

SENATE.....No. 52.

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**Commonwealth of Massachusetts.**

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IN SENATE, March 3, 1835.

The Committee on the Militia, to whom was re-committed "An Act in addition to the several Acts for regulating, governing and training the Militia of this Commonwealth," Report the same as taken into a new draught.

DANIEL MESSINGER,

*For the Committee.*

## Commonwealth of Massachusetts.

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In the Year of Our Lord One Thousand Eight Hundred  
and Thirty-Five.

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### AN ACT

In addition to the several Acts for regulating, governing  
and training the Militia of this Commonwealth.

1    SEC. 1.    **BE** it enacted by the Senate and House  
2 of Representatives, in General Court assembled, and  
3 by the authority of the same, That the Act of 1834,  
4 Chapter 152, of the same title as this Act, and ex-  
5 cepting only so much thereof as exempts the Select-  
6 men of the several towns from furnishing cartridges  
7 for review days, and so much thereof as discontinues  
8 the drills of Regimental or Battalion Officers, and so  
9 much thereof as prohibits the remission of poll taxes,  
10 and also so much thereof as reduces and regulates  
11 the pay of certain Staff-Officers, be, and the same  
12 hereby is repealed.    *Provided*, That nothing herein  
13 contained shall operate to destroy the organization

14 of the volunteer companies, which has already taken  
15 place under said Act, but every such organization  
16 may be retained or abolished by the Commander-in-  
17 Chief, with the advice and consent of Council, ac-  
18 cordingly as it shall be made to appear best for the  
19 interest of the volunteer companies, and the public  
20 good.

1 SEC. 2. *Be it further enacted*, That no idiot, lu-  
2 natic, common drunkard, vagabond or pauper, nor  
3 any person who has been duly convicted of any infa-  
4 mous crime, nor any person, other than free, white,  
5 able-bodied male citizens, shall be enrolled in the Mili-  
6 tia of this Commonwealth, or shall be eligible to any  
7 office therein; and whenever it shall appear to the  
8 Commander-in-Chief that any person thus ineligible  
9 has received a majority of the votes cast at any elec-  
10 tion of Militia Officers in this Commonwealth, he  
11 shall, with the advice and consent of Council, take,  
12 consider and declare any other person, if there be  
13 any such, who, being eligible to the office, shall have  
14 received the next highest number of votes at said  
15 election, to be duly elected to said office, and shall  
16 commission him accordingly; and if it shall appear  
17 that no person eligible to said office, has received  
18 any votes at such election, the Commander-in-Chief  
19 shall, with the advice and consent of Council, deem  
20 and take it to be a neglect or refusal on the part of  
21 the electors to make any election, and shall proceed  
22 to appoint some suitable person to fill the vacancy,  
23 agreeably to the Constitution of this Commonwealth.

1 SEC. 3. *Be it further enacted*, That any person  
2 who, individually, or in company with others, shall  
3 openly and publicly mock, deride, or attempt to bring

4 into derision, the Militia of this Commonwealth, or  
5 any part thereof by any fantastic attire, burlesque be-  
6 haviour, or any other open and public act of mockery  
7 or derision, is, and shall be taken to be guilty of a  
8 breach of public peace and decorum, and upon con-  
9 viction of any such offence, before any Justice of the  
10 Peace or Police Court in this Commonwealth, shall  
11 be subject to a fine of not less than five nor more than  
12 fifty dollars.

1 SEC. 4. *Be it further enacted*, That whenever it  
2 shall appear to the Commander-in-Chief, that any  
3 officer duly commissioned to command in the Militia  
4 has become either mentally, morally, or physically  
5 unable or unfit to discharge the duties of his office,  
6 and to exercise proper authority over those whom  
7 he commands, the Commander-in-Chief shall have  
8 power, and it shall be his duty, with the advice and con-  
9 sent of Council, to suspend said officer from his com-  
10 mand until the next session of the Legislature, when the  
11 whole case, with the evidence thereon, shall be re-  
12 ported to the Senate and House of Representatives,  
13 that said officer may be removed from, or restored to  
14 his office, as they in their wisdom shall see fit.