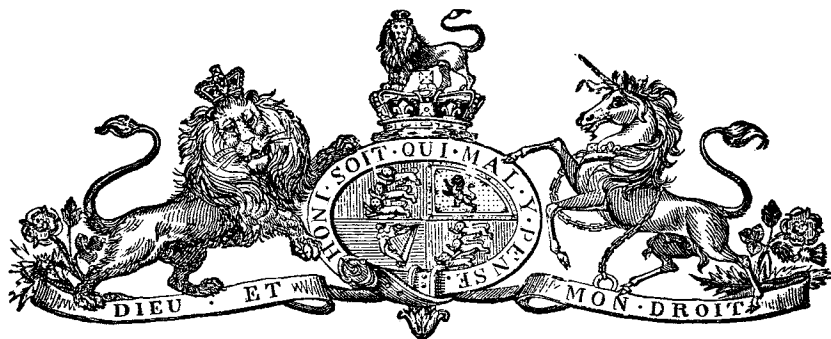


T A S M A N I A .



1878.

ANNO QUADRAGESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 13.

AN ACT to provide for the Regulation and Discipline of the Military Forces in the Service of Her Majesty's Government in *Tasmania*. [9 November, 1878.] A.D. 1878.

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

- 1 This Act may be cited as "The Military Discipline Act, 1878." Short title.
- 2 In this Act, unless the context otherwise determines— Interpretation.
 - "Prescribed" means prescribed by Regulations made under this Act :
 - "Justice" means a Justice of the Peace for the Colony of *Tasmania* :
 - "Gazette" means *The Hobart Town Gazette* :
 - "Force" means the Military Force embodied under this Act.

3 The Governor may engage, upon the terms and conditions hereinafter contained, the services of such a number of persons to serve in the Military Force of *Tasmania* as the Parliament thereof shall from time to time authorise and provide for. Governor authorised to engage services of persons to serve in the Military Force of the Colony.

4 All persons whose services are engaged as aforesaid, and who have taken and subscribed to the oath hereinafter provided, whether they are Regular and occasional service.

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regularly or occasionally employed, shall during such period of employment be subject to the provisions of this Act and of the regulations as hereinafter provided.

Oath to be taken.

5 Every person so engaged shall before he is subject to the provisions of this Act take and subscribe before some Justice the oath in the Schedule (1). Every person taking and subscribing such oath as aforesaid shall be deemed and taken to have thereby entered into a written agreement with and shall be thereby bound to serve Her Majesty as a member of the Force in which he may have engaged and in the capacity in which he shall have taken such oath until legally discharged, dismissed, or removed, from the day on which such oath shall have been taken and subscribed.

Every such agreement may be cancelled at any time by the lawful discharge, dismissal, or other removal from office of any such person, or by the acceptance of the resignation of any such person in the manner prescribed; and all oaths administered and subscribed in accordance with the provisions of this Act shall be transmitted by the Justice before whom the same may be taken to the Colonial Secretary.

Commanding Officer to have power to suspend and dismiss.

6 It shall be lawful for the Commanding Officer of the said Force from time to time, with the approbation and consent of the Governor, to suspend and dismiss from the said Force any person engaged to serve therein who shall be proved to such officer to have been guilty of desertion, drunkenness, or any offence against this Act, or the Regulations made hereunder, but such suspension or dismissal shall not prevent the recovery of any penalty imposed by this Act or the said Regulations for any offence punishable hereunder.

Governor may call out for actual military service.

7 The Governor may at any time, by Proclamation published in the *Gazette*, call out for actual military service any and every person engaged to serve in the said Force; and every officer and person belonging to the said Force when called out shall be bound to assemble at such place as the Governor may direct, and shall remain on actual military service until released by the Governor by Proclamation published as aforesaid.

Force to be subject to Imperial Mutiny Act and Articles of War.

8 Every man who shall have taken and subscribed the oath of engagement as aforesaid shall, whilst on actual military service, be subject to the provisions of the Imperial *Mutiny Act* in force for the time being for Her Majesty's Army, and to the Queen's Rules and Regulations, the Rules and Articles of War, and to such other Orders, Rules, and Regulations of whatever nature or kind to which Her Majesty's army are for the time being subject, so far as the same are not inconsistent with the provisions of this Act and the regulations made hereunder.

Provided that a Court Martial for the trial of an officer or member of the said Force shall be composed of officers of Her Majesty's Army or of the Volunteer Force, or partly of such Officers and partly of such Justices, as the Governor may appoint.

Governor to be Commander-in-Chief.

9 The Command in Chief in Her Majesty's name of the said Force is hereby vested in the Governor, who is empowered to exercise from time to time the powers following; that is to say,—

May appoint commissioned officers,

1. He may appoint the officers of the said Force, and issue commissions under his hand and the Seal of the Colony to such officers, and may cancel, alter, or suspend such commissions :

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2. He may, either in his own name or by any person to whom he may delegate his authority in that behalf, appoint the warrant and non-commissioned officers of the said Force :
3. He may fix the scale of pay and allowances to be received by all persons serving in the said Force ; but such pay and allowances shall not exceed the respective sums appropriated by Parliament for the said service.

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and warrant and non-commissioned officers, and fix pay and allowances.

10 The Governor may make regulations for the employment, removal, or dismissal, and for the better government of persons engaged by virtue of this Act, and for enforcing good order and discipline among them, and otherwise carrying out this Act, and from time to time annul, alter, or amend the same and substitute others in lieu thereof, and may by such regulations impose fines for breaches of the same not exceeding Ten Pounds for each offence ; which regulations shall, after publication thereof in the *Gazette*, be judicially taken notice of by all Judges and Justices in all Courts whatsoever ; and all such regulations shall be laid before both Houses of Parliament within Fourteen days after the making thereof, if Parliament be then sitting, and if Parliament be not sitting, then within Fourteen days after the commencement of the next Session of Parliament.

Governor may make rules and regulations for the better government of persons whose services have been accepted by virtue of this Act.

11 No person engaged under this Act shall be entitled to any pay or allowances whilst in confinement for non-payment of any penalty, or during absence from duty without leave.

When pay to be stopped.

12 All constables and peace officers are hereby directed to take cognizance of any written order under the hand of a Commanding Officer under this Act, authorising the apprehension of any deserter or absconder from the Force, and his conveyance to any gaol or to any place named in such order, and to aid and assist in the execution of such order, and to lodge such person in some place of security until such order can be executed.

Apprehension of absconders and deserters.

13 Every gaoler of any gaol is hereby directed and required to receive into his custody any offender under sentence of imprisonment by a Court Martial constituted under this Act and the said *Mutiny Act*, upon delivery to him of a warrant of commitment in the form in the Schedule (2) under the hand of the president of the court, and such gaoler shall keep such offender in a proper place of confinement, with or without hard labour, and with or without solitary confinement, according to the sentence of the court and for the time specified in the said warrant ; and shall also receive into his custody any absconder or deserter upon receipt of the written order of a Commanding Officer authorising the apprehension of such absconder or deserter.

Power to detain.

14 If any officer or member of the said Force shall be killed or wounded in actual service, or whilst on duty, the widow or family of the deceased, or members so wounded, shall be entitled to such pension or gratuity as Parliament may provide in that behalf.

Pension, &c. to wounded and family of persons killed.

15 No tolls or dues shall be demanded from any officer or member of the said Force being on actual duty either in respect of himself or of any prisoners under his charge, or of any conveyances or beasts of burden employed in the service of the said Force passing any toll-gate, turnpike

No tolls to be demanded.

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road, bridge, or ferry, under a penalty, upon any toll collector demanding or receiving any such toll or due, of a sum not exceeding Five Pounds for every such offence.

Penalty on personating in order to avoid tolls.

16 Any person falsely, and with intent to defraud, representing himself to be an officer or member of the said Force for the purpose of evading payment of any toll or due to which he would otherwise be liable, shall forfeit and pay for every such offence a sum not exceeding Five Pounds.

On unauthorised persons wearing uniform of Force.

17 Any person not being a member of the said Force, who shall be found wearing the uniform, or any part thereof of the said Force, shall for every such offence forfeit and pay a penalty not exceeding Five Pounds.

On refusal to give up arms, &c. on ceasing to belong to Force.

18 Any person who has ceased to be a member of the said Force, who shall refuse or neglect to give up on demand of the officer in command of the corps to which such person belonged, all arms, accoutrements, ammunition, clothing, or appointments, or any public property in his possession or control, shall forfeit and pay for every such offence a penalty not exceeding Five Pounds, in addition to any other liability or penalty he may have incurred in respect of the retention of any of the said articles.

On buying arms, accoutrements, &c.

19 Any person who shall knowingly buy, take in exchange, conceal, or otherwise receive any arms, accoutrements, clothing, or appointments, ammunition, or other public property whatsoever, delivered to any member of the said Force for his use, or the use of any other member thereof, shall for every such offence forfeit and pay a penalty not exceeding Twenty Pounds.

Members of the Force not to vote at elections.

20 All members of the said Force are disqualified during their term of service from voting at elections of members to serve in the Legislative Council or House of Assembly of the Parliament of *Tasmania*, under a penalty, for voting or offering to vote, of a sum not exceeding Ten Pounds, or imprisonment not exceeding One week.

Plea of general issue.

21 If any action or suit shall be brought against any person for any act done or alleged to be done by him in pursuance of the provisions of this Act, he may plead in answer to such action or suit the general issue, and give this Act and the special matter in evidence under such plea.

Recovery of penalties.

22 All penalties incurred under this Act, or regulations thereunder, the mode of recovering which is not hereinbefore specified, shall be recoverable with costs before any Justice of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*, and the convicting Justice may, in default of immediate payment of any such penalty together with costs, commit the person convicted and making default to gaol for a period of not more than Fourteen days, or until sooner payment; and every penalty when recovered shall be paid into the Consolidated Revenue Fund.

19 Vict. No. 8.

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SCHEDULE.

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(1.)

I, *A.B.* do swear that I will well and truly serve Our Sovereign Lady the Queen in the _____ for a term of _____ years, or until sooner lawfully discharged, dismissed, or removed, and that I will resist Her Majesty's enemies, and cause Her Majesty's peace to be kept and preserved, and that I will in all matters appertaining to my service, faithfully discharge my duty according to law. So help me God.

(2.)

WARRANT OF COMMITMENT.

To the _____ in *Tasmania*, and to the Gaoler of the gaol at _____

WHEREAS *A.B.* was this day duly convicted by Court Martial for that [*here state the offence as in conviction*], and it was by the said court adjudged that the said *A.B.* for his said offence should be imprisoned in the gaol at _____, and there to be kept at hard labour, or solitary confinement, for the space of _____. These are therefore to command you the said _____ to take the said *A.B.*, and him safely to convey to the gaol aforesaid, and there to deliver him to the Gaoler thereof, together with this precept; and I do hereby command you the said Gaoler to receive the said *A.B.* into your custody in the said gaol there to imprison him and keep him to hard labour, or in solitary confinement, for the space of _____, and for your so doing this shall be your sufficient warrant.

Given under my hand and seal this _____ day of _____ 187 .

A.B., *President.*

