

MAINE STATE LEGISLATURE

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



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

ACTS AND RESOLVES

AS PASSED BY THE

Eighty-first Legislature

OF THE

STATE OF MAINE

1923

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.

KENNEBEC JOURNAL PRINT SHOP
AUGUSTA, MAINE
1923

PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the Eighty-First Legislature

1923

[supplied from page 1 of volume]

Chapter 174.

An Act to Revise the Military Law of the State of Maine.

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

This chapter shall be known as "The Military Law of the State of Maine."

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, and the commissioned officers between the ages of twenty-one and sixty-four years, organized, armed and equipped as provided by the national guard regulations, and recognized by the war department as national guard.

The restrictions as to maximum age and citizenship shall not apply to soldiers who have previously served honestly and faithfully in the United States army, navy, marine corps, the organized militia or the national guard.

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

bonds, 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 militia 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 or officers of his right thereto and in case of doubt the burden of proof shall be upon the person claiming exemption, and the enrolling officer or officers 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 or naval 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 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 com-

CHAP. 174

mander-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 such aides-de-camp not to exceed five in number, one of whom may be a naval aide with rank of lieutenant commander, as may be appointed by the governor. Except as hereafter provided all staff officers must be at the time of their appointment commissioned officers of the Maine national guard, on the active or retired list of or above the grade of captain, but no staff officer shall be appointed from the retired list who shall have had less than eight years of service in the national guard, the last year of which shall be within ten years immediately preceding the appointment. Aides-de-camp, except as hereinafter provided, may be detailed by the commander-in-chief from the commissioned officers of the national guard of the grades above specified, but officers so detailed shall not be relieved thereby from their regular duties except when on duty with the commander-in-chief. Honorably discharged officers or enlisted men who served in the United States army, navy or marine corps during the world war, who are not members of the Maine national guard, may be appointed by the governor as aides-de-camp with a rank of colonel. The aides-de-camp authorized by this chapter shall be appointed by the governor and, except those detailed from the active list, shall be commissioned by him and shall serve only during the term of the governor making the appointment; provided, that the governor may detail additional aides from the officers of the national guard for temporary duty, subject to the provisions of this section. Provided nothing in this section shall operate to terminate the appointment of any aide who is a member of the staff at the time this act becomes effective.

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

designation of organizations called into the service of the United States shall not, during such service, be given to new organizations.

Aid of civil authorities. In case of a sudden and unexpected 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.

In the event of an emergency so imminent as to require immediate action the senior officer of a command may, upon request in writing 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. 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 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 constitu-

CHAP. 174

tion and laws of the United States, or of the state of Maine, 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. 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 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.

Sec. 15. Adjutant general, 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. He shall be appointed by the governor and shall hold the office for a term of two years at the pleasure of the governor. 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.

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.

He shall superintend the preparation of all returns, reports, plans and estimates required of the state by the war department; and, on or before the thirtieth day of June 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 expenditure for all military purposes.

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

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.

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

CHAP. 174

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.

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.

He may 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.

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.

Sec. 16. 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. 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.

Sec. 17. Inspector general. The senior officer on duty in the inspector general's department, whenever ordered by the governor, shall make an inspection and a detailed report upon the armories, property, books, records, financial condition and general efficiency of the organizations of the national guard, and shall perform such other duties as the adjutant general

may direct or the law require, and he shall submit to the adjutant general a report of the transactions of his office by the fifteenth of June annually.

Sec. 18. Ordnance officer. The senior officer on duty in the ordnance department shall, from time to time, submit to the adjutant general requisitions for ordnance property, equipment, and accoutrements and range and target material; which requisitions, 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 twenty-six, the senior ordnance officer shall purchase and direct the issue of such ordnance property and range material, certify all bills therefor as correct, and transmit them to the adjutant general.

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

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 June annually.

Sec. 19. Chief surgeon. The senior officer on duty in the medical department shall perform such duties as are prescribed by law and the national guard regulations, and he shall make to the adjutant general a detailed report of the transactions of his office and the condition and quantity of medical supplies on hand, on the fifteenth day of June annually.

Sec. 20. Senior officer quartermaster corps. The senior officer of the quartermaster corps may, when deemed advisable by the adjutant general, be the military store-keeper and, under the direction of the adjutant general, he shall purchase and issue in the manner prescribed in section twenty-six, 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 June annually.

CHAP. 174

Sec. 21. 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 June annually.

Sec. 22. Attorney general of state legal adviser. The attorney general of the state shall be legal adviser of the adjutant general, and of the armory commission.

Sec. 23. Appointment of staff officers. In time of war, insurrection, invasion or rebellion, or of imminent danger thereof, the governor may appoint such staff officers and create such chiefs of staff departments as may be necessary to provide for an increased 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 hereinafter 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. 24. 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. 25. Qualifications of staff officers. Staff officers of the national guard, except in the lowest grade of the medical department, shall, when appointed, have had previous military experience and shall hold their posi-

tions 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, or by an efficiency board of three commissioned officers, senior in rank to the officer whose fitness for service shall be under investigation, and all vacancies among said officers shall be filled by appointment from the officers of the national guard, or honorably discharged officers or enlisted men who served in the United States army, navy or marine corps during the world war.

Sec. 26. Procedure by purchasing officer. Purchase 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. 27. 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. 28. Property purchased to be inspected. All property purchased under the authority herein granted shall be inspected by an officer designated for that purpose by the adjutant general, 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 contract of purchase.

Sec. 29. 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

CHAP. 174

especially authorized to do so by this chapter or by the express order of the adjutant general; 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.

Sec. 30. Organization and regulations of national guard. The organization of the national guard of Maine including enlistments, appointments, promotions, transfers, discharges, equipment, uniforms, reductions and warrants of non-commissioned officers, instruction and training, armament, discipline, and elimination and disposition of officers, 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, to issue and prescribe from time to time such orders and regulations, and to adopt such other means of administration as shall maintain the prescribed standard of organization, armament and discipline; and it shall be the further duty of the commander-in-chief to prescribe such regulations and to adopt such methods of administration for the care, preservation, disposition of and accountability for all military property issued to the 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. 31. New organizations. When authorized by the war department, 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 shall 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 shall appoint commissioned officers therefor and request an inspection to be made by an officer of the regular army with a view to federal recognition.

Sec. 32. 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.

Sec. 33. Naval militia. Such persons as may be enlisted or as may be appointed or commissioned therein, shall constitute the naval militia of the State of Maine.

Sec. 34. Organization by commander-in-chief; drill, discipline, etc. The commander-in-chief may organize the forces prescribed in the preceding section as he may deem proper; and when in his judgment the efficiency of the naval 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. 35. 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 state and United States property for which he may be accountable; 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. 36. Authority of officers. Commissioned officers of the naval militia shall have the same authority, rights, privileges and qualifications, grade for grade, as commissioned officers in the national guard, and, if

CHAP. 174

not otherwise prescribed, shall be appointed in the same manner; but the board of examination, in the case of the appointment of an officer of the naval militia, shall consist of at least one commissioned officer of the naval militia, active or retired.

Sec. 37. Appointments of commissioned officers, vacancies, etc. Subject to the regulations prescribed by the war department all officers shall be appointed and commissioned by the governor. Except as hereinafter provided all vacancies shall be filled as follows: Vacancies in the grade of colonel or 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 organization 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; when it appears to the governor to be for the best interest of the service that vacancies be otherwise filled, such vacancies, if they be within a regiment, corps or other separate organization, shall be filled by the governor upon the recommendation of the commanding officer of such organization, or upon the recommendation of the adjutant general. Vacancies in the grade of second lieutenant shall be filled in the following manner: All enlisted men of any company and any non-commissioned staff officer shall, if physically sound, be eligible for appointment and 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 upon the recommendation of the commanding officer of the regiment, corps or other separate battalion, 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. 38. Retirement of officers. Any officer who shall reach the age of sixty-four years shall be retired. Any officer who 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. Any officer who is found incapacitated for service by reason of physical disability 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. Except as provided above 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 by an efficiency board, in a manner prescribed by law.

Sec. 39. 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 of 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. 40. 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. 41. Special inspection. The commander-in-chief may in his discretion at such times and under such regulations as he may prescribe order

CHAP. 174

each colonel commanding a regiment or corps, or, in case of his disability or when designated by him, the lieutenant colonel, and each officer commanding a battalion, to parade, inspect and report upon the general military efficiency of the several companies under his command at least once each year; 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. 42. 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 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. 43. 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. 44. Prizes for general military efficiency and marksmanship. To encourage general military efficiency among organizations in the national guard, the adjutant general is authorized to offer annually a suitable reward. He may also provide suitable rewards for proficiency in small arms practice and practice with light and heavy guns. All such rewards shall be competed for under such regulations as may be approved by the adjutant general. Members of any staff, corps or detachments assigned or attached for duty with any command shall be considered a part of such command for the purpose of the competitions herein authorized.

Sec. 45. Medal for honorable service. Every officer and enlisted man 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. 46. Medal for perfect attendance. Every officer or enlisted man in the national guard 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. 47. Pay and allowance. 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 warrant officers shall be paid five dollars a day and 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 section nine, 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 of 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,

CHAP. 174

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 or 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. 48. 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 and satisfactory performance of military duties, not exceeding fifty dollars per annum; each company clerk, and each company supply sergeant, not exceeding twenty-five dollars per annum, when certified by the company commander.

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

Whenever deemed necessary, the adjutant general may authorize the 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. 49. 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 governor and council for payment, and a warrant shall be drawn for the amount thereof on the state treasurer in favor of the person to whom the account is due, and the same shall be delivered to the paymaster general for delivery by him; provided, that no payment whatever shall be made or allowed except for duty actually performed or services actually rendered; and pro-

vided, 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 carried into the state treasury whenever directed by the governor.

Sec. 50. The military fund. For the current expenses of the national guard and naval militia there shall be appropriated biennially such sums as may be necessary for the proper administration of the military law. The appropriation thus provided shall constitute a 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 section, to be paid upon vouchers approved as provided in section forty-nine.

Sec. 51. 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 or 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, or when assembled for any regular or special drill or other duty under the command of a superior officer, receive any injury, or incur or contract any disability or disease by reason of such duty or assembly, or who shall without wilful negligence on his part receive any wound, injury or disease incident thereto while performing any lawfully ordered duty which shall incapacitate him from his usual business or occupation, shall receive compensation according to the provisions of chapter two hundred and thirty-eight of the public laws for nineteen hundred and nineteen, and any amendments thereto, as an employee of the State of Maine, and the average weekly wage in such cases shall be taken to be the earning capacity of the injured in the occupation in which he is regularly engaged, and in case of death his dependents, if any, shall be entitled to compensation as provided in said act.

CHAP. 174

Sec. 52. Armories, stables and target ranges. It shall be the duty of the 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, suitable drill rooms, offices, armory, stables, or place of deposit of all military property, and for the headquarters of each separate battalion, corps, regiment or brigade established within such municipal limits, suitable headquarters offices; and the suitability for the necessary military purposes of such drill rooms, armories, headquarters offices or stables 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 or stables, and shall be allowed as rent for such building or buildings to the municipality providing and maintaining them, and paid by the state out of the appropriation for armory rental. To carry out the provisions of this section there shall be appropriated biennially such sums as are deemed necessary, said sums to be known as the armory fund, payment to be made therefrom by the treasurer of the state upon vouchers manifested by the armory commission to the state auditor. All armories, drill rooms, offices, headquarters offices or stables shall be subject always to the provisions of law and to the regulations prescribed by the proper authorities, and said armories, drill rooms, offices, headquarters offices or stables 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 or stables without authority, or abuse the authority or privilege so granted, they and each of them shall, in each case, be guilty of a misdemeanor and shall be punished as prescribed in this section. 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.

Whenever the military fund shall be sufficient to warrant such expenditure, the armory commission may, with the approval and by direction of the governor, erect upon lands donated to the state for the purpose either

by municipalities, corporations or individuals, armories, drill rooms, headquarters offices, stables or other buildings for military purposes.

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.

Any municipal officer who fails, refuses or neglects to take effective measures for providing and maintaining such suitable drill rooms, offices, armories, headquarters or stables as prescribed in this section, and any municipal officer who fails, refuses or neglects to take effective measures for providing and maintaining a suitable target range as prescribed in this section 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. 53. 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, stables, 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, stables, 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. 54. Exemption from taxation. All armories, drill rooms, offices, stables, headquarters offices, and target ranges, owned by the state or by

CHAP. 174

any municipality, or by any organization of the national guard, and such portion of 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, stable, headquarters office, target range, or for other military purposes; shall be exempt from taxation for all purposes during the period of such ownership or lease and use.

Sec. 55. 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 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, headquarters offices, stables, 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, headquarters offices, stables, 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 fifty-two. The armory commission is authorized where towns or municipalities have been relieved from compliance with the provisions of this act to provide armories, target ranges or stables by reason of any agreement or agreements entered into between such towns or cities and the State of Maine, to hire or lease suitable buildings for drill halls, quarters, headquarters offices or stables as may be necessary to adequately house the national guard. For each day actually employed in the transaction of the business of the armory commission the members other than the adjutant general shall receive as compensation the sum of five dollars and all members shall be reimbursed for actual traveling expenses, such accounts to be paid from the military fund.

Sec. 56. Courts-martial. 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 as now or shall be hereafter prescribed for similar courts.

Sec. 57. Rules of evidence. The rules of evidence in all courts-martial shall follow in general, so far as applicable, 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. 58. 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. 59. 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 duces 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 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; pro-

CHAP. 174

vided 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 out of the military fund; 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. 60. Jurisdiction. All courts-martial of the national guard, including summary courts, shall have power to sentence to confinement in 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 or sentences when issued by any courts-martial shall extend to any part of the state.

Sec. 61. Confinement. When the sentence of a court-martial adjudges a fine and costs against any person, and such sentence has been approved as provided by section ninety 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 court-martial proceedings shall be the same as is prescribed in the 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. 62 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 an officer acting under its authority or reviewing its proceedings on account of the approval or imposition or execution of any sentence, or the imposition or collection of any fine or penalty, or the execution of any warrant, writ, execution, process or mandate of a military court.

Sec. 63. Oaths, by whom administered. Officers of the judge-advocate general's department, judge-advocates of courts-martial, summary court officers, and the recorders of a board, are hereby authorized to administer oaths for the purpose of military administration, and shall charge no fee for the same.

Sec. 64. 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. 65. Applicable to naval militia. The provisions in regard to courts and boards established by this act shall apply, so far as applicable, to the naval militia.

Sec. 66. 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. 67. 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

CHAP. 174

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. 68. 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 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. 69. 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. 70. 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. 71. 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 adjutant general, 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. 72. 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 governor or other proper authority.

Sec. 73. Destruction of equipment. Any officer, enlisted man or other person, who shall wilfully or maliciously destroy, injure or deface any particle of military property belonging to the state or United States, 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

CHAP. 174

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 into the United States treasury to be credited to the state on its property returns.

Sec. 74. 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 military duty.

Sec. 75. 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. 76. 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. 77. 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. 78. 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 drill rooms 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 one hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

Sec. 79. Right of way. The commander 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, 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. 80. 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.

Sec. 81. 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

CHAP. 174

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. 82. 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 to 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. 83. 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 duty shall be deemed guilty of misdemeanor, and on conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment not to exceed six months, or by both such fine and imprisonment.

Sec. 84. 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. 85. 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, and upon conviction therefor

shall be punished by a fine not to exceed five hundred dollars or by imprisonment not to exceed six months or by both such fine and imprisonment.

Sec. 86. 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 or regulations, and fix a sum to be paid by any member of such company for non-compliance therewith not exceeding five dollars. Any member who fails to pay such 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.

Sec. 87. 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 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. 88. 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. 89. 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.

CHAP. 175

Sec. 90. **Articles of war and courts-martial.** Except as provided in the preceding sections the national guard of Maine, and the unorganized militia whenever called into service, shall at all times and in all places, be governed by the articles of war and the manual of courts-martial, as now or hereafter modified and adapted to the use of the national guard by the war department, militia bureau, in the national guard regulations.

Sec. 91. **P. L., 1917, c. 259 and amendments, repealed.** Chapter two hundred and fifty-nine of the public laws of nineteen hundred and seventeen, and all amendments thereto, are hereby repealed.

Approved April 4, 1923.

Chapter 175.

An Act to Amend Section Four of Chapter One Hundred and Seventy-three of the Public Laws of Nineteen Hundred and Twenty-one, Relating to the State School Fund.

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

P. L., 1921, c. 173, sec. 4; relating to deductions from state school fund, amended. Section four of chapter one hundred and seventy-three of the public laws of nineteen hundred and twenty-one is hereby amended by inserting after the word "act" in the ninth line the following words: 'such amount as may be required for physical education as provided in chapter seventy-three of the public laws of nineteen hundred and nineteen; such amounts as may be required to cover the obligation of the state for industrial education under sections one hundred and thirty-three, one hundred and thirty-four, one hundred and thirty-five, one hundred and thirty-six, one hundred and thirty-seven and one hundred and thirty-eight of chapter sixteen of the revised statutes,' so that the section amended, shall read as follows:

'Sec. 4. Amounts required for physical education and industrial education to be deducted from state school fund. In addition to the other funds and appropriations provided for by law to be deducted from the state school fund, there shall annually be deducted the sum of one hundred thousand dollars, the same to be denominated the school equalization fund and to be apportioned and distributed in the manner and for the purposes provided for by section nine of this act. From the state school fund there shall also be apportioned such sums as may be required for payment to towns for reimbursement of tuition in secondary schools as provided for by section five of this act, such amount as may be required for physical education as provided in chapter seventy-three, of the public laws of nineteen hundred and nineteen; such amounts as may be required to cover the obligation of the state for industrial education under sections one hun-