

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1865.

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1865.

FORTY-FOURTH LEGISLATURE.

HOUSE.

No. 21.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND
SIXTY-FIVE.

AN ACT concerning the militia.

*Be it enacted by the Senate and House of Representatives
in Legislature assembled, as follows :*

Enrolment, exemption, etc.

SECTION 1. Every able-bodied male citizen, resident
2 within this state, of the age of eighteen years and un-
3 der the age of forty-five years, shall be enrolled in the
4 militia.

SECT. 2. The following persons shall be enrolled, but-
2 exempted from military duty, in the militia, viz. :

- 3 The vice-president of the United States ;
- 4 The officers, judicial and executive, of the govern-
5 ment of the United States ;

6 The members of both houses of congress and their re-
7 spective officers ; all custom-house officers ; pilots and
8 mariners employed in the sea service of any citizen or
9 merchant within the United States ; soldiers in the
10 army and seamen in the navy of the United States ;
11 all post-masters, post-officers, post-riders, and stage-
12 drivers employed in the care and conveyance of the
13 mail of the post-office of the United States ; all ferry-
14 men employed at any ferry on the post-road.

15 Also all justices of courts of record, registers of deeds,
16 and sheriffs ; and any person of either of the religious
17 denominations of quakers or shakers, who shall, on or
18 before the first day of May annually, produce to the
19 commander of the company, within the limits of which
20 he resides, a certificate, signed by two or more of the
21 elders or overseers, (as the case may be) and counter-
22 signed by the clerk of the society with which he meets
23 for public religious worship, which shall be in sub-
24 stance as follows :

25 We, the subscribers, of the society of people called
26 ———, in the town of ———, in the county of
27 ———, do hereby certify that ——— ——— pro-
28 fesses the religious faith of our society, and is a mem-
29 ber thereof, that he frequently and usually attends re-
30 ligious worship with said society, and we believe that

31 he entertains conscientious scruples against bearing
32 arms.

33 A. B.) Elders or Overseers,
34 E. F., Clerk. C. D. J (as the case may be.)

35 The persons hereinafter named shall be enrolled, **but**
36 shall be held to service only in case of war, invasion,
37 the prevention of invasion, insurrection, the suppres-
38 sion of riots, and to aid civil officers in the execution
39 of the laws, viz. :

40 Officers who have held or may hold for a period of
41 five years, commissions in the army or navy of the
42 United States, or in the militia of this or any other
43 state of the United States ; or who have been or shall
44 be superseded and discharged ; or who have held or
45 shall hold commissions in any corps at the time of its
46 disbandment.

47 The superintendents of the insane hospital at Augusta.

48 The officers and guards employed at the state prison
49 in Thomaston, or in any of the jails or houses of cor-
50 rection, or state reform school.

51 Keepers of light-houses.

52 No idiot, lunatic, common drunkard, vagabond, pau-
53 per, or person convicted of any infamous crime, shall
54 be allowed to serve in the militia ; and any person con-
55 victed of such crime after enrolment, shall forthwith
56 be stricken from the rolls.

SECT. 3. It shall be the duty of the assessors, in the
2 several cities, towns, and plantations, to prepare a list
3 of all persons who may be living within their respective
4 limits, and liable to enrolment ; giving the name, age
5 and occupation of each of such persons, and all facts
6 which may determine his exemption from military duty,
7 and place a certified copy of such list in the hands of
8 the clerks of their respective cities or towns and plan-
9 tations on or before the first day of July next ; and
10 the said clerks shall return copies of such lists to the
11 adjutant general on or before the tenth day of July
12 next.

SECT. 4. The commander-in-chief shall divide the
2 state into military districts of companies, which shall
3 be numbered, an orderly sergeant appointed for each,
4 and a record thereof made in the office of the adjutant
5 general. And the commander-in-chief shall issue
6 orders for the election of captains in the several com-
7 panies into which he shall have so divided the state
8 whenever he deems proper.

SECT. 5. The order to notify and preside at the
2 meeting to be held for such election of officers may be
3 issued to the orderly sergeant of the company ; and
4 such sergeant shall at once proceed to notify such
5 meeting, by posting written or printed notices of the
6 time and place appointed for the same in three or more

7 public places within the bounds of said company, ten
8 days before the time appointed for the same. The
9 compensation of said sergeant for notifying the meet-
10 ing and presiding thereat, and for keeping the records
11 and making the return prescribed in section six, shall
12 be three dollars. No person shall be allowed to vote
13 for captain until his name shall have been checked by
14 the presiding officer on the assessors' list, or for other
15 officers until his name shall have been checked on the
16 captain's enrolment list.

SECT. 6. The presiding officers at all such meetings
2 shall keep records of all the proceedings thereat, and
3 make return thereof to the adjutant general within
4 three days from the holding of the meetings.

SECT. 7. As soon as the captains of the several
2 companies shall have been commissioned and qualified,
3 they, or the acting officer in case there is no captain,
4 shall, without delay, proceed to enroll in the militia,
5 in such form as shall be prescribed by the commander-
6 in-chief, all persons resident within the bounds of their
7 respective companies, and liable to enrolment. And
8 all such persons as shall be under the age of twenty-
9 four years, and liable to military duty, shall be en-
10 rolled in one roll, and constitute the active militia;
11 and all such as shall be above the age of twenty-four

12 years, together with all such persons as it is provided
13 in section second, shall be exempt from military duty,
14 or only liable to do military duty in case of war,
15 invasion, the prevention of invasion, insurrection, the
16 suppression of riots, and to aid civil officers in the
17 execution of the laws, shall be enrolled on another
18 roll, and constitute the reserved militia. And the said
19 commanding officers shall forthwith expose copies of
20 such rolls to view, by posting the same in three or
21 more public places within the bounds of their respec-
22 tive companies for at least fourteen days. And the
23 posting of the rolls shall be deemed legal notice to all
24 persons named therein of the fact of their enrolment.

SECT. 8. All persons so enrolled who claim to be
2 exempt from enrolment, or have been incorrectly en-
3 rolled, shall present their claims to the commanding
4 officer of the company in which they have been en-
5 rolled, within said fourteen days from the first posting
6 of the rolls of said company, and it shall be the duty
7 of such officer to strike from the rolls the names of all
8 such persons as shall be found not liable to enrolment,
9 and to add thereto the names of any other persons
10 liable to enrolment who may have been omitted in said
11 rolls, or may have become liable to such duty since the
12 making thereof, and to make such further corrections

13 in his rolls as may be required by transfers between
14 the active and reserved rolls. And each commanding
15 officer shall, within thirty days from his qualification,
16 return to the clerk of the city, town or plantation in
17 which he resides, the corrected roll of his company, of
18 which the said clerk shall make record in the records
19 of such city, town or plantation ; and each command-
20 ing officer shall also at the same time transmit a copy
21 of such corrected roll to the adjutant general.

SECT. 9. The commander-in-chief may make all
2 further rules and regulations necessary for the complete
3 enrolment of the militia, under the provisions of this
4 act, and in accordance with the laws of the United
5 States.

SECT. 10. Each commanding officer shall, from time
2 to time, add to the rolls of his company the name of
3 each citizen resident within its bounds, who shall ar-
4 rive at the age of eighteen years, or come to reside
5 within said bounds, or who, without being exempted,
6 shall cease to be holden to duty elsewhere, and the
7 commanding officer shall notify such citizen of his en-
8 rolment without delay. And each commanding officer
9 shall, annually, in the month of May in each year,
10 cause copies of the rolls of his company to be exposed
11 to view in the manner and for the period prescribed in

12 section seven, and having revised and corrected said
13 rolls in the manner prescribed in section eight, return
14 copies of the same to the clerks of their respective cit-
15 ies, towns or plantations to be recorded, and to the
16 adjutant general, on or before the first day of June in
17 each year. And such posting of said rolls as herein
18 before prescribed, shall be legal notice to all persons
19 named therein of the fact of their enrolment.

20 The roll of each company shall state the name, age,
21 rank, occupation and birthplace of each man enrolled
22 in said company.

23 The commanding officer of each volunteer company
24 shall transmit to the adjutant general, annually, on or
25 before the first day of June, a complete roll of his com-
26 pany, with the name, age, residence and date of en-
27 listment of each member thereof, and of each man dis-
28 charged therefrom during the preceding year, together
29 with the date of such discharge.

SECT. 11. The commander-in-chief may from time
2 to time make such alterations as may by him be deemed
3 expedient, in the bounds of the several companies, and
4 issue such orders as may be thereby rendered necessary
5 for the enrolment of the militia in such companies, or
6 any of them, or in any new companies thus created.

Reserved and active militia.

SECT. 12. The reserved militia shall be subject to
2 no active duty except in case of war, invasion, the
3 prevention of invasion, insurrection, or the suppression
4 of riots, or when required to aid civil officers in the
5 execution of the laws of the state or of the United
6 States, in which cases the commander-in-chief may
7 order a draft, as provided in section one hundred
8 twenty-seven.

SECT. 13. When the reserve militia, or any portion
2 thereof, are ordered out for actual service, and while
3 engaged in the same, they shall be organized by the
4 commander-in-chief in companies and regiments, which
5 shall be officered, governed and trained, according to
6 the laws of the United States and of this State, and
7 attached to brigades and divisions of the active militia,
8 or formed into separate brigades and divisions, as the
9 commander-in-chief shall deem expedient.

SECT. 14. The companies of the active militia shall
2 be formed by the commander-in-chief into regiments,
3 brigades and divisions, and organized in conformity
4 with the laws of the United States, and the comman-
5 der-in-chief may make such changes in the formation

6 of regiments, brigades and divisions, from time to
7 time, as may become necessary.

SECT. 15. The commander-in-chief may authorize
2 the recruitment at large, in each division, of so many
3 companies of cavalry, batteries of light artillery, and
4 companies of engineers, as he may deem proper.

Volunteer militia.

SECT. 16. The commander-in-chief may authorize
2 the continuance or formation of volunteer companies,
3 formed of members of the active or of the reserve
4 militia, who shall be liable to all the duties of the active
5 militia, but shall be excused from duty in the standing
6 company in which they are enrolled, so long as they
7 shall continue members of such volunteer companies.

SECT. 17. The volunteer companies shall be formed
2 into separate regiments, or attached to such regiments
3 of the active militia as the commander-in-chief shall
4 deem proper, and he may retain any existing compa-
5 nies of the volunteer militia.

SECT. 18. The non-commissioned officers and pri-
2 vates of each volunteer company, and all recruits ad-
3 mitted into the same, shall sign their names in a book
4 of enlistment to be kept by the company for the pur-
5 pose, in such form as shall be prescribed by the com-

6 mander in chief ; which signing shall be a legal enlist-
7 ment, by virtue whereof they shall be held to do duty
8 in said company for six years, unless they shall become
9 incapacitated by subsequent disability, or be regularly
10 discharged therefrom by the proper officer.

SECT. 19. Companies of cavalry, artillery and en-
2 gineers may remain unattached to any regiment or
3 brigade, if the good of the service in the opinion of
4 the commander-in-chief shall require it, or may be
5 attached to divisions at the pleasure of the commander-
6 in-chief. In such case, such companies shall be
7 subject to the immediate orders of the commanders
8 of such divisions or brigades as the commander-in-
9 chief shall designate ; who shall receive the reports,
10 returns and orders, have the authority and discharge
11 the duties, with regard to such companies, which are
12 prescribed for the commanders of regiments with
13 regard to other companies.

SECT. 20. All volunteer companies shall be or-
2 ganized in all respects like the companies of the same
3 arm of the active militia ; but no new volunteer
4 company shall be organized unless such new company
5 shall have on its rolls at least the maximum number of
6 enlisted men ; and no election of officers shall be
7 ordered at any time in any company of the volunteer

8 militia, unless at the time of such order the said
9 company shall have at least the minimum number
10 of enlisted men on its rolls.

SECT. 21. If it appears to the commander-in-chief
2 on the representation of the adjutant general, inspector
3 general, or officer commanding a division or brigade,
4 that a volunteer company has failed to comply with
5 the requisitions of the law in matters of uniform,
6 equipment or discipline, so that it is incapacitated to
7 discharge the duties required of it, such company may
8 be disbanded by the commander-in-chief.

SECT. 22. If a volunteer company is without
2 commissioned officers, and having been twice ordered
3 to fill such vacancies, neglects or refuses to fill them ;
4 or is reduced to a less number than the minimum num-
5 ber of non-commissioned officers and privates provided
6 for a company of its arm, and so remains for six con-
7 secutive months, or appears from any return made to
8 the adjutant general to have been reduced below such
9 minimum number of non-commissioned officers and
10 privates present and doing duty at the time for which
11 such return is made, such company may be forthwith
12 disbanded by the commander-in-chief.

SECT. 23. The commander of a regiment may, upon
2 the written application of the commander of a volun-

3 teer company in his regiment, accompanied by a re-
4 quest in writing, signed by a non-commissioned officer
5 or private, discharge such non-commissioned officer or
6 private from the company; and the commander of a
7 company unattached, may, upon an application in
8 writing, signed by a member thereof, discharge such
9 member; and commanding officers of regiments or
10 detached companies may discharge non-commissioned
11 officers or privates of volunteer companies, upon the
12 request by vote of a majority of the active members of
13 the company, but no such discharge shall operate to
14 discharge such non-commissioned officer or private
15 from military service under this act, and the officer
16 granting the same shall forthwith give notice thereof
17 to the commanding officer of the company of militia in
18 which such non-commissioned officer or private is liable
19 to perform military duty.

SECT. 24. The commander of a brigade may raise,
2 by voluntary enlistment and warrant, and organize
3 within the limits of his command, a band, to be under
4 his direction and command, whenever his brigade
5 parades or the said band is ordered to parade with any
6 portion of said brigade by the commander-in-chief, a
7 band of musicians, not to exceed, including a master
8 and deputy-master, sixteen for a brigade. The master,

9 and in his absence, the deputy-master, shall teach and
10 command the band, and issue all orders directed by
11 such commander. Each member of the band shall
12 keep himself provided with such uniform as may be
13 directed by the commander-in-chief, and such instru-
14 ment as the commander of his brigade prescribes, under
15 penalty for each neglect or deficiency, or for miscon-
16 duct, of dismissal from the band by such commander,
17 and of not less than ten, nor more than twenty dollars
18 to be recovered, on complaint, by the brigade inspec-
19 tor, to the use of the state.

Organization of militia.

SECT. 25. The militia, under the command-in-chief
2 of the governor of the state, shall be organized and
3 officered as follows :

4 The staff of the commander-in-chief shall consist of
5 an adjutant general, who shall be the chief of the
6 staff, quartermaster general, inspector general, surgeon
7 general, commissary general, and judge advocate
8 general, each with the rank of brigadier general.

9 Four aides-de-camp with the rank of lieutenant
10 colonel. A military secretary with the rank of major,
11 and such additional officers of the general staff as the
12 public service may require, with such rank as the
13 commander-in-chief may designate.

14 *Divisions.*—To each division there shall be one
15 major general, one division inspector with the rank of
16 lieutenant colonel, one assistant adjutant general, one
17 quartermaster, one commissary of subsistence, one
18 judge advocate and one aide-de-camp, each with the
19 rank of major, and two aides-de-camp, each with the
20 rank of captain.

21 *Brigades.*—To each brigade there shall be one briga-
22 dier general, one brigade inspector, with the rank of
23 major, one assistant adjutant general, one quartermas-
24 ter, one commissary of subsistence, one paymaster and
25 one aide-de-camp, each with the rank of captain, and
26 one aide-de-camp with the rank of first lieutenant.

27 *Infantry.*—To each regiment of infantry there shall
28 be one colonel, one lieutenant colonel, and one major,
29 one adjutant and one quartermaster, each with the
30 rank of first lieutenant, one surgeon, with the rank of
31 major, two assistant surgeons, each with the rank of
32 first lieutenant, one chaplain, one sergeant major, one
33 quartermaster sergeant, one commissary sergeant, one
34 hospital steward, and two principal musicians, and
35 ten companies; each company to consist of one cap-
36 tain, one first lieutenant, one second lieutenant, one
37 first sergeant, four sergeants, eight corporals, two

38 musicians, one wagoner, and not less than sixty-four
39 nor more than eighty-two privates.

40 *Cavalry.*—To each regiment of cavalry there shall
41 be one colonel, one lieutenant colonel, three majors, one
42 surgeon with the rank of major, two assistant surgeons,
43 with the rank of first lieutenant, one veterinary sur-
44 geon with the rank of sergeant major, one adjutant,
45 one quartermaster, one commissary of subsistence, each
46 with the rank of first lieutenant, one chaplain, one ser-
47 geant major, one quartermaster sergeant, one commis-
48 sary sergeant, two hospital stewards, one saddler ser-
49 geant, one chief trumpeter, and twelve companies or
50 troops ; each company to consist of one captain, one
51 first lieutenant, one second lieutenant, one first sergeant,
52 one quartermaster sergeant, one commissary sergeant,
53 five sergeants, eight corporals, two trumpeters, two
54 farriers or blacksmiths, one saddler, one wagoner, and
55 not less than sixty nor more than seventy-eight pri-
56 vates.

57 *Artillery.*—To each regiment of artillery there shall
58 be one colonel, one lieutenant colonel, one major to
59 every four companies or batteries, one adjutant and one
60 quartermaster, each with the rank of first lieutenant,
61 but not to be extra lieutenants, one chaplain, one ser-

62 geant major, one quartermaster sergeant, one commis-
 63 sary sergeant, one hospital steward, and two principal
 64 musicians.

65 To each battery of light artillery, or company of
 66 heavy artillery, there shall be one captain, two first
 67 lieutenants, two second lieutenants, one first sergeant,
 68 one quartermaster sergeant, six sergeants, twelve cor-
 69 porals, two musicians, two artificers, one wagoner, and
 70 one hundred and twenty-two privates.

71 *Engineers.*—To each company of engineers there shall
 72 be one captain, two first lieutenants, one second lieu-
 73 tenant, ten sergeants, ten corporals, two musicians,
 74 sixty-four artificers, and sixty-four privates.

Officers of the line.

SECT. 26. The officers of the line shall be elected
 2 as follows :

3 Major generals by the senate and house of represen-
 4 tatives, each having a negative upon the other.

5 Brigadier generals, by the written votes of the field
 6 officers of the respective brigades.

7 Field officers of regiments, by the written votes of
 8 the captains and subalterns of the companies of the
 9 respective regiments.

10 Captains and subalterns of companies, by the written

11 votes of the non-commissioned officers and privates of
12 the respective companies.

13 In the first election of captains of companies to be
14 held under this law, every man whose name is borne
15 on the roll of the company, as made out by the asses-
16 sors, and who is not exempt from military duty, shall
17 be entitled to vote. But after the enrolment by the
18 commanding officer so elected, and division of the
19 militia into the active and reserve militia, no member
20 of the reserve militia shall be entitled to vote at any
21 election of officers of any company of the active militia.

Staff officers.

SECT. 27. The staff officers of the militia shall be
2 appointed in manner following :

3 The adjutant general and quartermaster shall be
4 chosen as provided by the constitution. The inspector
5 general, judge advocate general, commissary general,
6 surgeon general, aides-de-camp and military secretary
7 to the commander-in-chief, with such additional officers
8 of the general staff as the commander-in-chief may
9 deem necessary, by the commander-in-chief.

10 The major generals and brigadier generals shall
11 appoint their respective staffs. All other staff officers
12 of division and brigade staffs shall be appointed by the

13 commander-in-chief upon the nomination of the gene-
14 rals commanding the respective divisions and brigades,
15 and shall hold their offices for one year and until their
16 successors are appointed and qualified, but may be re-
17 moved at any time by the commander-in-chief.

18 Adjutants, quartermasters, commissaries and chap-
19 lains of regiments shall be appointed by their respec-
20 tive colonels.

21 Surgeons and assistant surgeons, by the commander-
22 in-chief, upon the nomination of their respective
23 colonels, after they shall have passed an examination
24 before a board of surgeons to be appointed by the
25 commander-in-chief.

Eligibility and qualifications of officers.

SECT. 28. Members of the reserved militia shall be
2 eligible to office in the active militia ; but no commis-
3 sion shall issue to an officer elected or appointed unless
4 he appears to be qualified by education and ability to
5 discharge the duties of his office : And the comman-
6 der-in-chief may in his discretion cause an examination
7 to be had, by a military board which he is authorized
8 to appoint, into the qualifications of all persons, below
9 the rank of major generals, claiming commissions under
10 this act. If upon such examinations the board finds

11 the candidate qualified within the meaning of this sec-
12 tion, the commission shall issue.

SECT. 29. No idiot, lunatic, vagabond, pauper, nor
2 person convicted of an infamous crime, shall be eligible
3 to any military office, and the habitual use of intoxicat-
4 ing liquors as a beverage shall disqualify any person
5 from holding any commission under this act. When it
6 appears to the commander-in-chief that a person thus
7 ineligible has received a majority of the votes cast at
8 an election of officers, he shall not commission him, but
9 shall declare such election null and void, and appoint
10 some person to fill the vacancy.

SECT. 30. When the electors neglect or refuse to
2 elect to fill a vacancy, the commander-in-chief shall
3 appoint a suitable person.

SECT. 31. When the office of major general, briga-
2 dier general, colonel, or captain, is vacant, or such
3 officer is sick or absent, the officer next in rank shall
4 command the division, brigade, regiment, or company,
5 until the vacancy is supplied. The senior non-com-
6 missioned officer of a company without commissioned
7 officers, shall command the same, until some commis-
8 sioned officer is detailed to command it, as provided in
9 section thirty-three.

SECT. 32. When a company is newly enrolled, or
2 from any cause is without commissioned officers, the
3 commander of the regiment may, without an order
4 from the commander of the division, order an election
5 of officers as soon as may be.

SECT. 33. When a company is first enrolled, or from
2 any cause is without officers, and an election of officers
3 is ordered, if such company neglects or refuses to elect
4 any officer, or if the persons elected shall not accept,
5 the commander of the regiment to which it belongs,
6 shall detail some officer of the staff or line of the regi-
7 ment to train and discipline said company, until some
8 officer is elected or appointed by the commander-in-
9 chief. Such officer shall have the same power, and be
10 subject to the same liabilities, as if he were captain of
11 such company ; shall keep the records of the company,
12 and prosecute for all fines and forfeitures, in like man-
13 ner as a clerk might do, under section one hundred and
14 sixty-two ; and all meetings of such company shall be
15 notified as provided in section ninety-eight.

SECT. 34. The non-commissioned staff officers of
2 regiments shall be appointed by the colonels of their
3 respective regiments. Non-commissioned officers of
4 companies shall be appointed by their respective cap-
5 tains, who shall forthwith make a return, in writing,

6 of such appointments, to the officer commanding the
7 regiment.

8 To every company there shall be a clerk who shall be
9 be one of the sergeants, to be appointed by the com-
10 manding officer of the company.

SECT. 35. Whenever the clerk of a company is ab-
2 sent, sick, or unable to discharge the duties of his
3 office, the commander of the company may appoint a
4 clerk pro tempore. In all cases of a vacancy he may
5 order a non-commissioned officer or private to perform
6 the duties of a clerk until another is appointed; and
7 any non-commissioned officer or private refusing or
8 neglecting to perform such duty when so ordered shall
9 forfeit to the use of the company not less than twenty
10 nor more than fifty dollars, to be recovered on complaint
11 by the commander. In such cases the records of the
12 company shall be kept by the commander thereof, as
13 long as such vacancy, absence, sickness, or inability
14 continues, and records so kept shall be competent evi-
15 dence of such orders and temporary appointments, as
16 well as of all matters of which they would be evidence
17 if kept by the clerk.

General provisions respecting officers.

SECT. 36. When a company has neither commis-
2 sioned nor non-commissioned officers, the commander

3 of the regiment to which it belongs, shall appoint
4 suitable persons within said company to be non-com-
5 missioned officers thereof ; and shall appoint one of the
6 non-commissioned officers to be clerk, endorse the ap-
7 pointment on his warrant, administer the oath to him,
8 and certify the same, as required by section fifty-two.

SECT. 37. All commissioned officers shall be com-
2 missioned by the commander-in-chief, according to the
3 respective offices and grades to which they may be
4 elected or appointed, except as herein otherwise ex-
5 pressly provided.

6 Every non-commissioned officer's warrant shall be
7 given and signed by the commanding officer of the
8 regiment.

9 Clerks shall have their appointments certified on the
10 back of their warrants, by the commanding officers of
11 their respective companies.

SECT. 38. Commissioned officers shall take rank
2 according to the date of their commissions. When
3 two of the same grade bear an even date, their rank
4 shall be determined by lot drawn before the com-
5 mander of the division, brigade, regiment, company,
6 or detachment, or president of a court-martial, as the
7 case may be.

8 The day of the appointment or election of an officer

9 shall be expressed in his commission, and considered
10 as the date thereof. When he is transferred to another
11 corps or station of the same grade, the date of the
12 original appointment shall be expressed and considered
13 the date of his commission.

SECT. 39. When an officer shall lose his commis-
2 sion, upon affidavit made before a justice of the peace
3 and produced to the adjutant general, a duplicate com-
4 mission shall issue of the same tenor and date.

SECT. 40. Major generals shall be notified of their
2 elections by the secretary of the state, and, unless
3 within fifteen days after such notice, they signify to
4 the secretary their acceptance of office, shall be taken
5 to have refused the same.

SECT. 41. Major generals shall order elections to fill
2 all vacancies which occur in their respective divisions,
3 in the office of brigadier general, field officer, captain
4 or subaltern. Such elections shall be held at the
5 places most convenient for the majority of the electors,
6 and shall be ordered throughout each division, at least
7 once in each year; the elections of company officers
8 first, and those of field officers next.

Election of officers and oaths.

SECT. 42. Electors shall be notified of elections at
2 least four days previously thereto. A non-commis-

3 sioned officer or private unnecessarily absent from
4 company election, shall forfeit two dollars, to be recov-
5 ered on complaint of the clerk, to the use of the
6 company.

SECT. 43. Officers ordering elections may preside,
2 or detail some officer of suitable rank to preside.

SECT. 44. A captain or staff officer of the rank
2 of captain, may preside at the election of an officer of
3 equal or inferior grade within the limits of his regi-
4 ment ; but no candidate for the vacancy shall preside
5 at the election, except to adjourn the meeting if no
6 proper officer appear to preside.

7 At all elections such presiding officer shall keep a
8 record of the proceedings, and make return thereof to
9 the commanding officer of the regiment, brigade or
10 division, as may be proper.

SECT. 45. The person who has a majority of the
2 written votes of the electors present at a meeting duly
3 notified, shall be deemed elected, and the presiding
4 officer shall forthwith notify him of his election, and
5 make return thereof, or of neglect or refusal to elect,
6 to the commander of the division. Every person so
7 elected and notified, shall accept, if a brigadier gen-
8 eral or field officer, within ten days, or, if a company

9 officer, forthwith : otherwise he shall be taken to have
10 refused. If before the meeting for the election of any
11 officer is dissolved, the person chosen signifies to the
12 presiding officer his refusal to accept, the same shall
13 be recorded and made part of the return, and the elec-
14 tors shall proceed to another election. Elections may
15 be adjourned not exceeding twice, and each adjourn-
16 ment for a period not exceeding two days ; but no
17 company election shall be legal unless it be notified in
18 the manner prescribed in section forty-two.

19 The original roster of the brigade, or regiment, or
20 the original roll of the company, as the case may be,
21 shall be produced at such elections, by the person
22 having the legal custody thereof.

23 The commanding officer of the division shall return
24 all elections, and refusals or neglects to elect, to the
25 commander-in-chief, and unless he is notified by the
26 commander-in-chief of his intention to make an ap-
27 pointment, he may in such case of refusal or neglect to
28 elect, order a new election.

SECT. 46. When an officer holding a military com-
2 mission, is elected to another office in the militia, and
3 accepts the same, such acceptance shall constitute a
4 part of the return of the presiding officer, and shall
5 vacate the office previously held.

SECT. 47. Commissions shall be transmitted to the
2 commanding officers of divisions, and by them through
3 the proper officers, to the officers elect.

SECT. 48. When a person elected or appointed to
2 an office refuses to accept his commission or qualify at
3 the time of acceptance, the officer commanding the
4 division shall certify the fact on the back thereof, and
5 return it to the adjutant general ; and if the office is
6 elective, a new election shall be ordered.

SECT. 49. No person whatsoever shall, pending or
2 after an election, treat with intoxicating liquors the
3 persons attending thereat, nor shall any person, on days
4 of military duty, so treat persons performing such duty,
5 under a penalty of ten dollars for each offence.

SECT. 50. No officer or soldier shall be arrested on
2 civil process, while going to, remaining at, or returning
3 from a place where he is ordered to attend for election
4 of officers or military duty.

SECT. 51. Every commissioned officer, before he
2 enters on the duties of his office, or exercises any com-
3 mand, shall take and subscribe before a justice of the
4 peace, or general or field officer who has previously
5 taken and subscribed them himself, the following oaths
6 and declarations :

7 “ I, A B, do solemnly swear, that I will bear true

8 faith and allegiance to the State of Maine, and will
9 support the constitution thereof. So help me God.”

10 “I, A B, do solemnly swear and affirm, that I will
11 faithfully and impartially discharge and perform all the
12 duties incumbent on me as _____, according to the
13 best of my abilities and understanding, agreeably to
14 the rules and regulations of the constitution, and the
15 laws of this state. So help me God.”

16 “I, A B, do solemnly swear, that I will support the
17 constitution of the United States.”

18 And on the back of every commission the following
19 certificate shall be written or printed, and signed by
20 the person before whom such officer is qualified :

21 This may certify that A B, commissioned as within
22 on this _____ day of _____ A. D. _____ personally
23 appeared, and took and subscribed the oaths, required
24 by the constitution and laws of this state and a law of
25 the United States, to qualify him to discharge the du-
26 ties of his office.

27 _____ Before me,

SECT. 52. Every clerk of a company, before he en-
2 ters upon his duties, shall take the following oath,
3 before the commanding officer of the company to which
4 he belongs, viz.:

5 “I, A. B. do solemnly swear, that I will faithfully
6 and impartially perform all the duties incumbent on

7 me, as clerk of the company to which I belong, ac-
8 cording to the best of my abilities and understanding.
9 So help me God.

10 The commander of such company shall, at the time
11 of administering the oath, certify on the back of the
12 warrant of the sergeant appointed to be clerk, that he
13 was duly qualified, by taking the oath required by
14 law.

Discharge of officers.

SECT. 53. When an officer requests in writing his
2 discharge from office, with the approval of the com-
3 manders of the regiment, brigade and division to which
4 he belongs, the commander-in-chief may so discharge
5 him.

SECT. 54. No commanding officer shall approve a
2 resignation under the preceding section, if the same is
3 offered between the first day of May and the first day
4 of November, unless the reasons for such resignation
5 are urgent and proved to his satisfaction. No officer
6 shall be discharged until he has turned over to the
7 officers entitled to receive the same, all rolls, books,
8 rosters and documents, and all arms, accoutrements,
9 uniforms, equipments, equipages, ammunition, and
10 other public property issued to him, or in his custody,
11 or for which he is responsible or accountable, and filed

12 with the quartermaster-general the certificates herein-
13 after prescribed in sections seventy-seven and eighty-
14 one.

SECT. 55. If an officer unreasonably refuses to ap-
2 prove an application for discharge, and it is so made
3 to appear to the commanders above him, they may
4 approve the same, and the commander-in-chief may
5 discharge the applicant.

SECT. 56. No officer than a staff officer appointed
2 by the commander-in-chief shall be discharged by the
3 commander-in-chief, unless upon his own request, ex-
4 cept as follows :

5 When it appears to the commander-in-chief, by the
6 report of a board of military examiners, as provided in
7 section fifty-seven, that he has become unable or unfit
8 to discharge the duties of his office, or to exercise
9 proper authority over his inferior officers and soldiers,
10 or that he has been convicted of an infamous crime.

11 When the commander of his division certifies that he
12 has, either before or after receiving his commission,
13 removed his residence out of the state, or out of the
14 bounds of his command to so great a distance, that in
15 the opinion of such commanding officer it is incon-
16 venient to exercise his command.

17 When such commander certifies that he has been ab-

18 sent from his command more than one year without
19 leave.

20 Upon address of both houses of the legislature to the
21 governor.

22 Upon sentence of court martial, after trial according
23 to law.

24 When the corps to which he belongs is disbanded.

25 And upon petition of two or more superior officers.

26 In which cases he may be so discharged. Every offi-
27 cer, except when under arrest, shall perform the duties
28 of his office until he is discharged.

SECT. 57. The commander-in-chief may, from time
2 to time, and at any time, appoint a military board of
3 examiners, of not less than three nor more than five
4 officers, whose duty it shall be to examine the capacity,
5 qualification, propriety of conduct, and efficiency of any
6 commissioned officer of the militia below the rank of
7 major general, who may be reported to them as a fit
8 subject for such examination, and upon the report of
9 such commission, if adverse to such officer, and if ap-
10 proved by the commander-in-chief, the commission of
11 such officer shall be vacated: *provided, always, that,*
12 if practicable, two members at least of such board shall
13 be of military rank at least equal to that of the officer
14 to be examined.

SECT. 58. When an officer accepts an appointment
2 in the regular army of the United States, or any corps
3 of United States volunteers, his office shall thereby
4 become vacant ; and if, after accepting such appoint-
5 ment, he exercises any of the powers and authority of
6 such office, he shall forfeit not exceeding one hundred
7 dollars.

SECT. 59. The commissions of staff officers appointed
2 by any other officer than the commander-in-chief, shall
3 expire as soon as the successor of such appointing offi-
4 cer is commissioned.

5 The adjutant general, quartermaster general, commis-
6 sary general, judge advocate, surgeon general, and all
7 other staff officers appointed by the commander-in-chief
8 shall hold their offices for one year and until their suc-
9 cessors are appointed and qualified, but may be
10 removed at any time by the commander-in-chief.

SECT. 60. Officers under arrest shall not resign, but
2 shall be suspended from exercising the duties of office.

SECT. 61. A non-commissioned officer or clerk of a
2 company may resign his office to the commanding offi-
3 cer of his company, and may be discharged therefrom
4 by him, if in his opinion there be sufficient reason
5 therefor.

Adjutant, quartermaster, commissary, surgeon and inspector-general.

SECT. 62. The adjutant-general shall distribute all
2 orders from the commander-in-chief,—attend all pub-
3 lic reviews when the commander-in-chief shall review
4 the militia, or any part thereof,—obey all orders from
5 him relative to carrying into execution and perfecting
6 the system of military discipline established by the
7 laws of the state and of the United States,—furnish
8 blank forms of the different returns that may be re-
9 quired, and explain the principles on which they should
10 be made,—distribute all books required to be furnished
11 at the public expense, receive from the several officers
12 of the different corps throughout the state, returns of
13 the militia under their command, reporting the actual
14 situation of their arms, accoutrements, and ammuni-
15 tion, their delinquencies and every other thing which
16 relates to the general advancement of good order and
17 discipline, all of which the several officers of the di-
18 visions, brigades, and regiments, are hereby required
19 to make in the usual manner, so that the adjutant-
20 general may be furnished therewith, and from all said
21 returns he shall make proper abstracts and lay the
22 same annually before the commander-in-chief; and he

23 shall, annually, on or before the first Monday in Janu-
24 ary, make a return in duplicate of the militia of the
25 state, with their arms, accoutrements and ammunition,
26 according to such directions as he may receive from
27 the secretary of war of the United States, one copy of
28 which he shall deliver to the commander-in-chief, and
29 the other of which he shall transmit to the president
30 of the United States.

SECT. 63. He shall, within twenty days after the
2 receipt of each company or band pay-roll under sec-
3 tions one hundred and twenty-six and one hundred and
4 twenty-eight, after carrying out therein opposite to the
5 name of each man returned, the amount of pay to
6 which he is entitled, and certifying thereon that it con-
7 tains the names of those persons only who are entitled
8 to pay, transmit the same to the mayor and aldermen,
9 the selectmen or assessors of the city, town or plan-
10 tation in which the armory or place of assembly of
11 such company or band is situated.

SECT 64. He shall on or before the twenty-fifth
2 day of January in each year, make out a certified roll
3 of the names of all the general, field and staff officers
4 that appear by the returns made to him under section
5 one hundred and thirty-two, to be entitled to the pay
6 under sections one hundred and forty-four and one

7 hundred and forty-six, and shall ascertain from the
8 returns made to him under sections one hundred and
9 twenty-six and one hundred and twenty-eight, the
10 amount of money necessary to reimburse the several
11 cities and towns, and shall submit such roll and result
12 to the auditor, and the governor shall draw his warrant
13 on the treasury for such sums as may be necessary to
14 pay such officers, and reimburse such cities, towns and
15 plantations.

SECT. 65. The quartermaster general, under the
2 direction and supervision of the commander-in-chief,
3 shall purchase and issue all ordnance stores, artillery,
4 arms and accoutrements, clothing, camp equipage, and
5 military stores generally, except such as are expressly
6 directed by law to be purchased by other officers. He
7 shall, under the orders of the commander-in-chief, pro-
8 cure and provide means of transport for the militia,
9 and for all its implements, munitions of war and mili-
10 tary supplies, and shall be the keeper of the public
11 magazines and of all military property of the State,
12 excepting such as is by law expressly intrusted to the
13 keeping of other officers. He shall give bond to the
14 State in the penal sum of twenty thousand dollars,
15 with two sureties at least, to be approved by the
16 governor and council, conditioned faithfully to dis-

17 charge the duties of his office ; to use all necessary
18 diligence and care in the safe keeping of military
19 stores and property of the state committed to his cus-
20 tody ; to account for the same and deliver over to his
21 successor, or to any other person authorized to receive
22 the same, such stores and property. And any other
23 officer to whom any arms, equipments, stores, or other
24 property of the state shall at any time be issued, may
25 be required to give a bond to the satisfaction of the
26 governor and council, with the like condition.

SECT. 66. The commissary general, under the
2 direction and supervision of the commander-in-chief,
3 shall purchase and issue all military subsistence sup-
4 plies.

SECT. 67. The surgeon general, under the direction
2 and supervision of the commander-in-chief, shall pur-
3 chase and issue all medical, surgical and hospital
4 supplies.

SECT. 68. The adjutant general, quartermaster
2 general, surgeon general and commissary general shall
3 account, as often as may be required by the com-
4 mander-in-chief, and at least once yearly, to the com-
5 mander-in-chief, in such manner as he shall prescribe,
6 for all property which shall have passed through their

7 hands, or the hands of the subordinate officers of their
8 respective departments, or that shall be in their care
9 or possession, and for all moneys which they shall
10 expend in discharging their respective duties; and
11 they shall annually, in January, lay before the gover-
12 nor and council accounts, with vouchers, of their
13 expenditures during the previous year.

SECT. 69. Neither the adjutant general, quarter-
2 master general, surgeon general, or commissary gen-
3 eral, nor any assistant of either of them, nor any sub-
4 ordinate officer of their departments, shall be concerned,
5 directly or indirectly, in the purchase or sale of any
6 article intended for, making a part of, or appertaining
7 to, their respective departments, except for and on ac-
8 count of the state, nor shall they or either of them take
9 or supply to his or their own use any gain or emolu-
10 ment for negotiating or transacting any business in
11 their respective departments, other than what is or may
12 be allowed by law.

SECT. 70. The commander-in-chief may, at his dis-
2 cretion, whenever the office of commissary general or
3 inspector general shall be vacant, assign the duties of
4 such officer to some officer already in commission, until
5 the commander-in-chief shall deem it necessary to fill
6 such office by special appointment.

Arms, equipments, equipage, etc.

SECT. 71. All commissioned officers shall provide
2 themselves with such uniforms and arms complete, as
3 the commander-in-chief shall prescribe, subject to such
4 restrictions, limitations and alterations as he may order.

SECT. 72. Every officer and soldier shall hold his
2 uniform, arms, ammunition and accoutrements required
3 by law, free from all suits, distresses, executions or
4 sales, for debt or payment of taxes.

Articles furnished by the state.

SECT. 73. Whenever any corps or detachment of the
2 militia is ordered to perform any duty requiring the
3 use thereof, the quartermaster general shall deliver to
4 the commanding officer of such corps or detachment,
5 such tents, fixtures and other camp equipage, and such
6 ammunition as may be necessary for the discharge of
7 such duty ; and each officer to whom such equipage is
8 delivered, shall be responsible for the safe keeping of
9 the same, and shall return the same to the quartermas-
10 ter general when the duty shall have been performed
11 for which the same was issued, and in case of the dis-
12 charge or death of such officer, he or his legal repre-
13 resentative shall be released from such responsibility
14 upon filing in the office of the quartermaster general a
15 certificate of the officer succeeding him in command,

16 that the articles so furnished are in his custody at the
17 date of his certificate, and in good order and condition,
18 reasonable use and wear thereof excepted, and the offi-
19 cer giving such certificate shall from that time be
20 responsible for such articles as if they had been origi-
21 nally issued to him.

SECT. 74. Each regiment shall be furnished by the
2 state with the national and state colors, their staffs,
3 belts and sockets ; and each battery of light artillery
4 and company of cavalry with its proper guidon, staff,
5 belt and socket ; and the commander of such regiment,
6 battery or company, shall be responsible for their safe
7 keeping.

SECT. 75. Each company of the active and volunteer
2 militia, on application by the commander thereof to
3 the adjutant general, and producing satisfactory evi-
4 dence that a suitable armory or place of deposit is pro-
5 vided therefor agreeably to section eighty-nine shall
6 be furnished by the quartermaster general with such
7 appropriate arms and equipments as shall be deter-
8 mined by the commander-in-chief.

SECT. 76. The commissioned officers of every com-
2 pany of the active and volunteer militia shall, from
3 the time of their being qualified, be responsible for the
4 safe keeping and return of all uniforms, arms, equip-

5 ment, ammunition and equipage, the property of the
6 state, which have been, or shall hereafter be, issued to
7 their respective companies; and for any loss or dam-
8 age thereto, compensation may be obtained by an
9 action of contract brought by the quartermaster gen-
10 eral against all or any of such officers, which it shall
11 be his duty to bring.

SECT. 77. In case of the discharge or death of such
2 an officer, he or his legal representative shall be
3 relieved from such responsibility, upon filing in the
4 office of the quartermaster general a certificate signed
5 by not less than two commissioned officers of his com-
6 pany, that such articles are, at the date of the certifi-
7 cate, undiminished in quantity and value, reasonable
8 use and wear excepted.

SECT. 78. Non-commissioned officers and soldiers
2 shall be responsible for the preservation of the arms,
3 equipments and uniforms furnished to them, and for
4 any injury or damage thereto, caused by them or by
5 their neglect, shall forfeit a sum sufficient to repair or
6 replace the same, which may be recovered on complaint
7 of the clerk of the company, or the commander thereof
8 may return such sum to the quartermaster general with
9 a proper specification, who shall cause the same to be
10 deducted from the pay of the delinquent.

SECT. 79. Upon the disbandment of a volunteer
2 company which has received arms, equipments, or
3 equipage, from the quartermaster general, he shall
4 receive the same on presentation thereof by the officers
5 of the company, or their agents.

SECT. 80. Each company of militia shall be furn-
2 ished with such instruments of music as the command-
3 er-in-chief shall order. Each commander of a brigade
4 may draw orders upon the quartermaster-general, or
5 officer acting as such, in favor of the commanders of
6 regiments, batteries and companies for colors, guidons
7 and instruments of music. Commanders of companies
8 shall be responsible for the safe keeping of the instru-
9 ments delivered to them for the use of their companies.

SECT. 81. Each battery of light artillery shall be
2 provided, by the quartermaster-general, with the bat-
3 tery of manœuvre prescribed for that arm by the war
4 department of the United States ; with caissons, har-
5 ness, implements, laboratory, and ordnance stores, as
6 may, from time to time, be necessary for their com-
7 plete equipment for the field ; and when expedient in
8 the opinion of the commander-in-chief, such quantity
9 of ammunition annually as he may deem necessary to
10 be expended in experimental gunnery. The commis-
11 sioned officers of each battery shall be accountable for

12 the preservation of the pieces, apparatus and ammuni-
13 tion aforesaid, and for the proper expenditure of the
14 ammunition.

SECT. 82. When any battery or section of a battery
2 is ordered to march out of the city or town where the
3 gun-house is situated, and on occasions of parade for
4 experimental gunnery, review or camp duty, the com-
5 manding officer shall provide horses to draw the field-
6 pieces and caissons, and present his account of the
7 expenses thereof, as provided in section one hundred
8 and fifty-three. On all other occasions when ordered
9 out by an officer of competent authority for camp or
10 salute duty, the charges for horses, powder, and neces-
11 sary expenses, shall be defrayed by the quartermaster-
12 general.

SECT. 83. Every commissioned officer shall be fur-
2 nished with a manual of the tactics of his arm of the
3 service as adopted by the war department of the Uni-
4 ted States, and with a copy of the army regulations.
5 All which books shall be considered public property
6 and returned by such officers to the adjutant-general
7 before their discharge shall be granted.

SECT. 84. The commander-in-chief, with the advice
2 and consent of the council, may sell or exchange, from
3 time to time, such military stores belonging to the

4 state as shall be found unserviceable or in a state of
5 decay, or which they think it for the interest of the
6 state to sell or exchange.

SECT. 85. The committee of the legislature on
2 military affairs shall, annually in January, visit the
3 arsenals in Portland and Bangor, and make a thorough
4 examination into the condition of the same, of the
5 arms and munitions of war, and other property of the
6 state or general government deposited there, and
7 report the condition of the arsenals and property.

Armories.

SECT. 86. The mayor and aldermen and selectmen
2 shall provide to each company of the active and volun-
3 teer militia within the limits of their respective places,
4 a suitable armory or place of deposit for the arms,
5 equipments and equipage, furnished it by the state.
6 When a company is formed from different places, the
7 location of such armory or place of deposit shall be
8 determined by the commanding officer, with the
9 approval of the commander of the regiment, but when
10 it has been once so determined it shall not be again
11 changed without the approval of the quartermaster
12 general.

SECT. 87. Each armory shall be examined and the
2 condition thereof reported once at least in each year to

3 the commander-in-chief, by the inspector general, or a
4 staff officer by him detailed for that duty.

Orders and notifications.

SECT. 88. Orders from the commander-in-chief shall
2 be distributed by the adjutant general; division and
3 brigade orders, by the respective assistant adjutant
4 generals; regimental orders, by the adjutant; com-
5 pany orders, by the clerk, or by any non-commissioned
6 officer or private, when so required by the command-
7 ing officer.

SECT. 89. When a commander orders out his
2 company for military duty, or for election of officers,
3 he shall order one or more of the non-commissioned
4 officers or privates, to notify the men belonging to the
5 company to appear at the time and place appointed.
6 Such non-commissioned officer or private shall give
7 notice of such time and place, to every person whom
8 he is ordered to notify; if he fails so to do, he shall
9 forfeit not less than twenty nor more than one hundred
10 dollars, to be recovered on complaint of the clerk, to
11 the use of the company.

SECT. 90. No notice shall be legal, unless given by
2 such non-commissioned officer or private to each man
3 verbally, or by leaving at his usual place of abode a

4 written or printed order, signed by such officer or pri-
5 vate, four days at least previous to the time appointed,
6 for military duty, or for election of officers; but in
7 case of invasion, insurrection, riot, or an unforeseen or
8 sudden occasion, a verbal, written or printed notice,
9 however short, shall be legal. When a company is
10 paraded, the commanding officer may verbally notify
11 the men to appear at a future day, not exceeding
12 thirty days from the time of such parade, which shall
13 be sufficient notice as respects the persons present;
14 and all commanders of companies may, on parade,
15 cause to be read, division, brigade or regimental or-
16 ders, and notify the soldiers of their several commands
17 to appear as by such order required; which notice
18 shall be a sufficient warning. Notifications may be
19 proved, as is provided in section one hundred and
20 sixty-one.

SECT. 91. When a company is without commissioned
2 sioned officers, the commander of the regiment to
3 which it belongs, or the officer detailed by him to dis-
4 cipline the same, shall in writing order any non-com-
5 missioned officers or privates to notify the persons
6 liable to do duty in such company, to appear for duty
7 required by law, at the time and place mentioned in
8 in such order; and if a non-commissioned officer or

9 private refuses or neglects so to notify, he shall forfeit
10 and pay to the use of his regiment not less than twenty
11 nor more than one hundred dollars, to be recovered on
12 complaint by the commander thereof.

SECT. 92. Clerks of companies shall record, in the
2 orderly book, company orders and notifications ; but
3 such record shall not be necessary to the recovery of a
4 penalty.

Discipline, trainings, inspection, and camp duty.

SECT. 93. The system of discipline and field exer-
2 cise ordered to be observed by the army of the United
3 States, in the different corps, or such other system as
4 may hereafter be directed for the militia by laws of the
5 United States, shall be observed by the militia.

SECT. 94. The active militia and volunteers shall
2 parade by companies on the first Wednesday in May
3 for inspection, company drill and manœuvre. They
4 shall also be assembled for drill three hours in each month,
5 from the first day of May to the last day of November,
6 and three hours in each month from the first day of
7 December to the last day of April ; and, unless other-
8 wise ordered, the times for such monthly drills shall be
9 fixed by the commanders of companies respectively.
10 If a company is so situated that the soldiers cannot be

11 conveniently assembled at one place for monthly drills,
12 the commander of the regiment may order the same to
13 be drilled in squads not exceeding three to a company :
14 each squad shall, if practicable, be under the command
15 of a commissioned officer. The members of the com-
16 pany shall be notified as provided in sections ninety-
17 five and ninety-six. Separate rolls shall be kept for
18 each squad, and the same shall be called under the
19 direction of the commanding officer thereof by a non-
20 commissioned officer appointed for that purpose. The
21 records of fines and forfeitures incurred at such squad
22 drills shall be kept by the officer in command and have
23 the same force and validity as is herein provided in the
24 case of company records. Nothing in this section
25 contained shall be construed to excuse the keeping of
26 company rolls as provided in this act.

SECT. 95. Mayors and aldermen and selectmen shall
2 provide suitable places for the parade, target practice
3 and drill of the militia belonging to their respective
4 cities and towns.

SECT. 96. Each commander of division shall annually
2 order an encampment of his division, by brigades or
3 regiments, for four days, at some time between the
4 middle of July and the middle of October. The order
5 shall be promulgated in the brigade thirty days before

6 the time appointed for the encampment ; the orders for
7 encampment by regiments shall be promulgated in the
8 regiment twenty days before such time. The place, and
9 if no time be designated by the commander of division,
10 the time of encampment shall be designated by the
11 commander of the troops to be assembled, and regard
12 shall always be had to the convenience, proximity and
13 accommodation of the troops to be assembled ; but no
14 ground shall be occupied for such encampment, in time
15 of peace, without the consent of the selectmen of the
16 town, or mayor and aldermen of the city where the
17 encampment is to be made, unless by order of the
18 commander-in-chief.

SECT. 97. When a company destitute of commis-
2 sioned officers parades with other troops, the officer in
3 command shall detail one or more commissioned officers
4 present to command it, unless the officer detailed by
5 the commander of the regiment to command it is
6 present.

SECT. 98. The division and brigade inspectors shall
2 inspect the arms, ammunition and accoutrements of the
3 regiments in their divisions and brigades, at such annual
4 encampment, and see that their exercises and manœu-
5 vres, are conducted in accordance with the system of
6 military discipline required by law, and by orders

7 received, from time to time, from the commander-in-
8 chief.

SECT. 99. The inspector general shall attend at the
2 encampments provided in this act, and superintend the
3 instruction, drill and manœuvres practiced at the en-
4 campments, critically observe the same, and make a
5 written detailed report thereon, independent of the
6 report of the commanding officer. Said report shall
7 state the amount and kind of duty performed by the
8 troops on each day, the manner of its performance, the
9 state and condition of each regiment and company, the
10 degree of order maintained, and the general police of
11 the encampment ; and shall also contain such sugges-
12 tions as are deemed important upon the working and
13 efficiency of the system of instruction, drill and disci-
14 pline prescribed, and of the necessity of further regu-
15 lation and legislation in order to perfect the military
16 system of the state, and be transmitted to the com-
17 mander-in-chief within thirty days from the breaking
18 up of the encampments.

SECT. 100. Every commanding officer, when on
2 duty, may ascertain and fix necessary bounds and
3 limits to his parade, not including a road so as to pre-
4 vent passing, within which no spectator shall enter
5 without leave from such commanding officer. Who-

6 ever intrudes within the limits of the parade, after
7 being forbidden, may be confined under guard not ex-
8 ceeding twelve hours, at the discretion of the com-
9 manding officer ; and whoever resists a sentry who
10 attempts to put him or keep him out of such limits,
11 may be arrested by order of the commanding officer,
12 and carried before a court or magistrate, to be exam-
13 ined or tried upon complaint for such assault, or
14 disturbance and breach of the peace.

SECT. 101. The authority of the officer in command
2 of any camp may be extended by order of the com-
3 mander-in-chief to a distance of one-half of a mile
4 around such camp, and upon the external space within
5 such distance from the camp, with the exception of
6 any road or roads within said distance, no person or
7 persons other than the owners of the same with their
8 servants, for the purpose of occupying and improving
9 the same in the same manner and way in which they
10 occupied and improved the same at the time of the es-
11 tablishment of such camp, shall be allowed to enter,
12 except under such rules as shall be established by the
13 officer commanding such camp, with the approval of
14 the commander-in-chief, or by special permission of
15 the officer in command for the time being, or some
16 officer by him designated ; and if any person shall so

17 enter he may be immediately expelled, and before
18 being expelled he may, at the discretion of the officer
19 commanding such camp, be confined under guard for a
20 period not exceeding twenty-four hours.

SECT. 102. No officer or soldier shall be holden to
2 perform military duty except in case of invasion, in-
3 surrection, riot or tumult made or threatened, or in
4 obedience to the orders of the commander-in-chief, on
5 a day appointed for a meeting in the town in which he
6 resides for the election of governor, senators, electors
7 of president or vice-president of the United States, or
8 representatives to congress or the legislature ; and an
9 officer parading his company or wilfully ordering it to
10 parade contrary to the provisions of this section, shall,
11 besides being liable to a court martial, forfeit not less
12 than fifty nor more than three hundred dollars.

SECT. 103. The commander-in-chief may order out
2 the active and volunteer militia, or any portion thereof,
3 for encampment, drill, inspection, review, escort or
4 other duty.

SECT. 104. Nothing herein contained shall be con-
2 strued to prevent any company from meeting for
3 the purpose of drill, funeral, or other escort, or a volun-
4 tary service ; nor to impair the obligation arising under
5 constitutional articles of agreement adopted by a volun-

6 teer company, so far as regards the members who have
7 signed the same, unless they are repugnant to law.
8 All fines, penalties and assessments incurred by officers
9 or soldiers of such company, under such constitutional
10 articles of agreement, signed by them and approved by
11 the commander-in-chief, may in addition to any other
12 remedy thereon, be recovered on complaint of the
13 clerk.

SECT. 105. Every non-commissioned officer and
2 private holden by law to do military duty in any
3 company, and unnecessarily neglecting to appear at
4 the time and place appointed for such duty, shall
5 forfeit and pay for every such neglect the sums herein-
6 after mentioned.

7 For unnecessarily neglecting to appear at the inspection
8 on the first Wednesday of May, four dollars.

9 At any company training, four dollars.

10 At any encampment or review, five dollars for each
11 day of such encampment or review.

12 At any company or squad drill, three dollars.

13 At any meeting for special duty of escort or other-
14 wise where no fine is provided, four dollars.

SECT. 106. Every non-commissioned officer or pri-
2 vate who appears at a parade or drill required by law,
3 deficient in any arm, equipment or uniform furnished

4 him by the state, or required of him by law or general
5 order, or with such arms, equipments or uniform
6 unserviceable or in bad condition, shall forfeit one
7 dollar, to be recovered on complaint of the clerk, to
8 the use of the company.

SECT. 107. A soldier who unnecessarily, or without
2 order from a superior officer, comes to any parade with
3 his musket, rifle or pistol loaded with ball, slug or
4 shot, or shall so load the same while on duty, or un-
5 necessarily, or without order from a superior officer,
6 discharges the same when going to, returning from, or
7 upon parade, shall forfeit not less than five nor more
8 than twenty dollars ; to be recovered on complaint of
9 the clerk, to the use of the company.

SECT. 108. A soldier behaving with contempt to-
2 wards an officer, or conducting himself in a disorderly
3 manner, or exciting or joining in a tumult or riot, or
4 being guilty of unmilitary conduct, disobedience of
5 orders, or neglect of duty when under arms or on duty,
6 shall forfeit not less than ten nor more than forty dol-
7 lars ; to be recovered as provided in the preceding
8 section.

SECT. 109. A soldier, wantonly or without leave,
2 quitting his guard, section, platoon, or company, shall
3 forfeit not less than five nor more than twenty dollars ;

4 to be recovered, if the offence is committed at a regi-
5 mental parade, on complaint by the commander of the
6 regiment, to the use of the regiment ; if at any other
7 parade, by the clerk, to the use of the company ; and
8 shall forfeit his pay for the term of service for which
9 he is then engaged.

SECT. 110. For any offence mentioned in the pre-
2 ceding section the delinquent may be put and kept
3 under guard by the commander of the company, regi-
4 ment, or of the field, for a time not extending beyond
5 the term of service for which he is ordered out. A
6 non-commissioned officer, for an offence mentioned in
7 this chapter, or for disobedience of orders or unmilitary
8 conduct at a regimental parade, may, besides incurring
9 the fine prescribed, be reduced to the ranks by the
10 commander of his regiment ; and for such misconduct
11 at any other parade, by such commander with the ad-
12 vice of his company commander.

SECT. 111. Soldiers in companies without officers,
2 when ordered out to be trained and disciplined, shall
3 for absence, deficiency, misconduct or neglect, be liable
4 to the fines prescribed for offences in other companies ;
5 to be recovered upon complaint of the officer so
6 detailed, substantially as by clerks under section one
7 hundred and sixty-one ; to the use of the regiment.

SECT. 112. All fines incurred by a non-commissioned officer or soldier, unless otherwise provided, shall inure to the benefit of said company.

Rosters, orderly books, rolls, and returns.

SECT. 113. The assistant adjutant general of each division and brigade, and the adjutant of each regiment or corps, shall constantly keep a correct roster of the command to which he belongs ; and an orderly book in which he shall record orders received and issued.

SECT. 114. Commanders of the volunteer companies shall transmit on or before the twenty-fifth day of April, annually, to each commander of companies in the active militia, the name, age, and date of enlistment of each member of their company residing within the limits of such companies.

SECT. 115. The rolls of the several companies shall, at all times, be open to the inspection of any officer of the regiment, brigade, or division to which it is attached, or to any assessor of the town wherein the company, or any part thereof, is raised.

SECT. 116. A fair and exact roll of each company shall be kept by the clerk, under the direction of the commander, with the state of the arms, uniforms and equipments furnished to each man, in the form prescribed for the returns of the militia by the comman-

6 der-in-chief. Such rolls shall be annually revised in
7 the month of April, and corrected from time to time,
8 as the state of the company and alterations in it may
9 require.

SECT. 117. An orderly book shall also be kept in
2 each company, by the clerk, under the direction of
3 the commander, and the proceedings of the company,
4 orders received and issued, and exact details of drafts
5 and detachments, shall be recorded therein. Fines
6 and forfeitures, with the time when, and the offence,
7 neglect, default or deficiency, for which they were
8 incurred, money collected by him, with the names of
9 the persons from whom collected, and all delinquencies
10 and deficiencies, shall be recorded in said book, which
11 shall not be alienated from the company, and be
12 always open to the inspection of its officers.

SECT. 118. At the conclusion of each encampment,
2 and of any duty performed under section one hundred
3 and nine, commanders of companies shall make correct
4 duplicate returns of their several companies for each
5 day of the encampment or review, upon which the
6 commander of the regiment to which the company be-
7 longs shall certify whether such company, on each of
8 the days of such encampment or duty, well and faith-
9 fully performed the duties required by law, and the

10 number of officers, non-commissioned officers, musi-
11 cians and privates therein reported as present and
12 doing duty each day, is correct. He shall deliver one
13 of such returns to the brigade inspector, and transmit
14 the other, within ten days after said tour of camp or
14 other duty, to the adjutant general.

SECT. 119. The commander of a company, within
2 ten days after each tour of camp duty, or any duty
3 performed under section one hundred and nine, shall
4 make a correct alphabetical pay-roll of his company,
5 containing the names of the members who appeared,
6 armed, uniformed and equipped, and performed all the
7 duties required on the days of such encampment, or
8 other duty, and showing the duty done by each mem-
9 ber, and transmit the same, certified under his oath to
10 be correct and true, to the adjutant general. Such
11 roll shall not contain the name of a private who has
12 done duty as a musician, and the whole number so
13 returned shall in no case exceed the number allowed
14 to his company by section twenty-five.

SECT. 120. A commanding officer of a company who
2 neglects to make the returns required by the two pre-
3 ceding sections, shall forfeit twenty-five dollars, and
4 for making a false return in any case, shall forfeit one

5 hundred dollars to the state, to be prosecuted for by
6 the officer to whom the return should be made.

SECT. 121. The master of every brigade band shall,
2 within ten days after a parade thereof, made under
3 order of the commander of the brigade to which such
4 band belongs, make and transmit to the adjutant gen-
5 eral an alphabetical list of the men who appeared in
6 uniform and performed duty on such day, the last
7 return to be made on or before the tenth of November;
8 upon which the commanding officer to whom the band
9 was ordered to report for duty, shall certify that the
10 duty was well and faithfully performed. For neglect
11 to make such return, the master shall forfeit twenty-
12 five dollars, and for making a false return one hundred
13 dollars, to be prosecuted for by the officer to whom the
14 return should be made.

SECT. 122. On the last day of each tour of camp
2 duty, or duty performed under section one hundred and
3 nine, commanders of regiments shall make correct
4 certified rolls of the field and staff officers of their
5 several commands on duty for each day, specifying the
6 names, rank and duty done by each officer who
7 appeared armed, uniformed and equipped, on any day,
8 and deliver the same to the brigade inspector. Every
9 officer neglecting to make such returns, shall forfeit

10 for each offence fifty dollars, and for making a false
11 return in any case two hundred dollars, to be prose-
12 cuted for by the officer to whom the return should be
13 made.

SECT. 123. Brigade inspectors within twenty days
2 after each tour of camp or other duty done by their
3 respective brigades, or the regiments thereof shall
4 make and transmit to the commander of the brigade a
5 correct return of such brigades, reporting therein the
6 condition of the arms, accoutrements and ammunition
7 of the several corps, with such suggestions relating to
8 the government of the militia, and the advancement of
9 order and discipline as in his judgment may be
10 required ; and also in like manner make and transmit
11 to the commander of division a certified roll of the
12 names of the general field and staff officers of their
13 several brigades, specifying the rank of and duty done
14 by each one who appeared uniformed and equipped,
15 and performed duty on any day.

16 For neglect to make either of said returns, each
17 brigade inspector shall forfeit seventy-five dollars, and
18 for making a false return in any case, three hundred
19 dollars, to be prosecuted for by the officer to whom the
20 return should be made.

SECT. 124. Commanders of brigades shall, within

2 thirty days after each tour of camp or other duty per-
3 formed by troops under their respective commands,
4 transmit to the commanders of their divisions a correct
5 return of their respective brigades, as furnished by the
6 brigade inspectors under the preceding section.

7 Commanders of divisions shall, within ten days after
8 the receipts of such returns of brigades under their
9 respective commands, transmit to the office of the adju-
10 tant general, correct returns of the state of their divi-
11 sions, as derived from such brigade returns.

12 Each officer, for neglect to make the returns required
13 of him under this section, shall forfeit for each offence
14 one hundred dollars, to be prosecuted for by the officer
15 to whom the return should be made.

SECT. 125. Commanders of divisions shall, annually,
2 on or before the first day of November, make and trans-
3 mit to the office of the adjutant general, a certified roll
4 of the general field and staff officers in their respective
5 divisions, specifying the name, rank, and duty done
6 by each one who has appeared armed, uniformed and
7 equipped, and performed duty, on any day.

8 For neglect to make such return, such commander
9 shall forfeit one hundred dollars, and for making a
10 false return in any case five hundred dollars, to be

11 prosecuted for by the officer to whom the return should
12 be made.

Calling out the militia in case of war, invasion, insurrection, tumult, or riots.

SECT. 126. When an invasion of, or insurrection in,
2 the state shall be made or threatened, the commander-
3 in-chief shall first call upon the active and volunteer
4 militia to repel or suppress the same ; and may order
5 out any divisions, brigades, regiments or companies
6 thereof ; or may order to be detached any parts there-
7 of, or if required, may order any number of men to be
8 drafted from the reserved militia, and may cause offi-
9 cers to be detailed, sufficient with those attached to
10 the troops, to organize the forces. If such invasion or
11 insurrection, or imminent danger thereof, in any part
12 of the state be so sudden that the commander-in-chief
13 cannot be informed and his orders received and exe-
14 cuted in season to resist or suppress the same, any
15 commander of division in such part of the state may
16 order out his division, or any part thereof, as the com-
17 mander-in-chief might do.

SECT. 127. When a draft from the militia is or-
2 dered, the drafted men shall be organized by the
3 commander-in-chief, agreeably to section thirteen.

SECT. 128. If a company of the volunteer or active
2 militia without officers is ordered to march, or a de-
3 tachment is ordered therefrom, the commander of the
4 regiment shall detail an officer to command, who shall
5 have the same authority to order them to appear, to
6 command them in the field, or to make a detachment
7 therefrom, as the captain of such company would have;
8 and shall be under the same responsibility.

SECT. 129. Every non-commissioned officer or sol-
2 dier so ordered out, detached or drafted, who shall not
3 appear with such arms and equipments as have been
4 furnished to him, at the appointed time and place, or
5 provide a substitute, shall be taken to be a soldier
6 absent without leave, and forfeit fifty dollars to the
7 use of the state; and each soldier ordered out, de-
8 tached or drafted, when so ordered shall take with him
9 provisions for not less than three days.

SECT. 130. The selectmen of a town and the mayor
2 and aldermen of a city to which men so ordered out,
3 detached or drafted, belong, when required in writing
4 by the commander of a regiment or detachment, shall
5 provide transportation to attend them with further sup-
6 plies of provisions, and to carry necessary baggage,
7 and provide necessary camp equipage and utensils,

8 until notified by the commanding officer to desist ; and
9 shall present their accounts, as is provided in section
10 one hundred and fifty-three. For any neglect by
11 mayor and aldermen or selectmen under this section,
12 their city or town shall forfeit not less than twenty
13 nor more than five hundred dollars. The officer, to
14 whom any articles above mentioned are delivered,
15 shall be responsible that care is taken of the same.

SECT. 131. When there is, in any county, a tumult,
2 riot, mob, or a body of men acting together by force
3 with intent to commit a felony, or to offer violence to
4 persons or property, or by force and violence to break
5 and resist the laws of the state, or of the United States,
6 or when such tumult, riot or mob is threatened, and
7 the fact is made to appear to the commander-in-chief,
8 or the mayor of a city, or to a court of record sitting
9 in said county, or, if no such court be sitting therein,
10 then to a justice of such court, or, if no justice is within
11 the county, then to the sheriff thereof, the commander-
12 in-chief may issue his order, or such mayor, court,
13 justice or sheriff, may issue a precept, directed to any
14 commander of a division, brigade, regiment or corps,
15 directing him to order his command, or a part thereof,
16 describing the kind and number of troops, to appear
17 at a time and place therein specified, to aid the civil

18 authority in suppressing such violence and supporting
 19 the laws ; which precept, if issued by a court, shall be
 20 in substance as follows :

21 STATE OF MAINE.

22 ——— ss.

23 L. S.

24 To { *insert the* } A. B. commanding. { *insert his* }
 { *officers' title.* } { *command.* }

25 Whereas, it has been made to appear to our justices
 26 of our , now holden at , within and for the
 27 county of , that (*here state one or more of the*
 28 *causes above mentioned,*) in our county of , and
 29 that military force is necessary to aid the civil author-
 30 ity in suppressing the same ; now, therefore, we com-
 31 mand you that you cause, (*here state the number and*
 32 *kind of troops required,*) armed, equipped, and with
 33 ammunition, as the law directs, and with proper offi-
 34 cers, either attached to the troops, or detailed by you,
 35 to parade at , on , then and there to obey
 36 such orders as may be given them, according to law.
 37 Hereof fail not at your peril ; and have you there this
 38 writ, with your doings returned thereon.

39 Witness, G. T. B, Esq., at , on the day of
 40 , in the year . C. D., Clerk.

41 And if the same be issued by a mayor, justice or

42 sheriff, it shall be under his hand and seal, and other-
43 wise varied to suit the circumstances of the case.

SECT. 132. The officer to whom the order of the
2 commander-in-chief or such precept is directed, shall
3 forthwith order the troops therein mentioned to parade
4 at the time and place appointed. If he refuses or neg-
5 lects to obey such order or precept, or if an officer
6 neglects or refuses to obey an order issued in pursu-
7 ance thereof, he shall be cashiered and punished by
8 fine or imprisonment not exceeding six months, as a
9 court martial may adjudge. And a non-commissioned
10 officer or a soldier neglecting or refusing to appear at
11 the place of parade to obey an order issued in such
12 case, shall forfeit fifty dollars to the use of the state.
13 And any person advising or attempting to persuade an
14 officer or soldier to refuse or neglect to appear at such
15 place or to obey such order, shall forfeit two hundred
16 dollars to the use of the state, or be imprisoned not
17 exceeding six months,

SECT. 133. Such troops shall appear at the time and
2 place appointed, with such arms, equipments and am-
3 munition as has been furnished them, and shall obey
4 and execute such orders as they may then and there
5 receive according to law.

SECT. 134. Requisitions by the president of the

2 United States for militia for active service shall be
3 supplied by the commander-in-chief in the manner
4 following, to wit :

5 First, the active and volunteer militia.

6 Second, the reserve militia.

7 The following persons only shall be exempt from a
8 draft, to wit : Such as are rejected as physically or
9 mentally unfit for the service, all persons actually in
10 the military or naval service of the United States at
11 the time of the draft, and all persons who have served
12 in the military or naval service two years during the
13 present war, and been honorably discharged therefrom :
14 *provided however*, that no person who has been con-
15 victed of any felony shall be enrolled or permitted to
16 serve in said forces.

17 Drafted men may furnish able-bodied substitutes for
18 themselves who if mustered into the service of the
19 United States shall be received in lieu of their princi-
20 pals for the quota for which the draft is made.

SECT. 135. The commander-in-chief shall issue all
2 necessary orders to fill any requisition for troops made
3 by the United States upon this state and prescribe
4 rules and regulations for carrying into effect the ne-
5 cessary drafts therefor.

SECT. 136. Any person drafted by virtue of the

2 provisions of the two preceding sections shall be con-
3 sidered a soldier in active service, and failing to appear
4 at the place of parade in obedience to any order law-
5 fully issued shall be deemed a soldier absent without
6 leave. And any person, directly or indirectly, advising
7 or in any manner attempting to influence any person to
8 avoid compliance with any order issued in pursuance
9 of the preceding section shall forfeit five hundred
10 dollars or be imprisoned not less than two years.

Compensation.

SECT. 137. General, field and commissioned staff
2 officers shall receive for each day's duty in camp, and
3 according to the returns of the inspecting officers five
4 dollars, and non-commissioned staff officers three
5 dollars a day, to be paid them from the state treasury,
6 upon the warrant of the governor and council, and
7 according to a pay-roll to be made up by the adjutant
8 general.

SECT. 138. Division and brigade inspectors, and
2 adjutants of regiments of volunteer or active militia,
3 shall receive twenty-five dollars annually, in addition
4 to their pay as herein provided.

SECT. 139. Every other officer of the active and
2 volunteer militia, shall receive for eac ~~h~~ day's duty in

3 camp, two dollars, and each non-commissioned officer
4 and soldier one dollar.

5 Every member of a brigade band shall receive, for
6 services performed in obedience to an order of his
7 commander, at the rate of one dollar and fifty cents a
8 day while on duty.

9 Every member of a mounted company shall receive
10 three dollars per day in addition to the compensation
11 herein before provided, which shall include keeping
12 and forage for horses.

13 Such sums shall be computed to the adjutant general
14 on the company and band pay-rolls, made out, certified
15 and returned, under sections one hundred and twenty-
16 five and one hundred and twenty-seven.

17 After such computation, such pay-rolls shall be trans-
18 mitted to the mayors and aldermen of the cities and
19 the selectmen of the towns in which such companies
20 and bands are situated, as provided in section sixty-
21 three.

22 Upon receipt of the same, the mayors and aldermen,
23 and selectmen, shall draw their warrants upon their
24 respective treasurers, directing them to pay the amount
25 due to the persons named in such rolls, and shall annu-
26 ally, on or before the first day of December, under a
27 penalty of thirty dollars for neglect in so doing, remit

28 such rolls to the adjutant general, with a certificate
29 endorsed thereon, setting forth that a warrant has by
30 them been drawn on their respective treasurers, in
31 favor of the several persons whose names are recorded
32 therein.

33 Thoreupon the adjutant general shall lay the same,
34 together with his roll of general, field and staff officers
35 entitled to pay, prepared under section sixty-four, be-
36 fore the governor and council, and the governor may
37 draw his warrant on the treasury for such sums as may
38 be necessary to pay such officers and reimburse such
39 cities and towns.

SECT. 140. The compensation provided in the pre-
2 ceding section shall be forfeited for default in making
3 the returns required by sections one hundred and
4 twenty-five and one hundred and twenty-seven; and
5 no person shall receive compensation who shall not
6 remain in camp and perform all duties required during
7 the period of encampment; except that a person who
8 shall once appear, and be excused from further duty
9 by reason of sickness, shall be entitled to compensa-
10 tion for the time he is actually engaged in service.

SECT. 141. No officer or soldier in the volunteer
2 militia shall receive the compensation provided in this
3 chapter, unless he personally performs the duties re-

4 quired by law ; nor shall excuses granted for absence
5 from or non-performance of military duty entitle the
6 person excused to receive such compensation.

SECT. 142. When a corps or detachment is ordered
2 on special duty, by the commander-in-chief, under
3 section one hundred and nine, or under section one
4 hundred and thirty-seven, each member shall receive
5 while in the performance of such duty, the same pay
6 as when performing camp duty, and four cents a mile
7 for travel ; but this section shall not apply to cases
8 where the term of service exceeds six days.

SECT. 143. Officers obliged to go out of the city or
2 town of their residence to attend a military election,
3 shall be allowed five cents a mile, each way, for travel.

SECT. 144. Officers composing courts martial, courts
2 of inquiry and military boards, and witnesses attend-
3 ing before them, shall receive five cents for every mile
4 they necessarily travel, in going to and returning from
5 the place of trial, and the following sums for each day
6 of attendance :

7 To the president of a court martial, court of inquiry,
8 or military board, three dollars.

9 To the judge advocate of the same, four dollars ;
10 which shall be in full compensation, also, for all services

- 11 of preparing papers before, and making copies after,
12 any trial, inquiry or investigation.
- 13 To the marshal and other members of such court, or
14 board, two dollars.
- 15 To each witness attending on such court, or board,
16 one dollar and twenty-five cents.
- 17 Fees for subpoenas and service of them, shall be the
18 same as in civil cases.
- 19 No allowance shall be made for pay or rations for a
20 military guard, unless such guard is ordered by the
21 officer appointing the court; nor shall the above com-
22 pensation be made to officers in actual service, and
23 receiving pay.

SECT. 145. Every officer or soldier who is wounded,
2 or otherwise disabled, while doing military duty, and
3 the widow, or children, of every officer or soldier who
4 is killed, or dies of wounds received while doing such
5 duty, shall receive from the legislature just and rea-
6 sonable relief.

SECT. 146. The militia, while in actual service,
2 shall receive the same pay and rations as the regular
3 troops of the United States; and the rations, when
4 commuted, shall be valued at the rate fixed by the
5 regulations of the United States army in force at the
6 time.

7 Every non-commissioned officer and private who pro-
8 vides himself with a uniform and blanket when called
9 into service, shall receive, monthly, in addition to his
10 stated pay, as follows: sergeants and musicians, four
11 dollars; corporals and privates, three dollars and sev-
12 enty-five cents; and if he shall not so provide himself,
13 he shall be allowed, monthly, two dollars and fifty
14 cents.

15 When the militia are discharged from actual service,
16 they shall be allowed pay and rations to their respec-
17 tive homes.

SECT. 147. All military accounts, including claims
2 against the state for money expended in the transmis-
3 sion of military documents to and from the department
4 of the adjutant general, unless it is otherwise specially
5 provided by law, shall be transmitted to the adjutant
6 general and examined, and if found correct, certified
7 by him. They shall then, unless it is otherwise spe-
8 cially provided by law, be presented to the governor
9 and council for examination, and if found correct shall
10 be certified by them and paid to the persons to whom
11 they are severally due, or to their order, at the treas-
12 ury of the state. And no military account shall be
13 certified by the adjutant general or allowed by the
14 governor and council, unless presented to the adjutant

15 general for allowance within the time prescribed by
16 law.

Excuses.

SECT. 148. Every non-commissioned officer or pri-
2 vate having bodily infirmity, may be exempted from
3 military duty, if he obtain from the surgeon or assist-
4 ant surgeon of the regiment, or detached company, to
5 which he belongs, or if there be no such officers com-
6 missioned in such regiment or company, then from some
7 respectable physician living within the bounds of the
8 same, a certificate that he is unable to do military duty,
9 on account of bodily infirmity, the nature of which
10 shall be described in such certificate ; and the captain
11 or commanding officer of his company may, on the back
12 of the certificate, discharge the non-commissioned offi-
13 cer or private named therein from performing military
14 duty, for a term of time which he shall judge reasona-
15 ble, not exceeding one year ; which certificate, when
16 countersigned by the colonel or commanding officer of
17 said regiment or company, shall, for the time specified,
18 exempt him from military duty, except attendance at
19 the election of officers. If such non-commissioned offi-
20 cer or private, having obtained such certificate, shall
21 be refused a discharge or an approval of a discharge,

22 he may apply to the commanding officer of the division
23 or brigade, who may discharge him from military duty
24 for such a time, not exceeding one year, as he shall
25 judge reasonable, by endorsing the same upon the sur-
26 geon's certificate.

SECT. 149. The surgeon or assistant-surgeon shall
2 be entitled to receive for the examination or examina-
3 tions of any soldier applying for exemption from mili-
4 tary duty, twenty-five cents in any one year, to be
5 paid by the applicant; and any surgeon or assistant
6 surgeon who shall ask or receive from any person en-
7 rolled in the militia any additional compensation for
8 such an examination shall forfeit fifty dollars, to be
9 recovered on complaint of the adjutant of the regiment
10 or corps to which the surgeon belongs, to the use of
11 the regiment or corps.

SECT. 150. Excuses for the non-appearance of a
2 soldier, shall be made to the commanding officer of his
3 company, or the officer detailed to train and discipline
4 the company, under section thirty-three, within twenty
5 days after a parade, or other military duty, from which
6 he has been absent; and on the delinquent's producing
7 satisfactory evidence of his inability to appear, such
8 officer may excuse him, with the approval of the com-
9 mander of the regiment; but no such officer shall re-

10 ceive an excuse for non-appearance after the expira-
11 tion of the twenty days. No excuse shall avail such
12 soldier, on a prosecution for the recovery of a fine or
13 forfeiture, unless proved to have been made to such
14 officer before the expiration of the twenty days, unless
15 the delinquent satisfies the court or justice before
16 whom the case is tried, that it was not in his power to
17 make such excuse within the time. Such officer shall
18 inform their clerks of all excuses allowed for non-ap-
19 pearance.

SECT. 151. No commanders of companies shall
2 receive excuses for deficiencies of equipment.

SECT. 152. When a person is entitled to exemption
2 from military duty upon presenting evidence of the
3 cause of his exemption to his commanding officer,
4 within or before a certain time, as provided in sections
5 eight and ten, and shall omit so to present such evi-
6 dence, it shall not avail him, by way of excuse, upon a
7 prosecution for a particular absence or default, unless
8 he makes his excuse to the commanding officer within
9 twenty days after the training, or satisfies the court or
10 justice it was not in his power to make such excuse
11 within the time.

SECT. 153. When any person shall claim to be
2 exempt from enrolment by reason of his age, the

3 burden of proof respecting his age shall, in all cases
4 of doubt, be upon him.

Prosecution for fines.

SECT. 154. Fines and forfeitures incurred by mem-
2 bers of volunteer companies, may be collected by such
3 persons and disposed of in such manner, for the benefit
4 of said companies, as a majority of the members
5 thereof may determine.

SECT. 155. Fines and forfeitures incurred by mem-
2 bers of the active militia shall be collected in the fol-
3 lowing manner, to wit: The clerk of each company,
4 after the expiration of twenty days, and within forty
5 days after parade, election of officers, inspection train-
6 ing, review or encampment, shall in those cases where
7 fines are to be collected upon his complaint, make and
8 subscribe an information against the offending soldiers
9 or non-commissioned officers who have not been excused
10 by the commander of the company, under section one
11 hundred and fifty-six, or who have not within the
12 twenty days aforesaid, paid to him the forfeiture they
13 have incurred, which information shall be left with
14 some justice of the peace or filed in some police court
15 in the county in which the offender resides. Such
16 information shall be in substance as follows:
17 To A B, Esq., justice of the peace within and for the

18 county of _____, or to the justice of the police
 19 court within and for
 20 I, the subscriber, clerk of the company commanded
 21 by _____, do hereby give information against the
 22 following person [or persons] who, being duly enrolled
 23 in said company, and being duly notified to meet with
 24 said company, on the _____ day of _____, in the
 25 year _____, [for inspection or review, election of
 26 officers, special duty, or as the case may be] was guilty
 27 of the offences and did incur the forfeitures, set against
 28 his name :

| Names. | Offences. | Forfeiture. | Sums. |
|--|--|-----------------|-----------------|
| A B, non-commissioned officer; C D, private, | { For unnecessarily neglecting to appear on said day, | } has forfeited | |
| E F, | { For being deficient of a on said day, | | } has forfeited |
| G H, | { For being on said day guilty of coming on to the parade with his arms loaded, | } has forfeited | |
| I K, | { For unnecessarily discharging his musket, rifle or pistol in going to, or returning from, or on the place of parade, without the orders of an officer, | | } has forfeited |
| L M, | { For leaving his guard, section, platoon or company, without the leave of an officer, | } has forfeited | |

30 [And in the same manner, substantially, all other
 31 offences are to be set forth against offending non-com-
 32 missioned officers and privates.]

33 I, therefore agreeably to my oath of office, and in
 34 compliance with the requisitions of the law in this
 35 behalf, request you to issue a summons, directed to
 36 the person named in the above information, to appear

37 before you, and show cause, if any he has, why it
38 should not be adjudged that he pay the forfeiture set
39 against his name, for the offence which he is therein
40 alleged to have committed.

41 Dated at _____, this day of _____, in the year _____ A.
42 B., clerk of the company commanded by
43 The justice or court shall file the same; and upon
44 motion of the clerk shall, within nine months, and not
45 afterwards, issue a summons to each person informed
46 against, to be served at least seven days before the
47 time appointed for showing cause.

48 The summons if issued by a justice of the peace, shall
49 be in substance as follows :

50 _____, ss.

51 [Seal.] To the sheriff of said _____ county, or either
52 of his deputies, or either of the constables of the town
53 of _____, in the county aforesaid, greeting :

54 In the name of the State of Maine, you are hereby
55 required to summon C. D., of _____, in the county
56 aforesaid, to appear before me, E. F., one of the jus-
57 tices of the peace aforesaid, at _____, in _____, on the
58 _____ day of _____, at _____ of the clock in the _____ noon,
59 then and there to show cause, if any he has, why
60 judgment should not be rendered, that he has forfeited
61 _____ for [here insert the offence, and the time when and

62 place where it was committed.] Hereof fail not, and
 63 make due return of this writ, and your doings thereon,
 64 unto myself, on or before the said hour of the day
 65 of .

66 Dated at aforesaid, the day of , in the
 67 year .

68 E. F., Justice of the Peace.

69 If issued from a police court, as follows :

70 STATE OF MAINE.

71 ———, ss.

72 [Seal.] To the sheriff of the county of or either
 73 of his deputies, or either of the constables of the town
 74 of in said county, greeting :

75 We command you to summon C. D. of in said
 76 county, to appear before our justices of our police
 77 court, to be holden at , within and for our , on
 78 , then and there to show cause, if any he has,
 79 why judgment should not be rendered, that he has
 80 forfeited for [here insert the offence, and the time
 81 and place where it was committed.] Hereof fail not,
 82 and have you there this writ, with your doings thereon.

83 Witness W. S., Esq., at , on the day of
 84 year T. P., Clerk.

85 [or witness my hand and seal at on the day of in the
 86 year of our Lord A. B., Justice of said Court.]

87 When the person summoned appears, he may plead
88 that he is not guilty, and give any special matter in
89 evidence.

90 Upon the trial of such complaint, made by the clerk
91 of a company, it shall be sufficient for the complain-
92 ant to prove that he is clerk of the company ; for
93 which purpose he shall produce his warrant as a non-
94 commissioned officer, and prove the signature thereto
95 of the colonel or commanding officer of the regiment,
96 and that at the time of signing such warrant he was
97 reputed to be and acted as such colonel or command-
98 ing officer ; which shall be *prima facie* evidence that
99 such complainant was appointed a non-commissioned
100 officer by the captain or commanding officer of such
101 company, and that a legal return of such appointment
102 was made to the colonel or commanding officer of the
103 regiment.

104 He shall then show, upon the back of his warrant, a
105 legal certificate of his appointment as clerk, and qual-
106 ification as such by taking the oaths required by law.
107 For which purpose he shall prove the signature of the
108 captain or commanding officer of such company, and
109 that he is such captain or commanding officer, by pro-
110 ducing his commission as such ; but if the clerk is

111 appointed clerk *pro tempore*, his appointment may be
112 proved by the records of the company.

113 He shall then produce the roll of the company, and
114 prove that the defendant resided within the limits of
115 the company, and was enrolled or enlisted therein at
116 the time he was notified of such meeting.

117 He shall then produce the order of the commanding
118 officer of such company to notify the said meeting or
119 meetings thereof, and prove his signature thereto,
120 and that the defendant was legally notified of the
121 time and place of such meeting or meetings.

122 If it is required by law that the order for such
123 military duty shall in such case be given by any offi-
124 cer superior to the commanding officer of a company,
125 then the orders of such superior officer, and all inter-
126 mediate orders of officers transmitting the same to the
127 commanding officer of the company shall be proved,
128 and that the persons purporting by such orders to be
129 such officers, are such ; for which purpose, it shall
130 be sufficient to produce the transmitted written or
131 printed copies of such orders, and the regimental or
132 other last order, transmitting the same to the com-
133 manding officer of the company ; to prove the signa-
134 ture of the proper officer to such regimental or other

135 last order, transmitting the same ; and to prove that
136 all the officers above mentioned are reputed to be
137 such officers and act as such.

138 The absence or offence of the defendant shall then
139 be proved, to show that he is liable to the fine alleged
140 to be incurred by him ; and, in case of absence, the
141 burden of proof shall be upon him to show that his
142 absence was necessary.

143 The evidence above described shall be taken to be
144 *prima facie* sufficient to support the complaint.

145 When it appears that a document or paper above
146 mentioned cannot be produced, satisfactory secondary
147 evidence thereof shall be received.

148 Upon the hearing of such case, the testimony of the
149 clerk, or other person who was ordered to notify the
150 whole or part of the company, shall be *prima facie*
151 evidence of notice to the defendant and that he neg-
152 lected to appear.

153 The certificate of the surgeon of the regiment, or
154 assistant surgeon, approved as herein before provided,
155 that the defendant was unable to perform military
156 duty at the time of his absence, shall be *prima facie*
157 evidence that he ought to be excused for a particular
158 absence, if the provisions of section one hundred and
159 fifty-six have been complied with ; but any permanent

160 disability, or such temporary excuse, may be proved
161 by parole.

162 If the defendant makes default, or judgment is ren-
163 dered against him, and he neglects for two days after
164 to satisfy the same, with legal costs, execution shall
165 be issued therefor ; which execution, issued by a jus-
166 tice of the peace, shall be in substance as follows,
167 but if by a police court, shall be so altered as to con-
168 form to the summons :

169 STATE OF MAINE.

170 ——— ss.

171 [Seal.] To the sheriff of said county, or either of
172 his deputies, or either of the constables of the town
173 of , in the same county, greeting :

174 Whereas, E L, clerk of the company commanded by
175 , in said county, on the day of , before
176 J D, Esq., one of our justices of the peace for our
177 county aforesaid, recovered judgment against T P,
178 of , for the sum of fine or forfeiture,
179 and costs of prosecution, as to us appears of
180 record, whereof execution remains to be done : We
181 command you, therefore, that of the money of the
182 said T P, or of his goods or chattels, within your
183 precinct, at the value thereof in money, you cause to
184 be levied, paid and satisfied, unto the said E L, the

185 aforesaid sums, being in the whole ; and also,
186 out of the money, goods and chattels of the said T P,
187 you levy twenty-five cents more for this writ, together
188 with your own fees ; and for want of such money,
189 goods or chattels, of said T P, to be by him shown
190 unto you, or found within your precinct, to the ac-
191 ceptance of the said E L, for the aforesaid sums, we
192 command you to take the body of the said T P, and
193 him commit unto our jail in B, and we command the
194 keeper thereof accordingly to receive the said T P
195 into our said jail, and him safely keep, until he pay
196 the full sums above mentioned, with your fees, or
197 that he be discharged by the said E L, or otherwise,
198 by order of law. Hereof fail not, and make return
199 of your doings therein unto our said justice, within
200 twenty days next coming.

201 Witness, our said justice at B, the day of
202 , in the year one thousand .

203 J D, Justice of the Peace.

204 The complaint or summons may be amended in any
205 stage of the proceedings without payment of costs ;
206 and the defendant shall be allowed an adjournment or
207 continuance of the case, if justice requires it. The
208 clerk shall not be liable to pay costs to a defendant in
209 a case in which the commanding officer of his com-

210 pany has certified, upon the information of the clerk,
211 his approval of the same. And no appeal shall be
212 allowed from any such judgment, unless the forfeit-
213 ure adjudged exceeds ten dollars, exclusive of costs.
214 A complaint, by any other officer, shall be prose-
215 cuted in the like manner so far as the same is appli-
216 cable thereto, the forms being varied accordingly ;
217 and he shall prove his authority by producing his
218 commission and other competent evidence which may
219 be necessary.

SECT. 156. No person shall be imprisoned upon
2 an execution issued upon the complaint and judgment
3 described in the preceding section, for a longer time
4 than six days ; but shall, at the expiration of that time,
5 be discharged by the keeper of the jail to which he is
6 committed. The judgment debtor shall remain liable
7 for the amount of the judgment and the costs of
8 imprisonment ; and execution for the whole of the
9 same may be sued out against the property of such
10 debtor.

SECT. 157. The clerk of each company or other
2 officer prosecuting such complaint shall retain to his
3 own use from the forfeitures so collected, the amount
4 of the expenses incurred by him in prosecuting the
5 same, and, upon demand, pay the remainder to the

6 commander of the company, regiment or corps entitled
7 to the benefit thereof, who shall give his receipt
8 therefor, and expend the same in defraying such
9 expenses of the company, regiment or corps, as a
10 majority of the commissioned officers thereof shall
11 judge necessary. All captains or commanders of
12 companies, and all other officers authorized by this act
13 to direct or control the collection of fines, shall report
14 annually, to the adjutant general, through the usual
15 channels of military communication, the amount of
16 fines imposed, the amount collected, and the disposition
17 thereof.

Courts martial.

SECT. 158. All complaints upon which courts mar-
2 tial are ordered, shall be in writing, and signed by the
3 complainant, and shall clearly specify the offence, and
4 the time when and place where it was committed.
5 No officer shall be tried by court marshal for an
6 offence committed more than one year before the com-
7 plaint, unless his absence or other manifest impedi-
8 ment has prevented a complaint within that time ; nor
9 on a charge preferred by a soldier, unless for an
10 offence committed while in the actual service of the
11 state or of the United States, nor unless such charge
12 is preferred before such soldier has left the service.

SECT. 159. Every officer to be tried by court-martial shall be put under arrest.

The judge advocate shall deliver to the accused a copy of the charges against him, and a notice of the time and place of trial, ten days at least before the day of trial ; and if he objects, and the court shall be satisfied that he has not received the same, they shall adjourn, so as to allow the time required to elapse, after the delivery of the notice and copies.

SECT. 160. Courts martial shall consist of a president, judge advocate, nor more than four nor less than three members, present at the organization of the court, and a marshal ; and shall be holden between the first day of December, and the last day of March, in the day time.

There shall be only one general and one division court martial, in one division, in one year.

General courts martial shall be appointed for the trial of all officers above the rank of captain, by the orders of the commander-in-chief, issued to the divisions which in his opinion can most conveniently furnish members for the same ; and he shall appoint a president, not below the rank of brigadier general, and a marshal of said court.

Division courts martial shall be appointed for the

17 trial of officers of and under the rank of captain, by
18 the orders of each commanding officer of a division, in
19 his own division, issued to the brigades, regiments and
20 companies which, in his opinion, can most convenient-
21 ly furnish members for the same ; and he shall appoint
22 a president, of the rank of colonel or lieutenant colonel,
23 and a marshal.

24 Officers shall be detailed to sit upon courts martial,
25 in manner following: major generals, by the com-
26 mander-in-chief, from the general roster ; brigadier
27 generals and officers of any divisionary corps by the
28 commanding officers of divisions, from the division
29 roster ; colonels, lieutenant colonels and majors, and
30 officers of any company attached to a brigade, by the
31 commanding officer of brigades, from the brigade
32 roster ; captains and subalterns, by the commanding
33 officers of regiments, and other separate corps. And
34 when it appears that an officer detailed or to be de-
35 tailed, is or will be, for some sufficient cause unable
36 to serve on a court martial, the officer detailing him,
37 having satisfactory evidence thereof, shall certify such
38 inability to the officer ordering the court martial, and
39 at the same time detail the officer next in rotation on
40 the roster. No senior officer, or superior in rank to
41 the president, shall be detailed.

42 The officers ordered to detail members shall make
43 returns forthwith to the officer appointing the court,
44 who shall transmit the same to the judge advocate.

45 The judge advocate of each division shall, when
46 ordered, attend general and division courts-martial
47 within his division ; but when he is prevented by ina-
48 bility or legal impediment, the officer ordering the
49 court martial shall appoint some person to be judge
50 advocate to the same.

51 If the officer appointed president shall not attend at
52 the opening of the court, the officer highest in rank
53 present shall be president.

54 When it is found that by reason of absence, chal-
55 lenge or other cause, the number of members of a
56 general or division court martial, (beside the president,)
57 qualified to act, is less than three, the court shall ad-
58 journ for a suitable time ; and the president shall
59 forthwith notify the fact to the commanding officer of
60 the division in which such general or division court
61 martial is held ; and such commanding officer shall
62 himself detail from the division a number of officers of
63 the same rank as those before detailed, sufficient to
64 complete the court.

65 If no judge advocate or marshal attends at the open-
66 ing of the court, the president shall appoint a judge

67 advocate or marshal, which appointment shall be en-
68 tered on the record and signed by him. The judge
69 advocate acting at the commencement of a trial, shall
70 serve during the trial, notwithstanding the attendance
71 or appointment of any other person afterwards.

72 Officers on a court martial shall rank by seniority of
73 commission.

74 The court may adjourn, when it appears to them
75 necessary, before a judge-advocate appears, and be-
76 fore they are qualified.

SECT. 161. Before a court martial proceeds to the
2 trial of an officer, the judge advocate shall administer
3 to the president and members, severally, the following
4 oath :

5 You, A B, do swear, that without partiality, favor,
6 fear, prejudice or hope of reward, you will well and
7 truly try the cause now before you, between the State
8 and the person (or persons, if more than one is
9 accused, in the same complaint,) to be tried ; and that
10 you will not divulge the sentence of this court martial,
11 until it shall be approved or disapproved of, and that
12 you will not discover the vote or opinion of a member,
13 unless required to give evidence thereof, as a witness,
14 in due course of law : So help you God.

15 And the president shall administer to the judge
16 advocate the following oath :

17 You, A B, do swear, that you will faithfully and im-
18 partially discharge your duties as judge advocate on
19 this occasion, as well to the state as to the accused ;
20 and that you will not on any account at any time
21 divulge the vote or opinion of any member of this
22 court martial, unless required to give evidence thereof,
23 as a witness, in due course of law : So help you
24 God.

25 No member shall be challenged by the government
26 or the accused, until the president, members and judge
27 advocate are sworn. Only one member shall be chal-
28 lenged at a time, and the challenge shall be in writing,
29 stating the cause of it. The person challenged shall
30 not vote, but the president and other members shall
31 try whether the challenge is good.

32 Illegality or irregularity in the detail of a member
33 of the court, shall be good cause of challenge by
34 either party ; but shall be considered as waived, unless
35 the objection be taken at the time and in the manner
36 aforesaid.

37 If the accused neglects to appear and defend, or re-
38 fuses to plead, or withdraws in contempt of the court,
39 the court may proceed to trial and judgment, as if he
40 had pleaded not guilty.

41 Persons summoned by the judge advocate or a jus-
42 tice of the peace, shall appear and give evidence be-
43 fore a court martial, but the defendant's witnesses
44 shall have their fees first tendered to them, and the
45 penalties for neglect to appear shall be the same, and
46 the judge advocate may issue a *capias*, in like manner
47 as in criminal prosecutions.

48 Before the witnesses testify, they shall be sworn by
49 the judge advocate in the following form :

50 You, A B, do swear, [or affirm,] that the evidence
51 you shall give, in the cause now in hearing, shall be
52 the truth, the whole truth, and nothing but the truth :
53 So help you God, [or, this you do under the pains and
54 penalties of perjury, in case the witness shall affirm.]

55 When the adjutant general shall be complainant for
56 neglect or default in making returns, he shall not be
57 required to be present, and his certificate shall be
58 sufficient *prima facie* evidence that the return was or
59 was not made, and that a copy of a return is true.

60 Judge advocates shall be the certifying officers, to
61 authenticate copies of papers and documents used be-
62 fore courts martial, courts of inquiry, or boards of
63 officers, except papers or documents from the adjutant
64 general's office, which shall be certified by him ; but
65 copies may be proved as in other courts.

66 The statement of the complainant and the defence
67 of the accused, and motions, arguments and objections
68 to the proceedings, by either party, and the answers
69 thereto, shall be submitted to the court in writing ; the
70 evidence and proceedings in and out of the court, and
71 opinions of the judge advocate on questions of law
72 arising during the trial, shall be put in writing by him.
73 After the prosecution and defence are concluded, he
74 shall state and sum up the evidence, and give his
75 opinion to the court upon matters of law, which
76 opinion with the judgment, he shall put in writing.

77 When a question is to be decided, the judge advocate
78 shall receive the vote of each member, beginning with
79 the youngest and proceeding to the eldest. The presi-
80 dent shall vote ; and unless two-thirds of the members
81 agree that the accused is guilty, he shall be acquitted.
82 If two-thirds of the members shall find him to be
83 guilty, he shall be sentenced to be reprimanded in
84 orders, or to forfeit a sum not exceeding two hundred
85 dollars, or to be dismissed from office,—either or all of
86 them ; and in the last case he may be further adjudged
87 to be disqualified from holding any military office dur-
88 ing life or a term of years.

89 Courts martial may preserve order during the session
90 and whoever shall, in such court, behave in a disor-

91 derly or insulting manner, or make a tumult or dis-
92 turbance, may be arrested by order of the court, and
93 confined not exceeding twenty-four hours, and fined
94 not exceeding five dollars,—either or both. If the
95 fine is not paid, the judge advocate shall issue a mit-
96 timus, forthwith to commit such person to prison in
97 the same manner and with the same effect as upon
98 executions from justices of the peace in cases of pros-
99 ecutions for non-payment of other military fines and
100 costs.

101 The record of the trial and judgment, with the pa-
102 pers used therein, or copies thereof, certified by the
103 judge advocate, shall be authenticated by his certifi-
104 cate and signature, and sealed up and transmitted by
105 him to the officer who ordered the court, who shall
106 annex thereto his approval or disapproval of the same,
107 and the reasons thereof in writing, and transmit the
108 same as soon as may be to the office of the adjutant
109 general, to be kept and preserved.

110 The judge advocate shall also make, certify, and
111 transmit the pay-roll of the court martial to the same
112 office.

113 The officer ordering the court, and the party tried
114 thereat, shall receive, upon request, from the adjutant

115 general, a copy of the record ; the party tried paying
116 a reasonable sum for his copy.

117 The judgment of disqualification may, after ap-
118 proval, be reversed in whole or in part, by the
119 commander-in-chief, but all other parts of the sen-
120 tence, when approved, shall remain in full force.

SECT. 162. Every commissioned officer may be tried
2 by a court martial for the following offences :

3 For conduct unbecoming an officer and a gentlemen,
4 when on duty, or to the prejudice of good order and
5 military discipline.

6 For neglect of any duty required in this chapter.

7 For disobedience of orders, or an act contrary to the
8 provisions of this chapter.

9 For oppression or injury of any under his command.

10 For a combination or attempt to break, resist, or
11 evade the laws or lawful orders given to a person, or
12 advising any person so to do.

13 For insult to a superior officer in the exercise of his
14 office.

15 For presuming to exercise his command while under
16 arrest ; in which case, if guilty, he shall be removed
17 from office.

18 For neglect or refusal, when commanding officer, to

19 order out the troops under his command, when required
20 by law or ordered by his superior officer.

21 For excusing, as commanding officer of a company,
22 any person under his command, for deficiency or
23 unnecessary absence, or after the expiration of the
24 time allowed by law.

25 For neglect or refusal to make a draft or detachment
26 when legally ordered to do so.

27 For neglect or refusal to cause prosecutions to be
28 commenced for fines, when it shall be necessary.

29 For parading the troops under his command on days
30 of election, contrary to the provisions of section one
31 hundred and eight.

32 For receiving any fee or gratuity, as surgeon or
33 assistant-surgeon, for a certificate of inability to do
34 military duty, and for refusing to examine an applicant
35 in his regiment for exemption from military service.

36 For neglect, when detailed to train and discipline a
37 company, or make complaint for neglect or violation of
38 duty, as provided by law, or for any other neglect for
39 which a commanding officer of the company would be
40 liable.

41 For neglect or refusal to march, make a draft, or for
42 disobedience to an order, in case of invasion or insur-

43 rection, as provided in sections one hundred and
44 twenty-six to one hundred and twenty-nine, inclusive.
45 For refusal or neglect to obey a precept or order to
46 call out the militia, or an order issued in obedience
47 thereto, in case of tumult, riot or other cause, as pro-
48 vided in sections one hundred and thirty-one to one
49 hundred and thirty-three, inclusive, or for advising
50 any officer or soldier to do the like ; in which cases,
51 the offender shall be cashiered, beside being subject to
52 fine and imprisonment, as provided in section one hun-
53 dred and thirty-two.

SECT. 163. Any fine not exceeding two hundred
2 dollars, may be inflicted on any officer, by sentence of
3 a general or division court martial, as a part of, or the
4 whole of, such sentence ; and such fines shall be pros-
5 ecuted by the judge advocate, or person appointed to
6 act as such at the court martial, in an action of tort,
7 to the use of the state ; and if any judgment for cost
8 shall be rendered against any judge advocate in such
9 case, the officer to whom the execution upon such
10 judgment is delivered, shall demand payment of the
11 execution of the treasurer of the county in which such
12 judgment is rendered, and the said treasurer shall pay
13 the same, and it shall be allowed to said county, in

14 the settlement of said treasurer's account with the
15 state.

Boards of officers.

SECT. 164. The commander-in-chief, when in his
2 opinion it shall be necessary, may call boards of offi-
3 cers for settling military questions, or for other pur-
4 poses relative to good order and discipline.

SECT. 165. No officer appointing a court martial, or
2 board of officers, shall order a guard for the same, un-
3 less, in his opinion, it is necessary for their protection.

SECT. 166. In this chapter the word "soldier"
2 shall include company musicians and all persons in the
3 volunteer or enrolled militia, except commissioned offi-
4 cers, and the word "company" may include battery.

SECT. 167. If elders or overseers of a society of
2 quakers or shakers give the certificate provided in the
3 second section, to a person who does not profess the
4 religious faith of their society, or who is not a member
5 thereof, or who is not conscientiously scrupulous of
6 bearing arms, each elder or overseer so offending shall
7 forfeit two hundred dollars to the use of the state, and
8 be imprisoned not exceeding six months. And any
9 person claiming to be exempted from enrolment by
10 virtue of such a certificate, who does not profess the

11 religious faith, or is not a member of the society
12 named therein, or who is not conscientiously scrupulous
13 of bearing arms, shall be liable to the same penalty.

SECT. 168. Keepers of taverns or boarding houses,
2 and masters and mistresses of dwelling houses shall,
3 upon the application of the assessors, or any officer or
4 non-commissioned officer of the militia, within whose
5 bounds their homes are situated, or of persons acting
6 under them, give information of the names of persons
7 residing in their houses liable to enrolment or to do
8 military duty ; and every person liable to enrolment
9 shall, upon like application, give his name and age ;
10 and if such keeper, master, mistress or person, refuses
11 to give such information, or gives false information,
12 such keeper, master, mistress or person, shall forfeit
13 and pay twenty dollars, to be recovered on complaint
14 of either of the assessors or officers, or non-commis-
15 sioned officers aforesaid.

SECT. 169. Civil officers named in this chapter, neg-
2 lecting or refusing to obey its provisions, shall, except
3 as otherwise specially provided, forfeit not less than
4 twenty nor more than five hundred dollars.

SECT. 170. The provisions of this chapter concern-
2 ing the powers and duties of the selectmen of towns,

3 shall be construed to include the mayor and aldermen
4 of any city.

SECT. 171. It shall not be lawful for any body of
2 men whatsoever, other than the regularly organized
3 corps of the militia, the troops of the United States,
4 to associate themselves together as a military company
5 or organization, or to parade in public with arms, in
6 any city or town of this state, without the license of
7 the governor thereof, which may at any time be re-
8 voked; nor shall it be lawful for any city or town to
9 raise or appropriate any money toward arming, equip-
10 ping, uniforming, or in any way supporting or sustain-
11 ing or providing drill rooms or armories for any such
12 bodies of men.

SECT. 172. Whoever offends against the provisions
2 of the preceding section, or belongs to or parades with
3 any such unauthorized body of men, with arms, shall
4 be punished by a fine not exceeding the sum of ten
5 dollars, or by imprisonment in the house of correction
6 or common jail for a term not exceeding six months.

SECT. 173. The tenth chapter of the revised statutes
2 of eighteen hundred and fifty-seven, the twenty-second
3 and thirty-ninth chapters of the public acts of eighteen
4 hundred and fifty-seven, the sixty-second and sixty-

5 fourth chapters of the public acts of eighteen hundred
6 and sixty-one, the one hundred and thirty-fourth chap-
7 ter of the public acts of eighteen hundred and sixty-
8 two, and the twentieth chapter of the public acts of
9 eighteen hundred and sixty-three, and all laws incon-
10 sistent with the provisions of this act, are hereby
11 repealed.

2 Secr. 174. This act shall take effect upon its ap-
3 proval.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
February, 2, 1865. }

Reported by Mr. MILLER, from the Committee on Military
Affairs.

HORACE STILSON, *Clerk.*