

# MAINE STATE LEGISLATURE

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THE  
**REVISED STATUTES**

OF THE  
STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

**THE CONSTITUTIONS**

OF THE

*United States and of the State of Maine,*

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

**APPENDIX.**

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PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

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**Augusta:**

PUBLISHED BY WILLIAM R. SMITH & Co., PRINTERS TO THE STATE.

.....  
1841.

## ERRATA.

PAGE 65, section 27, line 18, after "not," read "to."

92,	46,	1, for "She," read "The."
119,	5,	3, after "fife," for "a," read "or."
138,	62,	6, for "offier," read "officer."
405,	13,	1, for "28," read "13."
414,	3,	3, for "couaty," read "county."
440,	31,	4, in a few copies, for "on," read "or."
453,	28,	2, _____ for "necessay," read "necessary."
500,	23,	2, of the margin, for "dease," read "cease."
619,	24,	2, for "administrator of any contractors," read "administrators of any contractor."

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837, 2d column,	1, dele "MILITIA," so as to read OFFICERS of the state prison.
842, 2d	46, for "527," read "537."
851, 1st	62, for "610," read "616."
857, 2d	14, for "163," read "162."
867, 2d	49, for "568," read "508."
875, 1st	14, for "wrunq," read "rung."
880, 1st	54, for "775," read "475."

## TITLE SECOND.

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ARTICLE I. CONSTRUCTION OF THIS CHAPTER, SUBORDINATE TO THE LAWS OF THE UNITED STATES.

SECTION 1. All the provisions of this chapter shall be considered as subordinate to, and in such manner as best to carry into effect, the provisions of the following acts of the congress of the United States, that is to say:\*

Militia laws of the United States recited.

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 an uniform militia throughout the United States."

Act of May 8, 1792.

§ 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 [years], (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 citizen 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 citizen 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, [each cartridge to contain a proper

Persons liable to be enrolled.  
2 Greenl. 349.  
8 Greenl. 310.  
22 Pick. 406,  
571.

Duty of captains to enrol, and give notice thereof.  
4 Mass. 556.

Arms and equipments.  
9 Mass. 31.

\* NOTE. On comparing these acts of congress with copies of the laws, published under authority of congress, certain verbal errors are found to have existed in our laws since the act of 1821, which are here corrected, and designated by brackets. Section 7, of the act of 1792, having been repealed by act of May 12, 1820, § 2, is omitted.



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quantity of powder and ball] 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, and 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* [exempted] from all suits, distresses, executions of [or] sales for debt, or [for] the payment of taxes.

Exempt from attachment.

Exempts.  
4 Mass. 239.  
17 Mass. 49.  
3 Greenl. 185.  
2 Pick. 597.

See United States post office laws. 1825, March 3, § 35. 1836, July 2, § 34.

Arrangement of militia. 11 Mass. 386.

Officers.

§ 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* [militia] duty, notwithstanding their being above the age of eighteen, and under the age of forty five years.

§ 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* [highest] 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 [a] major; to each regiment, one lieutenant colonel commandant; and to each battalion, one major; to each company, one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and [one] fifer or bugler. That there shall be a regimental staff, to consist of one adjutant and one quartermaster, to rank as lieutenants, one paymaster, one surgeon and one surgeon's mate, one sergeant major, one drum major and one fife major.

§ 4. *And be it further enacted*, that out of the militia, enrolled,

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as [is] 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 fusée, 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 hands and a half 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 hands and a half high, a good saddle, bridle, mail pillion and valise, 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.

§ 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, a bugle horn, by the commissioned officers of the company, in such manner as the legislature of the respective states shall direct.

§ 6. *And be it further enacted*, that there shall be an adjutant general appointed in each state, whose duty it shall be to distribute [all] 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 from the several officers of the different corps throughout the states, returns of the militia under their command, reporting the actual situation of their arms [and] accoutrements and ammunition, their delinquencies, and every other thing that [which] 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.

Grenadiers.  
Light infantry.  
Riflemen. Ar-  
tillery. Caval-  
ry.  
Officers of ar-  
tillery.  
Arms and e-  
quipments.

Officers of cav-  
alry.  
Cavalry, how  
armed and e-  
quipped.

Artillery and  
cavalry how  
composed.

Uniform.

Colors; drum  
and fife or bu-  
gle; how fur-  
nished.

Adjutant gener-  
al in each state;  
his duties.  
5 Greenl. 438.

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Rank of officers.

§ 7. [8] *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.

Disabled officers and soldiers.

§ 8. [9] *[And] be it further enacted*, that if any person, whether officer or soldier, belonging to the militia of any state, and called [out] 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.

Duties of brigade inspector.

§ 9. [10] *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* [exercise] and manœuvres, and introduce the system of military discipline before described, throughout the brigade, *agreeably* [agreeable] 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* [their] government and [the] 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:

Returns to be made by the adjutant general.

Privileges confirmed to certain corps.

§ 10. [11] *Be it further enacted*, that such corps retain their accustomed privileges, subject, nevertheless, to all other duties required by this act, in like manner, with the other militia.

Act of March 2, 1803.

An act, passed on the second day of March, in the year one thousand eight hundred and three, 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."

Adjutant generals to make annual returns to the President.

§ 1. *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 of the state, to which he belongs, with their arms, accoutrements and ammunition, agreeably to the directions of the act, to which this is *in* [an] 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.

Citizens enroll-

§ 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 [or] 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.

§ 3. *And be it further enacted*, that in addition to the officers provided [for] by [the] 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.

An act, passed on the eighteenth day of April, in the year one thousand eight hundred and fourteen, 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 the 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 [the] 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 [masters] of *brigades* [brigade], 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.

An act, passed on the twentieth day of April, in the year one thousand eight hundred and sixteen, 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.

An act, passed on the twelfth day of May, in the year one thousand eight hundred and twenty, entitled,

"An act to establish an uniform mode of discipline and field exercise, for the militia of the United States."

§ 1. *Be it enacted by the senate and house of representatives*

ed, to be constantly equipped.

Notice of enrolment.

Quarter-master general. Brigade quarter-master. Chaplain.

Act of April 18, 1814.

Division-inspector, and quartermaster. Brigade aid de camp.

Act of April 20, 1816.

Colonel, lieutenant colonel and major to each regiment.

Act of May 12, 1820.

**CHAP. 16.** *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.

System of discipline and field exercise.

Repeal of 7th section of act of May 8, 1792.

§ 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.

#### ARTICLE II. EXEMPTIONS.

**SECT. 2.** In addition to the exemptions made by the foregoing laws of the United States, the following described persons shall be absolutely exempted from military duty, notwithstanding their ages may be more than eighteen, and less than forty five years, viz: the justices of the supreme judicial court; all regularly ordained ministers of the gospel, of every denomination, while they shall ordinarily officiate as such, and continue in regular standing; all officers, who have heretofore held, or may hereafter hold, commissions in the militia of this state, or any of the United States, or in the army or navy of the United States, for the term of five years, or who shall have been superseded, or whose corps, or company, shall have been disbanded, and who shall have been honorably discharged.

Absolute exemptions.  
1834, 121, § 1.  
13 Mass. 316.  
1 Pick. 261.

**SECT. 3.** The persons, named in this section, shall be exempted from military duty, upon producing certificates as hereinafter prescribed:

Exempts by procuring certificates.  
1834, 121, § 1.  
1835, 184, § 1, 2.  
12 Mass. 441.  
17 Mass. 351.  
4 Greenl. 527.  
Quakers and shakers.

Every person, of the religious denominations of quakers and shakers, who shall, on or before the first Monday of April annually, produce a certificate to the commanding officer, within whose bounds such quaker or shaker resides; which certificate, signed by two or more of the elders or overseers, as the case may be, and countersigned by the clerk of the society, with which such quaker or shaker meets for religious worship, shall be in substance as follows:

“We the subscribers, of the society of the people called ———, in the town of ———, in the county of ———, do hereby certify, that ——— is a member of our society, and that he frequently and usually attends with said society for religious worship, and conforms to the usages of the same, and, we believe, is conscientiously scrupulous of bearing arms.

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

E. F. clerk.”

Enginemmen.  
14 Mass. 374.

All enginemmen, upon the conditions specified in the acts, under which they have been, or may hereafter be appointed, provided, that such enginemmen shall be still liable to be called forth, as members of the company, within the limits of which they reside, to execute the laws of the United States, or of this state, to suppress insurrection, and repel invasion, but shall not vote in the choice of company officers, so long as they claim exemption from other military duty;

provided; that no person shall be exempted from the performance of any military duty, by virtue of his being a member of any engine company, unless he shall, on or before the second Tuesday of April, annually, produce to the commanding officer of the military company, to which he belongs, the certificate of the selectmen, or other officers, by whom he is appointed, that he has been duly appointed an engineman, and that he faithfully performs the duty thereof. But it shall be the duty of the clerk of each engine company, to return to the commanding officers of military companies, a list of all the members of said engine companies, and such list, so returned, shall avail each member, in the same manner, as though he had personally returned his certificate of membership.

No person, liable to the performance of military duty, who may be discharged from any engine company, for being negligent or remiss in any of the duties required of him as an engineman, shall be again appointed an engineman, and be thereby exempted from military duty, until one year from the time he may be so discharged.

No mariner shall be required to perform military duty, unless at the time of his being warned, he shall have been discharged from some vessel three months.

No member of any company of artillery, cavalry, light infantry or riflemen, shall be appointed an engineman, during the time, for which he may have enlisted into said company, when, by such appointment, any such company would be reduced below forty eight effective privates.

Any non commissioned officer or private may be exempted from military duty, on account of bodily infirmity, provided he shall obtain a certificate thereof, in the manner provided in this section, that is to say:

It shall be the duty of the surgeon and surgeon's mate, some time in the month of March, in each year, to post up, in one or more public places in each town in their regiment; a notice in writing, that they will attend; at such times, as shall be stated in such notice, between the tenth and twentieth days of April, in each year, and at such places, to be designated in such notice, not less than three in each regiment, as will best accommodate the soldiers in such regiment, to receive and examine such applications, as may be made to them, for certificates of exemption from military duty on account of bodily infirmity. And it shall be the duty of such surgeon and surgeon's mate to attend at the times and places stated in such notice, and there publicly to receive such applications, as may be made to them, which shall be in writing, stating concisely the disease or infirmity, made under oath, which oath may be administered by the surgeon or surgeon's mate, and they shall make a critical examination into the nature and degree of such infirmity, and, if they shall be of opinion, upon such examination, that the person, so applying, is unable to perform the duties required by law of soldiers in the militia, they shall give to the person, so applying, a certificate thereof, which, being recorded in the orderly book of the company, in which such applicant would otherwise be liable to do military duty, or presented by the person holding the same to be recorded, shall exempt him from the performance of military duty, for such

Mariners.

Members of volunteer companies not to be appointed enginemen, in case.  
1834, 121, § 54.

Invalids.  
1839, 399, § 1.  
2 Greenl. 349.

Duties of surgeons and surgeons' mates. To notify times and places of receiving applications for certificates.  
1839, 399, § 1.

Applications to be made publicly in writing.

Certificates to be recorded on orderly book of company.  
3 Pick. 386.

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In case the surgeon certifies, that the infirmity is incurable, the person shall be absolutely exempted.

If surgeon or mate be absent, the other may grant certificates.

Certificates not to be granted at other times and places, except for special reasons. 1839, 399, § 2.

Surgeon shall file applications with adjutant with his decision thereon.

Commanders of regiments to notify captains of certificates granted to members of their companies.

Surgeons not to receive fees. Penalty. 1839, 399, § 3.

In case of vacancy of surgeon. 1834, 121, § 94.

Minors exempted on paying equivalent. 22 Pick. 571.

term, as they may think such disability will continue, not exceeding one year. Provided, that if such surgeon and surgeon's mate shall be of opinion, that the infirmity of any person is incurable, and of such a nature, that he can never be able to perform military duty, they may give to such person a certificate thereof, which, being recorded as aforesaid, shall absolutely exempt such person from military duty, until revoked by the same authority.

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

No certificate shall be granted by such surgeon or surgeon's mate, at any other time and place, than those designated in such notice, unless the person, so applying, shall satisfy such surgeon or surgeon's mate, by his statement under oath in his said application, that such infirmity has arisen since the time so appointed, or that he had no notice, or was unable to attend at either of such times. And it shall be the duty of the surgeon and surgeon's mate to file with the adjutant of the regiment, as soon as practicable, all the original applications made to them, with a minute thereon, whether a certificate was granted, or not, and, if granted, for what period.

The commanding officer of the regiment shall, as soon as may be thereafterwards, cause notice to be given to the commanding officer of the respective companies, of all certificates of exemptions thus obtained, by persons otherwise liable to be enrolled in their companies.

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

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

SECT. 4. Any minor, of eighteen years of age and upwards, shall be exempted from the performance of all ordinary military duty, by paying twenty five cents annually, to the treasurer of the city, town or plantation, and depositing with the commandant of the company, within the limits of which he resides, a receipt for the same, on or before the first Tuesday of May annually,

SECT. 5. Any staff officer, who, after having served three years, has ceased to act as such, in consequence of his own resignation, or of the resignation, promotion, or removal of the officer, who appointed him, may be honorably discharged; and any such officer, who has ceased to act as such as aforesaid, not having served three years, may be exempted from military duty, by paying two dollars per year, as provided in the preceding section.

SECT. 6. All persons, liable by law to the performance of military duty, who are or may be between the ages of thirty and forty five years, and all persons, who have done or shall hereafter do duty for the term of seven years in any company of artillery, cavalry, light infantry or riflemen, shall be exempted from all military duty, except that of being detached or called forth to execute the laws of the United States, or of this state, to suppress insurrections and repel invasions, and of keeping themselves constantly furnished with the arms and equipments required by the laws of the United States, and the duty of carrying or sending them, on the first Tuesday of May annually, to the place of inspection or view of arms of the company, within the bounds of which they may reside, and in which they may be enrolled, and the duty of attending the election of company officers.

All persons, liable to do military duty, shall be allowed six months after their first enrolment, to procure equipments.

### ARTICLE III. ENROLMENTS.

SECT. 7. It shall be the duty of the clerk of every company to assist the officer commanding the same, in the enrolment, without partiality or favor, of all persons, liable to do any military duty, within the limits thereof, so soon as their residence, or their liability to do such duty therein, shall come to his knowledge.

SECT. 8. In all cases of doubt, respecting the age of any person intended to be enrolled, the party questioned as to his age shall prove the same, to the satisfaction of the enrolling officer; and, if any person, liable to military duty, upon application to him personally, by the commanding officer of the company, within the bounds of which such person resides, or upon application, by any person acting under such commanding officer, shall either refuse to give his name or age, or not give either truly, every such person, so offending, shall forfeit twelve dollars, to be sued for by the clerk of the company, in an action of the case, before any justice of the peace of the county, where such offender resides.

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

SECT. 10. When it shall appear to the commanding officer of a regiment, that any company, within his command, is without a

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Discharged staff officers, when exempt. 1834, 121, § 2.

Persons between 30 and 45 years of age, and persons having served seven years in a volunteer company, to be equipped, but exempt from ordinary duty. 1834, 121, § 3. Const. art. 7, § 5. 2 Pick. 172. 22 Pick. 571.

Time to procure equipments after first enrolment. 1834, 121, § 33.

Clerk to assist in making enrolment. 1834, 121, § 12. 8 Greenl. 310. 22 Pick. 406. 16 Maine, 11, 238.

Proof of age and name to be given on request of commanding officer. 1834, 121, § 23.

Penalty.

Town clerks to certify company limits. 1836, 209, § 2.

Certificate to be evidence in prosecutions. 1836, 209, § 3.

Companies without offi-



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commissioned officer, he shall issue orders to the clerk of such company, to enrol all persons, liable to do duty therein, and to return the roll thereof to him forthwith; and if there be no clerk of such company, then such commanding officer shall require, in writing, the assessors of cities, towns or plantations, in which such company is situated, or some other person or persons, to make out and return to him, within ten days, a list of the names of all the persons liable by law, to do military duty in such company; and if any such clerk, assessors, or other persons, shall fail to comply, they shall forfeit and pay, not less than twenty, nor more than one hundred dollars, to be recovered by indictment or by action on the case, by any person whatever, one half to the use of the state, and the other half to the use of the prosecutor.

Persons convicted of infamous crimes to be disenrolled. 1834, 121, § 44. Art. 24.

Militia how organized. 1834, 121, § 6, 17, 52. U. S. May, 1792. 4 Pick. 25.

Divisions, brigades and regiments designated by numbers:

Applications for volunteer companies and for alterations, to be made to the governor. 1834, 121, § 6. 16 Mass. 523.

Enlistments not to reduce standing companies below forty. 1834, 121, § 19.

Notice of enlistments to commander of standing company.

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

## ARTICLE IV. ORGANIZATION.

SECT. 12. The governor is authorized, with advice of the council, to organize and arrange the militia of this state into divisions, brigades, regiments, battalions and companies, conformably to the laws of the United States; and make such alterations therein, as from time to time may be necessary: and each division, brigade and regiment shall be numbered at the formation thereof, and a record made of such numbering in the adjutant general's office. And every new division, brigade and regiment shall be designated by the number next higher than that of the division, established next before it, and the divisions, brigades and regiments shall take rank according to their numbers, the first being highest in rank. Provided however, that the governor, with advice of the council, may organize independent battalions of infantry with a battalion staff, where the local situation of the troops is such, that they cannot be conveniently connected with a regiment.

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

SECT. 14. No company of cavalry, artillery, light infantry or riflemen shall be raised at large, when any of the standing companies shall thereby be reduced to a less number than forty effective privates, exclusive of conditional exempts and two musicians, and including corporals; and if any officer of cavalry, artillery, light infantry or riflemen shall enlist any men belonging to a standing company, or residing within the bounds thereof, for the purpose of forming or recruiting his company, when, by means thereof, such standing company would be reduced to a less number than forty effective privates, borne on the roll, exclusive of those between the ages of eighteen and twenty one, and between thirty and forty five years, such enlistment shall be void; and whenever any person shall enlist into any such company, raised at large, the commanding officer of the company, into which such person may enlist, shall give notice thereof in writing to the commanding officer of the standing

company, in which such person is liable to do duty, within five days from the time of such enlistment, and state in such notice the date of enlistment; otherwise the same shall be void, although the standing company should not thereby be reduced to a less number than forty effective privates. If any company, raised at large, shall be reduced to a less number than thirty privates, and remain so for six months, then such company shall be disbanded, and the men which belonged to such delinquent company shall be enrolled in the standing company, within the bounds of which they respectively reside. All companies raised at large, and not annexed to any particular regiment, shall be subject to the orders of the commanding officer of the brigade, in which they have been raised; and shall make their elections of officers in the same manner as other companies, but shall make their returns of elections to the commanding officer of the brigade. At all parades of regiments, the companies commanded by the two senior captains shall act as light infantry companies, except where companies of light infantry or riflemen have been, or may be hereafter, raised and annexed to the regiment.

Volunteer companies to be disbanded, when reduced below thirty.

When not annexed to a regiment, subject to commander of brigades.

Standing companies to act as light infantry in certain cases.

SECT. 15. Where there are now, or may be hereafter, two companies of artillery or cavalry in a brigade, they shall form a battalion and be entitled to a major, an adjutant and quarter master; and if there are three companies, they shall still form a battalion; if there are four companies, they shall form a regiment of two battalions and be entitled to a colonel, lieutenant colonel and major, and an appropriate regimental commissioned and non commissioned staff.

Battalions or regiments of artillery or cavalry.  
1834, 121, § 18.

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

Delinquent dragoons to be discharged, and enrolled in standing company.  
1834, 121, § 18.

SECT. 17. Every person, who shall lawfully enlist in any volunteer company, whether such person be exempted by law or not, shall be holden to do duty therein for the term of seven years, unless such person be sooner discharged by order of the commanding officer of the brigade. And whenever any person, who has performed duty in any volunteer company for the term of seven years, shall present to the commanding officer of the regiment, to which such company belongs, a certificate, from the commanding officer of such company, stating that he is entitled to a discharge as specified in the sixth section of this act, it shall be the duty of such commanding officer of such regiment, to forthwith give him a discharge from such company.

Members of volunteer companies, entitled to a discharge after seven years.  
1834, 121, § 44.  
Article 13.  
16 Mass. 194.  
4 Pick. 123.  
8 Pick. 431.  
11 Pick. 265.

SECT. 18. Each brigadier general, within his own brigade, upon application of a majority of the members of any company of cavalry, artillery, light infantry or riflemen, expressed by their vote at any regular training, and such application, being communicated by the commanding officer of such company, may discharge any non commissioned officer or private from any of the aforesaid companies; and such non commissioned officer or private shall, forthwith, be

Brigadier general may discharge members on vote of the company.  
1834, 121, § 44.  
Art. 14.

**CHAP. 16.** enrolled in the standing company, within the bounds of which he resides; and every non commissioned officer, so discharged, shall be considered as reduced to the ranks.

Three companies of artillery or cavalry in certain cases to constitute a regiment.  
1834, 121, § 17.

**SECT. 19.** Where, by the division of any corps, a new division or brigade shall be so formed, as to leave but three companies of any regiment of cavalry or artillery, or where, by the disbanding of any company, such regiment of cavalry or artillery shall be reduced to three companies, such three companies shall still constitute a regiment, and all the officers thereof shall retain their command and rank, the same as if said corps had not been reduced.

Artillery drivers.  
1834, 121, § 17.

**SECT. 20.** The commanding officer of each company of artillery may enlist three men to serve as drivers, who shall be exempted from other military duty, except that of keeping the harnesses and apparatus of the carriages belonging to the company, in good order.

Regimental bands how organized.  
1834, 121, § 20.

**SECT. 21.** Each colonel or commanding officer of a regiment of infantry may raise, by voluntary enlistment, within his own regiment or any adjoining regiment, with the written consent of the commanding officer thereof, and organize and establish within his own regiment, a band of music, not to exceed twenty musicians, including one master and one deputy master; and the colonel or commanding officer shall grant the musicians, and their officers, warrants as such; and each band shall be under the direction of the commanding officer of the regiment, in which it is organized.

Duties of master and deputy master.

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

Uniform of bands.

Each master, deputy master and musician shall constantly keep himself provided with the uniform of the band, to which he belongs; which uniform is to be prescribed in the same manner as the uniform of the regiment, to which the band belongs; and shall also keep himself constantly provided with such instrument or instruments, as may be directed by the commanding officer of the regiment.

By whom commanded.

The bands, belonging to the regiments, shall also be under the brigadier general, or the commanding officer of the brigade, the senior master having the direction of said bands, whenever the said regiments shall meet in brigade.

Penalties for misconduct.  
1834, 121, § 20.

**SECT. 22.** If any master, deputy master or musician shall be guilty of any neglect of duty, disobedience of orders, disorderly or other unmilitary conduct, he shall forfeit not less than five, nor more than twenty dollars, for each offence, one half thereof to the use of the officer suing therefor, and the other half to the colonel of the regiment, to which the offender may belong, for the purchase and repair of musical instruments for said band; to be sued for by the adjutant of the regiment, or brigade major of the brigade, if assembled in brigade, in an action of the case, before any justice of the peace in the county where the offender resides; and no appeal shall be allowed to either party: and such master, deputy or musician shall moreover be liable to be removed from the band at the discretion of the commanding officer of the regiment, in which the band is organized, and forthwith enrolled as a private in the standing company, within the bounds of which he resides.

Appropriation of fines.

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

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Members exempt from other military duty.

SECT. 23. Every commanding officer of a company may enlist, as musicians, for his company and within the bounds of the same, not exceeding two drummers and two fifers, or one fifer and one bugler, for and during the term of seven years, unless sooner discharged by removal to such distance from the said company, as to render it inconvenient for the said musician to perform the duties required of him, or by reason of some other good and legal excuse.

Company musicians.  
1834, 121, § 25.

Any musician, so enlisted, who, after having been duly notified and warned, shall refuse to perform his duty as a musician, at any legal meeting of said company, shall forfeit and pay for every such offence the same sum, as would be forfeited by any non commissioned officer or private for non appearance at any such meeting; and in case of removal or discharge of any such musician, the said commanding officer may, from time to time, enlist other musicians to fill such vacancy.

Penalty for non performance at company trainings.

#### ARTICLE V. ROSTERS, ROLLS AND RETURNS.

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

Aids and adjutants to keep rosters and orderly books, and distribute orders.  
1834, 121, § 44.  
Art. 34.

SECT. 25. The captain or commanding officer of each company shall make, or cause the clerk of his company to make, a return of the state of his company, on the day of the annual inspection, to the commanding officer of his regiment or battalion, on or before the first day of June annually; and the commanding officer of each regiment or battalion shall cause his adjutant to record an abstract of the returns made to him in a book to be kept for that purpose, and to transmit a copy thereof to the office of the adjutant general, on or before the first day of August annually. And it shall be the duty of the several commanding officers of regiments, to cause such abstracts and returns to be made, and transmitted within the several times aforesaid, in all cases of absence or inability of their adjutants, or of vacancies in the office.

Annual returns of companies.  
1834, 121, § 27.  
1836, 209, § 5.

And of regiments.

SECT. 26. If any captain or commanding officer shall neglect or refuse to make, or cause to be made, a return of the state of his company, as it existed on the day of the annual inspection in May, to the commanding officer of the regiment, on or before the first day of June annually, and shall so continue to neglect, for fifteen days thereafter, being notified by the adjutant of the regiment, to which such company belongs, that said return has not been received, he

Penalty for neglect of captain to make returns.  
1837, 276, § 11.

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Returns of artillery or cavalry not attached to a regiment or battalion.  
1836, 209, § 5.

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

Returns to be transmitted by mail.  
1836, 209, § 5.

**SECT. 28.** The returns herein named shall be conveyed by mail, and the certificate of the post master of the office where the same is deposited, that the adjutant, or clerk, or other officer as aforesaid, did deposit for transmission to the office of the adjutant general, copies of returns as aforesaid, shall be conclusive evidence of his performing the duties required of him, in transmitting the returns aforesaid.

List of members of volunteer companies to be returned annually to the commander of the regiment.  
1834, 121, § 44.  
Art. 12.

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

Adjutant general to make returns.  
1834, 121, § 27.

**SECT. 30.** The adjutant general shall form and sign correct abstracts of all the returns, as before herein required, and transmit one of them to the commander in chief, and one to the president of the United States, on or before the first day of January annually. And it shall be the duty of the adjutant general to furnish the officers, from whom returns are required, with proper books, and, from time to time, with blanks containing proper forms of the abstracts and returns aforesaid, and for rendering military accounts and other purposes, and the forms shall be uniform throughout the state.

To furnish books and blank forms for returns.

#### ARTICLE VI. ARMS AND EQUIPMENTS.

Officers and soldiers to be constantly equipped.  
1834, 121, § 15.

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

Uniform of officers.  
1834, 121, § 13.

**SECT. 32.** The officers of the militia, chaplains excepted, while on duty, shall wear a uniform dress, to consist of a blue cloth coat, and other articles of dress of such color and fashion, and with such equipments, as shall be prescribed by the commander in chief, except where the same is regulated by the laws of the United States.

Equipments and uniform exempt from attachment.  
1834, 121, § 14.

**SECT. 33.** The arms, ammunition, accoutrements and uniform of every officer, non commissioned officer and private, and the uniform and musical instruments of such musicians, as are mentioned in the twenty first, twenty second and twenty third sections of this chapter, shall be exempted from attachment, execution and distress.

Persons unable to equip themselves, how to be furnished.  
1834, 121, § 15.

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

cer of the company, to which he belongs, a certificate of such inability, from the overseers of the poor of the town or plantation, where he resides. And the commanding officer of the company, to which such private belongs, shall forthwith lay such certificate before the selectmen of the town or assessors of the plantation, where such private resides. And it shall be the duty of such selectmen or assessors, forthwith, at the expense of their respective towns or plantations, to provide for every such private the arms and equipments required as aforesaid; and they shall deposit the same in some safe and convenient place, and shall permit the commanding officer of the company, to which such private, unable to provide himself as aforesaid, belongs, to deliver such arms and equipments to such private, whenever his company shall be ordered out for any military duty. The said commanding officer shall be responsible for the safe return of such arms and equipments to the place of deposit. If any town or plantation shall neglect to furnish arms and equipments to such privates, as are unable as aforesaid to equip themselves, such town or plantation shall forfeit and pay not less than twenty, nor more than fifty dollars, to be recovered by indictment to the use of the state. But no person so furnished with arms and equipments shall, for that reason, be considered a pauper.

Commander responsible for arms so furnished.

Penalty, if towns neglect to furnish.

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

Parents, masters and guardians to equip minors.  
1834, 121, § 33.  
4 Mass. 376.

Proviso.

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

Officers and privates exempt from arrest when on duty.  
1834, 121, § 14.

#### ARTICLE VII. ARTICLES FURNISHED.

SECT. 37. Each regiment of infantry, and each battalion of cavalry and artillery, shall be furnished with the state colors; and each company of infantry, artillery, light infantry and riflemen shall

State colors; instruments of music.  
1834, 121, § 32.

## CHAP. 16.

Officers responsible.

be furnished with a drum and fife, or bugle horn ; and each company of cavalry, with a trumpet or bugle horn ; and each brigadier general is hereby authorized to draw orders upon the quarter master general, in favor of the commanding officers of regiments, battalions and companies, for the above purposes, whenever the several regiments, battalions and companies may not be supplied as aforesaid. The commanding officers of regiments and battalions shall be responsible for the safe keeping of their colors ; and the commanding officers of companies shall be responsible for the safe keeping of the drums, fifes, bugle horns and trumpets, delivered to them for the use of their companies ; and it shall be the duty of the quarter master general to furnish such colors and musical instruments, and to present his accounts therefor to the legislature for allowance.

Blank orders and notifications. 1834, 121, § 32.

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

Field pieces, apparatus and ammunition for artillery. 1834, 121, § 17. 1836, 209, § 6.

SECT. 39. Each company of artillery shall be provided by the quarter master general with two good brass or iron field pieces, of such calibre as the commander in chief may direct, with carriages and apparatus complete, a caisson, forty round shot and forty rounds of cannister shot ; also tumbrel harness, implements, laboratory and ordnance stores, which may from time to time be necessary for their complete equipment for the field. The commander in chief shall order to be issued to each company of artillery, annually, a quantity of powder not exceeding seventy five pounds to those companies, which have two six pounders, fifty pounds to those, which have two four pounders, and forty pounds to those, which have two three pounders, which shall be expended on days of inspection or review, and in experimental gunnery. The commanding officer of every company of artillery shall be accountable for the careful preservation of the pieces, and all the apparatus aforesaid, appertaining to their equipment, and for the proper expenditure of the ammunition supplied by the government ; and he shall lay before the committee on accounts of the legislature, for allowance, his accounts of money actually expended in providing horses, to draw the field pieces and the tumbrel of the company ; provided however, no allowance shall be made, unless such company is ordered to appear at a battalion, regimental, brigade or division inspection or review, or unless such company is ordered on duty by the commander in chief.

Horses.

Towns to provide ammunition, on governor's proclamation. 1834, 121, § 26.

SECT. 40. Whenever the governor, on account of any public exigency, shall issue his proclamation to that effect, every town and plantation within this state shall provide and deposit, and constantly keep provided and deposited, in some suitable and convenient place, within said town or plantation, one hundred pounds of musket balls, each of the eighteenth part of a pound ; one hundred and twenty eight flints, suitable for muskets, for every sixty four soldiers enrolled within said town or plantation, except artillerists ; and also three

copper, iron or tin camp kettles; with powder at the rate of thirty two pounds for every sixty four soldiers, enrolled within said town or plantation; and the same proportion of the aforesaid articles for a greater or less number of soldiers enrolled as aforesaid. Every town or plantation, which shall neglect to keep constantly provided with the articles aforesaid, and in the proportions aforesaid, shall forfeit and pay to the use of the state, a sum not exceeding five hundred nor less than twenty dollars, according to the nature and degree of the neglect, to be recovered by indictment in any court of competent jurisdiction. It shall be the duty of each quarter master of regiments of infantry to cause to be prosecuted, every town or plantation within the bounds of his regiment, which he shall, upon his inspection, find to be deficient either in quality or quantity of military stores, required to be provided as aforesaid, or which he shall find to have neglected to make the provisions, or any part thereof, required as aforesaid. It shall be the duty of each town or plantation treasurer, when such town or plantation, by virtue of this section, shall make any expenditure, to make out an account thereof, and present the same, verified by his oath, to the legislature, who shall examine and allow such sum, as shall appear to be properly vouched and expended.

Penalty for neglect.

Expenditures to be allowed by the legislature.

SECT. 41. Upon the requisition of any commanding officer of a company for that purpose; at five days notice, the treasurer of each city, town and plantation shall pay, at the place of inspection and review, to each officer and member of such company, including musicians, belonging to such city, town or plantation, who shall then and there appear, duly equipped, and perform military duty, the sum of one dollar in lieu of rations; provided such officer or member shall have appeared, duly armed and equipped, and performed military duty at each of the trainings mentioned in the seventy fourth section; but if he shall have failed to appear at either of said trainings, as aforesaid, the sum of twenty five cents shall be deducted, for each of said trainings, at which he shall have so failed to appear; but nothing shall be paid to any person, who shall not appear and perform duty at the review aforesaid. Every city, town or plantation, which shall fail to pay such sums, as aforesaid, shall forfeit to the use of the company a sum equal to one dollar for every such person, who shall do duty on such inspection and review; to be sued for and recovered by the clerk of said company, before any court of competent jurisdiction. The treasurer of said city, town and plantation shall annually present his bill, for so much money as he has actually paid to the officers and soldiers aforesaid, to the legislature for allowance.

Town treasurers to pay one dollar to each soldier at review. 1834, 121, § 28. 1836, 209, § 8.

Proviso.

Penalty for neglect.

Bills to be presented to the legislature.

SECT. 42. The treasurer of every city, town or plantation shall supply, at the expense of the state, or cause the commanding officer of each company of infantry, light infantry, cavalry and riflemen to be supplied, with a quarter of a pound of good gun powder, made into suitable blank cartridges, for each and every non commissioned officer and private, borne on the company roll of such commander, exclusive of conditional exempts, whenever such commanding officer's company is ordered to parade for review. Such commanding officer shall make a written application therefor, four

Blank cartridges to be furnished by town treasurers for review. 1834, 121, § 28.

Commanders of companies to



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make application therefor.

Expense how paid.

Proviso in case of companies raised at large.

Governor to cause repairs of apparatus and the erection and repairs of gun houses for artillery. 1834, 121, § 51.

Decayed gun houses may be sold by direction of major generals. 1834, 121, § 51.

Commissioned officers required by laws of the U. States, how chosen or appointed. 1834, 121, § 7, 10. Major generals.

Adjutant and quarter master general.

Division inspectors.

Aids of major generals.

Division quarter masters.

days before such review, and shall return to, or account with, said treasurer for all the powder he may receive, over and above one quarter of a pound for each man actually on parade, at the muster for which said powder was drawn; and the treasurer aforesaid shall annually present his account for the expense of such powder to the legislature for allowance. Provided that, when the commanding officer of a company, raised at large, shall make requisitions to the selectmen of a town, mayor of a city, or the assessors of a plantation, for rations in money and powder, directed by law, they shall designate the number and names of the members of such company, belonging to such town, city or plantation, and certify their performance of military duty.

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

SECT. 44. Whenever either or any of the gun houses, used for the protection and preservation of guns, gun carriages, tumbrels, munitions of war, or any other apparatus, provided for the use of the artillery of the state, shall be so far injured or decayed, as that in the opinion of the commanding officer of any division of the militia, in which said gun houses are situated, it is inexpedient to repair the same, such commanding officer may authorize the captain of the artillery company, having the immediate superintendence of the gun house, thus injured or decayed, to dispose of the same, either at public or private sale, as he may judge most advantageous, and deposit the proceeds thereof in the treasury of the state, for the use thereof.

#### ARTICLE VIII. OFFICERS, APPOINTMENT OR ELECTION, AND QUALIFICATION.

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

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

The adjutant general and quarter master general, to be appointed by the governor, with advice of the council, with the rank of brigadier general.

The division inspectors, to be appointed by the major generals of their respective divisions, with the rank of lieutenant colonel.

The aids de camp of the major generals, to be appointed by their respective major generals, with the rank of major.

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

The brigadier generals, to be chosen by the written votes of the field officers of their respective brigades. **CHAP. 16.**

The brigade majors, to be appointed by their respective brigadier generals, with the rank of major. **Brigadier generals.**  
**Brigade majors.**

The aids de camp of the brigadier generals, and quarter masters of brigades, to be appointed by the brigadier generals of their respective brigades, with the rank of captain. **Brigade aids and quarter masters.**

The field officers of regiments and battalions, to be chosen by the written votes of the captains and subalterns of their respective regiments and battalions. **Field officers of regiments and battalions.**

The captains and subalterns of companies, to be chosen by the written votes of the members of their respective companies. **Captains and subalterns.**

The adjutants, the quarter masters and the pay masters of regiments, to be appointed by the colonels of their respective regiments, with the rank of lieutenant. **Staff officers of regiments.**

The chaplains, the surgeons and the surgeons' mates of regiments, to be appointed by the colonels of their respective regiments. **Chaplains and surgeons.**

The aforementioned officers shall be commissioned by the governor. **How commissioned.**

**SECT. 46.** The non commissioned officers, named in the aforesaid laws of the United States, shall be appointed in the manner following: the sergeants of companies, to be appointed by the captains of their respective companies, who shall forthwith make return thereof to the commanding officer of their respective regiments or battalions; and they shall grant them warrants accordingly. If there be but one company of cavalry or artillery in any brigade, the warrant shall be granted by the captain of such company; corporals shall be appointed by, and receive warrants from, the captains of their respective companies. **Non commissioned officers, how appointed. 1834, 121, § 8. 11 Pick. 265. 16 Maine, 356.**

**SECT. 47.** In addition to the officers specified in the laws of the United States, there shall be the following, who shall receive commissions from the governor, viz: **Additional officers, and how appointed.**

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

One or more hospital surgeons, to be appointed by the governor; and said surgeons, while in actual service, shall be at the head of the medical department, within the district assigned them by the commander in chief, with advice of the council. **Hospital surgeons. Resolve, 1839, ch. 52.**

A division advocate for each division, to be appointed by the commander in chief. **Division advocate.**

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

And the following non commissioned officers, viz:

To each regiment, a quarter master sergeant and a sergeant major, a drum and fife major, master, deputy master and musicians of the regimental bands, to be appointed by the colonels of their respective regiments, who shall grant them warrants accordingly. **Non commissioned staff officers.**

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

**SECT. 48.** Each major general is authorized, and it shall be his **Manner of**

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choosing officers.  
1834, 121, § 10.  
Ten days notice to electors.

duty, from time to time, to give all such orders, as may be necessary for filling, by election, any vacancy of brigadier general, field officer, captain or subaltern, existing within his division. Previously to any such election, the electors shall have ten days notice thereof, at least, and no election for the choice of brigadier general or field officer shall be valid, until a majority of all the electors qualified by law to vote in such choice, counting all the existing vacancies in the offices of such electors, shall be present at such election.

Persons elected to accept within one hour.  
1834, 121, § 10.

Every person, who shall have been elected to any office as aforesaid, and shall not, within one hour after he shall be declared so elected, signify his acceptance to the presiding officer thereof in person, or in writing, shall be considered, as declining to serve, and a new election shall be had.

Returns of elections and commissions, how transmitted.  
1834, 121, § 10.

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

Companies neglecting to do duty or elect officers to be disbanded.  
1834, 121, § 10.

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

Officers to take rank from the day of their election or appointment, to be expressed in their commissions.  
1834, 121, § 10.

SECT. 51. The commission of every officer shall designate the division, brigade, regiment or battalion, and the corps, in which he shall be commissioned, and the day of his election or appointment; and he shall take rank from that day: and whenever an officer is transferred from one corps or station, to another in the same grade, the day of the date of his original appointment, or election, shall be expressed in his new commission, and that day be considered the date of his commission.

If a commission be lost by casualty, officer may be commissioned anew.  
1834, 121, § 10.

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

Precedence in rank to be decided by lot in certain cases.  
1834, 121, § 10.

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

Oath of commissioned officers.  
1834, 121, § 11.  
Const. art. 9, § 1.

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

## "STATE OF MAINE.

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This may certify that \_\_\_\_\_, commissioned as within, on this \_\_\_\_\_ day of \_\_\_\_\_, in the year 18—, personally appeared, and took and subscribed the oaths, required by the constitution of this state, to qualify him to discharge the duties of his office.

Before me, \_\_\_\_\_."

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

"I, A. B., do solemnly swear, that I will faithfully and impartially perform all the duties incumbent on me, as clerk of the company to which I belong, according to the best of my abilities and understanding. So help me God."

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

SECT. 56. The clerk shall keep a fair and exact roll of the company, together with the state of the arms and equipments belonging to each man, which roll he shall annually revise on the first Tuesday of May, and correct the same from time to time, as the state of the company may require. He shall register all orders and proceedings of the company in the orderly book; keep exact details of all drafts and detachments; distribute all company orders and notifications, which he may be required to do; examine the equipments of the men, when ordered; note all delinquencies; sue for and recover all fines and forfeitures, which may be required to be sued for in this chapter; and keep accounts in the orderly book of all fines and forfeitures, and all other moneys collected by him, with the persons' names, of whom they were collected, and of the times when, and for what offence; which book shall not be alienated from the company, and shall always be open to the inspection of any officer or private of the company.

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

SECT. 58. In case of such sickness, absence or other disability, or whenever the office of clerk in any company shall become vacant, and it shall satisfactorily appear to the commanding officer, that no person will accept the same, temporarily, or permanently, as the case may be, he may issue his order in writing to any non

Form of certificate.

Clerks of companies, how appointed and sworn.  
1834, 121, § 12.  
6 Greenl. 214.  
7 Greenl. 266.  
9 Greenl. 16.  
11 Pick. 265, 355.  
15 Pick. 446.  
16 Pick. 84.  
2 Fairf. 31.

Form of oath.

Duties of such clerks.  
1834, 121, § 12.  
22 Pick. 406.  
16 Maine 11, 238.  
14 Maine 121, 205.

Clerks pro tempore.  
1834, 121, § 16.  
3 Greenl. 38.

Any member may be required to perform certain duties of the clerk in certain cases.  
1837, 276, § 3.

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Forfeiture for neglect.

Commanding officer to keep the records in such cases. 1837, 276, § 3.

Vacancy of superior officer, how supplied. 1834, 121, § 16.

If a company be destitute of officers, commander of regiment or battalion may appoint non commissioned officers. 1834, 121, § 16.

In case a company remain without officers three months, commander of regiment shall detail an officer to take command. 1837, 276, § 2, 4.

Such officer to keep records, and prosecute for fines.

commissioned officer or private in said company, requiring him to perform all the duties of clerk of said company, except keeping the records, until the clerk shall be able to perform the same, or some other person be appointed, for a term not exceeding three months; and if any non commissioned officer or private, so appointed, and who shall not have been, within one year previous, required to perform the same duties, shall refuse or neglect to perform all or any of the duties of said office, during said term, except keeping the records, he shall forfeit and pay not less than ten, nor more than twenty dollars, to be recovered by indictment, or by action on the case, by any person whatever; one half to the use of the state, and the other half to the use of the prosecutor.

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

SECT. 60. Whenever the office of major general, brigadier general, colonel, lieutenant colonel, major commandant or of captain shall be vacant, or in case of the absence of any such officer, the officer next in grade and in commission in the division, brigade, regiment, battalion or company, on due notice thereof from the proper superior officer, shall exercise the command, and perform the duties thereof, until the vacancy shall be supplied.

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

SECT. 62. Whenever any company shall have remained without any commissioned officers for the term of three months, the commanding officer of the regiment, to which said company belongs, shall detail some suitable officer of the staff, or of the line, not above the rank of lieutenant, to train and discipline said company, until some officer shall be elected, or appointed by the commander in chief, as provided in the second section of the seventh article of the constitution, and commissioned; and such officer, so detailed, shall have the same power and authority, and be subject to the same liabilities, as if he were captain of such company; and he shall keep the records of the company, and prosecute for all fines and forfeitures, in like manner as clerks of companies are authorized and required to do, by virtue of the ninety ninth section of this chapter; one half of the amount recovered to be to the use of the regiment, and the other half to the use of the officer. The officer so prosecuting shall be a competent witness in the case.

SECT. 63. Whenever the officer, so detailed to command such company, or, where no officer shall have been detailed, whenever the commanding officer of the regiment, to which such company belongs, shall, in writing, order any non commissioned officer or private, to notify the persons liable to do duty in such company, to appear for any duty required by law, any non commissioned officer or private, who shall neglect or refuse to notify such persons to meet at the time and place and for the purposes mentioned in such order, as aforesaid, shall forfeit and pay not less than twenty, nor more than one hundred dollars, to be recovered by indictment, or by an action on the case, by any person whatever; one half to the use of the state, and the other half to the prosecutor.

SECT. 64. The adjutant general and quarter master general shall receive compensation for their services to be allowed by the legislature.

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, ten dollars.

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

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 usages are attached to their offices respectively; provided such duties shall be required of them by their senior and commanding officer.

#### ARTICLE IX. OFFICERS HOW DISCHARGED.

SECT. 67. All military officers, who have been or may hereafter be commissioned, shall hold their respective offices for a term not longer than five years from the date of their commissions, unless reappointed or reelected; and the commander in chief shall discharge all such officers accordingly: provided, that in case of vacancy of major general in any division, the commissions of the brigadier generals in such divisions shall not terminate by the limitation aforesaid, till the office of major general shall be filled. But no officer shall be discharged within the said term of five years, 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

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Penalty, if non commissioned officer or private, in such case, neglect to warn the company, when ordered. 1837, 276, § 2.

Compensation of adjutant and quarter master general. 1834, 121, § 47. Compensation of certain other officers. 1834, 121, § 48.

General duties of officers. 1834, 121, § 49.

Term of office limited to five years, unless reelected. 1840, 24.

Proviso, in case of major general.

Occasions for discharge. 1834, 121, § 44. Art. 9.

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Officers not to resign, when under arrest. Resignations not allowed between May 1st, and November 1st, except for special reasons. 1834, 121, § 44. Art. 3.

Officers to deliver up orderly and other books and property, before resigning. 1834, 121, § 44. Art. 11.

Penalty for refusal to deliver up property of the state, on removal from office. 1836, 209, § 11.

No officer exempt from duty until discharged, except when under arrest. 1834, 121, § 44. Art. 10.

Officers convicted of infamous crimes, to be placed under arrest. 1834, 121, § 44. Art. 2.

Election of unsuitable persons to be void. 1837, 276, § 5.

Officers, becoming unfit, may be discharged.

Inspection on the first Tuesday of May. 1834, 121, § 21, 30.

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.

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 and the first day of November, unless the reasons, offered by the officer wishing to resign within those days, be very urgent.

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.

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.

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.

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 for his removal.

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. And whenever it shall appear to the commander in chief, that any person commissioned as an officer in the militia of this state, has become an idiot, lunatic, common drunkard or vagabond, he shall, with the advice of the council, forthwith remove him from office, and a new election shall be ordered to fill such vacancy.

## ARTICLE X. 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 appearance 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.

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, annually, days of state elections excepted, as the commanding officer of the division may order; but no non commissioned officer or private belonging to any company of militia shall be compelled to attend any muster, inspection or review, when, by so doing, he would be obliged to cross any body of water exceeding one mile in width, at the usual place of crossing the same, unless there be a bridge over the same; and when, by reason of the residence of any part of the troops on any of the islands in the state, it may be deemed expedient by the major general of the division, to which such troops belong, they may be reviewed in less bodies than battalions.

SECT. 77. When a brigade review or inspection is ordered, the commanding officer of the brigade shall appoint the place, and give notice thereof to the commanding officer of the division; when a regimental review or inspection is ordered, the commanding officer of the regiment shall appoint the place, and give notice thereof to the commanding officer of the brigade; and when a review or inspection of a regimental battalion or part of a battalion is ordered, the commanding officer of the regiment shall appoint the place, and give notice thereof to the commanding officer of the brigade. And the places to be appointed for reviews or inspections, as aforesaid, shall always be as central, as, in the judgment of the officer pointing out the place, convenience will admit; and the artillery, cavalry and other troops, raised at large, and not annexed to any particular regiment, shall be reviewed and inspected, once in each year, either by themselves, or with the brigades, regiments or battalions of regiments, as the commanding officer of the respective divisions may direct. Provided, that no officer, non commissioned officer or private shall be obliged to travel more than fifteen miles to any review.

SECT. 78. No officer, non commissioned officer or private shall be held to perform any military duty on any day, except on days, which are or may be specially prescribed by law, on which the selectmen of the town, in which such officer, non commissioned officer or private resides, shall appoint a meeting for the election of a representative to the legislature; nor shall there be any military parade on the day, pointed out by the constitution of this state, for the election of governor and senators; nor on any day which may [be] appointed for the choice of electors of president and vice president of the United States, or representatives to congress; and

CHAP. 16.  
Company train-  
ings.

Selections of  
the militia law  
to be read at in-  
spection.  
1834, 121, § 44.  
Art. 36.

Reviews.  
1834, 121, § 21.

Soldiers not  
compelled to  
cross water  
more than a  
mile.  
1840, 77.

Appointment of  
time and place  
for reviews.  
1834, 121, § 30.  
1836, 235.

Troops raised at  
large, how re-  
viewed.

No person  
obliged to travel  
more than fif-  
teen miles to  
any review.  
13 Mass. 220.  
Citizens not  
held to perform  
military duty on  
election days.  
1834, 121, § 31,  
44.  
Art. 18.



## CHAP. 16.

Penalty, if officers require it.

it shall not be lawful for any officer to parade his men on either of said days, unless in case of invasion made, or threatened, or in obedience to the orders of the commander in chief, except as is herein before excepted; and if any officer, contrary to the provisions aforesaid, shall parade his men on either of said days of election, he shall be liable to be tried by a court martial; and shall moreover forfeit a sum, not less than fifty, nor more than three hundred dollars, to be sued for and recovered, in an action on the case, before any court of competent jurisdiction; one moiety thereof to the use of the person who may prosecute for the same, the other to the use of the state.

Penalty for parading or marching troops within fifty rods of a court house, when court is in session.  
1833, 74, § 1.

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.

Precedence of companies on parade.  
1834, 121.  
Art. 19.

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.

Rank of officers of different corps, doing duty together.  
1834, 121.  
Art. 15.

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.

Officers to be assigned to destitute companies on parade.  
1834, 121, § 16.

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.

Officers to assign limits to parade.  
1834, 121, § 22.  
13 Mass. 299.

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 the 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.

Distribution of cartridges.  
1834, 121, § 44.  
Art. 17.

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.

Punishment of disorderly soldiers.  
1834, 121, § 44.  
Art. 20.

SECT. 85. Any non commissioned officer or private, who shall, while under arms or when on duty, behave himself with contempt 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 the time, when the company to which he belongs is dis-

missed; 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.

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.

Volunteer companies may establish by laws. 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.

Commander in chief may order further trainings, on approach of public danger. 1834, 121, § 21.

#### ARTICLE XI. 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; but no private shall be obliged thus to notify more than once in the same year.

Mode of notifying men to appear. 1834, 121, § 21. 8 Mass. 279. 13 Mass. 433. 16 Mass. 194. 15 Maine, 191. 309, 447, 466. 9 Pick. 557. 15 Pick. 1. 21 Pick. 332, 333.

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. 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.

Time of notifying for trainings, reviews and elections. 1834, 121, § 21.

Proviso in case of emergency.

Notice on parade. 1834, 121, § 21. 1837, 276, § 7.

SECT. 90. When any non commissioned officer or private in

Duty of persons

**CHAP. 16.** any company shall receive orders from the commanding officer of such company, to notify and warn such company, or any part thereof, to meet for the purpose of choosing any officer or officers, it shall be the duty of such non-commissioned officer or private, to give every person, he is so ordered to warn, verbal notice, or to leave him a written or printed notification, at his usual place of abode, specifying the time, place and purpose of said meeting.

ordered to notify for elections. 1834, 121, § 24.

#### ARTICLE XII. EXCUSES.

Excuses must be made within twenty days. 1834, 121, § 44. Art. 31. 2 Greenl. 181. 3 Greenl. 33. 4 Pick. 66. 15 Pick. 1.

**SECT. 91.** All excuses for non appearance of non commissioned officers and privates, must be made within twenty days after any training, view of arms, or other military duty, to the commanding officers of their respective companies; and on the delinquent's producing, or causing to be produced, satisfactory evidence of his inability to appear, his commanding officer may excuse him; but all commanding officers of companies are hereby forbidden from receiving any excuse for non-appearance, under any pretence whatever, after the expiration of the twenty days allowed. Any such non commissioned officer or private, who shall neglect to give, or cause to be given, to his commanding officer, such satisfactory evidence of his inability to appear, provided he is not prevented therefrom by severe sickness, or other inevitable accident, within the said twenty days, shall forfeit and pay the penalty by law provided for such non appearance. And if a warrant be issued to an individual, who may have held a commission in this state, or any other of the United States, which may not be within the knowledge of the commanding officer of the company in which he is so warned, it shall be his duty to give notice thereof, in manner above provided, or such commission shall not exempt him from such fine, as would otherwise be imposed upon him for non appearance. All commanding officers of companies shall inform, or cause their clerk to be informed, of all excuses for non appearances, which they may allow as good and sufficient.

Persons, who have held commissions, to give notice thereof.

Consequence of neglect. 1834, 121, § 44. Art. 31.

#### ARTICLE XIII. FINES AND PENALTIES ON NON COMMISSIONED OFFICERS AND PRIVATES.

Fines for non appearance. 1834, 121, § 44. Art. 26, 27, 28. 1838, 349, § 4.

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

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

At any company training, four dollars.

At any inspection or review, four dollars.

At any meeting for the choice of officers, two dollars. In none of which cases, in time of peace, shall any substitute be received.

1834, 121, § 44. Art. 29.

Fines for deficiency of equipments. 1834, 121, § 44. Art. 29, 30.

**SECT. 93.** Every non commissioned officer or private, who shall appear at the company inspection on the first Tuesday of May, or at any company training, or for any battalion, regimental or brig-

ade inspection or review, and shall not be armed and equipped, as the law directs, shall for each article in which he is deficient, or which shall be of bad quality or in bad condition, forfeit as follows:

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

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

If deficient of two spare flints and priming wire and brush, or either of them, he shall forfeit forty cents. Provided nevertheless, that none of the above forfeitures shall be incurred by any private, in case he appears with a good rifle, knapsack, shot pouch and powder horn.

In any company raised at large, for appearing without the uniform of the company, three dollars. Uniform.

SECT. 94. Every non commissioned officer or private, who is permitted to carry, or send, his arms and equipments for inspection, on the day, and in the manner provided in the sixth section, who shall neglect so to do, or shall on said day lend or sell them, so that they may be inspected as the property of another, shall forfeit two dollars and fifty cents. Fine for neglect of partial exempt to send or carry equipments at inspection. 1834, 121, § 3.

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

SECT. 96. Every non commissioned officer or private, guilty of any of the neglects and offences, hereinafter mentioned, shall forfeit and pay for each offence or neglect, the sums severally prescribed therefor: Penalties. 21 Pick. 330.

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

For unnecessarily and without orders discharging his musket, rifle or pistol, in going to, or returning from, or while on the place of parade, or while under arms, not less than five, nor more than twenty dollars, for each offence, for the benefit of any person, who may prosecute therefor, in an action of debt; Discharging fire arms without orders. 1834, 121, § 44. Art. 22.

For being on the place of parade with his musket, rifle or pistol, loaded with ball, slugs or shot, not less than five, nor more than twenty dollars; Loading arms with ball, slugs or shot. 1834, 121, § 44. Art. 17.

For refusing, or neglecting, to give any notice or warning, when ordered thereto by the commanding officer of the company to which he belongs, not less than one, nor more than four dollars, for each member of the company, whom he shall neglect or refuse to notify Neglecting to warn soldiers. 1834, 121, § 44. Art. 23. 10 Pick. 134.

**CHAP. 16.** or warn; to be recovered by indictment in the district court, or complaint before some justice of the peace, one half to the complainant, and the other half to the state.

Disobedient and disorderly non-commissioned officers may be reduced to the ranks. 1834, 121, § 44. Art. 25.

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

Penalties for disobedience of non-commissioned staff officers. 1834, 121, § 44. Art. 35.

**SECT. 98.** Every sergeant major, quarter master sergeant, drum major or fife major, who shall be guilty of neglect, or disobedience, of the orders of the commanding officers of their respective regiments or battalions, shall, for each offence, forfeit not less than five, nor more than twenty dollars, to be recovered by the adjutants of their respective regiments or battalions, in an action of debt, in the same manner that fines are recovered by clerks of companies; one half thereof to said adjutant for his own use, and the other half to be expended by him, under the direction of the field officers, in the repair of the regimental and battalion colors, and of the musical instruments furnished by the state for the use of the companies of his said regiment or battalion, and the purchase of camp colors: and every such non-commissioned officer, who shall be guilty of any disobedience of orders, neglect of duty, or other unmilitary conduct, may be reduced to the ranks by their brigadier general, by and with the advice of the commanding officer of the regiment or battalion, to which such non-commissioned officer may belong.

May be reduced to the ranks.

#### ARTICLE XIV. PROSECUTIONS FOR FINES AGAINST NON-COMMISSIONED OFFICERS AND PRIVATES.

Fines, how recovered. 1834, 121, § 45. 1837, 276, § 12. 1 Mass. 456.

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

Limitation of actions. 1834, 121, § 44. Art. 31.

Penalty for neglect of clerk to prosecute. 1834, 121, § 45. 1837, 276, § 12.

**SECT. 100.** If the said clerk shall unreasonably neglect, or refuse, to prosecute for any of the fines aforesaid, he shall pay a fine of five dollars, for each and every such neglect, for the use of the company to which he belongs; to be recovered by an action of debt, to be brought by the commanding officer thereof, before any justice of the peace, in the county where such clerk resides.

How recovered.

If there be no clerk, captain to prosecute. 1834, 121, § 45.

**SECT. 101.** If there be no clerk to prosecute as aforesaid, the captain or commanding officer of the company shall prosecute for said fines, for the use of the company; and upon neglect so to

do, shall be subjected to trial by a court martial; and if found guilty, shall be removed from office.

SECT. 102. The clerk or commanding officer, in any action by him commenced or prosecuted for any fines or penalties, provided in this chapter, may amend his writ in any stage of the process, before the rendition of final judgment therein, without payment of costs.

Plaintiff may amend his writ, in any stage of the process.  
1834, 121, § 45.

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

Clerk not liable to costs, if captain approve the suit.  
1834, 121, § 45.  
5 Greenl. 264.

SECT. 104. When the commanding officer is, by virtue of any of the provisions of this chapter, required to prosecute for any fine or penalty, he shall in no case be liable to pay any cost to the defendant, if he should not recover in any action or suit by him commenced.

Commanding officer not liable to costs, if he sue.  
1834, 121, § 45.

SECT. 105. The commission of the captain, or commanding officer, of any company, shall, in all cases, be deemed sufficient evidence of the organization of such company.

Captain's commission evidence of organization of the company.  
1834, 121, § 21.

SECT. 106. All commanding officers, subaltern officers, and all clerks of companies, and other non commissioned officers and privates, are hereby made competent witnesses in law to testify to all, or any, facts within their knowledge, in any suit commenced by said clerks or commanding officers, for the collection of any fines or forfeitures, incurred, or imposed, by any provisions in this chapter, notwithstanding any interest, which they or their respective companies may have therein.

All officers and members of companies, competent witnesses.  
1834, 121, § 21.  
1837, 276, § 8.  
15 Maine, 190.  
4 Pick. 251.

SECT. 107. Whenever any action shall have been commenced for any fine or forfeiture by any clerk of any company, and said clerk shall die, resign, or refuse, or in any other way be disqualified to prosecute said suit, so commenced, it shall be lawful, and it is hereby made the duty of the commanding officer of the company, to assume and prosecute said suit to final judgment and execution.

If clerk die, resign, or refuse, captain shall prosecute.  
1837, 276, § 9.

SECT. 108. Whenever any fine or forfeiture shall have been incurred by any member of any company, and there be no clerk, or he shall resign, or die, or be disqualified, it shall be lawful for any clerk, appointed after said fine or forfeiture has been incurred, to sue for and recover the same; provided said action shall be commenced within the time prescribed by law.

Clerk may prosecute for fines accruing before his appointment.  
1837, 276, § 9.

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

Appropriation of fines.  
1834, 121, § 46.

SECT. 110. Every judge of a municipal, or police court, within the limits of his general jurisdiction, shall have and execute all the powers of a justice of the peace, under any of the provisions of this chapter.

Powers of municipal and police courts.  
1834, 121, § 45.

## CHAP. 16.

## ARTICLE XV. COURTS MARTIAL.

Courts martial,  
how constituted.  
1834, 121, § 36.

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

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

Quorum.

Any two members of said court shall constitute a quorum, for the trial of all causes, coming before them, in the manner hereinafter provided.

One may adjourn.

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

Appointment  
of marshal and  
orderly officer.  
1834, 121, § 40.

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

Members of  
general courts  
martial, how  
appointed.  
1838, 349, § 1.

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

Members of  
division courts  
martial, how  
detailed.  
1837, 276, § 13.  
1838, 349, § 7.

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

Special officer  
for summary in-  
vestigation of  
complaints.  
1834, 121, § 43.

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

How appointed.  
1837, 276, § 16.

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

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

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

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

When the officer, against whom complaint is made, shall be above the rank of captain, he shall transmit the same, so reduced to form, to the adjutant general's office, within fifteen days next after the receipt of such complaint, for the consideration of the commander in chief.

Whenever the officer, so complained against, shall be of the rank of captain and under, including regimental staff officers, he shall transmit, in like manner, the complaint so reduced to form, to the major general of the division, to which the officer belongs, for his consideration.

SECT. 117. Whenever a court martial is ordered by the commander in chief, or by the major general of any division, for the trial of any officer on charges and specifications of charges, preferred against him, the division advocate shall prosecute the same; and, in all cases, the division advocate shall be furnished by the adjutant general, if the court be ordered by the commander in chief, and by the major general, if the court be ordered by him, forty days at least before the time of trial, with a copy of the general division order convening the court, and of the charges and specifications preferred, and cause the respondent to be served with a copy thereof, twenty days at least before the trial.

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

SECT. 119. All persons summoned to testify in any cause, ordered for trial, or pending before either of said courts, by virtue of a subpoena issued by the division advocate, if for the state, or by any justice of the peace, if for the respondent, shall be held to obey such subpoena under the same penalties and liabilities for neglect, as are provided in other public prosecutions: all oaths required of persons testifying in said courts may be administered by any member thereof; depositions may be taken and used in like manner, as in cases pending in courts of common law.

SECT. 120. If the respondent shall be found guilty by said court, either upon admission, trial or default, of any charge prefer-

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### Compensation.

Division advocate, how appointed.  
Term of office.  
1834, 121, § 37.  
1837, 276, § 13, 14.

To draft complaints.

To transmit to adjutant general, complaints against officers above the rank of captain.

To transmit, to major general, complaints against officers of the rank of captain or under.

Duty in relation to prosecutions before courts martial.  
1834, 121, § 37.  
11 Pick. 441.

Courts martial, how convened.  
1834, 121, § 38.  
1837, 276, § 13.

Witnesses how summoned and sworn.

Depositions.

Judgment and sentence.  
1834, 121, § 38.



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7 Pick. 149.  
22 Pick. 498.

red against him, involving an offence against military law, or the principles of duty and usage, attached to his office, the court shall sentence him to be reprimanded in orders, and to pay a fine of not less than ten, nor exceeding fifty dollars, together with part or all of the costs of court, or to either, according to the nature of the offence; or to be removed from office, with, or without; the payment of such fine and costs, at the discretion of the court; and in addition thereto, if the court think proper, to be disqualified for, and incapable of, holding any military office under this state, for life or for a term of years. And the judgment or sentence of the court shall, as soon as may be, be certified by the president, under seal of the court, to the commander in chief, to be promulgated and carried into effect.

To be certified to the commander in chief.

Division advocate to keep a summary of proceedings.

1834, 121, § 40.  
Copy of orders and records duly certified, to be evidence in suits.

1837, 276, § 10.  
13 Maine, 268.

Division advocate to enforce payment of fine and costs.

1834, 121, § 39.

Judgment and execution in such suits.

1834, 121, § 39.  
22 Pick. 498.

Action not to abate in certain cases.

1840, 52.

Compensation of members.

1834, 121, § 40,  
41.

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.

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.

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.

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; and no action for such fine and costs, or either, shall abate, in consequence of the death, resignation, removal, or expiration of the term of office, of the division advocate, who may have commenced the same; but such action may be prosecuted afterwards to final judgment by his successor, and the court, before which the same may be pending, may order such continuances and amendments and notices to the successor, as may be necessary, and render such judgment, as the rights of the parties may require. 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.

SECT. 125. The compensation of the officers and witnesses shall be as follows:

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.

In addition to his pay for travel and attendance at the session of the court, the division advocate, in each case, may charge in the pay roll, as follows, and no more :

CHAP. 16.  
Division advocate.

For drawing charges and specifications and filing the same, three dollars ;

For preparing the case for trial, three dollars ; subpoenas, ten cents each ; copies of the case for service on the respondent, one dollar ; recording the case, two dollars ;

To the marshal, two dollars a day ;

Marshal and orderly officer.

To the warrant officer attending upon the court, one dollar a day.

Witnesses.

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' fees 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 for room and stationery, at the close of each session of said courts, 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 to the several persons entitled thereto.

Pay roll.

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

Presidents to prepare reports of decisions on questions of law.  
1834, 121, § 42.

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

Accused officer to be arrested, and to have a copy of charges before trial.  
1834, 121, § 44.  
Art. 3.

SECT. 128. If any officer, for the trial of whom a court martial is appointed, shall neglect to appear and make defence, or, if appearing, shall afterwards withdraw in contempt of court, or being arraigned before a court martial, shall, from obstinacy or deliberate design, stand mute, or answer foreign to the purpose, the court may proceed to trial and judgment, as if he had regularly pleaded not guilty.

Proceedings, if he fail to appear, withdraw or stand mute.  
1834, 121, § 44.  
Art. 4.

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

Offences of commissioned officers, triable by courts martial.  
1834, 121, § 44.  
Art. 1.

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

For wilfully oppressing or injuring any under his command ;

For setting on foot, or joining in, any combination, to resist, or evade, the lawful orders of any commissioned officer ;

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

1834, 121, § 44.  
Art. 5.

For neglect or refusal, as commanding officer, to call out his company, when, as often as, and at the times required in this chapter, or by any other law, or at any other time, when lawfully required thereto by his superior officer ;

1834, 121, § 44.  
Art. 7.

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For excusing any under his command, for unnecessary absence or deficiency ;

1834, 121, § 44.  
Art. 16.

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

1834, 121, § 44.  
Art. 18.

For parading his men on either of the days of election, mentioned in section seventy eight, contrary to the provisions thereof ;

For neglecting or refusing, after receiving his commission, forthwith, to take and subscribe the oaths required by the constitution, to qualify him to discharge the duties of his office.

Limitation of prosecutions before courts martial.

1834, 121, § 44.  
Art. 6.

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

Arrests on the field of parade.  
1834, 121, § 44.  
Art. 8.

SECT. 131. No arrest on the field, for offences committed on parade, shall be legal, unless made, by the commanding officer present, in writing ; and unless such commanding officer shall, within fifteen days, exhibit to the competent authority his complaint in writing, setting forth the cause of arrest.

## ARTICLE XVI. PROCEEDINGS ON DRAFTS FOR ACTUAL SERVICE.

Persons drafted to pay fifty dollars, or procure a substitute within 24 hours, or be liable to march as soldiers.  
1834, 121, § 29.

SECT. 132. Whenever, in case of actual, or threatened, invasion, insurrection, or other public danger or emergency, the militia shall be ordered out, or any part thereof shall be ordered to be detached, or drafted, by the commander in chief, any person, who shall be ordered out, detached or drafted, in pursuance of, and obedience to, such orders, and shall not, within twenty four hours after he shall be notified thereof, pay a fine of fifty dollars to the commanding officer of the company, to which he belongs, or procure an able bodied man in his stead, such person, on being ordered to march to the place of rendezvous, shall be considered, as a soldier belonging to the detachment, and be dealt with accordingly.

Fines appropriated to hire substitutes.

1834, 121, § 29.

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

Officers, how detailed ; non commissioned officers and privates, how drafted.

1834, 121, § 29.

SECT. 134. The officers of any detachment, ordered to be made, as aforesaid, shall be regularly detailed from the rosters ; and the non commissioned officers and privates, by lot, from the company rolls.

Drafts from companies, not organized.

1834, 121, § 29.

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

Persons detached, to furnish themselves with three days provision.

1834, 121, § 29.

SECT. 136. Whenever the militia or any part thereof, after having been ordered out or detached, as aforesaid, shall be ordered to march for the service of the state, each non commissioned officer and private, so ordered to march, shall provide and take with him three days' provisions, unless otherwise ordered.

Selectmen to furnish further supplies in carriages.

1834, 121, § 29.

SECT. 137. The selectmen of every town, and aldermen of every city, and the assessors of every plantation, to which the men detached, as aforesaid, and ordered to march for the service of the state, belong, shall provide and cause carriages to attend them with

further supplies of provisions, and also the necessary camp equipage and camp utensils, until notice shall be given them by the commanding officer of the detachment to desist; and the selectmen, aldermen and assessors shall present their accounts for supplies to the legislature for allowance.

SECT. 138. Whenever the selectmen of any town, aldermen of any city, or assessors of any plantation, from which a detachment or part thereof, as aforesaid, shall march, being notified by the commanding officer of such detachment or part thereof belonging to such town, city or plantation, shall neglect or refuse to furnish the necessary supplies, camp equipage, and camp utensils, the town, city or plantation, to which the selectmen, aldermen or assessors, neglecting or refusing as aforesaid, belong, shall forfeit not less than two hundred, nor more than five hundred dollars, to be sued for and recovered by any person, who may prosecute for the same, in an action on the case, in any court of competent jurisdiction; one moiety to the prosecutor, and the other to the use of the state.

Penalty for neglect of selectmen in such case.  
1834, 121, § 29.

SECT. 139. The officer, by whom, or to whose order, any camp equipage or camp utensils shall be delivered, shall be accountable for the same; unless injured, or lost, by some accident not in his power to prevent.

Officers responsible for camp equipage and utensils.  
1834, 121, § 29.

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

Members of cavalry companies to march with their own horses, after appraisal.  
1834, 121, § 18.

SECT. 141. Whenever any officer, neglecting or refusing to make a draft or detachment, when ordered as aforesaid, shall be arrested, the officer next in command shall be ordered to make the draft or detachment.

On arrest of the officer neglecting to make draft, the next in command to make the draft.  
1834, 121, § 44.  
Art. 16.

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

Pensions to be allowed, if a soldier be killed or disabled, when on duty.  
1834, 121, § 35.

ARTICLE XVII. 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. 143. The following rules and articles are hereby established and declared to be in force, for governing all troops, stationed in forts and garrisons within this state; and also, the militia, or any part thereof, when called into actual service, viz:

Rules, and penalties for violation thereof.  
1834, 121, § 53.

I. All officers and soldiers shall diligently attend divine service; all officers and soldiers, who shall unnecessarily absent themselves from, or behave indecently or irreverently at, any place of divine worship, shall, if commissioned officers, be brought before a general

Attendance on divine worship: Behavior.

## CHAP. 16.

- court martial, there to be publicly reprimanded by the president; if non commissioned officers or soldiers, every person so offending shall, for the first offence, forfeit twenty cents, to be deducted out of his next pay; for the second offence, he shall not only forfeit a like sum, but be confined twenty four hours; and, for every like offence, shall suffer and pay in like manner; which money, so forfeited, shall be applied to the use of the sick soldiers of the troop or company, to which the offender belongs.
- Profanity.** II. Any non commissioned officer or soldier, who shall use any profane oath or execration, shall incur the penalties expressed in the foregoing article, and if a commissioned officer be thus guilty of profane cursing or swearing, he shall forfeit and pay, for each and every such offence, sixty seven cents.
- Seditious or disrespectful words.** III. Any officer or soldier, who shall presume to use traitorous or disrespectful words against the authority of the United States in congress assembled, or the legislature of this state, if a commissioned officer, he shall be cashiered; if a non commissioned officer or soldier, he shall suffer such punishment, as shall be inflicted upon him by the sentence of a court martial.
- Contempt towards superior officers.** IV. Any officer or soldier, who shall behave himself with contempt or disrespect towards the commander in chief, or any general or commanding officer of the troops or militia of this state, or shall speak words tending to his hurt or dishonor, shall be punished according to the nature of his offence, by the judgment of a court martial.
- Mutiny.** V. Any officer or soldier, who shall begin, excite, or join in; any mutiny or sedition, in the troop, company or regiment, to which he belongs, or in any other troop or company in the service of the state, or in any party, post, detachment or guard, on any pretence whatsoever, shall suffer such punishment, as by a court martial shall be inflicted.
- Not endeavoring to suppress mutiny.** VI. Any officer, non commissioned officer or soldier, who, being present at any mutiny or sedition, doth not use his utmost endeavors to suppress the same; or coming to the knowledge of any intended mutiny, doth not without delay give information thereof to his commanding officer, shall be punished by sentence of a court martial, according to the nature of his offence.
- Assaulting superior officer, or disobedience of orders.** VII. Any officer or soldier, who shall strike his superior officer, or draw or lift up any weapon, or offer any violence against him, being in the execution of his office, on any pretence whatsoever, or shall disobey any lawful commands of his superior officer, shall suffer such punishment, as shall, according to the nature of his offence, be inflicted upon him by the sentence of a court martial.
- Desertion.** VIII. Any non commissioned officer or soldier, who shall desert, or without leave from his commanding officer, absent himself from the troop or company, to which he belongs, or from any detachment of the same, shall, upon conviction thereof, suffer death, or such other punishment, as shall be inflicted by the sentence of a general court martial.
- Advising to desert.** IX. Any officer or soldier, who shall be convicted of having advised, or persuaded, any other officer or soldier to desert, shall suffer such punishment as shall be inflicted by the sentence of a court martial.

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

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Provocations or challenges.

xi. If any commissioned or non commissioned officer, commanding a guard, shall, knowingly and willingly, suffer any person whatsoever to go forth to fight a duel, he shall be punished as a challenger; and likewise all seconds, promoters and carriers of challenges, in order to duels, shall be deemed as principals, and punished accordingly.

Officers suffering others to fight duels.

xii. All officers, of what condition soever, shall have power to part and quell all quarrels, frays and disorders, though the persons concerned should belong to another regiment, troop or company; and either to order officers into arrest, or non commissioned officers or soldiers to prison, until their proper superior officer shall be acquainted therewith; and whosoever shall refuse to obey such officer, though, of an inferior rank, or shall draw his sword upon him, shall be punished at the discretion of a general court martial.

Officers to quell affrays and disorders.

xiii. Any officer or soldier, who shall upbraid another for refusing a challenge, shall be considered a challenger and punished accordingly.

Penalty for resistance.

Upbraiding others for refusing challenges.

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

Officers to keep good order, and redress abuses.

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

Officer wronged, may complain to the commander in chief.

xvi. If any inferior officer or soldier shall think himself wronged by his captain, or other officer commanding the troop or company to which he belongs, he may complain thereof to the commanding officer of the regiment, who shall summon a regimental court martial, for the doing justice to the complainant; from which regimental court martial either party, if he think himself still aggrieved, may appeal to a general court martial. But if, upon a second hearing, the appeal shall appear to be vexatious and groundless, the person, so appealing, shall be punished at the discretion of the said general court martial.

Inferior officer wronged, may complain to colonel.

Proceedings.

xvii. Any non commissioned officer or soldier, who shall be Selling or wast-

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ing ammunition.

Absence without leave.

Absence one mile from camp without leave.

Not retiring to quarters at beating of tattoo.

Officers and soldiers to repair to parade at time fixed.

Intoxication.

Sentinel sleeping on his post.

Making false alarms.

Quitting platoon or division without leave.

Insulting or abusing persons bringing provisions.

Abandoning post in time of engagement.

convicted at a court martial of having sold, or, designedly or through neglect, wasted, the ammunition delivered out to him, to be employed in the service of the state, shall, if a non commissioned officer, be reduced to a private, and if a soldier, shall suffer such punishment as shall be inflicted upon him by a court martial.

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

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

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

xxi. No officer, non commissioned officer or soldier shall fail to repair, at the time fixed, to the place of parade or exercise, or other rendezvous appointed by his commanding officer, if not prevented by sickness or some other evident necessity; nor shall go from the said place of rendezvous, or from the guard, without leave from his commanding officer, before he shall be regularly dismissed or relieved; on the penalty of being punished according to the nature of his offence, by sentence of a court martial.

xxii. Any commissioned officer, who shall be found drunk on his guard, party or other duty, under arms, shall be cashiered for it; and any non commissioned officer or soldier, so offending, shall suffer such punishment as shall be inflicted by the sentence of a court martial.

xxiii. Any sentinel, who shall be found sleeping upon his post, or shall leave it, before he shall be regularly relieved, shall suffer such punishment, as shall be inflicted by the sentence of a general court martial.

xxiv. Any person, belonging to the forces employed in the service of this state, who, by discharging fire arms, drawing of swords, beating of drums, or by any other means whatsoever, shall occasion false alarms in camp, garrison or quarters, shall suffer such punishment as shall be ordered by the sentence of a general court martial.

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

xxvi. No officer or soldier shall do violence, or offer any insult or abuse to any person, who shall bring provisions or other necessaries to the camp, garrison or quarters of the forces of this state, on pain of suffering such punishment as a court martial shall direct.

xxvii. Any officer or soldier, who shall abandon any post committed to his charge, or shall speak words inducing others to do the like, in time of an engagement, shall suffer death, or such other punishment, as shall be inflicted by the sentence of a general court martial.

XXVIII. Any person, belonging to the forces of the service of this state, who shall make known the watch word to any person not entitled to receive it, according to the rules and discipline of war, or shall presume to give the parole or watch word different from what he received, shall suffer death, or such other punishment, as shall be ordered by the sentence of a general court martial.

Making known the watch word.

XXIX. If any person, belonging to the forces in the service of this state, shall relieve the enemy with money, victuals or ammunition, or shall knowingly harbor and protect an enemy, [he] shall suffer such punishment, as by the sentence of a court martial shall be inflicted.

Relieving the enemy.

XXX. If any person, belonging to the main forces, shall be convicted of holding correspondence with, or giving intelligence to, the enemy, either directly or indirectly, [he] shall suffer such punishment, as by the sentence of a court martial shall be inflicted.

Corresponding with the enemy.

XXXI. All public stores, taken from the enemy by the forces in the service of this state, shall be secured for the use of the state.

Public stores taken from the enemy, to be secured.

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

Leaving post for plunder.

XXXIII. If any commander of any garrison, fortress or post shall be compelled, by the officers or soldiers under his command, to give up to the enemy or abandon it, the commissioned officers, non commissioned officers, or soldiers, who shall be convicted of having so offended, shall suffer death, or such other punishment, as shall be inflicted upon them by the sentence of a court martial.

Compelling commanding officer to abandon post.

XXXIV. All sutlers and retailers to the camp, and all persons serving with the troops of the state in the field, shall be subject to orders according to the rules and discipline of war.

Sutlers and retailers subject to military orders.

XXXV. If, upon marches, guards, or in quarters, different corps shall happen to join, or do duty, together, the eldest officer, by commission, then on duty or in quarters, shall command the whole, and give out orders for what is needful for the service, regard being always had to the several ranks of those corps, and the posts, they usually occupy.

When different corps do duty together, the eldest officer to command.

XXXVI. If any regiments, troops or detachment of horse, or foot, shall happen to march with, or be encamped, or quartered with, any bodies or detachments of other troops, the eldest officer, without respect to corps, shall take upon him the command of the whole, and give the necessary orders to the service.

Same rule, when different corps march or encamp together.

XXXVII. A general court martial shall not consist of less than seven commissioned officers, and the president of such court martial shall not be the commander in-chief, nor commanding officer of the troops in service or garrison, where the offender shall be tried, nor under the degree of a field officer.

General courts martial, how constituted.

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

Rank of members.

XXXIX. Some person shall be appointed by the commanding officer, who shall order the court martial, to prosecute in the name of the state of Maine; and in trials of offenders, such person shall administer to each member the following oath :

Appointment of prosecuting officer.



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Oath of mem-  
bers.

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

Which oath being administered to the members of the court, the president shall administer the following oath to the person, prosecuting as aforesaid:

Oath of prosec-  
cuting officer.

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

Department of  
members; mode  
of giving votes.

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

Witnesses to be  
examined under  
oath.

XLI. All persons, who give evidence before a court martial, shall be examined upon oath; which oath shall be administered by the president of the court martial, in the following form:

Form of oath.

"You swear, the evidence you shall give, in the cause now in hearing, shall be the truth, the whole truth, and nothing but the truth. So help you God."

No sentence of  
death, without  
concurrence of  
two thirds of  
the members.

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

Punishment for  
refusal of wit-  
nesses to testify.

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

Rank of officers  
for trial of a field  
officer.

XLIV. No field officer shall be tried by any person, under the degree of a captain: nor shall any proceedings or trials be carried on, excepting between the hours of sunrise and sunset.

Proceedings to  
be between  
sunrise and sun-  
set.

XLV. No sentence of a court martial shall be put in execution, until after report shall be made to the commanding officer, where the court martial shall be held; and his orders to be issued for carrying such sentence into execution.

Sentence to be  
reported to  
commanding  
officer.Regimental  
courts martial.

XLVI. The commissioned officers in any regiment may, by the appointment of their colonel or commanding officer, hold regimental courts martial for the inquiring into such disputes, or criminal matters, as may come before them, and for inflicting punishment for small offences; and shall give judgment by the majority of voices; but no sentence shall be executed till the commanding officer, not being a member of the court martial, shall have confirmed the same.

How constitut-  
ed.

XLVII. No regimental court martial shall consist of less than five officers, excepting in cases where that number cannot be conven-

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iently assembled, when three may be sufficient ; who shall likewise determine upon the sentence by the majority of voices.

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

XLIX. No person, whatsoever, shall use menacing words, signs or gestures in the presence of a court martial then sitting, or shall cause any disorder or riot, so as to disturb their proceedings, on the penalty of being punished at the discretion of the said court martial.

L. To the end that offenders may be brought to justice, whenever any officer or soldier shall commit a crime deserving punishment, he shall, by his commanding officer, if an officer, be put in arrest, if a non commissioned officer or soldier, be imprisoned until he shall be either tried by a court martial, or shall be lawfully discharged by proper authority.

LI. 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.

LII. No officer, commanding a guard, or provost marshal, 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.

LIII. No officer, commanding a guard, or provost marshal, 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.

LIV. Every officer, or provost marshal, 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.

LV. 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.

LVI. Any commissioned officer, who 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.

LVII. 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,

Majority to decide.

Commanders of forts may order courts martial.

Disturbance of courts martial.

Offenders to be arrested previous to trial.

Confinement limited to eight days, or until a court martial can be convened.

By whom prisoner shall be kept. Notice of accusation.

Punishment for releasing prisoner.

Officers having prisoners in custody, to report to colonel or commander in chief.

Officer under arrest leaving his confinement.

Punishment for disgraceful conduct in an officer.

Officers, gunners, matrosses, and others connected with ar-

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and shall be subject to be tried by courts martial, in like manner with other officers and soldiers.

tillery, subject to these rules. To be tried by their own officers, if practicable.

and shall be subject to be tried by courts martial, in like manner with other officers and soldiers.

LVIII. 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.

No sentence of death, except as expressly provided.

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

Fines to be appropriated to sick or necessitous soldiers.

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

Offences not capital, though not herein specified, to be tried by general or regimental courts martial.

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

Officers or soldiers accused of certain crimes, to be surrendered to the civil authority.

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

**The following page(s) from  
“An Act to Amend the Revised Statutes”  
include amendments to this chapter.**

the words, "warrant of the county commissioners by them to be assessed"; so that the section, as amended, shall be as follows:

Penalty, if assessors neglect to assess a tax required by warrant of county commissioners.

SECT. 34. If such assessors shall neglect to assess the amount of the county tax, required in the warrant of the county commissioners, by them to be assessed, they shall forfeit that sum to the use of said county, and the same shall be levied by the sale of the estate, real and personal, of such assessors, by virtue of a warrant issued by the county treasurer to the sheriff of the county, for that purpose.

The same chapter shall be further amended, in the thirty sixth section, by striking out the words, "from the respective treasurers," and inserting the following, "mentioned in the thirty second section"; so that the section, as amended, shall be as follows:

Commissioners may appoint other assessors in case of such neglect.

SECT. 36. The county commissioners of the county, in which such assessors dwell, shall forthwith appoint other proper persons to be assessors of such state and county taxes, according to the directions of the warrants, mentioned in the thirty second section; and such newly appointed assessors shall be sworn to perform the same duties, and be liable to similar penalties, as the former assessors.

The same chapter shall be amended in the forty fifth section, at the close, by striking out the words, "who issued the warrant," and inserting the words, "of the state, or of the county, as the case may be, for the use of the same"; so that the section, as amended, will be as follows:

Penalty for refusal to obey a warrant of county commissioners calling a meeting of a plantation for the purpose of organization. Turnpike road not required to be assessed as real estate.

SECT. 45. The person, to whom such warrant shall be directed, shall obey the command therein, on penalty of forfeiting and paying the whole sum named and ordered in said warrant, to be levied on such plantation, to be recovered by the treasurer of the state, or of the county, as the case may be, for the use of the same.

The same chapter shall be further amended, in the fifty first section, by striking out the words,

Including turnpike road.

The same chapter shall be further amended, in the fifty sixth section, by adding at the end thereof the following words:

Liabilities for assessment of school district taxes to rest with such districts.

And the provisions of this section shall extend to the assessors of any town, who are or may be required by law to assess any tax upon any school district; the assessors being responsible only for their own personal faithfulness and integrity, and further liabilities, if any, shall rest solely with such school district.

R. S. ch. 16.

SECTION 3. The sixteenth chapter shall be amended, by striking out the fifth section, and inserting, instead thereof, a new section, in the following words:

Discharged staff officers, not having served five years, exempt from duty by paying two dollars, yearly. 1834, 121, § 2.

SECT. 5. Any staff officer who has ceased to act as such, in consequence of the resignation, promotion or removal of the officer who appointed him, may be honorably discharged; and any such officer, who has been so discharged, not having served five years, may be exempted from military duty, by paying two dollars per year, as provided in the preceding section.

The same chapter shall be further amended by inserting, at the end of the twenty fifth section, the following words:

Brigade inspectors to make

The brigade inspectors shall make the annual returns of their

inspections of the militia of the respective brigades to which they belong, to the adjutant general, and also transmit abstracts thereof to the major generals of the respective divisions to which they belong, on or before the last day of October annually.

their annual returns by the last day of October. 1834, 121, § 27.

The same chapter shall be further amended, in the forty second section, by striking out all the section after the word, "allowance," and inserting, instead thereof, the following words :

Provided that, when the commanding officer of a company, raised at large, shall make requisitions to such treasurer, for rations in money and for powder, directed by law, he shall designate the number and names of the members of such company, belonging to such town, city or plantation, and certify that they perform military duty in his company.

Commanders of volunteer companies, how to apply for rations and powder for soldiers. 1834, 121, § 28.

The same chapter shall be further amended, in section, forty five, after the words, "the adjutant general and quarter master general, to be appointed by the governor, with advice of the council, with the rank of brigadier general," by inserting the words following :

And said officers shall keep their respective offices at the seat of government ; and their commissions shall continue in force four years from the time of their appointment, unless they shall be sooner removed by the governor and council.

Adjutant and quarter master general to keep their offices at the seat of government ; term of office limited. 1829, 424. R. S, ch. 17.

SECTION 4. The seventeenth chapter shall be amended, in section, fifty one, by striking out the words, "under the provisions of the sixteenth section of chapter, seventy seven ;" so that said fifty first section, as amended, will be as follows :

SECT. 51. All the sums, which may hereafter be received by the state, for the tax on the several banks, shall continue to be appropriated to the support of town or district schools.

Tax on banks appropriated to schools.

SECTION 5. The twentieth chapter shall be amended, in section one, by striking out the following words :

For the use and support of the gospel ministry in such town.

R. S. ch. 20: Fee in ministerial lands. 1832, 39, § 2.

The same chapter shall be further amended, by striking out the seventh section thereof.

Lands reserved for the first settled minister appropriated to schools. 1832, 39, § 2.

The same chapter shall be further amended, in section, fourteen, by inserting, after the words, "any sale of the same," the following words, "to the persons and uses specified in the respective grants and reservations, under which such lands have become so vested" ; so that said fourteenth section, as amended, will be as follows :

SECT. 14. In all cases, where such lands have become vested in any parish, the assessors, clerk and treasurer, for the time being, where no other trustees for the same purpose are already appointed, are hereby constituted a body corporate, and trustees of the ministerial fund in such parish forever, with like powers, and under like liabilities, as selectmen, town clerk and treasurer ; and shall pay the annual income and profits of such lands, and interest on the proceeds of any sale of the same, to the persons and uses specified in the respective grants and reservations, under which such lands have become so vested ; and shall, at each annual meeting for choice of parish officers, exhibit an account of their proceedings, and a statement of funds, receipts and expenditures.

Assessors, clerk and treasurer of parishes to be trustees of funds, to the uses originally prescribed.

The same chapter shall be further amended, in section, fifteen, by inserting, after the words, "the first meeting of the trustees," the words, "constituted by