

ACT No. XXIII of 1857.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 18th July 1857.)

AN ACT to provide for the good order and discipline of certain Volunteer Corps, and to invest them with certain powers.

WHEREAS, in consequence of the rebellion and disturbances which unhappily exist in many parts of the British territories in India, many loyal subjects of Her Majesty have volunteered their services for the protection of life and property and the preservation of the peace, and have with the sanction of Government associated and enrolled themselves as Military Corps under the command of Officers appointed for that purpose; and it is necessary to provide for the good order and discipline of such Corps, and to invest them with certain powers: It is enacted as follows:—

I. Every member of any such Corps, or of any other Corps which may be associated or enrolled with the sanction of the Governor General in Council or otherwise according to the provisions of this Act, shall, for all Military offences of which he shall be guilty whilst on actual duty or on parade, be subject to the Articles of War for the European Officers and Soldiers of the East India Company, so far as the same are applicable to Officers and consistent with the provisions of this Act. Provided that no such person shall, for any offence against the said Articles, be subject to the punishment of death.

Members of Volunteer Corps to be subject to the Articles of War for the European Troops of the East India Company, so far as they are applicable to Officers and consistent with this Act.

Proviso.

II. General

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II. General Courts Martial shall be convened and appointed by the Commanding Officer of the Corps with the sanction of the Governor General of India in Council for the trial of Military offences of which any member of such Corps shall be guilty whilst on actual duty; and no sentence of such Court Martial shall be put into execution until after a report of the whole proceedings shall have been made to, and the sentence shall have been confirmed by, the Governor General in Council. The Governor General in Council may commute any such sentence for a less punishment, or pardon the offender.

III. General Courts Martial shall consist of not less than thirteen members of the Corps; and every member of the Corps, whether an Officer or not, shall be competent to sit and act as a member of such Court Martial.

IV. Regimental Courts Martial may be convened by the Commanding Officer of the Corps, and shall consist of not less than three members of the Corps.

V. The proceedings of Courts Martial convened under this Act shall be conducted according to the laws and customs applicable to Courts Martial held under the said Articles of War for the European Officers and Soldiers of the East India Company, except so far as the same are inconsistent with the provisions of this Act.

VI. Any person enrolled as a member of such Corps, whether he shall have been elected or commissioned as an Officer in such Corps or not, may, except whilst on actual duty, quit the Corps upon giving to the Officer commanding the Corps seven days' previous notice in writing of his intention so to do, or without such notice if the Commanding Officer of the Corps shall consider it reasonable to allow him so to do.

VII. Every Commission to any member of such Corps, appointing him an Officer in such Corps, shall cease upon the retirement or dismissal of such member from the Corps.

VIII. Every

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VIII. Every person who shall have received any arms, ammunition, accoutrements, or uniform, belonging to Government, or which shall have been furnished from the public stores or at the public expense, shall, upon his quitting such Corps, or upon his dismissal therefrom, or whenever he shall be required so to do by the Commanding Officer of the Corps, or whenever the said Corps shall be disbanded, deliver up to the Commanding Officer, or such person as he shall appoint to receive the same, all such arms, ammunition, accoutrements, and uniform in good order and condition, reasonable wear thereof only excepted; and in default thereof he shall pay such sum of money as shall be adjudged by a Regimental Court Martial to be assembled for that purpose by the Commanding Officer of the Corps, which adjudication shall be deemed a judgment and may be enforced by any Court of Civil jurisdiction under the provisions of Acts XXXIII of 1852 and XXXIV of 1855.

IX. No member of such Corps shall be bound, without his consent, to serve or proceed on duty beyond the limits within which he shall have voluntarily engaged to serve or proceed on duty in accordance with the terms upon which the Corps to which he belongs shall have been constituted; and in case no such limits shall have been fixed, he shall not be liable to serve or proceed on duty beyond four miles from the place at which he was enrolled.

X. The Commanding Officer of the Corps may frame such general rules as he may think fit for regulating the times at which and the manner in which the duties of the Corps and of the several members or detachments thereof shall be discharged; and such rules, when sanctioned by the Governor General in Council, shall be binding on the Corps and on the several members thereof.

XI. If any member of such Corps, being warned for actual duty other than drill or parade, shall without reasonable excuse neglect to attend such duty, he shall be liable, upon conviction by a General Court Martial, to a fine not exceeding one hundred Rupees, or to simple dismissal from the Corps, or to dismissal from the Corps as unworthy to belong to it.

XII. If

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XII. If any member of such Corps shall without reasonable excuse neglect to attend drill or parade at such times as may be appointed for that purpose, or shall be guilty of any neglect of duty or other Military offence which in the judgment of the Commanding Officer of the Corps will be sufficiently punished by a small fine, he shall be liable to pay such sum, not exceeding fifty Rupees, as a Regimental Court Martial shall adjudge.

Punishment for not attending drill or parade or other Military offence punishable with fine.

XIII. In case any member of such Corps shall neglect or refuse to pay any fine to which he shall be sentenced by any Court Martial, within such time as shall be fixed by the Commanding Officer of the Corps, he may be dismissed by the said Commanding Officer from the said Corps; and every dismissal shall be recorded and reported to the Governor General in Council.

Punishment for non-payment of fine.

XIV. Every sentence of a Court Martial, by which a fine shall be imposed, shall be deemed a judgment and may be enforced by any Court of Civil jurisdiction under the provisions of Acts XXXIII of 1852 and XXXIV of 1855.

Recovery of fines.

XV. Every mounted Officer, and every mounted orderly of such Corps, and every member of such Corps for the time during which he shall belong to a troop of Cavalry in such Corps, shall be at liberty to keep one horse without being liable to pay in respect thereof any tax imposed upon horses.

Exemption from horse-tax.

XVI. It shall be lawful for any member of such Corps, whenever he may be in discharge of his duty as a member of the Corps, and wheresoever he may then be, to disarm any person, not being in the Military or Naval Service of the Queen or of the East India Company, or a Police Officer, who shall be found between sun-set and sun-rise in any public street, thoroughfare, or other public place, armed with a sword, spear, gun, or other fire-arms or warlike instruments without a pass or license for that purpose from the Commissioner of Police or other Officer authorized by Government to grant such pass; and also to disarm any person who may be found armed at any time contrary to law or to any order of Government in any public street, thoroughfare, or other public place; and also to apprehend and deliver

Power to disarm persons.

deliver over to a Police Officer any person so found armed, in order that he may be dealt with according to law; and the weapon so seized shall be forfeited to Government or otherwise dealt with according to law or to the orders of Government.

XVII. It shall also be lawful for any member of such Corps, whenever he may be on duty, to prevent any disturbance of the public peace; and to disperse any persons whom he may find assembled together to the number of five or more without reasonable cause between sun-set and sun-rise in any public street, thoroughfare, or other public place in which such member of the said Corps may be in the discharge of his duty; and also to apprehend any person against whom there shall be reasonable grounds to suspect that he has committed or is about to commit any offence against the State, or that he has aided or is about to aid any other person in the commission of such offence, or that he has incited or is about to incite any person or persons to mutiny or rebellion or other offence against the State; and to deliver him over to some Police Officer.

Also to prevent disturbances of the public peace, to disperse unlawful assemblies, and to apprehend certain suspected persons.

XVIII. Whoever assaults or resists, or aids or assists any person in assaulting or resisting, or incites any person to assault or resist, any member of such Corps in the execution of his duty, shall be liable, on conviction before a Magistrate or Justice of the Peace, to a fine not exceeding two hundred Rupees, or to imprisonment for any term not exceeding six calendar months with or without hard labour.

Penalty for assaulting or resisting members in execution of their duty.

XIX. The word "Magistrate" shall include Magistrates of Police, Joint Magistrates, and persons exercising the powers of a Magistrate.

Interpretation of the word "Magistrate."

XX. Corps may be enrolled in the Presidencies of Fort St. George and Bombay respectively, or, if the Governor General in Council shall so order, in the Lieutenant Governorship of Bengal, or in the Lieutenant-Governorship of the North-Western Provinces, or in the Punjab, or in the Provinces of Oude or Nagpore, or other place; and all powers hereby vested in, and acts required

Enrolment of Volunteers Corps in the other Presidencies, &c.

required to be sanctioned or confirmed by, the Governor General of India in Council shall, as regards Corps enrolled in either of the Presidencies of Fort St. George or Bombay respectively, be exercised, sanctioned, or confirmed by the Governor in Council of such Presidency; and, if the Governor General in Council shall so order, may, as regards Corps to be enrolled within their respective jurisdictions, be exercised, sanctioned, or confirmed by the Lieutenant-Governor of Bengal or the Lieutenant-Governor of the North-Western Provinces, or by the Chief Commissioners of the Punjab and Oude respectively, or the Commissioner of Nagpore, or such other Officer as the Governor General in Council shall authorize in that behalf.

XXI. No suit, action, or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended action and of the cause thereof, nor after tender of sufficient amends, nor after the expiration of three months from the accrual of the cause of action or other proceeding.

XXII. Every person who shall have been enrolled in any such Corps before the passing of this Act shall be entitled to the benefit and protection of this Act, and is hereby indemnified for all acts done by him in the discharge of his duty, which he would have been authorized to do by this Act if it had been in force at the time.

XXIII. A certificate of enrolment in such Corps, signed by the Commanding Officer thereof, shall be *prima facie* evidence of such enrolment without any further proof.

XXIV. The Governor General in Council may disband any Corps enrolled under the provisions of this Act, or remove from the Corps any member thereof, whenever he shall think it necessary or proper so to do.

XXV. This Act shall not extend to any Volunteers listed or mustered and in pay.