

1827/28 ad

H. R.....No. 17.

Commonwealth of Massachusetts.

In the year of our Lord one thousand eight hundred and twenty-eight.

AN ACT,

In further addition to an Act entitled "An Act 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,
3 and by the authority of the same, That in addition
4 to the exemptions made by the laws of the Uni-
5 ted States concerning the militia, the persons
6 afterwards in this section mentioned be, and
7 they are hereby either absolutely or condition-
8 ally exempted from militia duty, notwithstanding
9 their being of the age of eighteen, and under

10 the age of forty-five years ; and that the follow-
11 ing be the persons who are absolutely exempted,
12 viz : the Lieutenant-Governor ; the members of
13 the Executive Council ; the Judges of the Su-
14 preme Judicial Court ; the Judges of the Courts
15 of Common Pleas ; the members of the Legis-
16 lature, and its Officers while the same is in Ses-
17 sion ; Judges of Probate ; Registers of Deeds ;
18 the Attorney General, and the Solicitor Gene-
19 ral ; Sheriffs ; all Officers and Students of any
20 College, actually resident there ; the President,
21 Professors and Students of Theological Semi-
22 naries ; Ministers of the Gospel, of every deno-
23 mination ; all Students of Divinity, who shall
24 produce a certificate from an ordained clergy-
25 man of their being such, and deliver the same to
26 the commanding officer of the company within
27 whose bounds such student resides ; all Officers
28 who have heretofore held commissions in the
29 army or navy of the United States, being now
30 discharged ; all Officers who now hold or who
31 may hereafter hold commissions in the army or
32 navy of the United States : *Provided*, That at
33 the time of their discharge from the service of
34 the United States, they shall have held such
35 commission for the term of seven years ; all Of-
36 ficers who have heretofore held commissions in
37 the militia of this State for the term of five
38 years, and are now discharged ; all Officers who
39 now hold or who may hereafter hold commis-
40 sions in the militia of this State, after their dis-

41 charge from Office : *Provided*, They shall have
42 served as an Officer in the militia for the term
43 of seven years ; the Officers and Guards em-
44 ployed at the State-Prison in Charlestown ; such
45 Engine men as shall annually produce to the
46 commanding officer of the company within whose
47 bounds they reside, certificates from the select-
48 men of their respective towns, that they have
49 been legally appointed and are bound to per-
50 form the duties of Engine men : *Provided*, Such
51 Engine men shall be of the age of twenty-one
52 years ; every member of the Fire Department
53 of the City of Boston, so long as he shall con-
54 tinue to serve in said Department : *Provided*,
55 Such persons shall produce to the commanding
56 officer of the company within whose bounds they
57 may respectively reside, on or before the first
58 Tuesday of May, in each year, a certificate
59 signed by the Mayor of the City, stating that he
60 is a member of said Fire Department ; and ev-
61 ery person of the religious denomination of
62 Shakers and Quakers, who shall on or before
63 the first Tuesday of May, annually, produce a cer-
64 tificate to the commanding officer of the compa-
65 ny within whose bounds such Quaker or Shaker
66 resides, which certificate, signed by two or more
67 elders or overseers, (as the case may be,) and
68 countersigned by the Clerk of the Society with
69 which such Quaker or Shaker meets for religi-
70 ous worship, shall be in substance as follows :

71 WE, the Subscribers, of the Society of the
 72 people called _____ in the town of _____
 73 _____ in the county of _____ do
 74 hereby certify that _____ is a
 75 member of our Society, and that he frequently
 76 and usually attends with said Society, for religi-
 77 ous worship, and we believe is conscientiously
 78 scrupulous of bearing arms.

79 A. B. } *Elders or Overseers.*
 C. D. } (as the case may be.)

E. F., *Clerk.*

80 All students of incorporated academies within
 81 this Commonwealth while actually attending the
 82 same, except such students as belong to the
 83 Town in which such academy is situated; the
 84 Superintendants and other Officers and Assist-
 85 ants employed in and about any Department of
 86 the Massachusetts General Hospital, not ex-
 87 ceeding four in each Department, during the
 88 time of such employment; the Commissioned
 89 Officers of any volunteer corps, which has been
 90 or hereafter may be disbanded by law, while the
 91 said Officers have held or shall hold their com-
 92 missions, and be duly qualified to act under the
 93 same; and all persons above the age of twenty-
 94 eight years, and under the age of forty-five
 95 years, be and they are hereby exempted from all
 96 militia duty, upon condition that they keep them-
 97 selves constantly furnished with the arms and
 98 equipments required by the law of the United
 99 States, and that they perform the duty of carry-

100 ing or sending them on the first Tuesday of
 101 May, annually, to the place of inspection or
 102 view of arms of the company within whose
 103 bounds they may reside, and in which they are
 104 enrolled: *Provided, however,* That this exemp-
 105 tion shall not extend to the duty of attending
 106 the election of Company Officers, according to
 107 the provisions of law in that behalf; and eve-
 108 ry person who shall actually do duty as a musi-
 109 cian in any company in which he may be en-
 110 rolled, shall be exempted from all other militia
 111 duty: *Provided,* There shall be no more than
 112 four musicians to any one company; and all
 113 persons who shall actually serve in any volun-
 114 teer company for the term of seven years shall
 115 be exempted from all militia duty upon the same
 116 conditions as persons between the ages of twen-
 117 ty-eight and forty-five years—viz: of carrying
 118 or sending their arms and equipments for in-
 119 spection; and all seafaring men, supercargoes
 120 and clerks excepted, who do not reside on
 121 shore for more than one month at a time, be
 122 absolutely exempted.

1 SEC. 2. *Be it further enacted,* That every
 2 Commanding officer of a company shall parade
 3 his company on the first Tuesday of May, an-
 4 nually, at nine of the clock in the forenoon,
 5 for the purpose of inspecting, examining
 6 and taking an exact account of all the equip-
 7 ments of all his men, and for noting all delin-
 8 quencies of appearance and deficiencies of equip-

9 ment, and for correcting his company roll, in or-
10 der that a thorough inspection of each company
11 in the Commonwealth may be made : and also
12 for company exercise, drill and discipline. And
13 it shall be the duty of every commanding officer
14 of a company, to parade his company by his
15 own order, on one day in the year, either in the
16 month of September or October, for training, in
17 addition to the inspection and other duty, on
18 the first Tuesday of May. And on each of said
19 days it shall be his duty to use his best exertions
20 in instructing and perfecting his men in their
21 company exercise, and evolutions. And when-
22 ever the commanding officer of a company
23 shall order out his company for inspection or
24 training, or for any battalion, regimental, brig-
25 ade, or division inspection, or review, he shall
26 issue his orders to some two or more of the non-
27 commissioned officers or privates of his company,
28 requiring him or them to notify the men belong-
29 ing to his company to appear at the time and
30 place appointed : and it shall be the duty of the
31 non-commissioned officer or officers, private or
32 privates, so ordered as aforesaid, to give notice
33 of the time and place appointed for the parade
34 of said company, to each and every man, he or
35 they shall have been ordered to notify, either
36 by delivering to each man in person, or by leav-
37 ing at his last and usual place of abode, a writ-
38 ten or printed order. And no notice shall be
39 legal, for any company inspection or training,

40 or for any battalion, regimental, brigade or di-
 41 vision inspection, or review, unless the same
 42 shall be given four days at least, previous to the
 43 time appointed therefor. *Provided always*, That
 44 in case of invasion, insurrection or other emer-
 45 gency, any notice, however short, shall be legal
 46 and binding. And in all cases, the testimony of
 47 the clerk, or any other non-commissioned officer
 48 or private, who shall have received orders to
 49 notify any part of the men, of any company, to
 50 appear at a time and place appointed for any
 51 military duty, shall be conclusive to prove that
 52 due notice was given to the party prosecuted,
 53 unless such testimony shall be invalidated by
 54 other evidence.

1 SEC. 3. *Be it further enacted*, That all the
 2 troops of each division shall be paraded once in
 3 Two years, and not oftener, for review inspec-
 4 tion and discipline, either in brigades, regi-
 5 ments or battalions of regiments, (regard being
 6 had to the scattered or compact situation of
 7 the troops,) at such times as the commanding
 8 officer of the divisions may order. The first
 9 parade aforesaid, under this act, to be in the
 10 year of our Lord eighteen hundred and twenty-
 11 nine : and each subsequent parade as aforesaid,
 12 to be in the second year next after each pre-
 13 ceding parade as aforesaid. And when a brig-
 14 age review or inspection is ordered, the com-
 15 manding officer of the brigade shall appoint the
 16 place, and give notice thereof to the command-

17 ing officer of the division : when a regimental
18 review or inspection is ordered, the command-
19 ing officer of the regiment shall appoint the
20 place, and give notice thereof to the command-
21 ing officer of the brigade, and when a review
22 or inspection of a regimental battalion is order-
23 ed, the commanding officer of the regiment
24 shall appoint the place and give notice thereof
25 to the commanding officer of the brigade. And
26 the places to be appointed for the inspections or
27 reviews as aforesaid, shall always be as central,
28 as in the judgment of the officer pointing out
29 the place, convenience will admit. And the
30 Artillery, Cavalry and other troops, raised at
31 large, shall be reviewed and inspected once in
32 Two years in like manner with other troops,
33 either with the brigades, regiments or battalions
34 of regiments, as the commanding officer of the
35 respective divisions may order and direct.
36 *Provided*, That no officer, non-commissioned
37 officer or private, shall be obliged to march a
38 greater distance from his home than fifteen
39 miles, to any division or brigade review.

1 SEC. 4. *Be it further enacted*, That if any
2 company of Cavalry, artillery, light infantry,
3 grenadiers or riflemen, or any other company,
4 raised at large, shall at any time be destitute of
5 commissioned officers, and shall neglect to fill
6 vacancies for two months after being ordered
7 to choose officers to fill them, or if any such
8 company shall be reduced to a less number than

9 thirty privates, and remain so for three months,
 10 then in either case as aforesaid, such company
 11 shall be disbanded, and the men which belong-
 12 ed to such delinquent company shall be en-
 13 rolled in the standing company within the
 14 bounds of which they respectively reside. And
 15 all companies raised at large and not annexed
 16 to any particular regiment, shall be subject to
 17 the orders of the commanding officer of the
 18 brigade in which they have been raised, and
 19 shall make their elections of officers in the same
 20 manner as other companies; but shall make
 21 their returns of elections to the commanding
 22 officer of the brigade.

1 SEC. 5. *Be it further enacted,* That when any
 2 non-commissioned officer or private shall on the
 3 day appointed for any division, brigade, regi-
 4 mental or battalion review or inspection, com-
 5 mit any of the offences specified in the twenty-
 6 second article, of the thirty-fourth section of an
 7 act, passed the sixth day of March, in the year
 8 of our Lord eight hundred and ten, entitled
 9 "an act, for regulating, governing and training
 10 the Militia of this Commonwealth," he shall
 11 forfeit not less than Ten, nor more than Twenty
 12 Dollars, to be recovered by the adjutant of the
 13 regiment, to be disposed of, one fourth to his
 14 own use, and the remaining three fourths by the
 15 Field officers of the regiment, for such pur-
 16 pose as they shall think fit for the use of the
 17 regiment. And the said adjutant, in collecting
 3

18 the forfeiture aforesaid shall proceed in the same
 19 manner, as Clerks of companies now by law
 20 proceed in collecting military forfeitures.—
 21 And an endorsement of approval upon any
 22 complaint of such adjutant by the Commanding
 23 officer of the regiment, shall protect the said
 24 adjutant to the same extent, and in like manner
 25 as Clerks of companies are protected by a like
 26 endorsement of the commanding officer of his
 27 company. And all civil officers and magistrates
 28 shall have the same power and authority, and
 29 shall be under the same obligations to proceed
 30 upon any complaint made by said adjutant to
 31 recover the forfeiture aforesaid as they now have
 32 and are under with respect to complaints made
 33 by Clerks of companies to recover military fines
 34 and forfeitures. And it is hereby made the duty
 35 of all commanding officers of companies when-
 36 ever any of the offences named in said article,
 37 shall be committed on any day appointed
 38 for division, brigade, regimental or battalion re-
 39 view or inspection forthwith to communicate the
 40 same to the commanding officer of the regi-
 41 ment to which he belongs.

1 SEC. 6. *Be it further enacted*, That if any non-
 2 commissioned officer or private shall wilfully be
 3 guilty of any of the offences specified in the
 4 twenty-fourth article of the act and section last
 5 before mentioned, he shall forfeit the sum of
 6 Fifty Dollars.

1 SEC. 7. *Be it further enacted*, That if any
 2 non-commissioned officer or private shall be
 3 guilty of any of the offences specified in the
 4 twenty-seventh, twenty-eighth and twenty-ninth
 5 articles of the act and section last before men-
 6 tioned, he shall forfeit for the offence, specified
 7 in said twenty-seventh article, the sum of Five
 8 Dollars; and for the offence specified in the
 9 Twenty-eighth article, the sum of Three Dol-
 10 lars; and for the offence specified in the Twen-
 11 ty ninth article, the sum of Five Dollars. And
 12 the provisions of said twenty-ninth article, are
 13 hereby extended to division inspections and
 14 reviews.

1 SEC. 8. *Be it further enacted*, That the ex-
 2 cuses to be rendered pursuant to the provi-
 3 sions of the eleventh section of an act, passed
 4 February the twenty-first, in the year of our
 5 Lord, eighteen hundred and twenty-two, enti-
 6 tled "An Act in further addition to an Act enti-
 7 tled an act for regulating, governing and training
 8 the Militia of this Commonwealth," shall be made
 9 within Ten days after any training, view of
 10 arms, or other military duty, any thing in said
 11 Act to the contrary notwithstanding.

1 SEC. 9. *Be it further enacted*, That all Divi-
 2 sion, Brigade and Regimental Staff Officers
 3 who shall hereafter be commissioned, shall be
 4 discharged by his Excellency the Governor up-
 5 on the application of their respective command-
 6 ing officers, provided such Staff officers did not

7 receive their appointment from the commanding
8 officer, making such application, and such dis-
9 charge of such Staff officer shall operate as an
10 absolute exemption from military duty.

1 SEC. 10. *Be it further enacted*, That if any
2 person hereafter elected to the office of Cap-
3 tain, Lieutenant, Ensign or Cornet in any com-
4 pany of Militia of this Commonwealth, shall
5 after having declared his acceptance thereof
6 neglect or refuse to receive his commission, or
7 shall neglect or refuse to qualify himself accord-
8 ing to law, he shall forfeit the sum of Twenty
9 Dollars, to be recovered by the Adjutant of the
10 Regiment in which such person shall reside at
11 the time of his election, in the manner and to
12 the uses prescribed for collecting forfeitures un-
13 der the twenty-second article, as herein before
14 enacted.

1 SEC. 11. *Be it further enacted*, That the Se-
2 lectmen of every town and district, and the May-
3 or and Aldermen of every city, shall supply at
4 the expence of such town or district, or cause
5 the commanding officer of each company within
6 such town or district to be supplied with one
7 quarter of a pound of good powder, made into
8 good blank cartridges, for each non-commis-
9 sioned officer or private borne on the company
10 roll of such commanding officer, upon the appli-
11 cation of such commanding officer, for his com-
12 pany training in the month of September or Oc-
13 tober, in each year in which there shall be no

14 Division, Brigade, Regimental, or Battalion re-
 15 view or inspection: *Provided*, such officer makes
 16 a written application therefor, stating the num-
 17 ber of men resident in such town, district or
 18 city.

1 SEC. 12. *Be it further enacted*, That it shall be
 2 the duty of the assessors of the several towns
 3 and districts and of any city within this Com-
 4 monwealth, whenever a certificate of the com-
 5 manding officer of any military company shall
 6 be presented to them, in which it shall be set
 7 forth that the person therein named has through
 8 the year kept himself armed and equipped and
 9 uniformed according to law, and has done all
 10 the active duty required by law in the company
 11 of said commanding officer, to abate the poll
 12 tax of such person and discharge him fully and
 13 wholly from the payment thereof; and if said
 14 poll tax shall previously have been collected by
 15 any officer of any such town, district or city,
 16 upon the refusal of said town, district or city,
 17 forthwith to refund the same, after such certifi-
 18 cate has been presented to the assessors afore-
 19 said, such person so having paid as aforesaid
 20 shall have his action on the case against said
 21 town, district or city, for money had and receiv-
 22 ed, to recover the same back. And if any such
 23 commanding officer shall wilfully make an un-
 24 true certificate he shall forfeit a sum not less
 25 than twenty nor more than one hundred dollars to
 26 be recovered by information or indictment in any
 27 Court of Record proper to try the same, to the

28 use of the town in which such person in whose
29 favour such certificate was made was taxed.

1 SEC. 13. *Be it further enacted*, No officer or
2 Clerk of any company shall be suffered or al-
3 lowed to receive from any private, any sum of
4 money less than the fines provided in this act,
5 in lieu of the duty required in this act, to be
6 performed on pain of forfeiting the sum of
7 Twenty Dollars for each and every offence, to
8 be recovered by the adjutant of the regiment
9 by the process herein before mentioned one
10 fourth to the use of the said adjutant and three
11 fourths to the use of the Regiment to be dispos-
12 ed by the Field officers thereof.

1 SEC. 14. *Be it further enacted*, That the first,
2 sixteenth, seventeenth, eighteenth and twen-
3 ty-fifth sections of an act entitled "an act
4 for regulating, governing and training the Mi-
5 litia of this Commonwealth"—passed March
6 the ninth in the year of our Lord eighteen hun-
7 dred and ten, the first, third, fourth and tenth
8 sections of an act entitled "an act in further
9 addition to an act entitled an act for regulat-
10 ing, governing and training the Militia of this
11 Commonwealth," passed the twenty-first day of
12 February in the year of our Lord eighteen hun-
13 dred and twenty-two; the first, third and seventh
14 sections of an act entitled "an act in further
15 addition to an act entitled 'an act for regulating,
16 governing and training the Militia of this Com-
17 monwealth,'" passed the eleventh day of Febru-
18 ary, in the year of our Lord eighteen hundred

19 and twenty three, and the fourth section of an
 20 act entitled "an act in addition to an act entitled
 21 an act to regulate the Militia of this Common-
 22 wealth," passed the fourth day of March, in the
 23 year of our Lord eighteen hundred and twenty,
 24 and all acts and parts of acts inconsistent with
 25 this act, be and the same hereby are repealed.