



Western Australia.

ANNO QUINQUAGESIMO SEXTO

VICTORIÆ REGINÆ.

No. XVIII.

AN ACT to make better provision for the Defence and Military requirements of the Colony of Western Australia.

[Assented to, 13th January, 1893.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in Parliament assembled, and by the authority of the same, as follows:— Preamble.

1. THIS Act may for all purposes be cited as "The Defence Forces Act, 1893," and is divided into parts as follow:— Short title and divisions.

- PART I.—GENERAL PROVISIONS.
- PART II.—PERMANENT FORCE AND MILITIA FORCE.
- PART III.—OFFENCES AND MISCELLANEOUS.

2. IN the interpretation of this Act the following terms shall, unless the context otherwise requires, have the several meanings set against them respectively, that is to say: Interpretation.

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Minister.	“Minister.”—The responsible Minister for the time being administering this Act :
Commandant.	“Commandant.”—The commissioned officer in chief command for the time being of the forces of Western Australia :
Commanding officer.	“Commanding Officer.”—The officer commanding a corps :
Officer.	“Officer.”—A person holding a commission or warrant in the forces :
Forces.	“Forces.”—The Defence Forces authorised by this Act and the Volunteer Force :
Permanent Force.	“Permanent Force.”—The Permanent Force authorised by this Act :
Militia.	“Militia.”—The Militia Force authorised by this Act :
Corps.	“Corps.”—Any battery of artillery, troop of cavalry, or company of infantry or mounted infantry, or any company of cadets of the forces, but so that where two or more troops of cavalry, companies of mounted infantry or of infantry, are formed into a squadron, battalion, or regiment, such squadron, battalion, or regiment may be termed a corps :
Army Act.	“Army Act.”—The Act of the Imperial Parliament, called “The Army Act,” or any Act or Acts that shall for the time being be in force in the United Kingdom, amending or in substitution of the same, including the articles of war made and for the time being in force thereunder :
“Regulations.”	“Regulations.”—Any regulations which shall be made by the Governor in pursuance of this Act.
“Prescribed.”	“Prescribed.”—Prescribed by this Act, or by regulations made under this Act.
“District or Sub-district.”	“District” or “Sub-district.”—The locality prescribed as a district or sub-district by this Act or by any regulations made under this Act.

PART I.—GENERAL PROVISIONS.

The Governor to be
Commander-in-Chief. **3.** THE Governor, as Her Majesty’s Representative, shall be
Commander-in-Chief of the Forces.

Commandant to
command the Forces. **4.** THE Commandant shall, subject to regulations, command
the Forces.

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5. THERE shall be a Defence Force in Western Australia, which shall consist of— Defence Force.

- (a.) A Permanent Force ;
- (b.) A Militia Force ;
- (c.) The existing Volunteer Force.

And such Force may be constituted of such Arms of the Service as the Governor shall appoint.

6. SUBJECT to the provisions of this Act the strength of each regiment, troop, battery, battalion, company, or corps shall be regulated from time to time by the Governor. Governor to regulate strength of each regiment, &c.

7. EVERY corps shall be established in and for some place to be appointed by the Governor. Corps where established.

8. THE various divisions of the Defence Force shall rank and take precedence as follows:— Precedence of forces.

- (I.) The Permanent Force ;
- (II.) The Militia Force ;
- (III.) The Volunteer Force ;

And the different Arms of these forces shall rank amongst themselves in the same order as obtains in Her Majesty's Regular Forces.

9. THE Governor may appoint to the Permanent and Militia Force such staff officers and staff non-commissioned officers as he may deem necessary, and may also appoint by commission under his hand in these forces, or in any corps of these forces, such and so many officers, subject to regulations, as he may deem necessary, and he may withdraw, annul, alter or amend any such appointments or commissions. Appointment of officers and non-commissioned officers.

The Commandant may, on behalf of the Governor, appoint all warrant officers and superior non-commissioned officers (including sergeants) in the Permanent and Militia Forces.

The commanding officer of any permanent or militia corps may, subject to regulations, appoint to his corps all non-commissioned officers not included in the last preceding paragraph of this section.

The commissions or appointments of all officers and non-commissioned officers are held at pleasure, and the proper authority may from time to time remove any officer or non-commissioned officer and appoint another in his stead.

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Rank and precedence of officers and non-commissioned officers.

10. OFFICERS and non-commissioned officers of the Forces shall have relative rank and take precedence amongst themselves in their respective forces according to the rules which obtain in that behalf in the Regular Forces of Her Majesty, and officers of these Forces shall rank as juniors of their respective ranks with officers in Her Majesty's Regular Forces.

Officers and non-commissioned officers of the Volunteer Force shall be junior to officers and non-commissioned officers of the Permanent Force and Militia of the same rank, whatever be the dates of their respective commissions or appointments.

But any field officer of Her Majesty's Regular Forces shall have precedence of and command over field officers of the Permanent, the Militia, and the Volunteer Forces, if so ordered by the Governor.

Medical Department.

11. THERE shall be a Medical Department of the Forces, and all medical officers commissioned as such in the Forces shall belong to this department, and, subject to regulations, shall be under orders of the principal medical officer for the time being of the Forces.

Such medical officers, though belonging to one medical department, shall rank according to the position and precedence by this Act given to the respective force to which they may be respectively commissioned, and according to the position and precedence by this Act given to the officers of the respective forces.

Such medical officers may be attached to any particular corps, portion, or assemblage of corps of the respective forces to which they belong, but they may be transferred, subject to regulations by the Commandant or principal medical officer aforesaid, for duty, when necessary, to and with any branch of the Forces, retaining, however, the rank and position they occupy in the forces to which they are commissioned.

Retirement of officers.

12. THE retirement of officers from serving in the Permanent or Militia Force shall be subject at all times to the approval of the Governor, and shall be governed by the rules prescribed by the regulations, but no officer shall have the right to retire from service or resign his commission in order to avoid or escape from trial by court martial.

Officers on the retired list.

13. OFFICERS holding commissions in the Permanent or Militia Force may be placed on the retired list, with honorary rank not exceeding that of lieutenant-colonel, or without honorary rank, as prescribed by the regulations, and the Governor may appoint officers on the retired list to commissions in the active Force; but no officer on the retired list shall be bound to serve in the Defence Force in a lower grade than that of his retired rank.

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14. THE Governor may place officers of the Permanent or Militia Force on an unattached list, and may nominate fit and proper persons to commissions on the unattached list, and officers on such list may be employed for duty with any corps, or on the staff.

Officers on the unattached list.

15. THE Governor may from time to time make, alter, or revoke regulations not inconsistent with this Act, for carrying into effect and for enforcing the provisions thereof, and for the enrolment, promotion, employment, training, discipline, equipment, payment and better government of the Permanent and Militia Force, or of any portion or individual thereof, or for the punishment, dismissal, or discharge or disbandment of the same, or of any portion or individual thereof.

Governor may make regulations.

Such regulations shall be published in the *Government Gazette*, and afterwards shall be judicially noticed, and have the force of law, and a copy of the *Government Gazette* purporting to contain a copy of any such regulations shall be conclusive evidence thereof: Provided that all such regulations shall be laid before both Houses of Parliament within fourteen days of the making thereof, if Parliament be then sitting, and if Parliament be not sitting then within fourteen days after the commencement of the next sitting of Parliament.

Such regulations shall be in force at all times, whether the said Forces shall be on parade, under arms, or otherwise.

16. FOR the purposes of this Act, and for more efficiently raising such Forces aforesaid, the Governor may by proclamation constitute "Military Districts" and "Military Sub-districts," and may define the boundaries thereof, and such districts or the boundaries thereof may from time to time abolish, alter, or vary, and by such proclamation aforesaid may, subject to the provisions of this Act, appoint the number of permanent soldiers and militiamen, to be raised for each or any of such districts, and such number may from time to time alter or vary.

The Governor may proclaim military districts and sub-districts.

17. CORPS shall be raised and maintained at the prescribed strength by voluntary enlistment only.

Corps to be formed by voluntary enlistment.

18. (1.) THE Governor may, by Proclamation or by the making of such signals of alarm as are provided in the regulations to be made, call out the Forces, or any portion of the Forces, for actual service in case of invasion or attack on the Colony or its dependencies, or of rebellion or insurrection therein, or of danger of such invasion, attack, rebellion, or insurrection, or in aid of the civil power.

Forces may be called out for actual service.

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(2.) Any such Proclamation being published or general signal made, every member of the corps called out shall assemble in obedience thereto at such time and place as may be directed with any arms, equipment, accoutrements, and ammunition in his possession, and with such provisions as his commanding officer may direct, and shall be subject to the Army Act and all other laws and regulations applicable to the Permanent Force as if he were a member of such Force, and until the Governor by Proclamation shall signify that the service of such corps is no longer required.

(3.) The regulations may prescribe that any portion of the above-mentioned Army Act, or of the laws or regulations, shall not apply to the Forces or portion of the Forces so called out.

(4.) No militiaman shall be required to serve out of Australasia, and no volunteer shall be ordered for service outside the Colony.

(5.) Whenever the Forces or any portion thereof are called out for actual service as above, by Proclamation or by general signal made by the Governor by reason of such invasion or attack, rebellion, or insurrection, or of danger of such invasion or attack, rebellion, or insurrection, or in aid of the Civil power, the Governor may place them under the orders of the commander of Her Majesty's Regular Land Forces in this Colony or in any other place where the Forces or portions thereof may be required to serve, or under the orders of any other officer then in command of the Land Forces of any other of the Australasian Colonies.

Remuneration when called out.

19. MEMBERS of the Militia Force, when called out for actual service as aforesaid, shall for the day on which they assemble, pursuant to such call, and until their services are no longer required, be entitled to the remuneration in their usual ranks as laid down in the Regulations for pay; and also shall be provided with accommodation in quarters or camp, and shall further receive daily rations and camp or field allowances as may be prescribed.

Penalties for refusing or neglecting to obey the call for actual service.

20. IF any member of the Militia Force shall refuse or neglect to obey any call for actual service made by the Governor by Proclamation pursuant to this Act, not being prevented by infirmity disabling him from active service, or by absence from the Colony, the proof whereof shall lie on him, he shall be liable to be proceeded against under the Army Act as a deserter, and if convicted shall be punished accordingly.

Provision for families of men killed on actual service.

21. WHEN any officer, non-commissioned officer, or man is killed on actual service, or dies from wounds or disease contracted on actual service, provision shall be made for his wife and family out of the public funds.

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22. ALL persons duly commissioned or enrolled in the Militia shall be exempt from other military service, and from serving as district constables, and further, the houses, horses, and carriages of such persons shall be exempt from impression for any military service under any Act of the Parliament of the said Colony.

Privileges of the Forces.

23. THE Governor may convene Courts Martial, or delegate power to convene such Courts, and appoint, or delegate power to appoint, officers to constitute the same, for the purpose of trying any officer or man in the Permanent or Militia Force for any offence under the "Army Act," this Act, or the Regulations, and may delegate also power to approve, confirm, mitigate, or remit any sentence of any such Court. The Commandant may convene Boards or Courts of Inquiry, and appoint officers of the Defence Force to constitute such Courts, for the purpose of investigating and reporting on any matter connected with the government or discipline of the Forces, or with the conduct of any officer or man of the Forces.

Courts Martial and Courts of Inquiry.

24. THE Regulations for the composition of Courts Martial and Courts of Inquiry, and the modes of procedure and powers thereof, shall be the same as the Regulations which are for the time being in force relating to the composition, modes of procedure, and powers of Courts Martial and Courts of Inquiry for Her Majesty's Regular Forces, as the case may be, and which are not inconsistent with this Act; and the pay and allowances of officers and others attending such Courts may be fixed by the Regulations.

Composition and powers of Courts Martial.

Every person required to give evidence before a Court Martial or Court of Inquiry may be summoned or ordered to attend.

If any person who is not a member of the Defence Force is summoned as a witness before a Court Martial, and after payment or tender of the reasonable expenses of his attendance, makes default in attending or being in attendance as a witness—

- (a.) Refuses to take an oath or affirmation which he is lawfully required by a Court Martial to take; or
- (b.) Refuses to produce any document in his power or control, which he is lawfully required by a Court Martial to produce; or
- (c.) Refuses to answer any question to which a court martial may lawfully require an answer; or
- (d.) Is guilty of any contempt towards the Court Martial by causing any interruption or disturbance in its proceedings;

the president of the Court Martial may certify the offence of such person under his hand to a Judge of any Court of Law or police

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magistrate in the locality having power to punish persons guilty of like offences in his Court, and such Court or police magistrate may thereupon inquire into the alleged offence, and if the person accused is found guilty, punish him in like manner as if he had committed such offence in a proceeding in such Court.

Civil affairs. **25.** THE management of the civil affairs of every corps of the forces shall be subject to regulations.

Licenses of land for rifle and artillery ranges and drill. **26.** 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 corps of the Forces, as follows:—

- (1.) In the case of Crown Lands, by the Commissioner of Crown Lands for the time being :
- (2.) In the case of lands vested in or under the care, control or management of any Municipal Corporation, Road or Commonage Board by such Corporation or Board.

Provided—

- (a.) No 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 :
- (b.) 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 ceaser of license. **27.** 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 when there has not been any such user 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 the Commandant, and such certificate shall be conclusive evidence of such fact as against all persons and in all courts of justice.

Governor may make regulations stopping traffic, and for the safety of the public during rifle or artillery practice or drill. **28.** THE Governor may, by regulations, direct to be stopped, at such times and for such periods as may be necessary during such rifle or artillery practice or drill, the traffic on such roads or foot-paths as he may deem necessary, and may make regulations for conducting such practice and registering the results thereof, and for preventing any persons other than those engaged in such practice or drill from going on the lands for which such licenses may be granted, or in the vicinity thereof, and for the safety of the public,

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and may impose penalties for any breach of any of such regulations, and for any wilful damage to any butts, targets, or appliances on any such lands.

PART II.—PERMANENT FORCE AND MILITIA FORCE.

29. THE Governor may raise, maintain, organise, arm, equip, drill, train, and exercise such Permanent Force and Militia Force as may be considered necessary for the time being for the proper defence of the Colony, and as Parliament shall from time to time provide for.

The Governor may raise a Permanent Force and a Militia Force.

The period of engagement in the Permanent and Militia Forces shall be for three years continuous service in the case of men, and seven years in the case of boys, but nothing contained in this section shall prevent any man from prolonging his service for the periods which may be fixed from time to time by regulations.

30. MEN between the ages of 18 and 30, inclusive, shall be qualified for enlistment into the Permanent Force, and men between the ages of 18 and 35, inclusive, shall be qualified for enlistment into the Militia; in addition to these, boys of 14 and upwards may be enlisted as musicians, drummers, trumpeters, or buglers.

Age for enlistment.

31. THE Governor may appoint one or more persons to raise such Permanent and Militia Force as aforesaid, and to enlist and enrol men and boys for the same, and may define the districts or parts of districts within which such persons shall act.

Governor may appoint enrolling officers.

32. EVERY person engaging himself to serve in the Permanent or Militia Force and enrolling himself therein shall take the following oath to serve in such Force for the period of three or seven years, as the case may be, or such lesser period as may be prescribed, and during such period shall be subject to all such rules and regulations as may be in force for the time being:—

Every person engaging to serve in the Permanent Force or Militia must take an oath.

33. I do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law, and that I will faithfully serve as a member of the for a period (or further period) of years, pursuant to "The Defence Forces Act, 1893," unless I be previously discharged. So help me God.

Oath.

(Witness.)

(Signature.)

34. THE payment, clothing, and equipment of the Permanent Force and Militia shall be subject to Regulations.

Payment, clothing, and equipment.

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Drill exercise and training of Militia.

35. (1.) THE Governor may call out the Militia, either in whole or in part, for the purpose of drill exercise and training, at such times and places as he may think fit.

(2.) The Governor may call out any officers of the said Militia as often as he shall think fit, for the purposes of special drill.

Discipline, measures for.

36. THE Permanent Force always, and the Militia Force whilst called out for any purpose, shall be subject to the provisions of the Army Act and the Queen's Regulations and Orders for the Army, as far as is consistent with this Act.

Governor may make regulations for inflicting fines.

37. THE Governor may make any regulations for the inflictions of fines upon and stoppages of pay from any man of the Permanent Force or Militia, and for the recovery thereof, as he may think fit from time to time.

Privileged leave of absence.

38. A MILITIAMAN shall have the privilege, subject to regulations, of obtaining six months leave of absence from the Colony under the following provisions:—

(a.) He shall give notice in writing to his commanding officer of his desire for such leave of absence, and shall deliver up to his commanding officer, or to the person prescribed, his arms, accoutrements, equipment, and clothing, and afterwards obtain permission in writing from his commanding officer for such leave.

(b.) Such absence shall not count towards his three years engagement.

(c.) If such Militiaman do not return before the expiration of six months, he shall be struck off the roll of his corps.

But the Commandant may, for good and sufficient reasons, cause such absentee to be struck off the roll of his corps at any time during the period of such absence, or may for such good and sufficient reasons retain him on the strength even though absent for any period exceeding the said six months.

Period of engagement ending during "actual service."

39. ANY warrant officer, non-commissioned officer, or man whose period of engagement comes to an end during such time as his Force is engaged in or called out for *actual service* as defined in section eighteen (1) of this Act, is hereby bound to continue his service if required by the Governor so to do until such *actual service* be at an end, except that no such continued service shall exceed one year.

Members of Defence Force may volunteer for foreign service.

40. NOTHING contained in this Act shall prevent any member of the Defence Force from volunteering to serve in any Force that

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may be raised by this Colony of Western Australia, in the event of the Empire of Great Britain being at war at any time, to augment any of Her Majesty's Regular or other Forces, or to occupy and defend any place beyond the limits of Australasia.

The names of members volunteering shall be submitted to the Governor by the Commandant, for his approval or otherwise.

PART III.—OFFENCES AND MISCELLANEOUS.

41. IT shall not be lawful for any person, not a member of the Forces authorised by this Act, to wear the uniform, or any part thereof, of any of the Forces.

Offences by persons not belonging to the Forces.

Any person who shall—

- (a.) Falsely represent himself to be a member of any of the said Forces; or
- (b.) Not being a member shall wear the uniform, or any part of the uniform, of any of the said Forces:

shall for every such offence be liable on summary conviction to a penalty not exceeding Twenty pounds, with or without imprisonment, for any term not exceeding six months, with or without hard labor.

42. ANY person who—

- (1.) Unlawfully disposes of or removes any arms, accoutrements, or other articles belonging to the Crown or any corps; or
- (2.) Refuses to deliver up the same when lawfully required; or
- (3.) Has the same in his possession, except for lawful purposes (the proof of which shall lie upon him);

Unlawfully disposing of arms, etc.

shall be liable to a penalty of Five pounds for each offence; but this shall not prevent such offender from being indicted and punished for any greater offence if the facts amount to a greater offence, instead of being subjected to the penalty aforesaid.

Any person charged with any offence mentioned in this section may be arrested by order of the justice before whom the complaint is made, upon information on oath showing that there is reason to believe that such person is about to leave Western Australia carrying with him any such arms, accoutrements, or articles.

43. FOR the purposes of any proceedings in any Court of civil or criminal jurisdiction, all moneys subscribed by or for or otherwise appropriated to the use of any corps, and all arms,

Subscriptions, arms, etc., vested in commanding officer.

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ammunition, accoutrements, musical instruments, or other things, belonging to or used by any corps, and not being the private property of a member of the corps, shall be deemed to be vested in the commanding officer, and to be his property, and may be so described in any information or other proceeding.

No gift, sale, or other alienation, or attempted alienation of any such money, arms, ammunition, accoutrements, musical instruments, or other things, by any person, whether he is a member of the corps or not, shall be effectual to pass the property therein without the consent of the commanding officer.

If any property belonging to or used by or for the Defence Force is not appropriated to any particular corps, or it is uncertain to which corps it belongs, the same shall be deemed to be the property of the Commandant.

An action or suit shall not be discontinued by the death, resignation, or removal of the Commandant, or any commanding officer, but may proceed in the name of his successor.

44. ANY person who—

Offences connected with desertion.

- (1.) Procures or persuades any man who has been enlisted to serve in any corps to desert; or
- (2.) Attempts to procure or persuade any such man to desert; or
- (3.) Knowing that any such man is about to desert, aids or assists him in deserting; or
- (4.) Knowing any such man to be a deserter, conceals such man, or aids or assists him in concealing himself, or aids or assists in his rescue;

shall be liable to be imprisoned, with or without hard labor, for a period not exceeding six months.

45. ANY person who wilfully contravenes any provision of this Act, or the regulations, shall, when no other penalty is imposed for such contravention, be liable to a penalty not exceeding Five pounds for each offence; but this section shall not prevent his being indicted and punished for any greater offence if the facts amount to a greater offence.

Penalty for contravening this Act in any way.

46. EVERY commissioned officer of the Permanent Force or Militia shall be exempt from serving as a juror, so long as he continues to serve in either such Force. Every non-commissioned officer and man of the Permanent Force and Militia, whilst embodied, shall also be exempt from serving as a juror. In the case of Militia a certificate under the hand of the man's com-

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manding officer shall be sufficient *prima facie* evidence of the identity of such man and his right to claim such exemption, notwithstanding his name may be upon the jury list.

47. ANY penalty under this Act or the Regulations, the mode of recovery of which may not be otherwise expressly provided for, and any money or fine made recoverable as a penalty under this Act or the Regulations shall be recoverable, and all offences against and all summary proceedings under this Act or the Regulations shall, where no other mode of proceeding may be expressly provided, be respectively heard and determined, in a summary way, before two or more Justices of the Peace, in accordance with the Acts in that behalf.

Pecuniary penalties to be recovered summarily.

An officer of the Defence Force preferring an information or complaint under this Act shall not be liable to pay any fees in respect thereof.

Any offence made by this Act punishable by fine or imprisonment, which is also punishable under "The Army Act," may be dealt with under this Act, but no offender shall be punished twice for the same offence.

48. NO prosecution for an offence against this Act or the regulations shall be brought against a commissioned officer of the Forces, except on the complaint of the Commandant, and no prosecution against any man of the Forces shall be brought, except on the complaint of the commanding officer or adjutant of the corps.

Prosecutions.

But the Commandant may authorise any commissioned officer of the Forces to make a complaint in his name, and the authority of any such officer, alleging himself to have been so authorised to make a complaint, shall not be controverted or called in question except by the Commandant.

No prosecution shall be commenced after the expiration of six months from the commission of the offence charged, unless it be for unlawfully buying, selling, or having in possession arms, accoutrements, or other articles delivered to the Force, or for desertion.

49. NO summary conviction or adjudication under this Act or adjudication made on appeal therefrom shall be quashed for want of form, or be removed by *certiorari*. And no warrant of commitment on any such conviction shall 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 conviction to sustain the same.

No *Certiorari*.

Conviction not to be quashed for want of form.

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Penalty for damaging
or disturbing butts.

50. IF any person wilfully commits any damage to any range, butt, target, building, shed, or erection, belonging to Her Majesty or to the Government of Western Australia, or belonging to or lawfully used by any corps, or without the leave of the Commandant or of the commanding officer of such corps, searches for bullets in or otherwise disturbs the soil at, under, or about any butt or target, he shall for every such offence be liable, on the prosecution of the Commandant or commanding officer of such corps, to a penalty not exceeding Five Pounds.

The Governor can
disband any corps.

51. THE Governor shall have the power to disband any corps, or portion of a corps, specified in this Act, by proclamation under his hand published in the *Government Gazette*.

In the name and on behalf of the Queen I hereby assent
to this Act.

W. C. F. ROBINSON, Governor.