

# MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1839.

VOL. 2.

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*AUGUSTA:*  
SMITH & ROBINSON, PRINTERS TO THE STATE.

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1839.

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**NINETEENTH LEGISLATURE.**

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**NO. 30.**

**HOUSE.**

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**REPORT**

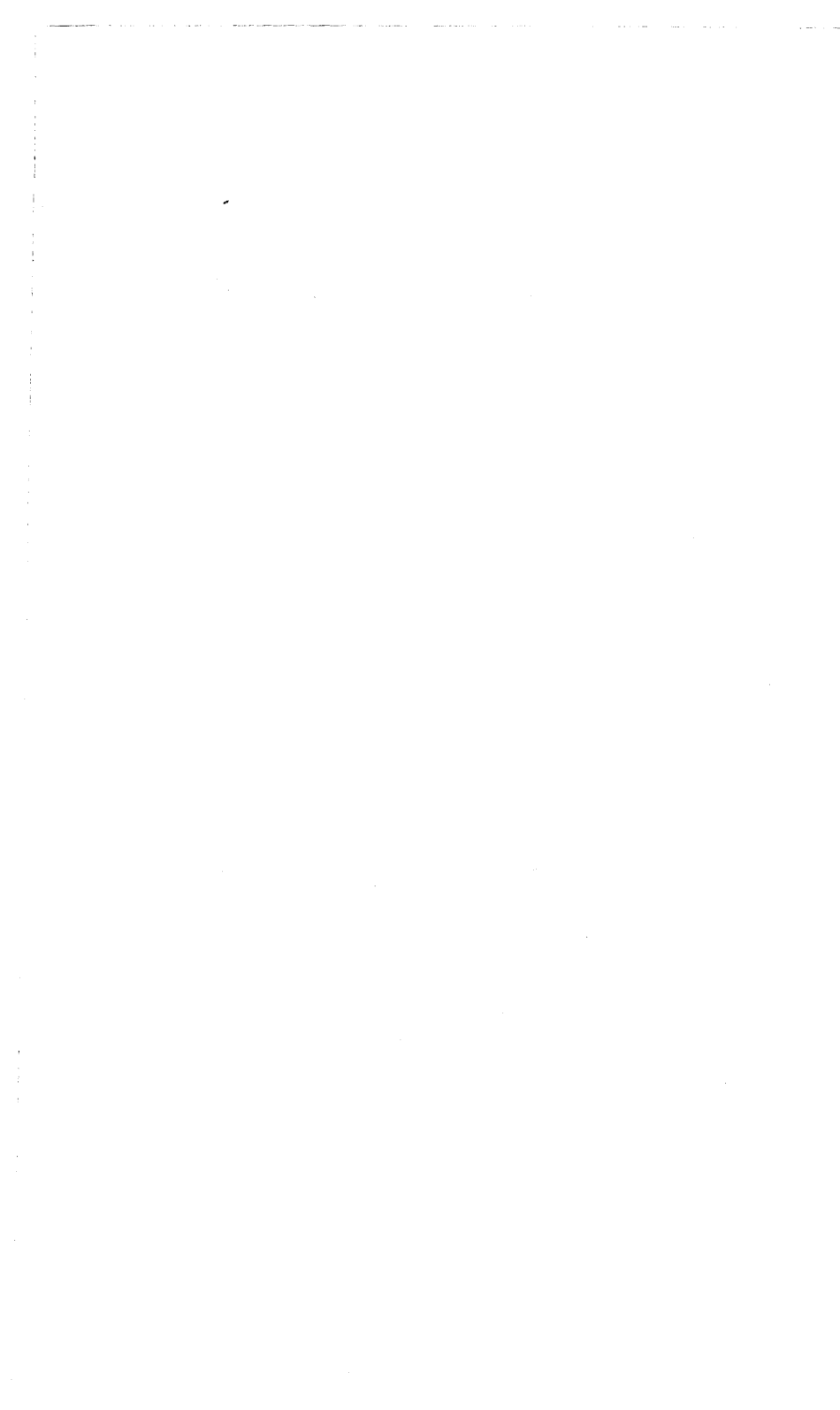
**OF THE**

**COMMITTEE ON THE MILITIA.**

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[SMITH & ROBINSON,.....Printers to the State.]



# REPORT.

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THE Committee on the Militia, to whom was referred so much of the Governor's Message as relates to that subject, ask leave to

## REPORT,

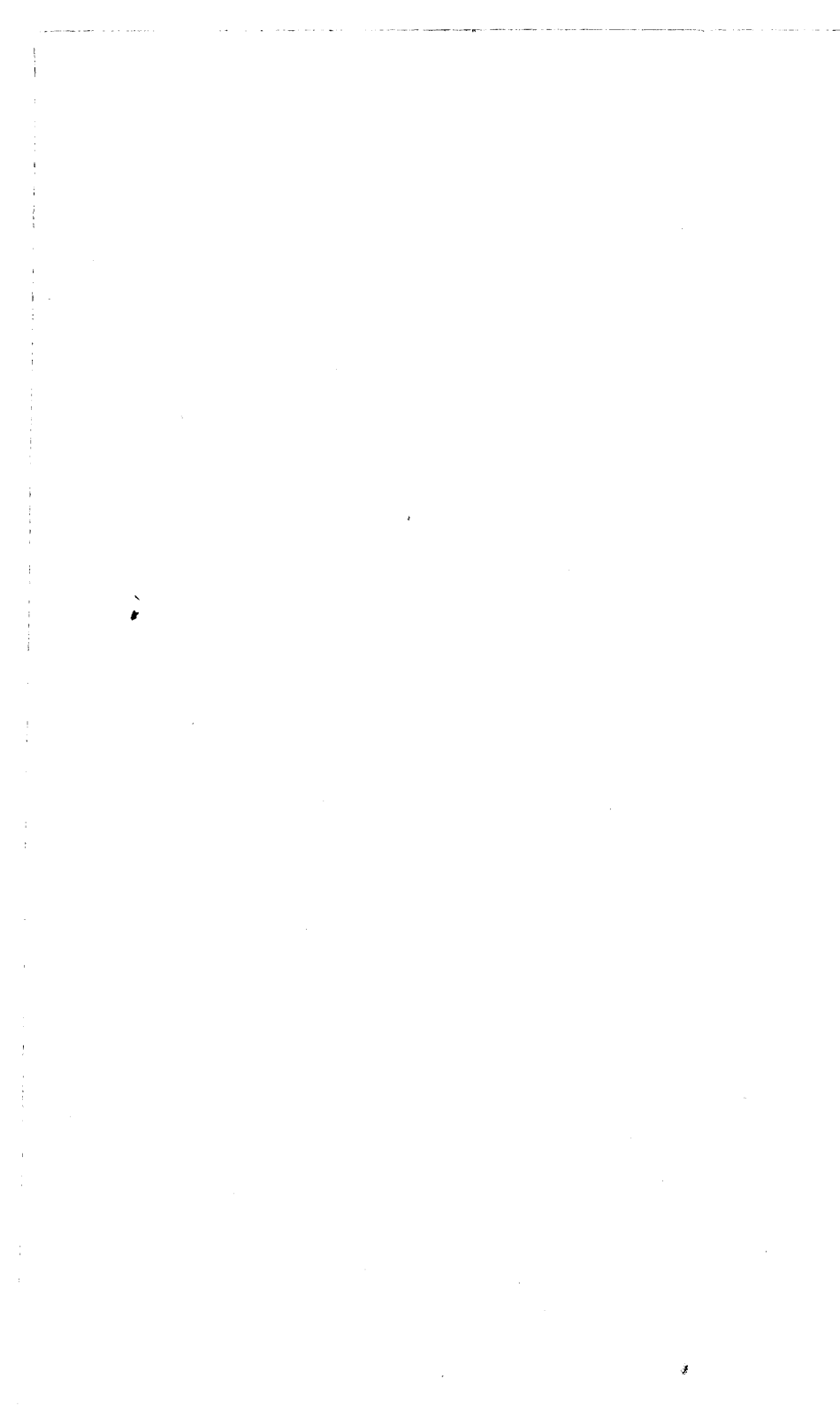
That it has long been, almost universally, the prevalent opinion, that the present Militia system of this State is wholly inefficient, and the necessity of some important alterations in the existing laws has been urged upon your Committee by numerous petitions to that effect by the citizens of the State. The fault seems not to be so much in the unwillingness of the soldier to contribute his aid in defence of the State, as in the method of organization, and in the present system of drill and discipline. In ancient contests, huge masses of men were poured forth on either side, and of course, such contest became a mere array of physical force against physical force, where the superiority of numbers gave every advantage; but modern warfare has demonstrated that the real efficiency of a body of men, does not consist so much in its numbers, as in the skill of the commander and the discipline and subordination of the soldier.

No danger is to be apprehended from a well organized and disciplined Militia. The citizen soldier cannot be seduced from his duty or tempted by mercenary motives to lend his aid to schemes of ambition, or to become the instrument of tyranny and oppression. On the contrary, our only safety and security is in such a body of soldiery. The first inquiry which engaged the attention of your Committee was, the method by which the most effective corps could be raised. The answer is obviously, so far as practicable, by voluntary enlistment. It is certainly very apparent, that the mechanical performance of duties, in the discharge of which the citizen feels no zeal or interest, can be of little avail in rendering the Militia effective, but that it rather tends to embarrass and retard the improvement of those who do manifest both zeal and interest. For this defect, the mode by voluntary enlistment seems the best remedy. Such a system will awaken among our citizens a military ardor, will furnish ample force for any ordinary emergency, and will constitute a vigorous, energetic and efficient soldiery, composed of the strong hands and willing hearts of our best citizens.

Your Committee have not deemed it necessary to go minutely into the merits of the proposed system, in this Report: but they have carried out the general idea in the Bill which is herewith submitted. They did not deem it possible to mature a Bill and

render it perfect in all its details. Time alone can effect that. Experience will develop defects which could not have been anticipated, but which it will be the province of future Legislatures to remedy, as they may become apparent. Your Committee have been influenced by the consideration that some change must be made, and *recent* events have demonstrated conclusively the necessity of speedily commencing the work of reform. Impressed with these views your Committee have agreed to submit the following Bill.

**CHA'S ANDREWS, Per order.**





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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED  
AND THIRTY-NINE.

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**AN ACT** additional to an Act to organize, govern  
and discipline the Militia.

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**SEC. 1.** *Be it enacted by the Senate and  
2 House of Representatives in Legislature  
3 assembled,* That from and after the passage of  
4 this Act, the Militia of this State shall be divided  
5 into two classes, to be called the Active Militia  
6 and the Reserve.

**SEC. 2.** *Be it further enacted,* That the  
2 Active Militia shall consist of one company of  
3 not less than forty nor more than sixty privates  
4 to each Representative district in the State, to  
5 be raised so far forth as practicable by voluntary  
6 enlistment, from among such of the free, white,  
7 able bodied, male citizens of the State as are  
8 or may be of the age of twenty-one years and  
9 under the age of thirty years—the Reserve shall  
10 comprise all such citizens as are required by the

11 law of Congress of 1792 to perform military duty,  
12 except such as are or may be enrolled in the  
13 Active Militia as aforesaid.

SEC. 3. *Be it further enacted*, That the  
2 Active Militia shall be composed of Infantry,  
3 Rifle, Artillery and Cavalry, and the Governor  
4 is hereby authorized, as is hereinafter prescribed,  
5 to issue to each company which shall be formed  
6 under the provisions of this Act, a charter em-  
7 powering it to organize under its own officers;  
8 *Provided, however*, That there shall not be in  
9 any one County in the State more than four  
10 companies of Riflemen or Light Infantry and  
11 one of Cavalry, the remaining companies to be  
12 Heavy Infantry, and the location of each of such  
13 companies of Riflemen or Light Infantry and  
14 Cavalry shall be designated by the Governor  
15 and Council, in such town or Representative  
16 district as may most subserve the interest of the  
17 service.

SEC. 4. *Be it further enacted*, That to each  
2 company there shall be one Captain, two Lieu-  
3 tenants, one Clerk, four Sergeants and four  
4 Corporals, to be chosen as now prescribed by law.

SEC. 5. *Be it further enacted,* That the  
2 several companies in each County composing the  
3 Active Militia shall compose one Regiment of  
4 two Battalions, and all of the Regiments of said  
5 Active Militia, being one to each County, shall  
6 compose one Division of two Brigades, and each  
7 Regiment, Brigade and Division, shall be enti-  
8 tled to the same officers and chosen in the same  
9 manner as now prescribed by law, except the  
10 Generals of Brigades, who shall be chosen by  
11 the Legislature of the State.

SEC. 6. *Be it further enacted,* That all  
2 officers of the Active Militia, above the rank of  
3 Captain, shall be, at the first organization of  
4 said Active Militia, taken from the Reserve—  
5 but in filling all vacancies which may afterwards  
6 occur, such vacancies may be filled either from  
7 the Active Militia or the Reserve, at the discre-  
8 tion of the electors.

SEC. 7. *Be it further enacted,* That every  
2 citizen, enrolled in the Active Militia, after he  
3 shall have attained the age of thirty years, shall,  
4 upon application to the commanding officer of  
5 his Company, be entitled to receive a discharge

6 from the Active Militia, and said commanding  
7 officer shall forthwith give notice thereof to the  
8 commanding officer of that company of the Re-  
9 serve, within whose limits such citizen may  
10 reside; and he shall thereupon be enrolled in  
11 the Reserve, and there be liable to do duty in  
12 manner hereinafter prescribed—and his place  
13 in the *Active Militia* shall be filled by an en-  
14 listment from among such citizens of that dis-  
15 trict where such vacancy may occur, as are  
16 liable to do duty in said Active Militia.

SEC. 8. *Be it further enacted,* That within  
2 sixty days after the passage of this Act, the  
3 Aldermen of cities, and Selectmen of each rep-  
4 resentative district shall enrol such of the free,  
5 white, able-bodied male citizens as are of the  
6 age of twenty-one years, and under the age of  
7 thirty, and who shall volunteer for service in the  
8 Active Militia within the limits of each city or  
9 representative district; and said Aldermen or  
10 Selectmen shall within sixty days as aforesaid,  
11 make return of each enlistment, with the number  
12 enlisted, to the office of the Adjutant General,  
13 who shall thereupon lay the same before the

14 Governor, and the Governor shall issue charters  
15 to each respective company, designating it by  
16 letter and name, whether it be Heavy Infantry,  
17 Light Infantry, Rifle or Cavalry, regulating  
18 their numbers as prescribed in the third section  
19 of this act.

SEC. 9. *Be it further enacted,* That if in  
2 any city, town or representative district, there  
3 shall not be a sufficient number of citizens who  
4 shall volunteer service in the Active Militia to  
5 complete the number required by the second  
6 section of this Act, the Aldermen of such  
7 city, or the Selectmen of such town or district  
8 shall, from the names of all those within the  
9 limits of each city, town or district, who may  
10 not already have volunteered, and who are or  
11 may be of the age of twenty-one years and under  
12 the age of thirty years, draft by lot a number  
13 sufficient to complete the complement required  
14 by the second section of this Act, and shall  
15 give to such persons so drafted, notice thereof in  
16 writing, left at their last and usual place of  
17 abode, and in case such persons so notified shall  
18 neglect or refuse to do duty as required by the  
19 provisions of this Act, then each of such persons

20 shall forfeit and pay a fine of ten dollars for each  
21 and every year they shall so neglect or refuse to  
22 perform military duty—which fine shall be re-  
23 covered in an action of debt brought by the  
24 Aldermen of the city or Selectmen of the town  
25 or district where such delinquency may occur—  
26 and whenever in any city, town or district,  
27 there shall not be a sufficient number of free,  
28 white, able-bodied male citizens of the age of  
29 twenty-one years and under the age of thirty  
30 years, to complete the number required by the  
31 second section of this Act, then, from among  
32 such citizens as are liable to do military duty,  
33 and who shall be of the age of thirty and under  
34 thirty-five, the Aldermen of such city, the Se-  
35 lectmen of such town or district, where such  
36 deficiency may occur, shall proceed to supply  
37 such deficiency by draft and notice, as above  
38 described—and such persons so drafted and no-  
39 tified, shall be subject to the same penalty for  
40 non-performance of duty as is above provided.

SEC. 10. *Be it further enacted,* That the  
2 neglect of the Aldermen of any city, or the Se-  
3 lectmen of any town or representative district,  
4 to carry into full force and effect each and every

5 provision of the eighth and ninth sections of this  
6 Act, shall be punished by the forfeiture of a fine  
7 of not less than fifty dollars, to the use of the  
8 State, to be recovered in an action of debt by  
9 the State against such Aldermen or Selectmen.

SEC. 11. *Be it further enacted*, That in  
2 addition to the Active Militia, provided by the  
3 second and third sections of this Act, the Gov-  
4 ernor, with advice of Council, shall cause to be  
5 raised, in the large towns upon the seaboard,  
6 navigable rivers, and the frontier of the State,  
7 and in the manner prescribed in the second,  
8 eighth and ninth sections of this Act, such com-  
9 panies of Artillery, to be joined to the Active  
10 Militia, as he, with advice of Council, may  
11 direct—provided there be not more than three  
12 such companies in any one county.

SEC. 12. *Be it further enacted*, That  
2 there shall be deposited by the State with the  
3 Aldermen of each city, and the Selectmen of  
4 each town or representative district, a good  
5 musket and bayonet or rifle for each soldier en-  
6 rolled in the Active Militia, and a set of tents  
7 and camp equipage for each company, for the  
8 safe keeping of all which the Aldermen of cities

9 and the Selectmen of towns and representative  
10 districts, shall be held responsible, and each  
11 city, town and district shall make good to the  
12 State all damage done said arms and equipage  
13 under their charge; and it shall be the duty of  
14 commanding officers of each company to see the  
15 same returned in good order to the Aldermen or  
16 Selectmen as aforesaid, within four days after  
17 use, and said Aldermen or Selectmen shall pro-  
18 vide at the expense of each city, town or dis-  
19 trict, some safe place of deposite for said arms  
20 and equipage, from which they shall not be re-  
21 moved, except on request of the commanding  
22 officer of the company belonging within said  
23 city, town or district, for the purpose of instruct-  
24 ing his men in tactics or gunnery.

SEC. 13. *Be it further enacted,* That it  
2 shall be the duty of the commanding officer of  
3 each company to call out those under his com-  
4 mand, designating some suitable place where  
5 they shall assemble for the performance of drill  
6 and company camp duty, on the third Wednes-  
7 day of September annually, and being so assem-  
8 bled they shall continue encamped for three  
9 successive days, during which time they shall



10 be required to observe the strictest discipline  
11 and subordination, and to perform all the duties  
12 of soldiers in active service—and each soldier  
13 and officer shall receive a per diem compensa-  
14 tion in full for pay and rations, of one dollar.

SEC. 14. *Be it further enacted,* That the  
2 Governor, with the advice of Council, may, at  
3 any time when it shall be deemed necessary,  
4 call out the Active Militia for drill and disci-  
5 pline, and when required by the Legislature of  
6 the State, shall call such part of the Reserve  
7 as may be directed, to assist the Active Militia,  
8 the Active Militia being first liable to service in  
9 cases of emergency.

SEC. 15. *Be it further enacted,* That after  
2 the organization of such company shall have  
3 been effected by the choice and commissioning  
4 of its officers, then the Governor shall forthwith  
5 appoint a day on which the commissioned offi-  
6 cers of the companies in each regiment shall  
7 assemble at some central point within the limits  
8 of each regiment, to be also designated by the  
9 Governor, and, being so assembled, said officers  
10 shall then and there go into the choice of regi-  
11 mental officers, in manner and form as now pre-  
12 scribed by law.

SEC. 16. *Be it further enacted,* That in  
2 any city, town or representative district, in  
3 which Independent Companies now exist, one  
4 of such companies in such city, town or district,  
5 may retain its name, organization and officers,  
6 by discharging such as are upwards of thirty  
7 years of age, and enrolling a sufficient number  
8 of recruits, who are or may be of the age of  
9 twenty-one years and under the age of thirty  
10 years, to complete the number of rank and file  
11 required by the second section of this Act—and  
12 if in any city, town or representative district,  
13 there be more than one Independent company,  
14 then the Governor shall designate that com-  
15 pany which shall retain its name and organiza-  
16 tion, as above, and such company so designated  
17 shall be incorporated into the Active Militia.

SEC. 17. *Be it further enacted,* That all  
2 free, white, able-bodied male citizens, who are  
3 or may be of the age of eighteen years and under  
4 the age of forty-five, shall meet annually in  
5 Regimental Review and Inspection, in manner  
6 and form as now prescribed by law, for which  
7 service neither the Active Militia nor the Re-  
8 serve shall receive any compensation.

SEC. 18. *Be it further enacted,* That the

2 Reserve shall be subject to no other duty than  
2 is prescribed in the seventeenth section of this  
4 Act, except in cases of invasion or insurrection,  
5 when they shall be equally liable with the Active  
6 Militia, if the said Active Militia be not a suffi-  
7 cient force.

SEC. 19. *Be it further enacted*, That upon  
2 the day of General Review and Inspection of  
3 both the Active Militia and the Reserve, all  
4 officers of the same grade shall take rank by  
5 priority in date of commission.

SEC. 20. *Be it further enacted*, That no  
2 officer of the Active Militia shall hold the same  
3 rank and commission, in time of peace, longer  
4 than four years from the date of his said com-  
5 mission, but nothing in this act shall be so con-  
6 strued as to render such officer ineligible to a  
7 re-election to the same rank and grade.

SEC. 21. *Be it further enacted*, That no  
2 officer of the Active Militia, whose commission  
3 shall have expired, or who shall vacate his com-  
4 mission by resignation or otherwise, shall, unless  
5 re-elected or promoted, be exempted, in virtue  
6 of his commission, from military duty, but shall

7 be enrolled in the ranks of the Reserve, and  
8 there be liable to do military duty.

SEC. 22. *Be it further enacted*, That when  
2 any company of the Reserve shall be reduced,  
3 by drafts therefrom for the Active Militia, to a  
4 less number than thirty-two effective privates,  
5 including ten non-commissioned officers, the same  
6 shall be disbanded by order of the Governor,  
7 and annexed to the nearest adjoining company  
8 of said Reserve, the commanding officer of which  
9 shall enrol them in his said company.

SEC. 23. *Be it further enacted*, That the  
2 same general rules which now govern the  
3 Militia of this State—the same penalties for  
4 neglect of duties, and violation of rules, as are in  
5 force under existing laws, except such as are  
6 repealed by the operations of this Act, the same  
7 shall continue in force for governing and discipli-  
8 ning the Active Militia constituted by the  
9 provisions of this act.

SEC. 24. *Be it further enacted*, That the  
2 rules and articles of war of the United States,  
3 be and are hereby constituted the rules and arti-  
4 cles for the Militia of this State when in active  
5 service.

**SEC. 25.** *Be it further enacted,* That all acts  
2 and parts of acts inconsistent with the foregoing,  
3 be and the same are hereby repealed.

# STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
February 20, 1839. }

This Report and Bill were laid on the table, and 2000 copies of each ordered to be printed for the use of the Legislature

CHARLES WATERHOUSE, *Clerk.*

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