

MAINE STATE LEGISLATURE

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REPORT

OF THE

COMMISSIONERS

APPOINTED TO REVISE THE

PUBLIC LAWS

OF THE

STATE OF MAINE.

TITLE II.

Augusta:

SMITH & ROBINSON, PRINTERS TO THE STATE.

1840.

REPORT

1. General Description of the Project

2. Objectives and Scope of the Study

3. Methodology and Data Collection



ERRATA. In the first page of the Abstract, under the head of "Exemptions," for "Sect. 3" read Sect. 2. The erroneous numbering is thus continued throughout the Abstract.

Page 7, line 26, for "Sect." read *Art.*

" 13, " numbered 5, insert Sect. 2.

" 14, 3d line, for " Sect. 2" read Sect. 3.

" 14, 2d line from bottom, strike out "Sect. 3."

1. The first part of the paper is devoted to a general discussion of the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β . It is shown that the system has a solution for arbitrary values of the parameters α and β if and only if the condition $\alpha + \beta = 1$ is satisfied. In this case the solution is unique and is given by the formula

TITLE SECOND.

CHAPTER 16.

OF THE MILITIA.

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- Sect.* 1. System of discipline established.
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4. Contempt toward officers.
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 41. Witnesses to be examined under oath.
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 49. Insulting or disturbing courts martial.
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 51. Arrest or imprisonment limited to eight days, unless, &c.
 52. How prisoner is to be secured—notice of accusation.
 53. Punishment for releasing prisoner.
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 55. Officer under arrest, leaving his confinement.
 56. Of disgraceful conduct in an officer.
 57. Artillery, officers, &c. subject to these rules—
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 60. Field officers to appoint persons to receive fines and shall direct the application of them.
 61. Crimes, not capital, may be taken cognizance of though not herein specified.
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SECT. 1. All the provisions of this chapter, shall be considered 2 as subordinate to, and in such manner as best to carry into 3 effect, the provisions of the following acts of the Congress of 4 the United States, that is to say :—

An act passed on the eighth day of May, in the year one thousand seven hundred and ninety-two, entitled “an act more effectually to provide for the national defence by establishing a uniform militia throughout the United States.”

SECT. 1. Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That each and every free, able bodied, white male citizen of the respective States, resident therein, who is or shall be of the age of eighteen years, and under the age of forty-five, (except as is hereinafter excepted) shall severally and respectively be enrolled in the militia, by the captain or commanding officer of the company, within whose bounds such citizens shall reside, and that within twelve months after the passing of this act. And it shall at all times hereafter be the duty of every

such captain or commanding officer of a company, to enrol every such citizen as aforesaid, and also those who shall, from time to time, arrive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty-five years (except as before excepted) shall come to reside within his bounds, and shall without delay notify such citizens of the said enrolment, by a proper non-commissioned officer of the company, by whom such notice may be proved. That every citizen so enrolled and notified, shall, within six months thereafter provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch, with a box therein to contain not less than twenty-four cartridges, suited to the bore of his musket or firelock, or with a good rifle, knapsack, shot pouch and powder horn, twenty balls suited to the bore of his rifle and a quarter of a pound of powder and shall appear so armed and accoutred and provided when called out to exercise, or into service, except that when called out on company days to exercise only, he may appear without a knapsack. That the commissioned officers shall severally be armed with a sword or hanger, an esponton; and that from and after five years from the passing of this act, all muskets for arming the militia as herein required, shall be of bores sufficient for balls of the eighteenth part of a pound. And every citizen so enrolled, and providing himself with the arms, ammunition, and accoutrements required as aforesaid, shall hold the same exempt from all suits, distresses, executions of sales for debt, or the payment of taxes. 1834, 121.

SECT. 2. And be it further enacted, That the vice president of the United States, the officers, judicial and executive of the government of the United States, the members of both houses of congress and their respective officers; all custom house officers with their clerks, all post officers and stage drivers who are employed in the care and conveyance of the mail of the post office of the United States; all ferrymen employed at any ferry on the post road; all inspectors of exports; all pilots; all mariners actually employed in the sea service of any citizen or merchant, within the United States; and all persons who now are, or may hereafter be exempted by the laws of the respective States, shall be, and are hereby exempted from military duty, notwithstanding their being above the age of eighteen and under the age of forty-five years. 1834, 121, § 1.

SECT. 3. And be it further enacted, That within one year after the passing of this act, the militia of the respective States, shall be arranged into divisions, brigades, regiments, battalions and companies, as the Legislature of each State shall direct; and each division, brigade and regiment, shall be numbered at the formation thereof; and a record made of such numbers in the adjutant general's office, in the State; and when in the field, or in service in the State, each division, brigade and regiment, shall respectively take rank according to their numbers, reckoning the first or lowest number higher in rank. That if the same be

convenient, each brigade shall consist of four regiments, each regiment of two battalions, each battalion of five companies, each company of sixty four privates. That the said militia shall be officered by the respective States, as follows: to each division one major general and two aids de camp, with the rank of major; to each brigade, one brigadier general, with one brigade inspector, to serve also as brigade major, with the rank of major; to each regiment one lieutenant commandant; and to each battalion, one major; to each company, one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and fifer or bugler. That there shall be a regimental staff to consist of one adjutant, and one quarter master, to rank as lieutenants, one paymaster, one surgeon, and one surgeon's mate, one sergeant major, one drum major and one fife major. 1834, 121, § 1.

SECT. 4. And be it further enacted, That out of the militia enrolled as herein directed, there shall be formed for each battalion at least one company of grenadiers, light infantry or riflemen; and that to each division there shall be at least one company of artillery and one troop of horse; there shall be to each company of artillery one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer and one fifer. The officers to be armed with a sword or hanger, a fusee, bayonet and belt, with a cartridge box, to contain twelve cartridges; and each private or matross shall furnish himself with all the equipments of a private in the infantry, until proper ordnance and field artillery is provided. There shall be to each troop of horse, one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier and one trumpeter. The commissioned officers to furnish themselves with good horses of at least fourteen and a half hands high, and to be armed with a sword and a pair of pistols, the holsters of which to be covered with bear skin caps. Each dragoon to furnish himself with a serviceable horse, at least fourteen and a half hands high, a good saddle, bridle, mail pillion and valisse, holsters and a breast plate and crupper, a pair of boots and spurs, a pair of pistols a sabre and cartouch box, to contain twelve cartridges for pistols. That each company of artillery and troop of horse, shall be formed of volunteers from the brigade, at the discretion of the commander-in-chief of the State, not exceeding one company of each to a regiment, nor more in number than one eleventh part of the infantry, and shall be uniformly clothed in regimentals, to be furnished at their own expense; the color and fashion to be determined by the brigadier commanding the brigade to which they belong. 1834, 121, § 1.

SECT. 5. And be it further enacted, That each battalion and regiment shall be provided with the State and regimental colors, by the field officers, and each company with a drum and fife, or bugle horn, by the commissioned officers of the company, in such manner as the Legislature of the respective States shall direct.

1834, 121, § 1.

SECT. 6. And be it further enacted, That there shall be an adjutant general appointed in each State, whose duty it shall be to distribute orders from the commander-in-chief of the State to the several corps: to attend all public reviews, when the commander-in-chief of the State shall review the militia, or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the system of military discipline, established by this act; to furnish blank forms of different returns that may be required, and to explain the principles on which they should be made; to receive throughout the States, returns of the militia under their command, reporting the ~~annual~~ *actual* situation of their arms and accoutrements and ammunition, their delinquencies, and every other thing that relates to the general advancement of good order and discipline; all which the several officers of the divisions, brigades, regiments and battalions, are hereby required to make, in the usual manner, so that the said adjutant general, may be duly furnished therewith; from all which returns he shall make proper abstracts, and lay the same annually before the commander-in-chief of the State. 1834, 121, § 1.

SECT. 7. And be it further enacted, That all commissioned officers shall take rank according to the date of their commissions, and when two of the same grade, bear an equal date, then their rank to be determined by lot, to be drawn by them before the commanding officer of the brigade, regiment, battalion, company or detachment. 1834, 121, § 1.

SECT. 8. Be it further enacted, That if any person whether officer or soldier, belonging to the militia of any State, and called into the service of the United States, be wounded or disabled, while in actual service, he shall be taken care of, and provided for, at the public expense. 1834, 121, § 1.

SECT. 9. And be it further enacted, That it shall be the duty of the brigade inspector, to attend the regimental and battalion meetings of the militia composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition and accoutrements; superintend their exercises and manœuvres, and introduce the system of military discipline before described, throughout the brigade, agreeably to law, and such orders as they shall from time to time receive from the commander in chief of the State; to make returns to the adjutant general of the State, at least once in every year, of the militia of the brigade to which he belongs, reporting therein the actual situation of the arms, accoutrements and ammunition of the several corps, and every other thing, which in his judgment may relate to the government and general advancement of good order and military discipline; and the adjutant general shall make a return of all the militia of the State to the commander-in-chief of the said State, and a duplicate of the same to the president of the United States. And whereas, sundry corps of artillery, cavalry and infantry, now exist in several of the said States, which by the laws, customs, or usages thereof, have not been incorporated with or subject to the general regulations of the militia: 1834, 121, § 1.

SECT. 10. Be it further enacted, That such corps retain their accustomed privileges, subject nevertheless to all the duties required by this act, in like manner with the other militia. 1834, 121, § 1.

And whereas, congress on the second day of March, in the year one thousand eight hundred and three passed the following additional law, entitled,

An act in addition to an act entitled an act, more effectually to provide for the national defence, by establishing an uniform militia throughout the United States.

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That it shall be the duty of the adjutant general of the militia in each State, to make return of the militia in each to which he belongs, with their arms, accoutrements and ammunition, agreeably to the directions of the act, to which this is in addition, to the president of the United States, annually, on or before the first Monday in January, in each year; and it shall be the duty of the secretary of war from time to time to give such directions to the adjutant generals of the militia, as shall in his opinion be necessary to produce an uniformity in the said returns, and he shall lay an abstract of the same before congress on or before the first Monday of February annually.

SECT. 2. And be it further enacted, That every citizen duly enrolled in the militia, shall be constantly provided with arms, accoutrements and ammunition, agreeably to the direction of the said act, from and after he shall be duly notified of his enrolment; and any notice of warning to the citizens so enrolled to attend a company, battalion or regimental muster or training, which shall be according to the laws of the State in which it is given for that purpose, shall be deemed a legal notice of his enrolment.

1834, 121, § 1.

SECT. 3. And be it further enacted, That in addition to the officers provided by said act, there shall be to the militia of each State, one quarter master general; to each brigade one quarter master of brigade; and to each regiment one chaplain.

Whereas congress on the eighteenth day of April in the year one thousand eight hundred and fourteen passed the following law, entitled an act in further addition to an act, entitled an act more effectually to provide for the national defence by establishing an uniform militia throughout the United States.

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That in addition to the officers of militia provided for by the act, entitled an act more effectually to provide for the national defence by establishing an uniform militia, throughout the United States, approved May the eighth, one thousand seven hundred and ninety-two, and by an act in addition to said recited act, approved March the second, one thousand eight hundred and three, there shall be to each division, one division inspector with the rank of lieutenant colonel, and one division quarter master, with the rank of major; to each brigade one aid-de-camp, with the rank of captain, and the quarter master

of brigades heretofore provided for by law shall have the rank of captain. And it shall be incumbent on the said officers to do and perform all the duties which by law and military principles are attached to their offices respectively.

Whereas congress on the twentieth day of April in the year one thousand eight hundred and sixteen passed the following law, entitled an act concerning the field officers of the militia—

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That from and after the first day of May next, instead of one lieutenant colonel commandant to each regiment, and one major to each battalion of the militia as is provided by the act, entitled an act more effectually to provide for the national defence by establishing an uniform militia, throughout the United States, approved May the eighth one thousand seven hundred and ninety-two, there shall be one colonel, one lieutenant colonel and one major, to each regiment of the militia, consisting of two battalions; where there shall only be one battalion it shall be commanded by a major; provided that nothing contained herein, shall be construed to annul any commission in the militia which may be in force as granted by the authority of any State or Territory, in pursuance of the act herein recited, and bearing date prior to the said first day of May next.

And whereas congress on the twelfth day of May in the year one thousand eight hundred and twenty passed the following additional law, entitled an act to establish an uniform mode of discipline and field exercise, for the militia of the United States,

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That the system of discipline and field exercise, which is and shall be, ordered to be observed by the regular army of the United States in the different corps of infantry, artillery and riflemen, shall also be observed by the militia in the exercises and discipline of the said corps respectively, throughout the United States.

SECT. 2. And be it further enacted, That so much of the act of congress, approved the eighth day of May, one thousand seven hundred and ninety-two, as approves and establishes the rules and discipline of the Baron de Steuben, and requires them to be observed by the militia throughout the United States, be and the same is hereby repealed.

Exemptions.

5 In addition to the exemptions made by the foregoing laws of
6 the United States, the following described persons shall be
7 absolutely exempted from military duty notwithstanding their
8 ages may be more than eighteen and less than forty-five years,
9 viz: the justices of the supreme judicial court—all regularly or-
10 dained ministers of the gospel of every denomination, while they
11 shall ordinarily officiate as such, and continue in regular stand-
12 ing—all officers who have heretofore held or may hereafter hold
13 commissions in the militia of this State for the term of five years,
14 or who shall have been superseded, or whose corps or company

or in the Army or Navy of the United States

15 shall have been disbanded and who shall have been honorably
16 discharged. 1834, 121, § 1.

SECT. 2. The persons named in this section, shall be exemp-
2 ted from military duty, upon producing certificates as herein-
3 after prescribed.

4 Every person of the religious denominations of quakers and
5 shakers, who shall on or before the first Monday of April annu-
6 ally, produce a certificate to the commanding officer within
7 whose bounds such quaker or shaker resides; which certificate
8 signed by two or more of the elders or overseers (as the case may
9 be) and countersigned by the clerk of the society, with [which]
10 such quaker or shaker meets for religious worship, shall be in
11 substance as follows:

12 We the subscribers of the society, of the people in the
13 town of in the county of do hereby certify that
14 is a member of our society and that he frequently and
15 usually attends with said society for religious worship and con-
16 forms to the usages of the same, and we believe is conscientiously
17 scrupulous of bearing arms.

A. B. } Elders or overseers
C. D. } (as the case may be.)

20 E. F. Clerk.

21 All enginemen upon the conditions specified in the acts
22 under which they have been or may hereafter be appointed,
23 provided that such enginemen shall be still liable to be called
24 forth as members of the company, within the limits of which
25 they reside, to execute the laws of the United States or of this
26 State, to suppress insurrection and repel invasion, but shall not
27 vote in the choice of company officers, so long as they claim
28 exemption from other military duty, provided that no person
29 shall be exempted from the performance of any military duty by
30 virtue of his being a member of any engine company unless he
31 shall on or before the second Tuesday of April annually, produce
32 to the commanding officer of the military company to which he
33 belongs, the certificate of the selectmen or other officers by whom
34 he is appointed, that he has been duly appointed an engineman
35 and that he faithfully performs the duty thereof. But it shall be
36 the duty of the clerk of each engine company to return to the
37 commanding officers of military companies, a list of all the
38 members of said engine companies, and such list so returned,
39 shall avail each member in the same manner as though he had
40 personally returned his certificate of membership.

41 No person liable to the performance of military duty who
42 may be discharged from any engine company for being negli-
43 gent or remiss in any of the duties required of him as an engine-
44 man, shall be again appointed an engineman, and be thereby
45 exempted from military duty until one year from the time he
46 may be so discharged. 1834, 121, § 1. 1835, 184, § 1, 2.

SECT. 3. No members of any company of artillery, cavalry,
2 light infantry or riflemen, shall be appointed an engineman,

3 during the time for which he may have enlisted into said com-
4 pany, when by such appointment any such company would be
5 reduced below forty eight effective privates. 1834, 121, § 54.

6 Any non-commissioned officer or private may be exempted
7 from military duty on account of bodily infirmity provided he
8 shall obtain a certificate thereof in the manner hereafter pro-
9 vided in this section, that is to say— 1839, 121, § 1.

10 It shall be the duty of the surgeon and surgeon's mate some-
11 time in the month of March in each year, to post up in one or
12 more public places in each town in their regiment a notice in
13 writing that they will attend at such times as shall be stated in
14 such notice between the tenth and twentieth days of April in
15 each year, and at such places to be designated in such notice,
16 not less than three in each regiment as will best accomodate
17 the soldiers in such regiment, to receive and examine such
18 applications as may be made to them for certificates of exemption
19 from military duty on account of bodily infirmity. And it shall
20 be the duty of such surgeon and surgeon's mate to attend at the
21 times and places stated in such notice, and there publicly to
22 receive such applications as may be made to them, which shall
23 be in writing, stating concisely the disease or infirmity, made
24 under oath, and to make a critical examination into the nature
25 and degree of such infirmity, and if they shall be of opinion upon
26 such examination, that the person so applying is unable to per-
27 form the duties required by law of soldiers in the militia, they
28 shall give to the person so applying, a certificate thereof, which
29 being recorded in the orderly book of the company in which
30 such applicant would otherwise be liable to do military duty,
31 shall exempt him from the performance of military duty for such
32 term as they may think such disability will continue, not exceed-
33 ing one year. Provided that if such surgeon and surgeon's
34 mate shall be of opinion that the infirmity of any person is
35 incurable and of such a nature that he can never be able to per-
36 form military duty, they may give to such person a certificate
37 thereof, which being recorded as aforesaid, shall absolutely
38 exempt such person from military duty, until revoked by the
39 same authority.

40 If the surgeon or surgeon's mate be absent at any time and
41 place so appointed, or in case of a vacancy in either of those
42 offices, the one present or in office may grant a separate certifi-
43 cate as aforesaid, which shall have the like operation; and such
44 surgeon and surgeon's mate shall have power on due notice, if
45 they see cause, to revoke any such certificate. New.

46 No certificate shall be granted by such surgeon or surgeon's
47 mate at any other time and place than those designated in such
48 notice, unless the person so applying shall satisfy such surgeon
49 or surgeon's mate by his statement under oath in his said appli-
50 cation, that such infirmity has arisen since the times so appointed,
51 or that he had no notice or was unable to attend at either of
52 such times. And it shall be the duty of the surgeon and

53 surgeon's mate to file with the adjutant of the regiment, as soon
54 as practicable, all the original applications made to them with a
55 minute thereon, whether a certificate was granted, or not, and if
56 granted for what period.

57 The commanding officer of the regiment shall, as soon as
58 may be thereafter, cause notice to be given to the com-
59 manding officer of the respective companies, of all certificates
60 of exemptions thus obtained, by persons, otherwise liable to be
61 enrolled in their companies. New.

62 If any surgeon or surgeon's mate, shall demand or receive of
63 any non-commissioned officer or private, any fee or reward for any
64 certificate or examination, he shall forfeit and pay a fine equal
65 to four times the amount of the fee so received or demanded, to
66 be recovered in an action of debt before any court of competent
67 jurisdiction, in the name of the commanding officer of the
68 company, in which such person so paying or causing to be paid
69 such fee, would be liable to do duty, to be appropriated in the
70 same manner as other military fines.

71 If there be no surgeon nor surgeon's mate, in commission in any
72 regiment, any person otherwise liable to do military duty therein,
73 may be exempted therefrom on account of bodily infirmity on
74 obtaining a certificate, from some respectable physician, living
75 within the bounds of the regiment, that he is unable to do such
76 duty by such infirmity, for such term not exceeding one year, as
77 the officer commanding the company shall judge reasonable,
78 provided such officer shall certify such exemption on the back of
79 the certificate, and the officer commanding the regiment, shall
80 approve and countersign the same.

1834, 121, § 34.

SECT. 4. All persons hereafter mentioned in this section not-
2 withstanding their age be more than eighteen and less than forty
3 five years shall be exempted on the conditions hereinafter
4 mentioned from all military duty, except that of being called
5 forth to execute the laws of the United States or of this State
6 to suppress insurrection and repel invasion. 1834, 121, § 2.

7 All officers who may have held or may hereafter hold commis-
8 sions in the army or navy of the United States, or in the militia
9 of any of the United States, for the term of five years and have
10 been honorably discharged; and all officers who have held or
11 may hereafter hold commissions in the militia of this State for a
12 term less than five years and have been discharged otherwise
13 than in pursuance of any sentence of a court martial; and all
14 staff officers who have ceased to act as such, in consequence of
15 the resignation, promotion or removal of the officers, who
16 appointed them, or by any division of his corps by means of
17 which he may be left without the bounds thereof. Provided
18 that each person so exempted, shall pay to the treasurer of the
19 town or plantation within which such exempt resides, two dollars
20 annually, and produce his receipt therefor, to the commanding
21 officer of the company, within the bounds of which he resides,

22 on or before the first day of May in each year. And provided
 23 also that the persons exempted by the provisions of this section
 24 shall not be allowed to vote for captain and subaltern officers
 25 in any company of militia in which they may be enrolled so long
 26 as they claim the exemption herein specified. And it shall be
 27 the duty of the treasurers aforesaid to keep a fair account of all
 28 monies by them received by virtue of this section subject at all
 29 times to the inspection of any of the commanding officers of
 30 the companies in the towns or plantations to which they belong ;
 31 and shall annually on or before the second Wednesday of January
 32 transmit to the treasurer of the State, a fair account of all
 33 monies so received and shall within thirty days thereafter pay
 34 the amount into the treasury of the State, and the same shall
 35 there constitute a fund to be appropriated and disposed of as
 36 the Legislature shall from time to time direct, for the sole pur-
 37 pose of arming, equipping and uniforming the militia.

1835, 184, § 3. 1834, 121, § 4.

SECT. 5. All persons liable by law to the performance of
 2 military duty, who are or may be between the ages of thirty
 3 five and forty five years, shall be exempted from all military duty,
 4 except that of being detached or called forth to execute the
 5 laws of the United States, or of this State to suppress insurrec-
 6 tions, and of keeping themselves constantly furnished with the
 7 arms and equipments required by the laws of the United States,
 8 and the duty of carrying or sending them on the first Tuesday
 9 of May annually to the place of inspection or view of arms of
 10 the company within the bounds of which they may reside and in
 11 which they may be enrolled and the duty of attending the elec-
 12 tion of company officers—All persons liable to do military duty
 13 shall be allowed six months after their first enrolment to procure
 14 equipments.

1834, 121, § 3.

SECT. 6. It shall be the duty of the clerk of every company
 2 to assist the officer commanding the same, in the enrolment
 3 without partiality or favor, of all persons liable to do any military
 4 duty, within the limits thereof, so soon as their residence or their
 5 liability to do such duty, therein shall come to his knowledge.

1834, 121, § 12.

SECT. 7. All students attending any of the several colleges,
 2 academies or seminaries of this State shall be holden and com-
 3 pelled to do military duty, as other persons in the towns where
 4 such colleges, academies or seminaries are established.

1827, 276, § 6.

SECT. 8. In all cases of doubt respecting the age of any
 2 person intended to be enrolled, the party questioned as to his
 3 age shall prove the same to the satisfaction of the enrolling
 4 officer ; and if any person liable to military duty, upon applica-
 5 tion to him personally by the commanding officer of the company
 6 within the bounds of which such person resides, or upon appli-
 7 cation, by any person acting under such commanding officer,
 8 shall either refuse to give his name, or not give it truly, every

either
 // or age

9 such person, so offending, shall forfeit twelve dollars, to be sued
10 for by the clerk of the company in an action of the case before
11 any justice of the peace of the county where such offender
12 resides. 1824, 121, § 23.

SECT. 9. It shall be the duty of the clerk of every town and
2 plantation, at the expense thereof, on the request of the com-
3 manding officer of any company of militia therein to furnish
4 him with a copy of the records of the limits of his company
5 established under former laws and recorded on the books of such
6 town or plantation, certified by such clerk. In all prosecutions
7 for the non-performance of military duty such certified copy or
8 a copy of the records of the limits in the adjutant general's
9 office certified by him, shall be conclusive evidence of the bounds
10 of such company. 1839, 414.

SECT. 10. When it shall appear to the commanding officer of
2 a regiment that any company within his command is without a
3 commissioned officer, he shall issue orders to the clerk of such
4 company to enrol all persons liable to do duty therein, and to
5 return the roll thereof to him forthwith; and if there be no
6 clerk of such company, then such commanding officer shall
7 require, in writing, the assessors of cities, towns or plantations,
8 in which such company is situated, or some other person or per-
9 sons, to make out and return to him, within ten days, a list of the
10 names of all the persons liable, by law to do military duty in
11 such company; and if any such clerk, assessors or other persons
12 shall fail to comply, they shall forfeit and pay not less than
13 twenty nor more than one hundred dollars to be recovered by
14 indictment or by action on the case, by any person whatever, one
15 half to the use of the State and the other half to the use of the
16 prosecutor. 1837, 276, § 1.

SECT. 11. If any non-commissioned officer or private, shall
2 in due course of law be convicted of any infamous crime he
3 shall forthwith be disenrolled from the militia. 1834, 121, § 44.

Organization.

SECT. 12. The governor is authorized, with advice of coun-
2 cil to organize and arrange the militia of this State into divis-
3 ions, brigades, regiments, battalions and companies, conforma-
4 bly to the laws of the United States, and make such alterations
5 therein as from time to time may be necessary; and each divi-
6 sion, brigade and regiment, shall be numbered at the formation
7 thereof, and a record made of such numbering in the adjutant
8 general's office. And every new division, brigade and regiment,
9 shall be designated by the number next higher than that of the
10 division established next before it, and the divisions, brigades
11 and regiments, shall take rank according to their numbers, the
12 first being highest in rank. Provided however, that the gover-
13 nor with advice of council, may organize independent battalions
14 of infantry with a battalion staff, where the local situation of

15 the troops is such that they cannot be conveniently connected
16 with a regiment.

1834, 121, § 6. U. S. May, 1792. 1834, 121, § 17.

SECT. 13. All applications or petitions for raising companies
2 at large and for alterations in the arrangement of the militia,
3 shall be made to the governor, who, with advice of council may
4 grant such petitions or applications as may appear proper.

1834, 121, § 6.

SECT. 14. No company of cavalry, artillery, light infantry, or
2 riflemen shall be raised at large, when any of the standing com-
3 panies shall thereby be reduced to a less number than forty
4 effective privates, exclusive of conditional exempts, and two
5 musicians, and including corporals; and if any officer of cav-
6 alry, artillery, light infantry or riflemen, shall enlist any men
7 belonging to a standing company, or residing within the bounds
8 thereof, for the purpose of forming or recruiting his company,
9 when by means thereof such standing company would be
10 reduced to a less number than forty effective privates borne on
11 the roll, exclusive of those between the ages of thirty-five
12 and forty-five years, such enlistment shall be void; and when-
13 ever any person shall enlist into any such company raised at
14 large, the commanding officer of the company into which such
15 person may enlist, shall give notice thereof in writing to the
16 commanding officer of the standing company, in which such
17 person is liable to do duty, within five days from the time of
18 such enlistment, and state in such notice the date of enlistment,
19 otherwise the same shall be void, although the standing com-
20 pany should not thereby be reduced to a less number than forty
21 effective privates. If any company raised at large, shall be
22 reduced to a less number than twenty privates and remain so for
23 three months then such company shall be disbanded and the
24 men which belonged to such delinquent company shall be enrol-
25 led in the standing company within the bounds of which they
26 respectively reside. All companies raised at large and not
27 annexed to any particular regiment, shall be subject to the
28 orders of the commanding officer of the brigade in which they
29 have been raised; and shall make their elections of officers in
30 the same manner as other companies, but shall make their
31 returns of elections to the commanding officer of the brigade.
32 At all parades of regiments the companies commanded by the
33 two senior captains, shall act as light infantry companies, except
34 where companies of light infantry or riflemen, have been or
35 may be hereafter raised and annexed to the regiment.

1834, 121, § 19.

SECT. 15. Where there are now or may be hereafter two com-
2 panies of cavalry in a brigade, they shall form a battalion and
3 be entitled to a major, an adjutant and quarter master; and if
4 there are three companies, they shall still form a battalion: if
5 there are four companies they shall form a regiment of two bat-
6 talions and be entitled to a colonel, lieutenant colonel and

7 major, and an appropriate regimental commissioned and non-
8 commissioned staff. 1834, 121, § 18.

SECT. 16. If any non-commissioned officer or private of any
2 company of cavalry, shall be destitute of a suitable horse and
3 furniture for more than two months at a time it shall be the duty
4 of the commanding officer of the company immediately to apply
5 to the brigadier general, who may forthwith discharge such
6 delinquent from such company, and cause him to be enrolled in
7 the standing company within whose bounds he resides, and if
8 he be a non-commissioned officer, he shall be considered as
9 reduced to the ranks. 1834, 121, § 18.

SECT. 17. Every person who shall lawfully enlist in any vol-
2 unteer company (whether such person be exempted by law or
3 not) shall be holden to do duty therein for the term of seven
4 years, unless such person be sooner discharged by order of the
5 commanding officer of the brigade.

1834, 121, § 44. Art. 13.

SECT. 18. Each brigadier general, within his own brigade
2 upon application of the commanding officer of any company of
3 cavalry, artillery, light infantry or riflemen, may discharge any
4 non-commissioned officer or private from any of the aforesaid
5 companies; and such non-commissioned officer or private, shall
6 forthwith be enrolled in the standing company within the
7 bounds of which he resides; and every non-commissioned offi-
8 cer so discharged shall be considered as reduced to the ranks.

1834, 121, § 44. Art. 14.

SECT. 19. In each brigade where there are two companies of
2 artillery they shall form a battalion and be entitled to a major,
3 an adjutant and a quarter master; and if there are three com-
4 panies, they shall still form one battalion; where there are four
5 companies they shall form a regiment of two battalions, and be
6 entitled to a colonel, lieutenant colonel and major; and an
7 appropriate regimental commissioned and non-commissioned
8 staff. 1834, 121, § 17.

SECT. 20. Where by the division of any corps a new division
2 or brigade shall be so formed as to leave but three companies of
3 any regiment of cavalry or artillery, or where by the disband-
4 ing of any company such regiment of cavalry or artillery shall
5 be reduced to three companies, such three companies shall still
6 constitute a regiment and all the officers thereof shall retain
7 their command, and rank the same as if said corps had not been
8 reduced. 1834, 121, § 17.

SECT. 21. The commanding officer of each company of
2 artillery may enlist three men to serve as drivers, who shall be
3 exempted from other military duty, except that of keeping the
4 harnesses and apparatus of the carriages belonging to the com-
5 pany, in good order. 1834, 121, § 17.

SECT. 22. Each colonel or commanding officer of a regiment
2 of infantry may raise by voluntary enlistment within his own
3 regiment or any adjoining regiment, with the written consent

*added
& discharged by a vote of the company
on application to the Brigadier
enrol*

4 of the commanding officer thereof, and organize and establish
 5 within his own regiment, a band of music not to exceed twenty
 6 musicians, including one master and one deputy master; and
 7 the colonel or commanding officer shall grant the musicians and
 8 their officers, warrants as such, and each band shall be under
 9 the direction of the commanding officer of the regiment in
 10 which it is organized.

11 It shall be the duty of the master and deputy to teach, lead
 12 and command such band and to issue all such orders as they
 13 may be, by their colonel or commanding officer, authorized to
 14 do for these purposes.

15 Each master, deputy master and musician shall constantly
 16 keep himself provided with the uniform of the band to which
 17 he belongs, which uniform is to be prescribed in the same man-
 18 ner as the uniform of the regiment to which the band belongs—
 19 and shall also keep himself constantly provided with such
 20 instrument or instruments as may be directed by the command-
 21 ing officer of the regiment.

22 The bands belonging to the regiments, shall also be under
 23 the brigadier general or the commanding officer of the brigade
 24 (the senior master having the direction of said bands) when-
 25 ever the said regiments shall meet in brigade.

26 If any master, deputy master or musician shall be guilty of
 27 any neglect of duty, disobedience of orders, disorderly or other
 28 unmilitary conduct, he shall forfeit not less than five nor more
 29 than twenty dollars for each offence, one half thereof, to the use
 30 of the officer suing therefor, and the other half to the colonel of
 31 the regiment to which the offender may belong, for the purchase
 32 and repair of musical instruments for said band, to be sued for
 33 by the adjutant of the regiment, or brigade major of the brig-
 34 ade, if assembled in brigade, in an action of the case before
 35 any justice of the peace in the county where the offender
 36 resides, and no appeal shall be allowed to either party; and
 37 such master, deputy or musician shall moreover be liable to be
 38 removed from the band at the discretion of the commanding
 39 officer of the regiment in which the band is organized, and
 40 forthwith enrolled as a private in the standing company, within
 41 the bounds of which he resides.

42 Each master, deputy master and musician, shall be exempted
 43 from all military duty while belonging to the band excepting
 44 such as shall be required of him by the colonel or command-
 45 ing officer of the regiment, or by the commanding officer of the
 46 brigade, when the regiments are assembled in brigade.

1834, 121, § 20.

SECT. 23. Every commanding officer of a company, may
 2 enlist as musicians for his company and within the bounds of
 3 the same, not exceeding two drummers and two fifers or one
 4 fifer and one bugler, for and during the term of seven years,
 5 unless sooner discharged by removal to such distance from the
 6 said company as to render it inconvenient for the said musician

7 to perform the duties required of him or by reason of some other
8 good and legal excuse.

9 Any musician, so enlisted, who after having been duly noti-
10 fied and warned shall refuse to perform his duty as a musician
11 at any legal meeting of said company, shall forfeit and pay for
12 every such offence the same sum as would be forfeited by any
13 non-commissioned officer or private for non-appearance at any
14 such meeting; and in case of removal or discharge of any such
15 musician, the said commanding officer may from time to time,
16 enlist other musicians to fill such vacancy. 1834, 121, § 25.

Rosters, rolls and returns.

SECT. 24. The aid de camp to each major general by him
2 appointed to be orderly officer; the aid de camp of each brig-
3 ade, and the adjutant of each regiment, battalion, or corps, shall
4 constantly keep a correct roster of the division, brigade, regi-
5 ment, battalion or corps to which they respectively belong;
6 and an orderly book and record therein all orders and other
7 official communications received or issued by their respective
8 commanding officers, and copy, distribute and transmit all such
9 orders and other papers, as they may be directed by said offi-
10 cers, and attend them while on military duty.

1834, 121, § 44. Art. 34.

SECT. 25. The captain or commanding officer of each com-
2 pany shall make or cause the clerk of his company to make a
3 return of the state of his company on the day of the annual
4 inspection to the commanding officer of his regiment or bat-
5 talion, on or before the first day of June annually, and the
6 commanding officer of each regiment or battalion, shall cause
7 his adjutant to record an abstract of the returns made to him in
8 a book to be kept for that purpose and to transmit a copy
9 thereof to the office of the adjutant general on or before the
10 first day of ~~August~~ annually. And it shall be the duty of the
11 several commanding officers of regiments to cause such abstracts
12 and returns to be made and transmitted within the several times
13 aforesaid, in all cases of absence or inability of their adjutants
14 or of vacancies in the office.

1834, 121, § 27. 1837, 276, § 11. 1836, 209, § 5.

SECT. 26. If any captain or commanding officer, shall neg-
2 lect or refuse to make or cause to be made a return of the state
3 of his company as it existed on the day of the annual inspection
4 in ~~May~~, to the commanding officer of the regiment, on or before
5 the first day of ~~June~~ annually and shall so continue to neglect,
6 for fifteen days thereafter, being notified by the adjutant of the
7 regiment to which such company belongs, that said return has
8 not been received, he shall forfeit and pay a fine of ten dollars
9 one half thereof to the use of the State, and the remainder to
10 the adjutant of the same regiment, who shall be required to
11 collect said fine by an action of debt in any court proper to
12 try the same. 1837, 276, § 11.

SECT. 27. The commanding officer of each company of
2 artillery or cavalry not attached to any regiment or battalion,
3 shall cause the clerk of his company to make an abstract return
4 of the state of his company on the day of annual inspection, to
5 the office of the adjutant general on or before the first day of
6 ~~July~~ annually. 1836, 209, § 5.

SECT. 28. The returns herein named, shall be conveyed by
2 mail, and the certificate of the post master of the office where
3 the same is deposited, that the adjutant or clerk or other officer
4 as aforesaid, did deposit for transmission to the office of the
5 adjutant general, copies of returns as aforesaid shall be conclu-
6 sive evidence of his performing the duties required of him in
7 transmitting the returns aforesaid. 1836, 209, § 5.

SECT. 29. The captain or commanding officer of every com-
2 pany raised at large, shall annually, in the month of August,
3 make out a list of the names of the men belonging to his com-
4 pany and deliver the same to the commanding officer of the
5 regiment, within whose bounds such men reside. } *same*

1834, 121, § 44, Art. 12.

SECT. 30. The adjutant general shall form and sign correct
2 abstracts of all the returns as before herein required, and trans-
3 mit one of them to the commander in chief, and one to the
4 president of the United States on or before the first day of
5 January annually. 1834, 121, § 27.

6 And it shall be the duty of the adjutant general to furnish
7 the officers from whom returns are required with proper books,
8 and from time to time, with blanks containing proper forms of
9 the abstracts and returns aforesaid, and for rendering military
10 accounts and other purposes, and the forms shall be uniform
11 throughout the State. 1834, 121, § 50.

SECT. 31. Every officer, non-commissioned officer and private
2 of infantry, cavalry, artillery and riflemen, shall constantly keep
3 himself furnished with the arms and equipments required by the
4 laws of the United States recited in the first section, except
5 such privates as shall not be able so to provide themselves.

1834, 121, § 15.

SECT. 32. The officers of the militia, chaplains excepted,
2 while on duty shall wear a uniform dress, to consist of a blue
3 cloth coat, and other articles of dress of such color and fashion,
4 and with such equipments as shall be prescribed by the com-
5 mander-in-chief, except where the same is regulated by the
6 laws of the United States. 1834, 121, § 13.

SECT. 33. Every officer, non-commissioned officer and private
2 shall hold his arms, ammunition and accoutrements and uniform
3 exempted from all suits, distresses, executions or sales for debt,
4 or the payment of taxes. 1834, 121, § 14.

SECT. 34. No private shall be considered unable to provide
2 himself with the arms and equipments required in the preceding
3 section, unless he shall produce after the first day of April and
4 before the first Tuesday of May annually, to the commanding

also

August
** Sept*

5 officer of the company to which he belongs, a certificate of such
 6 inability from the overseers of the poor of the town or plantation
 7 where he resides. And the commanding officer of the company
 8 to which such private belongs, shall forthwith lay such certificate
 9 before the selectmen of the town or assessors of the plantation
 10 where such private resides. And it shall be the duty of such
officer 11 selectmen forthwith at the expense of their respective towns or
 12 plantations to provide for every such private the arms and equip-
 13 ments required as aforesaid, and they shall deposit the same in
 14 some safe and convenient place, and shall permit the command-
 15 ing officer of the company to which such private, unable to
 16 provide himself as aforesaid belongs, to deliver such arms and
 17 equipments to such private, whenever his company shall be
 18 ordered out for any military duty—The said commanding officer
 19 shall be responsible for the safe return of such arms and equip-
 20 ments to the place of deposit. If any town or plantation shall
 21 neglect to furnish arms and equipments to such privates as are
 22 unable as aforesaid to equip themselves, such town or plantation
 23 shall forfeit and pay not less than twenty, nor more than fifty
 24 dollars, to be recovered by indictment to the use of the State.

1834, 121, § 15.

SECT. 35. All parents, masters or guardians, shall furnish all
 2 minors enrolled in the militia, who shall be under their care
 3 respectively, with the arms and equipments required by law;
 4 and if any parent, master or guardian, having any minor under
 5 his care, enrolled as aforesaid, shall neglect to provide such
 6 minor with the arms and equipments required by this act; or if
 7 said minor shall absent himself from any meeting of the com-
 8 pany to which he belongs, required by law, without sufficient
 9 excuse, the said parent, master or guardian is hereby subjected
 10 and made liable to the same forfeitures as such minor would be
 11 liable to for a like deficiency, neglect or non-appearance, if such
 12 minor were of age. Provided, however, that such parents,
 13 masters or guardians, as shall produce on or before the first
Sept 14 Tuesday of ~~May~~, annually, certificates from the overseers of the
 15 poor of the town or plantation in which they reside, of their
 16 inability to provide arms and equipments as aforesaid, to the
 17 commanding officers of the company, in which the minor under
 18 their care is enrolled, shall be exempted from the forfeitures
 19 aforesaid.

1834, 121, § 33.

SECT. 36. No officer, non-commissioned officer or private
 2 shall be arrested on any civil process during his going unto,
 3 returning from, or his performance of military duty, nor during
 4 his going unto, remaining at, or returning from any place at
 5 which he may be ordered to meet for the election of any officer
 6 or officers. And no officer shall be arrested in any civil process
 7 while going to, serving upon or returning from any court martial,
 8 court of enquiry, or board of officers, upon which it may be the
 9 duty of such officer to attend.

1834, 121, § 14.

** Shall be furnish with a drum
and fife or Bugle Horn*

SECT. 37. Each regiment of infantry and each battalion of
2 cavalry and artillery, shall be furnished with the state colors ;
3 and each company of infantry, ~~artillery~~, light infantry and rifle-
4 men, shall be furnished with a drum and fife ~~or bugle horn~~, and ** Key*
5 each company of cavalry with a trumpet or bugle horn ; and
6 each brigadier general is hereby authorized to draw orders upon
7 the quarter master general in favor of the commanding officers
8 of regiments, battalions and companies for the above purposes,
9 whenever the several regiments, battalions and companies may
10 not be supplied as aforesaid. The commanding officers of regi-
11 ments and battalions shall be responsible for the safe keeping of
12 their colors ; and the commanding officers of companies shall be
13 responsible for the safe keeping of the drums, fifes, bugle horns
14 and trumpets delivered to them for the use of their companies ;
15 and it shall be the duty of the quarter master general to furnish
16 such colors and musical instruments and to present his accounts
17 therefor to the Legislature for allowance. 1821, 32.

SECT. 38. The adjutant general shall furnish blank orders for
2 the commanding officers of companies to order their non-com-
3 missioned officers or privates to notify their men to attend all
4 the inspections, trainings and reviews and meetings for the choice
5 of officers, which shall be ordered ; also blank notifications or
6 orders to be left with the men by the non-commissioned officers
7 or privates, ordered to notify as aforesaid ; and it shall not be
8 necessary that the seals be affixed to any orders whatever.

SECT. 39. Each company of artillery, shall be provided by the
2 quarter master general with two good brass or iron field pieces
3 of such calibre as the commander-in-chief may direct with
4 carriages and apparatus complete, a caisson, forty round shot and
5 forty rounds of canister shot ; also tumbrils harness, implements,
6 laboratory and ordnance stores, which may from time to time be
7 necessary for their complete equipment for the field. The
8 commander-in-chief shall order to be issued to each company of
9 artillery annually, a quantity of powder not exceeding forty
10 pounds which shall be expended on days of inspection or review,
11 and in experimental gunnery. The commanding officer of every
12 company of artillery, shall be accountable for the careful preser-
13 vation of the pieces and all the apparatus aforesaid appertaining
14 to their equipment, and for the proper expenditure of the ammu-
15 nition supplied by the government ; and he shall lay before the
16 committee on accounts, of the Legislature for allowance, his
17 accounts of money actually expended in providing horses to
18 draw the field pieces and the tumbril of the company : provided
19 however, no allowance shall be made unless such company is
20 ordered to appear at a battalion, regimental, brigade or division
21 inspection or review, or unless such company is ordered on duty
22 by the commander-in-chief.

1834, 121, § 17. 1836, 209, § 6.

SECT. 40. Whenever the governor on account of any public
2 exigency, shall issue his proclamation to that effect every town

3 and plantation within this State shall provide and deposit, and
 4 constantly keep provided and deposited in some suitable and con-
 5 venient place within said town or plantation, one hundred pounds
 6 of musket balls, each of the eighteenth part of a pound; one
 7 hundred and twenty eight flints, suitable for muskets, ~~three~~
 8 copper, iron or tin camp kettles for every sixty four soldiers
 9 enrolled within said town, or plantation, except artillerists; and
 10 also with powder at the rate of thirty two pounds for every sixty
 11 four soldiers, enrolled within said town or plantation, and the
 12 same proportion of the aforesaid articles for a greater or less
 13 number of soldiers enrolled as aforesaid. Every town or plan-
 14 tation which shall neglect to keep constantly provided with the
 15 articles aforesaid, and in the proportions aforesaid, shall forfeit
 16 and pay to the use of the State, a sum not exceeding five hundred
 17 dollars nor less than twenty, according to the nature and degree
 18 of the neglect, to be recovered by indictment or information in
 19 any court of competent jurisdiction. It shall be the duty of
 20 each quarter master of regiments of infantry to cause to be
 21 prosecuted every town or plantation within the bounds of his
 22 regiment, which he shall upon his inspection find to be deficient
 23 either in quality or quantity of military stores required to be
 24 provided as aforesaid, or which he shall find to have neglected
 25 to make the provisions or any part thereof, required as aforesaid.
 26 It shall be the duty of each town or plantation treasurer, when
 27 such town or plantation by virtue of this section shall make any
 28 expenditure, to make out an account thereof and present the
 29 same verified by his oath to the Legislature who shall examine
 30 and allow such sum as shall appear to be properly vouched and
 31 expended. 1834, 121, § 26.

house & meet { SECT. 41. Upon the requisition of any commanding officer
 2 of a company for that purpose, at five days notice, the mayor
 3 and aldermen of cities, the selectmen of towns and the assessors
 4 of plantations, shall pay at the place of inspection and review
 5 to each officer and member of such company, including musi-
 6 cians, belonging to such city, town or plantation who shall then
 7 and there appear duly equipped and perform military duty, the
 8 sum of fifty cents in lieu of rations.

1,50 { 9 Every city, town, or plantation, which shall fail to pay such
 10 sums as aforesaid, shall forfeit to the use of the company a sum
 11 equal to ~~fifty cents~~, for every such person, who shall do duty on
 12 such inspection and review to be sued for and recovered by the
 13 clerk of said company before any court of competent jurisdiction.
 14 The treasurer of said city, town and plantation, shall annually
 15 present his bill for so much money as he has actually paid to the
 16 officers and soldiers aforesaid to the Legislature for allowance.
 1834, 121, § 28. 1836, 209, § 8.

round { SECT. 42. The treasurer of every city, town or plantation
 2 shall supply at the expense of the State, or cause the command-
 3 ing officer of each company of infantry, light infantry, cavalry
 4 and riflemen, to be supplied with a quarter of a pound of good } *crust*

* It shall be the duty of the office
 5 days before review notify
 pay - officers will 50¢ for training
 inspection & review 1.00

5 gun powder made into suitable blank cartridges, for each and
 6 every non-commissioned officer and private borne on the com-
 7 pany roll of such commander, exclusive of conditional exempts,
 8 whenever such commanding officer's company is ordered to pa-
 9 rade for review. Such commanding officer shall make a written
 10 application therefor four days before such review, and shall return
 11 to or account with said treasurer for all the powder he may receive
 12 over and above one quarter of a pound for each man actually
 13 on parade, at the muster for which said powder was drawn and
 14 the treasurer aforesaid shall annually present his account for the
 15 expense of such powder to the Legislature for allowance. Pro-
 16 vided, that when the commanding officer of a company raised
 17 at large, shall make requisitions to the selectmen of a town,
 18 mayor of a city, or the assessors of a plantation for rations in
 19 money, and powder directed by law, they shall designate the
 20 number and names of the members of such company, belonging
 21 to such town, city or plantation, and certify their performance
 22 of military duty. 1834, 121, § 28.

SECT. 43. The commander-in-chief is hereby authorized to
 2 cause all necessary repairs to be made upon all the carriages
 3 and apparatus of the artillery and all the gun houses belonging
 4 to the State; and also to cause gun houses to be erected for the
 5 safe keeping of the public property as aforesaid, where such
 6 have not been erected; good and sufficient deeds of land therefor,
 7 being first given free of expense to the State. 1834, 121, § 51.

SECT. 44. Whenever either or any of the gun houses used
 2 for the protection and preservation of guns, gun carriages, tum-
 3 brils, munitions of war or any other apparatus provided for the
 4 use of the artillery of the State shall be so far injured or decayed,
 5 as that in the opinion of the commanding officer of any division
 6 of the militia in which said gun houses are situated, it is inexpe-
 7 dient to repair the same, such commanding officer may authorize
 8 the captain of the artillery company, having the immediate
 9 superintendence of the gun house, thus injured or decayed, to
 10 dispose of the same, either at public or private sale, as he may
 11 judge most advantageous and deposit the proceeds thereof in
 12 the treasury of the State, for the use thereof. 1834, 121, § 51.

Officers, appointment or election and qualification.

SECT. 45. The commissioned officers of the militia, named in
 2 the aforesaid laws of the United States, shall be chosen and
 3 appointed in the manner following:

4 The major generals to be chosen by the senate and house of
 5 representatives each having a negative on the other. The
 6 secretary of State as soon as may be after any such election
 7 shall notify the person elected thereof; and if such person shall
 8 not signify his acceptance of the office within thirty days after
 9 such notice, he shall be considered as declining.

1834, 121, § 7, 10.

10 The adjutant general and quarter master general to be

11 appointed by the governor with the advice of council with the
12 rank of brigadier general.

13 The division inspectors to be appointed by the major gener-
14 als of their respective divisions with the rank of lieutenant
15 colonel.

16 The aides de camp of the major generals to be appointed by
17 their respective major generals with the rank of major.

18 The division quarter masters to be appointed by the major
19 generals of their respective divisions with the rank of major.

20 The brigadier generals to be chosen by the written votes of
21 the field officers of their respective brigades.

22 The brigade majors to be appointed by their respective briga-
23 dier generals with the rank of major.

24 The aids de camp with quarter masters of brigades to be
25 appointed by the brigadier generals of their respective brigades
26 with the rank of captain.

27 The field officers of regiments and battalions to be chosen
28 by the written votes of the captains and subalterns of their
29 respective regiments and battalions.

30 The captains and subalterns of companies to be chosen by
31 the written votes of the members of their respective companies.

32 The adjutants, the quartermasters and the paymasters of
33 regiments to be appointed by the colonels of their respective
34 regiments with the rank of lieutenant.

35 The chaplains, the surgeons and the surgeon's mates of regi-
36 ments to be appointed by the colonels of their respective regi-
37 ments.

38 The aforementioned officers shall be commissioned by the
39 governor. 1834, 121, § 7.

SECT. 46. The non-commissioned officers, named in the afore-
2 said laws of the United States, shall be appointed in the manner
3 following: the sergeants of companies to be appointed by the
4 captains of their respective companies, who shall forthwith make
5 return thereof to the commanding officer of their respective
6 regiments or battalions, and they shall grant their warrants
7 accordingly. If there be but one company of cavalry or artillery
8 in any brigade, the warrant shall be granted by the captain of
9 such company; corporals shall be appointed by, and receive
10 warrants from, the captains of their respective companies.

1834, 121, § 8.

SECT. 47. In addition to the officers specified in the laws of
2 the United States, there shall be the following who shall receive
3 commissions from the governor, viz:

4 Aids de camp to the commander-in-chief not to exceed four
5 in number, with the rank of lieutenant colonel to be appointed
6 by the governor. 1834, 121, § 9.

7 One or more hospital surgeons to be appointed by the gov-
8 ernor, and said surgeons while in actual service shall be at the
9 head of the medical department within the district assigned them
10 by the commander-in-chief, with the advice of council.

Resolve, 1839.

11 A division advocate for each division to be appointed by the
12 commander-in-chief.

13 An adjutant and quarter master to each battalion of artillery
14 and cavalry to be appointed by the commanding officers of their
15 respective battalions, with the rank of lieutenant.

16 And the following non-commissioned officers, viz : To each
17 regiment—

18 A quarter master sergeant and a sergeant major, a drum and
19 fife major, master, deputy master and musicians of the regimental
20 bands, to be appointed by the colonels of their respective regi-
21 ments, who shall grant them warrants accordingly.

22 A quarter master sergeant to each separate battalion of
23 artillery and cavalry to be appointed by the commanding officers
24 of their respective battalions, who shall grant them warrants
25 accordingly.

SECT. 48. Each major general is authorized and it shall be
2 his duty from time to time to give all such orders as may be
3 necessary for filling by election any vacancy of brigadier gen-
4 eral, field officer, captain or subaltern existing within his divis-
5 ion. Previously to any such election, the electors shall have
6 ten days notice thereof at least, and no election for the choice
7 of brigadier general or field officer shall be valid until a
8 majority of all the electors qualified by law to vote in such
9 choice (counting all the existing vacancies in the offices of such
10 electors) shall be present at such election.

11 Every person, who shall have been elected to any office as
12 aforesaid, and shall not within one hour after he shall be notified
13 of his election by the officer, who presided thereat, signify his
14 acceptance thereof, shall be considered as declining to serve
15 and a new election shall be had.

1834, 121, § 10.

SECT. 49. All returns of elections or of neglects or refusals
2 to elect, shall be made to the commander-in-chief by the major
3 generals in whose divisions such elections shall have been
4 ordered; and all commissions shall be transmitted to the major
5 generals to be regularly passed down to the persons entitled to
6 receive them.

1834, 121, § 10.

SECT. 50. In case of neglect or refusal, by any company to
2 do duty, as prescribed by law or to elect officers, when duly
3 notified and ordered thereto, the governor may immediately
4 disband the said company, and order the non-commissioned
5 officers, musicians and privates thereof to be enrolled in the
6 oldest adjoining standing company, and they shall be held to do
7 therein all the duties required by law.

1834, 121, § 10.

SECT. 51. The commission of every officer shall designate
2 the division, brigade, regiment or battalion, and the corps in
3 which he shall be commissioned and the day of his election or
4 appointment; and he shall take rank from that day, and when-
5 ever an officer is transferred from one corps, or station to another
6 in the same grade, the day of the date of his original appoint-

7 ment or election, shall be expressed in his new commission, and
8 that day be considered the date of his commission.

1834, 121, § 10.

SECT. 52. When an officer shall by any casualty, lose his
2 commission, upon his making affidavit thereof before any justice
3 of the peace of the county wherein he resides, and on filing
4 such affidavit in the office of the adjutant general, he shall be
5 entitled to receive a new commission of the same tenor and date
6 as the one so lost.

1834, 121, § 10.

SECT. 53. When two or more officers of the same grade are
2 on duty together, and their commissions bear an equal date, and
3 former pretensions of some commission do not decide, then their
4 relative rank with each other, shall be determined by lot to be
5 drawn by them before the commanding officer present, and when
6 on a court martial, before the president thereof.

1834, 121, § 10.

SECT. 54. Every officer duly commissioned, shall, before he
2 enters upon the discharge of the duties of his office, take and
3 subscribe the oaths required by the constitution before some
4 justice of the peace, or before some superior field or general
5 officer, or staff officer of the rank of field officer who has pre-
6 viously taken and subscribed them himself. And on the back
7 of every military commission the following form of certificate of
8 qualification shall be printed.

9 STATE OF MAINE.

10 This may certify that ——— commissioned as within, on
11 this ——— day of ——— in the year 18— personally appeared and
12 took and subscribed the oaths required by the constitution of
13 this State to qualify him to discharge the duties of his office
14 ——— before me.

1834, 121, § 11.

SECT. 55. To every company there shall be a clerk, who shall
2 be one of the sergeants, and he shall be appointed by the captain
3 or commanding officer thereof, and on the back of his warrant
4 as sergeant, the captain or commanding officer shall in writing
5 certify that he does thereby appoint him to be clerk of the
6 company. And before such clerk enters upon the duties of his
7 clerkship, he shall be sworn to the faithful discharge of his duty,
8 by taking the following oath before the captain or commanding
9 officer of the company to which he belongs, who is hereby
01 authorized to administer the same—viz:

11 "I, A B, do solemnly swear that I will faithfully and impar-
12 tially perform all the duties incumbent on me, as clerk of the
13 company to which I belong according to the best of my abili-
14 ties and understanding. So help me God."

15 And the captain or commanding officer of the company shall at
16 the time of administering said oath, certify on the back of the
17 warrant of the sergeant appointed to be clerk that he was duly
18 qualified by taking the oath required by law.

1834, 121, § 12.

SECT. 56. The clerk shall keep a fair and exact roll of the
 2 company, together with the state of the arms and equipments
 3 belonging to each man, which roll he shall annually revise on
Sept 4 the first Tuesday of May and correct the same from time to
 5 time, as the state of the company may require. He shall register
 6 all orders and proceedings of the company in the orderly book,
 7 keep exact details of all drafts and detachments; distribute all
 8 company orders and notifications, which he may be required to
 9 do, examine the equipments of the men when ordered; note
 10 all delinquencies, sue for and recover all fines and forfeitures
 11 which may be required to be sued for in this chapter, and
 12 keep accounts in the orderly book of all fines and forfeitures,
 13 and all other monies collected by him, with the persons' names
 14 of whom they were collected, and of the times when, and for
 15 what offence; which book shall not be alienated from the com-
 16 pany, and shall always be open to the inspection of any officer
 17 of the company. ~~1834, 121, § 12.~~

SECT. 57. In case of the sickness, absence or other disabil-
 2 ity of the clerk of any company, the commanding officer thereof
 3 may appoint a clerk pro tempore, who shall be duly sworn before
 4 he enters on the duties of the office, and shall for the time
 5 expressed in his appointment, or until specially discharged,
 6 have all the powers, and be subject to all the duties and liable
 7 to all the penalties of the clerk in whose place he is put.

1832, 121, § 16.

SECT. 58. In case of such sickness, absence or other disabil-
 2 ity or whenever the office of clerk in any company shall become
 3 vacant, and it shall satisfactorily appear to the commanding
 4 officer, that no person will accept the same, temporarily or per-
 5 manently as the case may be he may issue his order in writing
 6 to any non-commissioned officer or private in said company,
 7 requiring him to perform all the duties of clerk of said com-
 8 pany, except keeping the records, until the clerk shall be able
 9 to perform the same or some other person be appointed, for a
 10 term not exceeding three months; and if any non-commis-
 11 sioned officer or private so appointed, and who shall not have
 12 been within one year previous required to perform the same
 13 duties, shall refuse or neglect to perform all or any of the duties
 14 of said office, during said term, (except keeping the records)
 15 he shall forfeit and pay not less than ten nor more than twenty
 16 dollars; to be recovered by indictment, or by action on the case,
 17 by any person whatever, one half to the use of the State and
 18 the other half to the use of the prosecutor.

1837, 276, § 3.

SECT. 59. In all such cases the records of the company shall
 2 be kept by the commanding officer so long as such vacancy,
 3 absence, sickness or other disability shall continue; and the
 4 records so kept, shall be competent evidence of such orders
 5 and temporary appointments, as well as of all matters of which
 6 such records would be evidence, if kept by the clerk.

1837, 276, § 3.

* Clerk be entitled \$150. for his
 services

SECT. 60. Whenever the office of major general, brigadier
2 general, colonel, lieutenant colonel, major commandant or of
3 captain shall be vacant, or in case of the absence of any such
4 officer, the officer next in grade and in commission in the
5 division, brigade, regiment, battalion or company on due notice
6 thereof from the proper superior officer, shall exercise the com-
7 mand and perform the duties thereof, until the vacancy shall be
8 supplied. 1834, 121, § 16.

SECT. 61. Whenever a company shall have neither commis-
2 sioned nor non-commissioned officers, the commanding officer
3 of the regiment or battalion to which such company belongs,
4 shall appoint suitable persons within said company to be non-
5 commissioned officers of the same and grant them warrants
6 accordingly, one of which non-commissioned officers he shall
7 appoint clerk and endorse his warrant and administer the oath
8 to him as directed in the fifty-fifth section; and the senior
9 non-commissioned officer of a company, while there are no com-
10 missioned officers in office, shall command the same, and all the
11 powers of commanding officer shall be vested in him until some
12 commissioned officer shall be appointed, or chosen and qualified.

SECT. 62. Whenever any company shall have remained with-
2 out any commissioned officers for the term of three months the
3 commanding officer of the regiment to which said company
4 belongs, shall detail some suitable officer of the staff of the line
5 not above the rank of lieutenant, to train and discipline said
6 company, until some officer shall be elected, or appointed by the
7 commander-in-chief as provided in the second section of the
8 seventh article of the constitution, and commissioned, and such
9 officer so detailed, shall have the same power and authority and
10 be subject to the same liabilities, as if he were captain of such
11 company; and he shall keep the records of the company and
12 prosecute for all fines and forfeitures in like manner as clerks of
13 companies are authorized and required to do, by virtue of the
14 ninety ninth section of this chapter, one half of the amount
15 recovered to be to the use of the regiment and the other half to
16 the use of the officer. The officer so prosecuting shall be a
17 competent witness in the case. 1837, 276, § 2. 276, § 4.

SECT. 63. Whenever the officer so detailed to command such
2 company, or where no officer shall have been detailed whenever
3 the commanding officer of the regiment to which such company
4 belongs, shall in writing, order any non-commissioned officer or
5 private to notify the persons liable to do duty in such company,
6 to appear for any duty required by law, any non-commissioned
7 officer or private who shall neglect or refuse to notify, such
8 persons to meet at the time and place and for the purposes
9 mentioned in such order as aforesaid, shall forfeit and pay not
10 less than twenty nor more than one hundred dollars, to be recov-
11 ered by indictment or by action on the case, by any person
12 whatever, one half to the use of the State and the other half to
13 the prosecutor. 1837, 121, § 16.

SECT. 64. The adjutant general and quarter master general shall receive compensation for their services to be allowed by the Legislature. 1834, 121, § 47.

SECT. 65. The following shall be the annual allowance to the officers named in this section for all services they may render in the official discharge of their duties respectively; To the aid de camp acting as orderly officer to the major general of each division twenty dollars.

To the brigade inspector of each brigade twenty five dollars.

To the aid de camp of each brigadier general twenty dollars.

To the adjutant of each regiment twenty five dollars.

To the adjutant of each battalion of cavalry or artillery ~~fifteen~~ *ten* dollars.

Provided said officers shall promptly and faithfully perform the duties belonging to them respectively.

1834, 121, § 48.

SECT. 66. It shall be incumbent on all officers and non-commissioned officers, whose duties are not herein fully defined, to do and perform all such duties, as by law and military principles and usage are attached to their offices respectively; provided such duties shall be required of them by their senior and commanding officer. 1834, 121, § 49.

SECT. 67. No officer shall be discharged, otherwise than in pursuance of the sentence of a court martial, except by the commander-in-chief, on request of such officer in writing or by actual removal of residence, out of the bounds of his command, and to such distance that the major general shall think it inconvenient for him to discharge the duties of his office, or by twelve months absence without leave of the commanding officer of his division or by the corps to which he belongs, being disbanded by law—and whenever any division, brigade, regiment or battalion, shall be divided and the residence of any staff officer attached thereto, shall be without the bounds of the corps in which he was commissioned, such staff officer shall be entitled to an honorable discharge, and shall cease to do duty, in such office after such division is made, and the commanding officer may proceed to fill the vacancy occasioned thereby.

1834, 121, § 44, Art. 9.

SECT. 68. No officer shall be permitted to resign while under arrest; and no resignation of any officer shall be approved, if such resignation be offered between the first day of ~~May~~ *July* and the first day of November, unless the reasons offered by the officer wishing to resign within those days be very urgent.

Art. 8.

SECT. 69. No general or field officer shall approve a resignation, until the orderly and other books and property of the State in possession of the resigning officer, are taken care of for the use of the corps to which such officer belongs in order that such books and property may be delivered to his successor.

Art. 11.

holder office 5 years

SECT. 70. If any person having held an office in the militia, shall after his discharge or removal from office, neglect or refuse after demand made upon him by his successor in office, to deliver over, to his said successor any property in his possession, belonging to the State, said person shall forfeit and pay a sum not less than twenty dollars nor more than one hundred dollars to the use of the State to be recovered by indictment before the district court. 1836, 209, § 11.

SECT. 71. No officer shall be considered as exempted from the duties of his station, except when under arrest, until he shall have been discharged by one of the methods or causes pointed out in section sixty-seven, or shall have received a certificate of discharge from the commander-in-chief. 1836, Art. 10.

SECT. 72. If any officer shall in due course of law be convicted of any infamous crime, he shall be forthwith put in arrest, and deprived of all military command, until an opportunity shall be had for both houses of the Legislature to address the governor nor for his removal. 1836, Art. 2.

SECT. 73. No idiot, lunatic, common drunkard, vagabond, pauper, nor any person convicted of any infamous crime, nor any other than white, able bodied, male citizens, shall be eligible to any office in the militia; and whenever it shall appear to the commander-in-chief, that any person thus ineligible has received a majority of votes cast at any election of officers, he shall not commission him, but with the advice and consent of the council, shall declare said election null and void, and appoint some person to fill the vacancy. 1837, 276, § 5.

Inspection, discipline, trainings and review.

SECT. 74. Every commanding officer of a company, shall parade his company on the first Tuesday of ~~May~~ annually, at one of the clock in the afternoon, for the purpose of inspecting, examining and taking an exact account of all the equipments of his men, and for noting all delinquencies of appearances and deficiencies of equipment, and for correcting his company roll, in order that a thorough inspection of each company in the State may be made. And it shall be the duty of every commanding officer of a company to parade his company by his own order, on one other day in the afternoon for company discipline, between said day of inspection and the review provided for in section seventy-six—and on the two several days of training and inspection, to use his best exertions in instructing and perfecting his men in their company exercise and evolutions.

SECT. 75. Such sections of this chapter, as the commander-in-chief may from time to time order, shall be read at the head of each company on the day of inspection.

M. R. S.—1834, 121, § 44, art. 36.

SECT. 76. The troops of each division shall be paraded for review in division, brigades, regiments or battalions at such times from the ~~first~~ of September to the fifteenth of October

Left-

on each day of inspection

*second *
Wednesday*

** if they give a company they*

4 annually (days of State elections excepted) as the commanding
5 officer of the division may order; and when by reason of the
6 residence of any part of the troops on any of the islands in the
7 State it may be deemed expedient by the major general of the
8 division to which such troops belong, they may be reviewed in
9 less bodies than battalions.

M. R. S.—1834, 121, § 44, Art. 36. 1836, 235, § 1.

SECT. 77. When a brigade review or inspection is ordered
2 the commanding officer of the brigade shall appoint the place
3 and give notice thereof to the commanding officer of the divi-
4 sion; when a regimental review or inspection is ordered, the
5 commanding officer of the regiment, shall appoint the place
6 and give notice thereof to the commanding officer of the brig-
7 ade; and when a review or inspection of a regimental battalion
8 or part of a battalion is ordered, the commanding officer of the
9 regiment shall appoint the place and give notice thereof to the
10 commanding officer of the brigade. And the places to be
11 appointed for reviews or inspections as aforesaid, shall always
12 be as central as in the judgment of the officer pointing out the
13 place, convenience will admit; and the artillery, cavalry and
14 other troops raised at large and not annexed to any particular
15 regiment, shall be reviewed and inspected once in each year,
16 either by themselves, or with the brigades, regiments or bat-
17 talions of regiments, as the commanding officer of the respec-
18 tive divisions may direct. Provided, that no officer, non-com-
19 missioned officer or private shall be obliged to travel more than
20 fifteen miles to any division or brigade review.

1836, 235.

SECT. 78. No officer, non-commissioned officer or private
2 shall be held to perform any military duty on any day (except
3 on days which are or may be specially prescribed by law) on
4 which the selectmen of the town in which such officer, non-
5 commissioned officer or private resides, shall appoint a meeting
6 for the election of a representative to the Legislature, nor shall
7 there be any military parade on the day pointed out by the con-
8 stitution of this State, for the election of governor and senators,
9 nor on any day which may be appointed for the choice of elec-
10 tors of president and vice president of the United States, or
11 representatives to congress; and it shall not be lawful for any
12 officer to parade his men on either of said days, unless in case
13 of invasion made or threatened, or in obedience to the orders
14 of the commander-in-chief, except as is herein before excepted;
15 and if any officer contrary to the provisions aforesaid, shall
16 parade his men on either of said days of election, he shall be
17 liable to be tried by a court martial; and shall moreover forfeit
18 a sum, not less than fifty nor more than three hundred dollars to
19 be sued for and recovered in an action on the case before any
20 court of competent jurisdiction, one moiety thereof to the use
21 of the person who may prosecute for the same, the other to the
22 use of the State.

1834, 121, § 31, 44, Art. 18.

SECT. 79. If the commanding officer of any company, battalion, regiment or brigade, of the militia of this State, shall parade, march or exercise the same within the distance of fifty rods from any court house of any county, whilst any judicial court, shall be in session therein, unless when called out to suppress insurrection, repel invasion or enforce the laws, he shall for every such offence forfeit and pay a fine not less than twenty nor more than one hundred dollars, to be recovered by indictment to the use of the State. 1833, 74, § 1.

SECT. 80. At all regimental and battalion parades, the several companies shall form in regiment or battalion, according to the rank of the officers present, actually commanding them; and the same rule shall apply in all cases, excepting those in which artillery, cavalry, light infantry and riflemen may by usage and necessity be detached from the regiments and battalions. 1833, 74, § 1. Art. 19.

SECT. 81. Whenever different corps shall parade, join, or do duty together, the senior officer present according to rank, shall command without regard to corps. Art. 15.

SECT. 82. When a company destitute of commissioned officers shall parade with other troops, the commanding officer present shall assign some commissioned officer or officers to such destitute company, to command the same while on parade. 1834, 121, § 16.

SECT. 83. Every commanding officer when on duty, is hereby authorized to ascertain and fix necessary limits and bounds to his parade (no road in which people usually travel to be included) within which no spectator shall have a right to enter, without liberty from such commanding officer; and in case any person shall intrude within the limits of the parade, after once being forbidden, he shall be subject to be confined under guard during the time of parade, or a shorter time, at the discretion of the commanding officer. 1834, 121, § 22.

raised SECT. 84. It shall be the duty of each commanding officer drawing cartridges in pursuance of the forty-second section of this chapter to cause them to be distributed equally among his men on the parade, and to be used in teaching his men precision in their firing. 1834, § 44. Art. 17.

SECT. 85. Any non-commissioned officer or private who shall while under arms, or when on duty behave himself with conduct to an officer, or shall conduct in a disorderly manner or excite or join in any tumult or riot, or be guilty of any other unmilitary conduct, may be put under guard and so kept for a longer or shorter time at the discretion of the commanding officer of the company, not beyond however the time when the company to which he belongs is dismissed; and shall moreover forfeit a sum not less than five, nor more than twenty dollars for each offence according to the degree and aggravation thereof. 1834, § 44, Art. 17. Art. 20.

SECT. 86. All companies raised at large by voluntary enlistment may establish by-laws and regulations, not repugnant to the laws of the State, for perfecting themselves in military knowledge and discipline in which they may determine what number of company trainings they will have in each year, and may establish penalties and forfeitures to enforce the observance thereof, to be recovered by action of debt in any court of competent jurisdiction for assessing and collecting funds and for any other purposes necessary to the good order and government of such companies; which by-laws and regulations shall be binding on such of the members thereof, as subscribe their names to the same. 1834, 121, § 6.

SECT. 87. No private shall be compelled to perform any other military duty in one year, than is herein provided, except in time of war or public danger, and for choice of officers, nor after sunset. But on the approach of any public danger, when in the opinion of the commander-in-chief any of the exigencies are likely to happen upon which the militia could by the constitution of the United States, be called into actual service, he shall have power to order such other and further training and disciplining of the militia, or any part thereof, as he may deem necessary. 1834, 121, § 21.

Notifications.

SECT. 88. Whenever the commanding officer of a company shall order out his company for inspection or training, or for any battalion, regimental, brigade or division inspection or review, he shall issue orders to some one or more of the non-commissioned officers or privates of his company, requiring him or them to notify the men belonging to his company to appear at the time and place appointed; and it shall be the duty of the non-commissioned officer or officers, private or privates so ordered as aforesaid, to give notice of the time and place appointed for the parade of said company, to each and every man, he or they shall have been ordered to notify, either verbally or by delivering to each man in person, or by leaving at his usual place of abode a written or printed order.

SECT. 89. No notice shall be legal for any company inspection or training or for any battalion, regimental, brigade or division inspection or review, unless the same shall be given four days at least previous to the time appointed therefor and ten days previous notice shall be given, if the meeting be ordered for the election of officers. Provided always that in case of invasion, insurrection, or other emergency any notice, however short shall be legal and binding. 1834, 121, § 21.

And whenever any company shall be paraded, the commanding officer thereof may verbally notify the men so paraded, to appear on some future day not exceeding thirty days from the time of such notification for any military duty required by law, and such notice shall be legal, as it respects the men present.

1834, 121, § 21. 1837, 276, § 7.

SECT. 90. When any non-commissioned officer or private in
 2 any company shall receive orders from the commanding officer
 3 of such company to notify and warn such company, or any part
 4 thereof, to meet for, the purpose of choosing any officer or
 5 officers, it shall be the duty of such non-commissioned officer or
 6 private to give every person he is so ordered to warn verbal
 7 notice, or to leave him a written or printed notification, at his
 8 usual place of abode, specifying the time, place and purpose of
 9 said meeting. 1834, 121, § 24.

Excuses.

SECT. 91. All excuses for non-appearance of non-commis-
 2 sioned officers and privates, must be made within twenty days
 3 after any training, view of arms or other military duty, to the
 4 commanding officers of their respective companies; and the
 5 delinquents producing or causing to be produced satisfactory
 6 evidence of his inability to appear, his commanding officer may
 7 excuse him; but all commanding officers of companies are
 8 hereby forbidden from receiving any excuse, for non-appearance
 9 under any pretence whatever, after the expiration of the twenty
 10 days allowed. Any such non-commissioned officer or private,
 11 who shall neglect to give, or cause to be given, to his command-
 12 ing officer such satisfactory evidence of his inability to appear,
 13 (provided he is not prevented therefrom by severe sickness) or
 14 other inevitable accident, within the said twenty days, shall
 15 forfeit and pay the penalty by law provided for such non-
 16 appearance.

17 All commanding officers of companies shall inform or cause
 18 their clerk to be informed of all excuses for non-appearances,
 19 which they may allow as good and sufficient.

1834, 121, § 44, Art. 31.

Fines and penalties on non-commissioned officers and privates.

SECT. 92. Every non-commissioned officer, musician and
 2 private, who being duly ordered to appear at any time and place
 3 appointed for military duty, according to law shall unnecessarily
 4 neglect to appear at such time and place, shall forfeit for every
 5 such neglect the sums hereinafter mentioned.

1834, 121, § 44, Art. 26. 1838, 349, § 4.

6 For unnecessarily neglecting to appear at the company inspec-
 7 tion and view of arms on the first Tuesday of May five dollars,
 8 unless permitted by law to send his arms and equipments on that
 9 day for inspection.

10 At any company training four dollars.

11 At any inspection or review four dollars.

12 At any meeting for the choice of officers two dollars.

13 In none of which cases in time of peace, shall any substitute
 14 be received. 1834, 121, § 44, Art. 29.

SECT. 93. Every non-commissioned officer or private who
 2 shall appear at the company inspection on the first Tuesday of

3 ~~May~~, or at any company training, or for any battalion, regimental
4 or brigade inspection or review, and shall not be armed and
5 equipped as the law directs, shall for each article in which he is
6 deficient or which shall be of bad quality or in bad condition
7 forfeit as follows—

8 If deficient of a good musket, in good order, of a bore suffi-
9 cient for balls of the eighteenth part of a pound,—a sufficient
10 bayonet and belt and an iron or steel ramrod; all of which
11 articles are to be considered as one, and a deficiency in either
12 a deficiency of the whole, he shall forfeit two dollars.

13 If deficient of a cartridge box capable of containing twenty-
14 four cartridges suited to the bore of his musket or if deficient
15 of a serviceable knapsack he shall forfeit sixty cents.

16 If deficient of two spare flints and priming wire and brush,
17 or either of them, he shall forfeit forty cents.

18 Provided nevertheless that none of the above forfeitures shall
19 be incurred by any private in case he appears with a good rifle,
20 knapsack, shot pouch and powder horn.

21 In any company raised at large, for appearing without uni-
22 form of the company, three dollars. 1834, 121, § 44, Art. 29.

SECT. 94. Every non-commissioned officer or private who is
2 permitted to carry or send his arms and equipments for inspec-
3 tion on the day and in the manner provided in the fifth section,
4 who shall neglect so to do, or shall on said day lend or sell
5 them, so that they may be inspected as the property of another,
6 shall forfeit two dollars and fifty cents. 1834, 121, § 2.

SECT. 95. If any non-commissioned officer, musician or pri-
2 vate in any military company shall on any day of parade appear
3 with such company in a fantastic or improper dress, or with any
4 article attached to his dress, arms or accoutrements, calculated
5 or intended to excite ridicule such non-commissioned officer,
6 musician or private, shall forfeit a sum not less than ten nor
7 more than twenty dollars for each offence. 1838, 349, § 3.

SECT. 96. Every non-commissioned officer or private, guilty
2 of any of the neglects and offences, hereinafter mentioned shall
3 forfeit and pay for each offence or neglect the sums severally
4 prescribed therefor.

5 For quitting his guard, section, platoon or company or for
6 not returning after a temporary leave of absence from any
7 parade, without leave of his officer, not less than two nor more
8 than ten dollars. 1834, 121, § 44, Art. 21.

9 For unnecessarily and without orders discharging his musket,
10 rifle or pistol, in going to, or returning from or while on the
11 place of parade, or while under arms, not less than five nor more
12 than twenty dollars for each offence for the benefit of any per-
13 son who may prosecute therefor in an action of debt.

1834, Art. 22.

14 For being on the place of parade with his musket, rifle or
15 pistol loaded with ball, slugs or shot, not less than five nor more
16 than twenty dollars. 1834, Art. 17.

17 For refusing or neglecting to give any notice or warning
 18 when ordered thereto, by the commanding officer of the com-
 19 pany to which he belongs, not less than one nor more than four
 20 dollars for each member of the company whom he shall neglect
 21 or refuse to notify or warn—to be recovered by indictment in
 22 the district court or complaint before some justice of the peace,
 23 one half to the complainant and the other half to the State.

1834, Art. 23.

SECT. 97. Every non-commissioned ~~company~~ officer, who
 2 shall be guilty of any disobedience of orders, neglect of duty, or
 3 other unmilitary conduct, may be reduced to the ranks by the
 4 commanding officer of the regiment, by and with the advice of
 5 the commanding officer of the company to which such non-
 6 commissioned officer belongs.

1834, Art. 25.

SECT. 98. Every sergeant major, quarter master sergeant,
 2 drum major or fife major, who shall be guilty of neglect or
 3 disobedience of the orders of the commanding officers of their
 4 respective regiments or battalions, shall for each offence forfeit
 5 not less than five, nor more than twenty dollars to be recovered
 6 by the adjutants of their respective regiments or battalions, in
 7 an action of debt in the same manner that fines are recovered by
 8 clerks of companies one half thereof to said adjutant for his own
 9 use, and the other half to be expended by him under the direc-
 10 tion of the field officers in the repair of the regimental and bat-
 11 talion colors, and of the musical instruments furnished by the
 12 State for the use of the companies of his said regiment or bat-
 13 talion and the purchase of camp colors: and every such non-
 14 commissioned officer who shall be guilty of any disobedience of
 15 orders, neglect of duty, or other unmilitary conduct may be
 16 reduced to the ranks by their brigadier general, by and with the
 17 advice of the commanding officer of the regiment or battalion to
 18 which such non-commissioned officer may belong.

1834, Art. 35.

SECT. 99. All fines and forfeitures incurred by non-commis-
 2 sioned officers and privates, under the provisions of this chapter,
 3 the recovery and the mode of recovery of which are not herein
 4 and hereby specifically provided for, shall be prosecuted for
 5 and recovered by the respective clerks of the companies to
 6 which such non-commissioned officers or privates, incurring
 7 any fine or forfeiture as aforesaid, belong, in an action of debt
 8 in any court proper to try the same; and such action may be
 9 brought before any justice of the peace for the county where
 10 the company is located, or where the non-commissioned officer
 11 or private, parent, master or guardian, who may be liable there-
 12 for may reside, and such action shall not be commenced till
 13 after twenty days, and shall be commenced within forty days
 14 after such penalty, fine or forfeiture shall have been incurred.

1834, 121, § 45. 1837, 276, § 12.

SECT. 100. If the said clerk shall unreasonably neglect or
 2 refuse to prosecute for any of the fines aforesaid, he shall pay a

3 fine of five dollars for each and every such neglect, to be
4 recovered by an action of debt to be brought for the use of the
5 company by the commanding officer thereof, before any justice
6 of the peace, in the county where such clerk resides.

1834, 121, § 45. 1837, 276, § 12.

SECT. 101. And if there be no clerk to prosecute as afore-
2 said, the captain or commanding officer of the company shall
3 prosecute for said fines for the use of the company, ~~and upon~~
4 ~~neglect so to do, shall be subjected to trial by a court martial;~~ *Erased*
5 ~~and if found guilty shall be removed from office.~~

1834, 121, § 45. 1837, 276, § 12.

SECT. 102. The clerk or commanding officer in any action
2 by him commenced or prosecuted for any fines, or penalties
3 provided in this chapter, may amend his writ in any stage of the
4 process, before the rendition of final judgment therein without
5 payment of costs. 1834, 121, § 45. 1837, 276, § 12.

SECT. 103. No clerk shall be liable to pay any defendant
2 costs, in any case which the commanding officer of the com-
3 pany has endorsed his approval on the writ of such clerk.

1834, 121, § 45. 1837, 276, § 12.

SECT. 104. No appeal shall be allowed from any judgment of
2 a justice of the peace, or judge of a municipal or police court
3 when the forfeiture by him adjudged, does not exceed ten
4 dollars, exclusive of costs. *Erased*

1834, 121, § 45. 1837, 276, § 12.

SECT. 105. When the commanding officer ~~is~~ by virtue of any
2 of the provisions of this chapter, ~~required to prosecute~~ for any
3 fine or penalty, he shall in no case ~~be~~ liable to pay any cost to
4 the defendant, if he should not recover in any action or suit by
5 him commenced. *prosecutes unless he appeals*
1834, 121, § 45. 1837, 276, § 12.

SECT. 106. The commission of the captain or commanding
2 officer of any company, shall in all cases be deemed sufficient
3 evidence of the organization of such company.

1834, 121, § 45. 1837, 276, § 12.

SECT. 107. All commanding officers, subaltern officers and
2 all clerks of companies and other non-commissioned officers and
3 privates are hereby made competent witnesses in law to testify
4 to all or any facts within their knowledge in any suit com-
5 menced by said clerks or commanding officers for the collection
6 of any fines or forfeitures incurred or imposed by any provisions
7 in this chapter, notwithstanding any interest which they or their
8 respective companies may have therein.

1834, 121, § 21. 1837, 276, § 8.

SECT. 108. Whenever any action shall have been commenced
2 for any fine or forfeiture by any clerk of any company, and said
3 clerk shall die, resign, or refuse, or in any other way be disquali-
4 fied to prosecute said suit so commenced, it shall be lawful and
5 it is hereby made the duty of the commanding officer of the com-
6 pany to assume and prosecute said suit to final judgment and
7 execution; and whenever any fine or forfeiture shall have been

8 incurred by any member of any company and there be no clerk,
 9 or he shall resign or die or be disqualified, it shall be lawful for
 10 any clerk appointed after said fine or forfeiture has been
 11 incurred, to sue for and recover the same; provided said action
 12 shall be commenced within the time prescribed by law.

1837, 276, § 9.

SECT. 109. The clerk of each company shall retain to his
 2 own use one fourth part of all fines and forfeitures collected or
 3 recovered by him, and the residue he shall faithfully pay over to
 4 the commanding officer of the company on demand; and the
 5 commanding officer of the company shall give his receipt to the
 6 clerk for all money paid over to him as aforesaid. And it shall
 7 be the duty of every commanding officer of a company to expend
 8 such part of the money paid him by the clerk for defraying
 9 such company expenses, as a majority of the commissioned
 10 officers of the company shall judge necessary.

1834, 121, § 46.

SECT. 110. Every judge of a municipal or police court,
 2 within the limits of his general jurisdiction shall have and exe-
 3 cute all the powers of a justice of the peace, under any of the
 4 provisions of this chapter. Passim.

Courts Martial.

SECT. 111. All courts martial shall consist of three members,
 2 to be detailed in the manner hereinafter directed.

3 One of the members of each court, shall be designated in the
 4 order under which they shall act, as the president thereof, and
 5 in case of his absence at the trial of any cause within their
 6 jurisdiction, the senior officer of such court, who shall be present,
 7 shall officiate as president pro tempore.

8 And any two members of said court, shall constitute a quorum
 9 for the trial of all causes coming before them in the manner
 10 hereinafter provided.

11 Any one member of said court may, and it shall be his duty
 12 to adjourn the proceedings thereof from time to time, as to him
 13 may appear just, in the absence of the other members.

1834, 121, § 36.

SECT. 112. Whenever any such court shall be in session the
 2 president thereof shall appoint a marshall, whose duty it shall be
 3 to preserve order therein, and with the concurrence of either of
 4 the associate members, he may also appoint a warrant officer to
 5 attend upon the same.

1834, 121, § 40.

SECT. 113. Whenever the commander-in-chief shall deem it
 2 necessary to assemble any general court martial for the trial of
 3 any officer above the rank of captain, it shall be lawful for him
 4 to appoint the president and members thereof from any division
 5 or divisions of the militia, which the circumstances of the case
 6 and the ends of justice may, in his opinion require.

1838, 349, § 1.

SECT. 114. Every court martial for the trial of officers of and
2 under the rank of captain including the regimental staff, shall
3 be ordered by the major general of the division to which the
4 officer to be tried belongs, to be held within the limits thereof,
5 and he shall regularly detail the members thereof—from the
6 roster of his division according to rank, provided however that it
7 shall be the duty of the major general to pass such officer or offi-
8 cers as in his opinion may be interested or implicated in the result
9 of the trial; and all officers so detailed, shall while in the same
10 office, be ineligible to serve on such court martial a second time,
11 until all other officers in the division, who are not legally dis-
12 qualified shall have been detailed as aforesaid.

1837, 276, § 13. 1838, 349, § 7.

SECT. 115. Summary inquiry may be made into the truth and
2 circumstances of any matter contained in any complaint or alle-
3 gation against the conduct of any officer or corps of the militia,
4 by an officer specially appointed for that purpose.

1835, 121, § 43.

5 If the complaint be made against any officer above the rank
6 of captain, or corps of militia, greater than the command of a
7 captain, the appointment shall be made by the commander-in-
8 chief, if against any other officers or corps the inquiry shall be
9 made by appointment of the major general of the division to
10 which those complained against belong; and it shall be the duty
11 of any officer appoint to make such inquiry, to report the result
12 of his inquiry and investigation, as soon as may be after he shall
13 have completed the same, to the adjutant general's office, if
14 ordered by the commander-in-chief—and to the major general
15 if directed by him.

1837, 276, § 16.

16 In either of the above cases, the officer making and reporting
17 such summary inquiry shall file his account for such services in
18 the adjutant general's office to be presented to the Legislature
19 for allowance.

SECT. 116. There shall be appointed and commissioned by
2 the governor, a division advocate for the militia of suitable
3 learning in the law, for each division, with the rank of major, to
4 continue in office for the term of five years whose duty shall be
5 as follows—

6 To reduce to proper form the charges and specifications of
7 charges contained in every written complaint, of any person
8 aggrieved or of any commissioned officer which may be lodged
9 with him, against any military officer within his division upon
10 any alleged offence by such officer committed and cognizable
11 by the court martial within his division.

12 And when the officer against whom complaint is made shall
13 be above the rank of captain he shall transmit the same, so
14 reduced to form to the adjutant general's office, within fifteen
15 days next after the receipt of such complaint for the considera-
16 tion of the commander-in-chief.

17 And whenever the officer so complained against shall be of
18 the rank of captain and under, including regimental staff officers,

X or

19 he shall transmit in like manner, the complaint so reduced to
20 form, to the major general of the division to which the officer
21 belongs, for his consideration.

1834, 121, § 37. 1837, 276, § 13, 14.

SECT. 117. Whenever a court martial is ordered by the com-
2 mander-in-chief, or by the major general of any division for the
3 trial of any officer on charges and specifications of charges
4 preferred against him, the division advocate shall prosecute the
5 same, and in all cases the division advocate shall be furnished
6 by the adjutant general, if the court be ordered by the com-
7 mander-in-chief and by the major general if the court be ordered
8 by him, forty days at least before the time of trial, with a copy
9 of the general division order convening the court and of the
10 charges and specifications preferred, and cause the respondent
11 to be served with a copy thereof twenty days at least before the
12 trial.

SECT. 118. The courts martial hereby authorized, shall be
2 convened from time to time, according to the appointment and
3 order of the commander-in-chief, or of the major generals of the
4 several divisions for the trial of such officers as are by the pro-
5 visions of this chapter made amenable to the jurisdiction of said
6 courts respectively.

1834, 121, § 38.

SECT. 119. All persons summoned to testify in any cause
2 ordered for trial or pending before either of said courts, by
3 virtue of a subpoena issued by the division advocate if for the
4 State, or by any justice of the peace if for the respondent, shall
5 be held to obey such subpoena under the same penalties and
6 liabilities for neglect, as are provided in other public prosecu-
7 tions: all oaths required of persons testifying in said courts may
8 be administered by any member thereof; depositions may be
9 taken and used in like manner as in cases pending in courts of
10 common law, by consent of the division advocate and respon-
11 dent.

SECT. 120. If the respondent shall be found guilty by said
2 court either upon admission, trial or default of any charge pre-
3 ferred against him, involving an offence against military law, or
4 the principles of duty and usage attached to his office, the court
5 shall sentence him to be reprimanded in orders, and to pay a
6 fine of not less than ten nor exceeding fifty dollars, together
7 with part or all of the costs of court, or to either, according to
8 the nature of the offence; or to be removed from office with or
9 without the payment of such fine and costs, at the discretion of
10 the court, and in addition thereto, if the court think proper, to
11 be disqualified for and incapable of holding any military office
12 under this State, for life or for a term of years. And the judg-
13 ment or sentence of the court shall, as soon as may be, be
14 certified by the president under seal of the court to the com-
15 mander-in-chief to be promulgated and carried into effect.

1838, 249, § 6.

SECT. 121. The division advocate shall keep a summary record, of the proceedings of each court, from day to day under the direction of the court. 1834, 121, § 40.

SECT. 122. A copy of the record of any court martial certified by the president of any such court, together with a duly authenticated copy of the order convening said court, shall be sufficient and conclusive evidence to sustain in any court, any action commenced for the recovery of any fine or costs, or part of costs, or either, agreeably to the provisions of the two following sections.

1834, 121, § 39.

SECT. 123. In the order of the commander-in-chief, promulgating the sentence of any court martial as herein directed, if such sentence shall include the payment by any officer of any fine and costs, or either the division advocate of such division, shall be directed, and it shall be his duty to enforce the payment of such fine and costs by an action of debt to be commenced in his own name within thirty days next succeeding such order, unless the same shall be sooner paid to him by such officer.

1834, 121, § 39.

SECT. 124. The court before whom such action, shall be commenced, shall render judgment therein, and issue execution accordingly against the property and body of the defendant for the amount of such fine and costs including the costs of such action, upon proof that the same has been awarded by the sentence of a court martial in the manner herein provided. The fine and costs which shall be included in such sentence shall be paid over by the division advocate when collected to the treasurer of the State for the use of the State, and the compensation of the members shall be as follows—

SECT. 125. To each member of the court, and to the division advocate for each day spent in holding a session of said court, two dollars, and for every mile's travel four cents. The division advocate shall also be allowed such reasonable compensation for keeping a summary record of the proceedings of the court, and such fees for reducing charges and specifications of charges into form, and filing the same, and for preparing each case for trial, as the respective courts shall deem reasonable.

All witnesses duly summoned and attending any court as aforesaid shall be allowed one dollar a day for attendance and four cents a mile for travel to and from court; but no witness shall be taxed against the State until he has certified his travel, and attendance, and unless summoned by the direction of the division advocate.

A pay roll shall be made up including all said fees and reasonable expenses at the close of each session of said courts by them respectively, and certified by the president and division advocate and filed in the office of the adjutant general, and the same shall be paid out of the treasury of the State.

1834, 121, § 40, 41.

fees

SECT. 126. It shall be the duty of the president of court held
2 as aforesaid, to prepare compendious reports of all questions of
3 law, arising and adjudged in trials had before them, respec-
4 tively, and of the decisions made thereon, stating in substance
5 so much of the evidence as may be necessary for a correct
6 understanding thereof, and deposit the same in the office of the
7 adjutant general.

1834, 121, § 42.

SECT. 127. Every officer to be tried by a court martial, shall
2 be put in arrest, so as to be suspended from the exercise of his
3 office, and shall have a copy of the charges exhibited against
4 him, and notice of the time and place of trial twenty days at
5 least before his trial is commenced.

1834, 121, § 44, Art. 3.

SECT. 128. Any officer for the trial of whom a court martial
2 is appointed shall neglect to appear and make defence or if
3 appearing, shall afterwards withdraw in contempt of court, or
4 being arraigned before a court martial, shall from obstinacy or
5 deliberate design, stand mute, or answer foreign to the purpose,
6 the court may proceed to trial and judgment as if he had regu-
7 larly pleaded not guilty.

Art. 4.

SECT. 129. Every commissioned officer shall be liable to be
2 tried by a court martial for the following offences—

Art. 1.

3 For any unmilitary conduct, neglect of duty or disobedience
4 of orders, or behaving in an unofficerlike manner when on duty.

5 For wilfully oppressing or injuring any under his command.

6 For setting on foot or joining in any combination to resist or
7 evade the lawful orders of any commissioned officer.

8 For presuming to exercise any command while under arrest,
9 in which case if convicted, he shall be removed from office.

Art. 5.

10 For neglect or refusal as commanding officer to call out his
11 company, when, ~~often~~ ^{as often} as, and at the times required in
12 this chapter by law, or at any other time when lawfully required
13 thereto by his superior officer.

Art. 7.

14 For excusing any under his command for unnecessary absence
15 or deficiency.

16 For neglect or refusal to make a draft or detachment when
17 legally ordered, under the authority of the commander-in-chief.

Art. 16.

18 For parading his men on either of the days of election, men-
19 tioned in section seventy-eighth, contrary to the provisions
20 thereof.

Art. 18.

SECT. 130. No officer shall be tried by a court martial for any
2 offence which shall have been committed more than one year
3 previous to the time when a complaint shall have been made in
4 writing therefor, unless he shall have repeated such offence in
5 two or more successive years, or by reason of having absented
6 himself—or some other manifest impediment, he shall not have
7 been amenable to justice within that period.

Art. 6.

*or
by other
laws*

SECT. 131. No arrest on the field for offences committed on
2 parade, shall be legal unless made by the commanding officer
3 present in writing; and unless such commanding officer shall
4 within fifteen days exhibit to the competent authority his com-
5 plaint in writing setting forth the cause of arrest. Art. 8.

Proceedings on drafts for actual services.

SECT. 132. Whenever in case of actual or threatened inva-
2 sion, insurrection, or other public danger or emergency, the
3 militia shall be ordered out or any part thereof shall be ordered,
4 to be detached or drafted by the commander-in-chief, any per-
5 son who shall be ordered out, detached or drafted, in pursuance
6 of and obedience to such orders, and being notified thereof and
7 ordered to march to the place of rendezvous, shall neglect or
8 refuse to obey such orders, and shall not within twenty-four
9 hours after he shall be notified as aforesaid, pay a fine of fifty
10 dollars to the commanding officer of the company to which he
11 belongs, or procure an able bodied man, in his stead, such
12 person shall be considered as a soldier, belonging to the detach-
13 ment and be dealt with accordingly. 1834, 121, § 29.

SECT. 133. All fines paid as aforesaid, shall be appropriated
2 to the hire of men to complete the detachment.

1834, 121, § 29.

SECT. 134. The officers of any detachment ordered to be
2 made as aforesaid, shall be regularly detailed from the rosters,
3 and the non-commissioned officers and privates by lot, from the
4 company rolls. 1834, 121, § 29.

SECT. 135. When any company shall not be organized, the
2 officer commanding the brigade or regiment shall either by him-
3 self or some officer under him, proceed to make and complete
4 the detachment from such unorganized company.

1834, 121, § 29.

SECT. 136. Whenever the militia or any part thereof after
2 having been ordered out or detached as aforesaid shall be
3 ordered to march for the service of the State each non-commis-
4 sioned officer and private, so ordered to march, shall provide
5 and take with him three days' provisions unless otherwise
6 ordered.

SECT. 137. The selectmen of every town and aldermen of
2 every city and the assessors of every plantation to which the
3 men detached as aforesaid and ordered to march for the service
4 of the State belong, shall provide and cause carriages to attend
5 them with further supplies and provisions and also the neces-
6 sary camp equipage and camp utensils, until notice shall be
7 given them by the commanding officer of the detachment to
8 desist; and the selectmen, aldermen and assessors, shall present
9 their accounts for supplies to the Legislature for allowance.

1834, 121, § 29.

SECT. 138. Whenever the selectmen of any town, aldermen
2 of any city, or assessors of any plantation from which a detach-

3 ment or part thereof, as aforesaid, shall march being notified by
4 the commanding officer of such detachment or part thereof
5 belonging to such town, city or plantation, shall neglect or
6 refuse to furnish the necessary supplies, camp equipage and
7 camp utensils, the town, city or plantation to which the select-
8 men, aldermen or assessors, neglecting or refusing, as aforesaid,
9 belong, shall forfeit not less than two hundred nor more than
10 five hundred dollars, to be sued for and recovered by any person
11 who may prosecute for the same, in any action on the case, in
12 any court of competent jurisdiction, one moiety to the prosecu-
13 tor and the other to the use of the State. 1834, 121, § 29.

SECT. 139. The officer by whom or to whose order any camp
2 equipage or camp utensils shall be delivered shall be accounta-
3 ble for the same—unless injured or lost by some accident not in
4 his power to prevent.

SECT. 140. Whenever any draft or detachment, shall be made
2 from any company of cavalry for actual service, the men drafted
3 or detached shall march with their own horses, and before they
4 march, if there be time the horses shall be appraised by three
5 impartial men to be appointed by the commanding officer of
6 the brigade to which the company belongs, from which the
7 draft or detachment is made. 1834, 121, § 18.

SECT. 141. Whenever any officer neglecting or refusing to
2 make a draft or detachment, when ordered as aforesaid, shall be
3 arrested, the officer next in command shall be ordered ~~to~~ make
4 the draft or detachment. Art. 16. 1834, 121, § 44.

SECT. 142. If any non-commissioned officer or private shall
2 be killed or die of wounds received when on any military duty,
3 required by this act, his widow, child or children shall receive
4 from the Legislature such relief as shall be just and reasonable.
5 And if any officer, non-commissioned officer or private shall be
6 wounded or otherwise disabled when on such duty, he shall
7 receive from the State just and reasonable relief.

1834, 121, § 33.

Rules and articles

For governing the troops stationed in forts and garrisons, within
this State; and also the militia, or any part thereof, when
called into actual service.

SECT. 53. ~~Do it further enacted, That the following rules~~
2 and articles, ~~be, and they hereby are,~~ established and declared
3 to be in force, for governing all troops stationed in forts and
4 garrisons within this State; and also the militia or any part
5 thereof, when called into actual service, viz:

ART. 1. All officers and soldiers, shall diligently attend divine
2 service; all officers and soldiers who shall unnecessarily absent
3 themselves from, or behave indecently or irreverently at any
4 place of divine worship, shall, if commissioned officers be
5 brought before a general court martial, there to be publicly ~~and~~
6 ~~severely~~ reprimanded by the president; if non-commissioned

7 officers or soldiers every person so offending, shall for the first
8 offence, forfeit twenty cents, to be deducted out of his next pay,
9 for the second offence, he shall not only forfeit a like sum, but
10 be confined twenty-four hours; and for every like offence shall
11 suffer and pay in like manner; which money so forfeited, shall
12 be applied to the use of the sick soldiers of the troop or company
13 to which the offender belongs.

Who ART. 2. ~~Whatsoever~~ non-commissioned officer or soldier, *any*
2 shall use any profane oath or execration, shall incur the penal-
3 ties expressed in the foregoing article, and if a commissioned
4 officer be thus guilty of profane cursing or swearing, he shall
5 forfeit and pay for each and every such offence sixty-seven
6 cents.

ART. 3. Whatsoever officer or soldier shall presume to use
2 traitorous or disrespectful words, against the authority of the
3 United States in congress assembled, or the Legislature of the
4 State; if a commissioned officer, he shall be cashiered; if a
5 non-commissioned officer or soldier, he shall suffer such punish-
6 ment, as shall be inflicted upon him by the sentence of a court
7 martial.

ART. 4. Any officer or soldier, who shall behave himself with
2 contempt or disrespect towards the commander-in-chief, or any
3 general or commanding officer of the troops or militia of this
4 State, or shall speak words tending to his hurt or dishonor,
5 shall be punished according to the nature of his offence, by the
6 judgment of a court martial.

ART. 5. Any officer or soldier who shall begin, excite or join
2 in any mutiny or sedition, in the troop, company or regiment to
3 which he belongs, or in any other troop or company in the ser-
4 vice of the State, or in any party, post, detachment or guard, on
5 any pretence whatsoever shall suffer such punishment, as by a
6 court martial shall be inflicted.

ART. 6. Any officer, non-commissioned officer or soldier who,
2 being present at any mutiny or sedition, doth not use his
3 utmost endeavors to suppress the same; or coming to the knowl-
4 edge of any intended mutiny, doth not without delay give infor-
5 mation thereof to his commanding officer, shall be punished by
6 sentence of a court martial, according to the nature of his
7 offence.

ART. 7. Any officer or soldier who shall strike his superior
2 officer, or draw or lift up any weapon or offer any violence
3 against him, being in the execution of his office, on any pre-
4 tence whatsoever, or shall disobey any lawful commands of his
5 superior officer, shall suffer such punishment as shall, according
6 to the nature of his offence be inflicted upon him by the sen-
7 tence of a court martial.

ART. 8. Any non-commissioned officer or soldier, who shall
2 desert, or without leave from his commanding officer, absent
3 himself from the troop or company to which he belongs, or from
4 any detachment of the same, shall upon conviction thereof, suf-

5 fer death or such other punishment as shall be inflicted by the
6 sentence of a general court martial.

any
ART. 9. ~~Whatever~~ officer or soldier, shall be convicted of hav-
2 ing advised or persuaded any other officer or soldier to desert,
3 shall suffer such punishment as shall be inflicted by the sentence
4 of a court martial.

ART. 10. No officer or soldier shall use any reproachful or
2 provoking speeches or gestures to another; nor shall any officer
3 or soldier presume to send a challenge to any person to fight a
4 duel, upon pain if a commissioned officer, of being cashiered;
5 if a non-commissioned officer or soldier, of suffering punishment
6 at the discretion of a court martial.

ART. 11. If any commissioned or non-commissioned officer
2 commanding a guard, shall knowingly and willingly suffer any
3 person whatsoever to go forth to fight a duel he shall be pun-
4 ished as a challenger; and likewise all seconds, promoters and
5 carriers of challenges, in order to duels, shall be deemed as
6 principals and punished accordingly.

ART. 12. All officers, of what condition soever shall have
2 power to part and quell all quarrels, frays and disorders though
3 the persons concerned should belong to another regiment, troop
4 or company; and either to order officers into arrest, or non-
5 commissioned officers or soldiers to prison, until their proper
6 superior officer shall be acquainted therewith, and whosoever
7 shall refuse to obey such officer, (though of an inferior rank) or
8 shall draw his sword upon him, shall be punished at the discre-
9 tion of a general court martial.

any
ART. 13. ~~Whatever~~ officer or soldier shall upbraid another
2 for refusing a challenge, shall be considered a challenger and
3 punished accordingly.

ART. 14. Every officer, commanding in quarters, garrison, or
2 on a march, shall keep good order and to the utmost of his
3 power redress all such abuses or disorders as may be committed
4 by any officer or soldier under his command; and if, upon com-
5 plaint made to him of officers or soldiers beating or otherwise
6 ill treating any person, or of committing any kind of riots to the
7 disquieting the good citizens of this or either of the United
8 States, he shall refuse or omit to see justice done on the offender
9 or offenders, and reparation made to the party or parties injured,
10 so far as the offenders pay shall enable him or them, he shall,
11 upon proof thereof be punished by a general court martial, as if
12 he himself had committed the crimes or disorders complained of.

ART. 15. If any officer shall think himself to be wronged by
2 his colonel or the commanding officer of his regiment and shall,
3 upon due application made to him, be refused to be redressed,
4 he may complain to the general or commander-in-chief, of the
5 forces in service, in order to obtain justice, who shall examine
6 into the complaint and see that justice be done.

ART. 16. If any inferior officer or soldier, shall think himself
2 wronged by his captain or other officer commanding the troop

3 or company to which he belongs he may complain thereof to the
4 commanding officer of the regiment, who shall summon a regi-
5 mental court martial, for the doing justice to the complainant;
6 from which regimental court martial either party if he think
7 himself still aggrieved, may appeal to a general court martial.
8 But if, upon a second hearing, the appeal shall appear to be vex-
9 atious and groundless, the person so appealing shall be punished
10 at the discretion of the said general court martial.

ART. 17. Whatsoever non-commissioned officer or soldier
2 shall be convicted at a court martial of having sold, or design-
3 edly or through neglect, wasted the ammunition delivered out to
4 him to be employed in the service of this State, shall if a non-
5 commissioned officer, be reduced to a private, and if a soldier
6 shall suffer such punishment as shall be inflicted upon him by a
7 court martial.

ART. 18. No officer or soldier shall be out of his quarters or
2 camp, without leave from his commanding officer, upon penalty
3 of being punished according to the nature of his offence by the
4 sentence of a court martial.

ART. 19. All non-commissioned officers and soldiers who shall
2 be found one mile from the camp, without leave in writing, from
3 their commanding officer, shall suffer such punishment as shall
4 be inflicted on them by the sentence of a court martial.

ART. 20. Every non-commissioned officer and soldier shall
2 retire to his quarters or tent, at the beating of the tattoo, in
3 default of which he shall be punished according to the nature
4 of his offence, by the sentence of a court martial.

ART. 21. No officer, non-commissioned officer or soldier
2 shall fail to repair, at the time fixed, to the place of parade or
3 exercise, or other rendezvous, appointed by his commanding
4 officer, if not prevented by sickness or some other evident
5 necessity; nor shall go from the said place of rendezvous, or
6 from the guard, without leave from his commanding officer,
7 before he shall be regularly dismissed or relieved on the pen-
8 alty of being punished according to the nature of his offence by
9 sentence of a court martial.

ART. 22. Whatsoever commissioned officer, shall be found
2 drunk on his guard party or other duty, under arms, shall be
3 cashiered for it; and any non-commissioned officer or soldier,
4 so offending, shall suffer such punishment as shall be inflicted
5 by the sentence of a court martial.

ART. 23. ~~Whatsoever~~ sentinel shall be found sleeping upon
2 his post, or shall leave it before he shall be regularly relieved,
3 shall suffer such punishment, as shall be inflicted by the sen-
4 tence of general court martial.

ART. 24. Any person belonging to the forces employed in
2 the service of this State, who, by discharging of fire arms, draw-
3 ing of swords, beating of drums, or by any other means what-
4 soever, shall occasion false alarms in camp, garrison or quarters,

5 shall suffer such punishment as shall be ordered by the sentence
6 of a general court martial.

ART. 25. Any officer or soldier, who shall, without urgent
2 necessity, or without the leave of his superior officer, quit his
3 platoon or division shall be punished according to the nature of
4 his offence, by the sentence of a court martial.

ART. 26. No officer or soldier shall do violence or offer any
2 insult or abuse to any person who shall bring provisions or other
3 necessities to the camp, garrison or quarters, of the forces of
4 this State, on pain of suffering such punishment as a court
5 martial shall direct.

any
ART. 27. ~~Who~~^{Who}soever officer or soldier shall abandon any
2 post committed to his charge, or shall speak words inducing
3 others to do the like in time of an engagement, shall suffer
4 death, or such other punishment as shall be inflicted by the
5 sentence of a general court martial.

ART. 28. Any person belonging to the forces of the service
2 of this State who shall make known the watch word to any
3 person not entitled to receive it according to the rules and
4 discipline of war, or shall presume to give the parole or watch
5 word different from what he received, shall suffer death, or such
6 other punishment as shall be ordered by the sentence of a gen-
7 eral court martial.

ART. 29. Whosoever belonging to the forces in the service
2 of this State, shall relieve the enemy with money, victuals or
3 ammunition; or shall knowingly harbor and protect an enemy,
4 shall suffer such punishment as by the sentence of a court mar-
5 tial shall be inflicted.

any person
ART. 30. ~~Whosoever~~ belonging to the main forces, shall be
2 convicted of holding correspondence with or giving intelligence
3 to the enemy, either directly or indirectly, shall suffer such
4 punishment as by the sentence of a court martial shall be
5 inflicted.

ART. 31. All public stores taken from the enemy by the
2 forces in the service of this State, shall be secured for the use
3 of the State.

ART. 32. If any officer or soldier shall leave his post or colors
2 to go in search of plunder, he shall, upon conviction thereof,
3 before a general court martial, suffer such punishment, as by
4 the sentence of the said court martial shall be inflicted.

ART. 33. If any commander of any garrison, fortress, or post
2 shall be compelled, by the officers or soldiers under his com-
3 mand, to give up to the enemy or abandon it, the commissioned
4 officers, non-commissioned officers or soldiers, who shall be
5 convicted of having so offended, shall suffer death or such other
6 punishment as shall be inflicted upon them by the sentence of
7 a court martial.

ART. 34. All sutlers and retailers to the camp, and all per-
2 sons serving with the troops of the State in the field, shall be
3 subject to orders according to the rules and discipline of war.

ART. 35. If, upon marches, guards, or in quarters, different
2 corps shall happen to join or do duty together, the eldest offi-
3 cer by commission then on duty, or in quarters, shall command
4 the whole, and give out orders for what is needful for the ser-
5 vice, regard being always had to the several ranks of those
6 corps, and the posts they usually occupy.

ART. 36. If any regiments, troops or detachment of horse or
2 foot shall happen to march with, or be encamped or quartered
3 with any bodies or detachments of other troops, the eldest
4 officer without respect to corps, shall take upon him the com-
5 mand of the whole, and give the necessary orders to the service.

ART. 37. A general court martial shall not consist of less
2 than ~~thirteen~~ commissioned officers, and the president of such ** General*
3 court martial shall not be the commander-in-chief, nor com-
4 manding officer of the troops in service or garrison, where the
5 offender shall be tried nor under the degree of a field officer.

ART. 38. The members of courts martial, shall, when
2 belonging to different corps, take rank as herein before directed
3 when on other duty.

ART. 39. Some person shall be appointed by the command-
2 ing officer who shall order the court martial to prosecute in the
3 name of the State of Maine; and in trials of offenders such
4 person shall administer to each member the following oath :

5 "You swear that you will well and truly try and determine
6 according to your evidence, the matter now before you between
7 the State of Maine and the prisoner to be tried; that you will
8 duly administer justice according to the rules and articles for
9 governing the troops of the said State, without partiality, favor
10 or affection; and if any doubt shall arise which is not explained
11 by the said articles, according to your conscience, the best of
12 your understanding and the custom of war in like cases; that
13 you will not divulge the sentence of the court, until it shall be
14 approved of by the commanding officer; and that you will not,
15 upon any account, at any time whatsoever, disclose or discover
16 the vote or opinion of any particular member of the court mar-
17 tial, unless required to give evidence as a witness by a court
18 of justice in a due course of law. So help you God."

19 Which oath being administered to the members of the court,
20 the president shall administer the following oath, to the person
21 prosecuting as aforesaid—

22 "You A B, do swear, that you will not, upon any account, at
23 any time whatsoever, disclose or discover the vote or opinion of
24 any particular member of the court martial, unless required to
25 give evidence thereof as a witness by a court of justice, in a due
26 course of law. So help you God."

ART. 40. All members of a court martial are to behave with
2 calmness and decency; and in the giving their votes are to begin
3 with the youngest in commission.

ART. 41. All persons who give evidence before a court mar-
2 tial, shall be examined upon oath, which oath shall be adminis-

3 tered by the president of the court martial, in the following
4 form—

5 “You swear, the evidence you shall give, in the cause now in
6 hearing, shall be the truth, the whole truth, and nothing but the
7 truth. So help you God.”

ART. 42. No sentence of death shall be given against any
2 offender by any general court martial, unless two thirds of the
3 members shall concur therein.

ART. 43. All persons called to give evidence in any cause
2 before a court martial, who shall refuse to give evidence shall
3 be punished for such refusal, at the discretion of such court
4 martial.

ART. 44. No field officer shall be tried by any person under
2 the degree of a captain; nor shall any proceedings or trials be
3 carried on excepting between the hours of sunrise and sunset.

ART. 45. No sentence of a court martial shall be put in
2 execution, until after report shall be made to the commanding
3 officer where the court martial shall be held and his orders ~~to~~ be *there*
4 issued for carrying such sentence into execution.

ART. 46. The commissioned officers in any regiment may,
2 by the appointment, of their colonel or commanding officer,
3 hold regimental courts martial for the inquiring into such dis-
4 putes or criminal matters as may come before them, and for
5 inflicting punishment for small offences and shall give judgment
6 by the majority of voices but no sentence shall be executed till
7 the commanding officer (not being a member of the court mar-
8 tial) shall have confirmed the same.

ART. 47. No regimental court martial shall consist of less
2 than five officers, excepting in cases where that number cannot
3 be conveniently assembled, when three may be sufficient; who
4 shall likewise determine upon the sentence by the majority of
5 voices.

ART. 48. Any officer commanding in a fort, castle, barrack
2 or elsewhere, where the corps under his command consists of
3 detachments from different regiments or of any independent
4 company or companies, may assemble courts martial for the trial
5 of offenders, in the same manner as if they were regimental
6 whose sentence shall not be executed, until it shall be confirmed
7 by the said commanding officer.

ART. 49. No person whatsoever shall use menacing words,
2 signs or gestures in the presence of a court martial then sitting,
3 or shall cause any disorder or riot so as to disturb their proceed-
4 ings, on the penalty of being punished at the discretion of the
5 said court martial.

ART. 50. To the end that offenders may be brought to jus-
2 tice, whenever any officer or soldier shall commit a crime,
3 deserving punishment, he shall by his commanding officer, if an
4 officer be put in arrest; if a non-commissioned officer or soldier,
5 be imprisoned until he shall be either tried by a court martial,
6 or shall be lawfully discharged by proper authority.

ART. 51. No officer or soldier who shall be put in arrest or imprisonment, shall continue in his confinement more than eight days, or until such time as a court martial can be conveniently assembled.

ART. 52. No officer commanding a guard or provost martial, shall refuse to receive or keep any prisoner committed to his charge by any officer belonging to the forces of this State; which officer shall at the time of commitment, deliver an account in writing, signed by himself, of the crime with which the prisoner is charged.

ART. 53. No officer commanding a guard or provost martial, shall presume to release any prisoner committed to his charge, without proper authority for so doing, nor shall he suffer any prisoner to escape, on the penalty of being punished for it by the sentence of a court martial.

ART. 54. Every officer or provost martial to whose charge prisoners shall be committed, is hereby required within twenty-four hours after such commitment, or as soon as he shall be released from his guard to give in writing to the colonel of the regiment to which the prisoner belongs (when the prisoner is confined upon the guard belonging to the said regiment, and his offence only relates to the neglect of duty in his own corps) or to the commander-in-chief; their names, their crimes and the names of the officers who committed them, on the penalty of his being punished for disobedience or neglect, at the discretion of a court martial.

ART. 55. If any officer under arrest, shall leave his confinement before he shall be set at liberty, by the officer who confined him, or by a superior power, he shall be cashiered for such his offence.

ART. 56. Whatsoever commissioned officer, shall be convicted before a general court martial of behaving in a scandalous, infamous manner, such as is unbecoming the character of any officer and gentleman, shall be discharged from the service.

ART. 57. All officers, conductors, gunners, matrosses, drivers, or any other person whatsoever receiving pay or hire in the service of the State artillery, shall be governed by the aforesaid rules and articles, and shall be subject to be tried by courts martial in like manner with other officers and soldiers.

ART. 58. For differences arising amongst themselves or in matters relating to their own corps, the courts martial may be composed of their own officers; but where a sufficient number cannot be assembled, or in matters wherein their corps are interested, the officers of artillery shall sit in courts martial, with the officers of other corps.

ART. 59. No person shall be sentenced to suffer death, except in the cases expressly mentioned in the foregoing articles.

ART. 60. The field officers of each and every regiment shall appoint some suitable person belonging to such regiment to receive such fines as may arise within the same for any breach of any of the foregoing articles and shall direct the same to be

5 properly applied to the relief of such sick or necessitous soldiers
6 as belong to such regiment; and such persons shall account
7 with such officer for all fines received and the application
8 thereof.

ART. 61. All crimes not capital, and all disorders and neg-
2 lects, which officers and soldiers may be guilty of, to the preju-
3 dice of good order and military discipline, though not mentioned
4 in the foregoing articles are to be taken cognizance of by a
5 general or regimental court martial, according to the nature and
6 degree of the offence, and be punished at their discretion.

ART. 62. Whenever any officer or soldier shall be accused of
2 a capital crime or having used violence or committed any
3 offence against the person or property of the good people of this
4 or either of the United States such as is punishable by the
5 known laws of the land the commanding officer or officers of
6 every regiment, troop or party, to which the person or persons
7 so accused shall belong, are hereby required, upon application
8 duly made by or in behalf of the party or parties injured, to use
9 his utmost endeavors to deliver over such accused person or
10 persons to the civil magistrate and likewise to be aiding and
11 assisting the officers of justice in apprehending and securing the
12 person or persons so accused in order to bring them to trial.
13 And if any commanding officer or officers, shall wilfully neglect
14 or shall refuse upon the application aforesaid to deliver over
15 such accused person or persons to the civil magistrate or to be
16 aiding and assisting the officers of justice in apprehending such
17 person or persons, such officer or officers so offending shall be
18 cashiered.

NOTES.

As the arrangement of these rules and articles and the language in which they are expressed, though susceptible of improvement, corresponds very nearly with the rules and articles of war, adopted by the United States in the year 1776, on the same subjects, the commissioners have not made any alteration in either of these respects; deeming the advantages of this uniformity, greater than those of any such modifications which the commissioners might attempt.

One alteration however, in regard to general courts martial they have thought important enough to be suggested to the Legislature for consideration. By the thirty-seventh article it is provided that the members of any such court shall not be fewer than thirteen. In small detachments, such as are likely to be called out under the authority of the State, or when the troops are stationed in various and distant places, the required number might not be obtained with facility. By the rules and articles of the United States, before alluded to, in certain cases the number may be as few as five.

By the thirty-sixth section of the act of 1834, Chap. 121 of the Maine statutes a court martial is limited to three members, when the troops are not in actual service. The commissioners would therefore recommend that the same number of members be made sufficient for a general court martial by article thirty-seven as is already required in article forty-seven for a regimental court martial, that is to say that it consist of five members, if convenient, otherwise of three.