

# MAINE STATE LEGISLATURE

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# Acts and Resolves

As Passed by the

## Seventy-Eighth Legislature

OF THE

# STATE OF MAINE

1917

Including Acts and Resolves of the Special Session of the  
Seventy-Seventh Legislature held in 1916.

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Published by the Secretary of State, in accordance with the Resolves of the Legislature approved June 28, 1820, March 18, 1840, and March 16, 1842.

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THE LEWISTON JOURNAL CO.  
LEWISTON, MAINE  
1917

**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

As Passed by the Seventy-Eighth Legislature

**1917**

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be necessary to meet the requirements of the national government in order for the state to receive federal aid for highway construction, the state highway fund shall be expended equitably among the several counties of the state by the state highway commission.'

'**Sec. 37. Mill tax, how collected; fund not to be expended on business streets, etc.** This tax shall be assessed and collected in the same manner as other state taxes, and shall be paid to the state treasury and designated as the mill tax highway fund. No part of said mill tax highway fund shall be expended on that portion of a street devoted exclusively to business or on any street where the houses on each side of the street average less than twenty feet apart for a distance of one-half mile in cities or towns of over twenty-five hundred inhabitants.'

'**Sec. 38. Unexpended balances, disposition of.** All of said state highway fund not expended during the fiscal year, shall, at its close, be carried over to the state highway fund for the succeeding year and used for the construction of state highways. All of said state aid highway fund not expended during the fiscal year, shall, at its close, be added to the fund for maintenance and administration as provided in section thirty-three, chapter twenty-five of the revised statutes, and expended in accordance with the provisions of said section thirty-three.'

Approved April 7, 1917.

## Chapter 259.

An Act to Revise the Military Law.

**Preamble.** Whereas, owing to the present disturbed diplomatic relations, a revision of the military laws of Maine to conform with the requirements of the national laws governing the militia and national guard is an emergency measure immediately necessary for the preservation of the public peace, health or safety, now, therefore,

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

**Sec. 1. Composition of militia.** The militia of the State of Maine shall consist of all able-bodied male citizens of the state and all other able-bodied males who have or shall have declared their intention to become citizens of the United States, who shall be more than eighteen years of age, and, except as hereinafter provided, not more than forty-five years of age, and said militia shall be divided into three classes, the national guard, the naval militia, and the unorganized militia.

**Sec. 2. Composition of national guard.** The national guard shall consist of the regularly enlisted militia between the ages of eighteen and forty-five years organized, armed, and equipped as hereinafter provided, and of commissioned officers between the ages of twenty-one and sixty-four years.

**Sec. 3. Exemption from military duty.** The vice-president of the United States; the officers, judicial and executive, of the government of the United

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States and of the several states and territories; persons in the military or naval service of the United States; custom-house clerks; persons employed by the United States in the transmission of the mail; artificers and workmen employed in the armories, arsenals, and navy yards of the United States; pilots; mariners actually employed in the sea service of any citizen or merchant within the United States, shall be exempt from militia duty without regard to age, and all persons who because of religious belief shall claim exemption from military service, if the conscientious holding of such belief by such person shall be established under such regulations as the President shall prescribe, shall be exempted from militia service in a combatant capacity; but no person so exempted shall be exempt from militia service in any capacity that the President shall declare to be non-combatant.

**Sec. 4. Enrollment.** All male citizens who are more than eighteen and less than forty-five years of age, excepting idiots, lunatics, paupers, vagabonds, habitual drunkards, and persons convicted of infamous crimes, and who are resident in this state, shall, whenever the governor may deem necessary, 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 three 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 forthwith; and each clerk shall, within ten days, make a certified statement of the total number enrolled, the number marked exempt, the number belonging to the active militia and the number marked disabled, and forward the same to the office of the adjutant general. 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.

**Sec. 5. Refusal to give information a misdemeanor.** 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.

**Sec. 6. Failure of assessors to perform duty.** 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 four, shall be guilty of a misdemeanor. Upon the failure of the assessors to make the enrollment of the militia as required by

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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.

**Sec. 7. Commander in chief.** 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.

**Sec. 8. Staff.** 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, the senior officer on duty with each of the staff departments, and four aides-de-camp, with the rank of captain, and one naval aide with the rank of lieutenant. All officers must be at the time of their appointment, commissioned officers in the Maine National Guard, 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. The four aides-de-camp and naval aide may be detailed from the commissioned officers of the national guard or naval militia of the grade above specified, but officers so detailed shall not be relieved thereby from their regular duties in the national guard or naval militia except when on duty with the commander-in-chief. Officers of the staff of the commander-in-chief excepting the senior officer on duty in each of the staff departments and detailed aides-de-camp shall be appointed and commissioned by the governor and shall hold office during his pleasure and until their successors are appointed and qualified.

#### Calling Out of Militia.

**Sec. 9. Purposes and procedure.** 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 tempests, the governor shall have the power to order into the active service of the state any part of the national guard that he may deem proper. And whenever the national guard 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 national guard or such part thereof as may be required; and if the number available be insufficient he shall order out the unorganized 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.

**Sec. 10. Unorganized militia.** Whenever it shall be necessary to call into active service the unorganized militia, or any part thereof, the governor shall direct his order to the chief municipal officer of any city, town or plantation, who, upon receipt of the same, shall proceed to draft by lot, as many

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of the unorganized 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.

**Sec. 11. Persons failing to respond, deemed deserters.** Every member of the national guard ordered out, and every member of the unorganized 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.

**Sec. 12. Unorganized militia to be mustered into service.** Whenever any portion of the unorganized militia is called forth under the constitution and laws of the United States, the members thereof shall be immediately mustered into the service for such period as the call may prescribe; and whenever any portion of such unorganized militia shall be ordered into the service of the state they shall be mustered into the service for such period as the governor may direct. Such unorganized 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 unorganized militia.

**Sec. 13. Governor may proclaim state of insurrection.** Whenever any portion of the national guard 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.

**Sec. 14. Governor to issue orders.** Whenever unorganized 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.

**Sec. 15. When called by president.** 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 enlisted man of the national guard shall be liable to service beyond the term of his existing enlistment.

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**Sec. 16. Members of militia not personally liable; defense.** 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.

**Adjutant General.**

**Sec. 17. Rank, powers and duties.** 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.

(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 militia and of the business transactions of the department, including a detailed statement of expenditures for all military purposes.

(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 equip-



ping 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.

(d) He shall cause to be turned 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.

(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 national guard 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 United States property and disbursing officer or 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 national guard and portions of the unorganized militia called into active service.

(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 national guard 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.

(g) He may, upon approval of the governor, sell for cash to officers of the national guard, for their official use, and to organizations of the national guard, any military or naval property which is the property of the state; and he 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.

Whenever the adjutant general is absent from the state or is unable from any cause to perform his duties, the senior officer on duty in the adjutant general's department or an officer of the national guard present for duty in the state designated by the governor shall during his absence or disability perform the duties of the adjutant general.

**Sec. 18. Bond.** 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.

#### **Property and Disbursing Officer.**

**Sec. 19. Apportionment and duties.** The governor shall designate, subject to the approval of the secretary of war, an officer of the national guard who shall be regarded as property and disbursing officer for the United States. He shall receipt and account for all funds and property be-

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longing to the United States in the possession of the national guard and shall make such returns and reports concerning the same as may be required by the secretary of war. When, upon requisition of the governor, the secretary of war pays to the property and disbursing officer so much of the allotment out of the annual appropriation for the support of the national guard as may be necessary for the purposes enumerated therein, he shall render through the war department such account of federal funds entrusted to him for disbursement as may be required by the treasury department.

**Sec. 20. Responsibility for United States military property.** The United States property and disbursing officer shall under the direction of the adjutant general sign requisitions for, receipt for, and be responsible for the care, preservation and repair of all military property belonging to the United States issued for use of the national guard. He shall under such regulations as may be prescribed issue such United States property as may be necessary to arm, uniform and equip the several organizations of the national guard, according to the standard required by the laws and regulations of the United States.

**Sec. 21. Bond.** The property and disbursing officer shall give a bond to the United States, the amount thereof to be determined by the secretary of war, for the faithful performance of his duties and for the safe-keeping and proper disposition of federal property and funds entrusted to his care and the costs and expenses incurred by entering into such bond shall be paid out of the military fund.

**Duties of Administrative Staff.**

**Sec. 22 Inspector general.** The inspector general whenever ordered by the governor shall make an inspection and a detailed report upon the armories, property, books, records, financial condition, and the various organizations of the active militia, and such other duties as the adjutant general may direct or the law require, and submit to the adjutant general a report of the transactions of his office by the fifteenth of December annually.

**Sec. 23. Senior ordnance officer.** The senior ordnance officer shall from time to time submit to the adjutant general requisitions for ordnance property, equipment, and accoutrements and range and target material, which requisition when approved by the adjutant general, and submitted to and signed by the United States property and disbursing officer shall if they be for material issued to the state by the ordnance department be forwarded to that department for supply, and if they be for material not so issued, then by direction of the adjutant general and in the manner prescribed in section thirty-one, 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 or-

ganizations are armed and equipped as prescribed or as may hereafter be prescribed by the war department.

He shall be the inspector of and shall exercise general supervision over the small-arms practice of the national guard. Whenever ordered by the governor it shall be his duty to make an 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.

**Sec. 24. Chief surgeon.** The chief surgeon, under the direction of the adjutant general and in the manner prescribed in section thirty-one, shall purchase and direct the issue of all medical supplies and equipment not issued by the United States through the property and disbursing officer, 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 quantities needed to equip the national guard in the manner prescribed by the war department, and transmit the same to the adjutant general; and he shall make to the adjutant general a detailed report of transactions of his office and of the condition and quantity of medical supplies on hand, on the fifteenth day of December annually.

**Sec. 25. Senior officer quartermaster corps.** The senior officer of the quartermaster corps shall, under the direction of the adjutant general, purchase and issue in the manner prescribed in section thirty-one, such subsistence stores and property as are not issued by the United States, certify all bills therefor as correct and transmit them to the adjutant general; he shall make a detailed report of the transactions of his office to the adjutant general on the fifteenth day of December annually.

**Sec. 26. Judge advocate.** The judge advocate 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.

**Sec. 27. Attorney general of state legal adviser.** The attorney general of the state shall be the legal adviser of the governor, of the adjutant general, and of the armory commission.

**Sec. 28. Appointment of staff officers.** In time of war, insurrection, invasion or rebellion, or of imminent danger thereof, the governor may ap-

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point such staff officers and create such chiefs of staff departments as may be necessary to provide for an increased national guard 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 department or corps and appointments to fill vacancies thus created shall be made as herein-after prescribed. Provided further, that in time of peace, whenever the formations of the national guard shall require it, the governor may organize such additional departments as are thereby made necessary, and whenever such new departments are organized the senior officer on duty with the new staff department shall be ex-officio a member of the governor's staff.

**Sec. 29. Duties of staff officers.** 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.

**Sec. 30. Qualifications of staff officers.** Staff officers, including officers of the pay, inspection, subsistence and medical departments, shall, when appointed, have had previous military experience and shall hold their positions until they reach the age of sixty-four years, unless retired prior to that time by reason of resignation, disability or for cause to be determined by a court-martial legally convened for that purpose, and all vacancies among said officers shall be filled by appointment from the officers of the national guard.

**Purchase of Military Property.**

**Sec. 31. Procedure by purchasing officer.** 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 into 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 law, 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.

**Sec. 32. Officer not to be personally interested.** 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.

**Sec. 33. Property purchased to be inspected.** 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.

**Sec. 34. Penalty for contracting indebtedness on behalf of state without authorization.** 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.

#### Organization of National Guard.

**Sec. 35. Regulation prescribed by commander-in-chief.** 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 national guard; and the commander-in-chief is hereby authorized and it shall be his duty 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 national guard 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 national guard; 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.

**Sec. 36. Brigades.** 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-three, to command the same.

**Sec. 37. New organizations.** 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 officers; 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.

### Staff Departments.

**Sec. 38. Enumeration.** There shall be the following departments consisting of officers and enlisted men of number and rank specified necessary for the maintenance of the administrative staff of the national guard, namely: Adjutant general's department, one major; inspector general's department, one major; judge advocate general's department, one major; quartermaster corps, one major, two captains, five sergeants first class, five sergeants, ten privates first class, and privates, two cooks; ordnance department, one major, two sergeants, three privates first class; medical department, one major, one first lieutenant or captain, one sergeant, four privates and privates first class.

**Sec. 39. Medical department, composition.** The medical department of the national guard shall consist of a medical corps, a medical reserve corps, a dental corps and an enlisted force. The medical corps shall consist of the officers necessary for the administrative staff, for service with the regiments, separate battalions and coast 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 proper complement for the national guard by the orders of the war department, or by the laws and regulations of the United States governing the national guard; 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 national guard.

**Sec. 40. Medical reserve corps; rank and duties.** For the purpose of securing competent medical practitioners to conduct the physical examination of applicants for enlistment and to render medical service to any organization when so ordered by the commander-in-chief, the governor is authorized to issue commissions as first lieutenants of the medical reserve corps to such active licensed practitioners of medicine and surgery in this state 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 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 in examining recruits or under orders from the commander-in-chief. 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 active militia; provided, that any officer of the medical reserve corps who fails to perform his duty as herein described shall forfeit his commission and not be eligible to re-appointment.

Officers of the medical reserve corps when called into or engaged in active duty shall be subject to all the laws, regulations, and orders for the govern-

ment 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 of first lieutenants of the medical corps.

**Sec. 41. Dental surgeons; qualifications, rank, etc.** The governor is authorized to appoint dental surgeons who are citizens of the United States between the ages of twenty-one and twenty-seven years at the rate of one for each one thousand enlisted men of the national guard. Dental surgeons shall have the rank and pay of first lieutenants until they shall have completed eight years' service. Dental surgeons of more than eight but less than twenty-four years' service shall, subject to such examination as may be prescribed, have the rank and pay of captain.

**Sec. 42. Enlisted force medical department.** The enlisted force of the medical department shall consist of master hospital sergeants, hospital sergeants, sergeants first class, sergeants, corporals, cooks, horse shoers, saddlers, farriers, mechanics, 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 national guard.

Enlistments in the medical department and the appointment of non-commissioned officers therein shall be as prescribed in regulations promulgated by the secretary of war.

**Sec. 43. Chaplains.** The governor is authorized to appoint chaplains in the national guard at the rate of not to exceed one for each regiment with the rank, pay and allowances authorized by law and regulations of the war department for chaplains in the regular army.

**Sec. 44. Civilian cooks.** 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.

#### Naval Militia.

**Sec. 45. Composition.** The organizations forming the naval militia 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 militia of this state.

**Sec. 46. Organization by commander-in-chief; drill, discipline, etc.** The commander-in-chief may organize the forces prescribed in the preceding

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section as he may deem proper; and when in his judgment the efficiency of the naval militia 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 militia 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.

The system of administration, drill and instruction of the naval militia 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 militia 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.

**Sec. 47. Compensation.** The pay of officers and petty officers of the naval militia 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 a battalion 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 shall be allowed a sum not exceeding fifty dollars per annum for the care and responsibility of public property for which he is accountable; the executive officer of a battalion, each division clerk and the third class yeoman of each division shall receive for their services a sum not exceeding twenty-five dollars per annum.

**Sec. 48. Authority of officers.** Commissioned officers of the naval militia 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 militia shall consist of at least one commissioned officer of the naval militia, active or retired. The commanding officer of a battalion 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 militia in like manner.

**Commissioned Officers.**

**Sec. 49. Form of oath.** Persons hereafter commissioned as officers of the national guard shall be selected from the following classes:

Officers or enlisted men of the national guard, officers of the reserve or unassigned list of the national guard, officers active or retired and former officers of the United States army, navy and marine corps, graduates of the



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United States military and naval academies and graduates of schools, colleges and universities where military science is taught under the supervision of an officer of the regular army and for the technical branches and staff corps or departments, such other civilians as may be especially qualified for duty therein, shall take and subscribe to the following oath of office:

"I, \_\_\_\_\_, do solemnly swear that I will support and defend the constitution of the United States and the constitution of the State of Maine, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and of the governor of the State of Maine; that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of \_\_\_\_\_ in the national guard of the United States and of the State of Maine upon which I am about to enter, so help me God."

**Sec. 50. Examination.** No person shall be commissioned as an officer of the national guard unless he first shall have successfully passed such tests as to his physical, moral, and professional fitness as the president shall prescribe. The examination to determine such qualifications for commission shall be conducted by a board of three commissioned officers appointed by the secretary of war from the regular army or the national guard, or both.

**Sec. 51. Qualifications.** 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.

**Sec. 52. Rank and precedence.** 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 militia, 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.

#### Election and Appointment of Commissioned Officers.

**Sec. 53. Manner of elections and appointments; vacancies, etc.** 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 the respective regiments or corps; captains and subalterns by the written votes of the members of their respective companies; subject to the age limit

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prescribed in section two, this act. Provided, 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 or 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. 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 men whom 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.

**Sec. 54. Call to be issued by adjutant general; presiding officer, canvass, etc.** 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.

**Election may be adjourned.** 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

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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.** 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.

**Failure to accept.** 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; 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.

**Sec. 55. Vacancies.** 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 in the next lower grade of said department or corps. Vacancies occurring in the lowest grades thereof shall be filled in the following manner:

**Governor to fill vacancies in medical department.** In the medical department appointments shall be made by the governor upon the recommendation of a board of examination consisting of three officers of the medical corps. Such boards of examination shall be convened by general orders from the adjutant general's office, which orders shall indicate the number of vacancies to be filled, and any active licensed practitioner of medicine and surgery in this state and who is physically sound shall be permitted to appear for examination.

Provided, further, that persons hereafter commissioned in the medical corps shall be citizens of the United States between the ages of twenty-two and thirty years and shall be promoted to the grade of captain upon the completion of five years' service in the medical corps and upon passing the examinations prescribed by the President for promotion to the grade of captain in the medical corps.

**Vacancies in staff department.** In all other staff departments and corps any vacancy shall be filled by the appointment thereto of any commissioned officer in the national guard.

**Brigades, regiments and separate battalions; appointment of staff officers.** Commanding officers of brigades, regiments and separate battalions shall appoint their respective staff officers subject to the provisions of sections forty-nine, fifty and fifty-one of this act.

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

**Sec. 56. Examination for second lieutenant prescribed by governor.** The governor may prescribe a system of examination to determine the

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enlisted men best qualified for appointment to the grade of second lieutenant as prescribed in section fifty-three, and the best qualified applicant for appointment to the lowest grade in the medical corps as prescribed in section fifty-five.

**Sec. 57. Examination of all officers of militia prescribed by president.**

The President shall prescribe a system of examination of all officers of the militia to determine their physical, moral, professional and general fitness for promotion or for appointment, such examination to be conducted, if practicable, prior 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 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 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 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 that no candidate will be examined, whose examination has not been authorized by the secretary of war; who is not a citizen of the United States or has not declared his intention of becoming such; who, in the judgment of the board, is not physically qualified to discharge all the duties of an officer in active service; who has any mental infirmity; whose moral fitness has not been clearly established; who is less than twenty-one years of age or who being designated for commission other than by promotion, as second lieutenant, shall be more than thirty; as first lieutenant more than thirty-five; as captain, more than forty; as major, more than forty-five; as lieutenant colonel, more than fifty; as colonel, more than fifty-five; or as a general officer more than sixty years old.

**Sec. 58. Brevet commission conferred by governor.** 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 recommended, upon any officer of the national guard or naval militia 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.

**Sec. 59. Officers may be discharged for inefficiency.** At any time the moral character, capacity, and general fitness for the service of any national guard officer may be determined by an efficiency board of three commissioned officers, senior in rank to the officer whose fitness for service shall be under investigation, and if the findings of such board be unfavorable to such officer and be approved by the official authorized to appoint

such an officer, he shall be discharged. Commissions of officers of the national guard may be vacated upon resignation, absence without leave for three months, upon the recommendation of an efficiency board, or pursuant to sentence of a court-martial. Officers of said guard rendered surplus by the disbandment of their organizations shall be placed in the national guard reserve. Officers may, upon their own application, be placed in the said reserve.

**Sec. 60. Retirement of officers.** Any officer who shall reach the age prescribed in section sixty-one shall be retired. Any officer who shall fail in a second examination as prescribed in section fifty-seven, accepts an appointment in the army, navy or marine corps of the United States, 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.

**Sec. 61. Withdrawal of officer from service.** 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-seven, shall be withdrawn from active service and placed on the retired list, with the highest rank held by him during service, provided that if at the time of his retirement he shall have served as a commissioned officer in the national guard for a continuous period of fifteen years he may be retired 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.

**Sec. 62. Removal without consent; officer entitled to hearing.** No commissioned officer in the national guard or naval militia shall be removed from office without his consent, except by sentence of a general court-martial or as provided in this chapter.

#### Enlistment In National Guard.

**Sec. 63. Term of service.** Hereafter the period of enlistment in the national guard shall be for six years, the first three years of which shall be in an active organization and the remaining three years in the national guard reserve, hereinafter provided for, and the qualifications for enlistment shall be the same as those prescribed for admission to the regular army; provided, that in the national guard the privilege of continuing in active service during the whole of an enlistment period and of re-enlisting in said service shall not be denied by reason of anything contained in this act.

**Sec. 64. Oath of allegiance.** Every person who enlists or re-enlists shall sign and make oath to an enlistment contract which shall contain the following oath of allegiance to the state and the United States:

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"I do hereby acknowledge to have voluntarily enlisted this day of \_\_\_\_\_, 19\_\_\_\_, as a soldier in the national guard of the United States and of the State of Maine, for the period of three years in service and three years in the reserve, under the conditions prescribed by law, unless sooner discharged by proper authority. And I do solemnly swear that I will bear true faith and allegiance to the United States of America and to the State of Maine, and that I will serve them honestly and faithfully against all their enemies whomsoever, and that I will obey the orders of the President of the United States and of the Governor of the State of Maine, and of the officers appointed over me according to law and the rules and articles of war."

Such oath shall be taken and subscribed to before a commissioned officer of the national guard and all such commissioned officers are hereby authorized to administer such oaths 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 national guard. A person making a false oath as to any statement contained in such enlistment paper shall upon conviction be deemed guilty of perjury.

**Sec. 65. Qualifications.** Any male citizen of the United States and of the State of Maine or person who has legally declared his intention to become a citizen, if above the age of eighteen and under the age of forty-five years, able bodied, free from disease, of good character and temperate habits, who is not exempt by law, may be accepted for enlistment in the national guard, with the exceptions hereinafter stated. The restrictions as to maximum age shall not apply to soldiers who have served honorably and faithfully a previous enlistment in the regular army, organized militia or national guard.

**Sec. 66. Exceptions.** The enlistment in the national guard of persons of any of the following classes is prohibited: Insane or intoxicated persons, deserters from the military or naval service of the United States, persons who have been convicted of a felony or who have been imprisoned under sentence of a court in a reformatory, jail or penitentiary, persons who cannot speak, read and write the English language and former soldiers of the regular army or national guard whose service during the last preceding term of enlistment has not been honest and faithful.

**Sec. 67. Further exceptions.** The following classes of persons are also prohibited from enlisting in the national guard: Persons drawing a military pension from the United States or from any state, members of the regular army reserve, the officers' reserve corps, the reserve officers' training corps and the enlisted reserve corps.

The enlistment of a minor under the age of eighteen years with or without parental consent is prohibited. Should a minor under the age of eighteen enlist by falsely representing himself to be over that age, he will render himself liable to punishment for fraudulent enlistment. Parental consent is not necessary for the enlistment of a minor whose age is eighteen years or over and such consent will not be recognized or accepted.

**Sec. 68. Re-enlistment of persons forty-five years of age and 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.

**Sec. 69. Transfers.** 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 lines and the medical department, as may be for the best interests of the service, and to provide regulations therefor.

**Sec. 70. Non-commissioned and petty officers.** General, 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 militia shall be appointed, promoted, reduced, and warranted in such manner as the commander-in-chief may prescribe.

**Sec. 71. Procedure when enlisted man removes from vicinity of armory.** Any enlisted man, who shall remove his residence to such distance from the armory of his organization as to render it impossible for him to perform his duties properly shall be transferred to another organization, furloughed to the reserve, dropped as a deserter or discharged, as shall be prescribed in regulations from the war department.

**Sec. 72. Physical examination.** The physical examination of all applicants for enlistment or re-enlistment will be conducted by an officer of the medical corps, active or reserve, of the national guard designated by the governor, and will be in accordance with the authorized rules and regulations for examining recruits for the regular army.

**Sec. 73. Discharge.** No enlisted man shall be discharged from the service of the national guard without a certificate of discharge in such form and with such classification as is or shall be prescribed for the regular army and in time of peace an enlisted man will not be discharged before the expiration of his period of enlistment except as prescribed by regulations of the war department for the government of the national guard.

#### National Guard Reserve.

**Sec. 74. Organization.** Subject to such rules and regulations as the president may prescribe, a national guard reserve shall be organized and shall consist of such officers and enlisted men as have been transferred and furloughed respectively from the active organizations of the national guard.

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Except in time of war the national guard reserve shall not be organized into tactical or other units except for temporary purposes during field or coast defense training, and enlistments will not be made for the national guard reserve.

**Sec. 75. Privileges.** Officers and enlisted men of the national guard reserve may upon their own request be authorized to attend the armory instruction of active organizations and upon approval of the secretary of war may attend camps with active organizations of the national guard for not to exceed fifteen days each year for field or coast defense training, but when so engaged they shall not be counted as forming any part of the minimum strength required by the war department for the attendance of active organizations.

**Sec. 76. Duties and compensation.** Officers and enlisted men of the national guard reserve when engaged in field or coast defense training with active organizations will be attached thereto or organized into provisional units as reservists. When engaged in field or coast defense training with active organizations, officers and enlisted men of the reserve while so engaged shall receive the same pay and allowances as officers and enlisted men of like grade of the active list of the national guard.

**Sec. 77. Certificate of merit.** Hereafter when any enlisted man of the national guard shall have distinguished himself in the service for gallantry or for long and meritorious service in the national guard or naval 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 organization 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.

**Sec. 78. United States army regulations to govern.** 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.

**Sec. 79. Special inspection.** 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 corps, or, in case of his disability or when designated by him, the lieutenant colonel, and each major com-



manding a battalion, to parade, inspect and report upon the general military efficiency of the several companies under his command at least once each year; 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 equipment of the national guard or naval militia.

**Sec. 80. Instruction and training.** 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 militia 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.

He shall have the power to order each company, troop, battery and detachment in the national guard to assemble for drill and instruction, including indoor target practice and in addition thereto to participate in encampments, maneuvers and other exercises, including outdoor target practice, as shall be prescribed by laws and regulations of the war department. No parade or drill 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.

**Sec. 81. Aid of civil authorities.** 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 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 militia, 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.

**Sec. 82. Senior officers may order out forces under his command.** 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 a town, order out for the defense 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.

**Sec. 83. Certain places may be closed when national guard on duty.** Whenever any part of the national guard 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

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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.

**Sec. 84. Notices for duty.** Notices for duty at encampments, maneuvers and field instruction shall be given at least ten days prior thereto, and for other duty at such time as the officer issuing the order shall prescribe. Such notices 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 regulations are to be held have been fixed, no further notice thereof shall be required to the members of the company.

**Sec. 85. Prizes for marksmanship.** 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 militia 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 senior ordnance officer, 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.

**Sec. 86. Medal for honorable service.** Every officer and soldier who has rendered honorable service for nine years in the national guard of the state shall receive a service medal therefor and an additional bar or clasp for each additional three years' service.

**Sec. 87. Medal for perfect attendance.** Every officer or enlisted man of a company or sanitary detachment, who has a perfect record of attendance at every military duty for one year, shall receive a suitable medal therefor, and a bar or clasp for each additional year of perfect attendance, either continuous or otherwise.

**Sec. 88. Pay and allowance.** 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: All officers of staff departments and corps, irrespective of rank, five dollars; 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; master electrician, engineer, sergeant first class, medical department, regimental sergeant major, supply sergeant, sergeant major senior grade, ordnance sergeant, electrician sergeant first class, sergeant first class Q. M. corps, first sergeant, two dollars; battalion sergeant major, sergeant major junior

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grade, master gunner, sergeant bugler, one dollar and ninety cents; sergeant Q. M. corps and medical department, color sergeant, electrician sergeant second class, one dollar and eighty-five cents; sergeant, stable sergeant, supply sergeant, mess sergeant, cook, horseshoer, fireman, one dollar and seventy-five cents; mechanic (coast artillery), one dollar and sixty cents; corporal, saddler, mechanic (infantry), farrier, wagoner, one dollar and fifty cents; private first class, one dollar and forty cents; private, medical department, one dollar and thirty cents; private, bugler, one dollar and twenty-five cents; all band musicians, three dollars; and in addition thereto, there shall be allowed 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 encampments, maneuvers, field exercise or small arms competitions, or when called forth in aid of the civil authority, commissioned officers and enlisted men shall receive the same pay as officers and enlisted men of the same grade in the regular army.

When the national guard, or any portion thereof, shall be called forth in aid of the civil authority, or assembled in obedience to such calls, as provided for in sections eighty-one and eighty-two, 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 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.

**Sec. 89. Special allowances.** In addition to all other pay and allowances herein provided there shall be allowed each company commander or other officer who in the opinion of the adjutant general is entitled to remuneration for care and responsibility of military property, not exceed-

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ing fifty dollars per annum; each company clerk, and 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 expense 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 commutation of rations for enlisted men, which shall be at the rate fixed by the regulations of the United States Army 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.

**Sec. 90. Approval and payment of military accounts.** 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 state auditor, 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; and provided further that whenever the governor shall deem it necessary he may draw his warrant on the state treasurer in favor of the paymaster general for such sums from the military fund or the appropriation for the support of the naval militia as may be required to meet immediate payments for current expenditures, such funds to be accounted for separately on a monthly account current to be filed with the state auditor and any unused balance to be covered into the state treasury whenever directed by the governor.

**Sec. 91. The military fund.** For the purpose of raising revenue to defray the current expenses of the national guard and naval militia there shall be appropriated annually from any money in the treasury not otherwise appropriated the sum of forty-five thousand dollars, of which sum at least five thousand dollars or so much thereof as may be necessary shall be appropriated by the paymaster general for the support of the naval militia. 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 ninety.

**Sec. 92. Claims for disability.** Any member of the national guard or naval 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-eight, 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 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 for 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 an 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 rights 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

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the extent approved by him, shall be a charge against and be paid in the manner provided in section eighty-eight 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.

**Armories and Rifle Ranges.**

**Sec. 93. Drill room and armory to be provided by municipal officers.** It shall be the duty of municipal officers to provide and maintain for each platoon or company of the national guard or naval militia located within the limits of their respective towns a suitable drillroom, offices and armory, or place of deposit of all military property, 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 drillrooms, armories and headquarters offices, shall be determined by the armory commission. A reasonable compensation shall be fixed by the armory commission, after hearing and consulting with the responsible municipal officers, for each company, other organization, band or separate headquarters and 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 appropriation for armory rental, and to carry out the provisions of this section the sum of twelve thousand, five hundred dollars for the year nineteen hundred and seventeen and thereafter the sum of fifteen thousand dollars annually is hereby appropriated from any money in the treasury not otherwise appropriated, payment to be made by the treasurer of the state upon vouchers manifested by the armory commission to the state auditor.

**Sec. 94. Target ranges.** It shall be the duty of municipal officers to provide for organizations of the national guard located within the limits of their respective towns a suitable target range, except where such range shall be provided out of the funds 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 senior officer in the ordnance department 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, including Sundays, subject to the approval of the adjutant general.

**Sec. 95. Failure of municipal officers to comply; penalty.** 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 ninety-three, 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 ninety-four, 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.

**Sec. 96. Municipalities to raise money by taxation.** 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 national guard and naval 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 national guard and naval 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.

**Sec. 97. Exemption from taxation.** All armories, drill-rooms, offices, headquarters offices, and target ranges, owned by the state or by any municipality, or by any organization of the national guard and all buildings and lands leased by the state, or by any municipality, or by an officer or organization of the national guard, 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.

**Sec. 98. National guard to have exclusive use.** 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 national guard 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-five.

**Sec. 99. Armory commission.** The adjutant general, together with two officers of the line of the national guard 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

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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 officers, 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-five. For each day actually employed in the transaction of the business of the armory commission military members other than the adjutant general shall receive the pay of their rank as provided in section eighty-eight and civilian members shall receive as compensation the sum of five dollars; and all members shall be reimbursed for actual travelling expenses, such accounts to be paid from the military fund in accordance with the provisions of section ninety.

**Sec. 100. State armories.** 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 national guard or naval 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; and provided further that when any building is turned over to the state for use as an armory or drill shed the armory commission shall be authorized to approve for payment from the appropriation for armory rentals such sums as may be necessary for the upkeep of such building including repairs, furnishings, light, heat, water and janitor service.

**Sec. 101. Erection of buildings upon donated lands.** Whenever the military fund shall be sufficient to warrant such expenditures, the armory commission may, with the approval and by the 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.

**Courts-Martial.**

**Sec. 102. Classes, jurisdiction, etc.** Courts-martial in the national guard shall be of three kinds, namely, general courts-martial, special courts-martial, and summary courts-martial. They shall be constituted, and have cognizance of the same subjects and possess like powers, except as to punishments, as similar courts provided for by the laws and regulations governing the army of the United States, and the proceedings of courts-martial of the national guard shall follow the forms and modes of procedure prescribed for said similar courts.



**Sec. 103. Rules of evidence.** 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.

**Sec. 104. Warrants and rights of accused.** Presidents of courts-martial and summary court officers shall have power to issue, in the name of the state, warrants directing any sheriff or constable to arrest accused persons and bring them before the court for trial, and 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 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.

**Sec. 105. Summoning of witnesses.** Presidents of courts-martial and any summary court officer shall have power to summon the necessary witnesses for the trial of cases and for that purpose shall have power to issue, in the name of the state, all necessary subpoenas and subpoenas deces tecum. They shall have power to issue the like processes to compel witnesses to appear and testify which courts of criminal jurisdiction within this state may lawfully issue. Such writs and processes may be directed to any sheriff or constable whose duty it shall be to serve or execute such writ and process 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 the courts-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 misdemeanors 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 by statute for witnesses 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.

**Sec. 106. Jurisdiction.** All courts-martial of the national guard including summary courts shall have power to sentence to confinement in

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lieu of fines authorized to be imposed; provided, that such sentence of confinement shall not exceed one day for each dollar of fine and costs authorized.

All processes, warrants and sentences of courts-martial shall be executed by civil officers in this state the same as like precepts of the supreme judicial court are executed in the state and all such processes, warrants and sentences when issued by any courts-martial shall extend to any part of the state.

**Sec. 107. Confinement.** When the sentence of a courts-martial adjudges a fine and costs against any person, and such sentence has been approved as provided in article forty-six, section one hundred and forty of this act, 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 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 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. The costs of arrest and commitment in all courts-martial proceedings shall be the same as is prescribed in revised statutes of this state for such service in the courts of this state and shall be paid by the adjutant general from the military fund on presentation of all papers or copies of papers showing the service thereon; such papers and copies to be certified as correct by the judge advocate or summary court.

**Sec. 108. Discretionary penalty.** Whenever by any of the articles of section one hundred and forty the punishment on conviction of any military offense is left to the discretion of the courts-martial, the punishment shall not exceed, in the case of officers, dismissal from the service; forfeiture of all pay and allowances; a reprimand; a fine of two hundred dollars and cost; and in the case of enlisted men, dishonorable discharge from the service; reduction of non-commissioned officers to the ranks; to forfeiture of six months pay and allowance; a fine of one hundred dollars and costs. 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.

**Sec. 109. Jurisdiction presumed.** 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.

No action or proceeding shall be prosecuted or maintained against a member of the military forces of this state or officer or person, acting

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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.

**Sec. 110. Oaths, by whom administered.** Officers of the judge advocate general's department, judge advocates of courts-martial, and summary court officers, are hereby authorized to administer oaths for the purpose of military administration, and shall charge no fee for the same.

**Sec. 111. Reports to be made to adjutant general.** Each summary court and the judge advocate of each special 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 the penalty awarded, which reports may be destroyed when no longer of use.

**Sec. 112. Applicable to naval militia.** The provisions in regard to courts and boards established by this act shall apply, so far as apposite, to the naval militia.

#### Training of National Guard.

**Sec. 113. Time to be devoted to drill, etc.** Each company, troop, battery, and detachment in the national guard shall assemble for drill and instruction, including indoor target practice, not less than forty-eight times each year, and shall, in addition thereto, participate in encampments, maneuvers, or other exercises, including outdoor target practice, at least fifteen days in training each year, including target practice, unless such company, troop, battery, or detachment shall have been excused from participation in any part thereof by the secretary of war; provided, that credit for an assembly for drill or for indoor target practice shall not be given unless the number of officers and enlisted men present for duty at such assembly shall equal or exceed a minimum to be prescribed by the governor, nor unless the period of actual military duty and instruction participated in by each officer and enlisted man at each such assembly at which he shall be credited as having been present shall be of at least one and one-half hours' duration and the character of training such as may be prescribed by the governor or secretary of war.

**Sec. 114. Commanding officers at encampments, etc.** When any part of the national guard participates in encampments, maneuvers, or other exercises, including out-door target practice, for field or coast-defence instruction at a United States military post, or reservation, or elsewhere, if in conjunction with troops of the United States, the command of such military post or reservation and of the officers and troops of the United States on duty there or elsewhere shall remain with the commander of the United States troops without regard to the rank of the commanding or other officer of the national guard temporarily engaged in the encampments, maneuvers, or other exercises.

### Uniforms, Arms and Equipment.

**Sec. 115. Uniforms.** The uniform, arms and equipment of the national guard 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, as is or may hereafter be prescribed or provided by the laws and regulations of the United States for the national guard, and no member or organization of the national guard shall adopt, use or wear in the military service of the state any other uniform, arms, or equipment.

**Uniform of commissioned officers.** All commissioned officers shall provide themselves with such uniforms, arms, and equipments as are required of commissioned officers of the regular army and the adjutant general may purchase and issue as state property on memorandum receipt or sell for cash to commissioned officers such articles of arms, uniforms and equipment as he may deem necessary.

**Exemption from attachment.** 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.

**Sec. 116. Uniform not to be worn by unauthorized persons.** Every person, other than an officer or enlisted man of the national guard 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 or the boy scouts of America who at any time wears the uniform of the United States army or navy or national guard 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 three hundred dollars, or by imprisonment in the county jail not exceeding six months, 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 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 national guard 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 national guard is in service.

**Sec. 117. Equipment not to be sold.** The clothes, arms, military outfits, and accoutrements furnished by or through the state to any member of the national guard 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 outfit, 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.

**Sec. 118. Penalty for sale of equipment.** 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 national guard, 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.

**Sec. 119. Repair of equipment.** 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 national guard; and when the necessity of such repair, cleansing, or renovation is due to the fault or negligence of any member of the national guard, 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.

**Sec. 120. Inspection and condemnation.** The inspector general or such other military 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.

**Sec. 121. State equipment; obsolete patterns may be issued to municipalities.** 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; provided, however, that upon order of the governor and council, the quartermaster general is authorized to issue to the municipal officers of any city or town field ordnance of obsolete pattern under such regulations as the governor and council may prescribe. 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

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governor or other proper authority. Each officer accountable for state or federal property issued to him for use of an organization of the national guard shall be required to give a bond to the adjutant general of the State of Maine in the sum of one thousand dollars, conditioned on the safekeeping and return, when called for, of all such state and federal property in good condition, reasonable wear and tear excepted, and the expenses incurred by entering into such bond shall be paid for from the military fund.

**Sec. 122. Destruction of equipment.** 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 military 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.

**General Provisions.**

**Sec. 123. Exemption from arrest.** Every person belonging to the national guard 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.

**Sec. 124. Exemption from jury duty.** Every member of the national guard, 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 national guard, or 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.

**Sec. 125. Voluntary service.** No organization of the national guard shall perform any voluntary military service except as authorized by this act or by the express orders of the governor.

**Sec. 126. Permission to leave or enter state.** No organization of the national guard 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 governor.

**Sec. 127. Other military organizations prohibited.** No body of men, other than the national guard 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 drillrooms or armories for any such body of men; but associations wholly composed of soldiers and sailors 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.

**Sec. 128. Right of way.** The commanding officer of any portion of the national guard 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 national guard, 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 national guard whenever parading or performing any military duty, or who shall attempt so to do, shall be guilty of a misdemeanor.

**Sec. 129. Bounds and limits of camps.** 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 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.

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**Sec. 130. Depriving members of employment.** Any person who, either by himself or with another, wilfully deprives a member of the national guard or naval militia of his employment, or prevents his being employed by himself or another, or obstructs or annoys said member of said national guard or naval militia or his employer in respect to his trade, business, or employment, because said member of said national guard or naval militia is such member, or dissuades any person from enlisting in the said national guard or naval militia by threat of injury to him in case he shall so enlist, in respect to 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.

**Sec. 131. Discrimination against members.** 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 militia because of such membership, in respect of the eligibility of such member of the national guard or naval militia 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 militia 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.

**Sec. 132. Molestation of members.** Whoever shall unlawfully molest, insult, or abuse any member of the national guard or naval militia, 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.

**Sec. 133. Prosecution of offenses before civil courts.** 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.

**Sec. 134. Neglect of civil officers to perform duties imposed on them.** Civil officers named in this chapter, neglecting or refusing to obey its provisions, shall be guilty of a misdemeanor.

**Sec. 135. Company by-laws.** Companies of the national guard may make by-laws, subject to the written approval of the adjutant general, not repugnant to law, orders, regulations, and fix a sum to be paid by any mem-



ber of such company for non-compliance therewith not exceeding five dollars. Any member who fails to pay such sums 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 forfeiture resulting therefrom shall be paid into the company treasury.

**Sec. 136. National Guard Association.** The commissioned officers of the national guard 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 the 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.

**Sec. 137. Regulations.** 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 regulations published by the militia bureau of the war department for the government of the national guard of the United States, 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.

**Sec. 138. When subject to laws governing regular army.** The national guard when called as such into the service of the United States shall, from the time they are required by the terms of the call to respond thereto, be subject to the laws and regulations governing the regular army, so far as such laws and regulations are applicable to officers and enlisted men whose permanent retention in the military service, either on the active list or on the retired list, is not contemplated by existing law.

**Sec. 139. Rules governing militia not in Federal service when called out by governor.** 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.

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**Rules and Articles Governing National Guard.**

**Sec. 140.** Except as provided in the preceding sections the officers and soldiers of any troops whether national guard or unorganized militia of this state or otherwise, appointed, enlisted, mustered or drafted into the military forces of this state, shall, at all times, and in all places, be governed by the following rules and articles and shall be subject to be tried by courts-martial.

**1. PRELIMINARY PROVISIONS.**

**Art. 1. Definitions.** The following words when used in these articles shall be construed in the sense indicated in this article, unless the context shows that a different sense is intended, namely:

- (a) The word "officer" shall be construed to refer to a commissioned officer;
- (b) The word "soldier" shall be construed as including a non-commissioned officer, a private, or any other enlisted man;
- (c) The word "company" shall be understood as including a troop or battery; and
- (d) The word "battalion" shall be understood as including a squadron.

**Art. 2. Persons subject to military law.** The following persons are subject to these articles and shall be understood as included in the term "any person subject to military law," or "persons subject to military law," whenever used in these articles:

- (a) All officers and soldiers belonging to the national guard of the State of Maine; all volunteers, from the dates of muster or acceptance into the military service of the State of Maine; and all other persons lawfully called, drafted or ordered into, or to duty or for training in, the said service, from the dates they are required by the terms of the call, draft, or order to obey the same;
- (e) All persons under sentence adjudged by courts-martial.

**II. COURTS-MARTIAL.**

**Art. 3. Courts-martial classified.** Courts-martial shall be of three kinds, namely:

- First, general courts-martial;
- Second, special courts-martial; and
- Third, summary courts-martial.

**A. Composition.**

**Art. 4. Who may serve on courts-martial.** All officers in the military service of the Maine national guard shall be competent to serve on courts-martial for the trial of any persons who may lawfully be brought before such courts for trial.

**Art. 5. General courts-martial.** General courts-martial may consist of any number of officers from five to thirteen, inclusive; but they shall not

consist of less than thirteen, when that number can be convened without manifest injury to the service.

**Art. 6. Special courts-martial.** Special courts-martial may consist of any number of officers from three to five, inclusive.

**Art. 7. Summary courts-martial.** A summary courts-martial shall consist of one officer.

### B. By Whom Appointed.

**Art. 8. General courts-martial.** The President of the United States and the Governor of the State of Maine may appoint general courts-martial.

**Art. 9. Special courts-martial.** The commanding officer of a district, garrison, fort, camp, or other place where troops are on duty, and the commanding officer of a brigade, regiment, detached battalion, or other detached command may appoint special courts-martial; but when any such commanding officer is the accuser or the prosecutor of the person or persons to be tried, the court shall be appointed by superior authority, and may in any case be appointed by superior authority when by the latter deemed desirable; and no officer shall be eligible to sit as a member of such court when he is the accuser or a witness for the prosecution.

**Art. 10. Summary courts-martial.** The commanding officer of a garrison, fort, camp, or other place where troops are on duty, and the commanding officer of a regiment, detached battalion, detached company, or other detachment may appoint summary courts-martial; but such summary courts-martial may in any case be appointed by superior authority when by the latter deemed desirable; provided, that when but one officer is present with a command he shall be the summary court-martial of that command and shall hear and determine cases brought before him.

**Art. 11. Appointment of judge advocates.** For each general or special court-martial the authority appointing the court shall appoint a judge advocate, and for each general court-martial one or more assistant judge advocates when necessary.

### C. Jurisdiction.

**Art. 12. General courts-martial.** General courts-martial shall have power to try any person subject to military law for any crime or offense made punishable by the military law. Such courts shall have power to impose fines not exceeding two hundred dollars; to sentence to forfeiture of six months' pay and allowances; to a reprimand; to dismissal or dishonorable discharge from the service; to reduction of non-commissioned officers to the ranks; or any two or more of such punishments may be combined in the sentences imposed by such courts.

**Art. 13. Special courts-martial.** Special courts-martial shall have power to try any person subject to military law, except an officer, for any crime or offense, not capital, made punishable by the military law; provided, that the governor may, by regulations, which he may modify from

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time to time, except from the jurisdiction of special courts-martial any class or classes of persons subject to military law.

Such courts shall have power to impose fines not exceeding one hundred dollars; to sentence to reduction of non-commissioned officers to the ranks; to forfeiture of six months' pay and allowances, or any two or more of such punishments may be combined in the sentence imposed by such courts.

**Art. 14. Summary courts-martial.** Summary courts-martial shall have power to try any person subject to military law, except an officer, for any crime or offense, not capital, made punishable by the military law; provided, that the governor may, by regulations, which he may modify from time to time, exempt from the jurisdiction of summary courts-martial any class or classes of persons subject to military law.

Such courts shall have power to impose fines not exceeding twenty-five dollars for any single offense; to sentence to forfeiture of three months' pay and allowances; to reduction of non-commissioned officers to the ranks; or any two or more of such punishments may be combined in the sentence imposed by such court; provided, that when the summary court officer is also the commanding officer no sentence of such summary courts-martial adjudging forfeiture of pay for a period in excess of one month shall be carried into execution until the same shall have been approved by superior authority.

**Art. 15. Not exclusive.** The provisions of these articles conferring jurisdiction upon courts-martial shall not be construed as depriving military commissions, provost courts, or other military tribunals of concurrent jurisdiction in respect to offenders or offenses and by the law of war may be lawfully triable by such military commissions, provost courts, or other military tribunals.

**Art. 16. Officers, how triable.** Officers shall be triable only by general courts-martial, and in no case shall an officer, when it can be avoided, be tried by officers inferior to him in rank.

**D. Procedure.**

**Art. 17. Judge advocate to prosecute.** The judge advocate of a general or special court-martial shall prosecute in the name of the state, and shall under the direction of the court, prepare the record of its proceedings. The accused shall have the right to be represented before the court by counsel of his own selection for his defense, if such counsel be reasonably available, but should he, for any reason, be unrepresented by counsel, the judge advocate shall from time to time throughout the proceedings advise the accused of his legal rights.

**Art. 18. Challenges.** Members of a general or special court-martial may be challenged by the accused, but only for cause 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.

**Art. 19. Oaths.** The judge advocate of a general or special court-martial shall administer to the members of the court, before they proceed

upon any trial, the following oath or affirmation: "You, A. B., do swear (or affirm) that you will well and truly try and determine, according to the evidence, the matter now before you, between the State of Maine and the person 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 armies of the State of Maine, and if any doubt should arise, not explained by said articles, then according to your conscience, the best of your understanding, and the custom of war in like cases; and you do further swear (or affirm) that you will not divulge the findings or sentence of the court until they shall be published by the proper authority, except to the judge advocate and assistant 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."

When the oath or affirmation has been administered to the members of a general or special court-martial, the president of the court shall administer to the judge advocate and to each assistant judge advocate, if any, an oath or affirmation in the following form: "You, A. B., do swear (or affirm) that you will not divulge the findings or sentences of the court to any but the proper authority until they shall be duly disclosed by the same. So help you God."

All persons who give evidence before a court-martial shall be examined on oath or affirmation in the following form: "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."

Every reporter of the proceedings of a court-martial shall, before entering upon his duties, make oath or affirmation in the following form: "You swear (or affirm) that you will faithfully perform the duties of reporter to this court. So help you God."

Every interpreter in the trial of any case before a court-martial shall, before entering upon the duties, make oath or affirmation in the following form: "You swear (or affirm) that you will truly interpret in the case now in hearing. So help you God."

In case of affirmation the closing sentence of adjuration will be omitted.

**Art. 20. Continuances.** A court-martial may, for reasonable cause, grant a continuance to either party for such time and as often as may appear to be just.

**Art. 21. Refusal to plead.** When the accused, 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 he had pleaded not guilty.

**Art. 22. Process to obtain witnesses.** Every judge advocate of a general or special court-martial and every summary court-martial shall have power to issue the like process to compel witnesses to appear and testify which courts of the state, having criminal jurisdiction, may lawfully issue.

**Art. 23. Refusal to appear or testify.** Every person not subject to military law who, being duly subpoenaed to appear as a witness before any

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military court, commission, court of inquiry, or board, or before any officer, military or civil, designated to take a deposition to be read in evidence before such court, commission, court of inquiry, or board, wilfully neglects or refuses to appear, or refuses to qualify as a witness, or to testify, or produce documentary evidence which such person may have been legally subpoenaed to produce, shall be deemed guilty of a misdemeanor, for which such person shall be punished on information in any court having criminal jurisdiction in this state, jurisdiction being hereby conferred upon such court for such purpose; and it shall be the duty of the county attorney in any such court of original criminal jurisdiction, on the certification of the facts to him by the military court, commission, court of inquiry, or board, to file an information against and prosecute the person so offending, and the punishment of such person, on conviction, shall be a fine of not more than five hundred dollars or imprisonment not to exceed six months, or both, at the discretion of the court; provided, that the fees of such witness and his mileage, at the rates allowed to witnesses attending the courts of the state, shall be duly paid or tendered said witness, such amounts to be paid out of the military fund.

**Art. 24. Compulsory self-incrimination prohibited.** No witness before a military court, commission, court of inquiry, or board, or before any officer, military or civil, designated to take a deposition to be read in evidence before a military court, commission, court of inquiry, or board, shall be compelled to incriminate himself or to answer any questions which may tend to incriminate or degrade him.

**Art. 25. Depositions, when admissible.** A duly authenticated deposition taken upon reasonable notice to the opposite party may be read in evidence before any military court or commission in any case not capital, or in any proceeding before a court of inquiry or a military board, if such deposition be taken when the witness resides, is found, or is about to be beyond the state, or beyond the distance of one hundred miles from the place of trial or hearing, or when it appears to the satisfaction of the court, commission, board, or appointing authority that the witness, by reason of age, sickness, bodily infirmity, imprisonment, or other reasonable cause, is unable to appear and testify in person at the place of trial or hearing; provided, that testimony by deposition may be adduced for the defense in capital cases.

**Art. 26. Depositions, before whom taken.** Depositions to be read in evidence before military courts, commission, courts of inquiry, or military boards, or for other use in military administration, may be taken before and authenticated by any officer, military or civil, authorized by the laws of the state or by the laws of the place where the deposition is taken to administer oaths.

**Art. 27. Courts of inquiry, records of, when admissible.** The record of the proceedings of a court of inquiry may be read in evidence before any court-martial or military commission in any case not capital not extending to the dismissal of an officer, and may also be read in evidence in any proceeding before a court of inquiry or a military board; provided, that

such evidence may be adduced by the defense in capital cases or cases extending to the dismissal of an officer.

**Art. 28. Resignation without acceptance does not release officer.** Any officer who, having tendered his resignation and prior to due notice of the acceptance of the same, quits his post or proper duties without leave and with intent to absent himself permanently therefrom shall be deemed a deserter.

**Art. 29. Enlistment without discharge.** Any soldier who, without having first received a regular discharge, again enlists in the Maine National Guard, or in the army, navy or marine corps of the United States, or in any foreign army, shall be deemed to have deserted the service of the state; and, where the enlistment is in the Maine National Guard mentioned above to have fraudulently enlisted therein.

**Art. 30. Closed sessions.** Whenever a general or special court-martial shall sit in closed session, the judge advocate and the assistant judge advocate, if any, shall withdraw; and when their legal advice or their assistance in referring to the recorded evidence is required, it shall be obtained in open court and in the presence of the accused and of his counsel if there be any.

**Art. 31. Order of voting.** Members of a general or special court-martial, in giving their votes, shall begin with the junior in rank.

**Art. 32. Contempts.** A court-martial may punish at discretion, subject to the limitations contained in article fourteen, any person who uses any menacing words, signs, or gestures in its presence, or who disturbs its proceeding by any riot or disorder.

**Art. 33. Records, general courts-martial.** Each general court-martial shall keep a separate record of its proceedings in the trial of each case brought before it, and such record shall be authenticated by the signature of the president and the judge advocate; but in case the record can not be authenticated by the judge advocate, by reason of his death, disability, or absence, it shall be signed by the president and an assistant judge advocate, if any; and if there be no assistant judge advocate, or in case of his death, disability, or absence, then by the president and one other member of the court.

**Art. 34. Records, special and summary courts-martial.** Each special court-martial and each summary court-martial shall keep a record of its proceedings, separate for each case, which record shall contain such matter and be authenticated in such manner as may be required by regulations which the governor may from time to time prescribe.

**Art. 35. Disposition of records, general courts-martial.** The judge advocate of each general court-martial shall, with such expedition as circumstances may permit, forward to the appointing authority or to his successor in command the original record of the proceedings of such court in the trial of each case. All records of such proceedings shall, after having been finally acted upon, be transmitted to the adjutant general.

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**Art. 36. Disposition of records, special and summary courts-martial.** After having been acted upon by the officer appointing the court, or by the officer commanding for the time being, the record of each trial by special court-martial and a report of each trial by summary court-martial shall be transmitted to the adjutant general. When no longer of use, records of special and summary courts-martial may be destroyed.

**Art. 37. Irregularities, effect of.** The proceedings of a court-martial shall not be held invalid, nor the findings or sentence disapproved, in any case on the ground of improper admission or rejection of evidence or for any error as to any matter of pleading or procedure unless in the opinion of the reviewing or confirming authority, after an examination of the entire proceedings, it shall appear that the error complained of has injuriously affected the substantial rights of an accused; provided, that the act of omission upon which the accused has been tried constitutes an offense denounced and made punishable by one or more of these articles; provided further, that the omission of the words "hard labor" in any sentence of a court-martial adjudging imprisonment or confinement shall not be construed as depriving the authorities executing such sentence of imprisonment or confinement of the power to require hard labor as a part of the punishment in any case where it is authorized by the executive order prescribing maximum punishments.

**Art. 38. Governor may prescribe rules.** The governor may, by regulations which he may modify from time to time, prescribe the procedure, including modes of proof, in cases before courts-martial, courts of inquiry, military commission, and other military tribunals; provided, that nothing contrary to or inconsistent with these articles shall be so prescribed.

#### E. Limitations Upon Prosecutions.

**Art. 39. Time.** Except for desertion committed in time of war, or for mutiny or murder, no person subject to military law shall be liable to be tried or punished by a court-martial for any crime or offense committed more than two years before the arraignment of such person; provided, that for desertion in time of peace or for any crime or offense punishable under articles ninety-three and ninety-four of this code the period of limitations upon trial and punishment by court-martial shall be three years; provided further, that the period of any absence of the accused from the jurisdiction of the state, and also any period during which by reason of some manifest impeding the accused shall not have been amenable to military justice, shall be excluded in computing the aforesaid periods of limitation; and provided further, that this article shall not have the effect to authorize the trial or punishment for any crime or offense barred by the provisions of existing law.

**Art. 40. Number.** No person shall be tried a second time for the same offense.



**F. Punishments.**

**Art. 41. Prohibitions.** Punishment by flogging, or by branding, marking, or tattooing on the body is prohibited.

**Art. 42. Places of confinement.** Except for desertion in time of war, repeated desertion in time of peace, and mutiny, no person shall under the sentence of court-martial be punished by confinement in the penitentiary unless an act or omission of which he is convicted is recognized as an offense of a civil nature by some statute of the state, or at the common law, or by way of commutation of a death sentence, and unless, also, the period of confinement authorized and adjudged by such court-martial is one year or more; provided, that when a sentence of confinement is adjudged by a court-martial upon conviction of two or more acts or omissions any one of which is punishable under these articles by confinement in the penitentiary, the entire sentence of confinement may be excuted.

**Art. 43. Death sentence.** No person shall, by general court-martial, be convicted of an offense for which the death penalty is made mandatory by law, nor sentenced to suffer death, except by the concurrence of two-thirds of the members of said court-martial and for an offense in these articles expressly made punishable by death. All other convictions and sentences, whether by general or special court-martial, may be determined by a majority of the members present.

**Art. 44. Cowardice; fraud; penalty.** When an officer is dismissed from the service for cowardice or fraud, the crime, punishment, name, and place of abode of the delinquent shall be published in the newspapers in the state; and after such publication it shall be scandalous for an officer to associate with him.

**Art. 45. Maximum limits.** Whenever the punishment for a crime or offense made punishable by these articles is left to the discretion of the court-martial, the punishment shall not, in time of peace, exceed such limit or limits as the governor may from time to time prescribe.

**G. Action by Appointing or Superior Authority.**

**Art. 46. Approval and execution of sentence.** No sentence of a court-martial shall be carried into execution until the same shall have been approved by the officer appointing the court or by the officer commanding for the time being.

**Art. 47. Power to approve.** The power to approve the sentence of a court-martial shall be held to include:

(a) The power to approve or disapprove a finding and to approve only so much of a finding of guilty of a particular offense as involves a finding of guilty of a lesser included offense when, in the opinion of the authority having power to approve, the evidence of record requires a finding of only the lesser degree of guilt; and

(b) The power to approve or disapprove the whole or any part of the sentence.

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**Art. 48. Confirmation.** In addition to the approval required by article forty-six, confirmation by the governor is required in the following cases before the sentence of a court-martial is carried into execution, namely:

- (a) Any sentence respecting a general officer;
- (b) Any sentence extending to the dismissal of an officer; and
- (d) Any sentence of death, except in the cases of persons convicted in time of war of murder, rape, mutiny, desertion, or as spies.

When the authority competent to confirm the sentence has already acted as the approving authority no additional confirmation by him is necessary.

**Art. 49. Power to confirm.** The power to confirm the sentence of a court-martial shall be held to include:

(a) The power to confirm or disapprove a finding, and to confirm so much only of a finding of guilty of a particular offense as involves a finding of guilty of a lesser included offense when, in the opinion of the authority having power to confirm, the evidence of record requires a finding of only the lesser degree of guilt; and

(b) The power to confirm or disapprove the whole or any part of the sentence.

**Art. 50. Mitigation or remission.** The power to order the execution of the sentence adjudged by a court martial shall be held to include, inter alia, the power to mitigate or remit the whole or any part of the sentence, but no sentence of dismissal of an officer and no sentence of death shall be mitigated or remitted by any authority inferior to the governor.

**Art. 53. Suspension.** The authority competent to order the execution of a sentence adjudged by a court-martial may, if the sentence involve neither dismissal nor dishonorable discharge, suspend the execution of the sentence in so far as it relates to the forfeiture of pay or to confinement, or to both; and the person under sentence may be restored to duty during the suspension of confinement.

### III. PUNITIVE ARTICLES.

#### A. Enlistment; Muster; Returns.

**Art. 54. Fraudulent enlistment.** Any person who shall procure himself to be enlisted in the military service of the state by means of wilful misrepresentation or concealment as to his qualifications for enlistment, and shall receive pay or allowances under such enlistment, shall be punished as a court-martial may direct.

**Art. 55. Officer making unlawful enlistment.** Any officer who knowingly enlists or musters into the military service any person whose enlistment or muster in is prohibited by law, regulations, or orders, shall be dismissed from the service or suffer such other punishment as a court-martial may direct.

**Art. 56. Muster rolls; false muster.** At every muster of a regiment, troop, battery, or company the commanding officer thereof shall give to the mustering officer certificates, signed by himself, stating how long absent offi-

cers have been absent and the reasons of their absence. And the commanding officer of every troop, battery, or company shall give like certificates, stating how long absent non-commissioned officers and private soldiers have been absent and the reasons of their absence. Such reasons and time of absence shall be inserted in the muster rolls opposite the names of the respective absent officers and soldiers, and the certificates, together with the muster rolls, shall be transmitted by the mustering officer to the adjutant general as speedily as the distance of the place and muster will admit. Any officer who knowingly makes a false muster of man or animal, or who signs or directs or allows the signing of any muster roll knowing the same to contain a false muster or false statement as to the absence or pay of an officer or soldier, or who wrongfully takes money or other consideration on mustering in a regiment, company, or other organization, or on signing muster rolls, or who knowingly musters as an officer or soldier a person who is not such officer or soldier, shall be dismissed from the service and suffer such other punishment as a court-martial may direct.

**Art. 57. False returns; failure to render returns.** Every officer commanding a regiment, an independent troop, battery or company or a garrison, shall transmit through proper channels such returns at such periods as may be designated in regulations by the war department. Every officer whose duty it is to render a return of the troops under his command or of the arms, ammunition, clothing, funds or other property thereunto belonging and who knowingly makes a false return thereof shall be dismissed from the service and suffer such other punishment as a court-martial may direct and any officer who through neglect or design omits to render such return shall be punished as a court-martial may direct.

#### B. Desertion; Absence without Leave.

**Art. 58. Desertion.** Any person subject to military law who deserts or attempts to desert the service of the state shall, if the offense be committed in time of war, suffer death or such other punishment as a court-martial may direct, and, if the offense be committed at any other time, any punishment, excepting death, that a court-martial may direct.

**Art. 59. Aiding another to desert.** Any person subject to military law who advises or persuades or knowingly assists another to desert the service of the state shall, if the offense be committed in time of war, suffer death, or such other punishment as a court-martial may direct, and, if the offense be committed at any other time, any punishment, excepting death that a court-martial may direct.

**Art. 60. Entertaining a deserter.** Any officer who, after having discovered that a soldier in his command is a deserter from the national guard or naval militia, retains such deserter in his command without informing superior authority or the commander of the organization to which the deserter belongs, shall be punished as a court-martial may direct.

**Art. 61. Absence without leave.** Any person subject to military law who fails to repair at the fixed time to the properly appointed place of duty,

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or goes from the same without proper leave, or absents himself from his command, guard, quarters, station, or camp without proper leave, shall be punished as a court-martial may direct.

### C. Disrespect; Insubordination; Mutiny.

**Art. 62. Disrespect toward the President, Vice-President, Congress, secretary of war, governors, legislatures.** Any officer who uses contemptuous or disrespectful words against the President, Vice-President, the Congress of the United States, the secretary of war, or the governor or legislature of any state, territory, or other possession of the United States in which he is quartered shall be dismissed from the service or suffer such other punishment as a court-martial may direct. Any other person subject to military law who so offends shall be punished as a court-martial may direct.

**Art. 63. Disrespect toward superior officers.** Any person subject to military law who behaves himself with disrespect toward his superior officer shall be punished as a court-martial may direct.

**Art. 64. Assaulting or disobeying superior officer.** Any person subject to military law 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 wilfully disobeys any lawful command of his superior officer, shall suffer death or such other punishment as a court-martial may direct.

**Art. 65. Insubordinate conduct toward non-commissioned officer.** Any soldier who strikes or assaults, or who attempts or threatens to strike or assault, or wilfully disobeys the lawful order of a non-commissioned officer while in the execution of his office, or uses threatening or insulting language, or behaves in an insubordinate or disrespectful manner toward a non-commissioned officer while in the execution of his office, shall be punished as a court-martial may direct.

**Art. 66. Mutiny or sedition.** Any person subject to military law who attempts to create or who begins, excites, causes, or joins in any mutiny or sedition in any company, party, post, camp, detachment, guard, or other command shall suffer death or such other punishment as a court-martial may direct.

**Art. 67. Failure to suppress mutiny or sedition.** Any officer or soldier who, being present at any mutiny or sedition, does not use his utmost endeavor to suppress the same, or knowing or having reason to believe that a mutiny or sedition is to take place, does not without delay give information thereof to his commanding officer shall suffer death or such other punishment as a court-martial may direct.

**Art. 68. Quarrels, frays, disorders.** All officers and non-commissioned officers have power to part and quell all quarrels, frays, and disorders among persons subject to military law and to order officers who take part in the same into arrest, and other persons subject to military law who take part in the same into arrest or confinement, as circumstances may require, 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 or otherwise threatens or does violence to him shall be punished as a court-martial may direct.

#### D. Arrest; Confinement.

**Art. 69. Arrest or confinement of accused persons.** An officer charged with crime or with a serious offense under these articles shall be placed in arrest by the commanding officer, and in exceptional cases an officer so charged may be placed in confinement by the same authority. A soldier charged with crime or with a serious offense under these articles shall be placed in confinement, and when charged with a minor offense he may be placed in arrest. Any other person subject to military law charged with crime or with a serious offense under these articles shall be placed in confinement or in arrest, as circumstances may require; and when charged with a minor offense such person may be placed in arrest. Any person placed in arrest under the provisions of this article shall thereby be restricted to his barracks, quarters, or tent, unless such limits shall be enlarged by proper authority. Any officer who breaks his arrest or who escapes from confinement before he is set at liberty by proper authority shall be dismissed from the service or suffer such other punishment as a court-martial may direct; and any other person subject to military law who escapes from confinement or who breaks his arrest before he is set at liberty by proper authority shall be punished as a court-martial may direct.

**Art. 70. Investigation of and action upon charges.** No person put in arrest shall be continued in confinement more than eight days, or until such time as a court-martial can be assembled. When any person is put in arrest for the purpose of trial, except at remote military posts or 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 eight 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 person be not brought to trial, as herein required, the arrest shall cease. But persons released from arrest, under the provisions of this article, may be tried, whenever the exigencies of the service shall permit, within twelve months after such release from arrest; provided, that in time of peace no person shall, against his objection, be brought to trial before a general court-martial within a period of five days subsequent to the service of charges upon him.

**Art. 71. Refusal to receive and keep prisoners.** No provost marshal or commander of a guard shall refuse to receive or keep any prisoner committed to his charge by an officer belonging to the forces of the state, provided the officer committing shall, at the time, deliver an account in writing, signed by himself, of the crime or offense charged against the prisoner. Any officer or soldier so refusing shall be punished as a court-martial may direct.

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**Art. 72. Report of prisoner received.** Every commander of a guard to whose charge a prisoner is committed, shall within twenty-four hours after such confinement, or as soon as he is relieved from his guard, report in writing to the commanding officer the name of such prisoner, the offense 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.

**Art. 73. Release of prisoner without proper authority.** Any person subject to military law who, without proper authority, releases any prisoner duly committed to his charge, or who, through neglect or design, suffers any prisoner so committed to escape, shall be punished as a court-martial may direct.

**Art. 74. Delivery of offenders to civil authorities.** When any person subject to military law, except one who is held by the military authorities to answer, or who is awaiting trial or result of trial, or who is undergoing sentence for a crime or offense punishable under these articles, is accused of a crime or offense committed within the geographical limits of the state, and punishable by the laws of the land, the commanding officer is required, except in time of war, upon application duly made, to use his utmost endeavor to deliver over such accused person to the civil authorities, or to aid the officers of justice in apprehending and securing him, in order that he may be brought to trial. Any commanding officer who upon such application refuses or wilfully neglects, except in time of war, to deliver over such accused person to the civil authorities or to aid the officers of justice in apprehending and securing him, shall be dismissed from the service or suffer such other punishment as a court-martial may direct.

When under the provisions of this article delivery is made to the civil authorities of an offender undergoing sentence of a court-martial, such delivery, if followed by conviction, shall be held to interrupt the execution of the sentence of the court-martial, and the offender shall be returned to military custody after having answered to the civil authorities for his offense, for the completion of the said court-martial sentence.

### E. War Offenses.

**Art. 75. Misbehavior before the enemy.** Any officer or soldier who misbehaves himself before the enemy, runs away, or shamefully abandons or delivers up any fort, post, camp, guard, or other command which it is his duty 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, or by any means whatsoever occasions false alarms in camp, garrison, or quarters, shall suffer death or such other punishment as a court-martial may direct.

**Art. 76. Subordinates compelling commander to surrender.** If any commander of any garrison, fort, post, camp, guard, or other command is compelled by the officers or soldiers under his command to give it up to the enemy or to abandon it, the officers or soldiers so offending shall suffer death or such other punishment as a court-martial may direct.

**Art. 77. Improper use of countersign.** Any person subject to military law who makes known the parole or countersign to any person not entitled to receive it according to the rules and discipline of war, or gives a parole or countersign different from that which he received, shall, if the offense be committed in time of war, suffer death or such other punishment as a court-martial may direct.

**Art. 78. Forcing a safeguard.** Any person subject to military law who, in time of war, forces a safeguard shall suffer death or such other punishment as a court-martial may direct.

**Art. 79. Captured property to be secured for public services.** All public property taken from the enemy is the property of the state and shall be secured for the service of the state, and any person subject to military law who neglects to secure such property or is guilty of wrongful appropriation thereof shall be punished as a court-martial may direct.

**Art. 80. Dealing in captured or abandoned property.** Any person subject to military law who buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he shall receive or expect any profit, benefit, or advantage to himself, or to any other person directly or indirectly connected with himself, or who fails whenever such property comes into his possession or custody or within his control to give notice thereof to the proper authority and to turn over such property to the proper authority without delay, shall, on conviction thereof, be punished by fine or imprisonment, or by such other punishment as a court-martial, military commission, or other military tribunal may adjudge, or by any or all of said penalties.

**Art. 81. Relieving corresponding with, or aiding the enemy.** Whosoever relieves the enemy with arms, ammunition, supplies, money, or other thing, or knowingly harbors or protects or holds correspondence with or gives intelligence to the enemy, either directly or indirectly, shall suffer death, or such other punishment as a court-martial or military commission may direct.

**Art. 82. Spies.** Any person who in time of war shall be found lurking or acting as a spy in or about any of the fortifications, posts, quarters or encampments of any of the armies of the state, or elsewhere, shall be tried by a general court-martial or by a military commission, and shall, on conviction thereof, suffer death.

#### F. Miscellaneous Crimes and Offenses.

**Art. 83. Military property.** Any person subject to military law who wilfully or through neglect suffers to be lost, spoiled, damaged, or wrongfully disposed of, any military property belonging to the United States or the State of Maine shall make good the loss or damage and suffer such punishment as a court-martial may direct.

**Art. 84. Waste or unlawful disposition of military property issued to soldiers.** Any soldier who sells or wrongfully disposes of or wilfully or

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through neglect injures or loses any horse, arms, ammunition, accoutrements, equipment, clothing, or other property issued for use in the military service, shall be punished as a court-martial may direct.

**Art. 85. Drunk on duty.** Any officer who is found drunk on duty shall, if the offense be committed in time of war, be dismissed from the service and suffer such other punishment as a court-martial may direct; and if the offense be committed in time of peace, he shall be punished as a court-martial may direct. Any person subject to military law, except an officer, who is found drunk on duty shall be punished as a court-martial may direct.

**Art. 86. Misbehavior of sentinel.** Any sentinel who is found drunk or sleeping upon his post, or who leaves it before he is regularly relieved, shall, if the offense be committed in time of war, suffer death or such other punishment as a court-martial may direct; and if the offense be committed in time of peace, he shall suffer any punishment, except death, that a court-martial may direct.

**Art. 87. Personal interest in sale of provisions.** Any officer commanding in any garrison, fort, barracks, camp, or other place where troops of the state may be serving who, for his private advantage, lays any duty or imposition upon or is interested in the sale of any victuals or other necessaries of life brought into such garrison, fort, barracks, camp, or other place for the use of the troops, shall be dismissed from the service and suffer such other punishment as a court-martial may direct.

**Art. 88. Intimidation of persons bringing provisions.** Any person subject to military law who abuses, intimidates, does violence to, or wrongfully interferes with any person bringing provisions, supplies, or other necessaries to the camp, garrison, or quarters of the forces of the state shall suffer such punishment as a court-martial may direct.

**Art. 89. Good order to be maintained and wrongs redressed.** All persons subject to military law are to behave themselves orderly in quarters, garrison, camp and on the march; and any person subject to military law who commits any waste or spoil, or wilfully destroys any property whatsoever (unless by order of his commanding officer), or commits any kind of depredation or riot, shall be punished as a court-martial may direct. Any commanding officer who, upon complaint made to him, refuses or omits to see reparation made to the party injured, in so far as the offender's pay shall go toward such reparation, as provided for in article one hundred and five shall be dismissed from the service or otherwise punished as a court-martial may direct.

**Art. 90. Provoking speeches or gestures.** No person subject to military law shall use any reproachful or provoking speeches or gestures to another; and any person subject to military law who offends against the provisions of this article shall be punished as a court-martial may direct.

**Art. 91. Dueling.** Any person subject to military law who fights or promotes or is concerned in or connives at fighting a duel, or who having knowledge of a challenge sent or about to be sent fails to report the fact



promptly to the proper authority, shall, if an officer, be dismissed from the service or suffer such other punishment as a court-martial may direct; and, if any other person, subject to military law, shall suffer such punishment as a court-martial may direct.

**Art. 92. Murder; rape.** Any person subject to military law who commits murder or rape shall suffer death or imprisonment for life, as a court-martial may direct; but no person shall be tried by court-martial for murder or rape committed within the geographical limits of the state in time of peace.

**Art. 93. Various crimes.** Any person subject to military law who commits manslaughter, mayhem, arson, burglarly, robbery, larceny, embezzlement, perjury, assault with intent to commit any felony, or assault with intent to do bodily harm, shall be punished as a court-martial may direct.

**Art. 94. Frauds against the government.** Any person subject to military law who makes or causes to be made any claim against the United States or State of Maine or any officer thereof, knowing such claim to be false or fraudulent; or

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

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

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

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States, State of Maine or any officer 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

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States, State of Maine or any officer thereof, forges or counterfeits, or procures, or advises the forging or counterfeiting of any signature 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

Who, having charge, possession, custody, or control of any money or other property of the United States, or State of Maine furnished or intended for the military service thereof, 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

Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States and State of Maine furnished or

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intended for the military service thereof, makes or delivers to any person such writing, without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or State of Maine; or

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 the United States and State of Maine furnished or intended for the military service thereof; or

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, equipment, ammunition, clothing, subsistence stores, or other property of the United States or State of Maine, such soldier, 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 the United States, or State of Maine, receives his discharge or is dismissed from the service, he shall continue to be liable to be arrested and held for trial and sentence by a court-martial in the same manner and to the same extent as if he had not received such discharge nor been dismissed.

**Art. 95. Conduct unbecoming officer and gentleman.** Any officer who is convicted of conduct unbecoming an officer and a gentleman shall be dismissed from the service.

**Art. 96. General article.** Though not mentioned in these articles, all disorders and neglects to the prejudice of good order and military discipline, all conduct of a nature to bring discredit upon the military service, and all crimes or offenses not capital, of which persons subject to military law may be guilty, shall be taken cognizance of by a general or special or summary court-martial, according to the nature and degree of the offense, and punished at the discretion of such court.

#### IV. COURTS OF INQUIRY.

**Art. 97. When and by whom ordered.** 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 governor; but a court of inquiry shall not be ordered by the governor except upon the request of the officer or soldier whose conduct is to be inquired into.

**Art. 98. Composition.** A court of inquiry shall consist of three or more officers. For each court of inquiry the authority appointing the court shall appoint a recorder.

**Art. 99. Challenges.** Members of a court of inquiry may be challenged by the party whose conduct is to be inquired into, but only for cause stated to the court. The court shall determine the relevancy and va-

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lidity of any challenge, and shall not receive a challenge to more than one member at a time. The party whose conduct is being inquired into shall have the right to be represented before the court by counsel of his own selection, if such counsel be reasonably available.

**Art. 100. Oath of members and recorder.** The recorder of a court of inquiry shall administer to the members the following oath: "You, A. B., do swear (or affirm) that you will 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 (or affirm) 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."

In case of affirmation the closing sentence of adjuration will be omitted.

**Art. 101. Powers; procedure.** 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 or affirmation that is taken by witnesses before courts-martial. A reporter or an interpreter for a court of inquiry shall, before entering upon his duties, take the oath or affirmation required of a reporter or an interpreter for a court-martial. The party whose conduct is being inquired into, or his counsel, if any, shall be permitted to examine and cross-examine witnesses so as fully to investigate the circumstances in question.

**Art. 102. Opinion on merits of case.** A court of inquiry shall not give an opinion on the merits of the case inquired into unless specially ordered to do so.

**Art. 103. Record of proceedings; how authenticated.** Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signature of the president and the recorder thereof, and be forwarded to the convening authority. In case the record can not be authenticated by the recorder, by reason of his death, disability, or absence, it shall be signed by the president and by one other member of the court.

## V. MISCELLANEOUS PROVISIONS.

**Art. 104. Disciplinary powers of commanding officers.** Under such regulations as the governor may prescribe, and which he may from time to time revoke, alter, or add to, the commanding officer of any detachment, company, or higher command may, for minor offenses not denied by the accused, impose disciplinary punishments upon persons of his command without the intervention of a court-martial, unless the accused demands trial by court-martial.

The disciplinary punishments authorized by this article may include admonition, reprimand, withholding of privileges, extra fatigue, and restriction to certain specified limits, but shall not include forfeiture of pay or

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confinement under guard. A person punished under authority of this article who deems his punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority, but may in the meantime be required to undergo the punishment adjudged. The commanding officer who imposes the punishment, his successor in command, and superior authority shall have power to mitigate or remit any unexecuted portion of the punishment. The imposition and enforcement of disciplinary punishment under authority of this article for any act or omission shall not be a bar to trial by court-martial for a crime or offense growing out of the same act or omission; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

**Art. 105. Injuries to person or property; redress.** Whenever complaint is made to any commanding officer that damage has been done to the property of any person or that his property has been wrongfully taken by persons subject to military law, such complaint shall be investigated by a board consisting of any number of officers from one to three, which board shall be convened by the commanding officer and shall have, for the purpose of such investigation, power to summon witnesses and examine them upon oath or affirmation, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by such board shall be subject to the approval of the adjutant general and in the amount approved by him shall be stopped against the pay of the offenders. And the order of the adjutant general directing stoppages herein authorized shall be conclusive on any disbursing officer for the payment by him to the injured parties of the stoppages so ordered.

Where the offenders can not be ascertained, but the organization or detachment to which they belong is known, stoppages to the amount of damages inflicted may be made and assessed in such proportion as may be deemed just upon the individual members thereof who are shown to have been present with such organization or detachment at the time the damages complained of were inflicted as determined by the approved findings of the board.

**Art. 106. Arrest of deserters by civil officers.** It shall be lawful for any civil officer having authority under the laws of the state to arrest offenders summarily to arrest a deserter from the military service of the state and deliver him into the custody of the military authorities of the state.

**Art. 108. Soldiers, separation from service.** No enlisted man, lawfully inducted into the military service of the state, shall be discharged from said service without a certificate of discharge, signed by a field officer of the regiment or other organization to which the enlisted man belongs or by the commanding officer when no such field officer is present; and no enlisted man shall be discharged from said service before his term of service has expired, except by order of the adjutant general, or by sentence of a general court-martial.

**Art. 109. Oath of office.** Commissioned officers of the national guard of the several states, territories and the District of Columbia now serving under commissions regularly issued shall continue in office, as officers of the national guard, without the issuance of new commissions; provided, that said officers have taken, or shall take and subscribe to the following oath of office: "I, \_\_\_\_\_, do solemnly swear that I will support and defend the Constitution of the United States and the constitution of the State of Maine, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and of the Governor of the State of Maine; that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of \_\_\_\_\_ in the national guard of the United States and of the State of Maine upon which I am about to enter, so help me God."

**Art. 110. Certain articles to be read and explained.** Articles one, two and twenty-nine, fifty-four to ninety-six inclusive, and one hundred and four to one hundred and eight, inclusive, shall be read and explained to every soldier at the time of his enlistment or muster in, or within six days thereafter, and shall be read and explained once every six months to the soldiers of every garrison, regiment, or company in the service of the United States.

**Art. 111. Copy of record of trial.** Every person tried by a general court-martial shall, on demand therefor, made by himself or by any person in his behalf, be entitled to a copy of the record of the trial.

**Art. 112. Officers, separation from service.** In case of the death of any person subject to military law, the commanding officer of the place or command will permit the legal representative or widow of the deceased, if present, to take possession of all his effects then in camp or quarters, and if no legal representative or widow be present, the commanding officer shall direct a summary court to secure all such effects; and said summary court shall have authority to convert such effects into cash, by public or private sale, not earlier than thirty days after the death of the deceased, and to collect and receive any debts due decedent's estate by local debtors; and as soon as practicable after converting such effects into cash said summary court shall deposit with the proper officer, to be designated in regulations, any cash belonging to decedent's estate, and shall transmit a receipt for such deposit, accompanied by any will or other papers of value belonging to the deceased, an inventory of the effects secured by said summary court, and a full account of his transactions to the adjutant general; when the legal representative, or widow, shall present himself or herself to take possession of decedent's estate, the said adjutant general shall turn over to him or her all effects not sold and cash belonging to said estate, together with an inventory and account.

**Art. 113. Inquests.** When at any post, fort, camp, or other place garrisoned by the military forces of the state and under the exclusive jurisdiction of the state, any person shall have been found dead under circum-

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stances which appear to require investigation, the commanding officer will designate and direct a summary court-martial to investigate the circumstances attending the death; and for this purpose such summary court-martial shall have power to summon witnesses and examine them upon oath or affirmation. He shall promptly transmit to the post or other commander a report of his investigation and of his findings as to the cause of the death.

**Art. 114. Authority to administer oaths.** Any judge advocate or acting judge advocate, the president of a general or special court-martial, any summary court-martial, the judge advocate or any assistant judge advocate of a general or special court-martial, the president or the recorder of a court of inquiry or of a military board, any officer designated to take a deposition, any officer detailed to conduct an investigation, and the adjutant of any command shall have power to administer oaths for the purposes of the administration of military justice and for other purposes of military administration; and in foreign places where the national guard of the State of Maine may be serving shall have the general powers of a notary public or of a consul of the state in the administration of oaths, the execution and acknowledgment of legal instruments, the attestation of documents, and all other forms of notarial acts to be executed by persons subject to military law.

**Art. 115. Appointment of reporters and interpreters.** Under such regulations as the governor may from time to time prescribe, the president of a court-martial or military commission, or a court of inquiry shall have power to appoint a reporter, who shall record the proceedings of and testimony taken before such court or commission and may set down the same, in the first instance, in shorthand. Under like regulations the president of a court-martial or military commission, or court of inquiry, or a summary court, may appoint an interpreter, who shall interpret for the court or commission.

**Art. 116. Powers of assistant judge advocate.** An assistant judge advocate of a general court-martial shall be competent to perform any duty devolved by law, regulation, or the custom of the service upon the judge advocate of the court.

**Art. 118. Officers, separation from service.** No officer shall be discharged or dismissed from the service except by order of the governor or by sentence of a general court-martial; and in time of peace no officer shall be dismissed except in pursuance of the sentence of a court-martial or in mitigation thereof; but the governor may at any time drop from the rolls of the national guard any officer who has been absent from duty three months without leave or who has been absent in confinement in a prison or penitentiary for three months after final conviction by a court of competent jurisdiction.

**Art. 121. Complaints of wrongs.** Any officer or soldier who believes himself wronged by his commanding officer, and, upon due application to such commander, is refused redress, may complain to the next higher in

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command where the officer against whom the complaint is made is stationed. This officer shall examine into said complaint and take proper measures for redressing the wrong complained of; and he shall, as soon as possible, transmit to the adjutant general a true statement of such complaint, with the proceedings had thereon.

**Sec. 141. Certain statutes repealed.** Chapter two hundred and six of the public laws of nineteen hundred and nine, chapters seven and eighty-one of the public laws of nineteen hundred and eleven, chapter three and one hundred and fifty-one of the public laws of nineteen hundred and thirteen and chapter one hundred and forty-five of the public laws of nineteen hundred and fifteen and all amendments thereto as embodied in chapter fifteen of the revised statutes are hereby repealed.

**Sec. 142. Denomination.** This chapter shall be known as "The Military Law of the State of Maine."

**Sec. 143. Emergency Clause.** In view of the emergency cited in the preamble, this act shall take effect when approved.

Approved April 7, 1917.

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## Chapter 260.

An Act to Establish a Superior Court in the County of Androscoggin.

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

**Sec. 1. Superior court for Androscoggin; qualification of justice.** A superior court is hereby established at Auburn within and for the county of Androscoggin, consisting of one justice, who shall be an inhabitant of said county, of sobriety of manners and learned in the law; he shall be appointed, commissioned and qualified according to the constitution.

**Sec. 2. Seal; writs and processes.** Said justice shall establish a seal for said court; and all writs and processes issuing therefrom shall be in the name of the state, of the usual forms, bearing the teste of said justice, under the seal of said court, and shall be signed by its clerk, and may be made returnable in the superior court of any other county in which the action might be legally brought; they shall be obeyed and executed throughout the state.

**Sec. 3. Jurisdiction.** Within said county, said superior court shall have exclusive jurisdiction of civil appeals from municipal and police courts, and trial justices, exclusive original jurisdiction of actions of scire facias on judgments and recognizances not exceeding five hundred dollars; of bastardy trials, and all other civil actions at law not exclusively cognizable by municipal and police courts, and trial justices, where the damages demanded do not exceed five hundred dollars, except complaints for flowage, real actions and actions of trespass quare clausum; and concurrent original jurisdiction of actions of trespass quare clausum, libels for divorce and proceedings in habeas corpus, and of all other civil actions at law where the dam-