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1856

ACTS AND RESOLVES<sup>c</sup>

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PASSED BY THE

THIRTY-FIFTH LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1856.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840,  
and March 16, 1842.

Augusta:

FULLER & FULLER, PRINTERS TO THE STATE.

1856.



**CHAP. 265.** and the said debtor shall also, at the time of said tender, pay  
*Tender of costs.* into court all the taxable costs in said action up to the time when such deed is tendered, then the suit shall be dismissed and the original judgment against said debtor shall be satisfied to the amount at which said real estate was appraised, deducting therefrom the expenses of the levy and the officers fees on the execution.

**SECT. 2.** This act shall take effect on its approval by the governor.

[Approved April 9, 1856.]

### Chapter 265.

An act to organize and discipline the militia.

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

*Exemptions, enrollments, ununiformed and uniformed or active militia, organization, duties of.*

*Exempts.*

**SECT. 1.** There shall be exempted from military duty under the laws of this state, in addition to the persons exempted by the laws of the United States, the judges of the supreme judicial court, judges of any court of record, judges of the probate, municipal and police courts, the clerks of all courts of record, registers of deeds, and registers of probate; all ministers of the gospel regularly ordained according to the usages of their denomination, so long as they sustain that relation in their denomination; the superintendent and other officers and assistants employed in the insane hospital at Augusta, and at the state reform school at Cape Elizabeth; also the officers and guards employed in the state prison at Thomaston; all officers who have held military or naval commissions, and who have been regularly discharged, or have in accordance with military or naval usage, without fault on their part, been discharged, or ceased to act as such; all quakers and shakers, so long as they continue members of such denominations; all members of engine companies, while they continue to do duty in such companies; all mariners, unless they have been discharged, and have done no service on board any vessel for more than three months at the time they shall be warned; all persons unable from bodily infirmity to do military duty; all idiots, lunatics, common drunkards, vagabonds, paupers and persons convicted

**CHAP. 265.** aforesaid, compensation for transportation of arms and equipage shall be allowed as is before provided for.

Discipline and inspection of troops encamped.

SECT. 71. Troops so encamped shall be carefully and thoroughly exercised in the whole routine of camp and field duty, according to the tactics prescribed from time to time, as shall be ordered by the officers in chief command; and the troops shall also be inspected by the brigade major and inspector, whose duty it shall be to attend such encampments, and shall be reviewed and manœuvred in company and battalion, by the commanders of brigades if in regiments, and by the major general if in brigades, in presence of such general and other officers as may be present.

Notice for encampment.

SECT. 72. The notice for such encampment shall be issued at least thirty days before the time appointed for the same; and said troops, whenever thus ordered out, shall continue to perform duty for at least two days, unless sooner discharged by the senior officer in command.

Term of duty.

Temporary buildings within one mile of muster field, used for sale of intoxicating liquors, may be removed.

SECT. 73. The mayor and aldermen of any city, or the selectmen of any town, upon complaint made to them under oath, that the complainant has reason to believe that any booth, shed, or other temporary erection, situated within one mile of any muster field, is used and occupied for the sale of spirituous or fermented liquors, or for the purpose of gaming for money, or other property, may, if they consider the complaint well founded, order the owner or occupant thereof to vacate and close the same immediately; and if the owner or occupant shall refuse or neglect so to do, the said mayor and aldermen or selectmen may forthwith abate such booth, shed or other temporary erection, as a nuisance, and pull down or otherwise destroy the same in any manner they may choose, or through the agency of any force, civil or military, which they may see fit to employ.

Punishment of disorderly soldier.

SECT. 74. Any non-commissioned officer or private, who shall, while under arms or when on duty, behave himself with contempt to an officer, or shall conduct in a disorderly manner, or excite or join in any tumult or riot, or be guilty of any other unmilitary conduct, may be put under guard, and so kept for a longer or shorter time, at the discretion of the commanding officer of the company, not beyond the time when the company to which he belongs is dismissed; and shall moreover forfeit a sum not less than five nor more than twenty dollars for each offense, according to the degree and aggravation thereof.

**CHAP. 266.** And if any officer, non-commissioned officer or private shall be wounded, or otherwise disabled when on such duty, he shall receive from the state just and reasonable relief.

Art. 17, chap.  
16, R. S.,  
continued in  
force.

**SECT. 125.** The rules and articles for governing troops and militia in actual service, established by the seventeenth article of the sixteenth chapter of the revised statutes, shall be continued and remain in force.

Inconsistent acts  
repealed.

**SECT. 126.** All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

**SECT. 127.** This act shall take effect from and after its approval by the governor.

[Approved April 9, 1856.]

### Chapter 266.

An act additional in relation to witnesses.

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

Persons inter-  
ested in the  
event of suits,  
&c., not  
excluded from  
being witnesses.

**SECT. 1.** No person shall be excused or excluded from being a witness in any civil suit or proceeding at law or in equity, by reason of his interest in the event of the same as party or otherwise, except as is hereinafter provided; but such interest may be shown for the purpose of affecting his credibility.

Parties not  
witnesses  
where the cause  
of action  
implies a  
criminal offense.

**SECT. 2.** Parties shall not be witnesses in suits where the cause of action implies an offense against the criminal law on the part of the defendant, unless the defendant shall offer himself as a witness, in which case the plaintiff may also be a witness, and in case the defendant in such suit shall offer himself as a witness, he shall be held to waive his privilege of not testifying where his testimony might render him liable to prosecution for a criminal offense.

The law  
relating to the  
execution of  
certain instru-  
ments, not  
affected.

**SECT. 3.** Nothing herein shall in any manner affect the law relating to the attestation of the execution of last wills and testaments, or of any other instrument which by law are required to be attested.

The taking of  
deposition of  
party residing  
without the  
state, provided  
for.

**SECT. 4.** When any party to a suit resides without the state, or is absent from the state, during the pendency of the suit, and the opposite party desires his testimony, a commission under the rules of court may issue to take his deposition; and it shall