

ANNO VICESIMO QUARTO & VICESIMO QUINTO

VICTORIÆ REGINÆ.

****

CAP. CXV.

An Act for the Government of the Navy.

[6th *August* 1861.]

WHEREAS it is expedient to amend the Law relating to the Government of the Navy, whereon, under the good Providence of God, the Wealth, Safety, and Strength of the Kingdom chiefly depend: 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:

PART I.

Articles of War.

Public Worship.

Public Worship to be performed.

1. All Officers in Command of Her Majesty's Ships of War shall cause the Public Worship of Almighty God according to the Liturgy of the Church of *England* established by Law to be solemnly, orderly, and reverently performed in their respective Ships, and shall take care that Prayers and Preaching, by the Chaplains in Holy Orders of the respective Ships, be performed diligently, and that the Lord's Day be observed according to Law.

Misconduct

Misconduct in the Presence of the Enemy.

Penalty for Misconduct in Action.

2. Every Flag Officer, Captain, Commander or Officer commanding subject to this Act who upon Signal of Battle, or on Sight of a Ship of an Enemy which it may be his Duty to engage, shall not,

(1.) Use his utmost Exertion to bring his Ship into Action;

(2.) Or shall not during such Action, in his own Person and according to his Rank, encourage his inferior Officers and Men to fight courageously;

(3.) Or who shall surrender his Ship to the Enemy when capable of making a successful Defence, or who in Time of Action shall improperly withdraw from the Fight,

shall, if he has acted traitorously, suffer Death; if he has acted from Cowardice shall suffer Death, or be imprisoned, and be also dismissed with Disgrace from Her Majesty's Service; and if he has acted from Negligence, or through other Default, he shall be dismissed from Her Majesty's Service, with or without Disgrace, or shall suffer such other Punishment as is herein-after mentioned.

Penalty for not pursuing the Enemy and of not assisting a Friend in View.

3. Every Officer subject to this Act who shall forbear to pursue the Chase of any Enemy, Pirate, or Rebel, beaten or flying, or shall not relieve and assist a known Friend in View to the utmost of his Power, or who shall improperly forsake his Station, shall, if he has therein acted traitorously, suffer Death; if he has acted from Cowardice, suffer Death or such other Punishment as is herein-after mentioned; if he has acted from Negligence, or through other Default, shall be dismissed from Her Majesty's Service, with Disgrace, or shall suffer such other Punishment as is herein-after mentioned.

Penalty for delaying or discouraging the Service, or deserting his Post, &c.

4. When any Action or any Service is commanded, every Person subject to this Act who shall presume to delay or discourage the said Action or Service upon any Pretence whatsoever, or in the Presence or Vicinity of the Enemy shall desert his Post or sleep upon his Watch, shall suffer Death, or such other Punishment as is herein-after mentioned.

Penalty for Misconduct of subordinate Officers and Men in Action.

5. Every Person subject to this Act, and not being a Commanding Officer, who shall not use his utmost Exertions to carry the Orders of his superior Officers into execution when ordered to prepare for Action, or during the Action, shall, if he has acted traitorously, suffer Death; if he has acted from Cowardice shall suffer Death, or such other Punishment as is herein-after mentioned; and if he has acted from Negligence, or through other Default, be dismissed from Her Majesty's Service, with Disgrace, or suffer such other Punishment as is herein-after mentioned.

Commu-

Communications with the Enemy.

Penalty for Spies.

6. All Spies for the Enemy shall be deemed to be Persons subject to this Act, and shall suffer Death, or such other Punishment as is herein-after mentioned.

Penalty for corresponding, &c. with the Enemy.

7. Every Person subject to this Act who shall traitorously hold—

(1.) Correspondence with or shall give Intelligence to the Enemy;

(2.) Or fail to make known to the proper Authorities any Information he may have received from the Enemy;

(3.) Or who shall relieve the Enemy with any Supplies,

shall suffer Death, or such other Punishment as is herein-after mentioned.

Penalty for improper Communication with the Enemy.

8. Every Person subject to this Act who shall, without any treacherous Intention, hold any improper Communication with the Enemy, shall be dismissed from Her Majesty's Service, or shall suffer such other Punishment as is herein-after mentioned.

Neglect of Duty.

Penalty for abandoning Post, &c.

9. Every Person subject to this Act who shall desert his Post or sleep upon his Watch, or negligently perform the Duty imposed on him, shall be dismissed from Her Majesty's Service, with Disgrace, or shall suffer such other Punishment as is herein-after mentioned.

Mutiny.

Penalty for Mutiny with Violence.

10. Where Mutiny is accompanied by Violence, every Person subject to this Act who shall join therein shall suffer Death, or such other Punishment as is herein-after mentioned; and every Person subject to this Act who shall not use his utmost Exertions to suppress such Mutiny shall, if he has acted traitorously, suffer Death, or such other Punishment as is herein-after mentioned; if he has acted from Cowardice, shall suffer Penal Servitude or such other Punishment as is herein-after mentioned; if he has acted from Negligence he shall be dismissed from Her Majesty's Service, with Disgrace, or suffer such other Punishment as is herein-after mentioned.

Penalty for Mutiny not accompanied by Acts of Violence.

11. Where a Mutiny is not accompanied by Violence, the Ringleader or Ringleaders of such Mutiny shall suffer Death, or such other Punishment as is herein-after mentioned; and all other Persons who shall join in such Mutiny, or shall not use their utmost Exertions to suppress the same, shall suffer Imprisonment or such other Punishment as is herein-after mentioned.

12. Every

Government of the Navy.

Penalty for inciting to Mutiny.

12. Every Person subject to this Act who shall endeavour to seduce any other Person subject to this Act from his Duty or Allegiance to Her Majesty, or endeavour to incite him to commit any Act of Mutiny, shall suffer Death or such other Punishment as is herein-after mentioned.

Penalty for Civilians endeavouring to seduce from Allegiance.

13. Every Person, not otherwise subject to this Act, who, being on board any Ship of Her Majesty, shall endeavour to seduce from his Duty or Allegiance to Her Majesty any Person subject to this Act, shall so far as respects such Offence be deemed to be a Person subject to this Act, and shall suffer Death or such other Punishment as is herein-after mentioned.

Penalty for making mutinous Assemblies or uttering seditious Words.

14. Every Person subject to this Act who shall make or endeavour to make any mutinous Assembly, or shall lead or incite any other Person to join in any mutinous Assembly, or shall utter any Words of Sedition or Mutiny, shall suffer Penal Servitude or such other Punishment as is herein-after mentioned.

Penalty for concealing any traitorous or mutinous Practice, Design, or Words.

15. Every Person subject to this Act who shall wilfully conceal any traitorous or mutinous Practice or Design, or any traitorous or mutinous Words spoken against Her Majesty, or any Words, Practice, or Design tending to the Hindrance of the Service, shall suffer Penal Servitude or such other Punishment as is herein-after mentioned.

Penalty for striking or offering to strike superior Officer.

16. Every Person subject to this Act who shall strike or offer to strike or use any Violence against his superior Officer, being in the Execution of his Office, shall be punished with Death, or such other Punishment as is herein-after mentioned; and every Person subject to this Act who shall strike or offer to strike or use any Violence against his superior Officer, not being in the Execution of his Office, shall be punished with Penal Servitude or such other Punishment as is herein-after mentioned.

Insubordination.

Penalty for Disobedience or using threatening Language to superior Officer.

17. Every Person who shall wilfully disobey any lawful Command of his superior Officer, or shall use threatening or insulting Language or behave with Contempt to his superior Officer, shall be punished with Dismissal from Her Majesty's Service, with Disgrace, or suffer such other Punishment as is herein-after mentioned.

Penalty for quarrelling, &c., or using reproachful Speech or Gestures.

18. Every Person subject to this Act who shall quarrel or fight with any other Person, whether such other Person be or be not subject to this Act, or shall use reproachful or provoking Speeches or Gestures, tending to make any Quarrel or Disturbance, shall suffer Imprisonment or such other Punishment as is herein-after mentioned.

Desertion

Desertion and Absence without Leave.

19. Every Person subject to this Act who shall absent himself from his Ship or from the Place where his Duty requires him to be, without any Intention of returning to such Ship or Place, or who shall at any Time and under any Circumstances when absent from his Ship do any Act which shows that he has not any Intention of returning to such Ship or Place, shall be deemed to have deserted, and shall be punished accordingly; that is to say, Penalty for Desertion.

(1.) If he has deserted to the Enemy he shall be punished with Death or such other Punishment as is herein-after mentioned;

(2.) If he has deserted under any other Circumstances he shall be punished with Penal Servitude or such other Punishment as is herein-after mentioned;

and in every such Case he shall forfeit all Pay, Head Money, Bounty, Salvage, Prize Money, and Allowances that have been earned by him, and all Annuities, Pensions, Gratuities, Medals, and Decorations that may have been granted to him, and also all Clothes and Effects which he may have left on board the Ship or at the Place from which he has deserted, unless the Tribunal by which he is tried shall otherwise direct.

20. Every Person subject to this Act who shall endeavour to seduce any other Person subject to this Act to desert shall suffer Imprisonment, or such other Punishment as is herein-after mentioned. Penalty for inducing any Person to desert.

21. Every Officer in Command of any Ship of Her Majesty who shall receive or entertain any Deserter from Her Majesty's Military or Naval Forces, after discovering him to be a Deserter, and shall not, with all convenient Speed, in the Case of a Deserter from Her Majesty's Naval Forces, give Notice to the Commanding Officer of the Ship to which such Deserter belongs, or, if such Ship is at a Distance, to the Secretary of the Admiralty or to the Commander-in-Chief, or, in case of a Deserter from Her Majesty's Military Forces, give Notice to the Secretary of War or the Commanding Officer of the Regiment to which such Deserter belongs, the Officer so offending shall be dismissed from Her Majesty's Service, or shall suffer such other Punishment as is herein-after mentioned. Penalty for entertaining a Deserter.

22. Every Person subject to this Act who shall be absent without Leave shall be liable to Imprisonment for any Period not exceeding Ten Weeks, with or without Hard Labour, or such other Punishment as the Circumstances of the Case may require, and shall also forfeit out of his Wages a Sum not exceeding the Amount of Two Days Pay, exclusive of all Charges of Apprehension, and in addition Penalty for Absence without Leave.

addition for every Twenty-five Hours of Absence a Sum not exceeding Six Days Pay; and any Person may be deemed to be absent without Leave, notwithstanding his Absence may not have been voluntary, but may have been caused by Imprisonment under any Commitment for any Offence against the Law.

Miscellaneous Offences.

Penalty for profane Swearing and other Immoralities.

23. Every Person subject to this Act who shall be guilty of any profane Oath, Cursing, Execration, Drunkenness, Uncleanness, or other scandalous Action in derogation of God's Honour and Corruption of good Manners, shall be dismissed from Her Majesty's Service, with Disgrace, or suffer such other Punishment as is herein-after mentioned.

Penalty on Officer for Cruelty or Oppression.

24. Every Officer subject to this Act who shall be guilty of Cruelty, or of any scandalous or fraudulent Conduct, shall be dismissed with Disgrace from Her Majesty's Service; and every Officer subject to this Act who shall be guilty of any other Conduct unbecoming the Character of an Officer shall be dismissed, with or without Disgrace, from Her Majesty's Service.

Penalty for suffering Ships to be improperly lost.

25. Every Person subject to this Act who shall either designedly or negligently or by any Default lose, strand, or hazard, or suffer to be lost, stranded, or hazarded, any Ship of Her Majesty, or in Her Majesty's Service, shall be dismissed from Her Majesty's Service, with Disgrace, or suffer such other Punishment as is herein-after mentioned.

Penalty for not taking care of and defending Ships under Convoy.

26. The Officers of all Ships of Her Majesty appointed for the Convoy and Protection of any Ships or Vessels shall diligently perform their Duty without Delay according to their Instructions in that Behalf; and every Officer who shall fail in his Duty in this respect, and shall not defend the Ships and Goods under his Convoy, without Deviation to any other Objects, or shall refuse to fight in their Defence if they are assailed, or shall cowardly abandon and expose the Ships in his Convoy to Hazard, or shall demand or exact any Money or other Reward from any Merchant or Master for convoying any Ships or Vessels entrusted to his Care, or shall misuse the Masters or Mariners thereof, shall make such Reparation in Damages to the Merchants, Owners, and others as the Court of Admiralty may adjudge, and also shall be punished criminally according to the Nature of his Offence, by Death or such other Punishment as is herein-after mentioned.

Master of Merchant Vessel to

27. Every Master or other Officer in Command of any Merchant or other Vessel under the Convoy of any Ship of Her Majesty

Majesty shall obey the Commanding Officer thereof in all Matters relating to the Navigation or Security of the Convoy, and shall take such Precautions for avoiding the Enemy as may be directed by such Commanding Officer; and if he shall fail to obey such Directions such Commanding Officer may compel Obedience by Force of Arms, without being liable for any Loss of Life or of Property that may result from his using such Force.

obey Orders of convoying Officer.

28. Every Officer in Command of any of Her Majesty's Ships who shall receive on board, or permit to be received on board, such Ship any Goods or Merchandises whatsoever, other than for the sole Use of the Ship, except Gold, Silver, or Jewels, and except the Goods and Merchandise belonging to any Merchant, or on board any Ship which may be shipwrecked or in imminent Danger, either on the High Seas or in some Port, Creek, or Harbour, for the Purpose of preserving them for their proper Owners, or except such Goods or Merchandise as he may at any Time be ordered to take or receive on board by Order of the Admiralty, shall be dismissed from Her Majesty's Service, or suffer such other Punishment as is herein-after mentioned.

Penalty for taking any Goods on board other than for the Use of the Vessel, except Gold, Silver, Jewels, &c.

29. Every Person subject to this Act who shall wastefully expend, embezzle, or fraudulently buy, sell, or receive, any Ammunition, Provisions, or other Public Stores, and every Person subject to this Act who shall knowingly permit any such wasteful Expenditure, Embezzlement, Sale, or Receipt, shall suffer Imprisonment or such other Punishment as is herein-after mentioned.

Penalty for embezzling Public Stores.

30. Every Person subject to this Act who shall unlawfully set fire to any Dockyard, Victualling Yard, or Steam Factory Yard, Arsenal, Magazine, Building, Stores, or to any Ship, Vessel, Hoy, Barge, Boat, or other Craft, or Furniture thereunto belonging, not being the Property of an Enemy, Pirate, or Rebel, shall suffer Death or such other Punishment as is herein-after mentioned.

Penalty for burning any Magazine or Vessel, &c. not belonging to an Enemy.

31. Every Person subject to this Act who shall knowingly make or sign a false Muster or Record or other official Document, or who shall command, counsel, or procure the making or signing thereof, or who shall aid or abet any other Person in the making or signing thereof, shall be dismissed from Her Majesty's Service, with Disgrace, or suffer such other Punishment as is herein-after mentioned.

Penalty for making or signing false Musters.

32. Every Person subject to this Act who shall wilfully do any Act, or wilfully disobey any Orders, whether in Hospital or elsewhere,

Penalty for Misconduct in Hospital.

where, with Intent to produce or to aggravate any Disease or Infirmity, or to delay his Cure, or who shall feign any Disease, Infirmity, or Inability to perform his Duty, shall suffer Imprisonment, or such other Punishment as is herein-after mentioned.

Penalty for endeavouring to stir up any Disturbance on account of Unwholesomeness of the Victuals or other just Grounds.

33. Every Person subject to this Act who shall have any Cause of Complaint, either of the Unwholesomeness of the Victuals or upon any other just Ground, shall quietly make the same known to his Superior, or Captain, or Commander-in-Chief, and the said Superior, Captain, or Commander-in-Chief shall, as far as he is able, cause the same to be presently remedied; and no Person subject to this Act upon any Pretence whatever shall attempt to stir up any Disturbance, upon Pain of such Punishment as a Court-martial may think fit to inflict, according to the Degree of Offence.

Penalty for Offences against Naval Discipline not particularly mentioned.

34. Every Person subject to this Act who shall be guilty of any Act, Disorder, or Neglect to the Prejudice of good Order and Naval Discipline, not herein-before specified, shall be dismissed from Her Majesty's Service with Disgrace, or suffer such other Punishment as is herein-after mentioned.

Penalty for not sending to the Court of Admiralty all Papers found aboard Prize Ships.

35. All the Papers, Charter Parties, Bills of Lading, Passports, and other Writings whatsoever that shall be taken, seized, or found aboard any Ship or Ships which shall be taken as Prize shall be duly preserved, and the Commanding Officer of the Ship which shall take such Prize shall send the Originals entire and without Fraud to the Court of Admiralty, or such other Court or Commissioners as shall be authorized to determine whether such Prize be lawful Capture, there to be viewed, made use of, and proceeded upon, according to Law, upon Pain that every Person offending herein shall be dismissed from Her Majesty's Service, or shall suffer such other Punishment as is herein-after mentioned, and in addition thereto shall forfeit and lose his Share of the Capture.

Penalty for taking Money or other Effects out of any Prize before the same shall be condemned.

36. No Person subject to this Act shall take out of any Prize or Ship seized for Prize any Money, Plate, or Goods, unless it shall be necessary for the better securing thereof, or for the necessary Use and Service of any of Her Majesty's Ships and Vessels of War, before the same be adjudged lawful Prize in some Admiralty Court; but the full and entire Account of the whole without Embezzlement shall be brought in, and Judgment passed entirely upon the whole, without Fraud, upon Pain that every Person offending herein shall be dismissed from Her Majesty's Service, with Disgrace, or suffer such other Punishment as is herein-after mentioned, and in addition thereto forfeit and lose his Share of the Capture.

37. If

37. If any Ship or Vessel shall be taken as Prize, none of the Officers, Mariners, or other Persons on board her shall be stripped of their Clothes, or in any sort pillaged, beaten, or evil intreated, upon Pain that the Person or Persons so offending shall be dismissed from Her Majesty's Service, with Disgrace, or suffer such other Punishment as is herein-after mentioned. Penalty for stripping or ill-using Persons taken on board a Prize.

Offences punishable by Ordinary Law.

38. Every Person subject to this Act who shall be guilty of Murder shall suffer Death: Penalty for Offences punishable by ordinary Law.

If he shall be guilty of Manslaughter he shall suffer Penal Servitude, or such other Punishment as is herein-after mentioned:

If he shall be guilty of Sodomy with Man or Beast he shall suffer Penal Servitude:

If he shall be guilty of indecent Assaults he shall suffer Penal Servitude, or such other Punishment as is herein-after mentioned:

If he shall be guilty of Robbery or Theft he shall suffer Penal Servitude, or such other Punishment as is herein-after mentioned:

If he shall be guilty of any other Criminal Offence which if committed in *England* would be punishable by the Law of *England*, he shall, whether the Offence be or be not committed in *England*, be punished either in pursuance of the First Part of this Act as an Act to the Prejudice of good Order and Naval Discipline not otherwise specified, or the Offender shall be subject to the same Punishment as might be awarded by any ordinary Criminal Tribunal competent to try the Offender, if the Offence had been committed in *England*.

39. For all Offences spec fied or referred to in this Act, if committed by any Person subject thereto in any Harbour, Haven, or Creek, or on any Lake or River, whether in or out of the United Kingdom or anywhere within the Jurisdiction of the Admiralty, or at any Place on shore out of the United Kingdom of *Great Britain* and *Ireland*, or in any of Her Majesty's Dockyards, Victualling Yards, Steam Factory Yards, or on any Gun Wharf, or in any Arsenal, Barrack, or Hospital belonging to Her Majesty, whether in or out of the said United Kingdom, the Offender may be tried and punished under this Act, and for all Offences herein-before specified under the Headings "Misconduct in the Presence of the Enemy," "Communications with the Enemy," "Neglect of Duty," "Mutiny," "Insurbordination," "Desertion and Absence without Leave," or "Miscellaneous Offences," if committed by any Person subject to this Act at any Place on shore, whether in or out of the said United Kingdom, the Offender may be tried and punished under this Act. Offences, when punishable.

PART II.

General Provisions.

Power of Court-martial to find Intent with which Offence committed.

40. Where the Amount of Punishment for any Offence under this Act depends upon the Intent with which it has been committed, and any Prisoner is charged with having committed such Offence with an Intent involving a greater Degree of Punishment, a Court-martial may find that the Offence was committed with an Intent involving a less Degree of Punishment, and award such Punishment accordingly.

Power of Court-martial to find Prisoner guilty of lesser Offence on Charge of greater.

41. Where any Prisoner shall be charged with Murder, a Court-martial may find him guilty of Manslaughter or of a Common Assault; where he shall be charged with Sodomy, a Court-martial may find him guilty of an indecent Assault; where he shall be charged with Theft, a Court-martial may find him guilty of an Attempt to thieve, or of Embezzlement, or of wrongful Appropriation of Property belonging to another; and generally where any Prisoner shall be charged with any Offence under this Act he may upon Failure of Proof of the Commission of the greater Offence be found guilty of another Offence of the same Class involving a less Degree of Punishment, but not of any Offence involving a greater Degree of Punishment.

Rebels and Mutineers to be deemed Enemies.

42. All armed Rebels, armed Mutineers and Pirates, shall be deemed to be Enemies within the Meaning of this Act.

Power to arrest Offenders.

43. Every Officer in Command of One of Her Majesty's Ships may, by Warrant under his Hand, authorize any Person to arrest an Offender belonging to such Ship for any Offence against this Act mentioned in such Warrant; and any Person so authorized may use Force, if necessary, for the Purpose of effecting such Apprehension, towards any Person subject to this Act.

Penalty for not assisting in Detection of Prisoners.

44. Every Person subject to this Act who shall not use his utmost Endeavours to detect, apprehend, and bring to Punishment all Offenders against this Act, and shall not assist the Officers appointed for that Purpose, shall suffer Imprisonment or such other Punishment as is herein-after mentioned.

PART III.

Regulations as to Punishments.

Punishments.

45. The following Punishments may be inflicted in Her Majesty's Navy:

(1.) Death:

(2.) Penal Servitude:

(3.) Dismissal with Disgrace from Her Majesty's Service:

(4.) Imprisonment or Corporal Punishment:

(5.) Dismissal from Her Majesty's Service:

(6.) Forfeiture of Seniority as an Officer for a specified Time, or otherwise:

(7.) Dismissal from the Ship to which the Offender belongs:

(8.) Severe Reprimand, or Reprimand:

(9.) Disrating a Subordinate or Petty Officer:

(10.) Forfeiture of Pay, Head Money, Bounty, Salvage, Prize Money, and Allowances earned by, and of all Annuities, Pensions, Gratuities, Medals, and Decorations granted to the Offender, or of any One or more of the above Particulars; also, in the Case of Desertion, of all Clothes and Effects left by the Deserter on board the Ship to which he belongs:

(11.) Such minor Punishments as are now inflicted according to the Custom of the Navy, or may from Time to Time be allowed by the Admiralty:

and each of the above Punishments shall be deemed to be inferior in Degree to every Punishment preceding it in the above Scale.

Regulations as to Punishments.

46. The following Regulations are hereby made with respect to the Infliction of Punishments in Her Majesty's Navy:

(1.) The Admiralty may, except in case of Sentence of Death, which shall only be remitted by Her Majesty, suspend, annul, or modify any Sentence passed on any Person subject to this Act:

(2.) Judgment of Death shall not be passed on any Prisoner unless Four at least of the Officers present at the Court-martial, where the Number does not exceed Five, and in other Cases a Majority of not less than Two Thirds of the Officers present, concur in the Sentence:

(3.) The Punishment of Death shall not be inflicted on any Prisoner until the Sentence has been confirmed by the Admiralty or by the Commander in Chief on a Foreign Station:

(4.) The

(4.) The Punishment of Penal Servitude may be inflicted for the Term of Life, or for any other Term of not less than Three Years:

(5.) The Punishment of Penal Servitude shall in all Cases involve Dismissal with Disgrace from Her Majesty's Service:

(6.) Dismissal with Disgrace shall involve in all Cases a Forfeiture of all Pay, Head Money, Bounty, Salvage, Prize Money, and Allowances that have been earned by, and of all Annuities, Pensions, Gratuities, Medals, and Decorations that may have been granted to the Offender, and an Incapacity to serve Her Majesty again in any Military, Naval, or Civil Service; and may also in all Cases be accompanied by a Sentence of Imprisonment, with or without Solitary Confinement not exceeding the Periods herein-after mentioned, and with or without Hard Labour for all or any Part of the Term of Imprisonment, and with or without Corporal Punishment:

(7.) The Punishment of Imprisonment may be inflicted for any Term not exceeding Two Years; it may be accompanied with a Direction that the Prisoner shall be kept in Solitary Confinement for any Period of such Term not exceeding Fourteen Days at any One Time, and not exceeding Eighty-four Days in any One Year, with Intervals between the Periods of Solitary Confinement of not less Duration than the Periods of Solitary Confinement, and when the Imprisonment awarded exceeds Eighty-four Days, the Solitary Confinement shall not exceed Seven Days in any Twenty-eight Days of the whole Imprisonment awarded, with Intervals between the Periods of Solitary Confinement of not less Duration than such Periods, and the Punishment of Imprisonment may also be accompanied with a Direction that the Prisoner shall be kept to Hard Labour for all or any Part of the Term of Imprisonment, or any such Direction may apply either to Solitary Confinement or Hard Labour only, and Corporal Punishment may be awarded in addition to any Sentence of Imprisonment, whether such Imprisonment is or is not to be accompanied with Solitary Confinement and Hard Labour, or either of them: In any Case of Corporal Punishment not more than Forty-eight Lashes shall be inflicted:

(8.) No Officer shall be subject to Corporal Punishment: No Petty or Non-commissioned Officer shall be subject to Corporal Punishment, except in case of Mutiny:

All other Punishments authorized by this Act may be inflicted in the Manner heretofore in use in the Navy.

Limitation of Time as to Trials.

47. No Person, unless he be an Offender who has avoided Apprehension or fled from Justice, shall be tried or punished in pursuance of this Act for any Offence committed by him unless such Trial shall take place within Three Years from the Commission of such Offence, or within One Year after the Return of such Offender to the United Kingdom, where he has been absent from the United Kingdom during such Period of Three Years.

Scale of Punishment.

48. Subject to the foregoing Regulations, where any Punishment is specified by this Act as the Penalty for any Offence, and it is further declared that another Punishment may be awarded in respect of the same Offence, the Expression "other Punishment" shall be deemed to comprise any One or more of the Punishments inferior in Degree to the specified Punishment, according to the Scale herein-before mentioned; but Corporal Punishment shall be deemed equal in Degree to Imprisonment, and may in all Cases, subject to the foregoing Regulations, be inflicted as a Substitute for or in addition to Imprisonment.

Authorities having Power to try Offences.

49. Any Offence triable under this Act may be tried and punished by Court-martial; and any Offence triable under this Act, not committed by an Officer, and not hereby made Capital, may, under such Regulations as the Admiralty may from Time to Time issue, be summarily tried and punished by the Officer in Command of the Ship to which such Offender belongs, subject to the following Restrictions; (that is to say,)

(1.) The Commanding Officer shall not have Power to award the Punishment of Penal Servitude:

(2.) The Commanding Officer shall not have Power to sentence any Man, except a Deserter, or Man absent without Leave, to Imprisonment for a longer Period than Twenty-eight Days, nor to sentence a Deserter to Imprisonment for a longer Period than Three Calendar Months, nor a Man absent without Leave to Imprisonment for a longer Period than Six Weeks, nor to award Solitary Confinement for more than Seven Days at a Time with Intervals of not less than Seven Days between each Period of Solitary Confinement:

(3.) Except in case of open Mutiny, no Man shall be sentenced by the Commanding Officer to Corporal Punishment until his Offence has been inquired into by One or more Officers appointed by such Commanding Officer, and his or their Opinion as to the Guilt or Innocence of the Prisoner reported to such Commanding Officer, and the Commanding Officer shall thereupon act as according to his Judgment may seem right.

Government of the Navy.

PART IV.

COURTS-MARTIAL.

Constitution of Courts-martial.

Constitution of Courts-martial.

50. The following Regulations are hereby made with respect to Courts-martial:

(1.) A Court-martial shall consist of not less than Five nor more than Nine Officers:

(2.) No Officer shall be qualified to sit as a Member of any Court-martial held in pursuance of this Act unless he be a Flag Officer, Captain, Commander, or Lieutenant of Her Majesty's Navy on Full Pay:

(3.) A Court-martial shall not be held unless at least Three of Her Majesty's Ships, not being Tenders, and not commanded by Officers under the Rank of Lieutenant, are together at the Time when such Court-martial is held:

(4.) No Officer shall sit on a Court-martial who is under Twenty-one Years of Age:

(5.) No Court-martial for the Trial of a Flag Officer shall be duly constituted unless the President is a Flag Officer, and the other Officers composing the Court are of the Rank of Captain, or of higher Rank:

(6.) No Court-martial for the Trial of a Captain in Her Majesty's Navy shall be duly constituted unless the President is a Captain or of higher Rank, and the other Officers composing the Court are Commanders or Officers of higher Rank:

(7.) No Court-martial for the Trial of any Person below the Rank of Captain in Her Majesty's Navy shall be duly constituted, unless the President is a Captain or of higher Rank, nor unless in addition to the President there are Two other Members of the Court of the Rank of Commander or of higher Rank:

(8.) The Prosecutor shall not sit on any Court-martial for the Trial of a Prisoner whom he prosecutes:

(9.) The Admiralty shall have Power to order Courts-martial to be held for the Trial of Offences under this Act, and to grant Commissions to any Officer of Her Majesty's Navy on Full Pay authorizing him to order Courts-martial to be held for the Trial of such Offences:

(10.) An Officer holding a Commission from the Admiralty to order Courts-martial shall not be empowered to do so if there is present at the Place where such Court-martial is to be held any Officer superior in Rank to himself, although such last-mentioned Officer may not hold a Commission to order Courts-martial; and in such a Case such last-mentioned

mentioned Officer may order a Court-martial, although he does not hold any Commission for the Purpose:

(11.) If any Officer holding a Commission from the Admiralty to order Courts-martial, having the Command of a Fleet or Squadron, and being in Foreign Parts, die, be recalled, leave his Station, or be removed from his Command, the Officer upon whom the Command of the Fleet or Squadron devolves, and so from Time to Time the Officer who shall have the Command of the Fleet or Squadron, shall, without any Commission from the Admiralty, have the same Power to order Courts-martial as the first-mentioned Officer was invested with:

(12.) If any Officer holding a Commission from the Admiralty to order Courts-martial, and having the Command of any Fleet or Squadron of Her Majesty's Ships in Foreign Parts, shall detach any Part of such Fleet or Squadron, he may, by Commission under his Hand, empower the Commanding Officer of the Squadron or Detachment ordered on such separate Service, and in case of his Death or ceasing so to command the Officer to whom the Command of such separate Squadron or Detachment shall belong, to order Courts-martial during the Time of such separate Service, or until such Authority shall be revoked, or until the Officer commanding the Detachment shall come under the Command of another superior Officer, or shall return to the United Kingdom:

(13.) The Officer ordering a Court-martial shall not sit thereon:

(14.) The President of every Court-martial shall be named by the Authority ordering the same, or by any Officer empowered by such Authority to name the President:

(15.) No Commander or Lieutenant shall be required to sit as a Member of any Court-martial when Four Officers of a higher Rank and junior to the President can be assembled at the Place where the Court-martial is to be holden; and when any Commander or Lieutenant sits at any Court-martial the Members of it shall not exceed Five in Number:

(16.) Subject to the foregoing Regulations, whenever a Court-martial shall be held the Officer appointed to preside thereat shall summon all the Officers next in Seniority to himself present at the Place where the Court-martial shall be held to sit thereon, until the Number of Nine, or such Number, not less than Five, as is attainable, is complete; subject to this Proviso, that the Admirals and Captains, being Superintendents of Her Majesty's Dockyards, shall not be summoned to sit on Courts-martial unless specially directed to do so by Orders from the Admiralty.

Proceedings

Proceedings of Courts-martial.

Sittings of Courts-martial.

51. A Court-martial held in pursuance of this Act shall sit from Day to Day, with the Exception of *Sundays*, until Sentence is given, and its Proceedings shall not be delayed by the Absence of any Member, so that not less than Five are present; and no Member shall absent himself unless compelled so to do by Sickness or other just Cause, to be approved of by the other Members of the Court; and if any Member of a Court-martial shall absent himself therefrom, in contravention of this Section, he shall be dismissed from Her Majesty's Service, or shall suffer such other Punishment as may be awarded by a Court-martial.

Appointment of officiating Judge Advocate.

52. In the Absence of a Judge Advocate or his Deputy, the Officer who is to be the President of the Court-martial may appoint any Person to officiate as Judge Advocate at the Trial; and the Judge Advocate of any Fleet for the Time being, or his Deputy, or the Person officiating as Judge Advocate, herein-after included under the Term "the Judge Advocate," shall administer an Oath to every Witness appearing at the Trial.

Proceedings at Trial.

53. As soon as the Court is assembled, the Names of the Officers composing the Court shall be read over to the Prisoner, who shall be asked if he objects to being tried by any Member of the Court. If the Prisoner shall object to any Member, the Objection shall be decided by the Court. If the Objection shall be allowed, the Place of the Member objected to shall be filled up by the Officer next in Seniority who is not on the Court-martial, subject to the Regulations herein-before contained.

Oaths to be administered to Members of Courts-martial.

54. Before the Court shall proceed to try the Prisoner, the Judge Advocate shall administer to every Member of the Court the following Oath; that is to say,

'I do swear, That I will duly administer Justice according 'to Law, without Partiality, Favour, or Affection; and I do 'further swear, that I will not on any Account, at any Time whatsoever, disclose or discover the Vote or Opinion of any particular 'Member of this Court-martial, unless thereunto required in due 'Course of Law. So help me GOD.'

Oath to be administered to Judge Advocate, &c.

55. As soon as the said Oath shall be administered to the Members of the Court-martial, the President shall administer to the Judge Advocate the following Oath:

'I do swear, That I will not upon any Account, 'at any Time whatsoever, disclose or discover the Vote or Opinion 'of any particular Member of the Court-martial, unless thereunto 'required in due Course of Law. So help me GOD.'

56. Every

Summoning Witnesses.

56. Every Person, Civil, Naval, and Military, who may be required to give Evidence before a Court-martial, shall be summoned by the Judge Advocate; and all Persons so summoned and attending as Witnesses before any Court-martial shall, during their necessary Attendance in or on such Court, and in going to and returning from the same, be privileged from Arrest, and shall, if unduly arrested, be discharged by the Court out of which the Writ or Process issued by which such Witness was arrested, or if such Court be not sitting, then by any Judge of the Superior Courts of *Westminster* or *Dublin*, or the Court of Session in *Scotland*, or of the Courts of Law in the *East* or *West Indies* or elsewhere, according as the Case shall require, upon its being made to appear to such Court or Judge, by any Affidavit in a summary Way, that such Witness was arrested in going to or returning from or attending upon such Court-martial; and all Witnesses so duly summoned as aforesaid who make default in attending on such Courts, or attending refuse to be sworn or make Affirmation, or being sworn or having made Affirmation refuse to give Evidence, or to answer all such Questions as the Court may legally demand of them, or prevaricate in giving their Evidence, shall, upon Certificate thereof under the Hand of the President of such Court-martial, be liable to be attached in the Court of Queen's Bench in *London* or *Dublin*, or the Court of Session, or Sheriff Depute or Stewarts Depute, or their respective Substitutes, within their several Shires and Stewartries, in *Scotland*, or Courts of Law in the *East* or *West Indies*, or in any of Her Majesty's Colonies, Garrisons, or Dominions in *Europe* or elsewhere, respectively, upon Complaint made, in like Manner as if such Witness after having been duly summoned and subpœnaed had neglected to attend on a Trial in any Proceeding in the Court in which such Complaint is made, or had refused to be sworn, or on being sworn had refused to give Evidence, or to answer all such Questions as the Court may legally demand, or had prevaricated in giving Evidence, or if the Court-martial shall think fit, in case any such Person belong to Her Majesty's Navy, being called upon to give Evidence at any Court-martial, shall refuse or neglect to attend to give his Evidence upon Oath or Affirmation, or shall prevaricate in his Evidence, or behave with Contempt to the Court, such Court-martial may punish every such Offender by Imprisonment not longer than Three Months, in case of such Refusal, Neglect, or Prevarication, nor longer than One Month in the Case of such Contempt; and every Person not subject to this Act who may be so summoned to attend shall be allowed and paid his reasonable Expenses, under the Authority of the Admiralty, for such Attendance.

Penalty on Persons giving false Evidence.

57. Every Person who, upon any Examination upon Oath or upon Affirmation, before any Court-martial held in pursuance of this

Act, shall wilfully and corruptly give false Evidence, shall be liable to the Penalties of wilful and corrupt Perjury.

Where Persons are insane at the Time of Offence or Trial.

58. Where it shall appear upon the Trial by Court-martial of any Person charged with an Offence that such Person is insane, the Court shall find specially the Fact of his Insanity, and shall order such Person to be kept in strict Custody in such Place and in such Manner as to the Court shall deem fit, until the Directions of the Admiralty thereupon are known; and it shall be lawful for the Lords of the Admiralty to give Orders for the safe Custody of such Person during Her Majesty's Pleasure, in such Place and in such Manner as they shall think fit.

Report of Proceedings of Courts-martial.

59. Every Judge Advocate, or Person officiating as Judge Advocate, shall transmit with as much Expedition as may be the original Proceedings and Sentence of every Court-martial attended by him to the Commander-in-Chief or senior Officer, who shall transmit them to the Secretary of the Admiralty for the Time being, and any Person tried by a Court-martial shall be entitled, on Demand, to a Copy of such Proceedings and Sentence, at any Time not sooner than Six Months after the Trial if the same takes place in the *Mediterranean*, Three Months if at any other Naval Station within *Europe*, and Twelve Months if elsewhere, (upon Payment for the same at the Rate of Fourpence *per* Folio of Seventy-two Words,) but no such Demand shall be allowed after the Space of Three Years from the Date of the final Decision of such Court-martial.

PART V.

Penal Servitude and Prisons.

Penal Servitude.

Sentence of Penal Servitude.

60. Whenever any Sentence of Death shall be commuted for Penal Servitude, or whenever Sentence of Penal Servitude shall be passed upon any Offender by any Court-martial, and such Sentence, or any Part thereof, is intended to be carried into effect, the Admiralty shall cause the same to be notified in Writing to any Justice of the Queen's Bench, Common Pleas, or Baron of the Exchequer, and thereupon such Justice or Baron shall make an Order for the Penal Servitude of such Offender, upon the Terms and for the Time specified in such Notification, and shall do all such other Acts consequent upon such Notification as any such Justice or Baron is or may be authorized to make or do by any Statute or Statutes in

in force at the Time of making any such Order in relation to Penal Servitude of Offenders sentenced by Courts of Criminal Jurisdiction to Penal Servitude; and such Order and other Acts to be so made and done as aforesaid shall be obeyed and executed by such Person in whose Custody such Offender may at that Time be, and by all other Persons whom it may concern, and shall be as effectual and have all the same Consequences as any Order made under the Authority of any Statute relating to Penal Servitude with respect to any Offender in such Statute mentioned, and every Sheriff, Gaoler, Keeper, Governor, or Superintendent whom it may concern, and all Constables and other Persons, shall be bound to obey the aforesaid Order and Orders, and be assistant in the Execution thereof, and be liable to the same Punishment for Disobedience to or for interrupting the Execution of such Order as they would be if the same had been made under the Authority of any such Statute; and every Person so ordered to be kept in Penal Servitude shall be subject to all the Penalties and Provisions made by Law, and in force for the Time being, concerning Persons under Sentence of Penal Servitude, or receiving Her Majesty's Pardon on Condition of Penal Servitude; and from the Time when such Order of Penal Servitude is made, every Law in force touching the Escape of Felons, or their afterwards returning or being at large without Leave, shall apply to such Offender, and to all Persons aiding, abetting, contriving, or assisting in any Escape or intended Escape, or the returning without Leave of any such Offender; and the Judge or Baron who makes an Order for Penal Servitude as aforesaid shall direct the Notification of the Admiralty, and his own Order made thereupon, to be filed and kept of Record in the Office of the Clerk of the Crown of the Court of Queen's Bench, and the said Clerk shall have a Fee of Two Shillings and Sixpence only for filing the same, and shall, on Application, deliver a Certificate in Writing (not taking more than Two Shillings and Sixpence for the same) to such Offender or to any Person applying in his or the Admiralty's Behalf, showing the Christian and Surname of such Offender, his Offence, the Place where the Court was held before which he was convicted, the Sentence, and the Conditions on which the Order of Penal Servitude was made, and such Certificate shall be sufficient Proof of the Conviction and of the Sentence of such Offender, and also of the Terms on which such Order for his Penal Servitude was made, in any Court and in any Proceeding wherein it may be necessary to inquire into the same.

Disposal of Offender after Sentence of Penal Servitude.

61. When any Sentence of Death shall have been commuted for Penal Servitude, or when any Person subject to this Act shall have been condemned to Penal Servitude, it shall be lawful for the Admiralty,

Admiralty, or any Commander-in-Chief on any Foreign Station, or the Commanding Officer of the Ship to which such Person belongs or has belonged, to cause him to be detained and conveyed to any One of Her Majesty's Ships, or any Gaol or Prison, there to remain in safe Custody until he is removed therefrom by the Order of the Admiralty or any such Commander-in-Chief or other due Authority, or under an Order for his Penal Servitude, to be made by some Justice of the Queen's Bench or Common Pleas or Baron of the Exchequer as aforesaid, and a Certificate of his Sentence (such Certificate to be signed by the Secretary of the Admiralty, or by any such Commander-in-Chief, or such Commanding Officer) shall be a sufficient Authority to the Commanding Officer of the Ship to which he may be sent, or to the Governor, Keeper, or Superintendent of the Gaol or Prison, to receive and detain him.

Subsistence of Offender.

62. In case any such Offender shall be conveyed to any Prison, not being a Naval Prison appointed by virtue of this Act, an Allowance such as the Admiralty shall from Time to Time direct shall be made to the Governor, Keeper, or Superintendent of the Gaol or Prison, for the Subsistence of such Offender during his Detention therein, and such Allowance shall be paid by Order of the Admiralty, upon Production by the said Governor, Keeper, or Superintendent of a Declaration, to be made by him before One of Her Majesty's Justices of the Peace of such County, of the Number of Days during which the Offender has been so detained and subsisted in such Gaol or Prison.

Imprisonment of Offender already under Sentence for previous Offence.

63. Whenever Sentence shall be passed by a Court-martial on an Offender already under Sentence either of Imprisonment or of Penal Servitude, passed upon him by a Court-martial for a former Offence, the Court may award Sentence of Imprisonment or Penal Servitude for the Offence for which he is under Trial to commence at the Expiration of the Imprisonment or Penal Servitude to which he has been previously sentenced, although the aggregate of the Terms of Imprisonment or Penal Servitude may exceed the Term for which either of those Punishments could be otherwise awarded.

Prisons.

Term and Place of Imprisonment.

64. Every Term of Penal Servitude or of Imprisonment in pursuance of this Act shall be reckoned as commencing on the Day on which the Sentence was awarded, and the Place of Imprisonment, whether the Imprisonment was awarded as an original or as a commuted Punishment, shall be such Place as may be appointed by the Court or the Commanding Officer awarding the Punishment, or which may from Time to Time be appointed by the Admiralty, or by the Commander-

Commander-in-Chief on any Foreign Station, and may be One of the Naval Prisons appointed under this Act, or any Common Gaol, House of Correction, or Military Prison within Her Majesty's Dominions.

Place of Imprisonment may be changed, &c.

65. Whenever it is deemed expedient it shall be lawful for the Admiralty or any such Commander-in-Chief, by any Order in Writing, from Time to Time to change the Place of Confinement of any Offender imprisoned or sentenced to be imprisoned or detained in pursuance of this Act, and the Gaoler or other Person having the Custody of such Offender shall immediately on the Receipt of such Order remove such Offender to the Gaol, Prison, or House of Correction mentioned in the said Order, or shall deliver him over to Naval Custody for the Purpose of the Offender being removed to such Prison; and every Gaoler or Keeper of such last-mentioned Prison, Gaol, or House of Correction shall, upon being furnished with a Copy of such Order of Removal, attested by the Secretary of the Admiralty for the Time being, receive into his Custody and shall confine pursuant to such Sentence or Order every such Offender.

Expenses of Removal or Subsistence of Prisoners.

66. The Gaoler or other Person removing any Offender in pursuance of such Order shall be allowed for the Charges of such Removal a Sum not exceeding One Shilling a Mile, and when any Offender is not confined in a Naval Prison the Gaoler or other Person in whose Custody any such Offender may be shall receive such an Allowance as the Admiralty shall from Time to Time direct for every Day that such Offender is in his Custody, to be applied towards his Subsistence, and such Sum shall be paid to the said Gaoler or other Person under the Authority of the Admiralty, upon the Application in Writing made to the Secretary of the Admiralty by any Justice for the County or Place in which such Gaol, Prison, or House of Correction shall be situate, with a Copy of the Sentence or Order under which the Prisoner is confined.

Proviso for Discharge or Removal of Prisoners.

67. Whenever any Prisoner is undergoing Imprisonment in pursuance of this Act, it shall be lawful for the Admiralty, or any Commander-in-Chief on any Foreign Station, or where an Offender has been imprisoned by Order of his Commanding Officer, for such Commanding Officer, or the Admiralty or any such Commander-in-Chief, to give an Order in Writing directing that the Prisoner be discharged; and it shall also be lawful for the Admiralty or any such Commander-in-Chief, and any Officer commanding any of Her Majesty's Ships, by Order in Writing, to direct that any such Prisoner be delivered over to Naval Custody for the Purpose of being brought before a Court-martial, either as a Witness, or for

Trial or otherwise, and such Prisoner shall accordingly, on the Production of any such Order, be discharged, or be delivered over to such Custody.

Proviso as to Time of Detention in Naval Custody.

68. The Time during which any Prisoner under Sentence of Imprisonment is detained in Naval Custody shall be reckoned as Imprisonment under his Sentence, for whatever Purpose such Detention takes place; and the Governor, Gaoler, Keeper, or Superintendent who shall deliver over any such Prisoner shall again receive him from Naval Custody, so that he may undergo the Remainder of his Punishment.

In case of Insanity Prisoners to be removed to some Lunatic Asylum.

69. If any Person imprisoned by virtue of this Act shall become insane, and a Certificate to that Effect shall be given by Two Physicians or Surgeons, the Admiralty shall, by Warrant, direct the Removal of such Person to such Lunatic Asylum or other proper Receptacle for insane Persons in the United Kingdom as they may judge proper, for the unexpired Term of his Imprisonment; and if any such Person shall in the same Manner be certified to be again of sound Mind, the Admiralty may issue a Warrant for his being removed to such Prison or Place of Confinement as may be deemed expedient, to undergo the Remainder of his Punishment, and every Gaoler or Keeper of any Prison, Gaol, or House of Correction shall receive him accordingly.

Admiralty may set apart Buildings and Ships as Naval Prisons.

70. The Admiralty may set apart any Buildings or Vessels, or any Parts thereof, as Naval Prisons, and any Buildings or Vessels, or Parts of Buildings or Vessels, so set apart, shall be deemed to be Naval Prisons within the Meaning of this Act, and all Powers and Authorities with respect to County Gaols or Houses of Correction, which now are or which may hereafter be vested in any of Her Majesty's Principal Secretaries of State, shall, with respect to all such Naval Prisons, belong to the Admiralty; and it shall be lawful for the Admiralty from Time to Time to make, alter, and repeal Regulations for the Government and Superintendence of any such Naval Prison, and of the Officers and Servants thereof, and of Offenders confined therein, and from Time to Time to appoint Inspectors and all other necessary Officers and Servants for any such Naval Prison, and, as Occasion may arise, to remove the Inspectors, Officers, or Servants of any such Naval Prison; and the senior Officer at any Port or Place or on any Station where there may be any such Naval Prison, or such senior Officer and such other Person and Persons as the Admiralty may from Time to Time appoint, shall be a Visitor or Visitors of such Prison; and every Inspector, Visitor, or Officer, having the Charge or Command of any such Naval Prison respectively, shall, subject to such Rules and Regulations as may from Time

Time to Time be made as aforesaid, have and exercise, in respect of such Prison, and of the Officers and Servants thereof, and of the Prisoners confined therein, all the Powers and Authorities, as well in respect of administering Oaths as otherwise, which any Inspector, Visiting Justice, or Governor of a County Gaol or House of Correction may respectively exercise as such.

Penalties on aiding Escape or Attempt to escape of Prisoners, and on Breach of Prison Regulations.

71. If any Person shall convey or cause to be conveyed into any such Naval Prison any Arms, Tools, or Instruments, or any Mask or other Disguise to facilitate the Escape of any Prisoner, or by any Means whatever shall aid any Prisoner to escape or in an Attempt to escape from such Prison, whether an Escape be actually made or not, such Person shall be deemed guilty of Felony, and upon being convicted thereof shall be imprisoned, with or without Hard Labour, for any Term not exceeding Two Years, or suffer Penal Servitude for any Term not exceeding Fourteen Years; and if any Person shall bring or attempt to bring into such Prison, in contravention of the Rules, any spirituous or fermented Liquor, he shall for every such Offence be liable to a Penalty not exceeding Twenty Pounds and not less than Ten Pounds; and if any Person shall bring into such Prison, or to or for any Prisoner, without the Knowledge of the Officer having Charge or Command thereof, any Money, Clothing, Provisions, Tobacco, Letters, Papers, or other Articles not allowed by the Rules of the Prison to be in the Possession of a Prisoner, or shall throw into the said Prison any such Articles, or by Desire of any Prisoner, without the Sanction of the said Officer, shall carry out of the Prison any of the Articles aforesaid, he shall for every such Offence be liable to a Penalty not exceeding Five Pounds; and if any Person shall interrupt any Officer of such Prison in the Execution of his Duty, or shall aid or excite any Person to assault, resist, or interrupt any such Officer, he shall for every such Offence be liable to a Penalty not exceeding Five Pounds, or if the Offender be a Prisoner he shall, upon Conviction thereof before Two Justices of the Peace, or not less than Three of the Visitors of the Prison, be liable to be sentenced for every such Offence to be imprisoned, either with or without Hard Labour, and with or without Solitary Confinement, for any Time not exceeding Six Calendar Months, in addition to so much of the Time for which he was originally sentenced as may be then unexpired, and every Penalty which may be incurred under this Section shall be recoverable in a summary Manner; and such Two Justices or Three Visitors are hereby authorized to issue Warrants of Distress and Sale of the Offender's Goods, and every such Penalty shall be applied as the Admiralty shall direct, any Law, Statute, Charter, or Custom to the contrary notwithstanding.

72. Every

Penalty as regards Gaolers, &c.

72. Every Governor, Gaoler, and Keeper of any Prison, Gaol, or House of Correction, and every Officer having the Charge or Command of any Place, Ship, or Vessel for Imprisonment, who shall, without lawful Excuse, refuse or neglect to receive or confine, remove, discharge, or deliver up any Offender against the Provisions of this Act or any of them, shall incur for every such Refusal or Neglect a Penalty not exceeding One hundred Pounds, to be recovered in a summary Manner before Two Justices of the Peace; and such Two Justices are hereby authorized to issue Warrants of Distress and Sale of the Offender's Goods, and every such Penalty shall be applied as the Admiralty shall direct, any Law, Statute, Charter, or Custom to the contrary notwithstanding.

Pay to be stopped during Imprisonment, &c.

73. During the Imprisonment of any Person in pursuance of this Act all Pay and Wages of the Prisoner shall be suspended and stopped.

PART VI.

Supplemental Provisions.

Short Title.

74. This Act may be cited for all Purposes as "The Naval Discipline Act, 1861."

Commencement of Act.

75. This Act shall be in force within the United Kingdom; and as regards the United Kingdom "The Naval Discipline Act, 1860," shall be repealed from and after One Calendar Month from the passing hereof; and as regards elsewhere, this Act shall be in force, and "The Naval Discipline Act, 1860," shall be repealed, from and after Four Calendar Months from the passing hereof.

Definition of Terms.

76. In the Construction of this Act, unless there be something in the Context or Subject Matter repugnant to or inconsistent with such Construction—

"Admiralty," or "the Lords of the Admiralty," shall mean the Lord High Admiral for the Time being of the United Kingdom of *Great Britain* and *Ireland*, and when there shall be no such Lord High Admiral in Office, any Two or more of the Commissioners for executing the Office of Lord High Admiral of the United Kingdom:

"Officer" shall mean an Officer belonging to One of Her Majesty's Ships, and shall include a subordinate and a Warrant Officer, but shall not extend to Petty and Non-commissioned Officers:

When

When the Words "Superior Officer" are used in this Act they shall be held to include all Officers, including Petty and Non-commissioned Officers.

Persons subject to this Act.

77. Every Person in or belonging to Her Majesty's Navy, and borne on the Books of any One of Her Majesty's Ships in Commission, shall be subject to this Act; and all other Persons hereby made liable thereto, and all Spies, shall be triable and punishable under the Provisions of this Act.

Land Forces embarked as Passengers.

78. Her Majesty's Land Forces, when embarked on board any of Her Majesty's Ships, shall be subject to the Provisions of this Act, to such Extent and under such Regulations as Her Majesty, Her Heirs and Successors, by any Order or Orders in Council, shall at any Time or Times direct.

Other Persons embarked as Passengers.

79. All other Persons ordered to be received or being Passengers on board any of Her Majesty's Ships shall be deemed to be Persons subject to this Act, under such Regulations as the Admiralty may from Time to Time direct.

Crews of Ships lost or destroyed.

80. When any One of Her Majesty's Ships shall be wrecked or lost or destroyed, or taken by the Enemy, such Ship shall, for the Purposes of this Act, be deemed to remain in Commission until her Crew shall be regularly removed into some other of Her Majesty's Ships of War, or until a Court-martial shall have been held, pursuant to the Custom of the Navy in such Cases, to inquire into the Cause of the Wreck, Loss, Destruction, or Capture of the said Ship.

All the Officers and Crew of lost Ship may be tried by One Court,

81. When no specific Charge shall be made against any Officer or Seamen for or in respect or in consequence of such Wreck, Loss, Destruction, or Capture, it shall be lawful to try all the Officers and Crew or all the surviving Officers and Crew of any such Ship, together, before One and the same Court, and to call upon all or any of them when upon their Trial to give Evidence on Oath or Affirmation before the Court touching all or any of the Matters then under Inquiry, but no Officer or Seaman shall be obliged to give any Evidence which may tend to criminate himself.

or by separate Courts.

82. When deemed necessary by the Admiralty, or any Officer authorized to order Courts-martial, separate Courts-martial shall be held for the Trial of some One or more of such Officers and Crew for or in respect or in consequence of the Wreck, Loss, Destruction, or Capture of any such Ship.

For subsequent Offence, separate Court.

83. For any Offence or Offences committed by any Officer or Seaman, or Officers and Seamen, after the Wreck, Loss, Destruction, or Capture of any such Ship, a separate Court-martial shall be held for the Trial of such Offender or Offenders.

Pay of Crews of Ships lost or taken.

84. When any Ship of Her Majesty shall be wrecked, lost, or otherwise destroyed, or taken by the Enemy, if it shall appear by the Sentence of a Court-martial that the Crews of such Ship did, in the Case of a Ship wrecked or lost, do their utmost to save her or get her off, and in the Case of a Ship taken by the Enemy did their utmost to defend themselves, and that they have, since the Wreck, Destruction, Loss, or Capture of such Ship, behaved themselves well, and been obedient to their Officers, then all the Pay of such Crews or of such Portions of such Crews as have behaved themselves well, and been obedient to their Officers, shall be continued until the Time of their being discharged or removed into other Ships of Her Majesty, or dying.

When Ship of senior Officer is lost he may dispose of Officers and Crew of lost Ship.

85. If the Ship of any Officer ordered to command any Two or more of Her Majesty's Ships shall be wrecked, lost, or otherwise destroyed, such Officer shall continue in the Command of any Ship or Ships which at the Time of his Ship being wrecked, lost, or destroyed was or were under his Command, and it shall be lawful for such Officer to order the surviving Officers and Crew of the wrecked, lost, or destroyed Ship to join any other Ship under his Command, or to distribute them among the other Ships under his Command, if more than One, and such Officer shall, until he meets with some other Officer senior to himself, have the same Power and Authority in all respects as if his Ship had not been wrecked, lost, or destroyed.

PART VII.

Saving Clause.

Trial of Offences against repealed Acts.

86. Any Person who has committed or may commit, before this Act comes into force, any Offence against "The Naval Discipline Act, 1860," or any of the Acts or Portions of Acts thereby repealed, for which such Person has not been tried before this Act comes into force, shall be tried and punished under this Act as if such Crime or Offence had been committed against the same, but he shall not suffer any greater Punishment than he was liable to under "The Naval Discipline Act, 1860," or any of the Acts or Portions of Acts thereby repealed;

repealed; and any Proceedings of any Court-martial, or any other Proceedings under "The Naval Discipline Act, 1860," which may be pending when this Act comes into force, shall be continued, and the Offender, if found guilty, shall be punished as if the Act against which he offended had not been repealed.

Reservation of Power of Admiralty.

87. Nothing in this Act shall prejudice or affect the Right of the Admiralty to discharge any Person subject to this Act from Her Majesty's Service.

Act not to supersede Authority of ordinary Courts.

88. Nothing in this Act contained shall be deemed or taken to supersede or affect the Authority or Power of any Court or Tribunal of ordinary Civil or Criminal Jurisdiction, or any Officer thereof, in Her Majesty's Dominions, in respect of any Offence mentioned in this Act which may be punishable or cognizable by the Common or Statute Law.

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