

New Zealand.



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1886, No. 17.

AN ACT to amend and consolidate the Laws relating to the Militia, Title.
 Volunteers, and Permanent Militia. [31st July, 1886.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Defence Act, 1886." It shall come into force on such day as shall be proclaimed by the Governor, except as to sections three and four, which shall come into force on the passing hereof. Short Title.

2. In this Act, if not inconsistent with the context,—

"Appointments" includes accoutrements and equipments of every kind other than clothing. Interpretation.

- “Army Act” means the Act of the Imperial Parliament shortly intituled “The Army Act, 1881,” and includes any Act continuing or amending the same, and the Articles of War for the time being in force, made under the authority thereof respectively.
- “Camp” means any special assembly of any portion of the Defence Forces for instruction or training and exercise at a particular place authorized or ordered by the Commander-in-Chief or other competent authority.
- “Commanding Officer” means such officer as may be appointed by the Governor to command a district or camp of exercise, or, in his absence, the senior combatant officer, according to relative rank and serving in, or belonging to, any of the Armed Forces, as defined by this Act.
- “Commanding Officer of Corps” means the senior officer present in command of any regiment, battalion, division, or corps, or any part thereof.
- “Corps” includes a troop of cavalry, battery, or portion of a battery, of artillery, or naval artillery, and company of engineers, rifles, or mounted infantry forming a portion of the Defence Forces.
- “Defence Forces” or “Forces” means and includes all officers, non-commissioned officers, and men in the New Zealand Militia, the New Zealand Volunteers, the permanent Militia, and any other armed Volunteer body enrolled under the authority of the Governor for special service within or beyond the colony.
- “District” means a district constituted or made under this Act.
- “Efficient” is applied to any member of the Volunteer Force who has fulfilled the conditions under which he would be entitled to claim capitulation.
- “Field Officer” means an officer above the rank of captain.
- “Militia” means and includes all commissioned and non-commissioned officers and privates in the New Zealand Militia, constituted or deemed to be constituted under this Act.
- “Militiaman” includes every non-commissioned officer or private in the Militia.
- “Native” means an aboriginal inhabitant of New Zealand, and includes any person descended from an aboriginal native, and living as a member of a Native tribe or community.
- “Officer” means any commissioned officer appointed or deemed to be appointed under this Act to the Defence Forces, or to any branch thereof.
- “Permanent Militia” means and includes all commissioned officers and non-commissioned officers and other persons appointed or enrolled or deemed to be appointed or enrolled under this Act in the Permanent Militia Force.
- “Prescribed” means prescribed by this Act, or by any regulations made thereunder.
- “Property,” in relation to Volunteers, means and includes arms, stores, ammunition, clothing, and musical instruments belonging to any volunteer corps; and money sub-

scribed by or granted for the use of any such corps, and all real or personal property acquired or purchased for or by any such corps.

“Volunteer Force” means the officers, non-commissioned officers, and Volunteers enrolled or deemed to be enrolled under this Act, including the permanent staff.

“Volunteer” means a non-commissioned officer, bugler, musician, or private duly enrolled in any Volunteer corps formed under this Act or any Volunteer Act hitherto in force.

PART I.

GENERAL POWERS OF THE GOVERNOR.

3. The Governor from time to time may divide the colony into districts for the purposes of this Act, and designate the same respectively by such names as he may deem fit, or may alter or abolish such districts or designations, and constitute others in place thereof respectively.

Governor may divide colony into districts.

4. The Governor may from time to time make, alter, or revoke regulations respecting the enrolment, promotion, discipline, training, exercise, arms, accoutrements, clothing, equipment, conveyance, pay, rations, and lodging of the Forces or any portion or individual thereof, as well as the punishment, dismissal, or discharge, or disbandment of the same, or for anything deemed necessary for the carrying out of this Act, as well as for regulating artillery and rifle practice, or grounds used for the purposes of this Act, or the property of Government, and to prevent intrusion thereon during the times of shooting or practice; regulating rewards and prizes for long service or efficiency; prescribing, as regards Volunteers, the issue of certificates for efficiency; and regulating the establishment and conduct of cantons in camps of exercise, or other assemblies of Volunteers.

Governor may make regulations.

All such regulations shall be gazetted, and shall come into force at a time to be therein prescribed, and from such time shall have the same force and effect as though they formed a part of this Act, and shall affect and govern all persons whom they purport to affect and govern, whether in any of the Forces or in any part thereof or not; but no such regulations shall be valid if repugnant to the provisions of this Act.

5. The Governor shall be the Commander-in-Chief of all the Defence Forces of New Zealand, 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 Forces, or any part thereof; and among other things shall have the powers hereinafter mentioned—that is to say,—

Governor to be Commander-in-Chief, and to have power of appointing all officers in the Defence Forces.

(1.) He may, in the name and behalf of Her Majesty, from time to time by commission, under the Public Seal of the Colony, appoint such officers as seem to him necessary to the Forces of New Zealand or to any portion of them, and may confer brevet rank on any such officer in the manner customary in Her Majesty's service, and may, by notice in the *Gazette*, attach or cause to be attached such

officers or any of them to the general staff of the Forces, or to the regimental staff of any portion of such Forces, or to any corps, regiment, or battalion, or other division thereof, as he may think fit; and may from time to time cancel or revoke such commissions, or summarily dismiss any such officer, and annul or vary such appointment; or may discontinue the services of any officer in any capacity when he may be no longer required therein.

But it shall not be competent for the Governor to confer a commission in any of the Forces, except under the restrictions and in conformity with the provisions of this Act, or any regulations thereunder for the time being in force.

- (2.) He may from time to time appoint an officer to be the Commander of the Forces, or of any portion of them, who shall be responsible for the discipline and efficiency of the Force, and who shall inspect and report once in every year to the Governor upon the state of the Forces.
- (3.) He may from time to time appoint District Commanding Officers of such rank as he may deem fit, who shall command all or such portions as the Governor may determine of the Forces within such district; and may also appoint for any such district a permanent paid staff.
- (4.) He may from time to time appoint any officer or officers to inspect the Forces, or any portion thereof, and to report upon the state thereof.
- (5.) He may from time to time revoke any such appointments as aforesaid at his pleasure.

6. The Governor from time to time, by notification in the *Gazette*,—

- (1.) May divide any portion of the Forces into brigades, battalions, regiments, corps, squadrons, companies, or other divisions, and may designate such bodies by such names as he may think proper; and also may alter or cancel such divisions, and change or abolish any such designations of name.
- (2.) May disband any portion of the Forces whenever it seems expedient for him to do so, or dismiss any member thereof for misconduct or insubordination.

7. No person shall be an officer of any of the Forces unless he is one of Her Majesty's subjects by birth or naturalization.

8. Officers of the Militia, Volunteers, and permanent Militia, or of any other branch of the Defence Forces, when serving together or on the staff, shall rank with each other of like rank according to the dates of their commissions.

Where any commissions of like rank bear the same date, the holders thereof respectively shall rank according to the dates of their prior commissions, and in case there be no such prior commissions, then the aforesaid holders shall take rank alphabetically in the order of their surnames.

9. All officers already appointed to any portion of the Defence

Governor may divide portion of the said forces into brigades, battalions, regiments, &c., and may disband any of such forces.

Officers to be British subjects or naturalized.
Relative rank of officers.

Officers already appointed deemed

Forces of New Zealand shall be deemed to have been appointed under and subject to this Act, and their commissions shall remain and subsist according to the seniority thereof respectively, as if this Act had not been passed.

appointed under this Act.

10. Non-commissioned officers in the Defence Forces shall be appointed and may be reduced as prescribed by regulations.

Appointment and reduction of non-commissioned officers.

All appointments of non-commissioned officers heretofore made shall be deemed to have been made under the authority of and subject to this Act.

11. Every officer shall, on receiving his commission in the Militia or Volunteer Forces or in the permanent Militia, and every Militiaman and Volunteer, and also every member of the permanent Militia not being an officer thereof, shall, on his enrolment in the muster-roll of his corps, or in either case as soon afterwards as may be, take the following oath of allegiance before a Justice of the Peace or an officer of the permanent staff, or other commissioned officer of the Volunteer Force appointed by the officer commanding the district to perform such duty:—

Oath of allegiance of Militia and Volunteers.

“I, A.B., do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, and that I will faithfully serve in the Defence Forces until I shall be lawfully discharged:”

Provided that any person objecting to take an oath may make a solemn affirmation to the same effect as the oath.

No officer or other member of the Militia, Volunteers, or Armed Constabulary Forces respectively who has taken the oath of allegiance or made affirmation as aforesaid in respect of belonging to any of such forces, shall be required to take a new oath or make affirmation under this Act.

12. All Proclamations, Orders in Council, Warrants, and General Orders relating to the Defence Forces shall be held to be sufficiently notified to all persons whom they may concern by their insertion in the *Gazette*, and the production of a paper purporting to be a copy of the said *Gazette*, and purporting to contain any such Proclamation, Order in Council, Warrant, or General Order shall be conclusive evidence of the making, publication, and contents thereof, and of the date of such *Gazette*.

Proclamations, &c., deemed sufficiently notified when published in *Gazette*.

13. All orders relating to any particular branch of the Defence Forces given under the authority of or in execution of this Act by the Commander-in-Chief, or by any officer of the said Forces, shall be valid and effectual if verbally given on parade, or advertised in a newspaper circulating in the district, or by a printed or written notice affixed at a previously appointed place for such purpose, or issued in any other manner customary in Her Majesty's military service, unless in cases where this Act specially requires any such order to be in writing.

Orders authorized by Act, how promulgated.

14. All orders made by the officer commanding any district, battalion, troop, battery, company, corps, or other division, shall be held to be sufficiently notified to all persons whom they may concern by their insertion in some newspaper circulating in the district where the persons to be thereby affected reside, or by posting copies thereof at the drill-shed or other usual place of muster for such persons, or by being publicly read on parade.

Orders by officer commanding district, &c., how promulgated.

Production of written order deemed evidence of such order.

15. The production of an order in writing, purporting to be made according to the provisions of this Act, shall be *prima facie* evidence of such order without proving the signature thereto, or the authority of the person making such order.

PART II.

MILITIA.

All inhabitants, including Natives, liable to service in Militia.

16. The Militia shall consist of all the male inhabitants of New Zealand, including Natives, between the ages of seventeen and fifty-five not hereinafter exempted, who shall have resided in the colony for a period of six months.

Persons exempt from serving in Militia.

17. The following persons shall be exempt from training and actual service in the Militia,—

- The Judges of the Supreme Court ;
- The members of the Executive Council ;
- The members of the General Assembly ;
- The officers of the General Assembly ;
- Secretaries and Under-Secretaries of the General Government ;
- The Judges of the Native Land Court ;
- The Public Trustee ;
- Resident Magistrates ;
- Telegraph Clerks ;
- Postmasters, mail carriers, and ferrymen ;
- All officers, clerks, or other persons acting in the management or collection of the Customs revenue ;
- Persons employed on railways open for traffic ;
- The clergy and ministers of all religious denominations who shall for the time being be officiating ministers within the meaning of "The Marriage Act, 1880 ;"
- The professors in any college or university ;
- All sheriffs and constables ;
- All Wardens and other officers of any proclaimed mining district or gold-mining district respectively ;
- Duly registered medical men in practice ;
- The warders and keepers and guards of every public prison and lunatic asylum, and the attendants on the sick in every public hospital ;
- Teachers of schools actually engaged in teaching ;
- Seafaring men (other than watermen and boatmen) actually engaged in their calling ;
- All Volunteers enrolled under any Volunteer Act for the time being in force within the colony ;
- All persons afflicted with lunacy, deafness, blindness, or with any other disease or infirmity that may render them unfit for service, such disease or infirmity being duly certified by a medical man appointed by the Governor, and paid by the Government for that purpose. Each such certificate shall state the nature of the disease or infirmity under which the claimant is labouring, and distinguish whether it incapacitates him for actual service and training and exercise, or for actual service only.

Whenever exemption is claimed, whether on the ground of age, period of residence, or otherwise, and whenever any person alleges that he ought to be placed in a class different from that in which he is placed, the burden of proof shall always rest on the person claiming exemption, or so alleging.

18. No exemption shall prevent any person who is not disabled by bodily or mental disease or infirmity from serving or holding a commission in the Militia by his own consent.

Persons, though exempt, may serve voluntarily.

19. No officer who has voluntarily retired or been superannuated from Her Majesty's military or naval service shall be required to serve in the Militia in a lower rank than he held in such service.

Rank of retired naval or military officer in Militia.

20. The Governor in Council, by Proclamation in the *Gazette*, from time to time, may declare all or any Natives living in any district or part of a district, to be exempt from training and service in the Militia; and by similar Proclamation from time to time may suspend exemption in any such district, or part of a district, either wholly or partially in respect of any such Natives.

Maoris may be exempted.

21. The claims and interests in claims or water-rights of miners, and the holders of miners' rights who shall be called out for Militia duty, shall be protected during their absence on such duty.

Miners' claims to be protected during absence on duty.

22. The Militia shall be divided into the following classes—namely:

Classes of Militia.

Class one,—unmarried men between seventeen and thirty years of age;

Class two,—married men between seventeen and thirty years of age, and unmarried men between thirty and forty years of age;

Class three,—married men between thirty and forty years of age, and unmarried men between forty and fifty-five years of age.

23. The Governor, for the purposes of the Militia, may from time to time by any General Order divide any district constituted under this Act into regiment, battalion, or independent company corps, or other divisions, and may designate such divisions by such name and number as he may think fit.

Districts may be divided into regiments or other divisions.

The Militia resident in any such district shall form part of such regiment, battalion, company, corps, troops, or squadron as the Governor may direct within such district.

24. To each battalion shall be appointed one of its field officers to command, an adjutant, and such other regimental staff as may be necessary, and such medical officers—surgeons and assistant-surgeons—as the Governor shall deem fit.

Regimental, commanding, and staff officers to be appointed.

25. The officer commanding any Militia regiment or battalion shall from time to time divide the same into company divisions, having regard to the residence of the men composing it, and to each company division there may be appointed one captain and two lieutenants. But any Militiaman may, with the sanction of the officer commanding the regiment or battalion and on the recommendation of the officer commanding his company, join any other company division of the same regiment or battalion.

Regiments to be formed into company divisions.

26. Officers on the active list who have not, at the coming into operation of this Act, been posted to regiments or battalions, and who may desire to quit any district, may be placed on the general

Officers on active list and not posted to regiments may be

placed on general unattached list of district in which they reside.

unattached list of the Militia for the District in which they may reside.

(1.) If, after the passing of this Act, an officer remains for five years on the unattached list, or is absent from the colony for twelve months without leave from the Governor, or for twelve months after the period for which he may have obtained leave, the commission of such officer shall in such case lapse and be void. But, nevertheless, the Governor in special cases may retain any such officer permanently on the unattached list, if he be of the rank of a Field Officer.

(2.) The officers below the rank of Field Officer heretofore borne on the active or unattached lists of Militia, and who, by notification in the *Gazette* of the third day of June in the year, one thousand eight hundred and eighty-five, were permitted to be placed on a reserve list, shall be entitled to be placed on the unattached list and to remain thereon, subject to the same conditions as hereinbefore provided in the case of Field Officers; but may on application be placed on the active list subject to their previously passing such examination as the Governor may direct.

Militia, how enrolled.

27. The enrolment of the Militia shall be made in each company division by the adjutant or other officer appointed by him, or the officer commanding an independent troop, corps, or company, as the case may be, and such officer shall, by actual inquiry at each house in the company division, if necessary, or by any other means in his power, obtain and keep at all times a correct roll of his company, in such form as may be directed by the officer commanding the district, and copies of the said roll shall be posted in conspicuous places at least once in every six months, so long as the Militia shall remain called out for training and exercise or for actual service.

Householder to give information to enrolling officer.

28. Every master or mistress of any dwelling-house, whether a tavern, boarding-house, lodging-house, or private house, shall upon the application of any Militia officer acting as an enrolling officer, give all such information as to the names, ages, qualifications, and liability to serve in the Militia of all persons residing or lodging in such house as such officer may demand, and such master or mistress shall be able to give.

Person liable to enrolment to give in his name within twenty days of posting roll.

29. Every man liable under this Act for enrolment in the Militia, and not so enrolled, shall, within twenty days of the posting of such rolls, give in his name, age, and place of residence, either personally or in writing, to the adjutant of the regiment or battalion, or commanding officer of an independent troop, corps, or company, as the case may be, and no person shall be relieved from serving in the Militia by reason of the omission from, or the erroneous entry of, his name in the said roll.

Person removing from one district to another to be enrolled in new district.

30. Any man liable to serve or actually serving, who may remove without the limits of the district in which he resides shall, within twenty days thereafter, give in his name, age, and place of residence to the adjutant of the regiment or battalion division or officer commanding the independent corps, troops, or company divi-

sion, as the case may be, into which he shall have removed, for the purpose of being enrolled therein.

31. Should any difference arise between any adjutant or officer commanding and any man as to his liability to serve, or as to the class to which he should belong, it shall be competent for the adjutant or officer commanding to require him to make a declaration as to the matter in dispute in the form prescribed by "The Justices of the Peace Act, 1882," before a Justice of the Peace.

In case of difference as to liability of person to serve, declaration under Justices of the Peace Act to be made.

32. Each officer commanding a company of Militia shall, within one month of the enrolment thereof, and between the first and fifteenth day of February in each year thereafter, make out a correct roll of his company, showing the names, ages, residences, and classes of the Militiamen therein, and shall transmit the same to the officer commanding the battalion or regiment to which he belongs, who within one month of the receipt thereof shall prepare and forward a correct nominal return of his regiment or battalion to the officer commanding the district to which it belongs.

Officer commanding Militia company to make out roll.

33. Each officer commanding an independent corps, troop, or company shall prepare and forward to the officer commanding the district to which it belongs, within six weeks of the enrolment thereof, and between the first and fifteenth day of February in each year thereafter, a correct roll of his corps, troop, or company, showing the names, ages, residences, and classes of the Militiamen therein.

Officer commanding independent corps, &c., to make out roll.

34. The Governor shall cause the whole of the Militia, or such part thereof as he may think proper, to be trained as a military force.

Militia to be trained as military force.

- (1.) For this purpose he shall, by Proclamation in the *Gazette*, cause notice of fourteen days to be given of the times and places for the first muster. And such notice shall be published in some local newspaper circulating in the district, or be posted in some conspicuous place within the district.
- (2.) The particular times and places for subsequent meetings shall be fixed in every district by the officer commanding in such district.
- (3.) Every officer in command at any first muster or subsequent meeting, by order on parade and without further notice, may give notice of and appoint other times and places for such meetings.
- (4.) Every notice given as aforesaid shall be deemed sufficient notice to every Militiaman of the time and place of every meeting.

No Militiaman shall be compelled to attend for training and exercise more than one hundred and sixty-eight hours in any one year.

35. Every person, whether liable to serve in the Militia or not, who is guilty of any of the offences following, that is to say,—

Penalties for certain offences.

- (1.) Wilfully refusing or neglecting to give information, or knowingly giving false information as to the name, age, qualifications, and liability to serve in the Militia of any person residing or lodging in the house whereof the offender is master or mistress; and every wilful neglect to answer a question and every false statement knowingly made, shall be deemed a distinct offence;

- (2.) Interrupting or obstructing any Militia at muster, inspection, or parade ;
- (3.) Going or remaining upon any place where any Militia are exercising, or are at muster, inspection, or parade after being warned by any officer of Militia not to go thereon or to depart therefrom,—

shall incur a penalty not exceeding one pound, and every person guilty of any such offence as is mentioned in the last two subdivisions of this section may be arrested by the order of the senior officer of Militia present, and kept in custody until the exercising, muster, inspection, or parade is over for the day, and then either taken in custody before a Justice of the Peace or discharged from custody, as the senior officer present at the conclusion of the parade, muster, or inspection shall think fit.

Further penalties.

36. Every person liable to serve or actually serving in the Militia who is guilty of any of the offences following, that is to say,—

Failing to send or give in writing a statement of his name, age, and place of residence to the adjutant of the battalion or officer commanding the independent division within the time mentioned in section twenty-nine of this Act or in section thirty thereof ;

Refusing to take the oath of allegiance or make affirmation as prescribed by this Act ;

Neglecting or refusing to attend any muster, inspection, or parade at the place and hour appointed therefor ;

Absenting himself without leave from any muster, inspection, or parade during any part of the time appointed therefor ;

Refusing or neglecting to obey any lawful order of his superior officer while going to, present at, or returning from, any muster, inspection, or parade ;

Behaving in a disorderly manner or in a manner contrary to good discipline while going to, present at, or returning from, any muster, inspection, or parade ;

Being in a state of intoxication while going to, present at, or returning from, any muster, inspection, or parade ;

Being insolent towards his superior officer while in the execution of his duty as such officer ;

Failing to keep in proper order any arms, accoutrements, or ammunition intrusted to him—

shall incur a penalty not exceeding one pound for each offence.

And any person who shall have paid the penalty for or been convicted of the offence mentioned in the subsection one of this section who shall, after such payment or conviction, fail to send or give the statement therein mentioned shall incur a further penalty not exceeding one shilling for every day on which such failure shall continue.

Certain offences to be punished by fine.

37. Whenever any person serving in the Militia shall be deemed, by the officer commanding the regiment, independent company, or battalion in which such person is enrolled or serving, guilty of any of the offences following, that is to say,—

Neglecting or refusing to attend any muster, inspection, or parade ;

Absenting himself without leave from any muster, inspection, or parade during any part of the time appointed therefor;
 Refusing or neglecting to obey any lawful order of his superior officer while going to, present at, or returning from any muster, inspection, or parade;
 Behaving in a disorderly manner or in a manner contrary to good discipline while going to, present at, or returning from, any muster, inspection, or parade;
 Being in a state of intoxication while going to, present at, or returning from, any muster, inspection, or parade;
 Being insolent towards his superior officer while in the execution of his duty as such officer;
 Failing to keep in proper order any arms, accoutrements, or ammunition intrusted to him;

such officer may, by writing under his hand, order that such person shall pay such fine, not exceeding one pound for each offence, as such officer may think fit.

If such person shall, within seven days after service of a copy of such order upon him, either personally or by leaving the same at his last known abode, pay such fine to the adjutant of the battalion or officer commanding the independent company to which he belongs, he shall be relieved from all liability under this Act to any penalty for the offence in respect whereof the order was given.

It shall not be necessary, in any proceeding for the recovery of a penalty under this section, to prove that any such order has been made, nor shall the making of such order take away or suspend the jurisdiction of any Court to try the offence, but every such proceeding shall be had in the same manner as if the offence had been one in respect whereof no power to inflict a fine had been given by this section, unless the defendant shall prove that he has paid the fine imposed within the said period of seven days.

In the absence of the aforesaid officer commanding the senior officer on parade, not being under the rank of captain, shall exercise the powers contained in this section.

PART III.

VOLUNTEERS.

38. Every Volunteer corps in existence at the date of the passing of this Act shall be deemed to have been formed and enrolled under and subject to this Act.

Existing Volunteer corps to be deemed formed under this Act.

39. The Governor may from time to time, if he thinks fit,—

Governor may accept services of Volunteers.

- (1.) Accept the services of any persons desiring to be formed under this Act into a Volunteer corps, on such terms as he may deem fit, and upon such acceptance the proposed corps shall be deemed lawfully formed under this Act as a Volunteer corps;
- (2.) Unite two or more Volunteer Corps into regiments or battalions, and appoint such officer or officers as he may deem fit to such regiments or battalions in the manner prescribed by regulations, and may remove or accept the resignation of such officers or cancel their commissions,

and he may fix the head-quarters of such regiment or battalion or corps; and

- (3.) Disband or discontinue the service of any Volunteer corps, or any part of it, or cancel any union of separate corps into battalions or regiments.

Governor to fix head-quarters of regiments.

40. Upon the acceptance of the services of any Volunteer corps, or upon the permanent formation of two or more corps into a regiment, battalion, or other division, the Governor may appoint some place to be the head-quarters of such corps, regiment, or battalion, or of any portion thereof.

Corps may be united into battalions by district commanding officers for drill purposes.

41. When the Volunteer Force or any part thereof has not been permanently formed into a battalion or battalions by the Governor, district commanding officers may for drill purposes unite corps into a battalion or battalions and temporarily appoint the senior officer to command the same, and an officer to act as adjutant from the corps so united. But so nevertheless that each separate corps of any such battalion, whether formed permanently or temporarily, shall be severally deemed a Volunteer corps for the purposes of this Act.

Commissioned officers to be elected by not less than two-thirds of corps.

42. Every Volunteer corps may elect all the company officers thereof below the rank of Field Officer, as also all the honorary, but not any other, staff officers of such corps; and before the name of any person shall be submitted to the Governor for commission as an officer of any corps of the Volunteer Force, such person shall have been elected by not less than two-thirds of the enrolled members of such corps present at a meeting convened by advertisement published once at least in a newspaper circulating in the district.

Acting temporary appointment.

43. The officer commanding the corps shall report the result of the election to the officer commanding the district, who shall certify as to whether such officer is a fit and proper person to hold the position to which he has been elected, also as to whether he is a born or naturalized subject of the Queen; and shall forward such certificate, together with the report, to the Minister of Defence.

The said Minister may appoint any officer temporarily to act in the capacity to which he has been elected pending his passing the prescribed examination.

Acting officers to pass examination.

44. Every acting officer appointed as provided in the preceding section, shall within the time prescribed pass the before-mentioned examination; after which the Governor may, if he shall think fit so to do, grant him a commission. Any officer failing so to pass must seek re-election at the hands of his corps, when he may be examined a second time.

Efficient Volunteers at time of passing of Act may be enrolled upon reserve list.

45. Volunteers who have been returned as efficient before the passing of this Act for not less than three consecutive years, and have had exemption in consequence for each of two succeeding years thereafter, and volunteers who may be returned under this Act, or under this Act together with their service under any former Act, as efficient for not less than five consecutive years, may be enrolled upon a reserve list, but shall remain upon the rolls of their respective corps, and be liable to be called out for actual service, and shall attend inspection parades four times a year, at such times as the officer commanding the district shall appoint.

If the officer commanding shall, on inspection, deem any Volun-

teer for the time being on such reserve list to be inefficient, from failing to keep up to the standard of drill, his name shall be struck off the reserve list of his corps, and shall not be replaced thereon until he shall again have served five years as an efficient Volunteer.

46. With respect to the discipline of Volunteers, the following provisions shall take effect and be in force while they are not on actual military service, or in a camp of exercise :—

Discipline of
Volunteers.

- (1.) The officer commanding a district may, on the report of a commanding officer of a corps and after due inquiry, dismiss any Volunteer not being a commissioned officer, and strike his name out of the muster roll of the corps, and may disrate any non-commissioned officer thereof for disobedience of any lawful command or order of any of his superior officers 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 or sufficiency of such cause respectively to be determined by such district commanding officer.
- (2.) Any Volunteer dismissed as herein provided shall not in any case be eligible to serve in any Volunteer corps for three years thereafter, or, in aggravated cases, such further period as may be fixed by the Governor.

47. Whenever any person serving in the Volunteers shall be deemed by the officer commanding the battalion or corps in which such person is enrolled or serving guilty of any of the offences following, that is to say,—

Penalty on Volun-
teer guilty of certain
offences.

- Neglecting or refusing to attend any parade, inspection, or military exercise;
- Absenting himself without leave from any parade, inspection, or military exercise during any part of the time appointed therefor;
- Refusing or neglecting to obey any lawful order of his superior officer while going to, present at, or returning from, any parade, inspection, or military exercise;
- Behaving in a disorderly manner or in a manner subversive of good discipline while going to, present at, or returning from, any parade, inspection, or military exercise;
- Being in a state of intoxication while going to, present at, or returning from, any parade, inspection, or military exercise;
- Being insolent towards his superior officer while in the execution of his duty as such officer;
- Failing to keep in proper order any arms, accoutrements, or ammunition, appointments, or property intrusted to him as a Volunteer;

such person may, if an officer, be ordered under arrest by such commanding officer until his case is inquired into; and if not an officer may be ordered into the custody of any member of the Volunteer Force until the parade, inspection, or military exercise is over; and such commanding officer may by writing under his hand order that such person shall pay such fine not exceeding one pound for each offence as such officer may think fit.

48. Any Volunteer thus summarily dealt with by the commanding

Volunteer may
appeal.

officer of his battalion or corps may, at any time within seven days, notify to such commanding officer in writing that he appeals against his decision to the officer commanding the district, and the officer commanding the corps shall thereupon report the case to the district commanding officer, who shall on the first convenient opportunity inquire into such appeal.

If it should appear on inquiry that such Volunteer has been unjustly dealt with, or that the offence is not proved or only partially proved, the district commanding officer may cancel or reduce such summary sentence, or if the offence be proved may confirm it; but should he be of opinion that such Volunteer has not been adequately punished, or that the appeal is frivolous or vexatious, he may increase the fine, provided such fine increased does not exceed two pounds, or dismiss the offender from the force as provided in section forty-six.

Recovery of fine if not paid within seven days.

49. If any Volunteer, upon whom a fine has been inflicted by an order as mentioned in section forty-seven, shall not, within seven days after service of a copy of such order upon him, either personally or by leaving the same at his last known abode, pay such fine to the officer commanding the corps to which he belongs, or to the adjutant of his battalion, or appeal from such order, the Commanding Officer may transmit a duplicate of such order under his hand to the Clerk of the nearest Justices' or Resident Magistrate's Court, and this Act shall be a sufficient authority to such Clerk to record such order as if the same were a conviction by Justices under "The Justice of the Peace Act, 1882."

Upon any such order being recorded as aforesaid, it shall have all the force of a conviction made by a Justice of the Peace, and any proceedings may be had thereupon, and warrants issued, for the recovery of any fine inflicted as aforesaid, as if it were a penalty for which a conviction had been obtained.

Where an order has been appealed against, as aforesaid, the same proceedings as provided in the case of an original fine may be had for the recovery of any fine as the same may have been confirmed or altered on appeal.

Dismissal of Volunteer to be reported to Governor.

50. Whenever an officer commanding a district shall summarily dismiss a Volunteer, he shall report the same, with the attendant circumstances, without delay to the Governor, who may signify his pleasure thereupon, and give such directions with respect to any such dismissal as may seem to him just and proper.

Officer guilty of insubordination, &c., to be placed under arrest.

51. If any officer of the Volunteer Force is guilty of insubordination, disobedience, neglect of duty, or any of the offences mentioned in section forty-seven, he shall be placed in arrest, and the commanding officer of the corps shall prefer charges against him to the commanding officer of the district, who shall make a preliminary inquiry into them, and may reprimand such officer therefor, or if the offence seem to him to require more severe punishment, he shall report the circumstance to the Minister of Defence, who thereupon shall direct a Court of inquiry to examine into the matter, and on receipt of the proceedings of such Court of inquiry shall lay the same before the Governor, who will dismiss such officer or reprimand him, or deprive him of a portion of his seniority in the rank he holds, or acquit him, as he may deem fit.

Any officer reported as aforesaid shall be deemed to be under arrest until the decision of the Governor upon the Court of inquiry is made known.

52. If any officer of Volunteers or Volunteer fails to appear at the annual inspection parade of the Commander of the Forces, or other officer appointed to hold such annual inspection, without reasonable excuse, the commanding officer of his corps shall order him to pay a fine, if an officer of five pounds, and if a Volunteer of one pound, and if such fine be not paid within seven days after a copy of such order shall be served upon him in the manner hereinbefore mentioned, such fine may be recovered, as provided in section forty-nine.

Penalty of officer failing to attend annual inspection.

53. Any Volunteer may, after one year's service, except when on actual military service, quit his corps on complying with the following conditions, viz. :—

Volunteers may quit corps on certain conditions after one year's service.

- (1.) Giving to the commanding officer of his corps three months' notice in writing of his intention to quit the corps, such notice to terminate during the months of January or July of each year. But any Volunteer who may desire his discharge, for the purpose of leaving a district or the colony, shall be entitled to receive the same upon giving one fortnight's notice, and fulfilling the conditions hereinafter provided.

But should any corps be called out for actual service, all persons then on the roll of the corps shall be liable to serve whether they shall have given such notice or not :

- (2.) Delivering 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 :
- (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 :

And thereupon he shall cease to be a Volunteer.

RULES AND PROPERTY OF CORPS.

Rules.

54. The officers and Volunteers belonging to a Volunteer corps may from time to time make, alter, or repeal rules—

Volunteer corps may make rules, &c.

For the admission of honorary members and persons wishing to be enrolled in such corps, and of members on the reserve list;

For the management of the property and civil affairs of the corps, and the vesting any such property in trustees for the benefit of the corps ;

Providing in what manner lands purchased, leased, or otherwise acquired under this Act shall be sold, leased, or otherwise managed or disposed of, either during the existence of any such corps, or upon the disbandment thereof, and how any rents or other moneys derived from any such sale, lease, or other disposition shall be applied, invested, or otherwise managed ;

Providing generally for the interior economy and management of the corps ;

Providing for the imposition of fines, not in any one case to exceed the sum of five pounds, for the breach of any of such rules by the several members of such corps.

No such rules shall have any effect unless and until the same be approved by the Governor, but from and after such approval the said rules may be enforced against the several members of the corps; and any fine imposed by any such rule may be recovered in any Court of competent jurisdiction at the suit of the officer commanding such corps.

Copy of rules to be evidence.

55. A copy of the rules, certified under the hand of the commanding officer of such corps as a true copy of the rules whereof the Governor's approval has been obtained, shall be conclusive evidence of the rules of the corps.

Two or more corps may be financially united.

56. Two or more Volunteer corps may, with the approval of the Governor, unite together to make rules for the appropriation of joint funds, and may vest such funds in trustees to be applied for the benefit of such united corps; and such trustees shall have the power of suing or being sued in respect of such trusts.

Recovery of subscriptions or fines.

57. If any person belonging or having belonged to a Volunteer corps neglects or refuses to pay any money subscribed or undertaken to be paid by him towards any of the funds or expenses of such corps, or due under the rules of such corps, and actually payable by him, such money shall be recoverable from him in any Court of competent jurisdiction as a debt due to the corps, with costs, at any time within twelve months after the same becomes due and payable, at the suit of the commanding officer of such corps, and when recovered shall be applied as part of the general fund of the corps.

Capitation.

Capitation allowance.

58. There shall be paid out of moneys to be appropriated by the General Assembly for the benefit of Volunteer corps an annual capitation allowance in respect of every officer and efficient Volunteer.

The aforesaid allowance shall be deemed to be the property of the corps.

No capitation allowance shall be paid in respect of any Volunteer so long as he shall remain entered upon the reserve list.

Property.

Disbanded corps may pass resolutions for disposal of its property vested in trustees.

59. Whenever it shall be represented to the Governor that any real or personal property of any kind is vested in trustees, or that any securities in which such property is invested, or the net proceeds of any such property after sale or realization thereof, or any other moneys are held by trustees, or by the survivors of such trustees or a sole trustee where only one surviving, for or on behalf of a Volunteer corps which has been disbanded, or on behalf of the persons who formerly composed such corps, and are legally entitled to such property or any share therein, he may, in the manner prescribed by section four, make, alter, and revoke regulations for all or any of the following purposes, that is to say,—

- (1.) Appointing a Board of officers or other persons, as he thinks fit, to investigate the claims of any person entitled to any

such property, or any share or interest therein, according to the rules of the corps to which such property belonged, or otherwise;

- (2.) Prescribing the time and manner within which lists of persons so entitled shall be prepared, so far as they can be ascertained, and the mode in which and the places at which such lists shall be publicly notified;
- (3.) Prescribing the date when such claims shall be investigated, and the mode and time within which any objections to any such claim may be made;
- (4.) Directing in what manner and to whom any trustee shall furnish accounts or information as to the property in their possession or control, and how any list of such persons shall be finally settled and approved of;
- (5.) Directing when and where a meeting of such persons as aforesaid shall take place, and prescribing the procedure at such meeting and any adjournment of any such meeting for the settlement of a scheme by the adoption of resolutions for the sale, transfer, conversion, or other realization or disposition of such property or any part thereof, and who may vote at any such meeting or adjournment;
- (6.) Generally any other regulation or direction which the Governor may deem necessary to give effect to this section, and not being contrary to any express provision of this Act.

60. A certificate, under the hand of the person purporting to be the chairman of such meeting, stating the resolutions passed thereat, shall for all purposes be conclusive proof of such meeting having been duly convened and of all such resolutions having been duly passed thereat, and such property shall be realized, sold, converted, or otherwise disposed of as shall be directed in such resolutions.

Property to be so disposed of.

61. If, from any cause whatever,—

- (1.) Any meeting shall not be held in accordance with such regulations, or if no such resolutions as aforesaid be passed; or
- (2.) The trustees shall not, within three months from the date of such meeting, be able to realize, sell, convert, or otherwise dispose of such property as directed by such meeting,—

Public Trustee to act failing resolution or if not acted on.

the trustees may convey or assign and transfer such property to the Public Trustee; who shall realize, sell, or convert such property in accordance with the resolutions passed at such meeting, or if there be no such resolutions passed shall dispose of the same, and after paying all expenses incidental thereto, shall divide the net proceeds equally between and amongst the persons declared to be entitled thereto; or, if no such meeting has been held, in such way as the Public Trustee may decide, subject to the approval of the Governor.

62. If any trustees for any such property have died prior to the passing of this Act, or shall hereafter die before acting, or shall refuse to act, the remainder of the trustees may nevertheless act as fully and effectually as if none of the trustees had died or refused to act.

On death, &c., of trustee, remaining trustees may act.

- (1.) Any act or thing hereby required or authorized to be done

or executed by such trustees, shall be valid and effectual if made or done by a quorum of such trustees in cases where such a quorum is in existence, according to any rules, deed, or instrument relating to such property and binding on the trustees; and if there shall be no such quorum, then by the majority of such trustees resident in the colony and capable of acting, or willing to act.

- (2.) The trustees shall realize, sell, convert, or otherwise dispose of any property vested in or held by them as aforesaid, or any proceeds thereof, in accordance with any resolution passed at a meeting held under any regulations to be made as aforesaid.
- (3.) All deeds, instruments, and writings executed by a majority of such trustees for the purpose of the realization of the said funds or the sale, conveyance, transfer, or other disposition of any property shall be as effectual as if the same had been executed by all such trustees and by all the persons in whose names such securities were originally taken.
- (4.) If any money shall remain in the hands of any trustees or the Public Trustee which they or he are or is unable to dispose of because there is no claimant thereto, or such claimant cannot be found, or his address is not known, or for any other cause whatsoever, such money shall be paid into the Public Account and form part of the Consolidated Fund.

Sale, &c., of property by trustees deemed valid.

63. Every sale, transfer, conversion, or other disposition of property or the proceeds thereof by any trustees in accordance with the resolution of a meeting or otherwise as hereinbefore provided or authorized, or by the Public Trustee, whether in accordance with any such resolution, or in exercise of any power or authority vested in him as hereinbefore provided, shall be final and conclusive on all claimants or persons interested in any such property, and upon such sale, transfer, conversion, or other disposition being completed the effect thereof shall be to release every such trustee or the Public Trustee, as the case may be, from all claims and demands whatsoever in respect of any such property or any share or interest therein by or on behalf of all persons whomsoever.

Trustees to furnish accounts.

64. Any trustees as aforesaid may be required by the Colonial Treasurer to furnish full accounts of all their dealings with any property vested in or held by them, and if any trustee shall refuse or neglect to render such accounts he shall be liable to a penalty not exceeding one hundred pounds, to be recovered in a summary way.

If no trustees, Public Trustee may be appointed to act.

65. If there shall, in respect of any such property of a corps as aforesaid, be no trustees, or no trustees willing to act, or if the trustees shall refuse or neglect so to act for one month after being required to do so by the Colonial Treasurer or by any person entitled in that behalf, the Governor in Council may appoint the Public Trustee to perform and discharge all such duties and functions, and do, execute, and sign all such acts, things, deeds, and instruments as would have devolved upon or could have been done, executed, or signed under the

foregoing provisions of this Act by trustees or a quorum or majority thereof.

66. Any money, or other real or personal property whatsoever, which at the time of the disbandment of any corps disbanded previous to the passing of this Act or hereafter to be disbanded was subject to any trust for the benefit of the corps, shall be disposed of by the person or persons in whom the same is vested as may be determined in manner hereinafter mentioned.

Trust property of
disbanded corps,
how disposed of.

(1.) A meeting of the persons who were members of the disbanded corps at the time of the disbandment thereof shall be summoned by the last commanding officer of the corps, or, in the event of his death or absence from the colony, by the officer commanding the district to which the corps belonged, by advertisement in some paper circulating in the said district, such advertisement giving not less than fourteen days' notice of the meeting, and stating the purpose thereof.

(2.) At such meeting a majority of such of the persons present who were members of the disbanded corps at the time of the disbandment thereof, and entitled to vote at its meetings, shall decide in what manner and for what purposes, public or private, the said money or property shall be disposed of.

67. Where the property of a corps is not vested in trustees, the same, or such part thereof as shall not be so vested, shall be deemed to be vested in the commanding officer of such corps and his successors in office for all purposes of any proceeding, criminal or civil, at law or in equity, and shall for such purposes be deemed to be his property, and may be so laid in any such proceeding.

Property of corps
when not vested in
trustees deemed
vested in command-
ing officer.

No such proceeding shall be discontinued by the death, resignation, or removal of a commanding officer, but the same may be proceeded in by the succeeding commanding officer.

RIFLE RANGES, ETC.

Acquisition of Land.

68. Subject to the provisions of this Act, any Volunteer corps may, with the assent of the Governor, purchase, take on lease, or otherwise acquire, any land or easement in land, for rifle or artillery practice, and for the erection of butts, targets, batteries, and other accommodations for the use of the corps when practising with rifles or artillery, or for the purpose of erecting and maintaining drill-sheds on any such land.

Volunteer corps may
acquire land for
certain purposes.

Before giving his assent to the purchase, lease, or other acquisition of any such land for the purposes aforesaid, the Governor shall ascertain that such land is suitable for such purposes, and shall give or withhold his consent accordingly.

69. For the purposes of rifle or artillery practice, or for drill, a license to use any lands hereinafter mentioned may, with the consent of the Governor, be granted to any Volunteer corps as follows:—

Licenses may be
granted to Volunteer
corps for use of
lands.

(1.) In the case of Crown lands, by the Commissioner of Crown Lands of the land district:

- (2.) In the case of other lands vested in Her Majesty, or in any corporate body, and not otherwise specifically reserved or set apart for any particular object or purpose, by the Governor, on behalf of Her Majesty, or by such corporate body, as the case may be :

Provided—

- (1.) That no such license shall be granted for a longer period than seven years, but any license when granted may be renewed by the same authority that has power to grant the same ;
- (2.) That in the event of any land to which such license relates ceasing to be used for the purposes of this Act, the license shall thereupon absolutely cease.

Provision for cesser of license.

70. Any land in respect of which a license shall have been granted under this Act shall be deemed to have ceased to be used for the purposes of this Act where there has not been any such use by the corps to or for which the license was granted for a period of one year, and a certificate of the fact of such non-user has been given by some officer of the permanent staff of the Volunteer Force ; and such certificate shall be conclusive evidence of such fact as against all persons and in all Courts of Justice.

How Land to be vested.

When land not vested in trustees, same to vest in commanding officer.

71. Where any lands purchased or leased, or any estate or interest therein acquired, under this Act, shall not be vested in a trustee or trustees on behalf of the corps, the same shall vest in the commanding officer of the corps for the time being and his successors in office, as hereinbefore provided, with power for him and his successors to sue, and to make any contracts, conveyances, or other assurances thereof, and do all other lawful things relating thereto.

Act to apply to land heretofore purchased, &c.

72. The provisions of this Act shall be applicable to any land, or any estate or interest in land, heretofore purchased, leased, or acquired by any Volunteer corps for like purposes to those mentioned in section sixty-eight hereof, as fully and effectually as if such lands or such estate or interest as aforesaid, had been purchased, leased, or acquired under this Act :

Provided that nothing in this Act contained shall be construed to prejudicially affect any conveyance, mortgage, lease, contract, agreement, or other deed or instrument whatsoever executed, made, or entered into before the passing of this Act, and affecting or intended to affect any such land, or any estate or interest therein, as aforesaid.

PART IV.

PERMANENT MILITIA.

Governor may embody permanent Militia Force.

73. The Governor may cause a sufficient number of fit and able men, whether Europeans or Natives, to be embodied from time to time to serve as a permanent Militia Force in and throughout the colony, or beyond the limits thereof, for resisting the common enemy, putting down rebellion, quelling disturbances, and preserving the peace.

Permanent Militia to be subject to its own officers.

74. Members of the permanent Militia shall, unless on actual service, be subject only to the orders of their own officers, and of

the Commander-in-Chief, and of the officers and non-commissioned officers of the permanent staff.

75. In the case of any sudden or extraordinary disturbance of the peace, and also whensoever any such disturbance is immediately apprehended, and also for the fresh pursuit of offenders, and also for the conveyance of prisoners, the Governor may order the whole or any part of the permanent Militia to proceed to any part of the colony, and to act therein either in aid of or as a Police Force; and, when so acting, every member of such permanent Militia, although not sworn as a constable, shall have the same rights, powers, and authorities, and be subject to the same rules, regulations, and orders, and be in all respects in the same situation as if forming part of the Police Force.

In special cases may be transferred from place to place in aid of Civil Police.

76. For the purpose of promoting proper discipline, and of securing obedience to the regulations existing from time to time, the Commanding Officer of the permanent Militia, or any officer commanding a detachment thereof, may stop from the pay of any member thereof, not being a commissioned officer, who shall offend against any such regulations, any sum not exceeding one pound in respect of every such offence; or may direct any such member to be placed under arrest for the purpose of being tried by a Resident Magistrate or two Justices of the Peace, or by a Board of inquiry as hereinafter constituted.

Punishment for breach of discipline.

77. Every member as aforesaid, upon conviction by such Resident Magistrate, Justices of the Peace, or Board of any offence against the regulations, or for desertion during the period for which he shall have engaged to serve, or for refusing to serve, or for taking a bribe or any gratuity whatever for suffering any person lawfully in his custody to escape, or for wilfully neglecting to execute any order given to him by his superior officer, may be reduced to a lower grade, and shall also be liable to a penalty not exceeding twenty pounds nor less than five shillings, and shall, in addition to such fine or in default of payment thereof, be liable to be imprisoned for not less than one week nor more than six months in any prison or place of confinement within the colony; or the convicting Magistrate, Justices, or Board may, at his or their discretion, without inflicting any fine, sentence any such offender to be imprisoned with or without hard labour for any term not exceeding six months.

Permanent militia may be reduced, fined, and imprisoned for certain offences.

78. It shall not be lawful for any officer, or for any member of the permanent Militia, during the time he shall continue therein, to vote for the election of a member of the General Assembly, nor by word, message, writing, or in any other manner to endeavour to persuade any elector to give, or dissuade any elector from giving, his vote for the choice of any person to be a member to serve in the General Assembly. If any officer or member shall offend therein he shall pay the sum of fifty pounds, to be recovered by any person who will sue for the same by action of debt, to be commenced within six months after the commission of the offence.

Officers and men not entitled to vote for member of General Assembly.

Nothing in this enactment contained shall subject any such officer or member to any penalties for any act done by him at or concerning any of the said elections in the discharge of his official duty.

79. In case any member of the permanent Militia shall die intestate the commanding officer of the corps to which the de-

Estate of intestate, how dealt with.

ceased belonged, or such other officer as the Governor may appoint, may cause the effects of the deceased to be disposed of by public auction in such manner as to him shall seem fit, and the proceeds of such sale, together with any balance of pay or other moneys due to the deceased or such member, shall be applied in the first instance to defray the funeral expenses and debts of the deceased; and if, after defraying such expenses and debts, the sum remaining shall not exceed fifty pounds, it may be handed over by the said commanding officer or other officer as aforesaid to the widow or next of kin of the deceased, and the receipt of the person so entitled shall be sufficient discharge, although no letters of administration shall have been taken out; but if the sum so remaining shall exceed fifty pounds it shall be paid to the Public Trustee.

Constables of Armed Constabulary deemed enrolled in permanent Militia.

80. All officers and constables of the Armed Constabulary who at the commencement of this Act may be serving in any engineer, artillery, mounted infantry, or torpedo corps, or other corps forming part of the reserve force of the aforesaid Constabulary, shall be deemed to have been duly appointed to the permanent Militia, established under this Act, and to such corps therein respectively, and shall continue therein respectively without being resworn until the expiration of the term for which they respectively were enrolled under "The Armed Constabulary Act, 1867," or any Act amending the same, or until released therefrom before such time in due form or by competent authority.

Saving of rights.

81. Nothing in this Act contained shall prejudice or affect the rights or responsibilities under "The Armed Constabulary Act, 1867," and any Act amending the same, or either of them, of any officers or constables enrolled thereunder respectively, but they shall be discharged from service under this Act whenever entitled to claim the same under the former Acts aforesaid: Provided, however, that any such officer or constable may be forthwith enrolled under this Act, if he consent thereto, but in such case all rights under his former enrolment shall cease and be determined.

PART V.

SPECIAL SERVICE.

Enrolment of Volunteers for special or emergent service.

82. Volunteers for special or emergent service or public danger may be enrolled under such regulations as may from time to time be fixed by the Governor.

Volunteers on special service deemed on actual service.

83. Volunteers for special service shall be considered to be on actual service, and shall be liable to the provisions of "The Army Act, 1881," of the Imperial Parliament, and subject as follows:—

- (1.) Each officer and man thereof shall sign an agreement to the effect that he will serve wherever required, on the terms of his engagement, whether within or beyond the limits of the colony.
- (2.) Special Volunteers so enrolled shall be subject to serve under any officer of Her Majesty's Imperial Service, or of the Defence Forces, who may be set over them.
- (3.) Officers of Her Majesty's service shall not sit on any Court-martial for the trial of any officer or member of any corps

of special Volunteers unless permission is granted by Her Majesty that officers of special Volunteers shall take rank with Her Majesty's officers according to the dates of their respective commissions when serving together on Courts-martial.

PART VI.

BOARDS OF INQUIRY.

84. The Commander-in-Chief, the Defence Minister, or the commander of any battalion, corps, or independent company of the Forces may summon in manner hereinafter contained any commissioned officer of the Defence Forces or any branch thereof to form a Board, which shall consist of not less than three commissioned officers, of whom the senior officer present shall be the President thereof, to examine into the truth of any charges or complaint preferred against any officer, non-commissioned officer, or other member of any branch of the Defence Forces.

Formation of Boards of Inquiry.

Form of Summons.

Form of summons.

“ I, A. B. [*rank of officer convening the Board*], do hereby summon you _____ in terms of section eighty-four of ‘The Defence Act, 1886,’ to attend at _____ at the hour of _____ o’clock _____, to examine into the truth of certain charges to be preferred against _____ of the _____

“(Signed) _____.”

85. If any officer of the Forces, summoned as aforesaid, shall refuse or neglect to attend at such time and place as may be named in such summons for the meeting of the Board he shall render himself liable to have his commission cancelled; subject, however, as follows:—

Penalty on officer refusing to attend Board of Inquiry.

- (1.) Every member of any Board appointed under this Act to inquire into the conduct of an officer of the Forces shall be of equal or superior rank to the officer whose conduct is so to be inquired into, and one member at least shall be of such superior rank.
- (2.) Every summons shall be delivered personally to the officer summoned at least twenty-four hours before the time appointed for the meeting of the Board.
- (3.) No officer may be summoned to attend as a member of any Board when the place of meeting is distant more than two miles from his usual place of residence.

86. All Boards of officers as hereinbefore constituted shall have power and authority and are hereby required to administer an oath to every witness or other person who shall be examined before such Board in any matter relating to any proceeding before the same.

Powers of Boards of Inquiry.

- (1.) Every witness who may be required to give or produce evidence before such Board shall be summoned by the convenor thereof, and all witnesses or other persons so duly summoned who shall not attend such Board, or, attending, shall refuse to be sworn, or shall not produce the docu-

ments being under their power and control, required to be produced by them, or, being sworn, shall refuse to give evidence or to answer all such questions as the Board may legally demand of them, shall be liable to the same pains and penalties as if such witness or other person had, after being duly summoned or subpoenaed, neglected to attend on a trial in any proceeding before a Resident Magistrate or two or more Justices of the Peace.

- (2.) Any person who shall give false evidence or take a false oath and be thereof duly convicted shall be deemed guilty of wilful and corrupt perjury, and shall be liable to such pains and penalties as persons convicted of wilful and corrupt perjury are or may be subject or liable to.

Charges against
commissioned officer
low dealt with.

87. In cases where charges or complaints are preferred against any commissioned officer of the Forces such commissioned officer may be placed under arrest by the senior officer present, and such charges or complaints shall, with all convenient speed, be heard before a Board of officers convened and constituted as hereinbefore provided; but the duties of such Board shall be confined to taking evidence upon oath and reporting upon such evidence.

Such report and evidence shall forthwith be forwarded by the President of the Board to the Minister of Defence, who shall submit the same with his recommendation for the decision of the Governor.

Remuneration of
officers composing
Board.

88. All officers comprising a Board as hereinbefore constituted shall, if they are not at the time being in receipt of consecutive pay from Her Majesty's Government in the colony, be paid out of any moneys appropriated by the General Assembly for the general benefit of the Defence Force a remuneration of one guinea for each day or part of day during which they shall respectively sit as members of such Board; and all witnesses duly summoned by the President of a Board of officers shall be entitled to the same fees and privileges as if such witnesses had been duly summoned or subpoenaed to attend on a trial in any proceeding before the Supreme Court of New Zealand.

PART VII.

ACTUAL SERVICE—COURTS-MARTIAL.

Governor may direct
forces to be called
out for active
service.

89. The Governor or such person as he shall from time to time by warrant under his hand appoint as his Deputy for that purpose may by Proclamation in the *Gazette* direct the Commander of the Forces or the District Commanding Officer to draw out with all convenient speed all of or such portions or numbers thereof as he or his Deputy may deem necessary of the Defence Forces therein for actual service, and to lead the said Forces into any part of the district or colony which may seem best, and to which such Forces can lawfully be taken, and such Forces shall thereupon continue on actual service and subject to the provisions of the Army Act till the Governor shall by Proclamation release them from actual service.

Militia called out
for active service.

90. Immediately on direction being given to the officer commanding any district to draw out the Militia for actual service, if such direction be to draw out the whole regiment, every man liable to serve therein

shall be deemed to be on actual service whether he has had notice thereof or not, and shall not leave such district without the sanction of the officer commanding the district.

- (1.) When a part only of the Militia are required for actual service, such men as may volunteer for service with the approval of the senior officer there present shall be first taken, and every man so volunteering shall immediately be deemed to be on actual service.
- (2.) If the number so volunteering shall be insufficient, the whole of the first class shall be taken before any are taken from the second class, and the whole of the second class before any of the third.
- (3.) Where a part only of one class are required, the officer in command shall draw the requisite number, or the number required beyond those volunteering as aforesaid, by lot, taken in public, and his certificate of the drafting of any Militiaman shall be sufficient evidence thereof.

91. Any Militiaman drafted for actual service who shall produce as a substitute a man approved by the officer commanding and the medical officer in charge shall, upon the swearing in of such substitute, be exempt from service for the term of one year, unless the whole of the class to which such substitute belongs shall be taken or drafted for actual service before the expiration of such term, and every such substitute shall, when sworn in, be deemed to have been drafted for actual service. Substitutes.

92. The ordinary time of actual service for a Militiaman shall be one year, and no Militiaman shall be required to serve for a further period until all the men of his class shall have served for a like period unless he shall volunteer for a longer period or unless the whole of his class shall be called out for actual service. Term of service of Militia.

93. Whenever any part of a class which has already served for one period or more shall be required to serve for a second or any further period, those shall be taken first who have served the shortest time, and among those who have served the same time the drafting shall be determined, if necessary, by lot, in manner aforesaid. Second period of service.

94. Every officer and Volunteer belonging to any corps called out for actual service shall be bound to assemble at such place as the Governor may direct, and shall remain on actual service until released by the Governor's authority. Volunteers on actual service to meet at place appointed.

Volunteers on actual service shall be paid out of any moneys voted for that purpose by the General Assembly at such rates, and after such scales, as the Governor may from time to time appoint, and no Volunteer shall be deemed to have been released from actual service until his corps has been returned to the head-quarters thereof. Pay of Volunteers on actual service.

Volunteers, whilst in any camp of exercise, shall be subject to the Army Act, but shall not be entitled to be paid as aforesaid, unless they shall have been called out for actual service.

95. When any portion of the Forces is called out for actual service, or is in any camp of exercise, and as regards such portion only, the Governor shall have the power — Powers of Governor when Forces on actual service.

- (1.) To convene General Courts-martial and confirm the sentences thereof;
- (2.) To issue his warrant to any officer not under the rank of a Lieutenant-Colonel to convene General Courts-martial, and to confirm the sentences thereof, except in the case of officers and death sentences, or simply to convene such General Courts-martial; and
- (3.) To issue his warrant to Officers Commanding Districts to convene and confirm Districts Courts-martial.

Governor may fix number of officers to serve on Courts-martial.

96. The Governor from time to time may fix the number of officers of which General Courts-martial, District Courts-martial, and Regimental or Detachment Courts-martial respectively shall consist, and any such Courts-martial shall respectively consist of the number of officers so fixed by the Governor.

Who may sit on Courts-martial.

97. Officers in the Militia, Volunteers, or permanent Militia may sit together on any Militia, Volunteer, or permanent Militia Court-martial; and such Courts-martial may consist of officers chosen from any one of such forces or bodies, or from all or any two of such forces or bodies.

Provisions of Imperial Army Act to apply to Courts-martial.

98. The provisions of the Army Act of the Imperial Parliament of Great Britain and Ireland shall apply to all Courts-martial convened, under the authority of the Governor, and to all proceedings by such Courts in the same manner, so far as the same may be applicable, as such provisions apply to Courts-martial convened by any officer authorized to convene Courts-martial by the Commander of the Forces, or the person or persons Commanding-in-Chief any body of troops belonging to Her Majesty's Army, and commissioned by Her Majesty to authorize officers to convene Courts-martial.

Corporal punishment not to be inflicted.

99. No Court-martial nor any other authority under this Act shall have power to order the infliction of corporal punishment, except death or imprisonment, on any officer or member of any portion of the Forces.

Provisions of "The Military Pensions Act, 1866," to apply to Forces on actual service.

100. The provisions of "The Military Pensions Act, 1866," shall apply to the Forces while called out for actual service in accordance with this Act, or to any portion thereof while so called out.

PART VIII.

GENERAL PROVISIONS.

Arms, &c., of member of forces exempt from seizure in execution of distress.

101. The arms and appointments, including uniform clothing, of every officer, non-commissioned officer, and other member of the Forces, and the horses used by any of the same while serving in any portion of the said Forces, in discharge of their duties as members of any corps thereof, shall be exempt from seizure in execution and from distress and assessment of every kind.

Exemption from tolls, &c.

102. Any duty or toll leviable at any pier, wharf, quay, landing-place, ferry, or bridge, 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—

- (1.) Any officer, non-commissioned officer, or other member of the Forces 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, when ridden or used by any such officer, non-commissioned officer, or other member, on march or duty, or going or returning as aforesaid :
- (3.) Any cart, wagon, or carriage, public or private, employed only in carrying or conveying any such officer, non-commissioned officer, or other member 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, wagon, or carriage, or domestic servant of such officer, non-commissioned officer, or other member :
- (4.) Any cart, wagon, or carriage, public or private, employed only in carrying or conveying, or returning empty from carrying or conveying, having been employed only in carrying or conveying any arms or baggage of any such officer, non-commissioned officer, or other member being on march or duty, or going to or returning from the place appointed for exercise, inspection, review, or other public duty, or any provisions or military stores belonging to or for the use of or any gun belonging to or used by the Forces, or any part thereof :
- (5.) Any horse or other animal drawing any such cart, wagon, or carriage as aforesaid, or any artillery.

If any person knowingly 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 obtain 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.

103. Every person who shall sell, pawn, give in exchange, or give away any arms, appointments, clothes, or ammunition intrusted to him as a member of any branch of the Forces, and every person who shall knowingly buy, receive, or take in pawn, or exchange, or by way of gift, or who, having bought, received, or taken in pawn or exchange or by way of gift, shall knowingly conceal or make away with any such arms, appointments, clothes, or ammunition shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding two years.

Wrongful sale, &c., of arms and accoutrements.

104. If any person, or any person acting on his behalf, solicits or entices any member of any branch of the Forces to sell or pawn, or knowingly assists or acts for any such member in selling or pawning, or has in his possession or keeping without satisfactorily accounting for, any arms, clothing, or appointments, being public property or property of any branch of the Forces, or of any corps thereof, or any public stores or ammunition issued for the use of any such branch or corps, he shall—

Wrongful buying of arms, &c., from member of armed force.

- (1.) On the first commission by him of any such offence, be liable to a penalty not exceeding twenty pounds ; and shall
- (2.) On a second and every other subsequent commission by him

of any such offence, and on 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.

The Justices before whom any person is convicted of any offence under this section shall transmit the conviction to the Resident Magistrate's Court at or nearest to the place where the conviction is had, there to be kept by the Clerk of such Court.

On the prosecution of any person for any subsequent offence under this section, a copy of such conviction, certified by the Clerk of the Resident Magistrate's Court or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence; and such conviction shall be presumed not to have been quashed on appeal until the contrary is shown.

Arms to be delivered up in good order.

105. Every member of the Forces who shall have any arms, ammunition, clothes, or other appointments whatever intrusted to him as such member, or any horse, saddle, bridle, or horse clothing, or other horse accoutrements, shall deliver up the same in good order, fair wear and tear excepted, to the officer commanding his corps, troop, or company, or any person authorized by him, without demand, on his ceasing to belong to such corps, troop, or company, by reason of discharge, dismissal, or disbandment, or by reason of change of class in the Militia, change of residence or otherwise in any manner.

Every member as aforesaid making default herein shall, upon conviction of such offence, before one or more Justice or Justices of the Peace, upon oath of one or more credible witness or witnesses, or upon his own confession, be subject and liable to imprisonment in any prison or place of confinement within the colony for any period not exceeding two months, and the Justice or Justices of the Peace may issue his or their warrant to search for and seize to the use of Her Majesty all and every the arms, ammunition, clothes, or other appointments, and all horses, saddles, bridles, clothing, accoutrements, and other appointments whatsoever which shall not be so delivered over wherever the same shall be found.

Wrongful destruction, &c., of arms, &c.

106. If any person designedly makes away with, wrongfully destroys, wrongfully damages, or negligently loses anything issued to him as a member of any branch of the Forces, he shall for every such offence be liable, on the prosecution of the commanding officer of the corps issuing the thing made away with or destroyed, to a penalty not exceeding twenty pounds, and to pay the double value thereof which shall be recoverable from him with costs as a penalty is recoverable, or in a civil action at the suit of the commanding officer of the corps to which such member belongs.

Wilful injury to butts or targets.

107. If any person wilfully commits any damage to any butt or target or other property belonging to or lawfully used by the Forces, or any branch thereof, or without the leave of an officer of the permanent staff 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 said officer, to a penalty not exceeding ten pounds.

108. If any officer, non-commissioned officer, or other member of any branch of the Forces knowingly and wilfully gives any false certificate, or makes any false statement or return respecting or in relation to any matter or thing required by this Act or any regulations made thereunder or connected with the said Forces, or any branch thereof, he shall be liable to a penalty not exceeding one hundred pounds.

Penalty for giving false certificate, &c.

109. Any person who wilfully contravenes this Act, or any regulations thereunder, when no other penalty is imposed for such contravention, shall thereby incur a penalty not exceeding ten pounds for each offence, but this shall not prevent his being indicted and punished for any greater offence if such appears to have been committed.

Contravention of Act or regulations punishable by penalties.

110. Any pecuniary penalty, duly inflicted under this Act, shall not in any way be released or invalidated on account of the person upon whom such penalty was inflicted having quitted the branch of the Forces to which he belonged.

Continued liability.

111. All penalties incurred under this Act, or under any regulations, shall be recoverable in a summary way, as provided by "The Justices of the Peace Act, 1882," as follows:—

Recovery of penalties.

(1.) Before one Justice of the Peace if the amount does not exceed five pounds :

(2.) Before two Justices of the Peace if the amount exceeds that sum.

Any officer, non-commissioned officer, or other member of any corps in the Forces shall be a competent witness in any such case, although the penalty is applicable to the purposes of the corps to which he belongs.

All fines under sections thirty-seven, forty-seven, and fifty-four respectively may be recovered in any Court of competent jurisdiction.

112. The commanding officer, or the commanding officer of any corps, may appear in any Court, or before any Justice of the Peace, by any officer or non-commissioned officer of such corps, or any member of the permanent staff, or by a solicitor, authorized in writing under the hand of such officer.

Commanding officer may appear by solicitor, &c.

The production of a writing purporting to be signed by such commanding officer shall be *prima facie* evidence that the same has been so signed.

113. Any pecuniary penalty recovered under this Act, or any regulations thereunder,—

Penalties to go to general fund of corps.

(1.) Under section thirty-seven in Part II. of this Act shall be paid to the officer commanding the battalion or independent company of Militia to which the offender belongs, and shall be accounted for, dealt with, and be applied towards the encouragement of target practice in such battalion or independent company in such manner as shall be prescribed by regulations to be made from time to time by the Governor ;

(2.) Under part III. of this Act, on the prosecution of the commanding officer of a Volunteer corps, shall be paid to such commanding officer, and be applied as part of the general fund of the corps ;

(3.) Under Part IV. of this Act shall be paid into the Public Trust Office, to be placed to the credit of an account to be called the "Permanent Militia Reward Fund," which shall be appropriated for the benefit of the permanent Militia in such manner and at such times as the Governor shall direct and determine. But all rewards given for special services shall be paid at once to the persons entitled to receive the same.

Excepting as aforesaid, all fines and penalties recovered under this Act shall be paid into the Public Account and form part of the Consolidated Fund.

Convictions not to be quashed for want of form.

114. 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 therein alleged that the person therein named has been convicted and there is a good conviction to sustain the same.

Limitation of actions.

115. No action or prosecution against any officer, non-commissioned officer, or other member of the Forces, or of any branch thereof, for anything done or purporting to be done in pursuance of this Act shall be commenced after the end of three months from the doing of such act, nor until notice in writing of the action and of the cause thereof has been given to the defendant, except as is provided under section fifty-seven of this Act.

In any such action the defendant may plead the general issue, and give this Act and this special matter in evidence at the trial, and no plaintiff shall recover in any such action if a tender of sufficient amends was made before the action was brought, or if a sufficient sum of money has been paid into Court by the defendant after the action was brought.

Costs.

116. If a verdict passes for the defendant in any action referred to in the next-preceding section, or the plaintiff becomes nonsuited, or discontinues the action after issue joined, or, if judgment is given against the plaintiff, the defendant shall recover his full costs as between solicitor and client, and shall have the same remedy therefor as any defendant hath in other cases; and though a verdict is given for the plaintiff, he shall not have costs against the defendant unless the Judge before whom the trial has been had certifies his approbation of the action and verdict therein.

Paymaster to find security.

117. Every person appointed to the office of paymaster shall, before entering upon the duties of his office, give security to Her Majesty in such manner and for such amount as the Colonial Treasurer shall direct, such security to be conditional for the faithful accounting and due application of all public moneys which shall come to his hands, and for the due and faithful execution of all other duties of his office.

References to repealed Acts.

118. Wherever in any Act now in force reference is made to any Act hereby repealed, such first-mentioned Act shall take effect and operate, so far as it may not be inconsistent with or repugnant hereto, and as if this Act had been referred to in such first-mentioned Act instead of such repealed Act.

Repeals.

119. The several Acts hereunder enumerated are hereby repealed.

But all Orders in Council and regulations—
Relating to the Militia or Volunteer Forces respectively made
under any Act hereby repealed; or
Relating to the Armed Constabulary Force made under Act
affecting such force; and
in force at the commencement of this Act shall continue in force as if
the same had respectively been made under this Act until altered or
revoked hereunder.

ACTS REPEALED.

- 1868, No. 36.—The Colonial Forces Courts Martial Act, 1868.
1870, No. 87.—The Militia Act, 1870.
1881, No. 24.—The Volunteer Act, 1881.
1883, No. 15.—The Volunteer Act 1881 Amendment Act, 1883.