

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ACTS AND RESOLVES

OF THE

SEVENTY-FOURTH LEGISLATURE

OF THE

STATE OF MAINE

1909

Published by the Secretary of State, agreeably to Resolves of
June 28, 1820, February 18, 1840, and March 16, 1842

AUGUSTA
KENNEBEC JOURNAL PRINT
1909

PUBLIC LAWS

OF THE

STATE OF MAINE

As Passed by the Seventy-fourth
Legislature

1909

Chapter 206.

An Act to consolidate and revise the Military Laws of the State of Maine.

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

Persons
subject to
military
duty.

Section 1. The militia of the state shall consist of every able-bodied male citizen, and every able-bodied male of foreign birth who has declared his intention to become a citizen, who is a resident of this state and who is more than eighteen and less than forty-five years of age, subject to the following exceptions:

Exemption
from mili-
tary duty.

Persons exempted by the laws of the United States, to wit:
The vice-president of the United States, the officers, judicial and executive, of the government of the United States, the members and officers of each House of Congress, persons in the military or naval service of the United States, all custom house officers, with their clerks, postmasters and persons employed by the United States in the transmission of the mail, ferrymen employed at any ferry on a post road, artificers and workmen employed in the armories and arsenals of the United States, pilots, mariners actually employed in the sea service of any citizen or merchant within the United States, and all persons who are exempted by the laws of the respective states or territories shall be exempted from militia duty, without regard to age.

Persons ex-
empted by
U. S. laws.

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

Persons ex-
empted by
state laws.

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

Enrollment.

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

By whom
made, what
to contain
and when
filed.

make a certified statement of the total number enrolled, the number marked exempt, the number belonging to the national guard and the number marked disabled, and forward the same to the office of the adjutant general.

Section 3. Any person claiming exemption shall satisfy the enrolling officer of his right thereto, and in case of doubt the burden of proof shall be upon the person claiming exemption, and the enrolling officer may require him to submit to examination on oath, and may administer such oath.

Persons claiming exemption from enrollment must satisfy officer of right thereto.

Section 4. Any person knowingly and wilfully refusing information or giving false information to an assessor or other authorized person making the enrollment, respecting the name, age, residence, occupation, military service, physical or mental condition, or other proper subject of inquiry, of himself or any person within his knowledge liable to be enrolled, shall for each such concealment, refusal, or giving of false information be guilty of a misdemeanor. The officer making the enrollment shall, within ten days, report all persons violating this section to the adjutant general.

Penalty for refusing or giving false information to assessor.

Section 5. Any assessor neglecting or refusing faithfully to perform the duties of enrolling officer as required by law, or making any false entry upon said rolls, or committing any other fraud therein, and any clerk neglecting to make and forward the statement required by section two, shall be guilty of a misdemeanor. Upon the failure of the assessors to make the enrollment of the militia as required by law, the governor may appoint some person to make it at the expense of the city, town or plantation, and the person so appointed shall have all the powers and be subject to the same duties as are prescribed in the case of assessors.

Names reported to Adjutant General.

Neglect of assessor or clerk to perform required duties constitute misdemeanor.

Governor may appoint.

Section 6. The militia shall be divided into two classes, the active and the reserve militia. The active militia of this state shall consist of the regularly enlisted, organized, and uniformed military forces, who have heretofore participated or shall hereafter participate in the apportionment of the annual appropriation provided by section sixteen hundred and sixty-one of the revised statutes of the United States, as amended, and shall be known as the national guard; and of the regularly enlisted, organized, and uniformed naval forces, which shall be known as the naval reserve. The reserve militia shall consist of all those liable to service in the militia, but not serving in the active militia of the state.

Militia divided into two classes; viz. Active and Reserve.

Active militia.

Reserve militia.

Section 7. The governor is the constitutional commander-in-chief of the militia, except of such portions as may be at times in the service of the United States.

Governor is commander-in-chief of militia.

CHAP. 206

Staff of the
Governor.

Section 8. 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 rank of brigadier general, an inspector general with rank of colonel, a judge advocate, with rank of lieutenant colonel, the senior officer on duty with each of the staff departments, and four aides-de-camp, with the rank of major and one naval aide with rank of lieutenant commander. All officers, except as otherwise provided in this chapter, and except the aides herein provided, must be at the time of their appointment, commissioned officers in the active militia, on the active or retired list of or above the grade of captain, but no officers shall be appointed from the retired list who shall have had less than eight years of service in the active militia, the last year of which shall have been within ten years immediately preceding the appointment.

Officers
appointed
from active
militia.

Grade and
service.

Present
staff to hold
office during
pleasure of
Governor.

The staff of the governor as now constituted shall continue to hold office as appointed and commissioned during the pleasure of the governor who made the present appointments, but thereafter, the governor's staff shall be chosen and constituted as provided in this section.

Power of
Governor to
order out
militia in
case of in-
surrection,
etc.

Section 9. In case of insurrection, invasion, tumult, riot, mob, or 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 this state, or the United States, or of imminent danger thereof, or in the event of public disaster resulting from flood, conflagration, or tempest, the governor shall have the power to order into the active service of the state any part of the militia that he may deem proper. And whenever the militia of this state or a part thereof is called forth under the constitution and laws of the United States, the governor shall, unless the order for the call specifies otherwise, order out for service the active militia or such part thereof as may be required; and if the number available be insufficient he shall order out the reserve militia or such part as may be necessary. The designations of organizations called into the service of the United States shall not, during such-service, be given to new organizations.

When called
into U. S.
service.

Drafts or
volunteers
from re-
serve
militia.

Section 10. Whenever it shall be necessary to call into active service the reserve militia, or any part thereof, the governor shall direct his order to the chief municipal officer of any city, town, or plantation, who, upon the receipt of the same, shall proceed to draft by lot, as many of the reserve militia or accept as many volunteers as are required by the governor, and

shall forthwith forward to the adjutant general a list of the persons so drafted or accepted as volunteers.

Section 11. Every member of the active militia ordered out, and every member of the reserve militia who volunteers or who is drafted and notified thereof, under the provisions of the preceding section, who does not appear at the time and place designated by his commanding officer, or the chief municipal officer, within twenty-four hours from such time, or who does not produce from a physician in good standing a sworn certificate of physical disability to so appear, shall be deemed a deserter and dealt with as prescribed in the articles of war of the United States.

Punishment of members of active militia and of drafted men, or volunteers from reserve militia, for failure to appear.

Section 12. Whenever any portion of the reserve militia is called forth under the constitution and laws of the United States, the members thereof shall be immediately mustered into the service for three years, or such other period as the call may prescribe; and whenever any portion of such militia shall be ordered into the service of the state they shall be mustered into the service for such period, not exceeding three years, as the governor may direct. Such reserve militia, when so ordered into active service shall have, as far as practicable, the same system of organization, equipment, training and discipline as are or may thereafter be prescribed for the national guard. The governor shall have the power to appoint the officers for any new organizations formed out of said reserve militia; he may, at his discretion, transfer and promote officers of the national guard to the organizations thus formed and order into active service for this purpose such retired officers of the national guard as may be efficient and available and in such number as he may deem necessary.

Period of service of reserve militia when called into U. S. service.

Organization and equipment same as National Guard.

Power of Governor to appoint officers.

Section 13. Whenever any portion of the militia is employed in aid of the civil authority, the governor, if in his judgment the maintenance of law and order will thereby be promoted, may by proclamation declare the county, city, town or plantation in which the troops are serving or any specified portion thereof, to be in a state of insurrection.

Governor may by proclamation declare state of insurrection.

Section 14. Whenever reserve militia or the national guard, or both, or any number of them or either of them, shall be called forth under the constitution and laws of the United States, and the orders for that purpose shall not be issued to or transmitted through the governor of the state, any officer or officers of the militia or national guard receiving such orders not so issued or transmitted shall communicate the same to the governor as soon as practicable.

Officers shall notify Governor whenever militia is called forth by U. S. direct.

CHAP. 206

National Guard in U. S. service must serve specified term or until expiration of commission or enlistment, either within or without territory of U. S.

Section 15. Whenever the President shall call forth the national guard, or any number of them to be employed in the service of the United States, and specifies in his call the period for which such service is required, the national guard, so called, shall continue to serve during the term so specified, either within or without the territory of the United States, unless sooner relieved by order of the President; provided, that no commissioned officer or enlisted man of the national guard shall be liable to service beyond the term of his existing commission or enlistment.

Relief from civil or criminal liability.

Section 16. No member of the militia ordered into the active service of the state shall be liable civilly or criminally for any act done, or caused, ordered, or directed to be done, by him in furtherance of and while in the performance of his military duty. When an action or proceeding of any nature shall be commenced in any court by any person against any officer or enlisted man of the militia for any act so done, or caused, ordered, or directed to be done, all the expenses of the defense of such proceeding or action, civil or criminal, including fees of witnesses for the defense, defendant's court costs, and all costs for transcripts of records and abstract thereof on appeal, shall be paid by the state, out of the military fund; and it shall be the duty of the attorney general either personally or by one or more assistants to defend such officer or soldier; provided, that where the action or proceeding is criminal the adjutant general shall designate a judge-advocate of the national guard to conduct the defense of such member, or, if the services of a judge-advocate be not available, then he shall select some other competent attorney to conduct such defense, and the judge-advocate or other attorney so selected shall receive and be paid out of the military fund a reasonable compensation for his professional services. In any such action or proceeding the defendant may require the person instituting or prosecuting the same to file security for payment of costs that may be awarded the defendant, which costs if recovered in an action, the costs whereof have been paid out of the military fund shall be paid into the state treasury for the benefit of the military fund; and the defendant may, in every such action or proceeding, make a general denial and give the special matter in evidence.

Expenses of defense paid by state.

Attorney general to defend.

Judge advocate to defend in criminal actions.

Security for costs.

Adjutant general; his rank, duties, and relations with the war department.

Section 17. The adjutant general of the state shall have the rank of brigadier general, and shall be, ex-officio, chief of staff, quartermaster general, and paymaster general, of the state. For the purpose of establishing the relation between

the war department and the various staff departments of the state, he shall be the chief of said departments; and the requisitions, purchases, and issues to be made by the senior officer on duty in certain of said departments, as hereinafter prescribed, shall be made by them pursuant and in obedience to his directions and instructions.

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

Control
over mili-
tary depart-
ment.

(b) He will superintend the preparation of all returns, reports, plans and estimates required of the state by the war department; and, on or before the thirty-first day of December of each year, shall make a report to the governor of the strength and condition of the active militia and of the business transactions of the department, including a detailed statement of expenditures for all military purposes.

War de-
partment.

Report to
the Gov-
ernor.

(c) He shall be responsible for the care, preservation, and repair of all military property belonging or issued to the state for the arming and equipping of the militia; and he shall dispose of all military property of the state found unserviceable after a proper inspection, account for the proceeds thereof, and deposit the same into the state treasury to the credit of the military fund.

Care and
inspection
of military
property.

(d) He shall turn in, in such manner as the war department may require, such ordnance, accoutrements and equipments belonging to the United States and receive in substitution therefor such prescribed regulation ordnance and equipment, as may be necessary to conform to the standard required by the laws and regulations of the United States.

Ordnance
and equip-
ments be-
longing to
U. S. turned
in and ex-
changed.

(e) He shall, under the direction of the governor, prepare requisitions for, and make purchases and issues of, such military property as is necessary to equip the organizations of the active militia according to the standard that is now or may be hereafter prescribed by the laws and regulations of the United States, except such purchases and issues as are hereinafter required to be made by the senior officers on duty in the other staff departments; he shall approve the bills of all purchases by whomsoever made and all issues; but no such property shall be issued, or otherwise disposed of, to persons or organizations other than those of the active militia and portions of the reserve militia called into active service.

Equip ac-
tive mili-
tia.

Approve all
bills.

CHAP. 206

Account of expenses.

(f) He shall keep a just and true account of all expenses necessarily incurred, including pay, transportation and subsistence of officers and enlisted men of the militia and of all military property; and shall render annually to the governor a statement in detail showing the disposition of all clothing, ordnance, arms, ammunition, and other military property on hand and issued.

Annual statement, in detail, to Governor.

May sell articles of issue to the militia, and account for same.

(g) He may, upon approval of the governor, sell for cash to officers of the active militia, for their official use, and to organizations of the active militia, any military or naval property which is an article of issue by the state; and shall with his annual report render to the governor a true account of the sales so made, and shall deposit the proceeds of the same in the state treasury to the credit of the military fund.

When absent, Governor shall appoint an officer of militia to act.

Whenever the adjutant general is absent from the state or is unable from any cause to perform his duties, the governor shall during his absence or disability designate an officer of the active militia present for duty in the state to perform the duties of the adjutant general.

Bond of Adjutant General.

Section 18. The adjutant general shall give a bond to the state, approved by the governor and council, in the sum of ten thousand dollars, conditioned on the faithful performance of his duties as herein prescribed; and the costs and expenses incurred by entering into such bond shall be paid out of the military fund.

Duties of Inspector General.

Section 19. The inspector general shall make an annual inspection and a detailed report upon the armories, property, books, records, financial condition, and the various organizations of the active militia, and such other inspections as the adjutant general may direct or the law require. He shall perform such other duties as are herein prescribed and submit to the adjutant general a report of the transactions of his office by the fifteenth of December, annually.

Annual report.

Ordnance department Senior officer, his rank and duties.

Section 20. The senior officer on duty in the ordnance department shall have the rank of lieutenant colonel and shall from time to time submit to the adjutant general requisitions for all ordnance property, equipment, and accoutrements and all range and target material, which requisitions when approved by the adjutant general, and submitted to and signed by the governor shall if they be for material issued to the state by the ordnance department be forwarded to that department for supply, and if they be for material not so issued, then by direction of the adjutant general and in the manner prescribed in section twenty-seven, the senior ordnance officer shall purchase

and direct the issue of such ordnance property and range material, certify all bills therefor as correct, and transmit them to the adjutant general.

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

Report to
Adjutant
General.

He shall be the inspector of and shall exercise general supervision over the small-arms practice of the national guard. No target range or shooting gallery for the national guard shall be acquired, constructed, maintained or equipped, except upon his recommendation, unless the governor shall expressly order otherwise. It shall be his duty to make or cause to be made by the regimental inspectors of small-arms practice an annual inspection of all target ranges and shooting galleries used by the national guard, to submit a report to the adjutant general of the condition and necessities of each; and to make a detailed report of the transactions of his office to the adjutant general on the fifteenth day of December annually.

Small-arms
practice.

Inspection
of target
ranges and
shooting
galleries.

Annual re-
port.

Section 21. The senior surgeon on duty in the medical department shall have the rank of lieutenant colonel and, under the direction of the adjutant general and in the manner prescribed in section twenty-seven, shall purchase and direct the issue of all medical supplies and equipment, certify all bills therefor as correct and transmit them to the adjutant general. It shall be his duty to make or cause to be made by an officer of the medical department an annual inspection and inventory of the stock of medical supplies on hand at general headquarters, to make a list of the articles and qualities needed to equip the national guard in the manner prescribed by the war department, and transmit the same to the adjutant general for authority to supply the same; and he shall make to the adjutant general a detailed report of the transactions of his office and of the condition and quantity of medical supplies on hand, on the fifteenth day of December annually.

Medical de-
partment.
Senior of-
ficer, his
rank and
duties.

Annual in-
spection of
supplies.

Annual re-
port.

Section 22. The senior officer on duty in the subsistence department shall have the rank of lieutenant colonel and shall, under the direction of the adjutant general, purchase and issue in the manner prescribed in section twenty-seven, all subsistence stores and property, certify all bills therefor as correct and transmit them to the adjutant general; he shall make a detailed

Subsistence
department.
Senior of-
ficer, his
rank and
duties.

CHAP. 206

Annual report.

Judge advocate.
His appointment and rank.

Qualifications and duties.

Annual report.

Attorney General legal adviser.

Governor may appoint additional staff officers.

In staff department or corps, appointments shall be by promotion.

In time of peace.

Duties of staff officers when not otherwise prescribed.

report of the transactions of his office to the adjutant general on the fifteenth day of December annually.

Section 23. The judge-advocate shall be appointed by the governor, with rank of lieutenant colonel; he shall be an attorney-at-law of the supreme judicial court of this state, of at least five years' standing. He shall be, under the direction of the governor, charged with the supervision of all things relating to the administration of justice in the military forces of the state; he shall diligently scrutinize and examine the proceedings of all courts-martial and courts of inquiry which are submitted to him for review and report thereon to the adjutant general; he shall when directed act as judge-advocate or recorder of any military court or board; he shall be the legal adviser of the military department, 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 thereof. He shall make a detailed report of the transactions of his office to the adjutant general on the fifteenth day of December annually.

Section 24. The attorney general of the state shall be the legal adviser of the governor, of the adjutant general, and of the armory commission.

Section 25. In time of war, insurrection, invasion or rebellion, or of imminent danger thereof, the governor may appoint such staff officers and create such chiefs of staff departments as may be necessary to provide for an increased active militia or to fill the vacancies caused by absence in active service, or for both purposes; provided, that appointments in a staff department or corps shall be made from officers of the existing staff departments or corps as promotions so far as such officers are available; provided, also, that promotion in each staff departments or corps and appointments to fill vacancies thus created shall be made as hereinafter prescribed. Provided further, that in time of peace, whenever the formations of the active militia shall require it, the governor may organize such additional staff departments as are thereby made necessary, and whenever such new departments are organized the corresponding departmental office authorized under section eight, shall cease to exist and the senior officer on duty with the new staff department shall be ex-officio a member of the governor's staff.

Section 26. Officers of all staff departments and corps shall perform the duties required of them by law, and such others, not inconsistent with the laws of the state, as correspond to

those which are now or may hereafter be required, of the corresponding staff departments or corps of the regular army by the customs of the service, the orders of the war department, and the laws and regulations of the United States.

Section 27. Purchases of military property not exceeding one hundred dollars in value may be made in such manner as the purchasing officer may deem best. For other purchases not exceeding five hundred dollars, the purchasing officer shall procure written proposals from at least two parties. For purchases exceeding five hundred dollars in value the purchasing officer shall publicly advertise, for not less than ten days, for sealed proposals, to be opened at the place, day, and hour designated in such advertisement. All bids must be accompanied with a certified check for ten per centum of the amount of the bid; and he may require the person contracting to give bond in such sum and surety as he may direct, conditioned for faithful performance, in default of which such bond shall be prosecuted by the attorney-general, and all moneys recovered turned in to the state treasury for the benefit of the military fund; provided, that in case of emergency occasioned by war, invasion, riot, insurrection, resistance to the laws, or imminent danger thereof, or by flood, conflagration, or tempest, the governor may direct that such property as may be urgently required be purchased in open market. Provided, also, that the right is reserved to reject any or all bids.

Section 28. No officer herein authorized to make purchases or sales of military property shall be concerned, directly or indirectly, in the purchase or sale of any such property, except for and on account of the state; nor shall any such officer take or apply to his own use any gain or emolument for negotiating or transacting any business of his office, other than what is allowed by law.

Section 29. All property purchased under the authority herein granted shall be inspected and no payment shall be made therefor until it shall appear by the certificate of the inspecting officer that the property is of the kind and quality specified in the agreement.

Section 30. No officer or enlisted man shall contract, or presume to authorize the contracting of any indebtedness on behalf of the state, unless especially authorized to do so by this chapter or by the express order of the governor; and any person in the military service who shall violate the provisions of this section shall be dishonorably discharged, and suffer such other punishment as a court-martial may direct.

Purchase of military property up to \$100.

Proposals from \$100 to \$500.

Sealed bids when over \$500.

Certified check with bid.

Bond.

Provision in case of emergency.

Bids may be rejected.

Officers making purchases or sales must represent the state's interests alone.

Inspection of property purchased, before payment.

No indebtedness shall be contracted in behalf of state, unless specially authorized.

Punishment.

CHAP. 206

Composi-
tion and or-
ganization
of National
Guard.

Command-
er-in-chief
may alter,
create or
disband.

Provision
whenever a
brigade is
organized.

How new
organiza-
tions are
raised and
officered.

Strength of
active mili-
tia on peace
and war
footing.

Organiza-
tion, disci-
pline and
armament
of National
Guard pre-
scribed by
U. S. regu-
lations.

Section 31. The national guard of the state shall consist of the necessary staff departments, a medical department, a coast artillery corps, the commissioned officers heretofore or hereafter retired, the organizations forming the national guard at this date, and such others as may be organized hereafter and such persons as are or may be enlisted and commissioned therein. The commander-in-chief shall have power to alter, divide, consolidate, disband or reorganize any organizations or corps and create new organizations and corps whenever required by the provisions of this chapter or whenever in his judgment the efficacy of the state forces will be thereby increased and he shall have power and it shall be his duty to change the organization of the state forces so as to conform to any organization, system of drill or instruction now or hereafter prescribed by the laws and regulations of the United States for the organization and government of the militia; and for that purpose the number of the officers and non-commissioned officers of any grade may be increased or diminished, or their grades may be altered, whenever necessary to secure such uniformity. Whenever the national guard is organized, by order of the commander-in-chief, into a brigade, a brigadier general shall be selected as prescribed in section fifty, to command the same.

Section 32. New organizations may be raised on petition to the governor, or by his order; and when the minimum number of persons required by law has been enlisted and notice thereof given to the governor, he may issue an order for the election of the commissioned officer; but whenever the governor shall have the authority to appoint officers of the line, he may raise new organizations and appoint the officers thereof whenever and in such manner as he may deem best for the service.

Section 33. The aggregate forces in the active militia in time of peace, fully armed, uniformed, and equipped shall not exceed three thousand men; but in case of war, insurrection, invasion, or rebellion, or imminent danger thereof, the governor shall have power to increase the forces beyond the said three thousand and organize them as is required by law.

Section 34. The organization, armament, and discipline of the national guard of this state and of the military units thereof shall be the same as that which is now or may hereafter be prescribed or provided by the laws and regulations of the United States for the organized militia; and the commander-in-chief is hereby authorized and it shall be his duty to issue and prescribe from time to time such orders and regulations,

and to adopt such other means of administration, as shall maintain the prescribed standard of organization, armament and discipline; and it shall be the further duty of the commander-in-chief to prescribe such regulations and to adopt such methods of administration, for the care, preservation, disposition of and accountability for all military property issued to the active militia and belonging to the United States; for procuring, disbursing, and accounting for all military funds allotted to the state; for arming, equipping, and supplying the active militia; and for arranging for such camps of instruction, field service, and rifle practice as shall meet the requirements that are now or may hereafter be prescribed by the laws and regulations of the United States. And such orders, regulations, and means adopted shall have the full force and effect of law.

Section 35. The regiments and all other military units of the national guard shall, when so ordered by the governor, constitute a brigade, which shall be commanded by the brigadier general, or, in case of his absence or disability, by the senior line officer of the national guard. The staff of the brigade commander shall consist of one surgeon, one adjutant general, one ordnance officer, one commissary, one quartermaster, and one judge-advocate, majors; and two aides, lieutenants, detailed from the national guard. In addition to the above the governor may, upon the recommendation of the brigade commander, detail from the national guard for duty on the brigade staff such other officers as may be necessary, but no officer shall be so detailed except to a position authorized by the orders of the war department or by the laws and regulations governing the regular army or the organized militia.

Brigade
may be con-
stituted,
when.

Staff of
brigade
com-
mander.

Section 36. There shall be the following departments consisting of officers of number and rank specified necessary for the maintenance of the staff corps and departments, of the national guard, namely: A subsistence department, one commissary, lieutenant colonel; an ordnance department, one lieutenant colonel and one major; and a medical department, organized as prescribed in the following section.

Staff de-
partments.
Officers and
rank.

Section 37. That from and after the approval of this act the medical department of the national guard shall consist of a medical corps, a medical reserve corps and the hospital corps. The medical corps shall consist of the officers necessary for the staff department, for service with the regiments, separate battalions and artillery corps of the national guard, and for the organization of such ambulance companies, field hospitals, and supply depots, as may be authorized or required as the

Medical de-
partment.

Medical
corps.

CHAP. 206

proper complement for the national guard by the orders of the war department, or the laws and regulations of the United States governing the organized militia; and such officers shall have the same titles as those of corresponding grades in the United States army, and shall be of the same grades and numbers as are authorized or prescribed by the laws and regulations of the United States for service with the corresponding organizations of the regular army, or as authorized or prescribed by the said laws and regulations or orders of the war department for the government of the organized militia.

Officers re-commissioned.

Immediately following the approval of this act officers of the medical department then on the active list shall be re-commissioned in the corresponding grades in the medical corps established by this act in the order of seniority, as follows: Surgeons with the rank of major, as majors; assistant surgeons, who at the time of this act shall have served three years or more, as captains; assistant surgeons, with the rank of first lieutenant, who at the time of the approval of this act shall have served less than three years as such, as first lieutenants; and hereafter first lieutenants shall be promoted to the grade of captain after three years' service as first lieutenants in the medical corps.

Rank.

Promotion.

Promotion by seniority.

All promotions in the medical corps to fill vacancies in the several grades created or caused by this act, or hereafter occurring, shall be made according to seniority and no person shall receive an appointment as first lieutenant in the medical corps unless he shall have been examined and approved by a medical board of the national guard as hereinafter prescribed.

Medical reserve corps.

Section 38. For the purpose of securing competent medical practitioners to conduct the physical examination of applications for enlistment and to render medical service to any organization called out by the governor to suppress insurrection, riot, or resistance to the laws, the governor of the state is authorized to issue commissions as first lieutenants of the medical reserve corps to such contract surgeons as shall be favorably recommended by the senior officer of the medical corps, not to exceed one for each company or other organization so situated that the services of an officer of the medical corps cannot be effectively available. Such officers are not members of the national guard nor entitled to retirement, but the commissions so given shall confer upon the holders all the authority, rights and privileges of commissioned officers of like grade in the medical corps of the national guard, except promotions, but only when engaged in active duty as examining surgeon

Contract surgeons.

Not members of National Guard.

of recruits or in rendering services to any command to which they may be attached in time of insurrection, riot, or resistance to the laws. They shall have rank in said corps according to the date of their commissions therein, and when employed on active duty shall rank next below all officers of like grade in the national guard; provided, that contract surgeons now in the military service who receive the favorable recommendation of the company commander at the station where such contract surgeon resides and of the senior officer of the medical corps, shall be given preference in appointment over all other applicants; and provided further, that any officer of the medical reserve corps who fails to perform his duty as herein prescribed shall forfeit his commission and not be eligible to reappointment.

Rank according to date of commissions.

Officers of the medical reserve corps when called into or engaged in active duty shall be subject to the laws, regulations, and orders for the government of the national guard; and for conducting the physical examination of applicants for enlistment shall be entitled to such compensation as the governor in regulations may prescribe, and for all other services to the pay and allowances of first lieutenants of the medical corps.

Subject to regulations when called into active duty.

Section 39. The hospital corps shall consist of the sergeants first class, sergeants, corporals, privates first class and privates, required for service with the several organizations of the national guard, ambulance company, or field hospital; and such non-commissioned officers and privates shall be of the same grades and numbers as are authorized or prescribed for service with the corresponding organizations of the regular army or as authorized or prescribed by the orders of the war department, or laws and regulations of the United States for the government of the organized militia.

Hospital corps.

Enlistments in the hospital corps and the appointment of non-commissioned officers therein shall be as prescribed in regulations by the governor.

Enlistments.

Section 40. The governor is hereby authorized to organize a coast artillery corps which shall belong to the line of the national guard and which shall consist of such number of companies as the governor may determine. The number of field officers and sergeant-majors of coast artillery shall be in approximately the same proportion to the number of companies as obtains in the coast artillery corps of the regular army, and the number of master electricians, engineers, electrician sergeants first and second class, master gunners, firemen and other expert enlisted men shall be determined by the governor; but the minimum strength in the different grades

Governor may organize a coast artillery corps.

—officers.

CHAP. 206

—minimum strength prescribed by War Department.
—may transfer existing organizations.

Civilian cooks authorized.

—for headquarters.

—subject to National Guard regulations and receive enlisted cook's pay.

Composition and strength of the Naval Reserve.

—in time of peace.

—in time of war.

Organization of the Naval Reserve.

for a coast artillery company of the national guard shall be as prescribed by the orders of the war department and the laws and regulations of the United States. The commander-in-chief has the power to transfer to the coast artillery corps, under such regulations as he may prescribe, such existing organizations or such officers and men thereof as he may deem for the best interest of the service.

Section 41. The commander-in-chief may authorize the employment of cooks to the number fixed in this chapter in organizations in which there are vacancies in enlisted cooks when such organizations are on duty under his orders or are called upon in aid of the civil authorities. The commander-in-chief may authorize the employment and prescribe the number of cooks for all headquarters and organizations for which the enlistment of cooks is not authorized by this chapter. Cooks during such employment shall be subject to the laws and regulations for the government of the national guard and shall receive the same pay as enlisted cooks.

Section 42. The organizations forming the naval reserve at this date, such others as may be organized hereafter and such persons as may be enlisted or as may be appointed or commissioned therein, shall constitute the naval reserve of this state. In time of peace the naval reserve shall consist of not more than one ship's company of not more than seven divisions, the total strength of which shall not exceed three hundred officers and men, but in time of war, invasion, insurrection, or imminent danger thereof, the governor shall have power to increase this force to double the authorized peace strength and organize it as the exigencies of the service may require, provided that in time of peace the total strength of the active militia shall not exceed the limits prescribed in section thirty-one.

Section 43. The commander-in-chief may organize the forces prescribed in the preceding section as he may deem proper; and when in his judgment the efficiency of the naval reserve will be increased thereby, or whenever public interest may demand it, he may alter, reorganize, or disband any or all of the organizations therein; and he shall have power at any time to change the organization of the naval reserve so as to conform to any organization, system of drill or instruction which may be adopted for the navy of the United States, and to increase and decrease for that purpose the number of officers, warrant officers, chief petty officers, petty officers and enlisted men and to change their grades, titles, and designations.

CHAP. 206

The system of administration, drill and instruction of the naval reserve shall conform, as nearly as practicable, to that of the navy of the United States; and the discipline and government thereof when not otherwise prescribed shall be according to the laws and regulations now or hereafter governing the national guard. No part of the naval reserve shall be attached to any organization of the national guard except when especially ordered by the governor, in which case the senior officer present shall command the whole, unless the commander-in-chief shall direct otherwise.

—shall conform to U. S. Navy as nearly as practicable.

—not attached to National Guard except when specially ordered.

Section 44. The commanding officer of a ship's company shall rank as lieutenant commander except where the ship's company consists of less than three divisions and when the rank of the commanding officer shall be lieutenant. There shall be allowed on the staff of the commanding officer of the ship's company one lieutenant junior grade who shall act as executive officer, one assistant paymaster and one assistant surgeon each of the rank of lieutenant junior grade; but whenever the commanding officer of the ship's company shall rank as lieutenant commander, the executive officer shall rank as lieutenant. In addition there shall be on the staff of the commanding officer two chief petty officers of such class as he may designate. Each division shall be commanded by an ensign, excepting that the senior division officer may be commissioned with the rank as lieutenant junior grade. To each division there shall be allowed, in time of peace, one chief petty officer of such class as the commanding officer of the ship's company may designate, and not more than eight petty officers and thirty-two other enlisted men.

Rank of officers and men of the Naval Reserve.

The relative rank between officers of the other national guard organizations and of the naval reserve shall be the same as that now or hereafter existing between officers of the army and navy of the United States; and the relative rank of petty officers in the naval reserve and non-commissioned officers in other national guard organizations will be as prescribed by the governor; seamen shall correspond to privates of infantry.

Relative rank same as that of Army and Navy of the U. S.

Section 45. The pay of officers and petty officers of the naval reserve shall be the same as that of officers and non-commissioned officers of the same relative rank in the national guard; and seamen shall receive the pay of privates of infantry. The commanding officer of the ship's company shall be allowed a sum not exceeding fifty dollars per annum for the care and responsibility of such state and United States property as he may be accountable for; each division commander

Pay and allowances of the Naval Reserve.

CHAP. 206

shall be allowed a sum not exceeding twenty-five dollars for the care and responsibility of public property for which he is accountable; the executive officer of the ship's company shall be allowed the sum of twenty-five dollars per annum; and the third class yeoman of each division shall receive for his services the sum of ten dollars per annum.

Qualifications and authority of commissioned officers of Naval Reserve.

—one commissioned officer of Naval Reserve to serve on board of examination.

—commanding officer elected.

—when Governor may appoint.

All officers commissioned by the Governor.

—conform to U. S. Army and Navy regulations.

Eligibility for a commission.

—in time of war Governor may fill vacancies.

Section 46. Commissioned officers of the naval reserve shall have the same authority, rights, privileges, and qualifications, grade for grade, as commissioned officers of the national guard, and, if not otherwise prescribed, shall be elected or appointed in the same manner; but the board of examination, in the case of the election or appointment of an officer of the naval reserve shall consist of at least one commissioned officer of the naval reserve, active or retired. The commanding officer of the ship's company shall be elected by the division commanders, and the election of division commanders shall be as prescribed for the election of company officers of the national guard; but whenever the governor shall have authority to appoint commissioned officers of the national guard he shall have the power to appoint commissioned officers of the naval reserve in like manner.

Section 47. All officers shall be commissioned by the governor at his discretion, but no one shall be commissioned unless the conditions and qualifications set forth in the following sections have been complied with, and no one shall be recognized as an officer unless he shall have been duly commissioned and shall have taken the constitutional oath of office. The acceptance of a commission in the militia of this state shall be deemed a resignation by the person accepting the same of all other commissions held by him in such militia. In no case shall any officer in the active militia be commissioned to a higher grade than that prescribed for the corresponding command by the laws and regulations for the government of the regular army and navy of the United States or of the organized militia.

Section 48. Commissioned officers must be citizens of the United States and twenty-one years of age or over. No person who has been expelled or dishonorably discharged from any military or naval organization of this or any other state or of the United States shall be commissioned, and no person shall be commissioned unless he shall possess the additional requirements prescribed in this chapter for the particular office to which he is to be commissioned; provided that in time of war, insurrection, invasion, rebellion, or imminent danger thereof, the governor shall have the power to fill any vacancy in

any field grade by the appointment thereto of any officer on the active list of the army, navy or marine corps of the United States.

Section 49. Rank and precedence of officers and non-commissioned officers of the national guard of this state, the relative rank between officers thereof and of the naval reserve, the power of command and the commands appropriate to each grade, shall be as determined by the laws and regulations for the government of the regular army and navy of the United States; except that when an officer is commissioned to fill a vacancy caused by the expiration of his own term of service he shall take rank from the date of his original commission in that grade.

Rank of officers and non-commissioned officers same as that of regular army and navy of U. S.

—exception.

Section 50. General, field, and company officers, of the line, shall be elected as follows: Brigadier generals by the written votes of the field officers of their respective brigades; field officers by the written votes of the captains and subalterns of their respective regiments or corps; captains and subalterns by the written votes of the members of their respective companies; subject to the age limit prescribed in section fifty-two: Provided that any officer now in active service and holding a commission in the active militia shall be eligible to re-election; provided also, that if section one, article seven of the constitution of the state shall be hereafter amended in such manner as to permit the legislature to prescribe the mode of selecting officers for the grades herein specified, then, on and after the first day of July next succeeding the adoption of such amendment, the said officer shall be promoted and appointed by the governor as follows and the elective system prescribed in this chapter shall cease to exist, otherwise to remain in full force and effect: Vacancies in the grade of brigadier general shall be filled by promoting the senior colonel; vacancies in the field grades of a regiment or corps by promoting the senior officer of the regiment or corps, of the next lower grade; vacancies in the grade of captain and lieutenant by promoting the senior officer of the company, of the next lower grade. Subject in each case to examination as provided in section fifty-eight. Vacancies in the grade of second lieutenant shall be filled in the following manner: All enlisted men of the company, and any battalion and regimental non-commissioned staff officer who was appointed from said company, shall if physically sound be eligible for appointment, and shall be permitted to appear before an examining board, for a physical and a competitive practical and theoretical examination; the enlisted man whom

Election and promotion of line officers.

—by written votes subject to age limit.

—now in service eligible to re-election.

—elective system to cease whenever section 1, article VII of State constitution shall be so amended.

—senior officers promoted.

—vacancies in the grade of second lieutenant shall be filled by competitive examination.

CHAP. 206

the board considers, after the competitive examination, to be the best qualified shall be appointed to fill the vacancy. The governor shall prescribe regulations as to the scope and the manner of conducting such examination, and if no such enlisted man appears or if none satisfactorily passes said examination, then the governor shall fill the vacancy by making an appointment from the enlisted men of the organization in which the vacancy occurred.

Elections.

Section 51. The adjutant general shall issue orders for all elections, shall detail a suitable officer other than a candidate to preside thereat, and shall give or cause to be given by commissioned officers notification to all qualified voters when, where, and for what office the election is to be held, by written or printed notice given in hand, sent by mail, or left at the last and usual place of abode at least four days before the date of the election. The officer or officers serving such notice shall make a certified written return of the persons notified and of the manner of service, and present the same to the presiding officer before the polls are open. At the time fixed for the election the officer ordered to preside thereat, or in his absence a qualified officer authorized by him to act for him, or in the absence of such officer the commissioned officer highest in rank of those present not being a candidate, shall require the return of the service of notice, the roster of the brigade, regiment, or company from the legal custodian, and shall then open the polls. A majority of the votes of all persons present voting at an election shall be necessary for a choice, but in no case shall an election be held unless a majority of the qualified electors are present. The presiding officer shall be the judge of the election, shall canvass the result, forthwith notify in writing the successful candidate of his election, and report the proceedings in writing to the adjutant general.

—manner of notifying.

—return of service.

—majority of votes shall be necessary for a choice.

—presiding officer the judge of election.

May adjourn.

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

Failure to elect. Governor shall promote or appoint.

If the electors neglect, refuse, or, after the election shall have been in progress for three hours, fail to elect, then this fact shall be certified by the presiding officer to the adjutant general, and the governor shall promote or appoint an officer in accordance with the preceding section, and if any person so

elected or appointed neglect, refuse, or fail without cause to appear, when notified, for examination, or fail to pass the examination, a new election shall be held or appointment made.

Every officer duly commissioned shall within ten days accept the same and take the constitutional oath of office; such oath may be taken and subscribed before any officer authorized by law to administer an oath or before any military officer who has taken the oath himself; and in case of neglect or refusal to accept the commission or to take and subscribe the oath within the time mentioned, such commission shall be cancelled by the governor, and a new election ordered or appointment made to fill the vacancy.

Officer must take oath of office, otherwise commission shall be cancelled and new election ordered.

Section 52. No person shall be elected, appointed or commissioned to, any of the following grades, who is over the age limit prescribed for each of the several grades, namely: Brigadier general, sixty-four years; colonel and lieutenant colonel, sixty-one years; major, fifty-six years; captain, fifty years; first lieutenant, forty-five years; and second lieutenant, forty years. Any officer who shall, while serving in any of the above grades, reach the age limit prescribed for said grade, shall, if eligible, be retired; otherwise, honorably discharged. This section shall not apply to the adjutant general of the state of Maine, and shall not serve to vacate any commission now in force; nor shall it, upon the expiration of his present commission, prevent the re-election or re-appointment of any officer to the office he now holds for the same period of time and under the same conditions as obtained heretofore and up to the passage of this act; nor shall it apply to chaplains of the national guard.

Age limit prescribed for each grade of the line and staff.

—shall not apply to Adjutant General, nor prevent re-election.

—shall not apply to chaplains.

Section 53. No officer of the active militia shall be permitted to serve in any of the following grades for a greater period than that prescribed for each of the several grades, namely: Brigadier general, five years; colonel, six years; lieutenant colonel, seven years; major, eight years; captain, nine years; first lieutenant, ten years, and second lieutenant, ten years. But should any officer be re-elected or re-appointed to the office he now holds, the time limit of service in that grade shall be reckoned from the date of the approval or passage of this act. When an officer shall have served the prescribed time in any one grade he shall be placed on the retired list.

Time limit of service in each grade of the line and staff.

—officers shall be placed on retired list.

Section 54. Vacancies occurring in the various grades, excepting the lowest, of the several staff departments and corps, shall be filled by promoting and appointing the senior officer

Vacancies in various grades of staff department and

CHAP. 206

corps, filled
by promotion.

Vacancies
in medical
department,
how filled.

—in ord-
nance de-
partment.

—in sub-
sistence de-
partment.

Command-
ing officers
shall ap-
point their
staff.

Battalion
command-
er may
recommend.

Chaplains
and their
qualifica-
tions.

Competi-
tive
examina-
tion for ap-
pointment
as second
lieutenant.

in the next lower grade of said department or corps. Vacancies occurring in the lowest grades thereof shall be filled in the following manner:

In the medical department all commissioned officers of the national guard, all non-commissioned officers of the hospital corps, and all officers of the medical reserve corps, who are active licensed practitioners of medicine and surgery in this state of at least five years standing as such, and who are physically sound shall be permitted to appear before a board of examination consisting of officers of the medical department, and the applicant whom the board considers, after professional and general examination, to be the best qualified for the position shall be appointed to fill the vacancy. In the ordnance department, the vacancy shall be filled by promoting thereto, in order of seniority, the regimental assistant inspectors of small-arms practice; in the subsistence department, by promoting thereto, in order of seniority, the regimental commissaries; subject in each case to examination as prescribed in section fifty-eight, and if, for any reason, a vacancy occurring in the lowest grade of any of said departments be not filled by this method of promotion, then the governor may fill such vacancy in such manner as he deems best.

Commanding officers of brigades, regiments and separate battalions shall appoint their respective staff officers subject to the provisions of sections forty-seven, forty-eight, fifty-seven and fifty-eight of this act, who shall hold office during the pleasure of the officer making the appointment and until their successors are appointed and qualified, subject at all times to the same laws and regulations as apply to other commissioned officers of the national guard.

Battalion staff officers are appointed by the regimental commanders upon recommendation of the battalion commander.

Section 55. The governor is authorized to appoint, upon the recommendation of the several regimental commanders, chaplains in the national guard at the rate of one for each regiment, with the rank of captain; no person shall hereafter be appointed a chaplain who is more than fifty-five years of age, and until he has furnished proof that he is a regularly ordained minister of some religious denomination in good standing.

Section 56. The governor may prescribe a system of examination to determine the enlisted man best qualified for appointment to the grade of second lieutenant as prescribed in section fifty-four, and the best qualified applicant for appointment to the lowest grade in the medical corps as prescribed in section fifty-four.

Section 57. The governor shall prescribe a system of examination to determine the fitness for commission consequent on an original appointment or election of all persons, other than those provided for in the preceding section; and no person shall be commissioned consequent upon an original appointment or election until he shall have passed a satisfactory examination as to his physical, moral, educational, and general fitness for the service.

Examination upon original appointment or election.

Section 58. The governor shall prescribe a system of examination of all officers of the active militia below the grade of lieutenant colonel to determine their physical, moral, professional and general fitness for promotion or for appointment other than the first, such examination to be conducted, if practicable, at such time anterior to the accruing of the right to promotion or to the issuing of the commission as may be best for the interest of the service; provided, that the governor may waive the examination for promotion or appointment to any grade in the case of any officer who in pursuance of existing laws has passed a satisfactory examination for such grade prior to the passage of this act, and provided that if any officer fails to pass a satisfactory examination and is reported unfit for promotion or appointment, the officer next below him in rank or standing next in the line of promotion, having passed said examination, shall receive the promotion, or if the office is elective the governor shall order another election; and provided that should the officer be found incapacitated for service by reason of physical disability he shall be retired with the rank to which his seniority entitled him to be promoted, and should he fail for any other reason, other than moral fitness, he shall be suspended from promotion or appointment to any office in the active militia for one year, and should he fail the second time to pass such examination he shall be honorably discharged, but should he be found lacking in moral fitness, he shall, if the governor approve of such finding, be discharged for the good of the service; provided also that the examination into the professional fitness of a judge advocate and a chaplain shall extend no farther than to the special qualifications required of them. The board of examination under this and the two preceding sections shall have the same power to take evidence, administer oaths, and compel witnesses to attend and testify and produce books and papers and punish their failure to do so, as is possessed by a general court-martial.

Examination of all officers below grade of lieutenant colonel, for promotion or appointment to higher grade.

—officers found incapacitated for service, retired with rank to which entitled.

—discharged if lacking in moral fitness.

—judge-advocate and chaplain must be professionally qualified.

—power of board of examination.

Section 59. The governor may, upon the recommendation of his commanding officer, confer a brevet commission of a grade next higher than that actually held by the officer so

Brevet commissions: how and when conferred.

CHAP. 206

recommended, upon any officer of the national guard or naval reserve in active service, for distinguished gallantry. Such commissions shall carry with them only such privileges or rights as are allowed in like cases in the military and naval service of the United States.

Honorable discharge of officer.

Section 60. Any officer who shall reach the age limit prescribed in section fifty-two, or who shall fail in a second examination as prescribed in section fifty-eight, or who shall be rendered surplus by reduction or disbandment of his organization in any manner provided for in this chapter, or who accepts an appointment in the army, navy or marine corps of the United States, if in each case he is ineligible for retirement, or who tenders his resignation and the same having been accepted, shall receive an honorable discharge, provided he shall not be under arrest or returned to a military court for any deficiency or delinquency and provided he be not indebted to the state in any manner, and that all his accounts for money and public property be correct.

—not under arrest or indebted to state.

Officers lacking in moral fitness, under arrest, or indebted to state, discharged for the good of the service.

Section 61. Any officer who shall be found lacking in moral fitness under the provisions of section fifty-eight, or who shall be discharged under the provisions of section sixty-three, or who, being under arrest or returned to a military court for any deficiency or delinquency, or who after being notified fails or refuses to liquidate his indebtedness to the state, or to render correct accounts for public funds or property entrusted to his care, tenders his resignation, and the same being accepted, shall be discharged for the good of the service, and any officer so discharged, shall not again be eligible to receive a commission.

—not again eligible to commission.

Retirement of officers under age limit or otherwise incapacitated.

Section 62. Any officer who is sixty-four years old, or who is found incapacitated for service by reason of physical disability under the provisions of section fifty-eight, or who hereafter shall serve in any one grade the time limit as prescribed in section fifty-three, or who shall while serving in any grade reach the age limit prescribed for that grade in section fifty-two and be eligible for retirement due to length of service or other cause specified in this section, shall be withdrawn from active service and placed on the retired list.

Officer who serves twenty-five years or is sixty years old, may be placed on retired list.

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

Service which entitles officer

Any officer who has served as a commissioned officer in the active militia of this state six consecutive years, or as such

nine years not necessarily consecutive, or nine years either as an officer or soldier in which shall be counted honest and faithful service in the military or naval service of the United States, or both, provided six years of which have been service as a commissioned officer in the active militia of the state, shall, if he make application, be placed on the retired list with the highest rank held by him during his service.

Any officer who has served as a commissioned officer in the active militia of this state for a continuous period of fifteen years; honorable service in war, to be counted double, may at his own request be placed upon the retired list with one grade higher rank than that held at the time of his retirement.

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

Section 63. Any commissioned officer who has become or who shall hereafter become disabled and thereby incapable of performing the duties of his office shall be withdrawn from active service and placed on the retired list; and any commissioned officer who has become or who shall hereafter become unfit or incompetent, and thereby incapable of performing the duties of his office, shall upon the recommendation of his commanding officer or of an inspecting officer, be discharged for the good of the service, honorably discharged, or, if eligible thereto, retired, in the discretion of the commander-in-chief. Such retirement or discharge shall be by order of the commander-in-chief who, before making such order, shall convene a board of not less than five commissioned officers one of whom shall be an officer of the medical corps, who before entering upon the discharge of their duties shall be sworn to an honest and impartial performance of the same, whose duty it shall be to determine the facts as to the nature and cause of incapacity of such officer as appears disabled or unfit or incompetent, from any cause, to perform military duty and whose case shall be referred to it. The board, excepting the officer or officers of the medical corps, shall be composed, as far as may be, of seniors in rank to the officer whose incapacity is inquired of; it shall be invested with the powers of courts-martial and courts of inquiry, and whenever it finds an officer incapacitated for active service, shall report such fact to the governor stating the cause of incapacity, whether from dis-

to retire with highest rank held by him.

Service which entitles officer to retire with increased rank.

Retired officers entitled to wear uniform; borne on register; subject to military law; may be assigned to duty.

Officers becoming disabled shall be retired.

—unfit or incompetent officers discharged for good of service.

—commander-in-chief shall convene a board to determine facts.

—how composed.

—invested with powers of courts-martial, and shall report finding to Governor.

CHAP. 206

—board not necessary unless demanded.

ability, unfitness, or incompetency, and if he approve such finding such officer shall be placed on the retired list or discharged, as provided in this article; provided that it shall not be necessary to convene a board for action on any case arising under this section, unless the officer designated to be placed upon the retired list or discharged shall, within twenty days after being notified that he will be so retired or discharged, serve on the adjutant general of the state a notice in writing that he demands a hearing and examination before such board; and provided that no officer shall be so retired or discharged without having had a full and fair hearing before the board if upon due notice he shall demand it.

Any officer may be ordered before such a board and examination had.

Provided, further, that the commander-in-chief shall whenever he may deem the good of the service requires it, order any commissioned officer before a board of examination constituted as above, and such board shall examine into the moral character, capacity, and general fitness for the service of such commissioned officers, and record and return the testimony taken, and a record of its proceedings; and if the findings of such board be unfavorable to such officer, and be approved by the governor, he shall be discharged for the good of the service. Failure to appear when ordered before a board constituted under this section shall be sufficient ground for finding by such board that the officer ordered to appear be so discharged.

—discharge for failure to appear.

Officer absent six months without leave shall be dismissed.

Section 64. An officer who shall have been absent without leave for a period of six months shall upon the recommendation of his immediate commanding officer be dismissed from the service by order of the commander-in-chief.

Removal from office.

Section 65. No officer shall be removed from office without his consent, except by sentence of a general court-martial or as provided in this chapter.

Enlistment of recruits.

—character, habits and age.

Section 66. Recruits enlisting in the active militia must be able-bodied men, free from disease, of good character and temperate habits, between the ages of eighteen and forty-five years, except that men may be enlisted as musicians if more than sixteen years of age; and in time of peace no person who is not a citizen of the United States and of this state, or who has not made legal declaration of his intention to become a citizen or who cannot speak, read, and write the English language or who does not reside within a town where an organization of the active militia is stationed, or within a radius of twelve miles, shall be enlisted in the active militia; provided that the character and the standard of the physical examination

—must be citizen, or have declared intention to become such.

—residence.

required for enlistment in the national guard shall be as prescribed in the regulations of the war department and the laws of the United States for the government of the organized militia, and provided that no person under the age of twenty-one years, having parents or guardian entitled to his custody shall be enlisted or mustered into the active militia of the state without the written consent of such parent or guardian.

—minors must obtain consent of parent or guardian.

No person not of the age specified above, no insane or intoxicated person, no deserter from the military or naval service of the United States or of this or any other state, and no person who has been convicted of a felony shall be enlisted in the active militia.

Persons barred from enlisting.

Hereafter all enlistments in the active militia shall be for a term of not less than three years, and no person shall again be enlisted whose service during the last enlistment in the active militia was not honest and faithful, or who has been dishonorably discharged or discharged without honor from any military or naval organization of the state or of the United States, unless he produces the written consent to such enlistment of the commanding officer of the organization in which he last served or from which he was dishonorably discharged or discharged without honor and unless such enlistment be approved by the adjutant general.

Term of enlistment shall be three years.

—re-enlistment when dishonorably discharged or discharged without honor.

Men who have been discharged by reason of disbandment may be enlisted and shall then receive credit for the period served at the time of disbandment; and a man discharged for physical disability shall if such disability cease and he again enlists, receive credit for the period served prior to such discharge.

Discharge by reason of disbandment and for physical disability.

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

Musicians and privates of hospital corps may enlist as such.

Section 67. When a soldier re-enlists within sixty days from the expiration of his last preceding enlistment, his services shall be considered as continuous and the re-enlistment shall be dated as of the day following such expiration; and when the term of service of any enlisted man expires during a period of furlough and while he is serving in the military or naval forces of the United States, should he re-enlist in the active militia within sixty days of his muster out of the service of the United States, his service shall be considered as continuous, and shall in like manner commence on the day following such expiration, and the re-enlistment shall be dated as of the day following such expiration.

Re-enlistment and continuous service.

CHAP. 206

Re-enlistment of man forty-five years of age or over.

No man of forty-five years of age or over shall be re-enlisted unless he has served the full period of his last preceding enlistment, has the permission of the commanding officer of the organization in which he desires to enlist, and of the adjutant general and has passed the physical examination prescribed by regulations; nor shall any such man be again re-enlisted.

Enlistment papers.

Section 68. Every person who enlists or re-enlists shall sign and make oath to an enlistment paper which shall contain an oath of allegiance to the state and the United States, and be in such form as may be prescribed in the regulations issued under this chapter. Such oath shall be taken and subscribed to before a commissioned officer of the active militia, and all such commissioned officers are hereby authorized to administer such oaths and, when designated by the commanding officer of the company or other organization or by other proper military superior, to make and complete valid enlistments in the active militia. A person making a false oath as to any statement contained in such enlistment paper shall upon conviction be deemed guilty of perjury.

—must be signed and oath taken before commissioned officer.

Transfers of officers and enlisted men for best interests of service.

Section 69. The commander-in-chief shall have the power to make and cause to be made such transfers of officers and enlisted men within a regiment, corps, or separate organization, between regiments, corps or separate organizations, and between the line and the hospital corps, as may be for the best interests of the service, and to provide regulations therefor.

Non-commissioned officers appointed in accordance with provisions of this chapter and regular army regulations.

Section 70. General, post, regimental and battalion non-commissioned staff officers, and non-commissioned officers of companies and bands, shall be appointed, promoted, reduced, and warranted in accordance with, and their duties defined by, the regulations under this chapter, which shall be the same, so far as may be, as the corresponding regulations governing the regular army. Chief petty officers and petty officers of the naval reserve shall be appointed, promoted, reduced, and warranted in such manner as the commander-in-chief may prescribe.

—petty officers of Naval Reserve appointed as commander-in-chief may prescribe.

Enlisted man may be dropped from the rolls upon recommendation.

Section 71. Any enlisted man, who shall remove his residence to such distance from the armory of his organization or the armory, post, or district at which he is detailed to serve, or enter into such employment as will render it impracticable for him to perform his duties properly, or who, after due diligence, cannot be found, may be dropped from the rolls by authority of the adjutant general, upon recommendation of the company or corps commander; an enlisted man, dropped

from the rolls by reason of removal or character of employment, may upon change in residence or employment be taken up at any time, upon his own application approved by the adjutant general. A man shall not be taken up from dropped until he has passed the physical examination required upon enlistment, and men thus taken up shall receive credit for the time served before having been dropped.

—must be examined before taken up from dropped.

Section 72. No enlisted man shall be discharged from the service without a discharge in writing signed by his regimental or corps commander and no discharge shall be given to any enlisted man before his term of service has expired, except by order of the commander-in-chief or adjutant general, by sentence of a general court-martial or military commission, on certificate of disability by direction of the adjutant general, and in compliance with an order of a court of competent jurisdiction, or a judge or justice thereof, on a writ of habeas corpus.

Discharge of enlisted man; how and when given.

Discharges shall be of the following kinds:

1. Honorable discharge, which shall be given to every soldier whose service has been honest and faithful, his conduct having been such as to warrant his re-enlistment.

Honorable discharge.

2. Discharge without honor, which shall be given to a soldier discharged:

Discharge without honor.

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

—without trial.

(b) Without trial, on account of having become disqualified for service, physically or in character, through his own misconduct.

—disqualified for service.

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

—imprisonment.

(d) Where discharge without honor is specially ordered by the commander-in-chief for any other reason.

—specially ordered.

(e) Where upon expiration of the enlistment the service has not, in the opinion of the company commander concurred in by a board of officers, been honest and faithful. The company or detachment commander who deems the service not honest and faithful shall, if practicable, so notify the soldier at least thirty days prior to discharge, and shall at the same time notify the regimental commander or senior officer of the corps, who will in every case upon the written request of the enlisted man convene a board consisting, if practicable, of three officers one of whom the convening officer may be, to determine whether the soldier's service has been honest and faithful. The soldier shall be given a hearing and the decision of the board shall be final.

—service not honest and faithful.

—soldier shall be notified and upon written request a board will be convened to determine quality of service.

CHAP. 206

Dishonorable discharge.
—sentence.

—fine and failure to pay.

—felony.

—application to Adjutant General, hearing, and order for dishonorable discharge.

Governor may grant certificate of merit to enlisted man for distinguished gallantry or continuous service.

Military courtesy, command, and administration, shall be as prescribed for armies of U. S.

Colonels may be ordered to inspect companies.

3. Dishonorable discharge, which may be given to a soldier:
(a) Sentenced to be so discharged by a court-martial or military commission.

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

(c) Convicted of felony.

(d) Whose commanding officer makes application to the adjutant general for his discharge for the good of the service, stating briefly the misconduct relied upon as a ground for the discharge; if the adjutant general, after investigation in which the soldier complained of shall be given a full and fair hearing, concur in the application, he may issue his orders for dishonorable discharge.

Section 73. Hereafter when any enlisted man of the active militia shall have distinguished himself in the service for gallantry or for long and meritorious service in the active militia for a continuous period of fifteen years or for a period of twenty years not necessarily continuous, the governor may upon the recommendation of the commanding officer of the regiment or the senior officer of the corps to which such enlisted man belongs, grant him a certificate of merit; and a holder of such certificate shall be borne on the military register of the state for the remainder of his life; provided that meritorious service hereafter in time of actual war, insurrection, or rebellion, shall count double toward procuring such certificate.

Section 74. Matters of military courtesy and discipline; precedence of regiments and corps; details and working parties; special duty; official designation and duties of officers; records; flags, colors and standards; instruction and administration of regiments, battalions and companies; interior economy of companies; rosters, detachments and daily service; honors, courtesies and ceremonies; guards; practical and theoretical instruction; care, accountability and responsibility for public property; surveys of property; staff administration and general duties of the staff corps; military correspondence; orders; muster rolls; return of troops and battle reports; arrest and confinement; and field service, shall, in general and so far as practicable and consistent with this chapter, be as now or hereafter prescribed in the regulations for the armies of the United States.

Section 75. The commander-in-chief may in his discretion at such times and under such regulations as he may prescribe order each colonel commanding a regiment, or, in case of his

disability or when designated by him, of the lieutenant colonel, and each major commanding a battalion, to parade, inspect, and report upon the general military efficiency of the several companies under his command at least once each year. In addition to the inspections provided for in this section, the inspector general shall make the inspection prescribed in section nineteen of this chapter; and the commander-in-chief may, whenever he deems it necessary, order an inspection by a medical officer of the officers and men, armories, clothes, and equipments of the active militia.

—Inspector General shall make inspection.

—inspection by medical officer.

Section 76. The commander-in-chief shall prescribe for the officers and men of the regiments, corps and staff departments of the national guard and for the officers and men of the naval reserve a course of theoretical and practical instruction, and shall organize such schools, designate such instructors, and make such regulations, as may be required to accomplish such instruction.

Schools of instruction.

He shall have the power to order all or any part of the national guard to participate in any encampment, maneuvers, and field instruction of any part of the regular army at or near any military post or camp or lake or seacoast defenses of the United States, whenever such participation shall have been provided for by the secretary of war; and he shall, during the year next preceding each annual allotment in accordance with section sixteen hundred and sixty-one of the Revised Statutes of the United States, as amended, require every company, troop, and battery in the national guard, to participate in practice marches or go into camps of instruction at least five consecutive days, and to assemble for drill and instruction at company, battalion, or regimental armories or rendezvous or for target practice not less than twenty-four times, and shall also during the same period require an inspection of each such company, troop, and battery to be made by an officer of such national guard or an officer of the regular army. No parade or drill of the active militia shall be ordered on any day during which any election shall be held, except in cases of riot, invasion or insurrection, or imminent danger thereof, or of public danger resulting from flood, conflagration, or tempest.

Encampment, maneuvers, and field instruction, whenever provided for by Secretary of War.

—practice marches or camps of instruction each year next preceding each annual allotment.

—inspection by officer of National Guard or of regular army.

—no parade or drill shall be ordered on an election day except in cases of riot.

Section 77. In case of a tumult, riot, mob, or body of men acting together by force with intent to commit felony or to offer violence to persons or property, or by force and violence to break and resist the laws of the state or the United States, or of imminent danger thereof, a justice of the supreme

Civil officers may call on commanding officer for aid, in case of tumult or riot.

CHAP. 206

judicial court in term time or vacation or the sheriff of a county, may call for aid upon a commanding officer of the national guard or naval reserve, and such call shall be in writing. The commanding officer upon whom the call is made shall order out in aid of the civil authorities the military or naval force or any part thereof under his command, and shall make an immediate report of the case to the adjutant general and to his immediate commanding officer. He shall receive only general directions from the civil authority requesting the aid, and shall remain strictly responsible to his military superior for the manner in which the troops shall be used to accomplish the desired end.

—report made immediately to Adjutant General.

Command may be ordered out in case of public disaster, upon request of mayor or selectmen.

Section 78. In the event of public danger resulting from flood, conflagration, or tempest the senior officer of a command may, upon request of the mayor of a city or the selectmen of the town, order out for the defence or protection of the community the forces under his command, or any part thereof, and immediately report his action and the circumstances of the case to the adjutant general and to his immediate commanding officer.

Commanding officer may close places where intoxicating liquor, arms or explosives are sold.

Section 79. Whenever any part of the active militia is on active duty, pursuant to the order of the governor or call of civil authority, to aid in the enforcement of the laws, the commanding officer of such troops may order the closing of any place where intoxicating liquors, arms, ammunition, dynamite or other explosives are sold, and forbid the selling, bartering, lending, or giving away any of said articles so long as any of the troops remain on duty in such places, or in the vicinity thereof, whether any civil officer has forbidden the same or not.

Ten days' notice for duty shall be given.

—may be given orally, served in hand, sent by mail or left at last and usual place of abode.

—posted in drill room.

Section 80. Notices for duty at encampments, maneuvers and field instruction shall be given at least ten days prior thereto, and for other duty at such time as the officer issuing the order shall prescribe. Such notices shall be given orally or by written or printed notice in hand sent by mail or left at the last and usual place of abode, provided that the posting of the copy of an order in a conspicuous place in the drill or business room of the company, at a regular meeting held not less than four days before the time fixed in such order for the performance of any duty shall be sufficient notice to all members of the company present at such meeting; and provided that when the days upon which the stated drills provided by law, orders, or regulation are to be held have been fixed, no further notice thereof shall be required to the members of the company.

Section 81. To encourage marksmanship the governor is authorized to offer annually a state decoration to those who shall excel in small arms practice, and prizes for competition among the organizations and corps of the national guard and naval reserve armed with rifle and carbine. He may also in his discretion provide suitable decorations and prizes for proficiency in practice with light and heavy guns. All such prizes shall be competed for under regulations prescribed by the inspector of small arms practice, approved by the adjutant general. Members of any staff corps or department assigned to duty with any command shall be considered a part of such command for the purposes of the competition herein authorized.

Decorations and prizes for excellence in small arms practice.

—shall be competed for.

—members of staff, corps or department may compete.

Section 82. Every officer and soldier who has rendered honorable service for nine years in the active militia of the state shall receive a service medal therefor and an additional bar or clasp for each additional three years service.

Service medal and additional bars may be given.

Section 83. Every officer or enlisted man of a company or corps, who has a perfect record of attendance at every military duty for one calendar year, shall receive a suitable medal therefor, and a bar or clasp for each additional calendar year of perfect attendance, either continuous or otherwise.

Medal given for perfect attendance during year, and bar for additional perfect attendance.

Section 84. There shall be designated by the commanding officer, for each company of the national guard, for the naval reserve, and for each detachment of the hospital corps, authorized by the adjutant general, twenty-four regular drill periods in each calendar year, and each officer and enlisted man belonging to such company, naval reserve, or detachment, and each officer and enlisted man attached thereto for purposes of instruction, who attends and performs his full duty at each such designated drill, shall receive the following pay: Provided, that within twenty-four hours after the close of each designated drill, a return signed by each officer and enlisted man present, shall be forwarded direct to the office of the adjutant general:

Drill periods and pay therefor.

—return made to Adjutant General.

Major or captain medical corps, commanding detachment, and captain, two dollars; first lieutenant, one dollar and twenty-five cents; second lieutenant, one dollar; first sergeants and all other enlisted men, who according to the rate of pay obtaining in the regular army, receive the pay of first sergeant, or more, seventy-five cents; sergeants of infantry and artillery and all other enlisted men who, according to the rate of pay obtaining in the regular army, receive the pay of sergeants of infantry and artillery, or more, and not

Pay schedule.

—medical corps.

—captain.

—first lieutenant.

—second lieutenant.

—first sergeants.

—sergeants.

CHAP. 206

—corporal.
 —privates.
 —instruction for one and one-half hours.
 —must furnish surgeon's certificate when prevented by sickness.
 —pay may be stopped for delinquency.

included in the preceding class, forty-five cents; corporal of infantry and artillery, and all other enlisted men who, according to the rate of pay obtaining in the regular army, receive the pay of corporal of infantry or artillery, or more, and not included in the preceding two classes, thirty-five cents; all other enlisted men, twenty-five cents; such amounts to be due and payable semi-annually, and shall be allowed and paid by the adjutant general out of the military fund: Provided, that not less than one hour and a half actual instruction be considered a drill; and provided, that if any officer or enlisted man belonging to and not on furlough from such company, naval reserve, or detachment, or any officer or enlisted man attached thereto for purposes of instruction, and not being on furlough, shall fail, except when prevented by sickness evidenced by a surgeon's certificate, to repair at the fixed time to the place appointed for such drill, or goes from the same without leave from his commanding officer before he is dismissed or relieved, he shall for each such delinquency have stopped against any amount due or to become due him an amount equal to the pay herein provided for attendance; provided also, that nothing contained in this section shall bar or affect any trial had under the thirty-third article for the government of the military forces of this state.

Section may be rendered inoperative at discretion of commander-in-chief.

The operation of the provisions of this section may be discontinued at any time by order of the commander-in-chief, when in his opinion the state of the military fund will not warrant the expenditure.

Section 85. Each officer and enlisted man ordered for duty by the commander-in-chief, or under his authority, shall receive for every day actually on duty, the following pay: Brigadier general, six dollars; colonel, five dollars; lieutenant colonel, four dollars and fifty cents; major, four dollars; captain, three dollars and fifty cents; first lieutenant, three dollars; second lieutenant, two dollars and fifty cents; first class sergeant hospital corps, regimental sergeant major, quartermaster sergeant, commissary sergeant, and first sergeant, two dollars; battalion sergeant major, one dollar and ninety cents; color sergeant, one dollar and eighty-five cents; company quartermaster sergeant, sergeant, cook, one dollar and seventy-five cents; corporal, one dollar and fifty cents; first class private, hospital corps, one dollar and forty cents; private, hospital corps, one dollar and thirty cents; private, one dollar and twenty-five cents; members of the band, three dollars; and in addition thereto, there shall be allowed

—brigadier general \$6.00.
 —colonel \$5.00.
 —lieutenant colonel \$4.50.
 —major \$4.00.
 —captain \$3.50.
 —first lieutenant \$3.00.
 —second lieutenant \$2.50.
 —sergeants from \$2.00 to \$1.75.
 —cook \$1.75.
 —corporal \$1.50.
 —privates from \$1.40 to \$1.25.
 —band \$3.00.

the necessary transportation and subsistence: Provided that no pay or compensation shall be allowed when ordered for inspection or muster, small arms practice, drill, parade, review, field service, or practice marches, unless expressly authorized in the order for such duties, and provided further, that when ordered for encampment, maneuvers, field exercise, or small arms' competitions, or when called forth in aid of the civil authority, commissioned officers of whatsoever grade, shall receive the pay proper of officers of the same grade in the regular army, and enlisted men shall receive the pay set forth in this section.

—transportation and subsistence allowed.

—when no pay shall be allowed.

—when commissioned officers shall receive regular army pay.

Should the active militia, or any part of it, be ordered on duty for more than ten days, officers and men shall receive the same pay and allowances as the regular troops of the United States, but if when ordered the length of service is not given, they shall be paid for the first ten days as specified in this section, and after ten days, shall receive the same pay and allowances as the regular troops of the United States.

After ten days officers and men shall receive regular army pay.

When the active militia, or any portion thereof, shall be called forth in aid of the civil authority, or assembled in obedience to such call, as provided for in sections seventy-seven and seventy-eight, all officers and men thereof shall receive the pay set forth in this section; and such compensation and the necessary expenses incurred in quartering, caring for, transporting, and subsisting the troops as well as the expense incurred for pay, care and subsistence of officers and enlisted men temporarily disabled in the line of duty, while on such duty, shall be paid by the county where such service is rendered. The treasurer of such county shall, upon presentation to him of vouchers and pay rolls for such expenses and compensation, certified by the commanding officer of the organization or corps on duty in aid of the civil authority in such county or counties, and approved by the adjutant general, forthwith execute in behalf of and in the name of such county a certificate or certificates of indebtedness for the money required to pay such vouchers and pay rolls; such certificates shall bear interest at the rate of not to exceed six per centum per annum, and shall be made payable on the first day of January following the expiration of two months from their issue, and the amount thereof shall be raised in the next tax budget of said county succeeding their issue, and applied to the payment of such certificates. Said county treasurer shall sell such certificates at public and private sale, and apply the proceeds thereof to the payment of such expenses and compensation. Any county treasurer or public officer, who shall

When called forth in aid of civil authority, troops shall be paid by county where service is rendered.

—certificates of indebtedness issued by county treasurer.

—certificates bear interest and payable January 1st.

—certificates sold at public or private sale.

CHAP. 206

—public of-
ficer neg-
lecting
duty, shall
be personal-
ly charged
with ex-
pense of
proceed-
ings.

Additional
pay and al-
lowances
not exceed-
ing \$100.

—subsistence
department
\$50.

—company
commander
\$50.

—company
clerk and
quarter-
master ser-
geant \$25.

When of-
ficers shall
be allowed
traveling
and inci-
dental ex-
penses.

Computa-
tions of ra-
tions for
enlisted
men.

Mounts
provided by
Adjutant
General.

Payment of
military
accounts.

—certified
to paymas-
ter general.

neglect or refuse to perform any of the duties required by this section, shall be personally charged with the costs and all necessary disbursements of any action or proceeding brought to compel such performance, together with a reasonable additional allowance to the plaintiff or relator in such action or proceeding, to be fixed by the court.

Section 86. In addition to all other pay and allowances herein provided, there shall be allowed, subject to such regulations as the commander-in-chief may prescribe, to an adjutant general on the staff of a brigade commander, to a regimental adjutant, to the senior officer of the medical department, to the senior officer of the ordnance department, each, a sum not exceeding one hundred dollars per annum. To the senior officer of the subsistence department, not exceeding fifty dollars per annum. To each company commander, for care and responsibility of military property, not exceeding fifty dollars per annum; to each company clerk, and to each company quartermaster sergeant, not exceeding twenty-five dollars per annum.

To all officers ordered to make inspection or other journeys necessary in the military service, there shall be allowed all actual and necessary expenses incident to the performance of said service, including such incidental expenditures as are allowed by law and regulations to officers of the regular army when inspecting the organized militia.

Whenever deemed necessary, the adjutant general may authorize the computation of rations for enlisted men, which shall be at the rates fixed by the regulations of the United States in force at the time.

The adjutant general whenever necessary, and in such manner as he may deem best, shall provide suitable mounts for all officers and enlisted men required to perform mounted duty. He shall also approve all other just and reasonable claims, payments, and expenditures, legally made in behalf of the military service of the state.

Section 87. All military accounts, unless otherwise specially provided by law, shall be approved by the person authorized to contract the same and transmitted to the adjutant general for his examination and approval. They shall then be presented to the governor and council, and if found correct shall be certified to the paymaster general for payment, and a warrant shall be drawn for the amount thereof on the state treasurer in favor of the paymaster general; accounts so allowed shall be paid by him to the persons to whom they are severally due, or to their order; provided that no payment whatever shall be

made or allowed except for duty actually performed or services actually rendered; and provided that no payment of any sum authorized by this chapter shall be made to any person until there shall have been first deducted therefrom all amounts due by him to the state on any military account whatsoever.

Section 88. For the purpose of raising revenue to defray the current expenses of the active militia there shall be assessed and collected as other state taxes are, a tax of one-tenth of one mill upon all property in the state subject to taxation, for the present fiscal year and for each fiscal year thereafter. There shall also be appropriated annually from any money in the treasury not otherwise appropriated, to defray the current expenses of the naval reserve of the state of Maine, the sum of eight thousand dollars. The revenue thus raised shall be paid into the state treasury and be converted into a special and continuous military fund, from which special fund only, except where herein otherwise specified, shall be paid the expenses authorized by this act; and so much thereof as may be necessary is hereby appropriated to carry out the provisions of this article, to be paid upon vouchers approved as provided in section eighty-seven.

Section 89. Any member of the active militia who shall, when on duty or assembled therefor, in case of riot, tumult, breach of the peace, insurrection or invasion, or whenever called into active service of the state by order of the governor, or called in aid of the civil authorities, or when participating by order of the governor in any encampment, maneuvers, and field instruction of any part of the regular army at or near any military post or camp or lake or sea coast defenses of the United States, or when participating by order of the governor in practice marches or camps of instruction for at least five consecutive days, receive any injury, or incur or contract any disability or disease, by reason of such duty or assembly therefor, or who shall without fault or negligence on his part receive any wound or injury incident to and while performing any lawfully ordered duty, which shall temporarily incapacitate him from his usual business or occupation, shall during the period of such incapacity, receive the pay provided by section eighty-five, and actual and necessary expenses for care and medical attendance. No claim shall be allowed under this section unless the claimant within thirty days after receiving the injury or contracting the disease or disability upon which the claim is based, notifies in writing the adjutant general of his intention to make such claim. Under this section no disability

—sums due state shall be deducted.

Military fund, one-tenth of one mill on taxable property of state.

—\$8000 for Naval Reserve.

—special continuous military fund from revenue thus raised.

Pay and care of member of active militia when injured or disabled in service.

shall notify —claimant Adjutant General within thirty days.

CHAP. 206

—pay and expenses shall not be allowed for more than ninety days.

—proof of disability submitted within thirty days.

—Adjutant General may allow or disallow the whole or any part of claim, or may refer same to a board.

—finding of board, subject to approval of Adjutant General.

—claimant may be removed to hospital.

When county is liable.

—when state is liable.

shall be considered temporary which continues more than ninety days after the date of receiving the injury or of contracting or incurring the disease or disability, and pay and expenses for care and medical attendance for more than the said ninety days shall not be allowed. Where a claim is made under this section, the claimant shall, within thirty days after receiving the injury or contracting the disease or disability upon which the claim is made, or such further time as the adjutant general shall grant, submit to the adjutant general his proof by affidavit or otherwise as the adjutant general may direct. On examination thereof the adjutant general may allow or disallow the whole or any part of said claim, or he may refer the same to a medical examiner or to a board of three officers, at least one being a medical officer, to be appointed by the adjutant general, and such medical examiner or board shall have the same power to take evidence, administer oaths, issue subpoenas and compel witnesses to attend and testify and produce books and papers, and punish their failure to do so, as is possessed by a general court-martial. The finding of the medical examiner or board shall be subject to the approval of the adjutant general, who may approve the whole or any part thereof, or he may return the proceedings for revision or for taking further testimony. The adjutant general may cause the examination of the claimant to be made from time to time by a medical officer or officers, designated for the purpose, and may direct the removal of a claimant to, and his treatment in, any hospital designated by the adjutant general, and if the claimant refuse to permit any examination herein provided for, or if he refuse to go to such hospital, or to follow the advice given or treatment prescribed for him therein, he shall thereby forfeit and be barred from all right to any claim or allowance under this section.

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

Section 90. It shall be the duty of municipal officers to provide and maintain for each company of the active militia located within the limits of their respective towns a suitable drill-room, offices, and armory, or place of deposit of all military equipment, and for the headquarters of each separate battalion, corps, regiment, and brigade established within said municipal limits suitable headquarters offices; and the suitability for the necessary military purposes, of such drill-rooms, armories and headquarters offices, shall be determined by the armory commission. A reasonable compensation to be fixed by the armory commission, after hearing and consulting with the responsible municipal officers, not to exceed three hundred dollars per annum for each company, other organization, band or separate headquarters shall be allowed as rent for such suitable building or buildings to the municipality providing and maintaining them, and paid by the state out of the military fund.

Armories provided and maintained by municipal officers.

—compensation fixed by commission not exceeding \$300 annually.

Section 91. It shall be the duty of municipal officers to provide for each company of the active militia located within the limits of their respective towns a suitable target range, except where such range shall be provided out of the military fund appropriated by the congress of the United States and apportioned to the state for that purpose; and it shall be the duty of such municipal officers to maintain and keep in good repair such target range for the use of the company or companies located within the limits of their municipality, irrespective of the method in which such range may have been obtained. The suitability of such target range for the necessary military purposes shall be as determined by the inspector of small arms practice of the national guard and approved by the adjutant general. All ranges shall be open for the use of members of the national guard at any time.

Target ranges provided and maintained by municipal officers.

—inspector of small arms practice to determine suitability.

Section 92. Any municipal officer who fails, refuses, or neglects to take effective measures for providing and maintaining such suitable drill-rooms, offices, armories, or headquarters as prescribed in section one hundred and seven, and any municipal officer who fails, refuses, or neglects to take effective measures for providing and maintaining a suitable target range as prescribed in section one hundred and eight, shall be guilty of a misdemeanor, prosecuted by complaint or indictment before a court of competent jurisdiction, and upon conviction shall be fined not less than one hundred dollars nor more than four hundred dollars, or imprisoned for not less than three months nor more than six months, or shall suffer both such fine and imprisonment, which fine shall be paid into the state treasury and credited to the military fund.

Any municipal officer who fails, refuses, or neglects to perform duty prescribed in two preceding sections, guilty of misdemeanor.

—penalty.

CHAP. 206

Authority granted municipalities in providing armories and ranges.

Section 93. All municipalities in this state are hereby given power and authority to build or acquire by purchase, lease, gift, or otherwise, suitable armories, drill-rooms, headquarters offices, and the land necessary therefor and for target ranges for such organizations of the active militia as may be stationed or located therein, and to provide for the maintenance and repair of the same; and all municipalities are hereby authorized, and it shall be the duty of the officers thereof, to raise money by taxation or otherwise for the purpose of providing suitable armories, drill-rooms, headquarters offices and target ranges for such organizations of the active militia as may be stationed and located therein, in such manner as is by law provided for the erection and maintenance of all municipal public buildings and improvements.

Armories and target ranges exempt from taxation.

Section 94. All armories, drill-rooms, offices, headquarters offices, and target ranges, owned by the state or by any municipality, or by any organization of the active militia, and all buildings and lands leased by the state, or by any municipality, or by any officer or organization of the active militia, to be used as an armory, drill-room, headquarters office, target range, or for other military purposes shall be exempt from taxation for all purposes during the period of such ownership, lease and use.

Armory commission created.

Section 95. The adjutant general, together with two officers of the line of the active militia of or above the grade of captain and two civilians appointed by the governor for a term of four years unless sooner relieved by proper authority and eligible to reappointment for a like period, shall constitute an armory commission of which the adjutant general shall be the chairman, whose duty it shall be to exercise general supervision and control over all armories, drill-rooms, and headquarters offices, to consult and co-operate with the municipal authorities and to devise effective means of obtaining and maintaining such armories, and to fix, subject to the approval of the governor, the compensation to be allowed to the municipalities as rent for them; they shall have the power, after consulting and hearing the responsible municipal officers, to determine the administrative question of military suitability and adequate maintenance of all armories, drill-rooms, offices, and headquarters offices; and it shall be their duty to notify the responsible municipal officers of all deficiencies in these respects, and should such officers fail, refuse, or neglect to take effective measures for providing such suitable buildings and their maintenance, the chairman of the commission shall initiate the prosecution prescribed by section ninety-two.

—duties.

CHAP. 206

Section 96. All armories, drill-rooms, offices, and headquarters offices, shall be subject always to the provisions of law and the regulations prescribed by proper authority; and said armories, drill-rooms, offices, and headquarters offices, shall be held for the exclusive use of the active militia unless otherwise authorized by the general regulations for the government of armories prescribed by the armory commission, or by special authority of the chairman of said commission after application in special cases by the municipal authorities in writing. Should any municipal officer use such buildings without authority, or abuse the authority or privilege so granted, they and each of them shall, in each such case, be deemed guilty of a misdemeanor and shall be punished as prescribed in section ninety-two.

Armories for exclusive use of the active militia, except when otherwise authorized.

Section 97. The governor is authorized to accept in the name of the state donations of lands and buildings to be used for military purposes by the organized militia under such conditions as the donors may nominate; lands and buildings so donated shall be subject to the rules and regulations prescribed by the governor.

Governor may accept donations of lands and buildings for military use.

Section 98. Whenever the military fund shall be sufficient to warrant such expenditures, the armory commission may, with the approval and by direction of the governor, erect upon lands donated to the state for the purpose either by municipalities, corporations or individuals, armories, drill-rooms, headquarters offices or other buildings for military purposes; provided, that should such buildings cease to be held, used, or occupied for military purposes the buildings and improvements, thereon erected out of the military fund shall revert to the original donor, or donors, his or their successors, heirs, and assigns.

State may erect armories.

—reverts to donor of land.

Section 99. The rules of evidence in all courts-martial shall follow in general, so far as apposite, the common law rules of evidence as observed by the courts of this state in criminal cases, but a certain latitude in the introduction of evidence and the examination of witnesses by an avoidance of restrictive rules is permissible when it is in the interest of the administration of military justice. The accused shall, at his own request but not otherwise, be a competent witness; and his failure to make such request shall not create any presumption against him.

Rules of evidence in courts-martial.

—accused may testify.

Section 100. In all trials before courts-martial the accused shall have the right to demand the nature and cause of the accusation against him, and to be presented with a copy of the

Rights of the accused.

CHAP. 206

—copy of charges.
—hearing.
—obtain witnesses.

—counsel.

Judge-advocate has power to issue necessary process.

—service of process.

Attendance of witnesses by subpoena.

—punishment for neglect to appear or refusal to testify.
—persons not belonging to military service who neglect or refuse to appear or testify, guilty of misdemeanor.

—fee and mileage tendered.

—witness fees same as in Supreme Judicial Court.

charges. He shall have the right of being heard by himself or counsel or both; and shall have compulsory process for obtaining witnesses in his favor. The officer ordering a general, regimental or garrison court-martial will, at the request of any prisoner who is to be arraigned, detail as his counsel a suitable officer who shall perform such duties as devolve upon counsel for defendant before civil courts in criminal cases.

Section 101. The judge-advocate of any court-martial, and any summary court, will summon the necessary witnesses for the trial, and for that purpose shall have authority to issue in the name of the state the necessary subpoenas; and every judge-advocate of a court-martial shall have power to issue the like process to compel witnesses to appear and testify which courts of criminal jurisdiction within this state may lawfully issue. Such writs and process may be served and executed by a military person or persons designated to do so by the judge-advocate, or they may be directed to any sheriff, constables, or other officer whose duty it shall be to serve or execute the same in the same manner in which like writs and process are served and executed when issued by the civil courts of criminal jurisdiction in this state.

The attendance of witnesses in the military service of the state may be procured by the service of formal subpoena, or by the order of competent military authority; and every person in the military service of the state who being duly subpoenaed or ordered to appear as a witness before a court-martial wilfully neglects or refuses to appear, or refuses to qualify as a witness, or to testify or produce documentary evidence, shall be deemed guilty of disobedience of orders and punished by a court-martial accordingly; and every person not belonging to the military service of the state who being duly subpoenaed to appear as a witness before a court-martial wilfully neglects or refuses to appear or refuses so to qualify, testify, or produce documentary evidence, shall be deemed guilty of a misdemeanor, and prosecuted like other misdemeanants in any court of competent jurisdiction and punished by a fine not exceeding one hundred dollars; provided that such witness may plead as a defense that he was not tendered one day's fee and mileage for the journey to and from the place of trial; and provided that all witnesses shall receive the fees prescribed in the supreme judicial court, such amounts to be paid by the adjutant general; and provided that no witness shall be compelled to incriminate himself or to answer any question which may tend to incriminate or degrade him.

Section 102. Subpoenas and all other writs and process when issued by general courts-martial shall extend to every part of the state, but when issued by other military courts cannot be executed in any county other than the one in which issued, except they be endorsed by the governor, or an officer authorized to order a general court-martial, in which case they can be executed anywhere in this state. The endorsement shall be, in substance, "let this process be executed in any county of the state of Maine," and shall be dated and signed by the officer making it.

Subpoenas and other process to extend throughout the state.

—when process must be endorsed before service.

Section 103. Whenever by any of the articles of section one hundred and thirty-two, the punishment on conviction of any military offense is left to the discretion of the court-martial, the punishment shall not exceed, in the case of officers, dismissal from the service, a forfeiture of all pay and allowances, and a fine of two hundred dollars and costs of witnesses, and in the case of enlisted men, thirty days' confinements, dishonorable discharge, forfeiture of all pay and allowances, and a fine of fifty dollars and costs of witnesses. Within such maximum limit the governor may prescribe in the case of enlisted men a lesser limit which a court-martial shall not exceed, and if no such limit be prescribed any fine awarded shall not exceed the amount of forfeiture prescribed in the executive order establishing maximum limits of punishment for enlisted men in the regular army. But confinement shall in no case be awarded as a punishment except for an offense committed when on duty in any encampment, maneuvers, and field instruction ordered for at least five consecutive days, or when called out by the governor in case of insurrection, invasion, tumult, riot, mob, resistance to the laws of the state, or of imminent danger thereof, or when called out in aid of the civil power.

Maximum limits of punishment.

—Governor may prescribe within limit.

—confinement.

Section 104. When the sentence of a court-martial adjudges a fine and costs against any person, and such fine and cost has not been fully paid within thirty days after the confirmation thereof, or whenever a person in the military service is ordered confined to await trial or is sentenced to confinement by a court-martial, or whenever any person is ordered into confinement under the eighty-sixth article, at a place or station not provided with a guard-house or military prison, the governor, the court or officer ordering the court, or the officer commanding for the time being, as the case may be, shall issue a warrant of commitment directed to the sheriff of the county in which the court-martial was held, directing him to take the body of the person so convicted and confine him in the county jail; and it

Warrants of commitment.

—when and by whom issued.

—directed to sheriff.

CHAP. 206

—duty of
sheriff.

shall be the duty of the sheriff to take the body of the person convicted and confine him in the county jail for the time specified in the sentence, or for one day for any fine not exceeding one dollar, and one additional day for every dollar above that sum, and one additional day for each dollar of cost.

Jurisdiction
of courts and
boards
presumed.

Section 105. The jurisdiction of the courts and boards established by this act shall be presumed, and the burden of proof shall rest on any person seeking to oust such courts or boards of jurisdiction in any action or proceeding.

Immunity
of court.

No action or proceeding shall be prosecuted or maintained against a member of the military forces of this state or officer or person acting under its authority or reviewing its proceedings on account of the approval or imposition or execution of any sentence, or the imposition or collection of any fine or penalty, or the execution of any warrant, writ, execution, process, or mandate of a military court.

—proceed-
ings shall
not be re-
viewed.

Who may
administer
oaths, in
military ad-
ministra-
tion.

Section 106. Officers of the judge advocate general's department, judge advocates of courts-martial, and the trial officers of summary courts, are hereby authorized to administer oaths for the purpose of military administration, and shall charge no fee for the same.

Report of
trials to
Adjutant
General.

Section 107. Each summary court and the judge advocate of each regimental and each garrison court shall, at the end of each month, make a report to the adjutant general of the cases tried, setting forth the offense committed and penalty awarded, which reports may be destroyed when no longer of use.

Provisions
apply to
Naval Re-
serve.

Section 108. The provisions of this article shall apply, so far as apposite to the naval reserve.

Exemption
from ar-
rest.

Section 109. Every person belonging to the active militia of the state shall in all cases, except felony and breach of the peace, be privileged from arrest while going to, remaining at, or returning from any place at which he may be required to attend for the election of officers or other military duty.

Exemption
from jury
duty.

Section 110. Every member of the active militia, every retired officer, and every enlisted man holding the certificate of merit shall be exempt from all jury duty; production of a certificate from the claimant's commanding officer showing that the holder is a member of the active militia, or of a certificate of retirement, or of a certificate of merit, or the sworn statement of the claimant that he is such member, retired officer, or holder of a certificate of merit, shall be prima facie proof that the claimant is entitled to the exemption.

—certifi-
cates of
merit,
prima facie
proof.

Section 111. No organization of the active militia shall perform any voluntary military service except as authorized by this act or by the express orders of the governor.

Voluntary service not allowed.

Section 112. No organization of the active militia shall leave the state, and no military organization of another state, unless acting under the authority of the United States, shall enter the state, except in each case by permission of the commander-in-chief.

Military organization not allowed to leave or enter state except by permission of Governor.

Section 113. No body of men, other than the active militia and the troops of the United States, shall associate themselves together as a military company or organization, or parade in public with firearms in any city or town of this state; nor shall any city or town raise or appropriate any money toward arming, equipping, uniforming or in any other way supporting, sustaining or providing drill rooms or armories for any such body of men; but associations wholly composed of soldiers and soldiers honorably discharged from the service of the United States and the order known as the Sons of Veterans may parade at any time in public with firearms, having first obtained the written permission of the city or municipal officers of the town or city in which they reside to parade, and students in educational institutions where military science is taught as a prescribed part of the course of instruction, may, with the consent of the governor, drill and parade with firearms in public under the superintendence of their military instructors. Any person violating any provision of this section shall be deemed guilty of a misdemeanor and punished by a fine not exceeding ten dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

Military parades by unauthorized bodies prohibited.

—associations of soldiers and Sons of Veterans may parade.

—students may parade with firearms.

—penalty.

Section 114. The uniform, arms, and equipment of the active militia shall be the same as those of the regular army and navy of the United States, except that on articles of uniform and equipment the distinguishing letters "Me." may be substituted for the letters "U. S."; each organization of the national guard and every enlisted man thereof shall be uniformed, armed, and equipped by the state, as is or may hereafter be prescribed or provided by the laws and regulations of the United States for the organized militia, and no member or organization of the active militia, shall adopt, use or wear in the military service of the state any other uniform, arms, or equipment.

Uniform of active militia.

—enlisted men uniformed and equipped by state.

All commissioned officers shall provide themselves with such uniforms, arms, and equipment as are required of commis-

Commissioned officers uniform and

CHAP. 206

equip themselves.
—state property may be issued on memorandum receipt.
Clothes or equipment issued, not subject to suit.

Unlawful wearing of uniform.

—punishment.

—theatrical profession.

—civic societies.

Member of active militia shall suffer no injury in his employment because of being such member.

sioned officers of the regular army; and the adjutant general may purchase and issue as state property on memorandum receipt to commissioned officers such articles of arms and equipment as he may deem necessary.

The clothes, arms, military outfit, and accoutrements furnished by or through the state to a member of the active militia, and the uniforms, arms, and equipment required of commissioned officers shall not be subject to any suit, distress, execution, or sale for debt or payment of taxes.

Section 115. Every person, other than an officer or enlisted man of the active militia of this state, or of any other state, or of the United States army, navy, marine corps, or revenue or forest service, or a member of any service of the United States for whom such uniform has been prescribed by proper authority, or inmate of any veterans' or soldiers' home, or a member of the Grand Army of the Republic, or of the Sons of Veterans, who at any time wears the uniform of the United States army or navy or active militia of this state, or any part of such uniform, or a uniform or a part of a uniform similar thereto, within the limits of this state, shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment; provided, that nothing in this act shall be construed as prohibiting persons of the theatrical profession from wearing such uniform in any playhouse or theatre while actually engaged in following said profession, and provided that nothing in this act shall be construed as prohibiting the uniform rank of civic societies parading or traveling in a body or assembling in a lodge room; and provided further, that whenever the active militia, or any part thereof is in active service, or is called into active service, no civic organization or member thereof shall parade or appear in uniform in the locality where said active militia is in service.

Section 116. Any person who, either by himself or with another, wilfully deprives a member of the national guard or naval reserve of his employment, or prevents his being employed by himself or another, or obstructs or annoys said member of said national guard or naval reserve or his employer in respect of his trade, business, or employment, because said member of said national guard or naval reserve is such member, or dissuades any person from enlisting in the said national guard or naval reserve by threat of injury to him in case he shall so enlist, in respect of his employment, trade, or business,

shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

—penalty.

Section 117. No association or corporation, constituted or organized for the purpose of promoting the success of the trade, employment, or business of the members thereof, shall by any constitution, rule, by-law, resolution, vote, or regulation, discriminate against any member of the national guard or naval reserve because of such membership, in respect of the eligibility of such member of the national guard or naval reserve to membership in such association or corporation, or in respect to his rights to retain said last mentioned membership; and any person who aids in enforcing any such provisions against a member of the said national guard or naval reserve with intent to discriminate against him because of such membership, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

Association shall not discriminate against member of active militia.

—penalty.

Section 118. Whoever shall unlawfully molest, insult, or abuse any member of the national guard or naval reserve, while in the performance of his military duty, shall be deemed guilty of a misdemeanor and on conviction thereof, shall be punished by a fine not to exceed five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

Member of active militia not to be molested, insulted, or abused while in performance of duty.
—penalty.

Section 119. The clothes, arms, military outfits, and accoutrements furnished by or through the state to any member of the active militia shall not be sold, bartered, exchanged, pledged, loaned, or given away; and no person not a member of the military forces of this state or of the United States, or duly authorized officer or agent of the state or of the United States, who has possession of any such clothes, arms, military outfits, or accoutrements, so furnished, and which have been the subject of any such unlawful disposition, shall have any right, title, or interest therein; but the same shall be seized and taken wherever found by any officer of the state, civil or military, and shall thereupon be delivered to any commanding officer or other officer authorized to receive the same, who shall make an immediate report to the adjutant general. The possession of any such clothes, arms, military outfits, or accoutrements by any person not a member of the military forces of the state or of the United States shall be presumptive evidence of such sale, barter, exchange, pledge, loan, or gift.

Military equipment must not be disposed of.

—may be seized by officers.

CHAP. 206

Unlawful disposition of military equipment punished.

Section 120. Any person who shall sell, or offer for sale, barter, exchange, pledge, loan, or give away, secrete or retain after demand made by any officer of the state, civil or military, any clothes, arms, military outfits, or accoutrements furnished by or through the state to a member of the active militia, or who shall receive by purchase, barter, exchange, pledge, loan, or gift, any such clothes, arms, military outfits, or accoutrements, shall be guilty of a misdemeanor and punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding six months, or by both such fine and imprisonment.

Repair and renovation of military property.

Section 121. The adjutant general shall, whenever it may be necessary, make arrangements for the repair, cleansing, and renovation of all clothes, arms, military outfits, or accoutrements on hand or issued to any organization of the active militia; and when the necessity of such repair, cleansing, or renovation is due to the fault or negligence of any member of the active militia, the cost thereof shall be charged against any pay due or to become due such member or recovered in the same manner as a fine, forfeiture, or penalty, as prescribed by this chapter.

Military property unfit for use may be condemned by inspector general and sold.

Section 122. The inspector general or such other officer as the adjutant general may designate, shall inspect and condemn public military property which has become unfit for use; no property shall be sold until it has been so inspected and condemned, and such condemnation approved by the governor; and the proceeds of sales of condemned material, stores, supplies, or other public military property of every kind shall be deposited with the adjutant general, paid into the state treasury, and credited to the military fund.

—proceeds of sale.

Property furnished by State remains State property.

—officers receiving same, held responsible.

Section 123. All property furnished by the state shall remain and continue to be the property of the state, to be used for military purposes only, and when not so in use shall be kept in the armories or designated places of deposit. Every officer receiving public property for military use shall be held responsible for the safe-keeping and the return of the same when called for; he shall account for and make such returns thereof as may be prescribed whenever called upon so to do by the governor or other proper authority, and every such officer shall, when required by the governor, give bond payable to the adjutant general of the state in such sum as he may direct, with good and sufficient sureties, conditioned to account for, safely keep, and return all military property of the state and the United States for which such officer may be accountable and responsible.

CHAP. 206

Any officer, enlisted man or other person, who shall wilfully or maliciously destroy, injure or deface any article of military property belonging to the state, or shall use it for other than military purposes, or shall have or retain the same in violation of law or regulations shall be punished by a fine not exceeding fifty dollars. And in case any officer or enlisted man of the national guard who has at any time through carelessness or inattention lost, destroyed, or suffered to be lost or destroyed, any state or government property which has been issued for his use, the paymaster general shall retain out of the pay or allowances or moneys due such officer or enlisted man for any military services whatsoever, an amount of money equal to the value of the property so lost or destroyed, and money so retained shall be credited to the account of such officer of the national guard as may be accountable to the state for said property. Such portion of said money as shall be for state property shall be turned in to the treasurer of the state, to be credited to the militia fund, and such portion as may be for United States property shall be turned in to the United States treasury to be credited to the state on its property returns.

Wilful destruction of property punished.

—lost or destroyed property must be accounted for.

—money received for such property credited to militia fund.

Section 124. The commanding officer of any portion of the active militia parading or performing any military duty in any street or highway, may require any or all persons in such street or highway, to yield the right of way to such militia, provided the carriage of the United States mail, the legitimate functions of the police and the progress and operations of the hospital ambulances, fire engines and fire departments, and apparatus of the insurance patrol shall not be interfered with thereby. All others who shall hinder, delay, or obstruct any portion of the active militia wherever parading or performing any military duty, or who shall attempt so to do, shall be guilty of a misdemeanor.

Right of way when parading or performing military duty.

Section 125. Every commanding officer, when on duty as such, may fix necessary bounds and limits to his camp, or parade, not including a road so as to prevent passing. Whoever intrudes within the limits of the parade, camp, or armory, after being forbidden, or resists a sentinel who attempts to put him or keep him out of such limits, or in any manner interrupts or molests the orderly discharge of duty by those under arms, or disturbs, hinders, or prevents the passage of troops going to or returning from any duty, may, at the discretion of the commanding officer, be confined under guard not exceeding twenty-four hours. Such authority of an officer commanding a

Commanding officer may fix bounds and limits of his camp.

—intrusion may be punished.

CHAP. 206

—authority may be extended.

—rights of owners.

—shall prohibit sale of intoxicating liquor.

Neglect or refusal of civil officers to obey provisions, a misdemeanor.

Offenses punishable criminally when not otherwise provided for.

—fines collected shall be credited to military fund.

Companies may make by-laws.

National Guard Association.

camp may be extended by order of the commander-in-chief to a distance not exceeding one-half mile around such camp; provided, that the owner or owners of the external space within such distance of the camp, and their agents or servants shall not be hindered or prevented from entering upon such space for the purpose of using, occupying, and improving the same, in the same manner in which they used, occupied, and improved the same at the time when the camp was established. The commanding officer of any camp or armory shall prohibit the introduction or sale of, or dealing in, beer, wine, or any intoxicating liquor, within the limits or extended limits of the camp or within the armory, and he may abate as common nuisances all such sales and introductions.

Section 126. Civil officers named in this chapter, neglecting or refusing to obey its provisions, shall be guilty of misdemeanor.

Section 127. Offenses against the provisions of this chapter, except when they are purely military and committed by a person subject to military jurisdiction, may, unless a different remedy is specially provided, be prosecuted by complaint or indictment before a court of competent criminal jurisdiction; and all fines and forfeitures collected under the provisions of this chapter, the disposition whereof is not otherwise specially provided for, shall be paid into the state treasury and credited to the military fund.

Section 128. Companies of the active militia may make by-laws, subject to the written approval of the adjutant general, not repugnant to law, orders, or regulations, and fix a sum to be paid by any member of such company for non-compliance therewith not exceeding five dollars. Any member who fails to pay such sum so fixed, within thirty days after notification that the same is due, shall be deemed guilty of conduct to the prejudice of good order and military discipline, and punished by a court-martial accordingly; and all forfeitures resulting therefrom shall be paid into the company treasury.

Section 129. The commissioned officers of the active militia may organize themselves into an association the name of which shall be The National Guard Association of the State of Maine. Such association may adopt a constitution and by-laws not repugnant to law, orders or regulations, and alter and amend the same, and may take and hold such real and personal property as may be necessary for the purposes of the association.

CHAP. 206

Section 130. The governor is hereby authorized to make such rules and regulations as he may deem expedient, but such rules and regulations shall conform to this chapter, and, as nearly as practicable, to those governing the United States army and navy, and when promulgated, shall have the same force and effect as the provisions of this chapter. The rules and regulations in force at the time of the passage of this chapter, and not inconsistent herewith, shall remain in force until new rules and regulations are approved and promulgated.

Governor authorized to make rules and regulations.

—old rules and regulations in force until new ones promulgated.

Section 131. Whenever any portion of the militia not being in the service of the United States shall be on duty or ordered to assemble for duty by the governor in time of actual war, insurrection, invasion or rebellion, the articles of war governing the army of the United States, the articles for the government of the United States navy, and the regulations prescribed for the army and navy of the United States, so far as consistent with this chapter and the regulations issued thereunder, shall be in force and regarded as a part of this chapter until said forces shall duly be relieved from such duty during such state of actual war, insurrection, invasion, or rebellion; but no punishment under such rules and articles which shall extend to the taking of life, shall in any case be inflicted until the approval by the governor of the sentence inflicting such punishment.

Articles of war of the U. S. to be in force in time of war.

Section 132. Article 1. Whenever any portion of the militia shall be on duty or ordered to assemble for duty in the service of this state in accordance with this chapter, except as provided in the preceding section, the following rules and articles being modifications of the corresponding rules and articles of war of the United States, shall govern:

Articles for the government of military forces in time of peace.

Article 2. Enlistment in the active militia of this state shall be voluntary, and every person who enlists therein shall take and subscribe an oath, or affirmation, in the following form;

I, _____, do solemnly swear, or affirm, that I will bear true faith and allegiance to the state of Maine and to the United States of America; that I will serve them honestly and faithfully against all their enemies whomsoever, and that I will obey the orders of the governor of Maine and the orders of the officers appointed over me, according to the laws, rules and articles for the government of the military forces of the state of Maine.

—form of oath.

Article 3. Every officer who knowingly enlists or musters into the military service of this state any minor over the age of eighteen years without the written consent of his parent

Enlistment of minors.

CHAP. 206

or guardian, or any minor under the age of eighteen years, or any insane or intoxicated person, or any deserter from the military service of this state or of the United States, or any person who has been convicted of any infamous crime, shall suffer such punishment as a court-martial may direct.

Discharge.

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

False muster.

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

Mustering officer shall not take money therefor.

Article 6. Any officer who takes money or other thing, by way of gratification, on mustering any regiment, or company, or on signing muster rolls, shall be dismissed from the service, and shall thereby be disabled to hold any office or employment, civil or military, in the service of the state of Maine, or suffer such other punishment as a court-martial may direct.

Commanding officer shall make annual return.

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

False return.

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

Commanding officer accountable for property.

Article 10. Every officer commanding a troop, battery, or company, is charged with the arms, accoutrements, ammunition, clothing, or other military stores belonging to his command, and is accountable to the adjutant general in case of their being lost, spoiled or damaged otherwise than by unavoidable accident, or on actual service.

False certificate.

Article 13. Every officer who signs a false certificate relating to the absence or pay of any officer or soldier shall be

dismissed from the service or suffer such other punishment as a court-martial may direct.

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

False muster of man or horse.

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

Property lost or destroyed through neglect.

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

Ammunition sold or wasted.

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

Property sold or spoiled through neglect.

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

Disrespect shown superior officer.

Article 21. Any officer or soldier who, on any pretense whatsoever, strikes his superior officer, or draws or lifts up any weapon, or offers any violence against him, being in the execution of his office, or disobeys any lawful command of his superior officer, shall suffer such punishment as a court-martial may direct.

Violence toward or disobedience to superior officer.

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

Exciting mutiny or sedition among troops.

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

Officer not endeavoring to suppress mutiny or sedition.

Article 24. All officers, of what condition soever, have power to part and quell all quarrels, frays, and disorders,

Officers to quell disorders, and

CHAP. 206

have power
to order
into arrest
and confine-
ment.

whether among persons belonging to his own or to another corps, regiment, troop, battery, or company, and to order officers into arrest, and non-commissioned officers and soldiers into confinement, who take part in the same, until their proper superior officer is acquainted therewith. And whosoever, being so ordered, refuses to obey such officer or non-commissioned officer or draws a weapon upon him, shall be punished as a court-martial may direct.

Dueling
prohibited.

Article 26. No officer or soldier shall send a challenge to another officer or soldier to fight a duel, or accept a challenge so sent. Any officer who so offends shall be dismissed from the service. Any soldier who so offends shall suffer such punishment as a court-martial may direct.

Absence
without
leave.

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

Absence
from
parade.

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

Written
leave to go
one mile
from camp.

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

No soldier
shall hire
another to
do his duty
for him.

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

Conniving
at hiring
duty per-
formed.

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

Officers
drunk on
guard.

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

Sentinel
sleeping up-
on his post.

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

CHAP. 206

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

Officer or soldier who quits his guard without leave.

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

False alarms.

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

Misbehaving before enemy or abandoning post.

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

Deserter.

Article 48. Every soldier who deserts the military service of this state shall be liable to serve for such period as shall, with the time he may have served previous to his desertion, amount to the full term of his enlistment; and such soldier shall be tried by a court-martial and punished, although the term of his enlistment may have elapsed previous to his being apprehended and tried.

Deserter shall serve full term of enlistment.

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

Resignation tendered no excuse for absence.

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

Soldier must be discharged before enlisting in another company.

Article 59. When any officer or soldier is accused of a capital crime, or of any offense against the person or property of any citizen of this state, which is punishable by the laws of this state, the commanding officer and the officers of the regiment, company, or detachment to which the person so accused belongs are required, except in time of war, upon application

In capital crimes against citizen of State, soldier delivered to civil magistrate, except in time of war.

CHAP. 206

duly made by or in behalf of the party injured, to use their utmost endeavors to deliver him over to the civil magistrate, and to aid the officers of justice in apprehending and securing him, in order to bring him to trial. If, upon such application, any officer refuses or wilfully neglects, except in time of war, to deliver over such accused person to the civil magistrates, or to aid the officers of justice in apprehending him, he shall be dismissed from the service.

False claim
against
State or
U. S.

Article 60. Any person in the military service of this state who makes or causes to be made any claim against this state or the United States, or any officer thereof, knowing such claims to be false or fraudulent; or

Presenting
false claim.

Who presents or causes to be presented to any person in the civil or military service thereof, for approval or payment, any claim against this state or the United States, or any officer thereof, knowing such claim to be false or fraudulent; or

Agreement
or conspi-
racy to de-
fraud.

Who enters into any agreement or conspiracy to defraud this state or the United States by obtaining, or aiding others to obtain, the allowance or payment of any false or fraudulent claim; or

Obtaining
false papers.

Who, for the purpose of obtaining, or aiding others to obtain the approval, allowance, or payment of any claim against this state or the United States, or against any officer thereof, makes or uses or procures or advises the making or use of any writing, or other papers, knowing the same to contain any false or fraudulent statement; or

Making or
procuring
false oath.

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against this state or the United States or any officers thereof, makes or procures or advises the making of any oath to any fact or to any writing or other paper, knowing such oath to be false; or

Forging or
obtaining
false
signature.

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against this state or the United States or any officer thereof, forges or counterfeits, or procures or advises the forging or counterfeiting of any signatures upon any writing or other paper, or uses or procures or advises the use of, any such signature, knowing the same to be forged or counterfeited; or

Delivery of
less money
or property
than re-
ceipted for.

Who, having charge, possession, custody, or control of any money or other property of this state or the United States, furnished or intended for the military service of this state, knowingly delivers, or causes to be delivered, to any person having authority to receive the same, any amount thereof less than that for which he receives a certificate, or receipt; or

CHAP. 206

Who, being authorized to make or deliver any papers certifying the receipt of any property of this state or the United States, furnished or intended for the military service of this state, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained, or with intent to defraud this state or the United States; or

Delivery
of papers.

Who steals, embezzles, knowingly and wilfully misappropriates, applies to his own use, or benefit, or wrongfully or knowingly sells or disposes of any ordnance, arms, equipments, ammunition, clothing, subsistence, stores, money or other property of this state or the United States, furnished or intended for the military service of this state; or

Misappropriating
property.

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

Purchasing
or receiving
in pledge,
property of
State or
U. S.

Article 61. Any officer who is convicted of conduct unbecoming an officer and a gentleman shall be dismissed from the service.

Unbecoming
conduct.

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

Crimes, dis-
orders and
neglects, not
otherwise
mentioned.

Article 63. All retainers to the camp, and all persons serving with the military forces of this state in the field, though not enlisted soldiers, shall be subject to these rules and articles in the same manner as enlisted men.

Camp re-
tainers are
subject to
rules.

Article 64. The officers and soldiers of any troops, whether active or reserve militia of this state or otherwise, appointed,

Entire mili-
tary forces
of State

CHAP. 206

subject to
rules.

enlisted, mustered or drafted into the military forces of this state, shall, at all times, and in all places, be governed by these articles, and shall be subject to be tried by courts-martial.

Officers
charged
with crime.

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

Soldiers
charged
with crime.

Article 66. Soldiers charged with crime may be confined until tried by courts-martial or released by proper authority.

Refusal to
receive or
keep pris-
oner.

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

Officer to
whom pris-
oner is com-
mitted shall
report with-
in twenty-
four hours.

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

Unauthor-
ized release
or escape of
prisoner.

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

Confinement
limited.

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

Copy of
charges
shall be
served on
officers
within five
days of
arrest.

Article 71. When an officer is put in arrest for the purpose of trial, except at remote stations, the officer by whose order he is arrested shall see that a copy of the charges on which he is to be tried is served upon him within five days after his arrest, and that he is brought to trial within ten days thereafter, unless the necessities of the service prevent such trial; and then he shall be brought to trial within thirty days after the expiration of said ten days. If a copy of the charges be not served, or the arrested officer be not brought to trial, as herein required, the arrest shall cease.

General
courts-
martial.

Article 72. The commander-in-chief may appoint general courts-martial whenever necessary; and its proceedings and

sentence shall be sent directly to the adjutant general, by whom they shall be laid before the governor for his approval or orders in the case.

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

Judge-
advocate
appointed.

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

Of whom
general
courts-
martial
shall con-
sist.

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

Officers
tried by
general
courts-
martial.

Article 80. The commanding officer of each camp, station, or other place, regiment or corps, detached battalion, or company, or other detachment in the military forces of this state, shall have power to appoint for such place, command, or station, a summary court to consist of one officer to be designated by him, before whom enlisted men who are to be tried, shall be brought to trial within twenty-four hours of the time of the arrest, or as soon thereafter as practicable, except when the accused is to be tried by general court-martial; but such summary court may be appointed and the officer designated by superior authority when by him deemed desirable; and the officer holding the summary court shall have power to administer oaths and to hear and determine such cases, and when satisfied of the guilt of the accused adjudge the punishment to be inflicted, which said punishment shall not exceed ten days confinement, forfeiture of ten dollars' pay, or a fine of ten dollars, or any or all of such confinement, forfeiture of pay and fine, and in the case of non-commissioned officers, reduction to the ranks in addition thereto; that there shall be a summary court record kept at the headquarters of the proper command in the field, each regiment, or corps, detached battalion, or company at its home station, in which shall be entered a record of all cases heard and determined and the action had thereon; and no sentence adjudged by said summary court shall be executed until it shall have been approved by the officer appointing the court, or by the officer commanding for the time being: Provided, that when but one commissioned officer is present with a command he shall hear and finally determine such cases; and provided further, that non-commissioned officers shall not, if they object thereto, be brought to trial before summary courts without the authority of the officer competent to order their trial by general court martial, but shall in such cases be brought to trial before garrison, regimental, or general courts martial, as the case may be.

Summary
courts for
trial of en-
listed men.

—court rec-
ord kept.

CHAP. 206

Jurisdiction
of regimental
and garrison
courts-martial
and summary
courts.

Article 83. Regimental and garrison courts martial and summary courts shall not have power to try commissioned officers, but shall have power to award punishment not to exceed confinement for a month, forfeiture of thirty dollars pay, or a fine of thirty dollars, or any or all of such confinement, forfeiture of pay and fine, and in addition thereto, in the case of non-commissioned officers, reduction to the ranks, and in the case of first-class privates reduction to second class privates; provided, that a summary court shall not adjudge confinement, forfeiture or fine in excess of ten days confinement, forfeiture of ten dollars pay, or a fine of ten dollars, or any or all of such confinement, forfeiture, and fine unless the accused shall before trial consent in writing to trial by said court; but in any case of refusal to so consent the trial may be had either by general, regimental, or garrison court-martial, or by said summary court, but in case of trial by said summary court without consent as aforesaid the court shall not adjudge more than ten days confinement, forfeiture of ten dollars pay, or a fine of ten dollars, or any or all of such confinement, forfeiture and pay.

Oath of
members
of court.

Article 84. The judge advocate shall administer to each member of the court, before they proceed upon trial, the following oath, or affirmation, which shall also be taken by all members of regimental and garrison courts-martial: "You A. B., do swear, or affirm, that you will well and truly try and determine according to evidence, the matter now before you, between the state of Maine and the prisoner to be tried, and that you will duly administer justice, without partiality, favor, or affection, according to the provisions of the rules and articles for the government of the military forces of this state, and if any doubt should arise, not explained by said articles, then according to your conscience, the best of your understanding, and the customs of war in like cases, and you do further swear or affirm that you will not divulge the sentence of the court until it shall be published by the proper authority, except to the judge advocate; neither will you disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof, as a witness, by a court of justice in due course of law. So help you God."

Oath of
judge-advocate.

Article 85. When the oath, or affirmation, has been administered to the members of a court-martial the president of the court shall administer to the judge advocate, or person officiating as such, an oath, or affirmation, in the following form:

"You, A. B., do swear, or affirm, that you will not disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof as a witness by a court of justice in due course of law; nor divulge the sentence of the court to any but the proper authority, until it shall be duly disclosed by the same. So help you God."

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

Menacing words or disturbance of court.

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

Behavior of members.

Article 88. Members of a court-martial may be challenged by a prisoner, but only for causes stated to the court. The court shall determine the relevancy and validity thereof, and shall not receive a challenge to more than one member at a time.

Members may be challenged.

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

When prisoner refuses to answer.

Article 90. The judge advocate or some person deputed by him, or by the governor, or general, or officer commanding the division, brigade, camp or other place, regiment, separate squadron or battery shall prosecute in the name of the state of Maine, but when the prisoner has made his plea he shall so far consider himself counsel for the prisoner as to object to any leading question to any of the witnesses and to any question to the prisoner the answer to which might tend to criminate himself.

Who shall conduct prosecution.

—rights of prisoner protected.

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

Depositions.

Article 92. All persons who give evidence before a court-martial shall be examined on oath, or affirmation, which shall be administered by the judge advocate in the following form:

Oath of witness.

'You swear, or affirm, that the evidence you shall give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth. So help you God.'

Article 93. A court-martial shall, for reasonable cause, grant a continuance to either party for such time and as often as may appear to be just; provided, that if the prisoner be in close confinement the trial shall not be delayed for a period longer than thirty days.

Continuance.

CHAP. 206

How courts-martial shall vote.

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

Discharge or dismissal of officers.

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

Sentence of officers for cowardice or fraud.

Article 100. When an officer is dismissed from the service for cowardice or fraud, the sentence shall direct that the crime, punishment, name and place of abode of the delinquent shall be published in the newspapers in and about the state and in the county in which the offender lives or where he usually resides; and after such publication it shall be scandalous for an officer to associate with him.

Suspension from command.

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

No person twice tried for same offense. Time within which trial must be had.

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

Article 103. No person shall be liable to be tried and punished by a general court-martial for any offense which appears to have been committed more than one year before the issuing of the order for such trial, unless, by reason of having absented himself, or of some other manifest impediment, he shall not have been amenable to justice within that period.

Trial for desertion in time of peace.

No person shall be tried or punished by a court-martial for desertion in time of peace and not in the face of an enemy, committed more than one year before the arraignment of such person for such offense, unless he shall meanwhile have absented himself from the state, in which case the time of his absence shall be excluded in computing the period of the limitation: Provided, that said limitation shall not begin until the end of the term for which said person was mustered into the service.

Sentence must be approved.

Article 104. No sentence of a court-martial shall be carried into execution until the same shall have been approved by the officer ordering the court, or by the officer commanding for the time being.

Sentence confirmed by Governor.

Article 106. No sentence of a court-martial respecting a general officer, and no sentence of a court-martial directing the dismissal of any officer, shall be carried into execution until it shall have been confirmed by the governor.

How sentences are executed when confirmation is not required by Governor.

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

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

Power to
pardon or
mitigate
punishment.

Article 115. A court of inquiry to examine into the nature of any transaction of, or accusation or imputation against any officer or soldier may be ordered by the commander-in-chief; but such courts of inquiry shall never be ordered by any commanding officer except upon a demand by the officer or soldier whose conduct is to be inquired of.

Court of
inquiry may
be ordered.

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

Of whom
court of in-
quiry shall
consist.

Article 117. The recorder of a court of inquiry shall administer to the members the following oath: "You shall well and truly examine and inquire, according to the evidence, into the matter now before you, without partiality, favor, affection, prejudice or hope of reward. So help you God." After which the president of the court shall administer to the recorder the following oath: "You, A. B., do swear that you will, according to your best abilities, accurately and impartially record the proceedings of the court and the evidence to be given in the case in hearing. So help you God."

Oath of
members
of court
of inquiry.

—oath of
recorder.

Article 118. A court of inquiry and the recorder thereof shall have the same power to summon and examine witnesses as is given to courts-martial and the judge advocate thereof. Such witnesses shall take the same oath which is taken by witnesses before courts-martial and the party accused shall be permitted to examine and cross-examine them so as fully to investigate the circumstances in question.

Witnesses
may be
summoned.

—oath of
witnesses.

Article 119. A court of inquiry shall not give an opinion on the merits of the case inquired of unless specially ordered to do so.

Such court
shall give
no opinion.

Article 120. The proceedings of a court of inquiry must be authenticated by the signature of the recorder and the president thereof, and delivered to the adjutant general.

Proceed-
ings au-
thenticated.

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

Proceed-
ings admit-
ted as
evidence.

Article 128. The foregoing articles shall be read once in every twelve months to every company in the military service

Articles
read every
twelve
months.

CHAP. 207

of this state, and shall be duly observed and obeyed by all officers and soldiers in said service.

Customs and usage of the U. S. army and navy.

Section 133. All matters relating to the organization, discipline and government of the national guard and naval militia, not otherwise provided for in this chapter or in the general regulations, shall be decided by the custom and usage of the United States army and navy respectively.

Laws repealed.

Section 134. Of the laws enumerated in the following schedule, those portions specified in the last column are repealed:

Acts of	Chapter	Sections
1893	266	all, and all amendments thereto;
1899	46	all, and all amendments thereto;
1901	159, 167, and 233	all, and all amendments thereto.

The repeal of the law or any part of a law specified in the foregoing schedule shall not revive any law or part of a law thereby repealed, nor shall such repeal affect any act done or offense committed, or penalty, forfeiture, or punishment incurred or accrued prior to the time when this act takes effect, but the same may be enforced, prosecuted and inflicted as fully as if such act had not been repealed, and all proceedings, commenced under or by virtue of any law so repealed, may be continued and prosecuted to final effect as fully as they might be under the laws then existing.

Name of chapter.

Section 135. This chapter shall be known as the military law.

Approved April 2, 1909.

Chapter 207.

An Act relating to Life Insurance Companies doing Industrial Business giving special rates of premium to members of Lodges and Labor Unions.

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

Special rates of insurance to members of lodges, labor unions, etc.

Any life insurance company doing business on the industrial plan in this state may issue policies of life or endowment insurance, with or without annuity, with special rates of premiums, less than the usual rates of premiums, for such policies, to members of labor unions, lodges, beneficial societies or similar organizations, or employees of a single employer who, through their secretary or other officer or employer, may take out insurance in an aggregate of not less than one hundred members and pay their premiums through such officer or employer.

Approved April 2, 1909.