

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eightieth Legislature

OF THE

STATE OF MAINE

1921

Including Acts and Resolves of the Special Session held in 1920.

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PUBLIC LAWS
OF THE
STATE OF MAINE

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[supplied from page 3 of volume]

Whereas, legislation to secure the proper observance of Memorial Day is therefore immediately necessary for the preservation of the public peace, health and safety; now therefore,

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

Sec. 1. Public outdoor sports where admission is charged, prohibited on Memorial Day. Whoever on Memorial Day engages in any public outdoor game or sport where an admission is charged or collection is taken shall be punished by a fine not exceeding twenty-five dollars or imprisonment not exceeding ten days, or by both such fine and imprisonment. Judges of municipal and police courts and trial justices shall have jurisdiction of all offenses under this act.

Sec. 2. Emergency clause. In view of the emergency expressed in the preamble hereof, this act shall take effect when approved.

Approved April 9, 1921.

Chapter 217.

An Act to Amend Sections Eight, Twenty-two, Thirty-seven, Fifty-three, Fifty-four, Fifty-five, Fifty-seven, Sixty-three, Sixty-four and Eighty-eight of Chapter Two Hundred Fifty-nine of the Public Laws of Nineteen Hundred and Seventeen, Known as the Military Law.

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

Sec. 1. 1917, c. 259, § 8; relating to the governor's staff, amended. Section eight of chapter two hundred fifty-nine of the public laws of nineteen hundred and seventeen is hereby amended by inserting before the word "all" in the fifth line thereof the words 'except as hereinafter provided,' and by adding after the words "commander-in-chief" in the fifteenth and sixteenth line thereof the following: 'provided that honorably discharged officers or enlisted men who served in the United States army or navy during the World War may be appointed as aides-de-camp with rank of colonel or naval aide with the rank of lieutenant-commander on the staff of the commander-in-chief, but officers so appointed shall not be considered as members of the national guard and shall serve only during the term of office of the governor making the appointment,' so that said section, as amended, shall read as follows:

'Sec. 8. Providing for the appointment of honorably discharged officers or enlisted men who served in the World War, as aides-de-camp. 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,

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with the rank of captain, and one naval aide with the rank of lieutenant. Except as hereinafter provided 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, provided that honorably discharged officers or enlisted men who served in the United States army or navy during the World War may be appointed as aides-de-camp with rank of colonel or naval aide with the rank of lieutenant-commander on the staff of the commander-in-chief, but officers so appointed shall not be considered as members of the national guard and shall serve only during the term of office of the governor making the appointment. 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.'

Sec. 2. 1917, c. 259, § 22; relating to the duties of the inspector general, amended. Section twenty-two of said chapter is hereby amended by striking out in the third line thereof the word "and" and substituting therefor the word 'of'; also by striking out in the fourth line thereof the words "active militia" and substituting therefor the words 'national guard' so that said section, as amended, shall read as follows:

'**Sec. 22. Correcting a clerical error and changing the phrase "active militia" to "national guard".** The inspector general, whenever ordered by the governor shall make an inspection and a detailed report upon the armories, property, books, records, financial condition, of the various organizations of the national guard, 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. 3. 1917, c. 259, § 37; relating to the formation of new organization of the national guard, amended. Section thirty-seven of said chapter is hereby amended by striking out all after the word "governor" in the third and fourth lines thereof and substituting therefor the following: 'he may order an inspection to be made by an officer of the

national guard and if it is found that the conditions contemplated by law for federal recognition can be met by the new organization, the governor may appoint commissioned officers therefor and cause an inspection to be made by an officer of the regular army with a view to federal recognition,' so that said section, as amended, shall read as follows:

'Sec. 37. Governor may order an inspection by officer of national guard and if conditions for federal recognition can be met may appoint commissioned officers and cause inspection to be made by officers of regular army. 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 order an inspection to be made by an officer of the national guard and if it is found that the conditions contemplated by law for federal recognition can be met by the new organization, the governor may appoint commissioned officers therefor and cause an inspection to be made by an officer of the regular army with a view to federal recognition.'

Sec. 4. 1917, c. 259, § 53; 1919, c. 257; relating to the choice of commissioned officers, amended. Section fifty-three of said chapter is hereby amended by striking out all of said section and substituting therefor the following:

'Sec. 53. Repealing that part of the section which is obsolete on account of constitutional amendment abolishing the elective system and more clearly outlining the manner of promotion; if officer commissioned does not qualify within ten days, commission to be cancelled and new appointment made. All officers shall be appointed and commissioned by the governor as follows, subject in every case to the examinations provided in section fifty: Vacancies in the grade of brigadier general shall be filled by promoting the senior colonel in the arm of service in which the vacancy occurs; vacancies in the grade of colonel and lieutenant-colonel of a regiment or corps shall be filled by promoting the senior officer of the regiment or corps of the next lower grade; vacancies in the grade of major in a regiment, corps or separate battalion shall be filled by promoting the senior officer of the next lower grade in the battalion in which the vacancy occurs; vacancies in the grade of captain or lieutenant shall be filled by promoting the senior officer of the next lower grade in the organization in which the vacancy occurs; vacancies in the grade of second lieutenant shall be filled in the following manner: All enlisted men of the company and any battalion or regimental non-commissioned staff officer who was appointed from said company shall, if physically sound, be eligible for appointment and

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shall be permitted to appear before an examining board for a physical and competitive practical and theoretical examination. The enlisted man whom the board considers, after the competitive examination, to be best qualified shall be appointed to fill the vacancy. The governor shall prescribe the scope and manner of conducting such examination and if no enlisted man appears or if none satisfactorily passes said examination, then the governor shall fill the vacancy by making an appointment of any person eligible under the law to hold a commission in the national guard.

‘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 appointment made to fill the vacancy.’

Sec. 5. 1917, c. 259, § 54; relating to the call and procedure for elections of officers of national guard, repealed. Section fifty-four of said chapter is hereby amended by striking out all of said section.

Sec. 6. 1917, c. 259; relating to the filling of vacancies by appointment, amended. Section fifty-five of said chapter is hereby amended by striking out all of said section and substituting therefor the following:

‘Sec. 55. In medical department, appointment may be made upon recommendation of state surgeon; provision as to promotion to grade of captain eliminated; staff officers appointed from organizations of national guard to retain their eligibility to promotion in organization from which they were drawn. Vacancies occurring in the various grades except 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 grade thereof shall be filled in the following manner:

In the medical department appointments shall be made by the governor upon recommendation of the state surgeon and any active licensed practitioner of medicine and surgery in this state who is a citizen of the United States, physically sound and between the ages of twenty-two and thirty years, shall be eligible for appointment.

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

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

Staff officers appointed from organizations of the national guard shall retain their eligibility to promotion in the organization from which they were drawn as if they had not been detailed to such staff duty.'

Sec. 7. 1917, c. 259, § 57; providing for examination of officers of militia according to a system to be prescribed by the president, amended. Section fifty-seven of said chapter is hereby amended by striking out all of said section and substituting therefor the following:

'Sec. 57. Examination to determine qualification for federal recognition; persons commissioned by governor not to be considered officers of national guard until federally recognized; a reasonable time may be allowed for preparation for examination; recognition may be extended conditional upon future examination; governor to be informed as to whether candidate has passed successful examination; persons qualified for one grade, arm, department or corps not to be recognized in another unless examined and found qualified; second lieutenant not to be over 32, first lieutenant not over 36 unless designated for commission for promotion. The president shall prescribe a system of examination of all officers of the national guard to determine their physical, moral, professional and general fitness for federal recognition; persons commissioned by the governor will not be considered as officers of the national guard until recognition is extended to them by the war department. For cogent reasons a reasonable period of time may be granted to enable a person appointed or promoted as an officer to prepare himself for the examination, or recognition may be extended conditional upon future examination. When the proceedings of an examining board has been approved by the secretary of war the governor will be informed as to whether the candidate has passed the examination successfully and as to the grade, arm, department or corps for which qualified; persons qualified for one grade and arm, department, or corps will not be recognized in any other grade, arm, department or corps unless examined and found qualified therefor. 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

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approve of such finding, be discharged for the good of the service. 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-two; as first lieutenant, more than thirty-six; 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. 8. 1917, c. 259, § 63; relating to the term of enlistment in national guard, amended. Section sixty-three of said chapter is hereby amended by striking out after the words "shall be" in the second line thereof, the words "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 substituting therefor the words 'for a period of three years and subsequent enlistments for periods of one year each,' and by striking out all after the words "regular army" in the fifth line thereof, so that said section, as amended, shall read as follows:

'Sec. 63. Term of enlistment changed from six to three years; subsequent enlistments to be for one year periods. Hereafter the period of enlistment in the national guard shall be for a period of three years and subsequent enlistments for periods of one year each, and the qualifications for enlistment shall be the same as those prescribed for admission to the regular army.'

Sec. 9. 1917, c. 259, § 64; relating to oath of allegiance for members of national guard, amended. Section sixty-four of said chapter is hereby amended by striking out after the word "period of" in the sixth line thereof, the words "three years in service and three years in the reserve" and substituting therefor the words 'three (or one) year,' so that said section, as amended, shall read as follows:

'Sec. 64. Made to conform to change in term of enlistment from six to three years and subsequent periods of one year. 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 to the United States: "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 (or one) year under the conditions pre-

scribed 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 oath when designated by the commanding officer of the company or other organization or by any other proper military superior, to make and complete valid enlistment in the national guard. A person making a false oath as to any statements contained in such enlistment paper, shall upon conviction, be deemed guilty of perjury.'

Sec. 10. 1917, c. 259, § 88; relating to pay and allowance of members of national guard, amended. Section eighty-eight of said chapter is hereby amended by striking out the first paragraph thereof and substituting therefor the following: 'Each officer and enlisted man ordered by the commander-in-chief or under his authority for duty at encampments, maneuvers, field exercises, small arms competitions, or other special duties or when called forth in aid of the civil authorities shall receive for every day actually on duty, the same pay as officers and enlisted men of the same grade and classification in the regular army, provided, that enlisted men grade I as now or hereafter established for the regular army shall be paid not less than two dollars and fifty cents per day; grade II, two dollars and twenty-five cents; grade III, two dollars; grade IV, one dollar and ninety cents; grade V, one dollar and seventy-five cents; grade VI, one dollar and sixty cents; grade VII, one dollar and fifty cents, and provided further, that all band musicians shall be paid not less than four dollars per day and all specialists shall be paid the same additional compensation as is allowed the corresponding classes of specialists in the regular army, there shall be allowed the necessary transportation and subsistence, but no pay or compensation shall be allowed except as otherwise provided by law when ordered for inspection, muster, small arms practice, drill, parade, review, field service or practice marches unless expressly authorized in the order for such duties,' so that said section, as amended, shall read as follows:

'Sec. 88. Pay shall be same as in regular army; minimum pay for enlisted men in different grades; band musicians to receive not less than four dollars a day; specialists to be allowed same extra compensation as is allowed in regular army. Each officer

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and enlisted man ordered by the commander-in-chief or under his authority for duty at encampment, maneuvers, field exercises, small arms competition, or other special duties or when called forth in aid of the civil authorities shall receive for every day actually on duty, the same pay as officers and enlisted men of the same grade and classification in the regular army, provided that enlisted men of grade I as now or hereafter established for the regular army shall be paid not less than two dollars and fifty cents per day; grade II, two dollars and twenty-five cents; grade III, two dollars; grade IV, one dollar and ninety cents; grade V, one dollar and seventy-five cents; grade VI, one dollar and sixty cents; grade VII, one dollar and fifty cents, and provided, further, that all band musicians shall be paid not less than four dollars per day and all specialists shall be paid the same additional compensation as is allowed the corresponding classes of specialists in the regular army, there shall be allowed the necessary transportation and subsistence, but no pay or compensation shall be allowed except as otherwise provided by law when ordered for inspection, muster, small arms practice, drill, parade, review, field service or practice marches unless expressly authorized in the order for such duties.

When the national guard, or any portion thereof, shall be called forth in aid of the civil authorities, 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.'

Approved April 9, 1921.

Chapter 218.

An Act to Amend Section Twenty-four of Chapter Two Hundred and Nineteen of the Public Laws of Nineteen Hundred and Seventeen, and Sections Ten and Seventy-five of Chapter Two Hundred and Nineteen of the Public Laws of Nineteen Hundred and Seventeen, as Amended by Chapter Two Hundred and Forty-four of the Public Laws of Nineteen Hundred and Seventeen, and Section Twenty-six of Chapter Two Hundred and Nineteen of the Public Laws of Nineteen Hundred and Seventeen, as Amended by Chapter Two Hundred and Forty-four of the Public Laws of Nineteen Hundred and Seventeen and Chapter One Hundred and Ninety-six of the Public Laws of Nineteen Hundred and Nineteen, and Section Eighty-one of Chapter Two Hundred and Nineteen of the Public Laws of Nineteen Hundred and Seventeen, as Amended by Chapter One Hundred and Ninety-six of the Public Laws of Nineteen Hundred and Nineteen, and Section Fifty-one of Chapter Two Hundred and Nineteen of the Public Laws of Nineteen Hundred and Seventeen, as Amended by Chapters One Hundred and Ninety-six and Two Hundred and Forty-nine of the Public Laws of Nineteen Hundred and Nineteen, and Sections Twenty-seven and Fifty-nine of Chapter Two Hundred and Nineteen of the Public Laws of Nineteen Hundred and Seventeen, as Amended by Chapter Two Hundred and Forty-four of the Public Laws of Nineteen Hundred and Seventeen and by Chapter One Hundred and Ninety-six of the Public Laws of Nineteen Hundred and Nineteen, and Section Forty-six of Chapter Two Hundred and Nineteen of the Public Laws of Nineteen Hundred and Seventeen, as Amended by Chapter One Hundred and Thirty-three of the Public Laws of Nineteen Hundred and Nineteen, Relating to Inland Fisheries and Game.

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

Sec. 1. R. S., c. 33, § 10; 1917, c. 219, § 10 and c. 244; relating to the appointment and duties of inland fish and game wardens, amended. Section ten of chapter two hundred and nineteen of the public laws of nineteen hundred and seventeen, as amended by chapter two hundred and forty-four of the public laws of nineteen hundred and seventeen, is hereby amended by inserting after the word "offenders" in the eighth line thereof the words 'and to arrest and prosecute camp trespassers, or those suspected of larceny from any cottage, camp or other building,' so that said section, as amended, shall read as follows:

'Sec. 10. Wardens given authority to arrest and prosecute camp trespassers or those suspected of larceny from cottages, etc. The governor, with the advice and consent of the council, upon the recommendation of the commissioner of inland fisheries and game, may appoint suitable persons as inland fish and game wardens, who shall hold office for a term of three years unless sooner removed, and who shall enforce all laws relating to inland fisheries and game, and all rules and regulations in relation thereto, arrest all violators thereof, and prosecute all offenses against the same; said inland fish and game wardens shall have the same power to serve criminal processes against such offenders, and to arrest and prosecute camp trespassers, or those suspected of larceny from any cottage, camp or other building, and shall be allowed the same fees as sheriffs, for like services, and they shall have the same right as sheriffs