

# MAINE STATE LEGISLATURE

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# DOCUMENTS

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# THE LEGISLATURE

OF THE

# STATE OF MAINE,

DURING ITS SESSIONS

**A. D. 1842.**

*AUGUSTA:*

SMITH & Co., PRINTERS TO THE STATE.

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1842.

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**TWENTY-SECOND LEGISLATURE.**

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**NO. 26.]**

**[SENATE.**

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**REPORT**

OF THE

**COMMITTEE ON THE MILITIA.**

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[Wm. R. SMITH & Co.....Printers to the State.]



*To the Senate*

*and House of Representatives :*

I have received from the Adjutant General a communication relative to the new militia law, a copy of which, I have thought proper to lay before you, believing that it contains many suggestions worthy of your serious consideration.

However judicious the proposed reduction of the militia may be, I am constrained to believe, that a more favorable time should be selected for carrying it into effect. The disbanding of so many companies and the re-organization of new ones, as the law contemplates, will be a work of time, requiring also more accurate information on the part of those charged with this duty, than is now possessed.

Such a radical change, and the consequent dismissal of half the number, or perhaps a still larger proportion of the officers now in commission, cannot fail, I think, seriously to impair the *present* efficiency of our militia, however the experiment may prove in its final results.

No change in the system, which does not tend *directly* to improve and invigorate it, can be advisable, while the boundary question remains unsettled, and new causes of difficulty with Great Britain are daily multiplying.

I would therefore recommend such amendments of the law as shall obviate the difficulties suggested.

JOHN FAIRFIELD.

COUNCIL CHAMBER, }  
February 4, 1842. }



AUGUSTA, January 31, 1842.

HON. JOHN FAIRFIELD,

*Governor and Commander in Chief:*

I am induced by the suggestions of many military gentlemen, as well as by the convictions of my own mind, to call your attention to some provisions of the militia law of this State, enacted at the extra session.

It will be seen by a recurrence to sections four and six of article two, of the Revised Statutes, that all minors of eighteen years of age and upwards, and all persons between the ages of thirty and thirty five, are exempted from the performance of all ordinary military duty, by a trifling equivalent. Under the old law the whole number of the militia was estimated at forty five thousand. Should the existing law, with the provision for conditional exempts, be carried into effect, it is supposed the number will be reduced one half; and many who have made calculations from the best data to be obtained, believe the whole number under the new law will not exceed fifteen thousand.

It devolves upon the Governor, with the advice of the Council, to organize the militia of this State. The whole number of military officers now in commission is not far from three thousand. It is the opinion of military gentlemen, with whom I have had opportunity to confer, that in the organization under the new law, the entire militia of the State must be disbanded. At any rate, it is obvious that at least one half of the companies, regiments, brigades, and

divisions must be disbanded, and one half of the military officers discharged.

There is no rule prescribed by law to control or guide the commander in chief in regard to the officers to be retained, or discharged. It is left entirely to his own discretion and preferment.

It is not my intention at this time to express any opinion in relation to the merits or demerits of those provisions in the law that are designed to reduce the number of the active militia, by increasing the conditional exempts. One effect, however, is very apparent. In all sparsely settled towns, those required to do military duty would be obliged to travel twice the distance they did under the old law; and the expediency of that law is, at least, questioned, which operates to relieve one portion of the community, by imposing double burthens upon another.

If, however, the reduction of the number of the militia should be deemed by the Legislature expedient and necessary, could it not be done by a gradual process, the influence of which would be less sensibly felt; and would it not be well for the Legislature to fix upon some mode to govern the executive in the new organization of the militia, and particularly to establish some rule to control him in selecting those officers to be retained or discharged? I would further suggest whether, with the present aspect of our foreign relations, it is judicious to adopt any course calculated to impair *that strength*, to which we may be obliged to resort, for the protection of our rights.

The general opinion among military gentlemen is, that the provisions for conditional exempts will operate prejudicially, if they do not prove destructive, to the best interests of the militia, by arraying against the system the hostility of those



officers who may consider themselves unworthily discharged; and also of those soldiers residing in the newly settled portions of our State, who will be required to travel twice and some five times the distance they formerly did to perform military duty.

I have taken the liberty respectfully to make to you the foregoing suggestions, and should they impress you favorably, it may please you to call the early attention of the Legislature to the consideration of the subject.

Respectfully,

Your ob't servant,

ALFRED REDINGTON,

*Adjutant General.*



# STATE OF MAINE.

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IN SENATE, Feb. 16, 1842.

The joint standing committee on the militia, to which was referred the subject of revising the present militia of the State, have had the same under consideration and

## REPORT:

That they assume, and believe that the fact will not be denied by any one conversant with the subject, that the present deranged situation of our militia is truly deplorable, and from the investigation they have given the subject, they are fully convinced that the present militia law of this State, is extremely defective in many of its most important provisions, and that an immediate revision of it is demanded of the present Legislature by the people of the State. This fact is proved by the great variety of petitions which have been laid before the committee from every part of the State, as also a communication from the commander-in-chief, which is herewith annexed. The attention of the Legislature has been repeatedly called to this important subject within the last five years, and it cannot be believed, after the urgent and repeated calls which have been made upon the Legislature, that they will any longer neglect the consideration of this important subject.

Under a government like our own, whose very theory rejects the idea of a standing army, a well regulated and effi-

cient militia must be our main reliance, to protect the citizen, to enforce the laws, and to repel invasion. And in the present aspect of our affairs, the subject becomes one of general interest and high importance.

Our militia must derive much of its importance, efficiency and character, from a high and glorious spirit of chivalry and patriotism, which can have no existence under unequal and unjust, oppressive or unpopular and unconstitutional laws.

We have not attempted to prove the fact that evils exist, (bearing with us as we do, a full conviction, that this is already admitted by every one any ways conversant with the affairs of the militia,) but our attention has been called and our labors devoted to the remedy, and in the proposed revision, we have studiously avoided voluminous details, believing that all laws pertaining to the militia, should be clear, explicit, and yet condensed.

Your committee are also fully aware that public opinion, to a certain, though limited extent, is fully arrayed against the militia in *any* and *every* way. But we believe this feeling had its origin in the adoption of such laws as were calculated, in their very nature, to bring the militia into disrepute. And this feeling has increased and strengthened as tampering with the law has become frequent—and in offering these few additional sections, we have implicit faith, that a fair trial of the law proposed, will do in this State, what it has in others, where similar laws have been enacted, very much to improve its present degraded condition.

Of the necessity of preserving our military institutions, and rendering them as effectual for the purposes for which they were intended, as is consistent with the powers of government, and the interest of the people who sustain them, there cannot be any diversity of opinion. No government

can exist without some military force, “so long as men remain what they are, and not what they should, some rights will have to be protected, and certain duties enforced by something more than the mild mandate of the magistrate, or the acquiescence of the subject”—and so long as different nations exist—governed by different laws—possessing different habits, and pursuing different interests, we may look in vain upon the progress of civilization, or the acknowledged laws of nations, or the influence of civil and religious liberty, for the preservation of peace, or individual and national rights. It is truly said, there is no bound to the human mind—neither is the vehement desire for power abated by any obstacles which may interpose—hence the duty of providing ourselves with sufficient military institutions, to protect our citizens from oppression—to enforce the laws, and repel invasion.

Can there be any detriment to the State, arising from the arming, organizing, and discipling, and sustaining the militia?

If the laws were what they should be and properly enforced, and the institution itself had that interest and respect from the people, which its importance demands, we should find in its ranks a great portion of all our citizens of suitable age. Can any great sacrifice be made by permitting the militia, in time of peace, occasionally to assemble, and by practice and discipline to prepare itself for the exigencies for which it was designed by the framers of the constitution? No, it is only when invidious distinctions have found their way into the ranks, when exemption from duty is obtained by wealth, influence, or any of the artificial means by which some members of the community escape bearing their due proportion of the public burthen, that the parade and drill of the citizen soldiery can be said to have any injurious effect upon the morals of the people. The pride of adorning the ranks is humbled with the few, who, by fortune or any other

adventitious circumstances, may be thus separated from their fellow citizens, who cannot so early obtain the exemption as it is purchased by others. This influence pervades the whole line and every grade; it is the attendant evil in the present system, growing out of the laxity of the laws, and mainly out of that state of public sentiment and general indifference in relation to our military institutions, which your committee are aware is apt to prevail in time of peace and great national security and prosperity, but nevertheless demands serious consideration. Those who are unwilling to submit to the requirements of law, for the public defence, must be considered unworthy of the patriot and the soldier.

Your committee are fully persuaded that the present law is unjust in its operation, and unequal in the burthens it imposes; and that its general provisions have a direct tendency to destroy this strong arm of our national defence. Among the most obnoxious features of the existing law, are those exempting a great portion of our able bodied men from military duty, and limiting the tenure of office. In the operation of the last, whole brigades, regiments, and companies have been disbanded. And in view of these great and serious evils, and with an ardent wish to apply a remedy, the committee have recommended a law very similar to such as are in successful operation in other States of the Union; and if good effects can be produced in other States, it is difficult to imagine why they may not in ours.

We have, therefore, recommended such a revision as is based upon principles of equality, which, while they offer protection *to all*, shall insure a corresponding *support from all* who may participate in the benefits they may confer.

In accordance with the foregoing views, your committee present the bill herewith submitted.

BENJAMIN B. LEAVITT, *Chairman.*

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# STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED  
AND FORTY-TWO.

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AN ACT additional to an act entitled an act to  
organize, govern and discipline the Militia of this  
State.

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*Be it enacted by the Senate and House of Rep-  
resentatives in Legislature assembled—as follows :*  
SECT. 1. The commandants of each regi-  
ment shall assemble the field officers of his regi-  
ment as a regimental court martial and hold a  
session of said court in one or more, not exceed-  
ing three towns within the limits of his regiment,  
in the month of June annually, and at any other  
time, when in his opinion the same may be ne-  
cessary, and shall give twenty days notice of the  
time and place of holding said court to the com-  
mandants of companies in said regiment, and  
said field officers so assembled as a regimental

14 court martial shall have cognizance of all ques-  
15 tions relating to fines and forfeitures incurred  
16 by any commissioned company officer, regimen-  
17 tal or battalion staff officers, and all non-com-  
18 missioned officers, musicians and privates be-  
19 longing to said regiment by reason of disobe-  
20 dience of orders, neglect of duty, or any viola-  
21 tion of the militia laws of this State, and the  
22 said courts martial shall have power to summon  
23 witnesses, administer oaths, render judgment  
24 and issue execution, and no appeal shall be  
25 taken from the decision of said court. Any two  
26 members of said court shall constitute a quorum  
27 for the trial of all causes coming before them in  
28 the manner hereinafter provided.

SECT. 2. Any one member of said court may  
2 and it shall be his duty to adjourn the proceed-  
3 ings thereof from time to time as to him may  
4 appear just or necessary in the absence of the  
5 other members.

SECT. 3. Whenever any such court shall be  
2 in session, the colonel or senior officer compos-  
3 ing said courts martial shall appoint a martial,  
4 whose duty it shall be to preserve order therein.

SECT. 4. All persons summoned to testify in



2 any cause ordered for trial or pending before  
3 either of said courts martial, by virtue of a sub-  
4 pœna issued by said court or by any justice of  
5 the peace, the respondent, shall be held to obey  
6 such subpœna under the same penalties and lia-  
7 bilities for neglect, as are provided in other pub-  
8 lic prosecutions: and all oaths, required of per-  
9 sons testifying in said courts, may be adminis-  
10 tered by any member thereof; depositions may  
11 be taken and used in like manner, as in cases  
12 pending in courts of common law.

SECT. 5. The non-commissioned officers, mu-  
2 sicians, and privates, who shall be liable for any  
3 fines, or shall forfeit any sum of money set or  
4 affixed to any default or offence mentioned in  
5 the Revised Statutes of the militia law of this  
6 State, or shall be guilty of any neglect or liable  
7 for any fine, or shall forfeit any sum of money  
8 set or affixed to any default, when no other  
9 method of collecting the same is pointed out by  
10 law, shall be allowed twenty days from the time  
11 of such forfeiture to make his excuse to the  
12 captain or commanding officer of the company  
13 to which he may belong; which excuse shall be  
14 in writing, signed by the applicant; but if such

15 delinquent shall neglect to make his excuse as  
16 above within the time aforesaid, or if the cap-  
17 tain or commanding officer of said company  
18 shall consider his excuse insufficient, it shall be  
19 the duty of such commanding officer to issue a  
20 notification to the delinquent in the words fol-  
21 lowing, viz :

22 STATE OF MAINE.

23 ———, ss. To ———, orderly sergeant,  
24 (or other sergeant, as the case may be) of the  
25 ——— company in the ——— regiment ——— brig-  
26 ade and ——— division of the militia of this  
27 State, greeting :

28 By the authority of the State of Maine, you  
29 are hereby commanded forthwith to give notice  
30 to ———, of ———, in the county of ———,  
31 who is subject to military duty in said company,  
32 that he is amerced in a fine of ——— dollars and  
33 ——— cents ; (here describe the default and the  
34 time of its commission,) and that he be sum-  
35 moned to appear personally, or by his attorney,  
36 before the regimental courts martial next, to be  
37 holden at ———, on the ——— day of ———,  
38 at ——— o'clock in the ———noon, then and there  
39 to shew cause why judgment should not be ren-

40 dered against him, and execution issued thereon.

41 Hereof fail not, but of this precept with your  
42 doings thereon make due return to me, within  
43 six days from the date hereof.

44 Dated, &c.

45

Signed, &c.

46 Which notification shall be served by being  
47 read in the hearing of such delinquent, or by  
48 leaving a true and attested copy thereof at his  
49 last and usual place of abode seven days at least  
50 before the day of the trial thereon ; and it shall  
51 be the duty of such sergeant to make return of  
52 such notification with his doings thereon to such  
53 captain or commanding officer within six days  
54 after receiving the same.

SECT. 6. If the person upon whom the notifi-  
2 cation has been served, shall wish the fine remit-  
3 ted he shall appear at the time and place men-  
4 tioned before said court by himself or attorney  
5 and shew cause therefor, and whether he does,  
6 or not, appear, the court may or may not remit  
7 the fine, as the circumstances of the case may  
8 require.

SECT. 7. If the court shall not remit the fine  
2 of such delinquent the senior officer composing

3 said court shall issue execution for the same in  
 4 the following form, (as near as the circumstan-  
 5 ces of the case will permit,) viz :

6 STATE OF MAINE.

7 \_\_\_\_\_, ss. To the sheriff of the county of  
 8 \_\_\_\_\_, or either of his deputies, or to the con-  
 9 stable of the town of \_\_\_\_\_, within said coun-  
 10 ty, greeting:

11 Whereas \_\_\_\_\_, of \_\_\_\_\_, in the county  
 12 of \_\_\_\_\_, (addition) was on the \_\_\_\_\_ day of  
 13 \_\_\_\_\_, A. D. \_\_\_\_\_ by the regimental court  
 14 martial of the \_\_\_\_\_ regiment, \_\_\_\_\_ brigade,  
 15 \_\_\_\_\_ division, of the militia of this State,  
 16 amerced in the sum of \_\_\_\_\_ dollars and \_\_\_\_\_  
 17 cents, for delinquency of military duty.

18 You are, therefore, commanded in the name  
 19 of the State of Maine to levy and collect from  
 20 the goods, chattels, or estate of the said \_\_\_\_\_  
 21 \_\_\_\_\_ the said sum of \_\_\_\_\_ dollars and \_\_\_\_\_  
 22 cents, and also the sum of \_\_\_\_\_ dollars and \_\_\_\_\_  
 23 cents for costs of suit, amounting in all to the  
 24 sum of \_\_\_\_\_, together with \_\_\_\_\_ cents more for  
 25 this writ of execution, and for want of such  
 26 goods, chattels, or estate, to be found within  
 27 your precinct, you are hereby commanded to

28 take the body of the said — — and him  
 29 commit unto our jail in ———, in the county  
 30 of ———, and detain in your custody within  
 31 said jail until he pay the sums above mentioned  
 32 with your fees or be discharged by order of law.

33 Hereof fail not, and make return of this writ  
 34 and your doings thereon unto myself within sixty  
 35 days from the date hereof.

36 Dated, &c.

37

Signed, &c.

SECT. 8. And the officer to whom the same is  
 2 directed shall have the same powers, the same  
 3 fees, and be subject to like duties, as in the ser-  
 4 vice of executions issued by justices of the  
 5 peace.

SECT. 9. The executions issued by the regi-  
 2 mental court martial, shall be signed by the  
 3 senior officer composing said court.

SECT. 10. All commissioned and non-commis-  
 2 sioned officers, musicians and privates belonging  
 3 to any company or battalion of artillery or cav-  
 4 alry, located within the bounds of any regiment  
 5 of infantry and all belonging to any other com-  
 6 pany raised at large within the bounds of any  
 7 regiment of infantry; shall be subject to said

8 regimental courts martial in which they are lo-  
 9 cated, in the same manner that the officers, non-  
 10 commissioned officers, musicians and privates  
 11 of regiments of infantry are by the provisions of  
 12 this act.

SECT. 11. It shall be the duty of the adjutant  
 2 of the several regiments to summons all delin-  
 3 quent commissioned company officers, and all  
 4 commissioned and non-commissioned staff offi-  
 5 cers at all times when he may be satisfied of their  
 6 delinquency, to appear before any regimental  
 7 courts martial by reading in their hearing, or by  
 8 leaving an attested copy at their last and usual  
 9 place of abode a notification, &c., in the words  
 10 following, viz :

11 STATE OF MAINE.

12 \_\_\_\_\_, ss.

13 To \_\_\_\_\_, greeting :

14 You having been by me amerced in a fine of  
 15 \_\_\_\_\_ dollars and \_\_\_\_\_ cents, for (here describe  
 16 the nature of delinquency or neglect) are hereby  
 17 required to appear before the regimental courts  
 18 martial, next to be holden at \_\_\_\_\_, on the \_\_\_\_\_  
 19 day \_\_\_\_\_ of \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_  
 20 noon, then and there to shew cause why execu-

21 tion should not issue against you for the same  
22 and all legal fees.

23 Dated, &c.

24 Signed, &c.

25 Which notice shall be served at least ten days  
26 before the day of trial, and the adjutant shall  
27 make due return with his doings thereon to the  
28 senior officer composing said court, at least one  
29 day before the trial thereof, and the said regi-  
30 mental courts martial shall examine into all causes  
31 that shall come before them and if they do not  
32 remit the fine they shall issue execution as in  
33 other cases made and provided.

SECT. 12. It shall be the duty of all comman-  
2 dants of companies and the master of bands to  
3 present to the regimental courts martial, in the  
4 regiments to which they belong, in the month of  
5 June, annually, their books of record, and said  
6 court shall examine the same, and correct all er-  
7 rors which may exist and shall enter in said  
8 books a certificate that the same has been so  
9 examined and found correct (or corrected as the  
10 case may be) and it shall be the duty of said  
11 court to keep a book of record and enter therein  
12 all the proceedings of said courts martial—the

13 amount of all money received, for what, and of  
14 whom, received, and all money paid out and to  
15 whom, and for what purpose—also to transmit  
16 to the commandant of the brigade, in which they  
17 may be located, on the first Wednesday of No-  
18 vember, annually, a certified copy of the amount  
19 of each execution, the date, and against whom  
20 issued—the number excused—the amount of  
21 money received—of whom and for what default  
22 —the amount paid out—for what purpose, and  
23 the amount on hand for the year ending the date  
24 of their return. And it shall be the duty of the  
25 commandants of regiments, and they are hereby  
26 made responsible, that the duties assigned said  
27 regimental courts martial are faithfully executed.

SECT. 13. The compensation of officers and  
2 witnesses shall be as follows: To each member  
3 of the court, for each day spent in holding a  
4 session one dollar and twenty five cents, and for  
5 every mile's travel, four cents. To the martial,  
6 while attending court, one dollar per day.  
7 Where judgment is rendered for any delinquen-  
8 cy, default, or neglect, the court shall tax as  
9 cost. For the officer serving the notice on the  
10 delinquent or a subpoena for witnesses, six cents



11 per mile for actual travel, six cents for reading,  
12 and seventeen cents for a copy thereof. For  
13 notice, issued by the commanding officer of  
14 companies and adjutants to the delinquent,  
15 twenty five cents. For judgment rendered,  
16 fifty cents; for issuing execution, twenty five  
17 cents; for witnesses duly summoned by order of  
18 said court, seventy five cents for each day's  
19 attendance. No prosecuting officer shall be  
20 liable to pay any defendant's cost.

SECT. 14. When the fine, in which any delin-  
2 quent is amerced, shall be remitted by the regi-  
3 mental courts martial, in consequence of any  
4 excuse which was not rendered to the com-  
5 manding officer of the company within the  
6 twenty days from the time of such forfeiture,  
7 the cost of citation, service of the same, wit-  
8 nesses, and court fees shall be taxed against the  
9 delinquent, and execution may issue therefor.

SECT. 15. Each commissioned company offi-  
2 cer and commissioned staff officer, belonging to  
3 any battalion, or regiment, being duly ordered  
4 and shall unnecessarily neglect to appear at any  
5 battalion, regimental, or brigade review or in-

6 spection, shall forfeit and pay for each offence,  
7 not less than three nor more than ten dollars, to  
8 to be determined by the regimental courts mar-  
9 tial, and collected as prescribed in this act.

SECT. 16. Each commissioned company offi-  
2 cer, or regimental staff officer, who shall appear  
3 at any battalion, regimental, or brigade review  
4 without the uniform, arms and equipments, as  
5 prescribed by law, shall forfeit and pay for each  
6 article so deficient the sum of fifty cents; *Pro-*  
7 *vided*, that no officer shall be liable unless he  
8 has been in commission two months; and it  
9 shall be the duty of the brigade major and in-  
10 spector to examine said uniform, arms and equip-  
11 ments, on the day of review, and notify the  
12 adjutant of the regiment to which they belong  
13 the name and rank of said delinquent, and each  
14 article of deficiency, within ten days after said  
15 review; and the adjutant shall summons said  
16 delinquent to appear before said regimental  
17 courts martial, and if the delinquent shall be  
18 found deficient in any article of his said uniform,  
19 arms, or equipments, or guilty of any other  
20 default, execution shall issue against him, as in  
21 other cases made and provided by this act.

SECT. 17. The senior officer of the regimental courts martial shall pay out of the fines collected, or any money which they may have collected by reason of this act, all lawful bills coming against said court, and other members are authorized to settle all lawful bills which the senior officer may hold against said court, and if any money should remain in the hands of said court on the first day of January, annually, they shall deposit the same in the treasury of State to the use of said State, and if said court shall not have a sufficient sum of money in their hands to pay all lawful bills coming against said court, the senior officer of said court shall draw his order on the treasurer of State for such sum as shall be sufficient therefor, and the treasurer of the State is hereby authorized to pay the same sum out of any money in the treasury not otherwise appropriated.

SECT. 18. Any non-commissioned officer who shall neglect or refuse to serve notice on any delinquent and make due return of the same when ordered thereto by the commanding officer of the company to which he belongs shall for such offence forfeit and pay the sum of five dol-

7 lars and shall be liable to be reduced to the  
8 ranks by the regimental court martial.

SECT. 19. No person shall expose for sale or  
2 furnish to be drunken any rum, brandy, gin,  
3 wine or other strong liquors on or within one  
4 mile of any company, battalion, regimental or  
5 brigade review or inspection of the militia of  
6 this State. And any person violating any of  
7 the provisions of this section shall forfeit the  
8 sum of twenty dollars for each offence to the  
9 person complaining, to be recovered by com-  
10 plaint to any magistrate within the county where  
11 said offence was committed. *Provided* that this  
12 section shall not apply to any licensed innholder  
13 or retailer who is prosecuting his ordinary busi-  
14 ness at his usual place of prosecuting the same.

SECT. 20. The persons named in this section  
2 shall be exempted from military duty, upon pro-  
3 ducing certificates as hereinafter prescribed :

4 Every person, of the religious denominations  
5 of quakers and shakers, who shall, on or before  
6 the first Monday of April annually, produce a  
7 certificate to the commanding officer, within  
8 whose bounds such quaker or shaker resides ;  
9 which certificate, (signed by two or more of the

10 elders or overseers, as the case may be, and  
 11 countersigned by the clerk of the society, with  
 12 which such quaker or shaker meets for religious  
 13 worship,) shall be in substance as follows :

14 “ We the subscribers, of the society of people  
 15 called ——— in the town of ——— in the  
 16 county of ——— do hereby certify, that ———  
 17 ——— is a member of our society, and that he  
 18 frequently and usually attends with said society  
 19 for religious worship, and conforms to the usa-  
 20 ges of the same, and, we believe is conscien-  
 21 tiously scrupulous of bearing arms.

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

24   E. F. *Clerk.*

25   All engine men, upon conditions specified in  
 26 the acts, under which they have been, or may  
 27 hereafter be, appointed, *provided*, that such en-  
 28 ginemen shall be still liable to be called forth, as  
 29 members of the company, within the limits of  
 30 which they reside; to execute the laws of the  
 31 United States, or of this State, to suppress in-  
 32 surrection and repel invasion, but shall not vote  
 33 in the choice of company officers, so long as  
 34 they claim exemption from other military duty ;

35 *provided*, that no person shall be exempted from  
36 the performance of any military duty, by virtue  
37 of his being a member of any engine company,  
38 unless he shall, on or before the second Tuesday  
39 of April, annually, produce to the commanding  
40 officer of the military company, to which he be-  
41 longs, the certificate of the selectmen, or other  
42 officers by whom he is appointed, that he has  
43 been duly appointed an engineman, and that he  
44 faithfully performs the duty thereof. But it shall  
45 be the duty of the clerk of each engine company,  
46 to return to the commanding officers of military  
47 companies, a list of all the members of said en-  
48 gine companies, and such list, so returned, shall  
49 avail each member, in the same manner, as  
50 though he had personally returned his certificate  
51 of membership.

52 No person, liable to the performance of mili-  
53 tary duty, who may be discharged from any en-  
54 gine company, for being negligent of the duties  
55 required of him as an engineman, shall again  
56 be appointed an engineman, and be thereby ex-  
57 empted from military duty, until one year from  
58 the time he may be so discharged.

59 No mariner shall be required to perform mili-

60 tary duty, unless at the time of his being warned,  
61 he shall have been discharged from some vessel  
62 three months.

63 No member of any company of artillery, cav-  
64 alry, light infantry or riflemen shall be appointed  
65 an engineman, during the time for which he  
66 may have enlisted into said company, when by  
67 such appointment, any such company would  
68 be reduced below forty eight effective privates.

69 Any non-commissioned officer or private may  
70 be exempted from military duty, on account of  
71 bodily infirmity, *provided* he shall obtain a cer-  
72 tificate thereof, in the manner provided in this  
73 section, that is to say :

74 It shall be the duty of the surgeon and sur-  
75 geon's mate to receive all applications made to  
76 them, which shall be in writing, stating concisely  
77 the disease or infirmity, made under oath, which  
78 oath may be administered by the surgeon or  
79 surgeon's mate, and the surgeon or surgeon's  
80 mate shall make a critical examination into the  
81 nature and degree of such infirmity, and if he  
82 shall be of opinion, upon such examination, that,  
83 the person so applying, is unable to perform the  
84 duties required by law of soldiers in the militia

85 he shall give to the person, so applying, a cer-  
86 tificate thereof, which, being recorded in the  
87 orderly book of the company, in which such  
88 applicant would otherwise be liable to do mili-  
89 tary duty, or presented by the person holding  
90 the same to be recorded, shall exempt him from  
91 the performance of all military duty, for such  
92 term as he may think such disability will con-  
93 tinue, not exceeding one year. *Provided*, that  
94 if such surgeon or surgeon's mate shall be of  
95 opinion that the infirmity of any person is in-  
96 curable, and of such a nature, that he can never  
97 be able to perform military duty, he may give  
98 to such person a certificate thereof, which being  
99 recorded as aforesaid. shall absolutely exempt  
100 such person from military duty, until revoked  
101 by the same authority, and the surgeon and  
102 surgeon's mate shall have power on due notice,  
103 if they see cause, to revoke any such certificate.  
104 No certificate shall be granted by any sur-  
105 geon or surgeon's mate between the first day  
106 of May and the first day of November in each  
107 year unless the person applying for the same,  
108 shall satisfy such surgeon or surgeon's mate, by  
109 his statement under oath in his said application,



110 that such infirmity has arisen since the first day  
111 of May, or that he was unable by reason of  
112 said infirmity to apply for a certificate before  
113 the first day of May. If any surgeon or sur-  
114 geon's mate shall demand or receive of any  
115 non-commissioned officer or private, any fee  
116 or reward for any certificate or examination,  
117 he shall forfeit and pay a fine equal to four  
118 times the amount of the fee so received or de-  
119 manded, to be recovered in an action of debt  
120 before any court of competent jurisdiction, in  
121 the name of the commanding officer of the  
122 company, in which such person, so paying or  
123 causing to be paid such fee, would be liable to  
124 do duty, to be appropriated in the same man-  
125 ner, as other military fines.

SECT. 21. All persons between the ages of  
2 eighteen, and forty five years, shall be liable to  
3 do military duty, except such as are hereafter  
4 exempted.

SECT. 22. All persons, liable by law to the  
2 performance of military duty, who are or may  
3 be between the ages of thirty five and forty five  
4 years shall be exempted from all military duty,  
5 except that of being detached or called forth to

6 execute the laws of the United States, or of this  
7 State, to suppress insurrection and repel inva-  
8 sions, and of keeping themselves constantly  
9 furnished with the arms and equipments requir-  
10 ed by the laws of the United States, and the  
11 duty of carrying or sending them on the first  
12 Tuesday of May, annually, to the place of in-  
13 spection or view of arms of the company within  
14 the bounds of which they reside, and in which  
15 they may be enrolled. All persons, liable to do  
16 military duty, shall be allowed six months after  
17 their first enrolment to procure equipments. No  
18 person shall be exempted from military duty,  
19 except such as are provided for in this act.

SECT. 23. All officers and soldiers or musi-  
2 cians, of the militia of this State, when in pur-  
3 suance of lawful orders, going to or returning  
4 from their respective places of parade, or of  
5 meeting for election or other purpose, and neces-  
6 sarily crossing any river or other water at any  
7 bridge, or ferry, established by law, shall be  
8 entitled to conveyance over such river or other  
9 water, at such bridge, or ferry, free from toll.

SECT. 24. All military officers who have been  
2 or may hereafter be commissioned, shall hold

3 their respective offices for a term not longer than  
4 seven years from the date of their commissions,  
5 unless re-appointed or re-elected, and the com-  
6 mander in chief shall discharge all such officers  
7 accordingly ; provided, that in case of vacancy of  
8 major general in any division, the commissions of  
9 the brigadier general in such divisions shall not  
10 terminate by the limitation aforesaid, till the  
11 office of major general shall be filled—but no  
12 officer shall be discharged within the said term  
13 of seven years otherwise than in pursuance of  
14 the sentence of a court martial, except by the  
15 commander-in-chief on request of such officer  
16 in writing or by actual removal out of the bounds  
17 of his command and to such distance that the  
18 major general shall think it inconvenient for him  
19 to discharge the duties of his office, or by twelve  
20 months' absence without leave of the command-  
21 ing officer of his division or by the corps to  
22 which he belongs being disbanded by law. And  
23 whenever any division, brigade, regiment or  
24 battalion shall be divided and the residence of  
25 any one staff officer attached thereto shall be  
26 without the bounds of the corps in which he was  
27 commissioned, such staff officer shall be entitled

28 to an honorable discharge and shall cease to do  
29 duty in such office after such division is made,  
30 and the commanding officer may proceed to fill  
31 the vacancy occasioned thereby. No officer  
32 shall be discharged by the provisions of this act  
33 while under an arrest ; and it shall be the duty  
34 of the major general of each division of the mili-  
35 tia to file in the office of the adjutant general  
36 the name and rank of all officers against whom  
37 charges have been filed by the division advocate  
38 to him, on receipt of said charges, and when it  
39 shall have been determined that no court martial  
40 shall be ordered on such charges, notice thereof  
41 shall also be filed in the adjutant general's office.

SECT. 25. When a brigade review or inspec-  
2 tion is ordered the commanding officer of the  
3 brigade shall appoint the place and give notice  
4 thereof to the commanding officer of the divis-  
5 ion. When a regimental review or inspection  
6 is ordered the commanding officer of the regi-  
7 ment shall appoint the place and give notice  
8 thereof to the commanding officer of the brigade.  
9 And when a review or inspection of a regimen-  
10 tal, battalion or part of a battalion is ordered, the  
11 commanding officer of the regiment shall ap-

12 point the place and give notice thereof to the  
13 commanding officer of the brigade; and the  
14 places to be appointed for review or inspection  
15 as aforesaid shall always be as central as in the  
16 judgment of the officer pointing out the place,  
17 convenience will admit, and the artillery, caval-  
18 ry and other troops raised at large and not an-  
19 nexed to any particular regiment shall be review-  
20 ed and inspected once in each year either by  
21 themselves or with the brigades, regiments or  
22 battalions of regiments as the commanding offi-  
23 cer of the respective division may direct. And  
24 all regiments which may meet for regimental  
25 review shall meet and be drilled within the limits  
26 of their respective regiments.

SECT. 26. That all acts and parts of acts in-  
2 consistent with the provisions of this act be, and  
3 the same hereby are repealed.

STATE OF MAINE.

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IN SENATE, February 19, 1842.

ORDERED, That 800 copies of the foregoing Report and accompanying papers be printed for the use of the Legislature.

[Extract from the Journal.]

ATTEST :                      JERE HASKELL, *Secretary.*