

MAINE STATE LEGISLATURE

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SIXTH REVISION

THE
REVISED STATUTES

OF THE

STATE OF MAINE

PASSED SEPTEMBER 29, 1916, AND TAKING
EFFECT JANUARY 1, 1917



By the Authority of the Legislature

AUGUSTA
KENNEBEC JOURNAL PRINT
1916

CHAPTER 15.

The Military Law.

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Enrolment and Exemptions.

Sec. 1. Persons subject to military duty. Persons exempt. 1909, c. 206,

§ 1. The militia of the state shall consist of every able-bodied male citizen, and every able-bodied male of foreign birth who has declared his intention to become a citizen, who is a resident of this state and who is more than eighteen and less than forty-five years of age, subject to the following exceptions:

Persons exempted by the laws of the United States, to wit:

The vice-president of the United States, the officers, judicial and executive, of the government of the United States, the members and officers of each House of Congress, persons in the military or naval service of the United States, all custom house officers, with their clerks, postmasters and persons employed by the United States in the transmission of the mail, ferrymen employed at any ferry on a post road, artificers and workmen employed in the armories and arsenals of the United States, pilots, mariners actually employed in the sea service of any citizen or merchant within the United States, and all persons who are exempted by the laws of the respective states or territories shall be exempted from militia duty, without regard to age.

Persons exempted by the laws of the state, to wit:

Justices of the supreme judicial court; ministers of the gospel; persons of the denomination of Quakers and Shakers; and officers of the militia who have been honorably discharged.

Sec. 2. Enrolment. 1909, c. 206, § 2. 1911, c. 81, § 1. All male citizens who are more than eighteen and less than forty-five years of age, excepting idiots, lunatics, paupers, vagabonds, habitual drunkards, and persons convicted of infamous crimes, and who are resident in this state, shall, whenever the governor may deem necessary, be enrolled by the assessors in the several cities, towns and plantations in which they reside, in such manner and according to such regulations as the governor shall prescribe. On such enrolment and opposite the name of each person who is exempt from duty under section one, or who is serving in the active militia, or who is unable by reason of physical disability to perform military duty, the assessors shall write the word "exempt" and state in each case the cause of exemption. The assessors shall subscribe said list and make oath that the same is true to the best of their knowledge and belief; and shall file the same with the clerk of the city, town or plantation forthwith; and each clerk shall, within ten days, make a certified statement of the total number enrolled, the number marked exempt, the number belonging to the active militia and the number marked disabled, and forward the same to the office of the adjutant general.

Sec. 3. Persons claiming exemption must establish right thereto. 1909, c. 206, § 3. Any person claiming exemption shall satisfy the enrolling officer of his right thereto, and in case of doubt the burden of proof shall be upon the person claiming exemption, and the enrolling officer may require him to submit to examination on oath, and may administer such oath.

Sec. 4. Penalty for refusing or giving false information to assessor. 1909, c. 206, § 4. Any person knowingly and wilfully refusing information or giving false information to an assessor or other authorized person making the enrolment, respecting the name, age, residence, occupation, military service, physical or mental condition, or other proper subject of inquiry, of himself or any person within his knowledge liable to be enrolled, shall for each such concealment, refusal, or giving of false information be guilty of a misdemeanor. The officer making the enrolment shall, within ten days, report all persons violating this section to the adjutant general.

Sec. 5. Neglect of assessor or clerk constitutes misdemeanor; appointment of substitutes. 1909, c. 206, § 5. Any assessor neglecting or refusing faithfully to perform the duties of enrolling officer as required by law, or making any false entry upon said rolls, or committing any other fraud therein, and any clerk neglecting to make and forward the statement required by section two, shall be guilty of a misdemeanor. Upon the failure of the assessors to make the enrolment of the militia as required by law, the governor may appoint some person to make it at the expense of the city, town or plantation, and the person so appointed shall have all the powers and be subject to the same duties as are prescribed in the case of assessors.

Active and Reserve Militia. Commander-in-chief and Staff.

Sec. 6. Division of militia into active and reserve. 1909, c. 206, § 6. The militia shall be divided into two classes, the active and the reserve militia. The active militia of this state shall consist of the regularly en-

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listed, organized, and uniformed military forces, who have heretofore participated or shall hereafter participate in the apportionment of the annual appropriation provided by section sixteen hundred and sixty-one of the revised statutes of the United States, as amended, and shall be known as the national guard; and of the regularly enlisted, organized, and uniformed naval forces, which shall be known as the naval militia. The reserve militia shall consist of all those liable to service in the militia, but not serving in the active militia of the state.

Sec. 7. Commander-in-chief. 1909, c. 206, § 7. The governor is the constitutional commander-in-chief of the militia, except of such portions as may be at times in the service of the United States.

Sec. 8. Staff of the governor; appointed from active militia; commissioned by governor's tenure. 1909, c. 206, § 8. 1911, c. 81, § 2. 1915, c. 145, § 1. The staff of the commander-in-chief shall consist of the adjutant general who shall be ex-officio chief of staff, quartermaster general, and paymaster general, with rank of brigadier general, the senior officer on duty with each of the staff departments, and four aides-de-camp, with the rank of captain, and one naval aide with rank of lieutenant. All officers must be at the time of their appointment, commissioned officers in the active militia, on the active or retired list of or above the grade of captain, but no officers shall be appointed from the retired list who shall have had less than eight years of service in the active militia, the last year of which shall have been within ten years immediately preceding the appointment. The four aides-de-camp and naval aide may be detailed from the commissioned officers of the active militia of the grade above specified, but officers so detailed shall not be relieved thereby from their regular duties in the active militia except when on duty with the commander-in-chief. Provided that nothing herein shall be construed as terminating the commissions of the aides-de-camp and naval aide serving on the staff of the commander-in-chief on the third day of July, nineteen hundred and fifteen.

All officers of the staff of the commander-in-chief excepting the senior officer on duty in each of the staff departments shall be appointed and commissioned by the governor and shall hold office during his pleasure and until their successors are appointed and qualified.

Calls for Service.

Sec. 9. Governor may order out militia; when called into U. S. service. 1909, c. 206, § 9. In case of insurrection, invasion, tumult, riot, a mob or body of men acting together by force with intent to commit a felony or to offer violence to persons or property, or by force and violence to break and resist the laws of this state, or of the United States, or of imminent danger thereof, or in the event of public disaster resulting from flood, conflagration, or tempest, the governor may order into the active service of the state any part of the militia that he may deem proper. And whenever the militia of this state or a part thereof is called forth under the constitution and laws of the United States, the governor shall, unless the order for the call specifies otherwise, order out for service the active militia or such part thereof as may be required; and if the number available be insufficient he shall order

out the reserve militia or such part as may be necessary. The designations of organizations called into the service of the United States shall not, during such service, be given to new organizations.

Sec. 10. Drafts or volunteers from reserve militia. 1909, c. 206, § 10. Whenever it shall be necessary to call into active service the reserve militia, or any part thereof, the governor shall direct his order to the chief municipal officer of any city, town, or plantation, who, upon the receipt of the same, shall proceed to draft by lot, as many of the reserve militia or accept as many volunteers as are required by the governor, and shall forthwith forward to the adjutant general a list of the persons so drafted or accepted as volunteers.

Sec. 11. Punishment for failure to appear at place designated. 1909, c. 206, § 11. Every member of the active militia ordered out, and every member of the reserve militia who volunteers or who is drafted and notified thereof, under the provisions of the preceding section, who does not appear at the time and place designated by his commanding officer, or the chief municipal officer, within twenty-four hours from such time, or who does not produce from a physician in good standing a sworn certificate of physical disability to so appear, shall be deemed a deserter and dealt with as prescribed in the articles of war of the United States.

Sec. 12. Period of service of reserve militia in U. S. service; organization and equipment; appointment of officers. 1909, c. 206, § 12. Whenever any portion of the reserve militia is called forth under the constitution and laws of the United States, the members thereof shall be immediately mustered into the service for three years, or such other period as the call may prescribe; and whenever any portion of such militia shall be ordered into the service of the state they shall be mustered into the service for such period, not exceeding three years, as the governor may direct. Such reserve militia, when so ordered into active service shall have, as far as practicable, the same system of organization, equipment, training and discipline as are or may thereafter be prescribed for the national guard. The governor may appoint the officers for any new organizations formed out of said reserve militia; he may, at his discretion, transfer and promote officers of the national guard to the organizations thus formed and order into active service for this purpose such retired officers of the national guard as may be efficient and available and in such number as he may deem necessary.

Sec. 13. Governor may declare state of insurrection. 1909, c. 206, § 13. Whenever any portion of the militia is employed in aid of the civil authority, the governor, if in his judgment the maintenance of law and order will thereby be promoted, may by proclamation declare the county, city, town or plantation in which the troops are serving or any specified portion thereof, to be in a state of insurrection.

Sec. 14. Governor to be notified when militia is called forth by U. S. direct. 1909, c. 206, § 14. Whenever reserve militia or the national guard, or both, or any number of them or either of them, shall be called forth under the constitution and laws of the United States, and the orders for that purpose shall not be issued to or transmitted through the governor of the state,

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any officer or officers of the militia or national guard receiving such orders not so issued or transmitted, shall communicate the same to the governor as soon as practicable.

Sec. 15. Period of service under U. S. call. 1909, c. 206, § 15. Whenever the President shall call forth the national guard, or any number of them to be employed in the service of the United States, and specifies in his call the period for which such service is required, the national guard, so called, shall continue to serve during the term so specified, either within or without the territory of the United States, unless sooner relieved by order of the President; provided, that no commissioned officer or enlisted man of the national guard shall be liable to service beyond the term of his existing commission or enlistment.

Sec. 16. Relief from civil or criminal liability. 1909, c. 206, § 16. No member of the militia ordered into the active service of the state shall be liable civilly or criminally for any act done, or caused, ordered, or directed to be done, by him in furtherance of and while in the performance of his military duty. When an action or proceeding of any nature shall be commenced in any court by any person against any officer or enlisted man of the militia for any act so done, or caused, ordered, or directed to be done, all the expenses of the defense of such proceeding or action, civil or criminal, including fees of witnesses for the defense, defendant's court costs, and all costs for transcripts of records and abstract thereof on appeal, shall be paid by the state, out of the military fund; and the attorney-general, either personally or by one or more assistants, shall defend such officer or soldier; provided, that where the action or proceeding is criminal the adjutant general shall designate a judge advocate of the national guard to conduct the defense of such member, or, if the services of a judge advocate be not available, then he shall select some other competent attorney to conduct such defense, and the judge advocate or other attorney so selected shall receive and be paid out of the military fund a reasonable compensation for his professional services. In any such action or proceeding the defendant may require the person instituting or prosecuting the same to file security for payment of costs that may be awarded the defendant, which costs if recovered in an action, the costs whereof have been paid out of the military fund shall be paid into the state treasury for the benefit of the military fund; and the defendant may, in every such action or proceeding, make a general denial and give the special matter in evidence.

Staff Departments.

Sec. 17. Adjutant general; his rank, duties, and relations with the war department; appointment of substitute. 1909, c. 206, § 17. The adjutant general of the state shall have the rank of brigadier general, and shall be, ex-officio, chief of staff, quartermaster general, and paymaster general, of the state. For the purpose of establishing the relation between the war department and the various staff departments of the state, he shall be the chief of said departments; and the requisitions, purchases, and issues to be made

by the senior officer on duty in certain of said departments, as hereinafter prescribed, shall be made by them pursuant and in obedience to his directions and instructions.

(a) **Control over military department.** He shall control the military department subordinate only to the governor, and may adopt such methods of administration, not inconsistent with the laws, regulations, and customs of the service of the regular army so far as the same may be applicable, as he may deem necessary to render the department efficient.

(b) **Returns to war department and report to the governor.** He will superintend the preparation of all returns, reports, plans and estimates required of the state by the war department; and, on or before the thirty-first day of December of each year, shall make a report to the governor of the strength and condition of the active militia and of the business transactions of the department, including a detailed statement of expenditures for all military purposes.

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

(d) **Duties as to ordnance and equipments of U. S.** He shall turn in, in such manner as the war department may require, such ordnance, accoutrements and equipments belonging to the United States and receive in substitution therefor such prescribed regulation ordnance and equipment, as may be necessary to conform to the standard required by the laws and regulations of the United States.

(e) **Equip active militia.** He shall, under the direction of the governor, prepare requisitions for, and make purchases and issues of, such military property as is necessary to equip the organizations of the active militia according to the standard that is now or may be hereafter prescribed by the laws and regulations of the United States, except such purchases and issues as are hereinafter required to be made by the senior officers on duty in the other staff departments; he shall approve the bills of all purchases by whomsoever made and all issues; but no such property shall be issued, or otherwise disposed of, to persons or organizations other than those of the active militia and portions of the reserve militia called into active service.

(f) **Account of expenses and annual statement, to governor.** He shall keep a just and true account of all expenses necessarily incurred, including pay, transportation and subsistence of officers and enlisted men of the militia and of all military property; and shall render annually to the governor a statement in detail showing the disposition of all clothing, ordnance, arms, ammunition, and other military property on hand and issued.

(g) **Sale of property to the militia, and account for same.** He may, upon approval of the governor, sell for cash to officers of the active militia, for their official use, and to organizations of the active militia, any military or naval property which is an article of issue by the state; and shall with

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his annual report render to the governor a true account of the sales so made, and shall deposit the proceeds of the same in the state treasury to the credit of the military fund.

Whenever the adjutant general is absent from the state or is unable from any cause to perform his duties, the governor shall during his absence or disability designate an officer of the active militia present for duty in the state to perform the duties of the adjutant general.

Sec. 18. Bond of adjutant general. 1909, c. 206, § 18. The adjutant general shall give a bond to the state, approved by the governor and council, in the sum of ten thousand dollars, conditioned on the faithful performance of his duties as herein prescribed; and the costs and expenses incurred by entering into such bond shall be paid out of the military fund.

Sec. 19. Duties of inspector general; report. 1909, c. 206, § 19. The inspector general shall make an annual inspection and a detailed report upon the armories, property, books, records, financial condition, and the various organizations of the active militia, and such other inspections as the adjutant general may direct or the law require. He shall perform such other duties as are herein prescribed and submit to the adjutant general a report of the transactions of his office by the fifteenth day of December, annually.

Sec. 20. Ordnance department, senior officer, his rank and duties; report to adjutant general; inspector of small arms practice, target ranges and shooting galleries. 1909, c. 206, § 20. 1911, c. 81, § 3. 1915, c. 145, § 2. The senior officer on duty in the ordnance department shall have the rank of major and shall from time to time submit to the adjutant general requisitions for all ordnance property, equipment, and accoutrements and all range and target material, which requisitions when approved by the adjutant general, and submitted to and signed by the governor, shall, if they be for material issued to the state by the ordnance department, be forwarded to that department for supply, and if they be for material not so issued, then by direction of the adjutant general and in the manner prescribed in section twenty-seven, the senior ordnance officer shall purchase and direct the issue of such ordnance property and range material, certify all bills therefor as correct, and transmit them to the adjutant general.

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

He shall be the inspector of and shall exercise general supervision over the small arms practice of the national guard. No target range or shooting gallery for the national guard shall be acquired, constructed, maintained or equipped, except upon his recommendation, unless the governor shall expressly order otherwise. Whenever ordered by the governor, he shall make or cause to be made, by the regimental inspectors of small arms practice, an inspection of all target ranges and shooting galleries used by the national guard, submit a report to the adjutant general of the condition and necessities of each; he shall make a detailed report of the transactions of

his office to the adjutant general on the fifteenth day of December annually.

Sec. 21. Medical department, senior officer, his rank and duties; annual inspection of supplies; report. 1909, c. 206, § 21. 1915, c. 145, § 3. The senior officer on duty in the medical department shall have the rank of major and, under the direction of the adjutant general and in the manner prescribed in section twenty-seven, shall purchase and direct the issue of all medical supplies and equipment, certify all bills therefor as correct and transmit them to the adjutant general. He shall make, or cause to be made by an officer of the medical department, an annual inspection and inventory of the stock of medical supplies on hand at general headquarters, make a list of the articles and qualities needed to equip the national guard in the manner prescribed by the war department, and transmit the same to the adjutant general for authority to supply the same; and he shall make to the adjutant general a detailed report of the transactions of his office and of the condition and quantity of medical supplies on hand, on the fifteenth day of December annually.

Sec. 22. Subsistence department, senior officer, his rank and duties; report. 1909, c. 206, § 22. 1915, c. 145, § 4. The senior officer on duty in the quartermaster corps shall have the rank of major and shall, under the direction of the adjutant general, purchase and issue in the manner prescribed in section twenty-seven, all subsistence stores and property, certify all bills therefor as correct and transmit them to the adjutant general; he shall make a detailed report of the transactions of his office to the adjutant general on the fifteenth day of December annually.

Sec. 23. Judge advocate general's department; senior officer, his rank, qualifications and duties. 1909, c. 206, § 23. 1915, c. 145, § 5. The senior officer on duty in the judge advocate general's department shall have the rank of major; he shall be an attorney-at-law of the supreme judicial court of this state, of at least five years' standing. He shall be, under the direction of the governor, charged with the supervision of all things relating to the administration of justice in the military forces of the state; he shall diligently scrutinize and examine the proceedings of all courts-martial and courts of inquiry which are submitted to him for review and report thereon to the adjutant general; he shall when directed act as judge advocate or recorder of any military court or board; he shall be the legal adviser of the military department, and to him may be referred for supervision all contracts, agreements, or other instruments to be drawn or executed in the course of the business thereof. He shall make a detailed report of the transactions of his office to the adjutant general on the fifteenth day of December annually.

Sec. 24. Attorney general legal adviser. 1909, c. 206, § 24. The attorney general of the state shall be the legal adviser of the governor, of the adjutant general, and of the armory commission.

Sec. 25. Governor may appoint additional staff officers. 1909, c. 206, § 25. 1915, c. 145, § 6. In time of war, insurrection, invasion or rebellion, or of imminent danger thereof, the governor may appoint such staff officers and create such chiefs of staff departments as may be necessary to provide for an increased active militia or to fill the vacancies caused by absence in

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active service, or for both purposes; provided, that appointments in a staff department or corps shall be made from officers of the existing staff departments or corps as promotions so far as such officers are available; provided, also, that promotion in each staff department or corps and appointments to fill vacancies thus created shall be made as hereinafter prescribed. Provided further, that in time of peace, whenever the formations of the active militia shall require it, the governor may organize such additional staff departments as are thereby made necessary, and whenever such new departments are organized the senior officer on duty with the new staff department shall be ex-officio a member of the governor's staff.

Sec. 26. Duties of staff officers when not otherwise prescribed. 1909, c. 206, § 26. Officers of all staff departments and corps shall perform the duties required of them by law, and such others, not inconsistent with the laws of the state, as correspond to those which are now or may hereafter be required, of the corresponding staff departments or corps of the regular army by the customs of the service, the orders of the war department, and the laws and regulations of the United States.

Purchases of Military Property.

Sec. 27. Purchase of military property; conditions of bids; bond; cases of emergency. 1909, c. 206, § 27. Purchases of military property not exceeding one hundred dollars in value may be made in such manner as the purchasing officer may deem best. For other purchases not exceeding five hundred dollars, the purchasing officer shall procure written proposals from at least two parties. For purchases exceeding five hundred dollars in value the purchasing officer shall publicly advertise, for not less than ten days, for sealed proposals, to be opened at the place, day, and hour designated in such advertisement. All bids must be accompanied with a certified check for ten per cent of the amount of the bid; and he may require the person contracting to give bond in such sum and surety as he may direct, conditioned for faithful performance, in default of which such bond shall be prosecuted by the attorney-general, and all moneys recovered turned in to the state treasury for the benefit of the military fund; provided, that in case of emergency occasioned by war, invasion, riot, insurrection, resistance to the laws, or imminent danger thereof, or by flood, conflagration, or tempest, the governor may direct that such property as may be urgently required be purchased in open market. Provided, also, that the right is reserved to reject any or all bids.

Sec. 28. Officers making purchases or sales must be disinterested. 1909, c. 206, § 28. No officer herein authorized to make purchases or sales of military property shall be concerned, directly or indirectly, in the purchase or sale of any such property, except for and on account of the state; nor shall any such officer take or apply to his own use any gain or emolument for negotiating or transacting any business of his office, other than what is allowed by law.

Sec. 29. Inspection of property purchased, before payment. 1909, c. 206, § 29. All property purchased under the authority herein granted shall be inspected and no payment shall be made therefor until it shall appear by the certificate of the inspecting officer that the property is of the kind and quality specified in the agreement.

Sec. 30. Indebtedness contracted in behalf of state, specially authorized. 1909, c. 206, § 30. No officer or enlisted man shall contract, or presume to authorize the contracting of any indebtedness on behalf of the state, unless especially authorized to do so by this chapter or by the express order of the governor; and any person in the military service who shall violate the provisions of this section shall be dishonorably discharged, and suffer such other punishment as a court-martial may direct.

Organization of National Guard.

Sec. 31. Organization of National Guard; commander-in-chief may alter, create or disband organizations; selection of commander of brigade. 1909, c. 206, § 31. The national guard of the state shall consist of the necessary staff departments, a medical department, a coast artillery corps, the commissioned officers heretofore or hereafter retired, the organizations forming the national guard at this date, and such others as may be organized hereafter and such persons as are or may be enlisted and commissioned therein. The commander-in-chief may alter, divide, consolidate, disband or reorganize any organizations or corps and create new organizations and corps whenever required by the provisions of this chapter or whenever in his judgment the efficiency of the state forces will be thereby increased and he shall change the organization of the state forces so as to conform to any organization, system of drill or instruction now or hereafter prescribed by the laws and regulations of the United States for the organization and government of the militia; and for that purpose the number of the officers and non-commissioned officers of any grade may be increased or diminished, or their grades may be altered, whenever necessary to secure such uniformity. Whenever the national guard is organized, by order of the commander-in-chief, into a brigade, a brigadier general shall be selected as prescribed in section fifty, to command the same.

Sec. 32. New organizations, how raised and officered. 1909, c. 206, § 32. New organizations may be raised on petition to the governor, or by his order; and when the minimum number of persons required by law has been enlisted and notice thereof given to the governor, he may issue an order for the election of the commissioned officer; but whenever the governor shall have the authority to appoint officers of the line, he may raise new organizations and appoint the officers thereof whenever and in such manner as he may deem best for the service.

Sec. 33. Strength of active militia on peace and war footing. 1909, c. 206, § 33. The aggregate forces in the active militia in time of peace, fully armed, uniformed, and equipped shall not exceed three thousand men; but in case of war, insurrection, invasion, or rebellion, or imminent danger thereof, the governor may increase the forces beyond the said three thousand and organize them as is required by law.

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Sec. 34. Organization, discipline and armament as prescribed by U. S. regulations. 1909, c. 206, § 34. The organization, armament, and discipline of the national guard of this state and of the military units thereof shall be the same as that which is now or may hereafter be prescribed or provided by the laws and regulations of the United States for the organized militia; and the commander-in-chief shall issue and prescribe from time to time such orders and regulations, and adopt such other means of administration, as shall maintain the prescribed standard of organization, armament and discipline; and shall prescribe such regulations and adopt such methods of administration, for the care, preservation, disposition of and accountability for all military property issued to the active militia and belonging to the United States; for procuring, disbursing, and accounting for all military funds allotted to the state; for arming, equipping, and supplying the active militia; and for arranging for such camps of instruction, field service, and rifle practice as shall meet the requirements that are now or may hereafter be prescribed by the laws and regulations of the United States. And such orders, regulations, and means adopted shall have the full force and effect of law.

Sec. 35. Brigade, when constituted; staff of brigade commander. 1909, c. 206, § 35. 1915, c. 145, § 7. The regiments and all other military units of the national guard shall, when so ordered by the governor, constitute a brigade, which shall be commanded by the brigadier general, or, in case of his absence or disability, by the senior line officer of the national guard. The staff of the brigade commander shall be constituted the same as is now or may hereafter be prescribed or provided by the laws and regulations of the United States for the organized militia.

Sec. 36. Staff departments. Officers and rank. 1909, c. 206, § 36. 1915, c. 145, § 8. There shall be the following departments consisting of officers of number and rank specified necessary for the maintenance of the staff corps and departments of the national guard, namely: an inspector general's department, one major; a judge advocate general's department, one major; a quartermaster corps, one major, two captains and three sergeants, first class; an ordnance department, one major and one ordnance sergeant, and a medical department, organized as prescribed in the following section.

Sec. 37. Medical department; its organization; promotion by seniority. 1909, c. 206, § 37. 1915, c. 145, § 9. The medical department of the national guard shall consist of a medical corps, a medical reserve corps and the hospital corps. The medical corps shall consist of the officers necessary for the staff department, for service with the regiments, separate battalions and artillery corps of the national guard, and for the organization of such ambulance companies, field hospitals, and supply depots, as may be authorized or required as the proper complement for the national guard by the orders of the war department, or the laws and regulations of the United States governing the organized militia; and such officers shall have the same titles as those of corresponding grades in the United States army, and shall be of the same grades and numbers as are authorized or prescribed by the laws and regulations of the United States for service with the cor-

responding organizations of the regular army, or as authorized or prescribed by the said laws and regulations or orders of the war department for the government of the organized militia.

All promotions in the medical corps to fill vacancies in the several grades shall be made according to seniority and no person shall receive an appointment as first lieutenant in the medical corps unless he shall have been examined and approved by a medical board of the national guard as hereinafter prescribed.

Sec. 38. Medical reserve corps, how constituted; number; rank; subject to regulations when called to active duty; pay. 1909, c. 206, § 38. 1911, c. 81, § 4. For the purpose of securing competent medical practitioners to conduct the physical examination of applicants for enlistment and to render medical service to any organization when so ordered by the commander-in-chief the governor may issue commissions as first lieutenants of the medical reserve corps to such active licensed practitioners of medicine and surgery in this state as shall be favorably recommended by the senior officer of the medical corps, not to exceed one for each company or other organization so situated that the services of an officer of the medical corps cannot be effectively available. Such officers are not entitled to retirement, but the commission so given shall confer upon the holders all the authority, rights and privileges of commissioned officers of like grade in the medical corps of the national guard, except promotions, but only when engaged in active duty in examining recruits or under orders from the commander-in-chief. They shall have rank in said corps according to the date of their commissions therein, and when employed on active duty shall rank next below all officers of like grade in the active militia; provided that any officer of the medical reserve corps who fails to perform his duty as herein prescribed shall forfeit his commission and not be eligible to re-appointment.

Officers of the medical reserve corps when called into or engaged in active duty shall be subject to all the laws, regulations, and orders for the government of the active militia; and for conducting the physical examination of applicants for enlistment shall be entitled to such compensation as the governor in regulations may prescribe, and for all other services to the pay of first lieutenants of the medical corps.

Sec. 39. Hospital corps; enlistments. 1909, c. 206, § 39. The hospital corps shall consist of the sergeants first class, sergeants, corporals, privates first class and privates, required for service with the several organizations of the national guard, ambulance company, or field hospital; and such non-commissioned officers and privates shall be of the same grades and numbers as are authorized or prescribed for service with the corresponding organizations of the regular army or as authorized or prescribed by the orders of the war department, or laws and regulations of the United States for the government of the organized militia.

Enlistments in the hospital corps and the appointment of non-commissioned officers therein shall be as prescribed in regulations by the governor.

Sec. 40. Coast artillery corps; organization and minimum strength. 1909, c. 206, § 40. The governor may organize a coast artillery corps which shall belong to the line of the national guard and shall consist of such

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number of companies as the governor may determine. The number of field officers and sergeant-majors of coast artillery shall be in approximately the same proportion to the number of companies as obtains in the coast artillery corps of the regular army, and the number of master electricians, engineers, electrician sergeants first and second class, master gunners, firemen and other expert enlisted men shall be determined by the governor; but the minimum strength in the different grades for a coast artillery company of the national guard shall be as prescribed by the orders of the war department and the laws and regulations of the United States. The commander-in-chief may transfer to the coast artillery corps, under such regulations as he may prescribe, such existing organizations or such officers and men thereof as he may deem for the best interest of the service.

Sec. 41. Civilian cooks authorized; regulations and pay. 1909, c. 206, § 41. The commander-in-chief may authorize the employment of cooks to the number fixed in this chapter in organizations in which there are vacancies in enlisted cooks when such organizations are on duty under his orders or are called upon in aid of the civil authorities. The commander-in-chief may authorize the employment and prescribe the number of cooks for all headquarters and organizations for which the enlistment of cooks is not authorized by this chapter. Cooks during such employment shall be subject to the laws and regulations for the government of the national guard and shall receive the same pay as enlisted cooks.

Naval Militia.

Sec. 42. Composition and strength of the naval militia. 1909, c. 206, § 42. 1915, c. 145, § 34. The organizations forming the naval militia, now and hereafter organized and such persons as may be enlisted or as may be appointed or commissioned therein, shall constitute the naval militia of this state. In time of peace the naval militia shall consist of not more than one ship's company of not more than seven divisions, the total strength of which shall not exceed three hundred officers and men, but in time of war, invasion, insurrection, or imminent danger thereof, the governor may increase this force to double the authorized peace strength and organize it as the exigencies of the service may require; provided that in time of peace the total strength of the active militia shall not exceed the limits prescribed in section thirty-three.

Sec. 43. Organization of the naval militia; system shall conform to U. S. navy; not attached to national guard except when specially ordered. 1909, c. 206, § 43. The commander-in-chief may organize the forces prescribed in the preceding section as he may deem proper; and when in his judgment the efficiency of the naval militia will be increased thereby, or whenever public interest may demand it, he may alter, reorganize, or disband any or all of the organizations therein; and he may at any time change the organization of the naval militia so as to conform to any organization, system of drill or instruction which may be adopted for the navy of the United States, and increase and decrease for that purpose the number of officers, warrant officers, chief petty officers, petty officers and enlisted men and change their grades, titles, and designations.

The system of administration, drill and instruction of the naval militia shall conform, as nearly as practicable, to that of the navy of the United States; and the discipline and government thereof when not otherwise prescribed shall be according to the laws and regulations now or hereafter governing the national guard. No part of the naval militia shall be attached to any organization of the national guard except when especially ordered by the governor, in which case the senior officer present shall command the whole, unless the commander-in-chief shall direct otherwise.

Sec. 44. Relative rank of officers. 1909, c. 206, § 44. 1913, c. 3, § 1. The relative rank between officers of the national guard and naval militia shall be the same as that now or hereafter existing between officers of the army and navy of the United States and the relative rank of petty officers in the naval militia and non-commissioned officers in the national guard will be as prescribed by the governor; seamen shall correspond to privates of infantry.

Sec. 45. Pay and allowances of the naval militia. 1909, c. 206, § 45. 1915, c. 145, § 10. The pay of officers and petty officers of the naval militia shall be the same as that of officers and non-commissioned officers of the same relative rank in the national guard; and seamen shall receive the pay of privates of infantry. The commanding officer of the ship's company shall be allowed a sum not exceeding fifty dollars per annum for the care and responsibility of all state and United States property for which he may be accountable; each division commander shall be allowed a sum not exceeding fifty dollars per annum for the care and responsibility of public property for which he is accountable; the executive officer of the ship's company, each division clerk and the third class yeomen of each division shall receive for their services a sum not exceeding twenty-five dollars per annum.

Sec. 46. Qualifications and authority of commissioned officers; election. 1909, c. 206, § 46. Commissioned officers of the naval militia shall have the same authority, rights, privileges, and qualifications, grade for grade, as commissioned officers of the national guard, and, if not otherwise prescribed, shall be elected or appointed in the same manner; but the board of examination, in the case of the election or appointment of an officer of the naval militia shall consist of at least one commissioned officer of the naval militia, active or retired. The commanding officer of the ship's company shall be elected by the division commanders, and the election of division commanders shall be as prescribed for the election of company officers of the national guard; but whenever the governor may appoint commissioned officers of the national guard he may appoint commissioned officers of the naval militia in like manner.

Officers, Their Election and Qualifications.

Sec. 47. All officers commissioned by the governor; conform to U. S. army and navy regulations. 1909, c. 206, § 47. All officers shall be commissioned by the governor at his discretion, but no one shall be commissioned unless the conditions and qualifications set forth in the following sections have been complied with, and no one shall be recognized as an officer unless he shall have been duly commissioned and shall have taken

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the constitutional oath of office. The acceptance of a commission in the militia of this state shall be deemed a resignation by the person accepting the same of all other commissions held by him in such militia. In no case shall any officer in the active militia be commissioned to a higher grade than that prescribed for the corresponding command by the laws and regulations for the government of the regular army and navy of the United States or of the organized militia.

Sec. 48. Eligibility for a commission; vacancies. 1909, c. 206, § 48. Commissioned officers must be citizens of the United States and twenty-one years of age or over. No person who has been expelled or dishonorably discharged from any military or naval organization of this or any other state or of the United States shall be commissioned, and no person shall be commissioned unless he shall possess the additional requirements prescribed in this chapter for the particular office to which he is to be commissioned; provided that in time of war, insurrection, invasion, rebellion, or imminent danger thereof, the governor may fill any vacancy in any field grade by the appointment thereto of any officer on the active list of the army, navy or marine corps of the United States.

Sec. 49. Rank and precedence. 1909, c. 206, § 49. Rank and precedence of officers and non-commissioned officers of the national guard of this state, the relative rank between officers thereof and of the naval militia, the power of command and the commands appropriate to each grade, shall be as determined by the laws and regulations for the government of the regular army and navy of the United States; except that when an officer is commissioned to fill a vacancy caused by the expiration of his own term of service he shall take rank from the date of his original commission in that grade.

Sec. 50. Election and promotion of line officers. Elective system to cease whenever section 1, article VII of state constitution shall be amended. 1909, c. 206, § 50. 1915, c. 145, § 11. General, field, and company officers, of the line, shall be elected as follows: Brigadier generals by the written votes of the field officers of their respective brigades; field officers by the written votes of the captains and subalterns of their respective regiments or corps; captains and subalterns by the written votes of the members of their respective companies; subject to the age limit prescribed in section fifty-two: provided, that if section one, article seven of the constitution of the state shall be hereafter amended in such manner as to permit the legislature to prescribe the mode of selecting officers for the grades herein specified, then, on and after the first day of July next succeeding the adoption of such amendment, the said officers shall be promoted and appointed by the governor as follows and the elective system prescribed in this chapter shall cease to exist, otherwise to remain in full force and effect: Vacancies in the grade of brigadier general shall be filled by promoting the senior colonel; vacancies in the field grades of a regiment or corps by promoting the senior officer of the regiment or corps, of the next lower grade; vacancies in the grade of captain or lieutenant by promoting the senior officer of the company, of the next lower grade; subject in each case to examination as provided in section fifty-eight. Vacancies in the grade of second

lieutenant shall be filled in the following manner: All enlisted men of the company, and any battalion and regimental non-commissioned staff officer who was appointed from said company, shall if physically sound be eligible for appointment, and shall be permitted to appear before an examining board, for a physical and a competitive practical and theoretical examination; the enlisted man whom the board considers, after the competitive examination, to be the best qualified shall be appointed to fill the vacancy. The governor shall prescribe regulations as to the scope and the manner of conducting such examination, and if no such enlisted man appears or if none satisfactorily passes said examination, then the governor shall fill the vacancy by making an appointment from the enlisted men of the organization in which the vacancy occurred.

Sec. 51. Elections; notification and proceedings; adjournment; failure to elect; acceptance of commission. 1909, c. 206, § 51. The adjutant general shall issue orders for all elections, shall detail a suitable officer other than a candidate to preside thereat, and shall give or cause to be given by commissioned officers notification to all qualified voters when, where, and for what office the election is to be held, by written or printed notice given in hand, sent by mail, or left at the last and usual place of abode at least four days before the date of the election. The officer or officers serving such notice shall make a certified written return of the persons notified and of the manner of service, and present the same to the presiding officer before the polls are open. At the time fixed for the election the officer ordered to preside thereat, or in his absence a qualified officer authorized by him to act for him, or in the absence of such officer the commissioned officer highest in rank of those present not being a candidate, shall require the return of the service of notice, the roster of the brigade, regiment, or company from the legal custodian, and shall then open the polls. A majority of the votes of all persons present voting at an election shall be necessary for a choice, but in no case shall an election be held unless a majority of the qualified electors are present. The presiding officer shall be the judge of the election, shall canvass the result, forthwith notify in writing the successful candidate of his election, and report the proceedings in writing to the adjutant general.

If it shall appear at any election that legal notice has not been given in the manner aforesaid to all persons entitled to vote, the presiding officer shall adjourn the meeting, cause such notice to be given, set another date for an election not less than seven days later, and notify the adjutant general; but the presence of a person entitled to vote shall be a waiver of his right to legal notice.

If the electors neglect, refuse, or, after the election shall have been in progress for three hours, fail to elect, then this fact shall be certified by the presiding officer to the adjutant general, and the governor shall promote or appoint an officer in accordance with the preceding section, and if any person so elected or appointed neglect, refuse, or fail without cause to appear, when notified, for examination, or fail to pass the examination, a new election shall be held or appointment made.

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Every officer duly commissioned shall within ten days accept the commission and take the constitutional oath of office; such oath may be taken and subscribed before any officer authorized by law to administer an oath or before any military officer who has taken the oath himself; and in case of neglect or refusal to accept the commission or to take and subscribe the oath within the time mentioned, such commission shall be canceled by the governor, and a new election ordered or appointment made to fill the vacancy.

Sec. 52. Age limit prescribed for each grade of the line and staff; adjutant general and chaplains excepted. 1909, c. 206, § 52. 1911, c. 81, § 5. 1915, c. 145, § 12. No person shall be elected, appointed or commissioned to any of the following grades, who is over the age limit prescribed for each of the several grades, namely: brigadier general, colonel and lieutenant colonel, sixty-one years; major and captain, fifty-six years; first lieutenant, fifty years; second lieutenant, forty-five years. This section shall not apply to the adjutant general of the state nor to chaplains of the national guard.

Sec. 53. Time limit of service in each grade of the line and staff; adjutant general excepted. 1909, c. 206, § 53. 1911, c. 81, § 6. No officer of the active militia shall be permitted to serve in any of the following grades for a greater period than that prescribed for each of the several grades, namely: Brigadier general, five years; colonel, six years; lieutenant colonel, seven years; major, eight years; captain, nine years; first lieutenant, ten years; and second lieutenant, ten years. If any officer has been re-elected or re-appointed to the office which he held on the third day of July, one thousand, nine hundred and nine, the time limit of service in that grade shall be reckoned from the second day of April, one thousand nine hundred and nine. When an officer shall have served the prescribed time in any one grade he shall be placed on the retired list. This section shall not apply to the adjutant general of the state.

Sec. 54. Vacancies in various grades, how filled. 1909, c. 206, § 54. 1911, c. 81, § 7. 1915, c. 145, § 13. Vacancies occurring in the various grades, excepting the lowest, of the several staff departments and corps shall be filled by promoting and appointing the senior officer in the next lower grade of said department or corps. Vacancies occurring in the lowest grade thereof shall be filled in the following manner:

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

In all other staff departments and corps any vacancy shall be filled by the appointment thereto of any commissioned officer in the active militia on the active or retired list; but if from the active list, of at least five years' service, two of which shall have been as a commissioned officer, and if from the retired list, the last year of service on the active list shall have been within eight years immediately preceding the appointment.

Commanding officer of brigades, regiments and separate battalions shall appoint their respective staff officers subject to the provisions of sections forty-seven, forty-eight, fifty-seven and fifty-eight of this chapter, who shall hold office during the pleasure of the officer making the appointment and until their successors are appointed and qualified, subject at all times to the same laws and regulations as apply to other commissioned officers of the national guard.

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

Sec. 55. Chaplains and their qualifications. 1909, c. 206, § 55. The governor may appoint, upon the recommendation of the several regimental commanders, chaplains in the national guard at the rate of one for each regiment, with the rank of captain; no person shall hereafter be appointed a chaplain who is more than fifty-five years of age, or until he has furnished proof that he is a regularly ordained minister of some religious denomination, in good standing.

Sec. 56. Competitive examination for appointments. 1909, c. 206, § 56. The governor may prescribe a system of examination to determine the enlisted man best qualified for appointment to the grade of second lieutenant as prescribed in section fifty-four, and the best qualified applicant for appointment to the lowest grade in the medical corps as prescribed in section fifty-four.

Sec. 57. Examination upon original appointment or election. 1909, c. 206, § 57. The governor shall prescribe a system of examination to determine the fitness for commission consequent on an original appointment or election of all persons, other than those provided for in the preceding section; and no person shall be commissioned consequent upon an original appointment or election until he shall have passed a satisfactory examination as to his physical, moral, educational, and general fitness for the service.

Sec. 58. Examination of all officers below grade of lieutenant colonel, for promotion or appointment to higher grade. 1909, c. 206, § 58. The governor shall prescribe a system of examination of all officers of the active militia below the grade of lieutenant colonel to determine their physical, moral, professional and general fitness for promotion or for appointment other than the first, such examination to be conducted, if practicable, at such time anterior to the accruing of the right to promotion or to the issuing of the commission as may be best for the interest of the service; provided, that the governor may waive the examination for promotion or appointment to any grade in the case of any officer who in pursuance of existing laws has passed a satisfactory examination for such grade prior to the second day of April, one thousand nine hundred and nine; and provided that if any officer fail to pass a satisfactory examination and is reported unfit for promotion or appointment, the officer next below him in rank or standing next in the line of promotion, having passed said examination, shall receive the promotion, or if the office is elective the governor shall order another election; and provided that if the officer is found to be incapacitated for service by reason of physical disability, he shall be retired with the rank to which his seniority entitled him to be promoted, and should he fail for

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any reason, other than lack of moral fitness, he shall be suspended from promotion or appointment to any office in the active militia for one year; and should he fail the second time to pass such examination, he shall be honorably discharged; but should he be found lacking in moral fitness, he shall, if the governor approve of such finding, be discharged for the good of the service; provided also that the examination into the professional fitness of a judge advocate and a chaplain shall extend no farther than to the special qualifications required of them. The board of examination under this and the two preceding sections shall have the same power to take evidence, administer oaths, and compel witnesses to attend and testify and produce books and papers, and punish their failure to do so, as is possessed by a general court-martial.

Sec. 59. Brevet commissions; how and when conferred. 1909, c. 206, § 59. The governor may, upon the recommendation of his commanding officer, confer a brevet commission of a grade next higher than that actually held by the officer so recommended, upon any officer of the national guard or naval militia in active service, for distinguished gallantry. Such commissions shall carry with them only such privileges or rights as are allowed in like cases in the military and naval service of the United States.

Discharge and Retirement of Officers.

Sec. 60. Honorable discharge of officer. 1909, c. 206, § 60. 1915, c. 145, § 14. Any officer who shall reach the age prescribed in section sixty-two, or who shall fail in a second examination as prescribed in section fifty-eight, or who shall be rendered surplus by reduction or disbandment of his organization in any manner provided for in this chapter, or who accepts an appointment in the army, navy or marine corps of the United States, if in each case he is ineligible for retirement, or who tenders his resignation and the same is accepted, shall receive an honorable discharge; provided that he shall not be under arrest or returned to a military court for any deficiency or delinquency, and provided he is not indebted to the state in any manner, and that all his accounts for money and public property are correct.

Sec. 61. Officers when discharged for the good of the service. 1909, c. 206, § 61. Any officer who shall be found lacking in moral fitness under the provisions of section fifty-eight, or who shall be discharged under the provisions of section sixty-three, or who, being under arrest or returned to a military court for any deficiency or delinquency, tenders his resignation and the same is accepted, or who after being notified fails or refuses to liquidate his indebtedness to the state, or to render correct accounts of public funds or property entrusted to his care, shall be discharged for the good of the service, and any officer so discharged, shall not again be eligible to receive a commission.

Sec. 62. Retirement of officers under age limit, or otherwise incapacitated. 1909, c. 206, § 62. 1911, c. 81, § 8. 1915, c. 145, § 15. Any officer who is sixty-four years old, or who is found incapacitated for service by reason of physical disability under the provisions of section fifty-eight, or who hereafter shall serve in any one grade the time limit as prescribed in section

fifty-three, and be eligible for retirement due to length of service or other cause specified in this section, shall be withdrawn from active service and placed on the retired list.

Any officer who has served twenty-five years as a commissioned officer in the active militia of this state, or who is sixty years old, may be, by order of the commander-in-chief, withdrawn from active service and placed on the retired list.

Any officer who has served as a commissioned officer in the active militia of this state six consecutive years, or as such nine years not necessarily consecutive, or nine years either as an officer or soldier in which shall be counted honest and faithful service in the military or naval service of the United States, or both, provided six years of which have been service as a commissioned officer in the active militia of the state, shall, if he make application, be placed on the retired list with the highest rank held by him during his service.

Any officer who has served as a commissioned officer in the active militia of this state for a continuous period of fifteen years; honorable service in war to be counted double, may at his own request be placed upon the retired list with one grade higher rank than that held at the time of his retirement.

Retired officers shall be entitled to wear the uniform of the rank with which they were retired; they shall continue to be borne on the national guard register, shall be subject to military law, and may, in the discretion of the governor, be assigned to active duty.

Sec. 63. Officers becoming disabled shall be retired; board convened to determine facts; board not necessary unless demanded. Any officer may be ordered before such board for examination. 1909, c. 206, § 63. Any commissioned officer who has become or who shall hereafter become disabled and thereby incapable of performing the duties of his office shall be withdrawn from active service and placed on the retired list; and any commissioned officer who has become or who shall hereafter become unfit or incompetent, and thereby incapable of performing the duties of his office, shall upon the recommendation of his commanding officer or of an inspecting officer, be discharged for the good of the service, honorably discharged, or, if eligible thereto, retired, in the discretion of the commander-in-chief. Such retirement or discharge shall be by order of the commander-in-chief who, before making such order, shall convene a board of not less than five commissioned officers one of whom shall be an officer of the medical corps, who shall determine the facts as to the nature and cause of incapacity of such officer as appears disabled or unfit or incompetent, from any cause, to perform military duty and whose case shall be referred to it; before entering upon the discharge of their duties they shall be sworn to an honest and impartial performance thereof. The board, excepting the officer or officers of the medical corps, shall be composed, as far as may be, of seniors in rank to the officer whose incapacity is inquired of; it shall have the powers of courts-martial and courts of inquiry, and whenever it finds an officer incapacitated for active service, shall report such fact to the governor stating the cause of incapacity, whether from disability, unfitness, or incompetency, and if he approve such finding such officer shall be placed on the retired

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list or discharged, as provided in this section; provided that it shall not be necessary to convene a board for action on any case arising under this section, unless the officer designated to be placed upon the retired list or discharged shall, within twenty days after being notified that he will be so retired or discharged, serve on the adjutant general of the state a notice in writing that he demands a hearing and examination before such board; and provided that no officer shall be so retired or discharged without having had a full and fair hearing before the board, if upon due notice he shall demand it.

Provided, further, that the commander-in-chief shall whenever he may deem the good of the service requires it, order any commissioned officer before a board of examination constituted as above, and such board shall examine into the moral character, capacity, and general fitness for the service of such commissioned officers, and record and return the testimony taken, and a record of its proceedings; and if the findings of such board be unfavorable to such officer, and be approved by the governor, he shall be discharged for the good of the service. Failure to appear when ordered before a board constituted under this section shall be sufficient ground for finding by such board that the officer ordered to appear be so discharged.

Sec. 64. Dismissal of officer. 1909, c. 206, § 64. An officer who shall have been absent without leave for a period of six months shall upon the recommendation of his immediate commanding officer be dismissed from the service by order of the commander-in-chief.

Sec. 65. Removal from office. 1909, c. 206, § 65. No officer shall be removed from office without his consent, except by sentence of a general court-martial or as provided in this chapter.

Enlistments and Discharge of Enlisted Men.

Sec. 66. Enlistment of recruits; qualifications and age; minors must obtain consent of parent or guardian; term of enlistment. Discharge by reason of disbandment and for physical disability. Musicians. 1909, c. 206, § 66. 1911, c. 81, § 9. Recruits enlisting in the active militia must be able-bodied men, free from disease, of good character and temperate habits, between the ages of eighteen and forty-five years; and in time of peace no person who is not a citizen of the United States and of this state, or who has not made a legal declaration of his intention to become a citizen or who cannot speak, read, and write the English language or who does not reside within a town where an organization of the active militia is stationed, or within a radius of twelve miles thereof, shall be enlisted in the active militia; provided that the character and the standard of the physical examination required for enlistment in the national guard shall be as prescribed in the regulations of the war department and the laws of the United States for the government of the organized militia, and provided that no person under the age of twenty-one years, having parent or guardian entitled to his custody shall be enlisted or mustered into the active militia of the state without the written consent of such parent or guardian.

No person not of the age specified above, no insane or intoxicated person, no deserter from the military or naval service of the United States or of this or any other state, and no person who has been convicted of a felony shall be enlisted in the active militia.

Hereafter all enlistments in the active militia shall be for a term of not less than three years, and no person shall again be enlisted whose service during the last enlistment in the active militia was not honest and faithful, or who has been dishonorably discharged or discharged without honor from any military or naval organization of the state or of the United States, unless he produces the written consent to such enlistment of the commanding officer of the organization in which he last served or from which he was dishonorably discharged or discharged without honor and unless such enlistment be approved by the adjutant general.

Men who have been discharged by reason of disbandment may be enlisted and shall then receive credit for the period served at the time of disbandment; and a man discharged for physical disability shall if such disability cease and he again enlists, receive credit for the period served prior to such discharge.

Chief and principal musicians, musicians, and privates of the hospital corps may be enlisted as such.

Sec. 67. Re-enlistment and continuous service; re-enlistment of man over forty-five years of age. 1909, c. 206, § 67. 1913, c. 151. When a soldier re-enlists within sixty days from the expiration of his last preceding enlistment, his services shall be considered as continuous and the re-enlistment shall be dated as of the day following such expiration; and when the term of service of any enlisted man expires during a period of furlough and while he is serving in the military or naval forces of the United States, should he re-enlist in the active militia within sixty days of his muster out of the service of the United States, his service shall be considered as continuous, and shall in like manner commence on the day following such expiration, and the re-enlistment shall be dated as of the day following such expiration. No man of forty-five years of age or over shall be re-enlisted unless he has served the full period of his last preceding enlistment, has the permission of the commanding officer of the organization in which he desires to enlist, and of the adjutant general and has passed the physical examination prescribed by regulations.

Sec. 68. Enlistment papers. 1909, c. 206, § 68. Every person who enlists or re-enlists shall sign and make oath to an enlistment paper which shall contain an oath of allegiance to the state and the United States, and be in such form as may be prescribed in the regulations issued under this chapter. Such oath shall be taken and subscribed to before a commissioned officer of the active militia, and all such commissioned officers are hereby authorized to administer such oaths and, when designated by the commanding officer of the company or other organization or by other proper military superior, to make and complete valid enlistments in the active militia. A person making a false oath as to any statement contained in such enlistment paper shall upon conviction be deemed guilty of perjury.

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Sec. 69. Transfers of officers and enlisted men. 1909, c. 206, § 69. The commander-in-chief may make and cause to be made such transfers of officers and enlisted men within a regiment, corps or separate organization, between regiments, corps or separate organizations, and between the line and the hospital corps, as may be for the best interests of the service, and may provide regulations therefor.

Sec. 70. Appointment of non-commissioned officers. 1909, c. 206, § 70. General, post, regimental and battalion non-commissioned staff officers, and non-commissioned officers of companies and bands, shall be appointed, promoted, reduced, and warranted in accordance with, and their duties defined by, the regulations under this chapter, which shall be the same, so far as may be, as the corresponding regulations governing the regular army. Chief petty officers and petty officers of the naval militia shall be appointed, promoted, reduced, and warranted in such manner as the commander-in-chief may prescribe.

Sec. 71. Enlisted man may be dropped from the rolls. 1909, c. 206, § 71. Any enlisted man, who shall remove his residence to such distance from the armory of his organization or the armory, post, or district at which he is detailed to serve, or enter into such employment as will render it impracticable for him to perform his duties properly, or who, after due diligence, cannot be found, may be dropped from the rolls by authority of the adjutant general, upon recommendation of the company or corps commander; an enlisted man, dropped from the rolls by reason of removal or character of employment, may upon change in residence or employment be taken up at any time, upon his own application approved by the adjutant general. A man who has been dropped from the rolls, shall not be taken up until he has passed the physical examination required upon enlistment, and men thus taken up shall receive credit for the time served before having been dropped.

Sec. 72. Discharge of enlisted man. 1909, c. 206, § 72. 1915, c. 145, § 16. No enlisted man shall be discharged from the service without a discharge in writing signed by the regimental or corps commander and no discharge shall be given to any enlisted man before his term of service has expired, except by order of the commander-in-chief or adjutant general, upon personal application, by sentence of a general or special court-martial or military commission, on certificate of disability by direction of the adjutant general, and in compliance with an order of a court of competent jurisdiction, or a judge or justice thereof, on a writ of habeas corpus.

Discharges shall be of the following kinds:

1. Honorable discharge, which shall be given to every soldier whose service has been honest and faithful, his conduct having been such as to warrant his re-enlistment.

2. Discharge which shall be given to a soldier:

- (a) Without trial, on account of fraudulent enlistment.
- (b) Without trial, on account of having become disqualified for service, physically or in character, through his own misconduct.
- (c) On account of imprisonment under sentence of a civil court.
- (d) Where discharge without honor is specially ordered by the commander-in-chief for any other reason.

3. Dishonorable discharge, which may be given to a soldier:
 - (a) Sentenced to be so discharged by a court-martial or military commission.
 - (b) Convicted of felony.
 - (c) Whose commanding officer makes application to the adjutant general for his discharge for the good of the service, stating briefly the misconduct relied upon as a ground for the discharge; if the adjutant general, after investigation in which the soldier complained of shall be given a full and fair hearing, concurs in the application, he may issue his order for dishonorable discharge.

Sec. 73. Certificate of merit to enlisted man. 1909, c. 206, § 73. Hereafter when any enlisted man of the active militia shall have distinguished himself in the service for gallantry or for long and meritorious service in the active militia for a continuous period of fifteen years or for a period of twenty years not necessarily continuous, the governor may upon the recommendation of the commanding officer of the regiment or the senior officer of the corps to which such enlisted man belongs, grant him a certificate of merit; and a holder of such certificate shall be borne on the military register of the state for the remainder of his life; provided that meritorious service hereafter in time of actual war, insurrection, or rebellion, shall count double toward procuring such certificate.

Discipline and Instruction.

Sec. 74. Military courtesy, command, and administration, shall be as prescribed for armies of U. S. 1909, c. 206, § 74. Matters of military courtesy and discipline; precedence of regiments and corps; details and working parties; special duty; official designation and duties of officers; records; flags, colors and standards; instruction and administration of regiments, battalions and companies; interior economy of companies; rosters, detachments and daily service; honors, courtesies and ceremonies; guards; practical and theoretical instruction; care, accountability and responsibility for public property; surveys of property; staff administration and general duties of the staff corps; military correspondence; orders; muster rolls; return of troops and battle reports; arrest and confinement; and field service, shall, in general and so far as practicable and consistent with this chapter, be as now or hereafter prescribed in the regulations for the armies of the United States.

Sec. 75. Inspection of companies; inspection by inspector general; by medical officer. 1909, c. 206, § 75. 1911, c. 81, § 10. The commander-in-chief may in his discretion at such times and under such regulations as he may prescribe order each colonel commanding a regiment or corps, or, in case of his disability or when designated by him, the lieutenant colonel, and each major commanding a battalion, to parade, inspect, and report upon the general military efficiency of the several companies under his command at least once each year. In addition to the inspections provided for in this section, the inspector general shall make the inspection prescribed in section nineteen of this chapter; and the commander-in-chief may, whenever he deems it necessary, order an inspection by a medical officer of the officers and men, armories, clothes and equipments of the active militia.

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Sec. 76. Schools of instruction; encampment, maneuvers, and field instruction; practice marches; no parade or drill on election day. 1909, c. 206, § 76. The commander-in-chief shall prescribe for the officers and men of the regiments, corps and staff departments of the national guard and for the officers and men of the naval militia a course of theoretical and practical instruction, and shall organize such schools, designate such instructors, and make such regulations, as may be required to accomplish such instruction.

He may order all or any part of the national guard to participate in any encampment, maneuvers, and field instruction of any part of the regular army at or near any military post or camp or lake or sea-coast defenses of the United States, whenever such participation shall have been provided for by the secretary of war; and he shall, during the year next preceding each annual allotment in accordance with section sixteen hundred and sixty-one of the Revised Statutes of the United States, as amended, require every company, troop, and battery in the national guard, to participate in practice marches or go into camps of instruction at least five consecutive days, and to assemble for drill and instruction at company, battalion, or regimental armories or rendezvous or for target practice not less than twenty-four times, and shall also during the same period require an inspection of each such company, troop, and battery to be made by an officer of such national guard or an officer of the regular army. No parade or drill of the active militia shall be ordered on any day during which any election shall be held, except in cases of riot, invasion or insurrection, or imminent danger thereof, or of public danger resulting from flood, conflagration, or tempest.

See c. 7, § 117.

Sec. 77. Civil officers may call on commanding officer for aid, in case of tumult or riot. 1909, c. 206, § 77. In case of a tumult, riot, mob, or body of men acting together by force with intent to commit felony or to offer violence to persons or property, or by force and violence to break and resist the laws of the state or the United States, or of imminent danger thereof, a justice of the supreme judicial court in term time or vacation or the sheriff of a county, may call for aid upon a commanding officer of the national guard or naval militia, and such call shall be in writing. The commanding officer upon whom the call is made shall order out in aid of the civil authorities the military or naval force or any part thereof under his command, and shall make an immediate report of the case to the adjutant general and to his immediate commanding officer. He shall receive only general directions from the civil authority requesting the aid, and shall remain strictly responsible to his military superior for the manner in which the troops shall be used to accomplish the desired end.

Sec. 78. Command may be ordered out in case of public disaster. 1909, c. 206, § 78. In the event of public danger resulting from flood, conflagration, or tempest the senior officer of a command may, upon request of the mayor of a city or the selectmen of a town, order out for the defense or protection of the community the forces under his command, or any part thereof, and immediately report his action and the circumstances of the case to the adjutant general and to his immediate commanding officer.

Sec. 79. Commanding officer may close places where intoxicating liquor, arms or explosives are sold. 1909, c. 206, § 79. Whenever any part of the active militia is on active duty, pursuant to the order of the governor or call of civil authority, to aid in the enforcement of the laws, the commanding officer of such troops may order the closing of any place where intoxicating liquors, arms, ammunition, dynamite or other explosives are sold, and forbid the selling, bartering, lending, or giving away of any of said articles so long as any of the troops remain on duty in such places, or in the vicinity thereof, whether any civil officer has forbidden the same or not.

Sec. 80. Notice for duty. 1909, c. 206, § 80. Notices for duty at encampments, maneuvers and field instruction shall be given at least ten days prior thereto, and for other duty at such time as the officer issuing the order shall prescribe. Such notices shall be given orally or by written or printed notice in hand sent by mail or left at the last and usual place of abode; provided, that the posting of the copy of an order in a conspicuous place in the drill or business room of the company, at a regular meeting held not less than four days before the time fixed in such order for the performance of any duty shall be sufficient notice to all members of the company present at such meeting; and provided that when the days upon which the stated drills provided by law, orders, or regulations are to be held have been fixed, no further notice thereof to the members of the company shall be required.

Sec. 81. Decorations and prizes for excellence in small arms practice; members of staff, corps or department may compete. 1909, c. 206, § 81. To encourage marksmanship, the governor may offer annually a state decoration to those who shall excel in small arms practice, and prizes for competition among the organizations and corps of the national guard and naval militia armed with rifle and carbine. He may also in his discretion provide suitable decorations and prizes for proficiency in practice with light and heavy guns. All such prizes shall be competed for under regulations prescribed by the inspector of small arms practice, approved by the adjutant general. Members of any staff corps or department assigned to duty with any command shall be considered a part of such command for the purposes of the competition herein authorized.

Sec. 82. Service medal and additional bars. 1909, c. 206, § 82. Every officer and soldier who has rendered honorable service for nine years in the active militia of the state shall receive a service medal therefor and an additional bar or clasp for each additional three years service.

Sec. 83. Medal and bar for perfect attendance. 1909, c. 206, § 83. Every officer or enlisted man of a company or corps, who has a perfect record of attendance at every military duty for one calendar year, shall receive a suitable medal therefor, and a bar or clasp for each additional calendar year of perfect attendance, either continuous or otherwise.

Compensation.

Sec. 84. Compensation for attendance at drills. 1909, c. 206, § 84. 1911, c. 81, § 11. 1915, c. 145, § 34. Whenever in his opinion the state of the military fund and the appropriation to defray the current expenses of the naval militia will warrant the expenditure, the commander-in-chief may

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allow officers and enlisted men of the active militia reasonable compensation for attendance at drills under such regulations as he shall prescribe, such regulations to be prepared for his consideration by a special board consisting of the adjutant general, the commanding officer of the coast artillery corps, the commanding officer of the second infantry and the commanding officer of the ship's company, naval militia.

Sec. 85. Duty pay; transportation and subsistence; regular army pay; when called to aid civil authorities, paid by county. 1909, c. 206, § 85. 1915, c. 145, § 17. Each officer and enlisted man ordered for duty by the commander-in-chief, or under his authority, shall receive for every day actually on duty, the following pay: All officers of staff departments and corps, five dollars; brigadier general, six dollars; colonel, five dollars; lieutenant colonel, four dollars and fifty cents; major, four dollars; captain, three dollars and fifty cents; first lieutenant, three dollars; second lieutenant, two dollars and fifty cents; first class sergeant hospital corps, regimental sergeant major, quartermaster sergeant, commissary sergeant, and first sergeant, two dollars; battalion sergeant major, one dollar and ninety cents; color sergeant, one dollar and eighty-five cents; company quartermaster sergeant, sergeant, cook, one dollar and seventy-five cents; corporal, one dollar and fifty cents; first class private, hospital corps, one dollar and forty cents; private, hospital corps, one dollar and thirty cents; private, one dollar and twenty-five cents; members of the band, three dollars; and in addition thereto, there shall be allowed the necessary transportation and subsistence: provided that no pay or compensation shall be allowed when ordered for inspection or muster, small arms practice, drill, parade, review, field service, or practice marches, unless expressly authorized in the order for such duties, and provided further, that when ordered for encampment, maneuvers, field exercise, or small arms competitions, or when called forth in aid of the civil authority, commissioned officers of whatsoever grade, shall receive the pay proper for officers of the same grade in the regular army, and enlisted men shall receive the pay set forth in this section.

If the active militia, or any part of it, is ordered on duty for more than ten days, officers and men shall receive the same pay and allowances as the regular troops of the United States, but if when ordered the length of service is not given, they shall be paid for the first ten days as specified in this section, and after ten days, shall receive the same pay and allowances as the regular troops of the United States.

When the active militia, or any portion thereof, shall be called forth in aid of the civil authority, or assembled in obedience to such call, as provided for in sections seventy-seven and seventy-eight, all officers and men thereof shall receive the pay set forth in this section; and such compensation and the necessary expenses incurred in quartering, caring for, transporting, and subsisting the troops as well as the expense incurred for pay, care and subsistence of officers and enlisted men temporarily disabled in the line of duty, while on such duty, shall be paid by the county where such service is rendered. The treasurer of such county shall, upon presentation to him of vouchers and pay-rolls for such expenses and compensation, certified by the commanding officer of the organization or corps on duty in

aid of the civil authority in such county or counties, and approved by the adjutant general, forthwith execute in behalf of and in the name of such county a certificate or certificates of indebtedness for the money required to pay such vouchers and pay-rolls; such certificates shall bear interest at the rate of not exceeding six per cent per annum, and shall be made payable on the first day of January following the expiration of two months from their issue, and the amount thereof shall be raised in the next tax budget of said county succeeding their issue, and applied to the payment of such certificates. Said county treasurer shall sell such certificates at public or private sale, and apply the proceeds thereof to the payment of such expenses and compensation. Any county treasurer or public officer, who shall neglect or refuse to perform any of the duties required by this section, shall be personally charged with the costs and all necessary disbursements of any action or proceeding brought to compel such performance, together with a reasonable additional allowance to the plaintiff or relator in such action or proceeding, to be fixed by the court.

Sec. 86. Additional pay and allowances. 1909, c. 206, § 86. 1911, c. 81, § 12. 1915, c. 145, § 18. In addition to all other pay and allowances herein provided, there shall be allowed, subject to such regulations as the commander-in-chief may prescribe, to an adjutant general on the staff of a brigade commander, to a regimental adjutant, to the senior officer of the inspector general's department, to the senior officer of the medical department, to the senior officer of the ordnance department, each, a sum not exceeding one hundred dollars per annum; to the senior officer of the quartermaster corps, not exceeding fifty dollars per annum; to each company commander or other officer who in the opinion of the adjutant general is entitled to such remuneration, for care and responsibility of military property, not exceeding fifty dollars per annum; to each company clerk, and to each company quartermaster sergeant, not exceeding twenty-five dollars per annum.

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

Whenever deemed necessary, the adjutant general may authorize the commutation of rations for enlisted men, which shall be at the rates fixed by the regulations of the United States in force at the time.

The adjutant general whenever necessary, and in such manner as he may deem best, shall provide suitable mounts for all officers and enlisted men required to perform mounted duty. He shall also approve all other just and reasonable claims, payments, and expenditures, legally made in behalf of the military service of the state.

Military Accounts.

Sec. 87. Payment of military accounts. 1909, c. 206, § 87. 1911, c. 81, § 13. All military accounts, unless otherwise specially provided by law, shall be approved by the person authorized to contract the same and trans-

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mitted to the adjutant general for his examination and approval. They shall then be presented to the governor and council, and if found correct shall be certified to the paymaster general for payment, and a warrant shall be drawn for the amount thereof on the treasurer of state in favor of the paymaster general; accounts so allowed shall be paid by him to the persons to whom they are severally due, or to their order; provided that no payment whatever shall be made or allowed except for duty actually performed or services actually rendered; and provided that no payment of any sum authorized by this chapter shall be made to any person until there shall have been first deducted therefrom all amounts due by him to the state on any military account whatsoever; and provided further that whenever the governor shall deem it necessary, he may draw his warrant on the treasurer of state in favor of the paymaster general for such sums from the military fund or the appropriation for the support of the naval militia as may be required to meet immediate payments for current expenditures; such funds shall be accounted for separately on a monthly account current to be filed with the state auditor and any unused balance shall be covered into the state treasury whenever directed by the governor.

Sec. 88. Annual appropriation; apportionment for naval militia. 1909, c. 206, § 88. 1911, c. 7. 1913, c. 3, § 2. For the purpose of defraying the current expenses of the active militia there shall be appropriated annually the sum of forty-five thousand dollars of which sum at least five thousand dollars, or so much thereof as may be necessary, shall be apportioned by the paymaster general for the support of the naval militia. The appropriation thus made shall be a special and continuous military fund, from which special fund only, except where herein otherwise specified, shall be paid the expenses authorized by this chapter; payments shall be made upon vouchers approved as provided in section eighty-seven.

Sec. 89. Pay and care of member of active militia when injured or disabled in service. 1907, c. 131. 1909, c. 206, § 89. Any member of the active militia who shall, when on duty or assembled therefor, in case of riot, tumult, breach of the peace, insurrection or invasion, or whenever called into active service of the state by order of the governor, or called in aid of the civil authorities, or when participating by order of the governor in any encampment, maneuvers, and field instruction of any part of the regular army at or near any military post or camp or lake or sea-coast defenses of the United States, or when participating by order of the governor in practice marches or camps of instruction for at least five consecutive days, receive any injury, or incur or contract any disability or disease, by reason of such duty or assembly therefor, or who shall without fault or negligence on his part receive any wound or injury incident to and while performing any lawfully ordered duty, which shall temporarily incapacitate him from his usual business or occupation, shall during the period of such incapacity, receive the pay provided by section eighty-five, and actual and necessary expenses for care and medical attendance. No claim shall be allowed under this section unless the claimant within thirty days after receiving the injury or contracting the disease or disability upon which the claim is based, notifies in writing the adjutant general of his intention to make such claim.

Under this section no disability shall be considered temporary which continues more than ninety days after the date of receiving the injury or of contracting or incurring the disease or disability, and pay and expenses for care and medical attendance for more than the said ninety days shall not be allowed. Where a claim is made under this section, the claimant shall, within thirty days after receiving the injury or contracting the disease or disability upon which the claim is made, or such further time as the adjutant general shall grant, submit to the adjutant general his proof by affidavit or otherwise as the adjutant general may direct. On examination thereof the adjutant general may allow or disallow the whole or any part of said claim, or he may refer the same to a medical examiner or to a board of three officers, at least one being a medical officer, to be appointed by the adjutant general, and such medical examiner or board shall have the same power to take evidence, administer oaths, issue subpoenas and compel witnesses to attend and testify and produce books and papers, and punish their failure to do so, as is possessed by a general court-martial. The finding of the medical examiner or board shall be subject to the approval of the adjutant general, who may approve the whole or any part thereof, or he may return the proceedings for revision or for taking further testimony. The adjutant general may cause the examination of the claimant to be made from time to time by a medical officer or officers, designated for the purpose, and may direct the removal of a claimant to, and his treatment in, any hospital designated by the adjutant general, and if the claimant refuse to permit any examination herein provided for, or if he refuse to go to such hospital, or to follow the advice given or treatment prescribed for him therein, he shall thereby forfeit and be barred from all right to any claim or allowance under this section.

The amount found due such member by the adjutant general, either on his own investigation or on the report of a medical examiner or board to the extent approved by him, shall be a charge against and be paid in the manner provided in section eighty-five by the county in which such duty was rendered, in every case where a county is by said section made liable to pay for the performance of military duty; and in all other cases such amount shall be a claim against the state, and the adjutant general shall so certify to the governor and council who shall cause a warrant to be drawn for the amount so certified, and the treasurer of state shall pay said amount to the claimant from any moneys in the treasury not otherwise appropriated.

Armories, Drill Rooms and Ranges.

Sec. 90. Municipal officers to provide drill room and armory; armory commission shall determine suitability of rooms. 1909, c. 206, § 90. 1911, c. 81, § 14. 1913, c. 3, § 3. Municipal officers shall provide and maintain for each company of the active militia located within the limits of their respective towns a suitable drill room, offices, and armory, or place of deposit of all military equipment, and for the headquarters of each separate battalion, corps, regiment, and brigade established within said municipal limits suitable headquarters offices; and the suitability for the necessary

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military purposes, of such drill rooms, armories and headquarters offices, shall be determined by the armory commission. A reasonable compensation to be fixed by the armory commission, after hearing and consulting with the responsible municipal officers, not to exceed three hundred dollars per annum for each company, other organization, band or separate headquarters shall be allowed as rent for such suitable building or buildings to the municipality providing and maintaining them, and paid by the state out of the appropriation for armory rentals; to carry out the provisions of this section the sum of ten thousand dollars annually is hereby appropriated from any money in the treasury not otherwise appropriated, payments to be made by the treasurer of state upon vouchers manifested by the armory commission to the state auditor.

Sec. 91. Target ranges provided and maintained by municipal officers. 1909, c. 206, § 91. 1915, c. 145, § 19. Municipal officers shall provide for each company of the active militia located within the limits of their respective towns a suitable target range, except where such range shall be provided out of the military fund appropriated by the congress of the United States and apportioned to the state for that purpose; and such municipal officers shall maintain and keep in good repair such target range for the use of the company or companies located within the limits of their municipality, irrespective of the method by which such range may have been obtained. The suitability of such target range for the necessary military purposes shall be determined by the inspector of small arms practice of the national guard and approved by the adjutant general. All ranges shall be open for the use of members of the national guard at any time, including Sundays, subject to the approval of the adjutant general.

Sec. 92. Penalty when any municipal officer fails or refuses to perform duty prescribed. 1909, c. 206, § 92. 1911, c. 81, § 15. Any municipal officer who fails, refuses, or neglects to take effective measures for providing and maintaining such suitable drill rooms, offices, armories, or headquarters as prescribed in section ninety, and any municipal officer who fails, refuses, or neglects to take effective measures for providing and maintaining a suitable target range as prescribed in section ninety-one, shall be guilty of a misdemeanor, prosecuted by complaint or indictment before a court of competent jurisdiction, and upon conviction shall be fined not less than one hundred dollars nor more than four hundred dollars, or imprisoned for not less than three months nor more than six months, or shall suffer both such fine and imprisonment, which fine shall be paid into the state treasury and credited to the military fund.

Sec. 93. Authority granted municipalities to provide armories and ranges. 1909, c. 206, § 93. All municipalities in this state may build or acquire by purchase, lease, gift, or otherwise, suitable armories, drill rooms, headquarters offices, and the land necessary therefor and for target ranges for such organizations of the active militia as may be stationed and located therein, and may provide for the maintenance and repair of the same; and all municipalities are hereby authorized, and it shall be the duty of the officers thereof, to raise money by taxation or otherwise for the purpose of providing suitable armories, drill rooms, headquarters offices and target

ranges for such organizations of the active militia as may be stationed and located therein, in such manner as is by law provided for the erection and maintenance of all municipal public buildings and improvements.

See c 4, § 54.

Sec. 94. Armories and target ranges exempt from taxation. 1909, c. 206, § 94. All armories, drill rooms, offices, headquarters offices, and target ranges, owned by the state or by any municipality, or by any organization of the active militia, and all buildings and lands leased by the state, or by any municipality, or by any officer or organization of the active militia, to be used as an armory, drill room, headquarters office, target range, or for other military purposes shall be exempt from taxation for all purposes during the period of such ownership, lease and use.

Sec. 95. Armory commission created; duties; compensation. 1909, c. 206, § 95. 1911, c. 81, § 16. The adjutant general, together with two officers of the line of the active militia of or above the grade of captain and two civilians appointed by the governor for a term of four years unless sooner relieved by proper authority, and eligible to re-appointment for a like period, shall constitute an armory commission of which the adjutant general shall be the chairman; they shall exercise general supervision and control over all armories, drill rooms, and headquarters offices, consult and co-operate with the municipal authorities, and devise effective means of obtaining and maintaining such armories, and fix, subject to the approval of the governor, the compensation to be allowed to the municipalities as rent for them; they shall have the power, after consulting and hearing the responsible municipal officers, to determine the administrative question of military suitability and adequate maintenance of all armories, drill rooms, offices, and headquarters offices; and they shall notify the responsible municipal officers of all deficiencies in these respects, and if such officers, fail, refuse, or neglect to take effective measures for providing such suitable buildings and their maintenance, the chairman of the commission shall initiate the prosecution prescribed by section ninety-two. For each day actually employed in the transaction of the business of the armory commission military members other than the adjutant general shall receive the pay of their rank as provided in section eighty-five and civilian members shall receive as compensation the sum of five dollars; and all members shall be reimbursed for actual traveling expenses, such accounts to be paid from the military fund in accordance with the provisions of section eighty-seven.

Sec. 96. Armories for exclusive use of the active militia. 1909, c. 206, § 96. All armories, drill rooms, offices, and headquarters offices, shall be subject always to the provisions of law and the regulations prescribed by proper authority; and said armories, drill rooms, offices, and headquarters offices, shall be held for the exclusive use of the active militia unless otherwise authorized by the general regulations for the government of armories prescribed by the armory commission, or by special authority of the chairman of said commission after application in special cases by the municipal authorities in writing. If any municipal officer uses such buildings without authority, or abuses the authority or privilege so granted, he shall be deemed guilty of a misdemeanor and shall be punished as prescribed in section ninety-two.

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Sec. 97. Governor authorized to accept donations of lands and buildings, for the state. 1909, c. 206, § 97. 1913, c. 3, § 4. The governor may accept in the name of the state donations of lands and buildings to be used for military purposes by the organized militia under such conditions as the donors may nominate; lands and buildings so donated shall be subject to the rules and regulations prescribed by the governor; and provided further that when any building is turned over to the state for use as an armory or drill shed the armory commission shall be authorized to approve for payment from the appropriation for armory rentals such sums as may be necessary for the upkeep of such building including repairs, furnishings, light, heat, water and janitor service.

Sec. 98. State may erect armories. 1909, c. 206, § 98. Whenever the military fund shall be sufficient to warrant such expenditures, the armory commission may, with the approval and by direction of the governor, erect upon lands donated to the state for the purpose either by municipalities, corporations or individuals, armories, drill rooms, headquarters offices or other buildings for military purposes; provided, that should such buildings cease to be held, used, or occupied for military purposes the buildings and improvements, thereon erected out of the military fund shall revert to the original donor, or donors, his or their successors, heirs, and assigns.

Courts-martial.

Sec. 99. Rules of evidence in courts-martial; accused may testify. 1909, c. 206, § 99. The rules of evidence in all courts-martial shall follow in general, so far as apposite, the common law rules of evidence as observed by the courts of this state in criminal cases, but a certain latitude in the introduction of evidence and the examination of witnesses by an avoidance of restrictive rules is permissible when it is in the interest of the administration of military justice. The accused shall, at his own request but not otherwise, be a competent witness; and his failure to make such request shall not create any presumption against him.

Sec. 100. Court-martial proceedings. 1909, c. 206, § 100. 1911, c. 81, § 17. 1915, c. 145, § 20. In all court-martial proceedings the judge advocate or summary court may issue in the name of the state an order directing any military person or persons or any sheriff or constable to arrest and produce the accused before the court, and the accused shall have the right to demand the nature and cause of the accusation against him, and to be presented with a copy of the charges. He shall have the right of being heard by himself or counsel or both; and shall have compulsory process for obtaining witnesses in his favor. The officer ordering a general, or special court-martial will, at the request of any prisoner who is to be arraigned, detail as his counsel a suitable officer who shall perform such duties as devolve upon counsel for defendant before civil courts in criminal cases.

Sec. 101. Judge advocate may issue necessary process; service. Attendance of witnesses; punishment for neglect to appear or refusal to testify. 1909, c. 206, § 101. The judge advocate of any court-martial, and any summary court, will summon the necessary witnesses for the trial, and for

that purpose may issue in the name of the state the necessary subpoenas; and every judge advocate of a court-martial may issue the like process to compel witnesses to appear and testify which courts of criminal jurisdiction within this state may lawfully issue. Such writs and processes may be served and executed by a military person or persons designated to do so by the judge advocate, or they may be directed to any sheriff, constable, or other officer who shall serve or execute the same in the same manner in which like writs and processes are served and executed when issued by the civil courts of criminal jurisdiction in this state.

The attendance of witnesses in the military service of the state may be procured by the service of formal subpoena, or by the order of competent military authority; and every person in the military service of the state who being duly subpoenaed or ordered to appear as a witness before a court-martial, wilfully neglects or refuses to appear or refuses so to qualify as a witness, or to testify or produce documentary evidence, shall be deemed guilty of disobedience of orders and punished by a court-martial accordingly; and every person not belonging to the military service of the state who being duly subpoenaed to appear as a witness before a court-martial wilfully neglects or refuses to appear or refuses so to qualify, testify, or produce documentary evidence, shall be deemed guilty of a misdemeanor, and prosecuted like other misdemeanants in any court of competent jurisdiction and punished by a fine not exceeding one hundred dollars; but such witness may plead as a defense that he was not tendered one day's fee and mileage for the journey to and from the place of trial; all witnesses shall receive the fees prescribed in the supreme judicial court, to be paid by the adjutant general. No witness shall be compelled to incriminate himself or to answer any question which may tend to incriminate or degrade him.

Sec. 102. Subpoenas and other process to extend throughout the state. 1909, c. 206, § 102. Subpoenas and all other writs and process when issued by general courts-martial shall extend to every part of the state, but when issued by other military courts cannot be executed in any county other than the one in which issued, except they be indorsed by the governor, or an officer authorized to order a general court-martial, in which case they can be executed anywhere in this state. The indorsement shall be, in substance, "Let this process be executed in any county of the State of Maine," and shall be dated and signed by the officer making it.

Sec. 103. Maximum limits of punishment; governor may prescribe within limit; confinement. 1909, c. 206, § 103. Whenever by any of the articles of section one hundred and thirty-two, the punishment on conviction of any military offense is left to the discretion of the court-martial, the punishment shall not exceed, in the case of officers, dismissal from the service, a forfeiture of all pay and allowances, and a fine of two hundred dollars and costs of witnesses, and in the case of enlisted men, thirty days' confinement, dishonorable discharge, forfeiture of all pay and allowances, and a fine of fifty dollars and costs of witnesses. Within such maximum limit the governor may prescribe in the case of enlisted men a lesser limit which a court-martial shall not exceed, and if no such limit be prescribed any fine awarded

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shall not exceed the amount of forfeiture prescribed in the executive order establishing maximum limits of punishment for enlisted men in the regular army. But confinement shall in no case be awarded as a punishment except for an offense committed when on duty in any encampment, maneuvers, and field instruction ordered for at least five consecutive days, or when called out by the governor in case of insurrection, invasion, tumult, riot, mob, resistance to the laws of the state, or of imminent danger thereof, or when called out in aid of the civil power.

Sec. 104. Warrants of commitment; costs of arrest and commitment, by whom paid. 1909, c. 206, § 104. 1911, c. 81, § 18. 1915, c. 145, § 21. When the sentence of a court-martial adjudges a fine and costs against any person, and such sentence has been approved as provided in article one hundred and four of section one hundred and thirty-two of this chapter, or whenever a person in the military service is ordered confined to await trial or is sentenced to confinement by a court-martial, or whenever any person is ordered into confinement under the eighty-sixth article, at a place or station not provided with a guard-house or military prison, the governor, the court or officer ordering the court, or the officer commanding for the time being, as the case may be, shall issue a warrant of commitment directed to the sheriff of the county in which the court-martial was held, directing him to take the body of the person so convicted and confine him in the county jail; and the sheriff shall take the body of the person convicted and confine him in the county jail for the time specified in the sentence, or for one day for any fine not exceeding one dollar, and one additional day for every dollar above that sum, and one additional day for each dollar of cost. The costs of arrest and commitment in all court-martial proceedings shall be the same as is prescribed in revised statutes of this state for such service in the courts of this state and shall be paid by the adjutant general from the military fund on presentation of all papers or copies of papers showing the service thereon. Such papers and copies shall be certified as correct by the judge advocate or summary court.

Sec. 105. Jurisdiction presumed. Immunity of court. 1909, c. 206, § 105. The jurisdiction of the courts and boards established by this chapter shall be presumed, and the burden of proof shall rest on any person seeking to oust such courts or boards of jurisdiction in any action or proceeding.

No action or proceedings shall be prosecuted or maintained against a member of the military forces of this state or officer or person acting under its authority or reviewing its proceedings on account of the approval or imposition or execution of any sentence, or the imposition or collection of any fine or penalty, or the execution of any warrant, writ, execution, process, or mandate of a military court.

Sec. 106. Administration of oaths. 1909, c. 206, § 106. Officers of the judge advocate general's department, judge advocates of courts-martial, and the trial officers of summary courts, are hereby authorized to administer oaths for the purpose of military administration, and shall charge no fee for the same.

Sec. 107. Report of trials to adjutant general. 1909, c. 206, § 107. 1915, c. 145, § 22. Each summary court and the judge advocate of each special court shall, at the end of each month, make a report to the adjutant general of the cases tried, setting forth the offense committed and penalty awarded, which reports may be destroyed when no longer of use.

Sec. 108. Provisions apply to naval militia. 1909, c. 206, § 108. 1911, c. 81, § 19. The provisions in regard to courts and boards established by this chapter shall apply, so far as apposite, to the naval militia.

Sec. 109. Exemption from arrest. 1909, c. 206, § 109. Every person belonging to the active militia of the state shall in all cases, except felony and breach of the peace, be privileged from arrest while going to, remaining at, or returning from any place at which he may be required to attend for the election of officers or other military duty.

Sec. 110. Exemption from jury duty. 1909, c. 206, § 110. Every member of the active militia, every retired officer, and every enlisted man holding the certificate of merit shall be exempt from all jury duty; production of a certificate from the claimant's commanding officer showing that the holder is a member of the active militia, or of a certificate of retirement, or of a certificate of merit, or the sworn statement of the claimant that he is such member, retired officer, or holder of a certificate of merit, shall be prima facie proof that the claimant is entitled to the exemption.

Sec. 111. Voluntary service prohibited. 1909, c. 206, § 111. No organization of the active militia shall perform any voluntary military service except as authorized by this chapter or by the express orders of the governor.

Sec. 112. Military organization not allowed to leave or enter state. 1909, c. 206, § 112. No organization of the active militia shall leave the state, and no military organization of another state, unless acting under the authority of the United States, shall enter the state, except in each case by permission of the commander-in-chief.

Sec. 113. Military parades by unauthorized bodies prohibited; exceptions; penalty. 1909, c. 206, § 113. No body of men, other than the active militia and the troops of the United States, shall associate themselves together as a military company or organization, or parade in public with firearms in any city or town of this state; nor shall any city or town raise or appropriate any money toward arming, equipping, uniforming or in any other way supporting, sustaining or providing drill rooms or armories for any such body of men; but associations wholly composed of soldiers and soldiers honorably discharged from the service of the United States and the order known as the Sons of Veterans may parade at any time in public with firearms, having first obtained the written permission of the city or municipal officers of the town or city in which they reside to parade, and students in educational institutions where military science is taught as a prescribed part of the course of instruction, may, with the consent of the governor, drill and parade with firearms in public under the superintendence of their military instructors. Any person violating any provision of this section shall be deemed guilty of a misdemeanor and punished by a fine not exceeding ten dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

Uniform, Arms and Equipment.

Sec. 114. Uniform of active militia; enlisted men uniformed and equipped by the state. Commissioned officers uniform and equip themselves. Clothes or equipment not subject to execution. 1909, c. 206, § 114. 1911, c. 81, § 20. The uniform, arms, and equipment of the active militia shall be the same as those of the regular army and navy of the United States, except that on articles of uniform and equipment the distinguishing letters "Me." may be substituted for the letters "U. S."; each organization of the national guard and every enlisted man thereof shall be uniformed, armed, and equipped by the state, as is or may hereafter be prescribed or provided by the laws and regulations of the United States for the organized militia, and no member or organization of the active militia, shall adopt, use or wear in the military service of the state any other uniform, arms, or equipment.

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

The clothes, arms, military outfit, and accoutrements furnished by or through the state to a member of the active militia, and the uniforms, arms, and equipment required of commissioned officers shall not be subject to any suit, distress, execution, or sale, for debt or payment of taxes.

Sec. 115. Unlawful wearing of uniform; punishment; exceptions. 1909, c. 206, § 115. Every person, other than an officer or enlisted man of the active militia of this state, or of any other state, or of the United States army, navy, marine corps, or revenue or forest service, or a member of any service of the United States for whom such uniform has been prescribed by proper authority, or inmate of any veterans' or soldiers' home, or a member of the Grand Army of the Republic, or of the Sons of Veterans, who at any time wears the uniform of the United States army or navy or active militia of this state, or any part of such uniform, or a uniform or a part of a uniform similar thereto, within the limits of this state, shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment; provided, that nothing in this chapter shall be construed as prohibiting persons of the theatrical profession from wearing such uniform in any playhouse or theatre while actually engaged in following said profession, and provided that nothing in this chapter shall be construed as prohibiting the uniform rank of civic societies parading or traveling in a body or assembling in a lodge room; and provided further, that whenever the active militia, or any part thereof is in active service, or is called into active service, no civic organization or member thereof shall parade or appear in uniform in the locality where said active militia is in service.

Sec. 116. Member of active militia shall suffer no injury in his employment because of being such member. 1909, c. 206, § 116. Any person who, either by himself or with another, wilfully deprives a member of the national guard or naval militia of his employment, or prevents his being employed

by himself or another, or obstructs or annoys said member of said national guard or naval militia or his employer in respect of his trade, business, or employment, because said member of said national guard or naval militia is such member, or dissuades any person from enlisting in the said national guard or naval militia by threat of injury to him in case he shall so enlist, in respect of his employment, trade, or business, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

Sec. 117. Association shall not discriminate against member of active militia. 1909, c. 206, § 117. No association or corporation, constituted or organized for the purpose of promoting the success of the trade, employment, or business of the members thereof, shall by any constitution, rule, by-law, resolution, vote, or regulation, discriminate against any member of the national guard or naval militia because of such membership, in respect of the eligibility of such member of the national guard or naval militia to membership in such association or corporation, or in respect to his right to retain said last mentioned membership; and any person who aids in enforcing any such provisions against a member of the said national guard or naval militia with intent to discriminate against him because of such membership, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

Sec. 118. Member of active militia not to be molested, while on duty. 1909, c. 206, § 118. Whoever shall unlawfully molest, insult, or abuse any member of the national guard or naval militia, while in the performance of his military duty, shall be deemed guilty of a misdemeanor and on conviction thereof, shall be punished by a fine not to exceed five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

Sec. 119. Military equipment must not be disposed of. 1909, c. 206, § 119. The clothes, arms, military outfits, and accoutrements furnished by or through the state to any member of the active militia shall not be sold, bartered, exchanged, pledged, loaned, or given away; and no person not a member of the military forces of this state or of the United States, or duly authorized officer or agent of the state or of the United States, who has possession of any such clothes, arms, military outfits, or accoutrements, so furnished, and which have been the subject of any such unlawful disposition, shall have any right, title, or interest therein; but the same shall be seized and taken wherever found by any officer of the state, civil or military, and shall thereupon be delivered to any commanding officer or other officer authorized to receive the same, who shall make an immediate report to the adjutant general. The possession of any such clothes, arms, military outfits, or accoutrements by any person not a member of the military forces of the state or of the United States shall be presumptive evidence of such sale, barter, exchange, pledge, loan, or gift.

Sec. 120. Unlawful disposition of military equipment punished. 1909, c. 206, § 120. Any person who shall sell, or offer for sale, barter, exchange,

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pledge, loan, or give away, secrete or retain after demand made by any officer of the state, civil or military, any clothes, arms, military outfits, or accoutrements furnished by or through the state to a member of the active militia, or who shall receive by purchase, barter, exchange, pledge, loan, or gift, any such clothes, arms, military outfits, or accoutrements, shall be guilty of a misdemeanor and punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding six months, or by both such fine and imprisonment.

Sec. 121. Repair and renovation of military property. 1909, c. 206, § 121. The adjutant general shall, whenever it may be necessary, make arrangements for the repair, cleansing, and renovation of all clothes, arms, military outfits, or accoutrements on hand or issued to any organization of the active militia; and when the necessity of such repair, cleansing, or renovation is due to the fault or negligence of any member of the active militia, the cost thereof shall be charged against any pay due or to become due such member or recovered in the same manner as a fine, forfeiture, or penalty, as prescribed by this chapter.

Sec. 122. Military property unfit for use may be condemned, and sold. 1909, c. 206, § 122. The inspector general or such other officer as the adjutant general may designate, shall inspect and condemn public military property which has become unfit for use; no property shall be sold until it has been so inspected and condemned, and such condemnation approved by the governor; and the proceeds of sales of condemned material, stores, supplies, or other public military property of every kind shall be deposited with the adjutant general, paid into the state treasury, and credited to the military fund.

Sec. 123. Property furnished by state remains state property; officers receiving same held responsible. Wilful destruction of property punished; lost or destroyed property accounted for. 1909, c. 206, § 123. 1911, c. 81, § 21. All property furnished by the state shall remain and continue to be the property of the state, to be used for military purposes only, and when not so in use shall be kept in the armories or designated places of deposit, provided, however, that upon order of the governor and council, the quartermaster general is authorized to issue to the municipal officers of any city or town field ordnance of obsolete pattern under such regulations as the governor and council may prescribe. Every officer receiving public property for military use shall be held responsible for the safe-keeping and the return of the same when called for; he shall account for and make such returns thereof as may be prescribed whenever called upon so to do by the governor or other proper authority; and every such officer shall, when required by the governor, give bond payable to the adjutant general of the state in such sum as he may direct, with good and sufficient sureties, conditioned to account for, safely keep, and return all military property of the state and the United States for which such officer may be accountable and responsible, and the costs and expenses incurred by entering into such bond shall be paid out of the military fund. Any officer, enlisted man or other person, who shall wilfully or maliciously destroy, injure or deface any article of military property belonging to the state, or

shall use it for other than military purposes, or shall have or retain the same in violation of law or regulations shall be punished by a fine not exceeding fifty dollars. And in case any officer or enlisted man of the national guard who has at any time through carelessness or inattention lost, destroyed, or suffered to be lost or destroyed, any state or government property which has been issued for his use, the paymaster general shall retain out of the pay or allowances or moneys due such officer or enlisted man for any military services whatsoever, an amount of money equal to the value of the property so lost or destroyed, and money so retained shall be credited to the account of such officers of the national guard as may be accountable to the state for said property. Such portion of said money as shall be for state property shall be turned in to the treasury of the state, to be credited to the military fund, and such portion as may be for United States property shall be turned in to the United States treasury to be credited to the state on its property returns.

Sec. 124. Right of way when parading or performing military duty. 1909, c. 206, § 124. The commanding officer of any portion of the active militia parading or performing any military duty in any street or highway, may require any or all persons in such street or highway, to yield the right of way to such militia; provided that the carriage of the United States mail, the legitimate functions of the police and the progress and operations of the hospital ambulances, fire engines and fire departments, and apparatus of the insurance patrol shall not be interfered with thereby. All others who shall hinder, delay, or obstruct any portion of the active militia wherever parading or performing any military duty, or who shall attempt to do so, shall be guilty of a misdemeanor.

Sec. 125. Commanding officer may fix bounds and limits of his camp; intrusion may be punished; sale of intoxicating liquor, prohibited. 1909, c. 206, § 125. Every commanding officer, when on duty as such, may fix necessary bounds and limits to his camp, or parade, not including a road so as to prevent passing. Whoever intrudes within the limits of the parade, camp, or armory, after being forbidden, or resists a sentinel who attempts to put him or keep him out of such limits, or in any manner interrupts or molests the orderly discharge of duty by those under arms, or disturbs, hinders, or prevents the passage of troops going to or returning from any duty, may, at the discretion of the commanding officer, be confined under guard not exceeding twenty-four hours. Such authority of an officer commanding a camp may be extended by order of the commander-in-chief to a distance not exceeding one-half mile around such camp; provided, that the owner or owners of the external space within such distance of the camp, and their agents or servants shall not be hindered or prevented from entering upon such space for the purpose of using, occupying, and improving the same, in the same manner in which they used, occupied, and improved the same at the time when the camp was established. The commanding officer of any camp or armory shall prohibit the introduction or sale of, or dealing in, beer, wine, or any intoxicating liquor, within the limits or extended limits of the camp or within the armory, and he may abate as common nuisances all such sales and introductions.

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Sec. 126. Neglect or refusal of civil officers. 1909, c. 206, § 126. Civil officers named in this chapter, neglecting or refusing to obey its provisions, shall be guilty of misdemeanor.

Sec. 127. Offenses punishable criminally; fines collected credited to military fund. 1909, c. 206, § 127. Offenses against the provisions of this chapter, except when they are purely military and committed by a person subject to military jurisdiction, may, unless a different remedy is specially provided, be prosecuted by complaint or indictment before a court of competent criminal jurisdiction; and all fines and forfeitures collected under the provisions of this chapter, the disposition whereof is not otherwise specially provided for, shall be paid into the state treasury and credited to the military fund.

Regulations and Articles of Government.

Sec. 128. Companies may make by-laws. 1909, c. 206, § 128. Companies of the active militia may make by-laws, subject to the written approval of the adjutant general, not repugnant to law, orders, or regulations, and fix a sum to be paid by any member of such company for non-compliance therewith not exceeding five dollars. Any member who fails to pay such sum so fixed, within thirty days after notification that the same is due, shall be deemed guilty of conduct to the prejudice of good order and military discipline, and punished by a court-martial accordingly; and all forfeitures resulting therefrom shall be paid into the company treasury.

Sec. 129. National Guard Association. 1909, c. 206, § 129. The commissioned officers of the active militia may organize themselves into an association the name of which shall be The National Guard Association of the State of Maine. Such association may adopt a constitution and by-laws not repugnant to law, orders or regulations, and alter and amend the same, and may take and hold such real and personal property as may be necessary for the purposes of the association.

Sec. 130. Governor may make rules and regulations. 1909, c. 206, § 130. The governor may make such rules and regulations as he may deem expedient, but such rules and regulations shall conform to this chapter, and, as nearly as practicable, to those governing the United States army and navy, and when promulgated, shall have the same force and effect as the provisions of this chapter. The rules and regulations in force on the third day of July in the year one thousand nine hundred and nine and not inconsistent herewith, shall remain in force until new rules and regulations are approved and promulgated.

Sec. 131. Articles of war of the U. S. to be in force in time of war. 1909, c. 206, § 131. Whenever any portion of the militia not being in the service of the United States shall be on duty or ordered to assemble for duty by the governor in time of actual war, insurrection, invasion or rebellion, the articles of war governing the army of the United States, the articles for the government of the United States navy, and the regulations prescribed for the army and navy of the United States, so far as consistent with this chapter and the regulations issued thereunder, shall be in force and regarded as a part of this chapter until said forces shall duly be relieved from such

duty during such state of actual war, insurrection, invasion, or rebellion; but no punishment under such rules and articles which shall extend to the taking of life, shall in any case be inflicted until the approval by the governor of the sentence inflicting such punishment.

Sec. 132. Articles for the government of military forces. 1909, c. 206, § 132. 1911, c. 81, § 22. 1915, c. 145, §§ 23-33. Except as provided in the preceding section the officers and soldiers of any troops whether active or reserve militia of this state or otherwise, appointed, enlisted, mustered or drafted into the military forces of this state, shall, at all times, and in all places, be governed by the following rules and articles and shall be subject to be tried by courts-martial. The word "officer," as used therein, shall be understood to designate commissioned officers; the word "soldier" shall be understood to include non-commissioned officers, musicians, artificers, and privates, and other enlisted men, and the convictions mentioned therein shall be understood to be convictions by court-martial.

Article 2. Enlistment. Enlistment in the active militia of this state shall be voluntary, and every person who enlists therein shall take and subscribe an oath, or affirmation, in the following form:

I, _____, do solemnly swear, (or affirm,) that I will bear true faith and allegiance to the State of Maine and to the United States of America; that I will serve them honestly and faithfully against all their enemies whomsoever, and that I will obey the orders of the governor of Maine and the orders of the officers appointed over me, according to the laws, rules and articles for the government of the military forces of the State of Maine.

Article 3. Enlistment of minors. Every officer who knowingly enlists or musters into the military service of this state any minor over the age of eighteen years without the written consent of his parent or guardian, or any minor under the age of eighteen years, or any insane or intoxicated person, or any deserter from the military service of this state or of the United States, or any person who has been convicted of any infamous crime, shall suffer such punishment as a court-martial may direct.

Article 4. Discharge. 1915, c. 145, § 23. No enlisted man, duly sworn, shall be discharged from service without a discharge in writing, signed by a field officer of the regiment to which he belongs, or by the commanding officer when no field officer is present; and no discharge shall be given to any enlisted man before his term of service has expired except by order of the governor, the adjutant general or by sentence of a general or special court-martial.

Article 5. False muster. Any officer who knowingly musters as a soldier a person who is not a soldier shall be deemed guilty of knowingly making a false muster and punished as a court-martial may direct.

Article 6. Mustering officer shall not take money therefor. Any officer who takes money or other thing, by way of gratification, on mustering any regiment, or company, or on signing muster rolls, shall be dismissed from the service, and shall thereby be disabled to hold any office or employment, civil or military, in the service of the State of Maine, or suffer such other punishment as a court-martial may direct.

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Article 7. **Commanding officer shall make return.** Every commanding officer shall, in the beginning of December and June of each year, and oftener if required by the governor, transmit to the adjutant general an exact return of the troops under his command, specifying the names of the officers absent from their posts, with the reasons for and the time of their absence. And any such officers who, through neglect or design, omit to send such return, shall be punished as a court-martial may direct.

Article 8. **False return.** Every officer who knowingly makes a false return to the adjutant general or to any of his superior officers authorized to call for such returns, of the state of the regiment or company under his command; or of any arms, ammunition, clothing or other stores thereunto belonging, shall be punished as a court-martial may direct.

Article 10. **Commanding officer accountable for property.** Every officer commanding a troop, battery, or company, is charged with the arms, accoutrements, ammunition, clothing, or other military stores belonging to his command, and is accountable to the adjutant general in case of their being lost, spoiled or damaged otherwise than by unavoidable accident, or on actual service.

Article 13. **False certificate.** Every officer who signs a false certificate relating to the absence or pay of any officer or soldier shall be dismissed from the service or suffer such other punishment as a court-martial may direct.

Article 14. **False muster of man or horse.** Any officer who knowingly makes a false muster of man or horse, or who signs, or directs, or allows the signing of any muster roll, knowing the same to contain a false muster, shall, upon proof thereof, by two witnesses, before a court-martial, be dismissed from the service, and shall thereby be disabled to hold any office or employment, civil or military in the service of the State of Maine.

Article 15. **Property lost or destroyed through neglect.** Any officer who, wilfully or through neglect, suffers to be lost, damaged or spoiled any military stores or supplies belonging to this state or to the United States which have been received for use of the military forces of this state, shall make good the loss or damage and suffer such punishment as a court-martial may direct.

Article 16. **Ammunition sold or wasted.** Any soldier who sells, or wilfully or through neglect wastes the ammunition delivered out to him, shall make good the loss and suffer such punishment as a court-martial may direct.

Article 17. **Property sold or spoiled through neglect.** Any soldier who sells or through neglect loses or spoils his horse, arms, clothing, or accoutrements or any other military stores or supplies issued to him for his use or in his charge, shall make good the loss or damage, and suffer such punishment as a court-martial may direct.

Article 20. **Disrespect shown superior officer.** Any officer or soldier who behaves himself with disrespect toward his superior officers shall be punished as a court-martial may direct.

Article 21. **Violence toward or disobedience to superior officer.** Any officer or soldier who, on any pretense whatsoever, strikes his superior offi-

cer, or draws or lifts up any weapon, or offers any violence against him, being in the execution of his office, or disobeys any lawful command of his superior officer, shall suffer such punishment as a court-martial may direct.

Article 22. **Exciting mutiny or sedition among troops.** Any officer or soldier who begins, excites, causes, or joins in any mutiny or sedition in any troop, battery, company, party, post, detachment, or guard, shall suffer such punishment as a court-martial may direct.

Article 23. **Officer not endeavoring to suppress mutiny or sedition.** Any officer or soldier who, being present at any mutiny or sedition, does not use his utmost endeavor to suppress the same, or having knowledge of any intended mutiny or sedition, does not, without delay, give information thereof to his commanding officer shall suffer such punishment as a court-martial may direct.

Article 24. **Officers to quell disorders, and may order into arrest and confinement.** All officers, of what condition soever, have power to part and quell all quarrels, frays, and disorders, whether among persons belonging to his own or to another corps, regiment, troop, battery, or company, and to order officers into arrest, and non-commissioned officers and soldiers into confinement, who take part in the same, until their proper superior officer is acquainted therewith. And whosoever, being so ordered, refuses to obey such officer or non-commissioned officer or draws a weapon upon him, shall be punished as a court-martial may direct.

Article 26. **Dueling prohibited.** No officer or soldier shall send a challenge to another officer or soldier to fight a duel, or accept a challenge so sent. Any officer who so offends shall be dismissed from the service. Any soldier who so offends shall suffer such punishment as a court-martial may direct.

Article 29. **Officer wronged may apply to adjutant general for redress.** 1911, c. 81, § 23. Any officer who thinks himself wronged by the commanding officer of his regiment or corps, and, upon due application to such commander, is refused redress, may complain to the adjutant general. The adjutant general shall examine into said complaint and take proper measures for redressing the wrong complained of.

Article 30. **Soldier wronged may complain to commanding officer of his regiment.** 1911, c. 81, § 23. 1915, c. 145, § 24. Any soldier who thinks himself wronged by any officer may complain to the commanding officer of his regiment or corps, who shall summon a special court-martial for the doing of justice to the complainant. Any party may appeal from such special court-martial to a general court-martial; but if, upon such second hearing, the appeal be groundless and vexatious, the party appealing shall be punished at the discretion of said general court-martial.

Article 32. **Absence without leave.** Any soldier who absents himself from his troop, battery, company, or detachment, without leave from his commanding officer, shall be punished as a court-martial may direct.

Article 33. **Absence from parade.** Any officer or soldier who fails, except when prevented by sickness or other necessity, to repair, at the fixed time, to the place of parade, exercise or other rendezvous appointed by his

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commanding officer, or goes from the same, without leave from his commanding officer, before he is dismissed or relieved, shall be punished as a court-martial may direct.

Article 34. **Written leave to go one mile from camp.** Any soldier who is found one mile from camp, without leave in writing from his commanding officer, shall be punished as a court-martial may direct.

Article 36. **No soldier shall hire another to do his duty for him.** No soldier belonging to any regiment, troop, battery, or company shall hire another to do his duty for him, or be excused from duty, except in cases of sickness, disability, or leave of absence. Every such soldier found guilty of hiring his duty and the person so hired to do another's duty, shall be punished as a court-martial may direct.

Article 37. **Conniving at hiring duty performed.** Every non-commissioned officer who connives at such hiring of duty shall be reduced. Every officer who knows and allows such practice shall be punished as a court-martial may direct.

Article 38. **Officers drunk on guard.** Any officer who is found drunk on his guard, party, or other duty, shall be dismissed from the service. Any soldier who so offends shall suffer such punishment as a court-martial may direct.

Article 39. **Sentinel sleeping upon his post.** Any sentinel who is found sleeping upon his post, or who leaves it before he is regularly relieved, shall suffer such punishment as a court-martial may direct.

Article 40. **Officer or soldier who quits his guard without leave.** Any officer or soldier who quits his guard, platoon, or division, without leave from his superior officer, except in case of urgent necessity, shall be punished as a court-martial may direct.

Article 41. **False alarms.** Any officer who, by any means whatsoever, occasions false alarms in camp, command or quarters shall suffer such punishment as a court-martial may direct.

Article 42. **Misbehaving before enemy or abandoning post.** Any officer or soldier who misbehaves himself before the enemy, runs away, or shamefully abandons any place, post or guard, which he is commanded to defend, or speaks words inducing others to do the like, or casts away his arms or ammunition, or quits his post or colors to plunder or pillage, shall suffer such punishment as a court-martial may direct.

Article 47. **Deserter.** Any officer or soldier who, having been duly enlisted or drafted in the military service of this state, deserts the same, shall suffer such punishment as a court-martial may direct.

Article 48. **Deserter shall serve full term of enlistment.** Every soldier who deserts the military service of this state shall be liable to serve for such period as shall, with the time he may have served previous to his desertion, amount to the full term of his enlistment; and such soldier shall be tried by a court-martial and punished, although the term of his enlistment may have elapsed previous to his being apprehended and tried.

Article 49. **Resignation tendered no excuse for absence.** Any officer who, having tendered his resignation, quits his post or proper duties without leave and with intent to remain permanently absent therefrom, prior to due notice of the acceptance of the same, shall be deemed and punished as a deserter.

Article 50. **Soldier must be discharged before enlisting in another company.** No soldier shall enlist himself in any other regiment or company, without a regular discharge from the regiment or company in which he last served, on a penalty of being reputed a deserter and suffering accordingly. And in case any officer shall knowingly receive and entertain such soldier or shall not, after his being discovered to be a deserter, immediately give notice thereof to the command in which he last served, the said officer shall, by court-martial, be dismissed.

Article 59. **For crimes against citizen of state, soldier delivered to civil magistrate, except in time of war.** When any officer or soldier is accused of a capital crime, or of any offense against the person or property of any citizen of this state, which is punishable by the laws of this state, the commanding officer and the officers of the regiment, company, or detachment to which the person so accused belongs are required, except in time of war, upon application duly made by or in behalf of the party injured, to use their utmost endeavors to deliver him over to the civil magistrate, and to aid the officers of justice in apprehending and securing him, in order to bring him to trial. If, upon such application, any officer refuses or wilfully neglects, except in time of war, to deliver over such accused person to the civil magistrates, or to aid the officers of justice in apprehending him, he shall be dismissed from the service.

Article 60. **False claims against state or U. S. Misappropriation of government property or receiving same in pledge.** Any person in the military service of this state who makes or causes to be made any claim against this state or the United States, or any officer thereof, knowing such claims to be false or fraudulent; or

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

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

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

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against this state or the United States or any officers thereof, makes or procures or advises the making of any oath to any fact or to any writing or other paper, knowing such oath to be false; or

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Who, for the purpose of obtaining, or aiding others to obtain the approval, allowance, or payment of any claim against this state or the United States or any officer thereof, forges or counterfeits, or procures or advises the forging or counterfeiting of any signatures upon any writing or other paper, or uses or procures or advises the use of, any such signature, knowing the same to be forged or counterfeited; or

Who, having charge, possession, custody, or control of any money or other property of this state or the United States, furnished or intended for the military service of this state, knowingly delivers, or causes to be delivered, to any person having authority to receive the same, any amount thereof less than that for which he receives a certificate, or receipt; or

Who, being authorized to make or deliver any papers certifying the receipt of any property of this state or the United States, furnished or intended for the military service of this state, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained, or with intent to defraud this state or the United States; or

Who steals, embezzles, knowingly and wilfully misappropriates, applies to his own use, or benefit, or wrongfully or knowingly sells or disposes of any ordnance, arms, equipments, ammunition, clothing, subsistence, stores, money or other property of this state or the United States, furnished or intended for the military service of this state; or

Who knowingly purchases, or receives in pledge for any obligation or indebtedness, from any soldier, officer or other person who is a part of or employed in said forces or service, any ordnance, arms, equipments, ammunition, clothing, subsistence stores or other property of this state or of the United States, such soldier or officer or other person not having lawful right to sell or pledge the same shall, on conviction thereof be punished by fine or imprisonment or by such other punishment as a court-martial may adjudge; or by any or all of said penalties. And if any person, being guilty of any of the offenses aforesaid, while in the military service of this state receives his discharge, or is dismissed from the service, he shall continue to be liable to be arrested and held for trial and sentenced by a court-martial, in the same manner and to the same extent as if he had not received such discharge or been dismissed.

Article 61. **Unbecoming conduct.** Any officer who is convicted of conduct unbecoming an officer and a gentleman shall be dismissed from the service.

Article 62. **Crimes, disorders and neglects, not otherwise mentioned.** 1915, c. 145, § 25. 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 a special, or summary court-martial, according to the nature and degree of the offense, and punished at the discretion of such court.

Article 63. **Camp retainers are subject to rules.** All retainers to the camp, and all persons serving with the military forces of this state in the field, though not enlisted soldiers, shall be subject to these rules and articles in the same manner as enlisted men.

Article 65. **Officers charged with crime.** Officers charged with crime may be arrested and confined in their quarters or tents, or other place, and shall be deprived of their swords and command by the commanding officer. And any officer who leaves his confinement before he is set at liberty by his commanding officer shall be dismissed from the service, or suffer such other punishment as a court-martial may direct.

Article 66. **Soldiers charged with crime.** Soldiers charged with crime may be confined until tried by courts-martial or released by proper authority.

Article 67. **Refusal to receive or keep prisoner.** Any provost marshal or any officer commanding a guard who shall refuse to receive or keep any prisoner committed to his charge by an officer belonging to the military forces of the state, shall suffer such punishment as a court-martial may direct; provided the officer committing shall, at the same time, deliver a statement in writing, signed by himself, of the crime charged against the prisoner.

Article 68. **Officer to whom prisoner is committed shall report within twenty-four hours.** Every officer to whose charge a prisoner is committed shall, within twenty-four hours after such commitment, or as soon as he is relieved from his guard, report in writing, to the commanding officer, the name of such prisoner, the crime charged against him, and the name of the officer committing him; and if he fails to make such report, he shall be punished as a court-martial may direct.

Article 69. **Unauthorized release or escape of prisoner.** Any officer who presumes, without proper authority, to release a prisoner committed to his charge, or suffers any prisoner so committed to escape, shall be punished as a court-martial may direct.

Article 70. **Confinement limited.** No officer or soldier put in arrest shall be continued in confinement more than five days, or until such time as a court-martial can be assembled.

Article 71. **Copy of charges shall be served on officers.** When an officer is put in arrest for the purpose of trial, except at remote stations, the officer by whose order he is arrested shall see that a copy of the charges on which he is to be tried is served upon him within five days after his arrest, and that he is brought to trial within ten days thereafter, unless the necessities of the service prevent such trial; and then he shall be brought to trial within thirty days after the expiration of said ten days. If a copy of the charges be not served, or the arrested officer be not brought to trial, as herein required, the arrest shall cease.

Article 72. **Courts-martial of three kinds.** 1915, c. 145, § 26. Courts-martial shall be of three kinds, namely: First, general courts-martial; second, special courts-martial; and third, summary courts-martial.

General courts-martial may consist of any number of officers from five to thirteen, inclusive.

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

A summary court-martial shall consist of one officer.

Article 73. **Appointment of general courts-martial by commander-in-chief; officers not eligible, when.** 1915, c. 145, § 27. The commander-in-

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chief may appoint general courts-martial whenever necessary; and the proceedings and sentence shall be sent directly to the adjutant general, by whom they shall be laid before the governor for his approval or orders in the case. When empowered by the commander-in-chief, the commanding officer of any district or of any force or body of troops, may appoint general courts-martial whenever necessary; but when any such commander is the accuser or the prosecutor of the person or persons to be tried the court shall be appointed by superior competent authority, and no officer shall be eligible to sit as a member of such court when he is the accuser, or a witness for the prosecution.

Article 74. **Commanding officers may appoint special courts-martial.** 1915, c. 145, § 28. The commanding officer of a district, garrison, fort, camp, or other place where troops are on duty, and the commanding officer of a brigade, regiment, detached battalion, or other detached command, larger than a company, may appoint special courts-martial for his command; but such special courts-martial may in any case be appointed by superior authority when by the latter deemed desirable, and no officer shall be eligible to sit as a member of such court when he is the accuser or a witness for the prosecution.

Article 75. **Powers of general courts-martial.** 1915, c. 145, § 29. General courts-martial shall have power to try any person subject to military law for any crime or offense made punishable by the military law and any other person who by statute or by law of war is subject to trial by military tribunals.

Article 76. **Powers of special courts-martial.** 1915, c. 145, § 30. Special courts-martial shall have the power to try any person subject to military law, except an officer, for any crime or offense not capital made punishable by the military law.

Special courts-martial shall have concurrent jurisdiction with the summary court in all minor offenses and with the general court-martial in all offenses not capital. The order appointing the court shall designate the person or persons to be tried and the offense or offenses for which they are to be tried.

Said court-martial shall have power to adjudge punishment not to exceed thirty days' confinement, dishonorable discharge, forfeiture of all pay or allowances, and a fine of fifty dollars and cost of witnesses, or any or all of such confinement, forfeiture and pay.

Article 77. **Powers of summary courts-martial; punishments, which may be allowed.** 1915, c. 145, § 30. Summary courts-martial shall have power to try any soldier for any crime or offense not capital made punishable by the military law: provided, that non-commissioned officers shall not, if they object thereto, be brought to trial before a summary court-martial without the authority of the officer competent to bring them to trial before a general court-martial.

Summary courts-martial shall have power to adjudge punishment not to exceed thirty days' confinement, forfeiture of thirty dollars pay or a fine of thirty dollars, or any or all of such confinement, forfeiture of pay and fine, and in addition thereto, in case of non-commissioned officers, re-

duction to the ranks, and in the case of first-class privates reduction to second-class privates: Provided, that the summary court shall not adjudge confinement, forfeiture or fine in excess of ten days' confinement, forfeiture of ten dollars pay, or a fine of ten dollars, or any or all of such confinement, forfeiture, and fine unless the accused shall before trial consent in writing to trial by said court; but in any case of refusal to so consent the trial may be had either by general or special court-martial, or by summary court, but in case of trial by said summary court without consent, as aforesaid, the court shall not adjudge more than ten days' confinement, forfeiture of ten dollars pay and a fine of ten dollars, or any or all of such confinement, forfeiture and pay.

Article 78. **Appointment of judge advocate.** 1915, c. 145, § 30. Officers who may appoint a court-martial, excepting summary courts, shall be competent to appoint a judge advocate for the same.

Article 79. **Officers tried by general courts-martial.** Officers shall be trial only by general courts-martial; and no officer shall, when it can be avoided, be tried by officers inferior to him in rank.

Article 80. **Summary courts for trial of enlisted men.** 1915, c. 145, § 31. The commanding officer of each camp, station, or other place, regiment or corps, detached battalion, or company, or other detachment in the military forces of this state, shall have power to appoint for such place, command, or station, a summary court to consist of one officer to be designated by him, before whom enlisted men who are to be tried, shall be brought to trial within twenty-four hours of the time of the arrest, or as soon thereafter as practicable, except when the accused is to be tried by general court-martial; but such summary court may be appointed and the officer designated by superior authority when by him deemed desirable; and the officer holding the summary court shall have power to administer oaths and to hear and determine such cases, and when satisfied of the guilt of the accused adjudge the punishment to be inflicted, which said punishment shall not exceed ten days confinement, forfeiture of ten dollars pay, or a fine of ten dollars, or any or all of such confinement, forfeiture of pay and fine; there shall be a summary court record kept at the headquarters of the proper command in the field, each regiment, or corps, detached battalion, or company at its home station, in which shall be entered a record of all cases heard and determined and the action had thereon; and no sentence adjudged by said summary court shall be executed until it shall have been approved by the officer appointing the court; or by the officer commanding for the time being: provided, that when but one commissioned officer is present with a command he shall hear and finally determine such cases; and provided further, that non-commissioned officers shall not, if they object thereto, be brought to trial before summary courts without the authority of the officer competent to order their trial by general court-martial, but shall in such cases be brought to trial before special or general courts-martial, as the case may be.

Article 84. **Oath of members of court.** 1915, c. 145, § 33. The judge advocate shall administer to each member of the court, before they proceed upon trial, the following oath, or affirmation, which shall also be taken by

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all members of a special court-martial: "You, A. B., do swear, (or affirm,) that you will well and truly try and determine according to evidence, the matter now before you, between the State of Maine and the prisoner to be tried, and that you will duly administer justice, without partiality, favor, or affection, according to the provisions of the rules and articles for the government of the military forces of this state, and if any doubt should arise, not explained by said articles, then according to your conscience, the best of your understanding, and the customs of war in like cases, and you do further swear (or affirm) that you will not divulge the sentence of the court until it shall be published by the proper authority, except to the judge advocate; neither will you disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof, as a witness, by a court of justice in due course of law. So help you God."

Article 85. Oath of judge advocate. When the oath, or affirmation, has been administered to the members of a court-martial the president of the court shall administer to the judge advocate, or person officiating as such, an oath, or affirmation, in the following form: "You, A. B., do swear, (or affirm,) that you will not disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof as a witness by a court of justice in due course of law; nor divulge the sentence of the court to any but the proper authority, until it shall be duly disclosed by the same. So help you God."

Article 86. Menacing words or disturbance of court. A court-martial may punish, at discretion, any person who uses any menacing words, signs, or gestures in its presence, or who disturbs its proceedings by any riot or disorder.

Article 87. Behavior of members. All members of a court-martial are to behave with decency and calmness.

Article 88. Members may be challenged. Members of a court-martial may be challenged by a prisoner, but only for causes stated to the court. The court shall determine the relevancy and validity thereof, and shall not receive a challenge to more than one member at a time.

Article 89. When prisoner refuses to answer. When a prisoner, arraigned before a court-martial, from obstinacy, and deliberate design, stands mute or answers foreign to the purpose, the court may proceed to trial and judgment as if the prisoner had pleaded not guilty.

Article 90. Who shall conduct prosecution; rights of prisoner protected. The judge advocate or some person deputed by him, or by the governor, or general, or officer commanding the division, brigade, camp or other place, regiment, separate squadron or battery shall prosecute in the name of the State of Maine, but when the prisoner has made his plea he shall so far consider himself counsel for the prisoner as to object to any leading question to any of the witnesses and to any question to the prisoner the answer to which might tend to criminate himself.

Article 91. Depositions. The depositions of witnesses residing beyond the limits of this state, may be taken and read in evidence as provided by the laws of this state.

Article 92. **Oath of witness.** All persons who give evidence before a court-martial shall be examined on oath, or affirmation, which shall be administered by the judge advocate in the following form:

"You swear, (or affirm,) that the evidence you shall give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth. So help you God."

Article 93. **Continuance.** A court-martial shall, for reasonable cause, grant a continuance to either party for such time and as often as may appear to be just; provided, that if the prisoner be in close confinement the trial shall not be delayed for a period longer than thirty days.

Article 95. **How courts-martial shall vote.** Members of a court-martial, in giving their votes, shall begin with the youngest in commission.

Article 99. **Discharge or dismissal of officers.** No officer shall be discharged or dismissed from the service except by order of the governor or by sentence of a general court-martial.

Article 100. **Sentence of officers for cowardice or fraud.** When an officer is dismissed from the service for cowardice or fraud, the sentence shall direct that the crime, punishment, name and place of abode of the delinquent shall be published in the newspapers in and about the state and in the county in which the offender lives or where he usually resides; and after such publication it shall be scandalous for an officer to associate with him.

Article 101. **Suspension from command.** When a court-martial suspends an officer from command, it may also suspend his pay and emoluments for the same time, according to the nature of his offense.

Article 102. **No person twice tried for same offense.** No person shall be tried a second time for the same offense.

Article 103. **Time within which trial must be had.** Trial for desertion in time of peace. No person shall be liable to be tried and punished by a general court-martial for any offense which appears to have been committed more than one year before the issuing of the order for such trial, unless, by reason of having absented himself, or of some other manifest impediment, he shall not have been amenable to justice within that period.

No person shall be tried or punished by a court-martial for desertion in time of peace and not in the face of an enemy, committed more than one year before the arraignment of such person for such offense, unless he shall meanwhile have absented himself from the state, in which case the time of his absence shall be excluded in computing the period of the limitation: Provided, that said limitation shall not begin until the end of the term for which said person was mustered into the service.

Article 104. **Sentence must be approved.** No sentence of a court-martial shall be carried into execution until the same shall have been approved by the officer ordering the court, or by the officer commanding for the time being.

Article 106. **Sentence confirmed by governor.** No sentence of a court-martial respecting a general officer, and no sentence of a court-martial directing the dismissal of any officer, shall be carried into execution until it shall have been confirmed by the governor.

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Article 109. **Execution of sentences when confirmation is not required.** All sentences of a court-martial may be confirmed and carried into execution by the officer ordering the court, or by the officer commanding for the time being, where confirmation by the governor is not required by these articles.

Article 112. **Power to pardon or mitigate punishment.** Any officer who is authorized to confirm and carry into execution the sentence of a court-martial shall have power to pardon or mitigate any punishment adjudged by it, except the punishment of dismissal of an officer; and the governor shall have power to pardon or mitigate any punishment adjudged by any court-martial.

Article 113. **Records of proceedings and sentence forwarded to adjutant general.** 1911, c. 81, § 26. Every judge advocate, or person acting as such, at any general court-martial, shall, with as much expedition as the opportunity of time and distance of place may admit, forward the original proceedings and sentence of such court to the adjutant general, in whose office they shall be carefully preserved.

Article 114. **Party tried, entitled to copy of proceedings.** 1911, c. 81, § 26. Every party tried by a general court-martial shall, upon demand thereof, made by himself or by any person in his behalf, be entitled to a copy of the proceedings and sentence of such court.

Article 115. **Court of inquiry may be ordered.** A court of inquiry to examine into the nature of any transaction of, or accusation or imputation against any officer or soldier may be ordered by the commander-in-chief; but such courts of inquiry shall never be ordered by any commanding officer except upon a demand by the officer or soldier whose conduct is to be inquired of.

Article 116. **Membership of court of inquiry.** A court of inquiry shall consist of one or more officers, not exceeding three, and a recorder to reduce the proceedings to writing.

Article 117. **Oath of members of court of inquiry.** The recorder of a court of inquiry shall administer to the members the following oath: "You shall well and truly examine and inquire, according to the evidence, into the matter now before you, without partiality, favor, affection, prejudice or hope of reward. So help you God." After which the president of the court shall administer to the recorder the following oath: "You, A. B., do swear that you will, according to your best abilities, accurately and impartially record the proceedings of the court and the evidence to be given in the case in hearing. So help you God."

Article 118. **Witnesses may be summoned.** A court of inquiry and the recorder thereof shall have the same power to summon and examine witnesses as is given to courts-martial and the judge advocate thereof. Such witnesses shall take the same oath which is taken by witnesses before courts-martial and the party accused shall be permitted to examine and cross-examine them so as fully to investigate the circumstances in question.

Article 119. **Such court shall give no opinion.** A court of inquiry shall not give an opinion on the merits of the case inquired of unless specially ordered to do so.

Article 120. **Proceedings authenticated.** The proceedings of a court of inquiry must be authenticated by the signature of the recorder and the president thereof, and delivered to the adjutant general.

Article 121. **Proceedings admitted as evidence.** The proceedings of a court of inquiry may be admitted as evidence by a court-martial in cases not extending to the dismissal of an officer; provided, that the circumstances are such that oral testimony can not be obtained.

Article 125. **On death of officer inventory of his effects shall be transmitted to adjutant general.** 1911, c. 81, § 27. In the case of death of any officer while engaged in field service for instruction or otherwise the second officer in command of the troops with which said officer was serving at the time of his death shall immediately secure all his effects then in camp and shall make and transmit to the adjutant general an inventory thereof.

Article 126. **On death of soldier inventory of his effects shall be transmitted to adjutant general.** 1911, c. 81, § 27. In the case of death of any soldier while engaged in field service for instruction or otherwise the commanding officer of his troop, battery, company or detachment shall immediately secure all his effects then in camp and shall, in the presence of two other officers, make an inventory thereof and transmit the same to the adjutant general.

Article 127. **Duty of officers charged with care of effects of deceased officers or soldiers.** 1911, c. 81, § 27. Officers charged with the care of the effects of deceased officers or soldiers shall account for and deliver the same in accordance with such instructions as may be given by the adjutant general. And no officer so charged shall be discharged until he has deposited in the hands of the commanding officer of his regiment or corps all the effects of such deceased officers or soldiers not so accounted for and delivered.

Article 128. **Articles read every twelve months.** The foregoing articles shall be read once in every twelve months to every company in the military service of this state, and shall be duly observed and obeyed by all officers and soldiers in said service.

Sec. 133. **Customs and usage of the U. S. army and navy.** All matters relating to the organization, discipline and government of the national guard and naval militia, not otherwise provided for in this chapter or in the general regulations, shall be decided by the custom and usage of the United States army and navy respectively.