

T A S M A N I A

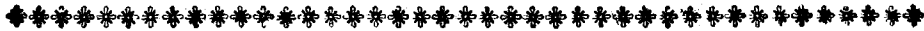


1878.

ANNO QUADRAGESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 12.



AN ACT to consolidate and amend the Acts ^{A.D. 1878.}
relating to the Volunteer Force in *Tasmania*.
[9 November, 1878.]

WHEREAS it is expedient to consolidate and amend the Acts ^{PREAMBLE.}
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, as follows :—

1 This Act may be cited as “ The Volunteer Act, 1878.”

Short title.

2 In this Act, unless the context otherwise determines—

Interpretation.

“ Volunteer ” means a non-commissioned officer or private belonging
to a Volunteer Corps exclusive of the Permanent Staff thereof.

“ Person ” includes, where the case requires, a body of persons,
corporate or unincorporate :

“ Mutiny Act ” means the Act of the Imperial Parliament 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 :

“ Appointments ” includes accoutrements and equipments of every
kind other than clothing :

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“Militia” means any body of militia to be hereafter created or established in *Tasmania* under any Act hereafter to be passed :
 “Justice” shall mean Justice of the Peace for the Colony of *Tasmania*.

Application of provisions of Act to certain officers

3 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.

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.

PART I.

ORGANISATION OF VOLUNTEER FORCE.

Acceptance of Service.

Governor may accept services of Volunteer Corps, naval and military.

4 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.

On such acceptance the proposed corps shall be deemed to be lawfully formed into a corps under this Act.

Existing Corps.

Governor may continue services of existing corps.

5 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.

This Act applies to 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.

Commander-in-Chief.

The Governor to be Commander-in-Chief.

6 The Governor shall be Commander-in-Chief of the Volunteer Force, and shall have the power of convening general Courts martial and of confirming the sentences thereof, and of convening or issuing his warrant to convene district courts martial ; and shall have all the powers and may exercise and discharge all the duties and obligations appertaining to the office of Commander-in-Chief respecting the Volunteer Force or any part thereof.

*Volunteers.**Permanent Staff.*

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7 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 he may deem 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 volunteer permanent staff.

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.

Relative rank and status of permanent staff of corps.

If any non-commissioned officer of the Volunteer Permanent Staff—

Desertion by non-commissioned officers of 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

Enrols 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

Accepts or agrees to accept any commission or employment in the service of any Foreign State under "The Foreign Recruiting Act, 1875:"

he shall be deemed to have deserted, and shall be subject in respect of such offence to the provisions in *The Mutiny Act*, and may be apprehended and tried and punished accordingly; 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.

Any non-commissioned officer of the Volunteer Permanent Staff so deserting or enrolling himself, or being attested, or accepting or agreeing to accept any commission or employment as aforesaid, 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.

Non-commissioned officers of permanent staff may be put under stoppages.

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Officers and Volunteers.

Officers to be commissioned by Governor. Corps may recommend for commissions. Commissions not vacated by Governor's recall or decease.

8 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.

A Commission issued in any case under this Act by the Governor shall not be deemed vacated by the revocation, expiration, or discontinuance of the Commission by which the Governor was appointed, or by the death of the Governor.

Seat in Parliament not vacated by commission.

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 or office vacant.

Relative rank of officers.

9 Officers of the Volunteer Force shall rank with officers of Her Majesty's Regular Forces and Militia within *Tasmania*, as the youngest of their respective ranks: but no officer of Volunteers shall take rank above any field officer of Her Majesty's Regular Forces, or of the Militia of *Tasmania*.

Muster roll.

10 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.

Oath of Allegiance to be taken.

11 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 in the Schedule (1) 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.

Non-commissioned officers of corps.

12 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.

Retirement from a corps.

13 Any volunteer may, except when on actual military service, quit his corps on complying with the following conditions; namely,—

1. Giving to the Commanding Officer of his corps Thirty 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:

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and thereupon he shall be struck out of the muster roll of the corps by the Commanding Officer. A.D. 1878.

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, 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 affected thereby.

14 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 discharged from the Volunteer Force, and the Commanding Officer of his corps shall strike him out of the muster roll thereof. Discharge by enlistment in militia or army or navy.

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, if he has entered as a seaman or marine on board of any of Her Majesty's ships of war or enlisted in Her Majesty's army, 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 or they deem 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. Liabilities of discharged volunteers.

General Command.

15 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. Governor may designate General or Field Officers of the army to command volunteers.

Inspection.

16 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. Half-yearly inspection by General or Field Officer of the army, or officer of permanent staff.

Disbanding of Corps.

17 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. Her Majesty or Governor may disband corps.

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Notice of disbanding in writing to Commanding Officer,

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

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

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

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, appointments, 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, appointments, and clothing shall be forthwith delivered up by the said persons accordingly.

If any person who has been furnished at the public expense with any arms, appointments, 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, appointments, 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.

Such arms, appointments, 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, appointments, 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 appointments 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.

Administrative Organisation.

Governor may constitute permanent staff for Administrative Regiment.

18 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.

Rotation, rank, and status of permanent 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

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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.

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Every such regiment shall be officered by persons appointed and commissioned as officers of such regiment by the Governor.

Officers to be commissioned by 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.

Position of corps forming regiment not affected.

Regulations.

19 The Governor in Council may from time to time make regulations and orders respecting the following matters; the same being subject to, and not inconsistent with, the provisions of this Act:—

Governor in Council may make Regulations for enrolment, &c. of Volunteer Corps, &c.

1. The enrolment and disbanding of any Volunteer Corps:
2. The appointment, promotion, and rank, of all volunteer officers, and the relative rank of such officers, and of the officers of any military and naval force, and officers holding any military or naval staff appointment in the service of the local Government of Tasmania:
3. The course of drill and instruction and camp exercise:
4. The requisites to require a volunteer to be deemed an effective:
5. The constitution, assembling, and proceedings of Courts of Enquiry to hear, receive, and examine evidence relating to, and to report on, any matter connected with the government or discipline of the Volunteer Force, or of any corps thereof, or on any charge brought against a member of any such corps:
6. The maintenance of discipline:
7. The power of arrest:
8. The payment and recovery of subscriptions, fines, and penalties:
9. The general government, discipline, and management, of the Volunteer Force and the several corps thereof, and the persons appointed to the paid staff of or serving for pay in the said force, and generally for the full execution of this Act:

and may appoint penalties for any breach of such regulations not exceeding Five Pounds for each offence. And the Governor in Council may from time to time alter or repeal any such regulations and orders, and may call for such returns as may from time to time seem requisite; and all such regulations and orders 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 sitting of Parliament.

All regulations made under any Act hereby repealed and in force when this Act takes effect shall continue in force until superseded by Regulations made under this Act.

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Regulations to be published in *Gazette*.

20 All regulations made by the Governor under this Act shall be published in the *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.

Courts of Enquiry.

Court of Enquiry, when specially authorised, may summon and examine witnesses on oath.

21 It shall be lawful for any 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 in the Schedule (2) any person touching any matter or thing relating to any proceeding before such Court: 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.

PART 2.

ACTUAL MILITARY SERVICE.

Governor may call out volunteers for actual military service.

22 The Governor may at any time by Proclamation published in the *Gazette*, call out for actual military service any Volunteer Corps, or any part thereof, and every officer and volunteer belonging to any corps so 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's authority notified by Proclamation and published in the *Gazette*.

Provisions on actual military service:—
Necessaries.

23 Whenever a Volunteer Corps is called out for actual military service, the following provisions shall take effect:—

1. There shall be issued, in manner provided by regulation, the sum of Two Guineas for the use of every officer and volunteer and of every 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:

Pay and quarters.

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 officers and soldiers of Her Majesty's Army:

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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 such release (except such of them as do not desire to receive the same) in addition to his pay. A.D. 1878. *Act.*
Bounty on release.
- 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 shall be published in the *Gazette*, and not sooner or otherwise. Release by order
of officer com-
manding Division
after Governor's
Proclamation.
- 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 to be
returned to head
quarters.
- 24** 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 *Tasmania* 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. Corps voluntarily
assembled for
suppression of
riots, to be deemed
on actual military
service.
- 25** 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. Officers' half-pay
and pensions.
- 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 a sub-lieutenant 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 a sub-lieutenant in Her Majesty's Army. Volunteers and
non-commis-
sioned officers of
staff pensioned as
sub-lieutenants in
army.

PART 3.**DISCIPLINE.**

- 26** 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:— As to discipline
of Volunteers
while not on
actual military
service.

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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.
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; and if any officer ordered into arrest as aforesaid resists his arrest, or if any volunteer or non-commissioned officer as aforesaid, resists any other volunteer or non-commissioned officer in taking him into custody as aforesaid, every such officer, volunteer, and non-commissioned officer so offending shall, upon conviction, be liable to a penalty not exceeding Five Pounds.

On actual military service, officers and volunteers and permanent staff liable to

27 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 *The Mutiny*

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Act shall extend and apply to all officers and volunteers, and non-commissioned officers of the volunteer permanent staff, and those officers, volunteers, and non-commissioned officers shall be subject to the said Act, and shall also be entitled to the benefits thereof, in all respects as 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 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 of One-half at the least of Officers of the Volunteer Force.

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, 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.

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Mutiny Act and Articles of War.

Courts Martial may sentence to imprisonment with hard labour in lieu of corporal punishment.

Governor may remit sentences.

PART 4.**RULES AND PROPERTY OF CORPS.**

28 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; but 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 if approved, 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.

Corps may make rules subject to Governor's approval.

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.

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

Approved rules of existing corps not repealed.

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Governor may annul rules.

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.

29 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, 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 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.

Subscriptions and fines recoverable within 12 months.

30 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.

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

31 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 with, 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 not keeping uniform in proper order, or wearing it contrary to orders.

32 Any non-commissioned officer or volunteer who fails to keep in proper order the uniform intrusted to his care or in his possession, or who wears the same or any part thereof on any other occasion than when on duty, or specially authorised or permitted to do so by the Commanding Officer of his corps, shall be liable to a penalty of One Pound for each offence, which penalty when recovered, shall form part of the general fund of the corps.

Penalty for unauthorised use of volunteer uniform.

33 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.

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34 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.

A.D. 1878.

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 or Deputy Clerk of the Peace for the district in which the conviction is had; and on the prosecution of any person for any subsequent offence under the present Section, a copy of such conviction purporting to be certified by such Clerk or Deputy Clerk of the Peace, 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.

35 If any person wilfully commits any damage to any butt or target belonging to Her Majesty or to the Government of *Tasmania*, or 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 to a penalty not exceeding Five Pounds.

Penalty for damaging or disturbing butts.

PART 5.**EXEMPTIONS.**

36 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*; and every officer of the Volunteer Force shall be exempt from liability to serve on any Jury or Inquest.

Officers and "efficients" and staff exempt from militia and jury service.

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.

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.

Commanding Officer's certificate.

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A.D. 1878.

Penalty for giving false certificate.

37 If any Commanding Officer of a Volunteer Corps or Administrative Regiment knowingly gives any false certificate under the preceding Section, 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 interests, &c. not forfeited by service in Volunteer Force.

38 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; and if such rules shall not so direct then such dispute shall be decided by any two Justices, and their determination shall be final and binding upon such society and such member.

Exemptions from tolls:—

39 Any duty or toll leviable 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, volunteers, &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 :

Saddle or pack horses ;

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 :

Carriages, &c. conveying officers, volunteers, &c.

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, or any workman or labourer employed upon the defence works of the Colony, with or without any conductor or driver of such cart, waggon, or carriage, or domestic servant of such officer or volunteer :

Carriages, &c. conveying arms baggage, ammunition, &c.

4. Any cart, waggon, or carriage, public or private, employed only in carrying or conveying, or returning empty from 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

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appointed for exercise, inspection, review, or other public duty, or any military stores belonging to or for the use of, or any gun belonging to or used by, the Volunteer Force: A.D. 1877.

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 this 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 this Section, he shall, for every such offence, be liable to a penalty not exceeding Five Pounds.

PART 6.

FOREIGN RECRUITING.

40 Every person obtaining recruits for the service of any Foreign State under "The Foreign Recruiting Act, 1875," 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 engaged or accepted under the said Act. Any person contravening the provisions of this Section shall be guilty of a misdemeanour. Notice of names of recruits for Foreign States to be given to officers commanding divisions and corps.

41 On the affidavit of any officer or volunteer, sworn before a Justice of the Peace, 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 engaged or accepted as aforesaid, or to embark on board ship, or quit *Tasmania* under engagement of military service with any such Foreign State 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 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 or regiment. Volunteers in debt to their corps engaging for Foreign Service may be arrested and held to bail by two Justices.

PART 7.

MISCELLANEOUS PROVISIONS.

42 All commissioned officers who shall have completed a service of Five years as such in any Volunteer Corps or Company, shall be entitled to retire on their respective ranks, but shall nevertheless be liable to be called upon for active service whenever, as herein provided, their services may be required. Commissioned officers may retire on their respective ranks.

43 Any pecuniary penalty under this Act the mode of recovery of which is not otherwise expressly provided for by this Act, and any money or fine by this Act made recoverable as a penalty under this Act is recoverable, may be recovered, and all offences against this Act shall, Penalties may be recovered summarily.

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A.D. 1878. 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*.

Where the sum adjudged to be paid on a summary conviction or adjudication, inclusive of any costs, exceeds Five Pounds, or the imprisonment awarded exceeds One month, and the person who is convicted or against whom the adjudication is made thinks himself aggrieved by the conviction or adjudication, he may appeal against the same in the mode prescribed by *The Appeals Regulation 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 to the contrary, be paid to the Commanding Officer and be applied as part of the general fund of the corps or regiment.

Returns of moneys expended to be laid before Parliament.

44 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.

Permanent staff may be dealt with as Civil Servants.

45 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*.

Acts to be read together.

46 This Act and the Act of Parliament, 41 *Victoria*, No. 25, shall be read and construed together as one and the same Act.

Repeal.

47 The Act of the Parliament of *Tasmania* set forth in the Schedule (3) is hereby repealed; but this repeal shall not affect the past operation of such Act, or anything already done, or any right, title, obligation, or liability already accrued thereunder, or any remedy or proceeding respecting the same.

SCHEDULE.

(1.)

OATH OF ALLEGIANCE.

"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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(2.)

A.D. 1878.

WITNESS'S OATH.

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

(3.)

ACT TO BE REPEALED.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>
27 Vict. No. 23.	<i>The Volunteers Act, 1863.</i>

