, one sergeant major, one quartermaster sergeant, one commissary sergeant, one hospital steward, and two principal musicians, and not less than ten nor more than twelve companies. To each battery of light artillery, or company of heavy artillery, there shall be one captain, two first lieutenants, two second lieutenants, one first sergeant, one quartermaster sergeant, six sergeants, twelve corporals, two trumpeters, and seventy-eight privates.

Engineers, company officers and number of privates.

SECT. 49. To each company of engineers there shall be one captain, two first lieutenants, one second lieutenant, ten sergeants, ten corporals, two musicians, sixty-four artificers, and sixty-four privates.

Treasurer of company, etc.

—bond.

SECT. 50. To each company, troop or battery, there shall be elected by such organization a treasurer, who shall give bonds in the sum of five hundred dollars, for the faithful performance of his duties.

Discharge of officers.

SECT. 51. Any officer may be discharged by order of the commander-in-chief, upon either an address of both houses of the legislature, the report of a court of inquiry, or the sentence of a court martial.

Honorable discharge of officers.

SECT. 52. An officer may be honorably discharged by the commander-in-chief upon tender of resignation, upon the disbandment of the organization to which he belongs, or, if a staff officer, upon the written request of the officer appointing him, or upon the qualification of his appointed successor; or when he shall accept an appointment in the army or navy of the United States.

Dismissal of officers.

SECT. 53. Any officer may be dismissed by the commander-in-chief, when it shall appear to him that such officer has been convicted of any crime, or has been dishonorably discharged or dismissed from the service of the United States, or from the militia of this or any other state; or to carry out the sentence of a court martial.

Certificate of discharge.

SECT. 54. All officers discharged from the service of the state shall be entitled to receive a certificate of such discharge in such form as the commander-in-chief shall direct.

SECT. 55. Enlistments in the reserve militia shall be for two years. CHAP. 225

Enlistments in reserve.

SECT. 56. The governor and commander-in-chief may allow companies to be organized from the enrolled militia of the state, in numbers of not less than forty nor more than sixty enlisted men, and with officers corresponding to those of the volunteer militia, and elected as officers of such volunteer militia are elected; such companies to be known as the reserve militia of the state.

Companies may be organized from enrolled militia.

SECT. 57. Such companies may be formed into battalions, regiments and brigades by the governor and commander-in-chief, with such officers for such organizations as he may deem proper; the officers of such companies, battalions, regiments and brigades to be commissioned by the governor.

Formation of such companies into battalions, etc.

SECT. 58. Such companies may be furnished with arms and equipments and other military property necessary for their use, by the state, when on hand, such property to be accounted for the same as by the volunteer militia, but the reserve militia shall be to no other expense to the state except when ordered out by the governor and commander-in-chief; when so ordered out by the governor and commander-in-chief, such reserve militia shall be governed by all the rules and regulations governing the volunteer militia.

Arms, equipments, expense, government, etc.

SECT. 59. An enlisted man of the reserve militia may be discharged at any time by the commanding officer of his company, with the consent of the commanding officer of the battalion or regiment to which he may be attached.

Discharge of enlisted men.

SECT. 60. The assistant adjutant general of each division and brigade, and the adjutant of each regiment or corps, shall constantly keep a correct roster of the command to which he belongs, and an orderly-book in which he shall record all orders received and issued.

Rosters and orderly-book to be kept by adjutant.

SECT. 61. Clerks of companies shall record in the orderly-book all company orders and notifications.

Record to be kept by clerk.

SECT. 62. Each quartermaster shall keep an orderly-book and record therein all orders and official communications received or written by him, relating to his office or the public property in his charge, all receipts for public property distributed and returns of public property made by him.

Record to be kept by quartermaster.

SECT. 63. The commanding officer of each troop, platoon, battery or company, on the first Tuesday of April in each year, shall make and sign a correct return, in the form pre-

Return to be made by commanding officers to adjutant.

CHAP. 225 scribed, of the number of persons enrolled in his troop, platoon, battery or company, and cause the same to be recorded in the orderly-book of his command, signed by the clerk, and transmitted to the adjutant of the regiment or battalion.

Return to be made to quartermaster.

SECT. 64. He shall at the same time make and sign a correct return, in the form prescribed, of the camp equipage, ordnance, military stores, musical instruments, and other public property in his troop, platoon, battery or company, furnished by the state, cause the same to be signed and recorded by the clerk, and transmitted to the quartermaster of his regiment.

Clerk shall record return.

SECT. 65. The clerk shall assist the officer in command in making his returns, and shall sign and record the same in his orderly-book.

Clerk to file list of officers and soldiers with municipal officers.

SECT. 66. The clerk of each troop, platoon, battery or company, shall, when called upon, file with the selectmen or assessors of any town, city or plantation in which any officer or soldier of his troop, platoon, battery or company is liable to be enrolled, a certified list of such officers and soldiers; and a certified copy of such certificate shall be evidence of the enrollment, in said troop, platoon, battery or company, of the persons named in said lists.

Adjutant to provide blanks and consolidate company returns.

SECT. 67. The adjutant of each regiment or battalion shall furnish the commander of each troop, platoon, battery or company assigned to the regiment or battalion of which he is adjutant, with blank forms of returns to be made by them, and explain how they are to be made; shall consolidate the returns made to him into a regimental return, record the same in his orderly-book, and transmit the same, countersigned by the colonel, to the assistant adjutant general of the brigade or division, and keep on file the returns made to him; the assistant adjutant general shall consolidate the returns made to him into a brigade or division return, record the same in his orderly-book, and transmit the same to the adjutant general, and shall keep on file in his office a copy of the same.

Quartermaster to consolidate returns of property, etc.

SECT. 68. The quartermaster shall consolidate the returns made to him into a regiment or battalion return, add thereto the public property in his keeping, record the same in his orderly-book, and transmit it, countersigned by the colonel, to the brigade or division quartermaster, who shall consoli-

date all returns made to him, add thereto all public property in his keeping, record the same in his orderly-book, and transmit it, countersigned by the brigade or division commander, to the quartermaster general, and keep on file the returns made to him.

SECT. 69. The returns of troops, platoons, batteries and companies shall be made to the adjutants and quartermasters on or before the first Tuesday of December in each year, and the returns of adjutants and quartermasters on or before the third Tuesday of December, annually; and the assistant adjutant general and brigade or division quartermaster shall forward their returns to the adjutant general and quartermaster general on or before the first day of January in each year; and any officer neglecting to make return within the time required shall forfeit twenty dollars; but such forfeiture may be remitted by the commander-in-chief, when, upon a report of the facts by the adjutant general, he deems the neglect excusable.

Returns to be made, annually.

—penalty for neglect.

SECT. 70. The adjutant general shall, as soon as may be, examine and record the brigade or division returns, and transmit the same to the commander-in-chief, and a duplicate thereof to the secretary of war of the United States.

Adjutant general to record returns and transmit duplicate.

SECT. 71. He shall examine and record the return of the quartermaster, add thereto all public property in his possession or issued to regimental quartermasters, or not otherwise accounted for, and record and transmit the same to the commander-in-chief.

Record return of quartermaster stores, etc.

SECT. 72. All commissioned officers shall provide themselves with such uniforms and arms complete, as the commander-in-chief shall prescribe, subject to such restrictions, limitations and alterations as he may order. The uniforms, arms and equipments of non-commissioned officers and privates shall be furnished by the state.

Uniforms and arms, how provided.

SECT. 73. Every officer and soldier shall hold his uniform, arms, ammunition and accoutrements required by law, free from all suits, distresses, executions or sales, for debt or payment of taxes.

Uniforms, etc., free from attachment.

SECT. 74. Non-commissioned officers and privates shall be uniformed once in five years, at the expense of the state, reckoning from May first, eighteen hundred and eighty; *provided, however*, that such uniforms as are in suitable con-

To be furnished once in five years.

—proviso.

CHAP. 225 dition on said date, may be used, in part, to uniform said militia.

Property of the State.

SECT. 75. The uniforms, arms, equipments and other property so furnished, shall remain and continue to be the property of the state, to be used for military purposes only; and such as shall not have been properly expended in such use, shall be returned, when called for by proper authority.

Arms and other property, where to be deposited.

SECT. 76. All arms, equipments and military property of every description, which shall be furnished to the several commands under the provisions of this act, shall be deposited in the armories or headquarters of said commands for safe keeping.

Property to be returned to armory.

SECT. 77. It shall be the duty of every non-commissioned officer and soldier, to return to the armory, or other place of deposit, each article of military property of the state, issued to and received by him, for use in the military service, within three days after such tour of duty, or forthwith upon the order of the commanding officer; and the possession of such property by the person to whom it was issued, elsewhere than in the armory or designated place of deposit, shall be deemed and taken to be prima facie evidence of embezzlement of such article of property by the person to whom it was issued.

Uniforms, etc., to be used upon military duty, only.

SECT. 78. No soldier shall wear or use, except upon military duty, or by special permission of his commanding officer, any uniform or other article of military property belonging to the state.

Officers and soldiers held personally responsible for property.

SECT. 79. Every officer, non-commissioned officer, and soldier, to whom a uniform or other article of military property shall be delivered in pursuance of the provisions of this act, shall be held personally responsible for its care, safe keeping, and return; he shall wear the same for military purposes only, and upon receiving a discharge, or leaving the military service, or upon the demand of his commanding officer, shall forthwith surrender and deliver up the said uniform, together with all other articles of military property that may be in his possession, to the said commanding officer, in as good order and condition as the same were at the time he received the same, reasonable use and ordinary wear thereof excepted.

Penalty for wilful injury to property.

SECT. 80. Any soldier who shall wilfully or maliciously destroy, injure or deface any article of military property be-

longing to the state, or shall retain any property in violation of the preceding sections, shall be punished by a fine not exceeding forty dollars, to be paid into the treasury of the company, to be recovered on complaint of the clerk of the company, before any court having jurisdiction.

SECT. 81. It shall be the duty of all commissioned officers of the militia to exercise the strictest care and vigilance for the preservation of the uniforms, arms, equipments and military property furnished to the several commands under the provisions of this act; and in case of loss thereof, or damage thereto by reason of the neglect or default of such officers, or either of them, to exercise such care and vigilance, he or they shall be liable to trial by court martial for neglect of duty.

Officers to exercise care to preserve property.

—liability.

SECT. 82. Whenever any corps or detachment of the militia is ordered to perform any duty requiring the use thereof, the quartermaster general shall deliver to the commanding officer of such corps or detachment, such tents, fixtures and other camp equipage, and such ammunition as may be necessary for the discharge of such duty; and each officer to whom such equipage is delivered, shall be responsible for the safe keeping of the same, and shall return the same to the quartermaster general when the duty shall have been performed for which the same was issued, and in case of the discharge or death of such officer, he or his legal representative shall be released from such responsibility upon filing in the office of the quartermaster general a certificate of the officer succeeding him in command, that the articles so furnished are in his custody at the date of his certificate, and in good order and condition, reasonable use and wear thereof excepted, and the officer giving such certificate shall from that time be responsible for such articles as if they had been originally issued to him. In case of the discharge or death of such an officer, he or his legal representative shall be relieved from such responsibility, upon filing in the office of the quartermaster general a certificate signed by not less than two commissioned officers of his company, that such articles are, at the date of the certificate, undiminished in quantity and value, reasonable use and wear thereof excepted.

Quartermaster to issue tents, etc., when required.

Officers responsible for property.

SECT. 83. Each regiment shall be furnished by the state with the national and state colors, their staffs, belts and sockets, two guidons, and four markers; and each company of cavalry, and each battery of light artillery, with its proper

Regiments to be furnished national and state colors, etc.

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guidon, staff, belt and socket, and the commander of such regiment, battery or company, shall be responsible for their safe keeping.

Armories of companies and rooms for keeping books to be provided by municipal officers.

SECT. 84. The mayor and aldermen and selectmen shall provide to each company of the volunteer militia within the limits of their respective places, a suitable armory or place of deposit for the arms, equipments and equipage, furnished it by the state. When a company is formed from different places, the location of such armory or place of deposit shall be determined by the commanding officer, with the approval of the commander of the regiment, but when it has been once so determined it shall not be again changed without the approval of the quartermaster general. They shall also provide a suitable room for the safe keeping of books, the transaction of business, and the instruction of officers for each regiment or separate battalion of Maine volunteer militia located within their limits, and a reasonable compensation for rent of any such armory, headquarters, or place of deposit, not exceeding the sum of one hundred dollars per annum may be allowed to the town or city so furnishing such armory, headquarters, or place of deposit, and paid from the state treasury.

--location.

--rent.

Company parade and drills.

SECT. 85. The volunteer militia shall parade by companies on the first Tuesday in May for inspection, company drill and manœuvre. They shall also be assembled for drill not less than three hours in each month.

Municipal officers to provide places for parade, etc.

SECT. 86. Mayors and aldermen and selectmen shall provide suitable places for the parade, target practice and drill of the militia belonging to their respective cities and towns.

Commanding officers may rent land.

SECT. 87. The officer commanding the troops to be encamped may contract for the use of the land required for the encampment, at a reasonable rent to be paid therefor.

Officers may fix limits to parade.

SECT. 88. Every commanding officer, when on duty, may ascertain and fix necessary bounds and limits to his parade, not including a road, so as to prevent passing, within which no spectator shall enter without leave from such commanding officer. Whoever intrudes within the limits of the parade, after being forbidden, may be confined under guard not exceeding twelve hours, at the discretion of the commanding officer; and whoever resists a sentry who attempts to put him or keep him out of such limits, may be arrested by order of the commanding officer and carried before a court or magis-

Penalty to intruders.

trate, to be examined or tried upon complaint for such assault or disturbance and breach of the peace.

SECT. 89. The authority of the officer in command of any camp may be extended by order of the commander-in-chief to a distance of one-half mile around such camp, and upon the external space within such distance from the camp, with the exception of any road or roads within said distance, no person or persons other than the owners of the same, with their servants, for the purpose of occupying and improving the same in the same manner and way in which they occupied and improved the same at the time of the establishment of such camp, shall be allowed to enter, except under such rules as shall be established by the officer commanding such camp, with the approval of the commander-in-chief, or by special permission of the officer in command, for the time being, or some officer by him designated; and if any person shall so enter he may be immediately expelled, and before being expelled he may, at the discretion of the officer commanding such camp, be confined under guard for a period not exceeding twenty-four hours.

Authority of officer in command of camp may be extended one-half mile.

SECT. 90. The commander-in-chief may order such target or rifle practice, at the annual encampment or at other times, by companies, platoons, batteries, battalions or regiments, as he deems for the best interest of the service.

Target and rifle practice may be ordered.

SECT. 91. When a troop, platoon, battery, or company is to be paraded, the commander shall issue his orders to one or more of the sergeants if any, otherwise to one or more corporals or privates of his troop, platoon, battery or company, requiring them to warn the officers, non-commissioned officers, musicians and privates, to appear at the time and place appointed for parade.

Orders for parade, how promulgated.

SECT. 92. Such sergeants, corporals or privates shall warn every person, by delivering to him in person, or leaving at his abode, a written or printed order, at least four days previous to the time of such parade.

Method of warning.

SECT. 93. The return under oath of the sergeant, corporal or private upon the order directed to him stating that such notice was given, or a copy of the record of such order, and return in the company books, certified by the clerk, is evidence that due notice was given of such parade.

Evidence of notice.

SECT. 94. The captain or any commissioned officer shall be qualified, by virtue of commission, to administer such oath upon any return or military order.

Officers qualified to administer oath.

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Punishment for false return.

SECT. 95. Any sergeant, corporal or private, convicted of wilfully making a false return shall be punished as in other cases of perjury.

Punishment for neglect or refusal to warn.

SECT. 96. If any sergeant, corporal or private, shall neglect or refuse to warn any officer, non-commissioned officer, musician or private, whom he is ordered to warn, he shall forfeit the sum of two dollars for each person not warned.

Commander may excuse for non-appearance, for cause.

SECT. 97. If any non-commissioned officer, musician or private, is confined to his house by sickness at the time of any training or encampment, or is absent from town at the time he is warned, and remains absent till after such training or encampment, or has any other reasonable excuse, the commander may excuse him for non-appearance.

Excuse, how and when made, filed, etc.

SECT. 98. No excuse shall be received unless the same is made in writing, and filed with the clerk within ten days after such training or encampment, and recorded in the clerk's orderly-book, unless it is proved, that, by reason of continued sickness or absence, such officer or soldier was unable to make the same within that time, and that the same was made immediately on his return or recovery.

Certificate of surgeon, assistant surgeon or physician, to be evidence of disability.

SECT. 99. No evidence of any disability by reason of bodily infirmity or debility, except in case where the party is confined to his house by sickness, shall be admitted in any case, except the certificate of the surgeon or assistant surgeon of the regiment or battalion, or, if there is no such surgeon or assistant surgeon located in the town or city where the party is confined on account of such disability, an affidavit of a physician in good and regular standing, and practicing medicine under the laws of the state, regularly sworn to before any officer qualified to administer oaths, may be admitted.

Adjutant general to act as paymaster general.

SECT. 100. The adjutant general shall act as paymaster general, and shall have the general charge and supervision of all expenses, and pay for the militia in the service of the state.

Compensation for actual services.

SECT. 101. There shall be paid, for attendance and performance of duty, to such officers, non-commissioned officers, musicians and privates, as shall be specially ordered to attend encampments, parades or other duty, as is provided in this law, the following sum each per day, for every day actually on duty: To a major or brigadier general, six dollars; to all division and brigade staff officers, four dollars; to all com-

generals.

—staff-officers.

manding officers of regiments, five dollars; to all field officers below the rank of colonel, four dollars; to all regimental staff officers, and the staff officers of a battalion, two dollars and fifty cents; and to all non-commissioned staff officers, one dollar and fifty cents; to captains, three dollars; to lieutenants, two dollars; to all non-commissioned officers, musicians and privates, members of regimental bands excepted, one dollar.

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Regimental officers.

—company officers.

—musicians and privates.

SECT. 102. The adjutant general shall receive as compensation for his services, the annual salary now provided by law, or to be fixed from time to time by the legislature.

Compensation of adjutant general.

SECT. 103. The inspector general shall receive for his services the sum of four dollars per day for the time necessarily employed in making inspections, when ordered by the commander-in-chief, and all necessary expenses incurred.

Compensation of inspector general.

SECT. 104. The commissary general, surgeon general, judge advocate general, and other officers on the staff of the commander-in-chief shall receive four dollars per day when on duty.

Compensation of commissary general and other officers.

SECT. 105. To each member of regimental bands, there shall be paid, as compensation for services and subsistence, when ordered out by the regimental commander to do duty, the sum of two dollars per day.

Compensation of regimental bands.

SECT. 106. There shall be allowed for each horse actually employed by officers required to be mounted, three dollars per day; for horses used in the cavalry, for non-commissioned officers and orderlies when required, two dollars per day; and for each draft horse employed in batteries of light artillery, not exceeding sixteen to each platoon, the sum of two dollars per day, which shall be in full for use, keeping and forage.

Allowance for horse used by officers.

SECT. 107. Division and brigade assistant adjutant generals, and inspectors, and adjutants of regiments of the Maine volunteer militia, shall receive twenty-five dollars annually, in addition to their pay as herein provided.

Annual compensation of certain officers.

SECT. 108. Transportation shall be furnished by the state, through the quartermaster general, to and from the place of encampment, parade or other duty, when troops are ordered out by the commander-in-chief.

Transportation to be furnished troops when ordered out.

SECT. 109. Officers obliged to go out of the city or town of their residence to attend a military election, shall be allowed five cents a mile, each way, for travel.

Mileage to be allowed, when.

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Rations to be furnished, when.

Compensation and rations, when service is longer than six days.

Penalty for neglect to appear, and absence without leave.

Penalty for neglect or refusal to appear with uniform, arms, etc.

Penalty for unnecessarily loading or discharging arms.

Penalty for disorderly conduct or disobedience.

Penalty for neglect to obey orders for suppression of riot, etc.

SECT. 110. The militia when ordered into camp or on special duty, shall be furnished with rations by the state.

SECT. 111. The militia, when called into actual service for more than six days, shall receive the same pay and rations as the regular troops of the United States; and the rations, when commuted, shall be valued at the rate fixed by the regulations of the United States in force at the time.

SECT. 112. Any officer, non-commissioned officer, musician, or private, who neglects, after due notice, to appear at any training, inspection or review, or who is at any time absent from his guard, troop, platoon, battery or company, without leave from the commanding officer, before such guard, troop, platoon, battery or company is dismissed, shall be fined not less than three nor more than ten dollars.

SECT. 113. Any non-commissioned officer, musician or private who, after due notice, neglects or refuses to appear at any training, inspection or review, with the uniform, arms and equipments of his troop, platoon, battery or company, shall be fined five dollars, if the offense is committed at any encampment, and three dollars if at any company training.

SECT. 114. A soldier who unnecessarily, or without order from a superior officer, comes to any parade with his musket, rifle or pistol loaded with ball, slug or shot, or shall so load the same while on duty, or unnecessarily, or without order from a superior officer, discharges the same when going to or returning from, or upon parade, shall forfeit not less than five nor more than twenty dollars; to be recovered on complaint of the clerk to the use of the company.

SECT. 115. A soldier behaving with contempt towards an officer, or conducting himself in a disorderly manner, or exciting or joining in any tumult or riot, or being guilty of unmilitary conduct, disobedience of orders, or neglect of duty when under arms or on duty, shall forfeit not less than ten nor more than forty dollars; to be recovered as provided in the preceding section.

SECT. 116. Any officer, non-commissioned officer, musician or private, who, after due notice, neglects to obey any legal order to turn out and march for the suppression of a riot, or in case of an invasion or threatened invasion, or to enforce the execution of the laws of the state, or the United States, or when out refuses to obey the command of his superior officers, shall be fined not more than five hundred dollars, or

imprisoned not more than two years. Courts martial ordered by the commander-in-chief shall have jurisdiction of officers described in this section.

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Jurisdiction of
court martials

SECT. 117. The clerk of each troop, platoon, battery or company shall make in his orderly-book a record of all persons who have incurred a fine at each training or encampment, specifying their offenses, which shall be signed by the commander and clerk; and the same or a certified copy thereof is evidence of such offense, but other evidence relating thereto may be received.

Record of offenses
to be made.

SECT. 118. Fines and forfeitures incurred by members of the volunteer militia shall be collected in the following manner, to wit: The clerk of each company, after the expiration of twenty days, and within forty days after parade, election of officers, inspection, training, review, encampment, or other duty, shall in those cases when fines are to be collected upon his complaint, make and subscribe an information against the offending soldiers or non-commissioned officers who have not been excused by their commander or who have not within the twenty days aforesaid paid to him the forfeiture they have incurred, which information shall be left with some trial justice or filed in some police or municipal court in the county in which the offender resides. Such information shall be in substance as follows:

Fines and forfeit-
ures, how col-
lected.

To A. B., Esq., trial justice within and for the county of _____ or to the justice of the police or municipal court within and for _____. I, the subscriber, clerk of the company commanded by _____, do hereby give information against the following person or persons who, being duly enrolled in said company, and being duly notified to meet with said company, on the _____ day of _____, in the year _____ (for inspection or review, election of officers, special duty, or as the cause may be,) was guilty of the offenses, and did incur the forfeitures set against his name:

Form of informa-
tion.

Names.	Offense.	Forfeiture.	Sums.
A. B., non-commissioned officer; C. D., private,	{ For unnecessarily neglecting to appear on said day, }	has forfeited	—
E. F.,	For being deficient of a — on said day,	has forfeited	—
G. H.	{ For being on said day guilty of coming on to the parade with his arms loaded, }	has forfeited	—

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I. K.,	{ For unnecessarily discharging his musket, rifle or pistol in going to or returning from, or on the place of parade, without the orders of an officer,	} has forfeited	—
L. M.,	{ For leaving his guard, section, platoon or company without the leave of an officer,	} has forfeited	—

(And in the same manner, substantially, all other offenses are to be set forth against offending non-commissioned officers and privates.)

I, therefore, agreeably to my oath of office, and in compliance with the requisitions of the law in this behalf, request you to issue a summons, directed to the person named in the above information, to appear before you, and show cause, if any he has, why it should not be adjudged that he pay the forfeiture set against his name, for the offense which he is therein alleged to have committed.

Dated at ———, this day of ———, in the year ———.

A. B., clerk of the company.

Commanded by ———.

The justice or court shall file the same; and upon motion of the clerk shall, within nine months, and not afterwards, issue a summons to each person informed against, to be served at least seven days before the time appointed for showing cause. The summons, if issued by a trial justice, shall be in substance as follows:

———, ss.

[Seal.] To the sheriff of said ——— county, or either of his deputies, or either of the constables of the town of ———, in the county aforesaid: Greeting:

In the name of the state of Maine, you are hereby required to summon C. D., of ———, in the county aforesaid, to appear before me, E. F., one of the trial justices within and for the county aforesaid, at ———, in ———, on the ——— day of ———, at ——— of the clock in the ——— noon, then and there to show cause, if any he has, why judgment should not be rendered, that he has forfeited ——— for (here insert the offense, and the time when and place where it was committed). Hereof fail not, and make due return of this writ, and your doings thereon, unto myself, on or before the said hour of the day of ———.

Dated at _____, aforesaid, the _____ day of _____, in CHAP. 225
 the year _____. E. F., Trial Justice.

If issued from a police or municipal court, as follows :

STATE OF MAINE.

_____, ss.

[Seal.] To the sheriff of the county of _____, or either By court.
 of his deputies, or either of the constables of the town of _____, in said county, Greeting :

We command you to summon C. D. of _____, in said county, to appear before _____, judge of our police (or municipal) court of _____, to be holden at _____, within and for our _____, on _____, then and there to show cause, if any he has, why judgment should not be rendered, that he has forfeited _____ for (here insert the offense, and the time and place where it was committed.) Hereof fail not, and have you there this writ with your doings thereon.

Witness, W. S., Esq., at _____, on the _____ day of _____ year _____. T. P., Clerk (or Recorder).

(Or witness my hand and seal at _____, on the _____ day of _____, in the year of our Lord _____.

A. B., Justice of such Court.)

When the person summoned appears, he may plead that he Person may plead
not guilty.
 is not guilty, and give any special matter in evidence.

Upon the trial of such complaint, made by the clerk of a Clerk of com-
pany, how iden-
tified as such.
 company, it shall be sufficient for the complainant, to prove that he is clerk of the company ; for which purpose he shall produce his warrant as a non-commissioned officer, and prove the signature thereto of the colonel or commanding officer, and that at the time of signing such warrant he was reputed to be and acted as such colonel or commanding officer, which shall be prima facie evidence that such complainant was appointed a non-commissioned officer by the captain or commanding officer of such company, and that a legal return of such appointment was made to the colonel or commanding officer of the regiment. He shall then show, upon the back of his warrant, a legal certificate of his appointment as clerk, and qualification as such by taking the oaths required by law. For which purpose he shall procure the signature of the captain or commanding officer of such company, and that he is such captain or commanding officer, by producing his commission as such ; but if the clerk is appointed clerk pro tem- —clerk pro-tem.

CHAP. 225

Documents to be used in the case.

—further evidence required.

Proceedings in case of default.

pore, his appointment may be proved by the records of his company. He shall then produce the roll of the company, and prove that the defendant resided within the limits of the company, and was enrolled or enlisted therein at the time he was notified of such meeting. He shall then produce the order of the commanding officer of such company to notify the said meeting or meetings thereof, and prove his signature thereto, and that the defendant was legally notified of the time and place of such meeting or meetings. If it is required by law that the order for such military duty shall in such case be given by any officer superior to the commanding officer, of a company, then the orders of such superior officer, and all intermediate orders of officers transmitting the same to the commanding officer of the company shall be proved, and that the persons purporting by such orders to be such officers, are such; for which purpose, it shall be sufficient to produce the transmitted written or printed copies of such orders, and the regimental or other last order, transmitting the same to the commanding officer of the company, to prove the signature of the proper officer to such regimental or other last order, transmitting the same; and to prove that all the officers above mentioned are reputed to be such officers and act as such. The absence or offense of the defendant shall then be proved, to show that he is liable to the fine alleged to be incurred by him; and, in case of absence, the burden of proof shall be upon him to show that his absence was necessary. The evidence above described shall be taken to be prima facie sufficient to support the complaint. When it appears that a document or paper above mentioned cannot be produced, satisfactory secondary evidence thereof shall be received. Upon the hearing of such case, the testimony of the clerk, or other person who was ordered to notify the whole or part of the company, shall be prima facie evidence of notice to the defendant and that he neglected to appear. If the defendant makes default, or judgment is rendered against him, and he neglects for two days after to satisfy the same with legal costs, execution shall be issued therefor; which execution, issued by a trial justice, shall be in substance as follows, but if by a police or municipal court, shall be so altered as to conform to the summons:

STATE OF MAINE.

_____, ss.

[Seal.] To the sheriff of such county, or either of his deputies, or either of the constables of the town of _____, in the same county,

Form of execution.

Greeting :

Whereas, E. L., clerk of the company commanded by _____, in said county, on the _____ day _____, before J. D., esquire, one of our trial justices for our county aforesaid, recovered judgment against T. P., of _____, for the sum of _____ fine or forfeiture, and _____ costs of prosecution, as to us appears of record whereof execution remains to be done. We command you, therefore, that of the money of the said T. P., or of his goods or chattels, within your precinct, at the value thereof in money, you cause to be levied, paid and satisfied, unto the said E. L., the sums aforesaid, being _____ in the whole, and also out of the money, goods and chattels of the said T. P., you levy twenty-five cents more for this writ, together with your own fees; and for want of such money, goods or chattels of said T. P., to be by him shown unto you, or found within your precinct, to the acceptance of the said E. L., for the aforesaid sums, we command you to take the body of the said T. P., and him commit unto our jail in B., and we command the keeper thereof accordingly to receive the said T. P. into our said jail, and him safely keep until he pay the full sums above mentioned, with your fees, so that he be discharged by the said E. L., or otherwise, by order of law. Hereof fail not, and make return of your doings therein unto our said justice, within twenty days next coming.

Witness, our said justice at B., the _____ day of _____, in the year one thousand _____.

J. D., Trial Justice.

The complaint or summons may be amended in any stage of the proceedings without payment of costs; and the defendant shall be allowed an adjournment or continuance of the case, if justice requires it. The clerk shall not be liable to pay costs to a defendant in a case in which the commanding officer of his company has certified, upon the information of the clerk, his approval of the same. And no appeal shall be allowed from any judgment, unless the forfeiture adjudged exceeds ten dollars, exclusive of costs. A complaint, by any

Processes may be amended.

—costs.

—appeal.

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Complaint by
other officers,
how prescribed.

other officer, shall be prosecuted in the like manner so far as the same is applicable thereto, the forms being varied accordingly; and he shall prove his authority by producing his commission, and other competent evidence which may be necessary.

Forfeitures, how
disbursed.

SECT. 119. The clerk of each company, or other officer prosecuting such complaint, shall retain to his own use, from the forfeitures so collected, the amount of the expenses incurred by him in prosecuting the same, and upon demand, pay the remainder to the treasurer of the company, regiment or corps entitled to the benefit thereof, who shall give his receipt therefor, and expend the same in defraying such expenses of the company, regiment or corps, as a majority of the commissioned officers thereof shall judge necessary. All captains or commanders of companies, and all other officers authorized by this act to direct or control the collection of fines, shall report annually, to the adjutant general, through the usual channels of military communication, the amount of fines imposed, the amount collected, and the disposition thereof.

Manner of calling
out the militia for
active service.

SECT. 120. Whenever it shall be necessary to call out any portion of the enrolled militia for active duty, the commander-in-chief shall direct his order to the mayor and aldermen of cities, or to the selectmen of towns, who, upon the receipt of the same, shall forthwith, by written or oral notice to each individual, or by proclamation, appoint a time and place for the assembling of the enrolled militia in their city or town, and shall then and there proceed to draft as many thereof, or accept as many volunteers as is required by the order of the commander-in-chief, and shall forthwith forward to the commander-in-chief a list of the persons so drafted, or accepted as volunteers.

Penalty for not
appearing, fur-
nishing substi-
tute, or paying
commutation
when ordered out.

SECT. 121. Every member of the enrolled militia ordered out, or who volunteers or is detached or drafted, under the provisions of this act, who does not appear at the time and place designated by the mayor and aldermen or selectmen, or who has not some able-bodied and proper substitute at such time and place, or does not pay to such mayor and aldermen, or selectmen, for the use of the state, the sum of seventy-five dollars within twenty-four hours from such time, or who does not produce a sworn certificate, from a physician

in good standing of physical disability to so appear, shall be taken to be a deserter and dealt with accordingly.

SECT. 122. The portion of the enrolled militia so accepted shall be immediately mustered into the service of the state for three years, or such less period as the commander-in-chief may direct, and shall be organized into companies, which may be arranged in battalions or regiments, or assigned to organizations of the volunteer militia already existing. Such new organization shall be officered, equipped, trained and governed according to the laws for the government of the volunteer militia.

Term of service and organization.

SECT. 123. Elections shall forthwith be ordered in such new organizations by the commander-in-chief, who may detail officers to train and command them until the officers elect shall have qualified.

Election of officers.

SECT. 124. Any person, directly or indirectly, advising or in any manner attempting to influence any person to avoid compliance with any order issued in pursuance of the preceding sections, shall forfeit five hundred dollars, or be imprisoned not less than two years.

Penalty for advising disobedience of orders.

SECT. 125. When there is, in any county, a tumult, riot, mob, or a body of men acting together by force with intent to commit a felony, or to offer violence to persons or property, or by force and violence to break and resist the laws of the state, or of the United States, or when such tumult, riot or mob is threatened, and the fact is made to appear to the commander-in-chief, or the mayor of a city, or to a court of record sitting in said county, or, if no such court be sitting therein, then to a justice of such court, or, if no justice is within the county, then to the sheriff thereof, the commander-in-chief may issue his order, or such mayor, court, justice or sheriff, may issue a precept, directed to any commander of a division, brigade, regiment or corps, directing him to order his command, or a part thereof, describing the kind and number of troops, to appear at a time and place therein specified, to aid the civil authorities in suppressing such violence and supporting the laws; which precept, if issued by a court, shall be in substance as follows:

Proceedings in case of riot, mob, etc.

Order or precept may issue.

L. S. ———, ss.

To (insert the officer's title) A. B., commanding (insert his command).

Form of precept

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Whereas, it has been made to appear to our justices of our ———, now holden at ———, within and for the county of ———, that (here state one or more of the causes above mentioned,) in our county of ———, and that military force is necessary to aid the civil authority in suppressing the same; now, therefore, we command you that you cause, (here state the number and kind of troop required), armed, equipped, and with ammunition, as the law directs, and with proper officers, either attached to the troops, or detailed by you, to parade at ———, on ———, then and there to obey such orders as may be given them, according to law. Hereof fail not at your peril; and have you there this writ with your doings returned thereon.

Witness G. T. B., Esq., at ———, on the ——— day of ———, in the year ———. C. D., Clerk.

And if the same be issued by a mayor, justice or sheriff, it shall be under his hand and seal, and otherwise varied to suit the circumstances of the case.

Officer to order
parade.

—penalty for dis-
obedience.

—for advising
disobedience.

Officers to take
oaths of office.

—form.

SECT. 126. The officer to whom the order of the commander-in-chief or such precept is directed, shall forthwith order the troops therein mentioned, to parade at the time and place appointed. If he refuses or neglects to obey such order or precept, or if an officer neglects or refuses to obey an order issued in pursuance thereof, he shall be cashiered and punished by fine, or imprisonment not exceeding six months, as a court martial may adjudge. And a non-commissioned officer, or a soldier, neglecting or refusing to appear at the place of parade, to obey an order issued in such case, shall forfeit fifty dollars to the use of the state. And any person advising or attempting to persuade an officer or soldier to refuse or neglect to appear at such time and place, or to obey such order, shall forfeit two hundred dollars to the use of the state, or be imprisoned not exceeding six months.

SECT. 127. Every commissioned officer, before he enters on the duties of his office, or exercises any command, shall take and subscribe, before a justice of the peace, or general or field officer, who has previously taken and subscribed them himself, the following oaths and declarations:

"I, A. B., do solemnly swear that I will bear true faith and allegiance to the state of Maine, and will support the constitution thereof. So help me God."

"I, A. B., do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as ——, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution, and the laws of this state. So help me God."

"I, A. B., do solemnly swear, that I will support the constitution of the United States."

And on the back of every commission the following certificate shall be written or printed, and signed by the person before whom such officer is qualified :

Certificate of qualification.

This may certify that A. B., commissioned as within, on this —— day of ——, A. D. ——, personally appeared, and took and subscribed the oaths required by the constitution and laws of this state, and a law of the United States, to qualify him to discharge the duties of his office. Before me,

—form.

SECT. 128. Every clerk of a company, before he enters upon his duties, shall take the following oath, before the commanding officer of the company to which he belongs, viz. :

Company clerk to take oath.

"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."

—form.

The commander of such company shall, at the time of administering the 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.

—certificate.

SECT. 129. Every enlisted man at the time of his mustering to the volunteer militia shall take the following oath :

Enlisted men to take oath.

"I, ——, do solemnly swear that I will bear true faith and allegiance to the state of Maine, and will support the constitution thereof, and I do also solemnly swear that I will faithfully observe and obey all laws and regulations for the government of the volunteer militia of said state, and the orders of all officers elected or appointed over me. I do also solemnly swear that I will support the constitution of the United States. So help me God."

—form.

Sworn to before me,

———, mustering officer.

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Not held unless mustered.

Officers may be put under arrest for cause.

Arrests and charges to be reported to commander-in-chief.

General courts martial may be ordered for trial of certain officers.

Officers to be tried shall be served with copies.

President and members shall take oath.

And no enlisted man shall be held to duty in the volunteer militia, or receive any compensation or allowance until he shall have been so mustered.

SECT. 130. Any officer who neglects to perform the duties of his office, or to obey the rightful orders of his superiors, or who is guilty of unofficer-like or ungentleman-like conduct, may be put under arrest by his superior officer, and tried by a court-martial; and any officer so under arrest who exercises any command shall, on conviction by a court-martial, be cashiered.

SECT. 131. Every arrest and all charges and specifications relating thereto shall be reported without delay, by the officer ordering the same, to the adjutant general, to be laid before the commander-in-chief, who, on examination of the report, may discharge the officer from arrest, if, in his opinion, the case does not call for a court martial, or may order a court martial for his trial.

SECT. 132. General courts martial may be ordered as occasion may require by the commander-in-chief for the trial of officers above the rank of captain, and for the trial of officers described in section number one hundred and fifteen. And division and brigade courts martial may in like manner be ordered by their respective commanding officers for the trial of officers below the rank of major, who in such order shall designate the time and place of holding such court, and the names of the officers composing it, to consist of not less than three nor more than six in number, and a marshal. The senior officer named shall preside, and shall be of a superior rank to the officer on trial.

SECT. 133. The officer to be tried shall be served, at least fourteen days before the session of such court, with a copy of the order for the same for his appearance thereat, and a copy of the charges and specifications on which he is to be tried, attested by the adjutant general, and served and returned to the judge advocate by any person or officer designated by the adjutant general. The charges shall specify the act or neglect constituting the alleged offense, and shall be signed by the person making them, and addressed to the commander-in-chief.

SECT. 134. Before proceeding to any trial the judge advocate shall administer to the president and each of the members, separately, the following oath: "You swear that with-

out partiality, favor, affection, prejudice or hope of reward, you will well and truly try the cause now before you, between the state and the person to be tried, and that you will not divulge the sentence of the court until it is approved or disapproved, and that you will not, on any account, at any time whatever, discover the vote or opinion of any member, unless required to give evidence thereof as a witness by a court of justice in due course of law. So help you God." And the president shall administer to the judge advocate the following oath: "You swear that you will faithfully and impartially discharge your duties as judge advocate on this occasion, as well to the state as to the accused, and that you will not, on any account, at any time whatever, divulge the vote or opinion of any member of this court-martial, unless required to give evidence thereof as a witness by a court of justice in due course of law. So help you God."

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Form.

Judge advocate shall take oath.

—form.

SECT. 135. After the president, members and judge advocate are sworn, any member may be challenged, either on the part of the government or the accused, the cause of challenging being stated in writing; and the validity thereof shall be determined by the court, the members objected to not voting. One member only can be challenged at a time.

One member may be challenged.

SECT. 136. On all questions the opinion of the youngest member of the commission shall be taken first, and so on, regularly, to the oldest; and unless two-thirds of the members agree that the accused is guilty, he is acquitted.

Opinions of members, how taken.

SECT. 137. Courts martial may sentence an officer convicted by them, to be cashiered, or reprimanded in orders, or may impose a fine of not more than one hundred dollars, which may be recovered by the adjutant general, in an action of debt, in the name of the state. If any officer is sentenced to be cashiered, the court shall adjudge him incapable of holding any military office for life, or a term of years, according to the aggravation of the offense.

Sentence of courts martial.

SECT. 138. Courts martial and courts of inquiry are authorized to preserve order during their sessions; and if any person in their presence behaves in a disorderly manner, or makes any tumult in, or disturbs the court, and does not, upon command of the marshal, desist therefrom, the court may confine him for a time not exceeding eight hours.

Penalty for disorderly conduct.

SECT. 139. No officer shall be tried before a court-martial for any offense committed more than one year before the

Trial must be within one year of date of offense.

CHAP. 225 complaint, in writing, is made therefor, unless by reason of absence or other manifest impediment, he shall not have been amenable to justice within that period.

Proceedings in case of contempt or obstinacy of accused.

SECT. 140. If any officer, for the trial of whom a court-martial is appointed, does not appear, or withdraws in contempt of court, or, being arraigned, from obstinacy or deliberate design stands mute, or answers foreign from the purpose, the court shall proceed to trial as if he had pleaded not guilty.

Witnesses to take oath.

—form.

SECT. 141. The judge advocate shall administer the following oath or affirmation to witnesses required to give evidence before a court martial or court of inquiry: "You swear (or affirm) that the evidence you shall give, in relation to the charge now in hearing, shall be the truth, the whole truth, and nothing but the truth, so help you God," (or, "this you do under the pains and penalties of perjury.")

Judge advocate to cause witnesses to be summoned.

—penalty for refusing to appear.

—fees.

SECT. 142. The judge advocate shall cause the witnesses for the prosecution to be summoned by any person by him directed, by subpoena signed by him. The accused shall be entitled to like process for witnesses in his defense, and depositions may be used, as in civil courts. Any witness duly summoned who shall refuse to appear and testify, may be by warrant, signed by the president of the court and directed to the sheriff of the county, his deputy, or either constable of the town in which such witness resides, committed to jail in such county, there to be held at his own expense, until he shall be discharged by due course of law. The fees of all witnesses summoned on the part of the state, and of the judge advocate for summoning them shall be the same as are allowed in civil causes by the supreme judicial court, to be taxed by the president of the court and paid by the state to the judge advocate, who shall pay the fees of witnesses, when received by him, to the persons to whom they are due, and, if the sentence of the court be against the accused, and be duly approved, the fees shall, by warrant under the hand of the president of the court, directed in manner aforesaid, be collected of the delinquent and paid to the state.

Special judge advocate may be appointed in certain cases.

SECT. 143. The judge advocate shall attend all courts martial ordered in his brigade or division; and if he is unable to attend or any legal impediment exists to his acting, the

commander-in-chief may appoint a special judge advocate for such court. CHAP. 225

SECT. 144. The judge advocate shall keep accurate minutes of the proceedings of the court and of the evidence, shall impartially state the evidence for and against the accused, and shall transmit his minutes, signed by the president and himself, with the papers used at the trial, or certified copies, to the commander-in-chief, under seal.

Minutes of proceedings to be transmitted to commander-in-chief.

SECT. 145. The statement of the complainant and the defense of the accused, motions to the court, objections to evidence, and opinions of the judge advocate on questions of law, shall be in writing, and entered on the minutes or annexed thereto.

Statement, motions, opinions, etc., to be in writing.

SECT. 146. The original records of all courts marshal shall be deposited and kept in the adjutant general's office, and the accused shall be entitled to a copy thereof, upon paying therefor the fees allowed to the secretary of state for copies.

Records to be kept in adjutant general's office.

SECT. 147. The fees in courts martial and courts of inquiry shall be as follows: to the president, members, marshals, and judge advocate, each three dollars per day, and four cents per mile for travel to and from court; to the judge advocate, for drawing the necessary papers, and for copies and recording, twelve and a half cents for each page of two hundred and twenty-four words; to the marshal, for notifying members and the accused of the time and place of trial, six cents per mile for actual and necessary travel out and in, and twenty-five cents for each notification, and for summoning witnesses, twenty-five cents each; to the marshal or sheriff, for committing any person, the same fees as are allowed for like service on civil process; and to witnesses, the same fees as are allowed witnesses in the supreme judicial court.

Fees of court.

SECT. 148. A roll shall be made by the judge advocate of all fees, charges and expenses, specifying the services and to whom due, and the president and judge advocate shall certify that the fees and charges are legal, the contingent expenses necessary, and the charges reasonable, and, the same being transmitted, with the record, to the governor, he shall draw his warrant therefor, in favor of the president of the court.

Rolls of fees, charges, etc., to be made and certified to governor for payment.

SECT. 149. Courts of inquiry, to consist of three officers and a judge advocate, to be designated by the commander-

Courts of inquiry, how constituted, and object.

CHAP. 225 in-chief, may be ordered by him to examine into any military transaction or imputation against any officer, or for the purpose of settling a military question, or for establishing good order and discipline.

Officers to take oath.

—form.

SECT. 150. The judge advocate shall administer to the officers composing the court the following oath or affirmation : “You swear (or affirm) that you will well and truly examine and enquire into the matter now before you, without partiality, favor, or prejudice, affection, or hope of reward. So help you God ;” (or “this you do under the pains and penalties of perjury.”)

Judge advocate to take oath.

—form.

SECT. 151. The president shall then administer to the judge advocate the following oath : “You swear (or affirm) that you will impartially record the proceedings of the court and the evidence to be given in the case in hearing. So help you God,” (or “this you do under the pains and penalties of perjury.”)

Rights of interested parties protected.

SECT. 152. Parties personally interested shall be notified, permitted to cross-examine witnesses, and introduce evidence so as fairly to investigate the circumstances in question.

Court not to give opinion on merits of case unless specially required.

—proceedings to be transmitted to commander-in-chief.

SECT. 153. Such court shall not give their opinion upon the merits of the case unless specially required, but their proceedings shall be signed by the president and judge advocate, and transmitted to the commander-in-chief.

Officer, wronged by commander, may complain to commander-in-chief.

SECT. 154. Any officer who is wronged by the commander of his regiment or battalion, and who, on application, is refused redress, may complain to the commander-in-chief or commander of the forces in service, and he shall, by court of inquiry, court martial, or otherwise, in his discretion, examine the case and cause justice to be done.

Death penalty not to be inflicted in time of peace.

SECT. 155. No person shall suffer death by sentence of court martial, for any offense committed in time of peace.

Rules and regulations to be prescribed by commander-in-chief.

SECT. 156. The commander-in-chief is hereby authorized to establish and prescribe such rules, regulations, forms and precedents as he may deem proper for the use, government and instruction of the volunteer militia ; and to carry into full effect the provisions of this law, the governor is hereby authorized to draw his warrant from time to time on any funds in the treasury not otherwise expended for the expense thereof.

Governor authorized to draw warrant.

SECT. 157. No officer or soldier shall be liable to jury duty while in the volunteer militia service; and any officer or soldier who shall have served continuously for nine years in the volunteer militia shall be exempt for life thereafter from the performance of jury duty.

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Officers and soldiers, when not liable to jury duty.

SECT. 158. No officer or soldier shall be arrested on civil process while going to, remaining at, or returning from a place where he is ordered to attend for election of officers or military duty.

When not liable to arrest.

SECT. 159. If an officer or soldier is wounded or otherwise, disabled, or is killed, or dies of wounds received while doing military duty, according to law, in case of invasion, insurrection, or disturbance of the peace, he, or his widow or children, shall receive from the state just and reasonable relief.

Relief in case of death or disability.

SECT. 160. No officer or soldier shall be holden to perform military duty except in case of invasion, insurrection, riot or tumult made or threatened, or in obedience to the orders of the commander-in-chief, on a day appointed for a meeting in the town in which he resides, for the election of governor, senators, electors of president and vice president of the United States, or representatives to congress or the legislature; and an officer parading his company or wilfully ordering it to parade contrary to the provisions of this section, shall, besides being liable to a court martial, forfeit not less than fifty nor more than three hundred dollars.

When holden for military duty.

SECT. 161. Civil officers named in this chapter, neglecting or refusing to obey its provisions, shall, except as otherwise specially provided, forfeit not less than twenty nor more than five hundred dollars.

Penalty for illegal parade.

Penalty for disobedience of civil officers.

SECT. 162. The provisions of this chapter concerning the powers and duties of selectmen of towns, shall be construed to include the mayor and aldermen of any city.

Provisions applying to mayor and aldermen.

SECT. 163. It shall not be lawful for any body of men whatsoever, other than the regularly organized corps of the militia or the troops of the United States, to associate themselves together as a military company or organization, or to parade in public with arms, in any city or town of this state, without the license of the governor therefor, which may at any time be revoked; nor shall it be lawful for any city or town to raise or appropriate any money toward arming, equipping, uniforming, or in any way supporting or sustain-

License of governor necessary, for any other body to parade with arms.

Towns shall not raise money for illegal organizations.

CHAP. 225 ing or providing drill rooms or armories for any such bodies of men.

Penalty for violation of preceding sections.

SECT. 164. Whoever offends against the provisions of the preceding section, or belongs to or parades with any such unauthorized body of men, with arms, shall be punished by a fine not exceeding the sum of ten dollars, or by imprisonment in jail for a term not exceeding six months.

Organizations not to leave state without consent of commander-in-chief.

SECT. 165. No organization of the militia shall be liable to be ordered without the limits of the state, and no military organization shall leave the state, for any period or purpose whatever, with public or military property in its possession, or to be used by it, without the consent of the commander-in-chief. Any organization disobeying the provisions of this section shall forthwith be disbanded by the commander-in-chief, and its officers and members be liable to trial by court-martial for disobedience of orders.

—penalty for disobedience.

By-laws may be adopted.

SECT. 166. Any troop, platoon, battery or company may make and adopt such by-laws as they may see fit, subject to the approval of the adjutant general.

Volunteer militia, how constituted.

SECT. 167. The first regiment of infantry and the several unattached companies now in the service of the state, together with the Androscoggin Light Artillery, and such other organizations as the commander-in-chief shall hereafter authorize, shall constitute the volunteer militia. And all other military organizations which have or shall hereafter receive permission to parade with arms, shall constitute the reserve militia.

Reserve militia.

Inspection and sale of property.

SECT. 168. The inspector general, or such other officer as the commander-in-chief may designate, shall inspect and condemn public military property which has or may become unfit for use; and no property shall be sold until it has become unfit for use; and no property shall be sold until it has been inspected and condemned as herein provided, and such condemnation approved by the commander-in-chief. The proceeds of all sales of condemned military property shall be paid into the treasury of the state, and used for military purposes.

Eligibility to office.

SECT. 169. Members of the reserve and enrolled militia shall be eligible to office in the active militia; but no commission shall issue to an officer elected or appointed unless he appears to be qualified by education and ability to discharge the duties of his office. And the commander-in-chief may, in his discretion, cause an examination to be had, by a mili-

—examination.

tary board which he is authorized to appoint, into the qualifications of all persons, below the rank of major generals, claiming commissions under this act. If upon such examination the board finds the candidate qualified within the meaning of this section, the commission shall issue.

SECT. 170. All commissioned officers shall be commissioned by the commander-in-chief according to the respective offices and grades to which they may be elected or appointed, except as herein otherwise expressly provided. Every non-commissioned officer's warrant shall be given and signed by the commanding officer of the regiment.

Commissions, by whom given.

Warrants, by whom given.

SECT. 171. Commissioned officers shall take rank according to the date of their commissions. When two of the same grade bear an even date, their rank shall be determined by lot drawn before the commanding officer of the division, brigade, regiment, company or detachment, or president of a court martial, as the case may be. The day of the appointment or election of an officer shall be expressed in his commission, and considered as the date thereof. When he is transferred to another corps or station of the same grade, the date of the original appointment shall be expressed and considered the date of his commission.

Rank, how determined.

SECT. 172. When an officer shall lose his commission, upon affidavit made before a justice of the peace and produced to the adjutant general, a duplicate commission shall issue of the same tenor and date.

Duplicate commission may be issued.

SECT. 173. Electors shall be notified of elections at least four days previously thereto.

Notice of elections.

SECT. 174. Officers ordering elections may preside, or detail some officer of suitable rank to preside.

Presiding officers.

SECT. 175. A captain or staff officer of the rank of captain, may preside at the election of an officer of equal or inferior grade; but no candidate for the vacancy shall preside at the election, except to adjourn the meeting if no proper officer appears to preside. At all elections such presiding officer shall keep a record of the proceedings, and make return thereof to the commanding officer of the division.

Regulations relating to elections.

SECT. 176. The person who has a majority of the written votes of the electors present at a meeting duly notified, shall be deemed elected, and the presiding officer shall notify him of his election, and make return thereof, or of neglect or refusal to elect, to the commander of the division.

Majority vote to elect.

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Inconsistent acts
repealed.

SECT. 177. All laws, acts and resolves inconsistent with the provisions of this act are hereby repealed, but this section shall not be construed as reviving or in any manner restoring any former acts or parts of acts that were repealed by the laws of eighteen hundred and sixty-five.

SECT. 178. This act shall take effect when approved.

Approved March 16, 1880.

Chapter 226.

An act relating to service of process on defendants out of the State, in suits for breach of official duty.

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

Actions against
officers, where
principal defend-
ant is out of state,
writs, how served.

In all actions against sheriffs, deputy sheriffs, coroners and constables, for breach of official duty, where the principal defendant is out of the state, the writ may be served on such defendant by leaving a copy of the same with each of the sureties on his official bond fourteen days before the return day thereof, and the court in the county where the writ is returnable, either before or after entry, may order further notice to the defendant by publication of an abstract of the writ and order thereon, in some newspaper published in the county where the writ is returnable, or in the state paper, or in such other manner as the court shall direct; and if the order is complied with and proved, the defendant shall be held to answer to the suit, and judgment in such case shall have the same effect as if personal service was had upon the principal defendant.

Approved March 16, 1880.