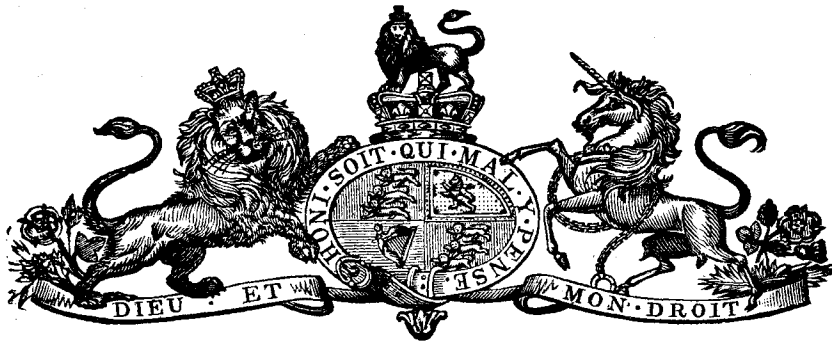


T A S M A N I A.



1889.

ANNO QUINQUAGESIMO-TERTIO

VICTORIÆ REGINÆ,

No. 36.

*Amended by Rec no 18
61 . . . 8
62 . . . 10
64 . . . 23*

AN ACT to amend "The Defence Act, 1885." A.D. 1889.
[30 November, 1889.]

WHEREAS it is expedient to amend "The Defence Act, 1885 :"
Be it therefore enacted by His Excellency the Governor of *Tasmania*,
by and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows :—

1 This Act may be cited as "The Defence Act, 1889." Short title.

2 In this Act, unless the context otherwise determines, "the said Act" means "The Defence Act, 1885." Interpretation.
49 Vict. No. 16.

3 Sections Fifty-five, Ninety-four, and Ninety-five of the said Act are hereby repealed. Repeal.

4 All Regulations heretofore made under the Ninety-fourth Section of the said Act shall, so far as the same are not inconsistent with this Act, be the Regulations under this Act until they are repealed by the Governor under the authority of this Act; and wherever the word "Regulations" occurs in the said Act it shall hereafter be held to mean and include all Regulations made and in force under this Act as well as any Regulations heretofore made and in force under the said Act. Existing Regu-
lations continued.

5 Section Ten of the said Act is hereby repealed, and in lieu thereof the following shall be deemed to be and may be cited as Section Ten of the said Act ; (that is to say)— Provision sub-
stituted for *61, Rec no 18*
Sect. 10 of
49 Vict. No. 16.

The period of service in the Active Force in time of peace shall be Three years; and any man who has served for that period shall be Period of service.

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exempt from again serving until all other men of the same class in his District have been called upon to serve. But nothing in this Act shall prevent any man who has served for the period of Three years as aforesaid from re-enrolling from year to year and performing the same drills as in the first period of Three years.

Members may re-enlist from year to year.

6 Notwithstanding anything to the contrary contained in the said Act, every member of the Corps mentioned in Section Twenty-eight of the said Act, upon completing a period of Five years' continuous service, may be re-enlisted in the said Corps for an additional period of not less than Two years nor more than Seven years.

Governor may make Regulations.

7 The Governor may make Rules and Regulations for the enrolment, removal, or dismissal, and for the better government of the persons enlisted or enrolled by virtue of the said Act or this Act, and for enforcing good order or discipline among them, and otherwise carrying out the provisions of the said Act and this Act, and from time to time annul, alter, or amend the same and substitute others in lieu thereof.

Regulations to be published in the *Gazette*.

8—(1.) All Regulations made under the authority of this Act shall be published in the *Gazette*, and when so published shall have the force of Law as fully as if they were contained in this Act, of which they shall be deemed to form a part.

(2.) All Regulations made under this Act and an Annual Report of the state of the Defence Force shall be laid before Parliament by the Minister.

Court may commit to prison.

9 Every Court Martial constituted under the authority of the said Act shall have power to impose the penalty mentioned in Section Eighty-four of the said Act, and to commit to prison for a period not exceeding One month any person who makes default in payment of such penalty.

Power to detain.

10 Every gaoler or keeper of any public prison or gaol in *Tasmania* shall receive into his custody any offender under sentence of imprisonment passed by any Court constituted under the authority of the said Act upon delivery to him of a Warrant of Commitment in the form contained in the Schedule hereto, under the hand and seal of the President of the Court, and such gaoler or keeper shall keep such offender in a proper place of confinement, with or without hard labour, and with or without solitary confinement, according to the sentence of the Court, and during the time specified in the said order.

Sentence of Court to be confirmed.

11 No sentence passed by any Court constituted under the authority of the said Act shall be put into execution until confirmed by the Governor; and it shall be lawful for the Governor to withhold his confirmation, and to remit either wholly or in part any such sentence.

Proceedings to be deposited in Attorney-General's Office.

12 When the proceedings of any Court constituted under the authority of the said Act have been duly confirmed and the sentence promulgated, the proceedings are to be returned to the President, who shall transmit the same to the Attorney-General for record in his Office.

Copy made obtained on demand.

13 Any person who has been tried by any Court constituted under the authority of the said Act, or any person in his behalf, shall be

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entitled on demand, to be made within the space of Six months from the date of the final decision on the proceedings, to a copy of such proceedings (paying for the same at the rate of Sixpence per folio of Seventy-two words), whether such sentence shall be approved or not, as soon after the receipt of the proceedings at the Office of the Attorney-General as such copy can be conveniently supplied.

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14. With respect to the discipline of members of the Defence Force, 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 members of the Defence Force.

- i. The Commandant may, on the report of a Commanding Officer of a Corps and after due inquiry, dismiss any member of the Defence Force, 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 the Commandant.
- ii. Any member of the Defence Force dismissed as herein provided shall not in any case be eligible to serve in any Corps for Three years thereafter, or, in aggravated cases, such further period as may be fixed by the Governor.

15 Whenever any person being a member of the Defence Force shall be deemed by the Officer commanding the Corps in which such person is enrolled or serving guilty of any of the offences following, that is to say,—

Penalty on member of the Defence Force 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 member of the Defence Force;

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 Defence 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.

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Member of the
Defence Force
may appeal.

16 Any member of the Defence Force thus summarily dealt with by the Commanding Officer of his Corps may, at any time within Seven days, notify to such Commanding Officer in writing that he appeals against his decision to the Minister of Defence, and the Officer commanding the Corps shall thereupon report the case, through the Commandant, to the Minister of Defence, who shall on the first convenient opportunity inquire into such appeal.

If it should appear on inquiry that such member has been unjustly dealt with, or that the offence is not proved or only partially proved, the Minister of Defence may cancel or reduce such summary sentence, or if the offence be proved may confirm it; but should he be of opinion that such member 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.

Recovery of fine
if not paid within
Seven days.

17 If any member of the Defence Force, upon whom a fine has been inflicted by an order as mentioned in Section Fifteen, 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 appeal from such order, the Commanding Officer may transmit a duplicate of such order under his hand to the Clerk of Petty Sessions of the District in which the offence was committed, 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 Magistrates Summary Procedure Act*.

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
member to be
reported to
Governor.

18 Whenever the Commandant shall summarily dismiss a member of the Defence Force 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.

Auxiliary Force
may be formed.

19 In addition to the Active Forces mentioned in the said Act, the Governor may, subject to such Regulations as may from time to time be made for that purpose under the authority of this Act, authorise the formation of an Auxiliary Force consisting of such Rifle Corps as may from time to time be organized for the purpose of military drill in such localities as the Governor may from time to time approve; and the Governor may provide arms, accoutrements, and ammunition for such Corps.

Every member of every Rifle Corps forming part of the Auxiliary Force shall be enrolled for a period not less than One year.

The total number of officers and men in such Auxiliary Force shall not in time of peace exceed Fifteen hundred.

Repealed by No 7023

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- 20** The Governor may from time to time appoint a Commanding Officer of such Auxiliary Force, and such other Commissioned Officers as he may deem necessary for the efficiency and discipline of such Auxiliary Force, and such Commanding Officer and such other Commissioned Officers as aforesaid shall hold their rank during the Governor's pleasure. A. D. 1889.
Governor may appoint Commanding Officer.
- 21** Warrant Officers and Sergeants and all other Non-commissioned Officers of the Auxiliary Force shall be appointed by the Commanding Officer of the Auxiliary Force upon the recommendation of the Commanding Officer of the Corps for which such Warrant Officers, Sergeants, and other Non-commissioned Officers are to be appointed. Non-commissioned Officers.
- 22** Out of the Consolidated Revenue Fund there shall be paid annually to the Commanding Officer of each such Corps included in the Auxiliary Force a sum not exceeding One Pound Five Shillings for each effective member of such Corps as shown by the Roll of the preceding year. Every such payment shall be made in such manner and be subject to such conditions as may be prescribed. Capitation grant.
- 23** All the provisions of the said Act relating to the clothing and arms and accoutrements of the Active Force shall apply to the clothing and arms and accoutrements to be supplied to the said Auxiliary Force. Certain provisions of 49 Vict. No. 16 to apply.
- 24** The Governor may at any time disband any Rifle Corps if he considers it necessary to do so. Governor may disband Rifle Corps.
- 25** This Act and the said Act shall be read and construed together as one Act. Acts to be read together.

SCHEDULE.**WARRANT OF COMMITMENT.**

To A.B. and his Assistants, and to the Keeper of the Gaol at

WHEREAS in pursuance of "The Defence Act, 1885," His Excellency the Governor of Tasmania did, upon the _____ day of _____, under his hand and the seal of the Colony, appoint _____ to be a Court to hear and determine offences against the said Act, and did also appoint me the undersigned _____ to be President of the said Court. And whereas C.D. was this day duly convicted before the said Court for that [here state the offence], and the said Court did thereupon adjudge the said _____ for this his said offence to be imprisoned in the Gaol at _____ for the space of _____, and to be kept during _____ of such term at hard labour or in solitary confinement [as the case may be]. These are therefore to command you the said A.B. and your assistants to take the said C.D. and him safely to convey to the Gaol aforesaid, and there to deliver him to the said Keeper thereof, together with this precept. And I do command you the said Keeper to receive the said C.D. into the said Gaol, and there to imprison him for the space of _____, and during the said term to keep him at hard labour or in solitary confinement [as the case may be]; and for your so doing this shall be your sufficient warrant.

Given under my hand and seal this _____ day of _____ 18 .

President.

