CHAP. 97.

An Act for making provision for facilitating the Manœuvres of Troops to be assembled during the ensuing Autumn. A.D. 1871.

[21st August 1871.]

WHEREAS it is intended that during the ensuing autumn a large body of troops should be assembled for the purposes of military instruction within the area mentioned in the schedule hereto, and which area is herein-after referred to as the limits of this Act:

And whereas it is expedient that provision should be made for facilitating the exercise of the said troops, and for making compensation to persons whose lands may be damaged by the passage of such troops, and for other purposes connected with such assemblage of troops:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as the "Military Manœuvres Act, 1871." Short title.

Regulations as to the forces.

2. Within the limits of this Act the forces to which this Act applies, in this Act referred to as "the forces," with their arms, munitions of war, and stores, may pass over any unenclosed or any prescribed enclosed lands, whether public or private, and may execute military manœuvres on such lands. They may also encamp on any unenclosed lands, and for the purpose of any encampment, or for military exercises, dig trenches and throw up temporary field works on any such lands. The forces may supply themselves with water from any prescribed sources of water, and may, for the purpose of obtaining such supply, dam up any running water, use any Passage of forces over lands.

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private or occupation roads, and do all such other acts and things as may be required. They may also make temporary bridges across streams at prescribed places, and slope the banks, and otherwise do such acts in relation to the crossing streams as may be necessary for providing for the safe passage of the forces, with their arms, munitions of war, and stores.

Lands closed against passage of forces.

3. Nothing in this Act contained shall authorise the forces to enter upon or interfere with any dwelling-house, farmyard, garden, orchard, pleasure ground, nursery ground, park, or any premises enclosed within the curtilage of or attached to any dwelling-house, or any lands bearing roots or standing crops, or any underwoods, or any enclosed lands, except enclosed lands which may be prescribed as lands on which the forces are authorised to enter, and such last-mentioned lands shall, when necessary, be marked by flags or in such other manner as may for the time being be prescribed.

Compensation for damage done by forces.

4. Full compensation shall be made, out of moneys to be provided by Parliament, for any damage that may be caused to any lands within the limits of this Act, by or in consequence of the forces, or the strangers accompanying such forces, passing over or occupying such lands; and the amount of compensation payable to any person entitled to such compensation shall, if disputed, in each case of damage be determined as herein-after mentioned; but no person belonging to the forces shall be liable to any action, suit, indictment, or other legal proceeding, in respect of any trespass committed by him upon or damage done to land situate within the limits of this Act.

Commission for making regulations as to passage of forces over lands.

5. A commission shall be formed, consisting of the Lords Lieutenant of the respective counties of Berks, Hants, and Surrey, and the members representing in this present Parliament the county of Berks, the Northern Division of the county of Hants, and the Western Division of the county of Surrey, respectively, and one of Her Majesty's Principal Secretaries of State may from time to time, by writing under his hand, add to their number, or fill up any vacancy occasioned in their number by the death, resignation, or unwillingness to act of any member of such commission. The commission shall make such rules as to their places and times of meeting, their quorum at meetings, and their modes of procedure as they think fit. Every question shall be decided by a majority of the votes of the members of the commission voting on that question.

The officer in command of the forces, or any officer from time to time deputed by him, and the said commission in this Act called the

consultative commission, shall from time to time by order prescribe anything by this Act directed to be prescribed, and may make regulations with respect to the protection of cattle and sheep by securing the same in folds or farmyards, and with respect to any other matter or thing which they may deem essential for the purpose of preventing damage to property and the more efficiently carrying into effect the purposes of this Act.

A person neglecting to conform to any regulation made in pursuance of this Act for the protection of any cattle, sheep, or other property shall not, after notice has been given him of such regulation, be entitled to claim compensation in respect of any damage caused to such property in consequence of his having been guilty of such neglect as aforesaid.

The consultative commission may from time to time delegate any of the powers by this Act given to them to any two or more of their number, who shall, from time to time, attend upon and be in communication with the officer commanding the forces, or any officer deputed by him, during the time such forces are assembled in pursuance of this Act.

Court of arbitration for determining compensation payable in respect of passage of forces.

6. The following enactments shall be made with respect to compensation for damage under this Act:

(1.) The Lords Commissioners of the Treasury shall appoint one person or more, each of whom is herein-after called the compensation officer, whose duty it shall be, immediately the forces have ceased to occupy or pass over any part of the limits of this Act, to ascertain the damage done, and to receive and settle summarily, as far as practicable, by agreement, the amount of compensation, in which case the compensation officer shall either cause the compensation to be paid at once, or shall give a writing to the person entitled, stating the amount to be paid, and the place and date at which the same will be paid, such date not being later than the fifteenth of October one thousand eight hundred and seventy-one:

(2.) The mode in which claims of compensation are to be sent to the compensation officer shall be publicly notified in the limits of the Act. Every claim for compensation shall be sent to the compensation officer immediately after the forces have ceased to occupy or pass over the land in respect of which compensation is claimed, and at the latest within one week after the damage done:

(3.) If the compensation officer shall fail to settle any claim for compensation, or be unable to decide the person to whom

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compensation is payable, the same shall be referred by him to the court of arbitration established under this Act, with a statement by the compensation officer of what he considers a fair compensation for the damage done:

(4.) A court of arbitration shall be formed, consisting of three persons, one of whom shall be named by the consultative commission, in writing under the hands of any two or more of the members of that commission, one by the Commissioners of Her Majesty's Treasury, and the third by the two persons already chosen, in writing under their hands, or, in case of their failure to agree as to such appointment within three days, by the chief justice of the Court of Queen's Bench, and all claims to receive compensation under this Act, for damage caused to lands within the limits of this Act by or in consequence of the forces, or the strangers accompanying such forces, passing over or occupying such lands, shall be determined by such court:

(5.) Any vacancy in the office of any member of the court of arbitration occasioned by death, resignation, unwillingness to act, or otherwise, shall be filled up by the authority which appointed the vacating member in the same manner in which the vacating member was appointed:

(6.) There shall be paid to the members of the court of arbitration such compensation as the said Secretary of State may, with the approval of the Treasury, determine:

(7.) The court of arbitration shall have full power to decide all questions whatsoever, whether of law or fact, which it may be necessary to decide for the purpose of awarding compensation under this Act, and in particular to decide in any case of alleged damage to lands whether such damage was or was not caused by or in consequence of the forces, or the strangers accompanying such forces, passing over or occupying such lands, and also (if such damage was so caused) to determine the person entitled to receive compensation for such damage, and the court of arbitration shall not be subject to be restrained in the due execution of its powers by the order of any court, nor shall any proceedings before it be removed by certiorari into any court, nor shall any award by it be set aside:

(8.) The court of arbitration may examine witnesses on oath, and with respect to the enforcing the attendance of

witnesses, after a tender of their expenses, the examination of witnesses, and the production of books, papers, and documents, shall have all such powers, rights, and privileges as are vested in one of Her Majesty's superior courts of law for such or the like purposes: A.D. 1871.

(9.) The court of arbitration may hold its sittings at such times and places as it thinks expedient, and any jurisdiction or act to be exercised or done by the court of arbitration may be exercised or done by any two members of that court:

(10.) The court of arbitration may appoint a valuer, and may delegate to such valuer such powers of assessing compensation under this Act as it may think fit; but an appeal may be had from his decision to the court of arbitration:

(11.) The court of arbitration may examine the valuer as to the amount of compensation which in his opinion ought to be paid in any case of damage brought before it, and may adopt or reject his opinion as it thinks just:

(12.) The court of arbitration may review and rescind or vary any order or decision previously made by it; but, save as aforesaid, every order or decision of the said court shall be final:

(13.) The court of arbitration shall publish in such manner as it thinks fit directions as to the mode in which applications are to be made to it under this Act.

The court of arbitration shall not be bound to hear any counsel or attorney, but any person claiming compensation may appear in person or by some agent authorised by him in writing, and the court of arbitration may, in addition to compensation for damage, grant further compensation for costs reasonably incurred in substantiating a claim, or may refuse such costs wholly or partially, or reduce the amount of compensation if the person claiming refused a fair offer from the compensation officer.

Compensation may be paid to the person in actual occupation of the land in respect of which it is claimed, or in case of his absence, or inability, to his wife or some member of his family, his steward, or other person acting for him in the cultivation and management of the land, whose receipt shall be a complete discharge for the damage in respect of which the compensation is paid.

Any person fraudulently claiming and receiving compensation to which he is not entitled shall be guilty of a fraud, and liable to be dealt with as if he had fraudulently received money under false pretences, and shall in addition be liable to pay the money received to the person entitled thereto.

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Regulations as to persons not belonging to the forces.

Offences against Act.

7. If any stranger commits any trespass upon or does any damage to any lands within the limits of this Act, he shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding forty shillings, in addition to making full compensation in money for any damage he may have caused.

Any stranger going on any lands within the limits of this Act on which the public is not entitled by law to go without the printed or written permission of the officer in command of the forces, or of some officer deputed by him, shall be deemed to have committed a trespass on such lands, and be punishable accordingly.

If any stranger, not having such permission as aforesaid, when warned not to go on any land, attempts to go thereon, or when on such land and warned to depart therefrom, refuses so to depart, he shall, in addition to any other penalty to which he may be subject, be deemed guilty of an offence against this Act, and be liable to a penalty not exceeding forty shillings. He may also be prevented by force from going on, or be removed by force from any such lands as aforesaid.

For the purposes of this section, a warning not to go on lands or to depart from lands, may be given by any sentinel or other person belonging to the forces or by any constable, and in the case of enclosed lands every stranger not having such permission as aforesaid shall be deemed to have been warned not to go upon such lands, and be punishable accordingly.

Any constable may take possession of any horse or carriage with which any stranger is trespassing, and may remove the same from any lands on which it is found; and no compensation shall be payable in respect of any damage which may accrue to any such horse or carriage by reason of such removal, which is not caused by the wilful act or neglect of the constable removing the same.

If any person without due authority moves any flag or other mark distinguishing any lands, or obstructs or interferes with the movements of the forces, he shall be guilty of an offence against this Act, and be liable to a penalty not exceeding five pounds.

If any person, without the special permission in writing of the officer in command of the forces, or of some officer deputed by him, enters on any lands for the time being directed to be kept clear, or within the lines of any encampment belonging to the forces, he shall be guilty of an offence against this Act, and be liable to a penalty not exceeding forty shillings; and may, if he refuses to go, be removed by force from any lands on which he has so entered.

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Any person charged with committing any offence against this Act may be taken into custody without warrant by any constable or person authorised to act as a constable, and may be detained until he can be brought before a special magistrate and be dealt with according to law: Provided that no person shall be detained under the powers of this section without being brought before a special magistrate for more than six hours.

Any constable or person authorised by this Act to act as a constable using force in cases in which force is by this section permitted to be used, shall be indemnified from all consequences which may result from such user of force.

Any two justices of the peace residing in the immediate vicinity of a place where encampments or manœuvres are about to take place, or any special magistrate accompanying a body of troops, may upon the requisition of the superior officer commanding them, and with the consent of the owner or occupier of land over which any footpaths or other rights of way (save turnpikes, county or parish roads) exist, may temporarily close or divert the same; provided always, that the duration and limits of such stoppage or diversion shall be publicly declared by printed notices twelve hours previous to such occupation or passage of troops.

Constabulary for repression of offences.

8. The said Secretary of State, with the consent of the authority having power to dispose of the services of any constables, may, by order under his hand, appoint such constables, or any of them, to act as constables within the limits of this Act; and every constable so appointed shall, within the limits of this Act, have all such powers, privileges, and immunities, and be liable to all such responsibilities, as any constable duly appointed has within his constablewick, by virtue of the common law of the realm, or of any Act of Parliament for the time being in force.

Any person belonging to the forces may, when called upon by any constable, assist such constable in performing any duty imposed upon him by this Act, or may, when directed by his commanding officer, act as a constable in respect of any offence against this Act; and any person so assisting or directed to act shall, during the performance of such duty, have the same powers, privileges, and immunities as a constable appointed by the said Secretary of State to act within the limits of this Act.

Punishment of offences against Act.

9. The said Secretary of State may, by order under his hand, appoint any county justice or justices, having jurisdiction within the limits of this Act, or any part of such limits, with his or their consent, to attend for any time named in such order, the forces or any portion of such forces; and any justice so appointed, in this

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Act referred to as a special magistrate, shall, during the time so named, have jurisdiction, as a justice of the peace, to punish any offence against this Act, by whomsoever committed, within the limits of this Act, and any offence by any other Act punishable upon summary conviction, and committed by any stranger.

Any power by this Act given to a special magistrate may be exercised by any two or more special magistrates.

Any special magistrate may try any case in the open air, or in any other place which he may think convenient, and if the offence be committed in view of such magistrate he may punish the offender without any further evidence. An information in writing shall not be required in respect of any offence triable by any special magistrate.

Where the special magistrate determines that compensation is to be paid by any offender for any damage caused by him to lands, such magistrate shall order such compensation to be paid to the person entitled to receive such compensation, and shall, for the purpose of determining the person so entitled, and the amount of compensation payable, but subject to the appeal herein-after mentioned, have all the powers by this Act given to the court of arbitration, and the magistrate making such order shall certify the same to the court of arbitration or to some officer to be appointed for the purpose, and the amount so paid shall be taken into consideration by the court in considering any further claim to compensation in respect of the damage so committed.

Where any person is guilty of an offence against this Act at a place where the forces, or any portion of them, are exercising or encamping, the special magistrate before whom such offence is tried may, if he thinks fit, instead of subjecting the offender to any other penalty, commit him to the custody of any constable or constables, and direct him to be detained by such constable or constables, either on the field, or at any convenient spot, for any period not exceeding six hours; and such order of commitment shall be valid without any preliminary written proceedings, provided that the special magistrate is satisfied that the offender has been guilty of the offence in respect of which he is committed to custody.

Subject as aforesaid, any offence triable under this Act by any special magistrate shall be prosecuted, as nearly as may be, in manner directed by the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties "of Justices of the Peace out of sessions within England and "Wales with respect to summary convictions and orders," inclusive of any Acts amending the same.

No order made, or warrant issued, or other act or thing done, in pursuance of this Act, by a special magistrate, shall be impeached on the ground of any defect in the jurisdiction of such magistrate, unless the objection to such jurisdiction is made at the time of the making or issue of such order or warrant, or the doing of such act or thing.

Where a special magistrate under this Act awards, by way of compensation for any damage done to lands, any sum exceeding five pounds, any person aggrieved by the decision of such magistrate may, upon giving security for costs to the satisfaction of the magistrate, appeal to the next practicable court of general or quarter sessions holden for the county in which the cause of appeal has arisen, and such court may, upon the hearing of the appeal, confirm, reverse, or modify the decision of the special magistrate, or make such other order in the matter as the court thinks just.

Offences against this Act shall be triable only by a special magistrate, but subject as aforesaid nothing in this section contained shall affect any jurisdiction which the justices of the county in which any offence may be committed would have had if this Act had not passed.

Evidence of orders and regulations.

10. Evidence of any order or regulation made by the consultative commission and the officer in command of the forces, or any officer deputed by him, or by any of the said parties, may be given in all legal proceedings whatever by the production of a copy purporting to be certified to be a true copy by any member of the said consultative commission, or by the officer in command of the forces, or any officer from time to time deputed by him, and notice of any such order or regulation may be served on any person personally or by leaving a copy of such notice at his usual place of abode.

No proof shall be required of the handwriting or official position of any person certifying in pursuance of this section to the truth of a copy of any such order or regulation.

Any order or regulation of which evidence is given in pursuance of this Act shall, until the contrary is proved, be deemed to have been duly made.

Definitions.

Definitions:

11. In this Act, if not inconsistent with the context, the following expressions have the meanings herein-after respectively assigned to them; that is to say,

"Forces."

The expression "forces to which this Act applies" or "the forces" means and includes all such regular troops, militia, yeomanry, volunteers, licensed sutlers, and followers in or of any of the said forces, as may for the time being be assembled

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within the limits of this Act during the ensuing autumn for the purposes of military instruction, and are subject to the Mutiny Act and Articles of War:

The officer commanding the forces, or any officer or officers deputed by him, may from time to time grant licenses to persons applying for the same authorising such persons to act as licensed sutlers in the said forces, or to be followers of the said forces, and may from time to time revoke any licenses so granted.

Any holders of such licenses shall be subject to the Mutiny Act and Articles of War, and shall be deemed to be licensed sutlers and followers within the meaning of the said Act and articles, but all other sutlers and followers in or of the said forces shall for the purposes of this Act be deemed to be strangers.

Any licenses granted in pursuance of this section shall be in such form as may be prescribed by the said Secretary of State, and shall declare the fact that the person thereby licensed is subject to the Mutiny Act and to the Articles of War.

"Strangers." The expression "strangers accompanying the forces" or "strangers" or "stranger" means all such persons or any such person as may for the time being be attending on or accompanying the forces to which this Act applies, for the purpose of trading, amusement, or any other purposes whatever, and are not or is not subject to the Mutiny Act and Articles of War, but shall not include any owner or occupier of lands when on the lands owned or occupied by him.

"Damage to lands," and "lands." The expression "damage to lands" includes damage to trees, underwoods, crops, animals, or other property on such lands, and also any loss or injury that may be sustained by the occupier of any such lands on account of being unable to cultivate and sow corn or other seeds on such lands during such occupation and passing over such lands; also any loss or injury sustained by any occupier from shutting up and securing his cattle or sheep in folds or farmyards; also any loss or injury sustained by any person by the damming up of any running stream, or by the use of any private or occupation roads; and "lands" includes lands covered by water.

"Arms, munitions of war, and stores." The expression "arms, munitions of war, and stores" includes all matters and things required for the use of the forces to whom this Act applies, and all animals and conveyances used for the conveyance of such matters or things; also all animals used for the food of the forces.

"Unenclosed lands." The expression "unenclosed lands" includes any unfenced or open lands.

Duration of Act.

12. This Act, in so far as it relates to the power of the forces to pass over and occupy land, shall remain in force till the first of October next, and no longer, but in so far as it relates to the giving of compensation for damage caused by the passage or occupation of such forces, shall remain in force till the first of June one thousand eight hundred and seventy-two, and no longer.

Time during which Act is to remain in force.

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SCHEDULE.

Area forming Limits of Act.

For the purposes of this Act the area therein referred to shall be deemed to be enclosed by a boundary line starting from Loddon Bridge at a point at which the main road from Reading to Wokingham crosses the river Loddon, and thence following the course of the river Loddon to the point at which it is crossed by the high road from Reading to Odiham, thence by a line running along the main road which passes through Riseley and Heckfield to Hook, thence along the road to Skewers, thence along the road running south to the Basingstoke Canal, thence along the canal to North Warnborough, thence along the main road which passes Odiham and South Warnborough to Alton, thence along the road which passes through West Worldham and Hartley to Selbourne, thence along the road which passes near Greatham, and across Bridges Hill to Rake at the south-western extremity of Milland Common. From Rake along the high road to Haslemere, thence along the high road through Godalming to Guildford, thence along an imaginary straight line to a point at which the South-western Railway crosses the Thames near Staines, thence along an imaginary straight line to Wokingham, thence along the road from Wokingham to Loddon Bridge aforesaid.

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