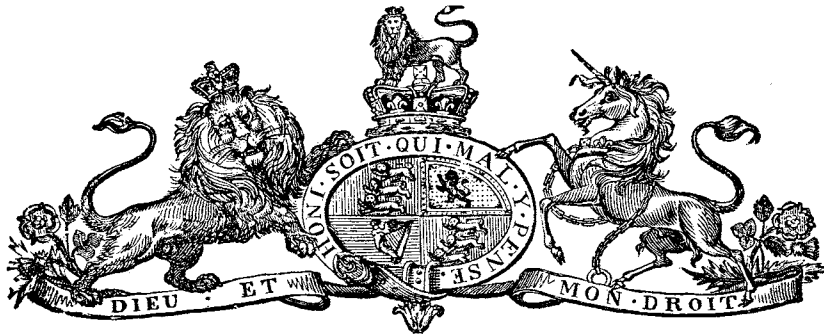


T A S M A N I A



1863.

ANNO VICESIMO-SEPTIMO

VICTORIÆ REGINÆ,

No. 23.

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AN ACT to consolidate and amend the Acts relating to the Volunteer Force in *Tasmania*.  
[18 September, 1863.]

WHEREAS it is expedient to consolidate and amend the Acts relating to the Volunteer Force in *Tasmania*: Be it therefore 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, and by the authority of the same, as follows:—

PREAMBLE.

1 This Act may be cited as *The Volunteers Act, 1863*.

Short title.

PART I.

ORGANISATION OF VOLUNTEER FORCE.

*Acceptance of Service.*

2 It shall be lawful for the Governor, on behalf of Her Majesty, to accept the services of any persons desiring to be formed under this Act into a Volunteer Corps, Naval as well as Military, and offering their services to the Governor through the Officer commanding a Division of the Volunteer Force.

Governor may accept services of Volunteer Corps, Naval and Military.

On such acceptance the proposed Corps shall be deemed to be lawfully formed into a Corps under this Act as a Corps of that Division.

*Permanent Staff.*

Governor may constitute Volunteer Permanent Staff.

**3** The Governor may from time to time appoint such persons as he may think fit by Commissions under his hand and seal, or by warrant in writing, or otherwise as the case may require, to be a Permanent Staff for the command, inspection, drill, exercise, training, instruction, and equipment of the Volunteer Force, or of any Division of such Force constituted by the Governor's authority under this Act; and may from time to time constitute for any Volunteer Corps a Permanent Staff consisting of an Adjutant, commissioned by the Governor, and of so many Sergeant-Instructors as may seem fit, engaged and appointed according to Regulations under this Act for a period not exceeding Five years, or of such an Adjutant or of such Sergeant-Instructors alone.

Relative rank and status of Permanent Staff of Corps.

For the purposes of this Act all such Adjutants shall be deemed Officers of the respective Corps, and all such Sergeant-Instructors shall be deemed to belong to the respective Corps on the Permanent Staff whereof they serve, and shall be deemed respectively Officers and Non-Commissioned Officers of the Volunteer Permanent Staff; but nothing in this Act shall be taken to exempt any Officer or Non-Commissioned Officer of the Permanent Staff of a Volunteer Corps from being subject to the orders of the Officers of the Corps according to their rank, and the laws and usages of Her Majesty's Forces.

Desertion by Non-Commissioned Officers of Permanent Staff.

If any Non-Commissioned Officer of the Volunteer Permanent Staff absents himself from his duty for any period exceeding Fourteen days, without leave previously obtained from the Governor through the Commanding Officer of the Division, or of the Administrative Regiment, or of the Corps on the Permanent Staff whereof he serves, or enrolls himself as a Volunteer or substitute in the Militia of *Tasmania*, or is attested to serve on the Permanent Staff thereof, or in the Militia whenever such Militia shall be constituted, or Military service of any foreign Prince or State, or of any of Her Majesty's Colonial Dependencies, he may be apprehended and tried and punished as a deserter, according to regulations under this Act; or if he confesses his desertion the Governor, instead of causing him to be so tried and punished, may, if he deems fit, cause him in any such case to be returned to his service on the Volunteer Permanent Staff, or held to his service in the Militia, and to be there put under stoppages until he has repaid the amount of any pay or bounty received by him, and the expenses attending his enrolment or attestation.

Non-Commissioned Officers of Permanent Staff may be put under stoppages.

Any Non-Commissioned Officer of the Volunteer Permanent Staff so deserting or enrolling himself, or being attested, shall nevertheless be liable to deliver up in good order, fair wear and tear only excepted, all arms, clothing, and appointments issued to him as a Non-Commissioned Officer of the Volunteer Permanent Staff; and in case of his being either returned to his service on the Volunteer Permanent Staff or held to his service in the Militia, the Governor may, if he deems fit, cause him to be put under stoppages until he has repaid the value of any such arms, clothing, and appointments not so delivered up by him.

*Officers and Volunteers.*

Officers to be appointed and commissioned by Governor. Corps may recommend for Commissions.

**4** Every Volunteer Corps shall be Officered by persons appointed and commissioned by the Governor: but any Volunteer Corps may recommend to the Governor any enrolled members thereof to be Officers of such Corps of a rank not higher than Captain of a Troop or Company: Provided that no Volunteer Corps may so recommend to the Governor any persons to be Officers of the Volunteer Permanent Staff.

Commissions not vacated by

A Commission issued in any case under this Act by the Governor shall not be deemed vacated by the revocation, expiration, or discon-

tinuance of the Commission by which such Governor was appointed, Governor's recal or by the death of such Governor. or decease.

**5** Officers of the Volunteer Force shall rank with Officers of Her Majesty's Regular and Militia Forces, within the territory and dependencies of *Tasmania*, as the youngest of their respective ranks: Provided that no Officer of Volunteers shall take rank above any Field Officer of Her Majesty's Regular Forces, or of the Militia of *Tasmania*. Relative rank of Officers.

The acceptance of a Commission in the Volunteer Force by a Member of the Legislative Council or House of Assembly of the Parliament of *Tasmania*, or by any Alderman or Municipal Councillor, shall not render his seat vacant. Seat in Parliament not vacated by Commission.

**6** There shall be a Muster Roll for every such Corps of Volunteers, in which the name of every person who is enrolled as a member of the Corps, or who quits or withdraws or is discharged or dismissed from the Corps, and also the date on which such person is so enrolled, or quits, withdraws, or is discharged or dismissed as aforesaid, shall be inserted. Muster Roll.

**7** Every Officer on receiving his Commission, every Volunteer on his enrolment in the Muster Roll of the Corps, and every Non-Commissioned Officer of the permanent Staff on his engagement or appointment, or in either case as soon afterwards as may be, shall take and subscribe the Oath of Allegiance in the form prescribed in the Schedule to this Act, to be administered by an Officer commanding a Division or Corps of the Volunteer Force, who has taken such Oath, or by a Justice of the Peace for the territory of *Tasmania*. Oath of Allegiance to be taken.

**8** Subject to Regulations made under this Act, the Commanding Officer of a Volunteer Corps may appoint Volunteers belonging to such Corps to be Non-Commissioned Officers thereof. Non-Commissioned Officers of Corps.

**9** Any Volunteer may, except when on actual Military Service, quit his Corps on complying with the following conditions; namely,— Retirement from a Corps.

- (1.) Giving to the Commanding Officer of his Corps Fourteen days notice in writing of his intention to quit the Corps:
- (2.) Delivering up in good order, fair wear and tear only excepted, all arms, clothing, and appointments being public property or the property of his Corps issued to him, or placed under his charge:
- (3.) Paying all money due or becoming due by him, under the Rules of his Corps, either before or at the time or by reason of his quitting it, for any subscription or fine, or on any other account:

and thereupon he shall be struck out of the Muster Roll of the Corps by the Commanding Officer.

If any Volunteer gives such notice and the Commanding Officer refuses to strike him out of the Muster Roll, and the Volunteer considers himself aggrieved thereby, the Volunteer may appeal to Two Justices of the Peace for the territory of *Tasmania*, not being Members of the Corps, who shall hear and determine the appeal, and may for the purposes thereof administer oaths and examine any person as a witness, and their determination shall be binding on all persons. Appeal to Two Justices.

**10** If any Volunteer enrolls himself as a Volunteer or Substitute in the Militia of *Tasmania*, or is attested to serve on the permanent staff thereof, or enters himself as a seaman or marine on board of any of Her Majesty's ships of War, or enlists in Her Majesty's Army, he shall be deemed Discharge by enlistment in Militia or Army or Navy.

discharged from the Volunteer Force, and the Commanding Officer of his Corps shall strike him out of the Muster Roll thereof.

Liabilities of discharged Volunteers.

He shall, nevertheless, be liable to deliver up in good order, fair wear and tear only excepted, all arms, clothing, and appointments, being public property or property of his Corps, issued to him, and to pay all money due or becoming due by him, under the Rules of his Corps, either before, or at the time, or by reason of his discharge, for any subscription or fine, or on any other account. If such arms, clothing, and appointments are not so delivered up by him, or such money is not paid by him, then, without prejudice to any proceeding or remedy against him under this Act, he may, on the application of the Governor, under an order from one of Her Majesty's principal Secretaries of State, or of the Lords Commissioners for executing the office of Lord High Admiral of *Great Britain and Ireland*, if he deems fit, be put under stoppages out of any bounty or pay receivable by him, or both, until the value of such arms, clothing, or appointments not so delivered up, or such money, as the case may be, is fully paid.

*General Command.*

Governor may designate General or Field Officers of the Army to command Volunteers.

**11** Whenever any Volunteers are on actual Military Service, or are undergoing inspection, or are voluntarily doing any Military duty, the Governor may put them under the command of such General or Field Officers of Her Majesty's Army as he may appoint or designate, but so, nevertheless, that the Volunteers put under such command shall be led by their own Officers under such command.

*Inspection.*

Half-yearly inspection by General or Field Officer of the Army, or Officer of Permanent Staff.

**12** A half-yearly inspection of every Volunteer Corps shall be held by a General or Field Officer of Her Majesty's Army, or by such Officer of the Volunteer Permanent Staff as the Governor may appoint or designate for that purpose.

*Efficiency.*

Governor in Council may define an "efficient Volunteer."

**13** The Governor in Council may from time to time declare what is requisite to entitle a Volunteer to be deemed an efficient Volunteer, by an Order in Council defining, for that purpose, the extent of attendance at drills to be given by the Volunteer, and the course of instruction to be gone through by him, and the degree of proficiency in drill and instruction to be attained by him and his Corps, such proficiency to be judged of by the Inspecting Officer at the half-yearly inspection of the Corps, or otherwise as by Order in Council is from time to time directed; and any Order in Council under this Section shall not take effect until the expiration of Fourteen days after it has been published in the *Gazette*; and all such Orders shall be laid before both Houses of the Legislature within Twenty days after the meeting of Parliament.

Orders in Council to be laid before Parliament.

*Disbanding of Corps.*

Her Majesty or Governor may disband Corps.

**14** Her Majesty, or the Governor on behalf of Her Majesty, may disband or discontinue the service of any Volunteer Corps, or any part thereof, whenever it seems to Her Majesty, or to the Governor, expedient to do so.

Notice of disbanding in writing to Commanding Officer.

Whenever it is the pleasure of Her Majesty, or of the Governor, to discontinue the services of any Corps of Volunteers whose services have been accepted or continued under the provisions of this Act, the Commanding Officer of such Corps shall, on such pleasure of Her Majesty, or of the Governor, being signified to him in writing, forthwith communicate the same to the several persons enrolled in the said Corps; and shall also then require the said several persons to deliver

up to him the arms, accoutrements, and clothing, if any, which have been furnished to them at the public expense; and thereupon the said Corps shall be deemed to be disbanded, and the said arms, accoutrements, and clothing shall be forthwith delivered up by the said persons accordingly.

arms, &c. to be delivered up to Commanding Officer.

If any person who has been furnished at the public expense with any arms, accoutrements, or clothing, upon the disbanding of any such Corps of Volunteers in manner aforesaid, or upon his quitting or withdrawing from any such Corps, or being discharged or dismissed therefrom, refuses or neglects, on being thereto lawfully required, to deliver up such arms, accoutrements, or clothing, in good order and condition, reasonable wear and tear excepted, he shall, in addition to the value thereof, forfeit a penalty not exceeding Five Pounds, or be liable to imprisonment for a term not exceeding One calendar month.

Penalty for refusing to deliver up arms, &c. to Commanding Officer.

Such arms, accoutrements, and clothing so to be delivered up as aforesaid to the Commanding Officer of any such Volunteer Corps shall be conveyed to and deposited by him in such place and given up to such person as the Governor may appoint; and such reasonable expenses as may by him be incurred in so conveying and depositing the same shall be repaid to such Commanding Officer out of the funds appropriated for the maintenance of the Volunteer Force; and if any such Commanding Officer refuses or neglects to call in and deliver up such arms, accoutrements, and clothing, or fails in using due diligence to obtain and deliver up the same for the space of Three months from the day of the date of the writing signifying Her Majesty's or the Governor's pleasure as aforesaid, as the case may be, such Commanding Officer so refusing, failing, or neglecting as aforesaid shall be liable to a penalty not exceeding One hundred Pounds, to be recovered by action in the Supreme Court of *Tasmania*, and to be applied to the use of Her Majesty; and any expenses incurred by any person thereto authorised in writing by the Governor, or by any Officer of the Volunteer Force by direction of the Governor, in cleansing or repairing any arms or accoutrements so delivered up, or in replacing any articles that may be deficient, shall be recoverable from such Commanding Officer by Action of Assumpsit in any Court of competent jurisdiction.

Commanding Officer to deposit arms, &c. as appointed by Governor.

#### *Existing Corps.*

**15** It shall be lawful for the Governor, on behalf of Her Majesty, to continue the services of all Volunteer Corps whose services have been accepted before the passing of this Act; and the services of every such Corps shall be deemed to be continued by the Governor on behalf of Her Majesty, unless and until Her Majesty or the Governor thinks fit to exercise the power of disbanding or discontinuing the services of the Corps.

Governor may continue services of existing Corps.

The provisions of this Act shall apply to every such Corps as if its services were accepted under this Act, without prejudice to anything already done in relation to or by any such Corps.

This Act applies to existing Corps.

#### *Administrative Organisation.*

**16** Where Two or more separate Volunteer Corps are formed by the authority of the Governor into a united body for Military or Administrative purposes, hereinafter called an Administrative Regiment, he may from time to time constitute for such Regiment a permanent Staff, consisting of an Adjutant Commissioned by the Governor, and of so many Sergeant-Instructors as may seem fit, engaged and appointed according to Regulations under this Act, for a period not exceeding Five years, or of such an Adjutant, or of such Sergeant-Instructors alone.

Governor may constitute permanent Staff for Administrative Regiment.

Rotation, rank,  
and status of Per-  
manent Staff of  
Regiments.

For the purposes of this Act, all such Adjutants shall be deemed to belong to the respective Administrative Regiments on the permanent Staff whereof they serve, but not to be Officers of or to belong to any of the separate Corps formed into those Regiments, and shall be deemed respectively Officers and Non-Commissioned Officers of the Volunteer permanent Staff; but nothing in this Act shall be taken to exempt any Officer or Non-Commissioned Officer of the permanent Staff of such a Regiment from being subject to the orders of the Officers of the Regiment and of the separate Corps formed into the same, according to their rank, the laws and usages of Her Majesty's Forces, and any Regulations under this Act.

Officers of Regi-  
ments to be  
missioned by  
Governor.  
Position of Corps  
forming Regiment  
not affected.

Every such Regiment shall be Officered by persons appointed and commissioned as Officers of such Regiment by the Governor.

Notwithstanding the formation of any such Regiment, the separate Corps formed into the same shall be severally deemed Volunteer Corps for all the purposes of this Act.

#### *Regulations.*

Governor may  
make Regulations  
for general  
government and  
discipline of  
Volunteer Force.

**17** The Governor may, from time to time, make regulations respecting anything in this Act directed or authorised to be done or provided by Regulation, and also such Regulations as may seem fit (not being inconsistent with any of the provisions of this Act) respecting the appointment and promotion of Officers, and the assembling and proceedings of Courts of Enquiry for the trial of Officers and Non-Commissioned Officers on the Volunteer Permanent Staff, and of Officers and Volunteers of a Volunteer Corps or administrative Regiment for any breach of such Regulations, or conduct unbecoming an Officer and a gentleman, or for disobedience of orders, neglect of duty, or misconduct of any kind as Volunteers, or for desertion; and to enquire into and report on any matter connected with the government or discipline of a Volunteer Corps or administrative Regiment; and for the full execution of this Act, and the general government and discipline of the Volunteer Force; and may alter or repeal any such Regulations; and may call for such Returns as may from time to time seem requisite.

Courts of Enquiry,  
when specially  
authorised, may  
summon and  
examine Witnesses  
on oath.

**18** It shall be lawful for any such Court of Enquiry, when specially thereto authorised by warrant in writing under the hand and seal of the Governor, to summon before it and examine on oath, in the form prescribed in the Schedule of this Act, any person touching any matter or thing relating to any proceeding before such Court: Provided always, that nothing herein shall be construed to render an oath necessary in any case where by law a solemn affirmation may be made instead thereof; and all persons duly summoned as aforesaid who shall not attend on such Court, or attending shall refuse to be sworn, or being sworn shall refuse to give evidence, or produce the documents under their power or control required to be produced by them, or to answer all such questions as the Court may legally demand of them, shall forfeit and incur such penalty not exceeding Ten Pounds as the Court may direct and adjudge.

Regulations to be  
published in  
*Gazette*.

**19** All Regulations made by the Governor under this Act shall be published from time to time in the *Government Gazette*; and in all proceedings of any such Courts of Enquiry, and in all Civil or Criminal proceedings whatsoever at Law or in Equity, the production of the *Gazette* containing any such Regulations shall alone be sufficient *prima facie* evidence that such Regulations have been duly made, and the *onus* of proving the contrary shall in every case be on the person or persons disputing the validity of such Regulations.

## PART II.

*Actual Military Service.*

**20** In case of actual or apprehended invasion of any part of the territory of *Tasmania* and its dependencies, or of rebellion or insurrection arising or existing within the same, or of hostile or predatory attack, or of imminent danger thereof, or of the notification by one of Her Majesty's principal Secretaries of State that Her Majesty has declared, or is at, war with any foreign Prince or Power, or of other sufficient emergency, wherein it may be necessary to make provision for the suppression of riots and tumults, or for the preservation of the public peace, and the protection and security of the lives and properties of Her Majesty's subjects (the occasion being first communicated to both Houses of Parliament, if Parliament is sitting, or declared in Council and notified by Proclamation if Parliament is not sitting), the Governor may direct the Officers commanding Divisions to call out the Volunteer Corps of their respective Divisions or any of them for actual Military Service.

Governor may call out Volunteer Corps in case of invasion, rebellion, declaration of war, or other emergency.

Every Officer and Volunteer, and every Officer and Non-Commissioned Officer of the permanent Staff belonging to every Corps so called out, shall be bound to assemble as the Officer commanding the Division directs, and to march or embark on board ship, according to orders, within the territory of *Tasmania* and its dependencies; and from the time of his Corps being so called out shall, for the purposes of this Act, be deemed on actual Military Service.

Volunteers, &c. to assemble and march as ordered.

If any such Officer, Volunteer, or Non-Commissioned Officer, not incapacitated by infirmity for Military Service, refuses or neglects to so assemble or march or embark, he shall be deemed a Deserter: Provided that Volunteers for Land Service shall not be bound to embark on board ship unless for direct transit from one part of the Colony to another, or to leave the Colony under any circumstances.

Volunteers, &c. not assembling guilty of desertion.

**21** Whenever a Volunteer Corps is called out for actual Military Service, the following provisions shall take effect:—

Provisions on actual Military Service:—  
Necessaries.

- (1.) There shall be issued, in manner provided by Regulation, the sum of Two Guineas for the use of every Officer and Volunteer and Non-Commissioned Officer of the Permanent Staff belonging to and assembling with the Corps (except such of them as do not desire to receive the benefit thereof), and each such sum, or so much thereof as the Commanding Officer of the Corps thinks fit, shall be laid out under the direction of the Commanding Officer in providing necessaries for each such Officer, Volunteer, and Non-Commissioned Officer; and within One Month after receipt thereof an account shall be settled with each such Officer, Volunteer, and Non-Commissioned Officer respecting the application thereof, and any unapplied residue thereof shall be paid to him:
- (2.) Such Officers, Volunteers, and Non-Commissioned Officers shall be entitled to pay according to a scale to be provided by Regulation under this Act, and to be billeted and quartered as the Officers and Soldiers of Her Majesty's Army:
- (3.) On the release of the Corps from actual Military Service, there shall be paid in manner provided by regulation One Guinea to every such Officer, Volunteer, and Non-Commissioned Officer present with the Corps at the time of

Pay and Quarters.

Bounty on release.

- such release (except such of them as do not desire to receive the same) in addition to his pay.
- Release by order of Officer commanding Division after Governor's Proclamation. After a Volunteer Corps has been called out for actual Military Service, the Corps shall be deemed released from actual Military Service only on an Order signed by the Officer commanding the Division to which the Corps belongs, and addressed and delivered to the Commanding Officer of the Corps; which Order the Officer commanding the Division shall issue upon and as soon as may be after a proclamation of the Governor declaring the occasion to have passed, and not sooner otherwise.
- Corps to be returned to Head Quarters. Before a Volunteer Corps is released from actual Military Service, the Corps shall be returned to the Head Quarters of the Division to which it belongs, or to the local Head Quarters of such Corps, as the Governor may direct.
- Corps voluntarily assembled for suppression of Riots, on actual Military Service. **22** Whenever a Volunteer Corps with the approval of the Governor voluntarily assembles on being called upon by the Officer commanding the Division to which the Corps belongs, to act within any part of the territory of Tasmania and its dependencies for the suppression of riots or tumults, every Officer and Volunteer, and every Officer and Non-Commissioned Officer of the Permanent Staff belonging to the Corps assembling with the Corps, shall for the purposes of this Act be deemed on actual Military Service.
- Officers' Half-pay and Pensions. **23** An Officer of the Volunteer Force disabled on actual Military Service or in the ordinary discharge of his duty shall be entitled to half pay according to his rank as provided by Regulation under this Act; and the widow and family of such an Officer killed on actual Military Service or in the ordinary discharge of his duty shall be entitled to the like pension or pensions, for life or otherwise, as the widow or family of an Officer of Her Majesty's Army.
- Volunteers and Non-Commissioned Officers of Staff pensioned as Ensigns in Army. A Volunteer, or Non-commissioned Officer of the Volunteer permanent Staff, disabled on actual Military Service or in the ordinary discharge of his duty, shall, according to his rank, be entitled to the like pension as an Ensign in Her Majesty's Army; and the widow and family of such a Volunteer or Non-Commissioned Officer killed on actual Military Service, or in the ordinary discharge of his duty, shall be entitled to the like pension or pensions, for life or otherwise, as the widow or family of an Ensign in Her Majesty's Army.

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### PART III.

#### DISCIPLINE.

##### *Officers and Volunteers, and Permanent Staff.*

When not on actual Military Service,— **24** With respect to the discipline of Officers and Volunteers, and Officers and Non-Commissioned Officers of the permanent Staff, the following provisions shall take effect and be in force while they are not on actual Military Service :—

Commanding Officers may discharge Volunteers.

- (1.) The Commanding Officer of a Volunteer Corps may discharge from the Corps any Volunteer, not being a Commissioned Officer of the Corps, and strike him out of the Muster Roll, and may disrate any Non-Commissioned Officer thereof either for disobedience of orders by him while doing any Military duty with his Corps, or for neglect of duty, or misconduct by him as a member of the Corps, or for other sufficient cause, the existence and sufficiency of such causes respectively to be judged of by the Commanding Officer.



The Volunteer so discharged shall, nevertheless, be liable to deliver up in good order, fair wear and tear only excepted, all arms, clothing, and appointments, being public property, or the property of his Corps, issued to him; and to pay all money due or becoming due by him, under the Rules of his Corps, either before or after, or by reason of his discharge, for any subscription or fine, or on any other account. But nothing herein shall extend to affect any Rules of such Corps, which have been approved by the Governor, and which may be applicable to the discharge of any Volunteer when not on actual Military Service; and nothing herein shall prevent the Governor from signifying his pleasure in such manner, and giving such directions, with respect to any such case of discharge as to the Governor may appear just and proper.

Approved Rules not affected.

Governor's pleasure on cases of discharge.

- (2.) If any Officer or Volunteer, or Officer or Non-Commissioned Officer of the Volunteer Permanent Staff, while under arms, or on march or duty with the Corps or administrative Regiment to which he belongs, or any portion thereof, or while engaged in any Military exercise or drill with such Corps or Regiment, or any portion thereof, or while wearing the clothing or accoutrements of such Corps or Regiment, and going to and returning from any place of exercise or assembly of such Corps or Regiment, disobeys any lawful order of any Officer under whose command he then is, or is guilty of misconduct, the Officer then in command of the Corps or Regiment, or any Superior Officer under whose Command the Corps or Regiment then is, may order the offender, if an Officer, into arrest, and if not an Officer, into the custody of any Volunteer belonging to the Corps or Regiment, or of any Non-Commissioned Officer of the Volunteer Permanent Staff; but so that the offender be not kept in such arrest or custody longer than during the time of the Corps or Regiment, or such portion thereof as aforesaid, then remaining under arms or on march or duty, or assembled or continuing engaged in any such military exercise or drill as aforesaid.

Commanding Officer may place under arrest while Corps is under arms, &c.

*Actual Military Service.*

**25** With respect to the discipline of Officers and Volunteers and Officers and Non-Commissioned Officers of the Volunteer permanent Staff, the following provisions shall take effect and be in force when they are on actual Military Service; namely,—all the provisions of any Act of the Imperial Parliament then officially known to be in force for the punishment of mutiny and desertion, and any Articles of War made in pursuance thereof, or in case of engagement to serve in aid of Her Majesty's Naval Forces, all the laws and customs for the government of Her Majesty's ships, vessels, and forces by sea, and applicable to any person in or belonging to the Royal Navy, or to any person being in actual service and full pay, and being part of the crew of any of Her Majesty's ships or vessels, shall extend and apply to all Officers and Volunteers, and Officers and Non-Commissioned Officers of the Volunteer permanent Staff, and those Officers, Volunteers, and Non-Commissioned Officers shall be subject to *The Mutiny Act*, and shall also be entitled to the benefits thereof, in all respects as the Officers, Seamen, and Marines of the Royal Navy, or the Officers and Soldiers of Her Majesty's Army for the time being are, and as if the Volunteer Force, including the Volunteer permanent Staff, belonged

On actual Military Service, Officers and Volunteers and Permanent Staff liable to Mutiny Act and Articles of War.

to and formed part of Her Majesty's Regular Forces, subject only to this variation—that a Court Martial for the trial of an Officer of the Volunteer Force or of a Volunteer, or of an Officer or Non-Commissioned Officer of the Volunteer permanent Staff, shall be composed to the extent of One-half of the members of such Court of Officers of the Volunteer Force.

Court Martials may sentence to imprisonment with hard labour in lieu of corporal punishment.

Governor may remit sentences.

No punishment to be awarded against any Volunteer or Non-Commissioned Officer of the Volunteer permanent Staff by any Court Martial under authority of the said Act and Articles of War, or laws and customs as aforesaid, shall extend to corporal punishment by flogging, but instead thereof it shall be lawful for any such Court Martial to award imprisonment, with or without hard labour, for any period not exceeding Six months: Provided, that the Governor may remit any punishment awarded by any such Court Martial either in whole or in part.

#### PART IV.

##### *Rules and Property of Corps.*

Corps may make Rules subject to Governor's approval.

**26** The Officers and Volunteers of a Volunteer Corps may from time to time make Rules for the management of the property, finances, and civil affairs of the Corps, and for the summary punishment of minor offences against discipline, and may alter and repeal any such Rules; and such Rules may provide for the enforcement thereof against the several members of such Corps by the imposition of fines, which may be recovered by distress and sale of the goods of the party charged under the warrant of the Commanding Officer of the Corps, in the same manner as any penalty may be recovered under the warrant of a Justice of the Peace: Provided, that no such fine shall exceed the sum of Five Pounds: And the Commanding Officer of the Corps shall transmit the same to the Officer commanding the Division to which the Corps belongs, who shall submit the same for the Governor's approval, and such approval, signified through the Colonial Secretary, shall be notified by such Officer commanding a Division to the Commanding Officer of the Corps, to be by him forthwith communicated to the Corps; whereupon the Rules, so approved, shall be binding on all persons.

A copy of the Rules in print or writing, or partly in print and partly in writing, certified under the hand of the Officer commanding the Division to which the Corps belongs as a true copy of the Rules whereof the Governor's approval has been notified as aforesaid, shall be conclusive evidence of the Rules of the Corps.

Approved Rules of existing Corps not repealed.

Governor may annul Rules.

Nothing contained in this Act shall be construed to extend to repeal or disallow any Rules of any Volunteer Corps which have heretofore been approved by the Governor, so far as the same are not inconsistent with any of the provisions of this Act; and nothing herein shall extend to prevent Her Majesty, or the Governor in Her Majesty's name, from annulling at any time any Rules which have been, or shall be made for, by or respecting any Volunteer Corps.

Property of Corps and Regiment vested in Commanding Officers, with exclusive right to sue.

**27** All money subscribed by, or to, or for the use of a Volunteer Corps or Administrative Regiment, and all effects belonging to any such Corps or Regiment, or lawfully used by it, not being the property of any individual Officer or Volunteer or Non-Commissioned Officer of the Volunteer Permanent Staff belonging to the Corps or Regiment, and the exclusive right to sue for and recover current subscriptions, arrears of subscriptions, and other money due to the Corps or Regiment, and all lands acquired by the Corps or Regiment, shall vest in the Commanding Officer of the Corps or Regiment for the time being, and his successors in office, for the purposes of all proceedings, civil or

criminal at law or in equity, with power for him and his successors to sue, to make contracts and conveyances, and to do all other lawful things relating thereto; and any civil or criminal proceeding taken by virtue of this Act by the Commanding Officer of any Corps or Regiment shall not be discontinued or abated by his death, resignation, or removal from office, but may be carried out by and in the name of his successor in office.

**28** If any person belonging or having belonged to a Volunteer Corps or Administrative Regiment neglects or refuses to pay on demand any money subscribed or undertaken to be paid by him towards any of the funds or expenses of such Corps or Regiment, or due under the rules of such Corps and actually payable by him at the time of demand, or to pay any fine incurred by him under the rules of such Corps, such money shall (without prejudice to any other remedy) be recoverable from him, with costs, at any time within Twelve months after the same becomes due and payable, as a penalty under this Act is recoverable, and when recovered shall be applied as part of the general fund of the Corps or Regiment.

Subscriptions and Fines recoverable before Two Justices of the Peace within 12 months.

**29** If any person designedly makes away with, sells, pawns, wrongfully damages, or wilfully loses any thing issued to him as a Volunteer—or wrongfully refuses, or wrongfully neglects to deliver up on demand anything issued to him as a Volunteer—the value thereof shall be recoverable from him, with costs, as a penalty under this Act is recoverable; and he shall also for every such offence of designedly making away, selling, pawning, or wrongfully damaging, or wilfully losing as aforesaid, be liable, on the prosecution of the Commanding Officer of the Corps or Administrative Regiment issuing the thing made away with, sold, pawned, or damaged or lost, to a penalty not exceeding Ten Pounds.

Penalty for destroying, selling, pawning, or damaging articles issued to Volunteers.

**30** If any person knowingly buys or takes in exchange from any Volunteer, or any person acting on his behalf, or solicits or entices any Volunteer to sell, or knowingly assists or acts for any Volunteer in selling, or has in his possession or keeping without satisfactorily accounting for, any arms, clothing, appointments, or effects, being public property, or property of any Volunteer Corps or Administrative Regiment, or any public stores or ammunition issued for the use of any such Corps or Regiment, he shall, on the first commission by him of any such offence, be liable to a penalty not exceeding Twenty Pounds, and shall, on a second and every other subsequent commission by him of any such offence, and being convicted thereof in the like course of proceeding as that in which any such penalty is recoverable, be liable to a penalty not exceeding Twenty Pounds or less than Five Pounds, with or without imprisonment for any term not exceeding Six months, with or without hard labour.

Penalty for buying or taking in pledge articles issued to Volunteers.

The Justices before whom any person is convicted of any offence under the present Section shall transmit the conviction to the Clerk of the Peace for the County or Division or District where the conviction is had; and on the prosecution of any person for any subsequent offence under the present Section, a copy of such conviction, certified by the Clerk of the Peace or proved to be a true copy, shall be sufficient evidence to prove the conviction for the former offence, and such conviction shall be presumed not to have been quashed on appeal until the contrary is shown.

Conviction to be transmitted to Clerk of the Peace.

**31** If any person wilfully commits any damage to any butt or target belonging to Her Majesty or to the Government of *Tasmania*, or

Penalty for damaging or disturbing Butts.

belonging to or lawfully used by any Volunteer Corps or Administrative Regiment, or without the leave of the Governor or of the Commanding Officer of such Corps or Regiment searches for bullets in or otherwise disturbs the soil forming such butt or target, he shall for every such offence be liable, on the prosecution of the Attorney-General or Commanding Officer of such Corps or Regiment to a penalty not exceeding Five Pounds.

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## PART IV.

### *Exemptions.*

Officers and  
"efficients" and  
Staff exempt from  
Militia Service.

**32** Every Officer of the Volunteer Force and every efficient Volunteer, and every Non-Commissioned Officer of the Permanent Staff, shall be exempt from liability to serve personally or provide a substitute in the Militia of *Tasmania*.

In the case of a Volunteer such exemption shall cease on his ceasing to be enrolled in the Corps in connection with which he becomes entitled to be deemed efficient, unless he quits such Corps on account of his changing his place of residence, in which case the exemption shall revive, if within Ten days after quitting such Corps he is enrolled in another Volunteer Corps.

Commanding  
Officer's Certifi-  
cate.

The certificate of the Officer of a Volunteer Corps (in the form provided by regulation under this Act), certifying that the person named therein is a Volunteer enrolled in that Corps and is exempt as aforesaid, shall be conclusive evidence thereof.

Penalty for giving  
false Certificate.

**33** If any Commanding Officer of a Volunteer Corps or Administrative Regiment knowingly gives any false certificate under this Act, he shall, for every such offence, be liable to a penalty not exceeding Two hundred Pounds, to be recovered by action in the Supreme Court, and to be applied to the use of Her Majesty.

Benefits and inte-  
rests, &c. not  
forfeited by  
service in Volun-  
teer Force.

**34** Any person commissioned as an Officer of the Volunteer Force, or enrolled as a Volunteer, or engaged as a Non-Commissioned Officer of the Volunteer Permanent Staff, shall not, by reason of such service, or enrolment or engagement, or of any duty, liability, matter, or thing consequent thereupon, lose, forfeit, or be deprived of any right, claim, benefit, share, or interest to which he is entitled at the time of his entry on such service, or of such enrolment or engagement, or to which but for such service, enrolment, or engagement he would have been entitled; and notwithstanding anything in the rules of any Friendly or Benefit Society, any person shall not lose any interest in the Society by reason of his service or enrolment in a Volunteer Corps, or his engagement or service on the Volunteer Permanent Staff; and any dispute arising between such Society and person by reason of such enrolment, engagement, or service shall be deemed a dispute directed by the Rules of the Society to be decided by Justices of the Peace, according to the Acts for the time being in force relative to Friendly or Benefit Societies.

Exemptions from  
Tolls :—

**35** Any duty or toll liable under any Act of Parliament passed or to be passed at any pier, wharf, quay, landing-place, bridge, or ferry, or at any turnpike, gate, or bar, or at any other gate or bar on a public road, shall not be demanded or taken for—

Officers, Volun-  
teers, &c. ;

- (1.) Any Officer of the Volunteer Force, or any Volunteer, or Non-Commissioned Officer of the Volunteer permanent Staff, being on march or duty, or going to or returning from the place appointed for, and on the day for, exercise,

inspection, review, or other public duty, and being in uniform.

- (2.) Any horse ridden or used by any Officer, Volunteer, or Non-Commissioned Officer as aforesaid, being on march or duty, or going or returning as aforesaid, and being in uniform. Saddle or Pack Horses ;
- (3.) Any cart, waggon, or carriage, public or private, employed only in carrying or conveying, or returning empty from carrying or conveying any Officer, Volunteer, or Non-Commissioned Officer as aforesaid, being on march or duty, or going or returning as aforesaid, and being in uniform, with or without any conductor or driver of such cart, waggon, or carriage, or domestic servant of such Officer or Volunteer. Carriages, &c. conveying Officers, Volunteers, &c.
- (4.) Any cart, waggon, or carriage, public or private, employed only in carrying or conveying, or returning empty from carrying or conveying, having been employed only carrying or conveying any arms or baggage of any Officer, Volunteer, or Non-Commissioned Officer as aforesaid, being on march or duty, or going to or returning from the place appointed for exercise, inspection, or review, or other public duty, or any Military stores belonging to or for the use of any gun belonging to or used by the Volunteer Force. Carriages, &c., conveying Army Baggage, Ammunition, &c.
- (5.) Any horse or other beast drawing any such cart, waggon, or carriage as aforesaid. Draft Horses.

If any person demands or takes any duty or toll in contravention of the present Section, or if any person makes any false representation respecting himself or any other person, or any animal or thing, with intent to obtain for himself or otherwise, or fraudulently obtains for himself or otherwise, any exemption under the present Section, he shall, for every such offence, be liable to a penalty not exceeding Five Pounds. Penalty for false representation.

Any person who, not being enrolled on the muster-roll of any Volunteer Corps, or, after having quitted, withdrawn, or been discharged or dismissed from such Corps, wears the uniform of such Corps, shall be liable to a penalty not exceeding Ten Pounds for each offence. Penalty for unauthorised use of Volunteer Uniform.

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## PART V.

### *Foreign Establishment.*

**36** It shall not be lawful for any person within the territory of *Tasmania* and its dependencies, on behalf of himself or of any other person, or of any foreign Prince or State, or of the Governor or Government of any of Her Majesty's Colonial Dependencies, to appoint, enrol, enlist, attest or engage, or accept the service in any Military capacity, or as a Military Settler in any such State or Dependency, on behalf of such Prince, Governor, Government, or Person, of any Officer or Volunteer, or Officer or Non-Commissioned Officer of the Volunteer Permanent Staff, without licence previously obtained in writing under the hand and seal of the Governor. No agent may recruit Volunteers for foreign service without licence from Governor.

Notice of Names to Officers commanding Division and Corps.

The person to whom such Licence is issued shall be bound to give Ten days notice in writing to the Officers commanding Divisions, and to the Commanding Officers of Volunteer Corps and Administrative Regiments in such Divisions, of the names of the persons offering themselves, and of the hour and place at which such persons are to be so enrolled, enlisted, attested, engaged, or accepted.

Any person contravening the provisions of this Section shall be guilty of a Misdemeanour.

Volunteers in debt to their Corps engaging for Foreign Service may be arrested and held to bail by two Justices.

**37** On the affidavit of any Officer or Volunteer, sworn before a Justice of the Peace for the territory of *Tasmania*, that any person by whom any money subscribed or undertaken to be paid by him towards any of the funds or expenses of any Volunteer Corps or Administrative Regiment is then due and unpaid or unprovided for, is about to be enrolled, enlisted, or attested as aforesaid, or to embark on board ship, or quit the territory of *Tasmania* under engagement of Military Service with any such Prince, State, Governor, Government, or person as aforesaid, such Justice may, by warrant under his hand and seal directed to any Officer or Volunteer, or Non-Commissioned Officer of the Volunteer Permanent Staff, or to any Constable of the territory, cause such person to be apprehended and brought before any two Justices of the Peace, to be by such Justices held to bail in such recognizances as such Justices may order until such money as aforesaid is paid, or provided or undertaken for to the satisfaction of the Commanding Officer of such Corps.

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## PART VI.

### *Miscellaneous Provisions.*

Penalties may be recovered summarily.

**38** Any pecuniary penalty under this Act the mode of recovery of which is not otherwise expressly provided for by this Act, and any money by this Act made recoverable as a penalty under this Act is recoverable, may be recovered; and all offences against this Act shall, where no other mode or remedy is by this Act expressly provided, be heard and determined in a summary way by and before any Two or more Justices of the Peace, in the mode prescribed by *The Magistrates Summary Procedure Act*.

No *certiorari*.

A summary conviction or adjudication under this Act, or an adjudication made on appeal therefrom, shall not be quashed for want of form, or be removed by *certiorari*; and a warrant of commitment on any such conviction shall not be held void by reason of any defect therein, if it is alleged that the person named therein has been convicted, and there is a good conviction to sustain the same.

Penalties recovered by Commanding Officers to go to Funds of Corps or Regiment.

Any pecuniary penalty recovered summarily under this Act on the prosecution of the Commanding Officer of a Volunteer Corps, or administrative Regiment shall, notwithstanding any Act relating to Municipal Corporations or to Municipal Police, or in any other Act contained, be paid to the Commanding Officer and be applied as part of the general fund of the Corps or Regiment.

Interpretation.

**39** In this Act the term "person" includes, where the case requires, a body of persons corporate or unincorporate; the term "Mutiny Act" means the Mutiny Act for punishing mutiny and desertion, and for the better payment of the Army and their quarters for the time being in force, and includes the Articles of War made under the authority of

that Act for the time being in force; the term "Appointments" includes accoutrements and equipments of every kind other than clothing.

**40** If at any time the Governor thinks fit to appoint on the Permanent Staff of a Volunteer Corps or administrative Regiment a Quartermaster or Paymaster or either of such Officers, or if at any time any Non-Commissioned Officer or man engaged according to Regulations under this Act, for a period not exceeding Five years, is appointed on the Volunteer Permanent Staff to serve in any other capacity than that of Sergeant-Instructor, then and in such cases all the provisions of this Act relating to Officers and Non-Commissioned Officers of the Volunteer Permanent Staff shall apply to such Quartermasters and Paymasters and to such other Non-Commissioned Officers and such men respectively.

Governor may appoint Quartermasters and Paymasters, and other persons on Permanent Staff.

All the provisions of this Act relating to an Administrative Regiment shall apply to any united body formed of two or more separate Volunteer Corps for Military or administrative purposes by the authority of the Governor, whether the Corps so united are formed into a Regiment or a Battalion, or a Brigade, or any other body.

Corps may be united as a Regiment or otherwise.

**41** There shall be laid before both Houses of Parliament an annual statement of all moneys paid under this Act to Officers, Non-Commissioned Officers, and men of the Volunteer permanent Staff, and to Commanding Officers of Volunteer Corps or Administrative Regiments, and to any other person or persons whatsoever under and for the purposes of this Act.

Returns of Moneys expended to be laid before Parliament.

**42** The Governor may (without prejudice to any other proceeding or remedy under this Act) remove, dismiss, or accept the resignation of any Officer or Non-Commissioned Officer or man on the Volunteer permanent Staff as if he were a person in the Civil Service of the Crown under the Government of *Tasmania*.

Permanent Staff may be dealt with as Civil Servants.

**43** The Acts of the Parliament of *Tasmania* of the 22nd *Victoria*, No. 11, and the 25th *Victoria*, No. 21, are hereby repealed; but this repeal shall not affect the past operation of such Acts, or anything already done, or any right, title, obligation, or liability already accrued thereunder, or any remedy or proceeding respecting the same.

22 Vict. No. 11, and 25 Vict. No. 21 repealed.

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## SCHEDULE.

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### OATH OF ALLEGIANCE.

Sect. 7.

"I A. B. do sincerely promise and swear, that I will be faithful and bear true allegiance to Her Majesty Queen *Victoria* as lawful Sovereign of the United Kingdom of *Great Britain* and *Ireland*, and of this Colony of *Tasmania* dependent on and belonging to the said United Kingdom; and that I will faithfully serve Her said Majesty in this Colony for the defence of the same against all Her enemies and opposers whatsoever. So help me God."

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### WITNESS'S OATH.

Sect. 18.

The evidence you shall give before this Court touching the matter of this enquiry shall be the truth, the whole truth, and nothing but the truth. So help you God.

